

The Role of National Human Rights Mechanisms for Reporting and Follow-Up (NMRF): Understanding These New Global Domestic Processes Using the Cases of Georgia And Portugal As A Focus

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This article reviews domestic human rights institutions called Mechanisms for Reporting and Follow-Up (NMRFs). The article scrutinizes how important state reporting on human rights has become, and then evaluates what NMRFs are, and what the different models of NMRFs are. The article focuses on the nations of Georgia and Portugal.

Keywords: human rights, National Mechanisms for Reporting and Follow-Up, state reporting on human rights, the Human Rights Council.

Nacionalinių žmogaus teisių apsaugos ataskaitų teikimo ir tolesnių veiksmų mechanizmų (NMRF) reikšmė: šių naujų pasaulinių vidaus procesų vertinimas pagal Gruzijos ir Portugalijos pavyzdžius

Nacionalinės žmogaus teisių priežiūros institucijos, vadinamos Nacionaliniais žmogaus teisių apsaugos ataskaitų teikimo ir tolesnių veiksmų mechanizmais (NMRF), atlieka svarbų vaidmenį valstybei vykdant savo įsipareigojimus dėl žmogaus teisių apsaugos. Tačiau nepaisant jų reikšmės, NMRF yra menkai analizuoti mokslinėje literatūroje. Straipsnyje akcentuojama, kad valstybės teikiamos žmogaus teisių apsaugos ataskaitos tapo ypač svarbios, analizuojama, kas yra NMRF ir kokie yra skirtingi šių mechanizmų modeliai, taip pat pateikiama Gruzijos ir Portugalijos NMRF gerosios praktikos pavyzdžių.

Pagrindiniai žodžiai: Nacionalinis ataskaitų teikimo ir tolesnių veiksmų mechanizmas (NMRF), Valstybės žmogaus teisių apsaugos ataskaitų teikimas, žmogaus teisių priežiūra, Gruzija, Portugalija

Received: 6/9/2019. **Accepted:** 30/9/2019

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Introduction

One of the major gaps in the study of human rights mechanisms is on domestic human rights reporting and follow-up institutions, known as National Mechanisms for Reporting and Follow-Up (NMRF). These are national mechanisms, created by a state, within the state bureaucracy, to be responsible for international and regional (and at times other types) reporting of a state's human rights compliance. These bodies also deal with the process of complying with the recommendations that emanate from an external oversight body and any other follow-up that flows from the reporting process.

These institutions are not independent national human rights institutions (NHRIs)¹ like those envisaged by the Paris Principles² for promoting and protecting human rights in a state.³ NMRFs, however, are “mutually reinforcing and constitute complementary elements of the national human rights protection system, which also includes an independent and effective judiciary and a functioning administration of justice, a representative national parliament with parliamentary human rights bodies; and a strong and dynamic civil society.”⁴

NMRFs are not meant to actually do domestic human rights work.⁵ They are coordinating and reporting mechanisms that do that work and provide and receive information from international, regional, sub-regional, and other foreign institutions⁶ that the state has to report to, in terms of its reporting obligations. These duties emanate from treaty ratifications,⁷ or from other types of obligations, such as those that result from membership of a particular organization.

While much has been written on state reporting,⁸ much of it has been written about the processes that occur outside domestic states, i.e., what happens at the reporting institution. Very little has been written about domestic state reporting systems, how they work, their deficiencies, about domestic institutions devoted to state reporting, and particularly about NMRFs. This lack of focus is true even though state reporting has been increasing and domestic institutions doing such work are becoming commonplace in countries around the world.⁹ These institutions are spreading in number quickly

¹ BRODIE, M. Uncomfortable truths: Protecting the independence of national human rights institutions to inquire. *University of New South Wales Law Journal*, 2015, Vol. 38, 1215.

² United Nations. *General Assembly Resolution No. 48/134 of 20 December 1993*. See further SARKIN, J., BANDARI, R. K. Why Political Appointments to Truth Commissions Cause Difficulties for These Institutions: Using the Crisis in the Transitional Justice Process in Nepal to Understand How Matters of Legitimacy and Credibility Undermine Such Commissions. *Journal of Human Rights Practice* (forthcoming), 2020.

³ IBRAHIM, A. Bridging the international gap: the role of national human rights institutions in the implementation of human rights treaties in Africa. *Obiter*, 2018, 39(3), pp. 701–726. See also MCGREGOR, L.; SHIPMAN, S.; MURRAY, R. *National Human Rights Institutions in Europe and Dispute Resolution: A Mapping*. University of Essex, 2017.

⁴ United Nations OHCHR. *National Mechanisms for Reporting and Follow-up: A Practical Guide to Effective State Engagement with International Human Rights Mechanisms*. Geneva and New York, 2016, 2.

⁵ LINOS, K.; PEGRAM, T. Architects of their own making: national human rights institutions and the United Nations. *Human Rights Quarterly*, 2016, 38, 1109.

⁶ SARKIN, J. The Role of the United Nations, the African Union and Africa's Sub-Regional Organizations in Dealing with Africa's Human Rights Problems: Connecting Humanitarian Intervention and the Responsibility to Protect. *Journal of African Law*, 2009, 53.1, pp. 1–33.

⁷ HAFNER-BURTON, E. M.; TSUTSUI, K. Human rights in a globalizing world: The paradox of empty promises. *American journal of sociology*, 2005, 110(5), 1373–1411.

⁸ See for example KROMMENDIJK, J. *The domestic impact and effectiveness of the process of state reporting under UN human rights treaties in the Netherlands, New Zealand and Finland: Paper-pushing or policy prompting?* Cambridge: Intersentia, 2014.

⁹ In a search of the full text across the hundreds of thousands of papers in the Social Sciences Research Network (SSRN), not one reference was found on NMRFs. One of the few publications that reviews domestic processes is NIEMI, H. National Implementation of Findings by United Nations Human Rights Treaty Bodies: A Comparative Study. *Research reports Åbo Akademi University*, 2003, 20.

globally yet garner little attention or academic review. In fact, when doing a search of the internet, little can be found about them other than a few mentions of new NMRFs meeting for the first time in a diverse number of countries.¹⁰

In a world facing a number of human rights crises,¹¹ where greater oversight of countries human rights situations are very needed, these mechanisms demand greater study to allow states to determine what is good practice. There needs to be greater examination of such institutions to see what are the best and most useful means to report to international and regional¹² oversight bodies, and to follow up on the recommendations made by such bodies to the state concerned.¹³

NMRFs are today seen to be vital in the process of ensuring that states are more human rights compliant. The United Nations Human Rights Council in this regard is making much effort to get countries to establish NMRFs. Unfortunately, there has been little academic review of these domestic mechanisms.¹⁴ There are however a number of articles by NGOs to be found on the internet.¹⁵ That there is so little academic focus on NMRFs is unfortunate, as these institutions are in their infancy and need greater focus on their work for others to learn from their experiences.¹⁶ There have however been attempts by the United Nations to promote knowledge about what are human rights indicators and benchmarks,¹⁷ to improve state reporting. The UN has also been trying to improve the role of the institutions and mechanisms that have oversight over states.¹⁸ They are doing this to improve state reporting and thereby ensure that these processes are more effective in ensuring human rights adherence in states around the world.¹⁹ For this reason, the UN has been advocating that states adopt NMRFs. They have been working with states to get them to establish NMRFs.

