



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



AiNNI – ANNI Joint Submission to the Global Alliance of National Human Rights Institutions (GANHRI) Sub Committee on Accreditation (SCA)

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By
All India Network of NGOs and Individuals
working with National and State Human Rights
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And
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Along with Institutional & individual Endorsees
(to be sent)

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I. Introduction

1. India is the only country in the world which has a National Human Rights Commission and 10 other thematic Human Rights Institutions (NHRIs). In addition, it has over 169 State Human Rights Institutions (SHRIs) across 28 States and 8 Union Territories of India that are mandated to oversee the protection of sectorial interests of such as minorities, women and traditionally disadvantaged depressed and discriminated groups.
2. The National Human Rights Commission of India (NHRCI) is the only institution out of 180 (N/SHRIs) which has membership with Global Alliance of National Human Rights Institutions (GANHRI) and accredited by Sub Committee on Accreditation (SCA) in accordance with the Paris Principles.
3. The NHRCI is due for its next review and accreditation by the GANHRI in the First Session of 2025. This will be the NHRCI's seventh round of accreditation sessions following past processes in 2006, 2011, 2016, 2017, 2023 & 2024. In the years 2016, 2023 and 2024 NHRCI has been deferred for a year by GANHRI.
4. This report presents a performance assessment of the NHRCI for the consideration of SCA. It has been prepared by All India Network of NGOs and Individuals Working with National and State Human Rights Institutions (AiNNI) is a forum of individuals and organisations from across the country to monitor and strengthen the functioning of human rights institutions. AiNNI is formed in 2008 and it is a member of Asian Network of NGO's Working with National Human Rights Institutions (ANNI). AiNNI engages with National and State Human Rights Institutions in India through trainings, consultations, studies and advocacy for adherence to the Paris Principles. AiNNI has been engaging with SCA-GANHRI since 2011. It has been prepared by a collective of civil society organizations in India to highlight key issues and concerns relating to the functioning of the NHRCI, which, it is hoped, will assist the SCA in its review. A full list of individuals and organisations endorsing this report will be provided subsequent to the report's dispatch on 1 October 2024.
5. The status of NHRCI's accreditation on its website has not been updated since 2017, It is unfortunate to note that the NHRCI website, as of today 21st September 2024, reads,

“The National Human Rights Commission, India has retained its 'A' status of accreditation with the Global Alliance of National Human Rights Institutions, GANHRI for the fourth consecutive term of five years. It is given to those NHRIs, which, after a rigorous process of review every five years, are found fully compliant with the UN-mandated Paris

Principles. Mr. Justice H.L. Dattu, Chairperson, NHRC was, presented the certificate to this effect on the occasion of the ongoing annual meeting of GANHRI in Geneva, Switzerland, from the 21st to 23rd of February 2018. NHRC Member, Mr. Justice P.C. Ghose and Secretary General, Mr. Ambuj Sharma were present on the occasion.”¹

6. Civil society is shocked that the NHRCI has not till date anywhere publicly acknowledged and published that its reaccreditation has been deferred not only in March 2023 but also in June 2024 in succession. These kinds of partial disclosures as further eroded civil societies trust in the institution and impacts on its reputation. A national institution of the caliber and mandate of the NHRI is expected to make full disclosure of its status at any given time. It is unfortunate that the present information on the website has been left to indicate that the NHRI continues to hold its A status unconditionally. However, the correct position is that since March 2023 the its status has come under question because it has not been able to fulfill conditions required for A status. Is it obfuscation or is it symptomatic of all-pervasive laxity? It is anyone's guess.
7. This reporting period between October 1, 2023 and October 1, 2024 sees the further deterioration of the Indian NHRI. Vacancies persist at all levels, particularly amongst the members of the commission. Since former Chairperson Justice Arun Mishra demeriting office in May 2024 the NHRCI has been functioning with one member. This member has been designated acting Chairperson. As of today, the NHRC which handles thousands of complaints from across the country is functioning from June 2024 with a single judicial member which the NHRCI used to be proud of in all global platforms while speaking about its composition.
8. At a time when bar and bench, civil society, academia, the media is voicing deep concern at the enactment of several laws that erode, privacy, freedom of religion, freedom of speech, add wide discretion to the police and erode fair trial rights the NHRCI has been unable or unwilling to intervene in defence of civil liberties or to act in defence of individuals or communities facing violations. Several sensational failures of the state apparatus to respond to criminal activities ranging from rape to lynching's and custodial violence, alleged extra-judicial killing and illegal demolitions by agents of the state have brought people out in peaceful protest only to find themselves facing further vulnerabilities and retribution from state authorities. The NHRCI failed to live up to its mandate despite civil society across the country offering its cooperation to work out a strategic action plan for the realisation of the repeated recommendations of GANHRI to NHRCI..

¹ Available at [SCA Accreditation | National Human Rights Commission India \(nhrc.nic.in\)](https://nhrc.nic.in)

II. Our Contribution in October 2023 to SCA along with ANNI

9. On October 1, 2023 AiNNI along with ANNI and other civil society organisations pointed out to the SCA-GANHRI during the NHRCI's accreditation process raising concerns in relation to the restriction of civic space, reprisals against human rights defenders in India & NHRCI's failure to use its mandate to adequately address or speak out on pressing human rights violations.
10. In May 2024, the SCA stated that it has received a ***“third-party submission in relation to restriction of civic space, reprisals against human rights defenders and journalist who are perceived as critics, hate speech, violence and discrimination against minorities.”***²
11. The SCA further states that ***“The SCA has also received third-party submission raisings concerns that the NHRC has not used its mandate to adequately address or speak out on pressing human rights violations.”***
12. The SCA noted observations from third-party submission on serious human rights violations against ethnic and religious minorities including hate speech, violence and discrimination. The SCA raised concerns ***“That NHRC has not provided adequate information on how its addressing the systemic nature of these violations.”***³
13. The SCA stated that it received ***“Extensive information from various civil society organisation which indicated that the relationship between the NHRCI and civil society is not effective or constructive, particularly with respect to ongoing dialogue and follow-up on issues raised.”***
14. The ANNI-AiNNI joint appeal was taken note of by SCA-GANHRI as it considered NHRCI's repeated inaction on several human rights issues and 'grave concerns are expressed' through its recommendations to fulfill the broad mandate by addressing all violations of human rights & to ensure effective follow-up. The SCA had further recommended that the NHRCI to ensure that its positions on these issues are made publicly available and deferred the review of NHRCI for 12 months. The SCA noted that the majority of the recommendations remain unaddressed and reiterated that the SCA may, depending on the seriousness of the issues previously raised, interpret such lack of progress as an unwillingness to demonstrate efforts in implementing the SCA recommendation and as an indication of non-compliance with the Paris Principles.

