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## THE ROLE OF NATIONAL HUMAN RIGHTS INSTITUTIONS IN ENHANCING THE IMPACT OF CHILDREN'S RIGHTS REPORTING IN AFRICA

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### 1 Introduction

This chapter contextualises the role played by National Human Rights Institutions (NHRIs) and their functional equivalents (such as ombudsmen) in the reporting process on children's rights. As Ineke Boerifijn notes, NHRIs play a crucial role in the implementation of human rights at the domestic level.<sup>1</sup> They bring a child-oriented focus to what were previously exclusively adult governance systems.<sup>2</sup>

Often offering direct mechanisms for greater accountability of the state and other duty bearers for children, they fill gaps in checks and balances and make sure that the impact of policy and practice on children's rights is understood and recognized. They support, remedy and reform when things have gone wrong or results are inadequate.<sup>3</sup>

They do not replace the line ministries and government agencies that are responsible for service delivery and the fulfilment of children's rights, but 'but work alongside them to strengthen their performance'.<sup>4</sup> Further, they can supplement the activities of non- governmental organisations working in the children's rights sphere, and join or initiate strategic litigation to further children's rights.<sup>5</sup> This chapter focusses not on domestic implementation of children's rights, however, but on the contribution of African NHRIs to treaty body reporting, as explained further next.

1 I Boerifijn 'Partnerships between National Human Rights Institutions and Human Rights Treaty Bodies in the implementation of Concluding Observations' in Y Haeck et al (eds) *The realisation of human rights: When theory meets practice Studies in honour of Leo Zwaak* Intersentia (2013).

2 UNICEF 'Championing children's rights: A global study of independent human rights institutions for children – Summary report' UNICEF Office of Research, Florence (2013) [https://www.unicef-irc.org/publications/pdf/championing2\\_eng.pdf](https://www.unicef-irc.org/publications/pdf/championing2_eng.pdf) (accessed 16 February 2016).

3 UNICEF Summary report (n 2) ix.

4 UNICEF Summary report (n 2) 2.

5 See the response of the Malawi Human Rights Commission on 10 October 2014 to a request for information by the author (copy on file with the author).

Included in the discussion in this chapter are reporting processes to the UN Children's Committee, which monitors the implementation of the Convention on the Rights of the Child (CRC) (1989); involvement with the work of the African Committee of Experts on the Rights and Welfare of the Child (African Children's Committee); and engagement with the Universal Periodic Review (UPR) process. The latter is regarded as being important as it has already seen two rounds of reporting from all member states of the African Union. However, reporting to other treaty bodies, both supranational and regional,<sup>6</sup> lies beyond the scope of this paper.

As regards the institutions under discussion, these include both National Human Rights Commissions and other independent human rights institutions for children, defined by UNICEF as:

A public body with independent status, whose mandate is to monitor, defend and promote human rights and which has a focus on children's rights, either as a specialized institution or because it carries out activities specifically focusing on children, with an identifiable department. It can be established at national or sub-national level.<sup>7</sup>

Thus, to a limited extent, institutions such as ombuds for children are included in the institutions considered.<sup>8</sup>

The chapter commences with an overview of the institutional framework of the Paris Principles and UN Children's Committee's General Comment 2<sup>9</sup> (which is the central framework for considering NHRIs in the international sphere related to children's rights) as well as providing a general overview section on the interaction between NHRIs and the UN and regional treaty body system. Thereafter, the next section considers the relevant institutions on the continent, and briefly reviews their remit and source of authority. Thereafter, the role that has been played by African NHRIs relevant to the CRC reporting process is reviewed, whereafter the chapter engages with the role played in relation to the African Children's Charter and the work of the African Children's Committee. This is

6 Such as under the Convention on the Elimination of all Forms of Discrimination Against Women, the Convention against Torture, and the African Charter on Human and Peoples' Rights.

7 UNICEF Summary Report (n 2) xi.

8 For a discussion of the European Network for Ombudsmen of Children (ENOC) see B Gran 'Multilevel governance and CRC implementation' in A Invernizzi & J Williams *The human rights of children* (2011) 221.

9 CRC Committee General Comment 2: The role of independent National Human Rights Institutions in the promotion and protection of the rights of the child (2002) UN Doc CRC/GC/2002/2 dated 15 November 2002.

followed by a section detailing the contribution of NHRIs vis-à-vis the UPR (as regards children's rights).

The section which follows describes some of the complementary functions fulfilled by NHRIs which contribute to the realisation of children's rights and the reporting process more indirectly. Concrete examples will illustrate this influence. A concluding section will be devoted to challenges and limitations to the involvement of African NHRIs in treaty body reporting processes concerning children's rights.

## **2 The Paris Principles and General Comment 2 of the UN Children's Committee**

Adopted in 1993, the so-called Paris Principles<sup>10</sup> form the bedrock of the work, role and scope of endeavour of NHRIs. They require that NHRIs promote and protect human rights and function independently of government. They note that the scope of work of NHRIs should include lobbying for human rights legislation, publicising human rights including human rights violations, and education about human rights.<sup>11</sup> The principles stipulate that harmonisation of national laws with international treaties is part of the core function of a NHRI, and 3(d) spells out that NHRIs shall contribute to reports to global and regional organs and co-operate with UN and regional organisations. This has been further elaborated by the International Coordinating Committee (ICC) Subcommittee on Accreditation in General Observation 1.4 of 2012, which explained that interaction with the international human rights system means 'making an input to participating in these international human rights mechanisms and following up at the national level to the recommendations resulting from the international human rights system'.<sup>12</sup>

Interestingly, in a section of his chapter entitled 'The roles of independent Children's Rights Institutions', in which he lays out 'four broad strategies' of independent children's rights institutions, Gran does not refer to a role for NHRIs in reporting on children's rights treaty implementation. Instead, he refers to utilising legislation to enforce national laws, initiating legislation, working with the media and collaborating with

10 The principles relating to the status of national institutions for the promotion and protection of human rights, General Assembly Resolution 48/134 of 20 December 1993, Annex. These minimum standards provide guidance for the establishment, competence, responsibilities, composition, including pluralism, independence, methods of operation, and quasi-judicial activities of such national bodies.

11 Gran (n 8) 220.

12 ICC subcommittee on Accreditation (now GANHRI) quoted in I Boerffijn (n 1) 440.

other institutions.<sup>13</sup> He does subsume under the first strategy the powers to monitor legislation, as well as to investigate and collect evidence of maladministration of laws that are harmful to children's rights, but does seem to contemplate reporting under the CRC as being a core function. He does note that not all ICRI's<sup>14</sup> are obligated to consider the CRC in their work (in Europe). Indeed, he stresses the role that ICRI's play in collaborating with NGOs and bridging the divide between government, families, other institutions and children themselves. This raises questions about the extent to which NHRIs are and should be involved in treaty body reporting processes in the context of the way in which NHRIs interact with treaty monitoring bodies.