¹⁰ See, for example, the report of the meeting for the first time in St Kitts and Nevis [interactive; accessed 2 September 2019]. Available online: <<http://www.thestkittsnevisobserver.com/regional-intl-news/foreign-ministry-holds-first-meeting-human-rights-st-kitts-nevis/>>.

¹¹ SARKIN, J. Refocusing Transitional Justice to Focus Not Only on the Past, But Also to Concentrate on Ongoing Conflicts and Enduring Human Rights Crises. *Journal of International Humanitarian Legal Studies*, 2016, 7(2), 294-329.

¹² For example on African regional mechanisms see SARKIN, J. The African Commission on Human and Peoples' Rights and the Future African Court of Justice and Human Rights: Comparative Lessons from the European Court of Human Rights. *South African Journal of International Affairs*, 2011, 18:3, 284. On the need to reform these processes see SARKIN, J. Why the Role of the African Commission on Human and Peoples' Rights in Advancing Democratic Principles and Human Rights in African Countries Needs to be Reformed: An Examination Using the Lens of Swaziland/eSwatini. 32(1) *Southern African Public Law*, 2019, 32(1) (forthcoming).

¹³ KROMMENDIJK, J. *The domestic impact and effectiveness of the process of state reporting under UN human rights treaties in the Netherlands, New Zealand and Finland: Paper-pushing or policy prompting?* Maastricht University, 2014.

¹⁴ A few mentions are found in LHOTSKÝ, J. Human rights treaty body review 2020: towards an integrated treaty body system (Doctoral dissertation, EIUC, 2017). See also PLOTON, V. Le rôle et le potentiel des mécanismes nationaux d'élaboration des rapports et de suivi dans la protection des défenseur-es des droits humains: étude comparative du cas de la Tunisie. *Revista de la Facultad de Derecho de México*, 2018, 68(271), 595-616.

¹⁵ See for example PATERSON, E. The emergence and coming of age of National Mechanisms for Implementation, Reporting and Follow up, 27 March, 2019 [interactive; accessed 1 September 2019]. Available online: <<https://binghamcentre.biicl.org/comments/27/the-emergence-and-coming-of-age-of-national-mechanisms-for-implementation-reporting-and-follow-up>>.

¹⁶ On the benefit of the learning processes by treaty bodies see CARRARO, V. Promoting compliance with human rights: the performance of the UN Universal Periodic Review and treaty bodies. *International Studies Quarterly*, 2019.

¹⁷ United Nations OHCHR. *Human rights indicators: A guide to measurement and implementation*, 2012. Geneva: OHCHR. See further DE BECO, G. Human Rights Indicators for Assessing State Compliance with International Human Rights. *Nordic Journal of International Law*, 2008, 77(1-2), 23-49.

¹⁸ United Nations OHCHR. *Strengthening the United Nations Human Rights Treaty body system*, 2012. Geneva: OHCHR.

¹⁹ United Nations OHCHR. *Report on indicators for promoting and monitoring the implementation of human rights*, 2008.

This article reviews NMRFs in general, and then focuses on the countries of Georgia and Portugal by reviewing the way these bodies are meant to work and how they can work more effectively. The article examines what state reporting on human rights is, and why is it so important. The article then reviews what NMRFs are, the different types of NRMF models that exist, why they have been created, and how such a model is used in Portugal. The article then examines the situation of human rights reporting in Georgia. It argues why, and then how, the present institution in Georgia (the Human Rights Council) ought to be reformed into an NMRF. The article studies the situation in Georgia as a case study. This is done because Georgia is a useful example to examine and explore the issues and problems relating to state human rights reporting and what the benefits are of using an NMRF. The case model is adopted, as it is a useful methodology, as was noted by Linda Mabry in 2008, because “[c]uriosity to know more and to understand better encourages delving deeply into the meaning of a case. Link by link, case by case, construction of meaning by the researcher, by the reader, and by the research community is how a case study contributes to social science and to society.”²⁰

1. State Reporting on Human Rights Matters to Oversight Institutions

Human rights reporting processes have been in existence for decades. Despite this, there are still debates about the extent to which these processes positively affect domestic systems.²¹ There is still a need to reform these processes to ensure that they play a greater role²² in order to ensure that state compliance with human rights standards is as optimal as possible.²³ Many proposals exist to improve the oversight mechanisms. Some have called for there to be specific foci on various groups such as women,²⁴ while others have called for better ways to collect information and use that information to positively impact the human rights situation in states.²⁵

What is no doubt true, are the concomitant challenges in ensuring adequate state compliance with the recommendations of such processes.²⁶ Many attempts have been made to improve state compliance processes.²⁷ However those processes are followed in multitudes of ways by states.²⁸ While

²⁰ MABRY, L. Case Study in Social Research. In ALASUTARI, P.; BICKMAN, L.; BRANNEN, J. (Eds) *The Sage Handbook of Social Research Methods*. Sage Publications: London, UK, 2008.

²¹ See, in general, HILL, D. Estimating the Effects of Human Rights Treaties on State Behavior. *The Journal of Politics*, 2010, 72(4), 1161–1174. On the Human Rights Committee see KROMMENDIJK, J. The Domestic Effectiveness of International Human Rights Monitoring in Established Democracies: The Case of the UN Human Rights Treaty Bodies. *Review of International Organizations*, 2015, 10(4), 489–512.

²² MORIJN, J. Reforming United Nations Human Rights Treaty Monitoring Reform. *Netherlands International Law Review*, 2011, 58, 295, 299.

²³ SARKIN, J. The Need to Reform the Political Role of the African Union (AU) in Promoting Democracy and Human Rights in Domestic States: Making States More Accountable and Less Able to Avoid Scrutiny at the United Nations and at the AU, Using Swaziland to Spotlight the Issues. *African Journal of International and Comparative Law*, 2018, 26(1), 84–107.

²⁴ SARKIN, J. How to Better Infuse Gender into the Human Rights Council’s Universal Periodic Review Process. *Jindal Global Law Review*, 2010, 2(1), 172–190.

²⁵ SARKIN, J. A Methodology to Ensure that States Adequately Apply Due Diligence Standards and Processes To Significantly Impact Levels of Violence Against Women Around the World. 40(1) *Human Rights Quarterly*, 2018, 40(1), 1–36.

²⁶ UN Economic and Social Council. *Periodic Reports on Human Rights. 1 August. E/RES/624B (XXII)*, 1956.

²⁷ EGAN, S. Strengthening the United Nations Human Rights Treaty Body System. *Human Rights Law Review*, 2013, 13(2), 209–249.

²⁸ O’FLAHERTY, M. TSAI, Periodic reporting: The backbone of the UN treaty body review procedures. In BAS-SIOUNI, C.; SCHABAS, W. A. (Eds.) *New challenges for the UN human rights machinery: What future for the UN treaty body system and the Human Rights Council procedures?* (pp. 37–56). Cambridge: Intersentia, 2011.

much effort has been placed on improving state reports,²⁹ and issues like constructive dialogue,³⁰ too little effort has been given to information flow and internal processes in states to ensure that recommendations are received and results fed back to the international and regional institutions making the findings.³¹

Until the transformation³² of the Human Rights Commission at the United Nations³³ into the Human Rights Council in 2006,³⁴ states could escape any type of review or oversight of their human rights compliance.³⁵ Some states did not ratify treaties that had oversight processes, and others escaped review in a variety of ways,³⁶ including by not presenting reports when they were due.³⁷ What also seems to be the case is that some states complain that they need to present many such reports. As a result, the term “treaty fatigue” has come to the fore in some quarters.³⁸ Thus, reform was needed to ensure that states could not escape review.

