

To

Chairperson Maryam Abdullah Al Attyah

Global Alliance of National Human Rights Institutions (GANHRI)

Geneva, Switzerland

29 November 2024

## **Re: Review of the Accreditation Status of the National Human Rights Commission of India**

Dear Chairperson,

The Asian NGOs Network on National Human Rights Institutions (ANNI)—a network of Asian non-governmental organizations and human rights defenders working on issues related to national human rights institutions in Asia— and the undersigned organizations respectfully urge the GANHRI Sub-Committee on Accreditation (SCA) to downgrade the accreditation of the National Human Rights Commission of India (NHRCI) at the upcoming re-accreditation session in March 2025 to reflect its persistent failure to comply with the Paris Principles and to implement GANHRI's recommendations.

### **Downgrade the NHRCI's accreditation**

ANNI and the undersigned organizations strongly urge the GANHRI-SCA to amend the current "A" status accreditation of the NHRCI to appropriately reflect the Commission's repeated failures to address the SCA's recommendations since 2011 and to ensure compliance with the Paris Principles.

Despite two successive deferrals of accreditation of the NHRCI by the SCA in 2023 and 2024, the government has shown no willingness to amend the Protection of Human Rights Act (PHRA) 1993 to guarantee the principles of pluralism and independence in the selection of the NHRCI Commissioners and in the discharge of its investigative functions in cases of alleged human rights violations.

The NHRCI's lack of independence from Government interference renders it ineffective in addressing the country's spiraling human rights situation.

Downgrading the status of the NHRCI is necessary to restore its independence and credibility.

### Reasons for the deferral of accreditation

The reaccreditation “A-Status” of the NHRCI has been twice deferred in 2023 and 2024 after the NHRCI and the Indian Government have repeatedly failed to implement the recommendations made by the SCA to address the following issues<sup>1</sup>:

1. The lack of pluralism in the selection and appointments of the members of its Commission, including the Chairperson;
2. Its inability to function independent of government interference ;
3. The Commission's failure to effectively carry out its mandate and functions, including the conduct of independent investigations into an increasing number of human rights violations in the country;
4. Its lack of cooperation with human rights bodies and civil society.<sup>2</sup>

### Concerns raised by the UN Human Rights Committee

In July 2024, the UN Human Rights Committee echoed the same concerns over the NHRCI's lack of action in implementing the recommendations made by the SCA during the periodic review of India's compliance with the International Covenant on Civil and Political Rights. The Committee noted the following concerns:

1. The lack of gender balance and representation of religious and ethnic minorities in the composition of its Commission;
2. The opaque and exclusive selection and appointment processes for the Commission;
3. The lack of meaningful engagement with civil society;
4. The involvement of police officers in the NHRCI's investigations of human rights violations, which has the potential to impact the independence of such accountability processes.<sup>3</sup>

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<sup>1</sup> Global Alliance of National Human Rights Institutions, Report and Recommendations of the Session of the Sub-Committee on Accreditation (SCA), February and March 2024, <https://www.ohchr.org/sites/default/files/documents/countries/nhri/ganhri/SCA-Report-Second-Session-2024-EN.pdf> (accessed October 31, 2024).

<sup>2</sup> Ibid.

<sup>3</sup> Office of the UN High Commissioner for Human Rights, Concluding observations on the fourth periodic report of India by the Human Rights Committee, September 2024, p.2-3.

In recognition of the NHRCI's failure to address the aforementioned concerns, the Committee concluded in its observations that the NHRCI has largely failed to comply with the Paris Principles.<sup>4</sup>

### **Lack of a transparent and pluralistic selection process for Commissioners**

Despite repeated recommendations to ensure pluralism and diversity in the composition of its Commissioners and staff by the SCA since 2016, the Indian Government continues to exclusively appoint former civil servants or members of parliament associated with the ruling party as Chairpersons of the thematic National Commissions.<sup>5 6</sup>

This practice undermines the ability of the NCHRI to discharge its mandate and functions independently.

While the government has made some efforts to adopt the SCA's recommendations to ensure pluralism, such measures remain insufficient and superficial.