Boerfijn distinguishes two sides to this issue, the first being the way in which information and reports supplied by NHRIs complement the reporting processes that will be described, and the second being the 'outputs' of the NHRIs at the domestic level consonant with the Concluding Observations of treaty monitoring bodies. As independent bodies, she argues that they can play a distinct role in the reporting cycle, insofar as they can be involved in the preparation of state party reports as well as submitting their own reports. Their position is also distinct from that of NGOs and NGO coalitions, as acknowledged in documents relating to working methods that have been developed.<sup>15</sup> The involvement of NHRIs in treaty monitoring processes has grown over the years, and Boerfijn records that a 2009 OHCHR survey showed that amongst African institutions, 80 per cent of respondents had contributed to a state party report, and 50 per cent had participated in a session of one or another treaty body. Few had at that time submitted a parallel or separate report of their own, however. NHRIs are supported by the OHCHR in their interaction with treaty bodies.

Treaty bodies have limited possibilities to address concluding recommendations directly to NHRIs,<sup>16</sup> and the partnership between treaty bodies and NHRIs has thus been described as a 'triangular relationship' (with state parties forming the third leg of the triangle); the OHCHR

13 Gran (n 8) 234-235.

14 Independent Children's Rights Institutions, the functional equivalent of what this chapter considers as NHRIs.

15 See, for example, Human Rights Committee 'Paper on the relationship of the Human Rights Committee with national human rights institutions' UN Doc CCPR/C/106/3 (2012).

16 Because the primary duty bearers are states parties.

has called it a 'symbiotic relationship'.<sup>17</sup> However, the UN Children's Committee, amongst others, has used Concluding Observations to address remarks regarding NHRIs, often advocating for them to be strengthened and accorded increased resources to monitor children's rights. In addition, the revised reporting guidelines require state parties to report

[w]hether an independent national human rights institution for monitoring the implementation of the Convention and the Optional Protocols has been established and if it receives individual complaints from children or their representatives. States parties to OPAC<sup>18</sup> should indicate whether the institution is mandated to monitor military schools and the military, and if voluntary enlistment in the armed forces is permitted below the age of 18 years.<sup>19</sup>

The relationship between treaty monitoring bodies and NHRIs in an African context is taken up again in conclusion. Highlighting the importance to the UN Children's Committee of the potential of NHRIs to contribute to the fulfilment children's rights is the fact the General Comment 2 adopted in 2002<sup>20</sup> explicitly concerns the role of NHRIs. The General Comment reiterates the conclusions of the Vienna Declaration and Programme for Action at the World Conference on Human Rights of 1993 that NHRIs uphold the rule of law, democracy, electoral assistance (paragraph 34), and that they advise 'competent authorities such as Parliaments and governments, remedy violations of human rights and distribute and educate regarding human rights'. Paragraph 1 of the General Comment situates the establishment of NHRIs by states parties within article 4 of the CRC, the overall implementation clause. Aware of the scarcity of resources in many contexts, the UN Children's Committee proposes the

development of a broad-based NHRI that includes a specific focus on children [that] is likely to constitute the best approach. A broad-based NHRI should include within its structure either an identifiable commissioner specifically

17 Boerfijn (n 1) 451, citing OHCHR information note National Human Rights Institutions (NHRIs) interaction with the UN Treaty Body System of 2011.

18 The Optional Protocol to the Convention on the Rights of the Child on Children and Armed Conflict (2000).

19 Treaty-specific guidelines regarding the form and content of periodic reports to be submitted by states parties under article 44, paragraph 1(b) of the Convention on the Rights of the Child, CRC (3 March 2015) UN Doc CRC/C/58/Rev.3 (2015).

20 General Comment 2 (n 9).

responsible for children's rights, or a specific section or division responsible for children's rights.<sup>21</sup>

The UN Children's Committee's principal concern is that the relevant institutions should be able 'independently and effectively, to monitor, promote and protect children's rights'.<sup>22</sup> In order to ensure this, 'NHRIs must have adequate infrastructure, funding (including specifically for children's rights, within broad-based institutions), staff, premises, and freedom from forms of financial control that might affect their independence'.<sup>23</sup>

In relation to reporting on children's rights, paragraph 20 of the General Comment envisages that NHRIs

should contribute independently to the reporting process under the Convention and other relevant international instruments and monitor the integrity of government reports to international treaty bodies with respect to children's rights, including through dialogue with the Committee on the Rights of the Child at its pre-sessional working group and with other relevant treaty bodies.

In its recent General Comment 5 on General Measures of implementation of the Africa Children's Charter and system's strengthening for child protection, the African Children's Committee addresses the positions of NHRI's thus:

The Committee regards it as desirable that such institutions have their legislative mandate in the Constitution. This mandate should be fleshed out in an Act of Parliament, and not function in a manner which depends on the government of the day.

The Committee regards it as essential that such institutions be sufficiently well resourced and capacitated to optimally fulfil their monitoring tasks, through the allocation of dedicated funds by national governments. The relevant institutions should be able independently and effectively, to monitor, promote and protect children's rights. Furthermore, the Committee advocates that at least one commissioner be devoted exclusively to children's rights, or a that desk focussing on children's rights be identified and staffed with persons with expertise in children's rights, and clothed with sufficient authority to make binding determinations in instances of violations of children's rights. The

21 General Comment 2 (n 9) para 6.

22 General Comment 2 (n 9) para 7.

23 General Comment 2 (n 9) para 10.

mandate should explicitly include an ability to respond to complaints of rights violations.<sup>24</sup>

### **3 Status and mapping of NHRIs and related institutions in Africa**

NHRIs are independent permanent organs of the state, which often derive their mandate from a Constitution (not from government), or at least via an Act of Parliament. Although they do not have judicial powers they can summon any private citizen or duty bearers to questioning and issue recommendations. The African Charter on Human and Peoples' Rights explicitly requires states parties to 'allow the establishment and improvement of appropriate national institutions entrusted with the promotion and protection of the rights and freedoms guaranteed' by the Charter.<sup>25</sup> Following the entry into force of the African Charter in 1986, the first African Human Rights Commission was created in Togo in 1987 and national human rights institutions were soon being set up throughout the region. Because the establishment of NHRIs in Africa were frequently linked to democratic transitions, they often have their legislative mandate in a Constitution.<sup>26</sup> This is the case in Ethiopia, Ghana, Malawi, Namibia, Niger, Rwanda, South Africa, Togo, Uganda, the United Republic of Tanzania and Zambia.

