

Summary Reflection Guide on a
Human Rights-Based Approach to Health

*Application to sexual and reproductive
health, maternal health and under-5 child health*

NATIONAL HUMAN RIGHTS INSTITUTIONS



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INTRODUCTION

National Human Rights Institutions (NHRIs) and Independent Human Rights Institutions for Children (IHRICs) have a central role to play in contributing to the prevention of maternal and child mortality and morbidity, as well as the enjoyment of health rights by women and children, including adolescents. These institutions operate with a mandate for promoting and protecting human rights, “either at the request of the authorities concerned or through the exercise of its power to hear a matter without higher referral, opinions, recommendations, proposals and reports.”¹ More specifically, NHRIs/IHRICs are uniquely placed to hold the government accountable for the right to health and survival for all women and children, without discrimination.

An essential starting point is the recognition that patterns of maternal and child mortality are not inevitable: they are the result of discriminatory laws and practices, and institutional arrangements that compound poverty, which are fundamental issues of rights and justice.



INTENTION OF THIS GUIDE

This quick reference guide intended to contribute to the efforts of NHRIs/IHRCs to effectively and meaningfully implement a human rights-based approach (HRBA) to sexual and reproductive health, maternal health² and under-5 child health.³ It complements other tools and builds on the two technical guidance documents of the Office of the United Nations High Commissioner for Human Rights on a human rights-based approach to the reduction of preventable maternal mortality and morbidity and under-5 mortality and morbidity,⁴ which were both welcomed by the United Nations Human Rights Council.

WHAT IS A HUMAN-RIGHTS BASED APPROACH?

An HRBA identifies who has rights (rights-holders) and what freedoms and entitlements they have under international human rights law, as well as the obligations of those responsible for making sure rights-holders are enjoying their rights (duty-bearers). An HRBA empowers rights-holders to claim their rights, and supports duty-bearers to meet their obligations. Promotion of accountability for meeting obligations is continuous in an HRBA; a “circle of accountability”⁵ throughout the policy cycle helps to ensure that policies and programmes are responsive to the needs of rights-holders, including health system users.

In addition to accountability, an HRBA also analyzes a policy cycle through a framework of human rights principles of equality and non-discrimination, participation, indivisibility, and the rule of law, as well as the “AAAQ” framework, which identifies availability, accessibility, acceptability and quality of health care facilities, goods and services as essential components of the right to health. In the case of children, an HRBA also requires that “best interests of the child”⁶ is a primary consideration in the design and implementation of policies which will affect children.



PURPOSE OF THIS GUIDE

The purpose of this guide is to support NHRIs/ IHRICs in applying an HRBA in the areas of sexual and reproductive health, maternal health and under-5 child health. It is one of a series of reflection guides targeted to specific stakeholder groups.

In building on the two technical guidance documents, this guide uses reflective questions to stimulate group discussion on the application of an HRBA to sexual and reproductive health, maternal health and under-5 child health. It is essential that this group reflection includes frank and open discussion of what problems are happening to whom and where; why they are happening; and who or what institution is responsible for taking action. It is equally essential that corrective (remedial) actions based upon the diagnoses then be taken, because if they are not it is not a meaningful HRBA, or accountability for the fulfillment of rights.

The questions in this document are illustrative only; they are not meant to be a comprehensive guide. Nor are they meant to be a checklist, as checklists are often not connected to actual practice.

Meaningful change requires both technical knowledge and capacity to implement an HRBA. But overcoming political and organizational obstacles to change also requires collective deliberation on the part of various actors engaged in constructing a more accountable health system, including NHRIs and IHRICs. The following questions are meant to be used as points of departure for those ongoing conversations and reflections, and to spur collective deliberation on policy changes that need to be made to support the effective implementation and measurement of an HRBA.





SCOPE AND ORGANIZATION OF THIS GUIDE

This guide is organized in 5 Sections which broadly correspond to the chapters of the two technical guidances and mirror the policy cycle. Under each section, there are three types of questions/comments.

