NATIONAL HUMAN RIGHTS INSTITUTIONS AND UNITED NATIONS TREATY BODIES

GANHRI BACKGROUND PAPER

MAY 2016
ABOUT THE GLOBAL ALLIANCE OF NATIONAL HUMAN RIGHTS INSTITUTIONS

The Global Alliance of National Human Rights Institutions (GANHRI), formerly known as the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC) is the international association of national human rights institutions from all parts of the globe. Established in 1993 as ICC, GANHRI promotes and strengthens national human rights institutions (NHRIs) to be and work in accordance with the Paris Principles, and provides leadership in the promotion and protection of human rights worldwide.

GANHRI coordinates and supports at an international level the activities of NHRIs established in conformity with the Paris Principles and promotes the establishment and strengthening of NHRIs in conformity with the Paris Principles in order to strengthen human rights domestically. GANHRI undertakes accreditation of NHRIs under the auspices of the Office of the United Nations High Commissioner for Human Rights, and holds an annual meeting and international conferences to strengthen cooperation and share good practice between NHRIs. GANHRI contributes to the work of UN human rights bodies, in particular the Human Rights Council, the UN treaty bodies and UN special procedures.

The current GANHRI Chairperson is Professor Dr Beate Rudolf, Director of the German Institute for Human Rights. The current GANHRI Secretary is Montserrat Solano Carboni, Defensora de los Habitantes de Costa Rica.

ABOUT THIS PAPER

In this paper GANHRI sets out its views about strengthening NHRI participation in United Nations treaty body processes. It provides background information about NHRIs and their engagement with treaty bodies; reviews existing rules and practices of treaty bodies from the perspective and experiences of NHRIs; and offers recommendations on possible areas in which the interaction of treaty bodies with NHRIs could be further improved or harmonized. The paper is structured as follows:

- Introduction
- Background
- Current participation including NHRI experiences and perspectives
- Conclusions and recommendations
INTRODUCTION

NHRIs compliant with the Principles relating to the status of national institutions (the Paris Principles) are increasingly recognised as important actors within the global human rights framework and in particular, within the UN system. NHRIs are unique bodies, created by States with broad legal or constitutional mandates covering the full range of international human rights norms and standards; and are subjected to an internationally recognized accreditation system to ensure their independence, pluralism, accountability and impartiality.

NHRIs can play an important bridging role between international and national human rights protection systems. In line with their mandates under the Paris Principles, they have a role in encouraging States to ratify international human rights treaties; in advising on the domestication of treaties; and in monitoring their implementation and reporting back to treaty bodies on progress made and remaining challenges. NHRIs also play an important role in promoting access of national-level stakeholders including individual rights-holders to international human rights protection systems.

UN human rights treaty bodies - individually and collectively through their Annual Meeting of Treaty Body Chairpersons - have welcomed and further encouraged the participation and contributions of NHRIs across the work of treaty bodies. Treaty bodies have also continuously recommended States to establish and strengthen NHRIs, thereby helping to ensure that NHRIs have the mandate and adequate resources to carry out their functions under the Paris Principles independently and effectively.

In line with this important recognition, NHRIs from all regions are increasingly engaging in treaty body processes and are building their capacities to ensure their most effective participation and contributions to the treaty body system.

All treaty bodies afford NHRIs engagement opportunities in their work, albeit with different statuses and to varying degrees. Across the treaty body system, a number of rules, working methods, and practices relating to NHRI engagement with treaty bodies, as well as experiences by both treaty bodies and NHRIs, have developed over the years.

This paper is presented to the 28th Annual Meeting of Treaty Body Chairpersons in May – June 2016, at the invitation of the Annual Meeting’s current Chairperson Professor Emmanuel Decaux. It provides background information about NHRIs and their engagement with treaty bodies; reviews existing rules and practices of treaty bodies from the perspective and experiences of NHRIs; and offers recommendations on possible areas in which the interaction between treaty bodies and NHRIs could be further improved or harmonized.

The development of this paper was informed by broad and inclusive consultations with GANHRI members including, but not only, through a survey conducted in March – April 2016 with all NHRIs.¹

GANHRI acknowledges the long-standing and productive cooperation among human rights treaty bodies and NHRIs and recognises the significant and complementary role of NHRIs and treaty bodies in promoting and protecting human rights worldwide. GANHRI is grateful for the opportunity to submit this background paper and for the further institutionalized dialogue thus initiated.

GANHRI is confident that this process will provide a sound basis for further strengthening the important work relationship between UN treaty bodies and NHRIs, with a view to promoting the implementation of international human rights norms and standards at the national level.

¹ The paper builds, in part, on research carried out by former ICC intern Sarah Pallesen in her private capacity (“A mutually reinforcing relationship: NHRI and Treaty Body Perceptions on the value of their engagement”, 2013, unpublished). GANHRI gratefully acknowledges this input.
BACKGROUND

The United Nations Paris Principles and NHRI accreditation

NHRIs are independent institutions established by the State and vested with a constitutionally or legally entrenched broad mandate to promote and protect human rights.

Their establishment and operations are guided by the Principles relating to the Status of National Institutions (Paris Principles) adopted by the General Assembly in resolution 48/134. The Paris Principles provide the international community, including Member States, the UN and NHRIs themselves, with the minimum requirements for the establishment and functioning of NHRIs. These requirements, and the protection associated with it, help ensure that NHRIs can effectively contribute to advancing human rights.

In order for NHRIs to effectively fulfil their mandates, the Paris Principles require that NHRIs have a diverse set of statutory functions including:

- Monitoring and investigating the human rights situation at national and local levels, which may include complaints handling;
- Advising the State, particularly on domestication and implementation of international human rights norms and standards, and engaging with rights-holders, communities and civil society;
- Reporting to UN mechanisms and processes, on progress made in the implementation of human rights treaties; and
- Cooperating with the United Nations and any other organisation in the United Nations system (as well as on the respective regional level) that are competent in the areas of the promotion and protection of human rights.

NHRIs are distinct from NGOs and other civil society organisations, as NHRIs are mandated by the State and protected through constitutional or legislative norms. This, in addition to NHRIs’ required compliance with the Paris Principles, provides NHRIs a particular legitimacy to advise the State on implementation of international human rights norms and standards and in turn to report at UN levels on progress made. At the same time, NHRIs and civil society organisations work closely together, and NHRIs in terms of their mandates are required to cooperate constructively and consult with civil society organisations, in order to comply with the Paris Principles.

