

Paper on the cooperation between the Committee on the Elimination of Discrimination against Women and National Human Rights Institutions*

I. Background and Justification

1. The Committee on the Elimination of All Forms of Discrimination Against Women (Committee) and national human rights institutions (NHRIs) share common goals to respect, protect, promote and fulfil the human rights of all women and girls through the implementation of the Convention on the Elimination of All Forms of Discrimination against Women (Convention) and its Optional Protocol at the national level.

2. To clarify and further develop cooperation between the Committee and NHRIs, the Committee at its 69th session established a Working Group on NHRIs mandated, inter alia, to develop a paper on the cooperation between the Committee and NHRIs, in close consultation with the Global Alliance of National Human Rights Institutions (GANHRI). The present document, which is in the nature of a guidance note, builds on the 2008 *Statement by the Committee on the Elimination of Discrimination against Women on its relationship with national human rights institutions*¹, whilst taking into account procedures and practices developed since by other treaty bodies and comments received during the consultation process.

3. The Committee recognizes the unique role that NHRIs may play regarding the promotion of the implementation of the Convention at the national level, including in the overall protection of women's rights, prevention of violations including in times of conflict, and the enhancement of public awareness of such rights and related legal obligations of the State party. NHRIs also have a particular role in preserving human rights in times of crisis and conflict which disproportionately impact women and girls.

4. NHRIs have a bridging role between international, regional and national human rights systems. They have an important role in encouraging their respective States parties to meet their reporting obligations and provide treaty bodies in general, including the CEDAW Committee, with independent and valuable information on national human rights situations, and promote implementation of the Convention and the Committee's Concluding Observations at the global, regional, national and local levels.

5. At the domestic level, NHRIs promote, and advise the State on, signature, ratification and implementation of the Convention and its Optional Protocol; promote human rights education and training; raise awareness about the Convention and its Optional Protocol, including its individual complaints and inquiry procedures; the Committee's work on follow-up and monitor implementation of the Committee's concluding observations, Views, recommendations adopted after a country visit, and other decisions; investigate and monitor situations; handle complaints of human rights violations, including women's rights (quasi-judicial role) and provide the State with legislative and policy advice to ensure compliance with the provisions of the Convention. They also provide support to human rights programmes ranging from education to training to capacity building of different stakeholders.

6. The Committee emphasizes that, to fulfil their roles effectively, NHRIs should be established, and strengthened, in full compliance with the Principles relating to the status of national institutions (Paris Principles)², and be duly accredited as such by the Global Alliance of National Human Rights Institutions (GANHRI). The Committee has recommended, and will continue to recommend, as appropriate, that all States establish and strengthen NHRIs in full compliance with the Paris Principles. This includes a broad human

* Adopted by the Committee at its seventy-fourth session (21 October-8 November 2019).

¹ E/CN.6/2008/CRP.1.

² General Assembly resolution 48/134 of 1993.

rights mandate and functions, adequately resourced, established by law - preferably constitutionally, with a pluralistic, gender-balanced composition of an NHRI at all levels.

7. The Committee encourages NHRIs to ensure that their work concerning, inter alia, the consideration of individual complaints, inquiry procedures and the elaboration of recommendations on laws, policies and their activities in human rights education, is based on the principle of formal and substantive equality between women and men and non-discrimination, as prescribed by the Convention, and that women have easy access to all services for the protection of their rights provided by NHRIs. The Committee welcomes the Amman Declaration and Programme of Action, adopted in 2012 by NHRIs at their 11th International Conference on “The human rights of women and girls – Promoting gender equality: The role of national human rights institutions”.

8. NHRIs are encouraged to integrate a gender perspective into their submissions, highlighting in particular obstacles to the equal enjoyment of rights by women and girls, paying particular attention to the diversity of women and girls and to intersectional forms of discrimination that they may experience. The Committee recognizes that NHRIs are independent bodies, established predominantly by an act of Parliament, in accordance with the Paris Principles. It is understood that the role of NHRIs is different from, and complementary to that of the State party, non-governmental organizations and other national bodies, including the national machinery for the advancement of women. Therefore, the Committee develops and implements engagement modalities for Paris Principles compliant NHRIs, including separate seating, speaking arrangements during sessions and possibilities of holding closed and private meetings as required.

