

1.8. Nepal: National Human Rights Commission of Nepal (NHRCN)

Recommendation: The SCA recommends the NHRCN maintain its **A** status.

At its first session of 2021, the SCA decided to undertake a special review of the accreditation status of the NHRCN, based on information received from a group of civil society organizations alleging that the 2021 appointment process of the NHRCN was inconsistent with domestic law and the essential requirements of the Paris Principles.

At its second session of 2021, the SCA decided to defer the review of NHRCN to its second session of 2022, pending the decision of the Constitutional Bench of the Supreme Court on the legality of the recent appointments. In its second session of 2022, the SCA recommended that the NHRCN be downgraded to **B** status.

The SCA is satisfied that the information provided by the NHRCN demonstrates full compliance with the Paris Principles.

The SCA commends the efforts undertaken by the NHRCN to advocate for amendments to the National Human Rights Commission Act (NHRC Act) to address the SCA's recommendations. The SCA encourages the NHRCN to continue to advocate for amendments to the NHRC Act to provide for a selection and appointment process that complies with the Paris Principles.

The SCA notes that the verdict of the Supreme Court on the legal challenge to the appointment of NHRCN members in 2021 has not yet been delivered and that a hearing date has been set for 6 December 2023.

The SCA highlights that NHRIs that have been accredited with A status should take reasonable steps to enhance their effectiveness and independence, in line with the Paris Principles and the recommendations made by the SCA during this review.

The SCA encourages the NHRCN to continue its cooperation and actively engage with OHCHR, GANHRI, APF, and other NHRIs, as well as relevant stakeholders at international, regional, and national levels, to effectively discharge its mandate.

The SCA notes:

1. Recommendations by NHRIs

Article 249 of the Constitution of Nepal sets the function, duties, and powers of the NHRCN. Articles 4 to 9 of the NHRC Act further explain the function, duties, and powers of NHRCN, including drawing attention to human rights issues, providing opinion or consultation, making names public, and keeping their record, constituting a committee or task force, and provision regarding interim relief and rescue.

The NHRCN reports that it makes various recommendations to the national authorities. Further, it follows up on recommendations by sending letters to the government and conducting dialogue programs to discuss implementation.

The SCA recommends the NHRCN to continue engaging Government to respond to its advice and requests and to indicate, within a reasonable time, how they have complied with their recommendations.

The SCA encourages the NHRCN to conduct follow-up activities to monitor the extent to which its recommendations have been implemented.

The SCA refers to Paris Principles A.1, A.2, A.3 and to its General Observation 1.6 'Recommendation by NHRIs'.

2. Selection and appointment

The SCA acknowledges that the NHRCN has proposed a Bill with significant amendments to the NHRC Act, in line with the Paris Principles, and has conducted consultations with civil society organizations and experts in this regard. During its interview with the SCA, the NHRCN reported further that it has received support from parliamentarians on the proposed Bill.

The proposed Bill provides for the advertisement of vacancies at the NHRCN and the establishment of a shortlisting committee of three members 'who have made distinguished contribution in the fields of law, justice, human rights and social sector'. The SCA is of the view that this provision, if passed, will work towards addressing the SCA's concerns on the selection and appointment process.

The SCA encourages the NHRCN to ensure that the Bill also establishes mechanisms to support pluralism and diversity among members of the NHRCN, including gender and other marginalized groups. The SCA considers the pluralistic composition of the NHRI to be fundamentally linked to the requirement of independence, credibility, effectiveness, and accessibility.

It is critically important to ensure the formalization of a clear, transparent, and participatory selection and appointment process of the NHRI's decision-making body in relevant legislation, regulations, or binding administrative guidelines, as appropriate. A process that promotes merit-based selection and ensures pluralism is necessary to ensure the independence of, and public confidence in, the senior leadership of an NHRI.

The SCA recommends that the NHRCN continue to advocate for the passage of the proposed Bill and ensure that it complies with the requirements of the Paris Principles and General Observations, in particular on the selection and appointment process, providing for a process that includes requirements to:

- Publicize vacancies broadly;
- Maximize the number of potential candidates from a wide range of societal groups;
- Promote broad consultation and/or participation in the application, screening, selection and appointment process;
- Assess applicants on the basis of pre-determined, objective, and publicly available criteria; and

- Select members to serve in their own individual capacity rather than on behalf of the organization they represent.

The SCA refers to Paris Principle B.1 and to its General Observation 1.8 on 'Selection and appointment of the decision-making body of NHRIs' and 1.7 on 'Ensuring pluralism of the NHRI'.

3. Adequate funding of NHRI

The SCA received detailed information on the financial situation in which the NHRCN is operating, with the initial allocation of budget for the 2022/2023 Fiscal Year reported as USD 1,939,115. The amounts for the 2021/2022 (USD 1,903,095) and 2020/2021 (USD 1,932,361) fiscal years were reported to be in a similar range. The SCA is of the view that the current level of funding is not sufficient for the effective discharge of the NHRCN's mandate, including to ensure the functioning of its 10 field offices. The SCA notes that the NHRCN requires additional funding to ensure that the NHRCN effectively discharges its mandate according to the Paris Principles, including to guarantee access to the NHRI among the population in regional areas of Nepal.

The SCA emphasizes that, to function effectively, an NHRI must be provided with an appropriate level of funding in order to guarantee its independence and its ability to freely determine its priorities and activities. It must also have the power to allocate funding according to its priorities.

The SCA encourages the NHRCN to continue to advocate for an appropriate level of funding to carry out its mandate including the work at the grassroots level with its 10 field offices.

The SCA refers to Paris Principle B.2 and to its General Observation 1.10 on 'Adequate funding of NHRIs'.