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The Role of African NHRIs in Economic and Social Rights Monitoring

Focus on the Inquiry Mandate

Edited by Paolo De Stefani, Meskerem Geset Techane
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The Role of African NHRIs in Economic and Social Rights Monitoring. Focus on the Inquiry Mandate. Proceedings of the Seminar, 15 December 2025

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Table of Contents

BACKGROUND	4
THE ROLE OF AFRICAN NHRIS IN ECONOMIC AND SOCIAL RIGHTS MONITORING	
INTRODUCTORY REMARKS	
<i>Paolo De Stefani</i>	5
REFLECTIONS FROM RESEARCH	6
ECONOMIC AND SOCIAL RIGHTS MONITORING MANDATE AND INQUIRIES	
<i>Meskerem Geset Techane</i>	6
EXPERIENCE SHARING FROM NHRIS	9
SOUTH AFRICAN HUMAN RIGHTS COMMISSION	
<i>Henk Boshoff</i>	9
GHANA HUMAN RIGHTS COMMISSION	
<i>Samuel Ogbe Nokolawe</i>	13
KENYA HUMAN RIGHTS COMMISSION	
<i>James Mwenda</i>	16
MALAWI HUMAN RIGHTS COMMISSION	
<i>Jim Kuanda</i>	19
SIERRA LEONE HUMAN RIGHTS COMMISSION	
<i>Richard Tamba M'Bayo</i>	22
Q & A SESSION	24
CLOSING REMARKS	
<u><i>Foluso Oluwadare Adegalu</i></u>	28

Background

NHRIs are uniquely positioned to play a significant role in monitoring the domestic implementation of Economic and Social Rights (ESR). They have various methods at their disposal that can be leveraged for advancing ESR accountability at the domestic level. Some studies show that inquiries are among the powerful and unique tools available to NHRIs that have proved to be useful in addressing ESR issues and, more specifically, systemic and widespread violations. Although the past two decades have witnessed progressive growth in NHRI literature, the subject of ESR is underrepresented in the discourse on the role of NHRIs in the multi-level human rights governance architecture. Moreover, while some attention has been given to NHRIs' role in complaint handling and promoting compliance with ESR obligations, the inquiry mandate of NHRIs in this domain is rarely covered. More specifically, African NHRIs' inquiry mandate and experience in general, as well as in relation to ESR, have not been systematically studied or reported, including by the Network of African National Human Rights Institutions (NANHRI). It is therefore important to assess and reflect on the practice and experiences of these institutions in the region with a particular focus on monitoring ESR through various methods, including the use of public/national inquiries.

As part of this endeavour, NANHRI and the University of Padova Human Rights Center jointly organised an online seminar to facilitate dialogue with African NHRIs. The objective of the seminar is, thus, to inspire conversations and peer exchanges on relevant experiences of African NHRIs and document their practice, achievements, and challenges in monitoring ESR and more specifically in their use of inquiries as a method for addressing systemic human rights violations. The seminar was held on December 15, 2025. It was attended by 30 NANHRI members and other experts and moderated by Foluso Oluwadare Adegalu of NANHRI.

The main contributions were provided by the following institutions: The South African Human Rights Commission, The Ghana Human Rights Commission, The Kenya Human Rights Commission, The Malawi Human Rights Commission, and The Human Rights Commission of Sierra Leone.

The Editors

The Role of African NHRIs in Economic and Social Rights Monitoring.

Focus on the Inquiry Mandate

Introductory remarks

Paolo De Stefani, University of Padova, Human Rights Centre

Warm welcome to the numerous participants in this online session. Deepest gratitude goes to the Human Rights Centre of the University of Padova for hosting the seminar, and much appreciation to the Network of African NHRIs (NANHRI) for the valuable contribution to the realisation of this seminar. Special thanks to Ms Meskerem Techane for the coordination.

The objective of the seminar is to discuss the work undertaken by African NHRIs in relation to the protection of economic and social rights, with particular attention to the use of public/national inquiries as a tool. It aims to facilitate information sharing and learning for further dialogues, research, and collaborations.

The Centre values the work of national institutions working on the promotion and protection of human rights. It has some experience in cooperating with domestic human rights institutions operating at the local level in Italy, namely regional and municipal human rights commissions, ombuds institutions, and specialised commissioners in the field of children's rights and the rights of people deprived of liberty. This cooperation resulted in research, publications, and operative involvement in several projects. In the Italian context, the absence of a national human rights commission or a national ombudsman implies that these kinds of activities can only be carried out through independent authorities operating at the sub-state level. This institutional lacuna still characterises the Italian legal system, despite the numerous recommendations to address this gap stemming from the UN and other international organisations. Nevertheless, the Centre has cultivated contacts with European networks of NHRIs, especially via the Council of Europe's initiatives and programmes in this domain, also with the aim of stimulating the Italian Parliament to legislate in this domain.

The Centre has a specific interest in establishing a connection with African NHRIs and the NANRHI in view of the academic ties the Centre itself and the University of Padova are willing to establish with academic institutions in African Countries. This meeting and subsequent meetings we plan to host with NHRIs in various regions on similar and other relevant topics may represent a potential starting point for further engagement and the development of cooperation mechanisms among participating institutions and NHRI networks, with a view to supporting peer-learning as well as research, and fostering networking across different regions.

Reflections from Research

Economic and Social Rights Monitoring Mandate and Inquiries

Meskerem Geset Techane, University of Padova, Human Rights Centre

The Inquiry mandate is one of the powerful tools NHRIs have for monitoring human rights violations. Inquiries (referred to as national/public inquiries) are useful methods for economic and social rights (ESR) monitoring, and several African NHRIs have conducted ESR-focused inquiries. The outcomes or changes emanating from the inquiries conducted by African NHRIs remain largely undocumented. The sources available on such inquiries are primarily reports produced by the NHRIs themselves (not all are even available), and little has been written by academics or practitioners on their outcomes and impact. Due to the limited formal studies and publications on the economic and social rights work of African NHRIs and their use of inquiries, a systematic analysis and documentation of mandates, impacts, challenges, and approaches is essential. In contrast, most examples and discussions in the literature on national inquiries focus on NHRIs in the Asia-Pacific region. For this reason, interaction between African and Asia-Pacific NHRIs is desirable, as it allows for the exchange of experiences, good practices, challenges, and achievements across different institutions.

The discourse on the role of NHRIs has traditionally been dominated by civil and political rights; seemingly, their role was initially conceived in relation to these rights. However, as institutions established for the promotion and protection of human rights, NHRIs have a legitimate mandate to address economic and social rights. The Paris Principles require NHRIs to have a broad mandate that covers all human rights and all groups; therefore, this mandate logically includes economic and social rights. Scholars and practitioners have also argued that NHRIs possess a unique institutional advantage due to their mandate and function within national and international human rights systems. The nature of economic and social rights monitoring, in particular, may often require institutions capable of independent, non-judicial monitoring, a role that NHRIs are well positioned to fulfil.

