

The Role and Significance of the National Human Rights Commission (NHRC) Nepal in upholding Human Rights

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Abstract

The National Human Rights Commission (NHRC) Nepal is a constitutionally established institution dedicated to the protection and promotion of human rights. This article critically examines the comprehensive role of the NHRC Nepal by analyzing its legal mandate, institutional structure, and operational mechanisms. The commission plays a pivotal role in monitoring government actions, investigating human rights violations, raising public awareness, and recommending policy and legal reforms to promote justice, equality, and dignity for all citizens. As a guardian of civil, political, economic, social, and cultural rights, the NHRC Nepal engages in educational outreach, collaborates with civil society, and offers consultative advice to government agencies. These efforts aim to bridge the gap between constitutional guarantees and ground realities. However, despite its achievements, the Commission faces several institutional challenges—including limited financial and human resources, delays in investigation, and the non-binding nature of its recommendations—which undermine its effectiveness. This article underscores the urgent need for structural and operational reforms to enhance the NHRC Nepal's autonomy, enforcement capacity, and outreach. Furthermore, by aligning its work with international human rights frameworks and participating in global networks such as the Asia Pacific Forum and United Nations Human Rights Council reviews, the NHRC Nepal contributes to the global dialogue on human rights protection. Addressing these gaps will not only improve its domestic performance but also strengthen its legitimacy and impact on the international front.

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Introduction

Human rights form the bedrock of democratic societies, ensuring that every individual enjoys fundamental freedoms and equal opportunities regardless of their identity, background, or status. They serve as the foundation for a just society where the dignity of every person is recognized and protected, promoting social cohesion and mutual respect. To safeguard these inalienable rights, nations establish dedicated institutions tasked with monitoring, protecting, and promoting human rights. Such institutions play a crucial role in holding governments accountable, addressing structural inequalities, and advocating for the rights of marginalized and vulnerable groups. In Nepal, the National Human Rights Commission (NHRC) stands as a central institution in this effort. It functions both as a watchdog and an advocate, bridging the gap between legal guarantees and lived realities by ensuring that human rights principles are not only codified in law but are also implemented in practice. Established as a statutory body under the Human Rights Commission Act, 2053 (1997 AD), the NHRC Nepal was later granted constitutional status by the Interim Constitution of Nepal, 2063 (2007 AD)—a recognition further upheld in Article 248 of the Constitution of Nepal, 2072 (2015 AD). This transition reflects Nepal's evolving commitment to aligning national human rights mechanisms with international norms. Grounded in international frameworks such as the Universal Declaration of Human Rights [UDHR], 1948), and other binding treaties, the NHRC Nepal embodies the nation's pledge to uphold dignity, justice, and equality for all. These global standards provide both the moral and legal foundation for its operations. This article offers an in-depth analysis of the NHRC Nepal's role, structure, and significance in addressing rights violations and fostering a culture of respect for human dignity. The NHRC Nepal plays a pivotal role in monitoring rights abuses, ensuring accountability, and advocating for policy reforms. Its work spans across investigating individual complaints, monitoring institutional practices, and conducting public awareness and education campaigns on human rights issues. As a constitutionally empowered body, it acts as a vital intermediary between citizens and the state, working to ensure justice is delivered fairly and impartially. (Khadka & Adhikari, 2017).

With a broad mandate that encompasses civil, political, economic, social, and cultural rights, the NHRC Nepal addresses a diverse range of issues—from abuse in detention (custodial violence) and ethnic or gender-based discrimination, to systemic socio-economic challenges like lack of access to education, healthcare, or employment opportunities. In doing so, it does not merely react to individual violations but also tackles the underlying causes of inequality and marginalization, such as weak legal enforcement, socio-economic disparities, lack of institutional transparency, and inadequate policy implementation. The NHRC Nepal's work reflects an ongoing national and global struggle to transform human rights from aspirational

ideals into real, enforceable protections that elevate the dignity and quality of life for all citizens. (Khadka & Adhikari, 2017).

The Mandate and Structure of NHRC Nepal

The NHRC Nepal's mandate is multifaceted, reflecting the complexity of human rights challenges in a rapidly changing world. It functions as a watchdog over government actions, examining policies, laws, and administrative decisions to ensure their alignment with human rights principles. The commission investigates cases of human rights violations, either on its own initiative or based on complaints from individuals or groups. According to Section 4(1) (b) of the National Human Rights Commission Act (National Human Rights Commission Act, 2012), the NHRC Nepal may investigate cases that are sub-judice (under court consideration), but only with the permission of the court. However, it does not have the authority to intervene in ongoing court proceedings, and any claim to the contrary misrepresents both the NHRC's legal limits and internationally accepted human rights principles. The commission also recommends compensation for victims and proposes reforms in laws and policies to prevent future violations.

