THE DANISH INSTITUTE FOR HUMAN RIGHTS

DOCUMENTING RESULTS: A REVIEW OF SURVEY-BASED REPORTS BASED ON DATA FROM NATIONAL HUMAN RIGHTS INSTITUTIONS

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INTRODUCTION

National Human Rights Institutions (NHRIs) have become an increasingly prominent part of the human rights landscape – nationally, regionally and globally. Drawing on the Paris Principles over 110 countries around the world have established NHRIs.[1] With their increased visibility has come a growing interest in documenting, measuring and understanding the work of NHRIs and their contributions to positive human rights change.[2]

Capturing such outcomes is not a straightforward task, neither theoretically nor empirically, given that they represent a vast diversity in terms of institutional models, mandates, organisational conditions and, not least, the political, economic and cultural contexts in which they work. The challenges of attribution in multi-actor environments are also considerable. Nonetheless, it is important, not least so that the NHRI community itself can provide evidence of their effectiveness and achievements to ensure and sustain credibility, accountability and legitimacy with constituencies.

The academic scholarship on NHRIs has explored different aspects of NHRI work but the question of effectiveness has gained particular prominence. This was documented by the Danish Institute for Human Rights in a systematic review of the independent and peer-reviewed research on NHRIs, **Lessons from Research on National Human Rights Institutions,** published in 2018.[3] This report highlighted research findings that provide evidence of the long-term positive impact of NHRIs and their institutional significance in the larger political landscape at the state level. The NHRI scholarship has also presented evidence indicating that specific mandates and methodologies such as complaint-handling and national inquiries offer important ways for NHRIs to strengthen their effectiveness and achieve human rights change.

But NHRIs themselves, individually or as part of networks, are also increasingly engaged in reporting on, assessing and measuring their own work. Through different processes, undertaken at global, regional and national levels, NHRIs gather and analyse data on various aspects of their work. These exercises present great potential as they generate data and knowledge to better analyse and understand the contributions of NHRIs to positive human rights change, but an overarching question emerges: are there better ways to use these valuable and underutilized data?

To explore this question, the present report looks at the analytical practices related to one specific strand of NHRI studies, namely survey-based studies of NHRI work published over a ten-year period from 2009-2019. Examining the source of the information itself (NHRIs) and the processes by which the data and information are collated is vital to understanding unique opportunities for strengthening systematic information-gathering. By extension and what becomes increasingly clear is that the strategic use of this information can provide better insights on NHRI results, achievements and effectiveness. Recognizing that the NHRI community sits on a potential treasure trove of data and knowledge, we found it relevant to analyse how the survey-based methodology has been applied. More specifically, the review seeks to answer the following questions:

• How are surveys used to gather data and knowledge on NHRI work?
• What lessons can be learned from the practice of using the survey-based methodology for reporting on NHRI work?
• Can the NHRIs make more strategic use of the data gathering methodology that the survey-based approach represents?

Section 2 of the report situates the survey-based NHRI studies within its larger context, offering a brief overview of NHRI self-reporting, assessment and measuring processes. Section 3 then zooms in on this particular kind of NHRI literature, providing a springboard for our analysis. Section 4 gives an analysis of these reports teasing out some overall trends and characteristics of this work. Finally, Section 5 presents recommendations and concrete suggestions on how to better utilize the potential in survey-based NHRI studies.[4]

The reporting demands faced by NHRIs are comprehensive and time-consuming. Reporting on the human rights situation in the context in which they work is a key part of any NHRI's mandate, and most NHRIs engage in various reporting processes at national, regional and global levels.[5] While the main point of interest here is not such general NHRI reporting on external issues, but instead NHRI self-reporting, these overall reporting demands do need to be kept in mind if there is an appetite to develop a more systematic and strategic approach to the survey-based information and data gathering methodology.

NHRI SELF-REPORTING, ASSESSMENT AND MEASURING PROCESSES: A BRIEF OVERVIEW

The survey-based NHRI reports represent only one aspect of the landscape of NHRI self-reporting, assessment and measuring. What follows is a brief overview of the main NHRI processes at regional and global levels, namely the accreditation process, the capacity assessment process as well as the production of manuals and training materials. NHRIs are obviously also involved in formal and informal processes of accountability at the national level, e.g. in relation to parliament or civil society. Since these processes are highly diverse and context-specific, they are not included in the overview.

2.1 THE GANHRI ACCREDITATION PROCESS

Among the mechanisms and processes for NHRI assessment the most important is arguably the global accreditation process functioning under GANHRI (Global Alliance of National Human Rights Institutions), which assesses the level of NHRI compliance with the Paris Principles "in both law and practice,"[6] i.e. with a focus on both technical compliance and actual performance. The process was launched in 1999 and is carried out by a Sub-committee on Accreditation on a five-year basis.[7] The OHCHR serves as permanent observer and secretariat to the Sub-committee.[8]

Using the Paris Principles as criteria, the Sub-committee assesses the following: the NHRI's mandate and competence; degree of autonomy from government; independence; pluralism; resources and powers of investigation, considering e.g. whether the organizational structure of the NHRI – including its staff complement and budget – lends itself to effective functioning; whether the provisions of the enabling law are sufficient to allow the institution to function effectively and independently; whether the NHRI is able to carry out its mandate effectively and without interference; and whether the NHRI demonstrates independence in practice and a willingness to address the pressing human rights issues.[9]

The assessment is based on a review of relevant laws, rules and regulations, as well as material provided by the NHRIs themselves, including descriptions of practices and procedures, overviews of organisational structure and staffing, and annual reports. The NHRIs produce a separate and substantive report – the so-called Statement of Compliance which is based on a pre-defined reporting template approved by the Sub-committee – detailing many aspects of their work related to their mandate and functions. Information from "credible third parties" may also be included, e.g. documents and information provided by the NHRIs themselves,

including observations and recommendations emanating from the international or regional human rights system, reports provided by OHCHR; media reports; and reports made by civil society and other organizations.[10]

Following the assessment, NHRIs are granted status as either A or B institutions. A is awarded to institutions which fully comply with the Paris Principles and thus have full GANHRI membership (and with that, participation rights in the UN Human Rights Council) and B is awarded to institutions that are not fully compliant and receive observer status in GANHRI. As of 2019, 79 institutions have A status and 35 have B status.[11]