Diversity of NHRI mandates on ESR

Review of the normative framework governing NHRIs indicates diversity in the extent to which NHRI enabling laws integrate the mandate for the promotion and protection of economic and social rights (ESR). Some NHRIs have all-inclusive mandates without explicitly mentioning different types of human rights. These are broad and inclusive mandates that integrate both human rights monitoring and the promotion and protection of all rights. Logically, such all-inclusive mandates also cover the monitoring of ESR. Some NHRIs have specific or express mandates under their enabling laws, whereby they are explicitly given the mandate to protect and

promote ESR. It has also been noted that some NHRIs have restricted mandates, meaning that they are limited to covering civil and political rights by virtue of their constitutional design. There are a few examples of such mandates in Africa. This is often due to constitutional frameworks that recognize civil and political rights, while economic and social rights are recognized only as directive principles. Another category is that of NHRIs with a general mandate relating to international human rights law. Based on available analysis, most NHRIs in Africa and globally have a mandate to monitor compliance with international human rights obligations without distinguishing between categories of rights. This provides them with a broad mandate, including obligations relating to economic and social rights. Nonetheless, it is also observed that even NHRIs with restricted mandates may apply a more flexible or creative interpretation of their mandates, relying on related rights (such as equality, non-discrimination) in order to address economic and social rights.

Exercising the mandate

In implementing their mandates, NHRIs use a variety of methods, as observed globally. These include legal and policy reviews, budget reviews, and investigations on economic and social rights. Some NHRIs also exercise adjudicative functions through their complaint mechanisms, addressing disputes related to economic and social rights. Others are limited to advisory roles, research, reporting, awareness-raising, and human rights education. In some cases, NHRIs go further and engage in strategic litigation on economic and social rights issues. It is also observed that some NHRIs are actively developing indicators, benchmarks, and databases to monitor economic and social rights, both for their own use and for use by state bodies responsible for the implementation of the rights. The methods adopted by NHRIs vary as are often shaped by legal and institutional contexts. For example, in some regions, particularly in the European context, many NHRIs may not necessarily have the legal mandate to investigate human rights violations. Instead, they are primarily mandated to advise, conduct research, and develop benchmarks. By contrast, in the Africa and Asia-Pacific regions, NHRIs tend to be more active in monitoring, investigations, and the conduct of national/public inquiries. These differences are also linked to institutional models. Commissions and ombudsman-type institutions generally engage in both protection and promotion mandates, and within their protection mandate, they may use investigation, monitoring, and inquiry mechanisms in addition to dispute resolution. On the other hand, institute or centre type NHRIs, which are more common in Europe, tend to focus on research, advisory functions, and reporting. In terms of structures, some NHRIs have established specific structures, such as economic and social rights units, dedicated commissioners, special rapporteurs, or working groups. These are considered good practices, as they provide a focused approach to their work on economic and social rights.

In relation to the mandate, another issue that arises concerns the effectiveness of NHRIs in promoting and protecting economic and social rights. This does not question the mandate itself, but rather focuses on effectiveness, given the different nature, tools, and approaches required for economic and social rights. Some of the issues relate to capacity, including whether NHRIs have the technical capacity required for effective monitoring of economic and social rights, as well as the necessary financial resources, particularly as violations in this area often require more complex approaches. NHRIs also raise concerns regarding effectiveness due to the lack of enforcement powers. Even where they are actively engaged in monitoring economic and social

rights, the lack of enforcement mechanisms remains a challenge in the implementation of their recommendations. Another issue concerns access, particularly for vulnerable and marginalized groups, including persons with disabilities, as well as barriers related to language and geographic location. These factors may affect the legitimacy of NHRIs, particularly in terms of accessibility for those most in need of their services.

The role of inquiries

Inquiries are understood as non-judicial investigations or hearings into widespread or systemic human rights issues or abuses. Inquiries are not exclusive to NHRIs. While other state institutions may also conduct them, such inquiries are not necessarily human rights-based, nor do they always apply a human rights methodology or operate with institutional independence. NHRIs exercise inquiry powers given either explicitly or implicitly. The inquiry mandate of NHRIs can be considered a distinctive feature, combining the institutional nature of NHRIs with approaches suited to economic and social rights within a non-judicial framework. It forms an important part of their monitoring function and is reflected in the Paris Principles. International and regional human rights bodies, including the Committee on Economic, Social and Cultural Rights and the African Commission, also emphasize the function of NHRI in conducting inquiries. Inquiries contribute to documenting violations and recommending remedies, which may be short-term, long-term, or structural. They enable large-scale hearings and dialogue involving a wide range of stakeholders, including rights-holders, duty bearers, and other relevant actors. Evidence from research and practice, including from Africa, suggests that inquiries are useful due to their public nature. They facilitate public dialogue and deliberation, stimulate broader discussion on human rights issues, including economic and social rights, and have the potential to reach large and diverse groups. While inquiries may involve significant cost and time, their impact and reach are often considered to outweigh these constraints. They are not only non-adversarial but also serve educational and deliberative functions. In addition, they allow NHRIs to act proactively in identifying and prioritizing human rights issues, rather than relying solely on complaints from stakeholders. These elements reflect the main features and advantages identified in existing inquiry reports and the available literature on national inquiries.

Experience sharing from NHRIs

South African Human Rights Commission

Commissioner Henk Boshoff, South African Human Rights Commission

Mandate of the SAHRC

The South African Human Rights Commission (SAHRC) is a constitutional body established under section 184 of the Constitution of the Republic of South Africa. Its powers are regulated by the South African Human Rights Commission Act. The main functions of the SAHRC are to promote respect for human rights, the protection and development of human rights, and to monitor and assess the observance of human rights. The SAHRC has the powers to investigate and report on the observance of human rights, to take steps to secure appropriate redress also by approaching a court of law. It carries out research and education programmes, all in accordance with the Paris principles. The SAHRC is rated with A status as a National Human Rights Institution. The SAHRC plays a very important role with regard to undertaking human rights education and impact assessment of policies, receiving complaints and issuing recommendations, and conducting independent assessments and reporting to parliamentary committees. The SAHRC has also litigated cases of human rights violations.

Overview of ESR in South Africa

The 1996 South African Constitution is a global landmark for explicitly including justiciable economic and social rights (ESR) in its Bill of Rights (Chapter 2), making the state's obligations broader than just civil and political liberties.

In the First Certification Judgment, the Constitutional Court rejected the argument that judicial enforcement of ESR, which involves policy scrutiny, violated the separation of powers. The court affirmed that interpreting and applying ESR, such as housing, healthcare, food, water, social security, and education, was a legitimate judicial function, particularly through the use of the "reasonableness" standard regarding the state's duty of "progressive realisation" using available resources. Academic work, notably Sibonile Khoza's *Socio-Economic Rights in South Africa* (2007), and subsequent jurisprudence clarify that these rights often apply to everyone and require the state to progressively improve efforts over time. The state has three types of obligations: the duty to respect (not interfere), the duty to protect (prevent third-party interference), and the duty to fulfil (take positive steps). The South African model is thus a key international case study for effective ESR enforcement.

References to the Constitution of South Africa

- Section 24 of the Constitution: refers to the right to a healthy environment.
- Section 25 of the Constitution concerns the right of access to land, tenure security, and land restitution.
- Section 26 of the Constitution disposes that everyone benefits from the right of access to adequate housing and protection against arbitrary evictions and demolitions.
- Section 27 of the Constitution provides for the right of access to health care services, including reproductive health care, emergency medical treatment, sufficient food and water, and social security, including appropriate social assistance.
- Section 28(1)(c) and (d) of the Constitution provides for children's right to basic nutrition, shelter, basic health care services, and social services, as well as the right to be protected from maltreatment, neglect, abuse, or degradation.
- Section 29 of the Constitution provides that everyone has the right to education.
- Section 35 regards the right to conditions of detention that respect human dignity, including the provision of adequate accommodation, nutrition, reading material, and medical treatment.

