

The ‘implementation’ in ‘National Mechanisms for Implementation, Reporting and Follow-up’: what about the victims?

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Introduction

As Prof Christof Heyns, with Prof Frans Viljoen wrote in 2001, ‘ratification in itself is largely a formal, and in some cases, an empty gesture’ and ‘the success or failure of any international human rights system should be evaluated in accordance with its impact on human rights practices at the domestic (country) level’.¹ In the intervening years increased attention has been paid to the translation of human rights treaty obligations into achieving what they coined as this ‘enabling domestic environment’.² Decisions on communications which call on states to take measures to remedy violations have similarly received some consideration. How this is achieved in practice has led to recommendations not only on how the treaty bodies and supranational courts themselves can change their practices to facilitate implementation, but also what states can do in practical terms.

Heyns and Viljoen recommended in 2002 that an ‘inter-ministerial or interdepartmental human rights forum with an “institutional memory” should be established to deal with reporting and implementation of concluding observations in each country. Such a forum should include the relevant organs of state and civil society. The forum should also receive and consider concluding observations and views on individual

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1 C Heyns & F Viljoen, ‘The impact of the United Nations human rights treaties on the domestic level’ (2001) 23(3) *Human Rights Quarterly* 483.

2 Heyns & Viljoen (n 1) at 518. See S Jensen, S Lagoutte & S Lorion ‘The domestic institutionalisation of human rights’ (2019) 37(3) *Nordic Journal of Human Rights* 165. S Cardenas *Conflict and compliance: state responses to international human rights pressure* (University of Pennsylvania Press 2007); C Hillebrecht ‘The power of human rights tribunals: compliance with the European Court of Human Rights and domestic policy change’ (2014) 20(4) *European Journal of International Relations* 1100; C Hillebrecht ‘The domestic mechanisms of compliance with international human rights law: case studies from the Inter-American human rights system’ (2012) 34(4) *Human Rights Quarterly* 959. J Krommendijk ‘The domestic effectiveness of international human rights monitoring in established democracies. The case of the UN human rights treaty bodies’ (2015) 10 *International Organization* 489; J Krommendijk ‘The (in)effectiveness of UN human rights treaty body recommendations’ (2015) 33(2) *Netherlands Quarterly of Human Rights* 194.

complaints'.³ The UN High Commissioner for Human Rights took this idea of states establishing a body or mechanism to coordinate activities at the national level in order to facilitate their engagement with supranational bodies in her report in 2012.⁴ Since then, it is clear that there has been some, not insubstantial movement, encouraged by supranational bodies themselves, organisations such as Universal Rights Group and civil society, in the establishment or identification of such mechanisms. Yet, still, a decade on, many countries have yet to create a mechanism, and those that do exist are still in their infancy.⁵ Furthermore, while the mandate of these 'national mechanisms for reporting and follow-up' (NMRF) has been extended to encompass implementation ('national mechanisms for *implementation*, reporting and follow-up, NMIRF), practice indicates that many are still getting to grips with the coordination of reporting and have yet to move fully to post-reporting or a post-decision phase of this work and there is confusion as to whether their mandate covers individual communications. This chapter explores the establishment of these mechanisms, and then, using some examples, argues that some confusion surrounds the 'follow-up' and 'implementation' aspects of their mandates. As Lorien and Lagoutte note, it was not expected that NMRF would be the 'direct implementer' of supranational bodies' findings, rather the 'facilitator of implementation'. While agreeing with this approach, this essay considers that victims are often unclear what happens to the case once a decision has been reached. Although not directly implementing the decision, these mechanisms are uniquely placed to provide somewhere for victims to obtain information and be kept informed on the progress of implementation of reparations awarded to them.

National Mechanisms for (Implementation) Reporting and Follow-Up

In 2012, the UN High Commissioner for Human Rights, Navanethem Pillay, wrote that each state 'will be encouraged to systematize its preparation of those reports through the establishment or the

3 C Heyns & F Viljoen *The impact of the United Nations human rights treaties on the domestic level* (Kluwer Law 2002) at 40.

