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Examining the Challenges of South Asian NHRIs:

De Facto Independence and Domestic Constraints

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ABSTRACT

Against the backdrop of student-led movements across South Asia challenging systemic discrimination, corruption, and human rights abuses, this article explores the difficulties faced by National Human Rights Institutions (NHRIs) in the region. By reviewing annual reports, official websites, stakeholder assessments, and other relevant sources from three randomly selected NHRIs—Bangladesh, India, and Sri Lanka—it seeks to identify obstacles to their effectiveness and suggest practical solutions. The paper identifies concerns regarding the de facto independence of these NHRIs, noting that the three institutions studied in South Asia face notable constraints in their investigative authority, appointment and selection mechanisms, and the adequacy of financial and resource allocations. The study reveals that domestic challenges for these NHRIs include politicization, an excessive focus on individual complaints, the reluctance of authorities to implement recommendations, unrealistic public expectations, and societal divisions. The paper demonstrates that while international involvement may have contributed more to the establishment of NHRIs than domestic initiatives, human rights promotion and protection depend more on domestic action than on international efforts. It argues that institutional reforms consistent with the Paris Principles, coupled with awareness campaigns on NHRIs' roles and mandates, are essential to address these obstacles.

Introduction

NHRIs are state bodies with a constitutional and/or legislative mandate to protect and promote human rights. They are part of the State apparatus and are funded by the State (United Nations Office of the High Commissioner for Human Rights [UN Human Rights], 2010). NHRIs are a growing number of national bodies established during the past few decades to ensure the practical application and oversight of human rights treaties and conventions. As of April 2025, 118 countries had established NHRIs. A designated Sub-Committee of the Global Alliance of National Human Rights Institutions (GANHRI) accredited 91 NHRIs with 'A' status and 27 NHRIs with 'B' status through a formalized review process.

In the last five decades, most countries have signed, ratified or acceded to the major human rights treaties. When it comes to respecting their commitments to implement the rights embodied in these instruments, most states have conspicuously failed in important respects. Against this backdrop, the formation of NHRIs was recognized as important (Burdekin, 2007). Furthermore, the UN, International Financial Institutions, and major donor governments have acknowledged human rights as a core component of good governance, which in turn is fundamental to achieving sustainable development. They also recognized that systemic discrimination and widespread violations of human rights, such as the violations of the rights of ethnic, religious minorities, invariably resulted in political turmoil and conflict, with profound implications for national stability and in some cases regional security. Considering these circumstances, donor agencies — both multilateral and bilateral — have progressively linked development aid to governance and human rights reforms, particularly in the post–Cold War era. Consequently, NHRIs in many countries have been acknowledged as key contributors to national stability and good governance (Burdekin, 2007). More recently, some states have established NHRIs to increase their legitimacy in the eyes of the international community (Reif, 2000).

Soon after the UN Economic and Social Council (ECOSOC) was established in 1946, the concept of a separate, autonomous organization that focused on human rights at the national level was proposed. Member States were requested to consider establishing institutions that would liaise between them and the Commission on Human Rights (OHCHR at present). During the 1960s and 1970s, when human rights standard-setting was frequently discussed at the international level, an ECOSOC resolution vigorously encouraged Member States to establish institutions whose primary functions were to promote and protect human rights at the national level, and to transmit information on the human rights situation to the UN Secretary-General. Furthermore, as numerous countries began ratifying international human rights instruments, concerns emerged about the domestic monitoring and implementation of the principles they

enshrined. This encouragement, in turn, prompted discussions on the role of NHRIs in overseeing and applying international human rights standards at the national level (Gil, 2009). Realizing the importance of NHRIs in this regard, the UN continued during the 1980s to encourage Member States to establish NHRIs. As a result, the Commission on Human Rights of the Philippines was formed in 1986 as the first NHRI in Asia (Gil, 2009).

In the 1990s, many UN Member States established NHRIs, and three were established in Asia during this decade: Indonesia (1993), India (1993), and Sri Lanka (1997). During this era, two pivotal events shaped the foundation for establishing NHRIs: the adoption of the Paris Principles in 1991 and the convening of the World Conference on Human Rights in Vienna in 1993 (ibid). In October 1991, the Commission on Human Rights organized a workshop in Paris for national and regional institutions involved in the protection and promotion of human rights. The primary outcome of the workshop was the Principles Relating to the Status and Functioning of National Institutions for Protection and Promotion of Human Rights, widely known as the Paris Principles. (Gil, 2009).