At the regional and global level, NHRIs are organized through four regional networks and through GANHRI. GANHRI and the regional networks provide support to NHRIs and serve as an important platform for sharing experiences and best practices on how NHRIs with their unique mandates and functions can enhance their work to protect and promote human rights, including through engagement with the United Nations at an international level.

GANHRI is also mandated to review and accredit NHRIs in compliance with the Paris Principles. This is done through a peer-review process undertaken by GANHRI’s Sub-Committee on Accreditation (SCA). This process is conducted under the auspices of the Office of the United Nations High Commissioner for Human Rights (OHCHR), which is a permanent observer and serves as GANHRI’s secretariat.

---

2 See http://www.ohchr.org/EN/ProfessionalInterest/Pages/StatusOfNationalInstitutions.aspx
3 The Regional Networks have been established to represent and support NHRIs at the regional level. There are currently 4 Regional Networks, namely: the Asia Pacific Forum (APF); the European Network of National Human Rights Institutions (ENNHRI); the Network of African National Human Rights Institutions (NANHRI); and the Red de Instituciones Nacionales para la Promoción y Protección de los Derechos Humanos del Continente Americano.
4 For more information on the accreditation process see http://nhri.ohchr.org/EN/AboutUs/ICCAccreditation/Pages/default.aspx
Accreditation ensures independence, pluralism, accountability and impartiality of NHRIs, in line with the requirements of the Paris Principles. Accreditation confers national, regional and international recognition and protection of the NHRI and its independence.

In granting A-status accreditation, which implies full compliance with the Paris Principles, NHRIs also receive the right to participate in the work and decision-making of the GANHRI. The A-status also grants the NHRI the right to address the Human Rights Council and the status serves other UN mechanisms including the treaty bodies as reference for the recognition of NHRIs.\(^5\)

In recent years GANHRI through the SCA and in cooperation with OHCHR has worked to strengthen the accreditation system into an increasingly robust, transparent and fair process. For instance, the sources of information based on which the compliance of NHRIs with the Paris Principles is being reviewed has been diversified. In addition to information provided by the NHRI under review, the SCA also systematically seeks and receives information from NGOs and from the United Nation system about the activities of the NHRI under review. This includes treaty bodies' concluding observations which address the establishment, strengthening or matters relating to the independence of NHRIs in line with the Paris Principles.

GANHRI through the SCA has also developed General Observations to serve as guidance for NHRIs, the SCA, States and other actors on how to interpret, and ensure full compliance with, the Paris Principles. There are currently 28 General Observations related to an NHRI's competence and responsibilities; independence and pluralism; and methods of operation.\(^6\)

General Observation 1.4 titled “Interaction with the International Human Rights System” is of particular relevance to NHRIs and the UN human rights treaty bodies:

“The Sub-Committee (...) highlights the importance of NHRIs to engage with the international human rights system, in particular the Human Rights Council and its mechanisms (Special Procedures Mandate Holders) and the United Nations Human Rights Treaty Bodies. This means generally NHRIs making input to, participating in these human rights mechanisms and follow up at the national level to the recommendations from the international human rights system (...).”\(^7\)

When reviewing the compliance of an NHRI with the Paris Principles, the SCA examines as a matter of course in both quantitative and qualitative terms the level of interaction that an NHRI has with the international human rights system, including with the treaty bodies. Should the SCA not be satisfied by the level of interaction of an NHRI, it may issue a recommendation to the effect that the NHRI strengthens its engagement with the international human rights system and seeks assistance in that regard from GANHRI, its regional network and/or the OHCHR.

As at January 2016 more than 100 NHRIs exist worldwide of which 72 are accredited in full compliance with the Paris Principles.\(^8\) The figure below provides a breakdown of the percentage of NHRIs based on their accreditation status: A in full compliance, B in partial compliance and C-status.

---

7 See General Observations (as updated May 2013), p. 12
**NHRI participation in UN treaty body processes**

In line with their mandates under the Paris Principles and their status as independent institutions of the State, NHRRIs can fulfil an important bridging role between the UN and the country level. As expert bodies at national level, NHRRIs work towards the domestic application of international human rights norms and standards, with full understanding of the local context, and they can be the trusted and legitimate partners to report to the treaty bodies the human rights situation on the ground.

NHRRIs contribute to the work of the UN treaty bodies – and thereby to the implementation of international human rights treaties at national level - in a number of ways:

They submit to the treaty bodies credible, independent and evidence-based information about the local application of international human rights norms and standards. In doing so, they provide the treaty bodies with reliable indication about where progress has been made and where implementation challenges remain.

In turn, this information can assist the treaty bodies in developing a well-directed list of issues (or list of issues prior to reporting) and in assessing the national situation based on which they can develop targeted and detailed recommendations, which are meaningful and relevant to the specificities of each national situation.

---

The National Human Rights Commission of Mexico (CNDH) has the specific statutory mandate to investigate into serious violations of human rights, including on cases of enforced disappearances. Since its creation in 1990 the CNDH has a Program on Alleged Disappeared Persons. The main objective of this programme is to investigate instances and complaints into alleged cases of enforced disappearances, and to provide recommendations to the Government.

In line with this mandate, the CNDH in December 2014 has made a recommendation to the Legislative to undertake necessary amendments to adopt a general law on enforced disappearances in accordance with international standards and the Convention on Enforced Disappearances in particular.

---

9 Source: Chart of the status of NHRIs, January 2016.
In preparation of Mexico’s first appearance before the Committee on Enforced Disappearances (CED) in February 2015, the CNDH submitted a written contribution and participated in a meeting with the CED in advance of the State Party report, to brief the Committee on developments.

In its final concluding observations, the CED among other things:

- noted with appreciation the existence of a dynamic civil society and a National Human Rights Commission that make significant contributions to monitoring the implementation of the Convention by the State party; and
- urged the State party to adopt as soon as possible a general law that regulates all aspects of enforced disappearances covered by the Convention, whilst recommending that the involvement of victims of enforced disappearances, civil society and the CNDH be guaranteed in all stages of the process leading to the adoption of this law.

NHRIs also work to increase awareness of and involvement by national-level institutions and actors of the work of the treaty bodies, thereby helping to make the processes more relevant to the national and grassroots level, including to rights-holders themselves.

