



DURBAN REVIEW CONFERENCE - GENEVA 2009

NATIONAL HUMAN RIGHTS INSTITUTIONS AND RACIAL DISCRIMINATION

National human rights institutions (NHRIs) have a mandate to protect and promote human rights. They are independent public institutions partly funded by individual governments. They can play a crucial role in promoting and monitoring the effective implementation of international human rights standards at the national level and are important in combating racism, racial discrimination, xenophobia and related intolerance. NHRIs are among the expert bodies specifically called upon to help implement the Durban Declaration and Programme of Action (DDPA), agreed on at the 2001 World Conference against Racism.

The roles and responsibilities of NHRIs are outlined in standards for the establishment of national institutions, known as the Paris Principles, which were adopted by the UN General Assembly in 1993. Only NHRIs that fully comply with these principles obtain "A-Status" accreditation, which allows them to interact with the international human rights system. The Paris Principles includes: creating awareness about human rights; advising governments and making recommendations on legislation and other initiatives; handling complaints and investigating allegations of human rights violations; and ensuring harmonization between national legislation, regulations and practices and international human rights instruments.

The Committee on the Elimination of Racial Discrimination (CERD), which monitors implementation of the International Convention on the Elimination of All Forms of Racial Discrimination, has recommended that States parties establish national commissions or other bodies to facilitate implementation of the Convention. CERD has recognized that NHRIs have local knowledge on the sources of racism in their own context and customized methods and tools to address, inform, prevent and eliminate race-related problems. NHRIs also review government reports on the state of race relations and encourage government action in the community.

Focus on various mandates

Many governments have established NHRIs, such as human rights commissions or human rights ombudsmen, with a broad mandate, which includes racial equality and non-discrimination. Some have established institutions with a specific mandate, such as racial equality commissions or ombudsmen on racial discrimination. For many NHRIs, tackling racism and related intolerance is a priority and some have established departments or specific officers to work on these issues.

The Equal Opportunity Bill in Mauritius, for example, provides for an Equal Opportunities Division, which operates under the National Human Rights Commission. In Australia, the 1975 Racial Discrimination Act is implemented by the Australian Human Rights Commission. In South Africa, the Promotion of Equality and Prevention of Unfair Discrimination Act 4/2000 mandates the South African Human Rights Commission to institute legal proceedings in the Equality Court, either on its own initiative, in the public interest, or on behalf of an individual who cannot act in his or her own name. In France, the *Commission Nationale Consultative des Droits de l'Homme* publishes and disseminates an annual report on the fight against racism and xenophobia which it submits to the Prime Minister. In Colombia, the Delegate Ombudsman Office for Indigenous Peoples and Ethnic Minorities has a mandate to promote fundamental rights relating to indigenous peoples, under Law 70 of 1993; and the Delegate Ombudsman has a supervisory function over government entities and individuals, in order to ensure the respect for the rights of afro-Colombians and indigenous peoples.



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Some NHRIs have complaints-handling or quasi-judicial functions and work with victims of racism, racial discrimination, xenophobia and related intolerance, complementing the courts in dealing with human rights violations. NHRIs may have the power to investigate allegations of human rights violations that raise the issues of equality and non-discrimination, minority rights, religious rights, equal opportunities or other violations. NHRIs may encourage conciliation between disputing parties and mediate between them. In some cases, NHRIs can take measures or make recommendations to remedy the violation. NHRIs may also provide legal assistance to victims of human rights violations, to help them bring cases to court where they may not have the resources to do so themselves.

NHRIs work in a number of ways to enhance public awareness about minority rights, promote cultural and religious diversity, and encourage harmonious relations between races. Many NHRIs conduct campaigns and distribute information for minority groups about their entitlements and relevant standards of non-discrimination. The focus of these activities is to encourage minority groups to access anti-discrimination processes. Some NHRIs have developed new and innovative strategies, including community dialogues, to reach out to minority groups. NHRIs also gather information and conduct research on discrimination against minorities, and publicize human rights standards and violations.

Most NHRIs are mandated to provide advice on legislation and/or policy concerning human rights to governments, parliaments, and in some instances, to the judiciary and other relevant institutions. They advise governments on legal instruments and human rights norms and advocate for effective policy development and implementation to prevent discrimination against minorities. This could include advocating for legal reform through regional mechanisms.

NHRIs submit opinions, recommendations and proposals to governments and other authorities to encourage them to ratify international human rights instruments on non-discrimination, including the optional protocols to these instruments that allow victims to seek remedies under the international complaints mechanisms. NHRIs also promote the harmonization of national laws and practice with international instruments on non-discrimination by encouraging governments to draft and adopt legislation to protect the rights of groups suffering from discrimination.

ABOUT OHCHR

The Office of the United Nations High Commissioner for Human Rights (OHCHR), a part of the United Nations Secretariat, has been given a unique mandate to promote and protect all human rights. Headquartered in Geneva, the Office is also present in some 40 countries. Headed by the High Commissioner for Human Rights, a position established by the General Assembly in 1993 to spearhead the United Nations' human rights efforts, OHCHR takes action based on the unique mandate given it by the international community to guard and advocate for international human rights law. For more information please visit www.ohchr.org