

ENGAGEMENT WITH NATIONAL AUTHORITIES AND INSTITUTIONS

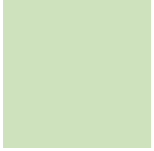


A. Key concepts	3
B. Introduction	4
C. Engagement with national authorities	5
1. Pursue both a monitoring and a support role	5
2. Map key national State actors	6
3. Establish regular and transparent relationships with the authorities	7
4. Recognize the diversity that exists among authorities	9
5. Identify and support “allies” within the State	11
6. Maintain the integrity of the field presence	11
7. Act as a bridge between the authorities and others	12
D. Cooperation with national human rights institutions	14
1. Support and encourage their sustainability	16
2. Build trust and ensure credibility	17
3. Encourage independence	18
4. Respect comparative advantages	19
5. Aim towards mutually supporting efforts	20
6. Avoid competition	21
E. Ensure independence and control perceptions of partiality	22
F. Conclusion	24

A. Key concepts



- Engaging with national authorities and institutions is a core function of every human rights field presence.
- Clear communication with the national, regional and local authorities facilitates cooperation with and among them and ensures greater opportunities for designing interventions and strategies for corrective action.
- Human rights officers (HROs) need to establish smooth and transparent channels of communication with their governmental counterparts at all levels, in order to identify and support “allies” in the implementation of human rights norms, while maintaining the integrity of the field presence.
- Supporting the creation of national human rights institutions (NHRIs) and building strong relationships with them are key roles of field presences to ensure national empowerment and ownership, so that the promotion and protection of human rights can be sustained by credible and capable NHRIs.
- When building relationships with NHRIs, field presences shall consider the following principles of engagement:
 - Build trust
 - Ensure credibility
 - Encourage independence
 - Respect comparative advantages
 - Aim towards mutually reinforcing efforts
 - Avoid competition



B. Introduction

Being present in different regions and locations, with staff having the requisite expertise, local knowledge and language skills, is the preferred means of undertaking human rights monitoring work in a country. This implies, of course, a constant dialogue with the national authorities, as they bear the primary responsibility for respecting, protecting and fulfilling human rights.

National human rights institutions (NHRIs) – where they exist – constitute an equally important part of the State apparatus, because of their role to promote and protect human rights and to monitor a State's human rights performance.

Engaging with national authorities and institutions is a challenging task. Field presences have to engage even with those that are not fully committed to promoting and protecting human rights. Staff working in a field presence should meet this challenge in a professional manner, on the understanding that it is done for the purposes of implementing human rights nationwide. This chapter sets out the purposes and challenges of engaging with national authorities and institutions and gives some ideas for ensuring this engagement is effective.

C. Engagement with national authorities

The engagement of human rights field presences with national authorities can pursue several purposes:

- Gather and verify information about allegations of human rights violations;
- Request their version of facts in relation to human rights violations;
- Raise awareness on key human rights concerns;
- Build or strengthen their capacity to meet their obligations as duty bearers;
- Advocate and facilitate the development of political commitment to protecting and advancing human rights;
- Influence norms, policies, procedures, legislation, practices and behaviour;
- Provide expert advice;
- Seek solutions, preventive measures, remedies, corrective action and reparations for human rights violations;
- Increase the security and protection of the local population and of the field presences' own staff.

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Engagement

When engaging with national authorities, field presences should:

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|---|--|
| (a) Pursue both a monitoring and a support role | (e) Identify and support "allies" within the State |
| (b) Map key national State actors | (f) Maintain their own integrity |
| (c) Establish regular and transparent relationships | (g) Act as a bridge between the authorities and others |
| (d) Recognize the diversity that exists among authorities | |

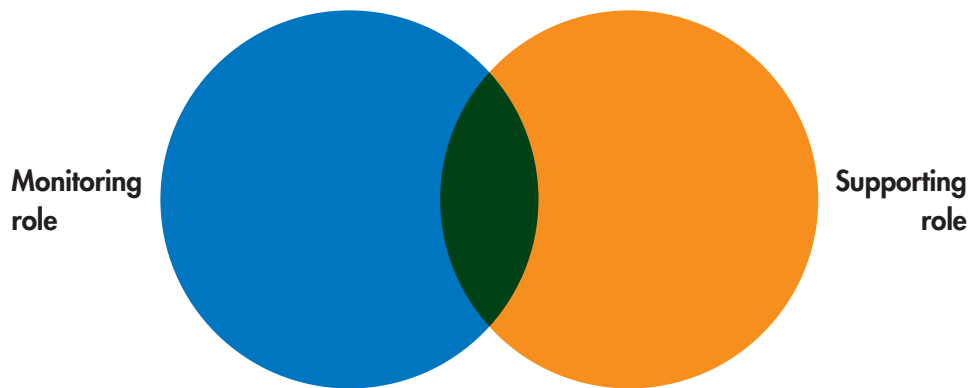
1 Pursue both a monitoring and a support role

The relationship between a human rights field presence and the State is usually of a *dual nature*.