2.2 CAPACITY ASSESSMENT PROCESSES

NHRIs also engage in capacity assessment processes, aimed at identifying their present capacities and the capacities needed to improve their performance. One such process was initiated in 2008 in a partnership between the Asia Pacific Forum of National Human Rights Institutions (APF), the UNDP Asia-Pacific Regional Centre in Bangkok and OHCHR. The first capacity assessment was concluded in 2009. Within the framework of this Capacity Assessment Partnership, a methodology was developed and a **Capacity Assessment Manual** was published in 2011, with a revised version in 2015.[12] To date, approximately 25 capacity assessments have been conducted for NHRI member institutions from the Asia-Pacific region. The Network of African National Human Rights Institutions (NANHRI) has also previously undertaken three capacity assessments in the Africa region. Drawing on – and seeking to scale up – these regional efforts, GANHRI, in cooperation with OHCHR and UNDP, formulated a set of **Global Principles for Capacity Assessment of NHRIs** in 2016.[13]

A NHRI Capacity Assessment assesses NHRI capacities in the areas of policies, procedures and processes; governing law and leadership; human resources and knowledge; financial and other resources; and accountability. Each of these areas is assessed in relation to a number of functional and technical capacities, including capacity for strategic planning and implementation; investigation, complaints-handling monitoring and research; advocacy, awareness-raising and education; stakeholder engagement and partnerships; monitoring and evaluation.

During a visit to the NHRI in question, the capacity assessment team conducts individual and focus group interviews with the NHRI's leaders, staff and external stakeholders, carries out a questionnaire survey among the NHRI's leaders and staff, and collects relevant documents. Most importantly, the capacity assessment process is inclusive of all leaders and staff in the NHRI – a rare opportunity for all personnel, including drivers, cleaners and administrative assistants, to contribute to the future development of the NHRI. A report is produced based on each capacity assessment process, proposing strategies "to strengthen the NHRI as a whole, to develop the capacities of staff individually and collectively, and to make the internal processes of the NHRI more effective and more efficient."[14] It is worth noting that

APF has secured continuity in the team leadership of the capacity assessment thereby enhancing consistency in the roll-out.

2.3 NHRI TRAINING MANUALS

Apart from the GANHRI accreditation process and the capacity assessment processes, other NHRI exercises also contain elements of self-assessment and reporting, even if this is not their main purpose. The Asia Pacific Forum of NHRIs, for instance, has developed a set of thematic training manuals and factsheets to provide their members with practical guidance on key human rights issues and NHRI functions, including prevention of torture, conducting national inquiries, migrant workers, women and girls, economic and social rights as well as disability.[15] These manuals have been developed by a small group of APF experts, in consultation with member NHRIs in order to collect and exchange examples of good practices which can support the instructive learning or guidance purpose of the manuals.[16] Member NHRIs typically provide input in the form of case studies, interviews, questionnaire responses and other materials.

USING SURVEYS TO GATHER DATA AND INFORMATION ON NHRI WORK

3.1 INTRODUCING THE SURVEY-BASED REPORTS

The present report focuses on a particular kind of NHRI self-reporting; what we refer to as survey-based NHRI reports. We define these as reports that explore and analyse different aspects of NHRI work and results by means of a survey-based approach targeting a larger number of NHRIs.

While both training manuals and capacity assessment processes also make use of surveys, they have not been included in the present analysis. The capacity assessment is a distinct process that focuses on individual NHRIs and the surveys conducted in this context thus include only one NHRI. The assessment reports are often only shared with the NHRI staff and the partnership organisations and not made more widely available.

The training manuals do include a number of NHRIs in their surveys but use data from these as illustrations and case studies rather than a basis for systematic analysis. This does not mean that the information gathered in these processes is not valuable for the broader analysis of NHRI work and contributions: there is arguably great potential in developing a more harmonized, strategic approach to NHRI self-reporting, assessment and measuring that also includes the types of information that these case studies represent.

For our review, we identified 18 published reports based on surveys sent to NHRIs. The process of collating these reports started with online searches as a preliminary step to identifying relevant materials. This was followed up by correspondence with three of the regional NHRI networks [(Asia Pacific Forum (APF), the Network of African NHRIs (NANHRI) and the European Network of NHRIs (ENNHRI)] as well as the Secretariat of the Global Alliance of NHRIs (GANHRI) in Geneva to identify additional reports and explain the purpose of this analytical work. This approach ensured a fairly comprehensive selection of sources for review. However, there is no central repository (the closest thing to this is managed on a regional basis), and no real overview of these reports exists. This implies that the list of reports analysed here cannot be deemed exhaustive despite covering a broad range of themes and purposes for which they were prepared.

Most of the reports are thematic in focus e.g. on women's rights, complaint-handling, migrants or business and human rights, while others are more general

in scope, broadly exploring institutional features of NHRIs. The reports are mainly
authored by entities within the NHRI community such as GANHRI or individual
NHRIs, perhaps in collaboration with researchers, or by the UN Secretary-General
or OHCHR e.g. for reporting to UN organs.

The table below presents a brief overview of the reports identified. What follows
after is not a detailed analysis of the reports but rather an analysis of the ways in
which surveys are used to gather data and knowledge on NHRI work and to identify
lessons to be learned.

Title	Author(s)	Year	Purpose
Business and Human Rights: A Survey of NHRI Practices	OHCHR	2007	To provide the UN Secretary-General's Special Representative on Business and Human Rights with background information on the mandates and capacities of NHRIs to manage corporate-related grievances and issues.
Survey on National Human Rights Institutions: Report of the findings and recommendations of a questionnaire addressed to NHRIs worldwide	OHCHR	2009	To take stock of the current state of NHRIs globally in order to enhance OHCHR's efforts – in partnership with other stakeholders – to strengthen the functional capacities of NHRIs, both individually and collectively.
NHRIs and Their Practices in Protecting and Promoting Women's Rights and Gender Equality	OSCE	2011	To identify institutional features, good practices and areas of challenge for NHRIs with respect to their work on women's rights and gender equality.
Survey of National Human Rights Institutions on Article 33.2 of the Convention on the Rights of Persons with Disabilities	ICC/ Canada HR Commission report	2011	To survey NHRIs on their experiences with implementation of CRPD article 33.2.
Report of the NANHRI Mapping Survey on Business and Human Rights	NANHRI/ DIHR	2013	To identify ways in which human rights and business education, outreach and sensitization can be conducted by NANHRI member institutions with relevant stakeholders, with regard to the UN framework and Guiding Principles on Business and Human rights, and the UN Paris Principles and ways the NANHRI secretariat can support member NHRIs to strengthen their legal mandates to be able to act effectively on business and human rights.