The NHRCI still fails to meaningfully address the need for greater gender diversity and minority representation in its composition. For example, the government amended the PHRA to extend the eligibility criteria for a chairperson to include former Supreme Court judges in 2019. However, not only was this amendment introduced without sufficient legislative consultations, it also resulted in only one additional person being qualified under the superficial expansion of eligibility criteria.<sup>7</sup>

The selection process for Commissioners continues to face severe undue delays, leaving the NHRCI functioning without a full Commission since 2023.<sup>8</sup> At present,

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<sup>4</sup> Ibid.

<sup>5</sup> GANHRI, SCA report 2024, p. 45; GANHRI, Report and Recommendations of the Session of the Sub-Committee on Accreditation (SCA), March 2023, p. 30-31, <https://www.ohchr.org/sites/default/files/documents/countries/nhri/ganhri/SCA-Report-First-Session-2023-EN.pdf>; GANHRI, Report and Recommendations of the Session of the Sub-Committee on Accreditation (SCA), November 2016, p. 24, [https://www.ohchr.org/sites/default/files/Documents/Countries/NHRI/GANHRI/SCA\\_Final\\_Report\\_-\\_Nov\\_2016\\_-\\_English.pdf](https://www.ohchr.org/sites/default/files/Documents/Countries/NHRI/GANHRI/SCA_Final_Report_-_Nov_2016_-_English.pdf) (accessed October 31, 2024).

<sup>6</sup> "Analysis of NHRC call for Applications for various positions January 2018 – September 2023," The All-India Network of NGOs and Individuals, September 2023, <https://ainni.in/wp-content/uploads/2023/09/Analysis-of-NHRC-Vanancy-2018-to-2023.pdf> (accessed October 31, 2024).

<sup>7</sup> Protection of Human Rights (Amendment) Act, 2019, s. 3, [https://nhrc.nic.in/sites/default/files/PHR\\_ACT2019\\_27012020\\_1.pdf](https://nhrc.nic.in/sites/default/files/PHR_ACT2019_27012020_1.pdf)

<sup>8</sup> GANHRI, SCA report, 2023, p. 30.

only one full-time member of the Commission—who is also the acting chairperson since 5 June 2024—sits on what should be a six-member Commission.<sup>9</sup>

The lack of urgency and transparency in the selection process is indicative of the government's unwillingness to address widespread concerns over the NHRCI's independence amidst rapidly rising human rights violations in the country.

### **Compromised independence: The involvement of police officers in NHRCI investigations**

The independence of the NHRCI is further eroded by the involvement of police officers in its human rights investigations.<sup>10</sup>

The PHRA legally enables the government to appoint high-ranking police officers to oversee or act as investigative staff in cases of human rights violations handled by the NHRCI. The SCA raised concerns about police officers' involvement in the NHRCI's investigative functions in 2017, 2023, and 2024, in addition to the aforementioned observation by the UN Human Rights Committee in 2024.

Both the SCA and the Committee cited that police involvement could negatively impact the ability of the NHRCI to conduct unbiased investigations and to deliver justice in cases of human rights violations involving law enforcement personnel.<sup>11 12</sup>

Despite these repeated calls for concern, the government has not taken any steps in strengthening the NHRCI's independence from police interference.

ANNI is alarmed by this passivity and indifference of the Indian Government amidst escalating reports of violence and discrimination against religious and ethnic minorities and the weaponization of counter-terrorism legislation against human rights defenders.<sup>13</sup>

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<sup>9</sup> Composition of Commission, National Human Rights Commission of India, <https://nhrc.nic.in/about-us/composition-of-commission> (accessed November 2, 2024).

<sup>10</sup> Office of the UN High Commissioner for Human Rights, Concluding observations on the fourth periodic report of India by the Human Rights Committee, September 2024, p.2-3.

<sup>11</sup> GANHRI, SCA 2024 report, p. 43-44.

<sup>12</sup> Office of the UN High Commissioner for Human Rights, Concluding observations on the fourth periodic report of India by the Human Rights Committee, September 2024, p.2-3.

<sup>13</sup> Office of the UN High Commissioner for Human Rights, Concluding observations on the fourth periodic report of India by the Human Rights Committee, September 2024, p.2-3.

