Focus

Asia-Pacific

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Contents

Editorial

Accessible Public Information and Protected Private Data

People play active role in society when they are well-informed about government operations and related matters. Access therefore to such public information is an essential requirement. Public services can be demanded, especially by the disadvantaged members of society, provided that appropriate and adequate information on the services and goods are easily available. Corruption as well as discrimination in the delivery of services and goods (including subsidies in light of COVID-19 pandemic) occur whenever public information is withheld. Government officials escape accountability for illegal acts when public information is hidden or destroyed.

On the other hand, governments are bound to protect private data from being improperly accessed or stolen for fraudulent, political and other objectives. The storage of private data in digital form exposes such information to hacking and other means of violating the right to privacy of members of society.

With increasing digitalization of society, freedom to access public information and protection of private data are daily necessities. Such freedom extends to responsible expression of opinion and dissemination of information to the public.

Right to Information in India: Information Commissions

Satark Nagrik Sangathan

India was ravaged by the deadly second wave of the COVID 19 pandemic in 2021. As per official figures, the virus claimed around five *lakh* (500,000) lives, though studies and reports by investigative journalists estimate a much higher toll.[1] The public health system, unable to cope with the scale of the pandemic, collapsed resulting in oxygen shortages and non-availability of beds and essential drugs. Lockdowns imposed by state governments led to largescale loss of livelihoods, especially for those in the unorganized sector. The poor and marginalized were the worst affected. Relief and welfare programs funded through public money became the sole lifeline of millions who lost income-earning opportunities after the lockdowns imposed in 2020 and 2021. The crisis clearly established the vital need for transparency in public health, food and social security programs. It became evident that if people, especially the poor and marginalized affected by the public health emergency, are to have any hope of accessing their rights and entitlements, they need to have access to relevant and timely information.

The pandemic underlined the need for proper implementation of the Right to Information (RTI) Act, which empowers citizens to obtain information from governments and hold them accountable for delivery of basic rights and services.

Estimates suggest that every year forty to sixty *lakh* (4,000,000-6,000,000)[2] RTI applications are filed in India. Under the RTI Act, information commissions (ICs) have been set up at the central level (Central Information Commission) and in the states (State Information Commissions). These commissions are mandated to safeguard and facilitate people's fundamental right to information. Consequently, ICs are widely seen as being critical to the RTI regime.

ICs have wide-ranging powers including the power to require public authorities to provide access to information, appoint Public Information Officers (PIOs), publish certain categories of information and make changes to practices of information maintenance. They have the power to order an inquiry if there are reasonable grounds for one, and also have the powers of a civil court for enforcing attendance of persons, discovery of documents, receiving evidence or affidavits, issuing summons for examination of witnesses or documents. Section 19(8)(b) of the RTI Act empowers commissions to "require the public authority to compensate the complainant for any loss or other detriment suffered." Further, under section 19(8) and section 20 of the RTI Act, they are given powers to impose penalties on erring officials, while under Section 20(2), ICs are empowered to recommend disciplinary action against a PIO for "persistent" violation of one or more provisions of the Act.

Effective functioning of ICs is crucial for proper implementation of the RTI Act. In a judgment dated 15 February 2019, the Supreme Court[3] held that ICs are vital for the smooth working of the transparency law: "24) ……in the entire scheme provided under the RTI Act, existence of these institutions [ICs] becomes imperative and they are vital for the smooth working of the RTI Act."

Sixteen years after the implementation of the law, experience in India, also captured in various national assessments on the implementation of the RTI Act,[4] suggests that the functioning of ICs is a major bottleneck in the effective implementation of the sunshine law. Large backlog of appeals and complaints in many ICs across the country have resulted in inordinate delays in disposal of cases, which render the legislation ineffective. ICs have been found to be extremely reluctant to impose penalties on erring officials for violations of the law. An assessment of the working of ICs

across the country during the first phase of the pandemic showed that twenty-one of the twenty-nine ICs were not holding any hearings as of 15 May 2020, even after the national lockdown had been eased and only seven ICs made provision for taking up urgent matters or those related to life and liberty during the period when normal functioning was affected due to the lockdown.

Amendments to the RTI Act and Rules

Recent amendments to the RTI Act have taken away the protection of fixed tenure and high status guaranteed to the commissioners under the law, thereby adversely impacting the autonomy of ICs. One of the most critical parameters for assessing the efficacy of any transparency law is the independence of the appellate mechanism it provides. Security of tenure and high status had been provided for commissioners under the RTI Act of 2005 to enable them to function autonomously and direct even the highest offices to comply with the provisions of the law. Their tenure was fixed at five years. The law pegged the salaries, allowances and other terms of service of the Chief and commissioners of the Central Information Commission and the chiefs of state commissions at the same level as that of the election commissioners (which equals that of a judge of the Supreme Court).

