

Decoding the Global Alliance of National Human Rights Institution's (GANHRI's) Accreditation Process: Implications for India's National Human Rights Commission

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Abstract:

The Global Alliance for National Human Rights Institutions (GANHRI) plays a pivotal role in promoting and protecting human rights on a global scale by giving accreditation to the national Human Rights Institutions worldwide. The accreditation process assesses the national human rights institutions adherence to the global standards set by the Paris Principles and other international standards. This Process involves the period review of the human rights institution and the adherence standards. It is seen as a major participant in the global human rights framework. Through its efforts, NHRIs are able to continue being impartial, successful, and able to hold governments responsible for abuses of human rights. It works in tandem with other regional and international human rights groups, adding to the worldwide endeavour to uphold and advance human rights.

This article dwells into the in-detail analysis, process and the procedural aspects of the (GANHRI's) accreditation process on which it evaluates the national Human Rights organisations standards on par with the international regulations. This article also tries to give a picture about the current status of India's National Human Rights commission accreditation history, the deferral of status and the possible concern for the deferral of status to India.

Keywords: *Human Rights, National Human Rights Institutions, Paris principles, NHRC*

Significance of the study:

This article throws light on the in-dept analysis of the accreditation review process of the GANHRI and the standards set by the global bodies for every country's apex Human rights institutions to adhere to it and the current status of the India in this process.

Aims & Objectives:

- To make the readers familiar with the GANHRI's accreditation Process.
- To give insights where India's NHRC is lagging at the global level.
- Implication on India's NHRC by this deferral in the current status.
- To give suggestions for the strengthening and to regain faith in the National Human Rights Commission of India.

Literature Review

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Limitations of the study

The study is complete based on the doctrinal aspects of the Paris principles, it's application in accrediting the national human rights institutions. Only the technical aspects in general are considered for the study and its relevance and India's status only has been considered without comparing with any world countries.

Introduction:

The recent accreditation process by the Global Alliance of National Human Rights Institutions (GANHRI) for various countries National Human Rights Commissions has raised questions about the independence, transparency, and competency of India's National Human Rights Commission (NHRC), as it withheld accreditation for the current cycle. This will disable the India's NHRC to represent and vote at United Nations Human Rights council.

For effective coordination and communication of all the Human Rights institutions of the respective countries, they created the International Coordinating Committee of NHRIs (ICC) during the global meeting that took place in Tunis in 1993. Later ICC became Global Alliance of National Human Rights Institutions (GANHRI) in 2016. The United Nations recognizes and values GANHRI as a reliable partner.

It has developed close ties with several regional and international NGOs, civil society, educational institutions, and the UNDP in addition to the United Nations Human Rights commission and other agencies. GANHRI, a consortium of over 110 National Human rights institutions, is in charge of evaluating and accrediting these organizations in accordance with the Paris Principles for every 5 years. The Subcommittee on Accreditation (SCA), which represents GANHRI, divides member NHRIs into two groups: "A" and "B." By the end of July 2024, GANHRI had recognized 118 NHRIs. Of these, 90 had been ranked with 'A' status as they are fairly in line with the 1993 Paris Principles; the other 28 had been ranked as somewhat compliant ("B" rank). So, the accreditation for Human Rights commissions of different nations is very crucial as it given them the participatory and voting rights in the GANHRI. In this article we will analyse the accreditation process of GANHRI the accreditation of India's NHRC since inception and various suggestions for strengthening of the India's NHRC.

Paris Principles

Paris Principles are the minimum standards set out by the United Nations for all the Human Rights institutions of the respective countries to be adopted & followed. The Paris Principles were adopted by the United Nations General Assembly resolution [1]. Its main principles are based on Independence, Pluralism, Effectiveness, and Cooperation.

