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## **Re: Request to raise serious concerns over the independence of NHRC in Nepal**

We, the undersigned non-governmental human rights organizations are concerned by the recent developments in Nepal, that are clearly affecting the National Human Rights Commission's compliance with the Paris Principles on the independence and effectiveness of NHRIs endorsed by the United Nations. It is in this context that we are writing to request you to raise these concerns and take the necessary measures within your mandate.

On 15 December 2020, the Constitutional Council<sup>1</sup>, whose quorum was reduced with the government's executive ordinance endorsed by President Bidya Devi Bhandari on the same day, made nominations for the vacant members of the NHRC and other constitutional bodies. Later, the two petitions were filed in the Supreme Court on 16 and 21 December 2020 respectively, arguing that both the ordinance and the subsequent decision of the constitutional council based on it were unconstitutional and illegal, and hence they should be scrapped. The cases are currently sub-judice at the Supreme Court.

Despite the legal challenges in the Supreme Court, the nominees were sworn in on 3 February 2021 even though the parliament was dissolved and hence mandatory Parliamentary hearing did not take place. Later, on 23 February 2021, the Supreme Court reinstated the parliament terming the Prime Minister's move to dissolve the House unconstitutional.

In a statement issued by the Accountability Watch Committee (AWC)<sup>2</sup> on 12 March 2021, the group said it would not "cooperate and engage with the NHRC and other constitutional bodies until the Supreme Court's decision." The AWC also urged the international community, including the United Nations and diplomatic missions in Nepal, not to give legitimacy and cooperate with this appointment process.

On 1 March 2021, three prominent human rights organizations – Human Rights Watch, International Commission of Jurists, and Amnesty International – issued another statement<sup>3</sup> showing their serious concern and urged the government to "immediately withdraw the ordinance relating to Constitutional Council Act that undermines the independence of constitutional human rights bodies and rescind recent appointments that were made without consultation or parliamentary approval."

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<sup>1</sup> The constitutional council has the mandate for appointments to the judiciaries and other constitutional bodies.

<sup>2</sup> A group of prominent human rights defenders and lawyers in Nepal

<sup>3</sup> Nepal: Human Rights Commission's Integrity in Jeopardy <https://www.hrw.org/news/2021/03/01/nepal-human-rights-commissions-integrity-jeopardy>

In a surprising move, the NHRC issued a counter statement<sup>4</sup>, “The press release appears not only interfering in the internal affairs of a sovereign friendly country which places human rights and the rule of law at the top of its priority, but it is also questioning the sanctity and credibility of the national human rights institution of Nepal which is a party to most of the fundamental international human rights treaties.” The NHRC statement, which is signed by an undersecretary, serves the mouthpiece of the government’s attempt in jeopardizing the NHRI.

Earlier in 2019, the government had attempted to curtail the power of the NHRC by registering a bill in the Parliament to amend the NHRC Act 2012. Human rights community flayed the bill saying it attempted to limit the jurisdiction, autonomy and independence of the commission. On top of that, the bill contravenes the provisions relating to NHRC as enshrined by the Constitution of Nepal, the Supreme Court’s decision and the United Nation’s Principles relating to the Status of National Institutions, known as the Paris Principles.

On 15 July 2019, the UN Special Rapporteurs jointly wrote<sup>5</sup> to the government with the similar concern that the amendment if passed, could potentially severely undermine the NHRC’s authority, effectiveness and independence and limiting the Nepali people’s ability to access justice.

With these developments in the contexts, we, the undersigned, are very much worried that the accreditation ‘A’ category that the NHRC has enjoyed over the past years that the government uses as a sign of improved human rights record in Nepal is in jeopardy. These developments have affected the six points set by the Paris Principles: a broad mandate, autonomy from the government, independence, pluralism, adequate resources, and powers of investigation.

We urge the Global Alliance of National Human Rights Institutions (GANHRI) and Asia Pacific Forum of National Human Rights Institutions for their urgent interventions.

We thank you for your attention to this important matter.

Respectfully,

Asian Human Rights Commission  
Advocacy Forum  
LAHURNIP  
Terai Human Rights Defenders Alliance



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*The Asian Human Rights Commission (AHRC) works towards the radical rethinking and fundamental redesigning of justice institutions in order to protect and promote human rights in Asia. Established in 1984, the Hong Kong based organisation is a Laureate of the Right Livelihood Award, 2014.*

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*Advocacy Forum (AF) is a leading non-profit, non-governmental organization working to promote the rule of law and uphold international human rights standards in Nepal. Since its*

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<sup>4</sup>Counter Statement by NHRC

[https://www.nhrcnepal.org/nhrc\\_new/doc/newsletter/Press%20release%20on%20Int.%20Issues%207%20March%202021.pdf](https://www.nhrcnepal.org/nhrc_new/doc/newsletter/Press%20release%20on%20Int.%20Issues%207%20March%202021.pdf)

<sup>5</sup>UN Special Rapporteurs’ joint communication with Govt of Nepal on Amendment Bill of NHRC Act 2012 <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=2469>

*establishment in 2001, AF has been at the forefront of human rights advocacy and actively confronting the deeply entrenched culture of impunity in Nepal.*

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***Lawyers' Association for Human Rights of Nepalese Indigenous Peoples (LAHURNIP)**, a pioneer organization, was established in 1995 by professional Indigenous lawyers to work for human rights and fundamental freedoms of Indigenous people in Nepal. It aims to promote, protect and defend collective human rights of Indigenous people in Nepal. It collaborates with national, regional and international human rights institutions, including UN mechanisms, to promote human rights of indigenous people.*

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***Terai Human Rights Defenders Alliance (THRDA)** is a non-governmental organization registered under Nepali law and is working to protect and promote human rights through research, legal intervention and advocacy. It works in close coordination with Nepal's National Human Rights Commission, and reports to international human rights organizations, including the UN Office of the High Commissioner for Human Rights.*