

# National human rights institutions engaging with human rights monitoring mechanisms of the United Nations: comparative assessment

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*National human rights institutions are the guardians of human rights at local, regional, national and international level. Their work done in the field justifies their role in international monitoring mechanisms, while their international advocacy supports and strengthens their efforts and impact in their home country. The purpose of the study is to analyse the trends how NHRIs engage with the UN human rights monitoring structure based on the statistics without looking into the content of their submissions and the impact of their engagement.*

*Keywords: national human rights institutions, Paris Principles, human rights treaties, international human rights monitoring bodies, United Nations*

## 1. Introduction

National human rights institutions, as independent bodies, have a crucial role in promoting and monitoring the effective implementation of international human rights standards at national level. This role makes them a significant actor in international human rights monitoring mechanisms: they can provide reliable, detailed and up-to-date information about the human rights situation in the field in any country. In the last decade, national human rights institutions are gaining popularity among citizens as well as researchers partially thanks to their successful advocacy activities in front of international organisations. As of 2021, 117 national human rights institutions (NHRI) were accredited by the Global Alliance for National Human Rights Institutions (GANHRI), 84 as being in full compliance with the Paris Principles (A status) and 33 as being not fully in compliance with the Paris Principles (B status).<sup>1</sup>

In 1993, the United Nations General Assembly adopted the “Principles relating to the status of national institutions” (the so-called “Paris Principles”) and set the scene for the establishment of national human rights institutions worldwide.<sup>2</sup> According to the Paris Principles, national human rights institutions are independent from the government, constitutionally entrenched and legislatively mandated. They should be free to address any human rights issue arising within their mandate, to provide recommendation, advice and guidance for the government and state authorities including legislative procedures and to publish annual reports on the national human rights situation.

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<sup>1</sup> According to the information available on the website of the Global Alliance for National Human Rights Institutions (GANHRI): <https://ganhri.org/membership/> (25 May 2021).

<sup>2</sup> GA Res. 48/134 endorsing the Paris Principles, 20 December 1993.

Furthermore, NHRIs should have the power to consider individual complaints and petitions as well as to carry out effective investigations including compelling and questioning witnesses, accessing documentary evidence and places of detention. They should also ensure that effective remedies - independent advice, advocacy and complaints procedures – are available in case of human rights infringements. The NHRIs should cooperate with national and international actors, including civil society, and whenever it is appropriate, they should undertake mediation and conciliation of complaints.

The Paris Principles established the foundation of the mandate of NHRIs to contribute to the implementation and monitoring of international human rights instruments, which was subsequently elaborated and developed by both national institutions and international monitoring bodies. The aim of the current paper is to analyse the trends how NHRIs engage with the UN human rights monitoring structure based on the statistics without looking into the content of the submissions and the impact of the engagement. Nevertheless, the research has limitations: confidential reports are not included in the public database and errors such as missing submissions or wrong references cannot be excluded neither. It is important to recall that national human rights institutions categorized as such in the UN database are not necessarily accredited by GANHRI or ever assessed to be in compliance with the Paris Principles. The author believes that this wider notion of NHRIs can help to better understand the implementation of the Paris Principles since any of these institutions can request and get granted accreditation already tomorrow.

The research covers the period between January 2009 and October 2020 taking into account that national human rights institutions have been actively engaging with international human rights monitoring bodies in the last ten years, namely with the Committee Against Torture (CAT), the Committee on the Elimination of Discrimination against Women (CEDAW), the Committee on the Elimination of Racial Discrimination (CERD), the Committee on Economic, Social and Cultural Rights (CESCR), the Human Rights Committee (HRCt), the Committee on the Rights of the Child (CRC) and the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW). Moreover, two monitoring bodies of the UN were established recently, namely the Committee on the Rights of Persons with Disabilities (CRPD) in 2009 and the Committee on Enforced Disappearances (CED) in 2011. It is attempted to analyse and compare these nine monitoring bodies throughout the whole study, whenever relevant information or statistics are available.

## **2. Role of national human rights institutions in monitoring international human rights treaties**

Before analysing the statistics of the engagement of national human rights institutions with monitoring bodies, it is noteworthy to recall how their role is determined by the different monitoring bodies depending on their mandate and working methods. Furthermore, with regard to the scope of the present study, particularly relevant that the Paris Principles assume the following obligations to the national human rights institutions:

- to promote and ensure the harmonization of national legislation, regulations and practices with the international human rights instruments to which the State is a party, and their effective implementation;
- to encourage ratification of the international human rights instruments or accession to those instruments, and to ensure their implementation;
- to contribute to the reports which States are required to submit to United Nations

bodies and committees, and to regional institutions, pursuant to their treaty obligations and, where necessary, to express an opinion on the subject, with due respect for their independence;

- to cooperate with the United Nations and any other organization in the United Nations system, the regional institutions and the national institutions of other countries that are competent in the areas of the protection and promotion of human rights.<sup>3</sup>

## 2.1. Committee on the Elimination of Racial Discrimination

The Committee on the Elimination of Racial Discrimination recommended the State parties to engage with national human rights institutions and civil society, in a spirit of cooperation and respect, while preparing their periodic reports and with regard to follow-up.<sup>4</sup> According to the standing of the committee, the NHRIs shall assist the State parties to comply with their reporting obligations and closely monitor the follow-up to the concluding observations and recommendations of the Committee.<sup>5</sup> Nevertheless, the Committee welcomes written information, preferably in the same format as the state reports, from the national human rights institutions separately. The Secretariat of the Committee regularly informs the accredited national human rights institutions about the upcoming review of their respective countries and share with them the copies of the state reports.

Since state reviews are public, representatives of any national human rights institution can attend the meeting as an observer, but they can address the Committee in plenary only if they have “A” status accreditation and the State party concerned agreed to that. In addition to the public sessions, the representatives of national human rights institutions can share, clarify or supplement information in informal meetings with the members of the Committee, outside of the working hours, even if they do not have any accreditation. The Committee can organize informal meetings to discuss issues of major importance for the implementation of the Convention where the State parties can be invited as well.<sup>6</sup>

## 2.2. Human Rights Committee

The Human Rights Committee, overseeing the implementation of the International Covenant on Civil and Political Right, encourages national human rights institutions with accreditation to contribute to the monitoring at the different stages: during the drafting of the list of issues to be sent to the State party, at the discussion of the state report and with regard to the follow-up of the concluding observations. The NHRIs can provide relevant information for the Committee, hold oral presentations during the sessions but they also have the possibility to address the Committee in formal closed or private meetings. The role of national human rights institutions are even more pivotal in cases where the Committee decides to prepare the list of issues in absence of the state report, because they are considered as the most reliable source of information regarding the situation of civil

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<sup>3</sup> Principles relating to the Status of National Institutions (The Paris Principles), Adopted by GA Res. resolution 48/134 of 20 December 1993, para. 3.b)-e)

<sup>4</sup> General recommendation No. 33, Follow-up to the Durban Review Conference, Committee on the Elimination of Racial Discrimination, Seventy-fifth session 3 – 28 August 2009, CERD/C/GC/33, para. 1.g)

<sup>5</sup> General recommendation No. 28., Follow-up to the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, Sixtieth session (2002), para. 2.a)

<sup>6</sup> Overview of the methods of work of the Committee, Chapter B. Report of the Committee on the Elimination of Racial Discrimination on its forty-eighth and forty-ninth sessions. Official Records of the General Assembly, Fifty-first Session, Supplement No. 18 (A/51/18), paras. 587-627.

and political rights in the state concerned.

