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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 paragraphs 5 and 6 of General Assembly resolution [71/200](#), in which the Assembly requested the Secretary-General to report on the role of the Ombudsman, mediator and other national human rights institutions in the promotion and protection of human rights, in particular on the obstacles encountered by States in implementing Assembly resolution [69/168](#), as well as on best practices in the work and functioning of the Ombudsman, mediator and other human rights institutions.

In follow-up to that request, on 24 February 2017 the Office of the United Nations High Commissioner for Human Rights sent questionnaires to the three groups of stakeholders: (a) States (see annex I); (b) ombudsman, mediator and other national human rights institutions (see annex II); and (c) civil society actors (see annex III). Fourteen Member States, 60 ombudsman, mediator and other national human rights institutions and 3 civil society organizations submitted replies to the questionnaires, thus providing information on the legal basis of their creation and functioning as well as on their funding, roles and activities, best practices, cooperation with international and regional institutions and networks, and obstacles encountered. On the basis of this information and its analysis, relevant conclusions and recommendations are formulated in the present report.



I. Introduction

1. The present report is submitted pursuant to paragraphs 5 and 6 of General Assembly resolution 71/200, in which the Assembly requested the Secretary-General to report on the role of the Ombudsman, mediator and other national human rights institutions in the promotion and protection of human rights, in particular on the obstacles encountered by States in implementing the resolution, as well as on best practices in the work and functioning of the Ombudsman, mediator and other human rights institutions. The Assembly also requested the Secretary-General to seek the views of States and other relevant stakeholders, in particular the Ombudsman, mediator and other national human rights institutions, as well as civil society, in that regard, and to formulate recommendations on how to establish or strengthen such institutions.

2. In follow-up to the latter request, on 24 February 2017 the Office of the United Nations High Commissioner for Human Rights sent questionnaires to the three groups of stakeholders: (a) States (see annex I); (b) ombudsman, mediator and other national human rights institutions (see annex II); and (c) civil society actors (see annex III). The methodology was aimed at ensuring a pool of concise, relevant and up-to-date information on the subject matter. Fourteen Member States, 60 ombudsman, mediator and other national human rights institutions and 3 civil society organizations participated in the exercise by submitting replies to the questionnaires.

3. The present report is based on information contained in the submissions received.

II. Information received from States

4. Of the 14 replies received, 9 Governments reported having institutions enshrined in their constitutions and established subsequently by a founding law. Three institutions were reported to have been enshrined in the constitution only, and two established by law only.

5. In all 14 submissions, it was stated that the institutions were adequately funded to function effectively and efficiently.

6. None of the Governments gave clear answers as to whether they were developing and conducting outreach activities to raise public awareness on the role of their respective institutions. All Governments described outreach activities carried out by the institutions and not by themselves.

7. With regard to best practices, eight Governments reported that their institutions were a member of or were collaborating with international and regional networks of ombudsman, mediator and other national human rights institutions. Three Governments mentioned that their 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. One Government reported that its institution had been designated as the national monitoring mechanism under the Convention on the Rights of Persons with Disabilities.

8. Only 1 Government referred to budgetary constraints preventing it from fully implementing General Assembly resolution 69/168, while the other 13 confirmed not having encountered any obstacles in the implementation of the resolution.

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

9. Replies to the questionnaire were received from 60 ombudsman, mediator and other national human rights institutions, 32 of which are accredited by the Global Alliance of National Human Rights Institutions. Among the accredited institutions, 27 enjoy “A” status (fully compliant with the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles)) and 5 “B” status (partially compliant with the Paris Principles).

10. Thirty-four institutions reported that they were provided with both constitutional and legislative frameworks. Two institutions reported that they had been enshrined in the constitution only, while 22 had been established by law. Two institutions did not provide a reply to the relevant question.

11. Of the 60 institutions, 41 reported that they received adequate financial resources to discharge their mandate in an efficient and effective manner. Fourteen institutions invoked a lack of adequate funding for the full exercise of their mandate. Five institutions did not answer the relevant question.