Title	Author(s)	Year	Purpose
Statelessness and the Role of National Human Rights Institutions	Tilburg Law School	2013	To explore the extent to which NHRIs are engaged in the issue of statelessness and what this engagement consists of.
Mapping of Members' Work on Older Persons' Human Rights	ENNHRI	2013	To collate information on ENNHRI members' work on human rights and older persons, particularly in relation to care homes.
A Mapping Survey of the Complaint Handling Systems of African National Human Rights Institutions	NANHRI and Raoul Wallenberg Institute	2016	To assess the complaints-handling systems in place in Africa, identify the NHRIs with a complaint-handling mandate and examine the strengths and weaknesses of these systems.
Study on the State of National Human Rights Institutions (NHRIs) in Africa	NANHRI and UNDP	2016	To analyse the state of African NHRIs in relation to their role and capacity to romote and protect human rights and to highlight best practices, capacity challenges/constraints and subsequently recommend policy options for adoption by NHRIs, Government, as well as regional networks and development partners.
The Role of the Ombudsman, Mediator and other NHRIs in the Promotion and Protection of Human Rights	UN Secretary-General	2017	To report to the UN General Assembly on the role of the Ombudsman, mediator and NHRIs in the promotion and protection of human rights, including best practices and obstacles encountered.
National Institutions for the Promotion and Protection of Human Rights	UN Secretary-General	2017	To report to the UN General Assembly on activities undertaken by OHCHR, UNDP and other UN agencies to establish and strengthen NHRIs (not survey-based but important enough report on NHRIs to merit inclusion for the analysis).
The Role of National Human Rights Institutions in Conflict Resolution, Management and Peace-building	NANHRI and RWI	2017	To assess progress in implementation of a three-year action plan for NHRIs in the countries of the East African Community focused on developing sustainable systems in conflict prevention, management and peace building.
National Human Rights Institutions Engaging with the Sustainable Development Goals (SDGs)	GANHRI/ The Danish Institute for Human Rights	2017	To produce a baseline of how NHRIs support the implementation of the SDGs at country level and to share experiences, good practices and knowledge management with and among NHRIs in relation to the 2030 Agenda (as encouraged in the Mérida Declaration).

Title	Author(s)	Year	Purpose
Children's Rights in National Human Rights Institutions: A Mapping Exercise	GANHRI/ UNICEF/ German Institute for Human Rights	2018	To map and assess NHRIs' roles, activities, experiences and needs in promoting and protecting children's rights with the aim to enhance mutual learning, targeted support and provide information to GANHRI and its four regional networks on their members' needs and experiences.
Enhancing the Role of National Human Rights Institutions (NHRIs) in the Decriminalization of Petty Offences in Africa	NANHRI	2018	To provide an overview of national, regional and international laws, regulations and practices highlighting the role of NHRIs in the decriminalization of petty offences and to identify the strengths and weaknesses of NHRIs as well as identify other key stakeholders such as civil society organizations to collaborate with in the campaign to decriminalize petty offences.
Promote, Protect and Monitor. 2017 Update Survey on Article 33(2) of the Convention on the Rights of Persons with Disabilities	German Institute for Human Rights	2018	Follow-up study to compare the situation in 2011 (see ICC Canada HR Commission report above) with the current situation and identification of trends.
National Human Rights Institutions and their Work on Migrants' Human Rights	GANHRI/ German Institute for Human Rights	2018	To survey what NHRIs around the world do to promote and protect the rights of migrants on the ground.
The Role of National Human Rights Institutions in Promoting Equality and the Empowerment of Women and Girls Living in Rural Areas	Asia Pacific Forum of NHRIs/ GANHRI	2018	To showcase how NHRIs use their mandate and powers to promote and realize the rights of women and girls in relation to the 2018 priority theme at the Commission on the Status of Women, including how NHRIs engage with the problems that women and girls in rural areas face, how they contribute to understanding these problems as human rights issues and how they help resolve them in a human-rights compliant way with the participation of women and girls.
The Role of National Human Rights Institutions in Facilitating Access to Effective Remedy for Business-related Human Rights Abuses (Questionnaire – report not yet available)	UN Working Group on Business and Human Rights	2019 (in pro- cess)	To explore the role, mandate and methods of NHRIs in facilitating access to an effective remedy for business-related human rights abuses.

3.2 WHAT KINDS OF INFORMATION DO THE REPORTS PRESENT?

The reports use surveys to gather information on a wide range of aspects related
to the work and identity of NHRIs. Although somewhat simplified, we can identify
two overall categories of information; namely: information on institutional features
(what the NHRI **is**) and information on performance (what the NHRI **does**).
Information on institutional features typically includes e.g. information on mandate,
organisational structure, number and kinds of staff members, while information on
performance includes information about methods and activities, whether generally
or within a particular field.

Much of the information gathered through the surveys studied for this working
paper focuses on compliance rather than effectiveness per se.[17] Compliance is
conventionally defined as "the degree to which [an actor's] behaviour conforms
to what an agreement prescribes or proscribes".[18] In the context of NHRIs, then,
compliance typically refers to, and is measured as, the degree to which the NHRI
lives up to the Paris Principles and its institutional mandate.[19] Effectiveness, on
the other hand, can be defined as the degree to which the actions of a particular
actor lead to certain (desired) outcomes. An effective NHRI, then, is an NHRI
whose actions cause a particular set of outcomes, whether related to the general
goals of protecting and promoting human rights or the specific goals outlined in its
mandate and strategies. [20] A high degree of compliance does not necessarily equal
a high degree of effectiveness. In fact, an institution may comply with the Paris
Principles and its institutional mandate, but be ineffective in contributing to human
rights change, and vice versa, an institution may be very effective, but be lacking
in compliance.[21] As such, information on compliance does not necessarily tell us
much about the effectiveness of NHRIs in contributing to human rights change.

