

# MYANMAR'S NATIONAL HUMAN RIGHTS COMMISSION: AN INSTITUTION AT A CROSSROADS

## EXECUTIVE SUMMARY

Myanmar's National Commission for Human Rights (MNHRC) was established in 2011 and was an important step forward for democracy in the country. The MNHRC has a broad mandate to promote and protect human rights, to review legislation and compliance with Myanmar's international human rights commitments, and to recommend that Myanmar accede to additional international treaties. Albeit with some restrictions, the MNHRC can also investigate human rights violations and recommend further action by the competent authorities.

The MNHRC is based in Yangon and about 60 staff work in its five departments. The commission has a public complaints mechanism and contributes to increased awareness about human rights in Myanmar, for example by translating the Universal Declaration of Human Rights into Myanmar and some ethnic languages, as well as by providing training to civil servants and police officials. In September 2016, the MNHRC became the subject of public controversy after the commission allegedly failed to properly investigate and resolve a case of child abuse. The lower house of parliament (Pyithu Hluttaw) passed a motion to reconstitute the MNHRC. Four of the eleven members of the MNHRC resigned on their own volition. In addition, the MNHRC's Strategic Plan expired in 2016. It is thus a moment for the MNHRC to review its performance.

There is limited information available to the public about the MNHRC, and the commission could lead an inclusive debate on its operations and efforts. For example, the MNHRC could engage in a consultative strategic planning exercise and involve key stakeholders in the development of its organisational objectives. Involving civil society, experts and

other stakeholders in the MNHRC's development could create broader awareness about the roles and functioning of the commission in addition to improving public confidence.

In submissions to the International Coordinating Committee on the Accreditation of National Human Rights Institutions (NHRIs) – a global body that reviews the work of NHRIs – Myanmar's civil society and experts have pointed out key flaws in the legal framework that established the body, such as a lack of independence. The MNHRC and parliament should consider the reports of civil society and support an inclusive discussion on amendments to the law as a matter of priority.

## 1. INTRODUCTION

In September 2011, Myanmar's National Human Rights Commission (MNHRC) was established by presidential decree and it was the first state institution with a mandate dedicated exclusively to human rights.<sup>1</sup> In 2014, Myanmar's parliament (*Pyidaungsu Hluttaw*) also passed the Myanmar Human Rights Commission Law.<sup>2</sup> The functions of the commission include raising public awareness about human rights and engaging with national stakeholders (including parliament, civil society and technical experts) to ensure the promotion and protection of human rights. The MNHRC is a Union-level body and its Chairman has the rank of a Union Minister.

Since the MNHRC's establishment, civil society organisations (CSOs) and human rights experts have noted the commission's lack of independence, highlighting the role the government plays in the appointment of the MNHRC's leadership and in the approval of its budget. Despite these shortcomings, an analysis of the MNHRC law reveals that the institution has a broad mandate to promote and protect human rights and contribute positively to democratic reforms in Myanmar.

## 2. INTERNATIONAL STANDARDS FOR NATIONAL HUMAN RIGHTS INSTITUTIONS: THE PARIS PRINCIPLES

The 1993 Principles ('Paris Principles') relating to the Status of National Human Rights Institutions (NHRI), adopted by the UN General Assembly<sup>3</sup> in 1993, set out standards on the nature and operation of NHRIs, detailing their responsibilities to protect and promote human rights. The principles were developed by NHRIs and aim to give overall guidance – they do not prescribe a particular framework or institutional setup.<sup>4</sup> The Paris Principles contain six main criteria against which NHRIs are assessed:

- Mandate and competence: a broad mandate, based on universal human rights norms and standards;
- Autonomy from the government;
- Independence guaranteed by statute or the constitution;
- Pluralism;
- Adequate resources;
- Adequate powers of investigation.

These principles are monitored and updated by the Global Alliance of National Human Rights Institutions (GANHRI) (formerly called "International Coordinating Committee for National Human Rights Institutions")<sup>5</sup>, which is a global association of NHRIs. The GANHRI Sub-Committee on Accreditation (SCA) reviews and provides accreditation to NHRIs based on an assessment of the legal framework for the NHRI and its performance. There are three levels of accreditation: NHRIs may be awarded "A" status (fully compliant with the Paris Principles); "B" status (not in full compliance, or insufficient information to make a determination); or C status ("C status - does not comply). The SCA reviewed the MNHRC in November 2015<sup>6</sup> and awarded the commission B status, identifying areas where the MNHRC is not in full compliance with the Paris Principles. Only NHRIs with "A" status are entitled voting rights and can participate in the work of the NHRIs, as well as participate at the Human Rights Council.

