

Parallel session report

Access to Remedy and the Role of National Human Rights Institutions

16 November 2015; Room XXII, 10:00 AM

The session focused on the role of NHRIs in providing or collaborating in ensuring or enhancing access to remedy for victims, with the participation of representatives from NHRIs of different regions of the world (Mexico, Germany, Malaysia and Morocco, with Australia presenting the event, and with the unfortunate absence of the NHRI from Cameroon), and with Mauricio Lazala from the Business and Human Rights Resource Centre as moderator. The President of the Australian Human Rights Commission made introductory remarks and welcomed the speakers, highlighting the importance of access to remedy in the work undertaken by national human rights institutions.

The representative from the Moroccan NHRI (Nabila Tbeur) shared the experience of African NHRIs, stating that some of them (including the NHRI of Morocco) started working on business and human rights in 2012; while they tried to visit company projects and organize stakeholder consultations, several obstacles or difficulties exist: lack of expertise, lack of capacity to investigate on site, lack of feedback on advice provided to authorities, and lack of institutional independence. NHRI from Cameroon has received complaints on business activities in the agricultural sector, while NHRI from Morocco has had experience with extractive industries.

The representative from the Mexican LHRI (Minerva Martínez Garza) shared that the Human Rights Commission of Nuevo Leon, a local human rights commission in the National Human Rights System, has used the Guiding Principles in its recommendations and precautionary measures, requesting companies to provide information on alleged human rights violations. Also, they have developed a mediation mechanism with the participation of both companies and the State, with the Commission acting in representation of victims. Additionally, remedies in its recommendations have included compensation, satisfaction, rehabilitation and guarantees of non-repetition, addressed both to the State and to companies, to ensure that victims have an integral reparation and access to remedy.

The representative from the Malaysian NHRI (Aishah Bidin) explained the role of SUHAKAM in the development of a National Action Plan, highlighting the need for NHRIs to work closely with the government in that regard. In addition, SUHAKAM has focused in recent years on undertaking baseline studies and engaging with government and stakeholders, particularly in migrant workers' issues and the logging industry. SUHAKAM has also received extraterritorial complaints, and made recommendations to the Malaysian government on transparency and investor-State arbitration. Most of the challenges relate to legal and administrative gaps, to the need to build capacity, and to the need to ensure consultation with vulnerable groups.

The representative from the German NHRI (Christopher Schuller) mentioned that despite the fact that DIMR doesn't have a complaints-handling mandate, their work

on access to remedy has been useful. DIMR intervenes in domestic cases that may have an impact on domestic policy. They've participated in judicial cases where foreign companies with close business links to German companies have violated human rights, as well as in grievance mechanisms of development banks, trying to have a positive impact for the protection of human rights in those cases. The representative from DIMR highlighted the need to explore amicus briefs in OECD NCP system.

The session ended with a round of Q&A with the audience.