4 United Nations Human Rights, Office of the High Commissioner, Navanethem Pillay *Strengthening the United Nations human rights treaty body system* (2012) (Pillay report) <https://www2.ohchr.org/English/bodies/HRTD/docs/HCreportTBStrengthening.pdf> (accessed 26 October 2021).

5 M Limon 'The global human rights "implementation agenda" and the genesis of NMIRFs' in R Murray & D Long (eds) *Research handbook on the implementation of human rights law* (Edward Elgar forthcoming). Universal Rights Group 'Human Rights Implementation, Compliance and the Prevention of Violations: Turning International Norms into Local Reality (Glion III report), https://www.universal-rights.org/wp-content/uploads/2016/10/Glion_2016_page.pdf (accessed 26 October 2021).

reinforcement of a standing national reporting and coordination mechanism'.⁶ Such mechanisms should 'facilitating both timely reporting and improved coordination in follow-up to treaty bodies' recommendations and decisions'.⁷ A subsequent Study and Practical Guide provided further advice for states setting up or identifying such a body. They defined the renamed 'national mechanism for reporting and follow-up (NMRF)' as a government structure, which is

mandated to coordinate and prepare reports to and engage with international and regional human rights mechanisms (including treaty bodies, the universal periodic review and special procedures), and to coordinate and track national follow-up and implementation of the treaty obligations and the recommendations emanating from these mechanisms. It may be ministerial, interministerial or institutionally separate.⁸

The NMRF should be 'comprehensive' in its approach, namely that it engages broadly on all human rights, with all international and regional human rights mechanisms, and in following up on recommendations and individual communications emanating from all such human rights mechanisms.⁹

It was not envisaged that it would 'directly implement human rights obligations', but rather that such a mechanism

prepares State reports and responses to communications, visits of independent experts, follow-up to facilitate implementation by line ministries, and manages knowledge around the implementation of treaty provisions and related recommendations and decisions by other parts of the governmental structure.¹⁰

Subsequent resolutions by the UN General Assembly recommended that the OHCHR provide the necessary support to states to build their institutional capacity,¹¹ and for states to

6 Pillay report (n 4) at 12.

7 Pillay report (n 4) at 85.

8 OHCHR *National Mechanisms for Reporting and Follow-up: A practical guide to effective engagement with international human rights mechanisms* (2016) (OHCHR Practical Guide) UN Doc HR/PUB/16/1 at 2-3. OHCHR *National Mechanisms for Reporting and Follow-up: A study of State engagement with International Human Rights Mechanisms* (2016) (OHCHR Study) UN Doc HR/PUB/16/1/Add.1., https://www.ohchr.org/Documents/Publications/HR_PUB_16_1_NMRF_Study.pdf (accessed 26 October 2021)

9 OHCHR Practical Guide (n 8) 2-3.

10 OHCHR Practical Guide (n 8) at 2-3. See also Glion III report (n 5); Open Society Justice Initiative *From rights to remedies: structures and strategies for implementing human rights decisions* (2013); Open Society Justice Initiative *From judgment to justice. Implementing international and regional human rights decisions* (2010); DC Baluarte 'Strategizing for compliance: the evolution of a compliance phase of Inter-American Court litigation and the strategic imperative for victims' representatives' (2012) 27(2) *American University International Law Review* 263.

11 Resolution 68/268 adopted by the General Assembly on 9 April 2014: 68/268 Strengthening and Enhancing the Effective Functioning of the Human Rights Treaty Body System', https://www.ohchr.org/Documents/HRBodies/TB/HRTD/A-RES-68-268_E.pdf (accessed 26 October 2021).

establish or strengthen national mechanisms for implementation, reporting and follow-up for further compliance with human rights obligations or commitments, and to share good practices and experiences in their use.¹²

There have been some attempts, such as with the Pacific Principles,¹³ to provide further clarity and guidance on how these mechanisms should function. Regional bodies have similarly recommended that states create these bodies¹⁴ and organisations such as the Universal Rights Group (URG) and the state-led Group of Friends set up to facilitate links between states,¹⁵ provide a continual focus.¹⁶

Yet, detailed information about these mechanisms is limited. Work conducted by the Human Rights Implementation Centre (HRIC) in collaboration with the URG and Bingham Centre for the Rule of Law has identified that around 40 to 50 such mechanisms exist.¹⁷ Information about their composition and functioning is scattered, mentioned, for example, in passing in paragraphs in state reports, and in the few publications and studies on the issue.¹⁸ Websites for these bodies often

12 Human Rights Council, *Promoting international cooperation to support national mechanisms for implementation, reporting and follow-up* (2019) UN Doc A/HRC/42/30.