SAHRC's role in ESRs

SAHRC has a three-pronged mandate. Firstly, it promotes economic and social rights by conducting various advocacy and awareness programs. Secondly, the SAHRC is responsible for the protection of these rights by conducting hearings and inquiries, and monitoring the rights, in terms of section 184(3) of the Constitution. In performing this unique role, the SAHRC is obligated, on an annual basis, to reach out to national and provincial departments regarding measures they have taken towards the realisation of particular economic and social rights which include housing, health care, food, water, social security, education and the environment. The purpose is to obtain information on the level of achievement of economic and social rights. Thirdly, the SAHRC, as already mentioned, can litigate in its own name or on behalf of complainants. This function has been carried out regularly, especially with regard to economic and social rights.

SAHRC's inquiries to address ESR violations

Economic and social rights-related complaints consistently remain among the top five most frequent complaints handled by the SAHRC. The SAHRC has a complaint-handling system through which it receives and addresses complaints and conducts inquiries and hearings in cases where human rights violations are systemic. After an inquiry or hearing, the SAHRC issues a report with its findings and targeted recommendations or directives. These inquiries or hearings are participatory forums; the SAHRC convenes them and provides notice to relevant stakeholders to appear before it and hear the testimonies supporting the complaint. Based on the testimony received, the SAHRC makes findings and recommendations. These processes serve as dialogue-oriented forums, enabling discussion that informs action and allowing the SAHRC to gather as much information as possible. They also serve as accountability-fostering mechanisms, aimed at identifying responsible actors. The SAHRC can hold the relevant stakeholders accountable and follow up, through its monitoring mechanisms, on the implementation of recommendations.

These forums are also intended to support reflection and stock-taking on the state's progress in fulfilling economic and social rights.

The questions submitted to the stakeholders at these inquiries have the specific purpose of allowing government departments to engage in introspection and stock-taking. The SAHRC has held several inquiries in the country over the last decade, and approximately 26 socio-economic rights-related inquiries or hearings have been conducted between 2014 and 2024.¹ Recent examples include the following.

Inquiries into service delivery

Recently, the SAHRC held an investigative inquiry into service delivery challenges at the local government level in the Free State province. The rights involved were the right to water, sanitation, access to electricity, mobility rights, access to roads, and the right to the environment. The inquiry delved into systemic failures in the delivery of basic services by municipalities in the province. The report received a lot of exposure not only in the media. Indeed, it was also tabled in the provincial legislature, discussed in the national Parliament, and the National Council of Provinces. The latter took a resolution stating that the recommendations of the SAHRC should be implemented. The deputy president of the Republic of South Africa also had to answer questions in Parliament on the implementation of these recommendations. Furthermore, the Department of Water and Sanitation is now working through the anti-pollution forum to tackle the pollution of the Vaal River following a recommendation made by the SAHRC that the pollution into the river should be eliminated in the next five years.

In 2025, an inquiry was conducted in the Northern Cape province, also about local government service delivery. The related report was released, highlighting systemic service delivery lapses in several municipalities in the Northern Cape Province.²

Inquiry into road conditions

The SAHRC also conducted an inquiry into the province of the Eastern Cape, which dealt with roads, healthcare, education, and the right to movement. The inquiry outlined the impact of poor road conditions on several human rights in the province.

Inquiries into water access

In a 2014 hearing on access to water, the SAHRC recommended transferring the competency for sanitation from the Department of Human Settlements to the Department of Water Affairs. This is a testament to its very active and visible role in influencing policy and making specific recommendations, namely on where responsibilities should be located within government.

In 2021, complaints were raised about pollution in the Vaal River, and an inquiry was held into the issue. After the inquiry, the national Department of Water and Sanitation reintroduced the

¹ Reports of these inquiries/hearings by the SAHRC are accessible here: <https://www.sahrc.org.za/index.php/publications/8-hearing-reports>

² The Report is accessible here: <https://www.sahrc.org.za/index.php/publications/602-inquiry-report-into-the-state-of-service-delivery-at-local-government-level-in-the-northern-cape/viewdocument/602>

Blue and Green Drop System, and reports are being released by the department on an annual basis.

In 2022, SAHRC conducted an inquiry into water in the KwaZulu-Natal province to address people's right to access water and to examine the systemic failures in water provision in the province.

Challenges faced by the SAHRC in advancing its ESR mandate

Although the SAHRC has generally been successful in conducting inquiries and hearings, it has also faced several challenges in advancing its mandate regarding ESR. As it is common across NHRIs, budget limitation is one of the challenges. With a limited budget, the SAHRC struggles to achieve adequate scope and reach across the country and to make an impact. Even with limited resources, significant progress has been made, but with inadequate human resources, it is not always possible to execute the mandate efficiently. Given the country's size, it is a struggle to serve its length and breadth with limited human resources. Further challenges concern the implementation of its recommendations. That is the reason why the SAHRC decided to not only submit its reports to the specific stakeholders, expecting them to take note of its findings and to implement its recommendations, but also to escalate its reach to involve the provincial legislatures, the executive, and ministers at provincial and national levels, to engage the national parliament and seek the support of the media. Thanks to this strategy, some municipalities are implementing some of the SAHRC's recommendations.

Another challenge concerns questioning the mandate of the SAHRC in relation to the enforceable recommendations. In a recent judgment, the Supreme Court of Appeal held that the SAHRC is not legally empowered to issue binding decisions and listed specific court cases. The SAHRC appealed the judgment to the highest court in South Africa, the Constitutional Court. The grounds of the appeal refer to the paramount importance of socio-economic rights. The appeal was heard in November 2025, and the judgment was issued on 22 April 2026. The Constitutional Court confirmed that the SAHRC is not empowered to issue binding directives following investigations into violations of human rights. However, the Constitutional Court stressed that the SAHRC is far from toothless and remains 'a potent and indispensable guardian of human rights in South Africa'.³

The SAHRC believes some of its recommendations deserve urgent implementation. In relation to access to water, for example, the SAHRC considers that its recommendations should be given serious consideration. Where people lack access to water, they require immediate provision and cannot wait for lengthy processes, including repeated recourse to the courts. The SAHRC emphasised that communities should have immediate access to rights, such as water, and that issues such as sewage spillages should be addressed by municipalities within a very short timeframe, ideally within 24 hours.

Potential solutions explored by the SAHRC

Amidst the myriad challenges, the SAHRC is pursuing various strategies to advance its mandate on socioeconomic rights. One is strengthening strategic stakeholder relationships to bolster its

³ See the full judgment on <https://collections.concourt.org.za/handle/20.500.12144/38660>.

capacity and reach. Several non-governmental institutions and civil society organizations have been involved through collaborations. The SAHRC is working very well with human rights centres at higher education institutions and universities. They are also providing valuable assistance to civil society, bringing socioeconomic rights violations to the SAHRC's attention and working closely with it to address these challenges. Moreover, concerning the enforcement of recommendations, the SAHRC is seeking legal clarity by approaching the South African Constitutional Court and will intensify its attention to following up on the implementation of its recommendations.

The SAHRC's reports have been escalated to municipal councils, provincial and national legislatures, the executive, and the media, achieving some results, with municipalities prioritising the SAHRC's recommendations. However, with regard to socioeconomic rights, real results will only be seen in the long term.