The MNHRC also applied for membership in the Asia Pacific Forum (APF) of NHRIs.<sup>7</sup> The APF awarded the MNHRC the status of associate member<sup>8</sup> in 2012, which makes the MNHRC eligible for legal advice and technical support from the APF. At that time, the APF expressed several concerns regarding the legal status of the commission, the selection and dismissal procedures for commissioners, the high number of seconded staff and the lack of financial independence.

Other relevant guidelines that can help to assess the work of NHRIs are the Office of the United Nations High Commissioner for Human Rights' *Assessing the Effectiveness of National Human Rights Institutions*<sup>9</sup> and Amnesty International's *Recommendations for Effective Protection and Promotion of Human Rights*.<sup>10</sup>

<sup>5</sup> ICC Sub-Committee on Accreditation (SCA), <<http://nhri.ohchr.org/EN/AboutUs/ICCAccreditation/Pages/default.aspx>> (26 January 2017)

<sup>6</sup> International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights, "Report and Recommendations of the Sessions of the Sub-Committee on Accreditation (SCA)," Geneva, 16-20 November 2013.

<sup>7</sup> The Asia Pacific Forum is one of the four regional networks for NHRIs. It was established in 1996 and includes 22 members today. The APF supports the establishment and strengthening of NHRIs in the regions. See more at <<http://www.asiapacificforum.net>>

<sup>8</sup> Asia Pacific Forum of National Human Rights Institutions, "APF 17: Application for APF membership from Myanmar National Human Rights Commission," 17<sup>th</sup> APF Annual Meeting, Amman, Jordan, 2012.

<sup>9</sup> Office of the United Nations High Commissioner for Human Rights and the International Council on Human Rights Policy, *Assessing the Effectiveness of National Human Rights Institutions*, (Switzerland: International Council on Human Rights Policy, 2005)

<sup>10</sup> Amnesty International, "National Human Rights Institutions: Amnesty International's recommendations for effective protection and promotion of human rights," 1 October 2010, <<http://www.nhri.net/pdf/IOR4000701.pdf>>

<sup>1</sup> Republic of the Union of Myanmar, *Presidential Ordinance No. 34/2011*, 5 September 2011.

<sup>2</sup> Republic of the Union of Myanmar, *The Pyidaungsu Hluttaw Law No. 21/2014: The Myanmar National Human Rights Commission Law*, 28 March 2014.

<sup>3</sup> United Nations General Assembly, "National institutions for the promotion and protection of human rights," 20 December 1993, A/RES/48/134 <<http://www.un.org/documents/ga/res/48/a48r134.htm>>

<sup>4</sup> In 1991, the first International Workshop on National Institutions for the Promotion and Protection of Human Rights took place in Paris. A key outcome was the Principles relating to the status of national institutions (the Paris Principles).

### 3. MANDATE AND LEGAL POWERS OF PROMOTION AND PROTECTION

The MNHRC is mandated to promote and protect the human rights enshrined in Myanmar’s Constitution.<sup>11</sup> In addition, the commission is empowered to monitor the government’s compliance with international human rights obligations and to cooperate with regional and international mechanisms, such as the United Nations (UN) treaty bodies and the Universal Periodic Review (UPR).

#### 3.1. PROMOTION OF HUMAN RIGHTS: AWARENESS RAISING

The promotion of human rights includes human rights literacy, raising awareness about human rights protection mechanisms and publishing research on human rights law. Awareness-raising activities can include the integration of a human rights curriculum into the education system and the preparation of training manuals for state institutions, such as the police. The MNHRC previously collaborated with the Public Service Commission by gradually incorporating human rights awareness into the training of public servants; in this programme, the MNHRC trained over 1,000 students on the Universal Declaration of Human Rights (UDHR).<sup>12</sup> The MNHRC has also organised training workshops for police officials.