9. The Committee is dedicated to making its work more accessible to NHRIs. Therefore, the Committee’s Secretariat strives to provide NHRIs with information in a timely manner (at least 6 months in advance) in coordination with the relevant parts of OHCHR and GANHRI and advises on opportunities to engage with the Committee’s work. This will include clear guidance on expectations of NHRIs’ engagement, also regarding format, structure, scope and content of NHRIs’ written reports to pre-sessions and sessions, respectively. The Committee encourages NHRIs from all regions to engage in its work remotely, including by the use of information technology where possible such as video conferencing, where they may have resource constraints.

10. Furthermore, the GANHRI Geneva Head Office, which supports and advises NHRIs in their engagement with the Committee, liaises with the Committee’s secretariat and the OHCHR National Institutions and Regional Mechanisms Section (NIRMS), OHCHR’s focal point for NHRIs.

11. The Committee will designate a standing NHRI focal point with a two-year mandate within the Committee supported by the Secretariat working directly with CEDAW. GANHRI’s Head Office shall do the same, to facilitate timely information-sharing and coordination. NIRMS shall also have a focal point for engagement with treaty bodies.

II. General

A. The role of NHRIs in States parties with other national bodies, including ratification and lifting of reservations

12. The Committee highlights the need for NHRIs, as required by the Paris Principles, to engage with other national actors. This could include in particular the national machinery for the advancement of women where they exist and could include engagement when an NHRI engages with the Committee. This needs to take into account the different architectures of the national human rights protection system in the country, (i.e. Ombudsperson, Gender Commission, National Women’s Commission, etc.). The Committee especially encourages engagement with other national bodies and other national actors who work on women’s rights, when an NHRI is due to provide the information under the reporting procedure (article 18 of the Convention).

13. The Committee will consider appropriate ways of engaging other national bodies in a way that is distinct from that of Paris Principles accredited NHRIs.

14. The Committee notes that NHRIs are instrumental in consolidating national calls for the ratification of international human rights treaties by States parties. The Paris Principles call on NHRIs to encourage ratification or accession to these treaties and ensure their implementation. As a bridge between civil society and government, NHRIs should encourage States ratification and sensitise the public on the significance of such ratification. They should further advocate that this be done without reservations, to enable States parties to improve and safeguard legal protection of all individuals under their jurisdiction.

15. In addition, NHRIs must increase their capacity to assess international and regional developments of the different frameworks which affect women's rights such as the 2030 Agenda and the implementation of the Sustainable Development Goals, Security Council Resolutions on Women Peace and Security including National Action Plans, the Beijing +25 review process, the Sendai Framework on Disaster Risk Reduction, and the Climate Change Agreement.

16. Where reservations are made by States parties, NHRIs should encourage them to reconsider such reservations to lift them for more effective implementation of all human rights treaties, in line with CEDAW's General Recommendation 20 of 1992.

17. The Paris Principles further prescribe that NHRIs should promote and encourage the harmonization of national legislation, regulations and practices with international human rights instruments. In fulfilling this function, NHRIs are encouraged to undertake activities such as monitoring developments in international human rights law and conducting assessments of domestic compliance with, and reporting on, international human rights. The Committee welcomes information about such activities through different medium.

B. Reprisals

18. Recalling General Assembly resolution 68/171, and in order to protect representatives of NHRIs who have sought to address and/or cooperate with the Committee, or who have addressed and/or cooperated with the Committee, from intimidation, persecution or reprisal, including measures of a legislative, administrative or financial nature, or of any other nature, which may curtail the independence of the NHRI, the Committee, in close coordination with GANHRI, may consider, at its discretion or at the request of the author, that the information, documentation and statements received should be kept confidential, and decide not to make them public.

19. The Committee welcomes the 2018 Marrakech Declaration, adopted at the 13th International Conference of National Human Rights Institutions, where NHRIs agreed to report cases of intimidation, threats and reprisals against human rights defenders, including against an NHRI, its members or staff, who have sought to address and/or cooperate with or have addressed and/or cooperated with the Committee by submitting information relating to the States parties' reporting procedure under article 18 of the Convention or to individual communications and inquiry process, or information relevant to violations of the Convention, or by meeting with the Committee during its country visits.