The systemic utilisation of inquiries allows the SAHRC to avoid a piecemeal approach. Complaints are addressed collectively rather than individually. When a complaint is received, the SAHRC would investigate and address it, then issue directives or take remedial action to address the identified violation. As mentioned, complaints regarding socioeconomic rights rank among the top five most frequently received annually. Therefore, hundreds, if not thousands, of complaints regarding socioeconomic rights are received annually. By utilising inquiries, all those complaints can be dealt with in a single procedure lasting approximately 4 or 5 days. In the Northern Cape inquiry, the SAHRC took two weeks to conclude its proceedings, but it managed to address all the complaints in a very short time.

This approach also allows for more efficient use of scarce resources, particularly financial and human resources. When a report is finalised with findings and recommendations, it ensures a root cause analysis of human rights violations. These root causes are highlighted and brought to the attention of the relevant authorities, with the expectation that they will be dealt with immediately. As indicated, inquiry leads to clear, pointed, and targeted recommendations that serve as an efficient tool to address socioeconomic rights violations.

Ghana Human Rights Commission

Samuel Ogbe Nokolawe, Principal Investigator, Commission on Human Rights and Administration of Justice of Ghana

Mandate of the Commission

The Commission on Human Rights and Administration of Justice of Ghana (CHRAJ) is a constitutional body established by the CHRAJ Act, 1993 (Act 456), pursuant to article 216 of the 1992 Constitution. The 1992 Constitution, particularly Chapter 5, guarantees the fundamental human rights and freedoms of all persons in Ghana. These are predominantly civil and political rights. Although some socio-economic rights, such as the right to education and the right to work, are also recognised, under Chapter 5. A significant number of socio-economic rights have found

expression in the Directive Principles of State Policy, which are largely considered non-justiciable.

The Commission's mandate is set out in the CHRAJ Act (1993, Act 456). This Act establishes that the Commission is responsible for investigating complaints of violations of fundamental human rights and freedoms, as well as cases of injustice, corruption, abuse of power, and unfair treatment by public officers in the exercise of their functions. In this regard, the Commission functions as a National Human Rights Institution, an ombudsman, and an anti-corruption body, effectively operating as a three-in-one institution, although, in terms of budget allocation, it is treated as a single institution. The Commission is also mandated to investigate complaints concerning the functioning of public institutions, including the Public Service Commission, administrative organs of the state, the armed forces, the police service, and the prison service, particularly where such complaints relate to imbalances in institutional structures or unequal access to recruitment. In addition, the Commission investigates complaints concerning the actions and practices of individuals, private enterprises, and other institutions that are alleged to violate fundamental human rights and freedoms. It may take appropriate action by calling for remedial correction or reversal of such instances, and it also carries out public education on human rights and fundamental freedoms through various means as determined by the Commission.

Case study: The Mining Inquiry

The Commission undertook an inquiry/investigation focusing on the human rights situation in mining communities. Between 2001 and 2002, it received multiple complaints of human rights abuses in mining communities across the country. In response, the Commission conducted public hearings in the Wassa West District, given its high concentration of mining companies, to gather views from relevant stakeholders and community members on the complaints received. A key issue identified was the lack of mutual understanding between mining companies and local communities. A verification mission was subsequently undertaken by a team of investigators from the Commission to mining areas in Sansu and Binsere in the Obuasi municipality of the Ashanti Region, as well as Kenyasi and Ntotrosu in the Brong-Ahafo Region, in October 2006. This mission confirmed reports of widespread human rights abuses. The causes of these violations appeared to be systemic in nature, requiring responses that addressed their underlying structural causes. On this basis, and in line with its mandate to protect the human rights of all persons, the Commission proceeded to undertake a systemic investigation into the human rights situation of people living in mining communities. In doing so, it was guided by the economic objectives set out in Chapter 6 of the Constitution, which require the state to ensure that the national economy is managed in a manner that promotes economic development, welfare, and adequate livelihoods. The fieldwork for the inquiry commenced on 19 May 2007. As part of the human rights inquiry, various methods were employed, including focus group discussions, interviews, site inspections, documentation, and direct observation. The investigation was conducted over a period of one year and covered communities in Obuasi, Awasa, Bibyeni, Ahafu, Nyu, Abrim, and Bolgatanga. In total, 42 communities were included in the investigation across four regions: Ashanti, Western, Brong-Ahafo, and Upper East, where major mining activities were taking place.

Findings of the Inquiry

There was evidence of widespread violations of the human rights of individual community members, as well as of collective community rights, in several mining areas in the country. Some of these identified violations were flagged for further investigation. The Commission found evidence of widespread pollution of communities' water and food sources, as well as deprivation and loss of livelihoods. Other findings included inadequate compensation for destroyed property, ineffective alternative livelihood projects, a lack of effective communication channels between companies and communities, excessive use of force against community miners, health problems associated with mining, cyanide spillages, and unfulfilled promises of employment. Concerning specific economic and socio-cultural rights, water-related issues were prominent. Many rivers and streams that had previously provided water for communities were either polluted or had dried up. Cyanide spillages into rivers and streams by mining companies were recorded, and there was evidence of widespread use of mercury in small-scale mining activities.

Environmental pollution was also significant, with widespread complaints relating to dust and noise from mining activities. It was observed that companies did not take adequate suppression measures and often limited supervision to areas of active operation. As a result, some communities were disproportionately affected by the negative impacts of mining activities. In certain cases, affected communities requested resettlement and relocation.

Regarding health, mining communities reported a range of health problems attributed to mining activities. Medical officers in facilities such as the Brian Mission and Obuasi Government Hospital acknowledged that some diseases prevalent in communities near mining sites were partly linked to mining. Commonly reported conditions included skin diseases, respiratory illnesses such as tuberculosis, diarrhoea, malaria, and typhoid.

With regard to livelihood and employment, there was significant dissatisfaction among communities due to the limited employment opportunities provided by mining companies, particularly for local youth. A key constraint identified was the lack of required skills within affected communities.

Communities also reported land appropriation by mining companies without adequate compensation, resulting in loss of livelihoods. In terms of compensation and resettlement, most communities expressed dissatisfaction with the compensation provided for affected property. These concerns were widespread across large-scale mining sites and were particularly evident in areas operated by major companies such as AngloGold Ashanti and Newmont in the Ahafo and Wenchi communities. Community members reported receiving inadequate compensation for the destruction of farms and crops.

Impacts of the Systemic Inquiry

The inquiry documented and amplified governance and human rights issues often linked to mining activities in Ghana.

It led to increased advocacy by civil society organisations, including the Wassa Association of Communities Affected by Mining and the Food First Information and Action Network, aimed at promoting governmental action.

The report resulting from the inquiry became an authoritative baseline for subsequent research on human rights in the mining sector by academia and civil society organisations.

The then Attorney General and Minister of Justice, Hon. Joe Ghartey, who attended the validation workshop for the report, encouraged further engagement among the Commission, his Ministry, and the Law Reform Commission towards implementing the recommendations. This contributed to subsequent reviews of mining and environmental laws, enhanced community engagement, increased local participation in mining, and the establishment of task forces to address illegal mining activities affecting water bodies.

Opportunities and Challenges

The recent establishment of the Human Rights Committee of Parliament provides an opportunity to better engage Parliament on findings from subsequent economic, social, and cultural rights inquiries, to ensure fuller implementation of recommendations by the government or, by extension, the state.