13 *The Pacific Principles of Practice (of National Mechanisms for Implementation, Reporting and Follow-Up)*, adopted Fiji (2019), <https://www.universal-rights.org/wp-content/uploads/2020/06/The-Pacific-Principles-of-Practice.pdf> (accessed 26 October 2021).

14 See for example African Commission on Human and Peoples' Rights *Report of the Second Regional Seminar on the Implementation of Decisions of the African Commission on Human and Peoples' Rights* (2018); African Commission on Human and Peoples' Rights *General Report of the Regional Seminar on the Implementation of Decisions of the African Commission on Human and Peoples' Rights* (2017); Parliamentary Assembly of the Council of Europe, Committee on Legal Affairs and Human Rights, S Kovalov *Ensuring the viability of the Strasbourg Court: structural deficiencies in States Parties* Doc 13087 (2013), http://assembly.coe.int/Communication/pressajdoc29_2012rev.pdf (accessed 26 October 2021).

15 See <https://www.universal-rights.org/blog/what-are-friends-for-groups-of-friends-and-the-un-system/> (accessed 26 October 2021).

16 URG Norwegian Ministry of Foreign Affairs, *Global Human Rights Implementation Agenda: The Role of International Development Partners. Report of the Informal Meeting of Development Partners on 'International Support for the National Implementation of Human Rights Obligations and Commitments* (2018); B Chamoor, S Tadjbakhsh & I Salama and URG team *NMRFs: A key state structure for effective reporting, coordination and implementation of human rights recommendations* (2016) <https://www.universal-rights.org/blog/nmrfs-key-state-structure-effective-reporting-coordination-implementation-human-rights-recommendations/> (accessed 26 October 2021).

17 See also for example Commonwealth, URG *The Global Human Rights Implementation Agenda: The Role Of National Parliaments, Policy Brief* (2018) at 27. M Limon and M Montoya 'Clustering and the integrated implementation of recommendations: The key to unlocking the complementary power of the UN's compliance mechanisms. The Universal Periodic Review, Treaty Bodies and Special Procedures: A connectivity Project. Part of a series of reports on the 'Global human rights implementation agenda' (2019). The Universal Rights Group, Bingham Centre for the Rule of Law and Human Rights Implementation Centre are in the process of publishing a study on NMRFs.

18 OHCHR, Practical Guide (n 8); Open Society Justice Initiative (n 10); D Anagnostou & A Mungiu-Pippidi 'Domestic implementation of human rights judgments in Europe: legal infrastructure and government effectiveness matter' (2014) 25(1)

do not exist and the extent to which their work is visible, even to stakeholders at the domestic level, can be variable.

Different acronyms have arisen, starting with ‘standing national implementation, coordination and reporting structures’ (SNICRS) coined by the UN High Commissioner for Human Rights in her 2012 report.¹⁹ ‘Governmental human rights focal points’ (GHRFP), some with a thematic mandate and some more comprehensive,²⁰ to a greater or lesser extent attempt to achieve similar aims, coordinating the executive arm of the state with respect to its domestic and international human rights obligations.²¹ Other ‘systems’ are organised around the development of national human rights action plans,²² although these tend to be ‘inward looking’,²³ and do not necessarily address the engagement with the regional and international bodies.

‘SNICRS’ from the OHCHR 2012 report²⁴ evolved into ‘national mechanisms for reporting and follow-up’ (NMRF) in the 2016 Study and Practical Guide.²⁵ The inclusion of the ‘I’ and ‘implementation’, in National Mechanisms for *Implementation, Reporting and Follow-Up* arose, it would seem rather by chance during discussion at Glion III, a yearly meeting bringing together key stakeholders as a dialogue for debate.²⁶ According to Limon,

the outcome report of Glion III recalled the ‘growing interest, among States, NGOs, UN experts and OHCHR, about the evolution of so-called ‘national mechanisms for reporting and follow-up’ (NMRF) or ‘standing national implementation, coordination and reporting structures’ (SNICRS – pronounced like the chocolate bar). To avoid creating confusion, Norway, Switzerland and URG agreed to also use the name in the Glion III report, alongside a new label, included in the background papers for the retreat: SNICRS. The significance of this new name (which was debated during the Glion III retreat, without any agreement being reached) was the inclusion