The First Optional Protocol to the Covenant gives the Committee competence to examine individual complaints with regard to alleged violations of the Covenant by State parties to the Protocol. In relation to this procedure, the NHRIs are also an important partner of the Committee: beside the general promotion of the possibility to turn to the Committee, they can also follow-up and closely monitor the implementation of the views of the Committee in case violation has been found and share this information with the Committee. National human rights institutions can also contribute to the drafting of the General Comments of the Committee interpreting the different provision of this instrument.<sup>7</sup>

### **2.3. Committee on Economic, Social and Cultural Rights**

National human rights institutions are welcome to submit specific, reliable and objective written information relevant for the adoption of the list of issue prior to reporting as well as for the consideration of the state reports at the session for the Committee on Economic, Social and Cultural Rights. Any organization that submitted written information to the Committee, can deliver a statement at the public meeting dedicated for discussion with other stakeholders, but there is also an opportunity to ask for an informal lunchtime briefing. NHRIs can also participate via video message or video-conference.<sup>8</sup>

### **2.4. Committee on the Elimination of Discrimination against Women**

The Committee on the Elimination of Discrimination against Women engages with national human rights institutions in several ways. First, NHRIs are encouraged to prepare alternative reports including country specific information about the implementation of the Convention and the concluding observations of the previous cycle as well as to comment on the written reply of the state to the list of issues. It is possible to submit the alternative report as confidential information; therefore, it is not published on the website of the Committee. The national human rights institutions are welcome to attend the dialogue with the state Party but they can also request a closed meeting with the Committee as a whole or an informal, private meeting in order to ensure effective engagement without fear of intimidation or reprisals. Nevertheless, only NHRIs with “A” status can have a presentation during the dialogue at the session. National human rights institutions are encouraged to support and monitor the implementation of the concluding observations and provide information during the course of the follow-up procedure.

Concerning the individual complaint mechanisms, NHRIs are encouraged, on one hand, to raise awareness about the process, on the other, provide assistance to victims how to submit such a complaint. When the Committee is considering the complaint, national human rights institutions are welcome to provide information concerning the individual case, after the communication is adopted, they can again monitor the implementation of the recommendations of the Committee. The NHRIs have a role during the confidential inquiry procedure, too: they can submit relevant information, meet the Committee during the course of a country visit and follow-up on the im-

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<sup>7</sup> Human Rights Committee Paper on the relationship of the Human Rights Committee with national human rights institutions, adopted by the Committee at its 106th session (15 October–2 November 2012), paras. 8., 19 and 21-22.

<sup>8</sup> Information Note for civil society and national human rights institutions. <https://www.ohchr.org/EN/HRBodies/CE-SCR/Pages/NGOs.aspx> (25 May 2021).

plementation of the recommendations. NHRIs are also encouraged to take part in the discussions during the drafting of General Comments of the Committee.

## **2.5. Committee against Torture and Subcommittee on Prevention of Torture**

In order to identify the role of national human rights institutions in prevention of torture, it is better to start with the Optional Protocol to the Convention against Torture that actually established a special form of NHRIs. According to Article 3 of the Optional Protocol, “each State Party shall set up, designate or maintain at the domestic level one or several visiting bodies for the prevention of torture and other cruel, inhuman or degrading treatment or punishment”. The national preventive mechanisms (NPM) are provided with the same competence and powers as the international monitoring body, the Subcommittee on Prevention of Torture (SPT) and visit places of detention without restrictions and prior announcement. Nevertheless, the Optional Protocol did not state that NPMs should be national human rights institutions but they should comply with the Principles relating to the status of national institutions for the promotion and protection of human rights. In practice and in most of the countries, national human rights institutions were mandated to serve as the national preventive mechanisms under the Optional Protocol.

National human rights institutions can engage with the Committee against Torture regarding the implementation of the Convention irrespective of their status under the Optional Protocol, nevertheless. In practice, NPMs are monitoring the implementation of the Convention on national level, providing written information for the international monitoring body and follow-up on the recommendations given in the concluding observations. From 2010, the country rapporteurs and the relevant member of the Committee can meet with NHRIs in private informal meetings and since 2015, the Committee can offer the possibility of a closed plenary meeting, too.

## **2.6. Committee on the Rights of the Child**

The Committee on the Rights of the Child monitors implementation of the Convention and the two Optional Protocols to the Convention, on involvement of children in armed conflict (OPAC) and on sale of children, child prostitution and child pornography (OPSC) in the State parties. On 19 December 2011, the UN General Assembly approved a third Optional Protocol on a communications procedure (OPIC), entered into force in April 2014, which allow individual children to submit complaints regarding specific violations of their rights under the Convention and its first two optional protocols. All States parties are obliged to submit regular reports to the Committee on the implementation of the Convention and the first two Optional Protocols, respectively.

The Committee emphasized that national human rights institutions should contribute to the reporting procedure independently, although the states can consult them while preparing their reports paying due respect to their independence. However, the CRC Committee explicitly expressed that “it is not appropriate to delegate to NHRIs the drafting of reports or to include them in the government delegation when reports are examined by the Committee.”<sup>9</sup> The Committee publishes practical information concerning the submission of information and the attendance of session or pre-session meeting on their website. Since the Committee can consider individual complaints alleging violations of the Convention on the Rights of the Child and its first two optional protocols (OPAC

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<sup>9</sup> General Comment No. 2 (2002) on the role of independent national human rights institutions in the promotion and protection of the rights of the child, Committee on the Rights of the Child.

and OPSC) by States parties to the OPIC, as well as to carry out inquiries into allegations of grave or systematic violations of rights under the Convention and its two optional protocols, national human rights institutions are expected to engage with the Committee in these two procedures, too.

## **2.7. Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families**

The Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families considered the cooperation with national human rights institutions “critical”.<sup>10</sup> In addition to emphasizing compliance with the Paris Principles, the Committee acknowledges that any institutions can interact with them irrespective of their accreditation with GANHRI – this definitely extends the array of opportunities as institutions might be discouraged to engage with a UN monitoring body if they see on their website the requirement of “A” or “B” status. National human rights institutions can contribute to monitoring at various stages of the reporting cycle by providing written information, attending in-session meetings and follow-up at national level on the implementation of the country-specific recommendations.

