

# The Roles of National Human Rights Institutions on Counter-Terrorism Measures

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## Introduction

National Human Rights Institutions (NHRIs) are relatively recent institutions specialized in the human rights protection and promotion systems worldwide. What kind of roles, powers and mandates may these institutions undertake on the concept “rethinking human rights”? This study aims to answer this critical question in the context of the measures taken regarding counter-terrorism.

NHRIs have different mandates, powers and roles in different situations and processes. The first supporting document of these mandates, powers and roles of the NHRIs is the Paris Principles (Principles relating to the Status of National Institutions) which was adopted in 1993.<sup>1</sup> Considering the last quarter-century period (25 years) from 1993 to 2018, admittedly it should be acknowledged that these mandates, powers and roles have evolved in line with international human rights standards. For example; The Kiev Declaration<sup>2</sup> clearly reveals that Paris Principles do not provide sufficient guidance on the role of the National Human Rights Institutions in conflict or in post-conflict situations. Therefore, it should be renewed or revamped with other documents by means of rethinking human rights.

In this study; the following subjects are presented;

- i. Brief introduction of the NHRIs,
- ii. Explaining the situations that may prepare the ground for the measures on counter terrorism,
- iii. Presenting human rights categories that can be violated in the struggle against terrorism,
- iv. Providing information about the roles/powers and mandates of NHRIs in the struggle against terrorism.

## Giriş

Ulusal İnsan Hakları Kurumları (UIHK) insan hakları koruma ve geliştirme sistemlerinde yeni kurumlardır. Bu kurumlar “insan haklarını yeniden düşünmek” konusunda

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<sup>1</sup> It was adopted by UN General Assembly resolution 48/134 in Paris on 20 December 1993. Retrieved from <https://nhri.ohchr.org/EN/AboutUs/Pages/ParisPrinciples.aspx> on 30.10.2018.

<sup>2</sup> It was adopted over 100 representatives from NHRIs, leaders, human rights experts, and civic activists in Kyiv on 21-22 October 2015.

Retrieved from [http://ennhri.org/IMG/pdf/the\\_kyiv\\_declaration.pdf](http://ennhri.org/IMG/pdf/the_kyiv_declaration.pdf) on 30.10.2018.

ne gibi roller, görev ve yetkiler üstlenebilir? Bu çalışma, bu kritik soruyu terörle mücadele önlemleri bağlamında cevaplamayı amaçlamaktadır.

UİHK'ların farklı durum ve süreçlerde farklı rol, görev ve yetkileri bulunmaktadır. Bu rollerin destekleyici belgesinin ilki 1993 yılında kabul edilen Paris Prensipleridir. 1993 yılından 2018 yılına kadar geçen çeyrek asırlık dönem (25 yıl) dikkate alındığında, bu görev, yetki ve rollerin uluslararası insan hakları standartları ile uyumlu bir biçimde evrildiği ve gelişmeye devam edeceği kabul edilmelidir. Bu bağlamda Paris Prensiplerinin yeterli rehberliği sağlayamadığı (Kiev Deklarasyonu bu duruma işaret etmektedir) açıktır. Bu nedenle insan haklarını yeniden düşünerek UİHK'ların rollerinin farklı belgelerle yenilenmeli veya geliştirilmesi gerekliliği açıktır.

Sunulacak bu tebliğde sırasıyla;

- i. Ulusal insan hakları kurumları kısaca tanıtılacak,
- ii. Terörle mücadele önlemlerine zemin hazırlayabilecek durumlar izah edilecek,
- iii. Terörle mücadele edilirken ihlal edilebilecek insan hakları kategorileri sunulacak,
- iv. UİHK'ların terörle mücadele edilirken üstlenmesi gereken çeşitli rolleri/görev ve yetkileri anlatılacak.

## 1. Brief introduction of NHRIs

NHRIs are State actors with a constitutional and/or legislative mandate to protect and promote human rights. NHRIs are one of the cornerstones of national human rights protection systems. They serve as relay mechanisms between international human rights norms and the states. They are unique because they do not resemble other parts of governments. They have an administrative and financial autonomy but they are primarily state funded. As independent institutions, they are not under the direct authority of the executive, legislature or judiciary. But as a rule, accountable to the legislature either directly or indirectly.<sup>3</sup>

NHRIs complying with the Paris Principles, are playing a crucial role in protecting, promoting and monitoring the effective implementation of international human rights standards at the national level. NHRIs perform core protection issues, such as human rights education, awareness raising, reporting, the prevention of torture and ill treatment, arbitrary detention and disappearances, recommendations and so on. NHRIs also play a role in