At the time of writing, 43 independent human rights institutions had been created in the African region.<sup>27</sup> The majority of countries with institutions have either a human rights commission, an ombudsperson of an administrative nature, or in many places both. UNICEF notes that the protection of children from violence<sup>28</sup> appears to have been a strong catalyst for creating child rights institutions or offices in the region. A 2009 study conducted in Mali for the establishment of a children's ombudsperson explicitly put this process in the context of forms of violence and exploitation that affect the country's children.<sup>29</sup>

24 At 6.9.

25 Art 26 of the African Charter on Human and Peoples' Rights.

26 UNICEF Summary report (n 2) 202.

27 GANHRI 'Directory of National Human Rights Institutions' <https://nhri.ohchr.org/EN/Contact/NHRIs/Pages/default.aspx> (accessed 4 September 2019).

28 The report of the first UN Secretary General's Special Representative on Child and Violence was released in 2006. See <https://violenceagainstchildren.un.org/> (accessed 16 February 2016).

29 UNICEF Summary report (n 2) 201. Senegal provides another example as to where violence provided the impetus for the creation of a NHRI.

Twenty African human rights institutions enjoyed ‘A status’ under the Paris Principles,<sup>30</sup> according to the Global Alliance for National Human Rights Institutions (GANHRI), which was established in 2016 (replacing the International Coordinating Committee of National Institutions for the Promotion and Protecting of Human Rights).<sup>31</sup> Ten had been granted ‘B status’ (not fully compliant with the Paris Principles)<sup>32</sup> and three had ‘C status’, meaning that they were not compliant with the Paris Principles.<sup>33</sup> This gives a total of 43 NHRIs which are affiliated in one or another way to GANHRI, hence in three quarters of the 53 member states of the African Union. It does not appear from the list that any Lusophone countries enjoyed accreditation: they are listed as ‘other’.

UNICEF in 2013 gave coverage to the following NHRIs in the North African region:<sup>34</sup> As of early 2013, national human rights institutions had been created in Algeria (Commission Nationale Consultative de Promotion et Protection des Droits de l’Homme), Egypt (National Council for Human Rights), Morocco (Conseil Consultatif des Droits de l’Homme du Maroc), South Sudan (Southern Sudan Human Rights Commission), the Sudan (National Human Rights Commission) and Tunisia (Comité Supérieur des Droits de l’Homme et des Libertés Fondamentales).<sup>35</sup> UNICEF recorded that:

Throughout the region, the executive branch usually plays a major role in the nomination, selection and appointment of an institution’s members. Others actors can be involved in the selection process, including civil society organizations, political parties and trade unions. Parliamentarians rarely play

30 Cameroon, DRC, Egypt, Ghana, Kenya, Liberia, Malawi, Mauritania, Mauritius, Morocco, Namibia, Nigeria, Niger, Rwanda, Sierra Leone, South Africa, Tanzania, Uganda, Togo, Zambia and Zimbabwe.

31 GANHRI (n 28).

32 Algeria, Burundi, Congo, Chad, Cote d’Ivoire, Ethiopia, Libya, Senegal, Mali, and Tunisia.

33 Benin, Central Africa Republic and Madagascar.

34 UNICEF Summary report (n 2) chap 19, which covers these in addition to those in the Middle East, which fall beyond the scope of this chapter.

35 In 2004, the Third high-level Arab Conference on the Rights of the Child adopted the Arab Action Plan on Childhood (2004-2014) and reiterated the objective to create necessary mechanisms for child rights and develop the existing ones. At the First Islamic Ministerial Conference on the Child in Rabat, Morocco, in 2005, the Organisation of the Islamic Conference Member States reaffirmed their commitment to the rights of every child and recognised the need to invest in relevant policies, laws and institutions. Subsequently, the Fourth high-level Arab Conference on the Rights of the Child, Marrakech, 19-21 December 2010, adopted the Marrakech Declaration, which promotes the establishment of ombudspersons for children, see UNICEF Summary report (n 2) 288.

a significant role. The challenges to the independence of the relevant north African institutions had led to relatively few being granted ICC 'A status'.<sup>36</sup>

That situation has improved since the release of that publication, however, as the increasing number of 'A' status institutions in Africa has risen.

The most recent African NHRI to be established, following the political upheavals of 2011, is in Madagascar. A new law of 19 July 2014 establishes a commission comprising 11 members, of which one will be dedicated to children's rights.<sup>37</sup> For the most part, as noted, children's rights are addressed either by a general institution aimed at the promotion and protection of human rights, or, more unusually, by a dedicated children's desk or delegation of this mandate to a specific commissioner, as in South Africa (since 2006), Malawi, Nigeria, Zambia and Tanzania.<sup>38</sup> Laws establishing national human rights institutions in Guinea and Sierra Leone provide for specialised committees, including in both cases one focusing on women's and children's rights. However, anecdotal information suggests that these committees are not active.<sup>39</sup> In Chad, the mandate of the National Human Rights Commission includes a reference to children's rights. In Nigeria, the National Human Rights Commission appointed a Special Rapporteur on Child Rights.<sup>40</sup> National human rights institutions in Mauritania and Niger also have child rights units. On the other hand, the Ghana Commission of Human Rights and Administrative Justice abolished its child rights department in 2006, highlighting the potentially fragile nature of these arrangements. The National Human Rights Commission in Togo, for example, decided to make women and children's rights a priority, but by its own confession, has shifted its focus when other issues have come up.<sup>41</sup> According to UNICEF as of early 2013, none of the existing broad-based institutions in North Africa had a child-specific unit or department although a few are engaged in some child-specific work.<sup>42</sup>

A slightly different model exists in Ethiopia, which in 2000 enacted legislation establishing the Office of the Ombudsman. This law explicitly provides for an Ombudsman for Women and Children, who is responsible

36 UNICEF Summary report (n 2) 286.

37 Input by the CSO delegation to the African Children's Charter, 6 October 2014.

38 UNICEF Summary report (n 2) 201.

39 As above.

40 Concluding Observations of the Committee on the Rights of the Child to Nigeria's report (13 April 2005) UN Doc CRC/C/15/Add. 257 (2005).