European Journal of International Law 205; S Lorien *Defining governmental human rights focal points. Practice, guidance and conception* (Danish Institute for Human Rights 2021); S Lorien & S Lagoutte ‘What are governmental human rights focal points?’ (2021) 39(2) *Netherlands Quarterly of Human Rights* 80.

19 Pillay report (n 4) at 4.5.4. See also M Camilleri & V Krsticevic ‘Making international law stick: reflections on compliance with judgments in the Inter-American human rights system’ in *Proteccion Internacional de Derechos Humanos y Estado de Derecho* (2009).

20 Lorien (n 18); and Lorien & Lagoutte (n 18).

21 Lorien (n 18) at 35.

22 OHCHR, *Handbook on National Human Rights Plans of Action* (2002) UN Doc HR/P/PT/10; Lorien (n 18).

23 Lorien (n 18) at 38.

24 Pillay report (n 4).

25 OHCHR Practical Guide (n 8).

26 <https://www.universal-rights.org/the-glion-human-rights-dialogue/> (accessed 26 October 2021).

of the word ‘implementation’.²⁷

It has been subsequently used by the Human Rights Council.²⁸

Despite this addition, and perhaps due to them being relatively young entities, their focus is still principally on developing coordination around the reporting and to a much lesser extent on follow-up.²⁹ Some have established databases, collating recommendations from the supranational bodies mapped against responsible ministries and with timelines.³⁰ As the focus is on reporting, individual communications may not be part of an NMRF’s mandate or only to the extent to which they are included in the follow-up to the reporting process.

What about the victims?

The insertion of the term ‘implementation’ has caused some confusion as to exactly what these mechanisms are supposed to achieve and how this differs from the ‘follow-up’ already present: the ‘thin line between direct and indirect implementation’.³¹ It is apparent, even with the addition of the word ‘implementation’, that the OHCHR ‘warn’³² NMRFs should ‘not directly implement human rights obligations’.³³ Speaking of GHRFP, Lorien and Lagoutte argue further that ‘they are created for implementation purposes, but their implementation role is not to be a direct implementer: it is about triggering other actors in action’.³⁴ Thus, as explained by the OHCHR:³⁵

A national mechanism for reporting and follow-up systematizes and rationalizes the preparation of reports to international and regional human rights mechanisms and coordinates national follow-up to recommendations. It facilitates all other forms of engagement with these mechanisms. It ensures coordination between different government entities, thereby building national ownership and coherence, empowering line ministries and developing sustainable expertise. It ensures consultation with the national human rights institution (NHRI) and civil society, which serves to

27 Limon (n 5); Glion III report (n 5).

28 UN Human Rights Council *Promoting international cooperation to support national human rights follow-up systems, processes and related mechanisms, and their contribution to the implementation of the 2030 Agenda for Sustainable Development* (2017) UN Doc A/HRC/RES/36/29.

29 Danish Institute for Human Rights *Report on Country Experiences With HR-SDG Integrated National Mechanisms for Implementation, Reporting and Follow-Up* 2021.

30 E.g. SADATA in Samoa, <https://sadata-production.firebaseio.com/overview> see also the database promoted by the OHCHR, the National Recommendations Tracking Database, <https://www.ohchr.org/Documents/HRBodies/UPR/NRTD.pdf>

31 S Lorien & S Lagoutte ‘Implementers or facilitators of implementation? Governmental human rights focal points’ complex role in enhancing human rights compliance at the national level’ in Murray & Long (eds) (n 5).

32 As above.

33 OHCHR Practical Guide (n 8) at 3. Lorien & Lagoutte (n 31).

34 Lorien & Lagoutte (n 31).

35 OHCHR Practical Guide (n 8) at 6.

strengthen participatory, inclusive and accountable human rights-based governance. A national mechanism for reporting and follow-up is also uniquely placed to take the lead in clustering and prioritizing recommendations, in the coordination and development of a specific implementation plan for the follow-up to recommendations from all international and regional human rights mechanisms, with specific timelines, indicators and benchmarks for success or a comprehensive national human rights action plan, including implementation of treaty provisions and recommendations from the United Nations and regional human rights mechanisms.