12. With regard to best practices, 48 institutions reported that they were a member of or collaborating with international and regional institutions and networks, such as the Global Alliance of National Human Rights Institutions, the Network of African National Human Rights Institutions, the Asia Pacific Forum on Women, Law and Development, the European Network of National Human Rights Institutions, the International Ombudsman Institute, the African Ombudsman and Mediators Association, the Ibero-American Federation of Ombudsmen and the European Ombudsman Institute. They also reported that they collaborated with peer institutions.

13. Fourteen institutions reported that they had been designated as a national preventive mechanism under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment: four “A” status national human rights institutions; two “B” status institutions; and eight institutions not accredited by the Global Alliance of National Human Rights Institutions.

14. Ten institutions reported that they 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 mechanisms and human rights treaty bodies.

15. Forty-nine institutions claimed to be fully or partially functioning in compliance with the Paris Principles, although 18 of those institutions are not accredited by the Global Alliance of National Human Rights Institutions. Eight institutions indicated that they did not function in line with the Paris Principles. Three institutions did not respond to the relevant question.

IV. Information received from civil society organizations

16. Three civil society organizations provided a response to the questionnaire.

17. The three organizations considered that the legal framework for the Ombudsman, mediator and other national human rights institutions was adequate. They all noted that the Ombudsman, mediator and other national human rights institutions should do more in order to raise awareness in their respective countries

of their role and purpose and indicated that failure by those institutions to do so resulted in their having lower visibility.

18. With regard to best practices, a civil society organization dealing with children's rights considered that complaint mechanisms and the function of national human rights institutions of initiating legal proceedings could be effective tools to protect vulnerable groups, including children.

V. Conclusion

19. Replies to the questionnaires were received from 7 per cent of Member States; 60 ombudsman, mediator or other national human rights institutions, of which 53 per cent are accredited by the Global Alliance of National Human Rights Institutions (45 per cent of "A" status national human rights institutions and 8 per cent of "B" status institutions); and three civil society organizations. The different levels of participation in activities relating to the implementation of resolution [71/200](#) among ombudsman, mediator or other national human rights institutions, on the one hand, and among States and civil society actors, on the other hand, might reflect a low visibility of the institutions owing to the lack of outreach activities to raise awareness of their role, as indicated by one of the participants in the survey (see para. 17 above).

20. All Governments that responded confirmed that the Ombudsman, mediator or other national human rights institutions operating in their country were fully funded, while 23 per cent of the institutions that replied expressed concern over the low or insufficient level of their funding. This discrepancy might indicate a lack of common understanding about the functions of such institutions and of the adequate funding needed to enable them to operate efficiently and effectively.

21. Article 18 (4) of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment provides that "when establishing national preventive mechanisms, States Parties shall give due consideration to the Principles relating to the status of national institutions for the promotion and protection of human rights". However, of the 14 institutions that reported that they had been designated as a national preventive mechanism, only four had been attributed "A" status.

VI. Recommendations

22. Member States are encouraged to establish an independent Ombudsman, mediator or other national human rights institutions and strengthen the structures and independence of existing institutions, in accordance with the Paris Principles.

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

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

25. **The Ombudsman, mediator and other national human rights institutions should cooperate with relevant State bodies and develop cooperation with civil society organizations.**
26. **The Ombudsman, mediator and other national human rights institutions should conduct awareness-raising activities on their roles and functions, in collaboration with all relevant stakeholders.**
27. **The Ombudsman, mediator and other national human rights institutions should continue to engage with the Global Alliance of National Human Rights Institutions, the International Ombudsman Institute and other regional networks and associations with a view to exchanging experiences, lessons learned and best practices.**

Annex I

Questionnaire sent to States on 24 February 2017

1. Have you established an independent and autonomous Ombudsman, mediator or other national human rights institutions at the national and, where applicable, the local level?
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?
3. Do you develop and conduct 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?
4. Please share best practices on the work and functioning of the Ombudsman, mediator or other national human rights institutions, individually or in collaboration with the Global Alliance of National Human Rights Institutions and other international and regional ombudsman organizations.
5. Did you encounter any obstacles in the implementation of resolution [69/168](#) 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 2014?
6. Please provide any additional comment you may have.

Responses to the questionnaire were received from the Governments of Australia, Austria, Croatia, Estonia, Germany, Greece, Latvia, Maldives, Mexico, Montenegro, Morocco, Qatar, Serbia and Swaziland.