Another opportunity lies in leveraging the Universal Periodic Review process and international reporting mechanisms by submitting reports to the Human Rights Council. For example, in 2020, the NHRI submitted an alternative report to the Human Rights Council, highlighting recommendations on economic, social, and cultural rights that had not been fully implemented.

It is also observed that economic, social, and cultural rights issues have become increasingly topical, particularly following recent general elections, which provide an opportunity for NHRIs to advise political actors on how best to implement their economic and social and cultural rights commitments. This has resulted in initiatives such as free senior high education, free healthcare through the national insurance scheme, and partial government subsidisation of first-year university educational costs. A further opportunity is that the institution is one of the largest NHRIs in Africa, with a presence across the country, which provides an opportunity to strengthen monitoring in localities, subject to available resources, to promote and protect economic and social rights.

At the same time, financial and logistical challenges continue to limit the institution's capacity. In addition, the lack of compliance with state recommendations, often due to limited political will and resource constraints, remains a significant challenge. Issues identified in earlier reports, including the 2008 mining report, continue to persist. These challenges are further compounded by the complexities surrounding natural resource extraction, as well as corruption and resource misappropriation, which create systemic barriers. Findings from the Auditor General's reports continue to raise concerns about the misallocation of resources that could otherwise support the implementation of economic and social rights.

Kenya Human Rights Commission

James Mwenda, Assistant Director, Kenya National Commission on Human Rights

Inquiries and KNCHR Mandate

The inquiry mandate of the Kenya National Commission for Human Rights (KNCHR) is grounded in the enabling Act, with Section 28 conferring investigative powers. Public inquiries are anchored within this investigative mandate and, by their nature, constitute an omnibus means of addressing and unravelling human rights issues. They are applied in situations involving systemic human rights violations or abuses, where the impact extends to a large community or to the community as a whole, and where the issues raised cut across the entire population.

Inquiries provide an opportunity to exercise all the functions of an NHRI. Through such open and intensive investigations, multiple functions are carried out simultaneously, including human rights education and awareness-raising, as well as thorough investigations to identify and address the issues at stake. In addition, inquiries involve research and the verification of information, as well as policy and legislative review, including the analysis of national and international legal frameworks. This ensures that recommendations are grounded in relevant human rights standards. Public participation represents a key component of inquiries. This includes engagement with communities as rights-holders, as well as the involvement of experts, civil society organisations, and duty-bearers such as state institutions responsible for implementation and oversight. In this sense, inquiries provide an inclusive process involving all relevant actors.

In line with the investigative mandate, inquiries also involve reporting and monitoring functions. A report is produced at the end of the process, fulfilling the obligation to report on the human rights situation under examination, while monitoring continues alongside and following the investigation. Beyond addressing the complaints that may have triggered the inquiry, this process also enables the identification of underlying factors. It allows for a broader analysis of interconnected issues, in line with key human rights principles such as interdependence, indivisibility, and universality. For example, the analysis of the right to health may extend to related rights such as education or environmental protection, including issues of environmental pollution and its impact on human rights.

KNCHR Inquiries

Several investigations have been conducted by the Commission, which has existed for 22 years. The first public inquiry was carried out approximately two to three years after its establishment. At that time, in 2003, the Commission operated under an Act of Parliament, before being entrenched in the Constitution under Article 59 in 2010. The first inquiry addressed issues related to salt mining in Malindi, a coastal area, where communities had raised several complaints against salt companies. These included the dispossession of land, the pollution of water sources such as community wells, and the blockage of access to the sea, which was a key source of livelihood for fishing and the harvesting of building materials. Additional concerns related to environmental degradation and poor working conditions.

In response to these complaints received, the Commission initiated a public inquiry. The process revealed several issues, including inadequacies in the execution of mandates by government institutions, such as labour inspectors, as well as the lack of protective gear for workers, health problems, unfair dismissals, and community land dispossession. The absence of formal land titling for local communities, in contrast to extensive land ownership by companies, also brought the issue of indigenous land rights to the fore.

Following the inquiry, recommendations were compiled into a report and submitted to the presidency, the National Assembly, and other relevant actors for action. While the implementation of recommendations has not been fully effective, they have provided a roadmap for the observance of human rights. Over time, several actors, including government institutions, have taken steps to address the identified issues.

Subsequent inquiries have also been conducted in relation to mining activities in other regions, again addressing economic and socio-cultural rights. Key issues identified included land dispossession, environmental degradation, malfunctioning of state institutions, and conflicts within communities. Recommendations were made and continue to be followed up on, with some areas showing progress. Further inquiries have addressed additional areas, including the evaluation of violations of sexual and reproductive rights, with reports and recommendations made available through the Commission's official channels.⁴

Challenges of the Inquiry Process

Public inquiries present several challenges. One of the main challenges is that they are costly to conduct, as they may take up to a year or more before reaching the hearing stage, which represents the culmination of the process, followed by reporting. Public inquiries are also time-consuming. The process requires receiving complaints, conducting field visits to verify their validity, identifying key actors, and scoping to determine the extent of the issues, depending on available resources. It also involves publicising the inquiry and engaging in extensive public participation, including meetings and consultations with communities. As such, public inquiries are inherently resource intensive. A further challenge is the potential loss of specificity in addressing particular human rights violations. While focusing on broader inquiries may reduce attention to individual cases, addressing issues individually may also limit the overall impact, requiring a balance between the two approaches.

The most significant challenge remains the implementation of recommendations. This requires continuous engagement with various actors, including businesses, community groups, and government institutions, which are the primary duty-bearers. Ensuring effective implementation has proven particularly difficult.

In conclusion, public inquiries offer important advantages. They can influence legal, policy, and institutional reforms, as recommendations are often directed towards changes in legislation, policy frameworks, and institutional practices. Although progress may be gradual, these processes contribute to meaningful steps towards the realisation of human rights.

⁴ <https://www.knchr.org/>.

Malawi Human Rights Commission

Jim Kuanda, Economic, Social, and Cultural Rights Directorate, Malawi Human Rights Commission

Inquiries and MHRC Mandate

The Malawi Human Rights Commission (MHRC) is a constitutional body established by the 1994 Constitution of the Republic of Malawi and has a statutory mandate under the Human Rights Commission Act of 1998. The overall mandate of the Commission is the promotion and protection of human rights in Malawi. Within its protection mandate, the conduct of public inquiries is included, and Section 130 of the Constitution provides a general provision for conducting such inquiries. The Commission is structured in five thematic directorates:

- Civil and Political Rights Directorate;
- Economic, Social and Cultural Rights Directorate;
- Gender and Women’s Rights Directorate;
- Child Rights Directorate;
- Disability and Elder Rights Directorate.

The five operational thematic directorates are further divided into subunits, namely investigations, legal, public awareness, and research and documentation. In the conduct of public inquiries, the investigations section of the relevant directorate usually takes the lead, in partnership with the legal section. Under the enabling legislation, the Human Rights Commission Act, Section 16—similarly to the Constitution—provides the Commission with a specific mandate to conduct public inquiries.