In September 2015 for CRPD’s pre-sessional Working Group on Chile, the Instituto Nacional de Derechos Humanos de Chile (Chile’s NHRI) coordinated and facilitated a meeting between the Committee and national DPOs in the premises of the NHRI in-country, using IT infrastructures. This initiative has allowed domestic organisations representing persons with disabilities (DPOs) which could not travel to Geneva to effectively engage with, and contribute to, the Committee’s proceedings, thereby ensuring that their voices are heard in the process.

NHRIs advise the State on implementation of international human rights norms and standards and recommendations resulting from treaty bodies. This includes advice on ratification of international human rights treaties and their optional protocols and their domestication into national laws and policies.

The Afghanistan Independent Human Rights Commission advised the Government of Afghanistan in the development a National Action Plan (NAP) for implementing the recommendations of the treaty bodies and other UN mechanisms to Afghanistan including on ratification and domestication of international human rights treaties not yet ratified by the State. The Commission conducted training for staff members of various Ministries, thereby building the State’s capacities to meet its periodic reporting obligations under international human rights treaty bodies in an effective and timely manner.

The Danish Institute for Human Rights, following Denmark’s review by CERD in 2010, initiated and facilitated an in-country meeting between the CERD’s country rapporteur and representatives from the Danish Government. The meetings have allowed for in-depth follow-up discussions with State representatives on CERD’s concluding observations and their implementation in-country, with full participation of both the CERD Rapporteur and the Danish Institute.

The National Human Rights Commission of Thailand (NHRCT) is represented in a committee set up by the Ministry of Justice tasked with reviewing existing laws and providing advice on a new bill in order to ensure that its provisions are in accordance with the obligations under the Convention on Enforced Disappearances before Thailand proceeds to its ratification. The

---


11 Concluding observations on the report submitted by Mexico under article 29, paragraph 1, of the Convention, CED/C/MEX/CO/1, 5 March 2015, available at: https://documents-dds-ny.un.org/doc/UNDOC/GEN/G15/043/63/PDF/G1504363.pdf?OpenElement
NHRCT has also submitted a separate policy recommendation to the Thai government urging it to enact the above-mentioned bill, which is now being considered by the concerned government departments.

Based on their monitoring and reporting mandates, NHRIs monitor the implementation of international human rights norms and standards and their States' commitments. Many NHRIs use their annual reports, which are public and regularly submitted to Government and Parliament, or special thematic reports to inform about progress made in the implementation.

The Australian Human Rights Commission (Commission) often makes submissions to Parliament which includes assessments of policies and laws against Australia’s international human rights obligations. Some submissions include recommendations calling for greater engagement with treaty bodies and better follow up to concluding observations. The Commission has also adopted a practice of publishing annual progress reports on Australia’s implementation of Universal Periodic Review (UPR) recommendations. These practices provide a mechanism to periodically assess Australia’s implementation of recommendations. It also helps to maximise the mutually reinforcing relationships between treaty bodies and other UN human rights mechanisms (such as the UPR), as well as between international and national human rights protection frameworks. The Australian government recently made a voluntary commitment at UPR to designate a standing national mechanism to strengthen Australia’s overall engagement with UN human rights reporting.

Importantly, cooperation between NHRIs and the treaty bodies also helps promote and protect NHRIs' independence and effectiveness in-country.

In its concluding observations to Kenya, the Committee Against Torture (CAT) requested the State Party to “unconditionally commit to providing the (Kenya National Human Rights) Commission with sufficient financial resources necessary to enable it to carry out its mandate in accordance with the Paris Principles. In addition, the reports produced by the (Commission) on its visits of places of detention should be made public”.

Treaty body concluding observations that address the need for NHRI compliance with the Paris Principles serve as authoritative recommendations for States, and NHRIs themselves, to help ensure that NHRIs are independent and provided with the mandate and adequate resources required for them to operate effectively and in line with the Paris Principles. They are also taken into consideration as a matter of course when the compliance of NHRIs with the Paris Principles is being reviewed in the NHRI accreditation process.

In its concluding observations on Germany, the CRC recommended “that the State party provide the German Institute for Human Rights with a mandate to monitor the implementation of the Convention at the federal, Länder and local levels.” As a consequence, in 2015 the German government provided the GIHR with the resources and mandate to establish a CRC monitoring body, which the SCA expressly acknowledged when recommending the GIHR’s re-accreditation with A-status.

Individually and collectively through the GANHRI and their regional coordinating networks, NHRIs have played an important role in supporting the development of international human rights treaties and other norms and standards.

---

One of the historic accolades of this role was the inclusion of NHRIs during the **drafting of the Convention on the Rights of Persons with Disabilities (CRPD)**. NHRIs were formally recognised in the work of the Ad Hoc Committee established by the General Assembly to develop the Convention and made contributions throughout the process for a strong outcome Convention.\(^{17}\)

Working through GANHRI, NHRIs also supported and contributed to the development of the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, and the Third Optional Protocol to the Convention on the Rights of the Child.

**Support to NHRI participation in UN treaty body processes**

UN human rights treaty bodies - individually and collectively through their Annual Meeting of Treaty Body Chairpersons as well as jointly with NHRIs and their global network - have welcomed and further encouraged the participation and contributions of Paris Principles compliant national human rights institutions across the work of treaty bodies.

In 2006, treaty bodies, NHRIs and civil society met in Berlin, Germany, to discuss the interaction between NHRIs and treaty bodies. The participants adopted a draft harmonised approach for NHRIs’ engagement with treaty bodies, setting out what NHRIs and treaty bodies respectively could undertake with a view to maximising their mutually strengthening relationship. The purpose of the draft harmonised approach is to propose a common approach of engagement for NHRIs, established in accordance with the Paris Principles, to work with treaty bodies.\(^{18}\)

Subsequent formal meetings of Treaty Body Chairpersons continuously considered the relationship with NHRIs, regularly engaged with the then ICC, and recommended the development of harmonised working methods in relation to treaty bodies’ engagement with NHRIs.\(^{19}\)

In 2010, treaty bodies and NHRIs in cooperation with OHCHR met in Marrakech, Morocco, to reflect on the future of human rights treaty bodies. The meeting was a response to the 2009 call of the United Nations High Commissioner for Human Rights, Ms Navy Pillay, who requested State Parties to human rights treaties, as well as NHRIs, treaty body members, civil society actors and other stakeholders to initiate a process of reflection on how to streamline and strengthen the treaty body system.