One of the most important advances that came with the new Human Rights Council was the development of the system of Universal Periodic Review (UPR).³⁹ Now, all 195 UN member countries are systemically reviewed every four or five years by the HRC to determine the extent of their compliance with the human rights standards they are bound to comply with.⁴⁰ As a result, states have

²⁹ United Nations. *Harmonized Guidelines on Reporting under the International Human Rights Treaties, including Guidelines on a Common Core Document and Treaty-specific Documents HRI/MC/2006/3*, 2006. United Nations OHCHR. *Compilation of Guidelines on the Form and Content of Reports to be Submitted by States Parties to the International Human Rights Treaties, HRI/GEN/2/Rev.6*, 2009.

³⁰ FARACK, B. Constructive Dialogue as a Cornerstone of the Human Rights Treaty Bodies Supervision. *Bracton Law Journal*, 2006, 38, 39–54.

³¹ See exceptionally HOLLYER, J. R., ROSENDORFF, B. P., VREELAND, J. R. Democracy and Transparency. *J. pol.*, 2011, 73, 1191, 1202. On these issues in Israel see LEVIN, A. The Reporting Cycle to the United Nations Human Rights Treaty Bodies: Creating a Dialogue between the State and Civil Society – The Israeli Case Study. *George Washington International Law Review*, 2016, 48(2), 315–376.

³² Suggested in the document by the then-Secretary-General Kofi Annan *In Larger Freedom: towards development, security and human rights for all A/59/2005*, (21 March 2005), 45. See WEISS, T. G.; DAWS, S. (Eds). *The Oxford Handbook on the United Nations*. Oxford University Press, 2018.

³³ See United Nations. *A More Secure World: Our Shared Responsibility, A/59/565*, 2004, 74. See also LEMPINEN, M. *The United Nations Commission on Human Rights and the Different Treatment of Governments*. Institute for Human Rights, Åbo Akademi University, 2005.

³⁴ See LAUREN, G. To Preserve and Build on its Achievements and to Redress its Shortcomings: The Journey from the Commission on Human Rights to the Human Rights Council. *Human Rights Quarterly*, 2007, 29, 307. See also RAHMANI-OCORA, L. Giving the Emperor Real Clothes: The UN Human Rights Council. *Global Governance*, 2006, 12, 15; SCANNELLA, P.; SPLINTER, The United Nations Human Rights Council: A Promise to Be Fulfilled. *Human Rights Law Review*, 2007, 7, 41 and GHANEA, N. From UN Commission on Human Rights to UN Human Rights Council: One Step Forwards or Two Steps Sideway.) *International and Comparative Law Quarterly*, 2006, 55, 695.

³⁵ COWAN, J. K.; BILLAUD, J. Between learning and schooling: the politics of human rights monitoring at the Universal Periodic Review. *Third World Quarterly*, 2015, 36(6), 1175–1190.

³⁶ DAI, X. The “compliance gap” and the efficacy of international human rights institutions. *In The persistent power of human rights: From commitment to compliance* (pp. 85–102). Cambridge University Press, 2013.

³⁷ COLE, W. M. International human rights and domestic income inequality: a difficult case of compliance in world society. *American Sociological Review*, 2015, 80(2), 359–390.

³⁸ MERTUS, J. *The United Nations And Human Rights: A Guide For A New Era*, 57, 65. Routledge; 2 edition (June 11, 2009).

³⁹ On the role of the Council generally, see HAMPSON, F. An Overview of the Reform of the UN Human Rights Machinery. *Human Rights Law Review*, 2007, 7, 7; ABRAHAM, M. *Building the New Human Rights Council – outcome and analyses of the institution-building year*. Geneva/Switzerland, Friedrich Ebert Stiftung, 2007.

⁴⁰ TERLINGEN, Y. The Human Rights Council: A New Era in the UN Human Rights Work. *Ethics and International Affairs*, 2007, 21, 167; GAER, F. Voice Not an Echo: Universal Periodic Review and the UN Human Rights Treaty Bodies System. *Human Rights Law Review*, 2007, 7, 109.

realized that they need to have internal processes to ensure that they are able to deal with that review process as well as others. Today, states have a multitude of review processes⁴¹ at the international, regional,⁴² and sometimes sub-regional level⁴³ that demand information and seek to ensure that their recommendations have been taken up.⁴⁴ NMRFs are a useful way for states to streamline and ensure the coherence of their reporting processes, which is sorely needed.⁴⁵

2. National Mechanisms for Reporting and Follow-up (NMRF) Around the World

2.1. Understanding the Role of NMRFs

Domestic standing governmental human rights processes have become more and more usual across the globe.⁴⁶ This is the case, because now it seen that a coordinated response by a government to human rights issues across its various ministries can only be beneficial in ensuring a comprehensive and adequate approach to taking up human rights matters in the development of law and policy across the government.⁴⁷ This type of approach has a variety of benefits, including taking up all law and policy matters in all Ministries within a human rights perspective. As has been noted, states “should see the process of preparing their reports for the treaty bodies not only as an aspect of the fulfilment of their international obligations, but also as an opportunity to take stock of the state of human rights protection within their jurisdiction for the purpose of policy planning and implementation.”⁴⁸

Thus, all issues being worked on, no matter by which Ministry or the issue at hand, get a human rights input. It means that issues of reporting to international bodies and recommendations that come from international institutions are centrally evaluated, and a determination is made on how, whom, and when such implementation occurs.⁴⁹ It means that all Ministries, and other governmental bodies, including interagency councils, get input on these matters. These other bodies are also able to give

⁴¹ VON STEIN, J. Exploring the universe of UN human rights agreements. *Journal of Conflict Resolution*, 2018, 62(4), 871–899.

⁴² An interesting example of a regional treaty that can apply outside the region is the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (the Istanbul Convention).

⁴³ SARKIN, J. A Critique of the Decision of the African Commission on Human and Peoples’ Rights Permitting the Demolition of the SADC Tribunal: Politics Versus Economics and Human Rights. *African Journal of International and Comparative Law*, 2016, 24:2, 215–241.

⁴⁴ COWAN, J. Before Audit Culture: A Genealogy of International Oversight of Rights. In MÜLLER, B. (ed.), *The Gloss of Harmony: The Politics of Policy-making in Multilateral Institutions*, 103-133. London: Pluto, 2013.

⁴⁵ ABEBE, A. L. Of Shaming and Bargaining: African States and the Universal Periodic Review of the United Nations Human Rights Council. *Human Rights Law Review*, 2009, 9 (1), 1–35.

⁴⁶ United Nations OHCHR. *National Mechanisms for Reporting and Follow-up: A Practical Guide To Effective State Engagement With International Human Rights Mechanisms*, 2016.

⁴⁷ LIMO, M.; MONTOYA, M. Clustering and the integrated implementation of recommendations: The key to unlocking the complementary power of the UN’s compliance mechanisms [interactive; accessed 3 July 2019]. Available online: <https://www.universal-rights.org/wp-content/uploads/2019/06/Clustering_and_the_integrate.pdf>.

