National Human Rights Institutions (NHRI)

Introduction

In 2011, the German Ministry for Economic Cooperation and Development (BMZ) issued its strategy on Human Rights in German Development Cooperation (PDF, 505 KB). In order to improve the realisation of human rights through development cooperation, the strategy pursues a dual-track approach: While the human rights-based approach is to be mainstreamed into all aspects of development cooperation, the fulfilment of human rights will also be advanced through increased support to specific human rights projects. Among those is the support to National Human Rights Institutions (NHRI) in partner countries as well as to regional human rights courts and the targeted support of civil society organisations.

The aims of this info tool are

- to introduce NHRI as strategic partners for German development cooperation;
- to highlight possible areas and methods of cooperation with NHRI within German development cooperation;
- to give examples of successful cooperation with NHRI.

This tool was elaborated by the sector program Realizing Human Rights in Development Cooperation of the Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) which supports the BMZ in implementing a human rights-based approach to development. The German Institute of Human Rights (DIMR), the German NHRI, contributes to the sector program in its advisory capacity.

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1. What are National Human Rights Institutions (NHRIs)?

Human rights are usually associated with international treaties and institutions at the global level such as the United Nations (UN). This often diverts attention from the fact that the promotion and protection of human rights is first and foremost the obligation of each individual state. National governmental bodies are obliged to take the necessary steps in this regard, and to continuously monitor whether their actions are directed toward the realisation of human rights, and if not to adapt them conformingly. Individuals notice in their everyday life, whether and how human rights guarantees are implemented. This is evident, for example, with respect to an individual’s access to justice, to health services and education as well as regarding the ability to organise and to participate in public assemblies or to establish an association.

Judicial enforceability is a key aspect of all human rights obligations. However, it is becoming increasingly recognised that preventive measures – such as human rights education, policy advice and systematic monitoring – are also of key importance. These tasks go beyond the capacities of UN Treaty Bodies, which monitor human rights treaty compliance on the international level. Therefore, in 1993 the Vienna World Conference on Human Rights called for the establishment of human rights institutions on the national level. In the same year, the UN General Assembly adopted the Paris Principles on National Human Rights Institutions.

According to the Paris Principles, the core mandate of NHRIs is to advise policy makers and monitor national policies with regard to human rights compliance. NHRIs are thus an important link between the national, regional and international level of human rights protection and promotion.

NHRIs use a number of means to be effective, such as applied research, monitoring, policy advice to governments, human rights education, and complaint handling. It is part of their raison d’être that they set their own priorities in order to be able to cover the whole range of civil, political, economic, social and cultural rights as guaranteed in the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights.

As key national players, NHRIs can introduce international human rights debates into the domestic realm, and thus render them more tangible for the population and government alike. In addition, their geographical proximity enables NHRIs to monitor the national implementation of human rights obligations more closely. NHRIs are thus positioned between civil society and the state, between the national, regional and international level, between academia and practice. Consequently, they function as an important link and a forum for dialogue among different stakeholders.

**Culture and human rights: property rights of women in Kenya**

In rural areas of Kenya, women’s rights to property and inheritance are severely limited. The introduction of an official land registration system denied women the access to property. In addition, the spreading of HIV/AIDS resulted in a significant increase in the number of widows and orphans. Being unable to cultivate their own land, widows in particular were deprived of the means to secure their own livelihood. To address this problem, the Kenya National Commission on Human Rights (KNHCR) entered into a dialogue with the Luo Council of Elders.

It became apparent that in Luo culture women traditionally were not only allowed to hold land, they usually were its principal owners. Consequently, the Council of Elders and the KNHCR jointly started awareness-raising of this traditional norm. Thus, bypassing of women’s rights could no longer be justified by tradition and culture. In a series of workshops, public discussions and other events, affected women exchanged experiences and were empowered through the awareness of their rights. In the medium term, their livelihoods improved. The KNHCR considers this a good practice of reconciling cultural practices and human rights, often seen as potentially conflictive. KNHCR intends to adopt it to future projects and to other areas (see KNHCR ‘From Despair to Hope: Women’s Right to Own and Inherit Property’, PDF, 999 KB, not barrier-free, 2005).