41 UNICEF Summary report (n 2) 201.

42 UNICEF Summary report (n 2) 285.

for dealing with complaints related to maladministration.<sup>43</sup> Parliament also established the Ethiopian Human Rights Commission, which has a broad human rights mandate related to education, protection, monitoring and research. The law also provides for a commissioner for women's and children's affairs.<sup>44</sup> The Namibian Child Care and Protection Act of 2015 sets up an ombud for children, falling under the office of the general Ombud (who is the country's NHRI). It was argued that the extension of the current Ombudsman's duties, as opposed to the establishment of a separate Children's Ombudsperson, will be the most efficient use of national resources. The Office of the Ombudsman requires additional personnel to perform the duties, but overall savings would be able to be effected by combining travel and outreach programmes and sharing of basic infrastructure and support services. The Children's Advocate, first appointed in 2017 before the Act was finally promulgated (on 1 February 2019), will be supported by social workers and legal officers.<sup>45</sup>

43 UNICEF Summary report (n 2) 203.

44 See, also, the Ethiopia's Country report to the African Children's Committee (November 2013) 16. The Country report notes as follows: 'The EHRC and the Institute of Ombudsman work in collaboration with UNDP under the Democratic Institutions Program (DIP). This collaboration has resulted in developing different programs and projects for the benefit of children. For instance, one such collaboration resulted in a review conducted by EHRC on the achievements of the first cycle education policy where gaps and future strategies were recommended. In addition to this, the Commission in collaboration with all Regional Education Bureaus selected 90 model primary schools and designed a program to make schools conducive for children in exercising their rights. In order to make the EHRC accessible to the public, six regional branch offices have been established in Tigray, Amhara, Oromia, Somali, Gambella and SNNPR and are fully functional. Similarly, the Institute of the Ombudsman opened branch offices in 5 regions in Tigray, Oromia, Amhara, SNNPR, and Dire Dawa'.

45 According to clause 25(1) of the Act, the duties include to: (a) receive and investigate complaints, from any source, including a child, concerning children who receive services under this Act or any other law, or relating to services provided to children under this Act or any other law, or concerning any violation of the rights of children under the Constitution of the Republic of Namibia or any law, and where appropriate, attempt to resolve such matters through negotiation, conciliation, mediation or other non-adversarial approaches;  
 (b) monitor the implementation of the United Nations Convention on the Rights of the Child and any other international instruments relating to child welfare which are binding on Namibia;  
 (c) monitor the implementation of this Act and any other law pertaining to children;  
 (d) bring proceedings in a court of competent jurisdiction as contemplated in section 5(1)(a)(ii)(dd) of the Ombudsman Act, 1990 (Act No 7 of 1990) to further the interests of children; and  
 (e) raise awareness throughout Namibia of the contents of this law and the protection of children generally.

Another exception to the general prevalence of a single (general) national human rights institution is Mauritius, which since 2003 has established a dedicated ombud for children's office by legislation, alongside the National Human Rights Institution and a pre-existing general ombudsman.<sup>46</sup>

Efforts to establish independent human rights institutions for children in francophone countries in West Africa show how the balance between national engagement and the role of international actors is a delicate matter. In 2007, following international efforts to raise awareness of child rights issues among political leaders, UNICEF and the Organisation Internationale de la Francophonie collaborated to encourage the establishment of institutions in three countries: Burkina Faso, Mali and Senegal. In June 2009, a workshop brought together major national actors (government officials, judges, civil society representatives and existing human rights institutions) from all three countries in Bamako, Mali.<sup>47</sup> This sensitised participants to the benefits of independent human rights institutions for children, and specific strategies for establishing an institution in each country were agreed. However, there was limited follow-up after the workshop. According to UNICEF,

there are several reasons for this, including an extensive food crisis across the region, which created new pressing priorities for governments. Perhaps more significantly, there was also an absence of clear national leadership – and even ownership – of the idea of independent institutions at the domestic level. Another contributory factor was a pre-existing landscape of weak formal public institutions (especially human rights institutions).<sup>48</sup>

Overall, it seems the institutions of NHRIs are more familiar concepts in Southern and Eastern Africa than in West Africa, especially francophone West Africa.

A general conclusion that can be drawn is that African NHRIs are young institutions, with little experience of many facets of their work. This is derived from their relatively recent establishment, as well as lack of funding and resources which have to be stretched to accommodate the full gamut of human rights concerns. A second conclusion is that overall, the

46 UNICEF Summary report (n 2) 200. The UN Children's Committee has praised its 'valuable work in the area of investigations and awareness-raising'. See Concluding Observations of the UN Committee on the Rights of the Child: Mauritius (17 March 2006) UN Doc CRC/C/MUS/CO/2 (2006) para 16.

47 Organisation Internationale de la Francophonie (2009) *Rapport de l'atelier sur l'établissement d'institutions indépendantes* quoted in UNICEF Summary report (n 2) 142.

48 UNICEF Summary report (n 2) 142-143.

institution of an ombud is not favoured in this region (as it is in Europe), and that a single national human rights institution is the preferred option. Increasingly, NHRIs are being lobbied to create a children's desk or identify a particular Commissioner as a focal point for children's rights. Whether such approach will automatically lead to the necessary staff and resources being availed in order to provide independent and worthy treaty body reports is a moot point: if national governments struggle to collect the data and information required for comprehensive reporting on many facets of children's rights (health, education, justice, immigration, vulnerable groups and so forth), how much more difficult must it be for a single commissioner to collate credible national data and provide the necessary insight and critique.<sup>49</sup>

#### 4 NHRIs and reporting to the UN Children's Committee

The involvement of NHRIs in reporting to the UN Children's Committee is regarded as a central function by the UN Children's Committee.<sup>50</sup> This is confirmed by General Comment 2 of the UN Children's Committee, discussed above, which does envisage this independent body contributing to the reporting process under the CRC, monitoring the integrity of government reports with respect to children's rights, and entering into dialogue with the UN Children's Committee at its pre-sessional meetings. Although the UN Children's Committee has recommended for the establishment of NHRIs in accordance with the Paris Principles, it has also welcomed children's ombudspersons, children's commissioners and similar independent bodies, and does not explicitly require accreditation for participation in the sessions of the UN Children's Committee. Ombudsmen, commissioners and such institutions are generally not accredited: an exception relevant to the African context is Namibia whose ombud functions as a NHRI and has 'A' accreditation; however, he is not a children's ombud specifically, though as mentioned a Children's Ombud has now been created. UNICEF notes a significant difference exists in the approach of the Paris Principles and the UN Children's Committee's General Comment 2:

49 NHRIs would, of course, enjoy privileged access to their own data, human rights violations reported, inspections and visits, studies and so forth. They could usefully provide this supplementary information to other CSO coalition reports.

