

Response of NHRC India on the Two-days global consultation on the Role of National Human Rights Institutions in facilitating access to effective remedy for business-related human rights abuses.

I	The role and mandate of NHRIs in facilitating access to effective remedy for business related human rights abuse
1.	Does your NHRI have an explicit or implicit mandate to handle complaints concerning alleged business related human rights abuses? If yes, what methods (e.g. mediation or conciliation) can be used to facilitate access to remedy for human rights abuse?
	<p><u>Reply:</u></p> <p>Yes, the NHRC India has the mandate u/s 12 of the PHR Act, 1993 to handle complaints concerning alleged Business related Human Rights abuses. The Commission can utilize services of any agency under the Central or State government during investigation pertaining to enquiry into the complaint. The Commission also has the power to send its own team for on the spot enquiry. No process of mediation or conciliation takes place. It has made interventions in cases dealing with employment of child or bonded labourers, silicosis, sexual harassment at workplace and has also intervened in cases related to large scale violence in the protests of people against the acquisition of land.</p> <p>The Commission while enquiring into the complaints or in case of violation of human rights may call for report from the state and central government or any other concerned public authority. The said report when received is shared with the complainant. Furthermore, the reports are examined and matter enquired into closely before arriving at a decision regarding NHRC's recommendations.</p> <p>The Commission can make appropriate recommendations for relief including monetary relief for the victims besides criminal or departmental action against erring public servants for their failure for discharge their duties according to law. It can also recommend action against the alleged business violator of human rights for any violation of the laws in force.</p>

2.	<p>What types of remedies can your NHRI offer to individuals or communities affected by business related human rights abuse.</p>
	<p>Reply:</p> <p>The Commission can make appropriate recommendations for relief including monetary relief for the victims besides criminal or departmental action against erring public servants for their failure to discharge their duties according to law. It can also recommend action against the alleged business violator of human rights for any violation of the laws in force. The remedies have been found effective in creating awareness about human rights and can be deterrent for preventing violations.</p>
3	<p>Does your NHRI have a mandate to investigate, conduct inquiry and adjudicate individual cases of alleged human rights abuses by businesses? If yes, please provide relevant statistics in relation to complaints received and adjudicated.</p>
	<p>Reply:</p> <p>Yes, as mentioned in reply at Question 1 above.</p>
4	<p>Does your NHRI give any special attention to facilitate access to your complaint mechanisms by vulnerable or marginalized groups? If yes, what measures have been taken in this regard?</p>
	<p>Reply:</p> <p>The Commission has launched the Commission's Toll free number 14433 and integration of its online complaint filing system with Common Service Centre (CSC) Portal of Government of India.</p> <p>Apart from sending complaints to the Commission by post, the Commission encourages efforts by Non-Government Organizations for taking up issues through e-mail, fax, online through NHRC website: www.nhrc.nic.in also send them through the Common Service Centres. They also contact the NHRC at the Toll free number for necessary guidance regarding complaints. The NGOs on a regular basis take up matters pertaining to vulnerable or marginalized groups</p>

5	<p>What gender sensitive and gender responsive measures your NHRI take in dealing with cases of alleged business related human rights abuses?</p>
	<p>Reply:</p> <p>In compliance with the directions of the Supreme Court of India for examining complaints pertaining to sexual harassment at workplace, every business house is required to formulate a committee for examining complaint about sexual harassment with representations of female for enabling women to present their grievances in a conducive environment.</p>
6	<p>What other measures does your NHRI undertake to facilitate access to remedy indirectly for business related human rights abuses (e.g. raising awareness about rights and remedial mechanisms, providing legal assistance, building capacity of communities or businesses, assessing effectiveness of other grievance mechanisms, and recommending reform of the national legal system to strengthen access to remedy?)</p>
	<p>Reply:</p> <p>The Commission conducts workshops for relevant stakeholders on their access to remedy in case of adverse human rights impacts. For instance, in order to ensure the implementation of the Bonded Labour System (Abolition) Act, 1976. Act, the Commission has been carrying out a wide range of activities to not only get the workers released from such bondage but also get rehabilitated into alternate occupations, under self-employment or wage employment. NHRC also holds workshops for all stakeholders including employers as well as public servants, so that the provisions of the said legislation are properly implemented.</p> <p>During various workshops and seminars, the Commission invite attention to the problems of bonded labour, environmental pollution, exploitation of labour, malpractices and other violations by private hospitals, private schools and exploitation of women employees as indicative of business related human rights abuses. The administrative machinery is sensitized for proper enforcement of laws and better protection of human rights.</p>