However, there is little mention of where victims fit and to what extent the NMRF should be engaging with them. We found in our research that victims may not be informed, in the wake of a decision from the supranational body, how the harm they have suffered will be repaired and what part they have to play in the process to ensure they receive the reparations due. In the words of Zeid Ra'ad Al Hussein, it was hoped that with the creation of NMRF, '[t]hrough such institutionalised contacts, the voices of victims and their representatives will also be increasingly heard'.³⁶

As part of their information management role, the OHCHR recommends that the NMRF

[i]dentify responsible government ministries and/or agencies for their implementation; Develop follow-up plans, including timelines, with relevant ministries to facilitate such implementation; and Manage information regarding the implementation of treaty provisions and recommendations'.³⁷

In addition, it notes that a NMRF is

centrally placed not only to coordinate reporting but also to coordinate and track the follow-up to recommendations or decisions of international and regional human rights mechanisms. An important means by which this can be done is a human rights recommendations implementation plan.³⁸

The NMRF could hence play an important role in providing information to the victim on the progress of the implementation of their case at the national level.

Challenges with implementing the 'implementation' and follow-up aspect of their mandate

Implementation of decisions involves a range of ministries and state authorities and technical and administrative processes, which should

36 Zeid Ra'ad Al Hussein United Nations High Commissioner for Human Rights, in OHCHR Practical Guide (n 8) at iv.

37 OHCHR, Practical Guide (n 8) at 22.

38 OHCHR, Practical Guide (n 8) at 25.

ideally be coordinated.³⁹ These processes are rarely automatic and often complicated and bureaucratic, and the relationship between them and the NMRF, if it exists, is not always clear.

Burkina Faso's Inter-ministerial Committee on Human Rights and International Humanitarian Law, the *Comité Interministériel des droits humains et du droit international humanitaire (CIMDH)*,⁴⁰ within the Ministry of Justice, Human Rights and Civic Promotion, has a broad mandate, encompassing coordination and advice in drafting reports to supranational bodies. It is a technical consultative body, composed of the secretariats of ministries that have human rights competencies,⁴¹ and supports and advises government on policies and strategies for the promotion, protection and respect of human rights and international humanitarian law. The CIMDH is tasked, among other things, to: (a) facilitate the coordination of human rights promotion and protection activities initiated by government ministries; (b) review and advise on government policies and strategies on human rights and; and (c) provide technical support in the drafting of Burkina Faso's state reports to supranational human rights bodies.⁴² Yet, there was an apparent lack of clarity as to its role on follow-up and implementation. For example, there was a perception among some we spoke with outside government that in fact there was 'no formal mechanism in

- 39 K Fox Principi *Implementation of decisions under treaty body complaints procedures – Do states comply? How do they do it?* (2017) <https://hr.un.org/sites/hr.un.org/files/editors/u4492/Implementation%20of%20decisions%20under%20treaty%20body%20complaints%20procedures%20-%20Do%20states%20comply%20-%202015%20Sabbatical%20-%20Kate%20Fox.pdf> (accessed 26 October 2021). K Fox Principi 'Implementation of decisions under UN treaty body complaints procedures: how do states comply?' (2017) 37 *Human Rights Law Journal* 1-30. R Murray 'The implementation of human rights decisions: commitment despite rhetoric but no room for complacency' (2020) 12(1) *Journal of Human Rights Practice*. See Human Rights Law Implementation Project, www.bristol.ac.uk/law/hrlip, funded by the Economic and Social Research Council.
- 40 The inter-ministerial committee on human rights and international humanitarian law (CIMDH) was established by the *décret n°2005-100/PRES/PM/MPDH du 23 février 2005 portant création, attributions, composition et fonctionnement du Comité interministériel des droits humains et du droit international humanitaire* and later on amended by the *décret n°2008-740/PRES/PM/MPDH*, of 17 November 2008.
- 41 R Murray & C de Vos 'Behind the state. Domestic mechanisms and procedures for the implementation of human rights treaty body decisions' (2020) 12(1) *Journal of Human Rights Practice*. S Lorion *The institutional turn of international human rights law and its reception by state administrations in developing countries* (PhD thesis) (2020).
- 42 Interview, undertaken in the context of the Human Rights Law Implementation Project, on file with author. This project, funded by the Economic and Research Council, aimed to track the implementation of select cases from regional and UN treaty bodies. In addition to desk based research, interviews were undertaken with representatives of governments, parliamentarians, the judiciary, NHRIs, civil society, academics and representatives from UN and regional bodies. Ethical clearance was granted from the Universities of Bristol, which led the project, as well as the two other universities involved, the University of Pretoria, Essex and Middlesex. For information and outputs from the project see: www.bristol.ac.uk/law/hrlip.

