



**UNHCR**  
The UN Refugee Agency

**GUIDANCE ON**

# **UNHCR's engagement with national human rights institutions**

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## Foreword

National Human Rights Institutions (NHRIs)-over 120 of them world-wide-play a crucial role in safeguarding and reinforcing human rights nationally, regionally and globally. With constitutional or legislative mandates to protect and promote human rights, NHRIs are uniquely placed to influence law and practice on the ground. NHRIs are unusual human rights actors. While they are created and financed by States, they must be independent from government interference when carrying out their human rights mandate. Their special legal status as a NHRI provides a bridge between the State and civil society, fostering collaboration and protection.

NHRIs are bound to uphold the human rights of everyone without distinction or discrimination. They are particularly well-placed to support the most vulnerable people in society who often face challenges exercising their human rights, especially those who are refugees, asylum-seekers, displaced in their own country or stateless.

As NHRIs have a broad mandate to work both with governments and local communities, they are vital strategic partners for UNHCR. While the statutory powers of NHRIs vary from country to country, many have an independent right to hold public inquiries, to subpoena evidence, to consider individual complaints and to make recommendations to and advise governments. With these powers, coupled with their standing in the eyes of the communities they serve, NHRIs are valuable partners with UNHCR in advancing legislative and policy changes to protect refugees and those who have been forcibly displaced or are stateless.

This Guide provides an overview of the key features of NHRIs and suggests practical ways in which UNHCR can work with these human rights institutions to ensure that governments meet their international obligations to refugees and those forcibly displaced. UNHCR's partnerships with NHRIs are also intended to mainstream human rights in our protection work and to inform our advocacy with governments.

I hope you will find this Guide of practical use in strengthening UNHCR's protection partnership with NHRIs at national, regional and international levels.

**Gillian Triggs**  
**Assistant High Commissioner for Protection**

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## Executive summary

UNHCR can strategically engage with national human rights institutions to enhance the protection of refugees, asylum-seekers, internally displaced persons, returnees and persons who are stateless or at risk of statelessness. National human rights institutions (NHRIs) are a unique partner for UNHCR for the following key reasons:

- UNHCR can leverage the broad mandate that NHRIs have to promote and protect the human rights of all persons on the territory or under the jurisdiction of the State concerned, including persons who are in need of international protection, such as those forcibly displaced or stateless.
- NHRIs' unique position as State institutions that function in an independent manner is a strategic asset for UNHCR, not least in light of the accountability schemes attached to it vis-à-vis the authorities.
- NHRIs can implement activities agreed jointly with UNHCR or independently including where UNHCR might not be present; there is greater sustainability of the protection work so engrained in a national system, including where they might be dedicated strategies, action plans, or presence in particular areas of the NHRIs.
- NHRIs' standing, expertise and competences are valuable strengths that UNHCR can use to advance legislation related to asylum, immigration, internal displacement, nationality or statelessness; they can equally handle individual cases, monitor cases of refoulement, of detention, facilitate access to redress mechanisms and advise public authorities on the inclusion of persons under UNHCR's mandate in national programmes, policies and services.
- NHRIs make public their findings and recommendations to public authorities which can increase the visibility of issues of relevance to UNHCR and provide further basis for advocacy at local level.

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Several key considerations should guide UNHCR's engagement with national human rights institutions:

- Formalized channels of collaboration between UNHCR and these institutions could set out the common areas of work, roles and responsibilities, working methods, data protection considerations and confidentiality concerns as well as the “do no harm” principle.
- Implementation of activities jointly with national human rights institutions may require building the capacity of the institutions on the international standards for the protection of persons under UNHCR's mandate, and an appreciation of how persons under UNHCR's mandate equally fall within the scope of engagement of NHRIs.

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## Purpose of this Guidance

The Human Rights Liaison Unit in the Division of International Protection (DIP) prepared this guide in response to a number of requests from field colleagues as well as suggestions provided in a survey on support needed by operations. Colleagues in various operations requested advice and information on how to work with national human rights institutions either because such institutions had expressed interest in collaborating with UNHCR, or because the operations had identified these institutions as potential partners at country level. The present guide responds to this interest and seeks to encourage UNHCR operations and Regional Bureaux to engage more consistently, where relevant, with national human rights institutions.

The objectives of the present Guide are threefold:

- to provide UNHCR operations an overview of the mandate, role and functions of NHRIs and how they relate to and can support UNHCR's mandate;
- to discuss key considerations when deciding to collaborate with NHRIs; and
- to provide examples of good practices from UNHCR operations on engagement with NHRIs.

Extensive desk research together with consultations and exchanges with colleagues in the UNHCR regional Bureaux, field colleagues, thematic focal points in DIP and other divisions and members of national human rights institutions informed this guide. The guide also benefitted from review by experts in GANHRI, OHCHR, UNDP, UNICEF, UN WOMEN; and the Special Rapporteur on the rights of IDPs.

The present Guide is structured as follows: overview of the mandate and functions of NHRIs (Chapter I), the relevance of NHRIs for UNHCR (Chapter II), and positive impact that UNHCR can achieve by engaging with NHRIs (Chapter III). Chapter III discusses in more detail avenues for UNHCR to engage with NHRIs and provides examples of positive protection outcomes. The Guide concludes with key considerations guiding UNHCR's engagement with NHRIs, annex and list of resources

# I. National human rights institutions

## I.1. What is a NHRI?

A national human rights institution is a State-established institution by law or constitution with a broad human rights mandate which functions with independence and meets cumulatively two key roles expressly stipulated in the Paris Principles relating to the status of national institutions (Paris Principles) adopted by the General Assembly in 1991:

it protects human rights, including by receiving, investigating and resolving complaints, mediating conflicts and monitoring activities; and

it promotes human rights, through education, outreach, media, publications, training and capacity-building, and advice to the Government.<sup>1</sup>

Various other bodies, organizations and institutions with a human rights mandate may function at national level. They can be human rights committees within parliaments, equality and non-discrimination bodies, mechanisms to monitor the respect of human rights by certain categories of persons, or national mechanisms for reporting and follow-up of implementation of recommendations coming from the international and regional human rights mechanisms. **These institutions are not NHRIs** within the meaning of the Paris Principles, though their work may be important and effective in other ways.

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<sup>1</sup> UN General Assembly, Resolution 48/134 on National institutions for the promotion and protection of human rights, A/RES/48/134, 20 December 1993.



Type of body	They are not NHRIs, because:
Non-governmental organizations	They are not State institutions.
Ombuds institutions with no clear human rights mandate	Many Ombuds institutions have also been designated by law as national human rights institutions with mandates in line with Paris Principles. In situations where the mandate of the Ombuds institution is limited to particular categories of persons (e.g. Ombudsman for children, Ombudsman for Persons with Disabilities) or to specific human rights issues (e.g. Ombudsman for Equality and Non-discrimination), those Ombuds institutions may not necessarily also be NHRIs because their mandates are not clearly or specifically focused broadly at the protection and promotion of human rights.
Ombuds institutions with specific mandate (e.g. against ethnic discrimination, or discrimination against persons with disabilities)	The mandate is not broad enough to encompass all human rights.
Auditor Generals with no clear human rights mandate	The institution is autonomous, but it does not have a mandate to promote and protect human rights.
National mechanisms for reporting and follow-up	These mechanisms do not have a broad mandate to promote and protect human rights. They are embedded in ministerial structures and their mandate is to support Governments in reporting and following-up to recommendations from the international and regional human rights mechanisms.

An institution cannot proclaim itself as a Paris Principles-compliant NHRI. The compliance of NHRIs with the Paris Principles is periodically assessed by the Global Alliance of National Human Rights Institutions (GANHRI) in an internationally recognised accreditation process.<sup>2</sup>

The process is supported and serviced by the United Nations through the OHCHR. Following the accreditation process, national human rights institutions are recognized as follows:

- A status: a national human rights institution fully compliant with the Paris Principles;
- B status: a national human rights institution that partially meets the Paris Principles.

As of November 2019, there were 123 accredited NHRIs around the world, of which:

- 79 institutions are in full compliance with the Paris Principles,
- 34 are partially compliant with the Paris Principles, and
- 10 institutions are not compliant with the Paris Principles.<sup>3</sup>

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<sup>2</sup> For more information about the GANHRI accreditation process, you may wish to refer to GANHRI's Manual on the accreditation process: <https://ganhri.org/accreditation/>

<sup>3</sup> Global Alliance of National Human Rights Institutions, Chart of the Status of National Institutions Accredited by the Global Alliance of National Human Rights Institutions, 27 November 2019, available here: <https://ganhri.org/membership/>

**KEEP IN MIND**

- NHRIs represent a uniquely situated partner that is at the same time part of the States' institutional frameworks and independent from State interference. National human rights institutions have a mandate based in the Constitution and/or national legislation to protect and promote human rights.<sup>4</sup>
- An institution that does not meet the Paris Principles is not recognized internationally as a Paris Principle-compliant NHRI. Not being an institution compliant with the Paris Principles is different from the situation of organizations that are not NHRIs. UNHCR can still engage with institutions that do not fully meet the Paris Principles with awareness of the political context. One way of engagement is by strengthening the capacity of those NHRIs and supporting them in the accreditation process.
- There are situations where NHRIs with “B” status function well but lost “A” status as a result of executive measures that have the effect of undermining them.
- NHRIs are institutions whose members must have a broad-range of expertise and represent different segments of society. These aspects constitute safeguards that ensure NHRI's independence. They also ensure that NHRIs have the necessary expertise to respond to the various protection needs of persons under UNHCR's mandate.
- NHRIs' independence also entails that the institutions enjoy autonomy to determine their own priority and decide over the use of their resources.
- The status of a NHRI may change over time. Find [here](#) the current status of all NHRIs around the world.<sup>5</sup>

4 UNDP-OHCHR Toolkit for collaboration with National Human Rights Institutions, 2010, available at: [https://www.undp.org/content/undp/en/home/librarypage/democratic-governance/human\\_rights/NHRIsToolkit.html](https://www.undp.org/content/undp/en/home/librarypage/democratic-governance/human_rights/NHRIsToolkit.html)

5 For the current status of NHRIs, see: <https://ganhri.org/membership/>

## I.2. The mandate and competences of NHRIs

National human rights institutions have a broad mandate to protect and promote the human rights of all persons in the territory and/or under the jurisdiction of a State.

NHRIs discharge their **protection mandate** by undertaking to:

- Monitor the realization of human rights at country level, including the situation of refugees, asylum-seekers, returnees, IDPs and stateless persons;
- Carry out investigations and inquiries, either at their own initiative or request, on the human rights situation in the country, including with respect to persons under UNHCR's mandate;
- Receive and handle complaints from individuals, including persons of concern;
- Facilitate access to justice for victims, including persons under UNHCR's mandate, through courts;
- Publish annual and thematic reports with recommendations to national authorities.

NHRIs discharge their **promotion mandate** by undertaking to:

- Advise State institutions on the ratification of international instruments and adoption or amendment of national legislation to ensure compliance with international human rights norms;
- Provide legislative and policy advice to ensure compliance with international human rights norms of both existing and laws and policies in the making;
- Support training and capacity-building on human rights issues, including the rights of persons of concern, for national authorities or the general public;
- Increase public awareness on human rights.

In addition, a number of States designated their NHRIs to assume mandates to prevent torture in accordance with States' obligations under the Optional Protocol to the Convention against Torture (OPCAT),<sup>6</sup> or to act as coordination mechanisms according to Convention on the Rights of Persons with Disabilities (CRPD):<sup>7</sup>

<b>NHRIs designated as national preventive mechanisms under OPCAT<sup>8</sup></b>	<b>NHRIs as independent mechanisms under CRPD (Art. 33 (2))</b>
e.g. Costa Rica Defensoria de los Habitantes; Commission nationale des droit de l'homme in Mali	e.g. Danish Institute for Human Rights

### KEEP IN MIND

- NHRIs have a broad mandate to protect and promote the human rights of all people within a State's territory and/or jurisdiction, which includes persons under UNHCR's mandate irrespective of their migratory status.
- States have the obligation to ensure the effective functioning of NHRIs, which entails the obligation to provide them with unrestricted access to persons, places and documentation in order to carry out their investigations.