On the one hand, the field presence may have been established as a result of serious failures on the part of the host Government to protect the population – failures such as the overt commission of human rights violations, gaps in its commitment or in its capacity resulting in a failure to prevent violations or to implement its human rights obligations. The field presence's role will, therefore, have the long-term goal of *supporting the development of the State's capacity to meet its obligations*.


On the other hand, the field presence's support role should not be at the expense of its *independent capacity to monitor the State's actions*. It should be critical of any failures to protect human rights or any direct responsibility for committing human rights violations; and advocate and facilitate political will to change policies that violate human rights.

The monitoring and support roles must be mutually reinforcing. The critical monitoring role helps identify gaps and appropriate interventions for corrective action. The support role builds trust, allows for safer and more constructive criticism, and assists in implementing solutions to human rights problems. The overall process of a field presence's engagement with the State must therefore comprise both roles.



Field presences and HROs need to bear in mind that their role is not to substitute for State authorities or other actors in a country.

2 Map key national State actors

To effectively engage with the national authorities and identify the most appropriate interlocutors, HROs can make a detailed map of State authorities with which the field presence engages (see chapter on *Analysis* ) to identify key national, regional, provincial and local actors.

The following is a generic catalogue of State actors that usually exist in a country. It is not comprehensive and cannot replace the mapping exercise specific to the country or to the particular human rights problem that the field presence is addressing.

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State actors

- **Executive power:** president, prime minister, ministers (e.g., health and sanitation, education, economy, interior, justice, land, agriculture, defence, housing, finance, transport, labour, human rights), governors, mayors
- **Legislative power:** national parliament, regional or State legislatures and relevant parliamentary commissions or other commissions (e.g., human rights, equality, foreign affairs, minorities)
- **Judiciary:** judges, prosecutors, constitutional court, criminal courts, supreme court, administrative courts, other specialized courts and prosecutors (e.g., for human rights violations, for crimes against human rights defenders, journalists, trade unionists, children and adolescents)
- **Public administration:** specialized departments, secretariats, offices or institutes (e.g., statistics and census, national social security)
- **Civilian oversight mechanisms:** national human rights institution, office of the ombudsman, specialized commissions (e.g., women’s commission, disability council)
- **Defence and security forces:** army, police and other law enforcement agencies, intelligence and security agencies.
- **Customary or traditional bodies:** although these are not usually part of a State’s institutional structure, they are important interlocutors for human rights field presences undertaking monitoring work.

It is good practice for HROs to keep updated lists of contacts so that they know whom to talk to and who is likely to respond and cooperate when specific human rights concerns arise.

HROs need to establish smooth channels of communication with governmental counterparts at all levels: an extensive networks of relationships with public officials will make a field presence more credible and more effective.

In some cases the Government may appoint a focal person or a department within a ministry as focal point for human rights. A field presence may also consider the appointment of HROs as focal points responsible for maintaining contacts with specific authorities to ensure effective coordination.

3 Establish regular and transparent relationships with the authorities

Field presences should maintain regular and transparent relationships with the authorities.

The relationship should always be respectful and as transparent as possible, even when the field presence is critical of the Government's policies.

One aspect of this transparency is ensuring that the authorities understand the field presence's mandate and objectives. Not all the national authorities will necessarily be fully aware of them or fully understand. HROs should, from the onset, explain and provide relevant information, including a copy of the mandate or agreement establishing the field presence, where applicable.

Similarly, HROs should make an effort to understand the mandates and responsibilities of the different Government officials with whom they are in contact. They should respect their established roles, chains of responsibility or command, hierarchy, domestic norms, customs and culture.

Human rights field presences should always seek information from the Government and address any requests for information through the appropriate institutional channels before taking a position, making a public statement or issuing a public report based on their monitoring work.

HROs must check with their supervisors what specific procedures are to be followed in the cases they are involved with.

Building relationships is as important locally as it is nationally. There may be local options for corrective action that are not available nationally. The better the local relationships, the less frequent the need to engage in more high-level and labour-intensive strategies.

As a general practice, any **concerns should be expressed at the local or regional level before raising them at the national level, since the local authorities are often vested with decision-making and implementation power**. Similarly, sometimes information about a human rights issue being monitored can be obtained more easily and promptly locally.



Guatemala and Mexico

In Guatemala, OHCHR developed relationships with local coroners, police officers, prosecutors, prison guards and administrative personnel, which proved essential for obtaining and corroborating information swiftly.

OHCHR-Mexico engaged successfully with several municipal authorities and the local governor regarding the protection of the economic, social and environmental rights of more than 20 local indigenous communities in the State of Guerrero that were affected by the construction of a dam.

In other cases, it may be necessary to work through the national authorities to make progress at the local level.



Democratic Republic of the Congo

In the Democratic Republic of the Congo, HROs at times found it difficult to visit local prisons because the local authorities refused them access, despite MONUC having a mandate to access all detention facilities in the country. The human rights component of MONUC raised the problem at the central level and obtained an official letter from the Office of the President to be shown to the local authorities whenever access was being denied.