NHRIs can use a variety of methodologies to raise awareness about fundamental rights, ranging from trainings and publications to community events. For example, the Human Rights Commission of Sri Lanka (HRCSL) led a massive public campaign that brought together political parties, media, civil society and other actors to campaign against torture.<sup>13</sup>

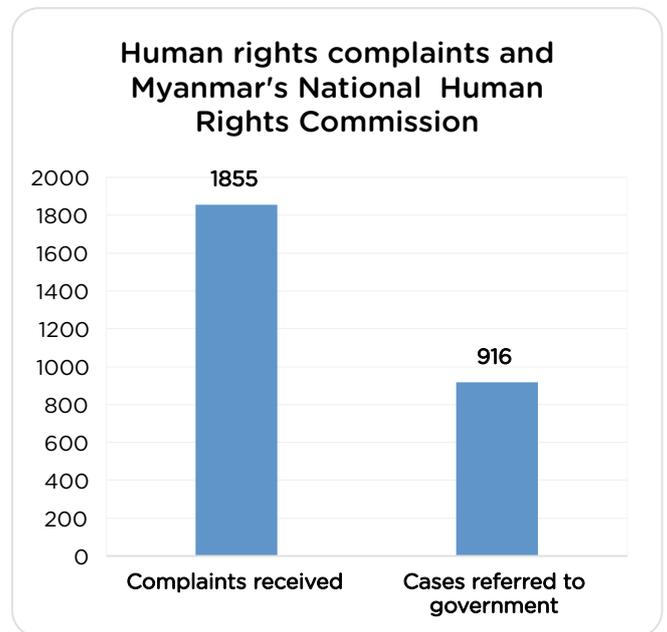
Myanmar’s civil society organisations play a leading role in civic education across the country and the MNHRC could use the expertise and networks of these groups to ensure maximum outreach and impact in its activities. The Office of the United Nations High Commissioner for Human Rights (OHCHR) recommends that NHRIs work with human rights CSOs, community-based bodies, peasants’ unions and other groups that are able to reach different targets within the population.<sup>14</sup>

Awareness-raising can also include a review of the legal framework against relevant treaty obligations. The MNHRC could also conduct thematic research activities on its own or in partnership with CSOs or other experts. For example, as a

way to increase awareness about the International Covenant for Civil and Political Rights (ICCPR), Bangladesh’s National Human Rights Commission published a study on state compliance with ICCPR, with recommendations on how to improve the implementation of the treaty.<sup>15</sup>

#### 3.2. PROMOTION OF HUMAN RIGHTS: LEGAL POWERS

The MNHRC has the power to investigate human rights violations, which includes the power to summon witnesses, visit detention centres (with prior notification) and to recommend further action to the relevant state bodies or authorities. To this end, the MNHRC may invoke the relevant provisions of the Code of Civil Procedure, Code of Criminal Procedure and the Evidence Act. According to the MNHRC’s latest Annual Report (2014), the MNHRC visited 10 detention centres in 2014, received 1855 complaints and investigated only 225 of those complaints.<sup>16</sup>



There are, however, some limitations on the MNHRC’s complaint handling powers:

- The MNHRC can only initiate inquiries in cases of “systematic” or “entrenched” violations of human rights.<sup>17</sup> According to the Paris Principles, NHRIs should have the responsibility to hear or report on matters related to “any situation of violation of human rights which it decides to take up.”<sup>18</sup>

<sup>11</sup> Republic of the Union of Myanmar, *Presidential Ordinance No. 34/2011*, paragraph 1  
<sup>12</sup> Interview with the MNHRC in November 2016  
<sup>13</sup> Human Rights Commission of Sri Lanka. “HRCSL starts anti-torture campaign,” 5 July 2016.  
<sup>14</sup> Office of the United Nations High Commissioner for Human Rights and the International Council on Human Rights Policy, *Assessing the Effectiveness of National Human Rights Institutions*

<sup>15</sup> National Human Rights Commission Bangladesh, “The ICCPR: A study on Bangladeshi Compliance,” March 2013  
<sup>16</sup> MNCHR Annual Report 2014 (Myanmar version). While no figures are available for 2015, the MNHRC published 6 statements on visits to different detention centres and on 5 cases investigated on its website.  
<sup>17</sup> Myanmar, Law No. 21/2014, Art. 28  
<sup>18</sup> The Paris Principles, Section A, Art. 3(a)(ii)