The RTI Amendment Act[5] which was passed by Parliament in July 2019, and the concomitant rules[6] promulgated by the central government, has dealt a severe blow to the independence of ICs. The amendments empower the central government to make rules to decide the tenure and salaries of all commissioners in the country.

The RTI rules, prescribed by the central government in October 2019, reduced the tenure of all information commissioners to three years. More significantly, Rule 22 empowers the central government to relax the provisions of the rules in respect of any class or category of persons, effectively allowing the government to fix different tenures for different commissioners.

The rules do away with the high stature guaranteed to commissioners in the original law. A fixed quantum of salary has been prescribed for the commissioners - Chief of CIC at Rs. 2.50 *lakh* per month and all other central and state information commissioners at Rs. 2.25 *lakh* per month. By removing the equivalence to the post of election commissioners, the rules ensure that salaries of information commissioners can be revised only at the whim of the central government. Again, the government being empowered to relax provisions related to salaries and terms of service for different categories of persons, destroys the insulation provided to commissioners in the original RTI Act.

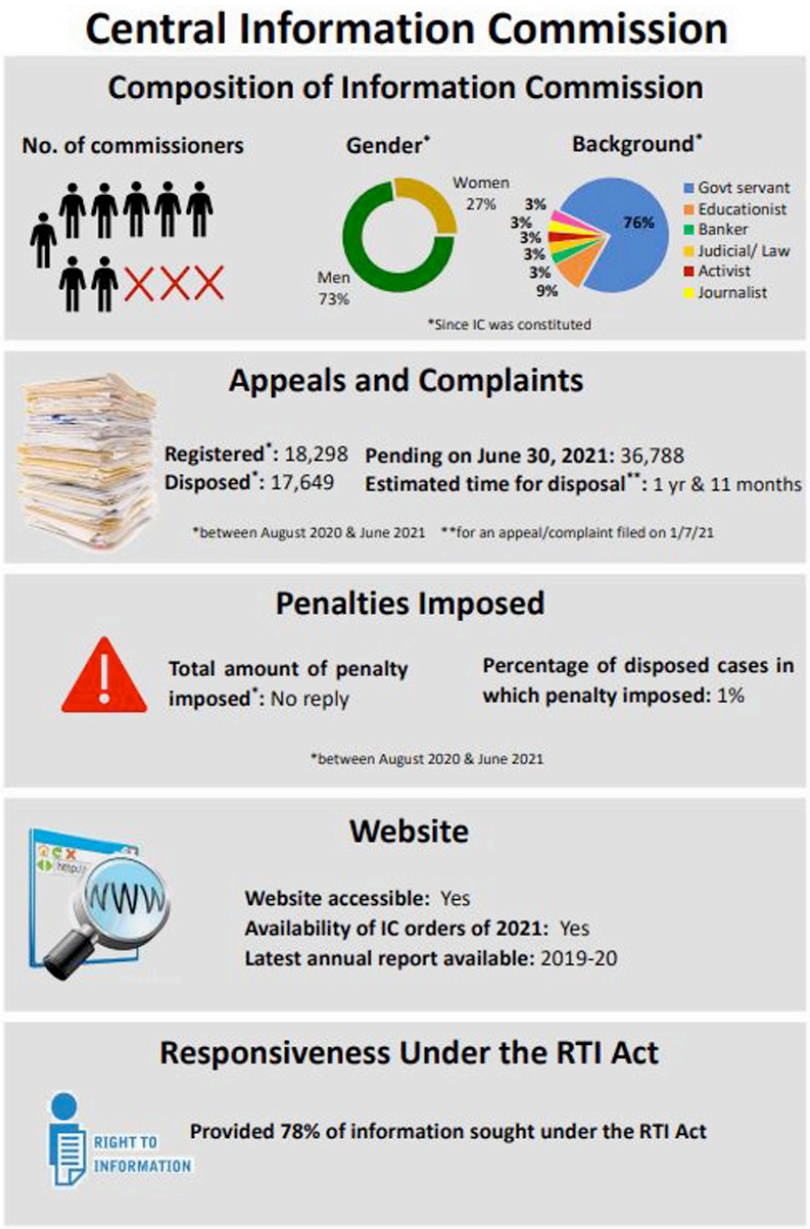
The autonomy of commissions has been further eroded by enabling the central government to decide certain entitlements for commissioners on a case by case basis. The rules, which are silent about pension and post-retirement entitlements, state that conditions of service for which no express provision has been made shall be decided in each case by the central government. The power to vary the entitlements of different commissioners could easily be used as a means to exercise arbitrary control and influence. These amendments could potentially make commissioners wary of giving directions to disclose information that the central government does not wish to provide.