The Marrakech Statement sets out i) NHRI perspectives on the treaty body strengthening process; ii) recommendations to UN member states; iii) recommendations for cooperation between NHRIs and treaty bodies; iv) NHRI commitments to the process of strengthening the treaty body system; and v) requests directed to the OHCHR. The Marrakech Statement was subsequently endorsed by the 24\(^{\text{th}}\) General Meeting of the then ICC, representing all NHRIs, in May 2011.\(^{20}\)

Most recently, the 27\(^{\text{th}}\) Annual Meeting of Treaty Body Chairpersons in 2015, considering the role of the Chairs in the harmonization of working methods and follow-up to General Assembly resolution 68/268, decided that

\(^{17}\) NHRI participation to the work of the Ad Hoc Committee was based on GA resolution 56/168, by which the General Assembly “Decided to establish an Ad Hoc Committee, open to the participation of all Member States and observers of the United Nations, to consider proposals for a comprehensive and integral international convention to promote and protect the rights and dignity of persons with disabilities”. (Emphasis added).


87. Recalling the mandate of the annual meeting of Chairs, the Chairs called on all treaty bodies to facilitate the harmonization of the working methods of the treaty bodies, for the benefit of rights-holders as well as duty-bearers. In that regard, Chairs expressed support for the call made by national human rights institutions to harmonize treaty bodies’ modalities of engaging with such institutions, with a view to facilitating their participation, including by those national human rights institutions that are not able to send representatives to attend treaty body sessions.21

The engagement of treaty bodies and NHRIIs has also been continuously supported and further encouraged by the United Nations Secretary General, and UN member states at General Assembly and Human Rights Council levels.22

In its most recent resolution on NHRIIs adopted in December 2015 the General Assembly

“Recognizes the role played by national institutions for the promotion and protection of human rights in the Human Rights Council, including its universal periodic review mechanism, in both preparation and follow-up, and the special procedures, as well as in the human rights treaty bodies(…))” (Operational Paragraph 12) and

“Invites the human rights treaty bodies, within their respective mandates and in accordance with the treaties establishing these mechanisms, to provide for ways to ensure the effective and enhanced participation by national human rights institutions compliant with the Paris Principles at all relevant stages of their work” (Operational Paragraph 17).23

Status and engagement opportunities of NHRIs in the treaty body system

Whilst NHRIs in general enjoy participation opportunities with each of the treaty bodies, there currently is a wide variety and diversity in the extent to which treaty bodies have recognised NHRIs in their rules of procedures, working methods and practices.

At present information about the diverse modalities for NHRI participation in the work of treaty bodies is dispersed across treaty bodies' General Comments/General Recommendations, rules of procedures, working methods, practical information notes for NHRIs, and statements or policy papers. These documents vary in terms of their nature, status and scope. Many of them have been developed at different stages of the evolving relationship between NHRIs and treaty bodies. They are published at different locations at each of the treaty body webpages which are hosted by the OHCHR.

In 2011, the then National Institutions and Regional Mechanisms Section (NIRMS; now: National Institutions, Regional Mechanisms and Civil Society Section, NRCS) of the OHCHR developed an information note which sets out some of the then existing opportunities for NHRI engagement in the work of treaty bodies.24

As outlined in the note, NHRIs in relation to treaty body reporting procedures may

- submit written contributions in relation to the development of list of issues;
- submit alternative reports prior to the examination of State party reports;
- meet privately or publicly with Committee members, either separately or jointly with other stakeholders including NGOs and/or UN Country Teams;
- attend the interactive dialogues between the Committees and States examined;
- at two Committees, deliver oral statements during such interactive dialogues;25 and
- submit written contributions to the follow-up to the concluding observations issued by the Committees.

Engagement opportunities for NHRIs in other work areas of treaty bodies may include

- participate in, and contribute to, Days of General Discussions and to the development of General Comments/General Recommendations; and
- engage in treaty bodies' communications and inquiry procedures.

In general terms, at both public and private meetings, as well as when addressing the Committee during the public meeting with the State, NHRIs are afforded seating and speaking slots which are clearly identified with the label "NHRI" and distinct from those attributed to the State party and NGOs.

Engagement opportunities are generally afforded to all NHRIs, irrespective of their accreditation status against the Paris Principles.

---


25 The Committee on the Elimination of Racial Discrimination and the Committee on the Rights of Persons with Disabilities have adopted the practice of inviting NHRIs to address the Committee’s public meeting during the examination of the State Party. Committee on the elimination of racial discrimination, Rules of Procedure, Rule 40, para.2; and the Information Note for NHRIs of the Committee on the Rights of Persons with Disabilities, available at http://www.ohchr.org/EN/HRBodies/CRPD/Pages/NoteonNHRIParticipation.aspx.
Treaty bodies have also developed the practice of granting other national bodies opportunities to contribute to the treaty bodies' work, including by submitting written contributions and providing oral briefings to the Committees. These national bodies may include ombudspersons, mediators and national institutions with a thematic or local mandate that either do not meet nor are they intended to meet the Paris Principles requirements and GANHRI accreditation.

Depending on their mandates and status, other national bodies and NHRI which do not comply with the Paris Principles may provide the treaty bodies with valuable advice on the national and local human rights situation. On the other hand, the status of Paris Principles compliant NHRI is unique in light of i) NHRI's broad human rights mandate and ii) their international accreditation system to ensure independence, accountability and impartiality. This status is distinct yet complementary to that of other national bodies.

The Paris Principles explicitly require of national human rights institutions to "maintain consultation with the other bodies, whether jurisdictional or otherwise, responsible for the promotion and protection of human rights (in particular ombudsmen, mediators and similar institutions)". This provision has informed the development of the Sub Committee on Accreditation's General Observation 1.5 entitled "Cooperation with other bodies" which provides further guidance on the interpretation of this Paris Principles' requirement.26

The following treaty bodies have formalised the participation of NHRI in their rules of procedures:

- The Committee Against Torture (CAT);
- The Committee on Migrant Workers (CMW);
- The Committee on the Elimination of Racial Discrimination (CERD);
- The Committee on the Rights of Persons with Disabilities (CRPD); and
- The Committee on Enforced Disappearances (CED).

