



Global Principles

for the Capacity Assessment of National Human Rights Institutions



GANHRI

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

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List of Acronyms and Abbreviations

ADR	Alternative dispute resolution
A-GA	African Gaps Analysis Methodology
AP	Asia-Pacific
APF	Asia Pacific Forum of National Human Rights Institutions
CA	Capacity assessment
CAP	Capacity assessment partnership
CD	Capacity development
CMS	Complaints management system
CO	Country Office
CSO	Civil society organization
ENNHRI	European Network of National Human Rights Institutions
FG	Focus groups
GANHRI	Global Alliance of National Human Rights Institutions (formerly ICC-NHRI)
HRBA	Human rights-based approach
ICC-NHRI	International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (now GANHRI)
ICC-SCA	See SCA
ICHRP	International Council on Human Rights Policy
ICT	Information and communications technology
IT	Information technology
M&E	Monitoring and evaluation
MOU	Memorandum of understanding
NANHRI	Network of African National Human Rights Institutions
NHRI	National Human Rights Institution
OHCHR	Office of the High Commissioner for Human Rights
RWI	Raoul Wallenberg Institute of Human Rights and Humanitarian Law
SCA	Sub-Committee on Accreditation of the Global Alliance of National Human Rights Institutions
TMB	Treaty Monitoring Body
TOT	Training of trainers
UNCT	United Nations Country Team
UNDP	United Nations Development Programme
UNEG	United Nations Evaluation Group
UPR	Universal Periodic Review

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Writer and Researcher *Global Principles for the Capacity Assessment of National Human Rights Institutions* was researched and written by Pearl Eliadis.

Joint Foreword

As national entities with broad responsibility for the promotion and protection of human rights, National Human Rights Institutions (NHRIs) are a key element of the national protection system. They can act as an important “bridge” within society — linking government, parliament, various other state entities, academic and research centres, civil society organizations (CSOs) and the international, regional and national human rights protection systems.

Independent and effective NHRIs can play an important role in:

- Upholding and reinforcing the rule of law, good governance and the effective administration of justice;
- Combatting discrimination and advocating for the protection of minorities, indigenous populations and vulnerable groups;
- Facilitating legal and institutional reform and the improvement of security institutions, such as the police and the prisons administration;
- Monitoring places of deprivation of liberty.

The Principles on the Status and Functioning of National Institutions for the Promotion and Protection of Human Rights (the Paris Principles, endorsed by United Nations General Assembly resolution 48/134) require NHRIs to be: established by the constitution or law; provided with a broad mandate to promote and protect human rights; independent from the government; accessible; widely representative of the different components of society, and supplied with adequate human and financial resources.

The mandates of NHRIs also include encouraging governments to ratify international human rights treaties, implement recommendations formulated by international human rights mechanisms, and ensure compliance of domestic legislation and policies with international and regional standards.

NHRIs monitor the situation of human rights in their respective countries and share their findings and recommendations with the authorities and the wider public. They contribute to raising awareness on human rights issues, enhancing human rights education and training and, more broadly, creating a culture of respect for human rights.

NHRIs can promote new approaches to indicators and data collection, for instance encouraging their disaggregation so as to expose possible grounds for discrimination prohibited under international law. NHRIs are amongst the actors that can play an active role in the promotion and implementation of a human rights-based approach to development and the Sustainable Development Goals, especially Goal 16, so as to ensure justice for all, as part of the 2030 Development Agenda.

Working in parallel on both sides of the social contract, with the authorities and civil society, NHRIs regularly provide evidence-based information and insight on chronic and emerging human rights issues and patterns.

To play these demanding roles effectively, NHRIs require solid capacities to safeguard their independence and resilience to possible changes in governance infrastructures or political changes. The Global Alliance of National Human Rights Institutions (GANHRI), the United Nations Development Programme (UNDP) and the Office of the United Nations High Commissioner for Human Rights (OHCHR) have developed a dedicated partnership to support NHRIs. They have commissioned the Global Principles and the wealth of analysis contained in this volume to guide and strengthen capacity assessments and development for NHRIs across the world.

Co-operation with NHRIs is built on capacity assessments to identify capacity gaps and develop targeted capacity development strategies and programmes. These assessments promote internal learning and accountability and create some structured space for forward-looking reflection and planning.

Eight Global Principles for capacity assessments of NHRIs have been identified on the basis of considerable experience and good practices developed over the years. These principles encompass compliance with human rights norms and standards, highlighting the values that underpin effective practices. The Global Principles also stress the importance of communication and co-operation among NHRIs, capacity assessment practitioners, and regional and global networks of NHRIs, while ensuring that the roles and responsibilities of stakeholders, facilitators and partners are mutually understood, transparent and agreed upon.

We trust the Global Principles will permit experts and partners to share approaches to the design of effective CAs that reflect human rights standards and good practice.



Zeid Ra'ad Al Hussein
UN High Commissioner
for Human Rights



Helen Clark
Administrator
United Nations Development
Programme



Beate Rudolf
Chairperson
Global Alliance of National Human
Rights Institutions

Introduction

Capacity Assessments (CAs) are the crucial first step in capacity development. CAs promote internal learning and accountability, and create structured spaces for forward-looking reflection and planning.

Despite significant progress and capacity-building efforts, national human rights institutions (NHRIs) need support to become more effective. There has been considerable experience in some regions in using CAs as a path to greater effectiveness. The product of this experience has been a richer understanding of good practices and the consideration of global or common principles that underpin successful CAs and that are empirically grounded in experience. The principles extend beyond technically successful CAs to encompass compliance with human rights standards and norms, highlighting the values that underpin effective practices. Global principles also enhance communication and cooperation among NHRIs, CA practitioners and regional and global networks, while ensuring that the roles and responsibilities of stakeholders, facilitators and partners are mutually understood, transparent and agreed upon.

Eight global principles for CAs of NHRIs have been identified:

Principle 1	Pluralism, inclusion and participation
Principle 2	NHRI independence and ownership
Principle 3	Confidentiality
Principle 4	Transparency
Principle 5	Sensitivity to context and regional specificity
Principle 6	Commitment to learning and accountability
Principle 7	Commitment to implementation and follow-up
Principle 8	Respect for the rule of law and normative frameworks

Objectives

The use of CAs in the NHRI context is relatively new and has only recently begun to be codified. These eight principles do not aim to impose uniform methodologies; rather, they are drawn from evidence and practice to offer guidance to NHRIs in their efforts to enhance effectiveness and accountability. The principles also enable partners to share approaches in the effective design of CAs that reflect human rights standards and good practice.

Concepts and definitions

Capacity assessment is a distinct process used to identify “key capacities (that) already exist and additional capacities that may be needed for a capacity development response” (UNDP, 2008). There was a need to adapt the CA process and certain of its underlying precepts to address the unique features of NHRIs and the contexts in which they work. As a result of this adaptation, CAs currently reflect and report on the abilities of NHRIs at a given point in time, having regard to applicable standards and norms and with a view to developing future capacity.

Other relevant terms, including “capacity gaps”, “enabling environment”, “gap analysis”, “rule of law” and “self-assessment”, are defined in the applicable sections to follow, as well as in the **Glossary at Annex 1**.

Methodology

In 2013, the Global Alliance of National Human Rights Institutions (GANHRI), formerly the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC-NHRI), UNDP, and the Office of the High Commissioner for Human Rights (OHCHR) in the context of their Tripartite Strategic Partnership (the “Tripartite Partnership”) agreed to undertake a research project on CA experiences and methodologies, lessons learned and common challenges, having regard to regional specificities (UNDP, OHCHR and ICC, 2013).

In 2014, the first phase of this project was initiated through the preparation of a desk review, starting with 14 CA reports from different countries and regions. The reports were broken down by method, i.e., the Asia Pacific capacity assessment method and the African gaps analysis method (A-GA); by other processes (**Figure 1**), and by region. Scholarly and grey literature on capacity assessments and NHRIs were also reviewed. Semi-structured interviews were held with independent CA practitioners, NHRI experts and members of regional networks on a non-attribution basis.

Phase 1 research indicated that certain CA processes and methods appear to improve effectiveness in particular capacity areas: institutional arrangements (including the legal framework); learning and knowledge, and organizational development. CAs have also contributed to better cooperation at the regional and global levels, and have become more embedded in regional partnerships that promote networked learning. The phase 1 research/desk review also highlighted the existence of certain key principles for successful CAs, regardless of the specific regional methodology or approach used.

The desk review was validated and endorsed by the Tripartite Partnership in June 2015. As a result of these findings, the Tripartite Partnership opted to articulate the proposed global principles, broadly applicable in any region or context, leading to phase 2 of the project and the development of the current document, a draft of which was submitted to GANHRI members for further consultation and commentary in February 2016.

Document Overview

Section 1 provides an overview of NHRIs, a brief history of how CAs emerged in the NHRI context and the key features of CAs as they have evolved in the NHRI context.

Section 2 sets out each global principle, describes the main concepts and provides concrete examples of how the principles apply in practice.

Not every region has developed its own CA methodology. Some are evolving, while in other regions there is no experience at all with the process. Accordingly, **sections 3, 4 and 5** provide information about common features of CAs and lessons learned, resulting from country and regional experiences derived from the research findings in phase 1. The three sections address: identifying capacity issues; carrying out CAs, and undertaking data collection and analysis. These sections are not intended to be directive nor to prescribe a specific methodology. Rather, they provide information about shared or common features and lessons learned, which may be of assistance to those who are seeking to build their own CA processes or adapt processes from other countries or regions.

Finally, **section 6** on follow-up and sustainability responds to a consensus within the Tripartite Partnership, and from a significant majority of consultees in phase 1, that the main value-added of CA processes is the connection between capacity assessment and capacity development, leading to follow-up and implementation of the CA recommendations. This innovation takes the CA process beyond a static “snapshot” of the institution at a given point in time and uses it to develop a more functional and future-oriented roadmap of the NHRI's development.



Chairperson, National Commission for Human Rights of Rwanda. 12th ICC International Conference, Merida
Credit: National Human Rights Commission of Mexico

National Human Rights Institutions & Capacity Assessments



Photo: UN Photo/Albert Gonzalez Farran



1

- 1.1 Capacity assessment and NHRIs:
A brief history
- 1.2 Key features of capacity assessments
- 1.3 Key issues identified by
the Sub-Committee on Accreditation

National Human Rights Institutions & Capacity Assessments

NHRIs are cornerstones of national human rights systems. They fulfil the national role of protecting and promoting human rights and at the international level, serve as “bridges” between civil society organizations (CSOs) and the state (OHCHR, 2010). The Paris Principles are international standards that frame and guide the establishment and work of NHRIs. The principles were adopted by the United Nations General Assembly in 1993 (OHCHR, 1993). They are part of the normative framework for NHRIs, which identifies their human rights objectives and provides standards for the independence of NHRIs, including a broad human rights mandate, adequate funding and an inclusive and transparent selection and appointment process. Compliance with the Paris Principles is broadly accepted as the test of an institution’s legitimacy and credibility.

There is growing national and international advocacy for more credible systems of governance and accountability across state institutions, including for NHRIs. CAs are an important step in this direction because they provide evidence-based information about institutional gaps and strengths and thus underpin capacity development. CAs must be responsive to the particular needs of NHRIs, and have evolved in some regions to reflect that institutional specificity. However, CAs can be resource intensive and most consultees in the phase 1 research indicated that more needs to be known about what is being done in other regions, about how CAs work and whether CAs add to the effectiveness and efficiency of NHRIs. There is, therefore, a strong interest in ensuring that they “add value.”

1.1 Capacity assessment and NHRIs: A brief history

The early focus of CAs was on the Paris Principles (Carver, 2014, 6). In 2000 and 2005, the International Council on Human Rights Policy (ICHRP) published two studies on NHRI performance, legitimacy and effectiveness, which included the Paris Principles but went beyond them to “help national institutions to gather information about the organization itself and its programmes. What is it doing well? Where is it making an impact, how and why?” (Carver, 2005, 41).

In 2008, UNDP developed a generic tool to situate CAs as a distinct step in capacity development

(UNDP, 2008)¹. Focus groups and self-assessments were identified as key techniques for gathering capacity information. The UNDP CA Framework is generic, and most CAs for NHRIs draw on it, at least in part, for certain standard or core capacity issues, such as institutional arrangements, leadership and strategic vision, and management capacities. However, the CA process had to be adapted to address both the specificities and the normative framework in which NHRIs operate.

In the Asia-Pacific context, the UNDP CA Framework was adapted by the partnership of the Asia Pacific Forum of National Human Rights Institutions (APF), UNDP and OHCHR, resulting in the capacity assessment methodology (Asia-Pacific methodology). The Asia-Pacific methodology used an externally facilitated, self-assessment process as a distinct step in capacity-building. The methodology was piloted with the Human Rights Commission of Malaysia (SUHAKAM), followed by a second CA in the Maldives. Between 2009 and 2014, 17 assessments were carried out using this approach. A capacity assessment manual was developed in 2011 to explain the relevance of CAs for NHRIs and the benefits of CA processes, and to provide a step-by-step guide for conducting CAs. The manual was updated in 2014 (APF, 2014).

In the African region, the generic CA process was adapted for NHRIs through a gap analysis method spearheaded by the Network of African National Human Rights Institutions (NANHRI). The process built on earlier collaboration with the Danish Institute for Human Rights (Flindt Pedersen and Muff, 2013) and NANHRI reports on three CAs with African institutions in 2011-2012. In its 2012-2014 priorities and strategic objectives, NANHRI described gap analysis as a process that builds institutional capacity through:

- Promoting compliance with the Paris Principles;
- Strengthening the interface among NHRIs and between NHRIs and international and regional organizations;
- Enabling the network (NANHRI) to respond “quickly and appropriately” to requests for assistance.

In its 2015-2019 strategic plan, NANHRI identifies “the establishment and strengthening of NHRIs in accordance with the Paris Principles” as its first key priority (NANHRI).