² GANHRI Sub Committee on Accreditation Report – First Session SCA 2024 – Page 46

³ GANHRI Sub Committee on Accreditation Report – First Session SCA 2024 – Page 46, Observations in 5. Addressing human rights violations.

III. Brief Recap of the Past Accreditation Process

15. In its 2011, 2016, 2017 and 2023 reports, the SCA has reiterated its recommendations to the Government of India and NHRC regarding composition and pluralism, selection and appointment of the NHRC chairperson and members, appointment of senior staff (including the practice of secondment from government), engagement with civil society, and complaints-handling. Despite repeated recommendations by the SCA-GANHRI, the Government of India and NHRC failed to implement almost all the recommendations. This section gives the gist of SCA recommendations and implementation status by NHRCI.

SCA Recommendations and Implementation status of NHRCI

S. No	Issue	Year	Recommendation	Implemented Yes/No
1.	Involvement of Police officers in Investigations	2023	SCA recommends that the NHRC advocate for amendments to the Protection of Human Rights Act, 1993	The said recommendation to the NHRC has not be publicized by the NHRC either in on its website or in its Newsletters. These recommendations also not undertaken, and no public discussion on the same.
		2023	Amend its investigative structure to remove the capacity for the government to second police officers, to act as investigative staff, ensuring that the NHRC can independently appoint suitably qualified staff to such positions.	
		2017	SCA encourages NHRC to continue efforts that ensure civilian involvement and oversight in investigations involving allegations of Human rights violations against the police or security forces, with a view to strengthening the independence and impartiality of these investigations.	
		2017	SCA further encourages NHRCI to diversify the composition of its investigative team beyond police officers.	
		2017	NHRCI advocate to amend the PHRA 2006 to remove the requirement that its Director of Investigations be seconded from the Government, and to provide for an open, merit-based selection process	
2.	Compositions and Pluralism	2023	The SCA recommends that the NHRC advocates for the completion of the appointment process to fill remaining vacancies in its leadership body	Not undertaken at all.

S. No	Issue	Year	Recommendation	Implemented Yes/No
		2023	Further amendments to the PHRA, to ensure a pluralistic balance in its composition and staff, in particular by ensuring that diversity of Indian society is represented, including, but not limited to religious or ethnic minorities.	The said recommendation to the NHRC has not be publicized by the NHRC either in on its website or in its Newsletters. These recommendations also not undertaken, and no public discussion on the same.
		2017	NHRCI to continue these efforts, in particular, by ensuring that diversity of Indian society is represented including, but not limited to, Dalits and other religious or ethnic minorities.	
		2016	Political representatives on NHRIs – Where government representatives or members of Parliament, or representatives of government agencies, are included in the decision-making body, the NHRI’s legislation should clearly indicate that such persons participate only in an advisory capacity. In order to further promote independence in decision-making, and avoid conflicts of interest, an NHRI’s rules of procedure should establish practices to ensure that such persons are unable to Inappropriately influence decision-making by, for example, excluding them from attending Parts of the meeting where final deliberations and strategic decisions are made.	
3.	Selection and Appointment	2023	<p>NHRC advocates for the formalization and application of a process that includes requirements to:</p> <ol style="list-style-type: none"> a. Publicize vacancies broadly; b. Maximize the number of potential candidates from a wide range of societal groups and educational qualifications; c. Promote broad consultation and / or participation in the application, screening, selection and appointment process; d. Assess applicants on the basis of pre-determined, objective and publicly available criteria. 	The said recommendation to the NHRC has not be publicized by the NHRC either in on its website or in its Newsletters. These recommendations also not undertaken, and no public discussion on the same.

S. No	Issue	Year	Recommendation	Implemented Yes/No
2017	<p>SCA Recommends review the selection process currently enshrined in the PHRA is not sufficiently broad and transparent. and therefore again encourages the NHRC to advocate for the formalization and application of a process that includes requirements to:</p> <ol style="list-style-type: none"> a. Publicize vacancies broadly; b. Maximize the number of potential candidates from a wide range of societal groups and educational qualifications; c. Promote broad consultation and / or participation in the application, screening, selection and appointment process; d. Assess applicants on the basis of pre-determined, objective and publicly-available criteria; and e. Select members to serve in their individual capacity rather than on behalf of the organization they represent 	<p>The said recommendation to the NHRC has not be publicized by the NHRC either in on its website or in its Newsletters. These recommendations also not undertaken, and no public discussion on the same.</p>		
2016	<p>The SCA encourages the NHRCI to advocate for the formalization and application of a process that includes requirements to:</p> <ol style="list-style-type: none"> a. Publicize vacancies broadly; b. Maximize the number of potential candidates from a wide range of societal groups and educational qualifications; c. Promote broad consultation and / or participation in the application, screening, selection and appointment process; d. Assess applicants on the basis of pre-determined, objective and publicly-available criteria; and e. Select members to serve in their individual capacity rather than on behalf of the organization they represent. 	<p>Not undertaken, and no public discussion on the same.</p>		
4.	<p>2023 NHRC advocates for amendments to the PHRA to remove the capacity for the Government to make a senior civil servant available</p>	<p>The said recommendation to the NHRC has not be publicized by</p>		