CAT, CRPD and CED make reference to NHRI participation in various stages of the treaty body reporting procedure, including in relation to submitting written information, documentation, written statements and oral statements.27 CMW refers to NHRI participation only in relation to written contributions.28 CERD makes reference to the possibility of NHRI formally addressing the Committee during the public meeting with the State party, provided the State party has given its consent.29

None of the treaty bodies refer for example to the potential role of NHRI in relation to supporting follow-up of treaty bodies' concluding observations at national level, or to other areas of treaty bodies' work, with the exception of CED's rules of procedures which confirm that NHRI may contribute to, and participate in, Days of General Discussion and development of General Comments.30

The rules of procedure for the CESC under the Optional Protocol specifically confirm that in relation to the communications procedures, information may be sought from NHRI.31 The rules of procedure for the CRPD refer to the possibility of obtaining additional information from NHRI under the inquiry procedure.32

26 General Observations, op. cit.
27 CAT Rules of procedure CAT/C3/Rev.6, Rule 63; CRPD Rules of procedure CRPD/C/1, Rule 30 and 51; CED Rules of procedure CED/C/1, Rule 44 and 52.
28 CMW Rules of procedure CMW/C/L.1 with amendments adopted by the Committee at its second (April 2005) session (HRI/GEN/3/Rev.3), Rule 29.
30 CED Rules of procedure, CED/C/1, Rule 55 and 56.
31 CESC Provisional rules of procedure under the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, adopted by the Committee at its forty-ninth session (12-30 November 2012), Rule 27.
32 CRPD Rules of procedure CRPD/C/1, Rule 83.
The Committee on the Elimination of Racial Discrimination (CERD)\textsuperscript{33}, the CESCR\textsuperscript{34} and the Committee on the Rights of the Child\textsuperscript{35} (CRC) have developed General Comments/General Recommendations on NHRIs, which further formalise the respective Committee's recognition of the contributions NHRIs can make in their procedures.

Whilst the adoption of these General Comments/General Recommendations on NHRIs is to be commended it appears that these were drafted over a decade ago and thus may not fully reflect the international community's evolving recognition and appreciation of the roles of NHRIs, as stipulated in the Council and General Assembly resolutions on NHRIs\textsuperscript{36} and as witnessed in today's treaty body practices. Critically, CERD’s general recommendation XVII does not specifically refer to the Paris Principles and recommends that NHRIs be “included in government delegations in order to intensify the dialogue between the Committee and the State party concerned”.\textsuperscript{37} In accordance with the practices across treaty bodies which have evolved since, and in line with the GANHRI accreditation system, such practice may in fact compromise the actual or perceived independence of NHRIs.

More recently CEDAW,\textsuperscript{38} the Human Rights Committee,\textsuperscript{39} and CED\textsuperscript{40} have developed formal cooperation papers or statements on engagement with NHRIs. The papers set out the role of NHRIs in their independent capacity, distinct from, yet complementary to, that of states and NGOs, and they provide concrete information about ways in which NHRIs can contribute to the work of the Committees. Critically, the papers by the Human Rights Committee and CED acknowledge the role NHRIs play in all stages of the Committees' procedures and areas of work, in their independent and distinct capacity as NHRIs. The papers have been developed through a broad and inclusive consultation process with GANHRI and its members, thereby carrying the ownership of NHRIs. The papers are published as official UN document, are available in all UN languages, have been widely disseminated by OHCHR and GANHRI with all NHRIs, and are available on each of the treaty bodies' and the GANHRI webpages.\textsuperscript{41} As at April 2016, following a multi-staged consultation process between CRPD and GANHRI and its members, CRPD is in the process of developing a formal cooperation paper with NHRIs.\textsuperscript{42}

In advance of their sessions, CAT, the Human Rights Committee, CEDAW, and CED\textsuperscript{43} make available information notes on their websites with practical guidelines for NHRIs on how to engage in their procedures. These information notes serve as tools for NHRIs wishing to engage with the Committees. They set out practical information for NHRIs about how and at which stage they can participate in the treaty body process, and they provide contact details and information


\textsuperscript{36} e. g. General Assembly Resolution A/RES/70/163, op. cit.

\textsuperscript{37} General recommendation XVII on the establishment of national institutions to facilitate the implementation of the Convention, Forty-second session (1993).


\textsuperscript{40} The relationship of the Committee on Enforced Disappearances with national human rights institutions, CED/C/6, 28 October 2014. Available at: http://tbinternet.ohchr.org/Treaties/CED/Shared%20Documents/1_Global/CED_C_6_7527_E.pdf

\textsuperscript{41} See GANHRI webpage http://nhri.ohchr.org/EN/IHRS/TreatyBodies/Pages/default.aspx

\textsuperscript{42} Outcome of the meeting between the Committee and national human rights institutions and independent monitoring mechanisms, CRPD/C/12/2, Annex V.

\textsuperscript{43} e. g. CED NHRI Information Note 10th session (7-18 March 2016), available at: http://tbinternet.ohchr.org/Treaties/CED/Shared%20Documents/1_Global/INT_CED-INF_10_24001_E.pdf.
about deadlines and accreditation. Some treaty bodies do not distinguish between information submitted to them by NHRIs and NGOs on their websites, which may blur the different nature of NHRIs and NGOs. Some treaty bodies develop NHRI-specific information notes, whilst others such as CMW issue information notes addressed to both NHRIs and NGOs. In addition, CAT provides for a dedicated permanent section on its website relating to information for NHRIs and NGOs.\textsuperscript{44}

Some treaty bodies, supported by their secretariats, have developed the practice of issuing formal invitation letters to those NHRIs whose States are up for examination in the context of the reporting procedure. In general, the invitations are being sent to NHRIs irrespective of their accreditation status. The invitation letters invite the NHRI concerned to contribute to the process and provide practical information such as engagement opportunities, deadlines and contact details. Invitations are being sent to NHRIs by either the respective treaty body secretariat, or in some instances upon the request of the treaty body secretariat may be sent by NRCS. Treaty bodies which regularly send invitation letters to NHRIs include the Human Rights Committee, CESC\textsc{r}, CED, CER\textsc{d} and CEDAW. However, the invitation letters relate in general to opportunities for NHRI to contribute with alternative reports prior to the State’s examination, and are not issued in relation to other relevant stages of the treaty body process, such as in the follow-up procedures or the review procedures in the absence of the State report.

