

Chapter IV

Accountability and Relationships with Other Institutions

4.1 Accountability to the Public

- An NHRI should actively evaluate the effectiveness of its activities, including through the engagement of independent consultants, and it should incorporate the results of such evaluations in its annual reports.
- Evaluations should examine the quality of the NHRI's programmes and the extent to which existing programmes sufficiently address the human rights issues in the country. The evaluations should include both qualitative and quantitative analysis.
- NHRIs should undertake an annual strategic planning exercise to establish programmatic targets and goals. Some targets and goals should be measurable, for example, number of complaints resolved, number of detention centres visited, etc. The strategic plan should be included in the annual report.

NHRIs exist to serve the public, and accordingly, the public should have a mechanism for assessing how effectively an NHRI is performing its mandate. Public assessment requires that NHRIs evaluate their own programmes regularly and include the results of such evaluations in their annual reports. The evaluations undertaken by NHRIs should analyse all of their functions, including the resolution of complaints, the prevention of human rights abuses, as well as the promotional and educational aspects of their work.

4.2 Relations with Parliament

- NHRIs should report to parliament. Parliaments should have an opportunity to discuss the reports of the NHRI and to debate its budget proposals. The use of parliamentary committees to provide an opportunity for in-depth consideration of such reports should be encouraged.
- The annual report of the NHRI should be provided to the Minister responsible for Human Rights and tabled in parliament in a timely manner.

NHRIs should report to their respective parliaments because parliaments are the most important venues for the interests of the public to be aired and discussed. As annual reports can serve the function of an audit of the performance of both the government and the NHRI in promoting human rights, there should be an established method of ensuring that parliament has a real opportunity to debate the annual report findings. Once a report has been presented to parliament, it should be released to the public and the media for further consideration. It is equally important that the parliament debate the budget of the NHRI in order to ensure input from various constituencies regarding the level of resources appropriated for the NHRI.

4.3 Relations with the Executive

- The executive has the responsibility to ensure that NHRIs are adequately resourced and that all agencies of the executive respect the independence of the NHRI.
- NHRIs should provide copies of their annual and other reports to the Minister responsible for Human Rights.
- The executive arm of government should respond in a timely manner to recommendations made by the NHRI.
- The executive should facilitate efforts of the NHRI to build contacts with other national institutions, NHRIs, and multilateral and regional bodies.

Ministers and government officials should consider supporting the activities and endeavours of NHRIs to be an essential part of their duties. They should use their offices to increase the opportunities of the NHRI to build relationships with other relevant institutions.

4.4 Relations with the Courts

- NHRIs should play a role complementary to that of the courts.
- There should be an expressly established mechanism for the enforcement of appropriate NHRI decisions by the courts.
- Individuals should be able to access the court system directly to seek a remedy for a human rights violation and should not be required to first file a complaint with the NHRI.
- NHRIs should be more accessible and offer a more cost-effective and less formal means of conflict resolution than the courts.
- NHRI staff and members should try to establish a co-operative working relationship with the courts.
- NHRIs should refer matters for prosecution before the courts when appropriate.
- NHRIs should not commence investigations into matters already pending before the courts unless required as part of the duty of NHRIs to investigate systemic issues relating to equal protection under the law and access to justice.
- Courts should permit NHRIs to provide assistance to individuals seeking to redress grievances through the courts.
- NHRIs should be accorded standing to bring complaints to court in their own right.
- Courts should accord NHRIs official status as a friend of the court.
- Courts should grant to NHRIs the rights to join as a party in relevant cases.
- The decisions of NHRIs should be subject to judicial review.

In order to discharge their investigative functions, NHRIs enjoy certain quasi-judicial powers. This does not mean, however, that NHRIs share all powers enjoyed by the courts. For example, the power to make judicially binding determinations or to impose penalties for violations is generally reserved to the courts. The distinction between the courts, which exercise the judicial power of the state, and NHRIs, which are obliged to monitor and protect human rights, should be maintained. While NHRIs are not courts, it is nevertheless critical that there be appropriate sanctions for failure to co-operate with the NHRI in the conduct of its investigations and inquiries. Accordingly, a mechanism for the enforcement of NHRI decisions by the courts should be provided.

4.5 Relations with the International Treaty Machinery

- NHRIs should co-operate with the efforts of international treaty bodies to monitor states' compliance with their international human rights treaty obligations.
- NHRIs should make recommendations to the executive and the parliament regarding efforts needed to achieve compliance with international human rights treaty obligations.
- NHRIs should contribute as appropriate to the preparation of state reports regarding state responses to the recommendations of treaty bodies.

One essential function performed by NHRIs is to monitor state compliance with international treaties. A co-operative relationship with the international treaty machinery will facilitate efforts to perform this function.

National reports provided pursuant to human rights treaties should be prepared by the executive and should take into account the comments made by the NHRI.