

Principles for engagement of National Human Rights Institutions (NHRIs) with the *de facto* human rights bodies (to be shared with the *de facto* human rights body)¹

Who we are

NHRIs are established by law and have a broad mandate to protect and promote human rights. They seek to comply with the United Nations Paris Principles² (UN agreed minimum standards for NHRIs) and undergo an international accreditation process. NHRIs do not represent the government. Independence is the cornerstone of NHRIs' mandate.

Human rights bodies (in most contexts in Europe - Ombudsman institutions) of the *de facto* states do not aspire to become internationally accredited, but are established to protect and promote human rights of people living in the relevant territory.

What we seek

Cooperation between an NHRI and a *de facto* human rights body, which have the same aim, should contribute to the enjoyment of human rights by all persons. Human rights of individuals who live in a territory controlled by *de facto* authorities are at higher risk, given the lack of meaningful access to regional and international human rights protection mechanisms under the United Nations, Council of Europe and other auspices. Therefore engagement by an NHRI, which is part of the national and international human rights architecture, can ensure greater respect for dignity of people living in a *de facto* entity. Paris Principles require NHRIs to "maintain

¹ These Principles have been informed by work of various international organisations (UN OHCHR, Council of Europe, OSCE/ODIHR and the European Union) and discussions held during the ENNHRI Brussels meetings in 2019. Principles may be adjusted to the specific conflict context with additional provision(s), and may also be relevant for engagement with *de facto* authorities and civil society in NGCT. The need for these principles was articulated by participants of the 11-12 June 2019 ENNHRI meeting in Brussels. The Principles are based on the relevant engagement practice of NHRIs, intergovernmental and non-governmental organizations, and other approaches outlined in the ENNHRI Paper on 'The Role and Responsibilities of NHRIs in the Promotion and Protection of Human Rights in Non-Government Controlled, Non-Recognised and other Disputed Territories (NGCT)', including the Code of Conduct for NHRIs on the two sides of the conflict (Annex 3).

² United Nations Paris Principles, <https://nhri.ohchr.org/EN/AboutUs/Pages/ParisPrinciples.aspx>.

consultation with the other bodies (...) responsible for the promotion and protection of human rights (in particular ombudsmen, mediators and similar institutions).“

Which principles shall guide our cooperation?

1. Human rights are universal. Everyone’s human rights must be protected

All human beings are born free and equal in dignity and rights (Art. 1 of the Universal Declaration of Human Rights). There should be no vacuum in human rights protection (*Al-Skeini and Others v. The United Kingdom*, European Court of Human Rights). The universal character of human rights, based on the inherent dignity of every individual envisages protection of all persons at all times, notwithstanding the status of territories and conflicts.

2. Common interest and responsibility in promoting and protecting human rights in a NGCT

Respect for human rights and fundamental freedoms of all persons living in a *de facto* territory is in the interest of both institutions. It is also the responsibility of both to promote and protect human rights in accordance with their mandates.

3. De facto authorities also have human rights obligations

While only states can be parties to international treaties, peremptory norms of international law, including international humanitarian law, are binding on all sides, including the *de facto* authorities, placing relevant obligations also on them³. International human rights standards

³ The UN Office of the High Commissioner for Human Rights repeatedly stressed that “non-State actors that exercise government-like functions and control over a territory are obliged to respect human rights norms when their conduct affects the human rights of the individuals under their control”, see Report of the Office of the United Nations High Commissioner for Human Rights on the question of human rights in Cyprus (A/HRC/25/21), para. 11, https://ap.ohchr.org/documents/alldocs.aspx?doc_id=22760.

(particularly peremptory norms or *ius cogens*⁴) and human rights principles⁵ set the normative framework for engagement.

4. Engagement and cooperation of NHRI and a *de facto* human rights body does not mean legitimisation of *de facto* authorities

Activities that promote and protect human rights cannot be seen as legitimisation of the *de facto* authorities.⁶ Dialogue should be free from politicization, building on human rights norms.

Engagement should be in relation to all individuals, without any distinction including based on ethnicity or nationality.

5. Trust as the foundation for engagement and cooperation

An NHRI and a *de facto* human rights body stand for the same values, and therefore shall try to establish trustful relations, talking to each other with respect, keeping the lines of dialogue open and constructive.