MHRC’s Inquiries

With regard to the conduct of public inquiries, the practice followed by the Commission since the early 2000s distinguishes between two forms of inquiries, which differ in terms of leadership. One form of public inquiry is led by a Commissioner of the Human Rights Commission, while another form, often referred to as “national inquiry”, is led by a High Court judge. The main distinction lies in the origin of the matter under investigation. Inquiries led by a Commissioner typically arise from a complaint, which may be lodged by members of the public, other sources, or initiated by the Commission on its own motion. Following initial investigations, if the findings indicate the need for a more extensive examination and reveal systemic issues, the matter is then transformed into a public inquiry. In contrast, inquiries led by a High Court judge generally do not originate from a specific complaint. Instead, they are initiated by the Commission upon identifying broader systemic human rights issues that require investigation, leading to the appointment of a judge to conduct the inquiry.

In terms of the MHRC's experience since 1998, and more or less since the early 2000s, when public inquiries began, the majority of respondents, or duty-bearers engaged in public inquiries, have generally complied with the Commission’s request. This includes the State and State agencies. From a general assessment, this may be attributed to the fact that, over time, the Commission has been able to build an element of trust with various stakeholders in Malawi, including the state itself, which has developed trust in the competence of the Commission. This

is also linked to the perception that, although it is a public body and a government institution, the Commission conducts itself independently and impartially.

Since the early 2000s, the Commission has conducted several inquiries. In 2025, the Commission conducted four inquiries, and the recommendations were disseminated at various levels, with different degrees of implementation by duty-bearers or respondents.

Public Inquiry Name	MHRC Directorate leading investigations towards the Inquiry	Key Human Rights at stake and Economic & Social Rights at stake (as provided for by the Constitution)	Month Public Inquiry Report was disseminated	Inquiry Chair	Key Respondents/Duty Bearers	Status of Implementation by Respondent(s)/ Duty Bearers of Recommendations
In the Matter of Substandard and Falsified Medicines in Malawi's Healthcare Systems	Economic, Social, and Cultural Rights Directorate	Right to Health as provided for under the Right to Development	May 2025	High Court Judge	1) Ministry of Health. 2) Pharmacy and Medicines Regulatory Authority. 3) Central Medical Stores Trust. 4) Ministry of Homeland Security. 5) Malawi Police Service 6) Department of Immigration and Citizenship Services	Ongoing. 50% of Recommendations implemented
In the Matter of Challenges Contributing to the Inefficiency and Ineffectiveness	Civil and Political Rights Directorate	Right to Access to Justice and Legal Remedies; Right to Property; Right to Economic Activity	August 2025	MHRC Commissioner	Judiciary	Ongoing. 40% of Recommendations implemented
In the Matter of Access to Services by Persons with Disabilities in Malawi	Disability and Elderly Rights Directorate	Rights of Persons with Disabilities as provided for under the Right to Development All the Economic and Social Rights provided for by the Constitution (<i>Health, Education, Property, Economic Activity, Labour Rights</i>)	September 2025	High Court Judge	Various Ministries, Departments, and Agencies of the Malawi Government	Ongoing. 30% of Recommendations implemented
In the Matter of Alleged Sexual Harassment of Female Employees in Mulanje and Thyolo Tea Estates	Gender and Women's Rights Directorate	Women's Rights Labour Rights	September 2025	MHRC Commissioner	EastemProduce Malawi Limited	Ongoing. 30% of Recommendations implemented

In terms of economic, social and cultural rights, all four public inquiries included elements of such rights. The first inquiry concerned the right to health. The second inquiry concerned the judiciary, which was the key respondent, and focused on access to justice and legal remedies. However, the right to property and the right to economic activity were also at stake, as many cases brought before the judiciary involved these rights. The third public inquiry concerned the rights of persons with disabilities and adopted a broad approach, covering all relevant rights, including economic and social rights provided for in the Constitution, such as the right to health, the right to education, the right to property, the right to economic activity, and labour rights. The fourth inquiry concerned sexual harassment, primarily focusing on women's rights. However, as it involved employees within state institutions, labour rights were also implicated. Overall, these inquiries involved various duty-bearers and respondents, both from government and the private sector.

In terms of compliance with the Commission's recommendations, implementation remains at different stages, as all inquiries were conducted within the same year. However, there has been a general level of compliance with the recommendations.

Outcomes, Best Practices, and Opportunities

The outcomes of MHRC inquiries have generally been mixed, but overall positive over time. In the 2000s and the 2010s, there were still significant challenges with the government, particularly with the Malawi Police Service. However, over time, due to the trust and engagement built, government stakeholders have increasingly complied with the Commission's recommendations during public inquiries. In terms of best practices, the Commission has in-house procedures for conducting public inquiries. However, these are not yet incorporated into the Human Rights Commission Act, which may also pose challenges. The MHRC considers that procedures for conducting public inquiries should be incorporated into the enabling legislation of the NHRIs. Another best practice identified is that, whenever a public inquiry is conducted, some form of investigation should first be carried out. This approach has been consistently applied, as the Commission seeks to exhaust the investigation stage before proceeding to a public inquiry, particularly in cases involving systemic issues or formal complaints. These represent key best practices observed by the Commission over time.

The ongoing process of amending the Human Rights Commission Act, following sustained engagement and negotiation by the MHRC. This is seen as an important opportunity, with the expectation that the proposed amendments will come into force in 2026. Particular attention is given to Section 22F of the Human Rights Commission Act, which addresses the Commission's recommendations. It is anticipated that this provision will be strengthened. As it currently stands, whether following an investigation or a public inquiry, the Commission issues recommendations to duty-bearers; however, the provision does not address how they are to be enforced. As a result, enforcement has remained a key challenge. This gap has affected implementation in practice, as recommendations issued to institutions such as the Malawi Police Service have not always been effectively enforced due to the absence of a clear enforcement mechanism. The proposed amendments are expected to address this limitation and to enable the Commission to enforce its recommendations more effectively following investigations or public inquiries. A further area of reform concerns the procedures for conducting public inquiries. The Commission currently has in-house procedures governing the conduct of inquiries, whether led by a High Court judge or by a Commissioner. However, these procedures are not legally binding, as they are not included in the enabling legislation. The proposed amendments are therefore expected to provide a basis for incorporating these procedures into the Human Rights Commission Act, including through subsidiary legislation.

Sierra Leone Human Rights Commission

Richard Tamba M'Bayo, Sierra Leone Human Rights Commission

Business and Human Rights Initiatives

Since 2013, the Commission has developed a training manual and guidelines for monitoring business and human rights in Sierra Leone. It was noted that, in the context of human rights, attention is often focused on civil and political rights, such as police brutality and freedom of expression, while less attention is given to the relationship between business operations and human rights standards. As a result, the Commission has been working for over a decade to strengthen the understanding of this linkage.

The National Action Plan

More recently, a national policy on business and human rights has been developed, providing the basis for preparing a National Action Plan (NAP) in line with guidance from the UN Human Rights Council. The development of the NAP underscores the importance of addressing human rights challenges arising from business operations, particularly in contexts where foreign investment plays a significant role. The process is currently at an advanced stage, with a draft prepared by a consultant. The draft is awaiting approval from the Office of the Attorney General, followed by cabinet and parliamentary approval. Once adopted, Sierra Leone will join other African countries, including Nigeria, Liberia, Kenya, and Uganda, that have developed National Action Plans on business and human rights.