50 Boerfijn (n 1). See also The Optional Protocol to the Convention on the Rights of the Child to a Communications Procedure (OP3 CRC) (2011, in force from April 2014), which notes in its Preamble that '*Recalling* the important role that national human rights institutions and other relevant specialized institutions, mandated to promote and protect the rights of the child, can play in this regard...'

the former calls on human rights institutions to feed into reporting by contributing to state reports, while the latter stresses the need for institutions to report independently on conditions in their countries, in keeping with their independent monitoring function. While contributing to the official report can be a way to influence its content, alternative reports offer an independent perspective and provide an opportunity for direct interaction with the CRC Committee.<sup>51</sup>

NHRIs may request a private audience with the UN Children's Committee.<sup>52</sup>

The UN Children's Committee's engagement with state parties on the status and functioning of NHRIs in Africa is revealed by quite frequent recourse to requests for information or clarification on their functioning and role that is contained in the 'List of Issues' drafted in response to pre-sessional meetings. For instance, in relation to The Gambia, the previous recommendation to expand the mandate of the Office of the Ombudsman was alluded to, along with the need to establish a separate independent monitoring mechanism which included an ability to respond to allegations of violations that was accessible to children.<sup>53</sup> Similarly, Morocco was requested to provide details as to measures taken to set up under the National Human Rights Council an independent mechanism to monitor as assess the implementation of the CRC that is accessible and adapted to children and empowered to receive and process individual complaints of child rights violations.<sup>54</sup> Sao Tome was requested to advise on whether measures to establish an independent monitoring body on human rights, including children's rights, had been taken.<sup>55</sup>

The implementation at national level of the Concluding Observations of the UN Children's Committee has occupied some African NHRIs. As reported by Malawi, the Commission reports that it

engages relevant line ministries responsible for child welfare on issues within their sectors, produces periodic child rights situation analysis in Malawi which highlights challenges and practices that impinge on the realization of child rights, advocates for a harmonized legal age of the child in National Law to conform with the CRC, carries out various sensitization meetings on child rights and responsibilities in schools, trains head teachers in child rights and

51 UNICEF Summary report (n 2) 176.

52 See, in general, Boerefijn (n 1).

53 OHCHR 'Treaty body database'.

54 As above.

55 As above.

democracy particularly concerning the alternative punishment of children, amongst other activities.<sup>56</sup>

Further evidence of engagement with the work of NHRIs is found in relation to Tanzania, insofar as the UN Children's Committee has in the past referred to a report of the Commission on children in places of detention in its list of issues. In 2006, a Children's Desk was established within the Tanzanian Commission for Human Rights and Good Governance. The three local branches of the Commission have special offices to deal with children's issues. In 2009, the Children's Desk presented a separate report to the UN Children's Committee that explained its mandate, main activities and challenges.<sup>57</sup> This does not appear to have occurred with the subsequent reporting cycle (in 2015), but the Concluding observations do

note ... with appreciation the continuing work of the Special Desk for Children's Affairs within the Commission for Human Rights and Good Governance. Nevertheless, the Committee reiterates its concern about the Special Desk's limited human and financial resources (CRC/C/TZA/CO/2, para. 14). It is also concerned that its work does not cover the whole territory of the State party, which has implications for, among other things, the accessibility and the awareness-raising efforts of the Special Desk. ...The Committee reiterates its previous recommendation that the State party ensure human and financial resources for the effective functioning of the Special Desk for Children's Affairs.<sup>58</sup>

The UN Children's Committee has, in relation to some countries, motivated for the establishment of a special unit for children's rights, Tunisia being one such example.<sup>59</sup> In Morocco, the reporting process itself led to the establishment of a NHRI:

The CRC Committee's 2003 Concluding Observations provided the starting point for discussions about the creation of an independent institution in Morocco. However, these discussions did not advance far until the Conseil

56 Submission by the Malawi Human Rights Commission to the author, 11 October 2014 (copy on file with the author).

57 Commission for Human Rights and Good Governance 'Children's desk report for CRC Committee members and rapporteurs for the Optional Protocols' (5th August 2009) Dar es Salaam <https://www.rwi.lu.se/NHRIDB/Africa/Tanzania/child%20desk%20report.pdf> (accessed 1 December 2014).

58 Concluding Observations on the combined third to fifth periodic reports of the United Republic of Tanzania, UN Committee on the Rights of the Child (3 March 2015) UN Doc CRC/C/TZA/CO3-5 (2015).

59 Concluding Observations on Tunisia, UN Committee on the Rights of the Child (16 June 2010) UN Doc CRC/C/TUN/CO/3 (2010) paras 12 & 13.

Consultatif des Droits de l'Homme convened a conference in 2009, bringing together international experts and a wide range of national stakeholders to focus on the creation of an independent mechanism. This led in 2012 to the recruitment to the Conseil of a staff person specializing in child rights. Similarly, in the United Republic of Tanzania the Commission for Human Rights and Good Governance explicitly set up its Children's Desk in 2006 in order to comply with the CRC Committee's General Comment No. 2 and its Concluding Observations.<sup>60</sup>

When Namibia reported to the UN Children's Committee in 2012,<sup>61</sup> the Ombud (who functions as Namibia's NHRI) provided a separate report to the UN Children's Committee: in particular, government was urged to reduce school retention rates, to combat poverty, to deal with the problem of child labour and to enact draft bills and ensure legislative harmony. The Ombud also advocated for delinking his office from the executive and increasing budgetary allocations.<sup>62</sup>

An overview of the types of recommendations to be found in the Concluding Observations of the UN Children's Committee related to NHRIs, and the frequency with which they have been made, appear in tabular form in UNICEF's (2013) guide to NHRIs and children's rights.<sup>63</sup>

However, information on separate human rights institutions reports to the UN Children's Committee is much easier to obtain than previously, given the extensive database maintained by the OHCHR. An examination of recent (since January 2016) sessions showed that NHRIs for the following African countries did not submit independent reports during that country's reporting process: Angola, Benin, Botswana, Cameroon, Central African Republic, Democratic Republic of Congo, Eswatini, Guinea, Kenya, Lesotho, Malawi, Senegal, Seychelles, Sierra Leone, Zambia and Zimbabwe. In fact, only five reports of NHRIs for the continent could be traced during this period, being Cabo Verde, Cote d'Ivoire, Mauritania, Niger and South Africa. It is quite interesting that West African NHRIs are in the majority in recent times, indicating a stronger role for NHRIs in this region that was hitherto the case.

An easier solution to the country by country approach to ascertaining whether a particular NHRI has submitted a report to a treaty body could be to request African NHRIs to include updated information on

60 UNICEF Summary report (n 2) 142, 143 & 146.

61 At the time of writing, Namibia has not reported subsequent to this.

62 Personal communications from the Ombud of Namibia (copy on file with the author).

63 UNICEF Summary report (n 2) 174.

their website as to: any reports that they have submitted in the reporting cycle, or at least provide basic information on the extent to which the applicable NHRI has commented upon or contributed to either or both the government (state party) and NGO reports; information on the extent to which the NHRI has participated in the pre-sessional dialogue; and any other relevant information which could illuminate specific contribution to children's rights reporting. This could be enhanced by providing a specific template to the African Network of Human Rights Institutions (see below) to enable tracking of NHRIs engagement with treaty bodies in future.