Example

In one country, the part of the Government most committed to human rights was the Ministry of Foreign Affairs. In order to overcome internal resistance – within the Government, with local authorities and other powerful interests – the Ministry of Foreign Affairs, on the advice of the field presence, resorted to international human rights mechanisms and invited United Nations special rapporteurs to visit as a way to make national authorities and institutions more aware and commit them to human rights. While the Ministry of Foreign Affairs alone, with its limited mandate and power, could not achieve much, the visits by special procedures meant that human rights issues were raised within State structures.

Holding periodic meetings (e.g., monthly or bimonthly) between HROs and the relevant ministry or focal point to address issues resulting from the field presence's monitoring work has proved effective. It will assist HROs to raise concerns in a formal and transparent manner and maintain records to assess the authorities' response.

In United Nations peace operations, certain key relationships with State authorities such as prime ministers or presidents are normally managed by the head of mission or senior political affairs officer. Heads of human rights components should liaise closely with other senior managers to ensure that those relationships contribute effectively to the peace operation's human rights strategy. Additionally, human rights components can draw upon the relationships developed by other components, such as civil affairs, child protection, military, United Nations police (UNPOL) or justice components, and develop joint engagement strategies that have more impact.




Afghanistan

The fact that the Special Representative of the Secretary-General, in his public statements, took a pro-human rights stand on impunity and opposed the granting of amnesties to parliamentarians gave the United Nations Assistance Mission in Afghanistan (UNAMA) political leverage, which also reinforced efforts made by the human rights component to push for greater accountability.

Experience has also shown the value of having the right professional expertise available within a United Nations peace operation. When military peacekeepers establish relationships with their national counterparts for instance, there are opportunities for frank dialogue that often exceed what could be achieved by civilians. Similarly, dialogue on human rights with law enforcement authorities is often easier when undertaken jointly by UNPOL officers and HROs.

The same advantage of professional identification can be helpful when dealing with the authorities in the social sector. For instance, if the field presence is addressing the national health system, it may find that among its staff there are people with medical credentials who can establish a more sophisticated dialogue with the public health authorities.

4 Recognize the diversity that exists among authorities

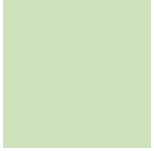
A State system is never monolithic: there are diverse individuals in different positions, each of whom will have different motivations and reasons for addressing particular human rights issues and developing a relationship with an international field presence. Each will have different sensitivities, which the analysis and strategy of the HROs should identify (see chapters on *Analysis* and *Strategic planning for human rights impact* ).

The leverage of HROs in developing these relationships and using them for their monitoring work and protective impact may differ from one area to the next and from one institution to another. Local relationships may in some cases be stronger than those developed at the national level. Personal relationships over time can make a great difference, provided that HROs maintain their impartiality.

Different governmental authorities, for instance, might have conflicting interests and agendas. While the legislative function may be moving towards a particular reform – for example, on discrimination – the executive may be interested in obstructing such reform. HROs need to navigate through these differences while keeping all channels of communication open.

A field presence must maintain numerous channels of communication with the Government to take the fullest advantage of diverse opportunities for persuasion. Therefore, HROs should develop relationships with decision makers of all ranks, across the territory and in a variety of functions.

Experience has shown that key relationships are often developed with officials who do not hold top positions, where they are, in fact, more likely to positively influence key decision makers in promoting and protecting human rights.



Example

The human rights component of a peace operation had built a strong relationship with the adviser to the president. The adviser proved to be a very strong human rights supporter. However, when he was promoted to senior minister, he became much less efficient in pushing the human rights agenda forward.

Close governmental relations enable field presences to bring some pressure to bear on friendly State officials regarding particular cases, situations or trends that are being monitored. Additionally, by supporting allies inside the Government, the field presence can promote reforms in a State structure which may be overall responsible for human rights violations.

With such a diversity of State actors, HROs should never assume that an official will necessarily be opposed to hearing a human rights message. Advanced analysis of each individual contact as well as local dynamics, mandates, laws, policies and practices of the institutions they represent helps HROs identify both points of leverage and points of mutual concern.

Even in a situation where an overall government approach may appear to be very hard-line, there may be points of entry with single individuals.



Example

A human rights field presence had developed good relationships with a senior police officer in the metropolitan police station of the capital, which resulted in improvements in the conditions of detention in the station. However, when this person was transferred to another location, the situation deteriorated again.

Individual officials may wish to develop a relationship with human rights field presences for a number of reasons. In some cases they may be genuinely committed to human rights, to their duties and their obligations. However, they may also be guided by personal motivations. For example, they may have concerns about their personal or political reputation; they may wish to reap political benefits from the relationship; they may wish to be seen as more cooperative than others so to avoid blame for any violations; or they may wish to polish the image of their institution vis-à-vis other governmental institutions or civil society leaders, and so on.

In developing relationships, it is essential for HROs to gauge the *perceptions* of their State counterparts. Their willingness to collaborate or respond to the field presence's strategies will depend on how they perceive the field presence and its capacity to help or affect them.

For the same reason, HROs need to be self-critical and self-conscious enough to recognize where their own biased perceptions – such as any cultural, gender, linguistic or other bias – may influence their relationships with the authorities.