S. No	Issue	Year	Recommendation	Implemented Yes/No
	Appointment of Secretary General		for the position of Secretary General, to empower the NHRC to independently recruit candidates for the position.	the NHRC either in on its website or in its Newsletters. These recommendations also not undertaken, and no public discussion on the same.
		2017	Secretary General be recruited through an open, merit-based selection process	
		2017	In the interim, the SCA encourages the NHRCI to pursue policy and/or administrative measures to provide the NHRCI with greater control over the process, including by setting the selection criteria and by participating in the evaluation of candidates	
		2016	Secretary General be recruited through an open, merit-based selection process;	
	5. Cooperation with other human rights bodies	2011	NHRCI advocate to amend the PHRA 2006 to remove the requirement that the Secretary General and Director of Investigations be seconded from the Government, and to provide for an open, merit-based selection process	The said recommendation to the NHRC has not be publicized by the NHRC either in on its website or in its Newsletters. These recommendations also not undertaken, and no public discussion on the same.
2023		NHRC takes additional steps to ensure constructive engagement and cooperation with civil society and HRDs, and that this should include regular modes of collaboration outside of the Core/Expert Groups		
		2017	NHRCI to take additional steps to ensure that it engages in ongoing, constructive dialogue and cooperation with civil society and human rights defenders and that this should include regular and ongoing modes of collaboration outside the Core/Expert groups.	

S. No	Issue	Year	Recommendation	Implemented Yes/No
6.	Addressing the human rights issues	2023	NHRC addresses all violations of human rights and to ensure effective follow-up so that the State makes the necessary changes to ensure that human rights are clearly protected	The said recommendation to the NHRC has not be publicized by the NHRC either in on its website or in its Newsletters. These recommendations also not undertaken, and no public discussion on the same.
		2023	NHRC ensures that its positions on these issues are made publicly available, as this will contribute to the strengthening of the credibility and accessibility of the institution for all people in India.	

16. While the NHRCI publicly states the existence of several thematic core groups including one on NGOs and HRDs in none of these meetings has the NHRC ever placed the recommendations of the SCA of GANHRI for discussion with members of any of these core group. These recommendations therefore are not even known to the members of parliament and leaders of political parties and one is doubtful whether these recommendations have formally even been communicated by the NHRC to the Chairperson of National Commission for Women, the Chairperson of National Commission for Minorities, Chairperson of National Commission for Protection of Child Rights, Chairperson of National Commission for Scheduled Castes, Chairperson of National Commission for Scheduled Tribes, Chairperson of National Commission for Backward Classes-and the Chief Commissioner for Persons with Disabilities who are deemed members of the NHRCI at any of their formal meetings and Ministry of Home Affairs & all members of the appointment committee. The Annual reports of the NHRCI which are made public the last annual report published for the year 2021-22.⁴ This reports do not ever contain the actual recommendations made by GANHRI to NHRCI during its review.

IV. Status of each of Recommendations by SCA-GANHRI in June 2024

17. Before venturing into this analysis ANNI-AiNNI wishes to place on record that such deferrals of accreditation lasting for one-year places civil society at a great disadvantage in the great responsibility cast upon its shoulders since its report is due 6 months prior to opening of the session, in which the accreditation takes place and AiNNI-ANNI have witnessed that once Civil Society report is out there are immediate corrections observed made on such as constitution of task forces, appointment of special rapporteurs etc. some of the observations in the report by the NHRC since their report is due only before three months of the session. In order to be fair with the process, we should have the same deadlines.

18. In this case the SCA report for the March session was made public in the first week of June 2024. The Next session when NHRCI's review will be undertaken is March 2025 and our report has to be in latest by 1st October 2024. This gives us only four months to assess steps undertaken by the NHRC to implement the recommendations made public in June 2024. The NHRCI has been deferred by SCA for one year or for two sessions. The first session after the deferral is held in October 2024 and second session will be undertaken in March 2025. We register our respectful disagreement with this. NHRCI is being considered for the deferral before the completion of two sessions; the first was in October 2023, and the second was in March 2024. But instead of being taken up for consideration after the two SCA sessions, we now see

⁴ Available at https://nhrc.nic.in/sites/default/files/AR_2021-2022_EN.pdf

we are forced to give our report on 1 October 2024. This we consider contradictory to what the SCA recommendations actually contained. We state this because of our trust in the accreditation process, and we are also aware of the GANHRI's careful review of the SCA accreditations process to make it more transparent, fair and also respecting the equality between the parties engaged in accreditation.

A. Involvement of Police officers in Investigations

19. The Government of India makes available to the NCHRI police personnel to work under an officer not below the rank of Director General of Police and such police officers and staff as may be necessary for the efficient performance of the investigative functions of the NHRCI.⁵ The Commission can also appoint other administrative, technical and scientific staff who are staff of Central Government.⁶
20. In June 2024, the SCA observed that the NHRCI has not provided information on steps taken to address SCA recommendations made in regard in November 2017 and March 2023. The SCA raised concern about the perceived or real conflict of interest in having police officers seconded from government engaged in investigations of human rights violations including those committed by police. The SCA reiterated its concern that the secondment of police officers to act as investigative staff may impact on their ability to conduct impartial investigations as well as the ability of victims to access human rights justice. The SCA recommended NHRCI to advocate for amendment to section 11 of the Protection of Human Rights Act, 1993 and to amend its investigative structure to remove the capacity of government to second police officers to acts as investigative staff.
21. Despite repeated recommendations by the SCA in 2011, 2016, 2017 & 2023, the NHRCI's investigation team still comprises only police officers on deputation to the NHRC. Thus, NHRCI had failed to implement, SCA recommendations that its investigation team should also comprises of non-police personnel with possessing competencies such as forensic experts, senior lawyers / retired public prosecutors, experienced human rights investigators who have served in the civil society organisations conversant with knowledge of basic criminal procedure as well as special laws having a bearing on the human rights of different sections of the society. Investigation is the domain of seconded police officers to the exclusion of all others including sp rapporteurs and monitors. AiNNI continues to maintain that this is bad practice. The continuation of this also ignores repeated recommendations from the SCA states in 2011, 2016, 2017, 2023 & 2024.