CONSIDER

This is a question designed to trigger reflection on various aspects of an HRBA at different moments in the policy cycle.

FOR EXAMPLE

This is an example to illustrate some of the various elements that one might consider in addressing the question at hand.

HRBA REFLECTION

This is an insight into why this issue matters from a human rights perspective.

This guide covers sexual and reproductive health, maternal health and under-5 child health, in line with the continuum of care. In particular, maternal health is understood within the broader framework of sexual and reproductive health, and requires attention not only to women, but also to adolescents. While under-5 child health can be closely linked to maternal health, it also requires explicit attention to child rights. Applying an HRBA to health will sometimes require similar actions in sexual, reproductive and maternal health, and under-5 child health respectively, and will sometimes require explicit attention to the particularities of women's rights or children's rights. Where appropriate, this guide provides separate considerations and examples on sexual, reproductive and maternal health, and under-5 child health, in order to highlight where different dimensions will need to be factored in. These are identified by pictograms.



As an accompaniment to this guide, a list of resources is also available, with additional materials on an HRBA.

NOTES

- 1 Principles relating to the status and functioning of national institutions for protection and promotion of human rights (“Paris Principles”).
- 2 Center for Reproductive Rights and United Nations Population Fund, *Reproductive Rights: A Tool for Monitoring State Obligations Law* (2013); Harvard School of Public Health and United Nations Population Fund, *A Human Rights-Based Approach to Programming* (2010); Office of the United Nations High Commissioner for Human Rights, *Human Rights in Budget Monitoring, Analysis and Advocacy Training Guide* (2011); International Initiative on Maternal Mortality and Human Rights, *A Framework on Applying Human Rights-Based Approaches to Maternal Mortality and Morbidity* (2014).
- 3 Committee on the Rights of the Child, General Comment No. 15 on the right of the child to the enjoyment of the highest attainable standard of health (art. 24) (2013); International Institute For Child Rights and Development, *CRED-PRO Child Rights Curriculum for Health Professionals* (2008).
- 4 Technical guidance on the application of a human rights-based approach to the implementation of policies and programmes to reduce preventable maternal morbidity and mortality, UN Doc. A/HRC/21/22 (2012); Technical guidance on the application of a human rights-based approach to the implementation of policies and programmes to reduce and eliminate preventable mortality and morbidity of children under 5 years of age, UN Doc. A/HRC/27/31 (2014).
- 5 Alicia Ely Yamin, *Toward Transformative Accountability: A Proposal for Rights-based Approaches to Fulfilling Maternal Health Obligations*, *Sur: An International Journal* 7(12): 95-122 (2010); Alicia Ely Yamin and Rebecca Cantor, *Between Insurrectional Discourse and Technical Guidance: Challenges and Dilemmas in Operationalizing Human Rights-based Approaches in Relation to Sexual and Reproductive Health*, *Journal of Human Rights Practice* 6(3): 451-485 (2014); Alicia Ely Yamin, *Applying Human Rights to Maternal Health: UN Technical Guidance on Rights-based Approaches*, *International Journal of Gynecology and Obstetrics* 121(2): 190-193 (2013).
- 6 States are urged to place children’s best interests at the center of all decisions affecting their health and development. The best interest of the child is based on their physical, emotional, social and educational needs, age, sex, relationship with parents and caregivers, and their family and social background. See Committee on the Rights of the Child, General Comment No. 15 on the right of the child to the enjoyment of the highest attainable standard of health (art. 24), paras. 12-15 (2013).

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PLANNING

States need to adopt enabling legal and policy frameworks, together with national public health strategies and plans of action (national plans) to guarantee the health-related rights of women and children. National plans must be based on an up-to-date and comprehensive analysis of sexual and reproductive health and maternal health, as well as under-5 child health and the causes of child mortality and morbidity.

YOU, AS NHRIs AND IHRICs, should have an explicit role spelled out in the national plans, comprising institutional oversight and accountability mechanisms. You can also play an important role in ensuring that the content of the plan, as well as the planning process, is in line with human rights requirements.