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<sup>3</sup> United Nations Human Rights Office of the High Commissioner (OHCHR), "National Human Rights Institutions, History, Principles, Roles and Responsibilities", OHCHR Publications, New York, 2010, p.13. Retrieved from [https://www.ohchr.org/Documents/Publications/PTS-4Rev1-NHRI\\_en.pdf](https://www.ohchr.org/Documents/Publications/PTS-4Rev1-NHRI_en.pdf) on 30.10.2018.

advancing all aspects of the rule of law, including with regard to the judiciary, law enforcement agencies and the correctional system. NHRIs also play a role in advancing all aspects of the rule of law, including with regard to the judiciary, law enforcement agencies and the correctional system. NHRIs also contribute to Parliaments, civil society organizations, media and the society in protection and promotion of human rights. Due to their broad human rights mandates, they encourage all actors in the human rights system to create a universal human rights culture.<sup>4</sup>

As it is mentioned above, the Paris Principles are the basis of the mandates and powers of the NHRIs, which may have been evolved since 1993. During the 25-year period from 1993 to 2018, various declarations and statements have been proclaimed. The institutions leading this situation are Global Alliance of National Human Rights Institutions (GANHRI) and (European Network of National Human Rights Institutions ENNHRI). Some of these documents are;

- i. The Mérida Declaration: The Role of National Human Rights Institutions in implementing the 2030 Agenda for Sustainable Development<sup>5</sup>
- ii. The Belgrade Declaration: Ombudsman/National Human Rights Institutions Declaration on the Protection and Promotion of the Rights of Refugees and Migrants<sup>6</sup>
- iii. The Kiev Declaration: International Conference on the Role of National Human Rights Institutions in Conflict and Post-Conflict Situations
- iv. ENNHRI Kiev Statement: ENNHRI Statement on the Role of NHRIs to Promote and Protect the Human Rights of Internally Displaced Persons (IDPs) in (Post) Conflict<sup>7</sup>
- v. The Edinburgh Declaration: International Co-ordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC)<sup>8</sup>

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<sup>4</sup> OHCHR “OHCHR and NHRIs”

Retrieved from <https://www.ohchr.org/en/countries/nhri/pages/nhrimain.aspx> on 30.10.2018.

<sup>5</sup> It was adopted in Mérida on 10 October 2015. Retrieved from

<https://nhri.ohchr.org/EN/ICC/InternationalConference/12IC/Background%20Information/Merida%20Declaration%20FINAL.pdf> on 30.10.2018.

<sup>6</sup> It was adopted in Belgrade on 23-24 November 2015. Retrieved from

<https://nhri.ohchr.org/EN/ICC/GeneralMeeting/29/ICC%20General%20meeting/Belgrade%20Declaration.pdf> on 30.10.2018.

<sup>7</sup> It was adopted in Kiev on 23-27 April 2018. Retrieved from

[http://ennhri.org/IMG/pdf/ennhri\\_statement\\_on\\_nhris\\_role\\_on\\_idps\\_protection-2.pdf](http://ennhri.org/IMG/pdf/ennhri_statement_on_nhris_role_on_idps_protection-2.pdf) on 30.10.2018.

<sup>8</sup> It was adopted in Edinburgh on 10 October 2010. Retrieved from

[https://www.ohchr.org/documents/aboutus/nhri/edinburgh\\_declaration\\_en.pdf](https://www.ohchr.org/documents/aboutus/nhri/edinburgh_declaration_en.pdf) on 30.10.2018.

- vi. GANHRI the Marrakech Declaration: “Expanding the civic space and promoting and protecting human rights defenders, with a specific focus on women: The role of national human rights institutions”<sup>9</sup> and so on...

Under the Paris Principles, NHRIs should bear such features:

- i. Having legal or constitutional basis of establishment and independence guaranteed by statute or Constitution,
- ii. Autonomy from Government: Being independent from government and autonomy,
- iii. Mandate and competence: a broad mandate, based on universal human rights norms and standards,
- iv. Ensuring pluralism and independence in the selection and appointment of members,
- v. Adequate financial resources and financial autonomy,
- vi. Bridge between civil society, international organizations and the state,
- vii. Adequate powers of investigation.

## **2. The situations that can prepare the ground for the measures taken regarding counter terrorism**

The state authority should ensure the safety of life and property of the people living in the country. However, in some cases, the state authority may weaken or may find it difficult to provide security. In this case, it should provide security to prevent chaos but should not violate human rights while ensuring security measures. In this context, the national human rights institution also plays a critical role: NHRIs should advocate that human rights and security are two sides of the same coin and should reinforce each other.

