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Promotion and protection of human rights: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms

The role of the Ombudsman, mediator and other national human rights institutions in the promotion and protection of human rights

Report of the Secretary-General

Summary

The present report is submitted pursuant to paragraph 7 of General Assembly resolution [72/186](#), in which the Assembly requested the Secretary-General to report to it, at its seventy-fifth session, on the implementation of the resolution, in particular on obstacles encountered by States in that regard, and on best practices in the work and functioning of the Ombudsman, mediator and other national human rights institutions.

* [A/75/150](#).



I. Introduction

1. The present report is submitted pursuant to paragraph 7 of General Assembly resolution [72/186](#), in which the Assembly requested the Secretary-General to report to it, at its seventy-fifth session, on the implementation of the resolution, in particular on obstacles encountered by States in that regard, and on best practices in the work and functioning of the Ombudsman, mediator and other national human rights institutions.¹

2. In accordance with previous practice, on 15 January 2020, the Office of the United Nations High Commissioner for Human Rights (OHCHR) sent two questionnaires to the relevant stakeholders, namely States (see annex I) and ombudsman, mediator and other national human rights institutions (see annex II), with a deadline to reply by 20 March 2020. The methodology was aimed at collecting concise and up-to-date information on the subject matter. Replies to the questionnaire were received from 14 Member States and 37 ombudsman, mediator and other human rights institutions, including at the local and regional levels.

3. The present report is based on the analysis of the information contained in the responses received by OHCHR.

II. Information received from States

4. Of the 14 Governments that responded to the questionnaire (see annex I), 5 reported having national human rights institutions enshrined in their constitutions and established subsequently by a founding law. Three Governments reported that the institutions were enshrined in their constitutions only, while six Governments reported that the institutions were established by law only.

5. Six Governments stated that the institutions were adequately funded to function efficiently and independently. Eight Governments did not provide information on the subject.

6. Eight Governments reported that their national human rights institutions had been designated as national preventive mechanisms under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Five Governments acknowledged that due consideration was given to the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles) when assigning a national preventive mechanism. Two Governments reported that their national human rights institutions were members of the coordinating council of their respective national preventive mechanisms. Two Governments reported that they had not designated their national human rights institutions as national preventive mechanisms. Two Governments did not provide any answer on the subject.

7. Only one Government indicated that it was developing and conducting outreach activities to raise public awareness on the role of the national institutions in the promotion and protection of human rights. A total of 10 Governments described

¹ The Office of the United Nations High Commissioner for Human Rights also prepared two reports of the Secretary-General on national institutions for the promotion and protection of human rights ([A/HRC/45/42](#)) and on the activities of the Global Alliance of National Human Rights Institutions concerning the accreditation of national institutions in compliance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles) ([A/HRC/45/43](#)), for submission to the Human Rights Council at its forty-fifth session.

outreach activities carried out by the institutions themselves. Three Governments did not provide any response on the subject.

8. With regard to obstacles to the implementation of General Assembly resolution [72/186](#), the Governments of Italy and Kyrgyzstan referred to institutional and legislative constraints preventing them from establishing a national human rights institution, while five Governments stated that they had not encountered any obstacles. Seven Governments did not provide information on the matter.

9. The Government of Italy reported that one of the main issues affecting the establishment of a national human rights institution in compliance with the Paris Principles had been the existence of several bodies with mandates that could potentially overlap with the competence of a future national human rights institution. The Government noted that the national human rights system comprised a national preventive mechanism, the National Authority for Children and Adolescents and other independent administrative authorities as well as the National Observatory on the Condition of Persons with Disabilities and the National Office against Racial Discrimination, which acts as the country's equality body under various national and European Union provisions and promotes respect for the right to equal treatment regardless of ethnicity, race, age, religious belief, sexual orientation, gender identity or disability. The Government stated that while those bodies had been set up within governmental structures and could therefore not be considered strictly independent, they had established themselves as reputable institutions and an essential part of the national human rights machinery on the basis of their autonomy, expertise and strong relations with civil society.

10. The Government of Kyrgyzstan reported that certain powers of the Ombudsman were only provided in the Law of the Ombudsman and not in other legal acts related to the mandate of the Ombudsman, which created implementation issues owing to overlapping and conflicting legal provisions.

11. With regard to best practices, seven Governments reported that their national human rights institutions were a member of or were collaborating with international and regional networks of ombudsman, mediators and other national human rights institutions, such as the Global Alliance of National Human Rights Institutions, and were cooperating with the United Nations. Seven Governments did not provide information on the matter.

III. Information received from ombudsman, mediator and other national human rights institutions

12. A total of 37 ombudsman, mediator and other human rights institutions, including at the local and regional levels, responded to the questionnaire (see annex II). Of the respondents, 19 are accredited by the Global Alliance of National Human Rights Institutions, including nine with "A" status (fully compliant with the Paris Principles) and 10 with "B" status (partially compliant with the Paris Principles).