CONSIDER ADVISING ON POLICY FORMULATION

How does the NHRI/IHRIC work with the government to ensure that policies and plans integrate an HRBA starting at the formulation stage?

FOR EXAMPLE PROVIDING INPUTS

Is the NHRI/IHRIC considered a partner and enabled to provide inputs on the application of an HRBA in the design of plans and policies? If not, how could your role be strengthened?

HRBA REFLECTION INTEGRATING HUMAN RIGHTS FROM THE START

NHRIs/IHRICs can offer crucial technical advice to assist the government in ensuring that human rights are a central consideration from the start of the planning process.

PLANNING

CONSIDER

LAW AND POLICY REVIEW

What role does the NHRI/IHRIC play in reviewing proposed (or existing) legislation, as well as national plans and policies, which will affect the health rights of women and children?

FOR EXAMPLE

HEALTH POLICY AND BEYOND

Examination of policies related to women's and children's health is an important starting point. Many other laws and policies, related to trade, macroeconomics, and intellectual property rights, also impact the health rights of women and children and should be examined by NHRIs/IHRICs. It is also essential to examine how the right to privacy, free and informed consent, access to information, and freedom from coercion and violence are protected within the legal and regulatory framework.

HRBA REFLECTION

COMPLIANCE WITH INTERNATIONAL STANDARDS

NHRI/IHRIC's review of the impact of such laws and policies in practice helps to identify bottlenecks that may be preventing full realization of human rights, including the right to health.

CONSIDER IDENTIFYING LEGAL AND POLICY BARRIERS 	
<p><i>What has the NHRI/IHRIC done with respect to laws and policies that constrain the advancement of sexual and reproductive health and maternal health?</i></p>	<p><i>What has the NHRI/IHRIC done with respect to laws and policies that constrain the advancement of under-5 child health?</i></p>
<p>FOR EXAMPLE LAWS RELATED TO GENDER EQUALITY </p>	<p>LAWS RELATED TO A CHILD'S RIGHT TO HEALTH </p>
<p>Are there legal restrictions on access to sexual and reproductive health services such as requiring spousal or parental permission to access services? Is there a law prohibiting child marriage or female genital mutilation/cutting?</p>	<p>Is there a law or policy on ensuring free and compulsory birth registration? A law requiring that all salt sold in the country be iodized? A law prohibiting the marketing of breast-milk substitutes, especially in maternity hospitals? A policy or guidelines on community treatment of pneumonia with antibiotics?</p>
<p>HRBA REFLECTION LAWS AND POLICIES ARE ESSENTIAL FOR ENJOYMENT OF RIGHTS</p>	
<p>Addressing gaps and barriers in the legal and policy framework is essential for understanding the reasons why certain women, adolescents and children are denied their health-related rights. NHRIs/IHRICs can play a critical role in exposing these gaps and barriers and assist in rectifying them.</p>	

PLANNING

CONSIDER REACHING THE MOST EXCLUDED
<i>How does the NHRI/IHRIC ensure that legislation, as well as national plans and policies, meet the needs of hard-to-reach, vulnerable and excluded populations in your country?</i>
FOR EXAMPLE DIFFERENT GROUNDS OF EXCLUSION
What can the NHRI/IHRIC do to draw attention to the needs of those who are hard to reach, vulnerable or excluded, such as persons with disabilities, persons living in conflict affected areas, adolescents, and ethnic minorities?
HRBA REFLECTION EQUALITY AND NON-DISCRIMINATION
Attention to identifying and remedying possible discrimination, based on gender and other factors, as well as to promoting equality in practice through affirmative measures, is an important part of an HRBA.