<sup>6</sup> Optional Protocol to the Convention against Torture, A/RES/57/199, 18 December 2002, Art. 17.

<sup>7</sup> Convention on the Rights of Persons with Disabilities, A/RES/61/106, 13 December 2006, Art. 33.

<sup>8</sup> On the specificities of designating NHRIs as national preventive mechanisms under OPCAT, see: Association for the Prevention of Torture, National Human Rights Institutions as National Preventive Mechanisms: Opportunities and challenges, December 2013, available here: [https://www.apt.ch/content/files\\_res/apt-briefing-on-nhris-as-npms-en.pdf](https://www.apt.ch/content/files_res/apt-briefing-on-nhris-as-npms-en.pdf)

### I.3. NHRIs and the rights of persons under UNHCR's mandate

NHRIs' broad mandate to promote and protect human rights includes all persons under UNHCR's mandate without distinction or discrimination. In addition to a specific provision in the Paris Principles referring explicitly to refugees, NHRIs have interpreted and carried out their mandate broadly to reflect the principles of universality, interdependence and inter-connectedness of all human rights for all, including persons of concern to UNHCR. The role of NHRIs vis-à-vis persons falling under UNHCR's mandate is well-established and recognised by States, NHRIs themselves, and the broader international community, and most if not all NHRIs work to protect their rights, across all regions. This stems from their broad mandate, covering all rights and all groups, and from their extensive functions.

According to the Paris Principles, national human rights institutions should expand their collaborations with non-governmental organizations that undertake to protect and promote the rights of refugees.

*Within the framework of its operation, the national institution shall: [...]*

*(g) In view of the fundamental role played by non-governmental organizations in expanding the work of the national institutions, develop relations with the non-governmental organizations devoted to promoting and protecting human rights, to economic and social development, to combating racism, to protecting particularly vulnerable groups (especially children, migrant workers, refugees, physically and mentally disable persons) or to specialized areas.*

This instrument does not contain express references to asylum-seekers, returnees, internally displaced persons, or stateless persons- nevertheless the definition leaves the space to include all persons of concern to UNHCR depending on the context in a given operation.

In addition to the broad recognition of the mandate of NHRIs with regard to persons of concern, NHRIs in several regions developed guidance on how to concretely include persons under UNHCR's mandate in their protection and promotion activities. NHRIs in Europe and the Americas for example have agreed explicitly on the principle of taking into account the human rights situation of refugees and internally displaced persons.

## The 2015 Belgrade Declaration on the protection and promotion of the rights of refugees and migrants

An initiative at European level brought additional clarifications to the mandate of NHRIs regarding the protection and promotion of the rights of refugees. European NHRIs gathered in Belgrade in 2015 and adopted the Belgrade Declaration on the protection and promotion of the rights of Refugees and Migrants.

The Belgrade Declaration recalls the human rights standards prescribed by the Universal Declaration of Human Rights, including the right to seek and enjoy asylum. It reiterates States' obligations regarding the protection of the rights of refugees and migrants, including ensuring full access to the asylum procedure, establishing channels for cross border cooperation, preventing inhuman and degrading treatment, strengthening integration measures and family unity, promoting the refugees and migrants' socio-economic rights, and ensuring the protection of vulnerable groups.

Importantly, the Belgrade Declaration also prescribes a set of ten commitments that NHRIs undertake to protect and promote the rights of refugees:

- Possibility for refugees to lodge individual complaints with the NHRIs;
- Possibility for NHRIs to launch ex officio investigations whenever there are grounds to believe the rights of refugees are not fully respected;
- NHRIs should conduct visits and ensure presence on the spot in order to collect information and evidence - to advise on draft legislation and change national practices, and - to resolve complaints submitted by refugees;
- NHRIs should engage in awareness raising and dissemination of accurate information on the human rights of refugees, especially in a context of growing xenophobia;
- NHRIs should oppose public statements which encourage hate speech or discrimination against refugees;

- NHRIs should condemn and oppose publicly the violation of refugees' rights and encourage a spirit of tolerance for refugees;
- NHRIs should partner with civil society organizations in order to protect human rights, provide humanitarian assistance, promote understanding of refugees, and undertake joint advocacy activities;
- NHRIs should stimulate regional and global cooperation that promote the human rights of refugees;
- NHRIs should collaborate with international and regional human rights mechanisms on refugees' rights;
- NHRIs should collaborate regionally to promote and protect the rights of refugees.

Several European NHRIs endorsed in 2016 a *Regional Joint Action Plan of Ombudsman Institutions on Refugee/ Migrant Crisis and Human Rights* in order to make the commitments undertaken in the Belgrade Declaration concrete. The Regional Action Plan establishes a number of thematic synergies among NHRIs as well as areas of trans-border cooperation.<sup>9</sup>

NHRIs agreed on the following thematic synergies:

- Promoting access to asylum;
- Advocating for the protection of unaccompanied children and vulnerable persons;
- Addressing situations of ill-treatment and exploitation of refugees and migrants;
- Addressing situations of forced returns;
- Addressing instances of hate speech and xenophobia;
- Strengthening the role of local communities and local administrations.

9 <https://www.synigoros.gr/resources/160223-actionplan.pdf>



NHRIs also committed to:

- Enhanced cross-border cooperation;
- Raising awareness and creating helplines that provide information to refugees and migrants, while also informing the general public;
- Coordinating and facilitating follow-up on the implementation of the Belgrade Declaration and the Regional Action Plan.

### **The 2006 Santa Cruz Declaration on questions of migration and the 2017 Declaration of Mexico City**

In the Americas, the 8th International Conference of National Institutions for the Promotion and Protection of Human Rights in 2006 resulted in the adoption of the Santa Cruz Declaration. The Declaration calls on NHRIs to include refugees and asylum-seekers and play an active role in the application of norms and standards related to international protection.<sup>10</sup> These commitments were further reiterated at the Second Ibero-American Summit on Migration and Human Rights in 2017 in Mexico. The Ombuds institutions in Latin America together with the institutions of Defensor del pueblo and national human rights commissions signed the Declaration of Mexico City which underlines the following roles for NHRIs with respect to ensuring the rights of forcibly displaced persons, including<sup>11</sup>:

- Raise awareness among migrants, refugees and asylum-seekers about their rights, including the right to submit individual complaints to NHRIs;
- Raise awareness of law-makers and advise on legislative amendments to ensure migrants, refugees and asylum-seekers enjoy their human rights without discrimination;

<sup>10</sup> Federación Iberoamericana del Ombudsman, Declaración de Santa Cruz, October 2006, available here: [www.portalfio.org/wp-content/uploads/filebase/declaraciones/FIO.DEC.0028-2006.pdf](http://www.portalfio.org/wp-content/uploads/filebase/declaraciones/FIO.DEC.0028-2006.pdf). See also:

<sup>11</sup> Federación Iberoamericana del Ombudsman, Segunda Cumbre Iberoamericana de Migración y Derechos Humanos, Declaración de la Ciudad de México, 24 May 2017, available here: [www.cndh.org.mx/sites/all/doc/OtrosDocumentos/Doc\\_2017\\_034.pdf](http://www.cndh.org.mx/sites/all/doc/OtrosDocumentos/Doc_2017_034.pdf)

- Encourage Governments to dedicate resources for capacity-building activities on human rights, refugee rights and international humanitarian law, especially for authorities dealing with migrants and border authorities;
- Strengthen the capacity of civil society on the rights of refugees and asylum-seekers, including to combat hate speech, racism, xenophobia and other negative stereotypes; and
- Develop independent reports on the human rights situation of forcibly displaced persons, including reports informing the Universal Periodic Review.

### **The 2015 Kyiv Declaration on the role of NHRIs in conflict and post-conflict situations**

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Further clarification regarding NHRIs' role in protecting and promoting the rights of refugees and IDPs is provided in the NHRIs' Declaration adopted in Kyiv regarding the role of NHRIs in conflict and post-conflict situations. Benefitting from contributions from NHRIs worldwide, the Kyiv Declaration serves as basis for interpretation and guidance for NHRIs worldwide. Thus, according to the Kyiv Declaration, NHRIs set out a range of actions that they could undertake by implementing their Paris Principles mandates and functions, including:

- Advise and advocate for the promotion, protection and respect of the rights of refugees and IDPs;
- Provide community-based training on human rights issues for displaced populations and for host communities;
- Monitor and investigate human rights violations that may occur during situations of conflict;
- Advise the Government on human rights standards during conflict;<sup>12</sup>
- The internal structures of NHRIs should reflect the context in which they operate.

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12 UNDP-OHCHR Toolkit, p. 62.

## II. Relevance of NHRIs for UNHCR

### 7 KEY REASONS WHY UNHCR SHOULD ENGAGE WITH NHRIS:

1. UNHCR can leverage the fact that NHRIs are independent and trusted institutions by individuals and a bridge between rights-holders, Government, Parliament and the judiciary.
2. Services and programmes implemented by NHRIs for the benefit of persons under UNHCR's mandate are assumed as part of the mandate of NHRIs, thus triggering the accountability of the State in terms of respect of human rights, effectiveness and quality.
3. UNHCR can contribute to and benefit from NHRIs' broad competences which include investigation, advice, counselling, legal aid, protection monitoring, capacity-building or handling individual complaints.
4. NHRIs have a strong and broad advisory function to support public authorities' efforts to prevent human rights violations, ensure human rights-based approaches and compliance with international and regional human rights standards, and promote the full enjoyment of human rights by persons of concern.
5. NHRIs make public the findings of their investigations and the recommendations made to the Government.
6. UNHCR can leverage the different platforms of cooperation among NHRIs at regional and international levels.
7. UNHCR can leverage the fact that NHRIs collaborate with the UN system and regional platforms.

## II.1. UNHCR can leverage the fact that NHRIs are independent and trusted institutions and a bridge between rights-holders and the State

NHRIs have had a long tradition of promoting and protecting human rights. Their independence from any interference, their direct contact with individuals, advice and expertise have won them the trust of individuals even in contexts where there are incidents of weak rule of law or general distrust of public authorities.

- The fact that NHRIs function with independence from any interference makes them a unique partner for UNHCR;
- NHRIs must have a diverse and pluralistic composition which makes them an institution with high standards of expertise and representation of all segments of society;
- The State is under the obligation to allocate adequate resources to its NHRI in order to guarantee its independence as well as its autonomy in deciding its priorities and implementation of activities.<sup>13</sup>

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<sup>13</sup> For a detailed understanding of the Paris Principles, see: Gauthier de Beco and Rachel Murray, *A Commentary on the Paris Principles on National Human Rights Institutions*, Cambridge University Press, 2014.

## II.2. Services and programmes implemented by NHRIs for the benefit of persons under UNHCR's mandate are part of NHRIs' mandate

As an institution of the State, all the activities undertaken by the NHRI entail the State's accountability. Unlike collaborations with other partners who may be donor-driven or dependent on funding, NHRIs are State institutions, and the State has to ensure adequate resources for their effective functioning. However, oftentimes, NHRIs do not have sufficient adequate resources from their respective Governments. Nonetheless, they support States to meet their human rights obligations and increase States' accountability in that regard.

