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Intention to good action

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Accountability should be infused in NHRC so that they can work as credible institution. The institution should develop a system of accountability that is necessary for its responsible functioning. Indeed, accountability should be seen as corollary and supplementary to the independence of the institution. Accountability of the institution can enhance its acceptability to the government as well as public at large. A sort of synthetic check and balance in the legislative framework may also ensure its accountability. For example, its activities must be open to public scrutiny and evaluation and constructive criticism by the civil society. One of the ways of public scrutiny is that national institutions like the NHRC should publish annual report that will elaborate upon their activities and specific recommendations to rectify the wrongs and injustices by the government agencies.

Considering the fact that the reports of the human rights commission are recommendatory in nature, they have only moral significance. However, wide dissemination of the report may play a valuable role in having a strong impact upon the government for policy reform and taking punitive measures. Dissemination of reports may also clarify the general expectation of the people regarding the national institution. Indeed, people have legitimate right to be informed about the functioning of the NHRC. In this way, the report may bridge the gap between the people and the institution. National institutions should not only publish their annual report but also make available their financial statement to ensure transparency in operation of fund. But mere publishing annual report and financial statement will not serve the purpose of accountability. Submission of annual report to parliament for deliberation is considered an additional mechanism of accountability.

Accessibility

In many countries, institutional setups are plagued by bureaucratic attitude due to the colonial mindset and lack of organisational cohesion. This precludes people from associating with a sense of belonging with the institution. Therefore, accessibility is sine qua non for success of the institution. There should be specific programme to make institutions people friendly. In our country, where high level of illiteracy and low level of awareness still exist, human rights commission can hardly function meaningfully. Access to the human rights commission is dependent on the knowledge of members of the public of its existence, and knowledge as to how they can be approached. Awareness programme about existence and functioning of institutions may play a vital role in providing access to the institution for the disadvantaged, marginalised and disempowered section of the people. NHRC should also develop creative means of ensuring its visibility among people whose interest it promotes. Accessibility does not necessarily mean merely some awareness programmes; it indicates that its activities are visible to the public. For that reason, its annual report, data, information and working procedure should be available to all. This may help to gain people's trust and credibility in the institution.

Physical accessibility is another important dimension. Decentralisation of the NHRC may facilitate its accessibility to the people of remote areas and particular regions. Therefore, local offices may be established to provide a full range of services so that it can act as a communication channel or consultant point between the population of the area and headquarter of the Commission.

Representative composition of the NHRC may indirectly contribute to accessibility. The composition of the commission should be of a genuine representative nature to reflect diversity as well as pluralism of the society. When plural representation is ensured, in particular of women, disabled people, religious, ethnic minority groups, and civil society e.g. NGOs, are accommodated in the composition, respective section of the people whose rights have been violated, will be encouraged to forward their grievances to the Commission. This will provide a feeling that the appropriate authority hears their voice.



All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

Cooperation and interaction with civil society

Because of its unique character, NHRC can hardly act in isolation. Co-operative relationships and collaborative efforts with like-minded organisations may facilitate it to achieve the desired goals. NGOs, media, universities and other public bodies can play significant role in this process. Resources of NGOs in terms of expertise and support may be valuable for the Commission. Similarly, it may share its experiences and also benefit from the expertise of human rights NGOs which have already evolved some mechanisms and skills for addressing human rights violations. As NGOs possess greater operational flexibility and work with grassroots people, they will be able to provide the Commission detail information on the domestic human rights situation and on structural and legislative inadequacies. NGO's complaints about human rights violation can be extremely useful in enhancing the visibility of the Commission as people are generally unwilling to approach any official body directly to seek redress. The Commission may also co-operate and collaborate in areas of education, training and information dissemination. In this way, NGOs can be seen as intermediaries between the people and the Commission.

Apart from this, civil society can also play the role of watchdog by constructive criticism, evaluation and recommendation. To that end, the Commission should also be receptive and responsive to the needs of civil society. It can engage civil society in many ways e.g. initiate public debate in the media and mobilise people's support using technique evolved by NGOs. Civil society may also be involved in the appointment process of members of the Commission so that it cannot solely be an executive concern.

Adequate human and financial resources

Operational efficiency requires that the Commission's structures are given adequate financial and human

resources, that the institution is given the freedom to select and employ its own personnel, and that the institution has appropriate internal working and evaluation procedures. **Integrity of the members**

It is extremely important to appoint an individual, or individuals, to head the National Human Rights Commission who have wide expertise in human rights, have integrity and credibility in the eyes of both the government and the public. The office should not be politicised. Impartial investigation of wrong doings can give it credibility and legitimacy in the eye of the public.