Although NHRIs have been established across South Asia, many continue to struggle to gain public confidence and maintain institutional independence. In recent years, Bangladesh, Nepal, and Sri Lanka have experienced mass uprisings and political turmoil, leading to widespread human rights violations. These developments underscore the need to reassess the challenges confronting NHRIs in the region. Identifying their operational constraints is therefore crucial to understanding their limitations and formulating practical solutions.

Research Question

1. What challenges are South Asian NHRIs facing in performing effectively?
2. What initiatives are needed for strengthening these NHRIs?

Objective

To identify the reasons for which South Asian NHRIs are struggling to work effectively for the promotion and protection of human rights and to propose realistic solutions to overcome these challenges.

Literature Review

While existing scholarship offers valuable insights into the formal independence of NHRIs, with a focus on those institutions that hold accreditation and membership of the Global Alliance on National Human Rights Institutions (GANHRI), it is also important to understand the distinction between *de jure* independence (defined as mandated safeguards of formal independence such as a legal mandate) and *de facto* independence, (defined as the institution's ability to carry out its mandate independently from other actors' interference) (Lacatus & Carraro, 2023). The Paris Principles establish the basic criteria that an NHRI must meet to be considered legitimate. An institution adhering to these principles carries a wide mandate to advance and safeguard human rights. It is empowered to operate independently of the government, including issuing opinions and decisions on human rights issues within its scope of authority (The Paris Principles, 1993).

While studies on European and Latin American NHRIs abound (Pegram, 2012), limited research has been conducted on NHRIs in the Asia-Pacific region, with most works consisting of single case-studies, such as those on India (Cardenas, 2001; Evans, 2004), Indonesia (Cardenas, 2001; Eldridge, 2002; Stokke, 2007; Zipoli, 2020), Malaysia (Renshaw et al., 2011) and the Philippines (Cardenas, 2001; Eldridge, 2002; Evans, 2004; Stokke, 2007). Until 2017, the NHRC of India was the most extensively studied NHRI in South Asia, with seven studies conducted on the institution, followed by Nepal with two and Afghanistan with one (Jensen, 2018). A recent edited volume (Gomez & Ramcharan, 2020) provides a thorough overview of NHRIs in Southeast Asia and their potential to advance human rights protection. Various organizations assess the effectiveness of Asian NHRIs. For instance, Forum Asia publishes an annual report, the 'ANNI Report,' which evaluates its performance (Asian NGO Network on National Human Rights Institutions [ANNI], 2025).

The Danish Institute of Human Rights identified that publications or research on NHRIs were either specific case studies of one NHRI or included substantial information on a specific NHRI to qualify for inclusion (Jensen, 2018).

The majority of scholarly assessments of NHRIs primarily concentrate on their formal institutional structures, such as legal status, mandates, and their influence on the human rights landscape (Setiawan, 2016). However, limited scholarship has examined NHRIs internally or explored their modes of operation. Analyzing how they function provides valuable insight into both their strengths and constraints (ibid).

There are a few studies that specifically examine the independence and effectiveness of South Asian NHRIs. To address this lacuna, this paper examines the extent to which NHRIs operate autonomously, with particular attention to the interplay between domestic socio-political

contexts and their operational processes.

Research Methods

This study applied a qualitative research methodology that drew on both primary and secondary sources. The study employed content analysis of NHRIs' websites, annual reports, and documents from the Sub-Committee on Accreditation (SCA) and CSOs, complemented by a review of the academic literature, including peer-reviewed journals and scholarly books. Where appropriate, informal conversations during regional workshops at different times with participants (Commissioners & Officials) from NHRIs in Bangladesh, India, and Sri Lanka, and direct observations were also used to contextualize and enrich the data.

Conceptual Framework

Rise of NHRIs in South Asia

Rather than pressing for the creation of a regional human rights mechanism in the Asia-Pacific, leading human rights advocates prioritized establishing NHRIs to promote and protect human rights. They anticipated that these institutions would lay the groundwork for a regional mechanism by fostering a culture of human rights from the grassroots level. In the meantime, in the absence of a regional mechanism, it was particularly imperative that NHRIs in the Asia Pacific were independent, effective and had a function to protect, as well as to promote, individual human rights (Renshaw & Fitzpatrick, 2022).