The following are the important criteria specified under the Paris principles for accreditation of the National Human Rights Institutions (NHRI's): [2]

1. NHRIs should have either *constitutional or statutory backing*
2. NHRIs must have *broad mandate* that they can protect the Human rights violation and can promote the human rights.
3. NHRIs should be given broad functions so that they can *monitor and report* the Human Rights Violations, can *Register a complaint* for Human Rights Violation, providing *advice* to their respective governments on violating matters concerning the basic human rights, and to *Educate* the masses on the importance of UHDR.
4. NHRIs should be *free and Independent* from the government interference.
5. The respective national governments should assure that the composition of the NHRIs is *Plural* in nature i.e., the composition should include the persons from different fields of the society and also the persons who has adequate knowledge on the Human Rights.
6. All the Human Rights Institutions of the different nations should be equipped with *sufficient Powers* to enquire, Investigate, collect the evidence, to prosecute, to summon a person etc for doing the justice for Human rights violation.
7. NHRIs should be given a freed hand to decide their *priorities*, projects and programmes without external directions.
8. NHRIs should be provided with the *Adequate Resources* like funding, infrastructure, staff for effectively delivering their powers and functions.
9. NHRIs need *Effective Cooperation* with the regional human rights organisations, NGOs working in the field of Human Rights, International Human Rights Organisations & institutes for the better protection of the Human Rights of the Individuals.

History of GANHRI

In 1993 an International Coordination committee of National Institutions for promoting and protecting of the Human Rights has been established and later it has been renamed as the Global Alliance of National Human Rights Institutions (GANHRI) in 2016. In addition to leading the global movement to advance and defend human rights, GANHRI encourages and supports NHRIs to uphold the Paris Principles in their operations. In order to nurture & consolidation of NHRIs in accordance with the Paris Principles and to advance human rights at the domestic level, GANHRI coordinates and encourages on a global scale, the activities of NHRIs created in compliance with the Paris Principles. Under the Office of High Commissioner of Human Rights (OHCHR's) auspices, GANHRI is the competent authority to assess and accredit the human rights organisations of the different nations and organizes yearly meetings and global summits to foster collaboration and exchange best practices between NHRIs. The Human Rights Council, UN treaty bodies, and UN special processes are the bodies to which GANHRI provides support.

The following are the different bodies under GANHRI: [3]

1. *General Assembly*

General Assembly can be termed as the supreme and most important deliberative body of the GANHRI.

- All the programmes and activities are reviewed and adopted by the General assembly
- It elects the members of Governing bodies and GANHRI Bureau.
- Budget and finances will be approved by it.
- Amendments to the GANHRI statute will be done by it.

2. *Bureau*

Bureau is the Board of Directors (Executive Committee) of the GANHRI. It total it has 16 members, 4 each from America, Africa, Europe and Asia-Pacific. The following are the functions of Bureau:

- All the General Assembly resolutions will be implemented by it.
- The overall functioning of GANHRI and the development of its procedure and policies will be overseen by the Bureau.
- The finances and services to the members will be monitored by it.
- Most important of all, the decision on the accreditation of the members by the GANHRI will be taken by the Bureau.

3. *Head Office*

The Head office of GANHRI is situated in the Switzerland's Geneva and it performs the following functions:

- All the NHRIs and its governance bodies gets the technical support from the Head office.
- Plays a pivotal role in the GANHRI's strategic road map and goals.
- All the members will get support and services from it.

4. *Sub-Committee on Accreditation (SCA)*

It is the body which plays an important role in the accreditation of the NHRIs as per the Paris Principles when the NHRIs applies for initial accreditation or for the renewal of the accreditation for every 5 years.

5. *Finance Committee*

It consists of 4 members elected from A category status NHRIs each from the region of America, Africa, Europe and Asia-Pacific. Chairman will be elected among themselves and all of them will have a tenure of 3 years.

Apart from the above organisational setup GANHRI is closely working with the regional NHRIs, UNDP, OHCHR, Civil society and NGOs working on Human Rights. It is also supported by the Working groups on sustainable development goals, Ageing, Rights of persons with disabilities, Business Rights and Human Rights.

Apart from accreditation the other purposes of GANHRI are capacity building, coordinating with the NHRIs with the thrust area of protecting basic human Rights, Business rights & Human Rights, rights of internally displaced persons, ill treatment & Torture, disabled person rights, Climate change & Human Rights, Old people & Human rights, gender-based discrimination.