The situations that can prepare the ground for the counter terrorism measures can be listed as;

- i. Temporary and politically unstable state policies,
- ii. Acts of violence or terrorism by non-state actors,
- iii. Increased security concerns due to a prevailing fear,
- iv. Adoption of extraordinary cases or complex operations of counter-terrorism.
- v. Other security measures.

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<sup>9</sup> It was adopted in 10-12 October 2018. Retrieved from [https://nhri.ohchr.org/EN/ICC/InternationalConference/13IC/Background%20Information/Marrakech%20Declaration\\_ENG\\_%2012102018%20-%20FINAL.pdf](https://nhri.ohchr.org/EN/ICC/InternationalConference/13IC/Background%20Information/Marrakech%20Declaration_ENG_%2012102018%20-%20FINAL.pdf) on 30.10.2018.

### **3. Human rights categories that can be violated when fighting terrorism**

Counter-terrorism measures can affect human rights in a variety of ways; including security activities, discriminatory policies, restrictions on the public and media, deviations from international human rights standards, violations of rule of law and the negative effects of some core and fragile rights such as the right to life and prohibition of torture and ill-treatment.<sup>10</sup>

All human rights can be violated on counter terrorism measures based on the principle of indivisibility and interconnectivity between all human rights. However, some rights may be more fragile or may be more likely to be violated. Rights and freedoms that may be violated in these contexts:

- i. The right to life,
- ii. Prohibition of torture and ill-treatment,
- iii. Non-discrimination,
- iv. The right to privacy,
- v. Freedom of assembly,
- vi. Freedom of expression,
- vii. Freedom of movement,
- viii. The right to a fair trial,
- ix. Freedom of travel and other rights.

### **4. The roles of NHRIs when fighting terrorism**

NHRIs mandate is unique in addressing the breadth of the issues arising within the relationship between human rights and counter-terrorism, including in situation of (post) conflict. Their multi-faceted and mutually reinforced functions enable a joined-up approach to work on counter-terrorism, building upon its ongoing work in other areas. In the context, NHRIs ensure national implementation of international human rights standards and provide guidance on as well as monitor human rights compliance of counter-terrorism legislation and actions, including security services.

Human rights are universal and inalienable; indivisible; interdependent and interrelated. In this context, all roles of NHRIs are intertwined with each other.

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<sup>10</sup> ENNHRI, “Human Rights and Counter-Terrorism”  
Retrieved from <http://ennhri.org/Human-Rights-and-Counter-Terrorism-113> on 30.10.2018.

While the state authorities take counter terrorism measures or any emergency security process; the roles of NHRIs should/may be;

1. Protecting and promoting human rights for all,
2. Monitoring basically human rights violations,
3. Engagement with national authorities,
4. Recommendations,
5. Mediation and conciliation,
6. Complaints handling,
7. Early warning mechanism,
8. Human rights education,
9. Awareness-raising,
10. Reporting and follow-up recommendations,
11. Engagement with civil society, academia and international and regional key actors in the work carried out by the NHRIs,
12. Advocating and making efforts to protect vulnerable groups like elderly people, children and disabilities people, victims of terrorism and their families,
13. The role of NHRIs in the peacebuilding process,
14. Making efforts ending poverty and inequality,
15. Regular or irregular visits to conflict zones and follow up these visits,
16. Considering taking into account gender equality, special needs of women while working in the field and during preparation of related reports

#### **4.1. The Role of Protecting and Promoting Human Rights:**

The first provision of Paris Principles is that; “*A national institution shall be vested with competence to promote and protect human rights.*” NHRIs shall have the following responsibilities on the protection and promotion of human rights according to the Paris Principles;

- i. NHRIs should be equipped with wide powers and mandates.
- ii. The composition of the NHRIs shall be established in line with a procedure meant to afford all necessary guarantees to ensure the pluralist representation of the social forces of civilian society.

- iii. NHRIs shall examine the legislation and administrative provisions in force and make recommendations in order to ensure that these provisions conform to the fundamental principles of human rights and rule of law.
- iv. NHRIs shall cooperate with the human rights actors such as United Nations or any other actors in the UN system, the regional actors and the national peer actors of other countries.
- v. NHRIs shall maintain consultation with the other actors such as ombudsmen, mediators and similar institutions and develop relations with NGOs

In this context, protecting human rights includes; advocating vulnerable groups (especially children, migrant workers, refugees, physically and mentally disabled persons) and to protect specialized areas, investigate and deciding on complaints, mediate conflicts and monitor activities, cooperate with the human rights actors and make recommendations. In the context of protection, OHCHR states that the roles and responsibilities of NHRIs should consist of at least;

