

**Assessing
the Effectiveness of
National Human Rights Institutions**

Office of the United Nations
High Commissioner
for Human Rights



International Council on Human Rights Policy

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FOREWORD

National human rights institutions (NHRIs) are now, beyond a doubt, valued as essential partners in the task of protecting and promoting human rights at the national and regional levels. This is reflected, not least, in the resolution adopted in 2005 by the Commission for Human Rights, inviting NHRIs to participate in all agenda items of the Commission (resolution 2005/74). There is indeed a significant increase in the demands made on NHRIs by all stakeholders to act as key actors in the protection and promotion of human rights.

In his report *In Larger Freedom* the United Nations Secretary-General positioned human rights as one of the three pillars of his UN reform programme. In response to the Secretary-General's call in this report, my own office began a reform process to increase the attention given to the implementation of the international human rights instruments at the national and regional levels. These reforms will give even more relevance to genuine and independent NHRIs. But in order to preserve this increased international recognition and trust, NHRIs must continue to be credible, legitimate, relevant and effective. This can be achieved in part by ensuring that the Paris Principles guide the work of NHRIs.

The report presented here is designed to assist NHRIs to measure their own effectiveness. It was prepared through a participatory process involving members of NHRIs and establishes measurement benchmarks and indicators for the compliance of national institutions with the Paris Principles. The report first presents a set of benchmarks as the minimum normative condition that is desirable for a national institution to achieve its objectives. It is followed by a set of indicators, both quantitative and qualitative, to demonstrate progress achieved by the NHRI. These indicators of performance and impact are intended for a NHRI to be able to assess the human rights situation, its own performance and the impact of the institution on the enjoyment of human rights.

The publication of this report is very timely, now that NHRIs are globally recognized as critical partners in the protection and promotion of human rights. The benchmarks and indicators contained in this report are essential tools for NHRIs to plan and evaluate their work. NHRIs can adapt them and use them in their own context, while preserving public accountability, with the ultimate objective of enhancing national protection systems. I hope that they will be put to positive use in an effort to ensure that NHRIs meet their obligations, and indeed expectations, effectively.

Louise Arbour
United Nations High Commissioner for Human Rights

INTRODUCTION

In 2000, the International Council published *Performance & Legitimacy: National human rights institutions*.¹ National institutions had multiplied during the 1990s and the report looked at what made them effective and successful.

Five years later, despite unfavourable developments in the international human rights environment, the growth of national institutions is unchecked. The present report revisits the issue of effectiveness and examines how national institutions might improve their performance and impact by using benchmarks and indicators to assess their work.

The Introduction describes types of national human rights institutions (NHRIs) and the report's methodology. It reviews the standards set for national institutions that are codified in the Paris Principles. It also defines what is meant by 'benchmarks' and 'indicators'.

Chapter I draws out the characteristics that make NHRIs effective and proposes some benchmarks that they might use to evaluate their compliance with the Paris Principles.

Chapter II examines quantitative and qualitative indicators and suggests how national institutions can use them to assess their performance and impact and judge whether they are achieving the benchmarks identified in Chapter I.

The final chapter offers some brief observations in conclusion.

Methodology

Whereas the International Council's 2000 report was based upon extensive field research, this is a desk study. Its principal sources have been interviews and discussions with members of NHRIs, and a questionnaire distributed to national institutions with the assistance of the Office of the United Nations High Commissioner for Human Rights (OHCHR). The questionnaire gathered information about how NHRIs currently evaluate and plan their work.

Types of national human rights institutions

National human rights institutions take many forms. Attempts, such as this, to develop common standards for measuring their work need to take account of these differences. National institutions can be categorised in terms of their mandate, their organisational composition, or the political and legal traditions within which they operate.

Thus we can distinguish single- from multi-member institutions; those whose primary orientation is to advise governments on matters of human rights policy

¹ International Council on Human Rights Policy, *Performance & Legitimacy: National human rights institutions*, Geneva: ICHRP, 2000. (Second edition, with a new postscript, 2004.)

from those that handle individual complaints; and those working on all human rights, including economic, social and cultural (ESC) rights, from those focusing on specific issues, such as discrimination. We can equally place institutions within the Hispanic, Francophone or Commonwealth tradition; or organise them by continent: multi-member institutions that receive complaints in most of Africa and Asia, single-member *Defensores del Pueblo* in Latin America, *Ombudsman* in European Nordic countries, advisory institutions in Europe, and so on. In short, there are as many typologies of NHRIs as papers written about them.

These distinctions are important to keep in mind. Clearly, measurements of performance and impact should take account of the structure and mandate of the institutions under review.

Furthermore, NHRIs operate in a range of conditions and with different levels of resources. In judging what a given institution can realistically achieve, assessments need to take such factors into account as well.

The Paris Principles

The Paris Principles² are the principal source of normative standards for national human rights institutions. Adopted by NHRIs at an international workshop held in Paris in 1991, they marked the beginning of serious international co-operation and standardisation of NHRIs. Both the United Nations Commission on Human Rights and the General Assembly later endorsed them.

The Paris Principles are broad and general. They apply to all NHRIs, regardless of structure or type. They provide that a national institution should be established in the national Constitution or by a law that clearly sets out its role and powers and that its mandate should be as broad as possible.

They state that national institutions should be pluralist and should co-operate with a range of social and political groups and institutions, including non-governmental organisations (NGOs), judicial institutions, professional bodies and government departments.

The Principles state that NHRIs should have an infrastructure that allows them to carry out their functions. Particular importance is attached to the need for adequate funding to allow the institution “to be independent of the government and not be subject to financial control which might affect this independence”.

The various functions of national institutions are described in the Principles as “responsibilities”, suggesting that these are things that institutions are obliged to do.

The Principles provide that NHRIs should make recommendations and proposals to governments on various matters relating to human rights, including existing and proposed laws, human rights violations, and the national human rights situation in general.

2 Available at: www.ohchr.org/english/law/parisprinciples.htm

They require national institutions to promote teaching and research on human rights and organise public awareness and education programmes.

The Paris Principles also address methods of operation and, by implication, the powers of national institutions. They are entitled to consider any issue falling within their competence without authorisation from any higher authority. They are entitled to hear any person or gather any evidence needed to consider matters falling within their competence.

National institutions are called on to publicise their decisions and concerns, as well as meet regularly.

The Principles do not require NHRIs to have a “quasi-jurisdictional” function – that is, to handle complaints or petitions from people whose human rights are alleged to have been violated. However, where NHRIs do have this function, the Principles list particular obligations:

- To seek an amicable settlement through conciliation, a binding decision or on the basis of confidentiality;
- To inform petitioners of their rights, and available remedies, and promote access to them;
- To hear complaints and transmit them to competent authorities; and
- To make recommendations to competent authorities.

Elements contributing to the effectiveness of NHRIs

Performance & Legitimacy noted that the formal structure of a national institution did not determine its performance on the ground. Many NHRIs that formally respected the Paris Principles were not particularly effective in guaranteeing human rights. Others, less numerous, failed to comply with the Paris Principles but still achieved reasonable results. This suggested that a range of factors determined effectiveness.

It must be underlined that the report did not conclude that the formal criteria contained in the Paris Principles were not significant. On the contrary, when NHRIs had been effective without meeting these criteria, it found that this was *despite*, not *because*, of their absence.

In short, national institutions tend to be more effective when they:

- **Enjoy public legitimacy**
National institutions win public or popular legitimacy when they are seen to stand up for the right of the powerless against powerful interests and act fairly in treating issues within their purview. An institution's legitimacy is also always partly rooted in its formal or legal status.
- **Are accessible**
National institutions should make known what they do, and how they can be contacted, to the general public and non-governmental bodies. Their offices should be accessible. Disadvantaged groups in society should be encouraged to use them.

- **Have an open organisational culture**
The public and partner organisations should be confident that NHRIs will be welcoming and will take them seriously. Organisations that are open, collaborative and self-critical are far more likely to respond well to the needs of the public and other organisations and to identify shortcomings in their practice.
- **Ensure the integrity and quality of their members**
The quality of members, leadership and staff vitally influences NHRIs' effectiveness. Good appointment procedures are likely to result in independent, professional and courageous members. Members and staff should not be closely connected to the public service.
- **Have diverse membership and staff**
To be open and accessible, NHRIs need to ensure that members and staff are representative of a society's social, ethnic and linguistic composition. Good gender balance is vital. At the same time, selection should always be on merit.
- **Consult with civil society**
Civil society organisations, in particular human rights NGOs and community-based groups, can be effective links between national institutions and individuals or groups who are politically, socially or economically marginalised.
- **Have a broad mandate**
The most effective national institutions generally have a broad and non-restrictive mandate, which includes civil, cultural, economic, political and social rights. Programmes should focus on issues of immediate daily concern and be relevant to the public and to public bodies.
- **Have an all-encompassing jurisdiction**
The credibility of NHRIs is seriously undermined when certain authorities with potentially great impact on human rights (such as military or special security forces) are excluded from their jurisdiction.
- **Have power to monitor compliance with their recommendations**
National institutions should have power to monitor the extent to which relevant authorities follow their advice and recommendations. Monitoring should become a consistent practice.
- **Treat human rights issues systemically**
National institutions should identify and respond to issues that are of general concern. Investigations, public inquiries and policy reports are all useful ways of doing so.
- **Have adequate budgetary resources**
NHRIs are often ineffective because they lack resources. Control over their funding should be independent of the government of the day. Governments and legislatures should ensure that NHRIs receive adequate funds to perform all the functions set out in their mandates.
- **Develop effective international links**
NHRIs can become a key meeting point where national human rights enforcement systems link with international and regional human rights bodies.