In South Asia, NHRIs were established in India (1993), Sri Lanka (1996), Nepal (2000), Afghanistan (2002), the Maldives (2003), Bangladesh (2009) and Pakistan (2012). The NHR in Afghanistan was dissolved in 2022 (Yawar, 2022). As the South Asian NHRIs reflect the commission model in their composition, they share a strong resemblance. Similarities among these NHRIs are attributed to the National Human Rights Commission of India (NHRCI), the oldest NHRI in the region, which served as a model for other South Asian countries. Other South Asian countries established NHRIs in response to the presence of an NHRI in their powerful neighbor, India. (Renshaw & Fitzpatrick, 2022). Moreover, India is the key regional power in South Asia. The country has either land or maritime borders with all the South Asian countries except Afghanistan. (Sarker, 2013).

The political context in which some of these NHRIs were formed was highly challenging. Several NHRIs were established as part of peace agreements following periods of violent civil

conflict (e.g., in Afghanistan). These institutions faced a presumptive challenge to their domestic legitimacy, with the perception that they were imposed (and often funded) by foreign powers. One concern was how these institutions would negotiate their relationship with their new governments and local constituencies. Other NHRIs were established in new democracies in the aftermath of authoritarian rule (e.g., in Bangladesh and Pakistan) (Yawar, 2022). These organizations are struggling to fulfill the public's lofty expectations that they will lead the new order. Challenges also arise in addressing resistance within the government, as criticism is often perceived as a threat to its authority and as a potential eroding of its legitimacy (Renshaw & Fitzpatrick, 2022).

It is undeniable that, despite apparent contextual similarities, the NHRIs in South Asia face distinct tensions shaped by the political and social environments in which they operate. Thus, it is critical to consider local contexts to understand their strengths and weaknesses. Moreover, NHRIs established pursuant to constitutional provisions are relatively more powerful than NHRIs established under ordinary legislation since the independence and other functions of the latter are to a great extent dependent on their legal foundation (Lyer & Sidoti, 2020). For example, while assessing the performance of the NHRC of Bangladesh and the NHRC of India, one should consider that while the NHRC of Nepal is a constitutional body and is fully compliant with the Paris Principles, the NHRC of India (NHRCI) and the NHRC of Bangladesh (NHRCB) carry 'B' status according to the GANHRI accreditation. This accreditation is crucial for an NHRI, as it enhances the image of a country in the international arena, and fully compliant NHRIs or 'A' status NHRIs also enjoy several rights and powers, such as the right to vote in GANHRI annual meetings and Asia Pacific Forum annual meetings and to participate in Universal Periodic Review sessions, and the opportunity to become a bureau member of GANHRI (Syead, 2025).

Research Results

The paper finds concerns about the de facto independence and effectiveness of South Asian NHRIs. While NHRIs continue to make positive efforts to address human rights violations and provide remedies to victims of human rights abuses, a profound systemic reluctance to empower these institutions has been a central factor behind their limited effectiveness in some cases. Acknowledging various domestic political and legal constraints, it emphasizes that national initiatives are more critical for strengthening NHRIs than international interventions, even though NHRIs may be more of an outcome of international involvement.

This study has found both internal and external operational challenges to South Asian NHRIs. NHRIs in this region have broad mandates aligned with the Paris Principles, covering issues related to economic, social, and cultural rights as well as civil and political rights. As a

result, the NHRIs of Bangladesh, India and Sri Lanka are addressing all the issues related to human rights promotion and protection. As human rights range from the most fundamental - the right to life - to those that make life worth living, such as the rights to food, education, work, health, and liberty¹ NHRIs remain engaged in managing complaints while simultaneously organizing awareness campaigns, seminars, and similar initiatives, despite limited resources, manpower, and the absence of executive authority.

The study finds that compared to NHRCB and NHRCI, HRCSL (Human Rights Commission of Sri Lanka) demonstrates greater capacity to tackle systemic human rights violations. However, its website is not consistently updated, leaving recent developments and challenges unreported, while NHRCB and NHRCI maintain up-to-date information online.

Politicization has been prominent in terms of the *de facto* independence of all these NHRIs. Two of the multiple types of politicization (Peters, 2013) – general conceptualization and dual politicization – are especially relevant to these NHRIs. The following detailed discussion may better explain the phenomenon of politicization and its consequences. Because of politicization, NHRIs in this region are facing internal challenges and have yet to meet the Paris Principles requirements for investigation processes, selection and appointment processes, and financial and structural independence.

External challenges for South Asian NHRIs include South Asian peoples' lack of clear perceptions of and high expectations for NHRIs, and, consequently, a greater involvement in individual complaints related to personal problems than in systemic violations. Moreover, governments' reluctance to implement NHRIs' recommendations and societal divisions are among the domestic constraints of NHRIs in this region.