Accreditation Process under GANHRI

The SCA is the nodal body which administers the process of accreditation. The process of accreditation commenced in 1999 and the accreditation procedure has evolved and been reinforced throughout time to guarantee that it is impartial, exacting, open, and continuous. An NHRI's accreditation attests to its commitment to the Paris Principles and its recognition on a global scale. As a result, it gives an NHRI's significant legitimacy.

NHRI's are accredited with the status of A & B. Status 'A' denotes that the human rights organisations of the respective countries are in line with the Paris Principles and they are given a privilege to participate, engage, cast their vote in the GANHRI's decision making process and can hold administrative positions. Additionally, they have exclusive access to the Human Rights Council and its mechanisms, as well as significantly improved participation rights. More recently, they have also been granted access to other UN entities, such as the Working Group on Ageing. While the *NHRI's* with **B** status of accreditation can participate in the GANHRI's meeting but they are not allowed to vote and to hold any administrative positions.

The accreditation procedure for GANHRI is distinct since it is a peer evaluation of NHRIs that receives support and assistance from the UN via the OHCHR. Every so often, the United Nations Secretary General reports to the Human Rights Council and the General Assembly on the accreditation procedure, as well as the work that GANHRI does in connection with it. In order to ensure that accreditation is a genuine indication of its conception and execution regarding advancing and safeguarding the protection of human rights, GANHRI and OHCHR have concentrated significant efforts on making sure the accreditation process is impartial, open, and robust.

Assessment Criteria for accreditation:

The accreditation process is broadly based on the themes of independence, effectiveness, cooperation and pluralism [4]. Apart from the main thematic contexts of accreditation, the SCA also examines the particular environment in which the NHRI is functioning, including elements like political stability, any chance of violence or disturbance, or a deficiency of State

infrastructure. Even in case of NHRIs are not in a position to fulfil their mandate still they can take justification that they have taken reasonable measure to protect the human rights.

The following are the major essential parameters for the accreditation of NHRIs followed by the SCA:

1. *General Observations*

Regardless of their specific operating environment or structural type, all NHRIs are intended to benefit from the general direction that the *Paris Principles* were designed to offer. Because of this, they are too general and lack the kind of focus and detail that would be most helpful to States and NHRIs in creating and enhancing institutions that adhere to these Principles. The SCA has created a series of *General Observations* to help with the practical evaluation of NHRI conformity to the principles and to offer this kind of detailed guidance.

General observations are created and revised when needed by the SCA with the approval of the GNHRI's Bureau [5]. Its main object is to provide strong and concrete support to NHRI's in the matters of:

- i. Promotion of the Paris Principles and their application in accreditation and reaccreditation of NHRIs.
- ii. To help NHRIs establish their own policies and processes that align with global standards.
- iii. To assist NHRIs to advocate their national governments on matters of difference to get in line with the Paris Principles of 1993.

The national human rights organisation applying for the accreditation has to substantially has to comply with the provisions of General Observations. If the NHRI's are failed to comply with the above said rules and principles they will be declared as non-compliant by the SCA.

2. *Type of Mandate for NHRI*

The socio-Economic and political structure of the countries influence the formation of the NHRI's. If the establishment of human rights organisation of a nation is based on the executive order, or through any temporary mechanism like administrative action, rule, regulation this will eventually undermine the competency and will affect the independency of the NHRI.

For the NHRIs to perform in a impartial and independent way their establishment should be backed by the constitution or through a statute made by the competent legislature [6]. As per the Paris Principles the individual human rights organisations should be empowered by the statute to *outreach the Human Rights viz.*, create awareness, ensure people are informed about their Human Rights, educating, providing training etc and *Protect Human Rights viz.*, a mechanism to take complaints, to resolve complaints, to monitor the complaint resolution process.

The NHRI's interpretation should be as wide as it should include the socio-cultural and economic rights of the people.[7] They should be empowered by their respective statutes to enter into any premises, inspect the relevant documents, investigate the persons for the violation of the Human Rights without any prior notice provided that necessary permission has to be obtained under exceptional cases where security of the state is involved [8].