In its Guidelines, the Committee defines the content of the information they expect to have from organizations based in the state or having a country office there: “country-specific information, including disaggregated data, on the situation of migrant workers and members of their families, in both regular and irregular situations, with regard to the relevant articles of the Convention and their implementation in the State party, within the scope of work of the reporting entity, including information on groups in situations of vulnerability, e.g., women, children, persons with disabilities, racial and ethnic minorities and lesbian, gay, bisexual, transgender and intersex persons”. Furthermore, country-specific information about the implementation of the Convention, recommendations of the Committee and the efforts made to promote for states the binding declarations to be subject to the interstate and the individual complaint mechanisms or raise awareness around these procedures within the state Party are also welcome. The Guidelines even include a section with suggested language and a recommended structure to be used when NHRIs are submitting information to the Committee.<sup>11</sup>

## **2.8. Committee on Enforced Disappearances**

According to the Committee on Enforced Disappearances, NHRIs as any other stakeholder, can contribute to the monitoring of the Convention at any stage of the periodic reporting cycle. Regarding the consideration of the state reports, national human rights institutions are encouraged to submit concise, specific, reliable and objective information in written where they highlight the main concerns and possible country-specific recommendations.<sup>12</sup> Furthermore, national human rights institutions might play an important role in relation to the urgent action as well as the individual complaint procedure.

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<sup>10</sup> Statement by the Committee on cooperation with national human rights institutions, available at [https://tbinternet.ohchr.org/Treaties/CMW/Shared%20Documents/1\\_Global/INT\\_CMW\\_STA\\_8065\\_E.pdf](https://tbinternet.ohchr.org/Treaties/CMW/Shared%20Documents/1_Global/INT_CMW_STA_8065_E.pdf) (25 May 2021).

<sup>11</sup> Guidelines for submission of reports by United Nations specialized agencies and other bodies, Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, CMW/C/1, 20 June 2018

<sup>12</sup> Guidelines for civil society and National Human Rights Institutions, website of the UN Committee on Enforced Disappearances <https://www.ohchr.org/EN/HRBodies/CED/Pages/CivilSociety.aspx> (25 May 2021).

In accordance with Article 30 of the Convention for the Protection of All Persons from Enforced Disappearance, either the relatives of a person who has reportedly been enforcedly disappeared, their legal representatives, their counsel or any other person authorized by them, as well as any other person having a legitimate interest, may submit a request to the Committee for the person be sought and found as a matter of urgency. In accordance with article 31 of the Convention, any individual person subject to the jurisdiction of a State party who claims to be the victim of a violation of the provisions of the Convention by such State party or by others acting on its behalf, may submit an individual communication to the Committee for its consideration. In both cases, the national human rights institutions can submit relevant information as well as monitor the situation and the implementation of the recommendations of the Committee.<sup>13</sup>

## **2.9. Committee on the Rights of Persons with Disabilities**

In addition to the regular reporting procedures, the Committee the Rights of Persons with Disabilities can receive individual complaints as established by the Optional Protocol to the Convention on the Rights of Persons with Disabilities. Article 33 prescribes that the state Parties should designate or establish an independent mechanism to promote, protect and monitor the implementation of the Convention (IMM) taking into account the Principles relating to the status and functioning of national institutions for protection and promotion of human rights. It might sound practical to designate the national human rights institutions to assume the mandate of the IMM, however, in practice several state Parties are struggling to comply with Article 33 either because they failed to select any national body or because they mandated a body considered not independent by the CRPD. The Optional Protocol furthermore mandates the Committee to start inquiry if receives reliable information indicating grave or systematic violations by a State Party. According to Rule No. 51 of the Committee, “representatives of national human rights institutions may be invited by the Committee to make oral or written statements and provide information or documentation in areas relevant to the Committee’s activities under the Convention to meetings of the Committee”.<sup>14</sup> This rule provides opportunities to engage with Committee similar to the other monitoring bodies explained above.

## **3. Comparative analysis of the engagement of national human rights institutions with international human rights monitoring bodies**

### **3.1. Which monitoring body is “the most popular” among NHRIs according to the numbers?**

As explained in the previous chapter, national human rights institutions are playing a crucial role in promoting and monitoring the effective implementation of international human rights standards at the national level, among others, by the way of active engagement with the international monitoring bodies. For the purpose of the study, all (non-confidential) contributions of national human rights institutions were identified in the UN database and the separate databases of the monitoring

<sup>13</sup> The relationship of the Committee on Enforced Disappearances with national human rights institutions, CED/C/6 [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CED/C/6&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CED/C/6&Lang=en) (25 May 2021).

<sup>14</sup> Committee on the Rights of Persons with Disabilities, Rules of procedure, CRPD/C/1/Rev.1. [https://www.un.org/en/ga/search/view\\_doc.asp?symbol=CRPD/C/1/Rev.1](https://www.un.org/en/ga/search/view_doc.asp?symbol=CRPD/C/1/Rev.1) (25 May 2021).

bodies covering the period between January 2009 and October 2020.<sup>15</sup>

The highest number of contribution (98) from national human rights institutions were submitted to the Committee against Torture (since 1988), while 16 NHRIs submitted information already for two reporting cycles. Nevertheless, not all National Preventive Mechanisms are NHRIs, for example the La Procuración Penitenciaria de la Nación Argentina (Argentina), Le Contrôleur général des lieux de privation de liberté (France), Nacional de Prevención de la Tortura, Penas o Tratos Crueles, Inhumanos o Degradantes (Guatemala), Mecanismo y Comité Nacional de Prevención Contra la Tortura y Otros Tratos Crueles, Inhumanos y Degradantes (Honduras), National Guarantor for the Rights of Persons Detained or Deprived of Liberty (Italy), Le Mécanisme national de prévention de la torture Mauritanien (Mauritania), Mecanismo nacional de prevención de la tortura NPM (Paraguay) and the UK National Preventive Mechanism (United Kingdom). On the other hand, the ombudsman can be designated as NPM, among others, in Armenia, Azerbaijan, Croatia, Cyprus, Czech Republic, Denmark, Finland, Hungary, Norway, Poland, Portugal and Serbia. It is worth to mention that the Italian NPM submitted a report recently to the Committee on Enforced Disappearances, too.

The second most popular addressee of NHRI submission is the Committee on the Elimination of Racial Discrimination (established in 1970). Out of 72 submissions, 20 were prepared by an NHRI that took part in two reporting cycles. On two occasions, NHRIs shared information concerning a state party other than where they are established: Public Defender of Rights of the Czech Republic and the Deputy-Commissioner for Minority Rights of Hungary submitted a report for the review of Canada, while the Public Defender of Georgia for the review of the Russian Federation. This has not happened yet in the context of any other human rights treaty monitoring of the UN.

Until October 2020, the Committee on the Elimination of Discrimination against Women (since 1982) has received 67 NHRI submissions. The national human rights institutions from Chile, Norway, Qatar and the United Kingdom contributed to two reporting cycles; moreover, more than one NHRI submitted information from Finland, Mexico, Norway and the United Kingdom. Besides the NHRIs accredited by ICC, several specific national body have engaged with the Committee, for example the Equal Opportunities Commission of China, National Commission on Violence against Women of Indonesia, National Women's Commission of Nepal and the Swiss Federal Commission for Women's Issues.