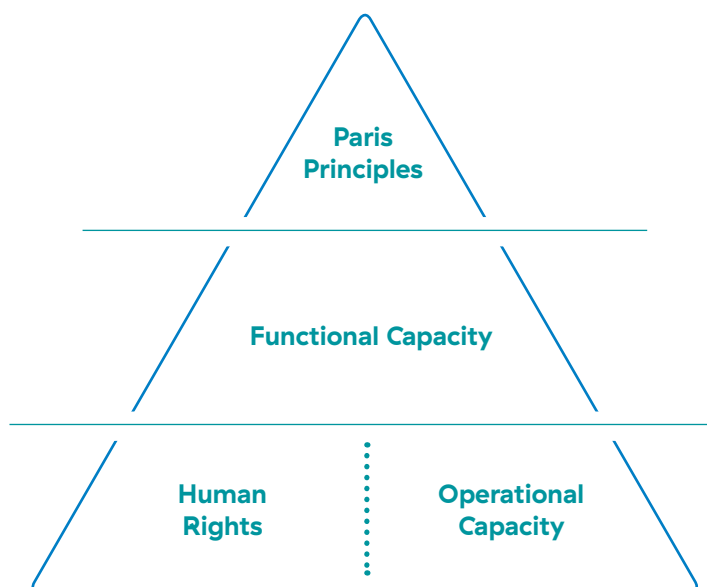
In 2011, GANHRI, OHCHR and UNDP established the Tripartite Agreement to promote stronger collaboration at the global level, particularly in the area of NHRI capacity development.

The NHRI-Plus Effectiveness Framework (Effectiveness Framework) was developed with UNDP Europe and the Commonwealth of Independent States (CIS) Regional Hub as a participatory process based on self-assessment. While it is not a CA, it identifies and scores factors based on a standard set of variables that can be used to assess effectiveness. The resulting data is presented across a range of variables on a single uniform scale. The effectiveness framework draws on the ICHRP publication (Carver 2005), has been piloted in two countries and used in some form in at least five more.

¹ The UNDP Capacity Assessment Practice Note introduces the UNDP approach to supporting capacity development and the basic principles underlying it. The companion guide provides the practical application of the methodology, with a detailed step-by-step guide to conducting a CA, using the UNDP CA Framework, which consists of a three-step process and supporting tools (UNDP 2008, 2008a).

As this overview shows, several techniques and methods have emerged over the last two decades to strengthen the effectiveness of NHRIs. The emergence of a distinct CA process is a feature of that evolution.

Figure 1 **Capacity-building pyramid** (Source RWI)



1.2 Key features of capacity assessments

CAs exist on a spectrum; at one end are **baseline assessments**, essentially snapshots of the institution at a given point in time and preparatory steps for projects whose objectives are already somewhat defined. These types of processes can play a formative role, meaning that the CA may serve to inform or shape the project to come, but the future project is basically in place.

The Raoul Wallenberg Institute of Human Rights and Humanitarian Law (RWI) uses a type of baseline assessment as an entry step to capacity-building in its “pyramid” approach (see [Figure 1](#)).

At the other end of the scale are more stand-alone CA processes, not attached to a predetermined project, that go beyond institutional snapshots to generate priorities and propose activities. They result in recommendations and implementation plans that serve as a foundation for capacity development and structured follow-up. These types of CA processes are mainly seen in the Asia-Pacific (AP) region, using the Asia-Pacific methodology method, and in the African region using the A-GA method. Stand-alone processes tend to be more procedurally elaborate in nature, with codified steps, relatively large teams and a well-developed, forward-looking component that includes future priorities, proposed activities, implementation plans and, in some cases, follow-up protocols.

Finally, some CAs use combinations of these methods, while others take a different approach entirely. In one CIS country, the CA borrowed elements of the Asia-Pacific methodology process while using indicators or variables drawn from the Effectiveness Framework.

With respect to NHRIs, the more elaborate, externally facilitated processes dominate the CA landscape, in that they represent the largest number of CAs conducted. These more elaborate and codified types of processes share several important features:

- They are not formal evaluations that pass judgment on the institution;
- They serve not only as “snapshots” of institutional capacity at a given point in time; they are also blueprints for capacity development. In this sense, they offer a point of engagement with NHRIs at a critical juncture in their development, connecting CAs to capacity-building;
- They cover ground that is at least partially the terrain of strategic planning and other planning and processes. As a result, these types of CAs should be embedded in the NHRI’s internal environment through a link to other processes and internal exercises, like strategic plans, organizational reviews and institutional or project evaluations;
- They use the concept of a “gap analysis”, regardless of the formal title of the method, (See the discussion on “capacity gaps” in the Glossary, Annex 1) to describe the disparity between where the institution should be, or wants to be, on a given capacity issue and where it is actually;
- They acknowledge, directly or indirectly, NHRI statutes and the Paris Principles as central to understanding and benchmarking capacity, but have evolved to address a range of NHRI functions based on good practices and lessons learned.

These processes are also resource-intensive and take place over longer periods of time than baseline assessments. Linking CA processes to other processes and internal organizational exercises can avoid redundancy (i.e., multiple evaluations and assessments), cut costs and reduce the likelihood of “assessment fatigue.” A linked approach also supports comparability of information across reports and processes, and improves institutional learning and accountability. All these issues are addressed in the eight global principles.

1.3 Key issues identified by the Sub-Committee on Accreditation

While capacity assessments are not the same as the accreditation processes of the Sub-Committee on Accreditation (SCA) of the GANHRI, there are nonetheless important points of reference in both processes that are relevant for determining the capacity of institutions. An analysis of SCA reports between 2006 and 2015 was undertaken for the current phase of the project. It revealed that the top three issues raised by the SCA’s country reports in reference to the requirements of the Paris Principles are:

- Recommendations relating to the selection and appointment of the governing/decision-making body of the NHRIs (including guarantee of tenure, duration of tenure and pluralism of body). Recommendations of this type were by far the most numerous;
- Recommendations related to the adequacy of NHRIs’ funding were the second most common type;
- The third most common type of recommendation focused on ensuring an adequately wide mandate for NHRIs and related considerations about the scope of NHRIs’ functions and responsibilities.

Additional issues that were consistently raised included, in order of frequency: interactions with the international human rights system (especially from 2006 to 2012); pluralism in the operations of NHRIs, and immunity for NHRI members.

Global Principles



A Commission officer talking with residents of the devastated Sunkoshi area following the April 2015 earthquake. Credit: National Human Rights Commission of Nepal



2

Principle 1
Pluralism, inclusion and participation

Principle 2
NHRI independence and ownership

Principle 3
Confidentiality

Principle 4
Transparency

Principle 5
Sensitivity to context and regional specificity

Principle 6
Learning and accountability

Principle 7
Implementation and follow-up

Principle 8
Respect for rule of law and normative frameworks

Global Principles

The breadth of experience and approaches used in CAs points to a set of common principles that are global in their application, regardless of regional context and despite the fact that different CA methods are at different phases of development. Global principles are important not only because they reflect human rights principles and normative frameworks, but also because they reflect what has been gathered about good practices, lessons learned and challenges. As noted earlier, consultees showed strong interest in sharing the learning and knowledge gleaned in the research phase of the project, especially in regions with little or no experience with CAs. The development of global principles, especially as they connect to practice, responds to both the stated interest in knowledge and learning, and to the need to ensure that CAs contribute to the effectiveness of NHRIs.

The eight global principles guide the assessment of NHRI functions based on participatory and human rights-based approaches that ensure respect for confidentiality, transparency and regional specificity. CAs should be sustainable processes, promoting sustainability by valuing learning, encouraging accountability and ensuring that there is follow-up. Finally, CAs respect the rule of law, which ensures compliance not only with legislative and constitutional standards, but also with human rights and with normative principles like the Paris Principles.

Principle 1	Pluralism, inclusion and participation
Principle 2	NHRI independence and ownership
Principle 3	Confidentiality
Principle 4	Transparency
Principle 5	Sensitivity to context and regional specificity
Principle 6	Commitment to learning and accountability
Principle 7	Commitment to implementation and follow-up
Principle 8	Respect for the rule of law and normative frameworks

Each of the principles is discussed below, followed by examples of how the principles apply in practice.

Principle 1 Pluralism, inclusion and participation

CA processes are carried out in a manner that respects pluralism, encourages inclusion and uses participatory processes.

The principle of pluralism, inclusion and participation reflects human rights norms such as equality and non-discrimination. NHRIs should be reflective of the societies they serve and should protect and promote human rights, especially those of the most vulnerable groups. Pluralism is therefore an essential requirement of NHRIs under the Paris Principles, which require the inclusion of diverse societal groups in the NHRI's own composition (staff and members) and a participatory approach to decision making through procedures that enable effective cooperation with diverse societal groups (ICC-NHRIs, 2013, 20).

Applying pluralism, inclusion and participation to CA processes favours the use of self-assessment techniques internally and points to the relevance of the views of external groups or stakeholders by:

- Engaging with and involving each staff person and member of the NHRI in the CA, giving equal weight to the informed views of all persons across the organizational hierarchy;
- Actively seeking views about the NHRI through effective consultation and cooperation with external stakeholders.

Greater inclusion and participation solicits more information about the institution, making the data obtained more reliable. Participation and inclusion also increase buy-in and highlight areas of convergence about key capacity issues, while acknowledging divergent views that may expose meaningful differences in perceptions about the institution and its performance.

Translated into the CA context, the principle has internal and external implications.

Applying the principle in practice

Internally Most CAs use a range of self-assessment techniques to obtain information about the institution from all members and staff. These typically include:

- **Focus groups** to identify core capacity issues;
- **Anonymous surveys or questionnaires** based on the identified capacity issues. Answers are subsequently ranked for each of the selected capacity areas. The data is then disaggregated to provide more detailed and textured information about diverse views, enabling the identification of issues that may be specific to particular sub-groups.

Externally External consultations and meetings are used to elicit the views of a wide range of external stakeholders, including government, partners, vulnerable groups and civil society.

Principle 2 NHRI independence and ownership

Under the Paris Principles, independence and autonomy are well-established characteristics of NHRIs. This principle extends to CAs, meaning in practice that the NHRI has “full ownership over the process and the product” of the CA (AP 2014).

The independence of the NHRI in the CA context extends to the integrity of the CA process, which has implications for those who actually carry out or facilitate CAs. Ensuring the independence and ownership of the process means that steps should be taken to ensure its credibility and legitimacy. The CA should not be, nor be seen to be, influenced unduly by external actors such as funders or governments. These concerns point to some form of external facilitation, because the process is less likely to be (or seen to be) self-serving from the NHRI perspective, and more likely to be shielded from external interference. External facilitation minimizes the likelihood of improper external influence or internal collusion.

If the NHRI has “full ownership over the process and the product,” this needs to be reconciled with the fundamental role of external facilitators. In the context of CAs where the CA team undertakes the process from start to finish, there are relatively few elements that the NHRI actually controls directly. The resulting tension between “process ownership,” on the one hand, and the reality of how CAs are carried out, on the other, can be reconciled by setting out the meaning and content of “full ownership over the process and the product” in advance, through meetings and through documenting the parties’ respective understandings of their roles and responsibilities.

Applying the principle in practice

- The NHRI leadership is independent: it requests the capacity assessment and is not pressured to do so by the government or other external actors;
- Independence and ownership over the CA process is documented in a memorandum of understanding (MOU) negotiated early in the process to secure the agreement of the NHRI, to share common understandings of the advantages, risks and disadvantages of the CA, and to set out the roles and responsibilities of the NHRI and the CA team;
- The MOU formalizes the commitment of the CA team to the CA process, and that of the NHRI to cooperating with the process and to learning and accountability through follow-up and implementation of the CA report and its recommendations;
- The NHRI gives the CA team the responsibility of facilitating the process. The team comprises a group of “trusted peers,” and typically includes former senior officials from other NHRIs in the region, peer assessors from other regional NHRIs and staff from UNDP and/or OHCHR from other countries;
- The CA team undertakes the capacity assessment; the NHRI receives and comments on the draft CA report, as well as on the final CA report;
- NHRI ownership implies that the NHRI will have control over the release of the final report. The MOU generally provides that the final report will be disclosed at least to staff, and that the NHRI will provide a comprehensive summary of the CA report on its website. In the AP context, the MOU generally requires the NHRI to consider the public release of the full report.

Principle 3 Confidentiality

The CA process and product are confidential. The MOU is not a public document; the input of staff and members in the CA process is strictly confidential and remains under the control of the CA team; finally, the decision about how and when to disclose the final report is also confidential, subject to the terms of the MOU.

Confidentiality plays several roles: it protects people, processes and the CA report. Confidentiality protects NHRI members and staff from reprisal in the event that feedback is critical of the institution or of colleagues. It also fosters meaningful, reliable information and frank exchanges of views.

In terms of process, the focus groups, questionnaires (once completed) and external meetings are not public information nor public processes. This applies to the NHRI itself because the NHRI leadership does not have the right to know who may have expressed a particular point of view, nor the right to attend focus groups other than the ones to which the leadership group is assigned.

As noted earlier, confidentiality applies to the disclosure of the report outside the NHRI without the permission of the institution. NHRIs are politically vulnerable and internally volatile, and there may be circumstances where the release of a report will endanger the institution. If the NHRI decides to make public the CA report however, the report would be generally available to any outside parties and to external processes, including the SCA accreditation process.

Applying the principle in practice

- The principle of confidentiality applies to both the NHRI and the CA team in their respective areas of responsibility;
- The NHRI commits to respecting the confidentiality of feedback given by staff and members; no one will be subject to reprisal;
- The CA team undertakes to respect the confidentiality of all aspects of the process;
- In terms of the self-assessment techniques used in the CA process, confidentiality is protected by minimizing the chance that the views of individual staff members will be communicated to their own managers or to NHRI leadership in general. In practice this means, for example, that focus groups should not include both managers and their staff;
- Notes from focus groups and responses to questionnaires are confidential and are disclosed only to the CA team;
- The CA team cannot disclose the report. The disclosure and dissemination of the report is controlled by the NHRI, including disclosure to the public or to the SCA;
- In the event that a staff member experiences reprisal as a result of the CA process, mechanisms should be in place to ensure that staff members are protected. Possible mechanisms should include a process to alert the CA team leader and referral to the internal NHRI mechanism that generally handles internal allegations of discrimination or harassment, or to independent NHRI members. Such mechanisms should generally be designated in advance, potentially through the MOU process. They should complement each other.

Once again, MOUs provide the opportunity for early discussion and disclosure of expectations and processes that define the practical meaning of confidentiality and its relationship to the next principle – transparency.

Principle 4 Transparency

Capacity assessments reflect the principle of transparency, subject to the principle of confidentiality noted earlier.

NHRIs are state-funded public institutions that are nonetheless independent, and are entrusted with the mandate of promoting and protecting human rights. NHRIs are expected to be transparent in the exercise of their duties as public institutions and this applies, to some extent, to the CA process.