⁵ Section 11 of Protection of Human Rights Act, 1993

⁶ Section 11 (2) of Protection of Human Rights Act, 1993

22. AiNNI-ANNI continue to point out that that what the NHRCI requires for investigating violations of human rights is not merely experience in criminal police investigation but on the contrary expertise in investigation of human rights violations where offences investigated are usually by instrumentalities of the state. The Investigation team should have forensic capability & legal expertise; capability to recognize that the event/incident is not merely a criminal offence but a human rights violation. The Police officers in India are not sensitized towards human rights law and practice. They lack a demonstrable knowledge of human rights law and practice and this is not available either in the trainings of police in India nor their practice nor in their sub culture.

B. Appointment of the Secretary General

16. The Government of India makes available to the NHRCI a civil servant who is an officer of the rank of secretary to the Government of India to be Secretary General of the Commission.⁷
17. In June 2024, The SCA observed that it is a fundamental requirement of the Paris Principles is that an NHRI is, and is perceived to be, able to operate independent of government interference. Where an NHRI members are seconded from the public service, and where this includes those at the highest level in the NHRI, it raises question about its capacity to function fully independently. The SCA recommended that NHRCI advocates for amendment to the PHRA to remove the capacity for the Government to make a senior civil servant available for the position of Secretary General, and to empower the NHRC to independently recruit candidates for the position.
18. AiNNI-ANNI reiterate below the several aspects of the functioning of the NHRC that militate against the possibility of its independent functioning. These have been pointed out by the SCA on several occasions including at 2016, 2017 and 2023 and is a fundamental cause of the NHRCIs deferral of accreditation. Unfortunately, no steps to repair the situation have been taken in the period under review.
19. It is a fundamental requirement of the Paris Principles that an NHRI is, and is perceived to be, able to operate independent of government interference. Where NHRI members (including deemed members in the case of NHRCI)/staff members at senior levels are seconded from public service, it raises question about its capacity to function fully independently where as in the NHRC functioning fully independently becomes difficult.

⁷ Section 11 (a) of Protection of Human Rights Act, 1993

20. The Secretary General also appoints staff of the NHRCI and he is also part of the Departmental Promotion Committee for considering promotion of the staff of NHRCI.
21. Secretary General Shri Devendra Kumar Singh served in NHRC for one year, one month and twenty-eight days joined on and retired on 30 June 2023. It is to be noted is the present Secretary General, Shri Bharat Lal IFS retd took charge on date of appointment June 2023 and his term was to expire in July 2024 and he was reappointed in June 2024. This clearly once points to non-compliance with the recommendations of SCA as the vacancies are not publicly announced & selection process is not advertised. Further, officers recruited after following the process recommended by the SCA need to be in such positions for a period of at least three years so that they will be able to not only govern the institution but also be able introduce new changes in administration that is required for the effective of the NHRCI. The recent appointments indicate that the government 'makes available' officers who are about to retire to sit out their final years at the fag end of their careers at the NHRCI. There is little to indicate that they meet the criteria of familiarity with either the subject matter or the mandate of the institution. It also means that the NHRCI does not have the benefit of fresh minds and varied experience in their chief officer.
22. Mr Bharat Lal had worked with the Hon'ble Prime Minister of India Shri Narendra Modi, since 2001 in Water and Sanitation Management Organization in Gujarat. Since March 2020, he also worked in the core team formed by the Government of India to manage Covid-19 pandemic caused by Corona virus in the country.⁸ None of these positions through worthy, indicate any special familiarity with the subject of human rights.

C. Composition and Pluralism

23. The NHRCI consists of a Chairperson and five members. The Chairperson must be person "who has been a Chief Justice of India or a Judge of Supreme Court India", one member must be "who is or has been a Judge of Supreme Court", another must be "has been the Chief Justice of a High Court" and three other members (out of which at least one shall be a woman) "who are appointed from amongst persons having knowledge of or practical experience in matters relating to the human rights".⁹
24. In June 2024, the SCA observed that the current composition of the membership of the NHRC with only one woman is not sufficient to meet the pluralism requirements of the Paris Principles. The SCA recommended that NHRCI advocates to fill remaining vacancies in its leadership body, and for further amendments to the PHRA, to ensure a pluralistic balance in its composition and staff, by ensuring that diversity of Indian

⁸ Available at [\(19\) Bharat Lal | LinkedIn](#)

⁹ Section 3(2) of Protection of Human Rights Act, 1993

society is represented including, but not limited to, religious or ethnic minorities and the equitable representation of women on the NHRC's decision-making body.

25. The current composition of NHRC is only one member who was appointed for having knowledge of or practical experiences in human rights on December 28, 2023¹⁰ and who happens to be a woman. However, the said appointment December 2023 has also consciously been carried out without adhering to the repeated recommendations of SCA from 2011 onwards till March 2023. Smt Vijaya Bharathi Sayani is appointed as member 633 days after former member. Being the only member in a six member NHRCI she therefore assumed the charge as acting chairperson of NHRCI.¹¹ The NHRCI has consistently failed to be representative of the population mix of the country or to demonstrate diversity within its composition. Throughout its existence the NHRCI has not been able to accommodate more than one woman as its member. The present acting chair is not only the only member but was herself appointed nearly 2 years after the only former woman member Smt Jyotika Kalra demitting office on 04.01.2023.
26. The NHRCI does not publish the caste composition of its staff as well or the regional or linguistic and religious diversities. As a Human Rights Institution it is obliged to demonstrate the diversity of the country and at minimum be representative of the various cultures and experiences they are expected to be serving.
27. Since last accreditation in June 2024, there are 5 positions in NHRCI which are vacant which includes Chairperson and four members. Details of the vacancies are as follows:

Designation	Date of Demitting office	No of days position is vacant till 1st October 2024
Chairperson	May 2024	122
Member (former judge of Supreme Court)	11.09.2021	1116
Member (former Chief Justice of High Court)	04.01.2023	636
Member (Knowledge or practical experience in Human Rights)	24.04.2024	160
Member (Knowledge or practical experience in Human Rights)	07.04.2018	2369

¹⁰ Available at [Smt Vijayabharathi Sayani joins as a Member of NHRC, India | National Human Rights Commission India](#)

¹¹ Available at [Vijaya Bharathi Sayani becomes acting chairperson of NHRC- The Week](#)