	<p>Further, with a view to create awareness regarding the issue of business and human rights, the Commission has organized three regional conference and on National Conference on Business and Human Rights. The Conference was attended by the senior officers from the Government of India as well as from the State Governments, State Human Rights Commissions, CEOs and other representatives of various business enterprises/industries/federations, PSUs, Trade Unions, academia and Civil Society Organizations working in the area of business and human right.</p>
7	<p>How does your NHRI collaborate with other judicial or non-judicial remedial mechanisms (e.g. courts, labour tribunals, National Contact Points, and operational level grievance mechanisms) in dealing with complaints concerning business-related human rights abuses?</p>
	<p>Reply:</p> <p>The Commission has the power to intervene in any matter pending before a Court of law and to make its submissions for better protection of human rights.</p>
8	<p>Can your NHRI deal with alleged business-related human rights abuses with transnational or cross- border dimension (e.g. through informal visits and exchange of information or a cooperation arrangement with counterparts in other states)?</p>
	<p>Reply:</p> <p>The NHRC India is governed by its statues with defines its jurisdiction. However, for certain alleged business related human rights abuses with transnational or cross-border dimensions, information from the concerned States can be called for through the Ministry of External Affairs.</p>
9	<p>Is your NHRI involved in any initiatives to stimulate effective multi-stakeholder grievance mechanisms to strengthen access to remedy for business related human rights abuses?</p>
	<p>Reply:</p> <p>It is one of the functions of the Commission to involve various stake holders as a part of grievance redressal mechanism and strengthened the access to remedy for business related human rights abuses.</p>

10	Where a National Action Plan on Business and Human Rights exists (or is under development), does it provide for a role for NHRIs in relation to access to remedy in case of business-related human rights abuses?
	<p>Reply</p> <p>It is open to the Commission to examine any law or policy formulated by the Government for its submissions for better protection of human rights.</p> <p>The Ministry of Corporate Affairs, Govt. of India has recently released the Zero Draft National Action Plan on Business and Human Rights in March 2019. The said Action Plan was also shared with relevant Ministries and other government bodies such as NHRC, for inputs/comments on the same. The National Action Plan is under development.</p>

II	Challenges and limitations faced by NHRIs in facilitating access to effective remedy for business related human rights abuses
1.	What are the most critical challenges and limitations (e.g. legal, practical, or financial) that your NHRI has experienced in facilitating access to effective remedy in business-related human rights abuses? How could these challenges or limitations be overcome?
	<p>Reply:</p> <p>One of the most critical challenge is lack of awareness about business related human rights abuse. Often the victims belong to vulnerable or marginalized sections whereas the business houses are in authority. Thus, any access to justice involves legal as well as financial implications for the victims in their crusade to fight injustice.</p>
2.	What additional challenges has your NHRI faced in dealing with complaints with a transnational dimension (e.g., exploitation of migrant workers, or cross border environment pollution?)
	<p>Reply:</p> <p>The Commission has to seek a report from the State where the alleged violation has taken place through the Ministry of External Affairs. The aspect of release of information as well as relief is the discretion of the State which often becomes a handicap.</p>
3	How has your NHRI dealt with complaints involving multiple victims?
	<p>Reply:</p> <p>Complaints involving multiple victims are paid special attention and monitored for relief / redressal.</p>
4	What has been the experience of your NHRI in dealing with complaints concerning parent and subsidiary companies or the supply chain of a company?
	<p>Reply:</p> <p>Not many occasions have arisen concerning complaints pertaining to parent and subsidiary companies or the supply chain of a company.</p>

III	Good practices, innovations and recommendations to strengthen the role of NHRIs in facilitating access to effective remedy for business related human rights abuses?
1	Can you share any good practice examples in which your NHRI was able to facilitate, directly or indirectly, effective remedy for business-related human rights abuses?
	<p>Reply:</p> <p>The Commission has been instrumental in release of bonded labours, provide protection against exploitation of labour, makes effective recommendations for protection of women against sexual exploitation at work place besides contributing to control of environmental pollution and other health hazards.</p>
2	Are there good practice examples of your NHRI supporting the work of civil society and human rights defenders (including women human rights defenders) working to secure access to effective remedy for business related human rights abuses?
	<p>Reply:</p> <p>The Commission has intervened in matters pertaining to environmental pollution, health hazards, drug pricing policy issues etc. as part of business related human rights issues and made its submissions before appropriate court of law for redressal of grievances of the victims.</p>
3	Can you identify any innovative steps by your NHRI in overcoming various challenges and limitations faced in dealing with complaints concerning business related human rights abuses?
	<p>Reply:</p> <p>Intervention by the Commission in a matter pending before the Supreme Court of India for relief and succor to silicosis effected victims can be cited as a innovative steps for dealing with complaints concerning business-related human rights abuses.</p>
4	What measures should be taken by your NHRI in overcoming various challenges and limitations faced in dealing with complaints concerning business related human rights abuses?
	<p>Reply:</p> <p>Apart from creating awareness, greater role of civil society and the authorities is essential for access to remedy and better protection of</p>

	human rights.
5	How could NHRIs collaborate with regional and international human rights monitoring mechanisms (including the Universal Periodic Review) to facilitate access to remedy for business related human rights abuses?
	Reply: There can be sharing of best practices, monitoring mechanism and joint programs evolved for action in identified fields for the benefit of the various NHRIs.