At the internal level, the principle of transparency applies to the sharing of the CA report with NHRI staff and leadership to promote learning and accountability, thus increasing the likelihood that the report's recommendations will be implemented. If the NHRI accepts the report, at least the highlights or the main recommendations should be shared publicly, and the NHRI should consider releasing the entire report.

Applying the principle in practice

The principle of transparency applies in at least three ways to the CA process, namely with respect to:

- How the CA process is conducted;
- The relationship between the CA team and the NHRI;
- The disclosure of information within NHRIs and to stakeholders and the broader public.

Transparency in conducting the CA The principle of pluralism, inclusion and participation ensures that all NHRI staff and members are engaged in the CA and, to the extent possible, that everyone has access to the same information. This principle paves the way for process-based mechanisms that enhance internal transparency. All staff and leadership should be informed in a timely manner about the process and what it will mean for them and for the organization. They should be given notice and time for focus groups, meetings and appropriate access to information technology to complete the questionnaires.

Transparency between the CA team and NHRI When the CA process is being planned, MOUs, concept notes and preparatory visits all serve to communicate information about the process. NHRIs should also be told clearly in advance by the CA team about risks, advantages and disadvantages. Appointing a NHRI liaison who participates in CA team discussions, as appropriate, can ensure points of engagement with the NHRI and informal opportunities for discussion.

Such measures can minimize surprises and misunderstandings, while helping to manage expectations.

Transparency between the CA team and the NHRI would suggest that results be shared after the report is finalized, subject to confidentiality considerations and depersonalization of data so that no individual staff person can be identified.

Transparency among stakeholders and the public MOUs usually require the NHRI to commit to placing a comprehensive summary of the CA report on the NHRI website and to consider public release of the full report, even though full disclosure is not the rule in any region to date. CA reports are generally available to partners that support CAs (e.g., UNDP, OHCHR, etc.) on a confidential basis, regardless of the decision by the NHRI to accept the report. There have been

cases where capacity issues identified in rejected reports have served to fortify capacity development (CD) projects, which have then successfully proceeded.

As noted earlier, the CA report cannot be distributed without the NHRI's permission. Understandably, some partners want to see the investment in CAs "translated" into added value for themselves, but if there is an undertaking to the NHRI in the MOU regarding nondisclosure, this undertaking must be respected in the interests of confidentiality. On the other hand, and as noted earlier, if the NHRI agrees to the CA report, which is then disclosed in whole or in part, the public information is then available to the stakeholders, international community and general public.

Country example

In an East African country, the final results of a CA were shared with stakeholders and the broader development community, providing highlights, methodology and key priorities.

The NHRI agreed to the presentation, which was conducted jointly by the CA team and the NHRI just after the CA concluded: the presentations about the CA process and its outcomes were made by the Chief Commissioner, UNDP and the external facilitator. The NHRI leadership attended the session, as did key staff members and the NHRI liaison to the CA process.

Invitations were also extended to members of the international community and to donors, as well as to the representatives of civil society who had participated in the external consultations. Given that serious concerns had been expressed, especially among stakeholders, about the commitment and credibility of the NHRI and the CA process in general, the presentation was very well received, as it disclosed candidly the capacity gaps of the NHRI, as well as the areas of capacity-building needed to support institutional development.

The resulting increase in trust and credibility led directly to the development of a project document, prepared by UNDP and based on the CA findings, leading in turn to funding for two major areas identified by the CA report.

Principle 5 Sensitivity to context and regional specificity

CA processes should be carried out in a manner that is sensitive to context and responsive to the specificities of the region and country in which the NHRI is working.

A report from the Asia-Pacific region, which reviewed CA processes in 2012, noted the importance of taking into consideration the “situatedness” of the institution (UNDP, 2012). This concept is implemented in practice at three levels discussed below: **(1)** institutional development, **(2)** the relationship between the CA and other processes, and **(3)** the enabling environment.

At the level of the institution, NHRIs are diverse; they may be commissions, ombudspersons, research institutes or hybrid institutions that borrow features from two or more institutions. NHRIs operate in very different geographic regions with distinct administrative and legal cultures. They may be relatively new institutions or they may be well established. They may be ready for a CA based on some or all of these factors, or it may be preferable to wait. Despite all these differences, CA methodologies should be flexible enough to provide accurate assessments of NHRIs that take into consideration all the relevant factors.

In terms of the relationship between the CA and other processes, the CA processes should be sensitive to and, where possible, integrated or linked to other processes, such as strategic planning or organizational reviews that may cover similar ground.

In terms of regional specificity and the external environment, NHRIs operate in different legal contexts (common law traditions, civil law traditions and mixed legal traditions) in countries with differing levels of development, and where the government may be more or less accepting of the NHRI's role as an independent institution that promotes and protects human rights. NHRIs may also face unique circumstances, such as internal or regional conflicts. Additional factors that should be taken into consideration include the existence and role of a regional NHRI network, the existence of regional human rights instruments, and other factors that include the culture of public administration within the public service, the extent to which independent institutions and offices are controlled by the executive power and, finally, demographic and social factors such as the ethnic composition of the country, the existence and extent of vulnerable and marginalized populations and language.

Applying the principle in practice

Institutional development CAs should adjust to the organizational context of the NHRI, regardless of the level of development of the institution. As well as older or more established ones, relatively new institutions may benefit from undergoing a CA process. Nevertheless, most NHRIs that undergo CAs have been in operation for about two years.

Most CAs have taken place in “A” status accredited institutions. It should be noted however, that a small number of CAs have occurred in “B” status accredited NHRIs, and even in institutions that are not accredited.

Connection to other processes CAs should be embedded in the NHRI's internal environment and connected to other processes like strategic plans, organizational reviews and institutional or project evaluations. Nothing prevents institutions from undertaking such processes in parallel or in sequence, provided that care is taken to avoid redundant and repetitive planning exercises. There is no evidence to support a lockstep approach in terms of the order of CAs in relation to other processes; for example, there is no “rule” that strategic planning should come before or after a CA. What *is* important is that CA reports be informed by prior processes and available to support parallel or forthcoming ones. This avoids redundancy (i.e., multiple evaluations and

assessments) and reduces the likelihood of “assessment fatigue,” while supporting comparability of information across reports and processes. Comparability with other processes also supports the principles of transparency, and of accountability and learning. The multiple functions of CAs that not only assess current capacity but also address future capacity needs, identify priorities, plan for implementation, and generate follow-up protocols, all underscore the importance of being aware of the internal context and of connecting CA reports to other processes and exercises.

Enabling environment An effective CA report is a concise communication about an NHRI’s current and required capacity, which is in turn connected to external factors, including the extent to which the government and the overall political situation are favourable to human rights and to the work of the NHRI. Related functional capacities are linked to stakeholder engagement, engagement and dialogue with governments and other actors, the strength of the judicial system and the capacity to influence policy agendas.

These features are sometimes referred to collectively as the “enabling environment” in which NHRIs work. They provide information about the institutional situatedness of the NHRI (UNDP, 2012, 21). The enabling environment provides valuable information about capacity that resides outside the NHRI concerning:

- Political will to support the NHRI;
- Attitudes/perceptions of the international community/donors;
- Attitude of the media and the broader ‘public profile’ of the institution;
- Acceptance of the institution by CSOs;
- Existence and impact of external regulations and rules, including public service administrative rules that may affect the institution;
- Existence of, and interaction with, parallel or “competing” institutions.

There is a strong argument for placing standard or boilerplate material about the environment in which the NHRI operates in the appendices (e.g., legislative and constitutional provisions, standard recitations of the socio-political context, etc.). At the same time, the principle of sensitivity to context and regional specificity suggests that certain information that is relevant to capacity should be included in the narrative report.

Country example

The enabling environment of a particular NHRI may include other parallel or competing public institutions that have general or specialized human rights mandates. In the case of an African NHRI, an established government agency in the justice department had been functioning for years as a de facto NHRI, even though it was not independent from government.

The CA report of a new NHRI analysed the views of the commissioners with regard to the impact of the established agency on the capacity of the new NHRI, including its ability to communicate its role to the public and avoid confusion. The CA report made recommendations with regard to future negotiations between the two institutions and proposed an MOU to address the impasse of functional overlaps.

Principle 6 Learning and accountability

Capacity assessments should promote learning and encourage internal accountability for implementing the CA recommendations.

At the internal level, the CA process helps NHRI to reflect on themselves and their institutional development rather than passing judgment on their performance. In this way, CAs are distinguished from evaluation in both language and tone. The CAs in the Asia-Pacific context and those carried out using the A-GA method, for example, both reject the term “evaluation” as a way of describing a CA, partly because of a concern that NHRI management will reject the process as a judgement on their performance or themselves and will be less likely to use it as a learning tool.

CAs allow institutions to appreciate the need for generating evidence for planning, and provide NHRI with the space and a platform to respond to their own capacity gaps. They also underscore the importance of accountability: the NHRI leadership, for example, is accountable for acting on the recommendations of the CA report. This process-based value is an important but often underappreciated feature that connects principles of NHRI independence and ownership to learning and accountability. In this regard, CAs:

- Serve to identify capacity issues and indicators that will benchmark progress;
- Support evidence-based approaches to capacity development;
- Systematically document the CA process.

As noted earlier, learning is also encouraged when CAs are “joined up” to other processes (evaluations, strategic planning, etc.) to maximize value, leverage learning and see patterns that may be emerging. The focus on learning also creates opportunities for peer learning, partnerships and networks, especially at the regional level.

Applying the principle in practice

The CA report cannot be a learning tool if no one knows about it or if it is not subsequently used to inform capacity development, strategic planning or organizational development. As noted earlier, CA reports should be shared with staff and serve as a jumping-off point for implementation. If the CA report is accepted, there should be a pre-existing commitment, memorialized in an MOU, to share the report internally and place a summary of the findings on the NHRI website.

But what if the report is not accepted? A variety of circumstances may account for this. In some cases, the NHRI may object to the accuracy of the findings or to the approach of the CA team. In others, the CA team may have wanted the report to serve as a path to SCA accreditation and realized that a report containing negative elements might not serve the intended purpose.

If the report is not accepted by the NHRI, it is generally understood that the requirement in the MOU obliging the NHRI to disseminate the report to staff will no longer apply. Pre-existing commitments to disclosure more generally will not survive a rejection of the report by the NHRI. However, the rejection of reports can be the result of the NHRI not clearly understanding the reason for the CA, which once again reinforces the critical importance of NHRI maturity and readiness, and the usefulness of MOUs as an opportunity to ensure that the NHRI is embarking on the process for the right reasons. CAs should not be conducted with NHRI whose leadership appears to view the CA process as a path to accreditation or to a more

favourable public or international image, at least not without a concomitant commitment to institutional learning and accountability for results. The practical steps to ensure institutional readiness and thus comply with the principle of NHRI independence and ownership include:

- A preparatory mission or preliminary exchange to confirm the intent and readiness of the NHRI;
- The development of an MOU, setting out roles and responsibilities, clarifying expectations and committing the NHRI to disclosing the report (if accepted) to staff, as well as to some form of review process or follow-up, as appropriate;
- A commitment by NHRI leadership to implement findings on a priority basis, working with regional or international partners.

Finally, the commitment to learning also operates at a regional level. CA teams often include staff members from other NHRIs that have recently undergone CAs. They bring knowledge to the CA and later return home with greater experience of the CA process. This strategy promotes exchanges within and across regions and provides learning opportunities.

Country example

An NHRI undertook a CA shortly after an external evaluation had generated a list of recommendations that the institution had already started implementing. The CA was initiated as part of a regional strategy to support capacity development in the region. A senior official of another NHRI served as a member of the CA team to facilitate the exchange of experiences between the institutions.

The CA report built on previous recommendations, assessed progress to date and introduced new strategies for moving forward, including a specific strategy dealing with accountability that addressed external aspects of accountability such as public reporting, as well as a commitment to full reporting of the NHRI's internal and external evaluations.

Staff later reported the CA process had opened up lines of communication and encouraged participation in a way that had not previously occurred. By creating an internal space for reflection about the institution and its future development, the CA process fostered an environment whereby staff and members were consciously working towards improving the NHRI's capacity, based on a new, shared understanding of the institution. The leadership's accountability for results meant that the CA recommendations could be documented and tracked. Finally, the CA team member from the other NHRI returned with greater experience of and expertise in the CA process.

Principle 7 Implementation and follow-up

The recommendations of CA reports should be implemented with structured follow-up set out in implementation plans.

CAs that go beyond assessments of the NHRI at a specific point in time to identify future capacity needs will identify priorities, plan for implementation and ensure follow-up through protocols. All these steps underscore the importance of connecting CA reports to future institutional development. A CA that adds value is one that identifies the right capacity information and is capable of creating a foundation for strategic decision making and capacity development. Monitoring and follow-up are integral to CA processes because they assure effective capacity development and improve the NHRI's ability to protect and promote human rights.

NHRIs should commit to carefully and seriously considering the recommendations of the CA report, and to implementing the recommendations it accepts. The key technique for ensuring that this occurs is to begin CA processes with an MOU, where the NHRI should explicitly commit to following up the recommendations.

Country example

An NHRI underwent a CA in 2012 and then adopted the CA report's recommendations. The recommendations were implemented through an ongoing series of strategies and actions.

Three years later, the regional network and the NHRI embarked on discussions to carry out a review to follow up on progress. The objectives of the proposed 2015 review were identified as follows:

- Identify and record the NHRI's progress in implementing the recommendations of the 2012 CA;
- Identify barriers to full implementation and ways

to overcome them;

- Provide, for their consideration, advice to the incoming NHRI members on priorities in the development of the next stage of capacity-building and for possible incorporation in a new strategic plan, and
- Contribute to the regional understanding of the impact of the CA process.

The NHRI team agreed and proposed that the review team comprise one member of the regional network and one member of the NHRI.

Principle 8 Respect for rule of law and normative frameworks

Capacity assessments must comply with the rule of law and with the applicable legal standards in force in any given country and/or region. The rule of law includes human rights and the overall normative framework for NHRIs encompasses normative principles such as the Paris Principles.

The normative framework helps to situate the legal obligations of the NHRI and determines what the institution should or must do and therefore provides an important context for determining relevant areas of capacity. This means that CAs must, at a minimum, ensure that the applicable principles and norms are used to benchmark capacity, while recognizing that minimum standards do not provide the entire picture.