In addition, NHRIs mandated to consider individual complaints are effective when they:

- **Handle complaints speedily and effectively**

Complainants expect national institutions to have authority to deal with bodies against which complaints are made. Procedures should be simple, accessible, affordable and speedy. Securing compliance with the NHRI's recommendation is also crucial. National institutions should have power to refer their findings to courts of law or specialised tribunals for adjudication when their good offices fail.

This list is clearly not exhaustive although it probably covers the most important aspects in most instances. It should also be noted that each element contains several aspects. For example, "public legitimacy" includes *formal* guarantees of independence, the institution's status in law, and public reputation. "Adequate budgetary resources" similarly covers both the *source* and *management* of funds. Chapter I explores these elements in more detail.

Assessing effectiveness – benchmarks and indicators

This report suggests ways in which NHRIs can assess and measure their effectiveness. To do so, they need to define (a) standards against which they can assess themselves; and (b) specific measures that tell them how effectively they are working. We shall call the first of these *benchmarks* and the second *indicators*.³

Benchmarks are standards that define the minimum attributes of national institutions with respect to their legal foundation, membership, mandate, funding and so on. National institutions should meet such benchmarks because, if well-defined, they will determine whether or not the institution is in a position to achieve its fundamental purpose which is to promote and protect human rights *effectively*, as well as more specific programme objectives.⁴

Indicators, by contrast, are tools that measure NHRIs' performance, in relation both to their objectives and their benchmarks, but also over time and relative to other matters.

It is clearly more complicated to develop useful indicators than to establish benchmarks. This is partly because, whereas benchmarks are normative standards, indicators measure dynamic processes. Take, for example, the government's obligation to protect against discrimination on grounds of gender. This is a cross-cutting principle that applies to all rights, and is almost invariably a significant focus of the work of national institutions. What measures can NHRIs

3 The distinction that we make between benchmarks as standards and indicators as ways of measuring performance will be shared by many. However, the two terms are used in different ways and sometimes interchangeably. The literature on this subject is not consistent.

4 The S.M.A.R.T. approach asserts that objectives for each programme and activity need to be:

- *Specific* – They must be precisely defined rather than vague and general.
- *Measurable* – It must be possible to assess whether they have been achieved.
- *Achievable* – Objectives that can, by their nature, be realised.
- *Realistic* – The institution should be in a practical position to achieve them.
- *Time-bound* – A timetable for achieving objectives ought to be set.

use to determine whether government departments are doing all they should to implement this right? Clearly certain steps must be taken: non-discrimination laws must be enacted. However, these are more often benchmarks rather than indicators. How is one to say whether the law is working or not? Does measuring the rise or fall in employment of women illuminate discrimination adequately? Are rates of pay a better test? Is it vital to report on the sorts of jobs that women are employed to do? Would an increase in complaints of gender discrimination indicate that discrimination was on the increase, or that women were being empowered by the law to assert their rights?

Measuring the *impact* of NHRIs is even more difficult. To do this, it will be important to reach firm conclusions not only about the general state of human rights, but about the effect of the NHRI's actions. If gender discrimination has declined, how far was this the result of the institution's work and how far were separate factors responsible? Moreover, NHRIs may have a positive impact, though overall respect for human rights may decline; or they may have no positive impact though the overall situation may improve.

In summary, *benchmarks* have a normative content; they identify minimum standards that should be achieved. *Indicators*, by contrast, are precisely what the word implies: they signal changes in direction or illuminate trends. It follows that indicators can be used to help national human rights institutions judge whether their objectives and benchmarks are being achieved.

Benchmarks set out *minimum conditions* that need to be in place if a national institution is to achieve its objectives.
Indicators provide information about *progress*, i.e., whether a national institution is making ground towards its objectives or continues to respect its benchmarks.

I. BENCHMARKS

This chapter proposes some benchmarks that national institutions might use to evaluate their own suitability in carrying out their mandated activities effectively. They set out *minimum conditions* that should normally be in place if NHRIs are to achieve their overall goal – which is to protect and promote human rights – and specific objectives. They also reflect the *minimum standards* set out in the Paris Principles.

These benchmarks draw on the characteristics deemed necessary for a national institution to be effective as outlined in the previous chapter and in the Paris Principles. As already noted, the latter do not guarantee effectiveness. They are also sometimes criticised for being too broad and for giving too little guidance about what NHRIs need to be and to do. The benchmarks developed in this chapter are therefore intended to fill in some of this detail.

Before proceeding, it is important to bear in mind several qualifications.

First, these benchmarks are derived from actual “best practices” of national human rights institutions, based on the questionnaire sent out for this report as well as other studies.

Secondly, not all benchmarks will apply to all NHRIs. For example, those that deal with handling individual complaints will obviously apply only to national institutions that receive such complaints.

Thirdly, in line with the distinction we made between benchmarks and indicators, the standards outlined in this chapter evaluate the characteristics or attributes of NHRIs and do not measure performance. Benchmarks do not indicate how well an institution performs. They set out the minimum conditions under which a national institution can be expected to fulfil its mandate effectively.

The following list is intended for national institutions and those responsible for devising or reviewing the legal framework in which they operate. It is not intended to be prescriptive. NHRIs will select benchmarks that are appropriate for their situation.

Of course, many of the matters to which benchmarks refer are not within a national institution’s control. It may operate, for example, under a narrow mandate and with inadequate powers. In such cases, the NHRI cannot be blamed for failure to attain the benchmarks concerned – though NHRIs should be ready to point out inadequacies and shortcomings, particularly in their organic laws, and advocate for their revision.

The list of benchmarks is divided into those that concern (1) the character of the institution, (2) its mandate, and (3) its accountability.

1. Character of the national institution

A. Independence

Independence is the attribute that most clearly underpins a national institution's legitimacy and credibility, and hence its effectiveness.

An institution's organic law should set out its appointment mechanisms, terms of office, mandate, powers, funding and lines of accountability. It should guarantee the institution's independence and powers, and make it more difficult to undermine its status in future. Good appointment mechanisms are vital to achieving an independent and diverse membership.

The law should include the following provisions, as appropriate:

Answerable to Parliament – Like any public body, NHRIs should be accountable. They should not answer to the government of the day, but to an authority other than the executive, most usually the legislature. In practice, of course, legislatures may not be genuinely separate from government or from (vested) political and other interests. However, the creation of an institution presumes that the executive is prepared to recognise a separation of powers between different public bodies.

Terms of office of members – Members of national human rights institutions should have clearly defined terms of office (even if they are indefinite, as for judges, or renewable). Terms should not be too short. Longer non-renewable terms are a better guarantee of independence than renewable shorter terms. Five years is a reasonable period within which members can be effective but not too influenced by concerns about future job prospects. Members should not fear dismissal (or non-reappointment) if they displease powerful interests.

Adequate remuneration – The independence and integrity of members may be reinforced if they are properly remunerated. This will also ensure that members will be professional and work full-time.

No instruction from the government – The law should clearly state that members and staff of NHRIs will not receive instructions from government ministers or other public officials, directly or indirectly, and that public officials should not attempt to issue such instructions. Similarly, they should not receive instructions from private entities, especially when their activities fall within the national institution's purview.

Avoidance of conflicts of interest – Where the mandate of NHRIs includes private companies and other private actors, members should not expose themselves to conflicts of interest. Equally they should not serve on the board of other public bodies. Either they should sever their connections to public and private organisations on taking office, or they should clearly declare an interest and remove themselves from areas of activity and decisions where conflicts of interest may arise.

No legal liability for actions taken in their official capacity – Members should be immune from legal action arising from actions they take in good faith in

their official capacity. This protection is similar to the one granted to judges under most systems and is an essential guarantee of independence. It protects members against individual lawsuits from anyone who objects to an institution's decision. This said, immunity should not cover cases where members abuse their official function or act in bad faith. The authority to which the NHRI is accountable (for example, Parliament) should have power to lift immunity in well-defined circumstances in accordance with fair and transparent procedures.

Co-operation with international institutions – National institutions are increasingly seen to be an international network of bodies that safeguard and monitor human rights standards. Their participation in regional and international co-ordination bodies reinforces their independence and effectiveness.

Financial independence – Financial autonomy guarantees the overall freedom of NHRIs to determine their priorities and activities. Public funds should be provided through a mechanism that is not under direct government control, such as a vote in Parliament. In particular, a line in the public budget should specify the allocation made to the national institution. NHRIs should also be free to raise funds from other sources, such as private or foreign donor agencies. Such funds should not disqualify the institution from receiving public funds; on the contrary, governments that create such institutions have a responsibility to fund them. NHRIs should be entitled to determine their own spending within the allocated budget. Financial probity should be ensured by regular public financial reporting and a regular (preferably annual) independent audit.

Adequate resources and staff – NHRIs should receive adequate public funding to perform their mandated activities and to employ the skilled staff they need to maintain their offices in the country.

Authority to hire staff – The institution should have authority to appoint staff, determine the skills and human rights expertise that is required, set criteria on diversity and determine the conditions of service for staff in accordance with national legislation. Staff should not automatically be seconded or re-deployed from branches of the public service.