The Monitoring Tool

The Commission has developed a business and human rights monitoring tool that has proven successful in the Sierra Leonean context. Engagement in international and regional fora has also contributed to strengthening institutional experience and sharing practices with other actors. Support from UNDP was noted as an important factor, particularly in light of the progress made and the direction taken by the Commission. This support has contributed to the advancement of ongoing initiatives in the field of business and human rights. Awareness-raising activities have been conducted extensively, including engagement with business actors through dedicated forums aimed at promoting respect for human rights. The Commission has also worked closely with stakeholders to enhance understanding and implementation of business and human rights standards. In addition, there is some degree of political will behind these efforts, including parliamentarians' involvement in developing the National Action Plan. Consultations have been carried out across different regions of Sierra Leone, including comprehensive discussions in the northern region, focusing on the implementation and effectiveness of the Action Plan. Overall, progress in this area was described as positive.

Public Inquiries

The Sierra Leone Human Rights Commission (SLHRC) has conducted a number of public inquiries, particularly in relation to mining activities. For example, in 2014, a major commission of inquiry was held at a mining company in the northern region, and its findings were accepted

by the affected communities. Since then, the Commission has continued to expand its work in the area of public inquiries. A subsequent inquiry was conducted a few years later, focusing on law enforcement officers, including police and military personnel. Overall, the Commission has gained significant experience conducting public inquiries across different sectors. With respect to the public inquiry on law enforcement officials, reference was made to the previous inquiry conducted by the Commission. In this context, recommendations were issued to the police and relevant authorities; however, to date, no significant action has been taken in response to these recommendations.

Q & A Session

What is the rationale behind the use, in Malawi, of a High Court judge when inquiries are initiated on the Commission's own accord? Is this related to the nature of the recommendations, in particular, whether they are considered more binding or carry greater authority?

Response from Malawi Human Rights Commission

When a High Court judge leads a public inquiry, the process is conducted through a panel composed of the judge and usually two commissioners assisting. The judge leads the panel in a private capacity and does not act as a judicial officer in this context. The rationale for using a High Court judge is linked to the nature of such inquiries. These are typically cases where no complaint has been received and where the Commission initiates the inquiry on its own motion after identifying a systemic human rights issue in society. In such situations, there is usually a minimal element of prior investigation, and the process proceeds directly to a public inquiry.

Based on experience over time, where inquiries are conducted without preceding investigations, it has been considered appropriate to involve a High Court judge, given their experience in handling similar processes. This approach is therefore applied particularly in cases involving systemic issues identified by the Commission without a formal complaint.

What explains the relatively high compliance rate in the Malawi context, given that institutions such as the South African, the Ghanaian, and the Kenyan commissions experience lower levels of compliance? In this regard, what are the 'teeth' being sought through the amendment of Section 22F, and does this include punitive sanctions or other forms of enforcement powers?

Response from Malawi Human Rights Commission

It should be noted that the high compliance rate has been observed mainly over the past five years. From the early 2000s up to around 2020, including the COVID period, the compliance rate was, in fact, very low. Over time, however, the government, the state and its agencies, as well as the private sector, have come to recognize the independence and impartiality of the Commission in the way it conducts investigations and public inquiries. As a result, trust has been built gradually.

In the case of government entities, when public inquiries are conducted, and they are respondents, there is now a higher level of cooperation. The compliance rate has therefore developed over time and reflects a long-term process, which has taken approximately 20 years to reach its current level.

Section 22F of the Human Rights Commission Act is relatively vague. It provides that the Commission shall conduct investigations or public inquiries and thereafter present

recommendations, but it does not address any follow-up actions. In particular, it does not specify what should happen in cases where a respondent or duty-bearer does not comply with or enforce the recommendations. As a result, there is a gap in the provision. The Commission is therefore proposing that this section be amended through Parliament to include additional measures. In particular, it is suggested that, where a duty-bearer does not comply with recommendations, the Commission should be able to undertake post-investigation or post-inquiry enforcement measures to ensure implementation. (Mr. Jim Kuanda)

Do Kenya, Malawi, and Ghana Commissions have systems in place for monitoring and tracing the implementation of recommendations, including electronic systems that could be used for learning purposes?

Response from Malawi Human Rights Commission

In Malawi, monitoring is carried out through the Research and Documentation Directorate. As previously outlined, the Commission is composed of a legal section, an investigations section, a public awareness section, and a research and documentation section. The latter is responsible for assessing the extent to which duty-bearers or respondents comply with the Commission's recommendations.

NHRIs that have conducted inquiries use various terms. What is the distinction between the use of the terms 'public inquiry', 'national inquiry', and 'investigative inquiry'? Do these refer to different approaches, or are they simply different terms used interchangeably?

Response from the South African Human Rights Commission

SAHRC has conducted both national inquiries and provincial inquiries in the past. With regard to provincial inquiries, these include local government inquiries into service provision, particularly in relation to water. Such inquiries are province specific. For example, inquiries have been conducted in the Free State, KwaZulu-Natal, and the Eastern Cape, each focusing on the specific province concerned. Although the reports are approved by the Commission as a whole and are submitted to the national Parliament, cabinet ministers, and national departments, the focus of these inquiries remains province specific.

The Commission has also conducted national inquiries, which are not province specific. A relevant example is a national inquiry into mental health, where submissions are received from different provinces, but a single national report is issued, as the issue is systemic and affects all provinces.

An investigative report is issued after following an administrative approach. In such cases, the process is led at the provincial level, where a provincial manager conducts activities to obtain information, including site visits and research, in order to finalize an investigative report. However, it does not constitute an inquiry in the sense of a public

inquiry or investigative inquiry, where a number of stakeholders are invited to provide testimony. Rather, it remains primarily an administrative process.

What distinguishes inquiries and investigations in the case of the Ghana Commission? And, what is the basis for the decision as to which one they utilize?

Response from the Ghana Human Rights Commission

The distinction between an investigation and an inquiry is determined by several factors, including the scope, the purpose, and the legal consequences of the report. Inquiries do not primarily seek to establish legal liability but rather serve as a fact-finding process aimed at addressing systemic issues and promoting improvement. They may involve a combination of research and other investigative approaches available to an NHRI. Where a report is intended to address a systemic issue, rather than to establish fault, it may be considered an inquiry. In this context, even where public inquiries are not explicitly provided for in legislation, there is generally no legal limitation preventing the Commission from adopting mixed approaches and conducting inquiries into systemic human rights issues.

Have the Commissions developed a checklist in advance of their inquiries, and, if so, what informs the checklist?

Response from the Ghana Human Rights Commission

The development of inquiries is informed by several factors, including the trend of complaints received by the Commission. For example, in the case of the mining report, complaints from mining communities submitted to field offices across the country informed the decision to undertake a systemic investigation. In addition, media reports are monitored in order to identify human rights issues that may require investigation. Treaty body reports and Universal Periodic Review (UPR) recommendations also provide guidance and serve as important reference points for determining areas for investigation or inquiry.

Response from Kenya Human Rights Commission

The development of a checklist would emanate from the background preparatory work for an inquiry. There is extensive preparatory work that takes place before the inquiry itself, as the inquiry involves the sitting of panelists who listen to the issues raised by various actors. Prior to this stage, leading questions are developed, and relevant witnesses are identified over time. The basis of a checklist would therefore derive from this preparatory work.

What are the steps being undertaken by NHRIs to ensure that vulnerable and refugee groups can access and utilize the findings of inquiries?

Response from Ghana Human Rights Commission

In Ghana, during the COVID period, an inquiry was conducted on the impact of COVID on economic and socio-cultural rights, with particular emphasis on vulnerable groups. The focus included people living in slums, persons with disabilities, women, and children, and how COVID affected their socio-economic rights. These groups are consistently taken into consideration and are included in the work of the Commission, as well as in the tools developed for field activities and related work.

