Building a National Human Rights Institution

A study for the Ministry of Foreign Affairs
of the People's Republic of Viet Nam

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About the author:

Frauke Lisa Seidensticker is an independent coach and consultant on management and leadership in the fields of human rights, development and governance. From 2001 until 2010, she was the Deputy Director of the German Institute for Human Rights, Berlin, Germany. She served as a member of the Bureau of the International Coordinating Committee (ICC) of National Human Rights Institutions from 2006 to 2010 and as a member of Sub-Committee on Accreditation of the ICC in 2009 and 2010, representing the European Group of NHRIs.

Dislaimer:

The views expressed in this publication are those of the author(s) and do not necessarily represent those of the United Nations, including UNDP, or the UN Member States.

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List of abbreviations

APF	Asia Pacific Forum for NHRIs
ASEAN	Association of Southeast Asian Nations
CEO	Chief Executive in Office
DIHR	Danish Institute for Human Rights
GIHR	German Institute for Human Rights
ICC	International Coordinating Committee
ICRPD	International Covenant of Rights of Persons with Disabilities
IMC	Inter-ministerial committee
KNCHR	Kenya National Commission on Human Rights
MoFA	Ministry of Foreign Affairs
NCHR	Norwegian Centre for Human Rights
NGO	Non-Governmental Organisation
NHRCK	South Korean National Human Rights Commission
NHRI	National Human Rights Institutions
OHCHR	Office of the High Commissioner for Human Rights
PP	Paris Principles
SCA	Sub-Committee on Accreditation (of the ICC)
UN	United Nations
UPR	Universal Periodic Review (of the UN Human Rights Council)

1. Introduction

The present study aims at informing the government of Viet Nam about National Human Rights Institutions (NHRI) as a key element of human rights protection and promotion at the national level. In 2010, the author of the present study submitted a study to the Ministry of Foreign Affairs of Viet Nam on the subject of "National Human Rights Institutions – models, programs, challenges, solutions". This study is the direct continuation: While the text of 2010 focused on models of NHRIs and ended with a set of recommendations for the preparation and the early years of a NHRI, today, requirements have slightly changed: Some basic ideas of an appropriate and useful human rights institution have been formed in Viet Nam. The questions arising at this stage are:

How can the following models of institutions be built properly?
Modality 1: A qualified research institute serving as NHRI
Modality 2: An NHRI working in close cooperation and possibly structural connection with a ministry with a human rights focus
Modality 3: An inter-ministerial committee, acting as coordinating body for the human rights undertakings of several ministries, partly filling the role of an NHRI.

These are the modalities of special interest to Viet Nam. Thus, after a short summary about the key features of an accredited NHRI, the present study will, in a first part, examine these models drawing on the experience of institutions following comparable modalities. As Viet Nam is interested in going towards a fully accredited NHRI all modalities should be examined for their compatibility with the Paris Principles.

In a second part, general principles for building a NHRI including those presented already in the study from 2010 will serve as background. The chapter will offer guidance and steps to take to set up a institution taking into account these models. This part will represent a step-by-step guide on how to set up the models a, b and c or a combination of these.

2. Key elements of a National Human Rights Institution, Paris Principles

The second part of the 20th century, and particularly the 1990s, saw the establishment in many parts of the world of a number of national institutions with a mission to promote and protect human rights. Drafted during a conference in Paris in 1991 and laid down in an annex to Resolution 48/134, guiding principles for the so called National Human Rights Institutions (NHRIs) were adopted by the General Assembly of the United Nations on 20 December 1993.[1] While not binding in international law, these principles, called the Paris Principles, form the basis of a common understanding and are accepted by NHRIs, governments and civil society actors alike. They provide a vital point of orientation for countries wishing to set up an NHRI or to strengthen an existing structure to enable it to be an NHRI.

In 1993, the World Conference for Human Rights further confirmed the important role played by NHRIs in the Vienna Declaration and Programme of Action. States underlined the constructive role played by the national institutions in the past, in particular in their capacity as advisors to the competent authorities and their role in remedying human rights violations, in the dissemination of human rights information and in educating people on human rights issues.[2] The Vienna Declaration referred to the Paris Principles, and these were adopted by the General Assembly in December 1993.

In substance, the Paris Principles stipulate certain key requirements for NHRIs. Their mandate should be set forth in a constitutive or legislative text, be as broad as possible and cover the

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[1] See the Annex to UN General Assembly Resolution 48/134 of 20 December 1993, annex 1.
[2] Vienna Declaration and Programme of Action, UN Doc. A/CONF.157/23 of 12 July 1993, part I, para. 36.

promotion and the protection of human rights. They should cover a series of functions ranging from advisory services to the government, the examination of legislative and administrative provisions against international human rights standards, the publication of reports and opinions on any human rights violation it decides to take up and all sorts of contributions to the implementation of international human rights standards in their respective country. This latter function entails close cooperation with UN human rights mechanisms which is strongly encouraged, as is research, human rights education and activities to combat all forms of discrimination.

Principles relating to the status of national institutions (Paris Principles): Key Elements

A National Human Rights Institution (NHRI) should be

- vested with competence to promote and protect human rights.
- given as broad a mandate as possible, which shall be clearly
- set forth in a constitutional or legislative text, specifying its composition and its sphere of competence.

An NHRI should
- have a pluralist composition;
- have an infrastructure which is suited to the smooth conduct and adequate funding;
- enjoy real independence.

An NHRI should submit to the Government, Parliament or other body opinions, recommendations, proposals and reports on any matters concerning the promotion and protection of human rights; and be free to publish these. These matters include:

- legislative or administrative provisions, the recommendation of the adoption of new legislation, or of amendment of legislation in force
- any situation of violation of human rights which it decides to take up;
- the preparation of reports on the national human rights situation or on specific matters;
- the harmonization of national legislation with international human rights instruments;
- the encouragement of the ratification of international human rights instruments;
- contributions to the State reports to United Nations bodies and to regional institutions;
- the cooperation with the United Nations and other relevant regional or national bodies;
- human rights education.

An NHRI may be authorized to hear complaints and petitions concerning individual situations. For these they may seek amicable settlement or transmit complaints to the competent authorities.

Independence from the government is an essential feature of an NHRI. The Human Rights Commission, the Human Rights Council and the General Assembly of the United Nations have confirmed the principle of independence in many resolutions.[3] A pluralist composition, government funding allowing autonomy on projects and programs, and a solid and accessible infrastructure further support autonomous and independent activities of the NHRI. In practical terms, independence implies a separation of tasks and roles within the reporting cycle to treaty bodies: Whereas NHRIs are encouraged to comment on the governments´ report or to submit a parallel report; they should not assume the state parties´ reporting task.

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[3] See UN General Assembly Resolutions 54/176 of 17 December 1999; 52/128 of 12 December 1997 and 50/176 of 22 December 1995.

A potential further function of NHRIs is a quasi-jurisdictional competence. While this is a widespread feature this aspect is not of interest for this study.

In the early nineties of the past century, NHRIs formed an association called the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights, also known as the ICC[4]. Since 2008, the ICC has been set up as an association under Swiss law with its statutory seat in Geneva.[5] Main tasks of the association are the promotion of strong and independent NHRIs in accordance with the Paris Principles, their coordination among each other as well as with international actors, the most important of which are the United Nations and finally the accreditation of NHRIs. This is a peer review established to ensure a certain control of quality, independence and strength of NHRIs.

National institutions with full accreditation build the core of the ICC, but those that have not yet received full accreditation ('B' status) are also considered members. In June 2010, the ICC counted 79 institutions as its members.

While designing its current strategic plan in 2009, NHRIs acknowledged that accreditation is the core function of the ICC which was further confirmed during debates on the priorities of the ICC at its 22nd session.[6]

There are three different classifications for accreditation:
- A: In full compliance with the Principles
- B: Not fully in compliance with every Principle or insufficient information provided
- C: Not a member of the ICC and participates as an observer only

Only those institutions with 'A' status can serve as one of the 16 accredited members of the ICC Bureau and are entitled to vote. In June 2010, Asia Pacific had 15 accredited NHRIs, Africa 15, and the Americas had 15. Europe counted 20 accredited NHRIs.[7] An institution is granted 'B' status if it is only partially compliant with the Paris Principles or has submitted insufficient information as a basis for assessment. Institutions with a 'B' status can become members of the ICC, however, they cannot be elected ICC Bureau members and have no voting rights. Institutions that are not compliant with the international requirements are designated 'C' status. The 'A' accreditation is of increasing importance beyond the entitlement to vote within the association and to become a member of the ICC Bureau. The international rules of procedure for state conferences, the UN Human Rights Council and, to an increasing extent, the relevant treaty bodies grant NHRIs with 'A' status the right to observe and participate in discussions and activities. And, as NHRIs have grown in importance in the last decade, 'A' status is about to become a question of reputation of an NHRI - for the NHRI itself, but also for the government eager to meet international standards in the field of human rights. A fully accredited institution is seen as an indicator of the credibility of that state's human rights policy.

The Paris Principles do not offer a classification system of NHRIs. Practically though, the following types of institutions emerged in the last decades:[8]
- the committee or advisory commission type
- the commission type

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[4] Report of the UN Secretary-General, UN Doc. A/50/542 of 20 September 1995.
[5] Statute of the Association International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights, adopted by the members of the International Coordinating Committee at its 15th session, held on 14 September 2004, Seoul, Republic of Korea. Amended by the members of the ICC at its 20th session, held on 15 April 2008, Geneva, Switzerland.
[6] Report of the 22nd session of the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights, Palais des Nations, Geneva, GENEVA, 23-27 March 2009, p. 27.
[7] See ICC (2010): Chart of the Status of National Institutions, June 2010. On the list you find three fully accredited institutions in the United Kingdom, one in Great Britain, one in Northern Ireland and one in Scotland. They count as one institution, though.
[8] See Aichele (2003): Nationale Menschenrechtsinstitutionen, PhD, Frankfurt am Main, p.102, 110 et seq.

- the ombuds type
- the institute type.

The committee or advisory commission type is characterised by its mission to provide advisory services to the government and to government leaders, in particular, as well as human rights education, research and political advocacy. The commission type is largely characterised by its wide range of tasks, including investigations into human rights violations, educational work and public relations, as well as participation in legal proceedings. The commission and the committee type allows the involvement of eminent experts in a part-time role. Major activities of the ombuds type focus on individual legal protection and complaint-handling. Institutes usually have a large research component, leading it to focus on advisory services to the government, members of parliament and civil society. In most cases, the ombuds and commission types have extensive investigatory and information powers, whereas the committee type has only restricted, and the institute type no quasi-judicial powers. All types offer large informational and educational services on human rights not only to government or parliament but also to the population in general.

Checked against the leading questions for this study laid out in the introduction, the ombuds type can be neglected here. A research component and structural closeness to a ministry can be found though in the institute type (Germany, Norway), the committee type (France) or the commission type (Kenya, South Korea, New Zealand, to mention a few). These three models remain an option for a NHRI or a human rights body with similar functions in Viet Nam.

3. Selected modalities of NHRIs

This chapter takes a closer look at three modalities of interest for Viet Nam:
- Modality 1: A qualified research institute serving as NHRI
- Modality 2: An NHRI working in close cooperation and possibly structural connection with a ministry with a human rights focus
- Modality 3: An inter-ministerial committee, acting as coordinating body for the human rights undertakings of several ministries, partly filling the role of an NHRI.

These modalities cannot be compared as modalities of equal quality. A research institution can, as has been demonstrated by a few European NHRIs, achieve full accreditation according to the Paris Principles. The second modality, the link to a ministry, is a condition which can be realized for many kinds of institutions including NHRIs. A decision in favour of this institutional link has very little implications on the substance of work undertaken by the institution; it has though implications on a more formal level, and these will be studied. The third modality relates to institutions which by nature cannot be accredited according to the Paris Principles as they form part of a government, but offers interesting insights into human rights obligations and related organisational challenges of any government.

3.1 A research institution

There is one option of creating a NHRI that has been realized only in a few countries: A research institution can serve as a NHRI if main requirements of a NHRI are fulfilled. If a NHRI is built as a research institution, it is really important to understand the difference between a university institute and a NHRI though. The purpose of a university institute – especially in the field of legal and social sciences - is research and teaching. This is not what a NHRI does. The research undertaken by an NHRI will always be oriented on influencing human rights policy, nationally or internationally. The examination of violations, policy and legislation by an NHRI is meant to bring about change in the country and cannot be satisfied with academic debates as

the end of its work – occasionally academic debates may be one of the means. Thus, even academic freedom of the individual researcher in an NHRI may be limited because policy has to be coherent within the NHRI. The priorities chosen cannot just follow reasons of academic interest but should follow human rights priorities within the country.[9] The teaching of universities is different as well – the purpose of university teaching is the training of mature academics, able to analyse and think correctly and independently. The purpose of teaching by an NHRI may be directed towards empowerment of parts of the population, at changing professional concepts of members of the police or the penitentiary system or at enabling children to enjoy and respect rights. These purposes are much more pragmatic and it is an art to really provide training for diverse groups in a way that leaves them truly more empowered, more professional or with greater social ability.