**Accreditation**

NHRIs are accredited by the International Coordinating Committee (ICC), the international association of NHRIs located in Geneva. The ICC accredits NHRIs based on the level of compliance with the Paris Principles. This accreditation status is reviewed at least once every five years. Status “A” requires full compliance with the Paris Principles; A-accredited institutions make up the ICC. Institutions with status “B” have not yet fully complied with the Paris Principles or have not presented the corresponding documentation. They only receive observer status within the ICC. Status “C” implies that the institution is not yet in compliance with the Paris Principles.

By refining its accreditation procedures, the ICC responds to the worldwide growth of NHRIs and the respective expectations regarding their independence, transparency and performance.
A-accreditation of a NHRI increases its national and international legitimacy. It also entails the use of participation rights in diverse UN forums.

Worldwide, there are around 70 NHRIs accredited with A-status, 40 of these are in partner countries of German development cooperation. About ten partner countries have NHRIs currently accredited with B- or C-status (ICC Chart Accreditation Status, January 2014, PDF, 422 KB, not barrier-free).

2. How do NHRIs work?

Although NHRIs are a specific type of institution, they operate under different names. In some countries they are called institute, in others commission. Mandates may also vary. This is due to the fact that NHRIs are situated within a particular national context and have evolved – in type and mandate – with respect to the specific national landscape. As a consequence, human rights institutions such as those in Senegal and the Philippines, which have been founded long before the Paris Principles were issued, are now recognised as NHRIs. Other NHRIs have only been founded after 1993, based on the Paris Principles.

The following section introduces the compulsory requirements regarding the mandate of NHRIs and the different types of NHRIs.

Mandate of NHRIs

The UN Paris Principles of 1993 formulate minimum requirements for the organisation and functions of NHRIs: Mandates should be as broad as possible, covering all human rights. At the same time they should be specific and clear in purpose. NHRIs need to be publicly funded yet independent of the state.

While the Paris Principles leave sufficient room for the different forms a NHRI might eventually take, they emphasise that NHRIs' independence – in terms of finance and work – needs to be guaranteed. NHRIs' by-laws, for example, should be designed in such a way, that they grant only consultative rights to state entities represented on the board. Moreover, NHRIs must have a legal basis in order to ensure their continued existence and to protect their mandate.

Types of NHRIs

NHRIs can basically be classified in four different types. The official name of the NHRI does not necessarily correspond to the type it actually represents:

- Committees: focus on policy advice, particularly to the government (i.e. National Consultative Commission of Human Rights in France; National Human Rights Council of Morocco).
- Institutes: focus on human rights education and research (i.e. DIMR; Danish Institute for Human Rights).
- Ombudspersons: focus on individual legal protection, for example, receiving and processing of complaints (i.e. Office of the Public Defender of Georgia; National Human Rights Commission of Mexico). However, not all ombudspersons are necessarily NHRIs. Nor do all NHRIs have the mandate for handling individual complaints.
- Commissions: typically perform a broad range of activities, including the examination of alleged human rights violations, human rights education, and public campaigning. Some may also initiate or participate in judicial proceedings (i.e. South African Human Rights Commission; National Commission for Human Rights of Indonesia).

Although what a particular NHRI does and how it works varies according to its type, the promotion of the implementation of international human rights obligations, policy advice, education and information will always constitute key activities.

Key tasks of NHRIs

- Promotion of the ratification of international and regional human rights treaties
- Promotion of the implementation of ratified human rights treaties in domestic law and legal practice
- Protection of human rights
- Monitoring of the human rights situation and the implementation of human rights obligations
- Applied human rights research
- Advisory service for government and legislature on human rights policy issues
- Human rights education and information
- Cooperation with other human rights actors on the national, regional and international level

In addition, a majority of NHRIs have the mandate to receive and examine individual complaints on alleged human rights violations. They either mediate and arbitrate cases themselves or transfer complaints towards the judiciary.
NHRIs on the international level

On the international level, NHRIs present their assessment of their country’s human rights situation in different contexts. Central settings for this purpose are the Universal Periodic Review (UPR), the UN Treaty Bodies and the Special Procedures of the Human Rights Council. (For a short introduction on these human rights mechanisms see ABC of Human Rights for Development Cooperation, PDF, 241 KB.) In doing so, they are supported by the ICC, as well as by the National Institutions Unit in the Office of the High Commissioner of Human Rights (OHCHR).