Through its Geneva-based office, GANHRI facilitates effective cooperation between NHRIs and treaty bodies. It does so in cooperation with NRCS, and the various treaty body secretariats works. Prior to treaty body sessions, GANHRI contacts NHRIs informing them of opportunities to contribute to treaty body processes and provides advice about how to most effectively do so including by sharing experiences and lessons from other NHRIs. Where a treaty body secretariat issues a formal invitation letter to NHRIs, GANHRI follows-up with the NHRI concerned, thereby supporting the outreach efforts by the treaty bodies.

When a NHRI comes to Geneva, GANHRI offers support in organising meetings between NHRIs and treaty body members, the secretariat as well as NGOs. In cases when the NHRI concerned cannot travel to Geneva, the GANHRI Geneva Representative, on behalf and upon request of the NHRI concerned, may present a statement during the foreseen slot in the treaty body meeting. GANHRI may also offer to attend a meeting and report back to the NHRI concerned with a summary of proceedings, with a view to assisting the NHRI in the follow up to the concluding observations by treaty bodies. GANHRI also publishes work by treaty bodies on its webpage and disseminates relevant information across NHRIs in all regions.

GANHRI also supports capacity building of NHRIs in relation to treaty bodies, including through an annual face to face training for NHRIs on the international human rights system which is held in cooperation with the Friedrich-Ebert Foundation and OHCHR and which includes dedicated sessions on treaty body engagement.\textsuperscript{45}

The National Institutions, Regional Mechanisms and Civil Society Section (NRCS) of OHCHR also plays a significant role in connecting NHRIs with the treaty bodies. OHCHR has developed fact sheets with information on opportunities to participate in the different procedures of the treaty bodies.\textsuperscript{46} Furthermore, prior to treaty bodies sessions, NRCS provides briefing notes to treaty bodies on the NHRI whose State is up for review at a given session. These confidential briefing notes are directed at treaty body members and provide information on the existence of an NHRI in the country; the NHRI’s mandate and institutional background; the level of compliance with the Paris Principles; work in relation to the thematic focus of the treaty body in question; funding; as well as NRCS assessment and recommendations regarding NHRIs resulting from the GANHRI accreditation process and OHCHR desk officers. NRCS may also be requested to provide oral briefings on NHRIs to the treaty bodies.\textsuperscript{47}

\textsuperscript{44} See http://www.ohchr.org/EN/HRBodies/CAT/Pages/NGOsNHRIs.aspx

\textsuperscript{45} See http://nhri.ohchr.org/EN/IHRS/Training/Pages/Main.aspx


\textsuperscript{47} See OHCHR Information Note National Human Rights Institutions interaction with the UN Treaty Body System, op. cit.
NHRI participation, experiences and perspectives

The Secretary-General in his regular reports to the Human Rights Council and the General Assembly has reported on, and documented the increase in both numbers of NHRI participation in the work of treaty bodies.

Figure 2: Written contributions of NHRIs submitted to the Treaty Bodies, from 2012 to 2015.\footnote{Based on information publicly available on the OHCHR webpage.}

From March to early April 2016, GANHRI surveyed NHRIs in all regions, to identify experiences and remaining challenges perceived by NHRIs with regard to their engagement with the treaty bodies, with the objective to set out good practices and remaining areas to enhance NHRI participation.

In this short time-frame, the survey received responses from thirty-eight (38) NHRIs across all regions, which included thirty-four (32) A status NHRIs, two (2) B status NHRIs and two (2) non-accredited NHRI. In general terms, the responses received in the survey mirror NHRIs' experiences and perceptions collected by GANHRI on different occasions such as feedback received following engagement with a treaty body.
Harmonization of treaty body working methods

Notwithstanding treaty bodies' specificities in terms of their mandates, GANHRI – and treaty bodies themselves - have continuously encouraged the harmonisation of treaty body working methods with respect to NHRI, as also encouraged in the draft harmonised approach adopted in Berlin, Germany, in 2006, and in the Marrakech Statement, adopted in Marrakech, Morocco, in 2010.

This call continues to be of high relevance, as evidenced by the result from the survey. All of the NHRI which participated in the survey considered that the current variety in treaty bodies' rules, working methods and practices relating to NHRI is generally confusing and might even limit NHRI's availability to effectively engage in the processes. All responding NHRI also affirmed that it would in their view be of added value to have similar rules or practices among treaty bodies on engagement with NHRI, with a view to facilitating NHRI's most effective engagement to the treaty bodies.

GANHRI and its members recommend that the process be undertaken in close consultation with and cooperation among the treaty bodies and NHRI and with the support of OHCHR.

Due account of NHRI's role and independent status

GANHRI has continuously recommended that all treaty bodies take due account of the independent status of Paris Principles compliant NHRI and the particular role and legal mandates that they have in national human rights protection and contributions they can make to the treaty body monitoring process.

GANHRI and its members thus welcome that opportunities for Paris Principles compliant NHRI to engage with treaty bodies have been developed that are distinct from those of other actors, including States and NGOs, as well as other national bodies. This includes the adoption of rules, methods and practices which are NHRI-specific.

GANHRI and its members believe that NHRI can have an important role with regard to all elements of the treaty bodies' work.

Responses received from the survey demonstrate for example a high level of engagement from NHRI in encouraging ratification of UN human rights treaties, their optional protocols, removal of reservations by the State and timely reporting by the State. Nearly all of the respondents confirmed that this is an activity which they frequently undertake.

Most NHRI responding to the survey also indicated they regularly undertake human rights education and training about State obligations under the treaty bodies. These activities may be addressed to either State officials, such as representatives of Ministries and administrations, as well as civil society and rights-holders.

Treaty body support to strengthening NHRI

GANHRI and its members have continuously welcomed, and would further encourage, treaty bodies' recognition of the importance that NHRI comply with the Paris Principles and seek for GANHRI accreditation. As is the practice among various treaty bodies, GANHRI welcomes when such reference is made, where appropriate, in the Committee's concluding observations. This helps support GANHRI's and its partners' efforts aimed at promoting NHRI's independence in line with the Paris Principles. It would also serve as an authoritative recommendation for States, and NHRI themselves, to help ensure that NHRI are independent and operate effectively and in line with the Paris Principles.
Reprisals

GANHRI is concerned by acts of **reprisals and acts of intimidation** against those cooperating with the United Nations and its human rights mechanisms, including those against NHRIs.

The General Assembly has taken a strong political stance and has condemned any form of reprisals or other acts of intimidation.