*“UNHCR collaborates with many partners at country level. We need to pay constant attention at how we work with these partners because they come with different agendas, ways of working, levels of expertise and relationships with donors. National human rights institutions are independent and solid institutions. Once we agree with the national institution on specific projects, implementing those activities ensures also compliance with state obligations and becomes subject to the institution's own internal monitoring to track progress. Plus, the national institution implements the agreed activities even without UNHCR's presence or support. This is an incredible advantage to ensure the sustainability of the protection activities for persons of concern.”-*

**Protection Officer, Americas Bureau**

### II.3. UNHCR can contribute to and benefit from NHRIs’ broad competences which include investigation, advice, counselling, legal aid or handling individual complaints

UNHCR can strategically use the various competences that NHRIs have in order to enhance the protection of the human rights of persons of concern. In addition, national authorities can also use NHRIs as an intermediary in collaborations with UN entities, civil society organizations or marginalized populations and communities of persons of concern to UNHCR. At the same time, NHRIs themselves may collaborate with UN entities in order to strengthen their capacity to deliver their protection and promotion mandate.

Key NHRIs powers	Relevance for UNHCR
Submit opinions, recommendations, proposals and reports	<ul style="list-style-type: none"> <li>● Support for advocacy on ratification of international and regional instruments; Advocacy on national legislation regarding asylum, immigration, internal displacement, statelessness or nationality, access to socio-economic rights;</li> <li>● Investigation and monitoring on human rights of persons under UNHCR’s mandate;</li> <li>● Conduct visits and interviews with persons under UNHCR’s mandate, including in places of deprivation of liberty;</li> <li>● Handle individual complaints submitted by persons under UNHCR’s mandate where NHRIs have explicit functions in this regard;</li> <li>● Possibility to conduct joint missions, reports, events or capacity building;</li> <li>● Invoke NHRI recommendations in dialogue with Government;</li> </ul>
Promote the harmonization of national instruments with international and regional human rights law	<ul style="list-style-type: none"> <li>● Ensure national laws and policies implementing a state’s obligations under human rights law include persons under UNHCR’s mandate;</li> </ul>

Key NHRIs powers	Relevance for UNHCR
Contribute to the States' reports to the UN and regional human rights mechanisms	<ul style="list-style-type: none"> <li>● Provide regularly information to NHRIs on the rights of persons under UNHCR's mandate to support inclusion in national reports;</li> </ul>
Cooperate with the human rights mechanisms	<ul style="list-style-type: none"> <li>● Provide regularly information to NHRIs on the rights of persons under UNHCR's mandate to support inclusion in NHRIs' submissions to the human rights mechanisms;</li> </ul>
Assist in the formulation of learning programmes on human rights	<ul style="list-style-type: none"> <li>● Provide regularly information to NHRIs on the rights of persons under UNHCR's mandate to support inclusion in NHRIs' tools for education and teaching on human rights;</li> <li>● Support the design and implementation of learning interventions on the rights of persons under UNHCR's mandate addressed to civil servants and other stakeholders;</li> </ul>
Combat all forms of discrimination through information and education	<ul style="list-style-type: none"> <li>● Provide regularly information to NHRIs on the rights of persons under UNHCR's mandate to support inclusion in NHRIs' programmes to combat discrimination, racism, xenophobia and hate crimes;</li> </ul>
Prevention of human rights violations, early warning and response mechanisms	<ul style="list-style-type: none"> <li>● Support NHRIs in the design, organization and implementation of prevention, early warning and response systems that address situations of forced displacement and the response to persons under UNHCR's mandate.</li> </ul>

*“National human rights institutions in countries in Asia-Pacific are very active and they become stronger through regional cooperation. UNHCR has been working closely with national institutions in the region on monitoring detention, cases of deportation and the rights of refugee and asylum-seeking children. But all our work with the national institutions started with capacity-building on refugee protection. Now, UNHCR has strong partnerships with the national human rights institutions to build the knowledge of public authorities on refugee rights. This is especially important since few States in Asia-Pacific ratified the 1951 Convention or the 1967 Protocol.”*

**- Protection Associate, Regional Bureau in Asia-Pacific**

## II.4. NHRIs have a strong advisory function to support public authorities' efforts to realize human rights

Unlike NGOs or other bodies who are often focused on denouncing human rights violations, NHRIs not only can denounce such violations, but they also have a strong advisory function which permits them to provide recommendations to the Government and other institutions of the State on how to improve its human rights record – and to whom the State is accountable. UNHCR can brief NHRIs on the situation of human rights of persons of concern and discuss amendments or developments in law and policy that would contribute to improve the protection of persons of concern. In this regard, thematic and situations reports prepared by NHRIs that include protection assessments and recommendations addressed to key stakeholders constitute a valuable tool for UNHCR.<sup>14</sup>

*“There is a perception in UNHCR that national human rights commissions operate only through public denunciation of human rights violations. Public denunciation is important and matters especially in cases where UNHCR cannot investigate or denounce violations.*

*But we often forget that national human rights commissions are institutions with a strong expertise in human rights monitoring. They are quick, in some cases they can be the first on the ground as many have local units across the country. UNHCR has a lot to gain if we work closer with national human rights commissions with necessary precautions. They can bring visibility to forgotten crises and advocate for the inclusion of refugees in national services”*

**- Senior Protection Officer, Regional Bureau for West and Central Africa**

<sup>14</sup> Defensoria del Pueblo de Colombia, Informe defensorial sobre las zonas de frontera, 2017, available only on Spanish here: [www.acnur.org/fileadmin/Documentos/Publicaciones/2016/10953.pdf](http://www.acnur.org/fileadmin/Documentos/Publicaciones/2016/10953.pdf)



## II.5. NHRIs make public the findings of their investigations and the recommendations made to the Government

Unlike other actors that maintain their findings and recommendations confidential, NHRIs make public the reports of their investigations and the recommendations they addressed to the Governments, often for transparency and accountability. They also submit annual and thematic reports before parliaments. Where appropriate, UNHCR can discuss and provide information to NHRIs in relation to the human rights situation of persons under its mandate, so that these issues be publicly reported on, including before national parliaments. This should not preclude collaboration with NHRIs on sensitive issues that require maintaining confidentiality. The principle of confidentiality and protection of rights-holders is embedded in the NHRIs' mandate and working methods.

## II.6. UNHCR can leverage the different platforms of cooperation among NHRIs at regional and international levels

The Paris Principles require NHRIs to cooperate with each other in the fulfilment of their mandate. NHRIs have developed several platforms of collaboration, including bilateral cooperation agreements, regional networks and the Global Alliance of National Human Rights Institutions at global level. These platforms represent avenues for UNHCR to advocate for regional and global advances with regard to the protection of persons of concern, particularly the implementation of the Global Compact on Refugees, the pledges undertaken at the 2019 Global Refugee Forum, including pledges related to national asylum systems and/or the Asylum Capacity Support Group mechanism,<sup>15</sup> or pledges related to statelessness.

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<sup>15</sup> The Global Compact on Refugees encourages the establishment of the Asylum Capacity Support Group (para 62) to support states in developing and strengthening fair, efficient, adaptable national asylum systems that have integrity, as part of their comprehensive refugee response.

The **Global Alliance of NHRIs (GANHRI)** represents more than 110 NHRIs.<sup>16</sup> GANHRI supports States in establishing NHRIs, strengthens the capacity of NHRIs once they are established, provides opportunities for NHRIs to collaborate regionally and internationally, and represents NHRIs in global standard-setting processes. GANHRI facilitates the organization of several events, including:

- An international conference organized by an NHRI in rotation and recurring every three years. The international conference concludes with the adoption of a declaration;
- The annual meeting of NHRIs in Geneva focusing on thematic issues and which allows UNHCR to participate in panel discussions or organize side-events.

**GANHRI undertakes various roles, including:**

- Represent the global voice of NHRIs, to engage in global policy making;
- Support NHRIs to cooperate effectively with the United Nations and its various bodies and mechanisms, to bridge the international and national levels;
- Constitute a knowledge-broker across NHRIs from all regions, acting as a platform for NHRIs to discuss experiences and identify collectively good practice;
- Develop partnerships in support of NHRIs at the global level – for example the Tripartite Partnership GANHRI-UNDP-OHCHR in support of NHRIs; as well as engagement with agencies and programmes.

16 <https://ganhri.org/>

**GOOD PRACTICE**

UNHCR co-organized in 2018 and 2019, together with GANHRI and the mandate of the UN Special Rapporteur on the human rights of internally displaced persons, workshops that gathered NHRIs from countries affected by internal displacement to discuss challenges, lessons learnt and good practices. These workshops informed the thematic report of the Special Rapporteur on the role of NHRIs in internal displacement.<sup>17</sup> They also led to the development jointly by UNHCR, GANHRI and the Special Rapporteur of a handbook for NHRIs on their role in internal displacement.

In addition to GANHRI, NHRIs have also formed regional networks and other collaborative platforms.

<sup>17</sup> UN Human Rights Council, Report of the UN Special Rapporteur on the rights of internally displaced persons on Internal Displacement and the role of national human rights institutions, A/HRC/41/40, 2019, available here: [https://ap.ohchr.org/documents/dpage\\_e.aspx?si=A/HRC/41/40](https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/41/40)

## Establishment of four official regional NHRI networks under the GANHRI umbrella:

- The **Network of African NHRIs (NANHRI)** was established in 1996, and currently brings together 44 NHRIs in Africa.<sup>18</sup>

### GOOD PRACTICE

The third Annual Policy Forum on the State of National Human Rights Institutions in African took place in 2019 and was dedicated to the issue of NHRIs' contributions to durable solutions to forced displacement in Africa.<sup>19</sup> The protection of persons in forced displacement contexts has been a key concern for NANHRI. In 2007, NANHRI adopted the Kigali Declaration which includes recommendations on actions where NHRIs can play a critical role in promoting and protecting the rights of refugees, IDPs and stateless persons in the African region.<sup>20</sup>

- The **European Network of NHRIs (ENNHRI)** brings together over 40 NHRIs across Europe to enhance promotion and protection of human rights in the region.<sup>21</sup> Asylum and migration is priority thematic area for the network: it undertakes research on asylum and migration, provides recommendations to governments on law reforms, and raises awareness on the rights of refugees, asylum-seekers and migrants.

18 The NHRIs in the following States are currently part of the African Network of NHRIs: Algeria, Benin, Burkina Faso, Burundi, Cameroon, Cape Verde, Chad, Central African Republic, Republic of Congo, Cote d'Ivoire, Comoros, DRC, Djibouti, Egypt, Ethiopia, Gabon, Gambia, Ghana, Guinea Bissau, Guinea Conakry, Kenya, Liberia, Mauritius, Mauritania, Morocco, Namibia, Nigeria, Rwanda, Sierra Leone, South Africa, South Sudan, Uganda, Tanzania, Sudan, Zimbabwe and Zambia. <https://www.nanhri.org/>

19 The Annual Policy Forum is organized jointly by the African Union Commission and the Network of African National Human Rights Institutions. <https://au.int/en/pressreleases/20190905/third-auc-nanhri-policy-forum-state-human-rights-africa>

20 Kigali Declaration, available here: <https://www.nanhri.org/download/kigali-declaration/>

21 The NHRIs in the following States are currently part of the European Network of NHRIs: Armenia, Azerbaijan, Belgium, Croatia, Great Britain, Finland, France, Georgia, Germany, Greece, Hungary, Kosovo, Latvia, Luxembourg, Netherlands, North Macedonia, Northern Ireland, Norway, Portugal, Romania, Serbia, Slovenia, Spain, Sweden and Ukraine. <http://ennhri.org/>

**GOOD PRACTICE**

The Asylum and Migration Working Group of the European Network of NHRIs produced a written submission in support of its participation at the consultation on the draft Practical Guidance on Alternatives to Immigration Detention held by the Council of Europe Drafting Group on Migration and Human Rights.<sup>22</sup>

- The **Network of NHRIs for the Promotion and Protection of Human Rights in the Americas** is composed of 17 NHRIs.<sup>23</sup> They are gathered under the auspices of the Federacion Iberoamericana de Ombudsmen.<sup>24</sup>
- The **Asia-Pacific Forum of NHRIs** is composed of members of NHRIs in the Asia-Pacific region.<sup>25</sup> Members share information, undertake research and develop cooperative projects.