CONSIDER LINKING ACROSS SECTORS
<i>How can the NHRI/IHRIC engage more effectively in dialogues with different parts of the government regarding the protection of women's and children's health rights?</i>
FOR EXAMPLE HEALTH POLICY AND BEYOND
What can be done to promote the protection of women's and children's rights with the Ministry of Health, the Ministry of Gender, Ministry of Community Development, the Ministry of Education, and other ministries and parliamentarians? What can be done to assure an enabling environment in order to claim health rights, including guarantees related to freedom of expression.
HRBA REFLECTION INDIVISIBILITY OF RIGHTS
An HRBA recognizes that the engagement of partners outside the health sector is essential for the realization of the right to health, and therefore NHRIs/IHRICs need advocacy strategies which bring disparate actors together.

PLANNING

CONSIDER MONITORING AND OVERSIGHT ROLE
<i>How is the monitoring and oversight role of NHRIs/IHRICs articulated?</i>
FOR EXAMPLE ROLE IDENTIFIED IN NATIONAL PLAN
Do the national plans identify the role of NHRIs/IHRICs in ensuring accountability by monitoring and oversight of the health sector? If not, is this something that can be amended or included in the next health sector strategy plan? What would be required to make sure this happens?
HRBA REFLECTION RECOGNIZING NHRI/IHRIC MANDATE
NHRIs/IHRICs are mandated to oversee the State's efforts to fulfill the right to health and in an HRBA, their role should be recognized and resourced through core functional allocations in the public budget.
CONSIDER PUBLIC EDUCATION
<i>What forms of public education does or might the NHRI/IHRIC conduct for sensitizing policy makers, as well as the public to HRBAs? How can these programmes be made more effective within current resource constraints?</i>
FOR EXAMPLE TRAININGS AND AWARENESS RAISING CAMPAIGNS
Do you engage in trainings for policy makers on HRBAs? How have you used the media to raise public awareness about health-related rights of women and children? What allies might the NHRI/IHRIC collaborate with in parliament or civil society to engage in broader campaigns?
HRBA REFLECTION PARTICIPATION
Public participation is a key principle of an HRBA, and NHRIs/IHRICs have key roles in providing education, which allows for citizens' informed participation and empowers civil society.

PLANNING

CONSIDER

LINKING RIGHTS-HOLDERS AND DUTY-BEARERS

How can the NHRI/IHRC use its position to facilitate interaction between rights-holders and duty-bearers in the planning process?

FOR EXAMPLE

CONVENING DIALOGUES

Can the NHRI/IHRC convene multistakeholder dialogues among government representatives, the health sector, civil society, the media and other stakeholders to discuss issues of local or national concern related to women or children's health?

HRBA REFLECTION

BUILDING BRIDGES

NHRIs/IHRCs are uniquely placed to build bridges between rights-holders and relevant authorities with a view towards more effective application of an HRBA.



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BUDGETING

Rights require resources to be meaningful, therefore an HRBA to health calls for attention to the State budget. The role of many NHRI/IHRCs includes interpreting economic data and information, conducting budget analysis along gender lines, tracking expenditures related to child health services, and ensuring that vulnerable groups are protected if public expenditures are cut.

YOU, AS NHRIs/IHRCs, can utilize this role to draw attention to the human rights implications of budgetary decisions with a view towards securing greater enjoyment of rights by women and children.

CONSIDER BUDGET ANALYSIS

Does the NHRI/IHRC undertake any budget analysis regarding funding for sexual and reproductive health, maternal health and under-5 child health?

FOR EXAMPLE TRACKING FINANCIAL BARRIERS

Does it track if low-income and marginalized women and families face financial barriers to care either because of policies or practices at health facilities? If not, why not? Is this limited by mandate or capacity? Is there a way to work with civil society groups to monitor the equity of the budget, in both formulation and execution?

HRBA REFLECTION BUDGETS CAN SUPPORT OR HINDER HUMAN RIGHTS

NHRIs/IHRCs can play an important role in drawing attention to budgetary decisions and processes which enhance or hinder the realization of human rights. Identifying ways and means to engage in budget analysis independently or in partnership with other allies is important.

BUDGETING

CONSIDER ENGAGING THE PUBLIC

How can/does the NHRI/IHRC ensure that there is full transparency and meaningful participation by the public (including public hearings) in the budgeting process?