In June 2011, the UN General Assembly adopted Resolution No. 17 (PDF, 37 KB, not barrier-free), confirmed again by Resolution No. 23 of June 2013, which underlines the importance of NHRIs for the protection of human rights on the national level as well as for the work of the Human Rights Council. The resolution extends the possibilities for NHRIs to contribute in the Human Rights Council. From now on, A-status NHRIs can take the floor after their state’s representatives during the plenary session in which the UPR report on their country is discussed and adopted. They can also enter the debate immediately after the representatives of their government when a Special Rapporteur presents their mission report on the respective country. Many NHRIs and Special Rapporteurs are cooperating closely, i.e. the DIMR and the Special Rapporteur on the human rights to safe drinking water and sanitation.

3. How do NHRIs differ from other human rights actors?

NHRIs are rather new actors in human rights protection and promotion. Although they share some features with state actors working on human rights, they also differ significantly in other areas.

Overall, effective human rights protection needs a broad range of institutions and organisations. NHRIs depend particularly on an active civil society and an independent judiciary (see in this regard the Nairobi Declaration of 2008 on the Role of NHRIs in the Administration of Justice, PDF, 35 KB, not barrier-free).

State institutions charged with the implementation of human rights

Most countries have a variety of state offices dealing with human rights. Besides constitutional courts, this includes human rights ministries, as there are, for example, in Yemen, Tunisia and Iraq, and inter-ministerial human rights committees. In addition, some countries have commissioners for specific human rights topics. These institutions or offices are funded by the state, just like NHRIs. The difference lies in the scope of governmental influence: With the exception of the courts, the majority of these institutions or offices are either part of the state or bound by state directives.

Ombudspersons

A number of ombudspersons comply with the Paris Principles and are recognised as NHRIs. Some, however, have a mandate restricted by a specific theme, such as the Health Ombudsman in Great Britain. In addition, ombudspersons are often subordinated to the executive or legislative state power.

Ombudspersons mainly handle individual complaints and attempt to solve those by mediation or arbitration – a competence they share with a large number of NHRIs. The ICC may accredit them as a NHRI when their mandate covers a broad range of human rights and includes further functions of a NHRI, such as human rights education. The International Ombudsman Institute fosters the cooperation between more than 150 ombudsperson institutions worldwide and contributes to the international and regional exchange of information and experience.

Specialised monitoring bodies

Some human rights treaties require the establishment of independent monitoring bodies in each signatory state that supervise the implementation of the respective human rights treaty. Among these are the Convention on the Rights of Persons with Disabilities and the Convention against Torture. The mandate of these bodies is defined by the correspondent treaty, yet should be designed in accordance with the Paris Principles originally developed for NHRIs. Particularly, their public funding and independence should be assured.

Civil society organisations

Civil society organisations and individual civil society actors are likewise working on human rights. As private stakeholders, they have neither a public mandate nor public authority. Unlike NHRIs, they usually deal with a limited range of thematic issues or groups, such as the protection of women’s or children’s rights. They do not receive permanent public funding; however, individual projects may be sponsored by public funds. Whereas NHRIs stand between the state and civil society due to their mandate, civil society organisations and individuals adopt their own independent role, such as lobbying, advocacy and legal representation for victims.
Truth commissions

National truth and reconciliation commissions are non-judicial organs. They deal with the past to create the foundation for a common and peaceful future; usually they investigate past human rights violations and contribute to resolve the root causes of past conflicts. They have a restricted thematic and temporal mandate, and they are generally not permanent, unlike NHRIs. NHRIs can support truth commissions by demanding their establishment and independence and by collecting and providing relevant information for the investigation of large-scale human rights violations. After the conclusion of a truth commission’s mandate, NHRIs can participate in the implementation of its recommendations and monitor the progress. This is part of the work of the NHRIs of Sierra Leone and Peru.