5 Identify and support “allies” within the State

A field presence is in a unique position to identify and support those forces in each State institution that can promote policies respecting human rights.

There are always many forces at work in a State system, with internal conflicts, power struggles and multiple agendas. **Institutional behaviour is a function of the interplay among multiple actors’ calculations and choices.**

A field presence’s effort to build relationships and overtly encourage allies within a State structure or promote reform structures can contribute to these individuals and structures potentially playing a key role and even altering the internal discourse within a repressive system. However, a field presence has to exercise care at all times in order **not to stigmatize or isolate such persons within their own system** by demanding too much cooperation or putting them at risk because of their openness to a human rights discourse. These allies not only help efforts to protect human rights, but **they may sometimes need protection themselves.**



Angola

In Angola, OHCHR helped to establish a union of magistrates, which became its dynamic ally. In this way, OHCHR contributed to strengthening a positive independent force within a criticized State institution.

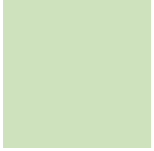
A human rights field presence should use these relationships to augment its protective impact. These contacts can promote institutional change, and bring moral and political pressure to bear on their colleagues. They can also steer HROs towards other State actors and even advise them on what approaches to take, or channel indirect messages to others who may not wish to engage directly with the field presence.

A field presence can sometimes use its ties to the international community to provide incentives to promising, pro-human rights officials to help them in their efforts to boost the human rights agenda. For example, it can highlight their constructive efforts in public reports, encourage international organizations to invite them to prominent international events, or put them in contact with United Nations delegations and other high-profile visitors which could result in an increased visibility or reputation.

6 Maintain the integrity of the field presence

The relationship between a field presence and a State responsible for violations is often strained. While a State may tolerate a field presence, it can obstruct or undermine it through overt or covert threats, harassment or non-cooperation if it becomes too vocal. Behind such actions lies the ever-present, implicit threat of expulsion.

Rather than letting such attitude or action paralyse or silence it, a field presence needs to respond to every criticism or accusation of partiality, minor and major, clearly and sometimes strongly. It may also need to reiterate publicly its impartiality, call attention to the damage that accusations against it can cause, and use international and diplomatic support when necessary to demand due respect.



Depending on the strategy chosen by the human rights field presence, the intervention of its head or other high-profile United Nations official, including from headquarters in Geneva or New York, may be required when the circumstances are particularly complex or might benefit from advocacy at the highest level.

A field presence should also consider requesting the intervention of United Nations human rights special procedures in a strategic manner. In some cases, it may not be advisable for a field presence to be speak out to protect its working relationship with the authorities. Action by special procedures – in the form of a communication, press release or country visit – can then serve the purpose of protection through a public and direct intervention which does not directly impact on the working relationship of the field presence with the authorities.

Visits of special procedures mandate holders to a country are important occasions to reach out to the authorities at a level that is sometimes not accessible in the day-to-day work of a field presence, to raise the visibility of a thematic issue, or to obtain commitments that are crucial to the human rights situation that the field presence is monitoring.

7 Act as a bridge between the authorities and others

Especially when State authorities find it difficult to establish relationships, for instance, with civil society, human rights defenders or victims of human rights violations, or vice versa, a field presence can provide a valuable service by taking on a bridging role.

Field presences can help the authorities to develop closer relationships and bring together groups that have been polarized or divided by distance, tensions, lack of dialogue, lack of trust, fear or other reasons.

For instance, field presences can **encourage multi-sectoral activities** that bring together State authorities and civil society in a dialogue or in a collaborative search for solutions to problems identified through monitoring activities. Such joint activities also give field presences an opportunity to identify new potential allies within the State system.



Sierra Leone

When the Special Court for Sierra Leone was being set up, civil society organizations preferred a truth and reconciliation commission, as provided for in the legislation. The Minister of Justice approached the human rights presence asking it to arrange a meeting with NGO leaders to discuss transitional justice in the country, because of the good relations it had established with all actors. The Minister feared that if he approached the NGOs directly they would have responded differently. Civil society organizations also seemed open to the bridging role played by the field presence. The approach proved successful.

Human rights field presences can also **provide a space where individuals and State officials can meet and feel comfortable**. For example, in a case where a victim of rape had identified her perpetrator but was afraid to be seen reporting the violation at the local police station, HROs coordinated with

the police to take her statement on the premises of the human rights field presence to ensure that her denunciation would remain unnoticed.



Colombia

Known for its impartiality and its clout to bring the parties together, OHCHR-Colombia started organizing periodic confidential meetings with different State institutions, regional governors and civil society representatives on human rights themes and the internal armed conflict in Colombia, so as to build confidence among these participants, share and analyse information, and achieve progress on those issues. With time, the level of confidence among participants increased and the analysis became more accurate. Personalities with divergent political views or belonging to antagonistic institutions were invited on an ad hoc or permanent basis to these meetings, where they could express their views in a climate of mutual respect. The key to the success of these meetings was the respect of confidentiality on all issues discussed.