FOR EXAMPLE AWARENESS RAISING EFFORTS

The NHRI/IHRC can facilitate the organization of public hearings on the budget in order to promote wider engagement of the public. It can also disseminate information on the budget to the general public. Where there is need for more transparency, the NHRI/IHRC may promote or contribute to changes in freedom of information laws, public sensitization and education of government officials about the importance and reasons for an open government, which guarantees freedom of assembly, association and expression, as part of their human rights treaty obligations.

HRBA REFLECTION PARTICIPATION AND TRANSPARENCY

An HRBA to health requires participation of the public in decisions that affect the realization of the human rights of women and children, including their right to health. As resources make rights real, participation in budget processes is essential. Helping to ensure that the public has the knowledge and capacity to engage in this process is a key role of NHRIs/IHRCs.

CONSIDER ADVOCATING FOR INCREASED BUDGET

What advocacy and partnership strategies is the NHRI/IHRC putting in place to ensure increased budget allocation and execution in sexual and reproductive health, maternal health and under-5 child health?

FOR EXAMPLE USING HUMAN RIGHTS MONITORING TO INFORM THE BUDGET

Does the NHRI/IHRC use the information collected through monitoring activities in order to inform decisions in Parliament about the budget?

HRBA REFLECTION HUMAN RIGHTS ARE OBLIGATIONS

Sexual and reproductive health, maternal health and under-5 child health are matters of human rights, the budget to implement these rights cannot be reduced due to failure of political will.

BUDGETING

CONSIDER

ENGAGEMENT WITH GOVERNMENTS ON THE BUDGET

How does the NHRI/IHRIC provide meaningful feedback on budget concerns related to sexual and reproductive health, maternal health and under-5 child health, to the central government and to sub-national governments?

FOR EXAMPLE

EXPRESSING CONCERN ABOUT DECREASES IN BUDGET

How does the NHRI/IHRIC express concern about decreases in the budget for sexual and reproductive health, maternal health and under-5 child health, and lack of access to budgeting information. What follow-up mechanisms exist to ensure that NHRI/IHRIC concerns are taken seriously, and divergences from their recommendations are publicly justified?

HRBA REFLECTION

MAXIMUM OF AVAILABLE RESOURCES

NHRIs/IHRICs are mandated to monitor human rights, including whether States are allocating the maximum of available resources towards the realization of human rights. Their input to the budget is critical to helping the State realize this obligation.

CONSIDER

MARGINALIZED AND DISADVANTAGED GROUPS

What is the role of the NHRI/IHRIC in ensuring special protection in the budget for marginalized and disadvantaged groups? What are the challenges?

FOR EXAMPLE

TRACKING BUDGET CUT IMPACTS AND SPECIAL PROTECTION MEASURES

How can the NHRI/IHRIC track the impact of budget cuts on marginalized and disadvantaged groups? How can the NHRI/IHRIC advocate for extra protection of these groups if relevant budgets are cut? Are there capacity issues that could be addressed through training on budgets?

HRBA REFLECTION

NON-DISCRIMINATION AND NON-RETROGRESSION

Budget cuts can reduce the enjoyment of the right to health. Tracking how marginalized and disadvantaged groups are protected from budget cuts is important to ensure that the human rights requirements of non-discrimination and non-retrogression are being respected.



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IMPLEMENTATION IN PRACTICE

Often even good laws and policies for ensuring the right to health without discrimination are not implemented in practice. To assess how national planning and policies are affecting a country's public health, it is essential to look at how these plans and policies are being implemented on the ground, and in particular, monitor indicators of health services' availability, accessibility, acceptability and quality (AAAQ) for all women and children, without discrimination.

YOU, AS NHRI/IHRICs, can contribute to ensuring appropriate implementation by identifying where services are failing and making recommendations, so that women and children can effectively enjoy their health-related rights.