place ... receiving, processing and implementing decisions',⁴³ but others suggested that this Committee could be asked by the victims to give its views on their case.⁴⁴ As for implementation of specific decisions, other ad hoc processes were set up, including appointing lawyers to manage the cases. Specific ministries will be required for specific reparations, for example, payment of compensation in one case was implemented through the Judicial Agency at the Treasury, but with no overall coordination of all aspects of the decision. Representatives of government did not know if there was a system which brought together victims and government to discuss implementation.⁴⁵

With respect to the victims, our research found consequently that it was not at all clear what they should do, if anything, after the adoption of the judgment or decision. As one victim stated: 'I was left alone fighting for the implementation of the decision'.⁴⁶ Another told us that they were not approached directly by the government after the decision was adopted. Consequently, the role of national lawyers was critical, initiating contact with the government to understand what process should be followed, and liaising with the victims concerning progress.⁴⁷

Cameroon's *Inter-Ministerial Committee for monitoring the implementation of recommendations of the regional and international mechanisms* has a broad mandate, explicitly set out in its founding Order, which also includes coordinating the implementation of decisions of a range of supranational bodies and mechanisms, among them the UN Human Rights Committee, and African Commission on Human and Peoples' Rights, and Universal Periodic Review.⁴⁸ It reports to the President of Cameroon, and is composed of a number of ministries and other stakeholders.⁴⁹ There did appear to be a system whereby on receipt of a decision from a supranational body the Inter-Ministerial Committee will contact the relevant ministries and also the victim. Although there was a lack of transparency in how the Inter-Ministerial Committee operated and it displayed weaknesses in making its deliberations and findings visible, victims were not always aware of its existence and it was not clear the extent to which it actually engaged

43 Interview, undertaken in the context of the Human Rights Law Implementation Project, on file with author.

44 Interview, undertaken in the context of the Human Rights Law Implementation Project, on file with author.

45 Interview, undertaken in the context of the Human Rights Law Implementation Project, on file with author.

46 Interview, undertaken in the context of the Human Rights Law Implementation Project, on file with author.

47 Interviews, undertaken in the context of the Human Rights Law Implementation Project, on file with author.

48 Order No.081/CAB/PM, 15 April 2011. See also FIDH and OMCT *Cameroon: Homophobia and Violence against Defenders of LGBTI Persons* (2015) 9; CNDHL *2014 Annual Report* (2014) at 113. UN Doc A/HRC/WG.6/16/CMR/1 para 2.

49 Murray & De Vos (n 41).

with them, with one receiving no response after it had approached the Committee.⁵⁰ As one litigant informed us, 'it shows [the] case is considered at some level sometimes by somebody. But it must be part of this interministerial thing. ... I think there is some kind of mechanism but I don't really know how it works'.⁵¹

In Zambia, an Inter-Ministerial Committee on Human Rights has been set up by the Ministry of Justice, this Ministry being the focal point for implementation of human rights obligations in the country.⁵² The Inter-Ministerial Committee is composed of ministries and departments as well as the NHRI, the Human Rights Commission, and the judiciary. It coordinates reports to supranational bodies, but not apparently specifically the follow-up or implementation of decisions, for which we were told while the government was creating a database of updates, there was 'no formal structure'.⁵³ Responsibility lay with the Office of the Attorney General to advise the government on implementation,⁵⁴ with the Ministry of Justice ultimately determining to whom to refer the decision.⁵⁵ There was a recognition that

the follow ups are not as good as they probably should be. I guess with most of these cases, the ideal situation would be that we constantly check up with what is happening in this matter with the relevant institution, but structural issues make it very difficult.⁵⁶

In addition, others stated that there was no 'defined process' for informing the complainant or making the decision widely known.⁵⁷

The role of the NMRF/NMIRF with respect to the victims

For the cases we examined, several factors indicate the importance of there being a governmental body which can engage with the victim.