The Committee on Economic, Social and Cultural Rights (established in 1980) was addressed by 62 submissions from national institutions during the period covered by the current research. The Independent Monitoring Mechanism of New Zealand and the Norwegian Parliamentary Ombudsman, National Preventive Mechanism (NPM) of Norway prepared a thematic report focusing on the overlap between the ICESCR and the CRPD as well as the CAT. Most probably several NHRIs mandated as IMM and NPM engage with the ESCR Committee, but in these two cases the national institutions explicitly presented the report as an NHRI with specific mandate to monitoring the implementation of the conventions concerned.

The Committee on the Rights of Persons with Disabilities (functioning since 2009), received 50 submissions. The Australian Human Rights Commission and the Defensoria del Pueblo de Ecuador were already engaged in two reporting cycles, while 6 national bodies including the United Kingdom Independent Mechanism (UKIM) submitted information for the review of the United Kingdom of Great Britain and Northern Ireland in 2017.

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<sup>15</sup> The Treaty Body database. [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/TBSearch.aspx?Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/TBSearch.aspx?Lang=en) (1 October 2021).

National human rights institutions submitted contributions 44 times to the Committee on the Rights of the Child (established in 1991). The Austrian Ombudsman Board sent information for the latest two reviews of Austria (2012, 2020), while in case of Denmark, France, Ireland, Netherlands, New Zealand and United Kingdom of Great Britain and Northern Ireland more than one NHRI engaged with the Committee and at least one of them was a Children's Ombudsman. In total, 12 of 34 NHRIs were dedicated to promote and protect particularly children's rights.

The Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families (since 2004) received 19 submissions from 16 different national human rights institutions. The Human Rights Ombudsman of Bosnia and Herzegovina submitted information for two cycles, in 2009 and 2019, while in case of the review of Argentina and Indonesia, two institutions engaged with the Committee.

The lowest number of NHRI submission has arrived to the Committee on Enforced Disappearances. Nevertheless, it has to be noted that this monitoring body has been functioning since 2011, but, at the same time, it considered an NHRI report already at its 4<sup>th</sup> session. Furthermore, the Iraqi High Commission for Human Rights sent information for two monitoring cycles (2015, 2020).

### **3.2. Which factors determine the engagement of national human rights institutions with international human rights monitoring bodies?**

After the presentation of the data available regarding the engagement of national human rights institutions with monitoring bodies of the United Nations, an attempt is made to list and discuss the factors that can determine such engagement. It is to recall that the date of establishment of each monitoring body was already mentioned above in order to provide the first point of reflection.

#### **3.2.1. Number of ratifications and respect for monitoring obligations**

Although the Paris Principles stipulate that national human rights institutions encourages the signature and ratification of human rights treaties, the NHRIs can monitor the implementation of a human rights treaty and engage with its monitoring body once the treaty is ratified by the State Party. For the purpose of this article, it is worth to note the number of ratifications (already in the descending order):

- Convention on the Rights of the Child: 196 State Parties,
- Convention on the Elimination of All Forms of Discrimination against Women: 189 State Parties,
- International Convention on the Elimination of All Forms of Racial Discrimination: 182 State Parties,
- Convention on the Rights of Persons with Disabilities: 182 State Parties.
- International Covenant on Civil and Political Rights: 173 State Parties,
- International Covenant on Economic, Social and Cultural Rights: 171 State Parties,
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment: 171 State Parties and its Optional Protocol: 91 State Parties,
- International Convention for the Protection of All Persons from Enforced Disappearance: 63 State Parties,
- International Convention on the Protection of the Rights of All Migrant Workers and

Members of Their Families: 56 State Parties.

Furthermore, another factor to take into account is the level of engagement of states with the different human rights monitoring bodies that can be measured through the respect of reporting deadlines. Delays in the submission of the state reports hamper the implementation of the conventions in the States parties and the ability of the committees to carry out their function of monitoring. Consequently, it also restricts the space of manoeuvre of national human rights institutions because they can engage with the relevant Committee and update them about the implementation of the relevant Convention only once the state report is submitted and is under scrutiny. At the same time, this must be a cautious assessment because monitoring bodies with decades-long practice have probably more backlog than committees functioning only for some years.

Nevertheless, the Committee on the Elimination of Racial Discrimination reported the highest number of delayed state report: 43 were at least 10 years late with the submission of the report about the implementation of the Convention, while 17 other State parties more than 5 years late.<sup>16</sup> With regard to the situation of long-overdue reports to submitted to the Committee on Economic, Social and Cultural Rights, as at 18 October 2019, 27 States parties had initial reports overdue for submission to the Committee of which, 18 were more than 10 years overdue.<sup>17</sup> According to the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, functioning since 2004, 18 States parties had not yet submitted their initial and periodic reports.<sup>18</sup> The Committee on Enforced Disappearances, established in 2011, noted that the reports of 17 states were significantly overdue including two State Parties that had been among the first to ratify the Convention.<sup>19</sup> According to the latest annual report Committee on the Elimination of Discrimination against Women, the follow-up reports of 7 States were overdue.<sup>20</sup>

The Committee on the Rights of People with Disabilities did not provide such information its annual report, while the Committee on the Rights of the Child shared that currently there is no overdue initial state report.<sup>21</sup> The Human Rights Committee regrettably noted serious delays since the establishment of the Committee and emphasized that States with overdue reports are in default of their obligations under that article. As a solution, the Committee has been reviewing States parties with long overdue reports in the absence of their reports.<sup>22</sup> The Committee against Torture also reported that initial and periodic reports were overdue and, as at 15 May 2020, it offered the simplified reporting procedure for 13 States with long-overdue initial reports and examined the situation of two

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<sup>16</sup> Report of the Committee on the Elimination of Racial Discrimination, Ninety-ninth session (5–29 August 2019) and 100th session (25 November–13 December 2019) General Assembly, A/75/18, 2020.

<sup>17</sup> Committee on Economic, Social and Cultural Rights, Report on the sixty-fifth and sixty-sixth sessions, (18 February–8 March 2019, 30 September–18 October 2019), E/2020/22 E/C.12/2019/3.

<sup>18</sup> Report of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families Thirty-first session, (2–11 September 2019), A/75/48.

<sup>19</sup> Report of the Committee on Enforced Disappearances, Seventeenth session (30 September–11 October 2019), Eighteenth session (4 May (online) and 7 September 2020), A/75/56.

<sup>20</sup> Report of the Committee on the Elimination of Discrimination against Women, Seventy-third session (1–19 July 2019).

Seventy-fourth session, (21 October–8 November 2019), Seventy-fifth session (10–28 February 2020), A/75/38, 2020.

<sup>21</sup> Report of the Committee on the Rights of the Child, Seventy-eighth session (14 May–1 June 2018), Seventy-ninth session (17 September–5 October 2018), Eightieth session (14 January–1 February 2019), Eighty-first session (13–31 May 2019), Eighty-second session (9–27 September 2019), Eighty-third session (20 January–7 February 2020), Extraordinary eighty-fourth session (2–6 March 2020), A/75/41, 2020.