⁴⁸ UN Secretary-General. *Harmonized Guidelines on Reporting under the International Human Rights Treaties, including Guidelines on a Common Core Document and Treaty- specific Documents*, HRI/ MC/ 2006/3, 2006 and OHCHR, 2009.

⁴⁹ On the better use of methodologies and technology, see PLOTON, V. *The development of grading systems on the implementation of UN treaty body recommendations and the potential for replication to other UN human rights bodies* [interactive]. Geneva Academy of International Humanitarian Law and Human Rights Academic Platform Project, 2017 [accessed 3 July 2019]. Available online: <https://www.ishr.ch/sites/default/files/documents/tb_grading_systems_their_replicability_to_other_un_hr_bodies.pdf>.

input though a coordinating mechanism. There is obviously some danger of overlap and duplication, but that can be overcome by good communication and sharing of information. There is already much cooperation amongst the various interagency councils that produces good results.

An NMRF mechanism is crucial for coordinating and implementing all human rights matters and not have an ad hoc uncoordinated process. It is crucial to have a process of coordination and for ensuring that the government is doing what is necessary.

A national mechanism for doing reporting, and ensuring follow-up, usefully organizes and streamlines how such reports are prepared to the various external human rights bodies, and that what they contain has the approval of all role players. Often insufficient consultations are something levelled at states when they deliver their reports. This type of engagement assists in this regard. It thus ensures a greater domestic focus on the processes.

However, it is not only about delivering reports to the regional and international processes but also taking the recommendations and outcomes that are made by the regional and international processes and ensuring that they are taken up, discussed, and ways are found about when and how they can be implemented. These domestic processes have become more difficult and more onerous as the number of such recommendations made to States has rapidly increased over the recent past. To ensure that these recommendations are tracked and responded to adequately, a more methodical and organized process has been found to be crucial.

Thus, having a dedicated working NMRF reflects a state's commitment not to simply rhetorically support human rights, but a practical commitment to actually implement them across government institutions. In this regard, it has been noted that: "[t]he reporting process constitutes an essential element in the continuing commitment of a State to respect, protect and fulfil the rights set out in the treaties to which it is party."⁵⁰

Thus, having a mechanism devoted to monitoring and implementing human rights matters does this. It reflects a desire to take human rights and the human rights reporting process seriously.

A permanent institution is better able to achieve its goals if it has a wide-ranging official mandate, a plan of action that they apply, as well as a good understanding of the way the government and other institutions of state work. A permanent mechanism with clearly delineated functions is much more able to communicate with other organs of the state, as well as responding to whatever issues come to the fore. The institution also benefits from being a critical part of the state, as well as being owned and managed at the highest levels. This gives it standing to do its work and achieve the best outcomes. The fact that an institution is a continuous one allows it to build and retain a committed, skilled, and permanent staff who, over time, become even more skilled, acquire more knowledge of the processes, and become more integrated into the state apparatus, the systems outside the government, and even in the regional and international human rights systems. This is crucial, as "quality reporting requires an institutional capacity that can provide factual knowledge of, expertise in, and familiarity with the treaty regime and the reporting process."⁵¹

Thus, to achieve coordination and reporting on human rights matters, countries around the world are implementing more capable and sustainable approaches to reporting, engaging, and following-up on human rights matters and processes.

In this regard, it is important to note that there is a growing interest and commitment by states around

⁵⁰ United Nations. *Compilation of Guidelines on the Form and Content of Reports to be Submitted By States Parties to the International Human Rights Treaties Report of the Secretary-General*, HRI/GEN/2/Rev.6 3, 2009.

⁵¹ See CREAMER, C. D.; BETH, A. S. Ratification, reporting, and rights: Quality of participation in the convention against torture. *Human Rights Quarterly*, 2015, 37, 579, 589.

the world to establish standing national implementation, coordination, and reporting structures. However, as noted by the Deputy High Commissioner for Human Rights, Kate Gilmore, the “[i]mplementation of recommendations to improve human rights can only be successful if States engage continuously and constructively with United Nations human rights mechanisms, thereby reinforcing a virtuous cycle for human rights progress.”⁵²

2.2. What are NMRFs?

A national implementation, coordination and reporting structure has been defined by the United Nations as a “national governmental mechanism or structure, ministerial, interministerial or institutionally separate, and preferably standing in nature established to support the implementation of human rights recommendations and the reporting on the progress achieved.”⁵³

These institutions, which have been created to do state reporting and follow-up, are collectively named National Mechanisms for Reporting and Follow-up (NMRF).⁵⁴ This is because they are seen to be necessary key machineries for a successful national human rights protection system in states. They are useful in overcoming any impediments to the implementation of human rights matters and bringing international and regional human rights standards and practices into a state. The core of a state’s reporting and engagement method thus becomes coordinated and cohesive.

NMRFs do this by ensuring national ownership and by empowering government ministries. By having such a dedicated institution, human rights expertise is developed and institutionalized permanently. This should be done in a sustainable manner and in ways that stimulate a national dialogue on human rights matters.

NMRFs further facilitate communication in and across government agencies. They permit organized and formal contacts with a range of domestic actors, including parliamentary committees, the courts, national human rights institutions, civil society, and donors. Through such entrenched processes, more often victims and those that represent them will be heard and their issues taken up. NMRFs also enrich the coherence and influence of the way the state interacts with external actors, including UPR, treaty bodies, regional actors, etc.

For these reasons, many nations have made pledges to establish such processes, especially as a result of UPR. Creating these institutions is a new trend that is occurring around the world to ensure that there is an effective process for ensuring human rights compliance in states.⁵⁵ For this reason, these types of bodies are found in at least 40 countries.

2.3. What Do NMRFs Do?

Such institutions have a variety of functions, including continually assessing and monitoring progress as far as human rights are concerned in a state. They promote an ongoing dialogue between the government and other role players on human rights issues continually and thereby reduce tensions that may exist across these different sectors. They raise awareness of human rights matters in and outside

⁵² United Nations. *Best practices to achieve virtuous cycle for human rights progress* [interactive; accessed 2 July 2019]. Available online: <<https://www.ohchr.org/EN/NewsEvents/Pages/Virtuousecycleforhumanrightsprogress.aspx>>.

⁵³ United Nations OHCHR. *International Cooperation & National Human Rights Follow-Up Systems And Processes*, 2017.

⁵⁴ United Nations OHCHR. *A Study of State Engagement with International Human Rights Mechanisms*, 2016.

⁵⁵ HILLEBRECHT, C. *Domestic politics and international human rights tribunals: the problem of compliance* (Vol. 104). Cambridge University Press, 2014.

the state apparatus⁵⁶ and coordinate matters between ministries concerning human rights challenges. They monitor the human rights challenges that exist, examine them closely, research and consider solutions, and find ways to implement systems to overcome those challenges in systematic and co-ordinated ways. These institutions monitor, plan, and ensure adequate implementation processes on human rights issues, especially when it comes to recommendations made by external institutions. Their role is to track and plan ongoing engagement with external actors, especially treaty bodies, UPR, and others.⁵⁷ They also establish ongoing timelines, indicators, and benchmarks for monitoring human rights implementation across ministries. They identify solutions, problems, and challenges, and adjust such processes as needed. They identify, engage with, get input, and take up human rights matters continually, some of which are not always seen to be problems. In this way, they are formal conduits for information, research and advice from others (including government actors, civil society, as well as international actors) into governmental processes. They usefully promote consultation and input from a range of other role-players who may not always have the opportunity to be heard or heard sufficiently.