13. A total of 19 institutions reported that they were provided with both constitutional and legislative frameworks. Two institutions indicated that they had been enshrined in the constitution only, while eleven institutions reported that they had been established by law only. Seven institutions did not provide any response on the subject.

14. Of the institutions that provided responses, 22 stated that they were receiving adequate financial resources to discharge their mandate independently and efficiently;

13 institutions reported a lack of adequate funding to fully exercise their mandate; and 2 institutions did not provide information regarding funding.

15. Five institutions (three with “A” status and two with “B” status) reported that they had been designated as national preventive mechanisms under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Two institutions with no accreditation reported that they collaborated with, or participated in activities organized by, the national preventive mechanisms. A total of 30 institutions did not provide any response on the subject.

16. With regard to best practices, 28 institutions reported that they were a member of or were collaborating with international and regional institutions and networks, including the Global Alliance of National Human Rights Institutions and its four regional networks, namely the Asia-Pacific Forum of National Human Rights Institutions, the Network of African National Human Rights Institutions, the European Network of National Human Rights Institutions and the Network of National Institutions for the Promotion and Protection of Human Rights in the Americas; the Ibero-American Federation of Ombudsmen; the Association of Mediterranean Ombudsmen; the European Network of Equality Bodies; the European Ombudsman Institute; and the International Ombudsman Institute. A total of 32 institutions reported that they also collaborated with State bodies and civil society organizations. Five institutions did not provide any response on the subject.

17. Only six institutions reported that they had engaged with the international human rights system by submitting written reports or delivering oral statements, attending sessions and following up on recommendations emanating from the universal periodic review, special procedures and human rights treaty bodies. A total of 31 institutions did not provide any response on the subject.

18. A total of 31 institutions considered themselves to be functioning in full or partial compliance with the Paris Principles, even though 17 of the institutions are not accredited by the Global Alliance of National Human Rights Institutions. Four institutions acknowledged that they did not function in line with the Paris Principles. Two institutions did not provide any response on the subject.

IV. Conclusion

19. A total of 14 Governments, or 7 per cent of Member States, replied to the questionnaire, representing no change from the number of replies in 2017 (see [A/72/230](#)).

20. A total of 37 ombudsman, mediator and other national human rights institutions responded to the questionnaire, 51 per cent of which are accredited by the Global Alliance of National Human Rights Institutions. While 49 per cent of the institutions that replied have not been accredited by the Global Alliance, they considered themselves to be playing an important role in the promotion and protection of human rights at the national level. In 2017, 60 ombudsman, mediator and other national human rights institutions had submitted replies to the questionnaire.

21. Six of the fourteen Governments that responded to the questionnaire, or 43 per cent, considered their ombudsman, mediator and other national human rights institutions to be adequately funded, while 13 of the 37 institutions that responded, or 35 per cent, expressed concern over low or insufficient levels of funding.

22. Only three of the five institutions that reported having been designated as national preventive mechanisms enjoyed “A” status, while article 18 (4) of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or

Degrading Treatment or Punishment provides that States parties, when establishing national preventive mechanisms, shall give due consideration to the Paris Principles.

V. Recommendations

A. Recommendations to Member States

23. Member States are encouraged to establish independent Ombudsman, mediator or other national human rights institutions at the national and local levels and to strengthen existing institutions, including by ensuring their independence, in accordance with the Paris Principles, and in this regard to seek the assistance of OHCHR.

24. Member States are invited to share and exchange best practices on the work and functioning of their Ombudsman, mediator or other national human rights institutions, including by engaging more actively with OHCHR pursuant to General Assembly resolution 72/186.

25. Member States are encouraged to ensure that adequate funding is provided to the Ombudsman, mediator or other national human rights institutions to enable them to discharge their mandate in an independent and efficient manner.

26. Member States are encouraged to develop and conduct outreach activities in collaboration with all relevant stakeholders in order to raise awareness of the important role of the Ombudsman, mediator and other national human rights institutions.

27. Member States should give due consideration to the Paris Principles when assigning the Ombudsman, mediator or other national human rights institutions as the national preventive mechanism under article 18 (4) of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and as the national monitoring mechanism under article 33 (2) of the Convention on the Rights of Persons with Disabilities.

B. Recommendations to Ombudsman, mediator and other national human rights institutions

28. The Ombudsman, mediator and other national human rights institutions are encouraged to request, in cooperation with OHCHR, accreditation by the Global Alliance of National Human Rights Institutions.

29. The Ombudsman, mediator and other national human rights institutions should develop or strengthen cooperation with State bodies and civil society organizations.

30. The Ombudsman, mediator and other national human rights institutions should conduct awareness-raising activities on their roles and functions, in collaboration with relevant stakeholders.

31. The Ombudsman, mediator and other national human rights institutions should continue to engage with OHCHR, the Global Alliance of National Human Rights Institutions, the International Ombudsman Institute and other regional networks and associations to exchange experiences, lessons learned and best practices.