28. The NHRCI has necessarily to be a diverse decision-making body which represents different segments of society which promotes accessibility and which increases the capacity to engage on all human rights issues of all peoples. Pluralistic composition is fundamentally linked to independence, credibility, effectiveness and accessibility of the NHRCI. When the criteria for membership is unduly narrow this restricts the plurality of composition in legislation under which it is established and the procedure of appointment must therefore guarantee pluralistic representation from diverse social groups including participation of civil society.
29. AiNNI-ANNI fore see as of 01st October 2024 when this report would be submitted that before the review of the NHRCI which is to take place in First session commencing in 2025. There is a very great possibility that once again all the recommendations of the GANHRI made to NHRCI has regards Pluralism, Composition and Selection & appointment of members will once again remain disregarded. We state this with great respect because this has been the historicity of all appointments despite continuous SCA-GANHRI recommendations which are been specific on the subject. AiNNI-ANNI observe that despite serious efforts undertaken by us the Annual reports of the NHRCI from 2011, till the most recent once which are been made public namely for the year 2021-22 there is no communication in any of the reports and on its website even contained as annexures demonstrating that the NHRCI has formally intimated the government of India of the necessity to adhere to the recommendation of the SCA-GANHRI made in the past.

D. Selection and Appointment

30. In accordance with Section 4 of Protection of Human Rights Act, 1993 the Chairperson and members of the NHRCI are appointed by the President of India based on the recommendation of an appointment committee consisting of the Prime Minister, the Speaker of the House of the People, the Minister in-charge of the Ministry of Human Affairs in the government of India, the Leader of the Opposition in the House of the People, the Leader of the Opposition in the Council of States, and the Deputy Chairperson of the Council of States.
31. In June 2024, the SCA observed that NHRCI's current selection and appointment process to sufficiently promote broad consultation or participation, nor maximize the number of candidates from a wide range of groups. The SCA noted that the selection committee does not provide for the formal involvement of civil society organisations in the process. The SCA expressed concern that the NHRCI has not provided information on steps taken to address its recommendations on selection and appointment made in November 2017 and March 2023. The SCA recommended NHRCI to advocate for the formalization and application of process that include requirements to Publicize vacancies broadly and Promote board consultation and/or participation in the application, screening, selection and appointment process.

32. AiNNI-ANNI reiterate that SCA recommendation of Selection and Appointment has been made consistently for several years, but there has been no discussion even on the same either in parliament or in the appointment committee or for that matter even a public discussion initiated by NHRCI across the country. The NHRCI has in the past undertaken "Round Table discussion" to gather opinion of different sections of society on a particular subject matter before fuming up its own opinion on the subject and conveying it on behalf of the NHRCI to the United Nations (in the run up to the world conference against Racism, Durbin 2001).
33. In the case therefore on the appointment process what is urgently required are development of procedural guidelines that integrate the recommendations made by the SCA-GANHRI over the years and even get the same approved as NHRC's official procedural guidelines using its power under section 40(b) of the Protection of Human Rights Act, 1993. But such an effort has not been undertaken all the way from 2011 till today which indicates a very strong inclination to negate the adherence to the repeated recommendations of the SCA-GANHRI. This only requires procedural guidelines to be developed for the cause. NHRC appointment process is a merit-based selection which ensures pluralism and it's not participatory & transparent.
34. AiNNI-ANNI place for consideration that is till such procedural guidelines are developed under section 40 (b) the NHRCI's review cannot be completed and, on this ground, alone they deserved to be downgraded. The fact that between June 2024 and October 2024 no effort in this direction has been made, this is sufficient proof that the Government of India and the NHRCI do not intend to respect in practice the recommendation made by SCA-GANHRI

E. Addressing Human Rights Violations

35. The NHRCI has a broad mandate under Section 12 of Protection of Human Rights Act, 1993, the NHRCI can inquire, suo motu or on a petition presented to it by a victim or any person on behalf of victim into complaint of violation of human rights. It can intervene in any proceedings involving any allegation of violation of human rights, it can visit any jail or detention center. It can review the safeguards and review the factors that inhibit the enjoyment of human rights and recommend remedial measure.
36. In June 2024, the SCA noted the submissions of UN Special Procedures and the third-party submission on serious human rights violations against ethnic and religious minorities including hate speech, violence, and discrimination. The SCA raised concerned that the NHRCI has not provided adequate information on how it is addressing the systemic nature of these violations. The SCA is also concerned that the NHRCI has not publicly communicated its positions on these issues in a way that promotes the credibility of the institution and addresses the systemic nature of these violations. The SCA recommended NHRCI to addresses all violations of human rights and to ensure effective follow-up so that the State makes the necessary changes to ensure that human rights are clearly protected. The SCA further recommends that the

NHRC ensures that its positions on these issues are made publicly available, as this will contribute to the strengthening of the credibility and accessibility of the institution for all people in India.

37. In the Elgar Parishad Case, popularly known as the “Bhima Koregaon case” the NHRCI had no role whatsoever in intervening on behalf of many globally acclaimed HRDs such as Sudha Bharadwaj, Anand Teltumbde, Gautham Navlakha, Vernon Gonsalves, Shoma Sen and others by utilizing their power of intervention under Section 12 (b) of the PHRA. We painfully observe this power of intervention under section 12 (b) of PHRA has been used by the NHRCI anywhere across the country now definitely for a decade.
38. Human Rights Defender Mr. Khurram Parvez, of the APDP from Jammu and Kashmir, has been incarcerated since 22nd November 2021 under the draconian Unlawful Activities (Prevention) Act (UAPA) detained near Delhi and despite their being complaints registered before the NHRC in this regard, the NHRCI has failed to even make a visit to the jail to meet the human rights defender despite his name being highlighted by different UN special rapporteurs and UN Secretary General’s report, reports and campaigns and repots undertaken by several Int organisation working on issues relating to Human Rights Defenders.¹²The NHRCI owns a public apology to the global civil society for its refusal to even visit HRD Khurram Parvez. The same is the case with a young HRD and several of his college who continued to be incarnated under UAPA for a participation in Anti CAA protest in Delhi.
39. The most recent annual report of the UN Secretary-General's dated 20th August 2024, on reports of intimidation and reprisals against individuals and groups seeking to cooperate with the United Nations has a reference in Annexure – II to Mr. Khurram Parvesh of the Jammu Kashmir Coalition of the Civil Society (JKCCS), Mr. Ifran Mehraj and Mr. Henri Tiphange of the Centre for Promotion of Social Concerns [CPSC] (People’s Watch) this has neither agitated the NHRC nor its NGO Core Committee on NGOs & HRDs to express solidarity in any manner whatsoever by addressing the government or even reopening the closed case against the People’s Watch initiated in 2016, by the NHRCI when it’s then accreditation was due in 2016. The NHRC had kept the case pending throughout 2017 when its accreditation was granted and subsequently closed the case pending before it in 2021 without going into the violation of the Right to Association.¹³ It is pertinent to note that till today that CPSC has its case pending before the Delhi High Court and the NHRCI has not chosen to even intervene in that case.
40. In May 2024, India was ranked 159th out of 180 countries in the Press Freedom Index published by Reporters Without Borders (RSF). Violence against journalists was one