Annex II

Questionnaire sent to ombudsman, mediator and other national human rights institutions on 24 February 2017

1. Do you consider that your institution has been established and strengthened as an independent and autonomous Ombudsman, mediator or other national human rights institution?
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?
3. Do you develop and 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?
4. Please share best practices on the work and functioning of your institution and on your institution's collaboration with international and regional ombudsman organizations.
5. Do you operate in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles) and other relevant international instruments?
6. Please provide any additional comment you may have.

Responses to the questionnaire were received from the following institutions:

“A” status national human rights institutions

Afghanistan Independent Human Rights Commission
 Office of the Ombudsman of Argentina
 Human Rights Defender of Armenia
 Institution of Human Rights Ombudsman of Bosnia and Herzegovina
 National Commission on Human Rights and Freedoms of Cameroon
 Office of the Ombudsman of Costa Rica
 Danish Institute for Human Rights
 Office of the Ombudsman of Ecuador
 National Council for Human Rights of Egypt
 National Commission for Human Rights of Greece
 Office of the Commissioner for Fundamental Rights of Hungary
 National Human Rights Commission of India
 Consultative Commission on Human Rights of Luxembourg
 National Human Rights Commission of Mexico
 National Human Rights Commission of Mongolia
 Office of the Ombudsman of Namibia
 Netherlands Institute for Human Rights
 New Zealand Human Rights Commission
 Office of the Human Rights Ombudsman of Nicaragua
 Commission on Human Rights of the Philippines
 Ombudsman of Portugal
 National Human Rights Commission of the Republic of Korea
 High Commissioner for Human Rights in the Russian Federation
 Protector of Citizens (Ombudsman) of Serbia
 Uganda Human Rights Commission

Equality and Human Rights Commission of the United Kingdom of Great Britain and Northern Ireland
Commission for Human Rights and Good Governance of the United Republic of Tanzania

“B” status institutions

National Consultative Commission for Promotion and Protection of Human Rights of Algeria
Ombudsman of Bulgaria
National Human Rights Commission of Honduras
Office of the Protector of Human Rights and Freedoms of Montenegro
Slovak National Centre for Human Rights
Institutions not accredited by the Global Alliance of National Human Rights Institutions
Federal Ombudsman of Belgium
National Human Rights Council of Brazil
National Human Rights Commission and Ombudsman of Burkina Faso
Ombudsman of Côte d’Ivoire
Public Defender of Rights (Ombudsman) of Czechia
Office of the Danish Parliamentary Ombudsman
Parliamentary Ombudsman of Greenland
National Human Rights Commission of Djibouti
Chancellor of Justice of Estonia
Parliamentary Ombudsman of Finland
Greek Ombudsman
Parliamentary Ombudsman of Iceland
Integrity and Anti-Corruption Commission of Jordan
Commission on Administrative Justice (Office of the Ombudsman) of Kenya
Independent National Commission on Human Rights of Madagascar
Anti-Corruption and Civil Rights Commission of the Republic of Korea
Parliamentary Ombudsman of Malta
Office of the Ombudsman of Mauritius
Office of the Ombudsman of New Zealand
Parliamentary Ombudsman of Norway
Federal Ombudsman of Pakistan
Office of the Ombudsman of the Philippines
Public Defender of Rights of Slovakia
Public Grievances Chamber of the Sudan
Parliamentary Ombudsmen of Sweden
Ombudsman Institution of Turkey
Office of the Public Protector of Zambia

Annex III

Questionnaire sent to civil society actors on 24 February 2017

1. Do you consider that an independent and autonomous Ombudsman, mediator or other national human rights institutions have been created or strengthened at the national and, where applicable, the local level in your country?
2. Is the Ombudsman, mediator or other national human rights institutions endowed 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 the Ombudsman's mandate and to strengthen the legitimacy and credibility of its actions?
3. Are outreach activities developed and conducted 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?
4. Please share best practices on the work and functioning of the Ombudsman, mediator or other national human rights institutions in your country.
5. Please provide any additional comment you may have.

Responses to the questionnaire were received from three civil society actors.