- i. Investigations;
- ii. Alternative dispute resolution;
- iii. Public inquiries;
- iv. Seeking redress or remedies through the courts,;
- v. Receiving, investigating and resolving individual complaints;
- vi. Monitoring.<sup>11</sup>

Although it serves the same purpose, promoting human rights differs from protecting human rights. Education is the primary measure undertaken to promote human rights. Also outreaching the media, publications, training and capacity building, advising and assisting the Government are other ways to promote human rights. NHRIs shall have the following roles and mandates and the means for the purpose of promoting human rights;

- i. Assist in the formulation and delivery of education initiatives;
- ii. Publicize and advertise human rights;
- iii. Increase public awareness, including through the media and press;
- iv. Public education through awareness campaigns;
- v. Training;
- vi. Publications such as annual and special reports;
- vii. Seminars;

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<sup>11</sup> OHCHR, National Human Rights Institutions, p.22.

- viii. Workshops;
- ix. Community-based initiatives such as sports, theatre, film, public art;
- x. The development of curricula for schools and
- xi. Media events such as press releases and press conferences.<sup>12</sup>

#### **4.2. Role of Monitoring:**

Monitoring is a method of improving the protection of human rights. Its ultimate objective is to reinforce the State's responsibility to respect, protect and fulfil human rights.<sup>13</sup> "Monitoring" includes the description of the *active collection, verification and immediate use* of information to address human rights problems. Human rights monitoring includes;

- i. Gathering information about incidents from State authorities, victims or witnesses to pursue remedies and other immediate follow-up,
- ii. Observing events such as elections, trials and demonstrations and
- iii. Visiting places such as conflict zones or the places where people are being cared for or being deprived of their liberties.<sup>14</sup>

#### **4.3. The Role of Engagement with National Authorities:**

NHRIs can pursue the following purposes in the engagement with national authorities;<sup>15</sup>

- i. Gathering, requesting and verifying information about incidents and allegations of human rights violations;
- ii. Raising awareness;
- iii. Building their capacities to meet their obligations;
- iv. Advocating and facilitating the development of political commitment;
- v. Examining and influencing the legislation and administrative provisions such as norms, policies, procedures, legislation, practices and behaviors;
- vi. Providing expert advice;

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<sup>12</sup> OHCHR, *ibid*, p.22.

<sup>13</sup> OHCHR, "Basic principles of human rights monitoring", p.4.  
Retrieved from <https://www.ohchr.org/Documents/Publications/Chapter02-MHRM.pdf> on 30.10.2018.

<sup>14</sup> OHCHR, "Training Manual on Human Rights Monitoring", p.9.  
<https://www.ohchr.org/Documents/Publications/training7Introen.pdf> on 30.10.2018.

<sup>15</sup> OHCHR, "Engagement with national authorities and institutions", p.5.  
Retrieved from <https://www.ohchr.org/Documents/Publications/Chapter17-28pp.pdf> on 30.10.2018.



- vii. Seeking solutions such as early warning mechanism, preventive measures, remedies, corrective action and reparations;
- viii. Increasing the security and protection of the local population;
- ix. Advocating to protect vulnerable groups like elderly people, children and people with disabilities.

#### **4.4.4. Recommendations**

NHRIs may examine and investigate whether the counter terrorism measures are compatible with international human rights and rule of law. If not, NHRIs shall make recommendations and provide expert advice to the State and relevant government authorities on the practical measures required for implementation of the findings. This expert advice may also be directed to the Parliament (If the decision/judgment requires the adoption of new legislation or amendment to the existing legislation, policy or training, the NHRI can offer expert advice.<sup>16</sup>), NGOs and peer institutions in other countries. These recommendations are, of course, not binding. It is the public authorities' preference to consider these recommendations: they may choose to accept or reject them. A critical situation lies here: NHRIs should have various guarantees of just making recommendations powers. The members of the Board and the staff of the NHRIs should have various guarantees in matters such as dismissal and opening of an investigation. No body, authority, office or individual shall give orders nor instructions, nor recommendations or suggestions to the NHRIs on matters falling under its mandate. This is one of the most important principles of the Paris Principles.

The authority receiving advice may legally be required to respond formally to the recommendations. Moreover, an institution can publicly report on the degree to which its recommendations have been implemented through its annual report or other channels.

#### **4.5. Role of Mediation and Conciliation:**

Mediation in the human rights process requires the NHRI to take an active role in settling the dispute. The mediator has a structural role in allowing the parties to tell their side

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<sup>16</sup> The Network of African National Human Rights Institutions, "National Human Rights Institutions and African Regional Mechanisms" p. 11. Retrieved from <https://nhri.ohchr.org/EN/ExternalPublications/Guidelines%20on%20Implementation%20of%20decisions%20of%20Regional%20Human%20Rights%20Organs%20English%20Version.pdf> on 30.10.2018.

of the story, ensuring that the balance of power between the parties is equitable and facilitating the resolution of the dispute.