<sup>22</sup> Report of the Human Rights Committee, 126th session (1–26 July 2019), 127th session (14 October–8 November 2019), 128th session (2–27 March 2020), A/75/40, 2020.

of those States in the absence of a report.<sup>23</sup>

We can conclude that the number of ratifications is a significant factor as it opens the opportunity for advocacy at the level of the United Nations regarding the treaty concerned, however, the level of state activism and respect for reporting deadlines are just indicative factors due to lack of further information.

### **3.2.2. Level of designation of the mandate to engage with international human rights monitoring bodies**

Out of the nine the major UN human right treaties, two of them require the establishment of institutions in compliance with the Paris Principles to monitor the implementation of the respective Convention on national level. Designation of a national monitoring body by an international convention is certainly the strongest legal basis for NHRIs: the state parties agree to the provision by signing and ratifying the convention therefore, they can be found of breaching the convention by not doing so. Nevertheless, it has to be recalled that these two instruments are among the latest developments in the human rights protection field building on the experiences of monitoring bodies with national human rights institutions.

The first instrument is the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The human rights structure related to torture and other cruel, inhuman or degrading treatment or punishment is quite atypical within the UN system. The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted in 1984, aims to build more effective the struggle against torture and other cruel, inhuman or degrading treatment or punishment throughout the world. The Committee Against Torture (CAT) is assigned to monitor the implementation of the Convention in the state Parties via the periodic reporting procedure and the complaint procedure. An Optional Protocol to the Convention was adopted in order “to establish a system of regular visits undertaken by independent international and national bodies to places where people are deprived of their liberty, in order to prevent torture and other cruel, inhuman or degrading treatment or punishment” and a separate, independent body, the Subcommittee on Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (SPT) was set up to carry out the activities foreseen by the Optional Protocol. As it was mentioned previously, this Optional Protocol established a special form of NHRIs. According to Article 3 of OP, “each State Party shall set up, designate or maintain at the domestic level one or several visiting bodies for the prevention of torture and other cruel, inhuman or degrading treatment or punishment”.

The national preventive mechanisms (NPM) are provided with the same competence and powers as the international monitoring body, the SPT, they can visit places of detention without restrictions and prior announcement. Nevertheless, the OP did not state that NPMs should be national human rights institutions but they should comply with the Principles relating to the status of national institutions for the promotion and protection of human rights. In practice, in most of the countries, the national human rights institutions were mandated to serve as the national preventive mechanisms under the Optional Protocol. The NPMs are supported by the SPT in terms of capacity-building including training, technical assistance and visits. National preventive mechanisms are established

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<sup>23</sup> Report of the Committee against Torture, Sixty-seventh session (22 July–9 August 2019), Sixty-eighth session (11 November–6 December 2019), A/75/44.

already in 65 states out of the 90 Parties to the Optional Protocol, while the SPT is supporting the setting up of designated bodies in the rest of the countries. The SPT, in line with its mandate to provide advice and technical assistance, developed several tools for NPMs: Guidelines, Practical Guide and an Assessment tool but also published the compilation of advices provided for NPMs on their website.

The second treaty is Convention on the Rights of Persons with Disabilities as the most recent UN human rights convention and milestone in the protection of the persons with disabilities since it contributed to a paradigm change by introducing the social model of disability. Under the Convention, “persons with disabilities include those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others”. The guiding principles include the respect for dignity and individual autonomy, non-discrimination, full and effective participation and inclusion in society, respect for difference and acceptance of persons with disabilities as part of human diversity and humanity, equality of opportunity, accessibility, equality between men and women and respect for the evolving capacities of children with disabilities and respect for the right of children with disabilities to preserve their identities.

The drafters of the Convention considered the practice and experience of other independent monitoring bodies with national human rights institutions when they decided to include one particular provision about the national implementation and monitoring of the Convention. Article 33 prescribes that the state Parties should designate or establish an independent mechanism to promote, protect and monitor the implementation of the Convention (IMM) taking into account the Principles relating to the status and functioning of national institutions for protection and promotion of human rights. It might sound practical to designate the national human rights institutions to assume the mandate of the IMM, however, in practice several state Parties are struggling to comply with Article 33 either because they failed to select any national body or because they mandated a body considered not independent by the CRPD Committee.

If there is no explicit reference in the text of the treaty, monitoring bodies can lay down the framework of NHRI engagement in a soft law instrument in order to strengthen the role of national human rights institutions. Although at the time of the adoption of the International Convention on the Elimination of All Forms of Racial Discrimination, in 1965, national human rights institutions were not on the horizon yet, we can find some references to their mandate and scope of work. Article 6 states the right to effective protection and remedies against racial discrimination through competent national tribunals or other state institutions, which might be relevant especially in cases when the national human rights institution has quasi-jurisdictional competence. Article 7 prescribes the obligation to promote understanding, tolerance and friendship among nations and racial or ethnical groups and raise awareness about the human rights instruments of the United Nations, including the Convention itself, particularly in the field of education. By the adoption of the Paris Principles, human rights education in general and awareness-raising and fight against racial discrimination in particular were declared as a competence and responsibility of the human rights institutions.

Based on the above discussed, in 1993, following the adoption of the Paris Principles, the Committee on the Elimination of Racial Discrimination (CERD) adopted a General Recommendation on the establishment of national institutions to facilitate the implementation of the Convention (No. 17) with reference to the need to strengthen further the implementation of the Convention. The Committee recommended the State Parties to the Convention to establish national human rights institutions with the aim:

- a) to promote respect for the enjoyment of human rights without any discrimination,

as expressly set out in article 5 of the International Convention on the Elimination of All Forms of Racial Discrimination;

(b) to review government policy towards protection against racial discrimination;

(c) to monitor legislative compliance with the provisions of the Convention;

(d) to educate the public about the obligations of States parties under the Convention;

(e) to assist the Government in the preparation of reports submitted to the Committee on the Elimination of Racial Discrimination.<sup>24</sup>

In 2002, the Committee on the Rights of the Child issued a General Comment on the role of independent national human rights institutions in the promotion and protection of the rights of the child showing strong support towards these institutions. According to the Committee, “Article 4 of the Convention on the Rights of the Child obliges States parties to undertake all appropriate legislative, administrative and other measures for the implementation of the rights recognized in the present Convention. Independent national human rights institutions (NHRIs) are an important mechanism to promote and ensure the implementation of the Convention, and the Committee on the Rights of the Child considers the establishment of such bodies to fall within the commitment made by States parties upon ratification to ensure the implementation of the Convention and advance the universal realization of children’s rights. In this regard, the Committee has welcomed the establishment of NHRIs and children’s ombudspersons/children’s commissioners and similar independent bodies for the promotion and monitoring of the implementation of the Convention in a number of States parties.”<sup>25</sup> The Committee recommended a series of activities for national human rights institutions:

- within the scope of their mandate, to investigate violation of children’s rights ex officio or based on a complaint,
- to prepare and widely disseminate reports, opinions and recommendations about the protection and promotion of children’s rights,
- to promote the harmonization of domestic laws and the Convention and to provide support for state authorities to engage in practices which are in compliance with the Convention,
- to ensure that the impact of laws and policies on children is carefully considered from development to implementation taking into consideration the best interests of children,
- to ensure that children participate in public decision-making procedures,
- to raise awareness and educate children, adults, professionals alike about children’s rights,
- to take legal proceedings on behalf of the children and provide legal assistance for them and their families,
- to provide expertise in children’s rights to the courts as *amicus curiae* or *intervenor*.