- The MNHRC is required to notify authorities of planned visits to detention centres, which may not provide the commission with a realistic impression of the conditions of these centres. In its latest report, the SCA recommended the MNHRC to conduct “unannounced” visits to allow for greater scrutiny.<sup>19</sup>
- Individuals or groups of individuals may file complaints with the MNHRC, but the commission can decide not to inquire into a complaint if “a more appropriate remedy or a reasonable channel of complaint is available to the complainant.”<sup>20</sup>
- The MNHRC furthermore cannot initiate an investigation if a case is under trial before any court or if a Myanmar court has “finally determined on a case.”<sup>21</sup>

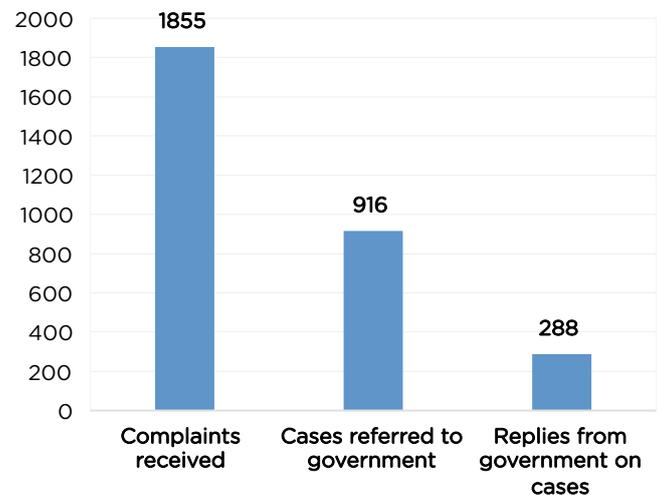
The Paris Principles do not require NHRIs to have the powers to receive and investigate complaints, but where NHRIs do have these powers, the Principles stipulate that complaints should be dealt with “fairly, transparently, efficiently, expeditiously and with consistency.” This includes transparency in complaint handling procedures, which are outlined in written guidelines and available to the public.<sup>22</sup>

The MNHRC’s Annual Report (2014) provides details on case referrals: out of 1855 complaints received, 916 cases were referred to the government.

The SCA suggests that NHRIs should have the ability to monitor the implementation of their decisions on the resolution of complaints by the government or respective bodies. The law requires the government to respond to the MNHRC within 30 days of case referral, a deadline which was only met on 12 occasions. In total, the MNHRC received 288 official replies, which is 30% of all its referrals.<sup>23</sup>

According to the MNHRC’s 2014 Annual Report, 49% of the cases were rejected on the basis of inconsistency with Art. 37 and Art. 32. No details were provided on the alternative remedy or channel of complaint identified to justify the referral.

### Human rights complaints and Myanmar’s National Human Rights Commission



### 3.3. INDEPENDENT REPORTING

The MNHRC has the mandate for “consulting, engaging and cooperating with other national, regional and international human rights mechanisms, such as the Universal Periodic Review, as appropriate.”<sup>24</sup> The National Human Rights Commission of Nepal, for example, cooperates with the international non-governmental organisation (NGO), UPR Info, to conduct mid-term assessments of the implementation of UPR recommendations and consultations with civil society and other stakeholders.<sup>25</sup> The Australian Human Rights Commission, on the other hand, conducts regular briefings for the Parliament of Australia regarding follow-up and implementation of UPR recommendations.

Some of the work allocated to the MNHRC regarding reporting is not fully in line with the Paris Principles. Article 22(b)(iii) of the enabling legislation provides that the commission must assist the government in preparing reports to treaty bodies. The ICC has commented that NHRIs should provide information on their own to human rights mechanisms and has issued a General Observation that NHRIs “should neither prepare the country report nor should they report on behalf of the government,” mainly because NHRIs “must maintain their independence and, where they have the capacity to provide information to human rights mechanisms, do so in their own right.”<sup>26</sup>

<sup>19</sup> International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights. “Report and Recommendations of the Sessions of the Sub-Committee on Accreditation (SCA),” Geneva, 16-20 November 2015, p. 13

<sup>20</sup> Myanmar, Law No. 21/2014, Art. 32(c)

<sup>21</sup> Myanmar, Law No. 21/2014, Art. 37(c)

<sup>22</sup> International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights, “General Observations,” May 2013, General Observation 2.10.

<sup>23</sup> Myanmar National Human Rights Commission, Annual Report, 2014, p. 15

<sup>24</sup> Myanmar, Law No. 21/2014, Art. 22(l).

<sup>25</sup> UPR Info, “2013: Nepal. Mid-Term Implementation Assessment,” 8 November 2013.