20. The Committee, in close coordination and consultation with the author of the communication, will identify actions that could be taken to protect, report, document and prevent future cases of reprisals. In this regard and in line with the 2015 San José Guidelines the Committee appointed a rapporteur and an alternate rapporteur on reprisals.

III. The role of NHRIs in the reporting procedure under Article 18 of the Convention

21. NHRIs are encouraged to contribute in all stages of the reporting procedure under the Convention, including by providing information for the preparation of the list of issues including list of issues prior to reporting and with regard to the follow-up to concluding observations.

22. NHRIs are encouraged to provide alternative reports that contain:

- (a) Information on the implementation of some or all of the provisions of the Convention;
- (b) Comments on the report of the State party and its written replies to the list of issues; and
- (c) Information on the implementation by the State party of previous concluding observations of the Committee.

NHRIs must ensure that their reports are submitted within the deadlines provided by the Secretariat. The Committee will make available further guidance detailing expectations for written reports.

A. Inputs to the State party report

23. The Committee recognizes the value of States parties organizing broad national consultations when drafting their reports under the Convention. In this regard, the Committee also recognizes the value of States parties making their State party reports available in advance to NHRIs and all sectors of civil society and inviting stakeholders for consultations thereon. The role played by an NHRI in providing information that may contribute to the State party's reports does not preclude NHRIs from submitting their own independent alternative reports to the Committee.

B. Contributions to the preparation of the list of issues and the list of issues prior to reporting

24. Receiving information from NHRIs at an early stage of the reporting process is critical for the Committee's work. Accordingly, the Committee encourages NHRIs to submit early written contributions to the development of the lists of issues including lists of issues prior to reporting, given the particularities of the simplified reporting procedure. Moreover, the Committee welcomes the opportunity to meet with the concerned NHRI prior to the adoption of the list of issues, either in person or remotely via videoconference.

C. Contributions to and during the constructive dialogue (Committee sessions)

25. The Committee invites oral presentations by NHRIs and encourages the presence of such institutions during the examination of the State party's report. NHRIs have the possibility to address the Committee as a whole in formal closed meetings with interpretation, as well as in informal private meetings, at the request of the NHRI and closely preceding the dialogue with the State party. Such meetings allow for interactive discussions and sharing of updated additional information between the Committee and NHRIs. There are additional opportunities for NHRIs to provide the Committee with detailed information during informal private meetings. The privacy of the meeting aims to ensure unfettered and effective engagement with the Committee without fear of intimidation or reprisal. To facilitate these informal private meetings, the Committee's Secretariat will liaise with the NHRI as early as possible in the process.

26. Moreover, the Committee will offer NHRIs with A Status, at their request, an opportunity to present during a defined period of time an opening statement during the formal dialogue with the State party.

D. Contributions to follow – up to concluding observations

27. Under the Paris Principles, NHRIs have a specific mandate to monitor and report on the compliance of their respective State with international human rights instruments, including compliance with recommendations resulting from international human rights mechanisms. NHRIs are invited to provide the Committee with written information, including an evaluation of the measures taken by the State party to implement the concluding observations that were selected by the Committee in its follow-up procedure. These contributions should be submitted to the Committee when the follow-up report of the State party is due or once this report is made public within the prescribed deadlines.

28. The Committee encourages NHRIs to interpret domestic legislation in general, in light of international human rights treaties and jurisprudence, and the recommendations of

respective treaty bodies. Moreover, the Committee encourages NHRIs to promote such interpretation among the legal professions, in particular judges, lawyers and prosecutors, as well as relevant civil servants.

29. The Committee highly appreciates that NHRIs be officially mandated to ensure a formal follow-up process on the implementation of the recommendations of treaty bodies including CEDAW. Moreover, and in order to ensure the most effective involvement of NHRIs in the Committee's follow-up procedure, the Committee's Secretariat shall amend its NHRI information note to include information on the timing of the follow-up procedure schedules and on opportunities to contribute thereto.