B. Established by law/Constitution

Whatever their type, NHRIs should be established by law; preferably their existence should be entrenched in the Constitution, thus ensuring their long-term existence. This statutory basis is the most secure way to guarantee the institution's independence, as well as defend its legal powers if these are challenged.

Popular legitimacy partly derives from the instrument that grants a national institution its legal status. In South Africa, for example, the legitimacy of the Human Rights Commission is notably due to its recognition within the country's first democratic Constitution. Even those who are critical of its performance believe the Commission has public legitimacy for this reason.

Effective jurisdiction in federal states – National institutions should have effective jurisdiction over the entire national territory. Where part of this jurisdiction is

delegated to a provincial or state human rights institution, no gap in jurisdiction should exist between local and national bodies.

C. Appointment procedures

Appointment mechanisms are one of the most important ways to guarantee the independence, diversity and accessibility of NHRIs. Direct appointment by the executive branch of government is undesirable.⁵ Processes should be open and transparent. Appropriate models of appointment include:

Nomination by civil society organisations – This ensures that diversity and an organic relationship with civil society are reflected in the membership. Such mechanisms only work in multi-member organisations. One potential shortcoming is that, when a variety of organisations nominate, none will have regard to the overall composition of membership (for example, to its gender or ethnic balance). Another hurdle is that the institution's membership must be large to reflect properly the variety of civil society bodies. Some of these disadvantages may be overcome if both single- and multi-member institutions establish advisory boards or committees with broader social representation.

Appointment by Parliament – In theory, this distances the appointment process from the government of the day. It may work well if Parliament vigorously exercises independent oversight, but not if parliamentary scrutiny is weak or biased. An advantage is that the legislature is likely to have regard for the overall composition and balance of a multi-member institution. The body responsible, such as a parliamentary committee, may receive nominations from civil society organisations, and nominees can be subject to a public interview process.

Appointment by another autonomous institution – In some societies other appointment mechanisms may meet the requirement of independence from the government of the day, such as a judicial service commission which appoints judges in many countries.

D. Criteria for membership of a national institution

Criteria for membership will necessarily vary, especially in single-member institutions where the incumbent may have a quasi-judicial role. It will be important to include criteria that help to ensure independence. For example, civil servants or political party officials may be excluded, especially if they are financially dependent on the government of the day. Criteria may include a legal qualification (eligible to be a senior judge for example) or be aimed at ensuring diversity among NHRI members.

The most important point, however, is that criteria should be clearly established, preferably by law, in advance of appointment. They must be objectively verifiable criteria against which the actual appointment can be assessed. A potential danger of membership criteria is that they may be chosen in order to exclude specific individuals or groups. This is a further reason to ensure that

⁵ Members may be formally appointed by the head of state after appointments have been determined by a separate body.

appointment criteria are made public and subject to discussion by all stakeholders, in particular civil society organisations, before adoption.

Similarly, processes and reasons for dismissal, such as incapacity or non-performance, should be set out in the NHRI's organic law.

E. Composition of a national institution's membership

Beyond the formal criteria required for membership of a national institution, it is vital to take into account issues of public legitimacy. Does the NHRI reflect society's diversity, or do its members and staff belong to a political or legal elite?

Appointment criteria should therefore take account of society's distinct characteristics – its ethnicity, religion, language and so on. Positive efforts will likely be needed to ensure that politically and economically disadvantaged groups are adequately represented: women and people with disabilities, for example. Socio-economic class should also be a consideration.

Such an approach is sometimes criticised for “tokenism”. It is argued that members of disadvantaged groups are employed as a gesture in the absence of real efforts to address their problems. But in fact, the presence of such members within an institution does help to ensure that their concerns are heard and addressed.

Diversity can be achieved by making appropriate appointments to the governing board and staff. Large and unwieldy memberships should however be avoided because they often paralyse decision-making. Even multi-member institutions tend to be more effective when they have a small number of members.

Members and staff of NHRIs should always be selected on merit.

F. Professional skills and knowledge of human rights

If a national institution is to work effectively, its members and staff need to possess the necessary professional skills, including expertise in human rights. Membership criteria and recruitment procedures should ensure this objective. At the same time, induction and training for both will be necessary, in particular to ensure that members and staff are equipped to deal with issues that are sensitive, outside their experience, or clash with their personal beliefs.

G. Relations with civil society

The Paris Principles recognise that relationships with civil society can help NHRIs to protect their independence and pluralism. This can also enhance their effectiveness by deepening their public legitimacy, ensuring they reflect public concerns and priorities, and giving them access to expertise and valuable social networks. There are different ways of establishing this relationship.

Membership – Members of a multi-member institution may be representatives of civil society bodies. Members may be directly nominated or proposed to the appointing body by civil society organisations. On the other hand, if an

institution becomes too closely associated with civil society bodies, in particular human rights NGOs, this may compromise its independence.

Board – To ensure formal diversity, an advisory board may be nominated by, or broadly represent, civil society organisations. This is particularly important in the case of single-member institutions where diversity cannot be reflected in membership.

Consultation – Whatever their structure, NHRIs should consult regularly with the public, with community-based bodies and with organisations that have a professional interest in human rights. They will be more effective if they clearly understand what their public wants and needs. They will also benefit from the expertise offered by civil society organisations and academic and research institutions. Full and regular consultation at every stage, from planning to implementation and evaluation, will help to ensure that civil society organisations support the work of NHRIs.

Active partners – Civil society organisations can be involved in the implementation of some programmes and activities. They often bring expertise and can provide a bridge into communities that may distrust their national institution, perceiving it to be an official body. Strategic alliances that ensure a rational division of labour between NHRIs and civil society organisations can make both more effective.

At the same time, NHRIs and civil society organisations play different roles. The statutory character of NHRIs gives them formal powers and authority that civil society organisations do not have. The relationship should therefore be complementary. NHRIs should not restrict their relationship to human rights NGOs. Community-based bodies, trade unions and peasants' unions will often be in a better position to identify and articulate popular concerns and aspirations.

H. Accessibility

National institutions must be accessible, especially to people who are exposed to human rights violations or non-fulfilment of their rights. Depending on the national context, these are likely to include: women, ethnic, linguistic, religious or other minorities, indigenous peoples, non-nationals and people with disabilities, as well as the very poor. Access is especially important when NHRIs handle complaints; but all NHRIs should ensure they can hear the concerns of such groups.

Public information about the national institution and its methods of work should be accessible in print and audio in relevant languages.

Local offices – To ensure their broadest physical presence, NHRIs may have to establish local offices in provinces or districts, especially when they deal with complaints. Other considerations will apply in the case of a federal structure, where separate institutions operate at provincial or state level.

Links with local organisations – Local human rights organisations or community bodies can link NHRIs with communities and bring forward their concerns.

Licensing local representatives – When resources are not available, or when it is not practical to establish offices within easy reach of the whole population, NHRIs should be prepared to improvise. Solutions might include licensing local competent NGOs or community organisations to act as representatives; or providing staff members with cheap forms of transport, such as motorcycles, so that they can visit outlying areas easily and often, for example on pre-determined days.

Office location – All offices, including the headquarters, should be accessible. Are offices located in areas of town that are socially awkward or intimidating for the general public to visit? Can minorities, such as ethnic groups, reach them? Does their proximity to government, military or police buildings deter the public from coming forward with complaints? Are they on public transport routes, enabling people from poorer areas to reach them easily?

Disabled access and availability of interpretation – NHRIs should give attention to the needs of people with disabilities and to their problems of access. Where resources permit, parts of the institution open to the public should be accessible to people with disabilities, and interpreters (including sign language interpreters) should be available. Wherever possible, communication systems should enable people with visual or aural disabilities to use them.

Diverse staff – Cultural and ethnic diversity among staff indicates to the public that they are welcome and this makes NHRIs more accessible. Being able to communicate in the languages of the country is a precondition of genuine public access. If staff and members have a diverse range of professional backgrounds, this will help to ensure that problems brought to their attention are not narrowly framed in legal terms.

Diverse board or membership – A diverse governing board, membership and staff signals to the public that the NHRI belongs to them. For example, minority ethnic groups are more likely to have heard of a national institution if one of its senior members belongs to their community.

Promotional activities aimed at disadvantaged groups – Targeted public information campaigns should draw the attention of disadvantaged or excluded groups to the institution, the services it offers, and ways to access them. Targeting should take account of minority languages and focus on media that potential beneficiaries use.

Publicising its values – A statement of the NHRI's values, displayed prominently in public and private areas of the institution, reminds both staff and the public of the approach and standards of operation that should underlie the institution's work. This too will help the institution to foster an open, accessible approach.

2. Mandate

National human rights institutions are mandated to protect *and* promote human rights. They examine a wide variety of issues. Some institutions focus only on non-discrimination, but address all rights; others confine their work to civil and political rights. The most effective tend to have a broad mandate

that incorporates ESC rights. Not only are rights universal and indivisible, but access to food, housing, employment, education and health services are often of immediate interest to the public.