Three institutions were selected as examples for this chapter; those with the strongest profile as a research institution functioning as a NHRI: The Norwegian Centre for Human Rights, the Danish Institute for Human Rights, and the German Institute for Human Rights. Two out of the three institutes call the NHRI just a component or part of their work, the Norwegian Centre and the Danish Institute. Both run important international programs which strongly coin their profile. Nevertheless they are fully accredited NHRIs. Only the German Institute for Human Rights derives it main identity from it status as the German NHRI. The German Institute is smaller than the other two, as its international program is smaller. Examples should show that there are different ways to build an NHRI into as research institution or as a research institution.

3.1.1 Potential functions of a research institution according to the Paris Principles

A NHRI basically focussing on research can take many of the typical functions outlined in the Paris Principles: Targeting the Government, Parliament or other bodies, the NHRI can submit opinions, recommendations, proposals and reports on any matters concerning the promotion and protection of human rights. These may relate to legislation or the harmonization of national legislation with international human rights standards, to human rights violations, to policies; they can encourage ratification of international standards, contribute to the treaty body reporting cycle and undertake human rights education. As the study submitted by the author of the present study to the Ministry of Foreign Affairs (MoFA) of Viet Nam in 2010[10] showed, there are only a few European NHRIs built mainly as research institutes or think tanks. The other types of NHRIs – commissions, committees and even some ombuds institutions – do undertake research as well, but as a less important element of their work.
Nevertheless, research based NHRIs can also take other functions. These can only be studied looking at existing research institutes.

The Danish Institute for Human Rights was first accredited as NHRI in 2001 and played an important role in international networking among NHRIs from then on, even holding the chair of the ICC from 2005 to 2008. On its website[11] the Institute mentions research as its first priority, before education, information and project work at the national and international level. Additionally, it has been mandated to take several additional functions in the field of anti-discrimination measures: It was appointed as body to promote equal treatment and effective protection against differential treatment irrespective of racial or ethnic origin pursuant to Article 13 of European Council Directive 2000/43/EC. Since the beginning of 2011, the Institute serves as an equal treatment body for questions of gender as well, and finally it was recently appointed as the monitoring body acc. to Art. 33 (2) of the International Covenant of Rights of Persons with Disabilities (ICRPD).

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[9] Sveaass et. al (2010): Protecting and Promoting Human Rights in Norway, Review of the Norwegian Centre for Human Rights in its Capacity as Norway's National Human Rights Institution, Oslo March 2010, p. 9.
[10] Seidensticker / Würth (2010): National Human Rights Institutions – models, programs, challenges, solutions. A study for the Ministry of Foreign Affairs of the People's Republic of Viet Nam, unpublished, on file with recipients of this study.
[11] www.humanrights.dk.

The German Institute for Human Rights, accredited with the status 'A with reserve' in 2001 and fully accredited in 2003, was presented in the study of 2010. Since 2009 the Institute serves as the monitoring body acc. to Art. 33 (2) of the ICRPD, too. For both institutions it seems these additional functions are compatible with a central focus on research.

The Norwegion Centre for Human Right was accredited as an 'A' status-NHRI in 2003, but with a reserve – a procedure that was abolished by the ICC in 2008. The reserve was withdrawn in 2006 only. The problem was the strong affiliation of the Centre to a university which questioned the independence of the Institute in the view of the Sub-Committee on Accreditation of the ICC (SCA). The Centre does not serve in any additional function according to a UN or EU human rights document.

3.1.2 Examples of work undertaken by successful research institutions

A research NHRI has particular advantages and strengths in their function as NHRI: It may potentially be very strategic and very strong in its legal and socio-political argumentation. The Norwegian Centre for Human Rights (NCHR), criticized by the SCA for its strong affiliation to a university, undertook a review in 2010 to better understand its options to become a stronger NHRI. One of the findings of the review was that the close relation to the University of Oslo is a problem, indeed, and that the Centre should be re-built with a more independent structure.[12] The Centre divides its activities in monitoring, research and an advisory function, education and networking. The monitoring component of their work results in the publication of a yearbook on human rights in Norway, which started in 2005, covering 2004. The Yearbook includes thematic and analytical material as well as NCHR recommendations and is used by the Centre to publicly highlight specific human rights concerns. Under the heading of monitoring as well, the Centre provides commentaries to draft legislation - 5 to 10 comments per year - and to state reports to international treaty bodies. Thirdly, research based reports on human rights issues in Norway are published by the Centre, most of them in the publication "Nordic Journal of Human Rights". The research component deals with many different topics, under four headings: Human Rights and Conflict, Human Rights and Constitutionalism, Human Rights and Development and Human Rights and Diversity. The advisory function is exercised in information about judgments of the European Court of Human Rights, seminars and workshops, advice on request but also the provision of an informative website. The educational component covers human rights education for professional groups. Networking plays a big role, not only in Norway but very much at the international level where the Centre runs big programs, last not least with Asian countries such as China, Indonesia and Viet Nam.

The Danish Institute for Human Rights (DIHR) divides its work, according to its functions listed in 3.1.2, into the areas of equal treatment, human rights in Denmark, Research, Justice, Education and Human Rights and Business, Freedoms and Civic Participation, National Human Rights Institutions and the Human Rights Based Approach, and it undertakes research in all of these areas. As a result of this it publishes a so called Status report annually, a review of legislation, decisions, opinions and government initiatives within the field of human rights in Denmark. One example of their work is the research on children of prisoners in Denmark. The Institute examined all stages of the imprisonment of the parent from arrest over imprisonment up to release and discovered an urgent need for action.[13] The final report came up with 27 recommendations, and the Institute is now involved in discussions about their implementation with different actors. The Annual Report says "Research has to make a difference in real life. That has been our approach from the moment we started."

The German Institute for Human Rights (GIHR) has been presented in the study 2010. Its

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[12] Sveaass et. al (2010): Review of the NCHR.
[13] Danish Institute for Human Rights (2010): Annual Report 2010, Even the best democracy may stumble, Kopenhagen, p. 16.

research component is strong, and embedded in overall strategies to promote human rights concerns of priority – mainly in Germany, a small part of its research is dedicated to international concerns. The Institute publishes studies, essays, policy papers or points of view on proposed legislation, to mention a few of the formats intended to convince decision makers and the interested public with arguments based on legal and factual research. In its brochure published at the occasion of its tenth anniversary, the Institute offered an overview of the strategies followed to bring about substantial results regarding specific concerns.[14] With great continuity, the Institute underlined the importance of maintaining the absolute prohibition of torture. It argued with the concept of the rule of law in a democratic state, characterized by its commitment to human rights. This was, on the one hand, part of the recommendations of the Institute regarding security policy in Germany, an area in which it published several studies and policy papers. Topics were the rule of law in the fight against terrorism, preventive security, data protection or the evaluation of security laws. On the other hand, the Institute worked eagerly and systematically to promote the adoption of the Optional Protocol to the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and certainly contributed to its ratification by Germany in 2008. The Institute from then on contributed to the establishment of a successful National Preventive Mechanisms according to Art. 3 and 17ff. of the Protocol. One of its contributions to this mechanism was a book publication with in-depth analysis of protection gaps in Germany that should be filled – at least partly – by the mechanism.

This kind of continuity is characteristic of the work of the GIHR. In its first ten years, it approached quite a few topics, human rights concerns in Germany or the EU, in this systematic and strategic way: Another example are activities around modern forms of slavery. With expert talks it approached the topic from 2005 on, continued with a series of lectures around trafficking in 2005 and published a study on human trafficking in 2009. The study analyses Germany's human rights obligations and ends with several recommendations one of which was to strengthen the rights of victims of trafficking. A three-years project was launched then aiming to broaden the scope for legal action for victims of human trafficking and extreme forms of exploitation. The project also seeks to ensure that victims can assert their claims for compensation and remuneration against the offender, as well as their rights guaranteed under the German Victim Compensation Act. In 2011, another study was published on domestic workers in diplomats' households, dealing with rights violations and access to justice in the context of diplomatic immunity. This is a problem of international dimension, the study focuses on European examples though. The release of the study was, once again, accompanied by a round table attended by experts, civil society and government representatives of nine countries. The example shows how the Institute combines practical support for victims, research and policy advice to governments. The high level of academic research is the reason for the high level of acceptance of recommendations by governments.

3.1.3 Structural requirements: leadership, membership and staff

A research institution functioning as a NHRI asks a lot from their leaders: They are supposed to be on top of their subjects, able to run political negotiations and to act as the CEO of their institution. The three institutions discussed in this chapter choose a different model each to offer solid leadership and management for their respective institutions: The Norwegian Centre is situated at the University of Oslo, headed by a Director who reports to a Board of five to ten members. The Director himself is supported by a Chief of Staff and Administration. The management team consists of the Director, the Chief of Staff and the leaders of the three main departments: research and education, international programmes, and national institution.

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[14] German Institute for Human Rights (2011): 2001-2011 Kompetenz und Engagement für Menschenrechte, 10 Jahre Deutsches Institut für Menschenrechte, March 2011.

All in all the Centre has about 60 full-time positions, including 30 in the research and education section; 20 in the international programmes section; 5 in the administration, library and information section; and 6 in the National Institutions unit.[15]

The National Institution unit consists of the:
- Director of the National Institution;
- Legal advisor (permanent position)
- Legal advisor (non permanent, partially funded by external sources)
- Education officer (1/2 time position, shared with core administration)
- Information officer (1/2 time position, shared with core administration)
- Librarian (full time position)

In addition, the NHRI-unit has access to research time (1/5 time position or 22,5 %) from seven in-house researchers, as well as time from Director, Deputy and other core administrative staff.

In the evaluation of the Norwegian Centre, not only the lack of staff in the NHRI-unit, regretted by many, were mentioned but also the ineffectiveness of the model of the 1/5 work time obligation of seven researchers for the NHRI-unit.[16] What is more, the review team concluded that the composition of the Norwegian Centre is not suffiently pluralist, lacking for example represenatives of the Sami population, of minorities or of the migrant population.[17]

The structure and size of staff in the German Institute for Human Rights is different as the entire institution is considered the NHRI. Thus, the Director and the Deputy Director each supervise a few departments: The Director is responsible for the department for human rights in Germany and the European Union, the department for human rights education and the monitoring unit according to art. 33 (2) of the International Convention for Rights of Persons with Disabilities. The Deputy Director supervises the media and communication department, administration and finance, the library and runs and supervises the international department. The Directors and the Heads of all departments form the Management of the Institute. All in all, with these seven departments and the Directors and their assistant and without the internships, the institute has some 35 employees, 15 out of whom are researchers exclusively focusing on human rights in Germany. The work of the Institute is supervised by a Board of Trustees with 18 members, five of them without voting right as they represent the funding ministries and the council of states.

The Danish Institute´s structure is also divided into departments: The Management of a Director, a Deputy Director and a Management Advisor supervises six departments: freedoms and civic participation, equality and monitoring, communication and education, justice, human rights and business and research. All in all the Institute has more than 130 employees, and a considerable part of staff focuses on areas outside Denmark. All departments contribute – with changing percentages - to the work of the NHRI. The Director reports to a Board as well.

In summary, both the Danish and the German Institute for Human Rights are generally satisfied with their structure. The Norwegian Centre, in contrast, with only six staff members exclusively focusing on the NHRI–function of the Centre and percentages of other research positions contributing to the NHRI, sees itself as clearly understaffed. This is the estimation of all interview partners as well as of the review team for the evaluation.[18] Regarding the structure, the Norwegian review team came to the conclusion that a new structure is overdue: Neither a university institute nor an ombudsman office would properly fulfil the requirements in the view of the review team. The review team´s proposal results in a commission, established in law, with

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[15] These numbers are all taken from Sveaass et. al (2010): Review of the NCHR, p.42.
[16] Sveaass et al. (2010): Review of the NCHR, p. 85.
[17] Sveaass et al. (2010): Review of the NCHR, p. 55.
[18] Sveaass et al. (2010): Review of the NCHR, p. 96.

several commissioners to ensure a pluralist composition with an advisory council with many representatives of civil society.[19] This commission should be supported by an academically strong secretariat of at least 16 staff members (including support staff).