Legal framework

NHRIs are “creatures of statute;” their enabling statutes (and constitutional protections, where those exist) define their legal powers, mandate and mission. As public institutions, NHRIs must act within the law and as authorized by law. The corollary is that legal norms provide information about the functions that NHRIs must perform and are directly relevant to the capacities that are needed.

Applying the principle in practice

Many CA reports begin by examining the legal framework and its interaction with the capacity issue of “institutional arrangements.” This refers to the NHRI’s general capacity to comply with its own law and carry out prescribed activities.

Table 1 synthesizes the experiences of CAs in various countries to show how CAs integrate the principle of respect for rule of law and normative frameworks into capacity assessments in practice. It sets out the common or shared practice, common challenges and lessons learned.

Table 1 Law and the normative framework

Common Practice	Challenges	Lessons Learned
Examine the legislative / normative context in detail, i.e., constitutional and legislative texts, to identify key capacity issues	<p>Moving beyond “capacity on paper” to functional capacity to protect and promote human rights</p> <p>Integrating norms from regional regimes (e.g., Europe) that interact with national law</p> <p>Reproducing legal texts makes the CA report long and unwieldy</p>	<p>Legal standards are necessary but not sufficient. “Paper review” of laws and Paris Principles must be supplemented by a functional assessment</p> <p>Integrate regional standards, where applicable (e.g., intergovernmental mechanisms such as the African Union and the European Union)</p> <p>Laws and constitutional provisions are placed in annexes to reports, whereas relevant analytical discussions of capacity connected to the legal framework are included in the CA report</p>

Table 1

Common Practice	Challenges	Lessons Learned
Analyse “implementation gaps,” where powers exist in law but are not actually used,² to inform key capacity issues	<p>Moving beyond “capacity on paper” to functional capacity to protect and promote human rights</p> <p>Integrating norms from regional regimes (e.g., Europe) that interact with national law</p> <p>Reproducing legal texts makes the CA report long and unwieldy</p>	<p>Legal standards are necessary but not sufficient. “Paper review” of laws and Paris Principles must be supplemented by a functional assessment</p> <p>Integrate regional standards, where applicable (e.g., intergovernmental mechanisms such as the African Union and the European Union)</p> <p>Laws and constitutional provisions are placed in annexes to reports, whereas relevant analytical discussions of capacity connected to the legal framework are included in the CA report</p>
Address areas where the NHRI is not complying with its own laws or where laws are ambiguous or have internal gaps	Addressing deficiencies in enabling laws is the prerogative of the government, and is not the responsibility of the NHRI	At the request of the NHRI, the CA mission can be used as an opportunity to meet with government and legislative officials to raise the issue of advocating for amending the law where needed

The Paris Principles

The Paris Principles are internationally agreed upon minimum standards that define the role, composition, status and functions of NHRIs (OHCHR, 1993). As such, they can help to identify core capacity issues. As *minimum* standards however, the principles are general in nature; they cannot always provide the level of detail or information needed to help an institution decide how to handle competing demands, determine priorities or address a specific aspect of its mandate.

CA processes generally recognize that the Paris Principles provide a starting point but do not provide a complete picture of NHRIs or their capacity (Carter, 2014, p. 8; Eliadis, 2014, p. 32). Indeed, some researchers are critical of the use of the principles, at least in certain contexts.³ The Paris Principles nonetheless provide a set of norms that should not be ignored, even if certain aspects of the NHRI mandate are not mentioned explicitly in them.

² For example, one commission had the power to issue summons in its statute, but the CA report noted that the power was rarely used. The capacity gap was based on comparing the legal authority with the lack of legitimacy or authority in practice.

³ Using the Paris Principles as a source of external standards has been criticized as inappropriate for certain local contexts, especially as regards independence. See, e.g., Julie Merton, “Evaluating NHRIs: Considering Structure, Mandate, and Impact”, in *Human Rights, State Compliance and Social Change: Assessing National Human Rights Institutions*, Ryan Goodman and Thomas Pegram (eds) (New York: Cambridge University Press, 2012) cited in Carver 2014, p. 3.

Country example

An NHRI in a post-conflict country operates pursuant to legislation that confers a wide mandate, as would be expected of an “A” status institution. It also has been given separate authority pursuant to a peace process to investigate and monitor human rights violations and crimes against humanity that took place during the conflict.

The NHRI underwent a CA, and several capacity gaps and issues were identified. While the Paris Principles may have been relevant to the general issues raised, the principles by their very nature are not designed to be detailed enough to support a CA process, at least not in isolation. Consider, for example, the following issues:

- Capacity for strategic advocacy, including in relation to the CA recommendations;
- Capacity to develop annual work plans in consultation with regional offices;
- Capacity to ensure communication flows within the NHRI, between central office and regional offices and across other divisions and offices;
- Capacity to coordinate, collaborate and communicate regularly with justice sector actors to follow up on and advocate for implementation of the NHRI recommendations, and to monitor the criminal justice system;
- Capacity to undertake investigations and monitoring in a skilled manner due to adequate training, including introductory courses, targeted forensic exhumation and other specific skills modules.

In this example, the Paris Principles are clearly of general assistance, but they are not able to provide sufficient detail or information in terms of selecting priorities among the various capacity issues raised or quantifying the capacity gaps. Nor can the Paris Principles always provide adequate information to support the development of an implementation plan. It should be clearly understood that this is not a critique of the principles nor of their relevance to the CA process, but rather an acknowledgement that each institution will have different needs and different operational priorities, and it should not be presumed that the Paris Principles will, or even should, directly or explicitly address all potential capacity issues.

Applying the principle in practice

CAs use the Paris Principles as external standards, even though different CA methods may accord them different levels of emphasis. Common and important issues about how to interpret the Paris Principles are set out in the SCA General Observations,⁴ which provide important supplementary information that can be used to inform what the Paris Principles mean in practice (ICC-NHRIs, 2013, para 6(a)). **Table 2** provides a synthesis of information from CAs in several countries with common practices, challenges and lessons learned associated with this principle.

4 Sections 6.2 and 6.3 of the *SCA Rules of Procedure* provide the Sub-Committee with authority to develop ‘General Observations’ on common and important interpretative issues on the implementation of the Paris Principles. Accreditation applications are assessed in relation to the Paris Principles as interpreted through the SCA General Observations.

Table 2 Paris Principles

Common Practice	Challenges	Lessons Learned
<p>Use the Paris Principles as external standards to identify capacity issues</p>	<p>Determining how explicit the discussion of the Paris Principles should be, given that CAs are not “compliance mechanisms”</p> <p>The Paris Principles are minimum standards: the CA process requires a level of detail and benchmarking of functions that exceed the scope of general principles</p>	<p>The Paris Principles provide critical information about the capacity issues against which NHRI performance is benchmarked across multiple capacity areas OR they can be reflected through a single generic capacity issue, e.g., “compliance with the Paris Principles”</p> <p>Paris Principles form a critical part of capacity issues but are not “the whole story” Benchmarking capacity requires information from a range of elements, e.g., legal standards, the UNDP CA Framework, good practices, etc.</p>
<p>Use the Paris Principles to benchmark capacity issues connected to independence, pluralism, breadth of mandate, funding, diversity of members and staff, appointments, tenure and removals, and legal immunity</p>	<p>Developing the Paris Principles for other functional areas</p>	<p>The Paris Principles are relevant across all areas of institutional and functional capacity</p>
<p>Distinguish the CA process from the accreditation process</p>	<p>Using the Paris Principles may generate confusion between the CA and the accreditation process</p>	<p>Advance briefings, concept notes and MOUs help to ensure a clear understanding of the process and its objectives, and to distinguish CA and accreditation processes</p>
<p>A majority of reports do not invoke or use the SCA General Observations as a source of information about capacity issues</p>	<p>Inadequate use of the General Observations to supplement the more general Paris Principles</p>	<p>SCA General Observations provide supplementary, practical information on a range of capacity issues and are useful for CAs across a range of functional areas (see below)</p>

The following functional capacity areas are derived from the SCA General Observations and can serve as additional points of reference in relation to the capacity to undertake or assure:

- Complaints handling and alternative dispute resolution (ADR) for NHRIs that have the jurisdiction to accept complaints;
- Autonomy in terms of methods of operation (e.g., funding, taking up any issue, publicizing a position, stakeholder engagement, etc.);
- Contribution to national reports and preparation of independent reports for treaty monitoring bodies (TMBs), universal periodic reviews (UPRs) and special procedure mechanisms in the international system;
- Monitoring of detention facilities, whether as national preventative mechanisms or as part of the general mandate;
- Preparation and wide distribution of annual reports on the national situation with regard to human rights in general and on more specific matters;
- Provision of effective remedies to address human rights violations.



Palestinian law enforcement in Ramallah take part in a training program run by the Independent Commission on Human Rights
Credit: Palestinian Independent Commission on Human Rights

Identifying Capacity Issues



Human rights “study club” for school girls; Gulhi Island, Maldives

Credit: Human Rights Commission of the Maldives



3

- 3.1 Leadership
- 3.2 Institutional arrangements
- 3.3 Knowledge
- 3.4 Accountability
- 3.5 Protection activities
- 3.6 Promoting human rights
- 3.7 Advice and assistance to government
- 3.8 Human rights monitoring

Identifying Capacity Issues

Capacity issues are those attributes or features required by NHRIs to function effectively. The correct selection of capacity issues is fundamental to the success of the CA. Once capacity issues have been identified, appropriate indicators can be selected to benchmark progress and to set the stage for future implementation plans and follow-up protocols, ultimately leading to an effective capacity development programme.

While section 2 has set out the global principles and how they translate into practice, section 3 examines the main objective of CAs in the NHRI context, namely the identification of capacity issues, and connects good practice to the relevant global principles.

Preliminary baseline assessments that precede pre-established projects usually identify capacity issues at the outset. However in most CAs in the NHRI context, capacity issues are not known in advance. Indeed, the CA process as it has developed for the majority of NHRIs elicits information about capacity issues and capacity gaps as an output of the CA.

➤ **See Annex 3: Sample capacity issues from three CA reports.**

Who identifies capacity issues?

The use of self-assessment exercises by staff and NHRI leaders to identify capacity issues themselves respects the principle of pluralism, inclusion and participation, as well as NHRI independence and ownership. The principle of pluralism, inclusion and participation also supports CA processes that engage all staff and leadership in identifying capacity issues, and also supports external consultations with a wide range of societal sectors.

The list of core capacity issues is generally finalized in consultation with the NHRI liaison, respecting the principles of confidentiality, transparency and NHRI ownership and independence.

3.1 Leadership

Leadership is a core capacity issue pursuant to the UNDP Capacity Assessment Practice Note (UNDP 2008) and under the Paris Principles in terms of independence and pluralism. Leadership is therefore connected to principles of pluralism, inclusion and participation, and NHRI independence and ownership. Information about the authority and legal obligations of NHRI leadership is usually provided in legislation, thus engaging the principle of respect for the rule of law and normative frameworks.

CAs in the NHRI context reveal that a number of common issues arise in terms of assessing the capacity of NHRI leadership, and the lessons learned reflect pragmatic solutions that are informed by the application of the global principles. **See Table 3.**

Table 3 Leadership

Common Practice	Challenges	Lessons Learned
Define leadership functionally, i.e., not only NHRI members but also senior staff, and sometimes middle management	<p>Sensitivity to criticism; encouraging leaders to share responsibility and authority</p> <p>Ensuring that staff can comment candidly on leadership</p> <p>Identifying specific or minority concerns</p>	<p>A broader definition of leadership means that NHRI members are less likely to take criticism personally (Principle: pluralism, inclusion and participation)</p> <p>Effective CA processes generate transparent, reliable information and enhance the credibility of the overall process (Principle: transparency)</p> <p>Protect the identity of all staff and leadership in the CA process (Principle: confidentiality)</p> <p>Disaggregate data from questionnaires to pinpoint and address divergent views, e.g., by gender, region, occupational classification, etc. (Principle: pluralism, inclusion and participation)</p>
Ensure pluralism in the leadership in reference to diversity, gender, ethnic groups	<p>Addressing other areas such as disability, indigenous status, etc., as appropriate</p>	<p>Questionnaires can include other areas or aspects of identity, including disability, as appropriate (Principle: pluralism, inclusion and participation)</p>
Include questions about independence, i.e., willingness to speak out, take sensitive or difficult positions; to “stand up” to government when required	<p>Addressing these issues in a report may be politically sensitive</p> <p>NHRIs must balance the need to speak out with institutional survival in some cases</p>	<p>CA processes sometimes address very sensitive issues through meetings or side reports (Principles: confidentiality, transparency)</p> <p>CA reports should address the political context in which NHRIs operate to place this issue in context (Principles: transparency; sensitivity to context and regional specificity)</p>

Sample indicators

In the capacity area of leadership, CAs aim for improvements in relation to the following indicators:

- Pluralism (diversity) of leadership group;
- Independence/capacity to withstand pressure from government authorities;
- Reputation and credibility;
- Capacity to understand and implement vision, mission;
- Capacity to fully utilize staff skills, expertise;
- Capacity to foster an environment where all are motivated, feel “heard”;
- Human resources, including the extent to which pluralism is fostered.

3.2 Institutional arrangements

Institutional arrangements are a core capacity issue pursuant to the UNDP Capacity Assessment Practice Note (UNDP, 2008) and under the Paris Principles. Institutional arrangements are connected to principles of pluralism, inclusion and participation, and NHRI independence and ownership. Many institutional arrangements are provided in legislation, thus engaging the principle of respect for the rule of law and normative frameworks.

Institutional arrangements are generally reflected by four main capacity issues: organizational structure; accessibility of the NHRI to the general population; the NHRI's accessibility to vulnerable groups, and mainstreaming gender equality.

3.2.1. Organizational structure

CA processes commonly reveal that NHRIs have unclear definitions of roles and reporting structures. The lack of clarity is frequently exacerbated in larger institutions with regional offices. Questionnaires that identify respondents in terms of gender, office location or other relevant characteristics permit the disaggregation of data, which can assist in pinpointing specific underlying issues or groups of issues. (Principles: pluralism, inclusion and participation; sensitivity to context and regional specificity).

Sample indicators

In this capacity area, CAs aim for improvements in relation to:

- Organizational policies, rules and values, as well as clearer and more detailed reporting structures and job descriptions;
- The division of roles and responsibilities;
- The implementation of measures to support equality and anti-discrimination.