How Transparent are the ICs?

Satark Nagrik Sangathan has been undertaking assessments of the various aspects of the implementation of the RTI Act in India. Every year, since 2018, a report on the performance of information commissions in the country is published. The 2020 assessment report titled *Report Card of Information Commissions in India 2020-21* looked at the performance of ICs in terms of providing information to citizens about their own functioning.

For institutions that are vested with the responsibility of ensuring that all public authorities adhere to the RTI Act, it is alarming to note that in the seventeenth year of the implementation of the law, most ICs failed to provide complete information within the stipulated timeframe in response to information requests filed to them.

The legal requirement for the central and state ICs to submit annual reports every year to the Parliament and state legislatures



respectively, is to make, among other things, their activities transparent and available for public scrutiny. Very few ICs fulfil this obligation and even fewer do it in time. Answerability of ICs to the Parliament, state legislatures and citizens is compromised when annual reports are not published and proactively disclosed every year, as required under the law.

Transparency is key to promoting peoples' trust in public institutions. By failing to disclose information on their functioning, ICs continue to evade real accountability to the people of the country whom they are supposed to serve. Unless ICs significantly improve their responsiveness to RTI applications, provide information proactively in the public domain through regularly updated websites and publish annual reports in a timely manner, they will not enjoy the confidence of people. The guardians of transparency need to be transparent and accountable themselves.

Agenda for Action to Enhance Transparency in the Working of ICs

1. All ICs must put in place necessary mechanisms to ensure prompt and timely response to information requests filed to them.

2. Each IC must ensure that relevant information about its functioning is displayed on its website. This must include information about the receipt and disposal of appeals and complaints, number of pending cases, and orders passed by commissions. The information should be updated in real time.

3. ICs must ensure that, as legally required, they submit their annual report to the Parliament/state assemblies in a reasonable time. Violations should be treated as contempt of Parliament or state legislature, as appropriate. The Parliament and legislative assemblies should treat the submission of annual reports by ICs as an undertaking to the house and demand them accordingly. Annual reports published by ICs must also be made available on their respective websites.

4. Appropriate governments should put in place a mechanism for online filing of RTI applications, along the lines of the web portal set up by the central government (rtionline.gov.in). Now the state governments of Maharashtra, Uttar Pradesh, Karnataka and Delhi have also set up similar online

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Protecting Internet Freedom in Asia-Pacific's Cyberspace

Albert J. Rapha and Aufarizqi Imaduddin

Over the past four years, the Asia-Pacific region witnessed a considerable increase[1] in its online population with 2.56 billion users by 2021, the largest number of internet users globally.[2] Not to mention the two economic giants of the region, China (939.8 million internet users) and India (624 million internet users), which are currently leading the number of internet users worldwide.

With the omnipresence of the internet in the region, securing the freedom of individuals while using the internet has become a critical issue for authorities across Asia-Pacific.

Regrettably, the advent of COVID-19 pandemic led to a plummeting trend in the score of internet freedom gauged by Freedom House in its latest report[3] in a handful of Asia-Pacific economies and could possibly continue to worsen in the post-pandemic era. This report is an annual human rights-based study focused on the digital sphere, gauging three main aspects: (1) Obstacles to access, (2) Limits on content and (3) Violations of user rights in cyberspace in seventy countries worldwide. The score is measured on a 100-point scale, so the lower the score gained, the less freedom enjoyed by people in a country while surfing the digital sphere.

