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From 2019 to 2020, the global human rights community was strongly impacted by the COVID-19 pandemic, which has affected human rights work to a great extent. In light of the health crisis, civil society organisations (CSOs) from across Asia, who are also members of the Asian NGO Network on National Human Rights Institutions (ANNI), have raised concerns on the inadequate actions and arbitrary constraints to human rights imposed by many countries through national legislation intended to address the public health emergency. Many of the restrictions on rights enforced by the governments were unjustifiable as they were broadly-worded and not always based on scientific evidence, not enforced with a legal basis, nor necessarily based on scientific proof and made through an inclusive and people-centred approach. The governments failed to ensure that many of these restrictions, in their planning and application, adhere to the principles of non-discrimination or proportionality in achieving the desired result.¹

National human rights institutions (NHRIs), as independent bodies with a constitutional and/or legislative mandate to protect and promote human rights, are the bedrock of a strong human rights protection system in a national context. The work of NHRIs is guided under a set of principles known as the Paris Principles. NHRIs’ functions as stipulated in the Paris Principles are divided into human rights promotion and protection.² In order to ensure that NHRIs work in compliance with the Paris Principles, they need to undergo a periodic accreditation process conducted by the Sub-Committee on Accreditation of the Global Alliance of National Human Rights Institutions (GANHRI-SCA).

During the COVID-19 pandemic, NHRIs have played an important role in responding to human rights situations in a highly restrictive environment in many countries. However, members of ANNI have also reported that many NHRIs have failed to adequately address the impact of COVID-19 on human rights in various countries. In 2020, ANNI’s documentation of the NHRIs’ responses to COVID-19 showed that most NHRIs in Asia were not consulted by their government in developing responses to COVID-19.³ This condition left NHRIs excluded from the planning of various measures by governments, many of which have mainly disregarded human rights in the implementation of their measures. Several NHRIs were also working heavily on only raising the public’s awareness of the human rights situation during the pandemic while failing to hold their respective governments accountable for the human rights violations resulting from their COVID-19 responses or the lack of one.

From 2019 to 2020, civil society has experienced repressions of their fundamental rights in the presence of authoritarian governments in Asia. ANNI members reported a spike of judicial harassment conducted against human rights defenders (HRDs) justified by the use of draconian laws, which stifled their freedom of expression and freedom of peaceful assembly and of association. The vicious enforcement of such laws in Asian countries displayed a serious impediment to the human rights situation in the region. The recurrent use of dangerous legislation marked the failure of the governments in protecting, respecting and fulfilling human rights of their people, in particular during a public health crisis. HRDs continued to face attacks, harassment, and intimidation during the pandemic as they persisted with their human rights work. Many of the defenders were targeted as they exercised their freedom of expression, freedom of assembly and of association, and freedom of movement, in particular those who voiced their criticisms of their government’s COVID-19 responses.

The cases documented by ANNI show that HRDs are often attacked, imprisoned and even killed by people in power. In the times of the pandemic, governments in Asia often used draconian laws to gag the critical voices of HRDs under the name of national security. The threats, intimidation and harassment faced by HRDs in Asia are evidence of democratic regression in the region as the democratic space and civil liberties that should have been broadened were curtailed.

The roles of NHRIs in these anomalous situations have been more significant than ever as they have been vested with a broad mandate to promote and protect human rights, at least for the NHRIs which are in compliance with the Paris Principles. However, ANNI has recorded many failures of NHRIs across Asia in conducting their work, as their independence has been corroded through the enactment of new laws or changes to constitutions, as a result of national political developments. CSOs have continuously witnessed the ignorance of NHRIs in the face of human rights violations, as they were not able to perform independently, especially if the State was under political turmoil. The independence of NHRIs has been corroded through various ways, such as restrictions on their financial autonomy. Many NHRIs were also unable to work on their protection mandate in effectively and proactively responding to human rights complaints.

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country chapters
(in alphabetical order)
BANGLADESH

The outbreak of COVID-19 resulted in a series of human rights violations in the country. It particularly threatened the right of people to health and access to quality healthcare services during this period. The Government of Bangladesh was not able to adequately deal with the COVID-19 outbreak. The lack of an effective response attracted a lot of criticism, specifically related to: its failure to take pre-emptive measures; the lack of inter-department coordination; insufficient testing and hospital facilities; the unavailability of adequate safety gear for all frontline health workers; and mishandling and corruption in the management of the pandemic. The right to freedom of peaceful assembly was further curtailed by excessive force by both law enforcement agencies as well as supporters of the ruling party. Violations of the right to life through extra-judicial killings and deaths in custody were also evident throughout 2020. In addition, instances of violence against women were prevalent throughout the year. At different times in 2020, there were also attacks on religious and ethnic minority communities.

The Chair and full-time members of the National Human Rights Commission, Bangladesh (NHRCB), who are appointed to the Commission, assess the human rights situation from their own perspective; that is, if they think an issue is politically sensitive and there is a high possibility that their interference may upset the Government or a section of the Government, they would be less active in inquiring into or monitoring that issue. Despite recommendations from the GANHRI-SCA, and persistent demands from CSOs to hold public consultation and ensure a transparent selection process, the selection process still remains under wraps. Regrettably, more than 10 years since its establishment, the NHRCB has become a workplace for ‘retired government officials’, raising further questions about its independence and effectiveness.