Nonetheless, such information is still highly relevant for understanding and
measuring the work of NHRIs. Factual information on institutional features and
performance can provide useful insights into the main characteristics and trends
in this field. For example, the OHCHR's **2009 Survey on National Human Rights
Institutions** collected information about the top human rights issues seen from the
perspective of the respective NHRIs. Likewise, the 2018 report on **NHRIs and their
Work on Migrants' Human Rights** by GANHRI and the German Institute for Human
Rights provides a valuable overview of the different methods NHRIs use in this
area. This information can also illuminate the great diversity of the field. The 2009
Survey, for instance, documents the significant diversity in budgets available for
NHRIs ranging "from less than 10,000 (one from Africa) to over 100 mil[lion] USD
(one from Europe)"[22] as well as in the number of staff where it ranged "from 2 (e.g.
one from Europe) to 1129 (e.g. one from the Americas)."[23] Mapping such variations
is relevant in itself for capturing the breadth of NHRI experiences.

Not many surveys deal explicitly with the issue of effectiveness – asking the NHRIs
questions about the degree to which they have contributed to human rights change.
Even the most comprehensive of the surveys, the 2009 OHCHR Survey, does not

really capture NHRIs' results and achievements related to human rights change per se. This is understandable; measuring effectiveness is a far more complicated endeavour than simply describing institutional features and activities, insofar as assessments of effectiveness must be based on a demonstration of causality.[24] Nonetheless, some reports do include information that can illuminate aspects of this question, e.g. by asking NHRIs to identify what they consider to be the most important barriers to effectiveness such as the 2018 report on NHRIs and its work on migrants' human rights. The "best practices" and concrete examples of successful NHRI work collected as part of the surveys could also serve as useful data on effectiveness; however, in the vast majority of reports these remain as under-analysed appendices to the actual analysis of NHRI work (see section 4.3).

ANALYSIS, LIMITATIONS AND FINDINGS

4.1 USING NHRI SURVEYS IN ESTABLISHING BASELINES

One interesting way in which surveys are used is in the establishment of a baseline. The intention behind sending out a survey is typically guided by a wish to have an overview of NHRI work on certain issues and to use that knowledge to stimulate further efforts on the issues in question. The quality of these baselines varies from the superficial to the substantive. There are some that can guide strategic action moving forward because the knowledge gathered is embedded in larger processes. Other "baselines" (stemming from the surveys) are more one-off processes – snapshots more than actual baselines – where the follow-up is uncertain. This may well limit their usability.

One of the best examples of the use of surveys is the **2009 Survey on National Human Rights Institutions: Report of the findings and recommendations of a questionnaire addressed to NHRIs worldwide**, which remains to date the most comprehensive study based on the survey methodology. Including more than 60 NHRIs in a worldwide survey, the study was intended as a stock-taking one after two decades (the 1990s and the 2000s) where the number of NHRIs had rapidly expanded and their role in domestic and international human rights work had subsequently increased in significance. The survey evaluated issues such as the NHRIs' "legal framework; functional capacity needs; core protection needs; participation rates in the international human rights system; and level of interaction with UN country processes".[25] The focus of the Survey was guided by the assumption that "[f]or an NHRI to be accessible and effective, it needs diverse staff with the necessary professional skills and knowledge of human rights, as well as an organizational structure that allows for the most effective use of its resources, budget and powers.[26]

The 2009 Survey revealed that many NHRIs did not achieve pluralism in the composition of their governing bodies. The survey also showed that over 70% of respondents considered their NHRI to be very independent. However, many also noted the influence held by governments and ministries on the critical issue of the budget allocations for NHRIs. The Survey showed that greater efficiency in organisational infrastructure was needed, examined the existence of regional offices (important for outreach), identified that there was a recognized need to improve engagement with vulnerable groups and tried to generate data on the existence of special units "dealing with the rights of particular groups.[27] The Survey also noted a limited responsiveness and effectiveness by governments –

especially in Africa and the Americas – to follow up on recommendations issued by NHRIs. These were all critical issues related to aspects of NHRI organisational effectiveness and these types of questions and the data generated still have relevance for the sake of comparison with current trends.

The OHCHR Survey also asked the NHRIs to provide data on the number of complaints received the previous year (2008). Many, however, did not provide a response. While some NHRIs do not have a complaint-handling mandate – and this may provide some explanation for the low response rate in 2009 – complaint-handling has been linked to achieving NHRI effectiveness and the survey rightly identified a need for more developed processing and data systems. The ability to report on the effectiveness of these systems and how they facilitate change are natural follow-up issues to address after raising these questions on NHRI systems for complaint-handling back in 2009.

The 2016 **Mapping Survey of the Complaint Handling Systems of African National Human Rights Institutions** is another good example of the baseline approach, albeit focusing on a specific topic. The study presented a comprehensive mapping of complaints-handling systems in the African NHRIs, based on survey responses and other information from 27 out of 44 NANHRI member NHRIs.[28] The report also documented those NHRIs that had developed complaints handling manuals and/or had established rules of procedure providing a methodology to ensure greater consistency in the work. It also identified those NHRIs that had developed manuals and procedures "for conducting public hearings that address systemic violations of human rights."[29] It contained a systematic overview that also enabled a problem-oriented approach mindful of issues related to NHRI effectiveness. The report identified potential problems of complaint resolution systems in NHRIs that lead them to "fail in functioning efficiently and effectively."[30] Noticing that the mandate to receive, investigate and resolve complaints calls for "organizational ability, determination, tact and efficiency in the method of work", the report identified that it is a mandate "that can lead to loss of faith and credibility in a NHRI if not effectively executed."[31] There is a lot to work with here to assess results and achievements in strengthening these systems over time on what is a core aspect of NHRI as well as broader human rights work, namely providing redress for victims of violations.