3.2.2. Accessibility

NHRIs must be accessible to all segments of society. Accessibility is a capacity area linked to the Paris Principles, in terms of pluralism, and therefore broadly connected to principles of pluralism, inclusion and participation, as well as transparency. Accessibility is also fundamental for persons from vulnerable groups who may have special needs and receive protection under national and international human rights law. These include, but are not limited to, persons with disabilities, indigenous persons and migrants. **See Table 4.**

Table 4 **Accessibility**

Common Practice	Challenges	Lessons Learned
Address accessibility in general terms	Addressing the many dimensions of accessibility	<p>Each aspect of accessibility should be clearly and separately assessed where appropriate</p> <p>Effective programmes of outreach and information dissemination, including, where applicable, translation into local languages</p> <p>(Principles: pluralism, inclusion and participation; transparency)</p>
Address accessibility for persons with disabilities	Integrating requirements of the UN Convention on the Rights of Persons with Disabilities, and the role of NHRIs as independent mechanisms	<p>Principles of universal design can be used to promote physical accessibility</p> <p>Accessibility for people with disabilities requires closer and systematic attention in CA reports</p> <p>Outreach programmes to people with disabilities, ensuring they can access the NHRI and its services, as well as provide input on its work</p> <p>(Principles: pluralism, inclusion and participation; transparency; respect for the rule of law and normative frameworks)</p>

Sample indicators

In relation to the capacity issue of accessibility, CAs aim for improvements in relation to:

- Geographic accessibility to people in different parts of the country, including in remote regions and rural areas;
- Communications channels and media platforms for the public, e.g., print media, electronic media and social media;
- Accessibility to marginalized or vulnerable populations, including people with disabilities.

3.2.3. Mainstreaming gender equality

Most recent CAs reflect a focus on NHRIs and gender equality; this dimension of the NHRI's capacity is an important aspect of the institution's capacity (APF 2014, 29). For example, questionnaires that contain a personal profile section ask respondents to provide information on gender (among other characteristics). The data can later be disaggregated.

Sample indicators

In relation to the capacity issue of gender equality, CAs aim for improvements in relation to:

- Gender equality among staff, at all levels of the organization;
- Gender equality among leadership;
- Gender-based approaches to programming;
- Gender mainstreaming;
- Internal capacity to undertake gender-based analysis of government budgeting.

Lessons learned

CAs generally reflect the composition of staff and leadership, but programming and gender mainstreaming indicators are less prevalent.

Given the many technical manuals on gender, women's human rights and NHRIs, there is no lack of information about which capacities should be identified and assessed (APF, 2014a; Equitas, 2008). These include the capacity to disaggregate complainants and complaint types by gender, systemic or strategic focus on gender-based human rights issues, accessibility for women and children (especially those from vulnerable communities), promotional programmes addressing gender equality and women's rights, and advice to government on gender budgeting. Some CA reports make interesting recommendations regarding the security of female investigative staff in the field, and on specific strategies for interviewing women complainants.

3.3 Knowledge

Two subcategories of capacity issues are discussed in this section. The first relates to institutional understanding, skills, training, policy and strategy. The second relates to knowledge management.

3.3.1. Institutional understanding, skills, training, policy and strategy

Sample indicators

In relation to this capacity issue, CAs aim for improvements in the capacity to:

- Understand and implement the NHRI's mandate, objectives, roles and responsibilities;
- Understand and apply the law, including international human rights law;
- Understand and implement the technical skills to perform roles;

- Access training opportunities;
- Assess training impacts, including through self-evaluation, peer learning and integration of learning into work;
- Develop standard operating policies/strategies for implementing the mandate of the NHRI;
- Obtain English-language training.

3.3.2. Knowledge management

NHRIs are knowledge organizations, and their staff and members are knowledge workers. Although CA reports do not generally include knowledge management as a core capacity issue, they do address several capacity issues that are grouped in **Table 5** for convenience.

Table 5 Knowledge and learning

Common Practice	Challenges	Lessons Learned
M&E systems	<p>Strengthening M&E systems</p> <p>Building capacity to determine whether the institution is making an impact on human rights in the country</p>	<p>Improved M&E systems support improved internal and external accountability</p> <p>Enhanced capacity to manage complaints systems, track complaint management data and improve annual reporting can, at least in part, address both these challenges</p>

Sample indicators

In relation to this capacity issue, CAs aim for improvements in the capacity to:

- **Monitor and evaluate** M&E systems capture, manage and use administrative data and information, and harness it to develop internal policies and standard operating procedures (SOPs);
- **Develop databases and information management systems** IT systems automate processes and facilitate the retrieval of information that is easy to use and accessible to staff internally (including those in regional offices), and serve as an electronic repository of public information and other documents in the public domain, including to persons with disabilities;
- **Research and write reports** Lack of internal capacity to undertake analytic research and report writing is noted in the majority of CA reports. In particular, staff have indicated the need for training and professional development in these areas.

3.4 Accountability

Accountability is generally addressed both internally and externally. *Internal accountability* is discussed in the capacity area of institutional arrangements and leadership, in **sections 3.1** and **3.2**. External accountability is discussed in **section 3.6**, Promoting human rights.

3.5 Protection activities

NHRIs engage in a wide range of protection and promotion activities, or activities that are a hybrid of both. Capacity assessment issues in this area generally include functions related to complaints handling, public inquiries, ADR and monitoring, to name a few. **See Table 6.**

This section focuses on complaints handling and investigations as the most prevalent area of protection activities. When NHRIs do not, or cannot, investigate cases effectively, the public and stakeholders perceive that the NHRI has failed in its overall mandate. NHRI capacity to manage complaints depends on effective systems and decision-making processes, effective workflow design, qualified and efficient investigators, and the capacity to follow up on recommendations and decisions.

The Effectiveness Framework notes the following components of effectiveness that are relevant to this area:

- Undertake impartial/thorough investigations;
- Investigate in a timely manner;
- Follow up recommendations (monitor and compliance) (Carver, 2014, p. 21).

Table 6 **Protection activities**

Common Practice	Challenges	Lessons Learned
Complaints handling and investigations systems and internal units	Improving system information about caseload	Self-assessment information is important but could be validated by empirical data on caseload age, disposition data and delays
Software/automation of case management systems (CMS) is a common theme in CA reports	Improving complaints management effectiveness Developing regional CMS solutions	NHRIs would benefit from a system-wide solution tailored for NHRIs
Most institutions can make recommendations following investigations	Addressing concerns about a lack of legislative authority to grant remedies in many countries	There may be other ways to seek remedies, such as seeking standing/amicus status before courts

Discussion Investigations into complaints are fundamental to many NHRIs. The mechanisms through which files are handled and complaints processed are called Case Management Systems (CMS).

Complaints handling is among the few easily quantifiable areas of NHRI capacity. However, complaints data is rarely used to validate information obtained from self-assessment. Important information about caseload age (the average time that all cases, on average, have been in process), disposition information, delays, disaggregated information on human rights grounds, human rights areas (such as employment, housing, services, education and contracts), the profile of complainants, and regional data is thus not incorporated systematically into CA reports. Obviously, where the data does not exist or where systems are inadequate, there is little point in manually counting the number of cases but at a minimum, interviews with staff can usually provide approximate figures. [See Table 7.](#)

Sample indicators

In relation to this capacity issue, CAs aim for improvements in:

- Effectiveness of complaints handling mechanisms;
- Clear workflows and decision points;
- Effective screening and triage;
- Timely communications with parties;
- Identifying and addressing urgent complaints.

The legislative authority to provide binding legal remedies is an issue in many countries. NHRIs in North America, for example, have the ability to seek a binding ruling either through specialized tribunals or the courts. However, many NHRIs worldwide do not have this power. In such circumstances, a small number of NHRIs have taken the initiative of seeking standing before the courts, an interesting strategy when legislation does not confer standing. The capacity to intervene in test case litigation, as a friend of the court, or at least to have a watching brief, is a creative solution.⁵

⁵ For example, a 2009 CA cited in APF 2014.

Table 7

Key capacity areas in complaints management drawn from CA reports

Capacity Area	Indicators
Investigating and resolving complaints	Improvements in:
Outcome: Effective, clear rules and procedures	Investigations manual Internal workflow procedure, decision-making steps and decision points Data collection and analysis for caseload and delays
Outcome: Information technology	Ability to automate aspects of workflow; generate statistics Disaggregate data
Outcome: Competent and skilled staff to receive and investigate complaints	Qualifications and training in complaints management ↗ see Knowledge, section 3.3
Outcome: Capacity to secure redress/remedies	Number of cases where redress provided Interventions before courts/adjudicative bodies
Outcome: Capacity to conduct investigations into systemic complaints	Capacity to identify trends, undertake systemic research and investigations
Outcome: Accessibility (complainants)	Accessibility of complaint form, e.g., ease of obtaining and completing form Ability to obtain information about status of complaints; accessibility to persons with disabilities
Outcome: Alternative dispute resolution	Number of cases assigned to/resolved by ADR Satisfaction of parties involved in ADR processes

3.6 Promoting human rights

Promotional activities seek to create a society where human rights are more broadly understood and respected (SCA, 2013, para. 1.2). Promotional activities include public education, training, advisory services, public outreach and advocacy. All of these activities are closely connected to the accountability of the NHRI to the public and its stakeholders. **See Table 8.**

Three capacity issues are addressed in this category: HR education, training and awareness-raising; stakeholder engagement, and external communications.

Table 8 **Promotion activities**

Common Practice	Challenges	Lessons Learned
Public education, awareness, some external training	Indicators tend to be extremely generic	Improved indicators target specific areas of activity, e.g., promotion activities that are aimed at specific stakeholder groups
Promotion activities at the head office level	Improving access, skill improvement opportunities for regional offices	Disaggregation of information can identify particular capacity gaps at the regional level

Sample indicators

In relation to this capacity issue, CAs aim for improvements in the capacity to:

- Promote awareness of human rights through media campaigns;
- Develop education curricula;
- Develop promotional materials for public education and advocacy
- Train public officials, including law enforcement and military;
- Undertake formal consultations and partnerships with stakeholders;
- Evaluate and track impact of training sessions;
- Undertake Training of Trainers.



Representatives from NHRIs in the Asia Pacific region at the annual meeting of the Asia Pacific Forum of National Human Rights Institutions
Credit: Asia Pacific Forum of National Human Rights Institutions

3.7 Advice and assistance to government

Table 9 Advice and assistance to government

Common Practice	Challenges	Lessons Learned
Advice and assistance to government (executive branch, parliament, law enforcement, military, etc.)	Developing capacity to liaise with government institutions and law enforcement, especially in volatile political situations	Standing or permanent arrangements for liaison (such as standing membership in committees of legislature) help to mainstream NHRI engagement
Advice on legislation, policy and national plans or reports	See above Improving support for development of national human rights action plans and similar human rights planning tools, including business and human rights	See above

3.8 Stakeholder engagement

The capacity to build and sustain stakeholder engagement is a core provision for NHRIs and relevant to pluralism under the Paris Principles. Stakeholders include CSOs, communities and groups (indigenous, disabled peoples' organizations) public authorities (including law enforcement and prison officials) and the international community. **See Table 10.**

Table 10 Stakeholder engagement

Common Practice	Challenges	Lessons Learned
Public education and promotion activities	Targeting specific stakeholders, especially vulnerable groups	CA processes that reach out to target specific groups are more likely to build nuanced and targeted public education activities
CAs uses stakeholder meetings to “validate” self-assessment information	Soliciting information that may go beyond issues raised in self-assessment process	Ensure that CA processes are not limited, and that they offer a broad opportunity to provide input beyond the capacity issues that may have been identified internally

Sample indicators

In relation to this capacity issue, CAs aim for improvements in the capacity to:

- Increase visibility and public respect for the institution;
- Use training opportunities to engage stakeholders by including non-governmental organizations (NGOs) and grassroots groups as trainers and trainees;
- Finance CSOs through programmatic activities.

3.9 Human rights monitoring

General human rights monitoring

CA reports refer systematically to the capacity to provide annual reports, and in some cases, special reports.

Monitoring detention facilities

CA reports routinely identify the capacity to monitor detention facilities as a priority, whether or not the NHRI has been designated as a national preventive mechanism (NPM) under the Optional Protocol to the Convention against Torture. If it has been designated, the mandate of the NHRI must be appropriately defined to encompass the promotion and protection of all relevant rights, as well as to ensure that the NHRI is effectively undertaking all relevant roles and functions as may be provided by the relevant international instrument (SCA 2013).