Structured as a constitutional body (Constitution of Nepal, 2015, Art. 248), the NHRC Nepal is composed of a chairperson—typically a retired Chief Justice or Supreme Court judge—and members with expertise in law, human rights, and public administration. This multidisciplinary composition ensures a balanced and informed approach to addressing human rights issues. The NHRC operates through its central office in Kathmandu and provincial offices established under Section 26 of the Act, enhancing its reach and accessibility. It also collaborates with civil society organizations and draws support from specialized investigative teams to fulfill its functions effectively. The commission is tasked with inspecting prisons, public institutions, and other sites to monitor compliance with human rights standards and issuing recommendations for reform. It plays a vital role in reviewing the implementation of human rights-related laws, advising the government, and raising public awareness through education and advocacy initiatives. Notably, the NHRC provides guidance on integrating human rights into school and university curricula, thus promoting a culture of rights and responsibilities among future generations. Despite its broad mandate, the NHRC Nepal faces substantial challenges. The non-binding nature of its recommendations, as emphasized in Section 17 of the Act, means that its effectiveness is contingent on cooperation from government agencies. This often leads to delays and weak enforcement. Furthermore, financial and human resource constraints significantly hinder the commission's capacity to investigate complaints thoroughly and carry out its broader responsibilities. To strengthen its role, structural reforms and enhanced legal powers are urgently needed, including granting its recommendations binding authority, ensuring sufficient funding, and improving institutional independence.

Functions and Responsibilities

The National Human Rights Commission (NHRC) Nepal undertakes a diverse and essential range of activities aimed at promoting and protecting human rights across the country. A central function of the NHRC Nepal is the investigation of human rights violations, as outlined in Section 4 of the National Human Rights Commission Act (National Human Rights Commission Act, 2012). These investigations address a broad spectrum of issues, including allegations of police misconduct, custodial deaths, discrimination, and denial of basic rights such as education, healthcare, and employment. Beyond its investigative mandate, the NHRC Nepal plays a pivotal role in public education and human rights advocacy. (Giri, 2022) Through workshops, seminars, and training programs, the commission raises awareness among citizens, law enforcement personnel, public officials, and marginalized communities. This educational outreach is critical in fostering a culture of accountability, civic empowerment, and rights-consciousness across Nepalese society.

In its advisory capacity, the NHRC Nepal provides the government with expert recommendations on policy reforms and legislative initiatives to strengthen the national human rights framework. Under Section 6 of the Act, it is empowered to suggest new laws or propose amendments to existing statutes to ensure compliance with international human rights standards. The commission also supports the integration of human rights education into school and university curricula, thereby embedding respect for fundamental rights into the fabric of Nepalese education.

Another significant function of the NHRC Nepal is monitoring and reporting on the state of human rights in the country. The commission regularly publishes annual and thematic reports, which identify key trends, highlight systemic violations, and provide data-driven insights to inform both public policy and civic action. These reports serve as valuable tools for national advocacy and international review processes. The NHRC Nepal is also mandated to recommend interim relief or financial compensation for victims of rights violations, in accordance with Section 9 and Section 16 of the Act. This mechanism reflects the commission's commitment to providing both immediate support and long-term justice for affected individuals. (Bhattarai, & Shrestha, 2019)

To strengthen its impact, the NHRC Nepal actively collaborates with civil society organizations, regional human rights mechanisms, and international institutions. These partnerships enhance the commission's capacity to adopt best practices, share expertise, and address transnational human rights challenges. Despite these efforts, the NHRC Nepal continues to face critical constraints—particularly in terms of budget limitations, human resource shortages, and the non-binding nature of its recommendations. These obstacles limit the commission's operational

efficiency and underscore the pressing need for institutional reform, stronger enforcement powers, and sustained governmental support.