## Failure to address human rights violations

The NHRCI's lackluster effort in addressing human rights violations results from its lack of independence from police interference as well as its reluctance to pursue cases of human rights violations.

Despite repeated recommendations by the SCA and calls by civil society for the NHRCI to address all human rights violations and abuses, it has not taken sufficient steps to pursue justice and accountability for victims, survivors, and their families.<sup>14 15</sup>

The NHRCI has failed to respond to a number of emblematic cases, even after the SCA deferred its accreditation in March 2024.

For example, the NHRCI failed to condemn and investigate cases of government-sanctioned undue demolitions of the homes, businesses, and places of worship of Muslim communities.<sup>16</sup> The NHRCI has also failed to address the ongoing ethnic violence in Manipur, which has resulted in over 200 deaths and 60,000 internally displaced persons since May 2023.<sup>17</sup>

## Failure to support civil society amidst growing attacks

In the face of excessive persecution and eroding freedoms, the NHRCI has failed to support and protect human rights defenders, media workers, and marginalized communities. The government's use of draconian counterterrorism laws—including the National Security Act, Foreign Contribution (Regulation) Act, the Unlawful Activities (Prevention) Act, and the Prevention of Money Laundering Act—to target civil society organizations, human rights defenders and members of minority communities- has further weakened India's already shrinking civic space.

These laws are used to restrict non-governmental organizations from receiving foreign funding to carry out human rights work and silence activists advocating for the rights of minority groups and marginalized communities.<sup>18</sup> There are increasing reports of victims from religious minorities being subjected to torture

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<sup>14</sup> GANHRI, SCA report, 2023, p. 33.

<sup>15</sup> GANHRI, SCA report, 2024, p. 47.

<sup>16</sup> "India: "If you speak up, your house will be demolished": Bulldozer injustice in India," Amnesty International, February 7, 2024, <https://www.amnesty.org/en/documents/asa20/7613/2024/en/> (accessed November 2, 2024).

<sup>17</sup> Amnesty International, India: Wanton killings, violence, and human rights abuses in Manipur, July 12, 2023, <https://www.amnesty.org/en/documents/asa20/6969/2023/en/> (accessed November 2, 2024).

<sup>18</sup> "India: Stop Abusing Counterterrorism Regulations, Financial Action Task Force Review Should Document Crackdown on Dissent", Amnesty International (accessed November 3, 2024) <https://www.amnesty.org/en/latest/news/2023/11/india-stop-abusing-counterterrorism-regulations/mne>

under arbitrary detention on trumped-up terrorism charges while their families faced harassment and intimidation.<sup>19</sup>

Law enforcement also reportedly uses excessive force and unlawful methods—such as undue surveillance and planting of evidence—to suppress protests and other forms of dissent.<sup>20</sup>

Despite the mounting evidence of human rights violations committed by Indian authorities, the NHRCI has continuously failed to act on its mandate. Police involvement in the NHRCI's investigative functions contributes to the culture of impunity for serious human rights violations and abuses.<sup>21</sup>

Similarly, in spite of persistent calls by the international community—including the UN and international and national civil society organizations—the NHRCI has consistently failed in implementing its mandate for the protection of human rights defenders. An emblematic example in this regard is the Commission's continuing silence on the arbitrary detention since November 2021 of Kashmiri activist Khurram Parvez, on politically motivated, trumped-up terrorism charges directly related to his human rights work.<sup>22</sup>

Similarly, the NHRCI failed to address the politically motivated persecution of GN Saibaba, a scholar and activist who was imprisoned for a decade under fabricated terrorism charges. He faced inhumane treatment during his incarceration before his acquittal in March 2024.<sup>23</sup>

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<sup>19</sup> "India: The family of a torture victim is punished and silenced under security laws," OMCT: The World Organization Against Torture (accessed on November 20, 2024)

<sup>20</sup> Niha Masih, "Hackers planted evidence on computer of jailed Indian priest, report says," *Washington Post*, December 13, 2022, <https://www.washingtonpost.com/world/2022/12/13/stan-swamy-hacked-bhima-koregaon/> (accessed November 2, 2024).