Discussion

Challenges in Complaint Handling and Investigation

An NHRI's effectiveness largely depends on its ability to carry out its mandate with independence. (Burdekin, 2007). While the tasks of NHRIs include education, research and mediation, investigations into cases of alleged human rights violations attract most attention and therefore strongly influence public legitimacy (Setiawan, 2016).

NHRIs in South Asia continue to tackle human rights violations, and in some cases, they have succeeded in providing remedies to victims of such abuses. In Sri Lanka, the directives issued by the HRCSL concerning allegations of human rights violations by disciplined forces were

¹ <https://www.ohchr.org/en/what-are-human-rights>

acknowledged and acted upon. For instance, its ruling on the infringement of the right to freedom of movement of two journalists on Iranaitivu Island was accepted and implemented without opposition (ANNI, 2025). Case studies of NHRCI reveal that the majority of complaints it addresses concern custodial deaths and cases of torture. While not all recommendations are enforced, some have led to compensation for victims. For instance, the Government of Rajasthan implemented the NHRCI's directive to provide Rs. 7.5 lakh in relief to the family of a 55-year-old man who died due to torture in police custody (National Human Rights Commission, India, 2025). In Bangladesh, the NHRCB has played a role in building accountability by recording violations, issuing recommendations, and engaging with victims and civil society organizations (ANNI, 2025). Several NHRCB recommendations on human rights violations have been implemented. For instance, through its intervention and provision of legal aid, NHRCB secured bail for Zahalam, who had been unlawfully imprisoned (Annual Report, 2019).

However, of the three South Asian NHRIs examined, both NHRCB and NHRCI face difficulties in effectively tackling systemic human rights violations or addressing issues such as diminishing civic space, enforced disappearances, attacks on human rights defenders, and custodial deaths. Although NHRC India has previously acted on cases involving abuses by law enforcement and armed forces, its more recent interventions have drawn criticism from civil society organizations and human rights advocates. For example, the Commission has failed to take action till the comments from the Prime Minister and the Chief Justice of India on ethnic violence in Manipur that led to 140 deaths and the displacement of 60,000 people (ANNI, 2023). NHRCB's role in addressing civil and political rights, particularly enforced disappearance and extrajudicial killings, is severely criticized by CSOs as the Commission is not allowed to directly investigate allegations of human rights violations against law enforcement agencies.

While one of the core requirements of the Paris Principles is that an NHRI must both function and be seen to function independently of government influence, secondment from public service to the highest level of NHRI positions and investigation teams raises questions about their capacity to function entirely independently. According to the enabling acts of South Asian NHRIs, most of these institutions are mandated to address cases of enforced disappearance, extrajudicial killings, torture, arbitrary detention, harassment and disproportionate use of force by law enforcement agencies (LEAs). However, dual politicization raises concerns about the investigation procedures of two of the three NHRIs under examination. For instance, while the NHRCI Act formally empowers the Commission to investigate human rights violations perpetrated by LEAs, significant concerns remain regarding the participation of police officers in its investigative teams. Section 11 of the Protection of Human Rights Act (PHRA) of India requires

the Central Government to make available to the NHRC a police officer of the rank of Director General of Police or above, and such officers are necessary for the efficient performance of the NHRC. Having government-seconded police officers involved in investigations of human rights abuses, including those allegedly perpetrated by the police themselves, creates a perceived or actual conflict of interest. In its March 2025 report, the SCA noted that assigning police officers as investigative staff could compromise the NHRC's capacity to conduct impartial inquiries and hinder victims' access to human rights justice. Besides, the NHRCI Secretary General is appointed from among senior civil service officers.

An analogous situation pertains to NHRCB. The Secretary and the Director (Complaint and Inquiry) are seconded from the government service and the judiciary, respectively. There are NHRIs in South Asia whose enabling acts do not allow them to directly investigate allegations of human rights violations committed by the disciplined forces or their members. While NHRCI and HRCSL are empowered to investigate LEAs for human rights violations, NHRCB was not allowed to do so until the enactment of the NHRCB Ordinance 2025. In accordance with Section 18 of the NHRC Act of NHRC Bangladesh, the NHRCB was not empowered to investigate allegations of human rights violations against the disciplined forces or any of their members directly. Instead, it had to ask the government to send a report on the matter. It is observed that NHRCB has raised concerns and asked the government to amend this provision and empower it to investigate human rights violations against all (The Daily Star, 2024).