## 5 NHRIs and reporting to the African Children's Committee

The first reports under the African Children's Charter were submitted in 2008 (Egypt and Nigeria) and to date more than 40 state party reports have been received. However, derived from personal observation, the African Children's Committee's contact with NHRIs has to date been minimal.<sup>64</sup> As regards the reporting process, only the new National Human Rights Commission of Mozambique participated in the presentation of the complimentary CSO report for Mozambique in March 2014 (in fact representing the NGO sector and presenting the complimentary report in person in the guise of the Commissioner who has been identified as being responsible for the rights of the child). However, as a new institution, this NHRI did not submit a separate report.<sup>65</sup> As far as can be recalled, no separate report from a NHRI has to date been received by the African Children's Committee, and no contrary information could be found on the African Children's Committee website. Despite this, the African Children's Committee has met whilst on mission with NHRIs (for example in Uganda in 2013, Kenya in 2012, and South Sudan, 2014).

It seems that the South African Human Rights Commission would have been in a position to provide a complimentary report to the African Children's Committee when South Africa submitted its first report in 2014, but 'missed the boat'.<sup>66</sup> This indicates a certain lack of engagement with the CSO movement, since the CSOs were able to prepare a fairly comprehensive report in a short period of time after submission of the

64 The author was a member of the African Children's Committee from 2011 until 2016.

65 The Commission received training in October 2014 on reporting processes, including from the OHCHR. A member of the African Children's Charter was invited to present, but the timing did not permit this to happen.

66 The South African Human Rights Commission did not appear at the pre-session held with NGOs in April 2014, and it was indicated that they could attend the presentation of the state party report in October 2014, but would not be given an opportunity to intervene, this session being reserved for dialogue with representatives of government.

state party report to the African Children's Committee,<sup>67</sup> at the time of the second report in 2018.

A similar trend is evident with regards to Ethiopia. Neither the directorate of Women and Children of the Ombudsman for Ethiopia nor any representative from the Directorate of Women and Children of the Ethiopia Human Rights Commission attended the session at which the government of Ethiopia presented the country report in October 2014, nor did the Human Rights Commission submit an independent report. This would have been especially welcome in the light of the fact that no complimentary report from Ethiopian CSOs was received either. This means that no formal report emanating from sources outside of the Ethiopian Government was available for consideration by the African Children's Committee.

By invitation, the Network of African Human Rights Institutions was approached by the African Children's Committee and a representative from this body attended the meeting of the African Children's Committee held in March 2014. This was intended to herald the start of a more structured relationship with the members of this regional umbrella body. The African Children's Committee agreed at the same meeting to accord the Network Observer Status at the African Children's Committee.<sup>68</sup> It remains to be seen, however, whether the Network makes use of the opportunity and whether it leads to a deepened engagement with either the Network or individual NHRIs.

During dialogue consequent upon the receipt of state party reports, the African Children's Committee routinely requests state parties to indicate whether there is a NHRI, how it is functioning and whether it has a special children's desk or identified Commissioner tasked with the protection and promotion of children's rights. In the Guidelines on the Form and Content of Periodic State Party Reports to be Submitted Pursuant to article 43(1) (b) of the African Charter on the Rights and Welfare of the Child adopted by the African Children's Committee in April 2014, clause 15(b) requires states parties to

provide information on whether or not it has established a national human rights institution (NHRI), and if so, the role played by the NHRI in promoting and protecting child rights. The State Party should provide contact details of institutions mentioned under this clause.

67 The CSO report was prepared between January 2014 and the end of February 2014.

68 The Network has previously been granted observer status by the African Commission on Human and Peoples' Rights.

The Kigali Declaration of May 2003 urges member states of the African Union to establish independent NHRIs (where they have not yet done so) and to provide them with adequate financial and other resources for their proper functioning, and to guarantee their independence. A human rights strategy for Africa was adopted in Banjul, The Gambia, in April 2011. The strategy seeks (amongst others) to address the challenge of the limited capacity of African human rights institutions, and includes NHRIs within its remit. A Forum with stakeholders to develop a road map to take forward the agenda to strengthen and enhance the African human rights agenda was held in November 2014, with the aim of preparing for 2016, which was identified as the African Union Year of Human Rights. It is suggested that the explicit inclusion of NHRIs in these initiatives entails that NHRIs are supposed to occupy a more central space in the African human rights system generally. This may in time have spin offs for children's rights in Africa, including via engagement with the African Children's Committee.

## 6 The UPR, children's rights and NHRIs

From the outset of the UPR process, NHRIs were accorded a noteworthy role in the process.<sup>69</sup> In 2011, it was decided that NHRIs can be included in a separate section in the summary of information. NHRIs may intervene immediately after the state under review during the adoption of the outcome of the review by the Council.<sup>70</sup> A workshop on NHRIs and the UPR process was held on 13 March 2014 in Geneva, to review the role of NHRIs in the UPR reporting process, and plan for enhanced collaboration in future reporting cycles.<sup>71</sup>

69 Only 'A' rated HRIs are entitled to participate fully in the international arena and take the floor or submit documentation, see Boerefijn (n 1).

70 Human Rights Council Resolution, Review of the work and functioning of the Human Rights Council HRC/RES/15/21 (2011), Ann, paras 9 & 13.

71 UPR Info 'NHRIs share best practices on UPR engagement' (17 March 2014) <http://www.upr-info.org/en/news/nhris-share-best-practices-upr-engagement> (accessed 9 October 2014). Chief of the UPR Branch at the Office of the High Commissioner for Human Rights pointed out that NHRIs have engaged positively with the UPR process. She shared some figures to illustrate such participation. 17 reports were submitted by NHRIs during the six first sessions of the first cycle, while 41 were submitted during the second cycle. In terms of oral statements made during the adoption of reports, seven NHRIs participated over the six first sessions of the UPR first cycle, while 16 did during the second cycle. Cameroon highlighted that their governments consulted them in preparation of the national report, and South Africa reported that they consulted civil society when they prepared their stakeholder reports. NHRIs from Cameroon and Rwanda both organised several trainings on the UPR process.