The 2016 **Mapping Survey** actually contains interesting data in the case descriptions of NHRI complaint-handling practices but they are featured only in passing and the data are not explored further. One case, for instance, describes an NHRI that over a five-year period opened eight branch offices around the country, all with their own separate investigation units; something which, it is explained, significantly enhanced accessibility and efficiency. Tracking the likely increase in complaints received and investigated over this relatively short time period could have been very interesting but there is no information provided on this. The only data mentioned relate to the opening of a free telephone hotline which improved accessibility to the

NHRI complaints mandate for complainants unable to travel long distances. The hotline received 9.377 complaints in the first year of its operation. The information given includes only this single data point and therefore it is not possible to capture the actual trends or the likely improvements related to complaint handling, despite the fact that the NHRI has taken some very encouraging steps to improve the overall situation. This is a missed opportunity.

The larger point to make is that there are some seeds for deeper analysis that could capture improvements in NHRI work in this area. The question is also: What is the follow-up to a comprehensive study of this kind? The baseline may inspire capacity development efforts – such as facilitation of trainings and sharing of manuals and good practices – but is the comprehensive data and knowledge gathered actually used to measure progress and capture the achievements when it comes to NHRIs strengthening complaint-handling and resolution processes for the benefit of those seeking redress?

The Baseline approach is the strongest methodology guiding the use of the NHRI survey-based methodology. The two reports mentioned above provide evidence hereof. They are both comprehensive and well-designed addressing relevant issues. However, the methodology is less strong when it comes to capturing results and achievements developing over time. The methodology requires other forms of follow-up. It is not clear that these are taking place. There has not been a comparable study to the **2009 Survey on National Human Rights Institutions**. There have no doubt been attempts to gather related data but there is potential to link such efforts and expand them with a greater focus on NHRI results and achievements – and work on securing greater comparability both in retrospect and in looking forward.

4.2 NHRI SURVEYS AND THE LINKING APPROACH: FROM REGIONAL MECHANISMS TO NATIONAL IMPLEMENTATION

One interesting way of using NHRI surveys could be labelled the Linking Approach. It is part of the NHRI mandate to link international human rights standards with national level promotion and protection. Surveys can be used strategically to develop such connections. They can guide how concrete linkages are made and consolidate approaches in the process. Mandate and methodology can work together to inspire national level implementation.

The third baseline study identified among the NHRI survey-based reports offers a highly interesting example of this linking approach. The 2018 NANHRI report **Enhancing the Role of National Human Rights Institutions in the Decriminalization of Petty Offences in Africa** shares some features of the baseline studies mentioned above but its origin is itself important. This survey-based baseline was prepared as a way of acting on a set of "Principles on the Decriminalization of Petty Offences in Africa" adopted by the African Commission on Human and Peoples' Rights in November 2017. The Principles guide African

states on how to decriminalise and declassify such petty offences "to ensure that the existence and enforcement of such laws do not unfairly target people who are poor, or otherwise marginalized".[32] The potential here for the prevention of human rights violations is huge both because of the decriminalization aspect and the possibility of reducing prison populations in overcrowded detention facilities in Africa.

NANHRI has taken normative standards developed by the African Commission on Human and Peoples' Rights i.e. the regional human rights mechanism – more specifically soft law instruments focused on arrest, pre-trial detention and custody – and pointed them towards how NHRIs can play a role in their national level implementation. This is a highly strategic intervention in terms of the substantive issue and an excellent application of the NHRI mandate focused on linking national and international human rights standards and processes (which also includes the Optional Protocol to the Convention Against Torture or OPCAT). The report contains detailed and data-rich situation and legal analysis of the conditions in five countries (Côte D'Ivoire, Ghana, Kenya, Malawi and South Africa) and links them to the role and practices of the respective NHRIs.

As a baseline approach, the report has some of the same strengths and weaknesses identified in the section above. However, it is undeniable that this is one of the most strategic uses of the NHRI survey-based methodology because of the way it creates substantive linkages between regional processes and the national context in an area of great potential for making significant human rights improvements in ways that can benefit many with relatively few costs. This is the type of topic where NHRIs should be intervening and the data gathering available through NHRI networks is a powerful way of agenda-setting and defining relevant actions. The baseline approach can be copied by other NHRIs that could undertake an analysis similar to what is presented for the five countries in question. This makes the approach more broadly applicable and it can help inspire action. The challenge – as with other baselines – is identifying and programming the right follow-up processes that help shift from solid analysis to action, meeting the strategic potential. The Linking Approach should be explored further when selecting topics for future survey-based studies.

4.3 BEST PRACTICES: FROM ANECDOTES TO EVIDENCE

A third interesting use of the surveys is the collection of best practices. A number of the reports use their surveys to ask participating NHRIs to provide concrete examples of the ways in which NHRIs contribute to human rights change in a particular context.

The report on NHRIs and their work on migrants' human rights by GANHRI and the German Institute for Human Rights, for instance, includes 16 "practices", collected from NHRIs who have participated in the survey. As part of the questionnaire, the authors ask participating NHRIs "to include some practical examples of NHRIs'

work on migrants' human rights, to illustrate not only the work NHRIs do, but also the impact their activities have."[33] Based on responses from the NHRIs, the authors have then formulated short text descriptions, providing concrete examples of how NHRIs have successfully engaged in the promotion and protection of migrants' rights, through e.g. investigations, awareness-raising, and legal reform.

Such identification and collection of best practices is a potentially useful tool in the analysis of NHRI contributions to human rights change. With a focus on qualitative, context-specific information, best practice descriptions can complement the more quantitative, generic data generated from surveys, thus contributing to a more nuanced understanding of NHRI results and achievements, including the contexts, processes and factors that facilitate such contributions.

This, however, requires a systematic and strategic approach to best practice collections. In the reports studied for the present analysis, however, the best practices collected seem to remain anecdotal illustrations, detached from the actual analysis. There are few attempts at systematically analysing the various examples, whether individually or in their entirety. This is a shame, insofar as such analysis could provide valuable information on NHRI self-perceptions of successful contributions.