A significant observation is that these NHRIs do not possess the expertise of forensic and medical professionals, nor do they involve seasoned Human Rights Defenders (HRDs) with fact-finding experience. For instance, NHRC India's investigation team is composed exclusively of police officers and lacks diversity of expertise. It currently lacks forensic and medical experts, as well as HRDs with fact-finding experience (ANNI, 2023). As a result, NHRIs conduct inquiries by appointing experts. For example, to investigate the police shooting which took place in Rambukkana on April 19, 2022, HRCSL appointed a Committee of Experts to determine whether the order to shoot was justifiable given the circumstances (Annual Report, 2022b). Conducting a National Inquiry on the Prevention of Violence against Women and Children in August 2022, NHRCB appointed a consultant to examine the impact of violence against women and children and their relatives and to explore the obstacles that the victims face in getting legal assistance and justice (Syead, 2025).

Selection and appointment processes

The SCA requires the NHRIs of Bangladesh, India and Sri Lanka to broadly publicize the advertisement of NHRIs' leadership positions (SCA Report, 2024; 2025). This paper finds that none of these NHRIs, meet this requirement. As Peters (2013, p.16) observes, the replacement of merit-based criteria with political considerations was evident in the appointment of members to South Asian NHRIs, particularly in the case of Sri Lanka, although currently, independent selection committees compile a shortlist of candidates and forward it to the President in accordance with the Paris Principles.

For example, in Sri Lanka, increased fighting between the Sri Lankan military and the Liberation Tigers of Tamil Eelam beginning in 2006 resulted in severe human rights abuses, including the murder and disappearance of thousands of civilians. Amid international calls for the HRCSL to conduct an independent inquiry into alleged human rights violations, the Sri Lankan government compromised its independence by appointing commission members aligned with the government. As a result, in 2007, the GANHRI downgraded HRCSL from 'A' to 'B' status. With the end of the Rajapaksa administration in 2015, amendments to the Sri Lankan Constitution revised the appointment process for NHRC Commissioners, thereby improving the Commission's credibility. During the period 2015–2020, the Commission rebuilt its standing by undertaking independent investigations into government wrongdoing and human rights violations committed during the civil war. In 2018, the GANHRI reinstated the Commission's 'A' status for this reason.

Nevertheless, the 2020 elections brought the former government back to power, leading to Gotabaya Rajapaksa's assumption of the Presidency. Through further constitutional amendments, the new President and Parliament authorized the President to appoint HRCSL members directly, bypassing the prior independent selection process. The President presently appoints members of the HRCSL in Sri Lanka upon the recommendations of the Constitutional Council. The Constitutional Council comprises the Prime Minister, the Speaker of the Parliament, four members of Parliament and three persons nominated by the Speaker in agreement with the Prime Minister (essentially representatives of Civil Society but not formalized) and the Leader of the Opposition (SCA Report, 2024).

The NHRCI also follows a similar selection process. According to Section 4 of India's PHRA Act, appointments to the NHRC are made by the President on the advice of a committee comprising the Prime Minister, the Speaker of the Lok Sabha, the Minister of Human Affairs, the Leaders of the Opposition in both Houses of Parliament, and the Deputy Chairperson of the Rajya Sabha. Questions over the appropriateness of the selection process for the NHRCB's members and its transparency, as per the NHRCB Act 2009, remained (Rafid, 2022).

Budget and Resources Constraints

Even institutions that are formally independent may find their autonomy curtailed in practice by informal governmental influence, particularly through financial control and resource restrictions. For an NHRI to maintain genuine independence, its budget must remain free from interference by the executive or any other branch of government (Smith, 2006). The Paris Principles stipulate that States should furnish institutions with the resources necessary to employ their own staff and operate from independent premises. The national institution shall have an infrastructure that is suited to the smooth conduct of activities, in particular, adequate funding (The Paris Principles, 1993). The SAC's general observations (para 2.6) specify that provision of adequate funding by the state should include the allocation of funds for adequate accommodation, at least its head office; salaries and benefits awarded to its staff, comparable to public service salaries and conditions; remuneration of Commissioners and establishment of communications systems, including telephone and internet.