Conciliation is another form of alternative dispute resolution that NHRIs use. The conciliator gives the parties more space and opportunity to reach a settlement on their own. Often conciliation occurs later in the investigation process and the conciliator has a role in explaining to the parties the relative strengths of their positions.

Many NHRIs such as in Burundi, Rwanda and South Africa have been entrusted by their State or by the international community on mediation missions for establishing transitional justice or remembrance mechanisms. In this regard, NHRIs should develop innovative approaches.<sup>17</sup>

#### **4.6. Role of Complaints Handling:**

Some NHRIs receive applications from non-governmental organizations and individuals to deal with violations related the human rights of individuals and to monitor and observe whether the anti-terrorism measures are in accordance with international law. So, NHRIs receiving individual applications should provide complaint mechanisms that are simple, accessible, inexpensive and expeditious. It is recommended that in making complaint mechanisms accessible, NHRIs take into account such considerations as geographical and physical accessibility, including people with disabilities. It is suggested that NHRIs not be located in governmental or military offices. It is also recommended that NHRIs accept complaints regarding governmental and nongovernmental acts or omissions. Developing strategies that encourage complaints from groups that are particularly vulnerable to human rights violations, including proactively reaching out to these groups and informing them of their rights to utilize complaint processes.<sup>18</sup>

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<sup>17</sup> OHCHR, “Consolidating the rights of women in conflict and post-conflict situations” Retrieved from <https://www.ohchr.org/EN/NewsEvents/Pages/Consolidatingwomeninconflictsituations.aspx> on 30.10.2018.

<sup>18</sup> OHCHR, “Guidance Note on National Human Rights Institutions and Transitional Justice”, 2008, p.15. Retrieved from [https://nhri.ohchr.org/EN/Themes/Portuguese/DocumentsPage/NHRIs\\_Guidance%20Note%20TJ\\_Oct%2008.pdf](https://nhri.ohchr.org/EN/Themes/Portuguese/DocumentsPage/NHRIs_Guidance%20Note%20TJ_Oct%2008.pdf) on 30.10.2018.

#### **4.7. Role of Early Warning Mechanism:**

NHRIs are important, as they are able to take proactive measures like early warning mechanism. NHRIs play a role in early warning, conflict prevention and re-establishment of peaceful societies by applying their mandates under the UN Paris Principles. Based on the definition of early warning system and adapting it to NHRIs, we can reach the definition of early warning mechanism: *“the technology and the capacity of them and also associated policies and procedures designed to predict and mitigate the harm of human rights violators and other undesirable events.”*<sup>19</sup>

NHRIs (from all regions of the world) convened in Geneva on 8 March 2017 for the Annual Conference titled “Early warning, conflict prevention and re-establishment of peaceful societies: The role of NHRIs”.<sup>20</sup> The conference featured discussions on early indications of a potential or emerging crisis and also inspiring solutions in regards with the strengthening of human rights actors.<sup>21</sup> The following areas of deliberations at the conference give us inspiration about the role of the early warning system:

- i. Election-related and political violence;
- ii. Factors contributing to a climate of violence;
- iii. Early warning mechanisms and protection of human rights defenders; and
- iv. Protection and preservation of the independence of NHRIs.

Early warning mechanism also plays a crucial role in developing policies to prevent mass human rights violations by monitoring incidents of the armed conflict and alerting the authorities to threats of massive violations of human rights. It consists of a national network of analysts conducting field investigations and issuing risk reports and follow-up reports regarding the potential threats or violations of human rights.<sup>22</sup>

In 1993, the Committee on the Elimination of Racial Discrimination adopted a working paper on the prevention of racial discrimination, including early warning and urgent

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<sup>19</sup> Whatis.com, “Definition: Early warning system”

Retrieved from <https://whatis.techtarget.com/definition/early-warning-system> on 30.10.2018.

<sup>20</sup> GANHRI Closing Statement, It was adopted by GANHRI in Geneva on 8 March 2017. Retrieved from <https://nhri.ohchr.org/EN/ICC/GeneralMeeting/2017/GANHRIAnnualConference/Closing%20Statement%20GANHRI%202017%20ENG.pdf> on 30.10.2018.

<sup>21</sup> GANHRI 2017 Annual Conference, Press Release. Retrieved from <https://nhri.ohchr.org/EN/News/Lists/News/DispForm.aspx?ID=272&ContentTypeId=0x0104006A3D2D731523E24B9C932DE5D6E5EDFF> on 30.10.2018.