4.4 NHRI SURVEYS AS A TOOL FOR REPORTING TO UN FORUMS

NHRI surveys are also used in reporting to official UN forums. These may meet formal reporting requirements but can also be used to push specific policy recommendations. One example is the UN Secretary-General's 2017 report to the UN General Assembly on **The Role of the Ombudsman, mediator and other NHRIs in the promotion and protection of human** rights. The survey which informed the report received 60 responses from "Ombudsman, mediator and other national human rights institutions" responding to questions about compliance with the Paris Principles, sufficiency of funding to fulfil their work, etc. with 23% of the institutions expressing concern over the "low or insufficient level of their funding".[34] This appears to be a rather arbitrary and nonrepresentative finding to present to the UN General Assembly. (Conversely in the 2009 OHCHR worldwide survey 46% of the NHRIs reported insufficient funding to conduct their work and 19.6% reported moderate funding.)

Responses were also received from 14 UN member states. This mix of perspectives is potentially useful. For example, all governments reported that all Ombudsman and National Human Rights Institutions "operating in their country were fully funded."[35] This jars with the finding above and mainly says something about perceptions. A problem is that the data are not really comparable because there were only 4 countries where both government and NHRIs responded.

Reporting to a political forum such as the UN General Assembly is particular in that it does not always rely on clear methodology. Its purpose is to fulfil the reporting

obligation with the possibility of agenda-setting through recommendations.
The data provide an alibi to present a set of recommendations before the UN
General Assembly that encourages states to establish independent Ombudsman
institutions or NHRIs along the lines of the Paris Principles and to provide them
with adequate funding. This is standard UN procedure. This 2017 report on
Ombudsman, mediator and other NHRIs, however, added nothing substantive
about NHRI work and was a stand-alone exercise conducted for a very specific
one-off reporting obligation. There was a possibility to report more substantively to
UN bodies on NHRI results, achievements and effectiveness but this opportunity
was taken in this case.[36] The strategic information gathering processes may be too
under-developed to do this. This leads to presenting ad hoc and anecdotal data as
the examples above indicate.

4.5 GANHRI CHAIR-INITIATED SURVEY REPORTS – A RECENT TREND?

A recent noteworthy trend has been a higher frequency of survey-based reporting
initiated by the Chair of GANHRI. It is clear that when the German NHRI served as
Chair in the most recent period up to 2019 this approach received new attention
leading to three survey-based reports on NHRI work published in 2017 and 2018
(as well as one case-based NHRI study[37]). The reports focused respectively on
"NHRIs and their work on migrants' human rights"; on how NHRIs help ensure
implementation of the Convention on the Rights of Persons with Disabilities and on
children's rights in the work of NHRIs.[38] Interestingly, the German Chair drew on the
research capacity of the German NHRI to conduct this work.

This expanded use situates the survey-based methodology more centrally within
the current work of the global NHRI community as represented by GANHRI and its
secretariat. It is not a new development that the GANHRI Chair has helped initiate
a study of this kind. In 2011, as a result of chairing the International Coordinating
Committee of NHRIs (the former name for GANHRI), the Canadian Human
Rights Commission co-authored the original study on how NHRIs help ensure
implementation of the Convention on the Rights of Persons with Disabilities.[39]

The GANHRI chair taking a leading role can perhaps ensure relatively fast action
when it comes to knowledge production addressing current GANHRI priorities
or emerging issues. It can also be a way for the NHRI community to take more
ownership of strategic information gathering through GANHRI. However, with
revolving Chairs on a non-renewable term of three years and no overall strategy
for this work it is questionable whether it is a sustainable model that e.g. secures
follow-up on issues at relevant time intervals to measure results. There is a risk that
this approach becomes ad hoc, short term and not utilized to its full potential. It
does, however, raise a question for GANHRI and its constituency: what should future
approaches be when it comes to strategic information gathering, including the use
of NHRI survey-based assessments?

CHAPTER 5

WAYS FORWARD

The review shows that there has been extensive use of the survey-based methodology to gather data and knowledge about the work of national human rights institutions. While our overview of these reports cannot be deemed exhaustive due to the "grey literature" nature of the report genre, it does appear that the frequency of using these surveys has increased within the last three years.

This should call for greater reflection and debate within the NHRI community about how to improve the use of surveys and optimize the data resources that they offer. It is fair to raise as a concern that the stand-alone nature of most NHRI survey-based exercises and the lack of any knowledge repository collating these studies lead to the lack of harmonized or coordinated approaches which in turn present challenges for the strategic use of the rather comprehensive information that is being collated.

Our review does point towards a number of findings as well as some ideas and recommendations for how to take this forward. Given the richness of the data available, our overarching recommendation is that the process be optimized and the information systematized for more strategic use, developing and refining approaches and methodologies to capitalize on the knowledge gathered.

It is worth keeping in mind that the current use of NHRI survey-based studies seems to be a very top-down process. Another challenge is confronting the single-issue approach that guides these requests. From one perspective, this is reasonable given the considerable degree of expertise and specialisation informing much human rights work. From another perspective, however, there is a risk that this makes otherwise relevant studies appear as silos that segment work inside the same institutions. The surveys are often used to generate overviews or baselines on a certain thematic issue to initiate work in a particular area but the reports produced are not really focused on capturing results and achievements over time (either in retrospect or with follow-up studies). This links to one of our initial question about lessons to be learned.

There are a number of relevant lessons and good practices to distil. One lesson is to ask for more data where and when it is available and explore trends over time. This may require some follow-up on behalf of those analysing the survey results and writing the reports based on the surveys. There is potential to provide a more compelling narrative about NHRI work and achievements despite all the constraints and difficulties these institutions face on a daily basis.

From our analysis, there are a number of other lessons to be learned as to how NHRIs can make more strategic use of the data gathering methodology that NHRI surveys represent. These are captured in the recommendations below:

RECOMMENDATION 1: THE SURVEY-BASED METHODOLOGY AND STUDIES DESERVE MORE CONCERTED ATTENTION BY GANHRI AND OTHERS.

The studies contain a lot of relevant and under-utilized information and the methodology has greater potential beyond its current use. The possibilities for systematizing existing knowledge across the wide array of sources/reports/documentation should be reviewed. It may also be relevant to go back and evaluate the quality of the various surveys to identify the best approaches taken so far. The lessons from these review efforts could be consolidated in future analytical work but these studies may also inform areas where the NHRI community could look at capturing results and achievements because previous data gathering processes exist with information that could be used (complaint-handling being one example). It should be considered whether an actual strategy for this should be developed within GANHRI and the NHRI community. There is certainly merit in having a strategic discussion (between GANHRI and regional networks) about where the NHRI community would like to strengthen reporting and what approaches would be relevant to achieve this. Inspiring cross-thematic approaches should be prioritized because NHRI results and achievements appear in more diverse ways than what is currently captured with singular thematic studies.