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12 Based on author interaction with experts, the NHRC, and other relevant stakeholders.
The NHRCB has a mandate to promote and protect human rights. However, the term ‘human rights’ is defined in the Act as merely the ‘Right to life, Right to liberty, Right to equality and Right to dignity of a person guaranteed by the constitution of the People’s Republic of Bangladesh’ and other rights guaranteed in human rights treaties that Bangladesh is a party to, instead of encompassing the full range of human rights guaranteed under international law.\(^\text{14}\) With regards to the procedure which is followed by the Commission in cases of human rights abuses by the disciplined forces, the NHRCB may make recommendations to the Government for appropriate action.\(^\text{15}\) The mere recommendatory power of the Commission limits its ability to protect human rights. Further, the nature of the power is discretionary, that is, it can choose not to conduct investigations, meet with the concerned authorities, send summons, or move the case to the High Court, etc.\(^\text{16}\) In fact, the Commission has not utilised such powers effectively in the past. The NHRCB attributes the fewer complaints received in 2020 to the COVID-19 pandemic. However, the Commission itself was only able to dispose of 347 complaints. Significantly, these 347 disposed cases included complaints that had been filed prior to 2020.\(^\text{17}\) A total of 698 complaints remain pending as of the end of 2020.\(^\text{18}\) The follow-up mechanism of the NHRCB is also extremely weak. The Commission conducts limited follow-up and does not have a mechanism to monitor the status of its past activity and initiatives. These practical gaps in the internal complaints-handling mechanism of the NHRCB limits its power to take substantive steps towards human rights protection.

The NHRCB has developed into a haven for bureaucrats who do not necessarily have the ability or willingness to protect human rights in Bangladesh. This can partly account for the lack of effectiveness of the Commission while the country witnessed a range of human rights violations during the COVID-19 pandemic. The typical response of the NHRCB is to issue press statements that, while welcome, are not sufficient to protect human rights and cannot replace genuine efforts toward accountability for human rights violations.

\(^{14}\) NHRC Act, Section 2(f).
\(^{15}\) NHRC Act, Section 18.
\(^{16}\) See NHRC Act, Sections 12–17.
\(^{18}\) Ibid. p. 24–25.
The Indian Parliament amended the Protection of Human Rights Act (PHRA), 1993, with the Protection of Human Rights (Amendment) Act, 2019. The Amendment brought substantive changes to the PHRA in terms of composition, appointment, and tenure. However, the amendments made by the Government in the appointment process tended to favour ruling party appointments, which would further dilute the independence of the Commission. During COVID-19, the voices that were critical of the government's actions and policies were targeted using the Unlawful Activities Prevention (Amendment) Act, 2019.

There were instances of the government’s usage of harsh laws in restricting the freedom of association of CSOs/NGOs by cancelling and suspending their licences for receiving foreign funding under the Foreign Contribution (Regulation) (Amendment) Act, 2020. Kashmir has been a volatile region since independence but continued internet shutdowns and harassment of HRDs by the federal agencies is a reported practice. A major protest which started shortly before, and continued throughout the COVID-19 pandemic, was the farmers’ protests against the new farm laws that were called out as anti-agrarian and pro-corporate. Another major protest was against the adoption of the Citizenship Amendment Act, 2019 and the National Register of Citizens, which discriminate against Muslims.

The PHR (Amendment) Act, 2019 has broadened the criteria for the appointment of the chairpersons of the NHRC and State Human Rights Commissions (SHRCs). The new criteria restricting the appointment of Chairpersons of the NHRC and SHRCs only to judges per se raises questions on the independence of the institution as the appointment and/or promotion of judges to the High Courts (Article 217 of the Constitution) or the Supreme Court (Article 124 of the Constitution) does have the involvement of the Government. Moreover, the current appointment committee of the NHRC has representation from the ruling party and the Opposition in a four-to-two ratio; however, with the absence of the Leader of the Opposition in the Lower House of the Parliament, it stands reduced to four to one. The absence of a comprehensive, objective and transparent appointment process is a concern for the independence and autonomy of the NHRC and SHRCs. The PHR (Amendment) Act, 2019 reduced the tenure from five years to three years for the NHRC and the SHRCs’ Chairpersons and members. The reduced term will result in inefficiency due to an exceedingly short amount of time for the commissioners to learn and understand the system and implement changes. It will also provide more room for government interference to replace a commissioner who is not acting as per the Government.

The PHR (Amendment) Act, 2019 extends and includes the deemed membership to conform to the ‘diversity and pluralism’ standards in the Paris Principles. However, the facts reflect a contrary position of the functions of the deemed members. The past observations convey that the deemed members are mostly absent in the Statutory meetings. It is not a far-fetched assumption that the same will continue in the future. Therefore, the extension of the membership only will not fulfil the principle of pluralism in NHRC. The PHR (Amendment) Act, 2019 also extended a bill vs nrc vs clause 6 of assam accord-119010900621_1.html.

In addition, the police used excessive brutal measures for enforcing the COVID-19 lockdown.