Analysis of the budgetary framework of South Asian NHRIs indicates that NHRCI benefits from financial independence, since Article 32 of the PHRA Act 1993 entitles it to a Parliament-sanctioned government grant with full spending authority. In practice, the HRCSL exercises financial autonomy (SCA Report, 2024), while Article 25(1) of the NHRC Bangladesh Act stipulates that the Commission need not obtain prior government approval for its expenditures. However, the national laws governing NHRIs in Bangladesh (SCA Report, 2015) and Sri Lanka (SCA Report, 2024) do not specify the source of their budget allocations, nor are these budgets provided through distinct line items. Although the NHRCB Act establishes a Human Rights Commission Fund, in practice, the Commission cannot mobilize, allocate, or retain funds independently (ANNI, 2025). Although Section 25 of the Anti-Corruption Commission (ACC) Act 2004 and Section 25 of the NHRC Act 2009 on financial independence are worded identically, the ACC benefits from greater financial autonomy than the NHRCB (Rafid, 2022). Furthermore, the NHRC of Bangladesh (Annual Report, 2023) faces challenges with infrastructure and logistics, while its personnel are deprived of service benefits equivalent to those of government employees. In Sri Lanka, although the HRCSL Act guarantees state funding, the Commission's lack of full financial autonomy leaves it vulnerable to potential government interference that could undermine its independence and effectiveness (ANNI, 2025).

Another concern is that inadequate service benefits have made it difficult to retain skilled personnel, as staff often leave NHRCB positions in search of better opportunities. As a result, workforce shortage hampers the effective functioning of the NHRI. A similar situation exists in Sri Lanka, where the HRCSL prioritizes urgent matters, including state-sponsored abductions of

civilians and instances of police torture of individuals held in remand. Once the individual is out of immediate danger, follow-ups by the HRCSL are slow or even non-existent, due to the Commission's understaffing (ANNI, 2023).

Over-emphasizing individual complaints

An NHRI tasked with complaint-handling risks placing excessive focus on individual cases, which may lead to capacity overload or hinder the development of a more systematic and strategic approach to addressing complaints. There is a balance to be struck here (Jensen, 2018). Although South Asian NHRIs possess seemingly broad mandates, their operations are constrained by a tendency to focus on individual or personal complaints rather than systemic violations. South Asian region has human rights issues related to poverty, illiteracy and widespread discrimination. NHRIs in this region are overburdened with individual complaints. Examining complaints handled by South Asian NHRIs, this paper observes that while NHRCB and HRCSL are authorized to address individual grievances and encounter related challenges, NHRCI is explicitly mandated to investigate cases of human rights violations or failures to prevent such violations committed solely by public officials.

By contrast, the NHRC Act of Bangladesh grants the Commission authority to investigate allegations of human rights violations committed by individuals, state-owned enterprises, government agencies, institutions, organizations, and public officials alike. It is a broad mandate and covers all types of violations by anyone in the state. NHRC Bangladesh received 586 complaints in 2022 and disposed of 383 complaints. Of these, the largest share concerned personal matters, particularly land and property disputes (106), followed by family-related issues such as marital conflicts, divorce, and maintenance (53), and employment-related grievances including jobs, allowances, workplace conditions (45) and fraud (38). It should be noted that there were 24 complaints against law enforcement agencies, including cases of disappearance, custodial death, and custodial torture (Annual Report, 2022c).

HRCSL received 9513 complaints in 2022 and disposed of 6009 complaints. Among the complaints received, the largest proportion concerned personal matters, particularly employment-related issues (1,730). These were followed by grievances regarding police inaction (1,362), arbitrary arrest or detention (919), and inaction by other government authorities (795) (Annual Report, 2022a).

Role of domestic actors in the region

While the establishment of NHRIs may owe more to international influence than to domestic initiatives, their long-term viability ultimately depends on acceptance and support within the country (Mertus, 2009). There is an inherent tension in the concept of an NHRI: states that establish an NHRI may not want to be held to account by an independent, powerful, and well-resourced entity. As a result, NHRIs' formal powers are often circumscribed, limited, or influenced by state actors, leading to criticisms that they are weak or incapable of effecting real change. (Brodie, 2015).

A submitted report typically outlines a series of recommendations to prevent future violations or to provide compensation to victims. Indeed, an NHRC is not a court, but its activism under the law can be more powerful than a court's. Although a Commission lacks the authority to impose punishment directly, it may recommend sanctions and compensation in cases of human rights violations. This authority to propose compensation serves as a mechanism that can compel state agencies to uphold accountability to the public (Halim, 2021). When the Commission asks for an explanation of a case, the government must respond promptly, demonstrating both its own commitment and that of its state institutions to upholding human rights and respecting the Commission (Riti & Rahman, 2018).

Nevertheless, governments' reluctance to implement NHRI recommendations significantly diminishes their effectiveness and authority. For example, the NHRC Bangladesh recommendation to enact an Anti-Discrimination Act remained unheeded by the government for a considerable period. It is worth noting that the government paid little attention to the Commission's concerns regarding certain laws, such as the Child Marriage Restraint Act 2017 (Riti & Rahman, 2018).