RECOMMENDATION 2: A MORE HARMONIZED AND COORDINATED APPROACH TO NHRI SURVEYS IS NEEDED.

The existing studies often appear as stand-alone exercises. It is also unclear how decisions are made on initiating such studies and in several cases there has been little learning from earlier exercises about how best to conduct such a survey with NHRIs. This lack of experience-sharing and harmonization can lead to low response rates – further weakening a study – and lack of comparability of the data collected. It should be considered whether there are ways to make the processes more mindful of NHRIs' needs, interests and inputs. The NHRIs are doing considerable work to respond to surveys on topics that not infrequently must feel like ad hoc requests. It may be worthwhile to consider developing a set of guidelines – and even possibly a more structured programme – for conducting the survey-based studies. It should be a standard practice that the purpose and methodology behind a survey is transparent and clearly communicated to the respondents and that the final survey is shared with participating NHRIs.

RECOMMENDATION 3: ENSURE STRATEGIC INFORMATION CAPACITY IS HOUSED CENTRALLY WITHIN THE GANHRI SECRETARIAT.

To advance the work of strategic information gathering and dissemination about NHRI effectiveness, results and achievements, a new way of organizing this work is needed. There are already important efforts undertaken in the regional networks to manage some of this work for NHRIs in the region. However, it is evident that

the Geneva-based GANHRI Secretariat must have greater capacity, staff and time
to play a larger strategic role focused on coordinating, oversight, serving as a
knowledge repository and as an "evidence hub", support and advice, reporting and
dissemination. There simply needs to be added staff who can support the existing
Secretariat with this role from a global perspective. This additional investment
could help facilitate the more harmonized and coordinated approaches called for
above, including collaboration with OHCHR to ensure better synergies and links
with existing processes that keep NHRIs accessible to other stakeholders.

RECOMMENDATION 4: CONDUCT A SYSTEMATIC ANALYSIS OF BEST PRACTICES.

Over the years, a considerable amount of best practices, good practices or NHRI
case studies have been collected. These often appear in reports as illustrative
examples. However, they are more often anecdotal in style rather than an integrated
part of the analysis. There is a potential to take a new look at the best practices
collated and explore the basis for systematic analysis that could bring up new and
interesting perspectives on NHRI effectiveness and achievements. The source
material is there, albeit somewhat dispersed across a range of reports.

RECOMMENDATION 5: MOVE TOWARDS SURVEY-BASED REPORTING WITH A GREATER FOCUS ON RESULTS AND ACHIEVEMENTS.

One aspect of the under-utilization of the survey-based methodology is that
it is not sufficiently focused on capturing NHRI results and achievements. The
lack of comparability (and sometimes low response rates) is merely one aspect
of this. There should be more concerted thinking about capturing NHRI results
and achievements to ensure and sustain the long-term credibility, accountability
and legitimacy of NHRIs. This could be done by strengthening the emphasis on
effectiveness – where it does exist in the surveys – but more thinking about the
nature of results and achievements and ways of communicating and disseminating
them should be undertaken. The results and achievements are undoubtedly there.
However, a concerted focus or emphasis on them should be developed which may
only become more important in the coming years.

RECOMMENDATION 6: USE THE EMPIRICAL EVIDENCE FROM THE SURVEY-BASED REPORTING FOR WIDER AND TARGETED COMMUNICATION ON NHRI WORK.

The survey-based reporting represents a richness of empirical examples, cases
and analysis which could be used more widely by the NHRI community for
targeted communication on NHRI work and achievements. The advantage is
that the data have been collated, analysed and often presented in report form
and have thereby become a more easily accessible resource that one – from a
communication perspective – could very well tap into and use to present interesting
narratives about what NHRIs offer for human rights promotion, protection and
implementation. Some of the reports – such as the one on Decriminalization of
Petty Offences in African countries – represent interesting, illustrative or even
captivating stories about the nature of human rights work and the role of NHRIs
herein that could in various formats reasonably find broader communication outlets

(e.g. in various reports or for blog articles on international human rights websites and other "story-telling" forums). There should therefore be more concerted efforts focused on strategic ways of disseminating and communicating relevant empirical materials generated by the survey-based reporting processes. While there is room for improvement on how the NHRI community works with the survey-based reporting the evidence generated represents – from a communication perspective – an under-utilized resource with some real potential to present NHRI work and achievements to wider audiences.

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NOTES

1   The Paris Principles were adopted by the UN General Assembly in 1993. Apart from outlining the overall objectives of NHRIs to promote and protect human rights, they outline six main criteria that NHRIs are required to meet, including a broad mandate based on universal human rights norms and standards; autonomy from government; independence; pluralism; adequate resources; and adequate powers of investigation.

2   The UN Human Rights Council Resolution 39/17 from September 2018 is one recent example hereof as it requested the UN Secretary-General to submit by September 2020 a "report on the implementation of the present resolution that includes examples of best practices among national human rights institutions" to the Human Rights Council. See Resolution 39/17 (National Human Rights Institutions) adopted by the UN Human Rights Council, 28 September 2018. https://documents-dds-ny.un.org/doc/UNDOC/GEN/G18/297/24/PDF/G1829724.pdf?OpenElement

3   Steven L. B. Jensen (2018), **Lessons from Research on National Human Rights Institutions. A Desk Review on Findings Related to NHRI Effectiveness. The Danish Institute for Human Rights.**

4   This working paper does not aim to provide a general assessment of the survey as a methodology, discussing methodological challenges such as representativity, sample bias, formulation of questions, etc, but instead focuses specifically on identifying the lessons and analytical practices from a number of surveys (e.g. in the form of questionnaires) sent to national human rights institutions over the past decade.

5   At the national level, NHRIs produce annual reports, reports to parliaments, thematic studies into human rights issues of national relevance, legal briefs as well as reports addressed to specific institutions or duty-bearing authorities. At the regional level, reporting requirements depend on the geographical context, but may include reporting to political bodies or to regional human rights courts or commissions. In a European context, for instance, NHRIs regularly provide input to the reports published by the EU Fundamental Rights Agency. There are also various processes linked to the African and Inter-American regional human rights systems. At the global level, NHRIs provide a substantive amount of reporting and expert input to UN Treaty Bodies, UN Special Procedures, the Universal Periodic Review and to the UN Human Rights Council.