<sup>22</sup> Christiane Bossé, “The Role of National Human Rights Institutions in the Prevention of Mass Atrocities – The Case of the Defensoría del Pueblo in Colombia”, Master thesis, p.57.  
Retrieved from <http://lup.lub.lu.se/luur/download?func=downloadFile&recordId=4001682&fileId=4002253> on 30.10.2018.

procedures.<sup>23</sup> It is considered that such studies should be carried out in all subjects concerning human rights.

#### **4.8. Role of Human Rights Education:**

NHRIs have a key role to play in promoting human rights through human rights education and training. Education and capacity building on human rights for judges, prosecutors, lawyers, police officers, and government officials play an extremely important role for NHRIs in their plan to prevent human rights violations in the context of counter-terrorism. NHRIs may also concentrate on community-based training, especially the necessity to respect the rights of minorities, vulnerable groups, victims of terrorism and their families.

Human rights can only be achieved through an informed and continued response to demand of people regarding their protection. Human rights education promotes values, beliefs and attitudes that encourage all individuals to uphold their own rights and those of others. It develops an understanding of everyone's common responsibility to make human rights a reality in each community.<sup>24</sup>

Human rights education constitutes an essential contribution to the long-term prevention of human rights abuses and represents an important investment in the endeavor to achieve a just society in which the human rights of all persons are valued and respected.

#### **4.9. Role of Awareness-Raising:**

The role of awareness-raising is one of the core functions of an NHRI and it is so crucial to promote a wide understanding and acceptance of human rights principles. A lot of action by NHRIs can be evaluated as raising awareness like; organizing media campaigns, promoting harmonization of national legislation with international human rights instruments, reporting, cooperating with international and national organizations and institutions, organizing human rights trainings and educations, making efforts for strengthening the rule of law and in the administration of justice, promoting a culture of human rights and so on.

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<sup>23</sup> Guidelines for the Early Warning and Urgent Action Procedures, Annual report A/62/18, Annexes, Chapter III Retrieved from [https://www.ohchr.org/Documents/HRBodies/CERD/EarlyWarning/Revised\\_Guidelines\\_2007\\_en.doc](https://www.ohchr.org/Documents/HRBodies/CERD/EarlyWarning/Revised_Guidelines_2007_en.doc) on 30.10.2018.

<sup>24</sup> OHCHR, "Human rights education and training" Retrieved from <https://www.ohchr.org/en/issues/education/training/pages/hreducationtrainingindex.aspx> on 30.10.2018.

NHRIs assure communication and raise awareness on the human rights that protect all members of the communities equally, including women and the most vulnerable.

#### **4.10. Role of Reporting and Follow-up Recommendations:**

NHRIs must address public opinion, either directly or through the media, especially to publicize their opinions or recommendations. So, reporting is one of the unique mandates and powers of NHRIs. Publications are increasing the accountability of NHRIs and annual and special/thematic reports are the two types of publications. NHRIs also have reporting mandates to regional and international human rights bodies, e.g. United Nations Human Rights Committees, The Universal Periodic Review, Council of Europe, etc. in line with the Paris Principles.

It is very difficult to publish reports on counter terrorism measures and is critical to shed light on history. If NHRIs are public, this situation strengthens their independence which means NHRIs are accountable to the public. But NHRIs have to be accountable to the Government too. NHRIs can submit reports to the Government, parliament or any other competent bodies. If the NHRIs report contains issues that the Government does not approve, they are likely to encounter criticism. Therefore, NHRIs can follow a balanced track by acting strategically. It is also important to follow-up the recommendations in the report along with the reporting role. In any case, NHRIs have to take the risk of criticizing the government and the parliament as long as they do not fulfill their international obligations to promote and protect the human rights of its population.

#### **4.11. Engagement of civil society, academia and international and regional key actors in the work carried out by the NHRIs:**

The Paris Principles require NHRIs to engage and built up relations with civil society, academia and international and regional organizations actors. Engagement with these actors in the work carried out by NHRIs contribute to finding adequate solutions to violations of human rights, follow the human rights agenda and to contribute to scientific publications in the field of human rights.

According to 2030 SDG program; “a vibrant civil society is vital in order for NHRIs to fulfil their functions, expand the reach of their work and contribute to sustainable

development”.<sup>25</sup> GANHRI’s publication entitled ‘Space for Civil Society Participation in SDG Implementation’ draws attention to the importance of civil society organizations in their role of giving a voice to the poor and the most marginalized serving as watchdog and holding governments to account; data collection, monitoring and reporting.<sup>26</sup> These roles are in line with the roles of NHRIs. So, engagement with civil society is substantial in the work carried out by the NHRIs.