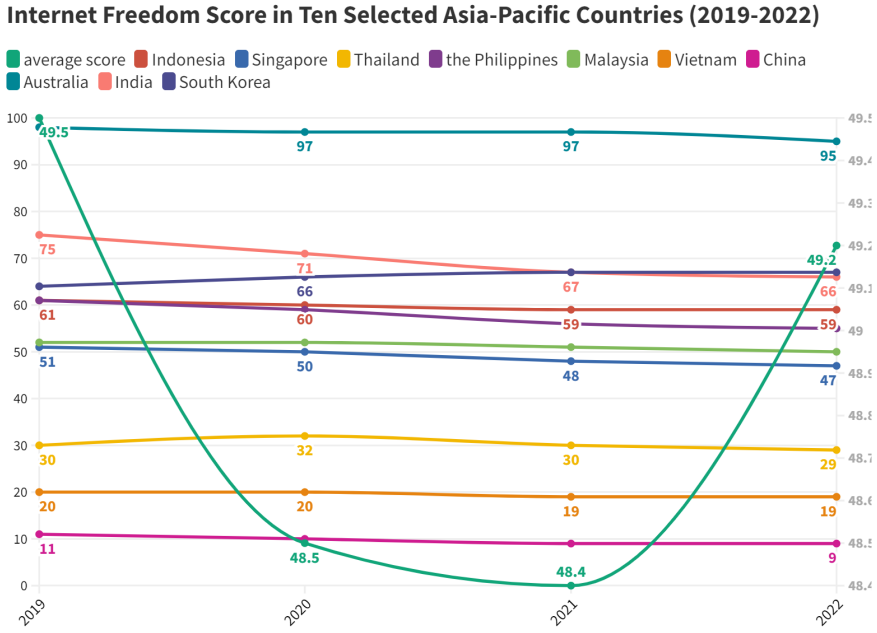
As shown in Figure 1 below, internet freedom tended to decline in the entire ten selected Asia-Pacific countries, namely, Indonesia, Singapore, Thailand, the Philippines, Malaysia, Vietnam, China, Australia, India, and South Korea during the COVID-19 pandemic in 2020 before making a slight improvement in 2022.

In 2019, a year before the COVID-19 pandemic, the ten selected Asia-Pacific countries could merely obtain an overall score of 49.50 out of 100 or categorized as "partly free," before making a marked decline to 48.50 and 48.40 out of 100 in 2020 and 2021 respectively. Of the ten selected countries, Australia ranked at the top (with an average score of 76 or categorized as "Free"), while China gained the least (with an average score of 10 or categorized as "Not Free"). While eight of them faced a downturn trend (Indonesia, Singapore, the Philippines, Vietnam, Malaysia, Korea, Australia, and India), two others had stagnant internet freedom score (China and Thailand) since the early days of the pandemic (2020) compared to previous scores in 2019.

Digital Surveillance, Censorship and Data Breaches

The restriction of freedom on the internet can undoubtedly be attributed to the stringent

Figure 1



Source: Authors' formulation based on Freedom House's Internet Freedom Score Report 2019-2022.

COVID-19-related policies enacted by authorities in Asia-Pacific countries during the pandemic. The authorities across the region are considerably exerting digital technologies to create resilience against the virus. However, these actions constitute a double-edged sword.

On the one hand, utilizing digital tools would improve governments' effectiveness in raising people's awareness of the pandemic and mitigating the spread of the virus. On the other hand, the excessive power of governments is inclined towards tightening control over cyberspace, resulting in the rise of digital surveillance or online media censorship that is commonly justified as necessary in curbing the spread of COVID-19 and maintaining domestic socio-economic stability.

For the latter, state surveillance practices have been evident in the use of digital-based health platforms across countries in the region, resulting in the huge potential of mass surveillance to ensure public health and safety. South Korea[4] has developed one of the world's most comprehensive contact tracing systems using closed-circuit video footage, mobile phone location tracking, and credit card transaction logs. The national digital health code system plan[5] of the Chinese government, which is already employing cutting-edge technologies such as facial recognition, Global Positioning System (GPS) tracking and drones, is seen as a concrete form of digital authoritarian practice. Coupled with the controversial zero-COVID policy, it is not surprising that public uneasiness in China has culminated in the emergence of unprecedented "blank paper" mass protests lately.[6]

Moreover, the COVID-19 pandemic has become a justification for governments to censor and control online space to maintain domestic stability and to avert proliferation of online fraud schemes that victimize people. Freedom House has found that at least twenty-eight countries have blocked users and platforms to suppress unfavorable health statistics and criticism of the government's handling of the pandemic.[7] Cases of control of online space can be found in several Southeast Asian countries like the imposition of uniformity[8] in online news by the Vietnamese government and the tendency to control[9] news coverage by the Singaporean government. Also, Amnesty International reported that Thailand, as part of the Emergency Decree invoked in response to the COVID-19 outbreak, declared that "publishing or distribution of information about COVID-19 which is misleading and may induce public anxiety"[10] is prohibited and could lead to imprisonment.

Another crucial issue that should be considered by governments across Asia-Pacific is the personal data protection mechanism since citizens' data are prone to leak in countries across the region. During the pandemic, countries like Singapore[11] and Indonesia[12] faced severe data breaches linked to their national public health system, endangering the safety of personal data. Amidst the extensive use of digital technologies, cyber resilience and personal data protection should be prerequisites before applying any digital-led innovation in public services in the future.

Why is this Happening and How to Move Forward?