Furthermore, the CRC Committee promotes the establishment of independent national institutions dedicated to the protection for children’s rights by monitoring the situation of NHRIs in the countries and by recommending the establishment of such institutions in the concluding observations.

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<sup>24</sup> General recommendation XVII on the establishment of national institutions to facilitate the implementation of the Convention, Forty-second session (1993), para.1.

<sup>25</sup> Committee on the Rights of the Child, General Comment No. 2 (2002), The role of independent national human rights institutions in the promotion and protection of the rights of the child, CRC/GC/2002/2. [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2fGC%2f2002%2f2&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2fGC%2f2002%2f2&Lang=en) (25 May 2021).

Although, national human rights institutions are not mentioned by the International Covenant on Civil and Political Rights, as being adopted decades ahead of the Paris Principles, the Human Rights Committee (HRCt), monitoring body of the Convention considers NHRIs as a competent authority providing effective remedy for the victims of the violations under Article 2 of the Convention. In 2012, the Human Rights Committee issued a Paper on its relationship with national human rights institutions acknowledging their importance for the promotion and implementation of the Convention at the domestic level.<sup>26</sup> The Committee emphasized that this relationship is distinct and independent from the government or any other stakeholder.

State Parties to the Convention on the Elimination of All Forms of Discrimination against Women, adopted in 1979, condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women. In 2008, in order to acknowledge the role of national human rights institutions regarding the promotion of the implementation and monitoring of the Convention, the Committee on the Elimination of Discrimination against Women issued a statement.<sup>27</sup> In 2019, the Committee adopted a Guidance Note, building on the previous Statement but at the same time taking into account procedures and practices developed since by other treaty bodies and comments received during the consultation process.<sup>28</sup> According to the Guidance Note, national human rights institutions should promote the signature, ratification and lifting of reservation, raise awareness about the Convention as well as the individual complaints and inquiry procedures and promote human rights education and training aiming to combat discrimination against women. In case of NHRIs with quasi-judicial mandate, women should have access to the complaint procedures and legal services on equal basis with men. The Committee encourages national human rights institutions to include gender perspective in all their submission, proposal and recommendations addressed to the government.

The aim of the International Convention on the Protection of the Rights of All Migrant Workers is to provide the basis of international protection for all migrant workers (documented or in a regular situation) and their family members by declaring the full list of human rights: right to life, prohibition of slavery and servitude, freedom of thought, conscience and religion, freedom of expression, protection of privacy, right to liberty and security and the right to receive urgent medical care. The Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families that oversees the implementation of the Convention adopted a Statement and a set of Guidelines for submission of reports by United Nations specialized agencies and other bodies, including national human rights institutions in 2018.<sup>29</sup> The Committee also made available a 6-page summary about the structure and content of the other stakeholders' submissions.

The International Convention for the Protection of All Persons from Enforced Disappearance, aiming to prevent enforced disappearances and to combat impunity for the crime of enforced disap-

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<sup>26</sup> Paper on the relationship of the Human Rights Committee with national human rights institutions, adopted by the Committee at its 106th session (15 October–2 November 2012), CCPR/C/106/3. [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2f106%2f3&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2f106%2f3&Lang=en) (25 May 2021).

<sup>27</sup> Statement by the Committee on the Elimination of Discrimination against Women on its relationship with national human rights institutions, E/CN.6/2008/CRP.1. <https://www.ohchr.org/Documents/HRBodies/CEDAW/Statements/StatementOnNHRIs.pdf> (25 May 2021).

<sup>28</sup> Paper on the cooperation between the Committee on the Elimination of Discrimination against Women and National Human Rights Institutions, Adopted by the Committee at its seventy-fourth session (21 October–8 November 2019). [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT/CEDAW/BAP/8997&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT/CEDAW/BAP/8997&Lang=en) (25 May 2021).

<sup>29</sup> Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, Guidelines for submission of reports by United Nations specialized agencies and other bodies, CMW/C/1. [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CMW/C/1&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CMW/C/1&Lang=en) (25 May 2021).

pearance was adopted in 2006 and came into force in 2010. In 2014, the independent body assigned to oversee the implementation of the Convention, the Committee on Enforced Disappearances, adopted a document on the engagement with national human rights institutions.<sup>30</sup> According to the Committee, NHRIs, as any other stakeholder can contribute to the monitoring of the Convention at any stage of the periodic reporting cycle. Regarding the consideration of the state reports, national human rights institutions are encouraged to submit concise, specific, reliable and objective information in written where they highlight the main concerns and possible country-specific recommendations. Nevertheless, all submissions should:

1. Identify the NHRI (anonymous information is not accepted).
2. Be relevant to the Committee's mandate.
3. Indicate the State party to which the information relates.
4. Indicate whether the submission should be considered confidential or can be posted on the Committee's website. All submissions will be posted on the Committee's website unless identified as "confidential".
5. Not contain names of victims, except if related to public cases or if the consent of the victims or relatives is obtained.
6. Be submitted in English, French or Spanish. As most CED members use English as their working language, documents submitted in French and Spanish should, to the extent possible, be translated into English. Please note that the Secretariat does not translate documents submitted by NHRIs.
7. Be transmitted to the Secretariat within the deadlines indicated in the NHRI information note that will be available on the Committee's website under the relevant session.<sup>31</sup>

The independent monitoring body of the International Covenant on Economic, Social and Cultural Rights, the Committee on Economic, Social and Cultural Rights (CESCR) has not adopted any document or standing regarding the role of national human rights institutions but the Secretariat included a short information note on the website to explain the practicalities of engagement for both non-governmental organizations and NHRIs.<sup>32</sup>

### **3.2.3. Accreditation and conditions of engagement with the UN monitoring bodies**

The accreditation of national human rights institutions by the Global Alliance for National Human Rights Institutions is a method to enhance compliance with the Paris Principles, but at the same time, it brings about prestige associated with the fully compliant "A" status. Furthermore, the possibility to attend the meetings of the Human Rights Council and to speak at sessions, which is open

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<sup>30</sup> The relationship of the Committee on Enforced Disappearances with national human rights institutions, CED/C/6. [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CED/C/6&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CED/C/6&Lang=en) (25 May 2021).

<sup>31</sup> Guidelines for civil society and National Human Rights Institutions, website of the UN Committee on Enforced Disappearances <https://www.ohchr.org/EN/HRBodies/CED/Pages/CivilSociety.aspx> (25 May 2021).