Should NHRIs include these stakeholders in every activity they organize? The answer should be as yes as possible. It should be noted that NHRIs are public institutions, mostly established by the state, but they are also independent. NHRIs perform a unique bridging role and function as a forum for dialogue among these different stakeholders.

#### **4.12. Advocating and making efforts to protect vulnerable groups like elderly people or disabilities people:**

Vulnerability may exacerbated by conflict; it is the result of the precarious conditions of existence of individuals, families or communities placed under threat by a brutal change in their environment. NHRIs should focus on vulnerable groups in conflict, during conflict, post conflict and also on counter terrorism measures. Because vulnerable groups often do not participate or are not being involved in peace building efforts and often lack legal status including documentation.

NHRIs should make efforts with regard to the need for respecting the rights of people who may not share the same political view or belong to the same cultural, ethnic or language group as the majority. Also NHRIs work to ensure that ‘no one is left behind’ including those lacking a voice or facing pressure.<sup>27</sup>

Article 33/3 of Convention on the Rights of Persons with Disabilities (CRPD) states that “*civil society, in particular persons with disabilities and their representative organizations, shall be involved and participate fully in the monitoring process*”. This engagement and requirement (not optional) may be new and unaccustomed to NHRIs. But, NHRIs should seek a way for the people with disabilities. This is one of the issues that expand

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<sup>25</sup> GANNHRI, “Space for Civil Society Participation in SDG Implementation”, 3rd Background Paper July 2018. Retrieved from [https://nhri.ohchr.org/EN/News/Lists/News/Attachments/378/GANHRI%20HLPF2018%20civil%20society%20space%20and%20SDG%20implementation\\_final.pdf?Mobile=1](https://nhri.ohchr.org/EN/News/Lists/News/Attachments/378/GANHRI%20HLPF2018%20civil%20society%20space%20and%20SDG%20implementation_final.pdf?Mobile=1) on 30.10.2018.

<sup>26</sup> GANHRI, *ibid*, p.9.

<sup>27</sup> ENNHRI, “National Human Rights Institutions and Human Rights Defenders: Enabling human rights and democratic space in Europe” p. 4. Retrieved from [http://ennhri.org/IMG/pdf/ennhri\\_18\\_006-publication-04a-bat.pdf](http://ennhri.org/IMG/pdf/ennhri_18_006-publication-04a-bat.pdf) on 30.10.2018.

the roles/mandates of NHRIs.<sup>28</sup> Some NHRIs operate as national monitoring mechanism under the CRPD Working Group for people with disabilities, together with the civil society and academia to provide a point of contact on the rights of people with disabilities among NHRIs, to identify, develop, and promote good practice guidance on the role and actions of NHRIs and for other purposes.<sup>29</sup>

NHRIs, working in conflict or post-conflict situations, crises or on counter terrorism measures, are encouraged to be vigilant and proactive in protecting the rights of persons affected. The following table shows the individuals/groups that need special attention before and after the crisis:

**Table 1: The situation before and after crisis**

<u>Before Crisis</u>	<u>In and After Crisis</u>
Women	Same groups
Children	Abused women and children
Disabled	Unemployed people
Indigenous people	People without social care
Minorities	People without health care
Poor people	More disabled people
Certain regions	Child soldiers
People with health problems	People under torture
Disabled people	IDPs, Migrants and refugees
	Unlawfully killed and wounded

Source: Prof. Dr. M. Levent Korkut, Presentation in ENNHRI Meeting in Kiev, 2015.

*“It should also be noted that during conflict everyone is vulnerable!”*

#### **4.13. The Role of NHRIs in Peacebuilding Process:**

NHRIs have a critical role on peacebuilding process and also before, during and post conflict situations. They might promote dialogue between moderates on all sides and might also signal the Government’s intention to deal with the existing problems.<sup>30</sup>

Peacebuilding efforts should involve;

<sup>28</sup> The Asia Pacific Forum of NHRIs, “Working in partnership with civil society: Practice tips for NHRIs” Retrieved from <http://www.asiapacificforum.net/human-rights/people-disabilities/working-partnership-civil-society/> on 30.10.2018.

<sup>29</sup> ENNHRI, “The Convention on the Rights of Persons with Disabilities (CRPD)” Retrieved from <http://ennhri.org/The-Convention-on-the-Rights-of-Persons-with-Disabilities-CRPD-43> on 30.10.2018.

<sup>30</sup> OHCHR, *ibid*, p.139.

