



ASIA PACIFIC FORUM
ADVANCING HUMAN RIGHTS IN OUR REGION

APF Member 'Bare Facts'

India

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Introductory Comments

The Asia Pacific Forum of National Human Rights Institutions ('APF'), established in 1996, is the leading regional member-based human rights organisation in the Asia Pacific.

This member's profile focussing on India's NHRI is part of a series of profiles which provide information about the core features and functions of each of the APF's member institutions.

India was a founding member of the APF in 1996. India became a member of the International Coordinating Committee of National Human Rights Institutions in 1999.

The information contained in this profile reflects the NHRI's response to a Members' Profile Questionnaire sent to all APF member institutions in 2012.

Foundation

India's NHRI, the National Human Rights Commission of India ('NHRCI') was established by the Protection of Human Rights Act, 1993 (No 10 of 1994).ⁱ

The NHRCI has a national jurisdiction.

Composition

The NHRCI has 5 full-time members and 4 deemed members. The 4 deemed members are the Chairpersons of the National Commissions for Minorities, Women, Scheduled Castes and Scheduled Tribes.

Application, Selection and Appointment process

The Protection of Human Rights Act, 1993 (No 10 of 1994) establishes the application, selection and appointment process for members of the NHRCI.

Recommendations are made by a broad based Selection Committee which comprises representatives, both from the ruling and opposition parties. The Protection of Human Rights Act, 1993 (No 10 of 1994) does not specify any authority or group that may make nominations. Therefore, anyone with an interest may nominate candidates.

Financial autonomy

100% of the NHRCI's annual budget of US\$ 4,878,969 comes from the Indian Government. The founding law requires the Government to provide funding and restricts the Commission's ability to raise funds from other sources.

Personnel

The total number of regular staff in the NHRCI is 343. In addition there are over 100 staff on contracts, including legal consultants, research officers and research assistants and translator.

The deemed Members, as the Chairpersons of the National Commissions for Minorities, Scheduled Castes, Scheduled Tribes and Women, represent these diverse groups in India.

Recruitment of the officers and staffers of the Commission is through open and transparent procedure based on merit. Over 25% of posts in the Secretariat is reserved for candidates from the Scheduled Castes, Scheduled Tribes, Other Backward Castes and persons with disabilities, with preference given to women and minorities as per the policy of the Government of India.

The percentage of men and women at each level is:

1. Commission: 100% men
2. Senior Staff: 84% men and 16% women
3. Junior Staff: 88% men and 12% women

Working methods

The Full Commission meets twice a month to discuss Administrative and Programme Agenda items. To deal with complaints and important human rights issues the Commission also holds meetings of Single Bench (Daily), Division Benches (twice a week), Full Commission (twice a week), Full Court, regularly Statutory Full Commission, Camp Sitings and Open Hearings.

The NHRCI has a dedicated Policy Research, Projects and Programme Division and also Core Groups and Expert Groups set up to advise it on key issues.

The NHRCI has a legal mandate to:

1. Make recommendations to the government, Parliament and other competent bodies on matters concerning:
 - a. Proposed legislative or administrative provisions,
 - b. Suggested amendments to existing legislation,
 - c. The adoption or amendment of administrative measures.
2. Report without restriction:
 - a. On the national human rights situation, on specific matters or through thematic reports,
 - b. On violations of any human rights,
 - c. Its opinions and recommendations.
- 3 Promote and advocate for the:
 - a. Harmonization of national laws and practices with India's international obligations,
 - b. study treaties and other international instruments on human rights and make recommendations for their effective implementation.
- 4 Engage with the International human rights system by:
 - a. Contributing to the State's periodic treaty body reports,
 - b. Expressing opinion on the State's reports to the UN treaty bodies,
 - c. Cooperating with the UN and its agencies, regional institutions and the NHRIs of other countries.
- 5 Conduct public education and awareness raising by:
 - a. undertake and promote research in the field of human rights
 - b. spread human rights literacy among various sections of society and promote awareness of the safeguards available for the protection of these rights through publications, the media, seminars and other available means;
 - c. encourage the efforts of non-governmental organisations and institutions working in the field of human rights;

The NHRCI shall not inquire into any matter pending before a State Commission or any other Commission constituted under law. It also may not inquire into any matter more than one year after the act constituting the human rights violation is alleged to have been committed.

Powers

The NHRCI has the following powers:

Power Relating to Inquiries

The Commission is vested with wide-ranging powers relating to inquiries and investigation under Section 13 of the PHRA. While inquiring into complaints under the PHRA, the Commission has all the powers of a Civil Court trying a suit under the Code of Civil Procedure, 1908, and, in particular, in respect of the following matters.

- summoning and enforcing the attendance of witnesses and examining them on oath.
- discovery and production of any document.
- receiving evidence on affidavits.
- requisitioning any public record or copy from any court or office.
- issuing commissions for the examination of witnesses or documents.
- any other matter that may be prescribed.

Inquiry into Complaints

The Commission while inquiring into complaints of violation of human rights, under Section 17 of the Act, may:

- call for information or reports from the Central or State Governments, or any other authority or organization subordinate thereto, within such time as specified by it, provided that :

- if the information or report is not received within the time stipulated by the Commission, it may proceed to inquire into the complaint on its own.
- if, on the receipt of information or report, the Commission is satisfied that no further inquiry is required, or that the required action has been initiated or taken by the Government or authority concerned, it may decide not to proceed with the complaint, and inform the complainant accordingly.

Steps During and After Inquiry

During or after completion of an inquiry the Commission may under Section 18 of the PHRA, take any of the following steps:

Where the inquiry discloses the commission of violation of human rights or negligence in the prevention of violation of human rights or abetment thereof by a public servant, the Commission may recommend the following to the concerned Government or authority:

- payment of compensation or damages to the complainant or to the victim or the member of the family.
- initiation of proceedings for prosecution, or any other suitable action the Commission may deem fit, against the person(s) concerned.

OPCAT

The NHRCI is not a formally designated National Preventative Mechanism under the OPCAT.

Relationship with State and Civil Society

The NHRCI can directly report to Parliament and Government bodies are formally required to respond to the NHRCI's resolutions, reports or recommendations.

The *Protection of Human Rights Act, 1993* (No 10 of 1994) provides the NHRCI with the capacity to establish formal relationships with Civil society and the NHRCI has developed formal relationships with civil society that result in regular engagement via Civil Society advisory body and other advisory body consultations, regular or institutionalised meetings and engaging with CSO's on thematic issues and in conducting inquiries.

Accreditation

The NHRCI was last reviewed by the ICC in May 2011 and has an ICC A accreditation status.

ⁱAs amended by the *Protection of Human Rights (Amendment) Act, 2006 – No 43 of 2006*.