The PHR (Amendment) Act, 2019 extends and includes the deemed membership to conform to the ‘diversity and pluralism’ standards in the Paris Principles. However, the facts reflect a contrary position of the functions of the deemed members. The past observations convey that the deemed members are mostly absent in the Statutory meetings. It is not a far-fetched assumption that the same will continue in the future. Therefore, the extension of the membership only will not fulfil the principle of pluralism in NHRC. The PHR (Amendment) Act, 2019 also extended a
member in the composition of the Commission to provide for the appointment of at least one member of the NHRC as a woman. In theory, the amendment can be said to be a step forward for the inclusion of a woman in the membership; however, this could have been amended to include a larger ratio of the women in the NHRC members in practice.

The NHRC has the power to inquire suo motu or on a complaint presented by the victim, or any person on their behalf, or on the direction of the court on matters related to violations of human rights or negligence by any public servant in preventing the violation of human rights.\textsuperscript{13} During COVID-19, several protests and human rights violations happened such as the anti-CAA protests, the farmers’ protest, and so forth (as discussed above), and neither did the NHRC take suo motu cognizance of these, nor did it intervene in the petitions of the above matters pending in the court of law. The NHRC, an institution meant to actively protect and promote the human rights of all, has often fallen short of doing so in the last few years, and in 2020 in particular.\textsuperscript{14}

The NHRC, which should be functioning as a model institution to be followed by others, has gradually slipped away from performing this privileged role. It has continuously refused to undergo a process to realise the recommendations made in the report on the capacity assessment exercise jointly undertaken by the APF, UNDP and OHCHR in 2018, for the betterment of the staff of the Commission and the role it should perform towards the citizens of the country. The NHRC has to swiftly implement the recommendations made by various stakeholders, including civil society, to effectively function amid the immense human rights violations which are taking place in the country.

\begin{flushleft}
\textsuperscript{13} PHRA Act, Section 12.
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INDONESIA

During the COVID-19 pandemic, the civil liberties enjoyed by the people of Indonesia were under threat. Various cyber-attacks occurred against HRDs in 2020. Hacking or hacking attempts through social media accounts and messaging applications were rife, including those experienced by human rights activists. In the case of HRDs in the natural resources sector, various NGO records showed an increase in threats and/or attacks against HRDs against the environment. Women HRDs in particular faced considerable risk.

The number of cases of violence experienced by journalists witnessed a sharp increase throughout 2020 with 117 cases, an increase of 32 per cent compared to 79 cases throughout 2019. Article 27(3) and Article 28(2) concerning Electronic Information and Transactions are the main scourges that are often used to criminalise journalists. Criminal cases were also filed against those who criticised the handling of COVID-19, as well as hacking of their data. The National Police Chief provided the guidelines via a classified police telegram for carrying out duties for the prevention of COVID-19, by conducting cyber patrols and taking actions against people who insult the President, officials and other state institutions. This resulted in increased arrests of people alleged to be spreading the hoax.


The NHRI in Indonesia—Komisi Nasional Hak Asasi Manusia (Komnas HAM)—faces challenges that hinder the fulfilment, protection, and respect for human rights, as it has limited authority in following-up on its recommendations on human rights violations to relevant stakeholders. One of the key issues is still related to the follow-up with other institutions, and thus, a mechanism for monitoring the implementation of the recommendations is crucial.

Komnas HAM is authorised to conduct investigations into gross human rights violations with the issuance of Law No. 26 of year 2000 on the Court of Human Rights. Their authority is limited in following-up the results of the primary investigations as the same needs to be submitted to the Attorney-General’s Office (AGO). It has been seen that in most of the cases, the investigations submitted to the AGO were returned only after the passing of many years, and in cases where the file has been returned after years, it has been marked as an incomplete investigation and therefore unresolved.

Komnas HAM also needs to improve its diversity among commissioners. The management of Komnas HAM for the 2020 to 2022 period only has one female commissioner out of a total of seven commissioners who are registered as leaders. This indicates that Komnas HAM does not apply the value of diversity internally to the institution. In addition, the Law No. 39 of 1999 on Human Rights does not require gender diversity to be adhered to in the appointment of commissioners.

The Indonesian Government needs to make policy changes and institutional breakthroughs related to resolving cases of past serious human rights violations. One of the efforts that can be taken is to expand the authority of Komnas HAM. During 2019 and 2020, Komnas HAM undeniably continued to make improvements. There were visible efforts to protect HRDs and strengthen itself internally from the institutional side. However, many gaps have yet to be filled with resolution in order for them to be able to work effectively in fulfilling, protecting and respecting human rights.

In the past two years, Malaysia has suffered setbacks with regards to civil, political, economic, social, and cultural rights under the new Perikatan Nasional Government headed by Prime Minister Muhyiddin Yassin. The Government used repressive laws, such as the Sedition Act 1948 and the Communications and Multimedia Act 1998, to target HRDs, journalists, and perceived critics in order to stifle dissent. The new Government of 2020 also did not hesitate to suppress the right to peaceful assembly.