**GOOD PRACTICE**

The Asia-Pacific Forum of NHRIs decided to establish a Trafficking Focal Point in 1999. The engagement of the Asia-Pacific Forum on trafficking issues and of the Trafficking Focal Point was discussed during a workshop held in 2005 on trafficking and NHRIs which explored aspects of cooperation to end impunity for traffickers and secure justice for victims.<sup>26</sup>

22 <http://ennhri.org/wp-content/uploads/2019/09/Submission-to-CDDH-MIG-%E2%80%93-Consultation-on-the-Draft-%E2%80%98Practical-Guidance-on-Alternatives-to-Immigration-Detention%E2%80%99.pdf>

23 The NHRIs in the following States are currently part of the Network of NHRIs in the Americas: Argentina, Bolivia, Canada, Ecuador, Honduras, Mexico and Peru.

24 [http://www.portalfio.org/miembros\\_regiones/nacionales/](http://www.portalfio.org/miembros_regiones/nacionales/)

25 The NHRIs in the following States are currently part of the Asia-Pacific Forum of NHRIs: Australia, India, Indonesia, Malaysia, Mongolia, Nepal, New Zealand, Republic of Korea and Thailand. <https://www.asiapacificforum.net/>

26 <http://www.asiapacificforum.net/services/training/regional-workshops/trafficking>

## Bilateral or trilateral collaborations among NHRIs:

NHRIs also established informal and sub-regional networks for collaboration and exchange.

- NHRIs often collaborate for the purposes of capacity-building, exchanges of good practices or to address a protection concern common to several countries.

### GOOD PRACTICE

The NHRIs of the Philippines, Indonesia and Malaysia established a tripartite agreement to address the issue of statelessness in their countries.

- The **Southeast Asia NHRIs Forum (SEANF)** is a sub-regional network composed of the NHRIs in the following five States: Indonesia, Malaysia, Philippines, Thailand and Timor Leste. SEANF seeks to promote human rights in South East Asia. Its focus has been on trafficking in persons and statelessness.
- The **Commonwealth Forum of NHRIs (CFNHRI)** is a platform of 52 NHRIs to share experiences and good practices on human rights.<sup>27</sup>

### GOOD PRACTICE

CFNHRI adopted in 2015 the St Julian's Declaration on Climate Justice in the context of the United Nations Framework Convention on Climate Change Conference of the Parties in Paris. CFNHRI expressed a commitment to understand better how human rights obligations can inform climate action.<sup>28</sup>

27 <https://cfnhri.org/>

28 <https://drive.google.com/file/d/0B6FQ7SONa3PRMHZQZGhaTjdGVDA/preview>

## II.7. UNHCR can leverage the fact that NHRIs collaborate with the UN system and regional platforms

NHRIs play a fundamental role in the international human rights system by cooperating not only with the human rights mechanisms, but also by participating in UN processes and engaging with all of the UN entities:

- **NHRIs can engage with the UN human rights mechanisms**
  - *NHRIs submit information to the UN human rights mechanisms and represent a counterpart for the mechanisms;*
  - *NHRIs can attend the sessions of the UN human rights mechanisms;*
  - *NHRIs can advise the Governments on the implementation of the recommendations issued by the human rights mechanisms;*
  - *NHRIs can advise the Governments in the preparation of their reporting to the human rights mechanisms;*
  - *NHRIs participate in national monitoring and follow-up mechanisms in their independent capacity;*
  - *NHRIs can assist Governments in identifying independent human rights experts who could be nominated for election for various human rights mechanisms, such as the treaty bodies or the Special Procedures Mandate Holders of the Human Rights Council;*
  - *NHRIs may assist alleged victims in engaging with these mechanisms' protection and communication systems, as appropriate.*

- **NHRIs can engage with UN Country Teams/ Humanitarian Country Teams/ OHCHR National Institutions and Regional Mechanisms Section**
  - *Collaborate with UNCTs/ HCTs in the promotion and protection of human rights;*
  - *NHRIs can be members of Protection Clusters (e.g. the Niger Commission of Human Rights, South Sudan National Human Rights Commission);*
  - *Ensure international norms are incorporated into domestic legal and policy frameworks;*
  - *Identify and advise on overcoming gaps in the national human rights protection framework;*
  - *Support UNCTs/HCTs in raising human rights concerns;*
  - *Prepare joint submissions to the UN human rights mechanisms;*
  - *Contribute to the preparation of Common Country Assessments and of the UN Sustainable Development Cooperation Framework;<sup>29</sup>*
  - *In cases where peace treaties or agreements prescribe a particular role for NHRIs, they should be enabled to support peace-building efforts;*
  - *UNCTs/ HCTs can advocate for the establishment or strengthening of NHRIs;*
  - *UNCTs/ HCTs can provide technical assistance to strengthen the NHRIs.*

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29 For more details, see: UNDP-OHCHR Toolkit, pp. 109-119.



- **NHRIs can cooperate with UN entities and participate in UN processes, such as the implementation of the Agenda 2030 on Sustainable Development**
  - *To clarify the role of NHRIs in relation to the implementation of the 2030 Agenda, GANHRI adopted in 2015 the Merida Declaration. This instrument outlines the various roles and functions that NHRIs can play to provide advice on how to promote a human rights-based approach in the implementation of the 2030 Agenda.<sup>30</sup> In addition to this, measures taken by States to establish or strengthen NHRIs constitute an indicator to monitor the implementation of Sustainable Development Goal 16.a.i on access to justice.*
- **NHRIs can also play an active role in supporting and monitoring the progress made by States in the implementation of the Global Compact on Refugees as well as the Global Compact on Safe, Orderly and Regular Migration. The latter instrument stipulates explicitly that NHRIs should be involved in the review of its implementation.<sup>31</sup>**

30 Merida Declaration, <https://nhri.ohchr.org/EN/ICC/InternationalConference/12IC/Background%20Information/Merida%20Declaration%20FINAL.pdf> See also: UNDP, OHCHR, GANHRI, Global Principles for Capacity Assessments of NHRIs, available here: [https://www.undp.org/content/undp/en/home/librarypage/democratic-governance/access\\_to\\_justiceandruleoflaw/global-principles-for-the-capacity-assessment-of-national-human-.html](https://www.undp.org/content/undp/en/home/librarypage/democratic-governance/access_to_justiceandruleoflaw/global-principles-for-the-capacity-assessment-of-national-human-.html); UNDP, OHCHR, Toolkit on NHRIs, available here: [https://www.undp.org/content/undp/en/home/librarypage/democratic-governance/human\\_rights/NHRIToolkit.html](https://www.undp.org/content/undp/en/home/librarypage/democratic-governance/human_rights/NHRIToolkit.html)

31 UN General Assembly, Resolution 73/195 on the Global Compact for Safe, Orderly and Regular Migration, A/RES/73/195, 11 January 2019, para 27(c), available here: [https://www.un.org/en/ga/search/view\\_doc.asp?symbol=A/RES/73/195](https://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/73/195)

- **NHRIs can benefit from agreements of collaboration with UN entities in order to strengthen their capacity, such as the tripartite partnership established by OHCHR, UNDP and GANHRI to build the technical capacity and strengthening the independence of NHRIs.<sup>32</sup>**

#### GOOD PRACTICE

- The Danish Institute for Human Rights published a report highlighting the role of NHRIs in programming and monitoring the implementation of the SDGs with examples of good practices.<sup>33</sup>
- GANHRI published a report providing specific recommendations on how NHRIs can contribute to the implementation of the SDGs on the basis of the functions and activities outlined in an instrument called the Merida Declaration.<sup>34</sup>
- Some States consult systematically with NHRIs with regard to reporting before the human rights treaty bodies or the Universal Periodic Review. NHRIs may be observers or have standing invitations to meetings of the National Mechanisms for Reporting and Follow-up.<sup>35</sup>

32 OHCHR, UNDP, GANHRI, Tripartite Partnership to Support NHRIs, 2011, <https://ganhri.org/strategic-partners/>

33 Danish Institute for Human Rights, National Human Rights Institutions as a driving force for sustainable development, <https://nhri.ohchr.org/EN/ICC/InternationalConference/12IC/Background%20Information/Merida%20Declaration%20FINAL.pdf>

34 GANHRI, National Human Rights Institutions Engaging with the Sustainable Development Goals, 2017, [https://www.humanrights.dk/sites/humanrights.dk/files/media/dokumenter/sdg/GANHRI\\_NHRIs%20engaging%20with%20the%20SDGs.pdf](https://www.humanrights.dk/sites/humanrights.dk/files/media/dokumenter/sdg/GANHRI_NHRIs%20engaging%20with%20the%20SDGs.pdf)

35 OHCHR, National Mechanisms for Reporting and Follow-up- A Practical Guide to effective State engagement with international human rights mechanisms, 2016, pp. 20-22, available here: [www.ohchr.org/Documents/Publications/HR\\_PUB\\_16\\_1\\_NMRF\\_PracticalGuide.pdf](http://www.ohchr.org/Documents/Publications/HR_PUB_16_1_NMRF_PracticalGuide.pdf)

### III. What UNHCR can achieve by collaborating with NHRIs

UNHCR can establish collaborations with NHRIs around the world whether in countries hosting persons of concern, transit countries as well in countries of origin or third countries. Such collaborations can yield positive protection outcomes for UNHCR's persons of concern. Some of these key protection outcomes are outlined below:

#### III.1. Data collection and monitoring the human rights situation of persons under UNHCR's mandate

In discharging their protection mandate, NHRIs can undertake the following activities, namely:

- Regularly collect, systematize, analyse and disseminate data on the situation of human rights of persons of concern;
- Conduct investigations into human rights violations whether at their own initiative or upon request;
- Handle individual complaints, including from persons under UNHCR's mandate, holding the State accountable;
- Seek redress or remedies through the judicial system and extrajudicial mechanisms;
- Monitor and report on the human rights situation in the country, including by focusing on:
  - *monitoring thematic issues affecting persons of concern to UNHCR;*
  - *monitoring progress in the realization of certain rights;*
  - *undertaking public inquiries into particular human rights issues.*

**GOOD PRACTICES**

- The Commission on Human Rights and Administrative Justice of Ghana conducted visits to refugee camps which laid the ground for two thematic reports, namely on: the implementation of the right to education in refugee camps, noting on the implementation of vocational training for refugee youth; and on discrimination faced by refugees in accessing health-care services.<sup>36</sup>
- UNHCR engaged systematically with the Afghanistan Independent Human Rights Commission when it initiated in 2004/2005 programmes of joint human rights and IDP/refugee monitoring. UNHCR and the Commission developed a coordinated system of collecting data on IDPs and refugee returnees.

Key aspects for UNHCR to consider:

- UNHCR should inform persons under its mandate of the existence and functions of NHRIs in a specific country as well as of modalities to contact the NHRIs;
- UNHCR could establish collaboration agreements with NHRIs in order to collect and share data regarding persons of concern as well as monitor the human rights situation of persons of concern;
- UNHCR could hold periodic discussions with NHRIs about the human rights situation of persons under its mandate (e.g. absence of specific legislation or policies, problematic legislative provisions or practices that result in limitations in terms of access to rights and essential services) in order to trigger an investigation;
- UNHCR could ensure the participation of representatives from NHRIs during visits to refugee or IDP camps, in workshops or various events;
- UNHCR could leverage NHRIs' expertise in monitoring the realization of economic, social and cultural rights, such as the right to education, adequate standard of living, health, work, or housing, in order to advocate for the inclusion of persons of concern in national programmes and services.<sup>37</sup>

<sup>36</sup> Commission on Human Rights and Administrative Justice, State of Human Rights, 2006.