<sup>26</sup> International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights, “General Observations,” May 2013, General Observation 1.4.

Sri Lanka's NHRI recently submitted an independent report to the CAT body where it was commended for its reporting. Interestingly, the government had requested that the HRCSL provide the government with the number of complaints of torture they had received at their head and branch offices; the HRCSL did not comply with the government request, but instead provided this information directly to the body. At the CAT review, the figures on torture submitted by the police and the HRCSL differed significantly, showing the importance of NHRI independent reports.<sup>27</sup>

#### MNHRC STRATEGIC PLAN

The MNHRC developed a Strategic Plan for 2014-2016 that sets out objectives for the period, including:

- Providing human rights information to the public
- Obtaining accreditation with A-Status at the SCA
- Engaging and coordinate with civil society organisations in human rights monitoring
- Providing information on the commission's complaint handling procedures

To review the implementation of this Strategic Plan and to develop its next plan, the MNHRC could engage in a consultation to identify priority areas for development as well as to identify mechanisms and set concrete milestones for cooperation with civil society. Because the MNHRC has a broad mandate and its resources are limited, a consultative planning process would also help the commission identify the priorities of civil society and to hear about their experiences in working with vulnerable communities.

A participatory and transparent planning process would not only help to increase awareness about the MNHRC's work, organisational structure, and resources, but it could also restore trust in the institution and provide concrete avenues for cooperation between the MNHRC and civil society. In a recent assessment, the SCA called for a change of outlook and encouraged the MNHRC "to interpret its mandate in a broad, liberal and purposive manner."<sup>28</sup> The SCA also recommended that the MNHRC advocate for amendments to the enabling law.

## 4. ORGANISATIONAL SET-UP: LEADERSHIP, ORGANIGRAMME AND STAFF

### 4.1. LEADERSHIP: APPOINTMENT PROCEDURE AND SELECTION CRITERIA FOR COMMISSIONERS

The law that established the MNHRC requires Myanmar's President to create a selection board that is comprised of the Chief Justice, Minister of Home Affairs, Minister of Social Welfare, Attorney General, a representative of the Bar Council, two representatives from the Pyidaungsu Hluttaw, a representative of the Myanmar Women's Affairs Federation, and two representatives from registered NGOs. The selection board draws up a list of 30 nominees and proposes them to the president, who then chooses the members of the commission (the MNHRC shall have a minimum of seven and a maximum of 15 commissioners), in consultation with the speakers of the two houses of parliament. The SCA had concerns about the significant number of members of the government in the selection board and noted that there is no quorum requirement in the law.<sup>29</sup> The SCA also noted that the selection process for the commissioners was not made public nor was it participatory.

The SCA describes the requirements for the selection process of an NHRI's leadership, including:

- Vacancies that are published broadly
- The promotion of broad consultation and/or participation in the application, screening and selection process
- Assessing applicants based on pre-determined, objective, and publicly-available criteria

The current leadership of the MNHRC consists of former civil servants and there is no representative from ethnic groups or a female commissioner. The selection process should, however, aim to maximise the number of potential candidates from a wide range of societal groups and educational qualifications, as the Paris Principles require an NHRI to ensure a "pluralist representation of the forces of the social forces that engage in the promotion and protection of human rights."<sup>30</sup> The ICC's General Observation 1.7 further states that pluralism refers to the diversity in the representation of ethnic, religious and geographic groups and also extends to the representation of women at all levels of the institution. The legal framework for Pakistan's National Commission for Human Rights, for example, requires each of the members to

<sup>27</sup> Conversations with a stakeholder in Sri Lanka, November 2016.

<sup>28</sup> International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights. "Report and Recommendations of the Sessions of the Sub-Committee on Accreditation (SCA)," Geneva, 16-20 November 2015, p. 12.

<sup>29</sup> International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights. "Report and Recommendations of the Sessions of the Sub-Committee on Accreditation (SCA)," Geneva, 16-20 November 2015, p. 11.