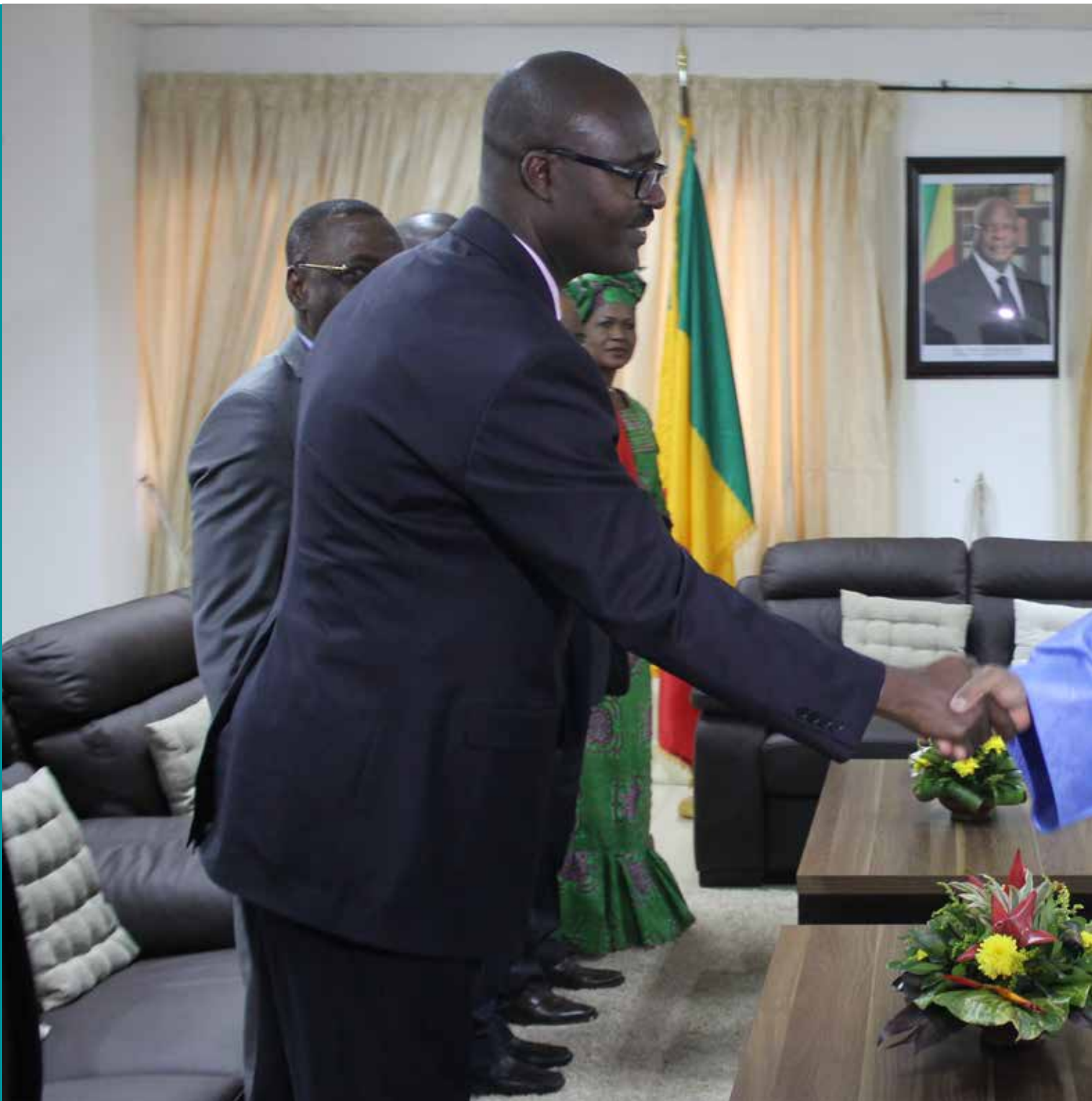
Sample indicators

In relation to this capacity issue, CAs aim for improvements in:

- Appropriate skills and expertise related to the mandate;
- Systematic and unannounced inspections or visits;
- Access to facilities where NHRIs are partially or entirely denied access;
- Specialized gender guidelines for inspecting detention facilities.

Discussion All of these are relevant to understanding capacity in this area but are not all well reflected in CA reports. CA reports in the AP context have noted the importance of developing specialized gender guidelines for inspecting detention facilities.

Carrying Out Capacity Assessments



Representatives of the Network of African National Human Rights Institutions In a meeting the President of the Republic of Mali. Credit: Network of African National Human Rights Institutions



4

- 4.1 Scheduling and planning
- 4.2 Timing and readiness of NHRI
- 4.3 Capacity assessment team
- 4.4 Role of UNCT
- 4.5 Language
- 4.6 Preparatory visit
- 4.7 Assessment visit
- 4.8 Findings and recommendations
- 4.9 Debriefing
- 4.10 CA reports

Carrying Out Capacity Assessments

Proper planning is fundamental to the principle of NHRI independence and ownership, since it ensures that the NHRI independently seeks to undertake a CA process, and is ready to do so.

4.1 Scheduling and planning

Table 11 Scheduling and planning

Common Features	Challenges	Lessons Learned
<p>CA processes range between 3 and 6 months (1–3 months advance planning; ①–3 day(s) preparatory visit; 1–2 week(s) CA mission; 4 weeks CA report)</p>	<p>Funding lengthy CA processes</p> <p>Large NHRIs with regional offices generally require longer timeframes</p>	<p>In many developing countries, full-scale CAs are not affordable without access to development assistance or other external funding sources</p> <p>Large NHRIs/those with regional offices require more time</p> <p>CA processes that take place in compressed timeframes may be compromising the quality and outcome of CAs by reducing the preparation time and the mission</p>
<p>Logistics</p>	<p>Ensuring communications, internal travel and security arrangements, and translation</p>	<p>Adequate advance planning helps to ensure logistics are pre-arranged</p>
<p>CA team selection</p>	<p>Ensuring advance notice to partners to free up CA team members for full duration of CA mission and follow-up as required</p>	<p>Lead partner advises all partners as soon as the first contact with NHRI takes place</p>

Table 11

Common Features	Challenges	Lessons Learned
MOU	Using the MOU as an opportunity to set out expectations, as well as issues related to NHRI commitment to the CA process, follow-up, disclosure of the final report	MOU clarifies expectations and the mutual rights and responsibilities of the parties, including critical aspects of implementation and follow-up; CA practitioners should be “blunt” about fact that NHRI leadership will likely hear things they may not want to hear

4.2 Timing and readiness of NHRI

Several factors drive the decision to undertake CA processes, based on whether the NHRI is ready and whether the timing is appropriate. Early engagement can provide insights into why the leadership is interested in the CA, including improving understanding of pressures that the institution may be under. It can also help to manage expectations and to ensure that the NHRI is motivated by the correct factors, is prepared and understands the objectives of the CA process. The “why” question goes beyond confirming that the institution has requested an assessment, to better understanding the institution’s rationale for requesting the process. [See Table 12.](#)

Country example

A consultant was brought in to participate in a CA mission, unaware that the NHRI leadership saw the CA as a direct avenue to accreditation. There was no separate preparatory visit.

The final CA report was mildly critical. The NHRI leadership refused to accept anything that was not wholly positive, and sought amendments to the final report. The external facilitator declined to alter the CA report, leading to its rejection by the NHRI members. The report was not disseminated to staff and remained confidential.

Although there is little that can be done to discern hidden motives, early dialogue and preliminary steps, such as an MOU, can elicit important information about the NHRI’s motivation for engaging in the CA, and can lead to better understanding on the part of the CA team.

Table 12 **Timing and readiness of NHRI**

Common Features	Challenges	Lessons Learned
<p>Determine readiness NHRI voluntarily initiates request for CA; leadership is “on board”; NHRI commits to follow-up</p>	<p>NHRI seeing CA process as a “path” to accreditation</p> <p>Ensuring the approval of all NHRI members, not only senior ones</p>	<p>Preliminary engagement helps to ascertain motives for engaging in CA; ensures readiness</p>
<p>Promote positive features of NHRI</p>	<p>Preparing leadership for unplanned consequences</p>	<p>Advance communications should describe disadvantages and risks, alerting NHRI leadership that they will likely hear difficult things</p>
<p>Determine level of development of NHRI</p>	<p>Very new NHRIs may not be appropriate candidates for CAs</p>	<p>Most CAs are carried out with NHRIs that have been in existence for at least two years</p>
<p>Majority of NHRIs accredited as A or B status</p>	<p>Determining whether non-accredited NHRIs should benefit from CAs</p>	<p>Majority view: Eligibility for CA should depend on serious intent to conform to Paris Principles, not accreditation status</p> <p>Minority view: Accreditation status is an appropriate proxy for institutional readiness and is relevant to decisions about where valuable resources should be invested</p>
<p>Continuity of leadership</p>	<p>Managing process if leaders change midstream</p>	<p>Continuity of leadership during CA process presents fewer risks</p>
<p>Examine whether other processes are underway or just finished</p>	<p>Creating “assessment fatigue”</p>	<p>No hard and fast rule about when capacity assessments take place in relation to other processes, e.g., strategic planning, evaluations</p> <p>CA is likely to remain an isolated one-off process if there is no clear articulation to other processes</p>

4.3 Capacity assessment team

Table 13 Capacity assessment team

Common Features	Challenges	Lessons Learned
CA team members generally have NHRI experience	<p>Managing teams where one or more members have little NHRI experience</p> <p>“Recycling” the same CA experts, thus “institutionalizing” the CA process</p>	<p>NHRI experience is a key aspect of CA team success and helps to build credibility; less experienced team members can be coached</p> <p>Variation in team members becomes easier when CA team members are brought in from other NHRIs</p>
<p>Teams of 4–6 people with:</p> <ul style="list-style-type: none"> → NHRI expertise, preferably with regional experience → Statistical expertise → One person from NHRI in region that recently underwent a CA → Logistical support 	<p>Cost</p> <p>Ensuring adequate expertise and skill sets</p>	<p>Logistical support can be provided by NHRI to reduce costs; travel costs should be reduced by having NHRI experts from the region</p>
External facilitators rather than evaluators	<p>Explaining the extent to which CA facilitators actually “drive” process even though they are not evaluators</p>	<p>Prior briefings or advance materials to clarify what self–assessment means and the respective roles and responsibilities</p>
Independence of CA team	<p>Maintaining confidentiality and CA team independence</p> <p>Determining role of NHRI liaison* and UN Country Office (CO) staff</p>	<p><i>Majority view:</i> CA team members should not be drawn from NHRI itself or from the UN Country Team (UNCT); regional UN staff are a preferable option to in–county staff</p> <p><i>Minority view:</i> In some cases, the use of staff from the UNCT has worked well, but it is not the accepted practice; some CA practitioners reject this option</p>
Availability of CA team	<p>Ensuring that CA team members are present for entire mission</p>	<p>A functional approach can assist in determining who is needed, when and for how long; this should be agreed in advance and not assumed</p>

* NHRI liaison: There is normally a designated liaison between the CA team and the NHRI. There have been examples where a member of the NHRI leadership was a team member, but this does not appear to be the general practice. Having someone from the NHRI on the team and involved in the preparation of reports that might be critical of the NHRI could interfere with the independence of the CA process and the ultimate credibility of the CA report.

4.4 Role of UNCT

CA processes can catalyse positive developments in the relationship between the NHRI and the UN Country Team (UNCT), and build capacity within the UN to work with the NHRI. There are also limits to the UNCT role. [See Table 14.](#)

Table 14 **Role of UNCT**

Common Features	Challenges	Lessons Learned
UNCT staff are not generally from CA team	<p>Ensuring in-country UN awareness of and support for process</p> <p>Ensuring access to connections with other UN programmes and agencies, and knowledge of in-country issues</p>	<p>UN in-country interest and engagement to be encouraged, but actual attendance at meetings requires “sensitive judgments” (APF, 2014, p. 24)</p> <p>Perceived conflict of interest, potential repercussions for country staff, and process integrity point towards a general policy of excluding UNCT</p> <p>CA team should meet with UNCT as part of the engagement with stakeholders and should brief UNCT leadership on CA results</p> <p>UNCT staff can be actively engaged in follow-up</p>
UN staff from the region on CA teams (although not the UNCT)	<p>Securing availability of busy UN staff for entire duration of CA mission</p> <p>Whether staff from other regions are appropriate team members</p>	<p>No hard and fast rule, other than the importance of ensuring consistent availability of team members for the duration of the CA mission</p> <p>Supports South-South exchange and peer learning</p>

4.5 Language

Language is “a critical asset” for capacity assessments (UNDP, 2012, p. 36). Commitment to the principle of regional specificity brings with it respect for the linguistic context in which the CA is taking place. [See Table 15.](#)

Table 15 Language and capacity assessments

Common Features	Challenges	Lessons Learned
English and French are main languages to date	<p>Ensuring that key documents (questionnaires and final reports) are available in national languages where required</p> <p>Ensuring timely access to translated documents</p>	<p>Key documents should be translated into national language</p> <p>Translations and interpretation should be arranged in advance and provided on a timely basis</p>
Majority of CA reports: language comprehension not perceived as an issue by CA team	<p>Minimizing misunderstandings in meetings, focus groups</p>	<p>As a rule, using UNCT staff as interpreters should be avoided due to risks to staff confidentiality</p> <p>Professional independent interpreters are generally a better option</p>
Translation and interpretation appear to be provided as a matter of course where required	<p>Timing and cost</p>	<p>Translation and interpretation arrangements negotiated during prep visit; in one case, interpretation handled on the spot by independent regional consultant and CO staff</p>

Discussion Even if the CA mission takes place in English or French, there are still issues regarding the “challenges of language and idiom” (UNDP, 2012). The level of abstraction of CA processes and some of the underlying concepts can be seen in complex capacity issue/guide statements and questionnaires. Strategies to address comprehension problems include shorter and simpler capacity issue/capacity guide statements. These reflections will become particularly relevant as CA will develop in the Americas, requiring CAs to be undertaken in Spanish and/or Portuguese, with appropriate supports for indigenous languages.

4.6 Preparatory visit

Preparatory visits serve to ensure that the CA mission goes smoothly, that NHRI members and staff are briefed on the process and what is expected of them, and that any arrangements that must be made in advance are addressed. As a by-product of the visit, the CA team may also get a general indication of the capacity issues that will be raised before the CA visit takes place (APF, 2014, p. 22). [See Table 16.](#)

Table 16 **Preparatory visit**

Common Features	Challenges	Lessons Learned
Prep visits are used to prepare the ground and build trust	Cost and time	Prep visits, or at least prior interaction, are important tools for the organization of the mission and for building trust Misunderstandings and planning challenges once the CA team arrives can occur without a prep visit
One or two persons required for visit	Availability of consultants	See above
Discussing and finalizing MOU	Ensuring understanding of pros and cons, as well as risks	MOUs help to secure shared understanding of CA process

Discussion Preparatory meetings can also further the CA team's understanding of why the NHRI is interested in the CA process and continue the iterative process of managing expectations and building support for follow-up.