Challenges and Criticism

Despite its commendable efforts and achievements in protecting and promoting human rights, the National Human Rights Commission (NHRC) Nepal faces several challenges that hinder its ability to operate effectively. These challenges stem from structural, operational, and external factors that collectively limit its potential to address the full spectrum of human rights violations.

a. Limited Financial and Human Resources

One of the most persistent challenges faced by the NHRC Nepal is the insufficiency of financial and human resources. As the custodian of human rights in a populous and diverse nation, the commission is inundated with thousands of cases annually, ranging from civil and political rights violations to issues of social justice. However, its limited budget and inadequate workforce make it difficult to process these cases in a timely and comprehensive manner. This resource constraint not only slows down the resolution process but also hampers the commission's ability to conduct independent investigations, organize awareness campaigns, and implement robust monitoring mechanisms.

b. Bureaucratic Inefficiencies and Delays

The NHRC Nepal's operational framework is often criticized for being bogged down by bureaucratic inefficiencies. Delays in investigations are a frequent issue, with many cases taking years to reach a conclusion. These delays can discourage victims from seeking justice and undermine public confidence in the commission's effectiveness. Moreover, the NHRC Nepal's recommendations are non-binding, which means that the implementation of its findings is dependent on the discretion of government authorities. This lack of enforcement power significantly weakens its ability to bring about meaningful change and hold violators accountable.

c. Independence and Impartiality Concerns

The NHRC Nepal's reliance on government appointments has raised questions about its independence and impartiality. Critics argue that the selection process for key positions within the commission often lacks transparency and may be influenced by political considerations. This dependence on the government can lead to perceptions of bias and reluctance to address sensitive issues that might conflict with the interests of the state. Ensuring a more autonomous

and transparent appointment process is essential to bolster the commission's credibility and effectiveness. The parliamentary hearing before appointment is a compulsory process. .

d. Underrepresentation of Economic, Social, and Cultural Rights

While the NHRC Nepal has made significant strides in addressing civil and political rights, it has been criticized for its inadequate focus on economic, social, and cultural rights. Issues such as poverty, unemployment, inadequate housing, and limited access to education and healthcare are critical aspects of human rights that often remain underrepresented in the commission's agenda. These issues disproportionately affect marginalized and vulnerable populations, who are often left without effective recourse. The imbalance between civil-political and socio-economic rights underscores the need for a more holistic approach to human rights protection.

e. External Pressures and Challenges:

The NHRC Nepal operates in a complex socio-political environment where external pressures can impede its functioning. Resistance from government agencies, lack of cooperation from law enforcement authorities, and societal indifference towards human rights issues further complicate its work. In some cases, powerful entities implicated in human rights violations may exert undue influence to delay or dilute investigations.

f. Public Awareness and Outreach:

Another critical challenge is the lack of widespread public awareness about the NHRC Nepal's role and functions. Many individuals, particularly in rural and remote areas, remain unaware of their rights and the mechanisms available to address violations. This lack of awareness limits the commission's reach and effectiveness in addressing human rights issues across diverse demographics.

Key Provisions of the National Human Rights Commission Act and the Need for Amendments

The National Human Rights Commission Act (2012), is a critical piece of legislation in Nepal designed to institutionalize the protection, promotion, and enforcement of human rights, the Act establishes the National Human Rights Commission (NHRC) Nepal as an independent and autonomous constitutional body, tasked with ensuring the respect, promotion, and effective implementation of human rights as provided under the Constitution, existing laws, and international treaties to which Nepal is a party. The Act, under Section 4, outlines the NHRC Nepal's extensive functions, duties, and powers, enabling it to act as a watchdog and a proactive force in human rights protection. These powers include conducting inspections and monitoring prisons, government agencies, public institutions, and private entities to identify and address