3.1.4 Cooperation and networking

Networking and cooperation are not only instruments for NHRIs to run consultations and to find co-funders for their projects: They are such an essential requirement that they are even mentioned in the Paris Principles. NHRI serve as a platform for human rights discussions in their countries, all main human rights topics should be discussed to get input and feedback from NGOs, to bring government, academia and civil society to a table and to shape recommendations for future policies in a fair and inclusive process. The Danish as well as the German Institute are well known as strong networkers, within their own country as well as internationally. Both cooperate with non-governmental organisations (NGOs) and NGO-networks, professional associations, universities in their respective countries and internationally, parliament and ministries and are active in the ICC, at the European as much as at the international level. While the Norwegian Centre does also have cooperation and occasionally consultations with similar groups, it frequently bases its findings on research instead of consultation with civil society, a real weakness in the eyes of the review committee.[20]

The activities undertaken with these partners are manifold: They serve as ressource as much as they are cooperation partners or target groups - providing information, responding to consultations, taking part in conferences and seminars as experts, chairs or participants, representing their institutions in bodies of the NHRI, receiving and using publications and recommendations of the NHRIs, enjoying library services, using the related websites, seeking information and supporting or even undertaking research for the NHRI. Relations to external partners are vital for the daily functioning of any NHRI. Those NHRIs with a strong focus on research may have a slightly stronger priority for using external partners as information source and sounding board for publications and recommendations, and in turn the external partners as target groups may strongly benefit from the profound publications and carefully developed recommendations of the institution.

3.1.5 International activities

All NHRIs function as a bridge between international fora such as the UN or regional bodies. Research based NHRIs take part in ICC meetings at regional and international level as much as all other NHRIs. It is possible though that their openness and interest to cooperate and network with UN treaty bodies or UN special mechanisms of the Human Rights Council is even stronger; and this interest may be mutual. Due to their high academic standards, research based institutes often continuously support UN or regional human rights bodies, and this may even result in an unusually high number of representatives of these institutions in international bodies.[21] The GIHR supports the work of two special mechanisms of the UN-Human Rights Council with background research, and it frequently organizes debates on topics related to the UN human rights system, bringing academic experts, UN officials, civil society and representatives of governments to one table. Both the Norwegian Centre and the Danish Institute do the same.

All three of these institutions are involved in international human rights dialogues, too. Human rights dialogues often follow a twofold approach: They are separated into human rights talks

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[19] Sveaass et al. (2010): Review of the NCHR, p. 100.
[20] Sveaass et al. (2010): Review of the NCHR, p. 53.
[21] The former director of the DIHR, the former director of the GIHR and a senior academic of the GIHR all serve(d) in international human rights bodies: One in a treaty body, one as special rapporteur, and one as member of the advisory committee of the Human Rights Council. The French NHRI takes a strong interest in research and their Secretary General also serves as a special rapporteur.

between the governments (or the intergovernmental organisations such as the European Union) behind closed doors and academic round tables. NHRIs with a focus on research are obvious partners for these round tables as they have an academic working style but enormous insight into the human rights challenges in their respective home country.

3.1.6 Funding

The Paris Principles require adequate funding by the government. In practice, budget allocations are very different across NHRIs. In its survey among NHRIs in 2009, the OHCHR[22] discovered that almost half of all NHRIs taking part in the survey considered their budget to be insufficient, a little more than 30% thought it sufficient.[23] Since in most NHRIs, most of the budget is related to staff costs, staff size has considerable budget implications. Among the NHRIs surveyed by the OHCHR, the range of staff was between 2 (one NHRI in Europe) to more than a 1.000 (one in the Americas). Half of all institutions, however, had less than 100 staff. Less than 20% of the institutions surveyed indicated that the staff they had was sufficient.[24]

Regarding the Norwegian Centre, the evaluation report specifies:
"In order to comply with the Paris Principles, and to maintain an A Accreditation, the funding of the National Institution work was earmarked to ensure independency both from the University and from the Government. Beginning in 2007, the approximately 6 million NOK funding became an earmarked part of the national budget, and it is annually transferred from the Ministry of Foreign Affairs to NCHR.[25] At the time of writing, this amounts to 1,1 mio US$.

The German Institute for Human rights has more than twice the amount at its disposal: in the Annual Report 2009 a budget overview shows an overall income of roughly 2.5.mio €, matched by the same overall expenses.[26] This amount equals 3,6 mio US$. This funding is composed of contributions of three ministries to the core budget (roughly 2,1 mio US$), another 620000 US$ for monitoring the ICRPD and another 860000 US$ by third parties. So, a considerable part of the budget is funded on a project base – core funding has to be guaranteed to ensure functioning and the independence of the institution. But if additional project funding also covers the expenses for the steering and administration of the project, it is most welcome. This overhead contribution is a condition sine qua non though – if an institution accepts several projects without overhead coverage, all its resources are eaten up by project steering and administration, and the independence guaranteed by the financial freedom to chose topics according to its own analysis of the human rights situation in the country is undermined.

The Danish Institute for Human Rights does not publish its budget nor its annual accounts on its website; the SCA´s recommendation given to the Danish Institute at its last review in October 2007 was though to substantially increase the percentage of the budget coming from the state and thus to ensure "adequate funding in a sustainable manner to address core domestic responsibilities and activities"[27]. At the time of the SCA review, only 9% of the Institute´s budget came from the state. According to the director of the DIHR, this was the result of a misunderstanding as the equality body had not been included into this amount.[28] In an interview he specified that the total budget for 2010 amounted to more than 18 mio US$ and core funding for activities related to Denmark accounted for 5.5 mio US$ and is – substantially – completed by projects related to Denmark as well.

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[22] OHCHR (2009): Survey on National Human Rights Institutions, Report on the findings and recommendations of a questionnaire addressed to NHRIs worldwide, July 2009, p. 17.
[23] OHCHR (2009), Survey on National Human Rights Institutions, p. 17.
[24] OHCHR (2009), Survey on National Human Rights Institutions, p. 19.
[25] Sveaass et. al (2010): Review of the NCHR, p. 10.
[26] GIHR (2010): Annual Report 2009, Berlin, p. 38.
[27] SCA (2007): International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights, Report and Recommendations of the Sub-Committee on Accreditation, Geneva 22 to 26 October 2007, p. 3.
[28] Interview with Dr. Jonas Christoffersen, Director of the DIHR, August 23rd, 2011, for this study.

Sources of funding are widespread, in addition to the state funds mentioned above the Institute receives substantial grants and other funds from the big Danish development agency DANIDA and similarly big amounts from the European Union. With their program on business and human rights, some funds come from private firms as well.

3.1.7 Challenges and advantages of a research institution

Challenges: Especially the quotes of the review of the Norwegian Centre show: There are challenges for a research institution functioning as an NHRI. Already the process of applying for full accreditation under the Paris Principles had brought about several changes for the Norwegian Centre – the name was changed from "institute" to "centre" to signal the platform character of the NHRI, an Advisory Committee was established to become more pluralistic, and funding was earmarked to clearly distinguish the Centre´s budgetary independence from the university.[29] Nevertheless, the 2011 review still considered the closeness to a university – on substantial and on structural level – a problem. In summary, the team identified the follwowing difficulties:

- The Centre as a university and research institution is a "complex institution with conflicting or at least not synergetic norms and aims;"
- The Centre has not become a visible actor in public debates as it is not the National Institution "but rather individual NCHR researchers who became known to the public for their expert opinions;"
- In setting priorities for research and studies, the Centre took on topics "that were seen as important and interesting for an academic research community rather than basing itself on a thorough analysis of human rights issues in Norway that needed to be addressed;"
- "Due to its prioritising of research as its knowledge base, NCHR as a national institution did not have a pro-active role related to civil society during most of the period 2001-2010."[30]

This criticism is grave, and it crystalyzes the problems that could come up in a NHRI that is built in too close a connection to a university or a research institution.

The DIHR is a research institution but did not face similar problems as it is independent of any academic institution. The weakness of the DIHR pointed out by the SCA in the last re-accreditation procedure in October 2007 was the small proportion of the budget dedicated to the NHRI.[31] While this was, as pointed out in 3.1.6, partly related to an error in the files, it still expresses a concern which may be characteristic for a research NHRI: It is much easier to find funding for international than for national projects; a NHRI should focus on its own country as a priority though.

The GIHR runs an international program as well but firstly it is dedicated to the foreign, development and defence policy of the German government and rarely to partners in countries abroad, and it is much smaller than the part of the Institute focusing on internal or EU affairs.

Finally both the DIHR as well as the GIHR were criticized for the lack of pluralism in their governing bodies by the SCA.[32] This is a typical risk for a research institution as well: As the top requirement for the institution is quality control, a research institution needs a very strong academic leader. The composition of the governing bodies does not play as big a role as it does

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[29] Sveaass et al. (2010): Review of the NCHR, p. 27.
[30] All quotes from Sveaass et al. (2010): Review of the NCHR, p. 9.
[31] SCA (2007), p. 3
[32] SCA (2007), p. 3 for the DIHR, and SCA (2008): International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights, Report and Recommendations of the Sub-Committee on Accreditation, Geneva 3 to 6 November 2008, p. 6 for the GIHR.

in a commission where the profile of commissioners are crucial for the issue he or she is mandated to handle for the commission.

Advantages: The advantages of the research institution are obvious and manifold: Profound human rights knowledge is applied to many subjects in a thorough manner, and top quality analyses are much harder to reject than proposals that are merely opinionated but not based on a detailed legal and political analysis. Thus NHRIs with a focus on research are potentially very strong. The lack of empiric knowledge through case studies regretted by so many proponents of the individual complaint function for a NHRI is – in the view of the author – strongly counterbalanced by the depth and the continuity of political and legal research, as the examples in 3.1.2 show.

Research institutions tend to have, as shown above, profound knowledge of the regional and international human rights protection system and, with an integrative civil society policy, are able to transfer this knowledge into their home countries: this leads to a systematic civil society implication into treaty body and UPR processes.

Research institutions contribute in an unusual profound way to communication and discussion on human rights in the country: one of their approved tools are round tables and expert meetings uniting government and parliament representatives, academics, and civil society to examine different topics from a human rights perspective.

Many of the weaknesses discovered by the SCA and the Norwegian review can find redress with simple measures: A pluralist composition within the governing bodies can be reached by inclusion of other voices and groups into these bodies, the national work of an institution can be strengthened, research can take into account civil society perspectives and budgets can be increased.

3.2 National Human Rights Institutions working in structural connection with a Ministry

Many NHRIs are linked to a certain state institution: e.g. a ministry, a parliamentary committee, the prime minister's office. The Paris Principles require independence of all kinds of state institutions. But even if independence is ensured, the institutional link makes a difference. Relations may be closer, funding may be distributed this way, a certain administrative interplay may take place. This chapter takes a closer look at those NHRIs that are in one way or the other affiliated to a ministry, especially the most common modality of affiliation to the ministry of justice. Examples are the Kenya National Commission on Human Rights, the South Korean National Human Rights Commission or the German Institute or Human Rights – some of quite a few examples, in fact, as all over the world NHRIs can be found closely connected to ministry.

3.2.1 Modalities of cooperation: Country examples

Several NHRIs are coined by a close relation to a ministry. This can be institutions of all kinds: the commission type, the institute type, the ombudsman. The author is not aware of a NHRI of the committee type related to a ministry though, but there are very few institutions of this kind anyway. There are also examples of NHRIs with a 'B' accreditation among this group. So how exactly do relations between these NHRIs and the relevant ministry work? And how is this relationship evaluated by the Sub-Committee on Accreditation (SCA) of the ICC regarding its compatibility with the Paris Principles?

The **Kenya** National Commission on Human Rights, a commission with 'A' status, is described in greater detail in the study submitted by the author of the present study to the MoFA of Viet Nam in 2010: "The Kenya National Commission on Human Rights (KNCHR) is a statutory body

established under an Act of Parliament, the KNCHR Act of 2002, and not entrenched in the Constitution as yet.[33] The KNCHR succeeded the Standing Committee on Human Rights that had been established under a Presidential notice. … The Commission has functional and operational independence, and does not take instructions from anybody. The Commission is administratively placed under the Ministry of Justice and Constitutional Affairs, and the KNCHR report has to be tabled in parliament by the Ministry. But KNCHR does not report to this Ministry but to Parliament, the role of the Ministry is merely functional. However, the budgetary allocations for the KNCHR are through the Ministry of Justice. The budget has to be approved by the Minister, and while not authorized by law, the Ministry of Justice has once requested a change of the annual plan before approving the budget. The KNCHR has attempted to shift the budget approval to parliament but to no avail as yet."[34]

The main features of this relationship to a Ministry thus are that reporting to the parliament is undertaken through the Ministry and secondly that the commission receives its funds through the same Ministry. In view of the commission itself the relationship is acceptable but not the optimum. The request of change of an annual plan is in itself interference – even though the substance of the request may be harmless. This is why the commission sought change of the condition. In its review of the Kenya commission the Sub-Committee on Accreditation "highlights the need for the NCHR to have financial autonomy, including by submitting its budget directly to Parliament" to ensure a higher degree of independence for the commission – thus simply backing the wishes of the commission itself.[35] But the SCA confirmed the 'A' Status of the institution which all over seems to be in line with the Paris Principles and its link to the ministry an option for a NHRI.