Similarly, local communities, civil society groups or victims of human rights violations sometimes find it hard to get a hearing from the State authorities, or if they succeed, they are perceived negatively. Field presences can play a role by being their “voice”, raising the concerns of marginalized groups, legitimizing rights holders vis-à-vis the State or introducing them formally. For instance, when supporting governmental rule-of-law programmes, HROs can encourage State officials to consult with reputable legal experts from within civil society, thus allowing a technical-support relationship to develop between them, which may lead to further dialogue.

Similarly, by bringing civil society in closer contact **with State mechanisms, HROs can encourage civil society groups to work with State officials (and vice versa) in joint initiatives to address human rights issues of mutual concern.**



Haiti

The human rights component of the United Nations Stabilization Mission in Haiti (MINUSTAH) developed a relationship with the General Inspectorate of the Haitian National Police, an internal administrative police oversight body that was not well known among the population at large. HROs explained the role of this State institution to local communities and NGOs and facilitated communication between it and victims of human rights violations committed by the police. In one instance the human rights component facilitated communication between a woman allegedly beaten by police and the General Inspectorate. The latter promptly opened an internal investigation and referred the case to the public prosecutor to initiate a judicial proceeding.

When conditions allow, joint monitoring visits can be another effective means for enhancing cooperation between State representatives and civil society. In fact, such experiences of working together on the ground can promote collaboration on formal follow-up mechanisms and contributes to the creation of stabler relationships between them. For instance, in many field presences, HROs undertake regular visits to monitor places of detention with public prosecutors or IDP camps with national authorities and NGOs.



D. Cooperation with national human rights institutions

National human rights institutions are increasingly recognized as important counterparts within the State apparatus for the advancement of human rights. They should normally:

- Have a broad mandate (covering all civil, cultural, economic, political and social rights)
- Carry out varied tasks (human rights monitoring, reporting, investigations, education, advocacy, awareness-raising, advisory services)
- Be independent
- Have a legal basis (constitutional provision or organic law)
- Have an outreach and contact network
- Be more permanent (than human rights field presences)

The establishment of independent, credible and capable NHRIs can contribute to sustainable and nationally owned human rights protection systems. In addition, NHRIs can facilitate more systematic interaction with other elements of such systems, like the national parliament and civil society organizations, since they act as a bridge between the Government and civil society. **Supporting their creation and building strong relationships with them is a key role of field presences to ensure empowerment and ownership by national actors.**

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Types and roles of NHRIs

There are many types of NHRIs, from single- to multi-member institutions, from those whose primary orientation is to advise Governments on matters of human rights policy, to those that handle individual complaints, to those that work on specific issues (e.g., discrimination, the rights of persons with disabilities) or on all human rights.

They can play an important role in upholding and reinforcing the rule of law and the administration of justice; advocating legal and institutional reform and improvement of security institutions, such as the police and prison administration; advocating public policy development or reform related to the rights to housing, adequate food, health and education; and monitoring the protection of the rights of refugees, IDPs and stateless persons.

Commonly, NHRIs have a *monitoring and oversight role* of the human rights performance of relevant State authorities (although some are mandated only to provide advisory services to the State). In performing this role, they can complement the work of the State and contribute to strengthening the national protection system. Additionally, in those States that are party to the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, NHRIs can be designated as one of the “national preventive mechanisms” or domestic visiting bodies that prevent torture and other cruel, inhuman or degrading treatment or punishment in places where people are deprived of their liberty.

NHRIs need to comply with the requirements of the Paris Principles – which provide for the legal establishment, broad mandate, pluralist composition, independence and accessibility of NHRIs among other things.¹

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The Paris Principles and the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights

National human rights institutions are guided by the *Principles relating to the status of national institutions for the protection and promotion of human rights*, commonly known as the Paris Principles.

In 1993, the United Nations General Assembly welcomed the Paris Principles and annexed them to its resolution 48/134. According to the Paris Principles, an NHRI should promote and protect all civil, cultural, economic, political and social rights.

The six key criteria of the Paris Principles are:

- Independence guaranteed by statute or constitution;
- Autonomy from Government;
- Pluralism, including in membership;
- A broad mandate based on universal human rights standards to both promote and protect all human rights at the national level;
- Adequate resources, which the State is obliged to ensure; and
- Act as a bridge between civil society and the Government.

The *International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights* is a representative body established for the purpose of ensuring NHRIs which are in conformity with the Paris Principles. It encourages international coordination of joint activities and cooperation among NHRIs, organizing international conferences, liaising with the United Nations and other international organizations and, where requested, assisting Governments to establish national institutions.

Its *Sub-Committee on Accreditation* has a mandate to review and analyse applications for accreditation and to make recommendations to it on the compliance of applicants with the Paris Principles.

The mandate, status and capacity of each NHRI need to be considered carefully.

Field presences should evaluate how independent an NHRI is from its Government, including by checking its accreditation. The level of independence of an NHRI could have an impact on the quality and reliability of the information or analysis it provides.