National institutions are seen to have an important role in monitoring implementation of ESC rights. While there has been a strong trend in the last decade to assert their justiciability (namely their enforceability through the courts) the broader and conciliatory powers enjoyed by most NHRIs make them, in practice, well-suited to promote and protect these rights. National institutions can monitor government policy, hold inquiries into economic and social issues, and handle complaints.⁶

Yet rather few national institutions have the full spectrum of ESC rights in their mandate. The South African Commission is mandated to require public bodies to provide information annually “on measures they have taken towards the realisation of the rights in the Bill of Rights concerning housing, health care, food, water, social security, education and the environment”. The Indian Human Rights Commission interpreted its mandate creatively to include coverage of these rights.

The Paris Principles identify several areas in which national human rights institutions are expected to have competence:

A. Commenting on existing and draft laws

Power to monitor laws on their own initiative – Most NHRIs are mandated to review existing and draft laws and other regulations. To be fully effective, they should have authority to review any law which is relevant to human rights and recommend amendments where appropriate. Ensuring that old laws are consistent with international standards is as essential as reviewing new draft laws.

B. Monitoring domestic human rights situations

The Paris Principles state that monitoring the national human rights situation is an essential function of NHRIs. Monitoring should include the general situation and specific matters of concern. National institutions should therefore have powers to gather the information and evidence they need to fulfil this function effectively.

Power to compel attendance of witnesses and production of evidence – National institutions should have authority to call for evidence and require witnesses to appear before their monitors; they should be able to recommend sanctions in case of refusal. Similar powers are mentioned below as part of the function of investigating individual complaints. However, NHRIs lacking a mandate to investigate such complaints will still need effective authority to gather information.

6 In its General Comment No. 10 (14 December 1998), the UN Committee on ESC Rights provided an indicative list of activities that NHRIs can undertake to protect ESC rights. See www.unhchr.ch/tbs/doc.nsf

Power to visit all places of deprivation of liberty – NHRIs should have authority to make regular visits to all places of detention, at times of their choosing, preferably with minimal notice. Their powers should be those foreseen for national preventive mechanisms in the Optional Protocol to the Convention against Torture.⁷ Visits should be comprehensive (encompassing all categories of persons deprived of their liberty, including those detained under an administrative order, and all areas of a detention facility) and be repeated, so that inspectors can evaluate progress over time.

Mandate to monitor ESC rights and civil and political rights – NHRIs should have within their purview all universally protected human rights, without order or hierarchy.

Authority to monitor human rights compliance by private and public bodies – Although their mandate in relation to individual complaints may be limited, institutions should monitor the activities of all relevant public and private bodies, including businesses and individuals, that may have an impact on the enjoyment of human rights.

Monitoring the performance of relevant authorities – No public entity should be excluded from the monitoring function of national institutions. In particular, law enforcement agencies, such as the police, army, intelligence services and other security services, should be subject to the institution's scrutiny.

Authority to initiate and publish inquiries – Public inquiries into specific human rights issues fall within the general monitoring function of national institutions. Such inquiries entail not only monitoring, but also public hearings of witnesses and the release of public reports containing recommendations for action to the relevant authorities. NHRIs that conduct such inquiries find them invaluable to secure official action and raise public awareness of particular human rights issues.

C. Monitoring and advising on compliance with international standards and co-operating with regional and international bodies

NHRIs should not submit reports to international bodies on behalf of government – The advice national institutions give to government on their human rights obligations overlaps with their monitoring function. They should not prepare government reports to international human rights mechanisms, such as treaty-monitoring bodies. They are not government departments and should only advise and review draft official reports.

Production of parallel reports on compliance with treaty obligations – NHRIs co-operate with international mechanisms, including treaty bodies and special procedures of the Commission on Human Rights, to monitor the extent to which governments comply with their human rights obligations. They may produce parallel reports based on their own information and attend hearings.

7 Part IV of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment (General Assembly resolution 57/199 (2002) www.ohchr.org/english/law/cat-one.htm).

Disseminating information about international mechanisms – NHRIs should keep society informed about international developments in human rights, especially those that are directly relevant to the country. They may, for example, report the proceedings of treaty-monitoring bodies and findings of special procedures. They may also organise follow-up meetings with civil society and government bodies, and advocate national action to implement recommendations.

NHRIs should encourage their governments to ratify international human rights instruments without reservations.

D. Educating and informing in the field of human rights

Public awareness and education campaigns for the public and officials – NHRIs should aim to make both the public and public officials more aware of human rights and their obligations.

Training courses for officials – Given the scale of this task, priorities must be set: training should focus on officials who have the greatest impact on human rights protection or who are most likely to abuse rights, such as law enforcement officials.

Public awareness campaigns for disadvantaged groups – Human rights education programmes should target marginalised groups such as ethnic, religious or linguistic minorities. Women's rights should be a special focus, both generally and on specific issues such as domestic violence. Human rights education of children should receive attention, in co-operation with the education system, and should include education about children's rights.

Human rights training – National institutions should press all departments of government to introduce human rights training for staff, and may themselves act as resource and training centres for the public and governmental or non-governmental bodies.

NHRIs should also develop their policy capacity, especially with respect to new or emerging issues. To do so, they may co-operate with academic institutions and civil society organisations.

E. Receiving complaints or petitions from individuals or groups (where appropriate)

Ability to receive complaints against public bodies – NHRIs mandated to receive complaints should have broad powers to deal with them. As with their monitoring role, no relevant public body should be excluded from their jurisdiction.

Ability to receive complaints relating to private bodies that carry out public functions – Preferably, NHRIs should be able to receive complaints about the actions of private bodies, such as businesses. An institution's jurisdiction should certainly apply when private bodies have been assigned responsibility for public functions, such as provision of basic utilities, health services, education or custodial and law enforcement activities.

Ability to receive complaints from parties not directly affected – NHRIs should be able to receive complaints or petitions from a broad range of parties, including complainants who are not directly affected. Recognising that some people may find it difficult (or be reluctant) to lodge complaints with an official body, civil society organisations should be permitted to make complaints on their behalf, provided they have received prior consent from the direct victims or their representatives.

Power to act on individual or collective issues at their own initiative (suo motu) – NHRIs should always have authority to take up individual or collective issues at their own initiative, without a complaint having been lodged.

Responding in a timely manner to complaints – Internal procedures should establish deadlines for dealing with complaints and for informing the parties of the status of the complaint. In particular, authorities against whom complaints are made should be required to make an initial response within a certain time. This said, the objective is to investigate complaints thoroughly, and evidence that cases have been dealt with quickly should be given less prominence than evidence of satisfactory resolution.

Investigation of serious violations should not be time-limited – NHRIs should not be prevented from investigating serious human rights violations by time limits (*statutes of limitation*). Fear, psychological trauma or difficulty in gathering supporting evidence may delay the lodging of such complaints. Passage of time should not allow those responsible to escape accountability or those affected to lose the right to obtain redress.

Employing staff with professional investigation skills – Skilled professionals (from forensic doctors to ballistic experts) may be needed to conduct some investigations. Conflicts of interest may arise if the latter are linked institutionally to public services. For example, police investigators should not be recruited on secondment to investigate police misconduct. Recruitment of such experts often presents problems and national institutions should be authorised to bring experts from outside the country where this is necessary.

Power to compel witnesses to testify, require presentation of evidence and conduct on-site investigations – NHRIs should have legal authority to compel the appearance of witnesses and presentation of evidence as well as obtain access to premises. This is a crucial advantage that an official human rights body has over a non-governmental one. This said, procedures should take account of the legal rights of those who might be affected by legal proceedings relating to the same case.

Power to protect witnesses – NHRIs should have the power to organise secure witness protection programmes. They should be able to recommend suspension from duty of officials under investigation for human rights violations. This then ensures that the latter have no power over witnesses or complainants. This would be without prejudice to the investigation.

Power to compel authorities to respond to their recommendations – NHRIs usually have no direct power to enforce their recommendations. To have such power is generally regarded as being contrary to justice, because NHRIs

would combine both inquisitorial and quasi-judicial functions. At the same time, relevant authorities should be required to respond within a specified time to recommendations or contrary findings that national institutions make.

Power to recommend reparation for victims of human rights violations – The right to a remedy following a violation of rights is in itself a fundamental right. It encompasses access to justice, reparation for the harm suffered and access to factual information concerning the violations. Reparation takes the form of restitution (return to the position before the violation occurred), rehabilitation and/or (material) compensation.

Authority to take recommendations to court for enforcement – NHRIs should be able to refer their findings or recommendations, for example when related to criminal offences, to the appropriate prosecuting or judicial authority, so that courts can consider and enforce them if they are upheld. NHRIs should have the authority to appear before a court when their decisions are challenged.

Referral of complaints outside their mandate to other authorities – Whether or not they have a mandate to receive complaints, NHRIs will inevitably receive complaints that they do not have jurisdiction to deal with. Their practice should be to refer such complaints to the appropriate body.

F. Monitoring government compliance with their advice and recommendations

NHRIs should have power to monitor whether authorities follow their advice. The advisory role of national institutions (in particular their role in advising on existing and draft laws and on compliance with international standards) presupposes a good working relationship with government departments. The relationship should not be wilfully confrontational. Equally, governments should be required to respond to advice and requests from national institutions, and to indicate, within a given time, how they have complied with national institutions' recommendations.

NHRIs should monitor government departments' compliance with their advice and recommendations. Those which deal with complaints should install a system for monitoring the progress of completed cases. Case monitoring should record compliance with recommendations and assurances that complainants' needs have been met.