The NHRI's should include all the stakeholders like domestic human rights organisations, National Human Rights Organisations, International level in safeguarding and outreaching the Human Rights [9]. Authorities should interact with non-governmental organizations (NHRIs) while preparing a state's report to human rights mechanisms, but NHRIs

ought not to create the country report on the government's behalf. NHRIs are required to uphold their autonomy and, in cases where they are able, furnish information to human rights institutions on their own initiative. In regional or international systems, like the UPR, where NHRIs have the right to autonomous engagement, NHRIs should not take part as members of a government delegation. While NHRIs are representing their nations in any international forum they should be independent and impartial.

3. *Appointments and Composition*

The Paris Principles requires the national government to ensure that the *composition* reflects the *Diversity and Pluralism* and proportional *gender representation*.

It requires the NHRI to have a participatory, clear and transparent selection and appointment process [10].

The appointment of the members of the decision taking body of the nation human rights organisations should not be confined to only a particular profession or section of the people, it should be inclusive in nature and should represent the different sections of people. The Paris Principles attempt to prevent any potential government intervention in the NHRI's evaluation of the status of human rights and resulting selection of its key objectives by explicitly mandating autonomy in its composition, framework, and mode of conduct of an NHRI.

Paris Principles requires that the composition of the NHRI should not include the political representatives either from the ruling party or from the opposition to ensure the accountability, credibility of the NHRI and to avoid any chance of conflict of interest [11]. In the event that a political representative is chosen to serve on the NHRI's decision-making body, the government must ensure that the representative's rights are limited to representation and not voting [12]. One of the key requirements of the Paris Principles is that the NHRI should be able to appoint its own employees without interference from the government. The appointment procedure should be fair and based on the merit.[13]

The NHRI should not accept government-assigned personnel, often known as secondment, since this could compromise the NHRI's ability to operate autonomously. Senior leadership positions shouldn't be filled in this way because this is especially true when it comes to individuals at the top of the NHRI.

4. *Terms and conditions of the service*

The NHRI's bylaws ought to stipulate that the body responsible for making decisions must consist of full-time members. This encourages consistency, guarantees a suitable level of oversight and guidance, and reduces the possibility that members would encounter conflicts of interest from their participation in other paid work. In order to maintain an NHRI's activities and services and to encourage the independence of its membership, a suitable minimum tenure of appointment is also essential [14]. It recommended for a tenure of between 3 years to 7 years and can be reappointed for only once immediately after their tenure. Members of the NHRI must be free to carry out their duties without fear or unwarranted intervention from the government or other parties. Because of this, the enabling legislation should additionally state that throughout members' terms of appointment, these rules and regulations cannot be changed to their disadvantage. Members of the decision-making body should be protected from civil and criminal liability for their actions while acting in their official capacities, providing them with operational and functional immunity, to ward frivolous and threatening complaints being filed against them [15]. The NHRI's capacity to critically analyse and comment on human rights

concerns is strengthened by these safeguards, which also help to maintain senior leadership independence and increase public trust in the organization. It may be essential to lift these protections in certain extraordinary circumstances, but no office holder should be exempt from the law. But rather than being decided by a single person, the authority to do so ought to belong to a properly formed entity, such a court or a special majority of parliament. The enabling legislation for the NHRI should all includes provisions on the dismissal procedure. Members should only be removed for grave misbehaviour or incompetence, which should only be limited to major acts that compromise the integrity of the NHRI and be properly defined. The firing procedure needs to be neutral and fair. Legislation should, when applicable, stipulate that the use of a certain basis must be substantiated by a ruling from an impartial entity with the proper authority, like a court or tribunal. It is not appropriate to permit removal based only on the judgment of the people who appointed them [16].