¹ For more information on NHRIs and a chart of the status of NHRIs accredited by the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights, see www.ohchr.org, and *National Human Rights Institutions: History, Principles, Roles and Responsibilities*, Professional Training Series No. 4/Rev.1 (United Nations publication, Sales No. E.09.XIV.4); International Council on Human Rights Policy and OHCHR, *Assessing the Effectiveness of National Human Rights Institutions* (2005), all available from www.ohchr.org.



Field presences have to exercise caution with NHRIs that do *not* have “A” status accreditation. In these cases, it is important to pay attention to the legal mandate and practical work to **avoid inadvertently legitimizing an NHRI that is neither effective nor independent**. This does not mean that field presences should work exclusively with and support only A-accredited NHRIs; rather, they are encouraged to strive to improve the level of compliance of NHRIs with the Paris Principles.

Additionally, formal compliance with the requirements of the Paris Principles is not sufficient. It needs to be supplemented with actual respect for and practical implementation of those principles. This is measured, for example, through the performance of an NHRI, the integrity and professionalism of its members or through public perception, and its interaction with human rights defenders and civil society. If an NHRI does not respond to core human rights problems in a meaningful way, it may lose credibility at home and abroad.



Kenya

In 2007, the Kenyan National Commission on Human Rights – which is accredited with “A” status – carried out extensive investigations and documented over 500 cases of individuals that had disappeared or been killed by the police. This prompted a fact-finding mission in 2009 by the United Nations Special Rapporteur on extrajudicial, arbitrary or summary executions. In a press statement, the Special Rapporteur stressed that he benefited greatly from the comprehensiveness, professionalism and high quality of the Commission’s reporting and analysis.

When building relationships with NHRIs, human rights field presences should consider the following key principles of engagement.



Key principles of engagement with NHRIs

- (a) Support and encourage their sustainability
- (b) Build trust and ensure credibility
- (c) Encourage independence
- (d) Respect comparative advantages
- (e) Aim towards mutually supporting efforts
- (f) Avoid competition

1 Support and encourage their sustainability

Generally, field presences should clearly show their commitment to the long-term sustainability of NHRIs.

Additionally, in keeping with the principle that they should not replace or inadvertently undermine national capacities where they exist, they should support national institutions playing a primary role in the advancement of the human rights agenda.



Nepal

The National Human Rights Commission of Nepal and the OHCHR-Nepal office agreed on joint guidelines for cooperation in human rights promotion and protection in Nepal. Their agreement stemmed from the principle that greater complementarities in their work would be in their own interest and increase the impact of their respective actions. Among the key elements of this agreement are provisions on coordinating and cooperating on human rights monitoring and advocacy work as well as on support and assistance by OHCHR-Nepal to the Commission, as and when required.

2 Build trust and ensure credibility

Successful work with NHRIs is founded on a relationship of trust and transparency. Forming and maintaining such a relationship takes time and depends on the skills and credibility of the field presence.

Human rights field presences need to ensure that they are credible in the eyes of national institutions. They can achieve this by being transparent, being thorough in their monitoring and fact-finding, and providing support to national institutions.

Additionally, field presences need to be consistent in their engagement with national institutions, even if there is no equal sharing of information.

Information sharing and regular meetings with national institutions are a critical way to develop trust. They should be undertaken in a standardized and regular manner at headquarters and at regional levels.

Managers should develop specific guidelines for HROs on information-sharing that respect the confidentiality of information and protect witnesses and sources, on regular referral of cases, on contact on cases being investigated, and on follow-up and reporting to ensure a consistent approach throughout the field presence.

Managers can also designate experienced HROs to liaise with NHRI staff, as well as themselves maintain regular contact with their senior NHRI counterparts. In fact, maintaining relationships at the senior level with heads of national institutions is essential, since this is where decisions are taken, and orientation and guidance are given to staff.



Uganda

Representatives of OHCHR-Uganda and the Uganda Human Rights Commission hold monthly meetings at the field level to review and share information about cases, discuss joint monitoring action and existing challenges. These meetings are regularly followed by monthly meetings at headquarters between senior representatives of the two entities, who review the field activities and provide feedback, orientation and guidance, as needed. In addition, high-level strategic meetings between the heads of OHCHR-Uganda and the Commission are held every three months. These regular exchanges at different levels produce very positive results and contribute greatly to a stronger relationship.

Since most monitoring takes place locally, where NHRI staff may require the most support, human rights field presences should focus on interaction with NHRIs at this level.



Afghanistan

The Afghan Independent Human Rights Commission became a key national counterpart of the UNAMA human rights component, with which it undertook several joint monitoring activities during election periods and in detention centres. During these joint campaigns, representatives of both entities at the local level met weekly to share information, review cases being monitored, and discuss and coordinate follow-up.

If capacity-building of national institutions is the main focus of a field presence's work, co-locating key HROs within the premises of these institutions has proven to be a successful approach, which has also helped to build trust.



Timor-Leste

The human rights component of the United Nations Integrated Mission in Timor-Leste (UNMIT) has a dedicated team of national and international HROs working with the Ombudsman for Human Rights and Justice of Timor-Leste who are co-located on the premises of the national institution. They engage in the planning and implementation of a comprehensive capacity-building programme for the Ombudsman's office, which includes mentoring the staff of monitoring and advocacy teams, as well as providing support to an IDP rights monitoring mechanism developed by the Ombudsman's office.