Another type of link to a ministry can be found in the **South Korean** National Human Rights Commission (NHRCK) which has 'A' Status as well. This Commission was also portrayed in the 2010 study by the author.[36] It is an impressive body covering human rights and anti-discrimination policies, receiving complaints, offering opinions and undertaking research. The SCA confirmed their re-accreditation with Status 'A' in November 2008, but noted: "The NHRCK is considered a "central government institution" under the National Fiscal Act and as such does not enjoy complete functional autonomy from the Government." This is related to budgetary procedures in Korea which require the Commission, once it has prepared its annual budget, to consult with the Ministry of Finance and Planning. The Ministry has a power to draft the national budget and allocate the state budget among governmental bodies, and the Ministry submits the national budget draft including the Commission's budget to the National Assembly. The Ministry has the possibility to challenge the budget proposal by the Commission, a condition not in line with the requirement of independence for the Commission.

Thus the Commission is subject to regulations that will not be applied to other independent bodies, such as the Supreme Court and the Constitutional Court.[37] This comparison, drawn by the Commission itself, is interesting because it offers a good model of establishment of independent institutions understandable to a government – there is a general understanding of the degree of independence required for a Supreme or Constitutional Court.

The connection of the **German** Institute for Human Rights to its funding ministries is rather loose. The institute receives its core funding by three federal ministries, the Federal Ministry of Justice (40%), the Federal Foreign Office (30%) and the Federal Ministry for Economic

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[33] Kenya has been going through a constitution making process; the consolidated draft of 2010 includes a constitutionally based Human Rights and Gender Commission, see http://www.kenyansabroad.org/documents/harmonized_draft.pdf.
[34] Seidensticker / Wuerth (2010): National Human Rights Institutions – models, programs, challenges, solutions, A study for the Ministry of Foreign Affairs of the People's Republic of Viet Nam, unpublished, on file with the MoFA of Viet Nam.
[35] SCA (2008).
[36] See Seidensticker / Wuerth (2010).
[37] From the Statement of Compliance of the NHRCK for their re-application in 2008; on file with the author.

Cooperation and Development (30%).[38] A fourth ministry, the Ministry for Labour and Social Affairs, now contributes on a continuous base to the funding, but exclusively related to the function of the institute as the National Monitoring Mechanism for the International Covenant on Rights of People with Disabilities. Representatives of the funding ministries, one of each, are members of the Board of Trustees, without a voting right though.

All funds from these four federal ministries, but also the control of proper use of funds are executed through the Ministry of Justice. It takes the lead for managing all financial processes between the government and the Institute: Budgets as well as annual accounts are submitted to the Ministry of Justice; it is their role to forward both documents to the other funding ministries and to keep them informed. The control of the Ministry is strictly limited to the correct application of German laws on public finance, not on the substance of the programs. Beyond the Ministry's regular control a regular auditing of the proper use of funds is exercised by the Federal Auditor. This control, though being more thorough, is strictly limited to the use of funds according to German laws as well and does not even comment priorities or programs. The Institute has to announce new sources of funding to the Ministry of Justice, but not for approval but for the agreement on the appropriate way of bookkeeping. During negotiations around the structural integration of the Ministry for Labour and Social Affairs into the funding, budgeting and accounting systems of the Institute the Ministry of Justice proved to be extremely helpful and did everything to ensure smooth proceedings.

The only restriction from the level of Federal Administration the German Institute for Human Rights ever experienced is the fact that within their own budget the Executive Board is not free to create staff positions for unlimited time. Today, within the Institute 16 staff positions are not subjected to time limits; all further positions have to be time-limited according to the rules of the law on time limited jobs.[39] This is a restriction which has advantages and disadvantages but, in connection with the conditions linked to the establishment of time-limited positions according to the law, has been perceived as a difficulty by the Executive Boards of the Institute. But the condition is not a special one for the Institute; it affects most recipients of government funds and thus is, by the Institute's leaders, rather seen as a regrettable error in German labour law than as a restriction particularly aiming at restricting the Institute's freedom and independence.

The relations regarding the substance of human rights protection and promotion between the Institute and the Ministry are of informal nature, and they result in occasional even though rare project ideas of common interest, for example an expert conference on challenges for the European Court of Human Rights held in 2007, discussions on new European human rights institutions such as the Fundamental Rights Agency in Vienna or on treaty body reporting especially concerning the UN Committee Against Torture or the UN Covenant on Civil and Political Rights.

The relationship between the Ministry and the Institute are based on non-interference in any substantial matter by the Ministry, a condition respected by all representatives of the Ministry including the Ministers of Justice - two different persons from two different political parties since the inception of the Institute. The links of the German Institute for Human Rights to the Ministry of Justice have not been object of any comment by the SCA, which is another indicator for a relation between an NHRI and a federal Ministry in line with the Paris Principles. As mentioned above, in addition, the Institute is funded by other ministries, but as the coordination is exclusively in the hand of the Ministry of Justice, the other relations are discussed under 3.2.2, cooperation and networking.

There are, in addition to 'A' accredited institutions, also several institutions with 'B' status that

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[38] Statutes of the German Institute for Human Rights as amended in February 2009. All further information in the section on the German Institute for Human Rights is based on the experience of the author who was, as the deputy director from the inception of the institute in 2001 until the end of 2010, herself in charge of the financial management of the institute.
[39] BMJ (2000): Teilzeit-und Befristungsgesetz (TzBfG) / Law on Part-Time and Limited-Term Employment.

are linked to a ministry: E.g. the Belgium Centre for Equal Opportunities and Opposition to Racism, the Netherlands Equal Treatment Commission or the Sri Lanka Human Rights Commission. But as these cannot serve as inspiring examples for a NHRI, functions and structures of these NHRIs are not further detailed here.

3.2.2 Composition and structural requirements: Leadership, membership and staff

Regarding the composition of the NHRI, those built in close connection to a ministry need to fulfil the requirement of pluralism like any other NHRI: According to the SCA, pluralism could be guaranteed through the appointment procedures, through the membership, the networking or the staff.[40]

There are two structural requirements that should be taken into account when building an NHRI close to a Ministry:

(1) The Paris Principles stipulate one condition for representatives of a Ministry as members of an NHRI: The second part of the Principles on "composition and guarantees of independence and pluralism" suggests that government representatives may take part in the work of an NHRI but only in advisory capacity.[41] Most NHRIs respect this condition and if not, they will be firmly required to do so by the ICC and its Sub-Committee on Accreditation.

(2) The other relevant condition is not spelt out in the Paris Principles but in the General Observations of the ICC:[42] Para 2.4 of the Observations requires an NHRI not to fill any senior level posts with secondees; the number of seconded staff not to exceed 25% and never to be more than 50% of the total workforce of the NHRI. This may be a relevant stipulation in some cases where a government sees an opportunity to use the NHRI to position staff members of their own ministries. In some cases, this may be a good idea if there is dedicated staff in a ministry. Ideally though, all NHRI staff is appointed by the leadership of the NHRI itself as stipulated in General Observation 2.7 and should undergo a rigorous assessment to make sure that the NHRI only employs highly qualified and motivated staff.

All further structural requirements for an NHRI built in close connection to a Ministry are the same as for any other NHRI and will be explained in detail in chapter 4.

3.2.3 Cooperation and networking

If a NHRI is closely linked to a ministry, this may have some implications for their networking and cooperation with human rights structures within the own country. In any case, there is an obligation to any accredited NHRI to seek cooperation with partners in the country: The General Observation of the SCA suggests cooperation with "statutory institutions established also for the promotion and protection of human rights, …, as well as other organizations, such as NGOs, working in the field of human rights".[43]

The implications of the connection to the ministry concerned may affect the NHRI on two levels: the administrative level and the level of substance. As the examples explained in chapter 3.2.1 show, there are quite a few NHRIs with an administrative link to a ministry. Some of them are at least affected in their financial independence as a consequence of this link. The implications of these have been presented in chapter 3.2.1 and will be further studied with regard to funding under 3.2.3.

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[40] ICC Sub-Committee on Accreditation (2009): General Observations, adopted by the International Coordinating Committee of National Human Rights Institutions for the Promotion and Protection of Human Rights (ICC) by email after the SCA meeting of March 2009, paragraph 2.1.
[41] The Paris Principles, Adopted by General Assembly resolution 48/134 of 20 December 1993, para. Composition and guarantees of independence and pluralism, 1e.
[42] ICC Sub-Committee on Accreditation (2009): General Observations.
[43] ICC Sub-Committee on Accreditation (2009): General Observations, paragraph 1.5.

Regarding the substance of the relation though, the Ministry of Justice, to start with this, also underlines the nature of the institution as one of rights protection. Some countries offer the same degree of immunity to commissioners of NHRIs as to Judges of Supreme Courts of comparable positions – an interesting measure underlining the respect for the NHRI and the necessity to keep commissioners out of legal hassles as a consequence of their work. As mentioned above, some institutions use the comparison with a Constitutional Court to explain the degree of independence required for a NHRI.

The South Korea example shows that in some countries NHRIs are linked to other ministries; in their case it is the Ministry of Finance and Planning – a relationship clearly established for administrative purposes, not for the substantial closeness between the ministry concerned and the work of the institution.

The German example shows a third modality: Even though the Institute is closely linked to the Ministry of Justice, there are three other ministries involved; the Federal Foreign Office, the Federal Ministry for Economic Cooperation and Development and the Ministry for Labour and Social Affairs. This construction was exclusively based on considerations of substance. All of the ministries involved run important programs on human rights: the Federal Foreign Office has a department for human rights, the Federal Ministry for Economic Cooperation and Development runs an important program on human rights and the Ministry for Labour and Social Affairs is involved in anti-discrimination activities in Germany. The funding and the participation of the Ministries in the Board of Trustees further contribute to ongoing cooperation. Both the Federal Ministry for Economic Cooperation and Development and the Federal Foreign Office fund programs of the Institute (in addition to the core funding) for several years now – on human rights and development, or support for UN special mechanisms for human rights or economic rights, to name a few. As mentioned above, the funding of the Ministry for Labour and Social Affairs is not core funding but exclusively supports the monitoring of the ICRPD in Germany. In conclusion, the idea behind the establishment of an NHRI in close connection to a ministry serves two purposes: One is administrative oversight of the institution, the other is the confirmation, but also the declaration of intent of good and close cooperation on human rights matters as matters of common interest.

Other players in the country will often be aware of the connection. Nevertheless, given the independence as key requirement of NHRIs, a good relationship to a ministry will always support the independent judgement and position of the NHRI, not undermine it. So, NHRIs with a connection to a ministry will establish relations with many other actors in the country, especially Members of Parliament, other relevant ministries, NGOs, political parties, the judiciary, professional associations and others; and it will do so unhampered. For the NHRI, it is certainly worth verifying regularly whether their connection to a ministry adds to its reputation or does harm to it.

Regarding international cooperation the structural position of the NHRI does not play an important role – in any case the NHRI should cooperate with UN human rights mechanisms such as treaty bodies, special mechanisms of the Human Rights Council, the Human Rights Council itself and the International Coordinating Committee of the NHRIs worldwide. Nevertheless, the connection to a ministry may occasionally play a role in this field as well as if the ministry itself is for example responsible for state reporting to an international body – a Ministry of Justice may be responsible for reporting to the Human Rights Committee, a Ministry for Foreign Affairs for reporting to the Human Rights Council within the UPR-mechanism.

Cooperation between the ministry concerned and the NHRI regarding these procedures may be influenced by their ongoing cooperation, hopefully in contributing to smooth and professional proceedings. All NHRIs have to handle their own role in international reporting professionally – which may imply supporting the government for their fulfilment of international obligations, but

always taking a visibly different role in the process. This is the case as much for an NHRI closely connected to a ministry as any other NHRI.

3.2.4 Funding

The last paragraph of the ICC's General Observations 2.6 on adequate funding of an NHRI reads: "Financial systems should be such that the NHRI has complete financial autonomy. This should be a separate budget line over which it has absolute management and control." As the examples in 3.2.1 show, there are NHRIs which do not see this requirement completely fulfilled with their system of funding through a ministry. Among these institutions, the greatest level of financial independence is probably enjoyed by the German Institute of Human Rights; and even this NHRI does not enjoy complete autonomy regarding staffing as explained in 3.2.1. While it is obvious that the total amount of the annual core budget has to be negotiated at least at the outset of the institution and then on a regular basis in order to discuss budget increases, there are minimum requirements for any NHRI budget: It should be adequate to ensure all infrastructural requirements, remunerations for members or commissioners where appropriate, salaries comparable to public salaries and conditions and of course enough budget allocations for programs and projects.[44] One of the most important conditions is really the respect of complete freedom for the NHRI to decide on their own priorities and strategies.