Reports to Parliament provide NHRIs with opportunities to make government accountable. Parliamentarians are a useful channel of communication between NHRIs and government and help to ensure that their recommendations are properly considered by relevant public authorities.

3. Public accountability

A. Reporting annually on all aspects of their work

Most NHRIs are legally required to report regularly on their work, usually annually. The line of accountability should extend not only to the state body to which the national institution reports directly (such as a parliamentary committee), but to the public as a whole.

Making reports widely available in different formats – Annual reports are an essential element of accountability. However, they need to be presented in the main national language(s) and in different formats if they are to be accessible to a wide public. Short summaries, media releases and public presentations should all be considered.

Ensuring that reports cover all significant issues – The public and other stakeholders should be able to know (and evaluate) the content of the national institution's work across the range of its activities, including complaints received and investigated, monitoring, and advice given to government. This means that reporting should be detailed and substantive, not merely formal. Desire for confidentiality on the part of alleged victims needs to be respected. In general, however, a full record of the institution's work should be publicly available.

Reports of national institutions should be fully scrutinised – Parliament (or the body to which a national institution reports) has a duty to consider NHRI reports thoroughly. Scrutiny strengthens the impact of an institution's work and makes sure that it is properly accountable in relation to its mandate. Records of an NHRI's external reporting should be publicly available.

Reporting on budgets – NHRIs should report on their sources of income as well as their expenditure. They should provide information about their administrative and operating costs as well as the costs of their programmes and activities.

Authority to make public their advice to government – NHRIs should be legally empowered to publicise their findings, advice and recommendations to the government, and should do so. Transparency increases government's accountability as well as the NHRI's credibility and public legitimacy.

B. Regular consultations with all stakeholders

Accountability cannot be a one-way and once-a-year process. NHRIs should consult with civil society and other relevant bodies at all stages of planning and executing their programmes. Strategic plans should be discussed with all stakeholders and should be made publicly available so that an NHRI's objectives and strategies are well known not only to organisations that cooperate with it but also to the institution's staff.

Publish memoranda of understanding with stakeholders – Public memoranda of understanding can make NHRI relations with other bodies transparent. Agreements may be negotiated with statutory bodies, such as the police, and non-statutory ones, such as NGOs.

II. INDICATORS

In order to determine whether they are achieving the benchmarks they have set themselves and to evaluate aspects of their performance and impact, NHRIs should develop indicators.

As noted, indicators are used to track trends and identify changes in direction; they measure dynamic processes. Indicators should be distinguished from data. Data are units of factual information considered to illuminate particular trends and processes.

Judgements and choices lie at the heart of the use of indicators, and for this reason they need both to be selected carefully and evaluated critically. It is particularly important to understand that an indicator only has significance in a context, in relation to an objective or purpose.

1. Types of indicators

A. Quantitative indicators

Quantitative indicators measure things that can be counted. In relation to human rights, examples of quantitative indicators would be the ratio of health care professionals to the population, the literacy rate or the number of reported deaths in custody. In relation to organisational output, indicators might include the number of reports issued, personnel trained or complaints handled.

Quantitative indicators are attractive because, in principle, they are comparable and verifiable. In practice, they are not so straightforward. Numbers that look simple and comparable often are not, but because quantitative data are composed of numbers, they often appear to provide objective information.

Quantitative indicators have two main potential drawbacks:

- They may be used simply because they are measurable, without considering in depth whether they impart useful and relevant information about the issue in question.
- Complex social, political and legal processes can only be understood adequately through qualitative analysis. At best, quantitative measures provide snapshots of how things are at particular moments; at worst, they mislead because they fail to reflect dynamic processes of change.

B. Qualitative indicators

Qualitative indicators are employed precisely because of the weaknesses of quantitative ones. They attempt to assess the character of events and processes, as well as their changing nature, rather than count them.

Asking a target group's opinion in a survey is a simple use of qualitative indicators. Complainants might be asked to assess the response given to their complaint; officials might be asked what skills they acquired during a human

rights training course. Opinions gathered can be grouped under headings (such as “very satisfied”, “satisfied”, “dissatisfied”) and thus quantified.

This approach is more subtle than a simple quantitative method. It provides means to disaggregate data and address perceptions and opinions. Nevertheless, such quantifiable qualitative indicators share some of the drawbacks of purely quantitative methods. They try to reduce complex and dynamic social processes to static and artificial categories.

2. Participatory indicators

How data are defined, selected, collected and analysed determines whether quantitative or qualitative indicators are participatory or not. While non-participatory indicators are externally imposed, for example by NHRI programme managers, participatory indicators are based upon the views of national institutions’ partners and beneficiaries of their activities or programmes. Such indicators are developed collectively through workshops, focus group discussions and participatory evaluations.

Participation by stakeholders brings to light impacts that cannot necessarily be perceived from within an institution. Sometimes the information gained through a participatory approach will supplement that available from more formal indicators; at other times it may contradict such information.

The quality of these indicators is certainly improved if *all* stakeholders, mainly beneficiaries and partners, as well as the body to which the national institution is accountable, are involved. Unexpected outcomes and intractable difficulties of interpreting data are likely to be minimised if there is input from all sides.

An opinion survey: the end-of-workshop questionnaire

Many NHRIs use end-of-workshop questionnaires to evaluate their training activities. Participants are asked to assess the training in light of their expectations and needs; they may also be asked to assess training techniques or the trainers. Organisers and trainers should also be invited to evaluate the quality of the activity. These are qualitative indicators, which can be grouped and quantified to establish whether the majority of participants found the training useful. They can help NHRIs to judge whether expectations and objectives – of the participants as well as the organisers – were met.

Participatory approaches are criticised for being subjective. The interests and perceptions of different stakeholders may indeed be subjective. However, bringing a variety of viewpoints together may result in indicators that are less subjective than those devised in isolation, for example by NHRIs themselves.

This said, the participatory approach has genuine limitations. NHRIs may find it difficult to define who their stakeholders are for any given set of activities. In the questionnaire circulated for this research, NHRIs were asked to define their “clients”. Most replied that they were everyone in the country. Some specified

victims of human rights violations; others mentioned government agencies that might benefit from training or advice. Pinpointing specific stakeholders to develop participatory indicators may therefore be a challenge.

Furthermore, community forums will likely reflect power structures within the community. Disadvantaged or marginalised groups might find they are excluded, or may not consider the workshops to be environments in which they can safely express themselves.

Another obvious drawback is that developing participatory indicators can be lengthy, cumbersome and expensive. But this is true of all indicators: the quest for perfect ones may be impossible. Their purpose is to help institutions to conduct their work more effectively – to identify trends and problems, and chart progress. They should not lead to prolonged and costly processes. The compromise means that indicators will sometimes be rough and ready.

In summary, if NHRIs want to devise measures of their own effectiveness, they should consult those with whom they work. The starting point should be the existing contacts that NHRIs have with those who use their services. National institutions with complaints procedures already have regular contact with the public, as do those engaged in human rights education. It would not be difficult to devise methods of consultation – individual or collective – to determine what are their partners' expectations of the institution and of its programmes. Later they should be consulted as to whether those indicators have been fulfilled.

NHRIs should consult and work regularly with partner organisations – especially human rights NGOs and community bodies – and government branches. They too should be engaged in a continuing dialogue with them about what the NHRI should be doing and how its performance and impact might be measured.

One outcome of this dialogue would be the development of more sensitive indicators of effectiveness. At the same time, it would extend the participation of various groups in the NHRI's work.

The limitations of participatory indicators should be seen as challenges to overcome, rather than arguments against using them. They should not cause the authority and identity of national institutions to be subordinated to the aims and interests – potentially contradictory – of stakeholders.

NHRIs will only be able to evaluate their progress if they take into account the expectations of beneficiaries and partners, as well as their institutional targets.

3. Reliable and valid indicators

To be useful, indicators must be both *reliable* and *valid*.

To be *reliable*, data must first be accurate. In addition, results must be replicable, regardless of who gathers the data. For example, the results of collecting information through monitoring should not depend on who the monitor is.

To be *valid*, indicators must genuinely show what they are supposed to show. A relevant example for NHRIs is the use of data from complaints procedures

to indicate the effectiveness of their public awareness programmes. It is often assumed that an increase in complaints implies the programme is successful. However, this apparently reasonable assumption may not be justified. Complaints may have risen because the human rights situation has deteriorated. Conversely, if complaints fall in number, it might imply that the situation has improved, rather than that public education is ineffective.

This aspect is fundamental: there is no point in juggling with the data if the information is irrelevant to the questions that need to be addressed. The lesson is that carelessly chosen indicators may not tell an institution what it wants to know. An NHRI should always question whether the indicators used do indeed show what they want to show and whether they are really relevant to the questions they want answered.

In most cases, NHRIs will also have to work with imperfect data – with flawed statistics and statistics that were not collected with the NHRI's purposes in mind. Whereas NHRIs can gather information about their own activities, they are not usually in a position to collect general data about social and economic trends. In this respect, NHRIs cannot realistically expect to offer an alternative to the government's statistical service. In many instances, they are bound to work mainly with official statistics, even if its figures are imperfect. On the other hand, NHRIs can identify the type of information they need in order to evaluate government policies in relation to human rights, and can lobby government and academic and other research institutions to make that information available.