During COVID-19, many of the disadvantaged and vulnerable communities were disproportionately affected by the Movement Control Order (MCO) and its subsequent phases. Despite the political context, SUHAKAM countered the damaging narrative by speaking about the need of showing more ‘compassion and tolerance’ towards these marginalised communities. It is commendable that SUHAKAM has been able to identify the vulnerable communities and include them in their 2021 to 2025 strategic plan. The Commission has also released several press statements and voiced concerns relating to curbing COVID-19 policies which may infringe upon human rights principles.

SUHAKAM has been facing challenges in ensuring their independence, as the Human Rights Commissions of Malaysia Act (HRCMA) is still based on the Federal Constitution. Previous instances such as the 50% cut to SUHAKAM’s budget in 2015 indicate that SUHAKAM is still vulnerable to the executive. COVID-19 has affected SUHAKAM’s capacity to address human rights complaints by affecting its ability to receive and investigate complaints on violations of human rights. SUHAKAM was forced to close its office during the MCO period (March 2020 to June 2020). The restriction of movement and prohibition of interstate travelling imposed by the government to prevent the COVID-19 outbreak also severely curtailed SUHAKAM’s mandate to investigate human rights complaints.

The human rights situation in Malaysia remains tenuous and the political upheaval in 2020 has further complicated the situation. In such a scenario, SUHAKAM may once again have to navigate an environment where the Government does not prioritise human rights protection. In 2020, SUHAKAM clearly set a principled stand on defending human rights principles during the pandemic. This, despite the fact that the Government often disregarded human rights in the name of controlling the pandemic. In response, SUHAKAM did not hesitate to remind the Government that the fight against COVID-19 should not come at the expense of human rights. However, the administration certainly lost a golden opportunity to expedite reforms of Malaysia’s NHRI by amending the HRCMA in order to strengthen SUHAKAM’s mandate and independence. As a result, SUHAKAM’s role and functions did not substantially change, and therefore, it still lacks the necessary bite to achieve its aim of effectively protecting and promoting human rights in Malaysia.

Myanmar has been in perpetual cycles of conflict perpetrated by the Myanmar military in ethnic areas. Between late 2018 and the end of 2020, the Arakan Army and the Myanmar military have been engaged in heavy fighting, displacing nearly 200,000 people in Rakhine and Chin states according to some estimates. The Myanmar military indiscriminately attacked civilians and civilian objects, such as schools, homes, and religious sites. The UN International Independent Fact-Finding Mission on Myanmar also reported that the Myanmar military perpetrated sexual and gender-based violence against women and girls, which they considered to amount to war crimes and crimes against humanity. The extreme actions taken in this conflict, and the ‘clearance operations’ against the Rohingya preceding it, have resulted in a catastrophic humanitarian crisis.

On 1 February 2021, the Myanmar military attempted to seize power through a brutal coup following the 2020 general elections where the National League for Democracy won a landslide victory. Since the attempted coup, the Myanmar National Human Rights Commission (MNHRC) has failed to denounce and become complicit in the military junta’s widespread human rights violations that have occurred in the wake of the coup. Much less has the MNHRC initiated any investigation or inquiry into allegations of mass atrocities.

CSOs strongly called upon the MNHRC to denounce the coup attempt and stand with the people of Myanmar. But these calls were also met with silence, with the Commission continuing business-as-usual while the people of Myanmar suffered. The acts and omissions of the Commission in the wake of the coup d’état may not come as a great surprise given the flaws of the 2014 MNHRC Law, the professional background and mindset of the commissioners as mainly former military officials, lack of independence in the selection process, and partial treatment in favour of the Myanmar military.

The MNHRC continued to commend the government’s effort on COVID-19 despite severe inadequacies in the healthcare systems’ ability to cope and the viability for tracing cases. COVID-19 has severely affected those living on the edges of poverty, and government assistance is completely inadequate and does not meet the needs of the most vulnerable, especially in ethnic minority areas. Similarly, the MNHRC failed to address the attack on an event by the Restoration Council for Shan State, which sought to monitor and raise awareness of COVID-19.
The MNHRC, instead of working towards the human rights of the general public, has instead painted a rosy picture of the government’s performance by refusing to investigate widespread allegations of the genocide of the Rohingya or crimes against humanity, war crimes and countless untold human rights violations, in violation of its own mandate as an NHRI. The MNHRC did not cover any of these crimes in its most recent UPR submission.  

The situation for children in Myanmar is beyond anything any child should experience. In Rakhine State, 38 per cent of children (Rohingya, Rakhine and Kaman) under five years of age are chronically malnourished. In the first three months of 2020, over 100 children were killed or maimed in conflict. Further, 302 boys were recruited into the Tatmadaw in the first half of 2020, which the MNHRC ignored. The MNHRC has also supported the deeply-flawed draft Protection and Prevention of Violence Against Women Bill, which is inconsistent with CEDAW, and which falls abundantly short of properly addressing the issue of violence against women.

One group that has been severely let down by the MNHRC is the LGBTIQ community, who are marginalised, stigmatised, and excluded from Myanmar society. The Commission has remained silent on attacks on the rights of LGBTIQ people, such as colonial era laws that criminalise consensual same-sex relations and police harassment of members of the LGBTIQ community, and the lack of constitutional protection for gender minorities. The MNHRC has had little engagement with civil society during the reporting period, its interactions centred mostly with CSOs based in Yangon, and more commonly with CSOs the MNHRC has an existing working relationship with. Other than these groups, there has been no other publicly reported collaboration between the MNHRC and civil society for the furtherance of human rights.