Some NHRIs rarely receive a response from the government when they request investigation reports from concerned authorities. For example, NHRC Bangladesh rarely ever gets any response when it asks the Home Ministry for investigation reports. Although reports have been submitted on occasion, the Ministry stated that no evidence of law enforcement involvement was found. In some cases, it was reported that steps had been taken against those involved (ibid). In the context of NHRC India, data from 2021–22 reveal a significant disparity: although monetary relief was recommended in 359 cases, the concerned authorities submitted compliance reports in only 100 cases (National Human Rights Commission India, 2022). This stark imbalance underscores systemic shortcomings in the enforcement of human rights remedies, raising concerns about institutional accountability and the efficacy of NHRC directives.

Prolonged vacancies in the leadership of NHRIs

Prolonged vacancies in the leadership of NHRIs, stemming from the absence of statutory provisions for interim appointments, bring into question governments' commitment to advancing human rights through these institutions. For instance, following the mass uprising of 2024, the leadership position of NHRC Bangladesh remained vacant for an extended period (FORUM ASIA, 2024). In India, the chair of the NHRC remained unoccupied for three and a half months following the retirement of former Supreme Court Justice Arun Mishra on June 1, 2024 (Mishra, 2024). Such examples reveal a persistent pattern of extended leadership vacancies within NHRIs in South Asia. This condition undermines their institutional capacity and impedes their ability to fulfill human rights mandates, as leadership is essential to their functioning.

Complementary actors' role, public perception and high expectations

An NHRI may demonstrate considerable effectiveness in promoting human rights; however, its visibility and impact largely depend on external support, particularly from the media and advocacy organizations, whose involvement is essential to the broader dissemination of its initiatives. Moreover, the effectiveness of an NHRI's activities is closely contingent upon the degree of development of democratic institutions and the judicial system within a country. An NHRI is likely better than the general level of institutional development and effectiveness in the country. They must develop and improve together. However, there is a complex two-way relationship: active, consistent and efficient NHRIs can significantly contribute to the democratic development of their countries (Carver & Korotaev, 2007). Certainly, many NHRIs do not perform effectively, but this is more symptomatic of a state's failure to meet human rights obligations than an inherent problem with NHRIs. Many judiciaries are insufficiently independent, for example, but this does not invalidate the judiciary's role in enforcing human rights (Carver, 2010).

There appears to be an important connection between popular legitimacy and credibility on the one hand, and NHRI effectiveness on the other. Perceptions matter when it comes to questions about NHRI effectiveness and the factors that enable their work (Jensen, 2018). The establishment of NHRIs is typically accompanied by elevated expectations regarding their potential achievements, particularly when they are vested with a broad mandate under which a wide range of concerns may be construed as human rights issues (Smith, 2006). The NHRCB, for instance, has faced this exact dilemma. The performance of the NHRCB has often been criticized by experts, the media, and CSOs, especially in relation to issues involving the government (Rafid, 2022). The NHRCB not only looks into the cases of enforced disappearances,

extrajudicial killings, and custodial deaths; it also investigates other human rights issues across the country. However, media coverage tends to concentrate disproportionately on such incidents, whereas other human rights concerns often fail to receive adequate attention (Ahmed, 2023). Furthermore, there is a widespread but incorrect assumption that the NHRCB holds enforcement powers. For example, it is believed that over time it has shifted from being an enforcer to largely an observer (NHRC Act) (Mobashwira, 2025)

People often think of NHRIs as less effective because they lack executive powers. To them, the NHRC was established more as a formality than with a meaningful goal. A toothless commission with no executive power will remain ineffective, merely existing as a symbolic body with no real impact (The Daily Star, 2024). In Sri Lanka, human rights defenders argue that although the HRCSL is empowered to publish recommendations, the absence of enforcement mechanisms means that state actors remain beyond compulsion, thereby limiting the institution's practical effectiveness (ANNI, 2023). They also noted that the Commission only acts promptly in response to high-profile cases. Cases involving victims whose stories are of no interest to the media do not receive the same attention (ibid). In contexts where divergent ideas or expectations exist about an NHRI's functions, it is essential for the institution to delineate its mandate, acknowledge its limitations, and ensure the public is adequately informed about its role. (Smith, 2006).

Divided society: the key challenge of ensuring human rights in the region

Given the persistent criticism directed at NHRIs for inadequate action — especially in the realm of civil and political rights — they risk being regarded as marginal institutions with limited significance. Nonetheless, it is undeniable that the success and effectiveness of such institutions depend on political will, an enabling environment, and the quality of institutional leadership (Syead, 2025a). The promotion and protection of human rights in a deeply divided society is an inherently complex and arduous task.