We can see a general trend of global decline of digital freedom and the rise of digital authoritarianism. Erol Yaybroke of the Center for Strategic and International Studies stated, "Established democracies lack a consistent and collective strategic approach to combat authoritarian use of digital and online space, even as they often preserve and promote advantageous elements of technology."[13] This is because controlling the online space is in and of itself a double-edged sword as earlier stated.

How can a fair and democratic government control a space without limiting the freedom of the platform itself? As we have seen with data collection and misuse of digital regulation, governments can justify their actions in the name of protecting their citizens; however, defending the citizens can be perceived as somewhat authoritarian. This is especially apparent during COVID-19 pandemic, where more than ten countries have shut down the internet, while twenty countries[14] have increased or added new laws limiting online communication.

So, what can the government do to ensure digital freedom?

Maintaining a democratic and open internet is a key factor. The first step to this is data protection. Countries are now taking steps to ensure that citizens' data are safe. The best example is the European Union's General Data Protection Regulation (GDPR). The GDPR is the pinnacle of data protection rules, the most stringent in the world. By making businesses accountable for handling and treating this information, it aims to offer customers control over their data.[15] The Asia-Pacific region has much catching up to do with its European counterpart. Indonesia, for example, recently ratified the first comprehensive personal data protection law in September 2022.[16] Data protection is an essential first step when it comes to ensuring digital freedom, as it will serve as the foundation for a safe environment regarding digital platform usage.

Maintaining a democratic and open internet is imperative to any democratic regime. Exercise of freedoms has been restricted in recent years due to one factor or another. Not only must the government ensure that their citizens' privacy and data are protected, but they must also protect freedom of assembly and freedom of expression. These freedoms are no longer confined to the physical realm but have extended to the digital platforms. It is the right of everyone to voice their opinion and meet with like-minded individuals without fear. This is the foundation and pillar of a healthy, free digital space.

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Endnotes

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Human Rights Action on Climate Change

Jefferson R. Plantilla

Acting on a Petition,[1] the Commission on Human Rights of the Philippines held an inquiry on the responsibility of the world's largest investor-owned fossil fuel and cement corporations for human rights abuses resulting from the impacts of climate change.[2]

Hearings attended by experts from different countries were held in the Philippines, United Kingdom and the U.S. from 2016. The results of the hearings were contained in the report entitled *National Inquiry on Climate Change* issued on 6 May 2022 by the Commission.[3]

Commission's Inquiry Jurisdiction

The issues raised by the Petition appeared to be beyond the Commission's mandate to inquire upon under the Philippine Constitution and jurisprudence. However, the "Commission noted the acceptance under customary international law of the interrelatedness, interdependence, and indivisibility of human rights and, therefore, took the view that it may investigate the whole gamut of human rights allegedly impacted in the Petition."

Additionally, the Commission "noted the allegation that climate change adversely impacts the right to life, classified as a civil and political right under the International Covenant on Civil and Political Rights (ICCPR),[4] to which the Philippines is a party" and a right that falls within the Commission's mandate to investigate.

Below are some of the recommendations from the *National Inquiry on Climate Change Report* on actions needed to address the climate change issue in relation to human rights.

National Human Rights Institutions (NHRIs)

The climate crisis calls not just for an evaluation of State obligations on human rights, but a more significant examination and understanding of the human rights responsibilities of businesses.

NHRIs "play a crucial role in promoting and monitoring the effective implementation of international human rights standards at the national level"[5] and bridging stakeholders to "promote transparent, participatory and inclusive national processes of implementation and monitoring."[6] In the face of one of the greatest human rights challenges of our time, the Commission notes that NHRIs around the world are rising to the challenge and have increased engagements aimed at protecting climate-affected rights.[7]

In October 2015, the Global Alliance of National Human Rights Institutions (GAHNRI) adopted the Mérida Declaration, encouraging all NHRIs to "influence the national process of implementation and accountability to ensure human rights are integrated in the process of tailoring and tracking goals, targets and indicators"[8] of the 2030 Agenda for Sustainable Development. It highlighted the role of NHRIs to "promote remedies for all human rights violations and … use their protection powers to address serious human rights concern linked to the implementation"[9] of development goals, including the realization of Sustainable Development Goal (SDG) No. 13 on climate action. The declaration also encouraged cooperation between NHRIs and private actors, reaffirming the role businesses can play in fulfilling the SDGs, and highlighting the need to align implementation with the UNGP [United Nations Guiding Principles on Business and Human Rights: Implementing the United Nations 'Protect, Respect and Remedy' Framework], and other international human rights standards.[10]

A month later, in November 2015, the Commonwealth Forum of National Human Rights Institutions adopted the St. Julian's Declaration on

Climate Justice,[11] the first collaborative declaration of commitments signed by NHRIs, acknowledging and affirming their role in climate action.