As a result, NMRFs promote better and wider planning and development of legislation and policies as far as the human rights components are concerned. They set up specific processes or events to take up new, pressing, or ongoing matters. They do these functions by empowering individual government ministries to better deal with human rights matters. They engage with processes that establish national human rights action plans, strategic plans, as well as processes that implement treaties, laws, and policies. For these reasons, they achieve timely and more complete and thorough reporting. This decreases backlogs that occur in State reports to regional and international bodies. Because of their role, they promote proficiency in human rights generally and on report writing to treaty bodies, regional human rights mechanisms, UPR, and to work with special procedures and others specifically. It does seem that NMRFs need to improve on their coordination with a range of role players. In this regard, it has been noted that “[b]ecause NMRFs are a relatively new phenomenon, more work needs to be done to foster effective co-ordination and engagement between parliaments and NMRFs and other constituent parts of the national human rights protection system.”⁵⁸

What is happening though is that there is increasing regional coordination between states concerning NMRFs. For example, in August 2019, the Ministry of Foreign Affairs of the Kingdom of Thailand and the Office of the High Commissioner on Human Rights (OHCHR) Regional Office for South-East Asia co-hosted a Regional Dialogue on National Mechanisms for Reporting and Follow-up in Bangkok, Thailand. The aim was to promote awareness and understanding, and sharing best practices about NMRFs in Asia and the Pacific region. Twelve countries attended the meeting.⁵⁹

⁵⁶ KÄLIN, W. Examination of State Reports. In *UN Human Rights Treaty Bodies*, 16, 39. Cambridge University Press, 2012.

⁵⁷ On these issues concerning treaty bodies, see MECHLEM, K. Treaty bodies and the interpretation of human rights. *Vanderbilt Journal of Transnational Law*, 2009, 42(3), 905.

⁵⁸ CHANG, B. Global developments in the role of parliaments in the protection and promotion of human rights and the rule of law: An Emerging Consensus. *Arts and Humanities Research Council*, 2018, 40.

⁵⁹ Ministry of Foreign Affairs of the Kingdom of Thailand. *Ministry of Foreign Affairs of the Kingdom of Thailand Hosted the Regional Dialogue on the National Mechanisms for Reporting and Follow-up*. Press Release, 2019 [interactive; accessed 2 September 2019]. Available online: <<http://www.mfa.go.th/main/en/news3/6886/108658-Ministry-of-Foreign-Affairs-of-the-Kingdom-of-Thai.html>>.

2.4. Key Features of Such Institutions⁶⁰

NMRFs are generally standing or permanent arrangements involving all relevant ministries. A senior official in the government usually chairs them. They are responsible for the implementation of domestic and international human rights imperatives. They often include the judiciary and parliament in their work. They ensure consultation with NHRIs and the domestic civil society. They consult with international actors, including the UN, donors, and others. They coordinate the elaboration of national implementing or national human rights action plans as well as regional and international human rights recommendations made to the state. They do so with indicators and timeframes. They coordinate the implementation of these matters by coordinating an inclusive national process. They function as a focal point for receiving information on implementation, and for reporting domestically and internationally.

2.5. The Four Principal Forms of NMRF Mechanisms⁶¹

- 1) **Ad hoc** for a specific report or process, as found in the Bahamas, Lithuania, Republic of Korea, South Africa, and Switzerland.
- 2) **Ministerial** – established in a specific government department, as in Cambodia, Denmark, Mexico, Spain, and the United States of America.
- 3) **Inter-ministerial**, which is established across government departments, such as in Austria, Cameroon, Chile, Costa Rica, Democratic Republic of the Congo, Finland, Greece, Honduras, Latvia, Mauritius, Moldova, Portugal, Senegal, and Venezuela. It is often served by a secretariat in one ministry, as occurs in Georgia. Such an inter-ministerial mechanism frequently convenes its network of members as well as the focal points in ministries. They are seen to be less dependent on political will but can be if they are dependent on one agency to call meetings.
- 4) **Institutionally separate**, which are responsible for all coordination, report drafting, as well as processes of information gathering and consultation; such are the cases in Serbia and Morocco.

In Morocco, the Inter-ministerial Delegation for Human Rights was created in 2011. An inter-ministerial delegate, selected by the King and accountable to the Head of Government, leads it. The Delegation is responsible for coordinating national human rights policies and for communication with international human rights mechanisms. It also suggests methods for implementing international human rights treaties that have been ratified. It prepares national reports and follows up on implementing the received recommendations. Thus, the Moroccan Delegation has a wide set of functions.

2.6. Portugal's NMRF (as a comparative model)

Regardless of the case, the states where such institutions have been established and where they work well have accrued various benefits.

A useful model to look at from a comparative point of view is the National Human Rights Committee in Portugal. It was formed in 2010. It is tasked with intergovernmental coordination of human rights policies. The Committee is aimed at dealing with Portugal's international obligations under human rights processes, including treaty bodies, special procedures, universal periodic review, and the Council of Europe. The Ministry of Foreign Affairs (MFA) chairs the Committee. The Human Rights Division in the MFA acts as the Committee's permanent secretariat. All ministers are represented on

⁶⁰ See LIMON, M. Institutional strengthening and organizational development of the Human Rights Council of Georgia, 2015.

⁶¹ See LIMON, M. Institutional strengthening and organizational development of the Human Rights Council of Georgia, 2015.

the Committee. A network of human rights focal points in the ministries supports the Committee. The Committee meets at least three times a year at plenary level and as needed at working group level. Civil society has to be invited to at least one of the three plenary meetings each year. The main method of communicating is by email. As a result of the work of the NMRF, Portugal no longer has a bottleneck of state reports and has reduced the time it takes to file its reports. Thus, it seems that this is a positive example of improved state reporting. As to why the process seems to have achieved positive results, Manuela Teixeira Pinto, then Deputy Permanent Representative of Portugal, stated that political will is necessary for the successful creation of any NMRF.⁶²

3. Examining the Human Rights Reporting and Follow-up Situation in Georgia

3.1. Georgia in Context

Georgia is a country in transition.⁶³ It has had tremendous problems in the past.⁶⁴ It has had wars with Russia and had two segments of its territory removed⁶⁵ (South Ossetia and Abkhazia).⁶⁶ Georgia's human rights situation was particularly troubling in the not-too-distant past. To overcome its problems, it adopted a new Constitution and embarked on a range of legislative and other kinds of reforms in a variety of areas.

As a result, Freedom House has noted a democratic improvement over the last few years. It did however note in its Nations in Transit 2018 Georgia Country Profile Report that “[t]he year 2017 was, overall, a period of slight setbacks for Georgia’s democratic development. Georgian authorities found it difficult to strike a balance between the contradictory goals of advancing democratization on the one hand and consolidating power on the other. The trend of half-hearted democratic reforms that started after the 2012 elections has stalled in recent years.”⁶⁷

This can be seen in Freedom House’s Nations in Transit 2018 Report. In that report, Georgia’s Democracy Score declined from 4.61 to 4.68.⁶⁸ Freedom House continues to rate Georgia as a “Partly Free” country.⁶⁹

There are thus many human rights issues that need to be tackled in the country.⁷⁰ Tackling these issues is important, particularly because Georgia is seeking EU and other institutional memberships.⁷¹

⁶² United Nations OHCHR. *Best practices to achieve “virtuous cycle for human rights progress* [interactive, accessed 2 July 2019]. Available online: <<https://www.ohchr.org/EN/NewsEvents/Pages/Virtuouscycleforhumanrightsprogress.aspx>>.