In resolution 70/163, the General Assembly

“Stresses that national human rights institutions and their respective members and staff should not face any form of reprisal or intimidation, including political pressure, physical intimidation, harassment or unjustifiable budgetary limitations, as a result of activities undertaken in accordance with their respective mandates, including when taking up individual cases or when reporting on serious or systematic violations in their countries.”

The Human Rights Council has further addressed the issue of reprisals. In resolution 27/18 of October 2014, the Council

“Stresses the importance of financial and administrative independence and the stability of national human rights institutions for the promotion and protection of human rights, and notes with satisfaction the efforts of those Member States that have provided their national human rights institutions with more autonomy and independence, including by giving them an investigative role or enhancing such a role, and encourages other Governments to consider taking similar steps;

Recognises that national human rights institutions and their respective members and staff should not face any form of reprisal or intimidation, including political pressure, physical intimidation, harassment or unjustifiable budgetary limitations, as a result of activities undertaken in accordance with their respective mandates, including when taking up individual cases or when reporting on serious or systematic violations in their countries;

Recognises the role that national human rights institutions can play in preventing and addressing cases of reprisal as part of supporting the cooperation between their Governments and the United Nations in the promotion of human rights, including by contributing to follow-up actions, as appropriate, to recommendations made by international human rights mechanisms; and

Emphasizes that any cases of alleged reprisal or intimidation against national human rights institutions and their respective members and staff or against individuals who cooperate or seek to cooperate with national human rights institutions should be promptly and thoroughly investigated, with the perpetrators brought to justice.”

In doing so, the General Assembly and Human Rights Council have made it clear that effective participation of NHRIs at UN level requires that they can operate in a safe and enabling environment, at both national and international levels.

Treaty bodies as part of the international human rights protection system can play an important role in addressing cases of reprisals including those faced by NHRIs as a result of their mandated activities. Similarly, GANHRI in cooperation with OHCHR and UNDP works to protect NHRIs, and their independence, when NHRIs, their members or staff that are under threat or face reprisals or other acts of intimidation.

Accordingly, GANHRI has welcomed the development of the San José Guidelines by the treaty bodies on reprisals and would welcome opportunities to further explore how support and protection to NHRIs in the event of a threat or reprisal can be further maximised.

---

49 A/RES/70/163 (2015), para. 11.
Reporting procedure

Regarding the reporting procedure, NHRIs identify their role and potential contributions with regard to all stages of the treaty body reporting procedure:

- Promoting broad national consultations prior to reporting engaging both the State and stakeholders including civil society, rights-holders, parliaments and business;
- Contributing to the development of list of issues in order to assist treaty bodies' priority setting at an early stage of the reporting procedure;
- Meeting with the Committees in pre-sessions, to share updates, highlight priority issues of concerns and offer recommendations for the treaty bodies' consideration. Such meetings provide an important and timely opportunity for NHRIs to brief the treaty bodies on developments since the reports have been submitted, and to respond to particular questions that the members have;
- Participating in the constructive dialogues between the Committee and the State party, monitor State party's responses and use the treaty body webcast to widely publish the discussions in-country; when entitled to do so present an oral statement;
- Monitoring and promoting timely reporting by States in line with states' reporting procedures. In case of a review in the absence of a State report, NHRIs could be invited by the Committee to submit a report in the absence of a State report;
- Monitoring follow-up and implementation by the State party, including by promoting national-level follow-up consultations, providing regular follow-up reports to assess progress made including through their regular annual reports.

97% of the responding NHRIs have engaged by, and welcome the possibility of, sending written contributions.

Although more than 50% of the responding NHRIs have attended treaty bodies’ sessions and participated in the meetings scheduled for NHRIs, this number of NHRIs appears to be significantly lower compared to the engagement through written contributions. These results in fact coincide with the number of NHRIs that expressed that although there is an interest in meeting with the treaty bodies in person in Geneva, they often lack adequate resources to do so.

Among the various formats of NHRI engagement afforded to NHRIs prior the interactive dialogue with the State, responses received indicate that NHRIs most value the opportunity to meet with treaty bodies in private meetings, where information received is being treated confidentially, and prior to the interactive dialogue with the State party. Such meetings provide an important and timely opportunity for the NHRI in a private setting to update the Committee on developments since the reports have been submitted, and to respond to particular questions that the members may have.

NHRIs further welcomed the opportunity of informal meetings with members of the Committee.

Around 90% of the responding NHRIs considered the possibility afforded by CERD and CRPD of allowing NHRIs to present a formal statement in their independent capacity during the public meeting between the treaty body and the State party to be a very good practice.

In case of a review in the absence of a State report, NHRIs could be informed and invited by the treaty body to provide an alternative report.

Follow-up to concluding observations

NHRIs can play an important role in promoting and monitoring follow-up to concluding observations by the State in-country.
Responses to the survey indicate a high level of engagement by NHRI s in **follow-up to treaty bodies’ concluding observations**. 61% of those NHRI s who participated in the survey confirmed that they regularly work to promote follow-up to treaty bodies’ concluding observations, make direct use of concluding observations in the work of the NHRI, and monitor the implementation of the concluding observations by the State party.

NHRI s could be invited by the Committee to provide written information on measures taken by the state party to implement the concluding observations, and treaty bodies could in turn be encouraged to base their assessment on information provided not only by the State party but also based on “other additional information” which may include information sought and received from NHRI s. Further, for effective national-level follow up, it would be important to make publicly available the follow up responses from the state party.

Around 60% of the NHRI s responded that they would welcome an opportunity to be regularly kept informed about, and be formally invited to contribute to, the **follow-up procedures by treaty bodies** to concluding observations. The results also demonstrate the need for NHRI s to benefit from advice and support in-country when promoting the follow-up and implementation of the concluding observations. This could hint to a potential to further developing the support provided by OHCHR field presences and UN Country Teams to NHRI s at the country level.

**Participation in Days of General Discussions and development of General Comments**

NHRI s welcome the opportunity to **contribute to days of general discussions and to the development of the Committee’s general comments**.

Around 40% of the responding NHRI s participated in Days of General Discussions and around 47% contributed to the drafting process of general comments. Nevertheless, NHRI s have expressed that they would like to receive more information on thematic discussions of the treaty bodies.