violations. Section 4(1)(b) allows the NHRC Nepal to investigate sub judice cases involving human rights violations with the court's permission, while Section 4(1)(c) enables it to monitor the implementation of existing laws related to human rights and recommend improvements to the government for effective execution. The NHRC Nepal is also mandated to review the state of human rights in the country and issue public reports under Section 4(1)(f), alongside providing human rights-related consultations to the government, as outlined in Section 6. The Act provides a mechanism for victims or their representatives to file complaints about human rights violations under Section 10, and it obligates the NHRC Nepal to initiate preliminary proceedings without delay, as per Section 11. In urgent situations, Section 9 grants the Commission the authority to order immediate relief or rescue for victims, ensuring that those in vulnerable situations are promptly protected. Furthermore, Section 16 empowers the NHRC Nepal to recommend compensation of up to NPR 300,000 to victims, with the amount being recoverable from the violator. Section 7 establishes provisions for publicly naming human rights violators who fail to comply with the Commission's recommendations or orders, thus creating a form of accountability and social pressure. (Durbach, & Nowak, 2009) Additionally, the NHRC Nepal can propose legislative reforms and recommend the ratification of international human rights treaties under Section 6(4), ensuring that Nepal remains aligned with global standards. Section 17 details the procedures for implementing the NHRC Nepal's recommendations, although it relies heavily on the cooperation of other government agencies, which is a notable limitation. Despite the comprehensive framework laid out by the Act, significant challenges hinder its effective implementation. One major issue is the non-binding nature of the NHRC Nepal's recommendations and decisions, as highlighted in Section 17. This reliance on the goodwill of government bodies to act on its recommendations undermines the NHRC's authority and effectiveness. Additionally, resource constraints—both financial and human—have limited the NHRC Nepal's ability to conduct thorough investigations, maintain its regional offices, and address the volume of complaints received. Delays in resolving complaints within the six-month timeframe stipulated in Section 15 have further eroded public trust in the Commission's efficiency and effectiveness. There is also a lack of public awareness about the NHRC Nepal's role and functions, particularly in remote and marginalized communities, which limits the accessibility of the Commission's services. Furthermore, the Act's provisions for accountability, such as naming violators under Section 7, lack enforcement mechanisms beyond reputational damage, reducing their deterrent effect. (Yadav & Kafle, 2020).

To address these shortcomings, targeted amendments to the Act are essential. First, the NHRC Nepal should be granted binding powers to enforce its decisions, ensuring that its recommendations are not merely advisory but carry legal weight. Section 17 should be revised to mandate government agencies to implement NHRC Nepal decisions within a specified

timeframe, with penalties for non-compliance. Resource allocation must be significantly enhanced to enable the NHRC Nepal to expand its investigative capacity, establish additional regional offices as allowed under Section 26, and implement modern technologies for case management and public engagement. Public awareness campaigns are also critical to educating citizens about the NHRC Nepal's mandate and encouraging greater participation in the complaint mechanism outlined in Section 10. Coordination with other human rights bodies and agencies, as envisioned in Section 18, should be strengthened through clear protocols to avoid overlapping mandates and inefficiencies. The Act should also include detailed provisions under Section 7 and Section 16 for enforcing accountability, such as freezing the assets or imposing financial penalties on violators who fail to comply with NHRC Nepal orders. Furthermore, regular capacity-building programs for NHRC Nepal staff and stakeholders, along with provisions for fast-tracking urgent cases under Section 9, would enhance the Commission's ability to deliver timely and effective justice. National Human Rights Commission Act, 2068, provides a solid legal foundation for human rights protection in Nepal, its full potential remains unrealized due to structural and operational limitations. Addressing these through targeted amendments would empower the NHRC Nepal to act decisively, enhance public trust, and strengthen Nepal's commitment to upholding the fundamental rights and freedoms of its citizens granting the NHRC binding powers, increasing resources, ensuring accountability, and fostering public engagement, the Act can evolve into a more effective instrument for human rights protection in the country (Sharma & Joshi, 2021).

The Way Forward

To enhance its effectiveness and ensure its continued relevance in addressing the dynamic challenges of human rights protection, the National Human Rights Commission (NHRC) Nepal must undertake structural and operational reforms. These changes should aim to strengthen the commission's autonomy, broaden its focus, and deepen its engagement with stakeholders at all levels.

1. Ensuring Financial Autonomy

Financial independence is critical for the NHRC Nepal to operate without undue influence and expand its capacity. Currently, the commission's reliance on limited government funding hampers its ability to address the vast spectrum of human rights issues effectively. Granting the NHRC Nepal control over its financial resources, along with increased budgetary allocations, would enable it to invest in infrastructure, technology, and human resources to better address its mandate.

2. Increasing Staffing Levels and Expertise

A well-equipped and adequately staffed NHRC Nepal is essential for handling the increasing number and complexity of human rights violations. The commission must recruit more investigators, legal experts, and subject-matter specialists to expedite case handling and broaden its expertise in emerging areas such as digital rights and climate justice. Training programs should also be enhanced to keep the workforce updated on global best practices and evolving human rights standards. (Poudel & Ghimire 2021).

3. Empowering the NHRC Nepal with Binding Authority

One of the most significant limitations of the NHRC Nepal is the non-binding nature of its recommendations. To ensure accountability and compliance, the commission should be vested with binding authority to enforce its decisions. This reform would enhance the commission's credibility and ensure that its findings and directives lead to concrete action and justice for victims.