3.2.5 Challenges and advantages of affiliation to a ministry

As the chapters 3.2.1 to 3.2.4 show, there are some challenges and several advantages of the affiliation of a NHRI to a ministry:

Challenges: The biggest challenge clearly is the establishment of regulations between the ministry concerned and the NHRI that secure the independence of the NHRI. As the Australian example shows, some countries, while trying to guarantee procedures of high standard and the appointment of qualified personalities of high integrity as leaders or commissioners of the NHRI, leave too much space for interference to the ministry, thus undermining its independence. There is a simple rule of thumb to avoid this: Make sure many forces of society are integrated into the process of establishment of a NHRI, and once the leaders or commissioners have to be appointment, compose a recruitment committee of great diversity.[45] A body for the appointment of a chief commissioner or director of an NHRI, for example, could be composed of human rights experts from the judiciary and the academia, NGOs, members of parliament and representatives of several ministries – there the ministry could play its role, offer its expertise and judgement while respecting other societal forces in the procedure. If the ministry concerned is represented among the members or in the Board of Trustees, they should not get a voting right according to the Paris Principles as explained in 3.2.1. All in all, the ministry can and should play a role also in the governance of the NHRI, but clearly it should be a role of service, not of power.

The second challenge is the financial control. As the examples show, several NHRIs that are closely connected to a ministry face some difficulties regarding their financial independence. These difficulties seem to be often of a result of a conceptual misunderstanding: While funded by the government, the NHRI is not a state institution in a sense that it is under the line management of a state institution. It is independent. This is where the comparison to the Supreme Court may be of help in countries with a strong and independent judiciary. While the budget frame of course must be part of budget negotiations within a country the easiest way to handle the budget was proposed in General Observation 2.6: "Financial systems should be

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[44] ICC Sub-Committee on Accreditation (2009): General Observations, paragraph 2.6.
[45] The Asia Pacific Forum of NHRIs (2007): Guidelines for the process of establishing National Institutions in accordance with the Paris Principles, October 2007. These guidelines propose a highly integrative procedure which may not convince everybody, but can serve as an inspiration for other processes.

such that the NHRI has complete financial autonomy. This should be a separate budget line over which it has absolute management and control." And in addition, the General Observation 2.6 says: "Adequate funding should, to a reasonable degree, ensure the gradual and progressive realization of the improvement of the organization's operations and the fulfillment of their mandate." This is clear enough, and it makes sense.

Advantages: While there are the two challenges of independence regarding program, recruitment, procedures on the one hand and budget on the other hand, the link to a ministry may have very positive aspects as well.

The specific advantage of an affiliation of an NHRI with the Ministry of Justice depends very much of the image of the judiciary in a country: Potentially the close relation may underline the strength and the independence of the NHRI and its seriousness, but in particular its search for justice and defence for human rights of the individual.

Another advantage may be areas of common interest of the NHRI. In the case of Germany, as explained above, the Ministry of Justice and the Institute organized expert discussion on the reform of the European Court of Human Rights or joined debates in the National Parliament on the Fundamental Rights Agency of the European Union. Both institutions were eager to discuss treaty body reports with other partners in Germany. The Federal Foreign Office regularly debates topics around the Human Rights Council with the Institute and funds the support for several special mechanisms provided by the Institute. These areas of common interest potentially build an excellent foundation for real cooperation between a ministry and an NHRI to promote and protect human rights.

A good relation between the NHRI and a ministry may have a third advantage most helpful in times of crises: If the foundation is there, a ministry may prove very helpful in conflicts or crises of the institution – which may happen any time in the most democratic states. Only a change of government may bring about tough situations for an NHRI which may have to defend its priorities which were unquestioned in former years. There a ministry could become a close ally, ready to defend an institution which has been a solid partner ever since.

In summary, the establishment of a NHRI in connection to a ministry is an option for the establishment of a NHRI and, established thoughtfully and with respect for the requirement of independence, may lead to a NHRI fully in line with the Paris Principles.

3.3   Inter-ministerial Committees for human rights

This chapter examines inter-ministerial coordination in the field of human rights, looking especially at reporting requirements to UN-bodies as an international task and at the establishment of human rights strategies for the own country as a national task. An inter-ministerial committee, by nature, is a governmental structure and thus cannot be compared with a NHRI. It cannot reach any accreditations status. Inter-ministerial committees, IMCs, can offer useful contributions to human rights protection and promotion in a country. But they are of completely different nature than an NHRI and can only be understood as a complementary structure, not a replacement of an NHRI.

3.3.1 Potential tasks of inter-ministerial committees in the field of human rights

The protection and promotion of human rights is a cross-sectional task for all governments. It can never be covered by one or two ministries, as there are human rights aspects in so many parts of governance: In legal and social affairs, in economic regulations, in defence policy, in foreign affairs, in policing, in health services, to name a few areas concerned. Governments

have to coordinate efforts of many ministries to reach a certain level of coherence in their human rights policy. One aspect of many is the reporting obligation of governments to the monitoring bodies of the UN human rights treaties. Most countries ratified quite a few of these treaties; the People's Republic of Viet Nam ratified five UN core human rights treaties and some of their optional protocols. In para 13 the UN-guidelines on state reporting[46] on the implementation of human rights covenants talk about the value of inter-ministerial drafting committees and/or focal points on reporting. This may be of great help for systematic and coordinated data collection to prepare reporting; in addition the inter-ministerial committee would be an adequate structure to go through the process of self-monitoring suggested in para 9 of the guidelines:

- a comprehensive review of the measures to harmonize national law and policy with the provisions of international human rights treaties to which it is a party;
- monitoring of progress made in promoting the enjoyment of the rights set forth in the treaties
- identification of problems and shortcomings regarding the implementation of the treaties; and
- planning appropriate policies to achieve a better implementation.

The potential of inter-ministerial cooperation for treaty body reporting and follow-up of their recommendations has been examined carefully in a study for the Viet Nam Ministry of Foreign Affairs (and UNDP).[47] This report lists explicitly or implicitly quite a few tasks that could be undertaken by such a committee or an inter-ministerial agency:
In the preparation of the report, the inter-ministerial committee (or agency, which might be a team coordinated by a committee) would:

- define and synchronize the process of drafting and presenting reports
- make clear assignments to coordinating and supporting agencies entrusted with the preparation and presentation of reports
- organize training courses to fully inform of the objectives and significance of the preparation and presentation of national periodic reports on the implementation of international human rights treaties
- strengthen the capacity of data collection to enable a sound database for the national periodic reports
- improve the coordinating mechanism among ministries
- improve reporting skills.

When it comes to implementation, the committee or agency would ensure:

- translation and dissemination of treaty body recommendations,
- assignment of relevant ministries/agencies with specific tasks regarding implementation
- regular communication with these agencies
- regular monitoring of the implementing progress
- establishment of an intranet site on treaty reporting.

This interdisciplinary agency/mechanism proposed by the study should be composed not only by relevant government agencies, but also include representatives of judicial and legislative, social and professional organizations.

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[46] See UN Doc HRI/MC/2006/3 of 10 May 2006, Harmonized guidelines on reporting under the international human rights treaties, including guidelines on a common core document and treaty-specific documents.
[47] Dinh Thi Minh Huyen, Bui Quang Minh, Hoang Bich Lien, Pham Hai Anh (2011): Assessment of existing capacities and bottlenecks for timely and quality reporting and follow up of recommendations of treaty bodies, unpublished, on file with the author.

Other appropriate tasks may be the development of a National Action Plan as recommended by the Vienna World Conference on Human Rights in 1993. A National Action Plan is a comprehensive plan aiming at huge steps in several areas to improve the promotion and protection of human rights in the country. The advantage of a comprehensive plan covering many areas is the coherence that can be reached by simultaneous measures and the synergies between different ministries bringing about big changes at reasonable costs. Such a plan requires an important preparation process, integrating experts from the academia and civil society, and could result in a mid-term program not only for the government but also for a NHRI and other agencies.

Another potential task for an IMC is the drafting and submission of a regular report on human rights to the National Assembly. This kind of reporting system was established in Germany more than a decade ago and proves to be very successful.[48] The report serves as a reference for members of parliament, ministries and civil society alike and allows informed decision making on further priorities and strategies in the field of human rights.

The Human Rights Network of the government of Paraguay[49] could serve as an example here. This network, created in 2009 by presidential decree, has the following tasks:

- Elaboration of a National Action Plan for Human Rights,
- Elaboration of an Annual Report on Human Rights,
- Promotion of a culture of respect and a practice of o f human rights,
- Monitoring of the implementation of international human rights treaties,
- Cooperation for reporting duties to international and regional human rights mechanisms,
- Continuous observation of human rights in Paraguay,
- Development of proposals to bring national law in line with international obligations,
- Proposals of human rights actions on different government levels.

Most of these tasks could not be delegated to an NHRI: State reporting to treaty bodies, the development of a National Action Plan or the submission on a regular report on the human rights policy of the country will always represent typical tasks of a government.

3.3.2 Composition, structural requirements: Leadership, membership and staff

The leadership of an IMC for human rights will obviously be with the leading ministry. Its composition will comprise one or two representatives each of all ministries concerned with human rights – the ministry of justice (which may have the lead), the foreign ministry (which may have the lead as well because of the international obligations of the state), and then all other ministries, according to structure and priorities of the country: the ministry for the interior, the ministry of labour, the ministry of health, the ministry of defence are obvious candidates. In Viet Nam inter-ministerial committees are established for the preparation of state reports to treaty bodies, and these include representatives of agencies and relevant political or social organisations.[50]

The human rights network within the government of Paraguay comprises many different ministries and is run by a government institution explicitly established for the structure, the Vice Ministry of Justice and Human Rights under the Ministry of Justice and Labour. In a consultation

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[48] The Foreign Ministry regularly publishes this report on their human rights policy. It is of considerable length (280 pages) and a rich source of information for those who want to understand the approach of the government in greater detail. It is even discussed in the Bundestag Committee on Human Rights and Humanitarian Aid. The most recent one (9th report) can be found at: http://www.auswaertiges-amt.de/DE/Aussenpolitik/Menschenrechte/9.MR.Bericht_node.html.
[49] Plan de Accion 2010-2011, de la Red de derechos humanos del poder ejecutivo, Gobierno de la Republica del Paraguay, 2da edicion, Feb. 2011
[50] Dinh Thi Minh Huyen et al. (2011): Assessment of existing capacities and bottlenecks, p. 8.

process, a work plan was developed to determine future activities of the network. This work program includes further processes of institutional development of the network, including the establishment of internal regulations, of a structure and of working groups.

There are two ways an inter-ministerial committee can be provided with staff support: one is to use staff of the ministries concerned, most probably of the leading ministry, the other modality is to create an additional staff pool especially for servicing the committee. Both solutions may have advantages – staff who is already employed within a ministry may have more experience with internal procedures, staff that is hired explicitly for the committee may be selected for specific knowledge on the human rights priorities of the committee.

3.3.3 Cooperation and networking

Cooperation and networking structures of an inter-ministerial committee are entirely different from those of a NHRI and largely depend on the purpose of the committee. The primordial interest of an inter-ministerial committee is coherent decision-making and smooth procedures between different ministries; agreements with third partner are the exception, not the rule. The "Common rules and procedures of the German Federal Ministries",[51] a set of rules and procedures on cooperation between the ministries, asks one ministry to take the lead for any inter-ministerial cooperation and urges the other participating ministries to give priority to drafts and initiatives submitted by the leading ministries to ensure smooth and speedy procedures. Germany never had an inter-ministerial committee for human rights but established an inter-ministerial cooperation on the implementation of UN Security Council Resolution 1325 in 2009 which may serve as an example here. It is steered by the Federal Foreign Office, but the Ministry of Justice, the Ministry of Economic Cooperation and Development, the Ministry for Family, Seniors, Women and Youth as well as the Ministry of Defence take part in the meetings which at average take place twice per year. The cooperation goes beyond the meetings – the committee runs a website accessible to all participating ministries, held workshops and commanded studies. For the workshops external experts were invited; the study was drafted by external experts as well. The invitation of experts is the exception here, though, and not the rule.

An inter-ministerial committee is free to undertake networking within the country – it may consult experts, it may undertake hearings, it may distribute information and it may go to the press. But most probably such kind of networking will undertaken on occasions, not systematically. Regarding international networking, a human rights committee might take the responsibility of reporting to the UN human rights treaty bodies and to the Human Rights Council within the Universal Periodic Review. But there will be no link to the bodies of the International Coordinating Committee of NHRIs worldwide as these only cooperate among the group of NHRIs or with inter-governmental bodies such as the United Nations, ASEAN or the Council of Europe but not with IMCs.

3.3.4 Funding

All funding for an inter-ministerial committee will come from the government and be part of the government budget. Most probably the majority of funding comes from the ministry that has the lead.

3.3.5 Challenges and advantages of inter-ministerial committees

Challenges: The most obvious challenge for an IMC is the fact that it does not have the same importance than an independent NHRI. It will not be integrated into the international network of

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[51] Gemeinsame Geschäftsordnung der Bundesministerien, Bundesministerium des Inneren, 1.6.2009.