⁶³ WHEATLEY, J. *Georgia from national awakening to Rose Revolution: delayed transition in the former Soviet Union*. Routledge, 2017.

⁶⁴ DE WAAL, T. *The Caucasus: an introduction*. Oxford University Press, 2018, 190.

⁶⁵ ARTMAN, V. A. Documenting Territory: Passportisation, Territory, and Exception in Abkhazia and South Ossetia. *Geopolitics*, 2013, 18, 3, 682-704.

⁶⁶ GERRITS, A. W. M., BADER, M. Russian patronage over Abkhazia and South Ossetia: implications for conflict resolution. *East European Politics*, 2016, 32.3, 297-313.

⁶⁷ Freedom House Nations in Transit 2018 Georgia Country Profile Report [interactive; accessed 17 September 2019]. Available online: <<https://freedomhouse.org/report/nations-transit/2018/georgia>>.

⁶⁸ *Ibid.*

⁶⁹ *Ibid.*

⁷⁰ BRESLIN, A.; WÜRTH, A. *National Human Rights Institutions in post-conflict situations: mandates, experiences and challenges*. (Analysis/German Institute for Human Rights) [interactive]. Berlin: Deutsches Institut für Menschenrechte, 2017 [accessed 3 September 2019]. Available online: <<https://nbn-resolving.org/urn:nbn:de:0168-ssaar-55655-2>>.

⁷¹ NODIA, G. The 3 EU’s effectiveness as a democracy promotion actor: Three divergent cases in the South Caucasus. *EU’s Policy of Democracy Promotion: Strategies and Impact in Central Asia and the South Caucasus*, 2018, 7, 89. See also KAKACHIA, K.; MINESASHVILI, S. Identity politics: Exploring Georgian foreign policy behavior. *Journal of Eurasian Studies*, 2015, 6(2), 171-180.

3.2. Establishing the Human Rights Council in Georgia

To overcome its human rights deficit, in April 2014, Georgia's Parliament approved its first National Human Rights Strategy (2014–2020).⁷² The Human Rights Strategy was designed to put into place an amalgamated policy for strengthening human rights protection throughout all parts of the country. It was designed to reinforce governance and the rule of law in Georgia. This pioneering document for human rights in the country was drafted to be “a systematic approach to the realization of human rights by all Georgian citizens and the timely rendering of the duties related to these rights by state authorities.”⁷³ The Strategy was designed to allow “the consistent and effective application of appropriate measures, independent of external forces, such as changes in government administration and order.”⁷⁴ More than 20 human rights priority areas were identified in the Human Rights Strategy for specific focus.

To achieve the objectives of the Strategy, the Government has adopted Human Rights National Action Plans (NAP). The first NAP covered the period of 2014–2015, the second – 2016–2017, and the third – 2018–2020. They have been supported by the EU-UN joint project “Human Rights for All.” These NAPs contain Government's objectives, activities, responsible agencies, timeframes, and indicators on human rights. The NAPs are aligned to the National Strategy so as to deliver on the Strategy and the identified priorities. The Georgian Human Rights Council was established to achieve these goals. It is an inter-agency coordination structure at the ministerial level.

Thus, the Georgian domestic institution, the Human Rights Council, is tasked with coordinating and monitoring the implementation of the Strategy and the Action Plans only. It was not tasked with the wider function of coordinating human rights in general in the government. The way the present system works is for the various ministries and other bodies responsible for elements of the Action Plan to formulate annual reports on progress made in its implementation. Then, the Human Rights Secretariat drafts a report for the attention of the Parliament.

3.3. Classifying the HRC as an NRMF

According to the way the HRC was initially established, the Council was to consist of some full, and some invited members.⁷⁵

The Human Rights Council has the Prime Minister of Georgia as Chair of the Council. The Assistant to the Prime Minister on Human Rights and Gender Equality is the Co-Chair of the Council.

An additional 17 Georgian state ministries are voting members, as are the Prosecutor's Office of Georgia, the Human Rights Secretariat of the Administration of the Government of Georgia, and the State Agency for Religious Issues.⁷⁶

A number of organizations participate in the activities of the Council with an advisory vote. These include the Legal Aid Service, the Supreme Court of Georgia, the Constitutional Court of Georgia, the

⁷² GVIANISHVILI, N. *Invisible Battlefield: How the Politicization of LGBT Issues Affects the Visibility of LBT Women in Georgia. Women's Everyday Lives in War and Peace in the South Caucasus*, 205-224. Palgrave Macmillan, Cham, 2020.

⁷³ Georgia's Human Rights Strategy [interactive; accessed 2 September, 2019]. Available online: <http://gov.ge/files/429_51454_924779_STRATEGYENG.pdf>.

⁷⁴ *Ibid.*

⁷⁵ Government of Georgia. Decree No. 550 of December 13, 2016 [interactive; accessed 2 September, 2019]. Available online: <<http://myrights.gov.ge/en/About%20us/news/reports/About%20us/news/My%20Rights/Briefly%20on%20Human%20Rights/About%20us/My%20Rights/About%20us/news/reports/About%20us/news/My%20Rights/Briefly%20on%20Human%20Rights/About%20us/Human%20Rights%20Council/>>.

⁷⁶ *Ibid.*

Human Rights and Civic Integration Committee of the Parliament of Georgia, the Legal Issues Committee of the Parliament of Georgia, the Foreign Relations Committee of the Parliament of Georgia, the Office of the Public Defender of Georgia, the Office of the Personal Data Protection Inspector, the Elections Administration of Georgia, the United Nations in Georgia, the Delegation of the European Union to Georgia, the Council of Europe Office in Georgia, USAID in Georgia, the Georgian Bar Association, the Women's Information Center, the Civil Development Agency, the Georgian Young Lawyers' Association, Article 42 of the Constitution, Transparency International Georgia, and the Open Society Georgia Foundation.

Georgia's HRC can be classified as an NMRF inter-ministerial model. However, its membership is not only inter-ministerial, but actually much wider. Thus, it has representatives from the civil society, the NHRI, international organizations, and others. Thus, it has membership from institutions outside the Government.

The HRC has a Human Rights Secretariat (HRS) that at present runs the HRC. It has five staff members. The HRS, it is noted in some documents, is located in the "Administration of the Government of Georgia." In some documents of the Georgian Government, it is noted that the HRS is in the "Administration of Georgia, Prime Minister's Office." When UNICEF Georgia published a report on the Inter-institutional Commission on the implementation of the CRC and issues related to children, it noted that it occurred "under the auspices of the Prime Minister's Human Rights Secretariat."⁷⁷ In some places, when the HRC is discussed, it is stated that it is the "Inter-Agency Human Rights Council and its Secretariat" [my emphasis]. Thus, exactly where the HRS is located, to whom it is responsible, and to whom it formally reports has been unclear.

At present, the Human Rights Secretariat (HRS) is quite separate from the HRC and, in fact, from the rest of the ministries of the state. It does what institutionally separate institutions do in that it seems to take a large amount of responsibility for coordination, report drafting, information gathering and consultation, although formally the processes still occur in the relevant ministries, such as foreign affairs, when it comes to regional and international reporting.