¹² Available at: [The UAPA Versus Khurram Parvez, an Extreme Law Versus a Rights Defender \(thewire.in\)](#)

¹³ Available at: [A/HRC/57/60](#)

of the reasons cited by RSF for declining press freedom in India.¹⁴ On 3 October 2023, the Special Cell of the Delhi police raided the homes of at least 46 journalists associated with the media organization Newsclick under the UAPA for allegedly raising funds for terrorist acts, promoting enmity between different groups and criminal conspiracy under the Indian Penal Code. The Special Cell of Delhi Police arrested Prabir Purkayastha, founder of Newsclick, and its head of human recourses, Amit Chakraborty under UAPA for allegedly raising funds for terrorist acts.¹⁵ On January 24, 2024 journalist Nesa Prabhu from Tirppur in Tamil Nadu was attacked by a group of unknown persons using their sickle and fled from the spot, the journalist was rescued by the relatives and shifted him to hospital.¹⁶ In all the above referred cases though HRDA has specifically brought these cases to the attention of the NHRCI and despite the action of the Asia Pacific Forum these cases were all closed.

41. From 13, February 2024, farmers from Punjab and Haryana were holding peaceful protest and proceeding towards New Delhi for their demand on Minimum Support Price (MSP) and other guarantees from the Govt. of India. On 21, February 2024 police officials of Punjab and Haryana state have used lethal force on the protestors which resulted in death of 21-year-old farmer Shubkharan Singh and injuries to 13 protesting farmers.¹⁷ This was yet another incident where the NHRCI chose to remain silent in the recent past and did not even make any public statement on the issue.
42. The Damkondawahi Bachao Sangharsh Samiti is a protest movement led by Madia-Gond Adivasis a people recognised by the Indian government as a Particularly Vulnerable Tribal Group (PVTG). The protest movement advocates against corporate mining in the Etapalli Subdivision of the Gadchiroli District. In 2007, Lloyds Metals and Energy Private Limited (LMEL) was given clearance to begin iron ore mining in an area of over 348.09 hectares of land in the village of Surjagarh in Gadchiroli. This decision was taken without any public consultation with the local community, namely the gram sabhas (village councils), as is mandated by the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006 and the Panchayat Extension to Scheduled Areas (PESA) Act 1996. On 10 March 2023, LMEL was granted environmental clearance to expand its excavation from 3 to 10 million metric tonnes per annum. On 11 March 2023, Adivasi communities from over seventy villages, most of whom belong to the Madia-Gond community, came together under the collective Damkondawahi Bachao Sangharsh Samiti to oppose the iron ore mining by LEML, which has posed an existential threat to their lands, livelihood, culture and environment. On 20 November 2023, a large police contingent arrived at the protest site in Todgatta and unleashed a violent crackdown on the peaceful protestors. The police singled out the leaders of the protest movement and forcefully searched their

¹⁴ Available at [Index | RSF](#)

¹⁵ Available at [Intimidation of human rights defenders and journalists including multiple raids, arrests, mis-information and labelling | Front Line Defenders](#)

¹⁶ Available at [HRDA \(hrdaindia.org\)](#)

¹⁷ Available at [India: The price of protest must not be death - Amnesty International](#)

belongings. Eight human rights defenders and leaders of the protest, namely Mangesh Naroti, Pradeep Heddo, Sai Kawdo, Gillu Kawdo, Laxman Jetti, Mahadu Kawdo, Nikesh Naroti, and Ganesh Korea, were forcibly taken away by the police in a helicopter and their phones seized. The police also vandalized small huts and shelters at the protest site. 21 protesters, including human rights defenders and community leaders, are currently imprisoned, accused of various offences including rioting, criminal conspiracy, assaulting a public servant during discharge of their duty, wrongful restraint, and unlawful assembly.¹⁸ This was matter related to business and human rights where the also NHRCI chose to remain silent and did not make any public statement on the same.

43. In 2024 NHRCI registered only four cases relating to Human Rights Defenders,¹⁹ out of which three cases were disposed with directions to the Commissioner of Police Uttar Pradesh²⁰, Superintendent of Police Narayanpur²¹ and Superintendent of Police Imphal, East Manipur²². In these three HRD cases the NHRC stated that “complaint is transmitted to the concerned authority for such action as deemed appropriate” and close the case. This demonstrates the unwillingness of the part of NHRCI to put into practice the Marrakesh Declaration 2018 which has thereafter resulted in GANHRI action plan and regional action plan of APF where the protection of Human Rights Defenders and support solidarity of platforms working with Human Rights Defenders has been strongly emphasized.