<sup>37</sup> UN Committee on Economic, Social and Cultural Rights, General Comment No. 10, The role of national human rights institutions in the protection of economic, social and cultural rights, E/C.12/1998/25. See also: Practices of National Human Rights Institutions in Europe with regard to economic and social rights, <http://ennhri.org/esr-in-europe/>; WaterLex and the

## III.2. Strengthened capacity to monitor borders and ensure respect for the right to seek asylum and the principle of non-refoulement

There are several avenues in which UNHCR could leverage NHRIs' mandate in order to strengthen border monitoring:

- UNHCR operations can use and leverage the information collected by NHRIs from their border monitoring missions;
- UNHCR and the NHRIs could consider developing workshops for border authorities in order to strengthen their capacity to ensure respect for the right to seek asylum and the principle of non-refoulement, refer asylum claims to competent authorities, identify victims of trafficking in persons in need of international protection, and refer undocumented children to adequate protection services;
- UNHCR and NHRIs could conduct joint missions to border areas.

### GOOD PRACTICES

- The NHRIs in Bolivia, Peru and Chile established together with UNHCR as well as other partners, including IOM and National Refugee Commissions in the three countries, a Border Protection Network. This initiative undertakes, among others, regular missions to borders, strengthens coordination and information exchange, gathers information on the population of interest at borders, documents practices and rejections at borders, monitors access to refugee status determination procedures, and provides asylum-seekers and refugees with information materials on the asylum procedures in the three countries.<sup>38</sup>
- UNHCR Operations covering Poland and Hungary, in a situation of restricted access, relied in information collected by NHRIs from their border monitoring missions to support their advocacy efforts and programmatic interventions.

Danish Institute for Human Rights, Training Manual on National Human Rights Institutions' Role in Achieving Human Rights-based Water Governance, 2015, <https://www.waterlex.org/beta/wp-content/uploads/2018/08/NHRI-Water-Initiative.pdf>

38 UNHCR, 10-Point Action Plan, <https://www.refworld.org/pdfid/5841835c4.pdf> See also: <https://www.acnur.org/noticias/press/2019/11/5dcf3aae4/organizaciones-de-argentina-bolivia-chile-y-peru-se-reunieron-en-buenos.html>

Key aspects for UNHCR to consider:

- Government authorities are under the obligation to provide NHRIs with unrestricted access to persons, documentation and places that the NHRIs decide to visit or verify. This aspect can be particularly important for UNHCR especially in cases where Governments restrict UNHCR's/ UNHCR partners' access to persons of concern and/or specific sites. Nonetheless, not all NHRIs enjoy such full and unrestricted access.
- Monitoring standards and methodologies employed by the NHRIs are in line with international standards and NHRIs can be sensitized to ensure that their engagement is sensitive to UNHCR's specific operational approaches.

### III.3. Strengthened capacity to conduct monitoring of places of deprivation of liberty

Visiting places of deprivation of liberty falls within the protection mandate of NHRIs. In addition, in circumstances where the NHRI also assumed the mandate of national preventive mechanism under the Optional Protocol to the Convention against Torture, NHRIs have a stronger responsibility to monitor detention places. The NHRIs' mandate to conduct detention monitoring is not limited to detention under criminal law, but it encompasses immigration detention as well as other forms of administrative detention, such as detention in cases of public health situations. In some countries, irregular entry or stay leads to a criminal sentence; and asylum-seekers and refugees (including children) can be held together with criminal law detainees rather than separately in immigration detention centres.<sup>39</sup>

- NHRIs can conduct announced as well as unannounced periodic visits to all places where persons under UNHCR's mandate may be detained;
- NHRIs must have unrestricted access to all persons, places and documentation during their visit;
- NHRIs can engage with security and law enforcement forces and provide training on human rights standards related to detention, arrest procedures, collection of evidence, access to asylum procedures and preparation of reports;
- NHRIs can receive and handle individual complaints from persons deprived of liberty;
- NHRIs provide recommendations to prison authorities as well as relevant national authorities on improving detention conditions and inmates' rights, including with regard to asylum-seekers, refugees, IDPs and stateless persons.<sup>40</sup>

<sup>39</sup> See: UNHCR, Summary Conclusions on Article 31 of the 1951 Convention relating to the Status of Refugees -Revised (Geneva Expert Roundtable, 8-9 November 2001), available here: <http://www.refworld.org/docid/470a33b20.html> See also: UNHCR, Beyond Detention. A Global Strategy to support governments to end the detention of asylum-seekers and refugees 2014-2019, available here: <https://www.unhcr.org/protection/detention/53aa929f6/beyond-detention-global-strategy-support-governments-end-detention-asylum.html>

<sup>40</sup> With regard to the detention of stateless persons, see: UNHCR, Stateless persons in detention. A tool for their identification and enhanced protection, 2017, available here: [www.refworld.org/pdfid/598adacd4.pdf](http://www.refworld.org/pdfid/598adacd4.pdf)

**GOOD PRACTICES**

- The Commission on Human Rights and Administrative Justice in Ghana started conducting visits to immigration detention places.
- The South African Human Rights Commission assessed conditions of detention in the Lindela Repatriation Centre in South Africa<sup>41</sup>.
- UNHCR in collaboration with the Human Rights Commission of Malaysia (SUHAKAM) conducted nationwide dialogues, detention monitoring strategies and engagement in capacity building activities.
- Ombudsman of the Republic of North Macedonia regularly conducts monitoring of the immigration detention centres and supports UNHCR's access to persons of concern including those at risk of expulsion.

## Key aspects for UNHCR to consider:

- NHRIs can conduct joint monitoring missions together with UNHCR in places of immigration detention;
- UNHCR can strengthen the capacity of NHRIs to conduct detention monitoring visits. UNHCR's Global Detention Strategy and the standards and tools therein could be of guidance in the Operations' engagement with NHRIs.<sup>42</sup>
- UNHCR can work together with NHRIs in advocating for the implementation of alternatives to detention.<sup>43</sup>

41 South African Human Rights Commission, Lindela. At the Crossroads for Detention and Repatriation. An Assessment of the Conditions of Detention by the South African Human Rights Commission, 2000

42 For further information, see: <https://www.unhcr.org/detention.html>

43 National Human Rights Commission of Mexico, Informe Special. Situacion de las estaciones migratorias en Mexico. Hacia un nuevo modelo alternativo a la detención, 2019, available only on Spanish here: <https://www.cndh.org.mx/sites/default/files/documentos/2019-11/Informe-Estaciones-Migratorias-2019.pdf>



### III.4. Monitoring cases of voluntary repatriation, return and refoulement, including sensitive cases

There are several specificities related to the human rights situation in countries of origin or third countries that merit particular attention.

#### **Voluntary repatriation and reintegration of returnees**

UNHCR has a mandate to ensure that decisions to return are taken on a voluntary and informed basis and monitor the situation of returnees in order to establish that conditions in the country of origin are stable, national protection is available, and returnees are reintegrated. UNHCR should be given direct and unhindered access to returnees to be able to monitor that the conditions for return are met, including that returnees enjoy their human rights on an equal footing with fellow citizens.<sup>44</sup> NHRIs represent a key partner for UNHCR to monitor the situation of respect of human rights of returnees and their reintegration. Moreover, NHRIs can also use their promotion mandate to advocate for the inclusion of refugees in repatriation processes.

#### **Return of persons not falling under UNHCR's mandate**

UNHCR is supportive, in principle, of programmes that make voluntary return possible for persons found not to be in need of international protection.<sup>45</sup> NHRIs can support this process in particular on return of the individuals concerned.

#### **Cases of possible refoulement**

Ensuring respect for the principle of non-refoulement is a cornerstone for the protection of persons under UNHCR's mandate. It is, thus, key for UNHCR to monitor both situations of such returns in violation of the principle of non-refoulement, as well as cases where persons are prevented from accessing the territory to claim asylum that

44 <https://www.unhcr.org/partners/guides/4c2203309/policy-framework-implementation-strategy-unhcrs-role-support-return-reintegration.html>

45 UNHCR; Conclusion on the return of persons found not to be in need of international protection, 2003, <https://www.refworld.org/docid/3f93b1ca4.html>

may amount to refoulement. This is particularly important in relation to practices of push-back, deportation pending asylum claims, and the situation of individuals who do not qualify for refugee status but who cannot return to their countries of origin in light of other human rights considerations. UNHCR could leverage NHRIs' engagement for further monitoring and advocacy for broader protection measures.

Prevention of torture is included in NHRIs' broad mandate; some NHRIs may also have a specific mandate in this sense when they have been designated as national preventive mechanisms under the Optional Protocol to the Convention against Torture. NHRIs can conduct visits to places where persons are held in detention prior to deportation, can accompany and monitor deportations whether they take place by air, land or sea. They can also coordinate with their respective counterparts in the country of destination to monitor arrivals, reception conditions and the treatment of individuals who were deported. This is particularly important in situations where the country of origin gives assurances that the persons concerned would not be exposed to the risk of torture, ill-treatment or other human rights violations.

#### **GOOD PRACTICES**

- UNHCR and the Afghanistan Independent Human Rights Commission undertook joint field missions, interviewed returnees and identified a series of human rights violations related to the right to property, education, liberty and security of the person, freedom of movement, work etc. Violations are followed up through formal and informal justice mechanisms at the local and national level. Interventions may take the form of referrals, advocacy and awareness-raising campaigns, discussions with authorities or provision of legal aid.<sup>46</sup> The Afghanistan Independent Human Rights Commission published a thematic report focusing on the situation of returnees in Afghanistan. The report relied on data and statistics from various sources, including UNHCR.<sup>47</sup>

46 UNHCR, Mass Information Documents on Repatriation to Afghanistan, February 2009, <https://www.unhcr.org/uk/49ba2e522.pdf>

47 Afghanistan Independent Human Rights Commission, The Returnees. An Overview of the Situation of Returnees in Afghanistan, 2016, <https://www.refworld.org/docid/5948e6074.html>

- The Defensor del Pueblo of Ecuador challenged before the Constitutional Court in 2018 and 2019 the requirements imposed on Venezuelan refugees and migrants to present passports and criminal records in order to enter the country.<sup>48</sup>
- The Defensor of Bolivia requested the adoption of precautionary measures before the Interamerican human rights system in order to prevent the extradition of refugees.<sup>49</sup>

Key aspects for UNHCR to consider:

- Collaborate with NHRIs in countries of origin to collect information on the human rights situation. The reports of NHRIs can be useful resources for UNHCR especially since NHRIs are independent institutions. Such information can also be valuable for potential returnees to ensure their exercise of a free and informed choice regarding return;
- Include NHRIs among the partners UNHCR works with in monitoring cases of repatriation, voluntary return, especially in support of returnee monitoring;
- Alert NHRIs about cases of potential refoulement. NHRIs have the capacity to respond rapidly and recommend the Government measures to stop deportations pending the completion of asylum procedures or refer cases to the judiciary or other mechanisms for interim measures or urgent appeals;<sup>50</sup>
- As UNHCR prepares its framework for measured disengagement in situations of repatriation, NHRIs can play a role in monitoring the reintegration processes;
- Collaborate with NHRIs to advocate the inclusion of returnees in national development planning in countries of origin.