4. Options for cooperation and examples of good practice

In development cooperation there are numerous possibilities of cooperating with NHRIs:

- development agencies can strengthen NHRIs and their cooperation in regional networks;
- NHRIs can be partners in the preparation, implementation and evaluation of development programmes;
- development agencies can gain valuable information for programming and policy dialogue from NHRIs;
- development agencies can support NHRIs in establishing sector-specific knowledge and monitoring competencies.

However, NHRIs are independent and autonomous actors that need to be respected as such. Development agencies should therefore observe some principles for cooperation.

Principles for cooperation with NHRIs

- NHRIs have an institutional mandate and should not be sidetracked from fulfilling it.
- The independence of NHRIs has to be strictly respected.
- NHRIs must not be diverted from setting their own priorities through cooperation.
- The capacities of NHRIs must not be overstretched through cooperation.
- Financial contributions by development partners must not prompt the partner country to step back from its obligations towards funding its NHRI.

The United Nations Development Programme (UNDP) regularly cooperates with NHRIs and, in 2011, established a strategic cooperation with the OHCHR and the ICC. Bilateral development agencies are cooperating more and more with NHRIs, i.e. the agencies of Denmark, Switzerland, Germany and New Zealand.

Cooperation also exists between NHRIs themselves, in an exchange between NHRIs in North and South as well as among NHRIs in the South. The Danish Institute of Human Rights and the DIMR are working with other NHRIs, for example with those in Albania, Indonesia, Mali, Mongolia and Sierra Leone. They also cooperate with the regional networks of NHRIs in Asia, Africa, Latin America and the Arab World. These regional networks are crucial for South-South exchange among NHRIs.

Strengthening NHRIs through development cooperation

During the accreditation or re-accreditation process, the ICC regularly undertakes a thorough examination of individual NHRIs and issues recommendations on how the NHRI could improve its status or work. Additionally, a 2009 study on NHRIs by the OHCHR (PDF, 443 KB) gives numerous recommendations for NHRIs’ work; the study is based on a worldwide survey among NHRIs. Both sets of recommendations are useful starting points for development agencies when considering supporting NHRIs.

Dealing with NHRIs with B- or C-status

Development agencies can support NHRIs with B- or C-status and new NHRIs in fulfilling the criteria for an accreditation with A-status.

There are a number of reasons as to why a NHRI may not be accredited with A-status. Inadequate conditions are often at fault, such as a missing legal basis, insufficient funding, a poorly designed mandate, or the lack of political independence. That should not exclude these NHRIs as a partner for development agencies, because precisely in such cases support may be necessary and useful. Given that institutional weakness and insufficient independence of a NHRI are usually intended by the respective government, development partners can request more institutional and financial independence for the NHRI in their consultations with the government.

Before engaging in cooperation with such a NHRI, however, other players should be consulted in order to avoid supporting biased, government-dominated NHRIs. A first source of information can be the National Institutions Unit at the OHCHR. Institutions such as UNDP already cooperate with NHRIs and can also be consulted. Regional networks like the Asia-Pacific-Forum are likewise important sources of information on NHRIs. On the national level, representatives of civil society are often able to provide valuable information.
German development cooperation experiences

In German bilateral development cooperation, foremost the Civil Peace Service has worked with NHRIs, particularly in the context of peace and reconciliation processes. It has supported the human rights commissions in Ruanda, Afghanistan, Nepal and Guatemala. The approaches were mostly based on capacity development in conflict management and peace building, as well as human rights education for its preventive effects.