NHRIs, will be smaller than NHRI, cannot play a similar role and is not independent from the government. The Paraguay example is instructive: this IMC was established in addition to the countries´ fully accredited NHRI, the defensor del pueblo. The quality control of an IMC cannot reach the same standard as a research institution. But even if this is clear, the IMC may face other challenges that have been listed with an amazing clarity within the Action Plan of the government of Paraguay:[52] bureaucratic obstacles, lack of understanding of the objectives of the IMC by participating ministries, lack of willingness to delegate competencies, work overload or even machismo arguing against gender equality. There may always be ministries who do not want to cooperate – but this may be worse without the committee than with the committee which may allow leaders with strong communication skills to motivate ministries with lower interest in human rights. Funding may be scarce because the government does not really give the subject a high priority. This will lead to little staff capacity to serve the committee and to implement its decisions. Some ministries may systematically delegate staff members of low rank, thus undermining the importance of the committee. Many of these challenges may be mitigated by initiating systematic training on human rights throughout all ministries.

Advantages: All these challenges are counterbalanced by the enormous advantages of inter-ministerial committees on human rights. IMCs may be the best starting point to really implement human rights policy throughout a government, taking on board ministries which are committed but also steadily convincing those which are reserved. For many of the subjects listed under 3.3.1 the establishment of an inter-ministerial committee is the only chance to get a comprehensive project going: be it treaty body reporting, be it a National Action Plan or a coordinated implementation of recommendations of a treaty body. A coordinated data base as discussed in the Viet Nam study[53] can only be reached by systematic and continuous cooperation between ministries, and an ongoing inter-ministerial committee is the best way to ensure this cooperation. If an IMC is established in addition to a NHRI both could build a very close and fruitful relation, always acknowledging the differences in their repective role.

4. Successfully building an NHRI: A step-by-step-guide

There is no research detailing and analyzing the challenges in the preparation and set-up of an NHRI. The study draws on a range of sources of information for this chapter: The author looks back on nine years of conversations with heads of NHRIs and two years membership in the Sub-Committee on Accreditation, of many international debates on the subject of NHRIs; she undertook an exchange with several experts for this study,[54] and, being an expert on non-profit-management in public and private institutions, and having built a NHRI herself, she will apply her own knowledge and experience to the subject. In addition, she consulted literature about management and NHRIs such as the in-depth survey on NHRIs[55] or on the paper "Guidelines for the process of establishing National Institutions in accordance with the Paris Principles"[56] by the Asia Pacific Forum. As ideas for this chapter come from so many different sources and mix with the author´s own experience, it will not be possible to systematically refer to their sources for the schedule presented here.

The chapter offers a map to build a NHRI with a strong research focus, and for one closely connected to a ministry. The steps are proposed in a certain order but some of them could be inversed: The process is partly flexible. Nevertheless, none of the steps lined out here can be skipped entirely.

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[52] See footnote 49.
[53] Dinh Thi Minh Huyen et al. (2011): Assessment of existing capacities and bottlenecks, e.g. p. 18. Data collection is mentioned frequently in the report as a high priority.
[54] The author talked on an informal level with Greg Heesom from the Asia Pacific Forum of NHRIs, Sulini Sarugaser from the Canadian Human Rights Commission, and Prof. Dr. Heiner Bielefeldt - all three of them involved for several years with the SCA - as well as with Dr. Anna Würth, head of development in the GIHR, and several members of the European Group of NHRIs last year on the subject of building an NHRI and reaching the A-Status of accreditation.
[55] OHCHR (2009): Survey on National Human Rights Institutions.
[56] The Asia Pacific Forum of NHRIs (2007): Guidelines for the process of establishing National Institutions in accordance with the Paris Principles, October 2007.

The APF guidelines set out a very large and highly integrative process to build a NHRI. The entire proposal of the APF is very comprehensive and interesting. This study often draws on these guidelines; nevertheless it contains a model of building an NHRI of its own, being one especially designed for a NHRI with a focus on research. Most of the steps are similarly applicable for an NHRI linked to a ministry. Both aspects are continuously refered to.

Nevertheless a word of caution, as much as this study tries to offer a rather practical guide: The establishment of an NHRI is a process and it will take a while. It is important to undertake all steps outlined in chapter 4 properly. This kind of history can be found in many countries on their way to the foundation of an NHRI up to accreditation by the ICC.

The table in Annex 2 shows a draft schedule designing the speediest procedures; potentially possible if discussions among key stakeholders such as the ministries for foreign affairs and for justice and with the National Assembly have been more or less finalized and the commitment to establish an NHRI is there. It should be clear though that processes like this cannot be scheduled on a drawing-board. Many of the steps could be done in parallel, some steps will not be undertaken before the NHRI is established, and some may take much longer than envisaged. So the table should be understood as an indicator. Processes around the establishment take their time if many stakeholders should be brought on board; nevertheless, a process that is too slow may loose momentum. Also, if a legal basis is to be adopted this process may take additional time; the author not being familiar with procedures in the National Assembly of Viet Nam left this aside, especially as the legal basis can still be adopted when the NHRI is already operational. Much of the quality of the negotiations depends on the composition of the steering committee with energetic, knowledgeable and well-respected personalities and, later on, on a dynamic presidency of the Board of Trustees. Some members of the steering committee might become elected to the Board of Trustees.

The process of building an inter-ministerial committee for human rights is not the same as the process to build an NHRI; a short chapter called 4b will draw an outline of the related proceedings. The first part now on building a NHRI will be divided into thirteen steps:

Step1: Establishing a small committee leading the way
The entire process of building an NHRI has to be steered by a small committee. The initiative for its establishment can come from a ministry or from a group of members of parliament. The composition of this committee is crucial for an excellent result that hopefully starts with an inclusive and transparent process. The following criteria should be applied for the composition of this group:

- Acceptance by government, parliament, and civil society
- Knowledge on national and international human rights concerns and policy
- Skills on process management

This step has to be separated from the consultation of stakeholders, chapter 4.4. Before stakeholders are consulted, it needs a small group of persons capable and willing to steer the process with highest integrity. For an NHRI with a focus on research an eminent academic human rights expert familiar with the UN human rights system as well as with the legal system of Viet Nam should be part of the committee; if a link to a ministry is envisaged this ministry has to be represented on the committee. The process will most probably find much larger acceptance in civil society if an NGO expert for human rights of high standing is part of the steering committee. As an NHRI should be based in the constitution or in law, the representation of the National Assembly would be helpful, too.

The task of the steering committee is the steering of the entire process lined out below; at least until the Board of Trustees takes over. Its first task so is to draft a time schedule for all steps, put them into the desired order and to agree on its implementation within a time period of one or

two years. As circumstances may change, flexibility should be built into the process. The steering committee would certainly gain in credibility if it immediately started a website on the process; an enormously helpful tool for consultations and discussions. If the NHRI is intended to be linked to a ministry, the website could be a page on the website of the ministry.

Step 2: Securing Funding

Funding needs basically to be ensured before even the consultations processes on mandate and functions start, as these processes and the steering committee have to be funded as well. The steering committe, if the process is intended to be a very speedy one, has a full time job for half a year or a year. And not only its remuneration, potentially combined with travelling, has to be covered but also consultations for which travel expenses for participants from remote parts of the countries may incur.

Core funding of an NHRI has to come from the government. If the NHRI is built in connection with a ministry, a substantial part of the core budget will come from that ministry, but, as the German example shows, other ministries can contribute to the core funding as well. Budget restraints or interference into the use of the budget can seriously impede the work of an NHRI; on the other hand a reasonable core funding and the establishment of clear rules regarding financial accountability stabilize the institution.

Core funding has to be sufficient to undertake research at a high level, to publish findings regularly, to hold conferences with participants from all parts of the country, and to allow the institution international networking. As mentioned in chapter 3.1.1, the author considers filling at least seven researcher positions as an absolute minimum – in addition to support staff for press work, library services, finance, administration and in addition to the (Board of) Director(s). These need a sufficient budget for their activities: Results of their work may be conferences and publications, they will need to travel though the country for research and for networking purposes and some of them will need to travel abroad. The General Observations summarize funding requirements as follows:

> „**2.6 Adequate Funding:** Provision of adequate funding by the state should, as a minimum include:
> a) the allocation of funds for adequate accommodation, at least its head office;
> b) salaries and benefits awarded to its staff comparable to public service salaries and conditions;
> c) remuneration of Commissioners (where appropriate); and
> d) the establishment of communications systems including telephone and internet.
>
> Adequate funding should, to a reasonable degree, ensure the gradual and progressive realization of the improvement of the organization's operations and the fulfillment of their mandate.
>
> Funding from external sources, such as from development partners, should not compose the core funding of the NHRI as it is the responsibility of the state to ensure the NHRI's minimum activity budget in order to allow it to operate towards fulfilling its mandate."
>
> Financial systems should be such that the NHRI has complete financial autonomy. This should be a separate budget line over which it has absolute management and control.

This summary of requirements by the SCA is very good; in our case it has to be slightly amended though: For a research institution funding for publishing and discussing results of their research is essential, thus, a research NHRI definitely needs a good amount of core funding for publications and conferences.

At a later stage additional funds could be sought for specific projects. As the three European examples show: All three institutions were able to attract considerable further contributions for additional projects. This was certainly a fruit of the quality of their previous activities.

Step 3: Examining the landscape of human rights challenges

The first decision to be undertaken by the steering committee is to decide whether the analysis of the main human rights challenges in the country should be undertaken before the establishment of the institution or whether this should be its main priority.

In the case of other institutions opinions on this process were split. Switzerland may serve as an example here. In 2009 the Swiss government asked for university applications to build the Swiss centre of competence. They received four applications,[57] two of which were submitted by groups of universities, partly including civil society institutions as well. Three out of four applications proposed to begin with a period of analysis of the human rights challenges of the country, some of them even wanted to undertake this analysis for several years. The fourth application referred to findings and recommendations of UN treaty bodies, of UN special mechsnisms for human rights and of the UPR and suggested to start working immediately on these findings, notwithstanding further analysis in the course of the work. The applicant was of the opinion that the recommendations of international bodies were already the result of a substantial consultation process within the country, who base their analysis on government and civil society reports alike. This was the application chosen. The priorities identified in this process resulted in five out of six priority areas of the centre, migration, police and justice, gender questions, children and youth and institutional questions. The sixth priority of the centre is business and human rights, a strategic priority of the Swiss government.

The German Institute for Human Rights took another path: It considered the analysis and the decision on the first priorities as the first task of a young institution. The institute undertook several state-of-the-art studies in its first years on subjects such as human rights education or racism, and then based further activities on the findings. These studies took into account findings by human rights treaty bodies and UN special mechanisms as well (the UPR did not yet exist then). In any case, founders have to be aware that this step can be undertaken in different forms and at different times.

One aspect of this analysis of the degree of realization of human rights in the country is the examination of protection gaps. Sceptics often respond to promoters of NHRIs that the judicial system in the country is completely sufficient to solve all problems, that monitoring of detention institutions is already undertaken, that economic or social rights are a priority of the government. A serious examination will bring evidence of the degree of realization of the rights to a fair trial, will show whether treatment of detainees meets human rights standards and whether people´s right to health or housing are respected.

Another important survey that should be undertaken is one on human rights education in the country. A study may identify the degree of human rights awareness in government, the legislative assembly, authorities or professional sectors, schools and universities and recommend programs for basic or further human rights education.

Step 4: Consulting stakeholders

The involvement of key stakeholders is crucial for the legitimacy the institution will gain. These stakeholders could represent many different groups and functions in society: the judiciary, ministries, NGOs, parliament, professional associations, trade unions. Their involvement will also lead to a natural ownership of the respective institution: Chances are high that the NHRI may become "their" institution. This has many advantages, in particular a willingness to respect

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[57] The author of the present study happened to be part of the selection committee.

views of the NHRI, to defend the institution in cases of conflict or to forgive beginner's mistakes. The steering committee would help the future NHRI enormously by taking this step very serious and to build a pool of experts who offer their service and advice for this institution building period.

Consultations should and could be held at different stages: The most obvious first round of consultations would be the one on the institute's mandate; for further details on this consultation see chapter step 5. But they could take place at an even earlier stage to discuss human rights protection gaps, or on needs for human rights education and promotion – among the police? The judiciary? In penitentiaries? In schools or at universities?

Other aspects of the NHRI to be discussed could be the envisaged structural embedding, potential research priorities, at a later stage it could be the first mid- or long term plan or recommendations and strategies on specific human rights priorities.

Apart from consultations in form of meetings and conferences, consultations via e-mail on or a website forum would help to make the entire process of establishment of the NHRI more accessible and increase ownership by experts and the general public. This kind of website needs professional administration not only of technical but of substantial nature as well. Some of the proposals and ideas may need commenting or clarification by the steering committee.

Step 5: Defining mandate and functions of the institute

The Paris Principles recommend a broad mandate for any NHRI including civil and political, economic, social and cultural rights. Functions for research institutes normally do not imply strong powers but a minimum of guarantees of access to information, the freedom to publish studies and opinions and to organize public and press conferences. These should be detailed in the legal base for the institute; a requirement by its own according to the Paris Principles. The following list of criteria is valid for research institutions and those NHRIs affiliated to a ministry alike; there are no differences.