- i. Efforts to promote dialogue between combatants;
- ii. Efforts to promote peacebuilding mechanisms among representative communities
- iii. Efforts to encourage acceptable and necessary accommodations to deal with underlying human rights issues that may be at the root of the conflict.<sup>31</sup>

#### **4.14. The role of NHRIs in making efforts ending poverty and inequality:**

The root causes of conflict and terror include poverty and inequality. Poverty, inequality and conflict are widely understood to be closely interconnected. Countries with poverty are more prone to civil war and conflict.<sup>32</sup> In spite of this, it is not directly the duty of NHRIs to eliminate poverty and inequality, it is the duty of governments.

2030 Agenda with the 17 Sustainable Development Goals and with their 169 targets is one of the basic documents on the roles of national human rights institutions such as ending poverty in all its forms in all spheres of life, reducing inequality within and among countries and achieving gender equality and empowering all women and girls.<sup>33</sup> 12th International Conference of National Institutions for The Promotion and Protection of Human Rights Named “The Sustainable Development Goals: What Role for National Human Rights Institutions?” was held in Merida, Mexico in 8-10 October, 2015.

#### **4.15. Regular or irregular visits to conflict zones and follow up these visits:**

NHRIs have a broad mandate and competence like adequate powers of investigation, making regular or irregular visits to conflict zones and reporting human rights situations in conflict zones.

Some NHRIs also assume the role of National Preventive Mechanism which the national component of the preventive system established by Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT).<sup>34</sup> The institutions of National Preventive Mechanism are mandated to conduct

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<sup>31</sup> OHCHR, *ibid*, s.140.

<sup>32</sup> Zoe Marks, “Poverty and conflict”

Retrieved from <http://gsdrc.org/professional-dev/poverty-and-conflict/> on 30.10.2018.

<sup>33</sup> Agenda 2030, “17 Sustainable Development Goals”

Retrieved from <https://www.eda.admin.ch/post2015/en/home/agenda-2030/die-17-ziele-fuer-eine-nachhaltige-entwicklung.html> on 30.10.2018.

<sup>34</sup> Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, It was adopted on 18 December 2002.

Retrieved from <https://www.ohchr.org/EN/ProfessionalInterest/Pages/OPCAT.aspx> on 30.10.2018.



regular visits to all types of places where persons are deprived of liberty. NPMs as NHRIs need to be independent, free from government influence and given sufficient resources to carry out their work effectively.<sup>35</sup> Assuming that people in conflict zones are deprived of liberty, this task may be considered to include visits to conflict zones. Otherwise, it is possible to make comments that NHRIs can already make visits to places of conflict because human rights violations may occur in these areas.

NHRIs organizing visits to the conflict zones can raise awareness about human rights, prepare reports about conflict situation and keep in touch with the authorities to ensure that the innocent civilian population, the press and the observing organizations are not adversely affected by the anti-terrorism measures.

#### **4. 16. Considering taking into account gender equality and special needs of women while working in the field and during preparation of related reports:**

Resolution (S/RES/1325) on women, peace and security, adopted by the Security Council in 31.10.2000, reaffirms the important role of women in the prevention and resolution of conflicts, peace negotiations, peace-building, peacekeeping, humanitarian response and in post-conflict reconstruction and stresses the importance of their equal participation and full involvement in all efforts for the maintenance and promotion of peace and security.<sup>36</sup> In this regard, implementation of resolution 1325 is so important that the protection of women and children against violent abuses, including sexual abuse, cases of imminent threat of physical danger, enrollment in the fighting, and the fight against immunity for perpetrators.<sup>37</sup>

NHRIs should develop innovative approaches and consider taking into account gender equality and women's special needs while working in the field and during preparation of related reports. The Amman Declaration and Amman Programme of Action on the promotion and protection of the human rights of women and girls, are important documents in this regard.<sup>38</sup>

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<sup>35</sup> The Association for the Prevention of Torture, "National Preventive Mechanisms (NPMs)" Retrieved from <https://www.ap.t.ch/en/national-preventive-mechanisms-npms/> on 30.10.2018.

<sup>36</sup> Office of the Special Adviser on Gender "Landmark resolution on Women, Peace and Security" Retrieved from <http://www.un.org/womenwatch/osagi/wps/> on 30.10.2018.

<sup>37</sup> OHCHR, "Consolidating the rights of women in conflict and post-conflict situations",

<sup>38</sup> It was adopted at the Eleventh International Conference of National Human Rights Institutions for the Promotion and Protection of Human Rights, held in Jordan in November 2012. Retrieved from [https://www.ihrec.ie/download/pdf/amann\\_declaration\\_november\\_2012.pdf](https://www.ihrec.ie/download/pdf/amann_declaration_november_2012.pdf) on 30.10.2018.

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