48 <https://www.refworld.org/es/pdfid/5ca3a96c4.pdf>

49 Defensor del Pueblo of Bolivia, Informe del Defensor del Pueblo al Congreso Nacional, 2006, p. 39, available only in Spanish here: <https://www.defensoria.gob.bo/uploads/files/ix-informe-al-congreso-nacional.pdf>

50 UNHCR, General Guidance on Engaging with United Nations Human Rights Complaint Procedures, 2019 (internal document).

### III.5. Advance legislation and policies related to asylum, internal displacement<sup>51</sup> and statelessness<sup>52</sup>

NHRIs can advocate for legislative and policy amendments to ensure respect for the human rights of persons under UNHCR's mandate. Advising national authorities implies:

- Conducting periodic reviews of and advise on draft legislation and policies;
- Ensuring compliance of national frameworks with international human rights norms;
- Communicating findings and conclusions with national authorities and the public;
- Promoting the ratification and domestication, as relevant, of international treaties of relevance to UNHCR and encouraging the removal of reservations;
- Advocating the development of normative frameworks of relevance to UNHCR - or even drafting them directly, as the National Human Rights Commissions in Mexico and in the Philippines did in relation to draft laws on internal displacement.

#### GOOD PRACTICES

- The Ugandan Human Rights Commission advocated the adoption of legislation to regulate asylum claims. In its 11th annual report, the Commission acknowledges the Government's adoption of the Refugee Law and the Dual Citizenship Act.<sup>53</sup>
- The Morocco National Council on Human Rights published in 2013 a comprehensive report proposing a new migration policy framework which included the situation of refugees, asylum-seekers and victims of trafficking in persons. Based on the NHRI's recommendations, the Government adopted the new policy and also created a procedure for regularization of the status of foreign nationals. A number of refugees recognized by UNHCR were regularized as a result of the implementation of the National Immigration and Asylum Strategy. The fact that the Moroccan NHRI chaired the National Commission for the Monitoring and Appeal of the Regularization Operation facilitated the relaxation of the criteria for regularization.<sup>54</sup>

51 For more details in relation to the role of NHRIs in the context of internal displacement, see sub-section III.6.

52 For more details in relation to the role of NHRIs in the context of statelessness, see sub-section III.7.

53 Uganda Human Rights Commission, 11th Annual Report to the Parliament of Uganda of the Uganda Human Rights Commission, 2008.

- The Defensor del Pueblo of Ecuador developed in 2013 a legislative proposal regarding human mobility which led to the adoption of the Organic Law on Human Mobility four years later.<sup>55</sup>
- The National Human Rights Commission in Mexico highlighted the need for a legal framework on internal displacement at the federal level at a time when the Federal Government had not officially recognized internal displacement in the country. The Commission organised in 2016 several high-level events on internal displacement advocating for a law to be put in place and engaging international partners including the Inter-American and UN Special Rapporteurs on IDPs. The Commission also developed a protocol for the protection and assistance to IDPs to be used by relevant authorities in the absence of a law and drafted an IDP bill which it presented to Congress in 2018.

#### Key aspects for UNHCR to consider:

- In addition to informing national authorities, the reports and recommendations addressed by the NHRIs can also be a valuable source of information for UNHCR with regard to standards in policy-making;
- NHRIs' participation in law and policy-making is not limited to their advisory functions. NHRIs can also foster dialogue and facilitate collaborations among different branches of government;
- Where UNHCR supports a Government in developing a law or a policy, it could ensure that the NHRI is also adequately informed about and involved in the process as relevant and feasible;
- NHRIs are strong advocates for the realization of economic, social and cultural rights, including the rights to housing, food, health, education and labour rights. UNHCR could encourage and support NHRIs to promote the enjoyment of these rights by persons of concern and ensure their inclusion in national human rights action plans, national programmes and services regarding health, housing, education, labour and social security.

54 [https://www.institut-fuer-menschenrechte.de/fileadmin/user\\_upload/Publikationen/ANALYSE/Analysis\\_NHRI\\_and\\_their\\_work\\_on\\_migrants\\_human\\_rights.pdf](https://www.institut-fuer-menschenrechte.de/fileadmin/user_upload/Publikationen/ANALYSE/Analysis_NHRI_and_their_work_on_migrants_human_rights.pdf)

55 <https://movilidadhumana.files.wordpress.com/2015/11/analisis-proyecto-de-ley-de-movilidad-humana-cmr.pdf>

### III.6. Facilitate access to justice for persons under UNHCR's mandate

NHRIs' mandates with regard to handling individual complaints differ. Some NHRIs have quasi-judicial mandates and can initiate legal proceedings by submitting cases before regular courts, constitutional courts and specialized tribunals. Other NHRIs may have a mandate to intervene in court proceedings as "friends of the court" in cases that carry significant human rights implications and have the potential to lead to changes in the country's legal and policy framework in line with international and regional standards. UNHCR can collaborate with NHRIs and support NHRIs in developing legal arguments and interpretation of international and regional standards for the protection of persons of concern.

#### GOOD PRACTICES

The Kenyan Human Rights Commission submitted a constitutional challenge to the Government's decision to close refugee camps and disband national authorities in charge of refugee matters.

*Case Kenya National Commission on Human Rights & another v. Attorney General & 3 others*<sup>56</sup>

The Kenyan Government announced in 2016 its decision to disband the Department of Refugee Affairs, close Dadaab refugee camp and forcibly return more than 260'000 Somali refugees to Somalia. The Kenyan National Commission on Human Rights challenged the constitutionality of this decision invoking Kenya's obligations under international human rights law and refugee law.

The High Court of Kenya at Nairobi found the Government's decision to close down Dadaab camp unconstitutional. The Court also ruled that the Government's plans to forcibly return Somali refugees amounted to a violation of the principle of non-refoulement under the 1951 Convention and the 2006 Kenyan Refugee Act.

<sup>56</sup> High Court of Kenya, Kenya National Commission on Human Rights & another v. Attorney General & 3 others, 2017, available here: [refworld.org](http://refworld.org)

Additionally, some NHRIs also have a mandate to refer individual complaints to the judicial system or to seek remedies before courts. NHRIs may be the only recourse to access justice for persons under UNHCR's mandate especially in countries where they lack legal status. UNHCR can collaborate with NHRIs to ensure persons of concern have access to free and quality legal aid throughout the asylum process and in other legal procedures. In this sense, UNHCR can undertake together with NHRIs the following initiatives:

- Mapping of legal aid systems, both formal and informal systems;
- Promote legislative and policy recommendations to provide persons of concern's access to free and quality legal assistance throughout the asylum procedures at all instances as well as other judicial or administrative procedures;
- Preparation of legal aid information materials;
- Train legal aid lawyers on refugee law and the rights of persons under UNHCR's mandate.

### GOOD PRACTICES

UNHCR collaborates with the Chilean NHRI in order to implement a programme to provide legal aid for asylum-seekers.<sup>57</sup>

Key aspects for UNHCR to consider:

- Generally, courts and judges are exempt from oversight by NHRIs in order to preserve the independence of the justice system. NHRIs can monitor and report on court activities as well as submit recommendations aimed at providing interpretation of the national law from a human rights perspective or to prevent undue delays in judicial proceedings;

<sup>57</sup> See: <https://www.acnur.org/fileadmin/Documentos/BDL/2014/9968.pdf>; <https://www.acnur.org/noticias/noticia/2014/3/5b0c1c1710/chile-instituto-nacional-de-derechos-humanos-y-acnur-firman-convenio-de-cooperacion.html>

- NHRIs may act on behalf of a complainant or on behalf of public interest, depending on their mandate. Some NHRIs can use class actions in order to seek remedies on issues that affect more than one individual;
- NHRIs have strong expertise in the domestic legal system, and their members can provide quality legal aid free of charge to persons of concern whether in relation to asylum procedures or other legal procedures.



### III.7. Strengthen the protection of internally displaced persons

There are several avenues within NHRIs' mandate that can be utilized in order to prevent and respond to situations of internal displacement:

- NHRIs can play a bridging role at several levels:
  - *Between international and national human rights and humanitarian protection systems;*
  - *Between national authorities, civil society and internally displaced persons.*
- Monitoring and reporting on internal displacement:
  - *Collecting data on the situation of internally displaced persons, including in post-conflict situations;*
  - *Monitor the human rights situation of IDPs, including access to housing, land and property, livelihoods or essential infrastructure, or essential conditions for safe return and life in dignity;*
  - *Support IDPs' access to information regarding options and conditions for return, and that return is fully voluntary;*
  - *Monitor IDP camps or sites, including IDPs in host families as well as in urban settings;*
  - *Keep track of internal displacement trends;*
  - *Publish reports and provide recommendations to Government, humanitarian agencies and donors on realization of civil, political, social, economic and cultural rights of the displaced population with the aim to achieve durable solutions in line with international standards;*

- Handling individual cases submitted by IDPs:
  - *Investigate individual cases involving violations of the human rights of IDPs;*
  - *Engage in litigation processes on behalf of IDPs' rights;*
  - *Provide legal aid to IDPs;*
  - *Support IDPs to secure personal documentation;*
  - *Register IDPs to vote;*
- Conducting advocacy and awareness raising on internal displacement:
  - *Advocate for the official recognition of internal displacement by the government when this is missing;*
  - *Advise national authorities on the development or reviews of national legal frameworks to address internal displacement in line with international and regional norms and standards;*
  - *Advise and support national authorities in the development of national policies or plans of action to address internal displacement;*
  - *Ensure the participation of IDPs in decision-making;*
  - *Cooperate with international and regional organizations in order to address the problems posed by internal displacement;*
- Strengthen the capacity of national authorities to address internal displacement:
  - *Conduct training for national authorities on the protection of internally displaced persons;*
  - *Establish focal points on internal displacement within the structure of the NHRIs;*
  - *Work together with civil society and other stakeholders to ensure the rights of IDPs.<sup>58</sup>*

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<sup>58</sup> Asia-Pacific Forum of National Human Rights Institutions, Final Report of the Regional Workshop on National Human Rights Institutions and Internally Displaced Persons, 26-28 October 2005. See also: UNHCR, OHCHR, GANHRI, UN Human

**GOOD PRACTICES**

- NHRIs were involved in drafting policies and legislation regarding internal displacement in Honduras, Mexico and Georgia;
- NHRIs advocated for the ratification of the Kampala Convention;
- The Defensor del Pueblo in Colombia initiated litigation that led to legislative changes in the area of internal displacement.<sup>59</sup> UNHCR submitted an amicus curiae in this case. UNHCR and the Colombian Defensor also collaborated in the establishment of a community-based early warning mechanism to prevent forced displacement through the creation of a network of “defensores comunitarios” across the country.<sup>60</sup>
- The National Human Rights Commission of Niger is a member of the Protection Cluster which results in cooperation with regard to sharing of information and alerts about human rights violations.
- UNHCR and the Commission on Human Rights of the Philippines collaborated in the establishment of the Centre for Crisis, Conflict and Humanitarian Protection and conducted jointly field missions in communities affected by the conflict.

Specific aspects for UNHCR to consider:

- There are at times difficulties to convince governments to recognize internal displacement as a human rights issue within the mandate of NHRIs; joint strategies to address this could be pursued;
- A longer-term commitment and/or multi-year planning/strategy development can support UNHCR’s collaboration with NHRIs in this field, provided such a partnership is deemed opportune for the protection of IDPs;

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Rights Special Procedures, Workshop Summary Report on the Role of National Human Rights Institutions in Promoting and Protecting the Human Rights of Internally Displaced Persons, 20 February 2018.