<sup>21</sup> United Nations Office of the High Commissioner of Human Rights, India: Inhumane prison conditions for Bhima Koregaon Human Rights Defenders (joint communication), June 12, 2021, <https://srdefenders.org/india-inhumane-prison-conditions-for-bhima-koregaon-human-rights-defenders-joint-communication/> (last accessed November 2, 2024); United Nations Office of the High Commissioner of Human Rights, One year in detention: UN experts demand immediate release of Kashmiri activist Khurram Parvez, November 22, 2022, <https://www.ohchr.org/en/press-releases/2022/11/one-year-detention-un-experts-demand-immediate-release-kashmiri-activist> (last accessed November 2, 2024); United Nations Office of the High Commissioner of Human Rights, UN experts urge India to release protest leaders, June 26, 2022, <https://www.ohchr.org/en/news/2020/06/un-experts-urge-india-release-protest-leaders?LangID=E&NewsID=26002> (last accessed November 2, 2024).

<sup>22</sup> India: Kashmiri Activist Held Under Abusive Law, Joint statement by six human rights groups, November 26, 2021, <https://www.amnesty.org/en/latest/news/2021/11/india-kashmiri-activist-held-under-abusive-law/> (accessed November 2, 2024).

<sup>23</sup> Ashutosh Sharma, "G.N. Saibaba reveals torture and injustice during 10-year imprisonment," *Frontline*, March 9, 2024, <https://frontline.thehindu.com/the-nation/human-rights/former-delhi-university-professor-gn-saibaba-acquitted-10-years-in-prison-unlawful-activities-prevention-act-uapa/article67932158.ece> (accessed November 2, 2024).

Given the persistent concerns raised by GANHRI, the UN human rights bodies and civil society, ANNI and the undersigned organizations strongly urge the SCA to downgrade the “A” status of the NHRCI in its upcoming review in March 2025.

ANNI and the undersigned organizations believe that by maintaining the A-status of the NHRCI, GANHRI runs the risk of legitimizing the persistent failures of the Indian Government and the Commission to ensure the latter’s compliance with the Paris Principles and to address the worsening human rights situation in the country.

We thank you for your time and kind consideration on this matter.

We look forward to hearing back from you.

Yours sincerely,

**The Asian NGO Network on National Human Rights Institutions (ANNI)**

**All Indian NGO Network on National Human Rights Institution (AiNNI)**

**Asia Alliance Against Torture (A3T)**

**Asia Democracy Network (ADN)**

**Asian Federation Against Involuntary Disappearances (AFAD)**

**Asian Forum for Human Rights and Development (FORUM-ASIA)**

**Asian Resource Foundation**

**Association of Women for Awareness & Motivation (AWAM), Pakistan**

**Balaod-Mindanao, Philippines**

**Bir Duino, Kazakhstan**

**Bytes for All, Pakistan**

**Cambodian League for the Promotion and Defense of Human Rights (LICADHO)**

**Centre for Human Rights and Development (CHRD)**

**Community Self Reliance Centre (CSRC)**

**CSO Working Group on Independent National Human Rights Institution (Burma/Myanmar)**

**Dakila, Philippines**

**Dignity, Kazakhstan**

**Free Jonas Burgos Movement**

**In Defense of Human Rights and Dignity Movement (i-DEFEND)**

**International Coalition against Enforced Disappearances (ICAED)**

**International Legal Initiative Public Foundation (ILI Foundation)**

**International Rehabilitation Council for Torture Victims (IRCT)**

**Judicial System Monitoring Programme (JSMP) Timor-Leste**

**Karapatan Alliance Philippines**

**Kazakhstan International Bureau for Human Rights and Rule of Law (KIBHR)**

**Korean House for International Solidarity (KHIS)**

**Law & Society Trust (LST)**

**Maldivian Democracy Network (MDN)**

**Philippine Alliance for Human Rights Advocates (PAHRA)**

**Progressive Voice**

**Pusat KOMAS, Malaysia**

**The Commission for Disappeared and Victims of Violence (Komisi untuk Orang Hilang dan Korban Tindak Kekerasan) - KontraS**

**The Human Rights Measurement Initiative (HRMI)**

**Think Centre, Singapore**