Against the backdrop of this feedback a review of how information about Days of General Discussion and development of General Comments is routinely sent to NHRI s, or not, may be valuable to identify how these processes and opportunities to engage therein could be made more accessible to NHRI s.

**Communications and inquiry procedures**

Regarding the **communications and inquiry procedures** or NHRI activities in assisting individuals in using these mechanisms, responses show a low engagement of NHRI s. This may have various reasons, including the confidential nature of the communications procedures and the fact that many NHRI s do not have the mandate to bring individual cases to courts and quasi—judicial bodies. However, a number of NHRI s provide, on their websites, information in local languages on the individual communications procedure. Some NHRI s hold specific training for lawyers and NGOs on the individual communication procedure. Induction trainings for NHRI s on the communications procedure, and their potential roles in promoting access by victims and follow-up on views in-country, could be useful in order to strengthen NHRI engagement in this area of the treaty body system.

One NHRI respondent suggested that NHRI s could serve as **amicus curiae** to the Committee, thereby providing the Committee with a full picture of the legal and factual situations and assist the Committee in developing targeted and specific views addressing a structural problem underlying an individual case. Several NHRI s have, individually or through their regional networks, experience as **amicus curiae** in court proceedings on the domestic and/or regional levels.
Country visits by treaty bodies

In the event of a Committee’s country visit, the Committee may wish to seek and receive information from NHRI s in advance, as well as consider meeting with NHRI s during such visit, including in the form of a formal hearing. NHRI s may also assist the Committee where appropriate in identifying possible meeting counterparts for the Committee. NHRI s may encourage cooperation of the State party in preparation and during the visit, as well as follow up and reporting thereon.

Accessibility of the treaty body system to NHRI s

GANHRI welcomes recent efforts to make the work of treaty bodies more accessible to national stakeholders, including victims’ organisations, civil society, and national human rights institutions. This includes timely information-sharing by the Secretariat, as well as webcast of Committee sessions in all UN languages and the use of IT, including videoconferencing and teleconferencing, where it is not possible for national stakeholders to travel to Geneva.

NHRI s responding to the survey considered the opportunity to engage remotely by the use of IT (skype, teleconferencing, video conferencing, webcast etc) very good practice and further encouraged the use of these mechanisms across the treaty bodies and in all areas of their work.

GANHRI and its members across all regions have continuously reiterated the importance of remote engagement with treaty bodies (through IT services). The opportunity to engage remotely should be extended where possible to all areas of the treaty bodies' work, including the reporting procedure and Days of General Discussions. This is of particular value to NHRI s who are not geographically located close to Geneva and may have greater resource constraints. Accessible remote IT services minimises barriers for engagement and should be incorporated into the guidance and practical information notes for treaty bodies. It is noted that treaty body secretariats and OHCHR do provide support for these processes.

Whilst in general, responding NHRI s have indicated they know where to access treaty body-related information, the majority have expressed the need for more detailed guidance to be developed by the treaty bodies on NHRI engagement opportunities with each of the treaty bodies.

In this regard, the formal papers setting out the opportunities for treaty body and NHRI engagement, which have been developed by the Human Rights Committee and the CED in close consultation with NHRI s through GANHRI, were considered particularly useful.

Moreover, in order to enhance their participation at each step of the process, NHRI s indicated they highly value: the formal invitation letters by secretariats of the treaty bodies addressed to NHRI s, inviting them to contribute to the reporting process, whilst setting out opportunities and practical information about how to do so; and the practical information notes for NHRI s prepared by the Secretariats which are available on the respective websites.

Furthermore, NHRI s have highlighted the important role treaty body secretariats play in facilitating NHRI engagement. This includes providing NHRI s with advance notice of reporting schedules and opportunities for NHRI s to contribute thereto, as well as advising them on their most effective contribution. NHRI s highly welcome when information is sent well in advance about the possible engagement of NHRI in the upcoming country review, and assistance and advice received by secretariats. Areas where NHRI s would welcome further guidance is how to develop written contributions more effectively, with a view to meeting the needs and interest of Committee members and facilitating their informed consideration. Effective communications between treaty body secretariats and NHRI s would be further supported with the designation of specific NHRI focal points within the secretariat.
Capacity building for NHRI

Overall NHRI\textls[-70]s expressed the need to receive specific training and capacity building about the treaty body system and NHRI engagement opportunities, as also identified in the 2006 Berlin draft harmonised approach and the 2010 Marrakech Statement.

In 2014, GANHRI in cooperation with the Friedrich-Ebert Foundation and the OHCHR developed a face to face training for staff of NHRI\textls[-70]s on the international human rights system and opportunities for NHRI\textls[-70]s to engage therein. The training, which is implemented on an annual basis, provides sessions on the human rights treaty bodies and NHRI\textls[-70]s engagement opportunities.

Further opportunities for capacity building projects led by the OHCHR in cooperation with GANHRI, including training for NHRI\textls[-70]s and development of handbooks for NHRI engagement in the treaty body processes, may be explored.
CONCLUSION AND PERSPECTIVES

Moving forward GANHRI on behalf of its member institutions offers the following conclusions and perspectives:

▲ NHRIs reiterate their commitment to support to their maximum capacity the work of treaty bodies, at both national and international levels, with a view to promoting implementation of international human rights in-country;

▲ NHRIs encourage treaty bodies to take due account of the independent status of Paris Principles accredited NHRIs, the particular role and legal mandate that they have in national human rights protection, and the contribution they can make at all stages of the treaty body monitoring process. Accordingly, Paris Principles accredited NHRIs should be granted independent participation across their interaction with treaty bodies;

▲ In order to enhance access to treaty bodies by NHRIs and ensure NHRIs' most effective contributions to the treaty body system, NHRIs recommend that the treaty bodies' procedures and working methods be strengthened and be as much as possible aligned and harmonized, with concrete proposals to be developed and considered in a consultative and inclusive process involving both treaty bodies and NHRIs, by the next, 29th Annual Meeting of Treaty Body Chairpersons in 2017. In this regard, NHRIs recommend that the draft harmonised approach to NHRI engagement with treaty bodies, adopted in 2006 in Berlin, Germany; the Marrakech Statement adopted in 2010 in Marrakech, Morocco; as well as the experiences and best practices as identified in this paper be taken into due consideration.

▲ GANHRI is committed to continuing involvement in the process of strengthening the engagement between treaty bodies and NHRIs, with a view to promoting effective implementation, and monitoring, of international human rights treaties at the national level.