44. On May 22, 2018,²³ police opened fire on civilians protesting against the copper smelter plant Sterlite Copper of Sterlite Industries (a company owned by Vedanta Ltd.) in Thoothukudi, Tamil Nadu. 16 people were killed in the police firing and atrocities, and hundreds were left seriously injured. NHRCI took suo moto cognizance of the incident basis newspaper reports on May 23, 2018,²⁴ Despite of the seriousness of the case, the NHRC merely issued notices to the Government of Tamil Nadu seeking a response in two weeks’ time.²⁵ On May 31, 2018, eight UN Special Procedures²⁶

¹⁸ Available at [India: Police crackdown and arrest of human rights defenders protesting against corporate mining in Gadchiroli, Maharashtra | Front Line Defenders](#)

¹⁹ Available at [Welcome to Human Rights Commissions Network \(hrcnet.nic.in\)](#)

²⁰ Available at [Welcome to Human Rights Commissions Network \(hrcnet.nic.in\)](#)

²¹ Available at [Welcome to Human Rights Commissions Network \(hrcnet.nic.in\)](#)

²² Available at [Welcome to Human Rights Commissions Network \(hrcnet.nic.in\)](#)

²³ Available at <https://indianexpress.com/article/india/anti-sterlite-protests-police-firing-toll-13-cases-registered-against-mk-stalin-kamal-haasan-5189921/>

²⁴ NHRC Case No. 907/22/41/2018

²⁵ Available at <https://nhrc.nic.in/press-release/nhrc-notice-government-tamil-nadu-over-killing-more-10-people-police-firing-tuticorin>

²⁶ Ms. Anita Ramasastry, Chair of UN Working Group on human rights and transnational corporations and other business enterprises, Mr. Baskut Tuncak, Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes, Ms. Agnes Callamard, Special Rapporteur on extrajudicial, summary or arbitrary executions; Mr. Michel Forst, Special Rapporteur on the situation of human rights defenders; Mr. David Kaye, Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Mr. Clément Nyaletsossi Voulé, Special Rapporteur on the rights to freedom of peaceful assembly and of association; Mr. John H. Knox, Special Rapporteur on human rights and the environment; Mr. Léo Heller Special Rapporteur on the human rights to safe drinking water and sanitation

issued a joint statement condemning the excessive and disproportionate use of lethal force against anti-Sterlite protestors in Thoothukudi and also called for independent investigation into the incident.²⁷ On October 4, 2018 NHRCI passed an order closing the case stating adequate compensation has been paid to the victims and appropriate steps have been taken by state government to maintain law and order.²⁸ On December 23, 2018 People's Watch filed a representation to reopen the case and on 3rd September 2019 People's Watch filed a review petition before the NHRCI. However, no effective directions were passed by the NHRCI in reopen application and review petition. Henri Tiphagne, Advocate and Executive Director, People's Watch filed a Writ Petition²⁹ before Madras High Court seeking to reopen the closed case before NHRCI. The High Court impleaded the 17 police officials & 3 Revenue officials along with Central Bureau of Investigation (CBI) who was investigating the case. The NHRCI has opposed the reopening of the case and the matter is currently pending before the Madras High Court and the 17 police officials and 3 revenue officials approached Supreme Court to quash the order passed by the Madras High Court directing vigilance report on the assets of the 17 police officials and 3 revenue officials.³⁰ Here is once again a major case indicating the slackness and negligence of the NHRC through its complaints handling process, even when over 16 persons were killed and over 200 injured. The NHRC has not only closed the complaint, but also refused to review the same despite the concerns raised by eight United Nations Special Rapporteurs.

45. Twenty woodcutters from Tamil Nadu, were killed in an encounter in Sechachalam forest, Tirumala hills by a Special Task Force in Andhra Pradesh on the 7th April, 2015.³¹ The NHRCI directed the investigation division of the commission to conduct a spot enquiry and based on the report of spot enquiry the commission on 28.04.2015³² directed interim compensation, victim protection and action taken report from CBI and District Magistrate.³³ The State of Andhra Pradesh filed a writ petition before High Court of Andhra Pradesh against NHRCI.³⁴ The case is still pending before the Andhra Pradesh High Court and the NHRCI failed to implement its directions passed on 28.04.2015.³⁵

²⁷ Available at <https://www.ohchr.org/en/press-releases/2018/05/un-experts-condemn-deadly-police-response-protest-against-copper-smelting>

²⁸ Available at [Welcome to Human Rights Commissions Network \(hrcnet.nic.in\)](http://www.hrcnet.nic.in)

²⁹ W.P. (M.D) No. 10526/2021

³⁰ SLP Civil 16666 of 2024, Pending before Supreme Court of India.

³¹ Available at [20 woodcutters from TN gunned by A.P. police - The Hindu](https://www.thehindu.com/news/national/20-woodcutters-from-tamil-nadu-gunned-by-ap-police-in-encounter-in-sechachalam-forest-in-andhra-pradesh/article6666666.html)

³² Available at [Important Intervention | National Human Rights Commission India \(nhrc.nic.in\)](http://www.nhrc.nic.in)

³³ Available at [Welcome to Human Rights Commissions Network \(hrcnet.nic.in\)](http://www.hrcnet.nic.in)

³⁴ Writ Petition No. 15767 of 2015 at the Hon'ble High Court of Andhra Pradesh, [Case Status : Search by Case Number \(ecourts.gov.in\)](http://ecourts.gov.in)

³⁵ Available at [Welcome to Human Rights Commissions Network \(hrcnet.nic.in\)](http://www.hrcnet.nic.in)

46. These are only a few examples of the persistent non addressing of human rights violations despite most of these cases having been highlighted in past AiNNI-ANNI reports.

F. Cooperation with Civil Society

47. The NHRCI has mandate to encourage the efforts of non-governmental organisations and institutions working in the field of human rights under section 12 of Protection of Human Rights Act, 1993.

48. In June 2024, The SCA observed that it received extensive information from various civil society organizations which indicated that the relationship between the NHRCI and civil society is not effective or constructive, particularly with respect to ongoing dialogue and follow-up on issues raised. The SCA recommended NHRCI to take additional steps to ensure that it engages in ongoing, constructive dialogue and cooperation with civil society and human rights defenders and that this should include regular and ongoing modes of collaboration outside of the Core/Expert Groups and address pressing human rights issues facing human rights defenders.

49. The NHRC has nine core groups and three core advisory groups on various thematic areas. Since last accreditation NHRC in April 2024 held the meeting of core groups with its members along with special invitees apart from this NHRC has not engaged with members of civil society or human rights defenders outside the core group. Even the meetings with the core groups remains as a discussion and does not lead to any constructive action plans with timelines or definite outcomes which are monitored periodically.