More recently, during its Annual Meeting in December 2020, GANHRI adopted an outcome statement on the role of NHRIs in combating the climate crisis.[12] Recognizing that a human rights-based approach leads to more sustainable and effective climate action and policies, it called on all States to ratify and implement international and regional human rights instruments. Likewise, it called for the implementation of the provisions of the Paris Agreement, to promote human-rights based and people-centered climate action.[13] Also noteworthy in the statement is the recognition of the need for climate justice, which it defined "as addressing the climate crisis with a human rights-based approach whilst also making progress towards a just transition to a zero-carbon economy."[14]

Guided by these declarations and its specific learnings from the Inquiry, the Commission recommends and encourages its fellow NHRIs to:

a. Continuously engage with climate scientists and other experts in the field to keep abreast of the best available science on climate change, event attribution, as well as technological developments related thereto;
b. Collaborate with other NHRIs and engage in regional and international mechanisms to monitor government and business compliance with their duties and responsibilities when dealing with climate-related transboundary harms and cross-border human rights violations;
c. Ensure that climate change actions, including monitoring, investigations, decisions and legislation are participatory, transparent and accountable;
d. Contribute to the development of laws and legal frameworks on the intersection of human rights, climate change and business enterprises through monitoring, research, case studies, investigation, decision on cases and other activities within their mandates;
e. Pursue meaningful collaboration with government actors and encourage them to understand and integrate human rights obligations in national climate action policies by advising them on human rights-based approaches to climate mitigation and adaptation, through the integration of the different international climate agreements, the Sustainable Development Goals, and the adherence to the Geneva Pledge to promote and respect human rights in climate action;
f. Actively dialogue with the business sector and work for the development of normative frameworks that will embed the respect for human rights in the obligations of businesses - such as the conduct of environmental and human rights impact assessments and due diligence across all phases of their operations, as well as providing remedies in case of violations;
g. Increase monitoring and reporting on government's compliance with business, human rights and climate change obligations and commitments, through international human rights mechanisms like the Universal Periodic Review and other treaty bodies;
h. Strengthen engagements with civil society, particularly in educating communities about the causes and impacts of climate change and how it relates to the realization of human rights in order to mainstream climate awareness in the public consciousness and drive responses ranging from individual changes of lifestyles to concerted climate actions;
i. Recognize that some climate actions are inevitable to negatively impact human rights; that the transition to a carbon-less economy would necessarily put some sectors at risk of losing their livelihoods or that evacuating those living in danger zones would necessarily mean loss of homes; the challenge is to find a balance towards the most just, humane and equitable climate solution; and finally
j. Commit to achieving climate justice, particularly for those acutely impacted but have least contributed to the climate crises.

Courts

Many individuals and organizations have now resorted to initiating actions before State-based judicial mechanisms to compel climate actions[15] and influence the development of laws and policies in both the domestic and international spheres. Litigation has been used to compel governments to provide more ambitious emissions targets,[16] establish the right to a healthful ecology for future generations,[17] or delineate the role of States with regard to transboundary environmental harms.[18]

Similarly, the progressive interpretation of laws by courts enhances regulation and addresses gaps in law where legislation may be vague or when current legislation is not up to date with developments in science.[19] In the case of *Massachusetts v. EPA*[20] for instance, the court held that the U.S. Environmental Protection Agency under its statute had the power to regulate GHGs [Greenhouse Gases], even though the statute did not specifically contemplate emissions regulation.

Courts must also interpret the law in conformity with international obligations and act as enforcement tools of States' international obligations – including those relating to climate change.[21] The coupling of international obligations with domestic regulation is not new. The courts in *Urgenda v. Netherlands* and *Leghari v. Pakistan* established their States' commitments under international conventions as part of their domestic obligations to their citizens. In *Pro Public v. Godavari Marble Industries Pvt. Ltd.*,[22] the court established that mining in a protected area is inconsistent with the principles found in international environmental protection and the Nepal Constitution.