4.7 Assessment visit

The assessment visit is the heart of the CA process. CA teams attend meetings, facilitate focus groups, identify core capacity issues based on focus groups, meet external stakeholders, develop and administer questionnaires, analyse the data, debrief the NHRI leadership and present key findings and recommendations. [See Table 17.](#)

Table 17 **Capacity assessment visits**

Common Features	Challenges	Lessons Learned
On-site CA visit	<p>Managing a labour intensive process that is recognized as “intrusive” for NHRI</p> <p>Ensuring sufficient time is spent with NHRI</p>	<p>Legal analysis, NHRI background, etc. should be prepared in advance to reduce on-site workload</p> <p>Minimizing the time of consultants in their offices and drafting reports to increase “face time” with NHRI</p> <p>Online survey tools like SurveyMonkey allow one person to work from a remote location, thus reducing mission costs and improving on-site productivity</p>
Maintaining communications through “off-line” and informal discussions, formal meetings	Being perceived as “aligned” with certain members of the NHRI leadership	Strategic and even-handed informal meetings can strengthen trust in the CA team and its work
Generally 1–2 weeks	Ensuring adequate time for focus groups, external meetings and debriefing	A minimum of 10 days is generally required

4.8 Findings and recommendations

CA findings are the results of the mission and all the related interviews, focus group discussions and analysis. They are based mainly on the self-assessments, and inform priorities, proposed activities and implementation plans. **See Table 18.**

Table 18 Findings and recommendations

Common Features	Challenges	Lessons Learned
Findings balance institutional capacities (including leadership) and functional capacities	<p>Handling negative findings when NHRI leadership is resistant</p> <p>Ensuring completeness</p>	<p>Consistent communications and debriefing prevent “surprises,” i.e. integrated risk disclosure</p> <p>Balanced approach (drawing on legal framework, Paris Principles, good practices in assessing functional capacities)</p>
Focus on human rights capacity	Assessing capacity in other mandate areas	No discussion of this issue in consultations or CA reports
Findings are comprehensive	Ensuring findings are material and important to the NHRI	Recommendations are prioritized to propose capacity development (CD) activities and underpin implementation plans
Focus on internal NHRI capacity	Integrating aspects of external environment that are relevant to capacity	Contextualizing findings and recommendations as distinct from “playing back” known facts to the NHRI leadership
Findings based mainly on self-assessment	Interpreting results when capacity gaps do not reflect actual institutional weaknesses	Analysing gaps, strengths and weaknesses, as well as feedback from stakeholders and empirical data (e.g., CMS) can provide a better overall assessment of capacity
Small number of findings deal with internal malfeasance	Preventing reprisals; handling allegations that may not have been proven	Reporting malfeasance to the immediate superior of the individual responsible

4.9 Debriefing

Transparency requires that partners are debriefed about the overall process, findings and recommendations. Between a half and a full day may be needed to discuss results (SCA, 2013, para. 1.2). Leaving a full day for debriefing at the end of the mission appears to be a good practice, but this can be cut to a half day or less if appropriate.

4.10 CA reports

The “product” of the CA process is the CA report. Although draft reports, or at least findings and recommendations, are provided at the end of the CA mission in the stand-alone processes, the final report usually takes at least two weeks from the end of the mission in order to ensure completeness and accuracy. The report is said to “belong” to the NHRI, meaning that the institution decides how and whether to disclose the information. However at a minimum, the CA report should be shared with all staff within the NHRI. The APF, for example, now makes this a requirement. [See Table 19](#). Sample structures of CA reports are provided in [Annex 2](#).

Table 19 Capacity assessment reports

Common Features	Challenges	Lessons Learned
NHRI is primary beneficiary and “owner” of the report	Ensuring transparency to staff, stakeholders and public	MOUs commit NHRI to disclose accepted reports to staff, and a summary of the CA report to be shared publicly If the NHRI refuses to make the report public, the decision has to be respected unless there a prior agreement otherwise
CA reports are complete and reflect material and important information Reports generally in the range of 50 pages + (excluding annexes)	Making sure that reports are reasonably brief and convey meaningful information about priorities	Recommendations and priorities should be fully documented and include implementation plans Templates and related information, including concept notes, questionnaires, summary tables, charts, etc., are best placed in annexes
CA reports identify relevant information about core capacity issues and gaps	Making the report easy to read and understand	Select a reasonable number of priority capacity issues
Leadership provides input into draft reports, can make requests for changes	Managing findings or recommendations with which the leadership is uncomfortable or disagrees	Two to three drafts may be needed If requested changes are problematic, CA team may decline to make changes, in which case there is a risk the report will not be accepted

The principal outcome of the CA process is not the report itself, but rather the learning (including through the CA process itself) that it encourages and its role in triggering capacity development. CA reports are thus aimed mainly at the internal audience, i.e. the NHRI, and are designed in a manner that is consistent with the principle of learning and accountability.

The questions of whether and how CA reports should be available to the SCA accreditation process depends for their resolution on whether the report has been made public, or at least whether the NHRI has authorized the release of the report for that purposes.

Comparability Regardless of region or approach, CA reports should be presented in a way that encourages comparison to existing and future reports. This supports the principle of learning and accountability, as well as integrating the CA into the institution's M&E system. However, the ability to compare reports and documents is limited when reports are not shared publicly, at least in terms of regional networks. Having said that, UNDP notes that partners involved in a given CA process will have access to the report of that process, even if it is rejected by the NHRI; the findings can still be used to inform UN programming over time.



Chairperson of the Afghanistan Independent Human Rights Commission, talks with a class of female students
Credit: Afghanistan Independent Human Rights Commission



Afghan Interdependent Human Rights Commission – 2011 capacity assessment
Credit: Asia Pacific Forum of National Human Rights Institutions

Data Collection and Analysis



The Philippines Commission on Human Rights runs community education programmes in barangays (villages) across the country. Credit: Philippines Commission on Human Rights



5

- 5.1 Focus groups
- 5.2 Interviews with external stakeholders
- 5.3 Questionnaires
- 5.4 Scoring and quantitative data

Data Collection and Analysis

This section examines the techniques that are used to identify capacity issues, and to collect and analyse qualitative and quantitative data concerning the selected capacity issues.

Basic standards come from the legal or normative framework (statutes, constitution, the Paris Principles, etc.), but detailed baseline information about whether the NHRI is meeting these standards relies on a combination of sources, including:

- Focus groups (internal);
- Questionnaires (internal);
- External interviews with stakeholders;
- ICC/GANHRI–SCA accreditation reports;
- Previous annual reports, strategic plans, work plans, performance targets, evaluations, etc.;
- CMS information.

Most CAs use the self-assessment techniques noted above (mainly focus groups and questionnaires), consistent with the principles of NHRI independence and ownership and pluralism, inclusion and participation.

5.1 Focus groups

Focus groups (FGs) lie at the heart of the self-assessment process. They reinforce the commitment to pluralism, inclusion and participation.

Focus groups are carried out with all NHRI leadership and staff, who are placed in small groups by the facilitators, usually based on office, unit, level or region. Participants express their beliefs, views or attitudes on selected topics. Unlike interviews, FGs rely on group interaction and dynamics. Proper facilitation is critical to the success of FGs. **See Table 20.**

Table 20 Focus groups

Common Features	Challenges	Lessons Learned
Standard questions designed to elicit basic information about capacity⁶	Ensuring reliability of subjective views or information that may be subject to peer pressure	Views and perceptions can serve as proxies for capacity, eliciting consensus and organizational level Information can be validated through other sources, e.g., meetings with external stakeholders and internal empirical data, especially as regards case management information
All staff and members participate, including in regional offices	Ensuring that during the planning phases, staff are made aware of the process and are available	Prior planning and early communications promote full attendance
Focus groups identify capacity issues, which then serve as the basis of the questionnaires	Encouraging “group think” which then gives rise to a self-fulfilling prophecy that is reinforced in the questionnaire but may not reflect actual individual views	Possible strategies: validating data with information from other sources using FGs for one subset of respondents and questionnaires for another (although these will have implications for the inclusiveness of the process)
Size of groups generally restricted to 10–12 people	Ensuring confidentiality (large group settings are more likely to result in inappropriate information sharing)	Groups should be kept small to protect staff, ensure sufficient time; they benefit from the particular advantages of FGs as a qualitative tool through small group settings Some CA processes place all staff and members in a single meeting/group, which raises concerns about confidentiality, intimidation and poor group dynamics

6 The Asia-Pacific methodology method asks three standard questions in FGs:

1. What does the NHRI do well?
2. What does the NHRI need to do better to be more effective in undertaking its mandate?
3. What strategies and actions can be taken to build the required additional capacity?

Table 20

Common Features	Challenges	Lessons Learned
<p>Majority of FGs formed along functional lines, sometimes on a regional or self-selecting basis</p> <p>AP always offers women the possibility of gender-specific groups; other divisions possible based on minority status, regional offices</p>	Choosing groups to reflect pluralism and diversity	<p>Significant time is needed to plan for group composition, and to frame and facilitate discussions</p> <p>Giving staff the option to have specific FGs helps to reinforce pluralism</p> <p>Information about gender, minority status, position, education, etc., can also be obtained through questionnaires in a personal information section</p>
Confidentiality and ensuring the security of staff	Staff should not be intimidated, should be free to express views	<p>Staff and leadership should not be placed in same groups</p> <p>No information about who said what in meetings should be shared outside CA team</p>
Roughly 90 minutes is adequate for FGs (120 if interpretation required)	Ensuring all staff have opportunity to speak; managing language issues	<p>Smaller groups are preferable given the relatively short timeframe</p> <p>Build in extra time for interpretation where required</p>

The use of FGs in NHRIs is grounded in the values of ownership, inclusiveness and a participatory approach, which are connected to independence and pluralism.

There is some debate about whether FGs, especially in the NHRI context, generate dynamics that foster consensus around issues that may not be the actual issues (see also UNDP, 2012). These concerns appear to be supported by the literature. What may appear to be a unanimous decision can actually reflect a “cascade” of consensus, generated by dominant group members through a “herd effect” that influences non-dominant group members to follow what they perceive as the emerging consensus. This phenomenon can be driven by emotional or irrational factors, rather than by fact.⁷ However, it has been pointed out that, especially in larger NHRIs with as many as 30 FGs, the large number of groups can act as a cross-check, indicating where there might be pressure to conform in specific groups.

⁷ Cass R. Sunstein and Ried Hastie (2015) argue that while individuals are likely to show impulsive or emotional thinking, these characteristics are exacerbated in small group contexts. The result is withholding of crucial information or the repression of insights that might offend or irritate other group members, thus “squelching” rather than enhancing diversity and generating a consensus.

Other alternative strategies have been suggested, including using the questionnaires to generate a preliminary sense of the core issues and then following up with FGs (a reversal of the usual process). This eliminates the likelihood of the questionnaires simply replicating the outcomes of the FG, but would not address the internal dynamics within the FG itself. There is no reliable or long term testing of this method in the CA context.

5.2 Interviews with external stakeholders

Pluralism is a principle that is reflected not only in the internal makeup and interactions of the institution, but also extends to the NHRI's relationship with stakeholders, including government and the international community, donors and partners, grassroots organizations and other CSOs, human rights defenders, etc. Securing information about the enabling environment also depends heavily on information from external stakeholders.

In at least one A-GA report, the CA team also interviewed former commissioners. In the AP context, former commissioners are interviewed as “external” stakeholders.

5.3 Questionnaires

Questionnaires allow the CA process to:

- Highlight trends, including divergent trends within the NHRI, using disaggregation;
- Offer anonymity;
- “Rate” the findings from FGs;
- Enhance perceptions of rigour through the resulting quantitative data.

Questionnaires were used in most reviewed CAs, regardless of region or method, to solicit the perspectives of NHRI leadership and staff. In most processes they elicited both qualitative and quantitative information. The qualitative information was generally supplied by comments written in the questionnaire, while the quantitative data was obtained through responses to questions that are ranked on a 1 to 5 value scale.

The CA team develops the questionnaire based on the identification of capacity issues by FGs, generating the quantitative data, as well as written comments. **See Table 21.**

Common Features	Challenges	Lessons Learned
Self-assessment questionnaires administered to all members and staff	Handling insufficient returns of questionnaires given that low response rates diminish the value of the information	<p>Inclusion and participation are key process values and outcomes of the CA processes that hinge on self-assessment; the views of both the staff and leadership are required</p> <p>High levels of return can be secured through appropriate preliminary planning, as well as mechanisms to encourage the completion of the questionnaires, such as ensuring the confidentiality of results</p> <p>Low response rates increase error margins; NHRIs should be advised in the report that the quantitative data may not be reliable</p>
Small number of questionnaires only uses qualitative comments without a quantitative dimension	Ensuring familiarity with quantitative methods	Training and support for quantitative methods in the francophone context can assist in developing the skills to administer questions that are ranked by numeric value; (in addition to English, SurveyMonkey is available in French, Spanish and Portuguese)
Not all staff are able to answer all questions	Handling data from staff who have no knowledge of the subject matter addressed in a given question	Questionnaires in Asia-Pacific methodology model now allow respondents to skip questions that they cannot answer
Questionnaires cover range of NHRI capacity issues	Length and complexity	Questionnaires now shorter (e.g., 15 pages in AP context) with simpler capacity guide statements
Questions about personal information and profile	Maintaining confidentiality throughout the process; protecting staff from reprisal	<p>CA teams must supervise administration and physical collection of completed forms with no involvement of NHRI liaison, leadership or staff</p> <p>Additional information serves to support the disaggregation of data in the analysis phase</p>

Figure 2 **Sample capacity guide statement**

Issue 1 The NHRC's law (the NHRC Act) and legal framework enables it to function as a fully effective NHRI in accordance with the Paris Principles

What score, between 0 and 5, reflects your assessment of the capacity the NHRC has now in the particular area of work (how well it is doing in those areas)?

0. No capacity

1. Very low capacity

2. Only basic or low level capacity

3. Medium partially developed capacity

4. Well-developed level of capacity

5. Fully developed relevant capacity

What is the basis, with evidence, of the rating you have given?

In the Asia-Pacific methodology and A-GA methods, questionnaires use “capacity guide statements” or “capacity issues” when asking respondents to rate current and/or required capacities (see Figure 2).

5.4 Scoring and quantitative data

Quantitative data conveys information graphically and simply. It can be an effective way of commanding “political attention” and serve as objective proof that might sway otherwise sceptical NHRI leaders (UNDP, 2012). CA processes use measurements to associate qualitative constructs related to NHRI capacity with quantitative metric units. The Effectiveness Framework also generates quantitative data, albeit using a different methodology, by associating specific “effectiveness areas” with pre-determined dependent and independent variables. See Table 22.