4. Interpreting indicators

All data and indicators need to be interpreted. While it is possible to develop benchmarks that broadly apply to most NHRIs, indicators must be tailor-made for the context in which they will be used.

Ultimately, indicators must be identified and interpreted in the context of an analysis, which requires in-depth knowledge of the country, the human rights situation, and the relationships between the NHRI and its partners and beneficiaries. Indicators do not *speak for themselves*; they must be put in context and interpreted in relation to a purpose.

The obvious objection is that such interpretation is subjective. National institutions will interpret indicators as they see fit, in a manner favourable to themselves. This objection stands up only if one believes that indicators provide “true” answers in a simple way. In reality they do not. Well-chosen indicators will help NHRIs to make sense of their performance and impact, but on their own they will only provide answers of a limited and specific kind, in relation to the purposes for which they were selected. Indeed, using indicators should cause NHRIs to ask new questions and analyse information more carefully, and this is in itself a useful outcome of adopting an indicator-based approach.

External evaluators are sometimes called in to review the work of NHRIs. They will apply their own methodology, often based on indicators, to make their assessment. External evaluators are often considered useful because they are

impartial. As outsiders they may make critical judgements that insiders might avoid. All organisations should undergo such a process from time to time.

Indicators developed by an institution may also assist its partners or external evaluators to understand the issues that the NHRI considers most important.

A few examples will illustrate how data can be (mis)interpreted.

National institutions that responded to our questionnaire indicated that the indicator most frequently used was the number of complaints received, supplemented by information on types of complaints and rates of resolution. It was also clear that most NHRIs actually measure *outputs* rather than *performance* or *impact*. Reports might list the number of press briefings issued, but not the impact that these outputs had on media coverage or whether media coverage secured the NHRI's objectives.

With respect to statistics on complaints, national institutions generally make the following assumptions:

- The higher the proportion of resolved cases to the total number of cases received, the better their performance.
- An increasing number of new complaints is evidence of greater human rights awareness, and thus of public awareness campaigns' success.

These assumptions may of course be correct in any given instance. As we have seen, however, such statistics may be evidence of quite different trends. If complaint rates increase, for example, the common-sense interpretation is that human rights violations are increasing. This is not inconsistent of course with the interpretation that there is a greater popular awareness of human rights. Equally, if complaints decline, does it imply that the NHRI's public awareness work is failing? Or that human rights violations are being combated successfully? It is impossible to know the true answer without supplementary information.

The point is that these interpretations can only be validated using other information, such as an assessment of the overall human rights situation, interviews with complainants to discover how they learnt about the NHRI complaints mechanism (based on qualitative participatory indicators), and so on.

The conclusion that a high proportion of resolved cases indicates success seems at first sight to be less controversial. Yet it relies on the further assumption that resolving complaints is the best way to deal with human rights problems. This too can be challenged.

First, resolving complaints is essentially a method that NHRIs borrowed from *Ombudsman* offices, whose function is to deal with maladministration – delays or failure to deliver information or a service. Resolution of such cases is neither adversarial nor punitive; almost invariably, it consists of providing the complainant with the service to which the latter was originally entitled, often accompanied by an apology. By contrast, human rights violations are often crimes, for which those responsible should be held accountable. They may also be wrongs in civil law. Either way, the victim, and society at large, are entitled to redress. Blame-free resolution is not sufficient.

Moreover, many problems arise out of differences between the immediate interests of complainants and the well-being of society at large. If a bribe had to be paid to a police officer in order to have a family member released from custody, the complainant may be satisfied with the return of the bribe and the release of the relative. Yet the broader social interest lies in the officer being removed from duty and prosecuted – a process that may delay speedy resolution of the complaint.

Thus, when they look at the rate of ‘resolved cases’, NHRIs must assess whether their recommendations – such as reprimand, dismissal or criminal prosecution of the person(s) found to be responsible of the violation – have been properly followed-up, and whether the victims’ right to reparation has been fulfilled, by the relevant public authorities.

Second, an effective national institution should always attempt to tackle human rights issues in a systemic manner. If, for example, it receives many complaints about a similar form of discrimination, it may launch an inquiry to determine the extent of the problem and make recommendations to the government. In such cases, resolving cases individually (even if the complainants are satisfied) may represent a failure of the NHRI policy. Failure to tackle issues systemically may generate more victims – and eventually more “satisfactorily” resolved individual complaints. Statistics (based on quantitative data) will not tell the whole story.

Media coverage as an indicator of public outreach

A large number of press releases recorded in an annual report says nothing more than that the press office had a busy year. More useful would be statistics on the number of times the NHRI was mentioned in the media. Better still would be indicators of the nature of the coverage of human rights issues that were a priority for the institution. The latter might help to measure the effectiveness of the institution’s public outreach work. Counting one’s output can be done in a matter of minutes, while extensive media monitoring to measure impact is time-consuming and costly. Quantitative indicators should not be chosen simply because they are easily measurable. Cost, time and energy should always be a consideration in devising useful indicators.

Quantitative indicators offer useful ways to measure organisational *output* but provide a poor and sometimes misleading guide when it comes to evaluating the *impact* of output.

5. Indicators of performance and impact

Indicators may be used by NHRIs to assess or measure:

- The human rights situation.
- Their own performance.
- Their impact on human rights.

A. Assessing the human rights situation

This study cannot discuss in detail how NHRIs should analyse the human rights situation in their countries; to do so would require a separate study. However, to assess the impact and relevance of their programmes and activities, and to set their priorities, NHRIs will need to make a sound analysis of their environment – and will want to develop some indicators to track changes in it. For this reason, we include some remarks on this application of indicators.⁸

National institutions need a methodology to determine how far human rights are respected, protected and fulfilled in their countries.⁹ Useful indicators will need to measure not only the government's commitment to human rights, but the enjoyment of rights by the population (inputs as well as outputs) – for example, the amount spent on education and its real impact on school enrolment, improved literacy, and so on.

Moreover, indicators should be both dynamic and comparative – able to measure progress and regression over time. They may take account of how far governments allocate resources to fulfilling rights rather than on other items of expenditure, as well as to measure inequality in the provision of rights.

Indicators regarding discrimination

NHRIs very often monitor discrimination. To do so, it is usually necessary to break down statistical social indicators, in terms of gender, age, ethnic or social origin, religion, and so on. To see whether the right to education is enjoyed in a non-discriminatory way, for example, statistics on school enrolment can be disaggregated to determine the enrolment of girls or minorities which can then be compared to the average of the population as a whole. To assess the extent to which women participate in political life, NHRIs can collect data on the proportion of women who are candidates for election, are elected to public office, or occupy senior positions in public institutions.

Under the rights framework, governments have an obligation to protect and fulfil impoverished or other marginalised groups' rights. If certain social provisions are not fulfilled because resources are unavailable, NHRIs can assess whether the burden is spread fairly or shouldered by one section of society (which may amount to deliberate discrimination). NHRIs should ensure that the indicators they use provide enough information about groups they deem at risk.

8 Indicators are used increasingly to monitor human rights. A prominent example is the Human Development Index in the UN Development Programme's *Human Development Report* (<http://hdr.undp.org>), which integrates a variety of indicators dealing with human rights and development.

9 Most human rights thinkers now see three related sets of obligations in relation to rights: *respecting rights* is the obligation not to do something that would interfere with the enjoyment of rights (no arbitrary arrest or eviction from homes); *protecting rights* is the obligation to ensure that other bodies, such as individuals, businesses or foreign governments, do not prevent enjoyment of rights (no-one held in servitude; equal pay for comparable work); and *fulfilling rights* is the obligation to take steps to make all necessary provisions for the enjoyment of rights (establishing an independent judicial system; providing affordable housing).

Recently, interest has focused on economic and social indicators, probably because it has been recognised that the content of ESC rights needs better definition. But indicators can certainly be used to monitor civil and political rights. It may be possible to record or estimate the number of people detained without charge, for example. Has the government made money available to fund legal aid? Have police officers been trained to apply international standards related to arrest and detention? Most of these indicators can also be disaggregated.

Ways of disaggregating indicators: the right to health

The right to health imposes obligations on government to ensure provision of various services, including universal primary health care, other preventive and curative medical services, and affordable essential drugs of good quality. But the right to health goes far beyond medical services. The key determinants of health are levels of economic well-being leading to good housing, sanitation and nutrition. This has important implications for governments as well as other actors, including pharmaceutical companies and health professionals.

Since the right to health can be disaggregated, indicators can be devised for each of its elements. A general indicator can be broken down to shed light on the access to health of *particular groups*: children, the elderly or women; or on the *allocation of investments*: in medical services, housing or sanitation; or on the availability of drugs. Indicators can equally track what proportions of the health budget are spent on drugs, personnel, building hospitals, immunisation, urban versus rural areas, etc. All these figures can be analysed *over time* to show trends and priorities and make comparison between heads of expenditure. Taken further, such indicators can be compared with statistical information on infant mortality rate and life expectancy – for example, in rural areas, to help set policy priorities and analyse given changes in public health policies.

Other indicators can be developed to make *comparisons across sectors*. Health spending can be calculated as a proportion of the government budget and gross domestic product, and compared with other areas of spending such as education, the judiciary or defence. Such indicators can help to show whether progress is being made towards realising the right to health, or if the sector is slipping backwards. Along with other forms of budget analysis, they can be a helpful guide to the government's priorities, year by year, and over time.