5. *Financial Autonomy & Funding*

The Paris Principles stipulate that an NHRI must have sufficient money to ensure its independence and freedom to choose its own objectives and activities in order for it to operate effectively. An NHRI's ability to effectively carry out its entire mandate may be restricted or rendered ineffective by a lack of funding. When evaluating an NHRI's budget, the SCA takes into account all of the relevant factors, such as the variety of activities the organization engages in and its assessment of whether or not its funding is adequate to enable it to efficiently carry away its mission [17]. The Paris Principles stipulate that an NHRI must have sufficient money to ensure its autonomy and the liberty to choose its own objectives and activities in order for it to operate effectively. An NHRI's ability to effectively carry out its entire mandate may be restricted or rendered ineffective by a lack of funding. When evaluating an NHRI's budget, the SCA takes into account all of the relevant factors, such as the variety of activities the organization engages in and its assessment of whether or not its funding is adequate to enable it to efficiently carry away its mission.

The following provisions has to be ensured while allocating the funds by the governments to their respective NHRI:

- The premises of NHRI should be accessible to the people at large, funds for establishment of the regional centres has to be encouraged.
- Salaries and other benefits should be on par with the civil servants.
- Remuneration should be equivalent to the corresponding similar cadre members in other statutory bodies or organisations.
- The premises should be equipped with modern state of art communication and other technologies.
- NHRI's should be funded adequately by their appropriate governments.
- External funding by the international agencies may be allowed but this shouldn't become the major chunk of the NHRI's funds.
- NHRIs should be provided with financial autonomy for which it should have a legislative mandate.

6. *Independence in Practice*

In all situations with no exemption, NHRIs are supposed to uphold and guarantee fidelity to democratic values, the rule of law, and all human rights. This is because they are unbiased

and autonomous organizations. They must, in particular, show a readiness to confront all human rights issues, particularly politically contentious ones or those involving reliable claims that government officials have violated people's rights in flagrant or systematic ways. They have to be very vigilant and have to protect the rights of people during the times of emergency situations and or even during coup d'état [18]. This could entail keeping an eye on, recording, making public declarations, and providing frequent, in-depth media reports on infringements of human rights to guarantee the safety of persons whose rights have been violated, an NHRI should also engage in thorough and methodical follow-up actions and promote the evaluation and application of its findings and suggestions [19].

The members of the decision-making body have to refrain from any political affiliation during the time of emergency and should not undertake any activity which will hamper the credibility of the NHRI. It has to publish and submit the annual, thematic, Special reports on the human rights to their respective parliaments in order to make the government accountable [20]. Failure to comply with the principles or to address the human rights issues will under the autonomy of the NHRI and it eventually impacts its accreditation.

National Human Rights Commission (NHRC) of India and its accreditation under GANHRI

In conformity with the Paris Principles [21], the Government of India established the National Human Rights Commission on 12th October, 1993 under the statute of Protection of Human Rights Act 1993 [22] The main object of the NHRC is to protect the people from any human rights violation. In addition to investigating complaints of human rights violations or public servant negligence in preventing such violations, the Commission conducts research on international human rights treaties and instruments and recommends to the government how best to implement these treaties. These functions are outlined in Section 12 of the Act. The Commission is entrusted with the job of protecting the people from human rights infringement and to outreach, promote human rights literacy studies [23].

Composition of NHRC

It consists of chairman, 4 other members (full time), 7 members (deemed members).

- The *chairman* usually a retired chief justice of India or a judge of supreme court India.
- A *supreme court judge* or a *chief justice* of a high court can be appointed as another member.
- Remaining three members (of them one should be women) should have knowledge and experience in dealing with the human rights issues.
- Other deemed members are the Chairmans of National commission of women., Sc & ST's., BC's, Minorities., protection of child rights, person with disabilities.

The president of India appoints them on the recommendation of a 6-member committee headed by the prime minister of India for a term of 3 years or 70 years whichever is earlier.

NHRC's Accreditation under GANHRI

The NHRC's journey with the GANHRI's (formally international coordination committee of National Institutions for protection and promotion of Human Rights) can be dated back to 1999 in which it has been awarded with "A" status of accreditation for its fair compliance with the *Paris Principles* [24].