The table on page 4 on the key elements of the Paris Principles could be the subject of a consultation initiated by the steering committee on the mandate and potentially on the powers of the institution. The steering committee could prepare a draft mandate for consultation, covering at least the following elements:

The NHRI is
- vested with the competence to promote and protect human rights,
- given a mandate to cover civil, political, economic, social and cultural rights
- which shall be clearly set forth in a constitutional or legislative text, ensuring
- real independence from interference by government, parliament, political parties or civil society,
- specifying its composition and its sphere of competence.

Regarding the structure and infrastructure the draft should propose
- a pluralist composition;[58]
- an infrastructure covering at least seven full time academic advisors in addition to the director and support staff including library services, a press office and a professional administration.[59]

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[58] Relating to the Board of Trustees in case of an institute, relating to the commissioners if a commission is envisaged. Experience shows that pluralist composition of staff seems to be more difficult to reach.
[59] The number of seven staff members with academic qualifications is an estimate of the author based on her own experience and the example of the Norwegian Centre.

And the NHRI should be allowed
- to submit to the Government, Parliament or other body opinions, recommendations, proposals and reports on any matters concerning the promotion and protection of human rights; be it on human rights violations on (amendments to) legislation and be free to publish these.

Independence could be ensured by such cornerstones as
- a fair, transparent and public recruitment procedure for the head of the institution,
- a pluralist composition of the Board of Trustees,
- participation of government representatives in the Board of Trustees only in an advisory function.

A consultation on the mandate should help to bring on board different perspectives from ministries concerned, the National Assembly, academia, the judiciary, civil society and other stakeholders. Subject of the discussion should be the way how these requirements are appropriately realized; it will be a challenge for the steering committee to make clear that certain standards are required by the Paris Principles and thus should not be questioned. It should be easily acceptable to stakeholders that a modern human rights institute has to work on the full range of human rights - civil, political, economic, social and cultural rights. Another topic of debate may be the so called promotion and protections functions. A research institution will fulfill mainly the promotion function in relation to these rights; striving at specifying and applying human rights approaches to different sectors of public concern. While the Paris Principles present the complaint function as a mere option, the SCA and the ICC tend to give a lot of importance to the so-called protection component, complementing the promotion component. Promoters of the NHRI could consider adding additional functions at a later stage, be it the endowment of the NHRI with functions such as an amicus curiae role or the power to undertake targeted investigations, the mandate of the National Preventive Mechanisms according to the Optional Protocol of the UN-Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment or the National Monitoring Mechanism according to art. 33 (2) or the International Convention on the Rights of Persons with Disabilities. All these functions are compatible with a research focus of the NHRI.

A topic that should definitely be discussed is the role human rights education should play for the institute. Most NHRIs offer human rights education for many different target groups; many in addition try to inspire curricula for schools, law schools, police training institutions etc. Human rights education is especially well situated in a research institution.
Results of the meeting should be published on the website of the steering committee or on the website of an institution that is concerned with the establishment process, e.g. the ministry that will serve as a link to the NHRI.

If the NHRI is intended to match the standards of the Paris Principles, the agreed mandate covering at least the cornerstones mentioned should be set forth in a legislative text by the National Assembly – or even enshrined in the constitution. This process is entirely different in every country, and it is possible that this in itself is a process of years. No general guidance can be given on this procedure – it just has to be kept in mind. Not all NHRIs are based on a law from their outset, as the examples of Germany and Norway show (Parliamentary decision in Germany, Royal Decree in Norway. Both institutions are striving for the adoption of a law on their role as NHRI at present). If the steering committee envisages a full accreditation ('A' status) from the outset, the process of adopting the law should be built into the process as the SCA and the ICC are getting more demanding as for requirements to obtain 'A' status.

Step 6: Drafting a structural model
According to PP, the National Institution shall have an "infrastructure which is suited for the smooth conduct of its activities, in particular adequate funding". The institution should have its own staff and premises, to safeguard independence.

Before any recruitment even of the leaders of the institute takes place a minimum of structural elements should be clarified by the steering committee: Which is the institution the institute is linked to, if any? Will it be a ministry? Which one? Will it be a structure within the National Assembly? How could the relationship between both bodies be shaped? Is the arrangement compatible with the requirement of independence?

And then the internal structure of the institution needs to be clarified to a certain extent so that a search committee knows broadly what kind of institution a future Board of Directors will have to lead. It may be helpful to at least have roughly clarified the following elements of the future structure:

Governance: An academic institute usually reports to a Board of Trustees. Such a body should be composed e.g. of representatives of relevant academic disciplines, of civil society, the media, of the judiciary, international organisations such as UN or regional bodies, and any other group that is of special relevance for the intended profile of the institution. If the institution is connected to a ministry or to the National Assembly, their representatives would serve in an advisory capacity according to the Paris Principles. Many institutions in addition establish an Advisory Board to ensure input from a larger group of stakeholders.

Should the steering committee envisage a commission instead of an institute, this step is replaced by designing a commission structure, with a plenary meeting and sub-commissions, and broadly allocating competences and tasks to these bodies.

Leadership: An academic expert with a deputy? An academic expert who is free to recruit his/her own management? Are there personalities in the country with experience in the UN human rights system? While all recruitment has to be done though public advertisements, the steering committee should already brainstorm on potential candidates who could be encouraged to submit an application.

Team: How many staff positions will the institute create? Will it be free to create positions within a certain budget frame? What relation should there be between academic staff and support staff? Should the institute offer library services to the staff and to the interested public? While the Board of Directors should shape details of these structures some clarification at this stage will ensure a recruitment process for the leader(s) matching the needs of the future institution. It is, for example, crucial to understand the difference between the strategic leadership required for this institute and a merely academic institution: An eminent expert on human rights coming from research and teaching may feel highly uncomfortable with the countless communicative and strategic demands of the day to day business of the institute.

The steering committee will seek consultations on this draft structure as well – if these discussions are not entirely delegated to the Board of Trustees or a similar body, described in step 6.

Step 7: Establishing a Board of Trustees/of the commission
There are basically two kinds of procedure for the selection and appointment of members of the Board of Trustees: nomination and delegation. Nomination should be possible for many societal groups; a transparent and well-advertised process will strengthen pluralism of the NHRI. The pool of stakeholders built through the consultation(s) by the steering committee may help to identify and encourage good candidates. Pluralism has the advantage of not having to find all qualities in one person; different expertise and different views will lead to balanced and informed decisions. In other cases delegation will be the appropriate procedure: Often ministries, parliamentary committees, networks or big institutions such as trade unions are assigned the right to delegate a board member. If the NHRI is built in close connection to a ministry, a representative of the ministry will sit in the Board of Trustees in advisory function.

The number of members should be limited to allow fruitful debates and smooth procedures; gender balance should be ensured. The General Observations of the SCA emphasize five factors for a fair selection and appointment procedure:

a) A transparent process

b) Broad consultation throughout the selection and appointment process

c) Advertising vacancies broadly

d) Maximizing the number of potential candidates from a wide range of societal groups

e) Selecting members to serve in their own individual capacity rather than on behalf of the organization they represent.[60]

The process of establishment of a Board of Trustees will lead to a founding assembly of this new body, maybe with a smaller group of members than envisaged in the mid term perspective. This founding assembly has two important tasks: It will not only have to adopt a statute or any other by – laws of the NHRI, but also elect a president and maybe one or two vice presidents of the Board. With this election the work of the steering committee comes to an end and has to be handed over to the presidency of the Board. It is possible, of course, that members of the steering committee run as candidates for the Board of Trustees, and they may be elected to the presidency as well. But other solutions are as likely, so this should not be seen as a rule.

If the NHRI to be founded is not an institute but a commission, this step will be the recruitment of the members of the commission. Even greater attention should be paid then to the tranparency of the procedures and the qualification of the candidates as the influence of commissioners is higher than the influence of a Board of Trustees who meets only twice a year.

Step 8: Recruiting the Board of Directors

The image of an NHRI is coined by its leadership. Once key stakeholders managed to get an NHRI established, expectations are high. The recruitment procedure must meet highest standards. Transparency and accountability in the recruitment process is one aspect, a broad range of qualifications expected from the leaders comes into play as well: Whoever runs the institution has to be an exceptional communicator, given that he or she runs the NHRI, its bodies, and its office, and represents the NHRI in parliament, ministries and civil society, and in the ICC, regional and UN fora.

Depending on the size of the institute, the leadership could be built with two persons or just one. The challenge is the requirement of two sets of skills: Strategic leadership for the human rights work is the one, professional and effective management is the other aspect. The strategic leadership includes the ability to steer all research (and to proof-read all publications), to advise on appropriate formats for conferences, publications and other forms of communication and to chair many of these occasions, to take the lead in difficult negotiations, to represent the NHRI in international fora including the UN and the ICC and to motivate external partners such as ministries, the police or lawyers´ associations (to name a few) to apply a human rights approach to their work. Professional and effective management relates to human and financial ressources, to the planning procedure, to the link between organisation and the strategic goals of the NHRI, to excellent service to the Board of Trustees or other bodies of the NHRI, or to negotiations on new projects or sources of funding. The combination of these talents and skills in one person is rare. This is why many research institutes decide to work with a double directorate. A fair option in the view of the author is the recruitment of the director in the first place so that he or she is in a position to chose or to have a say regarding his or her deputy. As strategic and managerial tasks cannot be separated at all, a leadership team should entertain excellent relations among each other.

The recruitment procedure will be in the hand of the Board of Trustees or its presidency. It should start with public advertisements, be followed by a fair selection procedure, a serious and

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[60] ICC Sub-Committee on Accreditation (2009): General Observations, 2.2.

well thought-out assessment with tests and a personal interview. The use of tests for high ranking jobs like this may feel uncomfortable for the Board of Trustees but is highly recommendable. A well-designed test prevents surprises during the probationary period and will offer the selection panel solid insights into the strategic skills, the knowledge and the communication ability of the candidates.

Step 9: Drafting a strategic plan

Once the Board of Directors is recruited, they have to develop a strategic plan and to submit this plan for adoption to the Board of Trustees.

Strategic planning will be undertaken at many levels and at different intervals in any NHRI. Here only some of these levels can be touched upon:

Many NHRI even develop a mission statement after a few years to be able to summarize their functions and to offer a short self-portrait of the institution in a few sentences. At a rather early stage of an NHRI the Board of Trustees also may want to work on a vision for 5 or 10-years horizon.

But to start its activities a strategic plan is definitely required. A strategic plan will comprise long term goals, mid term goals and short-term, operational goals, covering selected topics of research, maybe projects related to reforms in legislation and plans for targeted human rights education. Once the goals are clarified, the plan will design strategies and define instruments to reach this goals, potentially define allies and critics of the goals and ways how to use or to handle these. Target groups will be many different institutions at different levels: ministries, political parties, NGOs, members of the National Assembly, public institutions, the police, the judiciary, to name a few. Tools of an NHRI may be publications, conferences, seminars, public or media interventions, confidential talks with influential persons, building relations, or a website...

The procedure to develop a plan will become more sophisticated the older the NHRI grows. At an early stage the Board of Directors or the Board of Trustees may decide to run a limited consultation or even to just consult among the institute´s bodies, discussing needs and priorities for the promotion and protection of human rights, studying findings and recommendations by international human rights bodies, recent political developments, possibilities of the the institution to make a difference, and they will check resources available: staff, skills, and training needs. A draft, developed by the Board of Directors, will have to be adopted by the Board of Trustees.

Step10: Recruiting staff

Staffing of an NHRI requires qualifications which need to be built within a country. The qualification of human rights expertise on academic level, combined with in-depth knowledge of the political, social and legal system in any country is rare and may, ultimately, only be built by the NHRI. In addition, an NHRI wants its own staff to behave and present themselves in a firm but diplomatic, qualified but humble and knowledgeable but comprehensible manner. Only a highly qualified assessment will lead to the recruitment of such staff, only qualified leaders will be able to build and retain such a team. One of the challenges is, once again, the difference between purely academic research and a NHRI: The latter should develop its own institutional views and have a strong voice on human rights in the public debate. This is not compatible with the request for a university entity to respect the academic freedom of its employees. Staff will need to understand this.

Recruitment will have to be undertaken with greatest attention to find the best candidates available. Public advertisements, a fair selection procedure, a serious and well thought-out assessment with tests and an interview are the minimum conditions for a good choice. As it is next to impossible that the person brings already experience from a NHRI, training on

professional skills – be it human rights expertise or communication skills – should become an integral part of staff development. An able leader of an NHRI will undertake many efforts to build a committed and enthusiastic team – by a motivating, challenging and fair leadership style. The institute has to convince the public of its standing also by showing respect for the rights of their employees.

NHRIs built in connection with a ministry may be offered seconded staff from the ministry. Seconding is often undertaken with less demanding selection procedures. There is a real risk though that the NHRI has to integrate less qualified staff of the ministries. It is highly recommended to insist on a similarly demanding selection procedure for seconded staff, if the NHRI is urged to take these at all. The most desirable solution is full staffing autonomy for the institution.