The UPR process is relevant to the themes of this chapter for four main reasons. First, several African states have accepted recommendations which relate to the functioning of the NHRIs. Benin in 2013 provides one such example, as the following recommendations were accepted:

A - 108.14 Speed up the process to amend the law aiming at improving the functioning of the National Human Rights Commission in accordance with the Paris Principles (Rwanda);

A - 108.15 Complete the process of adaptation and compliance of the Benin Commission of Human Rights with the international standards (Algeria);<sup>72</sup>

A - 108.17 Further enhance the capacity of the National Commission on the Rights of the Child (Sri Lanka);

So, too, were recommendations made regarding the NHRI of Ghana in 2012: Five countries made recommendations concerning strengthening the Commission on Human Rights and Administrative Justice (CHRAJ) through financial and human resources and ensuring compliance with the Paris Principles.

Second, children's rights routinely get raised in submissions to the UPR process, and thereafter find their way into recommendations. By way of example, in relation to Ghana (2010), some specific recommendations related to continued efforts to enhance enrolment of girls in school and minimise the dropout rate (Comoros); to continue to implement the national strategy for the total elimination of FGM in all forms; to strengthen action to enforce the law on sexual violence against women and girls and continue to provide affordable health and physical services to the victims of sexual violence of excision (Djibouti); to ease prison congestion and its impact on mothers with young children (Bahamas); to take measures to ensure equitable access of indigenous children, migrant children and those living in rural areas to education and health services and improve their standard of living (Costa Rica); and to strengthen action to enforce the law on sexual violence against women and girls and continue to provide affordable health and physical services to the victims of sexual violence (Democratic Republic of Congo).

Regarding Burundi (2013), recommendations concerned taking further appropriate measures to improve the situation of children, in

72 UPR Info 'Recommendations and pledges: Benin – Second review, session 14' [http://www.upr-info.org/sites/default/files/document/benin/session\\_14\\_-\\_october\\_2012/recommendationsandpledgesbenin2012.pdf](http://www.upr-info.org/sites/default/files/document/benin/session_14_-_october_2012/recommendationsandpledgesbenin2012.pdf) (accessed 1 December 2014).

particular child victims of war, children living and/or working on the streets, minors in prison and AIDS orphans, improving birth registration and increasing efforts to contribute to the disarmament, demobilisation and reintegration of children involved in armed conflict.

Third, as with children's rights treaty body reports, NHRIs can play a valuable role in following up on recommendations which government have accepted and they can also play a role in providing supplementary information on those which an African government has noted or rejected.

Fourth, it does appear that NHRIs have made submissions independently to the UPR process on a greater scale than to treaty specific bodies such as the UN Children's Committee: some examples are South Africa, 2012; Kenya, 2010; Uganda, 2011; Egypt, 2010; Ethiopia, 2014; Nigeria, 2013 and Togo, 2011. However, some of these reports do not particularly highlight child rights issues (other than education). Egypt did cover the issue of school drop outs and reduction of illiteracy. Ethiopia covered, amongst others, child health, girl's education, child labour and birth registration. The report of the NHRI of Burundi provides an exception:<sup>73</sup> a specific section on the rights of the child highlights corporal punishment, violence against girls, non-fulfilment of respect for the principle of the best interests of the child, lack of respect for children's views, and insufficient resources being availed for the fulfilment of children's rights. Similarly, the Nigerian Human Rights Commission devoted a significant paragraph to children's rights:

Poor access to health, especially routine immunisation, leads to high child mortality. Despite the coming into effect of the Universal Basic Education Act (2004), 30 million Nigerian Children are out of school. Child trafficking and child labour are endemic and cut across the country. With passage of the Child Rights Act in 2003, (which domesticates the UN Convention on the Rights of the Child) necessary structures for implementation are not in place. Many states are yet to pass this important instrument into law. The challenge of an estimated 20 million street children especially in the northern part of the country is cause for worry. However the establishment of the family courts in the FCT as part of the implementation of the Child Rights Act, is a

73 UPR Info 'Burundi: Commission Nationale Independante Des Droits De L'Homme' [http://www.upr-info.org/sites/default/files/document/burundi/session\\_15\\_-\\_january\\_2013/nihrcuprbdis152012commissnationaleindependantedroitshomme.pdf](http://www.upr-info.org/sites/default/files/document/burundi/session_15_-_january_2013/nihrcuprbdis152012commissnationaleindependantedroitshomme.pdf) (accessed 11 October 2014).

welcome development. Allegations of sale of babies have become a disturbing phenomenon in some parts of the country.<sup>74</sup>

The South African Human Rights Commission has twice engaged with the UPR process in the first two reporting cycles, as well as most recently in the third cycle which is currently underway.<sup>75</sup> The opportunities to raise children's rights issues (amongst others), for instance, inequality of education and education facilities was raised with considerable concern, as was the lack of prohibition of corporal punishment in the home, despite provisions in the original Children's Bill to that effect. It is further noteworthy that the Commission hosted a well-attended national summit on the prevalence of corporal punishment in South African schools (despite a legal ban having been in operation for 20 years), indicating the willingness of the Commission to exercise its mandate to follow up on recommendations made at the international level by treaty bodies and to pursue their 'follow through' back home.

Some children's rights focussed INGOs maintain a steady presence in the UPR process, such as the Global Initiative to End Corporal Punishment against Children and Defence for Children International. Occasionally, UNICEF has provided a submission.<sup>76</sup> Save the Children International regards the UPR process as integral to its child rights' governance strategy. This is indicative of the prospect that children's rights will continue to feature strongly at UPR reviews, and that it is justified to maintain a focus on NHRIs and reporting through this mechanism in order to advance children's rights on the African continent.

74 National Human Rights Commission, Nigeria 'Report on state of compliance with International Minimum Standards of Human Rights by Nigeria under the Universal Periodic Review Mechanism' [http://www.upr-info.org/sites/default/files/document/nigeria/session\\_17\\_-\\_october\\_2013/nhrc-nigeria\\_upr17\\_nga\\_e\\_main.pdf](http://www.upr-info.org/sites/default/files/document/nigeria/session_17_-_october_2013/nhrc-nigeria_upr17_nga_e_main.pdf) 6-7 (accessed 11 October 2014).

75 National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21: South Africa, UN GA (11 April 2017) UN Doc A/HRC/WG.6/27/ZAF/3 (2017). In this cycle Namibia's ombud provided an independent report, as did the NHRI of Rwanda (Summary prepared by the Office of the United Nations High Commissioner for Human Rights in accordance with paragraph 15(c) of the annex to Human Rights Council resolution 5/1 and paragraph 5 of the annex to Council resolution 16/21: Rwanda, HRC (17 August 2015) UN Doc A/HRC/WG.6/23RWA/3 (2015). However, Nigeria's NHRI did not report in this cycle.