6. Impartiality and Objectivity

The two institutions will strive to exercise their mandate in an impartial manner, i.e. analysing allegations of human rights violations, without any bias, holding all relevant duty bearers to account. Both shall make effort to rely on facts based on credible sources and use credible information collection methods. They will use the language of human rights standards, avoiding politically charged statements.

7. Accountability, Transparency and Confidentiality

Both institutions are accountable to the public (including in relation to the use of public funds), requiring each to be transparent about engagement. It is possible that some activities are most

⁴ See [Report HRC/19/69](#) of the Independent international commission of inquiry on the Syrian Arab Republic, February 2012, para. 106: "at a minimum, human rights obligations constituting peremptory international law (*ius cogens*) bind States, individuals and non-State collective entities (...)". For the list of non-derogable rights (which are close by their nature to peremptory norms) see General Comment No. 29 States of Emergency (Article 4), CCPR/C/21/Rev.1/Add.11 31 August 2001.

⁵ Universality, indivisibility, inalienability, interdependence of human rights, equality and non-discrimination, participation and inclusion, accountability and rule of law, see <https://www.unfpa.org/resources/human-rights-principles>.

⁶ [Resolution 2240 \(2018\)](#) of the Parliamentary Assembly of the Council of Europe, para 3.

effective without publicity, and confidentiality will need to be applied. Both partners should respect the confidentiality of and protect their sources of information, where relevant.

8. Safety, Security and “Do no harm”

There may be safety and security risks, related to the possible gaps in protection, of an NHRI or partner *de facto* human rights body staff or other stakeholders involved. An even higher risk may be attached to victims or witnesses of human rights violations. Therefore, the “do no harm” principle should guide any engagement where such a risk is at stake. Persons engaged in the dialogue on behalf of NHRI and the *de facto* human rights body should be protected from any legal or other action against them in connection with their work.⁷

9. Contributing to peace

Promotion and protection of human rights in the conflict context cannot be seen in isolation of settlement of the conflict. As independent institutions, NHRI and a human rights body are well positioned to build trust between communities, across the divides, based on the inherent dignity of every person. The development of trust between human rights bodies can also act as a catalyst for confidence building measures between all communities.

10. Focusing on practical outcomes

Cooperation should result in concrete action for human rights, such as events, visits, discussions. It should also produce reports, such as NHRI’s national reports, special reports, reports to the international and regional human rights system, as well as other engagement with such mechanisms.

Possible areas for actions/methods of joint work

Engagement between an NHRI and a *de facto* human rights body should translate in a variety of actions, including joint, to promote and protect human rights. These may include: monitoring (for example detention conditions); reporting; advising governments, parliament and other competent bodies (also *de facto* actors where relevant); cooperation with various stakeholders; complaints handling; human rights education; confidence-building measures to bring communities closer

⁷ Paris Principles provide for functional immunity of NHRI staff for acts undertaken in good faith in their official capacity (General Observation 2.3 to Paris Principles), https://nhri.ohchr.org/EN/AboutUs/GANHRIAccreditation/General%20Observations%201/EN_GeneralObservations_Revisions_adopted_21.02.2018_vf.pdf.

together; litigation or amicus curiae; legal assistance; informing about available remedies and regional/international human rights protection mechanisms.

Practical questions for engagement (where, how, who, when)

An NHRI and a *de facto* human rights body should agree in advance of the dialogue on the practical issues regarding: the format and the modalities of engagement. They should establish lines of communication, and exchange relevant contacts (phone, email, social media accounts, etc.), to be able to connect at any moment, by designated staff or the leadership. An NHRI and a *de facto* human rights body will make efforts to keep each other informed about human rights issues of concern to each other, and, when possible, facilitate and support each other's work. A simple document, with minimum formalities, outlining concrete modalities for engagement could be agreed upon separately, if useful, in addition to these Principles.

The European Network of NHRIs (ENNHRI)'s goal is to enhance the promotion and protection of human rights across the wider Europe region, by bringing together NHRIs to work on a wide range of human rights issues and supporting their development. ENNHRI stands ready to support cooperation of an NHRI and a *de facto* human rights body. It can provide advice and expertise, mediate and/or otherwise facilitate the engagement efforts.

Read more about [ENNHRI's Human Rights and \(Post-\)Conflict Project](#)