50 Murray & De Vos (n 41). Interview, undertaken in the context of the Human Rights Law Implementation Project, on file with author.

51 Interview, undertaken in the context of the Human Rights Law Implementation Project, on file with author.

52 See Human Rights Council *National report submitted in accordance with paragraph 15 (a) of the annex to Human Rights Council Resolution 5/1: Zambia* A/HRC/WG.6/2/ZMB/1 of 9 April 2008. See also Committee Against Torture *Consideration of reports submitted by States Parties under article 19 of the Convention: Zambia* UN Doc CAT/C/47/Add.2 (2001). Gazette Notice Number 6102 of 2012.

53 Interview, undertaken in the context of the Human Rights Law Implementation Project, on file with author.

54 Interview, undertaken in the context of the Human Rights Law Implementation Project, on file with author.

55 Interview, August 2017, undertaken in the context of the Human Rights Law Implementation Project, on file with author.

56 Interview, undertaken in the context of the Human Rights Law Implementation Project, on file with author.

57 Interview, undertaken in the context of the Human Rights Law Implementation Project, on file with author.

Governments acknowledged that in reality it may be left to the complainant to initiate action:⁵⁸

The burden is very highly on the complainant right now. If the complainant isn't pushing, it's most likely that the matter is quiet, which is not obviously the best of practices, but that's what happens right now, I guess because, like I said, the work is compounded with other portfolios that people have, so it tends to get very diluted in systems.

Victims and complainants may not know who to refer to at the national level or indeed what the process is, if it even exists: "we don't know who to liaise with".⁵⁹ The importance of having someone in country who understands the process which has to be followed to implement the decision, who can 'act as a local agent'.⁶⁰ As one litigant told us:⁶¹

[The victim] needed somebody on the ground because you have to have somebody there who understands what ministry is what and who's who and to follow up and okay close that one down, no it's not the minister of justice it's the minister of interior or defence or whoever it is but from a distance it's really hard to make sense of it.

A government body that has oversight of all aspects of the decision, including which ministry is responsible for implementing which aspect of the decision, is an obvious entity from whom the victims and litigants can obtain information. The 'information management capacity' of the NMRF can do this whereby it can 'systematically capture and thematically cluster recommendations and decisions in a user-friendly spreadsheet or database' which also identifies key ministries, plans and manages information to enable the preparation of the state report.⁶² The NMRF/NMIRF should proactively be contacting the victims in the wake of a decision.

Conclusion

Research is clear that those NMRF that have been established are still very much tackling the task of coordinating and reporting, with follow-up still in its infancy in terms of structures and processes being developed. Implementation is complex and the inclusion of the word in 'NMIRF' has perhaps provided an unhelpful diversion from understanding the intricacy of the numerous processes, involving various state authorities

58 Interview, undertaken in the context of the Human Rights Law Implementation Project, on file with author.

59 Interview, undertaken in the context of the Human Rights Law Implementation Project, on file with author.

60 Interview, undertaken in the context of the Human Rights Law Implementation Project, on file with author.

61 Interview, undertaken in the context of the Human Rights Law Implementation Project, on file with author.

62 OHCHR, Practical Guide (n 8) at 2-3.

which are needed to implement all aspects of a decision.⁶³ An NMRF can provide clear direction, develop plans of action and coordinate activities among the state,⁶⁴ and as part of this role can also act as the first port of call for victims seeking information on how to obtain the remedies for the harms they have suffered.

63 Murray & De Vos (n 41).

64 International Service for Human Rights *Has the Declaration made a difference to the lives of defenders? an analysis of the implementation of the UN Declaration on Human Rights Defenders in Colombia and Tunisia* (2020) at 7.