

Chapter VI

Significant Issues

6.1 Role of NHRIS in Conflict Situations (including War and Civil Strife)

- NHRIs should continue to work in conflict situations to protect and promote human rights and the peace process.
- An NHRI should do whatever lies within its powers to assist particularly vulnerable groups.
- An NHRI should work with other organisations, i.e. the UNHCR, NGOs and other relief organisations, to address the needs of refugees and internally displaced persons.
- An NHRI should assist in the implementation of the UN Guidelines on Internally Displaced Persons.

In a time of a war or civil strife, the functions performed by NHRIs become even more necessary. NHRIs find it extremely difficult to protect human rights in conflict situations and thus should work in co-operation with other actors, for example, NGOs and other relief organisations, to fortify their position as a protector of human rights.

6.2 Economic, Social and Cultural Rights

- An NHRI should employ all available means to respond to inquiries related to the advancement of economic, social and cultural rights, whether or not its enabling statute or national constitution recognise economic, social and cultural rights as justiciable.
- An NHRI should advise the government on the development and implementation of economic policies to ensure that the economic, social and cultural rights of people are not adversely affected by

economic policies, e.g. structural adjustment programmes and other aspects of economic management.

- An NHRI should work towards facilitating public awareness of government policies relating to economic, social and cultural rights and encourage the involvement of various sectors of society in the formulation, implementation and review of relevant policies.

Regardless of a country's formal recognition of economic, social and cultural rights, NHRIs should be well versed with those rights. NHRIs should develop and conduct educational programmes to promote rights awareness in this category of rights.

6.3 Racism

- NHRIs should work in conjunction with the education sector to promote respect and understanding of racial, ethnic and cultural diversity among all groups in society, including schoolchildren.
- NHRIs should monitor and report the number of complaints filed against the military, the police and other government agencies for acts of racism.
- NHRIs should recommend appropriate training for government agencies that may be under-performing in this area.
- An NHRI should promote legislation to appropriately deter and punish criminal activities motivated by racism, xenophobia and other forms of related intolerance.

An NHRI should accord a high priority to addressing and preventing racism, xenophobia, and other forms of related intolerance by all available means. NHRIs, should, in the execution of their mandate, conduct the necessary education and training to prevent and eradicate the manifestation of intolerance.

6.4 Environment

- NHRIs should investigate, monitor and report instances in which human rights violations and environmental degradation appear to be related.
- NHRIs should work in collaboration with NGOs and other relief organisations to mitigate the human rights consequences of environmental degradation.

An NHRI should recognise the importance of a clean and sustainable environment to the right to life, health and sustainable development. This recognition requires that NHRIs be mindful of situations in which environmental degradation is the functional equivalent of human rights abuses.

6.5 Migrant Workers and Refugee Claimants

- NHRIs should monitor a country's compliance with treaty obligations related to migrant workers and refugees.
- NHRI procedures should not require that a complainant have a permanent address.

Best practice requires that NHRIs endeavour to ensure that migrant workers and refugees be accorded due process and be treated with dignity, despite their potentially transient status. NHRIs should actively build their capacity to provide for the needs of such transient individuals.

6.6 Indigenous Peoples

- NHRI should develop and execute special outreach programmes directed towards indigenous peoples.
- Where appropriate, NHRI staff should include indigenous persons.
- NHRI staff should be specially trained to respond to the specific issues faced by indigenous peoples.
- NHRI should include specific questions related to the provision of services to indigenous peoples as part of their evaluation efforts.

An NHRI should recognise the experiences of indigenous peoples and work to prevent their social, political and economic marginalisation. This can be accomplished by ensuring that indigenous persons feel comfortable filing complaints with NHRIs, that NHRI staff are adequately trained to address the needs of indigenous persons, and that a component of the NHRI's overall performance of these two tasks be the subject of the evaluation included in its annual report.

6.7 Sex and Gender

- NHRI should assume special responsibility in responding to human rights violations suffered on account of sex or gender.
- NHRI staff should be properly trained so as to respond sensitively to human rights issues or violations related to sex or gender.
- NHRI staff should refer complainants to other human services agencies as necessary for assistance or treatment.

NHRIs must be prepared to address human rights violations committed because of a victim's gender or sex. As some violations will not be remedied solely through the complaints process, NHRI staff should refer complainants to those agencies which can provide the required services.

6.8 Youth

- The staff of NHRIs should include specialists in service provision to children and adolescents.
- NHRIs should regularly collect and publicise information relating to the number of complainants, types of complaints and results.
- NHRIs should ensure that their services are accessible by children and young people in rural and remote areas.
- NHRIs should specifically direct age-appropriate information toward young people.
- If communication with a child is necessary, that communication should be in person when possible. Children should be allowed to have a support person of their choice whenever interviewed or requested to produce evidence by NHRI members or staff.
- NHRIs should not compromise a child's anonymity or safety.
- NHRI staff should refer children that come before it to other human services agencies as necessary for assistance or treatment.

NHRIs should undertake their mandates with the skills and sensitivity required to appropriately address the special needs of children. When a child is a complainant or has had a complaint filed on his or her behalf, staff should conduct their investigation in an age-appropriate manner. Remedies should be similarly age-appropriate.

6.9 Persons with Special Needs

- NHRIs should ensure that they are accessible to people with special needs, such as people with disabilities (including HIV+ or other conditions). Accessibility relates not only to the physical premises of an NHRI, but also to the services it provides.
- NHRIs should be equipped to communicate adequately with persons with special needs.

NHRIs must have the capacity to serve persons with special needs. This includes making the physical premises accessible to all. It is appropriate to reasonably adapt procedures and processes to accommodate a person with special needs, provided that this accommodation does not impose an unjustifiable hardship on other parties involved.