CONSIDER NHRI/IHRIC VISITS TO HEALTH FACILITIES
<i>If there are barriers to conducting such visits, what are some ways in which these barriers might be overcome?</i>
FOR EXAMPLE TYPES OF BARRIERS
Are they due to capacity issues; lack of resources for the NHRI/IHRIC; hostility from the health sector personnel; access to public information? How might such specific issues be overcome?
HRBA REFLECTION MONITORING ROLE OF NHRI/IHRIC
The monitoring role of NHRIs/IHRICs is critical for providing independent assessments of whether rights are enjoyed in practice. If there are barriers to such monitoring, it is essential to devise ways to overcome such barriers.

IMPLEMENTATION IN PRACTICE

CONSIDER

AVAILABILITY, ACCESSIBILITY, ACCEPTABILITY AND QUALITY

Does the NHRI/IHRIC conduct regular visits to a sample of health facilities at all levels (e.g., primary, tertiary, referral) throughout the country, including in urban and rural areas, to monitor whether they meet the human rights requirements of AAAQ? If not, could such inspections be incorporated into the work plan of the NHRI/IHRIC?

FOR EXAMPLE

AAAQ IN PRACTICE

Do these facilities:

- (i) have adequate skilled human resources?;
- (ii) have essential health infrastructure and equipment, as well as essential medicines and commodities – including those related to sexual and reproductive health, maternal health and under-5 child health?;
- (iii) provide safe, child friendly spaces for young children and their care givers, including spaces for rest and play?;
- (iv) treat women, including adolescents, and families with respectful, dignified care, including respect for their right to privacy and the obligation of obtaining informed consent?;
- (v) treat health workers with dignity, including abiding by relevant labor standards, protections and established codes of ethics?;
- (vi) not charge fees for services or goods that should be free?; and
- (vii) address barriers for ethnic or linguistic minorities, disabled women, adolescents, persons living in poverty, and other discriminated groups, including providing information in local and minority languages?

HRBA REFLECTION

ENSURING ENJOYMENT OF RIGHTS IN REALITY

If these are not in place, services are not operating under the AAAQ framework. This signals that women and children are not effectively enjoying their human rights related to health, and parents, women and children will not be empowered to take charge of their own and their children's health.

IMPLEMENTATION IN PRACTICE

CONSIDER ENGAGEMENT WITH COMMUNITIES

Does the NHRI/IHRIC meet periodically with community-based groups to get a sense of their perceptions regarding access and use of health services and interventions, in particular for women and children? If not, could it incorporate such meetings into its regular work plans?

FOR EXAMPLE OBSTACLES TO ACCESS HEALTHCARE

Do certain groups, such as indigenous peoples and minority groups avoid going to health facilities because of perceptions of mistreatment and disrespect, or experiences of discrimination, coercion and violence? What mechanisms are in place to ensure that adolescents are able to express their needs independently and confidentially? Are transportation costs a major factor in deciding whether to access health services?

HRBA REFLECTION WORKING WITH AND FOR COMMUNITIES

Communities hold valuable information on how health systems are functioning in practice and where barriers exist to accessing services. NHRIs/IHRICs can and should tap into this knowledge in order to develop recommendations for action which respond to real community needs.

CONSIDER FOLLOW-UP MEASURES

What recommendations are made and what follow-up measures are taken when visits detect violations of sexual and reproductive health rights or child health rights at facilities?

FOR EXAMPLE IMPLEMENTATION OF RECOMMENDATIONS

Do these follow-up plans identify why problems are occurring? Who is responsible for addressing the problems? Who is being affected? At what level must change be made? What actions must specifically be taken to redress violations? Does the NHRI/IHRIC track the implementation of its recommendations? How can measures to ensure recommendations are implemented be made more effective?

HRBA REFLECTION REALIZING RIGHTS REQUIRES ACTION

Follow-up of recommendations is essential for an NHRI/IHRIC to play their role in ensuring that the health system is accountable to women and children.

MONITORING, REVIEW & OVERSIGHT

Monitoring, review and oversight of what is actually going on and what results are being achieved are essential to a circle of accountability, and to creating a responsive health system that is part of a democratic society.