Step 11: Refining the structure: Organisation and processes

This is the first big challenge for the managing director: Structures and processes that ensure smooth and efficient workflow, take on board different views, lead to well-researched recommendations and will result in effective measures to improve human rights protection in the country.

One of the findings of the Survey on NHRIs undertaken by the OHCHR was the weakness of many NHRIs with regard to organisational structure and effectiveness, with less than 60% of institutions in Asia Pacific and Africa ranking their own institution as effective, and 30% of all institutions ranking their own effectiveness even as moderate or lower. This is a notorious gap in human rights institutions of all kinds. The German Institute for Human Rights was built with a team of leaders with high expertise *and* professional management skills. The Board of Trustees still attributes the institute's early success to this combination. All principles for professional institution building apply to an NHRI as well, and many weaknesses in their bodies, structures and performances could be avoided and prevented if this aspect was taken seriously. This step-by-step guide cannot serve as a textbook on organisational development. Leaders should simply keep in mind that in the first two years the NHRI should develop its own internal organisation handbook, clarifying the hierarchic structure with competences and reporting lines, the role of all organs, departments and bodies of the NHRI, their interplay, procedures, rules for recruitment, performance evaluation, further education of staff, budgetary and accounting procedures, just to mention some important aspects.

All NHRIs have a difficult position to defend: As they offer a critical view on their own country, their findings or recommendations may often be contested. Internal procedures should contribute every day to a motivating working climate that allow all employees to handle external challenges with utmost professionalism.

Step 12: Establishing an international network

Leaders of a human rights research institute should be aware of the huge regional and international network around them that will be happy and most interested to support and cooperate: On governmental level, there are e.g. the ASEAN Intergovernmental Commission on Human Rights, and the United Nations. National Institutions form an international association mentioned above, the ICC, and there is an active and supportive structure of NHRIs in the Asia Pacific region, the Asia Pacific Forum. This international networking has to be mentioned as it is an additional task to the networking at the national level which all NHRIs will undertake to strengthen their relations to different sectors of society.

The purposes of this networking are manifold: Policy debates on human rights at the international and regional level, agreements on common human rights standards as is undertaken at present by the ASEAN Intergovernmental Commission on Human Rights, interaction on human rights mechanisms of the UN Human Rights Council, or the treaty body reporting cycle. The interaction of NHRIs within the ICC always focuses on material human

rights topics of interest for all institutions, and then includes debates on all aspects of NHRI accreditation.

Research institutions have the chance to undertake networking among academic circles, in addition. This is very enriching. Universities may have difficulties, on occasions, to understand the purpose of an NHRI, but this debate has to take place, as exchange between a research based NHRI and universities is fundamental and fruitful for both sides: Universities may benefit by views of an institution closer to the ground, and the NHRI may draw on university research in many respects. Many NHRIs entertain close relations to university teachers, for example by inviting them as participants of public panel debates.

Step13: Walking the path towards accreditation with the ICC

Any institution that has some or many characteristics of a NHRI is free to submit an application for accreditation to the ICC who will forward it to the SCA. The Office of the High Commissioner for Human Rights in Geneva and the Asia Pacific Forum based in Sydney is happy to support institutions on their way to accreditation. The procedure of application itself is relatively simple but takes time: The accreditation process starts with the submission of an application to the OHCHR. The application documents are then submitted for examination to the SCA.

Applications are to include a copy of the institution's founding document, a description of its organisational structure, including information on staff and annual budget, a report on the institution's recent activities and a detailed self-assessment with regard to the Paris Principles. The Sub-committee examines whether the institutional set-up and relevant activities are consistent with the Paris Principles. It then submits its report with recommendations to the ICC Bureau, which takes the final decision on accreditation.[61]

New NHRIs have the option to choose two paths to full accreditation with 'A' status: Some of them go for immediate recognition as an 'A' institution, others choose to start with 'B' level to slowly but steadily move towards 'A' status.

It makes sense to intensely work with regional or international support structures to examine whether an application has a chance to pass already and in the negative case to consider further improvements to reach 'A' Status immediately. Only the 'A' Status confirms that the institution is in line with the Paris Principles. Some 'B' institutions are considered very independent by the SCA – the reason for their B-status is their mandate that only focuses on one form of discrimination, for example. But often 'B' status indicates a severe deficiency regarding their independence, and this will always have implications for the quality of work the institution offers. Often governments are inclined to listen to advice from international organisations regarding the 'A' status as this status does not only certifies the NHRI but also the government that ultimately is responsible to grant the NHRI all freedom and security to serve as an effective NHRI, contributing daily to stronger guarantees of human rights within their country.

4.b Building an inter-ministerial committee on human rights

Step b.1 Establishing a steering committee

For an inter-ministerial committee (for this chapter now IMC) this step simply implies gathering a small group of representatives of at least some of the ministries concerned to undertake the first steps to establish such an IMC. The leading ministry will take the lead within the steering committee as well. The inclusion of the ministries of justice and of foreign affairs is highly recommended.
The task of the steering committee is the steering of the entire process lined out below.

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[61] The description of the process is based on Aichele, Valentin (2010): National Human Rights Institutions, An Introduction, German Institute for Human Rights, Berlin, page 13.

Step b.2 Examining the landscape of human rights challenges

The first decision to be undertaken by the steering committee is to decide whether the analysis of the main human rights challenges in the country should be undertaken before the establishment of the IMC or whether this should be its main first priority. It is more appropriate for an IMC though to integrate all ministries who will take part in the committee into this analysis. So the steering committee´s task is limited to deciding which ministries should be encouraged to take part in the deliberations and undertakings of the IMC, which is in itself an indicator of the issues to be tackled.

Only when the IMC is fully established, an analysis of the human rights challenges in the country will then need to take place. Reports to treaty bodies and for the UPR as well as the recommendations by these bodies may serve as the most important source of information and will certainly offer enough material for the beginning. In the current of its work, the IMC will and should most probably commission experts to undertake further studies and build up reliable data bases on human rights enjoyment in the country – relating to civil, political, economic, social and cultural rights.

Step b.3 Consulting stakeholders

While IMCs for human rights will not seek the same degree of legitimacy as a NHRI, the consultation of key stakeholders from the judiciary, ministries not integrated in the IMC, civil society, universities, parliament etc will broaden their understanding of urgent human rights challenges in the country. This will, for an IMC, often take the form of hearings as continuous membership of academia, members of parliament or NGO representatives is rather unusual for an IMC. Stakeholders´ consultation is useful for all stages of the reporting cycle to treaty bodies, important for any kind of human rights report to the parliament and it is essential for setting up a National Action Plan for Human Rights.

Step b.4 Defining mandate and functions of the IMC

The establishment of the IMC will most probably be a simple administrative act, defining leadership, mandate, competences, duration and functioning of the IMC. The mandate may cover any of the tasks listed in chapter 3.3.1. The most obvious tasks of the IMC with regard to treaty body reporting are

- definition of a process of drafting and presenting reports,
- distribution of tasks to ministries and supporting agencies,
- organization of training courses on reporting on and implementing international human rights treaties,
- organising relevant data collection.

When it comes to implementation, the IMC would ensure short-term practical measures, e.g.

- translation and dissemination of treaty body recommendations,
- assignment of relevant ministries with specific tasks regarding implementation,
- monitoring implementation,
- establishment of an intranet site on treaty reporting.

and with a longer term perspective of implementation the IMC should also undertake

- a comprehensive review of the measures to harmonize national law and policy with the provisions of international human rights treaties to which it is a party;
- monitoring of progress made in promoting the enjoyment of the rights set forth in the treaties including identification of problems and shortcomings regarding the implementation of the treaties; and
- planning appropriate policies to achieve a better implementation.

Other potential tasks of the IMC could be

- the development of a National Action Plan on Human Rights,
- the submission of a regular report on human rights to the National Assembly,
- the examination of priority human rights concerns in the country and the development of recommendations for appropriate solutions,
- and negotiations on the implementation of human rights among ministries.

Step b.5 Drafting a structural model
The structure of an IMC is obvious and easy: the leading ministry will offer the chair and all other ministries included will be members of the same rank. The chair will do everything to create a climate of mutual respect and equality under the members. What is really important is that all ministries concerned send a high ranking representative; and that this representative takes part with great continuity. It may be even worth considering to take an ad personam approach for the designation of membership to make it more difficult to send a replacement. A ministry that does not show up should lose in importance. Non-participation for a longer time, especially in combination with massive interference when cooperation is required, is poisonous and should be prevented by clear regulations.

Should the IMC have service or research staff at their disposal, clear line management structures should be in place. Preferably, staff should have a reporting obligation to the leading ministry only.

Step b.6 Recruiting staff
There are no recruitment requirements for an IMC – it is basically composed of the participating ministries. Should the leading ministry have the option to hire staff, a fair and open procedure, even if only civil servants can apply, will always lead to better results than a simple seconding process. Human rights expertise will be important, advanced communication skills will be required as well to enable smooth and professional interaction between the ministries.

Step b.7 Drafting a strategic plan
An IMC would improve decision-making between the ministries by an integrative planning process resulting in a clear outline of priorities and timing of projects.

Step b.8 Securing Funding
All funding for the IMC will come from the government; some negotiations may take place between ministries on whether the leading ministry bears all costs. As they may highly benefit from the work of the IMC, e. g. regarding treaty body reporting and the related collection of data, or by getting advice on how to apply a human rights approach to their respective sectors of governance, financial contributions of participating ministries may be appropriate.

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Annex 2: Timeline for the establishment of a NHRI

Step	Timeframe	Responsibility	Schedule
1: Establishing a small committee leading the way	Two months	Initiators of the NHRI	Month 1 and 2
2: Secure funding	Funding for the establishment as well as future NHRI has to be guaranteed from month 1 on. Raising additional funds will remain ongoing task.	Steering Committee (SC) in the beginning Board of Directors or managing director, after establishment	Month 1 and all following months
3: Defining mandate and functions of the institute	Draft: One month Consultation (one day) and integration of results of consultation: 2 weeks	SC facilitating the consultation	Month 3 and 4
4: Examining the landscape of human rights challenges	If commissioned from consultants/experts by SC: 2 months minimum If undertaken after establish-ment of NHRI: many options	SC (optional)	Month 3 and 4
5: Consulting stakeholders	For Mandate: see step 3 For landscape of challenges: 6 weeks with preparation	SC: For mandate indispensable SC: For landscape of challenges optional	Month 3 and 4
6: Drafting a structural model	2 weeks, has to follow decisions on the mandate	SC, at least on the structure between Board of Trustees, other bodies and Board of Directors	Month 5
7: Establishing the Board of Trustees	Longer process, starting immediately after establishment of SC Has to conclude with a founding assembly	SC and other interested stakeholders advertising vacancies broadly. After founding assembly: SC´s responsibility is handed over to presidency of BoT	Month 3, 4, 5, 6
8: Recruitment of the Board of Directors	Recruitment procedure: From public advertisement to signature of contract 3 months. Should be started after founding assembly of the Board of Trustees.	Presidency of the Board of Trustees	Month 7-9
9: Drafting a strategic plan	3 months after (Board of) Director(s) take up their function.	(Board of) Director (s), submitted to and adopted by Board of Trustees	Month 10, 11 and 12
10: Refining the structure: Organi-sation and processes	Ongoing process during the first years of the NHRI	Board of Directors or managing director	Month 10 until Month 22
11: Recruiting staff	Ongoing process during the first years of the NHRI, will arise continuously with staff turnover and new tasks	Board of Directors or managing director	Month 10 until Month 22
12: Establishing an international network	Ongoing process	Board of Directors, Board of Trustees on occasions, potentially other staff members	Any time from month 10 on

Step	Timeframe	Responsibility	Schedule
13: Walking the path towards accreditation with the ICC	Ongoing process	Board of Directors or managing director, Board of Trustees on occasions, potentially other staff members	Any time from month 10 on

Annex 3: Timeline for the establishment of an Inter-Ministerial Committee for Human Rights

Step	Timeframe	Responsibility	Schedule
1: Establishing a steering committee	One month	Initiating/leading ministry	Month 1
2: Examining the landscape of human rights challenges	If commissioned from consultants/experts by SC: 2 months minimum for a broad overview	Steering Committee (SC)	Month 2 and 3
3: Consulting stakeholders	Can take place in form of hearings any time, not linked to establishment process	SC	Not applicable
4: Defining mandate and functions of the IMC	Needs proposal by leading ministry and consultations: 2 months	SC	Month 1 and 2
5: Drafting a structural model	Needs proposal by leading ministry and consultations together with mandate, may be refined in the current of the work	SC	Month 1 and 2
6: Recruiting staff	2 months if a proper procedure is applied	SC	Month 3
7: Drafting a strategic plan	Needs proposal by leading ministry and consultations	SC for preparation, then entire IMC	Month 3, 4
8: Secure Funding	Should be clear from the beginning.	Leading ministry	Month 1