Furthermore, experts at the GIZ are advising and supporting the ombudsperson in Peru on behalf of the BMZ. In Yemen, the GIZ, on behalf of the BMZ, is contributing to the establishment of a NHRI by starting a dialogue between public and civil society stakeholders about the mandate, legal basis and authority of the NHRI. The institutional strengthening of the Moroccan NHRI and the promotion of its human rights education capacities is another example of how German bilateral cooperation supports NHRIs.

Promotion through international organisations

The OHCHR plays a key role in the advancement of NHRIs. It advises governments particularly with regard to the establishment of new NHRIs in compliance with the Paris Principles. It focuses on the design of the mandate and legal training; it also conducts overall needs assessments. As for already existing NHRIs, their needs often relate to the expansion of their activities, strategic planning and staff qualification in cross-cutting topics such as gender equality, children rights or conflict management. The OHCHR cooperates closely with UNDP as joint advisors of NHRIs. Their experiences are reflected in a 2008 online discussion on the experiences of different UN organisations supporting NHRIs (DOC, 800 KB).

NHRIs as strategic partners in programme implementation

The specific status of NHRIs makes them an independent interface and mediator between state and civil society. Their convening power enables them to support measures for the promotion of good governance. NHRIs can also be important partners in programme implementation. Several NHRIs are, through their long-standing activity, deeply embedded in the population. Their participation can enhance credibility and improve the access to the population.

The independent Ombudsoffice Peruvian Defensoría del Pueblo (Spanish) enjoys, for example, a high level of trust in the population. Therefore, it is an important stakeholder in all human rights issues. On behalf of the BMZ, the GIZ is cooperating with the Defensoria at three of her regional offices. The main field of activity is the prevention and the peaceful management of resource conflicts. The project aims to increase the participation of the affected right-holders and to give due weight to the populations’ collective rights.

The NHRIs of New Zealand and the Philippines worked together from 2008 till 2010 to improve the indigenous population’s human rights situation in the Philippines. They aimed at the reduction of the vulnerability of the indigenous population to human rights abuses. To this end, they applied a human rights community development approach. Three indigenous communities were identified to participate and were accompanied for two years. They took part in the identification of human rights issues and the development and implementation of plans to address them. Outcomes comprised improved infrastructure, better access to education and the health system as well as the solution of land disputes. The direct involvement of the indigenous communities increased their awareness of their rights. They developed an independent position concerning human rights issues. Thus, they became able to develop strategies to address future challenges, to resolve arising conflicts and to claim their rights when dealing with the state (see the report Building Human Rights Communities: The Experience of Three Indigenous Peoples in the Philippines 2011, PDF, 1.8 MB, not barrier-free).

Source of information

NHRIs work on diverse human rights topics relevant to their country and often conduct policy-oriented research. If established successfully, their financial and thematic independence enables them to advocate for neglected and often unpopular issues. Hence, NHRIs may offer a realistic and comprehensive perspective with regards to the human rights situation in their countries and can be an interesting and important partner for development cooperation. NHRI information and reports can be used as an orientation for strategic collaboration. This concerns the preparation and planning of development cooperation programmes, but NHRI expertise can also be beneficial for political dialogue and advisory services.

Monitoring

NHRIs play an important role in monitoring the implementation of a state’s human rights obligations, for example with regard to the realisation of the human rights to education, health or water. Development agencies can support NHRIs in establishing corresponding monitoring capacities. Additionally, they can promote further mechanisms for complaints. NHRIs also acting as ombudspersons get, through the incoming complaints, an
extensive overview of on-going human rights violations. This enables them to recognise structural factors leading to violations and to give recommendations for their removal. As mentioned above, development agencies should, however, be careful not to distract NHRIs from their own priorities. If development cooperation supports NHRIs in broadening their functions and working areas, the funding of these additional mechanisms must be secured in the long term.

Besides, NHRIs can be supported in exercising their rights in the framework of international state reporting systems. They are also in a good position to monitor the compatibility of the activities of development agencies with the receiving state's human rights obligations.