59 See: Constitutional Court of Colombia, Case No. T-268/03, available here: <https://www.corteconstitucional.gov.co/relatoria/2003/t-268-03.htm>

60 <https://www.defensoria.gov.co/es/delegadas/9/>

- Some difficulties to conduct monitoring in certain areas for various reasons including lack of access due to political or logistical constraints or in areas not controlled by government authorities might be too difficult to overcome;<sup>61</sup>
- NHRIs could be supported in their efforts to monitor UN country-specific recommendations regarding internal displacement, and in their efforts to persuade the Government to collaborate with and accept country visits by the mandate of the Special Rapporteur on IDPs as well as other international and regional human rights mechanisms;
- NHRIs can be considered as partners within the Global Protection Cluster and other clusters;
- NHRIs can be supported in ensuring that age, gender and diversity perspectives are included in the NHRIs' action plan as well as in national policies and plans of action (for IDPs and otherwise);
- The capacity of NHRIs to identify causes of internal displacement can be strengthened, in support of UNHCR's work, as could their knowledge on the existing standards and frameworks to address internal displacement.<sup>62</sup>

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61 Asia-Pacific Forum of National Human Rights Institutions, Final Report of the Regional Workshop on National Human Rights Institutions and Internally Displaced Persons, 26-28 October 2005.

62 Key resources: UNHCR, OHCHR, GANHRI, UN Human Rights Special Procedures, Workshop Summary Report on the Role of National Human Rights Institutions in Promoting and Protecting the Human Rights of Internally Displaced Persons, 20 February 2018; Report of the Special Rapporteur on Internally Displaced Persons focusing on the role of NHRIs ([https://ap.ohchr.org/documents/dpage\\_e.aspx?si=A/HRC/41/40](https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/41/40)); UNHCR's Engagement with NHRIs for IDP protection, 2016 (<https://www.refworld.org/docid/571a19194.html>)

### III.8. Strengthen avenues to prevent and reduce statelessness and protect stateless persons

NHRIs can undertake a series of activities in relation to addressing statelessness, including:

- Promoting ratification and domestication of the Statelessness Conventions;
- Advocating for legislative reforms for prevention of statelessness and protect stateless persons;
- Assisting stateless persons and/or persons at risk of statelessness, including through legal aid services;
- Advocating for a comprehensive statelessness mapping analysis, including a legislative analysis, to inform policy and legislative reforms for the prevention and reduction of statelessness and protection of stateless persons;
- Preparing dedicated thematic reports related to the issue of statelessness;
- Documenting situations where individuals do not have access to birth registration or civil documentation, and advocating for measures to ensure access to such procedures without discrimination.

**GOOD PRACTICES**

- The Togo NHRI advised the Government in the context of the 2010 nationality law reform and advocated for the elimination of gender discrimination from the law;
- The Luxembourg Human Rights Commission prepared an opinion on the draft nationality law of Luxembourg and encouraged the Government to ratify the 1961 Convention and to ensure that all children born on vessels under Luxembourgish flag to be treated in an equal manner as children born on Luxembourgish territory;
- The Human Rights Commission of Malaysia focused its 2012 annual report on the issue of statelessness and its impact on the rights of vulnerable children;
- The Kenya National Commission on Human Rights (KHCHR) together with UNHCR produced a report “Out of the shadows: towards ensuring the rights of stateless persons and persons at risk of statelessness in Kenya” (2010). This project was preceded by the KNCHR and UNHCR in 2008 on the issuance of national identity cards in Kenya;
- The Netherlands Institute for Human Rights organized a seminar together with UNHCR in 2013 to discuss the importance of specific statelessness determination procedures;
- The Thailand NHRI organized together with UNHCR a Regional Expert Roundtable on Good Practices for the Identification, Prevention and Reduction of Statelessness and the Protection of Stateless Persons in South East Asia in 2010;
- The NHRI of Sri Lanka together with UNHCR and other partners published information brochures on citizenship procedures for stateless refugee returnees;
- The Defensor del Pueblo in Colombia submitted a draft law to the parliament to establish an exceptional and special measure to grant the Colombian nationality to thousands of children born in Colombia to Venezuelan parents. Through this new law, Venezuelan parents who are irregular migrants, asylum-seekers, or beneficiaries of migratory special permits were able to prove the requisite of “domicile” in the country in order for their children to acquire the Colombian nationality at birth. Some of these children were stateless or at high risk of statelessness. The draft bill was approved, and the law entered into force.<sup>63</sup>;

63 <https://www.defensoria.gov.co/es/nube/comunicados/8249/Comunicado-de-Prensa-Defensor%C3%ADa-del-Pueblo.htm>

- UNHCR and the NHRI in Cote d'Ivoire established a MoU which includes joint advocacy towards the domestication of the two Statelessness Conventions as well as the reform of the Nationality Act;
- The Commission of Human Rights of the Philippines is part of the Inter-Agency Committee on the National Action Plan to End Statelessness;
- UNHCR collaborated with the Commission for Human Rights and Administrative Justice in Ghana and jointly conducted the country's first statelessness study in 2016-2017.

Specific aspects for UNHCR to consider:

- Discuss with the NHRIs on the possibility to have dedicated staff (or a focal point) on statelessness;
- Discuss with the NHRIs the possibility to include birth registration, access to civil documentation, the prevention of statelessness and the protection of stateless populations in their policies and strategies;
- Encourage the NHRIs to take up the issue of statelessness in dialogue with their Governments or Parliaments;
- Support NHRIs to develop and disseminate information brochures on statelessness which may be made available in languages spoken by the stateless communities;
- Support NHRIs in assisting stateless persons in individual cases;
- Support NHRIs develop further guidance on links between statelessness and their mandate;
- Engage with NHRI to accelerate decision-making on cases of long pending application for acquisition of nationality for stateless persons or protracted refugees (incl. naturalization);
- Engage with NHRI to ensure comprehensive legal reform of nationality laws to remove denial of nationality on discriminatory grounds.

### III.9. Ensure an age, gender and diversity approach in engagement with NHRIs

UNHCR can ensure that, irrespective of the project, NHRIs monitor the human rights situation of boys, girls, women and men, persons with specific needs, including persons with disability or LGBTI persons, ethnic, political, religious or other minorities who are in need of international protection. This approach is also in line with standards developed by human rights mechanisms about the role of NHRIs in supporting and monitoring the implementation of human rights obligations. For instance, the UN Committee on the Rights of the Child highlighted in its General Comment No. 2 several aspects of NHRIs work that make the institutions relevant for UNHCR<sup>64</sup>:

- NHRIs should be geographically and physically accessible to all children. In line with the Convention on the Rights of the Child, NHRIs should proactively reach out to all groups of children, including children in care or detention, children from minority and indigenous groups, children with disabilities, children living in poverty, refugee and migrant children, street children and children with special needs in areas such as culture, language, health and education.
- NHRIs should take into account situations where children's rights are violated across borders, such as trafficking, child pornography, child soldiers, child labour, child abuse, refugee and migrant children.

GANHRI collaborated with UNICEF on the elaboration of a series of toolkits to build the capacity of NHRIs to promote and protect children's rights focusing on the following issues:<sup>65</sup>

- Promotion and outreach by NHRIs with and for children;
- Child-friendly complaint mechanisms;
- Children's participation in the work of NHRIs;
- Children's rights in NHRIs: A mapping exercise;
- A global webinar series to support NHRIs to advance accountability for children's rights.

64 UN Committee on the Rights of the Child, General Comment No. 2, CRC/GC/2002/2, 15 November 2002, paras. 15, 29: [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)

65 <https://nhri.ohchr.org/EN/Themes/RightsChild/Pages/default.aspx>



The Yogyakarta Principles on the application of international human rights law in relation to sexual orientation and gender identity recommend that national human rights institutions promote respect for these principles by State and non-State actors, and integrate into their work the promotion and protection of the human rights of persons of diverse sexual orientation or gender identities.<sup>66</sup>

NHRIs have also strengthened their institutional capacity, by adopting specific strategies to integrate the human rights of these categories of persons into their work priorities and methodologies, or by appointing dedicated focal points.<sup>67</sup>

The Asia-Pacific Forum prepared with the support of eight NHRIs in Asia-Pacific a set of guidelines on how to mainstream the human rights of women and girls into NHRIs' everyday work. Anchored in the UN Convention on the Elimination of Discrimination against Women, the guidelines provide recommendations on how NHRIs should develop gender mainstreaming strategies which include the rights of refugee women and girls.<sup>68</sup>

NHRIs can undertake the following activities in relation to the rights of girls, boys, women and men, of diverse backgrounds who are of concern to UNHCR:

- Undertake investigations into any situation of violation of human rights of these categories of persons upon complaint or on their own initiative, mindful of cultural dynamics as well as specific needs and rights regarding age, gender, disability or sexual orientation and gender identity;
- Prepare opinions, recommendations, reports to inform national authorities and the public on any matter related to the promotion and protection of the rights of these persons;

66 Yogyakarta Principles on the Application of international Human Rights Law in Relation to Sexual Orientation and Gender Identity, 2006 and the Yogyakarta Principles plus 10, <http://yogyakartaprinciples.org/principles-en/official-versions-pdf/>

67 UN Committee on the Rights of the Child, General Comment No. 2, The role of national human rights institutions in the protection and promotion of the rights of the child, CRC/GC/2002/2, 2002, [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)

68 Asia-Pacific Forum, Mainstreaming the human rights of women and girls into our everyday work, 2019, [https://www.asiapacificforum.net/media/resource\\_file/APF\\_NHRI\\_Guidelines\\_Mainstreaming\\_pCkDLRa.pdf](https://www.asiapacificforum.net/media/resource_file/APF_NHRI_Guidelines_Mainstreaming_pCkDLRa.pdf).

- Review and propose legislative amendments as necessary, taking into account social dynamics related to violence against girls and women particularly, including domestic violence, perceptions of and definition of disability, or instances of criminalization of homosexuality;
- Ensure the best interest of the child is of primary consideration in all Government actions concerning children who are forcibly displaced or stateless;
- Ensure that these categories of persons participate directly and meaningfully in the activities undertaken by the NHRIs;<sup>69</sup>
- Monitor access to the asylum procedures for unaccompanied and separated children, victims of trafficking in persons, victims of sexual and gender-based violence, persons with disabilities and LGBTI persons;
- Ensure that migratory and asylum procedures respect guarantees of due process and procedural considerations to ensure effective access to women, girls, boys, LGBTI persons, and persons with disabilities.

The UN Committee on the Rights of Persons with Disabilities and the Committee on Migrant Workers called in a joint statement for increased attention to address the rights of persons with disabilities in large-scale movements of refugees and migrants, especially with regard to identification, accessibility for persons with disabilities in reception and detention centres, and availability of psychosocial and legal counselling and services that are age, gender and disability sensitive.<sup>70</sup>

69 UNICEF, Children's Participation in the Work of NHRIs, 2018, [https://www.unicef.org/eca/sites/unicef.org/eca/files/2019-02/NHRI\\_Participation.pdf](https://www.unicef.org/eca/sites/unicef.org/eca/files/2019-02/NHRI_Participation.pdf)

70 Joint statement by the UN Committee on the Rights of Persons with Disabilities and the Committee on Migrant Workers on addressing disabilities in large-scale movements of refugees and migrants, 2017, <https://www.ohchr.org/EN/HRBodies/CRPD/Pages/CRPDStatements.aspx>

**GOOD PRACTICES**

- UNHCR worked closely with the Australian Human Rights Commission to monitor the situation of human rights of children detained on Manus Island and Papua New Guinea. The Australian Human Rights Commission published a groundbreaking report highlighting the psychological trauma and impact of immigration detention on asylum-seeking children.<sup>71</sup>
- The Human Rights Commission of New Zealand trained public authorities who deal with refugee claims on issues related to sexual orientation and gender identity.<sup>72</sup>

71 Australian Human Rights Commission, The Forgotten Children. National Inquiry into Children in Immigration Detention, 2014, <https://www.humanrights.gov.au/our-work/asylum-seekers-and-refugees/publications/forgotten-children-national-inquiry-children>

72 Asia Pacific Forum, UNDP and Asia-Pacific Coalition on Male Sexual Health, Report on the workshop on the role of national human rights institutions in promoting and protecting the rights, including health, of LGBTI people in Asia and the Pacific, 2015, [https://www.undp.org/content/dam/rbap/docs/Research%20&%20Publications/hiv\\_aids/rbap-hhd-2015-role-of-nhris-promoting-protecting-rights-lgbti-ap-report.pdf](https://www.undp.org/content/dam/rbap/docs/Research%20&%20Publications/hiv_aids/rbap-hhd-2015-role-of-nhris-promoting-protecting-rights-lgbti-ap-report.pdf)

### III.10. Strengthen the protection of persons forcibly displaced in the context of climate change

Forced displacement caused by the adverse effects of climate change is a fast-evolving challenge requiring a contextualized response depending on each particular situation. Climate change has implications on the realization and enjoyment of all human rights,<sup>73</sup> including the right to seek and enjoy asylum as highlighted in the decision of the UN Human Rights Committee in the *Teitiota v. New Zealand* case.<sup>74</sup>

Consequently, the needs of international protection of persons forcibly displaced in the context of climate change must be carefully scrutinized and the principle of non-refoulement must be respected when applicable.<sup>75</sup> Importantly, support can and should be provided to States to prevent and/or mitigate risks associated with adverse effects of climate change, enabling effective State protection. UNHCR can leverage the mandate of NHRIs to assist and advise governments in this regard as well as advocate on the importance of prevention and mitigation measures, such as infrastructure improvement, urban planning, land reform, disaster risk reduction and climate change adaptation to prevent displacement caused by climate change. NHRIs could also play a key role in documenting and reporting on the impact of the climate crisis on the enjoyment and realization of human rights.