Democracy, development and respect for human rights and fundamental freedoms are interdependent and mutually reinforcing. Ensuring the individual realization of universal human rights and fundamental freedoms requires that national governments strengthen legislation, institutions, and infrastructures that uphold democratic principles and the rule of law. However, social division within countries in the region is significant. For example, discrimination based on gender, caste, wealth and religion is one of the key challenges to human rights in South Asia. As a result, in India, attacks on religious minorities and violence against women have become matters of concern. In Bangladesh, on the one hand, some individuals — most notably those

affiliated with Islamic political parties — seek to transform the state into one governed by Islamic principles. Conversely, certain groups, including right-wing parties, advocate establishing democracy in the country. While recognition of diversity is central to the protection of human rights, in the South Asian context, it is frequently associated with instability, as societal attitudes often fail to uphold and respect pluralism.

Describing India as “a fractured society”, Ghanchi argues that administrative inefficiency, corruption, the arbitrary exercise of power by State authorities, and divisive, manipulative and self-serving politics threaten to undermine the rule of law, democracy, and human rights (Ghanchi, 2003). Decades of civil war and a history of ethnic nationalism have left Sri Lanka with a profoundly fractured society. The primary drivers of these fractures include unresolved historical grievances, ongoing discrimination against minority groups, and political systems that have deepened, rather than healed, divisions. Eleven years following the end of the civil war, Sri Lankan chauvinism and bigotry toward Tamils remain rampant (Sriramrajan, 2020). Therefore, such internal societal divisions present a significant obstacle for NHRIs in the region, particularly in securing public trust and achieving genuine independence.

Conclusion

This article argues that NHRIs in South Asia were primarily created as a response to international obligations aimed at upholding universal human rights standards. Nevertheless, full compliance with international standards remains unattained, largely due to domestic legal and political challenges, including opaque procedures for selecting and appointing Commissioners, inadequate funding and resources, politicization, excessive focus on individual complaints, lack of cooperation from supporting institutions, and the public's heightened expectations of NHRIs.

An institution's ability to fulfill its mandate to investigate human rights violations is directly contingent on being endowed with adequate powers and resources to perform this function effectively and efficiently. NHRIs represent a distinctive form of regulatory intermediary (Pegram, 2015); NHRIs are entrusted with monitoring government compliance with human rights obligations, yet their capacity to function effectively remains contingent upon the political will and backing of the state itself. Therefore, states are obliged to grant NHRIs adequate power and resources (UN Human Rights, 2010). The states are also responsible for complying with NHRIs' recommendations and for creating an environment in which NHRIs can independently carry out their functions. The legal frameworks governing NHRIs must include provisions that obligate authorities to comply with their recommendations. NHRIs must be staffed with skilled, motivated

personnel, equipped with adequate logistical support, and the budget ought to be allocated directly by parliament. Adequate service benefits, complemented by attractive benefits such as risk allowances and insurance, must be guaranteed to ensure NHRI staff's security and motivation. It is equally important to recognize their contributions through appropriate forms of acknowledgment. The selection process of the Commissioners should be transparent. The state should address the concerns raised by international forums of NHRIs to make NHRIs credible and enable them to fulfill their obligation to promote and protect human rights.

Complementary actors, including the media and civil society organizations, should support NHRIs in implementing their mandates.

Given the limited responsiveness of national governments to NHRIs, it is essential that NHRIs, together with international and local human rights organizations and civil society actors, continue to lobby for greater empowerment. Such efforts are crucial to enable NHRIs to hold state offenders accountable, though their success ultimately depends on political will and leadership. In certain Asian countries, including Indonesia, NHRIs have enhanced their legitimacy and public trust by investigating the armed forces and publicly identifying those responsible for human rights violations, even though such individuals were not ultimately held accountable (Setiawan, 2016). This situation may be followed by NHRIs in South Asia as a best practice to gain public trust. In this context, these NHRIs need to be strategic, set priorities, raise awareness of their mandate and activities, and acknowledge their limitations. Moreover, NHRIs, in collaboration with governments and key stakeholders, should strive to foster social cohesion across communities and political parties. For this to be ensured, political willingness is the most important necessity. Hence, commitment from political parties to institutional reform aimed at empowering NHRIs is crucial. Without meaningful reforms and initiatives, NHRIs are likely to remain symbolic institutions, lacking the capacity to make a tangible impact in advancing and safeguarding human rights.

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