4. Embarking on the Transformation of the Georgian HRC to an NMRF

The role of the Georgian HRC should be, as it is at present, concerned with the implementation of the National Strategy and Action Plans. However, it should also crucially be taking up the role of coordination, implementation, and reporting on human rights. Presently, it does this in part, but in an ad hoc and uncoordinated way. To do all the necessary functions, which in fact should be part of the process of the National Strategy and Action Plans, the HRC needs to be repositioned and redesigned in to an NMRF. In any case, the HRC needs to meet. It then must be rearranged into an NMRF. It is useful that the HRC is already, for all intents and purposes, an NMRF in that it is designed to do what an NMRF does but those functions need to be clearly laid out, and the process of doing so must be delineated and legislated.

Georgia's model already follows the most favored NMRF design: the inter-ministerial model. While there is no imperative to have an NMRF mechanism, the fact that Georgia has one is extremely positive. It puts the country at the forefront of such processes. This is partly because there is a trend toward establishing such processes. This is because such processes are needed even if human rights issues are solved ad hoc or done differently each time reporting needs to occur. However, it does not

⁷⁷ UNICEF. *Georgia Annual Report*, 2016.

make sense to establish a new process each time. It is time-consuming and costly. The lessons from previous processes are then lost and past experience is not built upon.

4.1. What Type of Body – High Level, Working Level, or Both?

It has been noted that Georgia's HRC "is best seen as an umbrella body that brings together all relevant domestic actors involved in the promotion of human rights in Georgia, and provides a platform for the identification of national human rights priorities (i.e. the Human Rights Action Plan), for coordinating the implementation of those priority actions (at a broad political level), for monitoring that implementation, and for reporting thereon (e.g., to parliament or the UN)."⁷⁸

The HRC's dedicated function in the law relates to the identification of national human rights priorities – in other words, the Human Rights Strategy and the Human Rights Action Plan. Thus, the HRC was created to be a body that was to focus on the country's Human Rights Strategy and the Human Rights Action Plans. A much wider role is needed.

Crucially, a decision is needed about what type of body the HRC ought to be. Clarity is needed about whether it is a high-level ministers meeting, a working body, or both. Thus, a critical question relates to what type of body it is and its functions. It does make sense for the HRC to be both a High Level Meeting institution as much as a mechanism that has an Executive structure as well as Working Groups.

The HRC can be a high-level meeting held a few times a year. However, the Decree should specify how often the HRC is to meet. The Prime Minister and the Assistant to the Prime Minister on Human Rights and Gender Equality should, as occurs presently, jointly chair the High Level meeting. The Head of the Secretariat, however, should play the role of the facilitator at the meetings so that these meetings run smoothly.

The HRC executive committee should be given the formal responsibility for calling meetings and setting up the agenda for these meetings after consulting with the various stakeholders.

The High Level meetings should be not last longer than three hours, as it is at present, to discuss the overall progress and to accept, comment, and give guidance to the various state ministries on the various reports tabled at the HRC. It should not be a forum for other discussions and for other issues to be raised. High Level meetings held for a few hours every 3 or 6 months are not where substantive discussions can or should be held. This is particularly so where the attendees come from a range of sectors in and out of the government. Civil society, international role players in Georgia, and others do want more opportunities to discuss human rights matters with the government.

The Thematic Working Groups (TWG), as the main working fora of the HRC, are the arenas meant for those discussions. It does depend on how the TWG are established and who are invited to those meetings. Already other councils in Georgia invite non-governmental personnel to their meetings. However, discussions, seminars, conferences, lectures, and debates should also regularly occur in the HRC. Therefore, routine events, where issues can be delved into, ought to be held to discuss human rights matters.

The High Level Meeting role should be differentiated from the HRC's working role. The working functions of the HRC should be divided into thematic areas that then work in relatively small groups to achieve the coordinating, implementing, and reporting (CIR) roles on specific areas of work.

The HRC should have layers at which it functions. 1) A high level meeting that is really the public side of its work; 2) the internal work that is done at the level of (a) the executive of the HRC and (b) the

⁷⁸ LIMON, M. Institutional strengthening and organizational development of the Human Rights Council of Georgia, 2015, 205.

working group level with the standing Thematic Working Groups. Both levels ought to be coordinated by the Executive of the HRC and supported by the HRS.

4.2. Operationalizing the HRC as an NMRF

If the HRC is to become fully and properly operational and it is to become a fully-fledged CIR institution, it needs more resources. If the HRS is to do all the things expected of it to support the HRC, and do all that is expected of it properly, it cannot have only five staff members.

Both the HRC and the Secretariat need a clear organizational framework and guidelines to function. As Thomas Hammarberg noted in 2014, the “Human Rights Council needs to develop an effective structure, organize itself into working groups, develop rules of action in order to be able to ensure effective implementation of the action plan.”⁷⁹

At present, the Secretariat operates effectively because of the way the Head conducts the operations. However, this is reliant on the initiative and conduct of one person. Thus, a mandate, structure, and working methodology is needed for both the HRC and HRS. The working relationship needs to be clearly laid out, including who does what, reporting processes, coordinating work roles, implementing roles, who takes up what, etc. The way the process works with the other Councils, who is responsible for what, lines of accountability, etc. all ought to be codified. Clear mandates, working methods, procedures, and responsibilities would bring clarity on the role and functions of both the HRS and HRC. It would then not be dependent on what is decided on an ad hoc basis for each and every process. It would ensure that everyone knows what needs to be done by whom. It would also ensure that for every human rights issue, there would be coordination, implementation, and reporting, especially when a report or recommendations need to be drafted or responded to.

At present, the Secretariat is performing the role of the HRC. To a large extent, that is being done because of the role the Head of the Secretariat plays. Clarity is therefore needed on the formal role that the Secretariat plays. There is also a need to clarify the relationship between the Secretariat and the Council.

While it is clear that the HRC is inter-ministerial, there is also a need to clarify whether the Secretariat is an inter-ministerial agency or an agency in the Office of the Prime Minister. It may be better in line with the common practice for the whole institution, HRC and HRS, to be inter-ministerial and based in a few ministries, including the Ministry of Foreign Affairs (MFA), the Ministry of Justice (MOJ), and the Prime Minister’s (PM) Office. This is because the HRS is already based in the PM’s office. The MOJ is usually the line ministry on matters related to human rights, while the state human rights reporting usually happens within the MFA. Georgia’s HRC Secretariat plays a key role with the MFA on such matters. An alternative may be to have the HRC Secretariat positioned as a separate institution, not in any specific ministry. It could report specifically, and only to the HRC, and become an autonomous body, such as the NMRF is in Morocco. From a comparative point of view, however, inter-ministerial bodies are the most favored.