<sup>32</sup> Information Note for civil society and national human rights institutions <https://www.ohchr.org/EN/HRBodies/CESCR/Pages/NGOs.aspx> (25 May 2021).

only for institutions with “A” status, can be also attractive. In general, the opportunity to submit information and meet with the monitoring body outside of sessions is open for any national human rights institution irrespective of their accreditation with GANHRI. In case of the Committee on the Elimination of Racial Discrimination and the Committee on the Elimination of Discrimination against Women, only NHRIs with “A” status can take the floor during the session and hold a presentation. On one hand, accreditation as a condition of engagement can ensure the independence of the institution and therefore the reliability of the information provided. On the other hand, it might restrict the array of opportunities as institutions might be discouraged to engage with a UN monitoring body when they are informed about the requirement of an “A” or “B” status. This can be a regrettable case because the insight gained from an independent, national body designated to monitor human rights violations, even without GANHRI accreditation, can be extremely valuable.

Furthermore, another important condition of NHRI engagement is to have all the necessary and relevant information about cooperation with the monitoring bodies available and accessible. Guidelines encompassing the practicalities of engagement with a monitoring body particularly addressed to national human rights institutions are arguably facilitate the preparation of alternative reports, follow-up information on the concluding observations and exchange of information regarding the situation of a victim who filed a complaint with the monitoring body. In some cases, information addressed to NHRIs is hidden on the website under guidelines for civil society actors (CERD Committee). In a better case, specific section is addressed to civil society organisations and national human rights institutions together (CESCR, CAT, CRC and CED Committee). The website of the Human Rights Committee, Committee on the Elimination of Discrimination against Women and Committee on Migrant Workers contains guidelines specifically addressed to NHRI, while the Committee on the Rights of Persons with Disabilities explains the framework of engagement with the Independent Monitoring Mechanisms and the Subcommittee on Prevention of Torture with the National Preventive Mechanisms.

It is difficult to measure how the condition to have accreditation with GANHRI might affect the NHRI’s motivation to cooperate with the monitoring bodies. It is presumable that the secretariats of the committees have always been finding a solution, for example, by offering private meetings or videoconferences for national human rights institutions. Similarly, easy access to public information regarding the engagement with the monitoring mechanisms is important but national human rights institutions can address the secretariats for further information anytime. It is worth to mention that networks of national human rights institutions – such as Global Alliance for National Human Rights Institutions or the European Network of National Human Rights Institutions – regularly holds trainings and workshops to empower their members to engage with international organizations.<sup>33</sup>

#### **4. The other side of the coin: which national human rights institutions were the most active at global level?**

Which human rights treaty body is targeted by the advocacy of national human rights institutions also depends on the political, social and economic context of the state where such an institutions is established as well as internal factors such human and financial resources at the disposal of the institution. After analysing the database of NHRI contributions to UN monitoring bodies, it has to be noted that two thirds of national human rights institutions (91 out of 145) that ever engaged with international human rights monitoring actually submitted contribution for more than one report-

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<sup>33</sup> For examples see the website of GANHRI: <https://ganhri.org/training-course-for-nhris/> (25 May 2021).

ing cycle concerning the implementation of the same convention or for more than one monitoring body. According to the public data available, 24 national human rights institutions reported 2 times, 13 institutions 3 times, 10 institutions 4 times, 16 institutions 5 times, 6 institutions 6 times, 7 institutions 7 times and 8 institutions 8 times. Below, the institutions occupying the three positions of an imaginary podium of international advocacy are discussed with the intention to discover the profiles of these NHRIs.

The most active institution is the Equality and Human Rights Commission from the United Kingdom by engaging 11 times with the UN human rights treaty monitoring system. This means that they contributed to the monitoring of all UN human treaties ratified by the United Kingdom at least in one reporting cycle in the last decade (two times in case of the monitoring of the implementation of the CAT, CEDAW, CESCER and CERD). The Equality and Human Rights Commission is a national equality body and an “A” status national human rights institution. According to their mission, they operate independently to strengthen human rights protection and equality legislation, including promoting awareness, understanding and protection of human rights, encouraging public authorities to comply with the Human Rights Act and protecting those most at risk of human rights abuses. As emphasized on their website, the Equality and Human Rights Commission monitors the human rights situation in the UK and report their findings and recommendations to the UN, the government and Parliament.<sup>34</sup>

The second position on the imaginary podium – with 10 overall submissions - is shared by the Human Rights Ombudsman of Bosnia and Herzegovina, the Chilean National Human Rights Institute and the Northern Ireland Human Rights Commission. The three institutions contributed to the monitoring cycle of all UN human treaties ratified by their respective states in the last ten years, in some cases, already on two occasions if another state review was to be delivered within this period. Furthermore, all of them hold an “A” status accreditation, therefore they are in full compliance with the Paris Principles - but they slightly differ in their nature and structure.

The Human Rights Ombudsman of Bosnia and Herzegovina is an independent institution dealing with protection of rights of natural persons and legal entities in accordance with the Constitution and international human rights instruments ratified by the state. The Ombudsman handles complaints related to poor functioning or to human rights violations committed by any state organ upon individual complaints or ex officio. It initiates legislative and regulatory amendments and adoption with an aim of harmonization of domestic laws with international human rights standards and ensuring the enhancement of human rights and fundamental freedoms and cooperates with all national and international authorities and institutions involved in the protection of human rights and fundamental freedoms, in accordance with the Constitution and relevant legislation.<sup>35</sup>

The Chilean National Human Rights Institute is an autonomous public law corporation aimed at promoting and protecting the human rights of all people living in Chile. It monitors and prepares recommendations for the fulfilment of the commitments adopted by the State of Chile in the area of human rights and strengthens the cooperation network with national and international organizations. The Institute is directed by a Council that is in charge of making the most relevant institutional decisions. This Council is made up of 11 people with recognized experience in human rights who are appointed for a period of six years. As an agent of change in human rights, the Institute strengthens

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<sup>34</sup> <https://www.equalityhumanrights.com/en/human-rights/our-human-rights-work> (25 May 2021).

<sup>35</sup> For more information see the official website of the institution: <https://www.ombudsmen.gov.ba/Default.aspx?id=10&lang=EN> (25 May 2021).

the cooperation with national and international organizations.<sup>36</sup>

The Northern Ireland Human Rights Commission, established on the basis of the Belfast (Good Friday) Agreement, is funded by United Kingdom government, but is an independent public body that operates in full accordance with the UN Paris Principles. The Commission provides advice to the UK government and Westminster Parliament on matters affecting human rights in Northern Ireland, provides legal assistance to individuals and initiating strategic cases, including own motion legal challenges and monitors the implementation of international human rights treaties and reporting to the United Nations and Council of Europe. The Commission is also designated, with the Equality Commission, under the United Nations Convention on the Rights of Disabled Persons as the independent mechanism tasked with promoting, protecting and monitoring implementation of Convention in Northern Ireland. Furthermore, they also engage with other the national human rights institutions in the United Kingdom on issues of common interest. The Commission promotes the harmonisation of all legislation applicable in Northern Ireland, whether enacted by the Westminster Parliament or Northern Ireland Assembly, with international and regional human rights standards. It monitors and reports on compliance to the United Nations and Council of Europe. It aims to secure additional commitments from the United Kingdom Government to ratify and remove all reservations for human rights treaties and regional European instruments.<sup>37</sup>

The Australian Human Rights Commission, the Human Rights Ombudsman of Guatemala and the New Zealand Human Rights Commission submitted information regarding the monitoring of UN human rights treaties 9 times and therefore occupies the third position of the imaginary podium. The three institutions contributed to the monitoring cycle of almost all UN human treaties ratified by their respective states in the last ten years, in some cases, already on two occasions if the another state review came up within this period. Like the most active institutions, these three national human rights institutions are in full compliance with the Paris Principles and accredited with an “A” status with GANHRI.