3 Encourage independence

Any type of engagement with NHRIs should be guided by the underlying principle that human rights capacity ultimately has to remain with national institutions, since they are part of a country's stable, longer-term institutional set-up.

Early work to support NHRIs, particularly if they are new or weak, can inadvertently encourage dependence rather than independence, and can even promote competition within the national institution.

The real and perceived independence of a national human rights institution, not only from the Government but also from the agendas and priorities of the international community, is extremely important to its success and credibility.

This means that **field presences need to respect the choices of national institutions, be clear that national institutions do not report to human rights field presences, and that they do not always need to take the same positions on issues.**

Managers and senior HROs need to handle with care situations where an NHRI fails to address specific human rights concerns, publicly adopts a position or conclusion that is in contradiction with international human rights standards or with the field presence's conclusion on an alleged human rights violation.

While making sure not to undermine the independence of the NHRI, the field presence should continue to monitor and report on the specific human rights violation or problem, and seek ways to address the issue delicately and discreetly with the NHRI.

4 Respect comparative advantages

Field presences and NHRIs will have various comparative advantages and disadvantages, depending on the context, their mandates, their strengths and their positions within the national context.

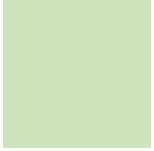
Field presences must have a **firm understanding of their own comparative advantages and disadvantages and those of the national institutions, openly acknowledge these and try to maximize the advantages.**

Commonly, field presences generally have better access to logistics and resources, to decision makers and the media, and more freedom of movement and security.

National institutions tend to have more knowledge and a better understanding of the culture, environment, key national actors and dynamics, legislation and policies, and closer links to communities. They can, therefore, address certain types of violations more effectively. In some situations, national institutions may have stronger mandates or broader access to certain locations, such as detention centres or conflict areas.

National institutions may also have influence on the highest authorities to persuade them to take action or to desist from some action. The authorities may also prefer to act at the behest of a national institution rather than based on an intervention by a United Nations entity.

Field presences and NHRIs can focus their respective efforts on cases, situations and issues where they have a comparative advantage over the other, such as more resources, a broader mandate or better outreach.



This can mean that certain cases may be referred from one entity to another, for example, high-risk, highly political cases from the national institution to the field presence, and land cases or violations in the family context from the field presence to the national institution. Any such arrangement must be based on a thorough analysis of all factors and the country's specific context; so the strategies, the division of labour and the actual means of cooperating may differ from country to country.



Cameroon

The United Nations Subregional Centre for Human Rights and Democracy in Central Africa monitored several cases of forced evictions in Yaoundé and referred them to the National Commission on Human Rights and Freedoms of Cameroon for follow-up, because its mandate is broader.

Field presences can reinforce the position of national institutions by reminding others – e.g., heads of mission within United Nations peace operations, resident/humanitarian coordinators within United Nations country teams, the diplomatic community, international bilateral donors and NGOs, civil society and the population at large, and most importantly, national Governments – of the institutions' role and supporting their positions, in particular their follow-up and advocacy on cases of human rights violations.

5 Aim towards mutually supporting efforts

Actions undertaken by human rights field presences with national institutions should be mutually reinforcing.

Joint monitoring, reporting, analysis, and joint meetings and conferences provide excellent opportunities for strengthening the relationship between the field presence and the national institution, and build the capacity of all staff involved.

Such joint activities should be based on an equal partnership between the field presence and the national institution, with both having an equal say in the development of the joint monitoring strategy, clear expectations on both sides, and equal decision-making. Although engaging in an equal partnership can pose challenges and requires significantly more time and staff effort, this is essential to ensure the success of capacity-building and joint activities.



Mexico

OHCHR-Mexico entered into an agreement with the National Commission for Human Rights of Mexico to carry out joint projects, including one to develop human rights indicators to monitor the right to health, the right to education and the rights of persons in detention, also in collaboration with the National Institute for Statistics and Geography.

6 Avoid competition

Human rights field presences should be cautious to ensure that their monitoring work does not duplicate or result in a loss of visibility, credibility and effectiveness of an NHRI.

There may be competition over the human rights space. In such cases, it is critical to find ways of avoiding overlapping, competitive dynamics and minimizing the perception that the international field presence is a threat to a national institution, for example because the former may have more resources, logistics and personnel, and greater access to expertise, skills, decision makers and the media.

Addressing this dynamic appropriately may depend on the nature of the field presence and the ability to respond to the needs of the national institution. For example, the relatively short mandate of a human rights component of a United Nations peace operation and the fact that the whole operation is focusing not only on human rights can help to reassure national institutions that the human rights component is there to provide support.

When making choices about what human rights concerns to monitor and pursue, field presences could consult and engage with national institutions to seek their opinion and assess whether their actions could affect the relationship.