In the subsequent reviews in 2006, 2011 it successfully retained the “A” status by complying with the maximum provisions mentioned under the Paris Principles. However, in 2016 review process the accreditation for it has been differed to the next and the SCA suggested that the organization to resolve the issues with its independence, the recruitment and selection process, pluralism, and financial independence. After a setback and a rigorous effort by the NHRC again in 2017 “A” classification was reinstated after some changes were made to meet the issues brought up by GANHRI. Even after receiving “A” status, still SCA suggested for the constant development [25]

After five years of accreditation, India's NHRC went for review in 2023; however, GANHRI's SCA delayed the accreditation process until the following session, which was scheduled for 2024. On May 1st, 2024, the NHRC suffered a significant setback because its accreditation process had been differed consecutively for the second year [26]

The SCA has differed the India’s NHRC status due to the following reasons: [27]

1. Opacity in appointments:

The NHRC's opaque membership appointment process has drawn criticism. The Commission's apparent independence and credibility are weakened by the lack of openness.

2. Non-Inclusive representation:

The underrepresentation of women, minorities and other marginalised groups in the NHRC has been brought to the attention of the SCA. It is believed that this lack of diversity poses a serious obstacle to the NHRC's ability to effectively handle a wide variety of human rights concerns impacting all facets of society.

3. Conflict of interest:

It has been criticized because law enforcement officers are appointed to supervise investigations into violations of human rights. This is seen as a conflict of interest since these officers can be under pressure or have innate prejudices that make it difficult for them to carry out unbiased investigations.

4. Lack of structural Autonomy:

SCA alleges that India’s NHRC is heavy influenced by the government of the day and it doesn’t have any structural autonomy and individuality. It has to depend on government of the day for its funds and appointments.

5. Periodic Review and Compliance:

In accordance with the recommendations made, the SCA has mandated that the NHRC be subjected to routine evaluations and make ongoing changes. This entails not just fixing existing issues but also actively looking for methods to improve its efficacy and adherence to global human rights norms.

The following are the probable consequences of the deferral of accreditation status to India’s NHRC by SCA of GANHRI: [28]

1. No voting right:

The deferral of accreditation status will curtail the voting right of NHRI to vote in United Nations Human Rights Commission and its affiliated bodies. This will affect the India’s NHRC position in international bodies to influence the policy decisions.

2. *Loss of International Credibility:*

This will send a unprecedented wrong message to the international community and will eventually degrade the domestic as well as the international credibility of the India's NHRC.

3. *Reduces the inflow of funds:*

The NHRC will have a budget allocated by the government and also they are allowed by the Paris Principles to get funds from the international organizations and donations from the abroad. However, the deferral of the accreditation will undermine the value of NHRC and it may eventually affect the funding.

4. *Domestic implications:*

This may cause loss of public trust and confidence in the National Human Rights organisation and will be a ground for the criticism by the various stakeholders of the society. This may lead to a pressurised situation to the NHRC to be accountable to the people.

5. *A chance to reform:*

The main purpose of deferral of the accreditation of NHRC by the GANHRI's SCA is to motivate the NHRI to reform itself and to get updated as per the provisions and recommendations of SCA.

Conclusion

National Human Rights Commission (NHRC) of India must carry out a number of crucial reforms in order to restore its 'A' status accreditation from the Global Alliance of National Human Rights Institutions (GANHRI). Initially, in order to guarantee that members are chosen on the basis of merit using explicit and accessible standards, the NHRC needs to improve the openness of its appointment procedure. By making this adjustment, worries regarding the transparency of current procedures would be allayed, and the Commission's independence and credibility would increase. More women and minorities need to be represented in the NHRC's organisational structure. Having a more diversified membership would help the NHRC better represent and handle the range of human rights concerns that have an impact on different societal groups.

In addition, structural changes are required to guarantee the independence of the NHRC from political interference. This involves putting in place measures to preserve the Commission's independence and allow it to function free from outside interference. By tackling these crucial areas, the NHRC can strengthen its efficacy, comply more closely with the Paris Principles, and get back its full accreditation status—all of which would help it regain credibility as a human rights organisation both domestically and internationally.

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