4. Expanding Focus to Emerging Challenges

Human rights challenges are evolving in response to rapid technological, environmental, and social changes. The NHRC Nepal must expand its agenda to address pressing issues such as:

- Digital Privacy and Rights: As the digital landscape grows, concerns around surveillance, data breaches, and online harassment are becoming critical human rights issues.
- Climate Justice: The impact of climate change on vulnerable populations necessitates a focus on environmental rights and sustainable development.
- Rights of Vulnerable Groups: Migrants, refugees, LGBTQ+ individuals, and other marginalized communities require targeted attention to address their unique challenges and vulnerabilities.

Embracing these emerging areas, the NHRC Nepal can remain relevant in addressing the multifaceted nature of human rights violations.

5. Strengthening Collaboration

Collaboration with international human rights organizations, regional bodies, and civil society groups can significantly bolster the NHRC Nepal's capacity. Partnerships can facilitate knowledge-sharing, resource mobilization, and coordinated action on transnational issues. For instance, aligning with global frameworks like the United Nations' Sustainable Development Goals (SDGs) can help the NHRC Nepal incorporate a broader perspective into its operations. (Singh & Chaudhary, 2020)

6. Promoting Public Engagement and Participation

Public involvement is integral to fostering a culture of respect for human rights. The NHRC Nepal should prioritize community participation in its initiatives, including consultations, awareness campaigns, and feedback mechanisms. Engaging grassroots organizations and local communities can help identify and address human rights issues more effectively. Additionally, leveraging digital platforms can increase outreach and ensure that the commission's services are accessible to all segments of society.

Conclusion

The National Human Rights Commission (NHRC) Nepal stands as a cornerstone institution in upholding the fundamental rights and freedoms of individuals. It embodies a nation's commitment to justice, equality, and human dignity, ensuring that the principles enshrined in human rights charters are not relegated to lofty ideals but are instead woven into the everyday lives of its citizens. The NHRC Nepal's work is a testament to the enduring belief that every individual deserves respect, protection, and the opportunity to thrive in a fair and just society. In a world characterized by rapid social, political, and economic changes, the NHRC Nepal's role in safeguarding human rights is more critical than ever. Its efforts provide a vital mechanism for addressing grievances, preventing abuses, and holding violators accountable addressing a wide array of issues—ranging from civil liberties and gender equality to the protection of marginalized communities—the NHRC Nepal not only protects individuals but also strengthens the democratic fabric of the nation. While the NHRC Nepal has made significant strides, its journey has not been without obstacles. Challenges such as resource constraints, bureaucratic inefficiencies, and the lack of enforcement power threaten to dilute its impact. Furthermore, the changing nature of human rights violations in a globalized and digitalized world demands that the commission evolve to address emerging issues effectively. These hurdles highlight the importance of continuous reform and adaptation to ensure that the NHRC Nepal remains a robust and effective institution. The NHRC Nepal's success depends not only on its internal reforms but also on the active participation of all stakeholders. Government support in the form of financial autonomy and legal empowerment is crucial. At the same time, collaboration with civil society organizations, academic institutions, and international human rights bodies can provide the NHRC Nepal with additional resources, expertise, and networks to amplify its reach and impact. Public engagement is equally vital. A well-informed and empowered citizenry can play a pivotal role in holding institutions accountable and advocating for the protection of rights. The NHRC Nepal must prioritize outreach and education to ensure that its mandate is understood and accessible to all segments of society, especially those most vulnerable to human rights violations. Looking ahead, the NHRC Nepal has the opportunity to

redefine its role in the face of complex global challenges such as climate change, digital privacy concerns, and mass displacement due to conflict and economic inequalities expanding its focus and embracing innovation, the commission can address these emerging issues while maintaining its core mission of safeguarding fundamental rights. Ultimately, the NHRC Nepal's continued efforts, supported by meaningful reforms and robust public participation, can help pave the way for a society that truly embodies the principles of justice, equality, and human dignity. Its work is not merely about resolving individual cases but about shaping a national ethos where human rights are universally respected and protected. In an era marked by unprecedented challenges and opportunities, the NHRC Nepal's role is not just relevant—it is indispensable standing as a guardian of rights and a beacon of hope, the commission can ensure that the ideals of human rights become lived realities for all, fostering a more equitable, inclusive, and just world for generations to come.

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