Response from Kenya Human Rights Commission

An inquiry has been conducted on business and human rights in relation to indigenous communities. The focus has been on the follow-up and implementation of recommendations emanating from issues raised by vulnerable and marginalized groups, including indigenous populations. While the Constitution does not explicitly recognize indigenous peoples, it refers to marginalized communities and groups, within which issues relating to women and other vulnerable groups also arise. The approach therefore emphasizes the targeted implementation of recommendations and follow-up actions, with specific attention to vulnerable groups.

What experience is there in conducting public inquiries involving private companies providing public services, such as electricity or water? In particular, how are inquiries conducted where the focus is not directly on public entities, state-owned or municipal authorities, but on private companies whose impact on ESR is significant?

Response from the South African Human Rights Commission

With regard to the involvement of the private sector in socio-economic rights inquiries, there has generally been limited engagement. However, some inquiries have addressed mining activities. For example, the Stilfontein inquiry into illegal mining examined serious human rights violations arising from such activities. In addition, an inquiry conducted in 2018 focused on the role of the mining sector in relation to specific socio-economic and economic rights. This role was examined in detail by the Commission.

Response from Ghana Human Rights Commission

In the context of Ghana, the Ghana Water Company, although a state-owned company and not a private entity, remains within the ambit of the state. In areas such as sanitation, some services are privatized. However, based on experience so far, there have not been significant complaints in relation to sanitation companies or water companies. Most complaints received have instead been related to mining companies.

Response from Kenya Human Rights Commission

With regard to private companies that provide services, there has not yet been experience in this area. However, there are indications that, as the business and human rights

discourse unfolds, this may become relevant. In the Kenyan context, there are signs that the subcontracting of companies in the health sector, for example, to provide digitalization services, may lead to such situations, although this stage has not yet been reached.

Concluding remarks

Foluso Oluwadare Adegalu, NANHRI

It can be observed that NHRIs globally and in Africa increasingly prioritize economic, social, and cultural rights. National inquiries are a potent, strategically important tool that needs legislative and communicative reinforcement (with stakeholders, communities, and the media). The session sought comprehensive data on NHRI activities promoting these rights, particularly their use of national inquiries.

The South African Human Rights Commission was discussed, with recognition that the South African Constitution is widely considered one of the most advanced on the continent, particularly owing to its explicit protection of economic, social, and cultural rights. Specific reference was made to the pertinent provisions, notably sections 24 through 29 and section 35 of the Constitution. Several mechanisms within the operational framework of the South African Human Rights Commission were highlighted. Specifically, in accordance with section 184(3) of the Constitution, the Commission possesses the authority to acquire information from both national and provincial government departments. This capability was identified as a potentially distinguishing characteristic of the South African context. Instances illustrating the utilization of this power were presented, including its application in approximately 26 cases between 2014 and 2024. Concurrently, a number of impediments were noted, encompassing budgetary constraints, inadequate human resources, and difficulties encountered in the government's implementation of the Commission's recommendations. Attention was also directed toward the legal framework, observing that the Commission's decisions do not carry legally binding force. In this respect, the pending ruling of the Constitutional Court in the matter of the South African Human Rights Commission and AgroTech was mentioned. Notwithstanding these challenges, it was observed that the Commission has adopted diverse strategies to address them. These include strategic engagement with stakeholders and the continued employment of the inquiry procedure, particularly given its inherent advantages. Furthermore, emphasis was placed on the criticality of follow-up and the monitoring of the subsequent implementation of recommendations.

The Ghanaian NHRI presented a detailed discussion centred on a case study, encompassing the relevant contextual background of mining communities within Ghana. Specific emphasis was placed on the methodology adopted and the scope of the investigation, which spanned 42 communities. It was observed that, notwithstanding challenges in implementing the recommendations, the inquiry has yielded a demonstrable impact, including its use by other stakeholders, such as academics. The strategic deployment of international human rights

mechanisms, notably the Universal Periodic Review, to monitor the implementation of recommendations was also underscored. The challenges identified were determined to align with those discussed within the South African context, particularly concerning budgetary limitations and deficits in implementation.

It was observed that, akin to the situation in South Africa, the Kenyan NHRI has undertaken several inquiries, notably in relation to mining communities, indigenous communities, and sexual and reproductive rights. Attention was also directed to the inherent challenges of the inquiry methodology, including the financial implications and the protracted nature of the process. These difficulties were noted as consistent across the presentations, particularly concerning the implementation of subsequent recommendations. Furthermore, it was underscored that certain inquiries, such as those pertaining to salt mining and the contamination of water resources, were initiated following the consolidation of multiple complaints received by the Commission into a comprehensive inquiry. This specific methodology was recognized as a particularly valuable practice.

In the context of Malawi, a relatively high level of compliance with the recommendations issued by the Malawi Human Rights Commission is observed. This contrasts with the experience of other institutions, where lower levels of adherence have been noted, and constitutes a positive example of implementation. Attention was also drawn to the dual approach adopted by the Malawi Human Rights Commission, whereby investigations may be conducted either by a High Court judge or by a Commissioner of the Commission. This methodology was highlighted as a beneficial institutional practice. Finally, reference was made to the ongoing legislative amendments, with the anticipation that these reforms will enhance the Commission's capacity to enforce its recommendations.

The meeting has presented as a potential starting point for further engagement and the development of cooperation mechanisms among participating institutions, with a view to supporting research and fostering a network of human rights institutions across different regions. The possibility of establishing a platform for cooperation based on the current initiative was promoted.

The meeting was envisioned as a foundation for subsequent collaboration and the establishment of formal cooperation mechanisms among participating institutions. This would aim to facilitate research and cultivate robust networking and learning among human rights institutions across various regions. The concept of establishing a sustainable platform for cooperation, building upon the momentum of the current initiative, should be actively encouraged.

The **Human Rights Centre ‘Antonio Papisca’** is the University of Padova's structure for research, training, and dissemination on human rights. The Centre was established in 1982 on the initiative of Prof. Antonio Papisca as a systemic response to the Universal Declaration of Human Rights' call to defend human rights through education, and to the UN, UNESCO, and Council of Europe's recommendations on promoting research and education about, through, and for human rights, democracy, and peace. The Centre hosts the UNESCO Chair; coordinates the PhD programme; edits the peer-reviewed scientific journal *Peace Human Rights Governance* and the *Italian Yearbook on Human Rights and Inclusion and Ecosocial Justice* online journals. The Centre has cooperation agreements with local governments, NGOs, national and international bodies, including local and national human rights institutions and reporting and follow-up mechanisms. Website: <https://unipd-centrodirittiumani.it>.

The **Network of African National Human Rights Institutions (NANHRI)** is a regional umbrella body that brings together national human rights institutions. Member institutions are currently 47. NANHRI has been in operation since 2007. Its Secretariat is based in Nairobi, Kenya. Its mission is to support the establishment and strengthening of Paris Principles-compliant national human rights institutions that effectively discharge their mandate, based on the principles of transparency, accountability, integrity, professionalism, and non-discrimination. NANHRI supports co-operation and training to strengthen and develop the monitoring, promotion, protection, and advocacy work of African NHRIs. Website: <https://www.nanhri.org>.

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<https://unipd-centrodirittiumani.it/en/activities/national-human-rights-institutions-nhri-webinar-series-2025-2026>.