<sup>30</sup> The Paris Principles, Section B, Art. 1.

represent a different province or territory of the country.<sup>31</sup> Amnesty International recommends a strong role for civil society in the selection and appointment process, especially “human rights defenders representing the interests of particularly vulnerable sections of society and may also include NGOs, opposition leaders, trade unionists, social workers, journalists.”<sup>32</sup>

## 4.2. ORGANISATIONAL STRUCTURE

The MNHRC currently employs 60 staff across five different departments, each department led by one commissioner:<sup>33</sup>

- Legal Department
- Promotion and Education Department
- Protection Department
- International Relations Department
- Planning and Finance Department

Legal departments are central to the success of the work of NHRIs. Legal expertise is needed to ensure that investigatory functions are conducted according to fair procedures and the law. In addition, many NHRIs give legal advice to individuals seeking guidance on their human rights. To ensure information-flow and efficient monitoring, a specialised case file management department can help.

Additionally, for the area of public outreach and communications, some NHRIs have dedicated departments to manage the dissemination of information to media and the public as well as to hold dialogue with CSOs. A regular flow of information from NHRIs is particularly important for new institutions that need to develop a public understanding of their role.

The MNHRC Act provides for the establishment of branch offices; this provides the MNHRC with the opportunity to set up regional offices to ensure effective outreach and communication with marginalised communities and minorities. While the Paris Principles do not stipulate a particular organisational structure, they require the NHRI to have its own staff and premises in order to be independent from the government. In its 2014 Annual Report, the MNHRC noted the need for additional office space, as the current office in Pyay Road 27 in Yangon is inadequate in size for the MNHRC’s staff and facilities.

## 4.3. STAFF

Currently, the MNHRC employs 60 staff. To meet the Paris Principles, the MNHRC should have a clear, transparent and

participatory recruitment process that promotes merit-based selection and ensures pluralism. Staff should be recruited based on their expertise and experience in human rights or their knowledge of other specific programme areas such as education. Ideally, vacancies should be advertised publicly, with the conditions of service announced.

The Paris Principles stipulate that the practice of secondment of staff from within the civil service should be limited to a maximum of 25% of its personnel. The MNHRC law could be amended to include this limitation and protect an element of independence. Although, positively, currently all but one of the MNHRC’s staff are externally recruited staff.

## 4.4. OUTREACH AND COMMUNICATION

Media scrutiny of the MNHRC has continued to place additional pressure on the institution. This also presents an opportunity: greater publicity of the MNHRC’s work could promote increased citizen engagement with the commission, facilitating better use of the complaints process and an improved awareness about the MNHRC’s role and human rights in general.

A simple step that could help is to improve the internet presence of the MNHRC to include items such as:

- A calendar of relevant events
- A repository of relevant laws
- An online complaints filing mechanism
- A searchable database of human rights training materials and resources developed by the MNRHC
- Press releases and media contacts
- Organigramme
- Issuing a regular newsletter reporting on focus themes or activity updates

Good examples are the websites of the Australian Human Rights Commission, the National Commission for Human Rights of Thailand or the Human Rights Commission of Sri Lanka.<sup>34</sup> A website can also be a means to increase the transparency by regularly publishing organisational updates about the MNHRC, such as staff vacancy notices, and also to make rules of procedure, official meeting minutes, annual reports, calls for tenders and vacancy notes accessible to the public.

<sup>31</sup> National Assembly Secretariat of Pakistan, *National Commission for Human Rights Act, 2012*, 5 June 2012, Chapter II, Art. 3.2(b)

<sup>32</sup> Amnesty International, “National Human Rights Institutions: Amnesty International’s recommendations for effective protection and promotion of human rights,” p. 5

<sup>33</sup> Interview with MNHRC Commissioner in November 2016

<sup>34</sup> See [www.humanrights.gov.au](http://www.humanrights.gov.au), [www.hrcsl.lk](http://www.hrcsl.lk), and [www.nhrc.or.th](http://www.nhrc.or.th)

## 5. BUDGETARY AND FINANCIAL MATTERS: INDEPENDENCE AND AUTONOMY

### 5.1. FINANCIAL INDEPENDENCE

The Paris Principles require that NHRIs have an adequate infrastructure for the smooth conduct of their activities, in particular through sufficient funding. The Paris Principles state that “the purpose of this funding should be to enable it to have its own staff and premises, in order to be independent of the Government and not be subject to financial control which might affect its independence.”<sup>35</sup>

While the level of funding depends on the specific context, the SCA highlights the following criteria that should be considered when drafting the budget for an NHRI:

- a) Sufficient funds should be provided to establish branch offices, to ensure that the NHRI is accessible to minorities and vulnerable groups
- b) Funding should allow a robust communication infrastructure that includes complaint filing and information databases
- c) The NHRIs members and staff remuneration should be equivalent to the remunerations of civil servants with comparable levels of responsibility

In principle, it is the state’s responsibility to provide adequate funding to an NHRI. The MNHRC may also receive donations from any source, including external funding, as long as the independence and integrity of its work are not compromised. Funding that supports non-core activities of the NHRI is generally acceptable under the Paris Principles, and even core funding can be acceptable depending upon the economic indicators of the state in question. External funding should not compromise the independence of the NHRI in any way and should only be accepted in support of the pre-ordained priorities of the institution.