50. Though the NHRC's Core Group on NGO's and Human Rights Defenders was reconstituted and the meeting of the said core group was held on 19th July 2024 with an agenda to 'Identity the roles, responsibilities and challenges of Human Rights Defenders in India'. The meeting was chaired by the Acting Chairperson attended by other senior officers of NHRC, representatives from various ministries, non-governmental organisations, academia and members of the core group. Not a Single Human Rights Defenders platform working in the country were invited to this meeting.

NHRC Core Group	Constituted on	Date of last meeting
Core Group on Children	12 th January 2021	31 st January 2024
Core Group on Older Persons	01 st April 2022	12 th March 2024
Core Advisory Group on Environmental, Climate Change and Human Rights	8 th March 2022	26 th October 2023

NHRC Core Group	Constituted on	Date of last meeting
Core Group on NGOs and HRDs	7 th November 2022	19 th July 2024
Core Advisory Group on Bonded Labour	10 th July 2018	5 th July 2024
Core Group on LGBTI issues	28 th June 2018	11 th November 2020
Core Group on Business, Environment and Human Rights	16 th February 2021	11 th July 2024
Core Group on Disabilities	27 th October 2021	20 th March 2024
Core Group on Health and Mental Health	29 th June 2018	24 th April 2024
Core Group on Right to Food	1 st November 2023	19 th March 2024
Core Group on Women	25 th August, 2022	14 th March 2024
Core Advisory Group on Criminal Justice System Reforms	23 rd May 2021	23 rd April 2024

51. It is pertinent to note that many of meetings were held immediately after 1st October 2023 when AiNNI-ANNI report to the SCA was dispatched where even the composition of these committee was questioned. Most of these committees were reconstituted immediately thereafter immediately before the last accreditation in March 2024 and the 11 of those meeting were held immediately before, during and post accreditation.

52. On 6 April, the government published the draconian Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2023, expanding its control over online content. The Rules authorize a “fact check unit of the central government” to identify online content “in respect of any business of the Central Government” as “fake or false or misleading”. Online intermediaries, including social media companies and internet service providers, will be required to take down any such content. Failure to remove content may result in liability for any third-party information hosted on their platform.³⁶ The NHRC has not issues recommendations against such guidelines which affect freedom of speech and expression. The Bombay High Court no intervention. Their role as the national human rights watch dog body is nil.

³⁶ Available at [Human rights in India Amnesty International](#)

53. In July, the Indian government enforced three new criminal laws – Bharatiya Nyaya Sanhita (BNS), Bharatiya Nagarik Suraksha Sanhita (BNSS), and the Bharatiya Sakshya Adhinayam (BSA) – which replaced the Indian penal code, the Code of Criminal Procedure, and the Indian Evidence Act. The new laws expand police powers, raising concerns about them being used to infringe upon the rights to freedom of expression, association, peaceful assembly, and fair trial. NHRCI and its Advisory Core Group on Criminal Justice failed to discuss about the new criminal laws in their core group meeting and NHRCI has not used its powers to make recommendations for human rights safeguards in national legislation. PUCL acknowledge in all these this body did not raise public discussion. Core Advisory never mentioned or discussed this.
54. The NHRCI has never used its powers to make recommendations for human rights safeguards in national legislation despite repeated calls to amend the Foreign Contribution Regulation Act, 2010 (FCRA). The Government also enacted the Foreign Contribution Regulation (Amendment) Act, which provided justification for the government to cancel and suspend the licenses of certain CSOs/NGOs for receiving foreign funding as prohibited by the law. This is despite the fact the SCA report has mentioned the FCRA and raised its concerns.
55. These are just a few examples among many more to indicate that this recommendation has not been put to action by the NHRCI.

V. Conclusion

56. As in June 2024, following the deferral of NHRCI's accreditation, we are deeply saddened to note that the successive deferral of the accreditation in June 2024 following March 2023 has not at all resulted in any qualitative addressing of the recommendations of SCA, most of which are repetitions of recommendations made in 2011, 2016, 2017 & 2023.
57. In July 2024 the Human Rights Committee on International Covenant on Civil and Political Rights raised concerns and issued recommendations to India: -

“10. The State party should promptly implement the recommendations of the Global Alliance of National Human Rights Institutions (GANHRI), to ensure that the National Human Rights Commission fully complies with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles) and is able to carry out its mandates effectively and independently. The State party should ensure transparent and participatory selection and appointment processes, gender balance and ethnic and religious minority representation, and meaningful cooperation with civil society. The State party should also ensure that the Commission is empowered to investigate allegations of human rights violations committed by the

armed forces, consider abolishing the one-year time limit to investigate human rights violations and decrease the involvement of police officers in investigations that might undermine the independence of the Commission.”

58. SCA-GANHRI in June 2024 noted that *“responses provided by the NHRC both in writing and during the interview, and the progress made towards having the full board. However, the SCA notes that the majority of the recommendations remain unaddressed.”* And reiterates that *“when an NHRI does not provide sufficient evidence to show the steps it has taken to address previous concerns raised by the SCA, or fails to offer a reasonable explanation of why previous concerns, often repeated, have not been addressed, the SCA may, depending on the seriousness of the issues previously raised, interpret such lack of progress as an unwillingness to demonstrate efforts in implementing the SCA recommendation and as an indication of non-compliance with the Paris Principles.”*
59. AiNNI-ANNI observes that SCA-GANHRI is continuing to hesitate in providing a definitive status to Human Rights Institutions who have taken few if any steps to meet the Paris Principles diminishes their importance and that of the SCA process.
60. The NHRC stands at the apex of 170 human rights institutions across the country. As such it has a responsibility to stand as an exemplar of standards and capability. However, its consistent inability to meet accepted standards is discouraging of institutions tasked with similar responsibilities and is a clog/ detrimental on the entire human rights eco system.
- 61. It is now 13 years since specific recommendations were made which would ensure that the NHRCI was functioning with standards that accord with the Paris Principles. In absence of demonstrable progress toward bringing its structure, procedure and processes in line with the recommendations of SCA-GANHRI and minimum standards of Paris Principles required to fulfill A status. Therefore, we submit that there is no justification for further deferral or awarding it ‘A’ Status.**