73 UN Special Rapporteur on extreme poverty and human rights, Annual report on climate change and poverty, A/HRC/41/39, 17 July 2019, <https://undocs.org/A/HRC/41/39>

74 UN Human Rights Committee, *Ioane Teitiota v. New Zealand*, Communication No. 2728/2016, CCPR/C/127/D/2728/2016, 7 January 2020, [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR/C/127/D/2728/2016&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR/C/127/D/2728/2016&Lang=en)

75 UNHCR, *In Harm's Way*. International protection in the context of nexus dynamics between conflict or violence and disasters or climate change, 2018, <https://www.unhcr.org/protection/environment/5cac7fda7/harms-way-international-protection-context-nexus-dynamics-conflict-violence.html>.

**GOOD PRACTICES**

- The Commission on Human Rights of the Philippines assumed jurisdiction over a petition to establish how climate change is related to the increasing frequency and severity of natural disasters and how the human rights of the Filipino people are affected by it;<sup>76</sup>
- The Office of the Ombudsman of Samoa prepared its third annual report before the Samoan Parliament on the issue of climate change affecting people of Samoa;<sup>77</sup>
- The German Institute for Human Rights together with the Center for International Environmental Law prepared a submission for the 2018 UN Climate Conference focusing on how States can incorporate human rights in the Implementation Guide of the Paris Agreement;<sup>78</sup>
- The Office of the Public Defender of Ecuador recognized the role of UNHCR in responding to situations of internal displacement caused by climate change in a submission to OHCHR in relation to the UN Human Rights Council Resolution 35/20 on human rights and climate change.<sup>79</sup>

76 Republic of the Philippines Commission on Human Rights, National Inquiry on the Impact of Climate Change on the Human Rights of the Filipino People, 2018, <https://chr.gov.ph/nicc-2/>

77 Office of the Ombudsman – National Human Rights Institution of Samoa, State of Human Rights Report 2017, [https://ombudsman.gov.ws/wp-content/uploads/2019/01/2017\\_State-of-Human-Rights-Report-Climate-Change\\_-English.pdf](https://ombudsman.gov.ws/wp-content/uploads/2019/01/2017_State-of-Human-Rights-Report-Climate-Change_-English.pdf)

78 German Institute for Human Rights and the Center for International Environmental Law, National Human Rights Institutions and the 2018 UN Climate Conference, 2018, [https://www.institut-fuer-menschenrechte.de/fileadmin/user\\_upload/Publikationen/Information/Information\\_National\\_Human\\_Rights\\_Institutions\\_and\\_the\\_2018\\_UN\\_Climate\\_Conference.pdf](https://www.institut-fuer-menschenrechte.de/fileadmin/user_upload/Publikationen/Information/Information_National_Human_Rights_Institutions_and_the_2018_UN_Climate_Conference.pdf)

79 Public Defender of Ecuador, Submission to OHCHR in relation to UN Human Rights Council Resolution 35/20 on human rights and climate change, 2018, <https://www.ohchr.org/Documents/Issues/ClimateChange/Protection/DefensoriaPuebloEcuador.pdf>

### III.11. UNHCR can advocate for the establishment of a NHRI in the country or strengthen the institutions' capacity to address issues related to forced displacement and statelessness

UNHCR's collaboration with NHRIs can go both ways. To support its own protection efforts, UNHCR may need to consider activities to strengthen the NHRI at country level.

Moreover, recognizing that the establishment of a Paris Principles compliant NHRI is an indicator under Sustainable Development Goal 16 for progress under the Agenda 2030, UNHCR could also consider undertaking the following actions:

- Encourage the State to ensure full compliance of the NHRI with the Paris Principles, including by providing broad mandate and functions, adequate budget and independence;
- Promote implementation of recommendations deriving from the NHRIs' accreditation process (issued by the Sub Committee on Accreditation), both with the NHRI and the State;
- Support NHRIs when under threat and/or subject to acts of intimidation as a result of their mandated activities, including on close coordination with GANHRI, NHRI regional networks and UN partners;
- Encourage the State to provide NHRIs with unhindered access to places of deprivation of liberty, IDP or refugee camps, borders, conflict areas or other places when persons that fall under UNHCR's mandate are located, and ensure that NHRIs are protected when such visits are being conducted;
- Contribute to capacity building of NHRIs on the basis of needs assessments.

#### GOOD PRACTICES

- The UNHCR Country Office in Italy used the Universal Periodic Review of Italy to propose to the Government of Italy recommendations aimed at the establishment of a NHRI in Italy. During its UPR held in 2020, the Government of Italy supported the recommendations regarding the establishment of the NHRI.
- UNHCR supported the accreditation process of the NHRI in Niger.

## IV. Conclusion: key considerations for UNHCR when engaging with NHRIs

Collaborating with NHRIs can present many advantages and can lead to concrete positive impact for the protection of persons under UNHCR's mandate. Several key considerations should be taken into account whenever UNHCR plans to or engages with these institutions. Similarly to collaborating with other actors, it is important to keep in mind that as contexts evolve, the relationship with the NHRIs may change.

### IV.1 Considerations prior to engagement with NHRIs

- Formalized channels of collaboration with NHRIs, such as memoranda of understanding, could usefully set out the framework of UNHCR's engagement with NHRIs <sup>80</sup>
  - *These frameworks should define the specific activities on which UNHCR and NHRIs collaborate, the tasks for each party, the information that needs to be shared, the principle and working methods guiding the collaboration;*
  - *Confidentiality of information regarding persons of concern and the principle of "do no harm" should be of paramount consideration;*
  - *Pay attention to the relationship between the Government and the NHRI;*
  - *UNHCR operations should reach out to their respective Regional Bureaux as well as to the Division of International Protection for information and guidance on the establishment of such MoUs.*
- Situations where it may be too sensitive for UNHCR to intervene, but where the mandate of the NHRI could be of support, could usefully be identified;

Building the capacity of NHRIs on issues related to forced displacement and statelessness may be a starting point for collaborating with NHRIs.

<sup>80</sup> UNHCR concluded MoU of collaboration with the following NHRIs: Ecuador, Honduras, Guatemala, Malaysia. For an example of such a MoU, see: <https://reliefweb.int/report/honduras/conadeh-y-acnur-firman-carta-de-entendimiento-buscan-protoger-personas-desplazadas> All MoUs concluded between UNHCR and NHRIs in the Americas are available here: [https://acnur.org/fileadmin/Documentos/Proteccion/Buenas\\_Practicas/9215.pdf](https://acnur.org/fileadmin/Documentos/Proteccion/Buenas_Practicas/9215.pdf)

## IV.2 Considerations during engagement with NHRIs

- In addition to signing memoranda of understanding or other forms of collaboration agreements, UNHCR and NHRIs could also agree on work plans with concrete activities and responsibilities;
- NHRIs may be able to provide a faster protection response than the UN, in terms of responding to individual cases, investigations or interventions in key judicial cases. The States are under the obligation to provide NHRIs full and unrestricted access to information, people and places to support NHRIs' investigations or procedures under individual complaints;
- The dialogue between UNHCR-NHRI-Government does not happen only in one direction. The Governments may sometimes use the NHRIs as intermediary in their relationship with the UN entities, including UNHCR;
- NHRIs collaborate among each other regionally and internationally. This type of collaborations is especially relevant for the protection of refugees and asylum-seekers in engaging both their countries of origin, transit as well as their host countries;
- UNHCR can work together with NHRIs to conduct joint monitoring missions;
- Regular briefings between UNHCR and NHRIs can support NHRIs in better promoting and protecting the human rights of persons of concern;
- The services and advice provided by NHRIs to persons of concern need to be free of charge;
- NHRIs can face reprisals for carrying out their mandate on which UNHCR should be cognizant. Due diligence should be exercised and support to NHRIs in coordination with the Resident Coordinators / UNCT/ HCT to NHRIs should be pursued when reprisals are the result of engagement with the UN system;
- In situations where UNHCR considers options for transitioning the country-level protection cluster to national authorities in IDP situations, NHRIs could be a reliable counterpart in order to continue the protection work.<sup>81</sup>

81 UNHCR, Guidance Package for UNHCR's Engagement in Situations of Internal Displacement, p. 34, 2019, available here: <https://www.unhcr.org/5d9cab727>



### IV.3 Evaluation and follow-up to engagement with NHRIs

- UNHCR operations could consider developing an evaluation tool to monitor and follow-up on its engagement with NHRIs.
- Working with NHRIs ensures that protection activities are carried out even without UNHCR's presence or support;
- NHRIs have a diverse composition and valuable expertise which ensures the quality of the services or advice they can provide to persons of concern;
- NHRIs' findings and recommendations to national authorities are public. UNHCR can further use these resources for its own advocacy and protection efforts;

## Annex 1: Key NHRI models and their functions

Models of NHRIs	Examples	Key features
Human rights commissions	Australian Human Rights and Equal Opportunity Commission;  Kenyan National Commission for Human Rights	Headed by a number of members;  Advisory and investigatory mandate;  Usually focus on investigations;  Some have powers to enforce orders and provide remedies to victims either themselves or through courts.
Human rights ombuds institutions	Office of the Public Defender of Georgia	Headed by a single member;  Strong investigative mandate.
Hybrid institutions (institutions that cumulate several types of mandates)	Defensor del Pueblo in Bolivia  Commission for Human Rights and Good Governance in Tanzania	Usually headed by a single member;  Multiple mandates: human rights + corruption, maladministration, environmental matters.
Consultative and advisory bodies	National Consultative Commission of Human Rights in France  Human Rights Advisory Council in Morocco	Large membership;  Do not usually have investigative powers;  Advise, consult broadly and give recommendations;  Conduct research on human rights.
Institutes and centres	Danish Institute for Human Rights	Large membership;  Do not usually deal with individual complaints;  Conduct research on human rights
Multiple institutions <sup>82</sup>	Finland's NHRI	It is composed of three institutions, namely the Human Rights Centre, Human Rights Delegation and the Parliamentary Ombudsman.

<sup>82</sup> On the specificities of NHRIs as multiple institutions, see: Richard Carver, "One NHRI or Many? How Many Institutions Does It Take to Protect Human Rights? - Lessons from the European Experience", 3(1) Journal of Human Rights Practice 2011, available here: <https://bit.ly/31CNsEh>



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