### 5.2. BUDGETARY AUTONOMY

Budgetary autonomy refers to the degree of independence the institution has in making decisions on how to spend allocated money. The law establishing the MNHRC states that only “the State” shall provide funding. Since 2016 budgetary are determined by Parliament on annual basis, giving the MNHRC full autonomy to administer its own budget.<sup>36</sup> This responds to the SCA recommendation in its 2015 Accreditation Report on Myanmar, where the need to increase the autonomy of the

MNHRC in making decisions on how to spend the money that is allocated to its budget was noted.<sup>37</sup>

To fully comply with the Paris Principles on budgetary autonomy and financial independence, the law would have to be amended to make clear provisions for financial independence, with budgetary allocations determined annually by parliament and granting the MNHRC full autonomy to administer its own budget by law. The only requirement that governments should put forward to NHRIs is to respect the procedures for spending public money, making the procedures that apply to other public institutions.

## 6. COOPERATION WITH CIVIL SOCIETY

The MNHRC Act requires the commission to consult and engage relevant civil society organisations “as appropriate.”<sup>38</sup> This provision has the potential to be used as the basis for a multi-faceted relationship between the commission and civil society. On this basis, the MNHRC’s 2014-2016 Strategic Plan set the objective of “engage and coordinate with civil society organisations in monitoring compliance,” but the MNHRC has not concluded any long-term partnerships or systematic outreach.

### 6.1. CONSULTATION WITH CSOS ON SPECIFIC ISSUES

NHRIs and CSOs can hold issue-based dialogues and consultations where CSOs can share their insight and expertise on a variety of issues. This can serve to inform and support the NHRIs work as well as develop common policy recommendations or joint statements.

During Myanmar’s second UPR in November 2015, Myanmar’s Ministry of Foreign Affairs indicated that the government would consider developing a national human rights plan of action to support the implementation of the UPR recommendations the government had accepted. The MNHRC could work with CSOs to identify priority areas for action and a programme of work on a national human rights plan of action. In Georgia, for example, the joint recommendations by the Public Defender of Georgia, CSOs and other stakeholders formed the basis of Georgia’s Human Rights Strategy and National Action Plan, adopted by the Parliament in 2014.

<sup>35</sup> The Paris Principles, Section B.

<sup>36</sup> Interview with MNHRC Commissioner in March 2017.

<sup>37</sup> International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights. “Report and Recommendations of the Sessions of the Sub-Committee on Accreditation (SCA),” Geneva, 16-20 November 2015, p. 13.

<sup>38</sup> Myanmar, Law No. 21/2014, Art. 22(f).

## 6.2. CSO ADVISORY BODIES

In some countries, NHRIs have advisory bodies where civil society is represented and have the opportunity to discuss national and international human rights policy, as well as priorities for the NHRI. Such an advisory body in the MNHRC would allow CSOs regular engagement with the commission and enable a discussion on policy reforms. For example, the Law on the National Human Rights Commission of Mongolia (NHRCM) provides for an advisory body that consists of representatives of civil society organisations working on human rights. The advisory body in the NHRCM was set up for the first time in 2002 and now has 20 members that meet on a quarterly basis to review and guide the work of the NHRCM.<sup>39</sup>

## 6.3. THEMATIC COMMITTEES OR WORKING GROUPS

Dedicated thematic committees could be established in the MNHRC to work on specific areas, such as the rights of women, business and human rights, persons with disabilities, faith communities, ethnic minorities, etc., with membership in these committees open to civil society actors working with the concerned constituency. The respective commissioners who are responsible for leading this area of work could lead these thematic committees and take the outcome of committee deliberations to the MNHRC for further planning.