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14 Ibid.


19 See Constitution of the Republic of the Union of Myanmar, Section 348.

In the MNHRC, among both commissioners and staff, there is a lack of diversity on various fronts. Only four out of the 11 appointed commissioners are women.\textsuperscript{21} The Commissioners do not reflect the diversity of Myanmar in terms of age, qualifications, disability, social class, ethnicity, religion, sexual orientation, gender identity or gender expression, among others.\textsuperscript{22} It appears that none of the commissioners selected in January 2020 has any formal human rights training or experience working within civil society apart from the Chairperson;\textsuperscript{23} worse, many of them have strong links with previous military regimes.\textsuperscript{24} This lack of pluralism in the composition of the Commission has contributed to the MNHRC’s failure to provide sufficient responses to the various forms of discrimination in Myanmar and has affected its engagement with human rights victims and the broader civil society.

The MNHRC was established 10 years ago in 2011, and though flawed since its founding, has now further become complicit in window-dressing of the military’s crimes and legitimising its brutal attempted coup. The collective human rights expertise within the Commission is inadequate, in part due to the opaque selection process which has tended to favour nominees with military backgrounds, and a flawed enabling law that does not fully safeguard the independence of the Commission in performing its mandate. The MNHRC does not act independently of the influence of the government and military, and is even compliant and complicit with the military junta, and is wilfully blind to some of the gravest human rights violations in living memory.\textsuperscript{25}


\textsuperscript{23} MNHRC, ‘Commissioners.’


During COVID-19, there was an increase in cases of caste-based violence, violation of minority rights, and violation of the rights of disabled persons.¹ In 2020, impunity for torture and extrajudicial killings by the state persisted.² Many victims of caste-based discrimination were Dalits, the so-called ‘untouchable’ and oppressed caste group in Nepal.³ Furthermore, research shows a high number of cases of violence against women including rape and sexual abuse.⁴ In 2020, students in Nepal were heavily affected due to school/university closures in response to the pandemic.⁵ The pandemic also affected daily-wage labourers and their economic rights.⁶

Though the National Human Rights Commission, Nepal (NHRCN) has the power to make recommendations to the Government as regulated under the Section 6 of the NHRC Act, 2012, it has been observed that not all recommendations have been implemented.⁷ This situation has rendered their recommendations ineffective. The NHRCN claims that the recommendations have yet to be fully implemented and addressed.⁸

Monitoring the activities of the other agencies of the Government of Nepal is one of the major functions of NHRCN. During COVID-19, it was the NHRCN that had urged the Government to immediately evacuate Nepali nationals from the city of Wuhan, China at the very beginning of the pandemic.⁹ The NHRCN also consulted with CSOs such as the NGO Federation and Federation of Nepali Journalists in monitoring the human rights situation, which has contributed to reducing the marginalisation and risk people face in receiving health services and potential violations of their human rights during the pandemic.¹⁰

With respect to the Commissions’ independence, there is potential for bias in the appointment of the Chairperson. The appointment of the Chairperson, who can be a former Chief Justice of the Supreme Court or a retired judge, is done upon the recommendation of the Constitutional Council, which also includes the current Chief Justice as its members. The executive also controls the appointment process, which undermines the independence of the Commission, as evidenced by the events in 2020. In December 2020, the Government of Nepal promulgated an executive ordinance seeking to amend the Constitutional Council Act of 2010 unilaterally.¹¹ The President subsequently appointed the current NHRC Chairperson and members on the basis of recommendations made by the Constitutional Council despite irregularities in the procedure. Local civil society as well as international agencies condemned this development in the NHRCN.¹²

The NHRCN has tried to perform its mandate to protect and promote human rights in Nepal to a large extent. It has also strengthened engagement with CSOs and other public bodies. However, the Government must amend the NHRCN’s enabling law to protect the integrity of the Commission in the appointment procedure.

³ Ibid.
¹¹ The President subsequently appointed the current NHRC Chairperson and members on the basis of recommendations made by the Constitutional Council despite irregularities in the procedure.
Though formally established in 2012, the National Commission for Human Rights (NCHR) only began operations only in 2015. It is an independent body, though it is required to submit financial and performance reports to the Parliament. However, since the completion of tenure of the first set of commissioners in 2019, the NCHR has remained non-functional in Pakistan due to the non-appointment of new commissioners. With no oversight from an independent and autonomous body on the human rights situation in the country since the NCHR became non-functional in Pakistan, human rights violations have been on the rise, exacerbated by the COVID-19 pandemic.

During this period, there were reports of several cases of forced marriage, child marriage and child abuse, and honour killings. There was also a major increase in cases of domestic violence.

Even in the time of COVID-19, the Government continued to persecute religious minorities under blasphemy laws. The Pakistani government persecuted HRDs in 2020 for opposing government leaders and policies, as well as journalists and media outlets for supposedly sharing and broadcasting ‘illegal’ content on social media and television, breaching the right to freedom of expression. In 2020, the Government of Pakistan adopted the Citizens Protection (Against Online Harm) Rules, which was presumably replaced with the Removal and Blocking of Unlawful Online Content (Procedure, Oversight and Safeguards) Rules 2020, both of which were equally problematic in terms of safeguarding freedom of expression in Pakistan.