Implementation of human rights in the mining sector of Mongolia

The National Human Rights Commission of Mongolia (NHRCM) advocates for the implementation of a comprehensive human rights approach in the extractive industry. While the mining industry is expected to continue to generate economic growth in Mongolia, its activities have to be consistent with Mongolia's national and international human rights obligations. To this end, the NHRCM carried out a thorough investigation on alleged human rights violations connected to the mining sector. The rights that are particularly affected are the right to health, the right to a healthy and safe environment (explicitly protected by the Mongolian constitution) as well as cultural rights, especially those of nomads and herders. UNDP and the Swiss development agency support the NHRCM in this undertaking. One starting point is the enforcement of the existing legal regime for the mining sector. Besides, the NHRCM gives policy advice to the government and parliament on the regulation of the mining sector.

NHRIs in donor countries

NHRIs in donor countries may also contribute to the realisation of human rights in development cooperation. It is part of their mandate to advise national policies, including development policy. Thus, the DIMR in cooperation with the GIZ programme Realizing Human Rights in Development Cooperation advises implementing agencies and the BMZ. Its objective is to orient development cooperation more closely towards human rights standards and principles. To this purpose, the DIMR is publishing information tools on human rights for development practitioners and participates in the conception and conduct of the GIZ/ AIZ online course Putting Human Rights to Work in Development Cooperation in English language. The DIMR supported the drafting and the consultation of the BMZ's 2011 Human Rights Strategy and the 2013 Guidelines (PDF, 621 KB, not barrier-free) for its implementation. Besides, the DIMR carries out human rights trainings and provides advice for development cooperation programmes in cooperation with the GIZ. The Danish Institute for Human Rights as well as other Scandinavian NHRIs work in a similar fashion.

5. Additional links

General resources

- OHCHR: National Institutions Unit.
- Website of the international association of NHRIs, the International Coordination Committee (ICC).

NHRIs and the national implementation of international human rights treaties


Establishment and institutional consolidation of NHRIs


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## NHRIs in partner countries of German bilateral development cooperation

<table>
<thead>
<tr>
<th>Name and Country</th>
<th>Status</th>
<th>Type and founding year</th>
<th>Last and next (re-)accreditation</th>
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<tr>
<td>The People’s Advocate of Albania</td>
<td>A</td>
<td>Ombudsperson, 1999</td>
<td>2008 / 2014</td>
</tr>
<tr>
<td>Defensoría del Pueblo de Bolivia (Spanish)</td>
<td>A</td>
<td>Ombudsperson, 1997</td>
<td>2012 / 2017</td>
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<tr>
<td>Defensoría del Pueblo de Colombia (Spanish)</td>
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<td>Ombudsperson, 1997</td>
<td>2009 / 2014</td>
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<td>Ethiopian Human Rights Commission</td>
<td>B</td>
<td>Commission, 2004</td>
<td>2013 / 2018</td>
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<td>Ombudsperson, 1985</td>
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The table gives an overview of NHRIs in partner countries of bilateral German development cooperation. For the purpose of orientation, the table attempts to categorise the respective NHRIs according to the four types.
Regional networks of NHRIs

- **Africa**: Network of African National Human Rights Institutions (NANHRI).
- **Americas**: Red de Instituciones Nacionales para la Promoción y Protección de los Derechos Humanos del Continente Americano (Spanish).
- **Asia/Pacific**: Asia Pacific Forum of National Human Rights Institutions (APF).
- **Europe**: European Network of National Human Rights Institutions (ENNHRI).

**Diverse**

- UNDP (2009): Dignity & Justice for All of Us: Stories from NHRI in Europe and CIS (PDF, 58 KB, not barrier-free) includes reports on experiences of NHRIs from Eastern Europe and the CIS.
- The South African Centre for Conflict Resolution has initiated a research project on NHRIs and conflict resolution in Africa.
- ICHR/ Maina Kiai (2007): The Role of NHRIs in Combating Corruption (PDF, 137 KB, not barrier-free).
- OHCHR: Information Note for NHRIs regarding the Universal Periodic Review Mechanism.
- The Academy for International Cooperation (AIZ, German) of the GIZ offers an English speaking e-learning module on human rights: Putting Human Rights to Work in Development Cooperation.