Sometimes NHRIs and civil society advocate jointly on certain issues. For example, the Malaysian Human Rights Commission issues joint statements and press releases with NGOs to draw attention to common issues of concern.<sup>40</sup> Similarly, the Commission on Human Rights of the Philippines joined CSOs advocacy on the ratification of the Third Optional Protocol of the Convention of the Rights of the Child.<sup>41</sup>

## 6.4. SUPPORT CSO SHADOW REPORTS TO UN TREATY BODIES

In many countries, NHRIs collaborate with CSOs on shadow reporting to UN treaty bodies, such as in Ireland where the NHRI recently coordinated submissions to compile a shadow report to CEDAW.<sup>42</sup> This is, in theory, a sphere where NHRIs offer support to civil society but in Myanmar the relationship could become more dynamic, with information and advice flowing in both directions: Civil society can be a valuable source of information for the MNHRC, as they have thorough

understanding the on-going state of human rights in the country. The MNHRC could benefit from regular engagement with CSOs, for example through monthly or bi-monthly meetings. A dedicated CSO focal point identified within the MNHRC would help to strengthen the dialogue and to relationships.

## 6.5. COOPERATION WITH CSOS ON PEACE-BUILDING

There is also significant work that could be done by the MNHRC to address issues related to conflict and its consequences. The SCA has mentioned the role of NHRIs in internal armed conflicts and, more specifically, encourages the MNHRC to interpret its mandate in a broad manner and to monitor human rights violations in this situation. NHRIs in conflict settings have an important role and can ensure that human rights are placed at the centre of negotiations between conflicting parties, including in peace agreements, and monitor their implementation.

To this end, the MNHRC could establish partnerships with CSOs and support their work to monitor the implementation of peace agreements in line with international human rights and humanitarian law. The Uganda Human Rights Commission, for example, conducts trainings for peace activists and human rights defenders working in conflict areas.<sup>43</sup>

# 7. RELATIONSHIP WITH PARLIAMENT

The enabling law for the MNHRC makes only three specific references to parliament, namely, that the MNHRC must present its annual report to parliament; that it must advise parliament on legislative compliance with international human rights law; and that it must respond to any matter referred to it by parliament.

Independent NHRIs are accountable to the parliament and it is the parliament, as part of its oversight function, that should approve yearly financial and operational performance reports. The Belgrade Principles on the Relationship between National Human Rights Institutions and Parliaments provide general guidance for NHRIs and parliaments about ways to structure their cooperation in various areas, including legislation, international human rights mechanisms, awareness raising,

<sup>39</sup> National Human Rights Commission of Mongolia, "About Us," <<http://mn-nhrc.org/eng/main/5/>>

<sup>40</sup> For example, Human Rights Commission of Malaysia, "Joint Press Statement by the Human Rights Commission of Malaysia, Amnesty International Malaysia, Bar Council Malaysia, Suara Rakyat Malaysia and Lawyers for Liberty in Conjunction with the International Day In Support of Victims of Torture," 27 June 2016

<sup>41</sup> Save the Children, *Child Rights Governance, Universal Periodic Review: Successful examples of child rights advocacy*, January 2014

<sup>42</sup> Shadow reports are reports presented by NGOs to treaty monitoring bodies. They complement the state report and can draw attention to issues not raised by their governments.

<sup>43</sup> Network of African National Human Rights Institutions. *Baseline Study on Role of NHRIs in Conflict Management and Peace Building, Case Study Uganda*, 2014, p. 12, <<http://nanhri.org/wp-content/uploads/2016/03/NANHRI-Baseline-Study-on-NHRIs-in-Conflict-Management-Peace-building.pdf>>

and monitoring the executive's response to judicial proceedings regarding human rights.<sup>44</sup>

In many countries, for example India and Australia, NHRIs report routinely to parliament on their work. This serves to keep parliament apprised of the human rights concerns in a country, as well as to prompt appropriate action by parliament. In Ireland decisions by the NHRI to instigate inquiries are laid before parliament and published in national media.

## ABOUT DEMOCRACY REPORTING INTERNATIONAL

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<http://www.democracy-reporting.org>  
[myanmar@democracy-reporting.org](mailto:myanmar@democracy-reporting.org)



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<sup>44</sup> Office of the United Nations High Commissioner for Human Rights, the International Coordinating Committee of National Institutions for the promotion and protection of human rights, "Belgrade Principles on the Relationship between National Human Rights Institutions and Parliaments" (22-23 February 2012), <http://nhri.ohchr.org/EN/Themes/Portuguese/DocumentsPage/Belgrade%20Principles%20Final.pdf>