If NHRC is to be an effective body, its membership should be broad-based and must include persons who have been human rights activists. The NHRC will be of some consequences only if the government reforms the system of justice and administration.

Major Criticism of the Legal Framework

The select committee is overwhelmingly dominated by government officials. There is no representation from the civil society or minority groups.

The composition of the Commission does not truly reflect pluralist representation as it has only three members. Such small size of the commission precludes a fair representation of the most discriminated groups, such as the socially excluded, the ethnic and religious minorities and women.

The Commission can only recommend legal measures to the government. It does not have any power to start independent proceedings against human rights violators.

Provision for mediation/conciliation is fraught with conceptual difficulty regarding appropriateness of mediating certain human rights violations such extra judicial killings, custodial torture by state agencies. Even if it is accepted that some forms of human rights violations are amenable to conciliation, the law is not clear about the status of the negotiated settlement. The Ordinance is silent about the enforceability of the agree-

ment reached through mediation or conciliation. The determination or agreement reached through mediation should be enforced through accessible and effective means. Conciliation or mediation for reaching amicable settlement of disputes should be held on the basis of confidentiality.

Bangladesh NHRC has no jurisdiction to investigate cases which are already pending in a court or with Ombudsman or Administrative Tribunal. The NHRC should have power to intervene in legal proceedings in order to bring relevant principles of human rights law to the attention of the court.

The Ordinance should adopt wider definition of human rights to include indigenous people's rights, migrant workers' rights and minority rights.

Pluralist representation in the composition of the Commission should be expressly mentioned in the law.

The jurisdiction should include monitoring and reporting on Bangladesh's compliance with international instruments on human rights. NHRC should be involved in the preparation of country reports under human rights treaties. Vesting it with powers to implement international human rights standards may help avoid the current tendency of bureaucratic process of formulation of report under different human rights treaties which Bangladesh has ratified or acceded to.

The Ordinances prescribes that the annual report to be submitted to the President. But for the sake of transparency and accountability of the Commission, it should also be submitted to the Parliament. Furthermore, the recommendation and reports of the Commission should be publicly available.

The NHRC should have mandate on human rights training for government officials including the police and military in order to build a culture of human rights wherein human rights violations are less likely to occur.

The NHRC should also be mandated to conduct public inquiries of

human rights problems of a more general nature and make recommendations for their solution.

Main Challenges before the Commission

Political willingness and commitment is of paramount importance to the effective functioning of the Commission. A responsive political government is crucial to the effectiveness of a national human rights commission.

Adequate human resources should be pulled to carry out the functions of the Commission smoothly, in particular, for handling complaints and rendering legal aid to the aggrieved persons.

Rules to be formulated on urgent basis for going into full fledged operation of the Commission. The Rules should highlight the operational and administrative procedures and policies of the Commission.

In order to make the Commission effective, its existence should be made widely known to victims and potential victims of violations of rights, to government agencies, and to the disadvantaged groups of the society.

The Commission has to devise complaints procedures, which should be simple, accessible, affordable and speedy.

Conclusion

It may be fair to comment that effectiveness and efficacy of NHRC depends much upon the political willingness of the government that what kind of institution that it seeks to establish and also the degree of credibility attached to the institution itself. Thus, mere passing of legislation with noble aims may seem to be a self fulfilling exercise unless it is effective enough to function in a given social and political reality. Similarly, mere establishment of NHRC will be futile if the conditions and criteria of institution building process are ignored. Inner excellence of operation, fairness and justice in procedure and human resources with commitment to carry out goals are imperatives for success of the institutions. Efficacy of national human rights commission is also dependent on variety of national measures such as effective rule of law, independence of judiciary, freedom of information and well-functioning democracy. A NHRC can never be a substitute of the judiciary. Rather NHRC should be seen as an institution capable of existing side by side with the judiciary and assisting it in ensuring better protection of human rights.

It is expected that the Bangladesh NHRC should function with a genuine desire to provide better protection of human rights, not merely the desire to meet the criticism leveled against Bangladesh by the human rights organisations or to satisfy the donor agencies. The NHRC will enjoy public legitimacy when it is seen to stand up for the right of the powerless against powerful interests and act fairly in treating issues within their purview.

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Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.