B. Using indicators to evaluate NHRIs' performance

Indicators are most effectively used to measure the performance of an institution when they are fully integrated within the NHRI's planning, implementation and evaluation processes.

When evaluation criteria are established (at least broadly) at the planning stage, the institution's aims and associated indicators can function as targets

for staff. If well-chosen, staff know what is expected of them. This creates the risk, however, that achieving indicators can be confused with achieving aims. If this occurs, it may distort the programme and prevent the institution from responding sensitively to changes in its environment.

Several systems have been devised to set performance targets and indicators. National institutions that receive donor funds are likely to be familiar with several of them, since different funders favour different techniques. In most instances, however, evaluating the institution's performance can be based on applied common sense.

Whenever a national institution selects an activity, whether recurrent (commenting on draft laws) or one-off (a public inquiry), it should decide in advance how it will determine whether the task has been conducted properly. Three different levels of indicators will probably be required:

- *Indicators of output* show what has been done. They measure numbers of complaints handled, workshops held, people trained, laws reviewed etc.
- *Indicators of performance* show how well the activities were carried out.
- *Indicators of impact* show how far the activities had a positive impact on the enjoyment of human rights.

A public inquiry into an important human rights issue

The activity – Suppose a national human rights institution decides that a particular human rights issue is so important that a public inquiry is required. The Terms of Reference invite inquiry into all aspects of the issue with a view to making recommendations to the authorities responsible.

Indicators of output – A public inquiry is a large undertaking. The NHRI therefore prepares a detailed plan of activities that will require: the number and location of public hearings, the number of expected witnesses, the length and timing of the report, plans for presenting recommendations to the authorities and the public, a budget, and so on.

Indicators of performance – In any public inquiry, a key group are those whose lives are affected by the issue under consideration. One aim of the inquiry is to satisfy their expectations. To establish indicators on this matter, the NHRI elicits their expectations at the start of the inquiry and finds out whether these expectations have been satisfied at the end. Other indicators of performance might include completion of the different tasks on the activity list – hearings of witnesses, completion of the report within budget and on time, etc.

Indicators of impact – The simplest measures of impact will relate to the inquiry's recommendations. Ideally, these should be formulated in terms that enable the NHRI to determine if the authorities comply with them. Longer-term impacts will have to be evaluated by other means. For example, if the inquiry was prompted by complaints, the NHRI can monitor whether complaints on this issue decrease, and if they do, what caused this change.

C. Using indicators to measure impact

Though somewhat artificial, it is vital to distinguish between the performance of an institution and its impact. There is clearly some overlap between an institution's efficiency and its impact. However, performance indicators measure whether the institution has actually achieved what it set out to do; impact indicators assess whether those activities *effectively* changed the human rights situation.

An NHRI is only one influence – and usually a relatively minor one – on the human rights environment. The institution's impact must therefore be evaluated against what is feasible. NHRIs usually have little control over their legal powers or the extent of their material and human resources. They are rarely in a position to influence large trends in society. This is not to minimise their importance, but merely to be realistic about what NHRIs can be expected to achieve.

Very often, the conclusion might be that an NHRI has performed reasonably well but had little positive effect on the overall human rights situation. That conclusion itself needs to be analysed. Did it choose the wrong priorities although its activities were well executed? Were the activities it performed not relevant in the end to the issue they were expected to address? Was the NHRI simply not powerful enough? Or were other factors responsible?

Legal advice to government

The activity – NHRIs are usually mandated to review proposed legislation as a matter of course and audit existing laws to see how well they conform to the country's international human rights obligations. When proposed or existing laws conflict with human rights standards – or can be improved in other ways – the NHRI so advises the executive and Parliament accordingly.

Indicators of output – The institution will need to determine that it has analysed and commented on relevant laws. If reviewing existing laws, it will need to create a timetable and measure whether it is reaching targets in relation to it.

Indicators of performance – Using performance indicators, the NHRI will then, among other things, assess whether it met these targets on time. In addition, it might introduce more qualitative tests. Was the legal review carried out thoroughly? Were all important human rights issues identified and commented upon? Members of the executive and Parliament might also be asked whether the NHRI's comments were understandable and relevant, in substance and format.

Indicators of impact – An immediate measure of impact will be whether government or legislators followed the advice given. How often was advice adopted, ignored or rejected? Again, however, some additional qualitative tests might be required. Did the government take the national institution's advice on small points, while pressing ahead with a proposal that seriously breached human rights commitments? Did the implementation of the advice given by the NHRI result in a positive change in the enjoyment of human rights on the ground?

The following section suggests practical ways in which national institutions can measure their impact.

i) Evaluating complaint handling

NHRIs commonly keep detailed records of complaints they receive. Though it is often suspected that complaint handling is measured merely because it is easily measurable, useful statistics can be gathered:

- *Total numbers of complaints* – Compared year by year this may indicate the public profile of the national institution or show deterioration or improvement in the human rights situation.
- *Breakdown of complaints by type* – This may reveal the more widespread human rights violations – or just the issues which the public feels can be resolved through NHRIs. Measures must be taken to guarantee that cases are properly identified and categorised in accordance with international norms (rather than idiosyncratically).
- *Breakdown of complaints by body complained against* – This may reveal which institutions have the worst record, or merely where complainants were most hopeful of achieving a result.
- *Breakdown of complaints by complainant* – Complainants can be categorised by gender, social or ethnic origin, language, place of residence and so on. Complaint patterns can reveal which categories are most vulnerable to human rights abuses, or those whom the NHRI is reaching successfully.
- *Tracking of complaints by location* – This may indicate whether a particular problem is localised or has a national dimension.
- *Tracking of complaints by outcome* – Many national institutions report resolution rates and duration of cases. This information can help them to evaluate their performance. Nevertheless, such figures should be handled with care. A speedy resolution is not necessarily a satisfactory one; a difficult case, involving risks for the complainant, may be closed for alleged “lack of interest of the complainant”. Satisfaction of the complainant and compliance with the NHRI’s recommendations are more important measures, though less frequently gathered.

Raw statistics are only the starting point for evaluating impact. Institutions should supplement them with qualitative analysis. Opinion surveys need to ascertain whether the *process* for handling complaints was efficient, rigorous and sensitive to the complainant’s needs. Such surveys should also seek to assess whether those against whom allegations have been made were given a fair opportunity to respond and to remedy the situation at stake.

ii) Evaluating training programmes

NHRIs often present statistics about their training programmes (numbers of courses held, people trained etc.) because these too are measurable. Some break down trainees by gender, ethnic origin and so on. While this information

may measure the institution's output or performance, however, it says nothing about impact. Various simple steps can be taken to measure the effectiveness of training initiatives. One, already commonly used by national institutions, is an evaluation form distributed to all participants. Usually it will ask that they describe their expectations before the training, and then afterwards, whether their expectations were met. Many other questions can be raised as well, such as sections of the training that were most relevant and well taught.

An important further step (undertaken infrequently) is to evaluate trainees' perceptions some months or years later. Exercises can test to which extent trainees have retained and are applying the information and skills they acquired. Further research can show how many trainees remain in posts relevant to the skills they learned (job turnover being a constant problem), while interviews with supervisors and colleagues can help NHRIs to assess whether their training has been communicated to others.

Training prison officers

The activity – Suppose a national institution wants to improve human rights awareness among prison officers, and aims to ensure that officers will impart what they have learned when they return to their prisons.

Indicators of output – It is straightforward to gather indicators showing that the activity has been completed, by recording the numbers of workshops organised and prison officers who participated.

Indicators of performance – At the start of workshops, all participants (including trainers) are asked to express their expectations. What do they anticipate they will have learned by the end and what difference will this make? At the end, participants complete an evaluation form, noting how far expectations were met. The forms are analysed to provide information about the quality and usefulness of the course, and the teaching. This information can also be quantified (X participants satisfied, Y unsatisfied and so on).

Indicators of impact – To evaluate impact is difficult and cannot be done immediately. It is most useful to review the impact six months or a year later. Evaluators can re-contact participants and their colleagues to determine how far the training is remembered and applied. It may be desirable (but not always practical) to consider the overall performance of the institutions in which trainees work. A survey within the prison system, including inmates' opinions, before and after the training, may determine if there has been a discernible change in the number of prisoner complaints and, if so, why.

iii) Evaluating public awareness and education programmes

Many of the same considerations will apply to human rights education programmes. Education programmes are also best evaluated some time after completion.

Public awareness programmes are difficult to evaluate cheaply. One way is to monitor the media for mention of the national institution, or (better) coverage of human rights issues. In practice, this is only likely to be possible if the NHRI analyses the media as part of its general human rights monitoring function. If resources permit, it is undoubtedly useful to do so.

Since many institutions use complaint rates to assess public awareness, it would be useful to include education questions in their evaluation of complaints. Simply asking complainants how they heard about the institution would provide valuable information.

Public outreach through the mass media

The activity – Suppose an NHRI seeks to improve public awareness of human rights by increasing media coverage. Activities include training for journalists and production of pre-recorded information slots on radio and television.

Indicators of output – The institution will determine the number of journalists from different branches of the media who attended training events, and the number of relevant radio and television items that will be produced. Better still, national institutions can set, in advance, targets for coverage.