The NCHR has not been functional since 2019 due to the failure of the Government to appoint a new set of commissioners. Though efforts have been made to make the Commission functional, due to the complex and opaque procedure, it has been delayed. In regard to its financial independence, the NCHR can transparently seek funds in the form of unconditional grants from donors or NGOs, however, approval of the Federal Government will be required if the donor or NGO is a foreign source. There are limitations to the NCHR’s mandate. Firstly, it has jurisdiction over the whole of Pakistan except the Islamabad Capital Territory. Second, several sections of the NCHR Act curb the power of the Commission in directly investigating human rights violations involving members of the armed forces, and restrict the NCHR from inquiring into ‘the act or practice of intelligence agencies.’

The failure of the Federal Government to facilitate the appointment of a new Commission demonstrates the flawed selection process under the NCHR Act, which is a serious blow to human rights in Pakistan. The non-appointment also suggests the Government’s disregard for an independent NHRI focussed on strengthening human rights in the country. With no functional NCHR at present, the NCHR is rendered useless, leaving human rights victims with one less mechanism to pursue human rights accountability and remedy.

11 NCHR Act, Section 25.
12 Ibid. Section 1(2).
13 Ibid. Sections 14-15.
SOUTH KOREA

Under President Moon Jae-in’s administration, ‘Respect for human rights’ is one of the Government’s national policies. In spite of this, the human rights situation in Korea over the last few years has not inspired much confidence. The prevalence of incidents of sexual harassment among government officials has come to light. A transgender person was also forcibly discharged from the military solely due to her undergoing a sex reassignment surgery. This was coupled with online sexual violence against women and girls whose photos were viewed and shared on Telegram groups without their consent. Hate and discrimination against migrants, including refugees, has strengthened.

COVID-19 impacted human rights in Korea broadly on three levels: Firstly, the Korean Government responded to COVID-19 by collecting personal information, identifying the movements of confirmed patients, and tracking contacts. Secondly, as rallies and demonstrations were restricted due to COVID-19, it significantly curtailed the ability to assemble and protest, specifically for the socially disadvantaged group adversely impacted from COVID-19. Thirdly, economic impact that resulted in massive layoffs. While the government provided significant support to companies due to COVID-19 economic downturn, workers’ interests were not similarly protected in aspects of their layoffs.

The National Assembly’s continued failure to amend the National Human Rights Commission of Korea (NHRCK) Act to form an independent selection committee for appointing commissioners requires urgent attention. In 2020, the NHRCK took the initiative to form an independent selection committee. However, given that the independent selection committee’s composition procedure was not set by law, the number of committee members and the nomination method were not fixed. Moreover, only the President followed the international community’s recommendation by nominating Commissioners through an independent selection committee. Even if done in practice by well-meaning government officials, the practice cannot replace the need to incorporate a clear requirement for the formation of a single independent selection committee in the appointment process in the NHRCK Act.

2 Goh Hee-jin, Ryu In-ha, Park Hong-doo, ‘Seoul Mayor Park Won-soon Dead Following a Sexual Harassment Claim,’ The Kyunghang shinmun, 10 July 2020, http://english.khan.co.kr/khan_art_view.html?artid=202007101714387&code=710100#csidx3d6e651f30d11326b569f31f68f87d.
8 NHRCK Act, Art. 5.
The #MeToo movement was ignited in Korea with the prosecution of Seo Ji-hyun’s disclosure of cases of sexual harassment inside the Prosecution Office on 29 January 2018.\footnote{‘Keep #MeToo alive,’ Korea Herald, 8 March 2018, http://khnews.kheraldm.com/view.php?ud=20180308000816&md=20180311003211_BL.} It was a turning point to question the issues surrounding sexual harassment by people in power, an issue long suppressed in the Korean society. It resulted in NHRCK forming two special investigation teams for sexual harassment and violence.\footnote{Hankyoreh, ‘Formation of a ‘special team dedicated to Me-Too Movement,’ 23 March 2018, http://www.hani.co.kr/arti/society/society_general/837406.html#csidx8af4b03af65328b968b10e2c3395d21.} However, such ad hoc responses to these widespread human rights issues raised the question of the need to enhance its organisational and personnel capacity. For instance, the Special Investigation Task Force on Human Rights in Sports recommended the creation of an independent investigative body to address ‘sports violence.’ However, this recommendation to the President was delayed by six months.\footnote{Another tragedy that has been put on hold by the NHRC’s ‘Elimination of Violence in the Sports World’ is...,’ Hankyroeh, 7 July 2020, https://www.hani.co.kr/arti/society/society_general/952523.html#csidxa003272df49e6139a7b09baa379851.} It was only after the death of another athlete in late June 2020 that action on the matter was revived.\footnote{‘Choi Suk-hyeon: South Korean triathlete kills herself after abuse,’ BBC, 2 July 2020, https://www.bbc.com/news/world-asia-53263178; Jeong Seong-jo, ‘Choi Sook-hyun, petitioned to the National Human Rights Commission the day before the extreme choice... investigation is implementing,’ Yonhap News Agency, 3 July 2020, https://www.yna.co.kr/view/AK020200170005000004.}