An executive committee responsible for running the HRC in Georgia should be established with responsibilities for the day-to-day management of the HRC. At the moment, these management functions are being performed by the Secretariat. The executive committee could consist of four persons tasked with the management of the HRC, including the Head of the Secretariat, two persons designated

⁷⁹ See HAMMARBERG, T. *Georgia in Transition: Report on the Human Rights Dimension, Background, Steps Taken and Remaining Challenges*, 2013 [interactive; accessed 24 September 2016]. Available online: <http://gov.ge/les/38298_38298_595238_georgia_in_transi-tion-hammarberg1.pdf>.

yearly: one from the Ministry of Justice and one from the Ministry of Foreign Affairs and the Assistant to the Prime Minister on Human Rights and Gender Equality. Giving these officials the executive role makes much sense because of the roles that the sectors they represent play on human rights matters. It is also where much of the main responsibilities lie as far as accepting recommendations and drafting reports for international and regional bodies. The Executive committee should be responsible for managing the processes, as well as calling HRC meetings (those of the TWGs) as well as ensuring that all the functions of the HRC are achieved, including coordinating, implementing, and reporting on human rights matters.

4.3. The Future Functioning of the HRC in Georgia as an NMRF

The role of the HRC should be about the implementation of the National Strategy and Action Plans but also about taking up the role of coordination, implementation, and reporting. It should thus be a fully-fledged NMRF.

On the issues of policy and implementation, there are already, as noted earlier in this report, many interagency councils and other machineries that perform these roles. In fact, there are countless such bodies. There is no need to duplicate them. The line ministries that work in the various interagency councils are responsible for the general work concerning government policy and implementation. However, there is a need to ensure that ministries and councils also adopt a human rights approach to the various matters they deal with. Thus, the key issue is to coordinate what is happening in all the Councils and provide feedback and direction, where necessary, on human rights matters to these other agencies.⁸⁰

Thus, having processes that ensure full coordination between the HRC and existing inter-ministerial councils and other processes is essential. If the HRC examines the reports and results coming out of the various Councils, engages with them and informs their work, the process will be enhanced. The role of the HRC and HRS should therefore be to coordinate between the various agency councils (and ministries where necessary), as well as between other state, domestic, and international actors on human rights matters, and to ensure coordination, implementation, and reporting. The enormous number of such bodies will make it difficult, but it is a matter of setting in place good systems of communication in all its different forms to achieve coherence. The fact that there will be an institution specifically focused on human rights should mean that all processes become imbedded with human rights values.

Thus, the HRC does not, in practice, have to be the main implementation body of human rights issues in Georgia. That is the role of the various ministries and various interagency councils that exist already. But the HRC should ensure the implementation of others by reviewing the reports of the other agencies and ensuring that these bodies are taking up these issues in the way that is expected from a human rights perspective and in ways that ensure compliance with Georgia's international obligations and the recommendations it has received.⁸¹

A major role of the HRC should be to bring human rights issues to all state agencies and ensure that those bodies report effectively on human rights matters and implement the findings made by oversight bodies on human rights matters. The HRC should, in this way, be the implementation, coordination, and reporting governmental structure that today is becoming usual in states around the world. However,

⁸⁰ On these issues see CREAMER, C. D.; SIMMONS, B. A. Transparency At Home: How Well Do Governments Share Human Rights Information with Citizens? In BIANCHI, A.; PETERS, A. (eds.) *Transparency in International Law*, 239–68. Cambridge: Cambridge University Press, 2013.

⁸¹ For a general perspective, see VON STEIN, J. Making promises, keeping promises: democracy, ratification and compliance in international human rights law. *British Journal of Political Science*, 2016, 46(3), 655–679.

it is not a national human rights institution (NHRI) that has a protection mandate. It is not a human rights commission or similar institution. In Georgia, this is the role played by the Public Defender. These roles ought not to be confused.

Conclusion

As this article reflects, with its focus on Georgia and Portugal, National Mechanisms for Reporting and Follow-up (NMRF) are becoming more and more commonplace in states around the world. This is because they are seen to be necessary key machineries, in addition to others, such as national human rights institutions, for a successful national human rights protection system in states. They are useful for ensuring adequate processes of state reporting and that the recommendations that emanate from international, regional, sub-regional, and other institutions with oversight roles have their findings adequately dealt with by those responsible in a state for implementing those findings. In this way, the core of a state's reporting and engagement method becomes coordinated and cohesive.

NMRFs ensure national ownership of human rights matters. They empower government ministries to play a critical role in human rights promotion and protection. Having a devoted institution focused continually on human rights implementation with the necessary expertise is key to achieving ongoing and sustainable human rights development.

NMRFs also accelerate interaction in and across government agencies. They also achieve organized and formal contacts with a variety of domestic role players. Through such embedded processes, more is achieved within the state on human rights implementation.

NMRFs deepen the coherence and influence of state processes and develop how the state interacts with external human rights institutions at all levels.

In this context, it is not surprising that these institutions have been quickly established in many countries. However, as the focus on Georgia and Portugal indicates, much work is necessary to learn the lessons of these institutions, to share their best practices, to ensure that the most optimal practices are adopted, and that state reporting processes implement the most useful ways of undertaking their tasks.

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The Role of National Human Rights Mechanisms for Reporting and Follow-Up (Nrmf): Understanding These New Global Domestic Processes Using the Cases of Georgia and Portugal as a Focus

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S u m m a r y

This article reviews domestic human rights institutions called Mechanisms for Reporting and Follow-Up (NRMFs). These are not national human rights institutions (NHRIs) as defined by the Paris Principles, but structures that work on matters related to state human rights reporting to structures that the state is mandated to report to because of state obligations. This topic is taken up because these mechanisms play crucial roles in state reporting on human rights and because they are extremely understudied in the academic literature. Such is the case, even though these institutions are being rapidly established in many countries around the world. The article scrutinizes how important state reporting on human rights has become, and then evaluates what NRMFs are, and what the different models of NRMFs are. The article focuses on the nations of Georgia and Portugal to understand what these bodies are meant to do, and how they can work more effectively. The article reviews the present organization that does this work in Georgia (the Human Rights Council) and why it ought to be transformed into a fully fledged NRMF.

Nacionalinių žmogaus teisių apsaugos ataskaitų teikimo ir tolesnių veiksmų mechanizmų (NRMF) reikšmė: šių naujų pasaulinių vidaus procesų vertinimas pagal Gruzijos ir Portugalijos pavyzdžius

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S a n t r a u k a

Straipsnyje aptariamos nacionalinės žmogaus teisių priežiūros institucijos, vadinamos Nacionaliniais žmogaus teisių apsaugos ataskaitų teikimo ir tolesnių veiksmų mechanizmais (NRMF). Tai nėra nacionalinės žmogaus teisių institucijos (NHRI), kaip apibrėžta Paryžiaus principuose. NRMF yra institucijos, kurių veikla yra susijusi su klausimais, susijusiais su valstybės žmogaus teisių priežiūros atskaitomybe kitoms institucijoms. Tema aktuali, nes NRMF atlieka svarbų vaidmenį teikiant ataskaitas apie žmogaus teisių padėtį valstybėje, šių institucijų skaičius sparčiai didėja, tačiau NRMF yra nepakankamai išnagrinėti akademinėje literatūroje. Straipsnyje akcentuojama, kad valstybės teikiamos žmogaus teisių apsaugos ataskaitos tapo ypač svarbios, apibūdinami NRMF mechanizmai, skirtingi šių mechanizmų modeliai. Straipsnyje taip pat analizuojami Gruzijos ir Portugalijos NRMF pavyzdžiai, vertinami šių valstybių NRMF pranašumai ir trūkumai. Straipsnyje vertinama Gruzijos žmogaus teisių taryba ir nustatoma, kodėl ši institucija turėtų būti laikoma visaverčiu NRMF.