76 For example, in relation to The Gambia, in 2010.

## 7 Challenges and limitations

The OHCHR has identified limited awareness, capacity, resources, the multiplicity of models of interaction with diverse treaty bodies and, in some cases, alleged reprisals from the state party as factors hampering effective engagement with the treaty body reporting system.<sup>77</sup> In the African context a few further factors can be highlighted. These include possible lack of awareness amongst NHRIs and similar bodies of the role they can play in reporting processes, and indeed whether and when their government have submitted children's rights reports. African NHRIs are (perhaps more so than elsewhere) vulnerable to funding and personnel cuts<sup>78</sup> and therefore less eager to speak out with an independent voice against governments before international audiences. Funding and resources (transport) also affect the ability of NHRIs to provide country wide coverage,<sup>79</sup> and a truly grassroots perspective on national implementation of children's rights.

There is probably not a single NHRI or NHRI type institution on the continent that does not complain about a lack of resources: in a resource poor and developing context, where it could be motivated that scarce funding could equally be devoted to implementation and service delivery for the fulfilment of children's rights,<sup>80</sup> it can be argued that NHRIs should make more effort to maximise their impact with what they have and to stretch available resources with more ingenuity.<sup>81</sup>

A further point relates to the relative 'youth' of NHRIs in African context. It is discernible that capacity can improve over time for

77 OHCHR 'Survey on National Human Rights Institutions: Report on the findings and recommendations of a questionnaire addressed to NHRIs worldwide' (2009) <https://nhri.ohchr.org/EN/Documents/Questionnaire/Questionnaire%20-%20Complete%20Report%20FINAL-edited.pdf> (accessed 16 February 2016).

78 For instance, the South African Human Rights Commission was pruned from 12 to six commissioners in 2006.

79 Good practice examples are South Africa, with branch offices in all nine provinces; Tanzania, which has established offices in three regions; Nigeria, also with devolved offices in states; and Uganda, which established a presence in Northern Uganda dating back to the time of the internal conflict in 2002-2006.

80 In South Africa, there has been much discussion about the huge cost of the three Chapter 9 institutions (the Human Rights Commission, Gender Commission and Youth Commission), especially given the lack of concrete outputs of the latter two. As mentioned, the original South African Human Rights Commission has been trimmed as far as the number of (well remunerated) commissioners is concerned.

81 Such as taking on interns to undertake studies, linking with universities, and joining forces, where possible and appropriate, to undertake regional studies or monitoring to increase the pool of experts.

interventions to be more effective. NHRIs such as that of Uganda and South Africa which already have a history going back to the 1990s provide some evidence of this.

It is argued that the capacity building of NHRI staff and commissioners to engage with monitoring processes and to become more effective advocates before treaty bodies is an eminently fundable project via one of the main INGOs<sup>82</sup> dealing with the promotion of the rights of children, but it is up to NHRIs to forge these links and claim for themselves the space that they want to occupy in the children's rights arena.

Overall, this chapter reveals a lack of direct engagement by NHRIs with children's rights reporting processes before the UN Children's Committee and the African Children's Committee. At the same time, where concerted efforts were made to draw in NHRIs and capacity building initiated, as with the UPR process, it can be seen that NHRIs were able to play a much more meaningful role and raise child rights concerns and areas for improvement. However, a note of caution must remain: the tight guidelines for UPR reporting (with specific page limits in the first reporting cycle) make it potentially far more attractive to engage with (from a logistical perspective) the more detailed reports seemingly required in relation to (all the rights covered in) the CRC or the African Children's Charter; put differently, the question may be posed as to whether the UPR process is not simpler and easier for NHRIs to engage with? Nevertheless, the limitations on the length of reports to the UN Children's Committee in place since 2015<sup>83</sup> do militate against the possibility of lengthy reports being required, and in any event, there is no requirement that the maximum word count must be reached.<sup>84</sup>

Related to this, the question posed at the outset remains to be discussed, namely whether separate NHRI reporting to children's rights treaty bodies is feasible and realistic. Arguably, at this point, it is probably not: both from the vantage point of the lack of resources available to most African NHRIs to produce credible and well researched reports, and from the point of view of the potentially oppositional stance they fear their

82 For example, Plan International, UNICEF or Save the Children International's governance initiative.

83 Treaty-specific guidelines regarding the form and content of periodic reports to be submitted by states parties under article 44, paragraph 1(b) of the Convention on the Rights of the Child (n 20).

84 NHRIs reports are treated on the same basis as Civil Society reports, and therefore cannot exceed 20 000 words. See in general J Sloth-Nielsen 'Monitoring and implementation of children's rights' in T Liefaard & U Kilkelly *International human rights of children* (2019) (especially at 39-40).

governments might perceive were they to submit independent reports. They might, too, be seen to be siding overly with CSOs,<sup>85</sup> whose position is also tenuous in many African countries.

Nevertheless, an opportunity to have an influence on the human rights – or child rights – situation in a country through the reporting process should not be an opportunity lost, and to this end, treaty bodies could consider (interim) alternatives, such as formal or informal oral dialogue with NHRIs (obviating the need for written reports), or regional roundtables with groups of NHRIs (either on specific themes or on general implementation issues).<sup>86</sup> As a minimum, it appears that more outreach from the treaty bodies themselves is required, if only to invite NHRIs directly to attend CSO and/or state party sessions and commence a process of relationship building for the future.

The 30th anniversary of the CRC, together with ongoing reform of the reporting process in the UN system, has additionally seen some innovation that could make it easier (and cheaper) for NHRIs to interface with the reporting process. For instance, link up via video has been possible since 2013, and reports may now be submitted through an online platform.<sup>87</sup>

Last, training of NHRIs on reporting processes and treaty bodies is clearly desirable, with Mozambique having seemingly taken the lead on this recently. This training could extend to the mandate of the treaty body, its structure within the UN or regional system, and the ‘rules of engagement’ such as the word limit imposed in the various reporting processes.

85 Alongside whom they would present their reports at a pre-session. See in general Sloth-Nielsen (n 85).

86 Based on the notion that the safety of numbers can also provide both an inducement to speak up and a shield against criticism from individual governments.

87 ‘In 2017, a confidential and secured online platform for children’s rights defenders for the effective transmission of written information to the Committee was developed by Child Rights Connect. The Committee requests that all reports by children, NGOs, National Human Rights Institutions and Ombudspersons be submitted electronically through this platform. The information is provided in a confidential manner, except for submissions that are authorized for publication on the OHCHR website’ Child Rights Connect ‘Global status report of engagement with reporting to the UN Committee on the Rights of the Child’ 2019. Child Rights Connect is the strategic partner of the Committee and the Office of the High Commissioner for Human Rights (OHCHR) for the engagement of civil society in the reporting cycle. Its role is to strengthen the capacity of children’s rights defenders, including children, to use the CRC reporting cycle as an advocacy tool and in connection with other relevant UN human rights entry points.