The NHRCK should be sternly aware of the situation in which the GANHRI-SCA’s recommendations are still not being implemented, and should strive to revise the NHRCK Act to better function to the minimum standards stipulated in the Paris Principles. The Government also has yet to enact an anti-discrimination law that would protect these vulnerable groups. Though the NHRCK has issued press statements and conducted investigations into some of these human rights incidents, these efforts are not sufficient to realise the human rights of vulnerable groups in South Korea.
Human rights in Sri Lanka worsened in 2020 as Sri Lanka withdrew from co-sponsoring the UN Human Rights Council Resolution 40/1 on promoting reconciliation, accountability and human rights in Sri Lanka. In March, President Gotabaya Rajapaksa pardoned a former sergeant who had been convicted of murdering Tamil civilians. These developments signalled the President’s disregard for post-conflict reconciliation and accountability for heinous crimes. Further, in March, as the COVID-19 pandemic was spreading throughout Sri Lanka, President Rajapaksa dissolved the Parliament, six months before the parliamentary term was set to expire.

The COVID-19 pandemic gave the President a pretext for postponing the elections, with the President refusing to reconvene Parliament even after the constitutionally-allowed time limit for parliamentary recess had lapsed, which enabled him to exercise his powers without parliamentary oversight. During this time, the President issued Extraordinary Gazette notification no. 2178/18, which formed the Presidential Task Force to build a Secure Country, Disciplined, Virtuous and Lawful Society composed of security forces and retired military personnel. The Presidential Task Force was authorised to take necessary measures against vague, ill-defined offenses. Parliamentary elections eventually took place in August 2020, and the Sri Lanka People’s Freedom Alliance, the party of the incumbent President, achieved a landslide victory. Mahinda Rajapaksa, the President’s brother, was sworn in as Prime Minister. Soon after, in October, the 20th Amendment to the Constitution was passed, which enhanced the executive powers that the 19th amendment had precisely sought to limit.

The spread of the pandemic in Sri Lanka has brought forth several critical human rights issues. Workers have become jobless, with women garment factory workers disparately impacted. Prisoners rioted against their lack of protection against COVID-19, leading to prison deaths. The minority Muslim community was also forced to cremate their deceased loved-ones, contrary to their religious custom, when the Government mandated cremation for COVID-19-related deaths despite the lack of a scientific basis for doing so. Dominant nationalist groups weaponized social media and mainstream media to spread anti-

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6 Extraordinary Gazette notification 2178/18 (2 June 2020), http://documents.gov.lk/files/egz/2020/6/2178-18_E.pdf. For example, ‘1. Taking necessary immediate steps to curb the illegal activities of social groups ... 2. Take necessary measures for prevention from drug menace ... to prevent other social illnesses caused by drug abuse; ... 4. To investigate and prevent any illegal and antisocial activities in and around prisons.’


Muslim rhetoric. There was also a climate of fear and self-censorship, with the police arresting social media users deemed to be critical of the Government. Throughout this, the Human Rights Commissions of Sri Lanka (HRCSL) conducted some efforts to address the situation. However, they were insufficient, given the utter and blatant disregard for the rule of law and human rights by the Government in 2020.

Despite institutional reforms, the HRCSL is still mired by some long-standing challenges that hamper the efficacy of the HRCSL as an NHRI. The non-implementation of the HRCSL’s recommendations has been a significant and persistent challenge, which has directly impacted public confidence towards the HRCSL and its work. The recommendations issued by the HRCSL have no binding effect on the Government, leaving it with the discretion to adopt or disregard the recommendation. However, in 2020, there were some good practices done by the Commission. The HRCSL conducted various activities to promote human rights such as organising an event on ‘Countering Technology-based Violence against Women’ and a webinar on torture and societal violence. The HRCSL has also advocated for the needs of persons with disabilities.

Despite the backsliding from a relatively free space for freedom of expression and the return to a hostile climate for human rights advocacy and HRDs, which clearly manifested when the present Government withdrew itself from sponsoring the UN Human Rights Council resolution, the Commission continued to play an independent role and was proactive and interventionist in protecting human rights in the country. However, the HRCSL took a relatively light approach on certain key human rights issues. For instance, the controversial composition of the Presidential Task Force did not receive commentary from the HRCSL. This, despite the fact that this could pose a grave danger for the protection of minority rights and could potentially be misused for targeting minorities as well as political opponents. With the present Commission appointed under the problematic 20th Amendment to the Constitution in December 2020, the HRCSL now faces the challenge of earning back public trust.


Taiwan’s National Human Rights Commission (NHRC) was formed on 1 August 2020. The Legislative Yuan passed the ‘Organic Act of the Control Yuan National Human Rights Commission’ on the International Human Rights Day on 10 December 2019, as the grounds for the NHRC’s establishment. In the midst of the COVID-19 Pandemic, it has been reported that the NHRC has not even utilised half of its budget since it was brought into force. While in the past year, there have been a number of concerns with regards to human rights abuses in Taiwan in its fight against COVID-19, particularly the right to privacy, any such abuse is yet to be investigated by the NHRC.