Annex I

Questionnaire sent to States on 15 January 2020

1. Have you established, or strengthened, an independent and autonomous Ombudsman, mediator or other national human rights institutions at the national and, where applicable, local levels?
2. Have you endowed the Ombudsman, mediator or other national human rights institutions with an adequate constitutional and legislative framework, as well as financial and all other appropriate means in order to ensure the efficient and independent exercise of their mandate and to strengthen the legitimacy and credibility of their actions as mechanisms for the promotion and protection of human rights?
3. Have you given due consideration to the Paris Principles when assigning your Ombudsman, mediator or other national human rights institutions the role of national preventive mechanism under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment?
4. Do you develop and conduct, as appropriate, outreach activities at the national level in collaboration with all relevant stakeholders, in order to raise awareness of the important role of the Ombudsman, mediator or other national human rights institutions?
5. Did you encounter any obstacles in the implementation of resolution [72/186](#) on the role of the Ombudsman, mediator and other national human rights institutions in the promotion and protection of human rights, adopted by the General Assembly in December 2017?
6. Please share best practices on the work and functioning of the Ombudsman, mediator or other national human rights institutions, individually or in collaboration with OHCHR, the Global Alliance on National Human Rights Institutions and other international and regional ombudsman organizations.
7. Please provide any additional comment you may have.

Responses to the questionnaire were received from the Governments of Australia, Bahrain, Chile, Ireland, Italy, Kazakhstan, Kyrgyzstan, Lebanon, Mauritius, Montenegro, the Russian Federation, Serbia, Sweden and Uzbekistan.

Annex II

Questionnaire sent to ombudsman, mediator and other national human rights institutions on 15 January 2020

1. Do you operate, as appropriate, in accordance with the Paris Principles and assist your authorities in the promotion and protection of human rights?
2. Do you consider that your institution is provided with an adequate constitutional and legislative framework as well as financial and all other appropriate means in order to ensure the efficient and independent exercise of your institution's mandate and to strengthen the legitimacy and credibility of your institution's actions in the promotion and protection of human rights?
3. Have you requested, in cooperation with OHCHR, accreditation by the Global Alliance of National Human Rights Institutions in order to interact effectively with the international human rights system?
4. Do you cooperate with relevant State bodies and develop cooperation with civil society organizations?
5. Do you conduct outreach activities at the national level, in collaboration with all relevant stakeholders, in order to raise awareness of the important role of your institution?
6. In your view, what were the obstacles encountered by your State in the implementation of resolution [72/186](#) on the role of the Ombudsman, mediator and other national human rights institutions in the promotion and protection of human rights, adopted by the General Assembly in December 2017?
7. Please share experiences, lessons learned and best practices on the work and functioning of your institution, and on your institution's collaboration with the Global Alliance of National Human Rights Institutions, the International Ombudsman Institute and other regional networks and associations.
8. Please provide any additional comment you may have.

Responses to the questionnaire were received from the following institutions:

“A” status national human rights institutions

Human Rights Defender of Armenia
 Australian Human Rights Commission
 Office of the Ombudsman of Colombia
 Danish Institute for Human Rights
 Office of the Ombudsman of Ecuador
 Public Defender (Ombudsman) of Georgia
 Commission on Human Rights of the Philippines
 Ombudsman of Portugal
 Protector of Citizens (Ombudsman) of Serbia

“B” status institutions

National Human Rights Council of Algeria
 Commissioner for Human Rights (Ombudsman) of Azerbaijan
 National Institute for Human Rights of Bahrain
 Interfederal Centre for Equal Opportunities of Belgium
 Commissioner for Administration and the Protection of Human Rights
 (Ombudsman) of Cyprus

Human Rights Commission of Maldives
Myanmar National Human Rights Commission
Office of the Human Rights Ombudsman of Nicaragua
Human Rights Ombudsman of Slovenia
Equality Ombudsman Sweden

Institutions not accredited by the Global Alliance of National Human Rights Institutions

Public Defender of Rights (Ombudsman) of Czechia
Office of the Danish Parliamentary Ombudsman
Office of the Ombudsman of Djibouti
Commission on Administrative Justice (Office of the Ombudsman) of Kenya
Office of the Ombudsman of Malawi
Office of the Ombudsperson for Children of Mauritius
State Human Rights Commission of Chiapas, Mexico
State Human Rights Commission of Colima, Mexico
State Human Rights Commission of Quintana Roo, Mexico
State Human Rights Commission of Veracruz, Mexico
National Ombudsman of the Netherlands
Office of the Ombudsman of New Zealand
Office of the Ombudsman of Rwanda
Office of the Western Cape Police Ombudsman of South Africa
Ombudsman of the Basque Country of Spain
Parliamentary Ombudsman of Sweden
Ombudsman Institution of Turkey
Parliamentary and Health Service Ombudsman of the United Kingdom of Great Britain and Northern Ireland