The judiciary may also grant remedies not expressly provided by laws. "[T]he imprimatur of the courts confers considerable legitimacy on the operation of the administrative state[;] [...] courts have considerable latitude to develop law on their own."[23] A review of government acts has been accepted by courts to compel public agencies and offices to act and revise policies.[24] Civic organizations and individuals have used the threat of judicial review to compel governments into climate action.[25]

Judiciaries worldwide have also provided remedies that protect the environment and the people affected by environmental degradation. Examples of these are the *Tutela*[26] writs, found in Latin American countries and the *Writ of Kalikasan*[27] in the Philippines. These special writs have been consistently used by their respective courts to protect the environment.[28] Regional courts have also promoted remedies by issuing Advisory Opinions to help clarify the duties and rights relative to the environment and transboundary harm.[29]

Justice Brian Preston asserts that "[I]n the climate change context, courts have moved beyond their primary function of resolving disputes between private individuals and are now being used by public interest litigants as vehicles for achieving social change."[30] The Commission encourages all courts to embrace their power to influence and inspire government action. However, caution must be exercised to avoid "overly aggressive judicial review [that] has the potential to engender administrative ossification—agency paralysis—among other phenomena."[31] Thus, without favoring any particular party or going beyond their authority, courts should strive to inform, determine, explain and uphold, through their decisions, the rights and obligations of parties concerning particular climate laws, policies and issues. In dismissing claims, courts should clarify the factual and legal bases that were found wanting or insufficient to provide guidance not only to the parties but also to future actions. It should be emphasized that even when courts do not rule in favor of the claimants, they still contribute to meaningful climate response through their elucidation of the law and the rights and obligations of the parties. Judicial contribution to the development of the law and jurisprudence on various climate issues is indispensable to the success of the global climate action.

In the determination of claims and liabilities, courts may take judicial notice of the findings of NHRIs or other similar bodies.

Legal Profession

Justice Brian Preston[32] explains the role that lawyers play in climate change:

> Recognising that addressing climate change depends on responses on a small scale, and that any legal action which involves climate change issues will impact on climate change policy, gives rise to a responsibility on lawyers to be aware of climate change issues in daily legal practice. It calls for a climate conscious approach rather than a climate blind approach. A climate blind approach is where the outcome of the legal problem or dispute will have some impact on climate change issues, but legal advice is given or the dispute is litigated or resolved without any attention to climate change issues. A climate conscious approach requires an active awareness of the reality of climate change and how it interacts with daily legal problems. A climate conscious approach demands, first, actively identifying the intersections between the issues of the legal problem or dispute and climate change issues and, secondly, giving advice and litigating or resolving the legal problem or dispute in ways that meaningfully address the climate change issues.[33]

The Commission shares Preston's view and that of the International Bar Association (IBA) that the global response to climate change entails, if not inevitably requires, a host of legal proceedings if any success is to be gained. Lawyers around the world will be called upon to represent the conflicting rights and interests of States, corporations, communities and individuals impacted by the climate crisis. Thus, "the legal profession must be prepared to play a leading role in maintaining and strengthening the rule of law and supporting responsible, enlightened governance in an era marked by a climate crisis."[34]

In whatever side or capacity lawyers may find themselves in these proceedings, the Commission appeals to them to work towards the development of laws and legal systems that will justly protect and uphold the common interest of humankind. To this end, the Commission calls on lawyers to generously lend their expertise towards improving or creating a legal framework for climate accountability in their localities, which may inform and ultimately become one of the bases for the development of a global legal framework for addressing the challenges posed by climate change.

Note: The author appreciates the help in preparing the article of former CHRP Commissioner Roberto Cadiz who headed the Inquiry Panel.

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Endnotes

1 The Petition was filed by Greenpeace Southeast Asia and individuals from across the Philippines in 2015.

2 The Commission constituted an Inquiry Panel composed of Commissioner Roberto Eugenio T. Cadiz, as Chair, former CHRP Chairperson Jose Luis Martin Gascon, Commissioner Karen S. Gomez – Dumpit, Commissioner Gwendolyn Ll. Pimentel–Gana, and then CHRP Chairperson Leah C. Tanodra – Armamento, as members. Dr. Peter William Walpole, S.J. joined the panel as its independent expert.

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100th Anniversary of the *Suiheisha* Declaration and the *Suiheisha* History Museum

Komai Tadayuki

On 3 March 1922, people of the discriminated *Buraku* communities came together to found the Levelers Association (*Suiheisha*). The Founding Declaration of the National Levelers Association (*Suiheisha* Declaration), proclaimed at its founding meeting held at the Kyoto City Hall, is the first declaration on human rights in Japan, and is also said to be the first human rights declaration proclaimed by a discriminated minority.[1] The document has not lost its radiance and continues to resonate in our hearts because it not only denounces discrimination but also proclaims the liberation of the discriminated people themselves. When people are discriminated against, it gives them feelings of inferiority, and self-denial. The Levelers Declaration calls on the *Buraku* people to unite, and states that "(t)he time has come when we can be proud of being *Eta*," using a term which is now recognized as being discriminatory. I believe it is an expression arising from a desire to urge people to accept their social identity and to recover their human dignity.