The independence of the NHRC is not absolute as the Commission has several members from the Control Yuan as ex officio members. The current Chair of the NHRC is also the President of the Control Yuan who was appointed by the President at the time of nomination. This raised questions as to if the NHRC would be able to properly fulfil its mandate of investigating human rights abuses by public officials in its capacity as an institution which operates with a dual personality. Since its operation, the NHRC’s budget has mostly been used for the promotion of, and education on, human rights, and not on investigating human rights abuses.

Furthermore, the NHRC has yet to properly develop its working methods. Complaint-based investigations, which the Control Yuan is most familiar with, can only achieve part of the NHRC’s functions. The NHRC is yet to undertake full-fledged investigations and enquiries into the human rights abuses in the country, due in part to its overlapping powers and functions with the Control Yuan.

In its first year, the NHRC has not fulfilled its obligations to conduct investigations and enquiries on human rights abuses in the country. The NHRC should develop its capacity to conduct national inquiries and devote sufficient energy in developing methodologies and guidelines for visiting places of detention, the collection and analysis of data for monitoring purposes, and the identification and documentation of victims of torture, among others. Furthermore, its control by the Control Yuan is a matter of concern with regards to its independence.

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5. Organic Act, Art. 3.


The performance of the National Human Rights Commission of Thailand (NHRCT) was severely affected by the political changes that transpired in the country since the 2014 military coup led by Gen. Prayuth Chan-Ocha. In 2017, the Organic Act on the National Human Rights Commission B.E. 2560 was enacted which reorganised the NHRCT. However, the selection process of the appointees to the Commission by the 250 Senate members (who are appointed by the National Council for Peace and Order) undermines the independence of the Commission and is mostly conducted behind closed-doors. There is no scope for public participation, public hearing or any discussion with civil society in the appointment of the members. This stands in contravention to the Paris Principles as what the GANHRI-SCA had noted in its 2015 accreditation report granting the Commission ‘B’ status.

In early 2019, Thailand held national elections after five years of rule by the NCPO. In 2020, in the middle of the COVID-19 outbreak, citizens held mass protests in Thailand demanding constitutional reform. The peaceful protests were met with police brutality, including the use of tear gas and water cannons laced with purple dye. Police also conducted mass arrests and filed a slew of cases against pro-democracy activists. Further, in October 2020, the Prayuth regime imposed a state of ‘severe’ emergency, which prohibited five or more people from gathering, in an effort perceived to stop the mass protests. Throughout these developments, the NHRCT’s response has been grossly insufficient. Worse, in the most recent UPR submission, the NHRCT even defended state measures to control the protests, despite expressing concerns on how law enforcement exercised their authority.


4 NHRCT, Human Rights Situation in Thailand, accessed 8 December 2021, pp. 3–4, https://www.nhr.or.th/getattachment/e93d01a1-5203-4aa9-a3f3-28e7a7e7f718/%E0%B8%A3%E0%B8%B2%E0%B8%A7%E0%B8%87%E0%B8%94%E0%B8%B2%E0%B8%87%E0%B8%99%E0%B9%82%E0%B8%81%E0%B8%A2%E0%B8%AD%E0%B8%A7%E0%B8%81%E0%B8% AD%E0%B8%99%E0%B8%A3%E0%B8%99%E0%B8%B2%E0%B8%AD%E0%B8%A7%E0%B8%99%E0%B8%B2%E0%B8% AD%E0%B8%99-HRW-2563.pdf.aspx.

5 NHRCT, Concerning the Situation of Human Rights in Thailand in 2020, accessed 8 December 2021, http://www.nhr.or.th/getattachment/NHRC-Work/Statements-Press-Releases/Open-Letters/Statements/Concerning-2020-Human-Rights-Situation-in-Thailand/4-%E0%B8%84%E0%B8%83%E0%B8%81%E0%B8%B2%E0%B8%87%E0%B8%99%E0%B9%81%E0%B8%88%E0%B8%87%E0%B8%A3%E0%B8%82%E0%B8%81%E0%B8%A2%E0%B8%87%E0%B8%82%E0%B8%99-HRW-2563.pdf.aspx.
In spite of immense challenges that obstructed the work of the NHRRs in the region, ANNI would like to acknowledge that many NHRRs in Asia continued to promote and protect human rights during the unprecedented public health crisis. However, ANNI has identified many gaps and challenges they have to overcome as national institutions, to conform to the minimum standards stipulated in the Paris Principles and to be attuned to the needs of civil society and victims of human rights violations. In the occurrence of human rights violations due to a dramatic political change, the roles of the NHRRs become more significant than ever to put an end to the cycle of impunity.

The NHRRs must continue to strengthen their understanding of embracing diversity and pluralism not as a jargon, but internalise it within the institution and become a positive example to other institutions in the national context. Meaningful participation and involvement of every sector of society in the work of NHRRs should also be considered the most integral part of their work.

Therefore, ANNI will continue to advocate for the realisation of stronger NHRRs in Asia, voice our concerns and critically assess the effectiveness of NHRRs, as well as collaborate with them in various avenues as an equal partner in advancing human rights in the region.