YOU, AS NHRIs/IHRICs, have a special role to play in monitoring, review and oversight. NHRIs/IHRICs often handle individual and group complaints regarding the failure of health facilities and the health system to provide all women and children, without discrimination, health services that are available, accessible, acceptable, and of high quality. Some are also empowered to conduct public inquiries and investigations into allegations of human rights violations, and to press for administrative mechanisms of protection, including maternal death surveillance and response. Because most NHRIs/IHRICs are established by governments, they must negotiate that relationship, and ideally use it to enhance government oversight and investigations.

CONSIDER

SENSITIZATION AND SOCIAL MOBILIZATION

How does the NHRI/IHRIC work with communities to sensitize them to their rights regarding sexual and reproductive health, maternal health and under-5 child health, including how to claim these rights and monitor and evaluate their implementation?

FOR EXAMPLE

ROLE AS CONVENOR

Does or could the NHRI/IHRIC act as a convener in linking community monitoring to district/local level policy-making so that the public can have a voice in seeing changes made?

HRBA REFLECTION

SOCIAL ACCOUNTABILITY

Social accountability in an HRBA calls for citizens to participate at all levels of decision-making regarding their health, including monitoring and evaluating the care they are receiving, evaluating the budgets, staffing and supplies of health care institutions, and obtaining remedies when services do not meet the expected standard of care. Social accountability also requires environments in which human rights defenders are able to carry out their work in safety and in which freedom of expression, assembly and association are guaranteed. In promoting and facilitating such mechanisms, NHRIs/IHRICs can help to foster the HRBA principles of participation and accountability.

MONITORING, REVIEW & OVERSIGHT

CONSIDER

PUBLIC HEARINGS OR INQUIRIES

Does or could the NHRI/IHRIC hold public hearings or public inquiries when there is evidence of a systematic problem or failure of accountability at health facilities? If not, what are the constraints to doing so? If it does hold public hearings, what mechanisms for follow-up and advocacy strategies does the NHRI/IHRIC use to ensure that findings lead to meaningful changes in practice? How might follow-up be improved?

FOR EXAMPLE

ISSUES THAT COULD BE ADDRESSED AT PUBLIC HEARINGS OR THROUGH INQUIRIES

An inquiry can examine specific issues such as: detention of women for non-payment of fees; failure to institute free and compulsory birth registration; high rates of maternal and child mortality and morbidity in a specific region or among a particular group; charging inappropriate fees; disrespect and abuse; forced sterilization; corruption; discrimination based on gender, age, race, ethnicity or other; and/or coercive treatment. An inquiry can also assess the degree to which specific State policies are being implemented and their impact on the enjoyment of human rights.

HRBA REFLECTION

REVIEW AND OVERSIGHT

Public hearings and inquiries are an effective way to gather information about an identified problem as well as raise awareness about the human rights implications of the issue at hand.

MONITORING, REVIEW & OVERSIGHT

CONSIDER LINKING TO INTERNATIONAL MECHANISMS
<i>How does the NHRI/IHRIC bring its monitoring work to the attention of international human rights mechanisms?</i>
FOR EXAMPLE ENGAGING WITH TREATY BODIES, SPECIAL PROCEDURES AND THE UNIVERSAL PERIODIC REVIEW
Does the NHRI/IHRIC submit information when their State is up for review by a treaty body or the Universal Periodic Review? Or when it is announced that a special procedures mandate holder is planning a visit? Could it do any of this more effectively, in collaboration with local or international civil society groups, for example?
HRBA REFLECTION COMPLEMENTARITY OF SYSTEMS
NHRIs/IHRICs can provide critical information to international human rights mechanisms which assists these mechanisms to devise recommendations that respond to the national reality. Conversely, the recommendations from international human rights bodies can bolster the work of the NHRI/IHRIC.