6   GANHRI Rules of Procedure, Rule 8.1

7   https://nhri.ohchr.org/EN/Documents/Status%20Accreditation%20Chart%20%289%20May%202019%29.pdf

8   Katerina Linos and Tom Pegram (2017), "What Works in Human Rights Institutions?", **The American Journal of International Law, vol. 112, no. 3, p. 15.**

9   Sub-Committee on Accreditation, Rules of Procedure, Section 8.1; Practice Note 3 on "Assessing the Performance of NHRIs".

10 Ibid.

11 There used to be the option of a C status recommendation, but this was recently discontinued. For a detailed description of the process, see GANHRI (2018), **A Practical Guide to the Work of the Sub-Committee on Accreditation, (**https://nhri.ohchr.org/EN/AboutUs/GANHRIAccreditation/Documents/GANHRI%20Manual_online(1).pdf).

12 https://www.asiapacificforum.net/media/resource_file/Capacity_Assessment_Manual_for_NHRIs.pdf

13 https://www.undp.org/content/undp/en/home/librarypage/democratic-governance/access_to_justiceandruleoflaw/global-principles-for-the-capacity-assessment-of-national-human-.html

14 https://www.asiapacificforum.net/support/capacity-assessments/
There is ongoing reporting after the completion of a Capacity Assessment. The APF does an annual members' survey to collect up to date information about each NHRI member. This contains a section to follow up on Capacity Assessments that asks for information on progress in implementing each recommendation of a Capacity Assessment report on that institution.

15 Unpublished training manuals and materials of a semi-formal status also exist that have drawn on information obtained directly from NHRIs e.g. through surveys. The materials referred to here were developed for training or capacity-building purposes and are regarded as internal documentation not available publicly. This status has been respected and these materials – whatever form they may take – have not been used in this analysis.

16 Some manuals have been developed in cooperation with OHCHR and other external actors. See https://www.asiapacificforum.net/support/professional-resources/ for a list of manuals produced by APF.

17 As noted by Jeffery (forthcoming), this focus on compliance over effectiveness is a common feature not only of the reports studied here but of the field of NHRI research and mechanisms for measuring NHRI work in general, perhaps inspired by Chayes and Chayes' suggestion that compliance is a "fair first approximation surrogate for effectiveness" (1993:176; quoted from Renee Jeffery (forthcoming article), "Assessing the Effectiveness of National Human Rights Institutions", p. 9).

18 Oran R. Young (1979), **Compliance and Public Authority: A Theory with International Applications. Baltimore: Johns Hopkins University Press, p. 104.**

19 Renee Jeffery (forthcoming), "Assessing the Effectiveness of National Human Rights Institutions", p. 9.

20 Ibid., p. 9

21 Ibid., p. 10.

22 OHCHR (2019), **Survey on National Human Rights Institutions: Report of the findings and recommendations of a questionnaire addressed to NHRIs worldwide, p. 16.**

23 Ibid., p. 18. Just over half (33) of respondents indicated that they had less than 100 staff (p. 19).

24 Jeffery (forthcoming).

25 OHCHR (2019), **Survey on National Human Rights Institutions: Report of the findings and recommendations of a questionnaire addressed to NHRIs worldwide, p. 4.**

26 Ibid., p. 18.

27 The responses showed that: "the most common specializations were for children (51), women (47) and people with a disability (44). A significant number of respondents also had specialized units for minorities or indigenous (31) or other groups (24) such as the elderly, detainees, sexual minorities, and migrants or non-nationals. Ibid., p. 21.

28 NANHRI (2016), **Mapping Survey of the Complaint Handling Systems of African National Human Rights Institutions, p. 42.**

29 Ibid., p. 53.

30 Ibid., p. 10.

31 Ibid., p. 41.

32 NANHRI (2018), **Enhancing the Role of National Human Rights Institutions in the Decriminalisation of Petty Offences in Africa, p. 9.**

33 GANHRI and the German Institute for Human Rights, **NHRIs and their work on migrants' human rights, p. 56-57.** When presenting their examples to the report on NHRIs and work on migrants' human rights, NHRIs were asked to include background information on the issue in point; steps taken by the NHRI to address the issue; involvement of stakeholders; impact of the actions taken and improvement of the situation; and documentation of the process.

34 UN Secretary-General (2017), **The Role of the Ombudsman, mediator, and other national human rights institutions in the promotion and protection of human rights, p. 4**

35 Ibid., p. 4.

36 In 2017, the UN Secretary-General also submitted a report to the UN General Assembly on **National institutions for the promotion and protection of human rights providing an overview of NHRI-related work from September 2016 to August 2017.** This report could be an opportunity to report on achievements using substantive data from NHRI surveys but instead the report on NHRI work is an activity-based report mainly on OHCHR self-reporting on support to NHRIs and reporting on support from other UN entities, including on the organizing of meetings and workshops in different countries and regions.

37 The (non-survey) case-based study is the following publication: German Institute for Human Rights (2017), **National Human Rights Institutions in Post-Conflict Situations: Mandates, Experiences and Challenges.**

38 The report on children's rights was written by staff at the German NHRI but published in GANHRI and UNICEF's names. GANHRI & UNICEF (2017), **Children's Rights in National Human Rights Institutions: A Mapping Exercise;** German Institute for Human Rights (2018), Promote, Protect and Monitor. 2017 Update Survey on Article 33(2) of the Convention on the Rights of Persons with Dis-

abilities; German Institute for Human Rights and GANHRI (2018), National Human Rights Institutions and their work on migrants' human rights: Results of a survey among NHRIs. The case-based NHRI study on NHRI work is: German Institute for Human Rights (2017), National Human Rights Institutions in Post-Conflict Situations: Mandates, Experiences and Challenges.

39 International Coordinating Committee (ICC) and Canadian Human Rights Commission (2011), Survey of National Human Rights Institutions on Article 33.2 of the Convention on the Rights of Persons with Disabilities.