This is why the Levelers movement was able to connect and find solidarity with the *Hyeongpyengsa* movement led by the *Baegjeong*, a discriminated minority in Korea, and to sympathize with other discriminated minorities, such as the Ainu, people recovering from Hansen's disease, and people of Okinawa. Regrettably, from a gender perspective, the Declaration includes expressions such as "manly martyrs of industry" and "brothers," indicating a conscious call by men exclusively to men, and revealing the limitations of the Levelers Association. But even in those times when women's status was notably lower, the Women's Levelers movement was launched, with efforts by respected women activists.

Exhibit Corner 3, "The ideals of the National Levelers Association."

Suiheisha History Museum

The *Suiheisha* History Museum opened 1998 in Kashihara, Gose City in Nara Prefecture, the birthplace of the National Levelers Association. The Levelers Declaration was drafted by Saiko Mankichi, one of the founders of the National Levelers Association. Along with Saiko, other founders of the Association such as Sakamoto Seiichiro and Komai Kisaku are also from Kashihara, making this area the origin of the Levelers movement.

The Museum reopened after refurbishment to commemorate the 100th anniversary of the Declaration. In doing so, two points were borne in mind. One was to maintain the information at a level that junior high school students could understand, and to change the stereotypical image of "human rights" and "discrimination" as being something serious, heavy and dark, to embrace a wider audience. Efforts were made to actively include comics, picture books and song lyrics in the exhibits so that people can relate to the issues, and find interest in human rights and discrimination. The other point was to broaden the contents from mainly pre-war materials to include human rights issues such as the Buraku liberation movement after WWII and the current *Buraku* discrimination.[2]

Today, hate speech and information inciting prejudice against the Buraku people and community abound on the internet, while the tendency to avoid marrying someone from the community remains.

Director Komai Tadayuki standing by the entrance to the exhibition rooms of the Museum.

In order to eliminate the continuing *Buraku* discrimination, I hope that the *Suiheisha* History Museum would be used more in school education. It is my dream that one day, some of the children who visit us would want to become museum curators. This museum is run without any government assistance and is privately funded.

In 2015, I participated in the Federation of International Human Rights Museums annual conference held in Wellington, New Zealand for the first time, and in December that year, the *Suiheisha* History Museum joined the Federation as the first museum in Japan to do so. The Federation is a loose network of human rights museums around the world that was established in 2010 by the initiative of the International Slavery Museum, which is a part of the National Museums Liverpool in the United Kingdom.

In 2016, documents recording the solidarity between the Levelers Association and *Hyeongpyengsa* held by the Museum was registered in the UNESCO Memory of the World Regional Register for Asia/Pacific. The discriminatory ideas of the class system of the Joseon dynasty remained in the Korean Peninsula under the Japanese colonial rule. Similar to the *Buraku* people since the Meiji era, the *Baegjeong* people were also equal under the law, but discrimination against them remained. *Hyeongpyengsa* was founded in 1923, and the history of both the Levelers Association and *Hyeongpyengsa* leading the movement for a more just society lends courage to the achievement of peace and human rights in East Asia where politically difficult conditions prevail.

The Declaration closes with the line, "(l)et there be warmth in human society, let there be light in all human beings" which is emblematic of its ideals. I hope to continue spreading the message of the footprints of people who fought for a society in which human dignity and equality is achieved.

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Endnotes

1 See full text of the English version of the Suiheisha Declaration here www.hurights.or.jp/archives/other_documents/section1/1922/04/declaration-of-human-rights-in-japan.html and the original text in Japanese here「水平社宣言」www1.mahoroba.ne.jp/~suihei/sengen.html

2 Suiheisha History Museum website（水平社博物館のウェブサイト）, www1.mahoroba.ne.jp/~suihei/.

Right to Information in India

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portals. Further, the online portals should also provide facilities for electronic filing of first appeals and second appeals/complaints to the respective ICs.

Satark Nagrik Sangathan (SNS) is a citizens' group working to promote transparency and accountability in government functioning and to encourage active participation of citizens in governance. It is registered under the Societies Registration Act, 1860 as Society for Citizens' Vigilance Initiative.

For further information, please visit: www.snsindia.org

Endnotes

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HURIGHTS OSAKA Calendar

HURIGHTS OSAKA is now preparing the 12th volume of *Human Rights Education in Asia-Pacific*. Articles from several countries in the region (such as Uzbekistan, Maldives, Myanmar, Mongolia, Japan, Hong Kong and Timor Leste) will be included in this volume.

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FOCUS Asia-Pacific is designed to highlight significant issues and activities relating to human rights in the Asia-Pacific. Relevant information and articles can be sent to HURIGHTS OSAKA for inclusion in the next editions of the newsletter.

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