E. Recommendations on NHRIs

30. The Committee will include recommendations on NHRIs as appropriate in its concluding observations. This includes recommendations to establish or strengthen an NHRI in line with the Paris Principles and ensure its independence and adequate funding. The general observations and recommendations from GANHRI shall be considered as appropriate. Treaty bodies' recommendations are an authoritative call on States parties to build and strengthen NHRIs in line with the Paris Principles and reinforce their work to promote and protect the human rights of women and girls. The Committee's recommendations also help NHRIs and other actors including GANHRI, regional networks of NHRIs, OHCHR and NGOs to advocate for effective NHRIs at the national level.

IV. The role of NHRIs in relation to the individual communication procedure under the Optional Protocol

31. NHRIs can play an important role in providing assistance and advice to the author who claims to be victim of a violation on how to submit an individual communication or relevant information to the Committee on any violation of the rights protected by the Convention. They can also help by generally raising awareness about the communications procedure at the national level. NHRIs can further play an important role in providing the Committee with reliable and evidence-based information relevant to the Committee's mandate under article 2 of the Optional Protocol.

32. Once the Committee's Views have been made public, it is important that NHRIs follow-up and monitor, or assist authors in doing so, to promote implementation of the Views. NHRIs, where appropriate, can advise the State party on legislative or administrative reforms recommended in the Views. The Committee encourages NHRIs to submit to it follow-up information on the implementation of its Views.

33. The Committee also encourages NHRIs to interpret domestic legislation and human rights principles in general, in light of the international human rights treaties and the recommendations issued by the treaty bodies as well as their Views on individual cases which constitute the treaty bodies' jurisprudence. Moreover, the Committee encourages NHRIs to promote such interpretation among the legal professions, especially judges, lawyers and prosecutors, as well as civil servants and to inform the judicial bodies, constitutional courts and Parliaments of the same.

V. The role of NHRIs in relation to the confidential inquiry procedure under the Optional Protocol

34. NHRIs can raise awareness about the inquiry procedure at the national level and the process of submitting information to the Committee on grave or systematic violations of the rights protected by the Convention. They can provide the Committee with reliable and evidence-based information relevant to the Committee's mandate under article 8 of the Optional Protocol.

35. NHRIs can also play an important role before, during and following any potential country visit of the Committee or in the absence of a visit in a process determined by the Committee. This includes providing updated information and participating in, or facilitating

the participation of victims in the meetings or hearings that the Committee may undertake to determine facts or issues relevant to the assessments of the situation in the State party concerned.

36. The Committee invites NHRIs to submit to it information on the status of implementation of its recommendations to the State party concerned following the inquiry, as well as relevant reliable information on any developments that may have taken place after the country visit or at any other stage of the procedure.

VI. The role of NHRIs in the development and dissemination of General Recommendations

37. The Committee invites NHRIs to provide input at all stages of the development of General Recommendations, including during days of general discussion organized by the Committee, and during the written or other forms of the consultation process.

38. NHRIs are encouraged to make use of the Committee's General Recommendations in their advocacy efforts domestically and in relevant policy development. They should help ensure wide dissemination of the General Recommendations in the national and local languages, including by advocating their translation into such languages.

VII. Conclusions and the Way Forward

39. In preparing this paper the Committee, together with its Secretariat, the OHCHR National Institutions and Regional Mechanisms section (NIRMS) and in consultation with the GANHRI Head office, took into account similar tools developed by other treaty bodies. It is proposed to continue the effort to find a common approach to the current practices among treaty bodies.

40. All partners in the implementation of this paper (the Committee, OHCHR and GANHRI) have agreed to maintain a focal point on NHRIs engagement in order to assess periodically the effectiveness of this paper at the request of any partner.

41. The CEDAW Focal Point, supported by the Secretariat of the Committee together with the OHCHR National Institutions and Regional Mechanisms Section (NIRMS) and in consultation with the GANHRI head office, shall further operationalize this paper by issuing Standard Operating Procedures (SOPs).

The Committee, together with all its partners in the implementation of this paper, will continue to look into new and innovative ways to improve cooperation and coordination using modern technology while bearing in mind resource limitations.