The Australian Human Rights Commission aims to ensure that Australians have access to effective, independent complaint handling and public inquiry processes on human rights and discrimination matters, and benefit from their human rights education, advocacy, monitoring and compliance activities. The institution is composed of a President, seven commissioners focusing on different fields and a chief executive. The Commission has a responsibility to monitor Australia’s performance in meeting its international human rights commitments, therefore it provides advice and recommendations so that these standards are reflected in our national laws, as well as policies and programs developed by government.<sup>38</sup>

The Human Rights Ombudsman of Guatemala is a commissioner of the Congress of the Republic to defend of human rights established in the Constitution of the Republic of Guatemala, the Universal Declaration of Human Rights, international treaties and conventions accepted and ratified by the country. While fulfilling its powers, it is not subject to any institution or official and acts with absolute independence. The ombudsman is assisted by two deputies, who can substitute him/her in case of impediment or temporary absence and will occupy the position in case it remains vacant until the new holder is elected. Their procedure is initiated either by ex officio or based on a complaint.<sup>39</sup>

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<sup>36</sup> For more information see the official website of the institution: <https://www.indh.cl/en/idiomas-en/> (25 May 2021).

<sup>37</sup> <https://www.nihrc.org/publication/category/Treaty-and-international-work> (25 May 2021).

<sup>38</sup> <https://humanrights.gov.au/about> (25 May 2021).

<sup>39</sup> <https://www.pdh.org.gt/tramites/denuncias.html> (25 May 2021).

The New Zealand Human Rights Commission was set up in 1977 and works under the Human Rights Act 1993 with the purpose to promote and protect the human rights of all people in Aotearoa New Zealand. Accordingly, it supports the implementation and monitoring of the New Zealand Human Rights Action Plan, organizes activities aiming education, advocacy and promotion of human rights and responds to human rights complaints as well as provides legal representation. Another important role of the Commission is to monitor and report on compliance with New Zealand law and international human rights instruments, as it is explained on their website, this is of high importance because the United Nations and other international agencies are increasingly looking to NHRIs for human rights advice and to monitor the progress countries make towards the realisation of human rights.<sup>40</sup>

However, in the previous chapter it was not feasible to draw any conclusions regarding the significance of the “A” status accreditation, based on the analysis above looking into the profile of the most active national human rights institutions we can clarify that institutions fully in compliance with the Paris Principles are actively engaging with international human rights monitoring mechanisms. Since international advocacy is a precondition of the “A” status accreditation, we can conclude that the institutions dedicating their efforts to gain accreditation also want to make the best of it and engage with the UN and vice versa in a substantive way.

## 5. Conclusions

Besides cooperation with international organizations in general, the Paris Principles require national human rights institutions to contribute to the reports which States are required to submit to United Nations bodies and committees pursuant to their treaty obligations and, where necessary, to express an opinion on the subject, with due respect for their independence. NHRIs can contribute to monitoring at various stages of the reporting cycle by providing written information, attending in-session meetings and follow-up at national level on the implementation of the country-specific recommendations. In case of monitoring bodies with early-warning, inquiry or complaint procedures, national human rights institutions can play a role as well but since it is more informal and - most of the time - confidential, the study focused only on the alternative reports submitted by national human rights institutions.

The analysis undertaken in this study also confirmed that national human rights institutions are playing a crucial role in promoting and monitoring the effective implementation of international human rights standards at the national level, among others, by the way of active engagement with the international monitoring bodies. The table below summarizes the information available at the public database of the United Nations regarding the number of NHRI submission, which is undoubtedly limited because it does not include confidential communication.<sup>41</sup>

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<sup>40</sup> <https://www.hrc.co.nz/> (25 May 2021).

<sup>41</sup> The Treaty Body database. [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/TBSearch.aspx?Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/TBSearch.aspx?Lang=en) (1 October 2021).

UN monitoring body	Number of ratifications of the respective treaty	In operation since	Number of submissions	Number of NHRIs submitting information
Committee Against Torture and the Subcommittee	171/91	1988	98	66
Committee on the Elimination of Racial Discrimination	182	1970	72	47
Committee on the Elimination of Discrimination against Women	189	1982	67	52
Committee on Economic, Social and Cultural Rights	171	1980	62	50
Committee on the Rights of Persons with Disabilities	182	2009	50	43
Human Rights Committee	173	1977	53	49
Committee on the Rights of the Child	196	1991	44	34
Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families	56	2004	19	16
Committee on Enforced Disappearances	63	2011	13	12
			478	

The study aimed to identify those factors that might enhance the level of engagement of national human rights institutions with UN monitoring bodies. The number of ratification was raised as the first point of reflection because NHRIs can monitor the implementation of a human rights treaty and engage with its monitoring body once the treaty is ratified by the State Party. As the table indicates above, national human rights institutions engaged with the monitoring of the treaties with the highest number of ratifications but the final order was influenced by other factors as well. However, the attempt to reflect on the level of state activism and respect for reporting deadlines as indicative factors failed due to lack of information.

Another aspect analysed was the level of designation of the mandate to engage with international human rights monitoring bodies. First, direct reference to the role of NHRIs in the text of the convention or the optional protocol ensure that both the state Parties and the national human rights institutions are aware of their obligations and opportunities. Second, declaration issued in the form of a General Comment, Statement or as part of the Rules of Procedure similarly set the framework but it is not necessarily recognized as an obligation by the state Parties. Third, guidelines encompassing the practicalities of engagement with a monitoring body particularly addressed to national human rights institutions are arguably facilitate the preparation of alternative reports, follow-up information on the concluding observations and exchange of information regarding the situation of a victim who filed a complaint with the monitoring body.

Furthermore, the accreditation of NHRIs by the Global Alliance for National Human Rights Institutions as a method to enhance compliance with the Paris Principles was also discussed. On one hand, it was difficult to measure how the condition of “A” status accreditation for engagement with the monitoring bodies affects the NHRI’s motivation to take part in the monitoring. On the other

hand, by identifying the most active national human rights institutions – which submitted the highest number of written contributions to UN monitoring bodies – it has been found that institutions fully in compliance with the Paris Principles are actually the ones actively engaging with international human rights monitoring mechanisms.