E. Ensure independence and control perceptions of partiality

Maintaining impartiality and independence vis-à-vis national authorities and institutions is an overarching consideration for any field presence. Although relationships and engagement with them are important, field presences should be cautious about getting too close.

When a field presence is accused of bias, this can have serious consequences for its security, its credibility, its ability to stay and operate in the country and its ability to build relationships with important counterparts.

A field presence must strive to control perceptions and accusations of partiality, as well as any real bias that might result from HRO behaviour, an office structure, composition or objectives.

A field presence can minimize the risks of perceived or real partiality by:

- Being geographically accessible to all key groups;
- Taking care that its methodologies and language skills do not implicitly favour or give greater access to one group over another;
- Ensuring balance in any aspects of mission staffing that might project a signal of bias externally;
- Ensuring that positive actions and special mechanisms are in place to facilitate access to it by groups that are traditionally discriminated, such as women, persons with disabilities, indigenous or minority groups, lesbian, gay, bisexual and transgender groups;
- Protecting its independence from the political agendas of various members of the international community or by the political mandate of the United Nations peace operation. This can be difficult, but sometimes a human rights field presence's ability to carry out protection impartially requires it to negotiate and advocate its concerns with the peace operation's senior management;
- Enforcing codes of conduct and United Nations staff rules that forbid personnel from carrying out any function for their own Governments while serving for the United Nations;
- Ensuring that it functions in a professional manner, avoid any unwarranted negative media attention, its national staff are treated with respect, and its staff respect local customs and are not engaged in any activity prohibited by the United Nations staff rules and regulations;
- Sustaining transparent and respectful relationships with different sectors of society;
- Ensuring balance in the various human rights issues it covers, as well as the sources of information it uses;
- Avoiding too much contact with any one group, especially armed groups; and
- Always undertaking thorough analysis.

A sound public communications strategy is important to clearly communicate the field presence's role and objectives, and to prevent or redress perceptions or accusations of partiality. Such a strategy can contribute to preserving an environment that is conducive to human rights monitoring and, more broadly, to the work of the field presence.

Even with the greatest of care, there may be accusations of partiality. If so, a field presence needs to assess their merit: if accusations are based on real situations, then internal corrective action needs to be taken, for example by altering a strategy, structure, objectives or activities to achieve greater impartiality.

Often, accusations are ill-founded. Those responsible for human rights violations that are being monitored and reported upon may seek to delegitimize the field presence, for instance. In such cases, the field presence needs to defend itself as well as its objective commitment to impartial human rights action.

A field presence will be stronger if it effectively rebuffs accusations of partiality and sustains a cross-sectoral reputation for fairness and objectivity. Holding this ground, it will provide the space to convene different players, give voice to the voiceless and make important pronouncements that local players cannot. For example, in United Nations peace operations this could be achieved by communicating with the population through independent radio broadcasting in the host country, such as Radio Okapi in the Democratic Republic of the Congo or the United Nations Mission in Liberia (UNMIL) Radio in Liberia.



F. Conclusion

As with any process of building relationships, human rights field presences need to sustain the clarity, continuity and consistency of the relationships they are developing with national authorities and institutions.

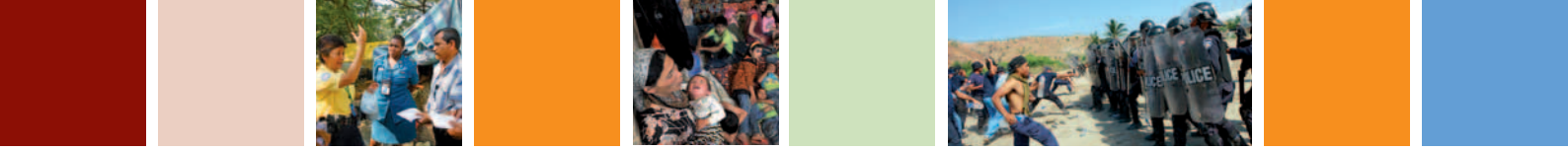
Special care must be taken to sustain consistency in approaches whenever there are structural changes in the field presence. While HROs are establishing trust through regular contact, they must also build an institutional relationship that will survive their own tenure.

i

Some key steps for HROs to build and maintain an institutional relationship with national counterparts

- Keeping an updated, clear and accessible list of contacts;
- Holding regular meetings with the field presence's main counterparts;
- Regularly reporting internally on the relationships with national authorities and institutions, through spaces and methods already in place (e.g., regular meetings, periodic reports, ad hoc discussions);
- Documenting major and significant experiences in handling relationships with national authorities and institutions and sharing lessons learned;
- Making sure there is clarity within the field presence about "who is dealing with whom", "what" is to be communicated outside and "how". This is fundamental to have national counterparts perceive the field presence as one coherent whole and not as a series of individuals that may act differently;
- When leaving the field presence, preparing a detailed handover note explaining the dynamics of the external relationships for which HROs have been responsible. It should contain both personal accomplishments as well as any situation requiring follow-up, so that the successor can take over from where the predecessor left off;
- Whenever feasible, introducing the successor to all key counterparts or recommending having an introductory meeting with them as soon as he or she takes over the position.





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