Indicators of performance – Training events can be evaluated in the same way whether the participants are journalists, prison officers or judges. Radio and television slots can be evaluated in focus group discussions. These are small gatherings, usually of some 8-12 people, of similar background. They do not aim to have a polarised discussion but explore the views of a similar group of people. A variety of different groups will need to be selected. In this example, participants could discuss whether messages were clear, if new information was imparted, if the information was persuasive and so on. Focus groups have no quantitative value and are not equivalent to an opinion survey. They are a method of deepening qualitative evaluation.

Indicators of impact – With respect to journalists' training, impact can be evaluated by monitoring media coverage. Have references to human rights increased and are reports better informed? Unfortunately, monitoring the media is time-consuming, but many national institutions do it as part of their normal work. It can provide indicators of change in human rights coverage. Focus groups can also reveal the impact of radio and TV slots on public awareness. NHRIs can make use of other contacts they have with the public, via complaint procedures for example, to evaluate the impact of their media campaigns.

CONCLUDING OBSERVATIONS

Assessing the effectiveness of NHRIs is complex. National institutions intervene in a variety of ways, from auditing laws and training public officials, to educating the public, monitoring the human rights situation and sometimes handling complaints. Each of these activities requires specific evaluation methods. NHRIs also cover a great number of issues, from employment rights to torture, from discrimination to environmental protection. More important still, they are just one of many actors that influence the human rights environment.

The benchmarks outlined in Chapter I are for use by all NHRIs (allowing for differences in organisation and mandate). Nevertheless, benchmarks need to be interpreted, taking account of national context and available resources. It would be foolish to insist that national institutions should issue parallel reports to treaty-bodies or attend annual UN human rights meetings, if to do so would paralyse other important activities. The indicators discussed in Chapter II should be tailored even more carefully to local circumstances.

The test of effectiveness for national institutions is not how far they make uninterrupted progress towards a society in which all human rights are respected, protected and fulfilled. Many NHRIs operate in an environment in which human rights are not an official priority or, worse, are under attack. They have limited powers. Their first responsibility may be to hold the line by continuously monitoring government behaviour and keeping awareness of human rights alive in society.

For these reasons, indicators should always be developed, understood and interpreted with judgement, taking account of the political and economic context. No single set of indicators will provide information that is relevant and useful to every case. NHRIs should mine this report for tips about how they might construct reliable and valid indicators for themselves.

Often national institutions are most effective when they work in conjunction with other organisations, perhaps as a catalyst. This role cannot easily be measured quantitatively. Participatory indicators become particularly important in this context.

Finally, it is important to underline that benchmarks and indicators are not objectives in themselves. They are useful tools if they help NHRIs to become more effective at promoting and protecting human rights. They generate performance targets and information on impact. They should help NHRIs to understand what forms of organisation and what activities will best advance their overall objectives. Indicators can be valuable, but if the search for them becomes too complex, time-consuming and expensive, other means are usually available.

Using indicators to guide a dynamic process of reform: access

Step 1. A national institution decides to become more accessible to three groups which it identified – through a parliamentary inquiry and by analysing its own complaints statistics – as particularly at risk: (a) minorities, (b) the elderly and (c) those classified by government as “very poor”.

Step 2. The institution first collects disaggregated data from each of its offices. This information leads it to conclude that, whereas the priority groups represent 35 per cent of the population, they represent only 15 per cent of the institution’s users (quantitative indicators). To understand why this is so, the institution runs an opinion survey among its users and among the prioritised groups (qualitative indicators). This reveals the reasons why priority groups fail to use its services: minorities, because they do not speak the official language; the elderly, because they cannot travel easily to the offices; and the “very poor”, because they do not know about the NHRI’s existence and are suspicious of official institutions. The survey also reveals that the general population would like NHRI offices to be closer to hand and easier to reach.

Step 3. The institution therefore introduces a number of changes. First, it opens new local offices in smaller towns. Second, it translates documents into minority languages and hires more multilingual staff. Third, it sites its offices near public transport nodes and makes them physically accessible for the elderly. Finally, it advertises its services on local radio programmes and engages outreach staff to provide on-the-spot advice in poorer communities.

Step 4. To analyse the effect of these reforms, the institution continues to collect disaggregated information using both quantitative and qualitative methods. The NHRI finds that use by the prioritised groups increased with the opening of new offices, but increased much more swiftly after the other reforms were introduced. Nevertheless, use by “very poor” people remains well below the average. The NHRI therefore maintains its new policies and ...

Step 5. ... starts a new process of inquiry, focusing on “very poor” people, to establish how it can more effectively provide them with services they will use. The quality of the outreach programmes is evaluated (using performance indicators) and a more detailed assessment of the needs and expectations of poor people is undertaken, involving participatory consultation. This information is used to develop and introduce new policies, the impact of which is then assessed...

Some potential pitfalls of indicators

National human rights institutions are mainly accountable to the public, to the authority that appoints them (such as Parliament), to their governmental and non-governmental partners, and to their donors. Their performance is, and should be, under constant scrutiny. Indicators are often used to improve accountability, on the grounds that they are proxy markers of an organisation's overall effectiveness. In using them, nevertheless, national institutions should bear in mind certain risks.

First, programmes may be distorted because managers and staff concentrate on meeting indicators that have been set and fail to address human rights problems, for which no indicators have been devised. Institutions should remain focused on their real objectives. Indicators are merely tools to help them.

Second, indicators may become performance targets. If they are not devised carefully, this can create perverse incentives. As already mentioned, while it is good to process complaints swiftly, the objective remains to resolve them satisfactorily. Reporting systems should reflect this, even though the time-frame within which a complaint is handled is much easier to report than satisfactory resolution. When indicators function as targets, the information they provide should reflect the organisation's objectives and should not inadvertently distort them.

Third, it is often tempting to measure something simply because it can be measured easily. If an NHRI decides to collect performance indicators, it should spend time considering what it needs to measure: "If an organisation does not measure what it values, it will end up valuing what can be measured."¹⁰

Finally, indicators may consume more time and effort than the information they generate is worth. Developing assessment tools, and measuring performance and impact should be cost-effective. When choosing them, NHRIs will need to take into account their capacity and resources and their priorities. Indicators are not useful if they absorb so much of a national institution's time, energy and money that its effectiveness is hampered.

Some advantages of indicators

We have stressed the dangers of indicators because it is all too easy to treat them as off-the-peg solutions to the challenges of planning and implementation. They are not solutions but, properly used, they can be very useful tools.

First of all, they help national institutions to gather information about the organisation itself and its programmes. What is it doing well? Where is it making an impact, how and why?

¹⁰ Audit Commission (United Kingdom), *On target: the practice of performance indicators*, 2000, p. 8. www.audit-commission.gov.uk/products/guidance/80DDA381-E506-4769-9ED2-7E9DDD4D7C4B/archive_mptarget.pdf

Secondly, performance and impact indicators can clarify planning processes and help set targets for future work. This can simplify the tasks of management and assist staff to understand what is expected of them. Over the course of a strategic plan, NHRIs should plan to evaluate different benchmarks at regular intervals. This will help them to re-focus their activities in line with their priorities and their successes or failures.

Third, performance and impact indicators are easily understandable and can be readily communicated to the public. As a result, they can help NHRIs to communicate their objectives and achievements.

Finally, indicators developed through a participatory process that involves beneficiaries and organisations with which they co-operate will strengthen consultation and collaboration with all stakeholders and help NHRIs to become more responsive to the needs of those it serves. Use of participatory indicators is also likely to help NHRIs to identify realistic targets that reflect public expectations of the institution.

In conclusion

Neither benchmarks nor indicators should be given too much importance. They are essentially a tool to help national institutions plan and evaluate their work, not an end in themselves. The examples discussed in this report should be understood in these terms. They are a starting point and NHRIs should adapt and use them based on their judgement of what they need for the particular context in which they work.

Among the characteristics of effective national human rights institutions, public accountability was identified as an especially important element. One of the most important uses of well-formulated benchmarks and indicators is that they allow the public to form a clear view of the institution's work and to decide whether it is adequately fulfilling its mandate, and reaching its overall goal: to protect and promote human rights.

SUGGESTED WEB SITES

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NHRI resources

www.nhri.net is the portal for web-based information on national human rights institutions. It contains links to major studies on national institutions, information about research in progress and proceedings of international conferences.

The following web sites play a similar role for their respective regions – Africa, Americas, Asia-Pacific:

www.sahrc.org.za/index5.htm

www.iidh.ed.cr/Comunidades/Ombudsnet

www.asiapacificforum.net/

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How should national human rights institutions assess themselves? This report reviews the characteristics of effective national institutions and the international standards for their work, set out in the Paris Principles. It proposes benchmarks, based on these Principles, and suggests how quantitative and qualitative indicators can help institutions to improve their performance and measure the impact of their activities. *Assessing the Effectiveness of National Human Rights Institutions* is a practical tool for use by members and staff of national institutions, and organisations and individuals that work with them.

Foreword by the UN High Commissioner for Human Rights, Louise Arbour.

“... an extremely useful tool to national institutions, in defining their role and responsibilities and planning and monitoring their activities ...”

Canadian Human Rights Commission

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“... could not have come at a better time. It will serve not only National Institutions but has relevance to other human rights NGOs and community organizations who should be able to use impact assessment indicators or tailor measuring devices to their own specific situations. It will go a long way in making the work of NHRIs more effective.”

Zonke Majodina, Deputy Chairperson,
South African Human Rights Commission

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