CONSIDER IMPLEMENTING INTERNATIONAL LEVEL RECOMMENDATIONS AND DECISIONS
<i>How does the NHRI/IHRIC track implementation of recommendations and decisions coming from international human rights mechanisms?</i>
FOR EXAMPLE MONITORING COMPLIANCE
Does the NHRI/IHRIC have an overview of the recommendations made by international human rights mechanisms pertaining to sexual and reproductive health, maternal health and under-5 child health? Has it identified which parts of the government are responsible for taking action on these recommendations? Does it submit follow-up information to international mechanisms to inform these bodies of the government's compliance or non-compliance?
HRBA REFLECTION FOLLOW-UP AT THE NATIONAL LEVEL
NHRIs/IHRICs are uniquely placed to track compliance with recommendations and decisions from international human rights mechanisms. A key element of operationalizing human rights is ensuring this follow-up to recommendations and decisions.

REMEDIES

Remedies can take many forms, some of which are judicial, but also include administrative mechanisms and actions through NHRIs and IHRICs. Judicial and other remedies are used to ensure rights are realized, or to respond to accountability claims. Even where the right to health is not justiciable, the right to life and rights relating to non-discrimination are very relevant to sexual and reproductive health, including maternal health, and to child health. Remedies should respond to system failures, and need not be used to sanction or blame individual providers, who more often than not could not avoid specific outcomes.

YOU, AS NHRIS/IHRICS, can play a critical role in raising awareness about available remedies and working with relevant authorities to enforce such remedies.

CONSIDER

JUDICIAL PROCESSES

What is the relationship between the NHRI/IHRIC and the judicial system?

FOR EXAMPLE

FACILITATING ACCESS TO THE COURTS

Has the NHRI/IHRIC supported citizens to obtain judicial remedies in health-related rights cases from (1) private institutions or (2) the government/public institutions? If not, can filing amicus curiae briefs or other support be incorporated into the institution's work under its current mandate? Is your institution empowered by the courts to monitor implementation of judgments? If so, how does it do so? If not, could this change be made without changing the mandate of the NHRI/IHRIC?

HRBA REFLECTION

AVAILABILITY OF REMEDIES

NHRIs/IHRICs can also play critical roles in ensuring judicial remedies are effective and enforced.

<p>CONSIDER COMPLAINTS</p> <p><i>How, if at all, does the NHRI/IHRC receive complaints from patients/ family members regarding sexual and reproductive health and maternal health care, and from parents/ guardians regarding the care of their young children? How does the NHRI/ IHRIC monitor and follow-up on these complaints? What is the success of the NHRI/ IHRIC in following up on complaints and seeing that policies and programmes are modified?</i></p>
<p>FOR EXAMPLE TAKING ACTION</p> <p>What are the requirements for an individual to file a complaint? What types of action can the NHRI/IHRC take when a complaint is received? Do you make recommendations on specific cases? What sort of recommendations for redress do you include? What is needed to strengthen follow-up on recommendations in order to enhance compliance?</p>
<p>HRBA REFLECTION ACCOUNTABILITY</p> <p>NHRI/IHRC recommendations can foster State actions to address complaints. Accountability for meeting the obligation for fulfilling the right to health can be achieved by several means, such as securing “guarantees of non-repetition” through a legal or policy change that remedies the situation, as well as by restitution to families and patients who have filed a complaint.</p>

<p>CONSIDER AVAILABLE AND APPLICABLE REMEDIES</p> <p><i>How does the NHRI/IHRC ensure awareness of the availability of remedies? How does it work to enhance understanding of the applicability of remedies related to women and children’s health rights?</i></p>
<p>FOR EXAMPLE DISSEMINATION AND CAPACITY BUILDING</p> <p>Does the NHRI/IHRC widely disseminate models of judicial, administrative and other remedies related to sexual and reproductive health, maternal health and under-5 child health, within your country but also use guidance from other countries? Does it hold trainings for judges and lawyers regarding the legal enforcement of health-related rights of women and children?</p>
<p>HRBA REFLECTION ACCOUNTABILITY REQUIRES AWARENESS OF REMEDIES</p> <p>NHRIs/IHRICs are in a unique position to work with both the public and the judiciary to enhance awareness about the availability and applicability of remedies.</p>