Table 22 **Scoring and quantitative data**

Common Features	Challenges	Lessons Learned
Quantitative data illustrates or validates the qualitative comments	Handling discrepancies between quantitative and qualitative data, e.g., instances where comments diverge from numeric ratings for the same topic	Reconciling inconsistent data can sometimes be handled in the analytical sections of the report, or by ignoring responses that clearly reflect lack of understanding. On the whole, contradictory data is not reconciled
Data is often entered by hand, or increasingly, through online survey tools	Manual input is susceptible to human error Online survey tools may require training of staff and reassurances of confidentiality	SurveyMonkey or similar online forms automate the process, reduce error and protect sensitive information

Table 22

Common Features	Challenges	Lessons Learned
<p>Questionnaires use 4, 5 and 6-point scales, with the majority using a 6-point scale (0–5)</p> <p>Effectiveness Framework uses a compressed (0, 1, 2) scale</p>	<p>Lack of systematic rating scales across regions</p> <p>Some indication of a lack of comprehension of the expanded rating scale</p>	<p>A more compressed [0,1,2] scale might be better understood and would also align with the Effectiveness Framework</p> <p>Standardized scales may support eventual comparability of reports in and across regions, according to some consultees, but there was no consensus on this point</p>
<p>Majority of reports provide summary tables or graphs to illustrate quantitative data but not full data sets</p> <p>A minority of reports, notably in the African region, do provide data sets to the NHRI</p>	<p>Addressing issues of NHRI ownership in CA methods that do not provide depersonalized data to NHRIs (depersonalized data contains no information of any kind that could allow the response to be traced back to any individual)</p> <p>A–GA reports generally provide depersonalized data sets in CA reports</p>	<p>Questionnaires are retained by the CA team and should never be shared outside the team under any circumstances</p> <p>Providing data sets on a depersonalized basis allows for testing validity, error and an analysis of standard deviations, while protecting confidentiality</p>
<p>Ratings are used to convey information about capacity gaps</p>	<p>Gaps are calculated based on full data sets, and they include answers from people who provide no objective basis for their answers</p> <p>Capacity gaps may not represent the most significant capacity issues</p>	<p>All responses treated equally, including from respondents with little or no understanding of the question or the capacity area; however, disaggregation allows the reader to position the response in terms of seniority or membership in a particular functional group in the NHRI</p> <p>Closer examination of institutional weaknesses based on function and external interviews may be more relevant to selecting priorities than subjective perceptions of gaps</p>
<p>Capacity and required capacity are represented by calculating the average in each capacity area in Asia–Pacific methodology and A–GA methods</p>	<p>Large standard deviations in both methods suggest high variability</p>	<p>Data points are often spread far from the average or mean, so that the capacity gaps may not be reliable indicators of priorities and cannot be judged with confidence</p>
<p>Instrument is designed to elicit ranking information about capacity issues, which is then analysed and quantified</p>	<p>Concerns regarding accuracy and reliability of data</p>	<p>CA teams should reveal issues regarding accuracy and reliability to NHRIs, e.g., in the event of low return rates, problems in variability or statistical significance, and should explain these limitations in the reports, in the interests of transparency</p>

Lack of alignment

Quantitative data does not always align clearly with the qualitative information. In one CA report, the NHRI leadership was assessed as having partially developed capacity (3,3), but the narrative section of the report referred to a complete “lack of leadership engagement” for the same capacity area. In another case, the NHRI was given a high rating for “advice and assistance” to government because of the “goodwill” enjoyed by the NHRI, but the report then went on to say that no NHRI recommendations were ever acted upon. Reconciliation of or explanation about potentially contradictory data would be helpful to understanding the results and their implication.

The Independent Review of the Capacity Assessment of National Human Rights Institutions in the Asia-Pacific Region (UNDP, 2012) noted that quantitative results in CA reports are not validated by discussing them with those who provide the data and rankings. The revised AP methodology responded to this concern and now uses quantitative data to illustrate the qualitative analysis rather than serving as an objective source of information, although it is unclear whether this approach has entirely addressed the issue.

How reliable and meaningful is the data?

Confidence levels are generally established on a sliding scale of response rates. In larger institutions (for example, more than 200 individuals), response rates of at least 25 percent would achieve a confidence level of 80 percent, whereas a smaller group (31-100 individuals) would require a higher response rate of 40 percent to achieve similar levels of confidence in the results. The CA process should be sensitive to response rates and their implications for the resulting data.

Country example

In one CA process, the NHRI had more than 200 staff. However, only 25 individuals responded to the questionnaires.

As a result, the response rate was less than half of the 25 percent needed to have a (relatively low) confidence level of 80 percent. More to the point, although the CA report raised the issue of the reasons for the low return rate, there was no warning in the report regarding the implications for the quality of the data.

High levels of variance point to concerns about what arithmetical averages mean for the actual capacity of the institution. Since the A-GA method usually provides full data sets, it is possible to assess the variance of the responses and the implications for the validity of the results by looking at the standard deviation. The following examples illustrate data variability drawn from three CA reports.

Country example

In **Table 23**, data was excerpted from the questionnaires of three country examples to demonstrate how the use of averages can provide misleading information about the extent of capacity problems and capacity gaps.

Table 23 **Standard deviations**

Sample Capacity Issue	Average Capacity	Standard Deviation
Institutional arrangements “Commission generally has proper internal organization that facilitates its proper running”	3.0	1.1 Meaning that responses between 1.9 and 4.1 are considered normal (on a scale of 1–5)
Accountability “Commission has capacity to collect feedback, measure results and identify lessons to enable adjustment of policies, programmes, and strategies”	2.7	1.4 Meaning that responses between 1.3 and 4.1 are considered normal (on a scale of 1–5)
Leadership “Leadership has the ability to develop, communicate and give direction on vision, mission, values and policies for the Commission”	3.3	1.1 Meaning that responses between 2.2 and 4.4 would be considered normal (on a scale of 0–5)

The high levels of variance mean that answers are just as likely to be at the low end of the scale as at the high end for a given response. Consequently, the averages in the above examples convey little meaningful information about capacity. These concerns are magnified when the capacity gap is identified, since what may appear to be a gap when one looks at the average may actually not be a gap, or a significant gap, at all. Although the Asia-Pacific methodology reports do not provide data sets, one CA practitioner indicated that there were similar issues with the variability of data in the AP region and, consequently, similar concerns about how reliable and meaningful the data is as an indicator of capacity gaps.

As indicated earlier, the questionnaires contain personal information about respondents that allows for disaggregated data (at least in the Asia-Pacific methodology processes). This is an excellent practice and supports pluralism, learning and transparency, while ensuring confidentiality through the use of depersonalized data.



Launch of the workshop on strengthening the National Human Rights Commission of Senegal
Credit: Network of African National Human Rights Institutions

Follow-Up and Sustainable Change



Professional training programme for prison officials; Maafushi, Maldives
Credit: Human Rights Commission of the Maldives



Follow-Up and Sustainable Change

A commitment to implementation and follow-up has emerged as a global principle in CA processes for NHRIs. These commitments operate at the NHRI level itself, of course, but consultees note that the strategies also serve to reinforce expertise, knowledge exchange and institutional capacity development at the regional level. The following points are consolidated from the analysis and consultations in the research phase:

- Follow-up should be an integral part of the CA process. MOUs are an effective mechanism, at the outset, to secure NHRI commitment and ensure a clear understanding of the parties' respective roles and responsibilities;
- All parties should recognize that implementation is a complex, long-term process that engages several actors, not all of whom are under the control of the NHRI. It is also an iterative process that may not always be reflected in a linear progression of improvements;
- The NHRI should report on progress in the implementation of the CA report in a manner that emphasizes the importance of ensuring that the M&E framework is "harnessed to drive a better process" (APF, 2014);
- Follow-up and implementation should be designed to track unintended consequences arising from findings and recommendations in a balanced way, even if they are negative (UNDP, 2012);
- Follow-up protocols are a useful tool to ensure shared understanding of what comes after the CA is completed, integrating the follow-up commitments in the MOU with the findings and recommendations incorporated into the implementation plan. They may include follow-up missions that take place a few years after the CA;
- Unlike CA teams, which generally do not include members of the NHRI, the follow-up mission (or review mission as it is sometimes called) may include members of the NHRI, and indeed arguably should include members of the NHRI, to reinforce the principle of NHRI independence and ownership, as well as learning and accountability;
- The period immediately following a CA has been shown to be a fruitful stage for working with government to modify the NHRI mandate through amendments to its statute, discussing the CA results with development partners to secure funding for designated areas of priority, and for making internal improvements to organizational structure, investigations and complaints handling.

The data on implementation plans and follow-up missions are not yet sufficient to draw any conclusions. Nonetheless, the following “change trajectory” illustrates the path from the MOU to follow up and review.

The results of the research phase indicate that there were strong connections between the principle of learning and accountability on the one hand, and the existence of structured and planned follow-up on the other.

At the same time, different regions are at very different stages in their development thus a “one-size-fits-all” approach to follow-up and implementation, leading to sustainable change, will not be appropriate. In some regions, CAs have not even begun to take place, whereas in others, notably Asia-Pacific, most NHRIs have already undergone capacity assessments and there is a strong momentum towards structured reviews as follow-up processes. On the other hand, full-scale CAs accompanied by structured reviews are out of reach for many NHRIs and regional networks.

Nonetheless, the following general points emerge from the consultations, which are broadly applicable regardless of context:

- The strategy of using MOUs to memorialize the parties’ respective commitments and to reflect the engagement of the NHRI to disseminate results and implement future recommendations and priorities is an indicator of success in future capacity development;
- CA reports should be accompanied by templates that can support and track implementation and feed into a follow-up protocol or similar tool;
- NHRIs should respect the principle of transparency by publishing CA recommendations and the results of implementation in annual reports or on websites;
- Where CA processes have been supported by a regional network and/or by other development partners, the NHRI should, at a minimum, systematically communicate its progress, insights about its own trajectory and adjustments over a mutually agreed period of time;
- In jurisdictions that have already undergone a full cycle of capacity assessment, return or review missions provide an excellent platform from which institutions can reflect on their progress and receive structured support in recommitting to capacity development and adjusting plans as necessary. Alternatively, given the austerity measures that exist in several regions, institutions can create the “space” within their own strategic planning and internal review processes to assess their progress themselves, without a significant investment in external facilitators.

Conclusion

Given the specific and focused attention that CAs have received in recent years, the goals of consolidating lessons learned and developing common principles reflect the iterative development of CAs and their importance at the national, regional and international levels.

CAs are evolving to be more embedded in regional partnerships. Shared commitment among partners contributes to learning and sustainable improvements among the Tripartite Partnership, regional networks, international NGOs and, of course, NHRIs themselves.

Undoubtedly, the present principles will undergo changes and refinements, taking into account NHRIs' and partners' ongoing experiences and development. This evolution will ensure the continuing relevance of the global principles to NHRIs and to their core functions.



NHRI representatives at the 12th International Conference of National Human Rights Institutions
Credit: National Human Rights Commission of Mexico

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Staff members from the Afghan Independent Human Rights Commission, Helmand Office at the CA in Kabul
Credit: Asia Pacific Forum of National Human Rights Institutions

Annex 1

Glossary

CA reports use several terms that have specific usage in the NHRI CA context. They are discussed briefly, exploring this usage in comparison to common definitions.

Capacity

Capacity means the ability or power to do, experience or understand something, according to the Oxford English Dictionary (OED), 2015. The A-GA reports measure current capacity and compare it to the legislative/constitutional text and the Paris Principles to identify “gaps.” Additionally, these CA processes look to functional and technical capacities for which normative standards may not have been formally set, but where desired capacity was identified by NHRI members and staff. Capacity information or issues can be drawn from other sources such as the UNDP CA Framework. The Asia-Pacific methodology method assesses current capacity and maps it against required capacity. The difference between the two is the gap (see “capacity gap”).

Assessment

An assessment is generally understood as an evaluation or estimation of the nature, quality, or ability of someone or something, according to the OED, 2015. Most NHRI CAs distinguish “assessment” from “evaluation” to avoid the judgmental connotation of evaluations and to emphasize internal ownership and buy-in. Much of the information on which assessments are based comes from the institution itself, and relies minimally or not at all on independent or corroborating information. Experts acknowledge however, that the dividing line between the two is not always clear.

Capacity Assessment

A capacity assessment (CA) is a balanced analysis of an institution’s ability to carry out its mandate. It identifies strengths, weaknesses and “capacity gaps”, defined below.

Capacity Development

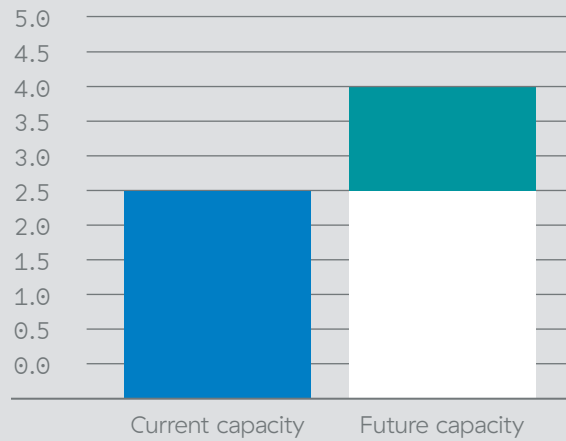
UNDP defines capacity development (CD) as “the process through which individuals, organizations, and societies obtain, strengthen and maintain the capabilities to set and achieve their own development objectives over time” (2008a).

Capacity Gaps

Capacity gaps describe the difference between present capacity and future or required capacity. In the AP context, gaps are ascertained through questionnaires.

Figure 3

Capacity Gap



Gaps reflect the numerical difference between current capacity and future capacity, expressed as an average of ratings for current and required (future) capacity (see Figure 3). Since at least 2014, this technique of measuring gaps has been standard across all the Asia-Pacific methodology reports.

Anglophone A-GA reports quantify current capacity but do not generate numerical ratings for future capacity. As a result, no numerical values are attached to capacity gaps (at least not for the reports that were reviewed). Instead, the “gap” is described by identifying weaknesses and, in some instances, shortfalls in meeting the standards of the Paris Principles or other functional capacity requirements.

Consultees indicated that the quantitative aspect of the process has been questioned of late due to the technical difficulties with the process, and some more recent NANHRI reports have abandoned the quantitative approach (e.g., Senegal). Consultees pointed out that this may be connected to technical capacity of consultants working on the francophone side.

The AP process therefore includes a “gap analysis” in the sense that it actively seeks to conceptualize gaps and quantify them. The A-GA process, which calls itself a “gap analysis,” conflates weaknesses with gaps and does not generate a quantitative benchmark to identify gaps.

According to consultees, in recent years the AP process has also been identifying weaknesses as a way of discussing and analysing capacity shortfalls, regardless of the numeric “gaps.”

In short, although a good deal of rhetorical attention is paid to the AP “capacity assessment” approach and the African “gap analysis” approach, the differences between the two are not as stark as their names suggest, at least in this dimension.

Enabling Environment

The UNDP CA framework identifies three “entry points” for capacity assessment, namely the individual, the organization and the enabling environment. An enabling environment is one that goes beyond an absence of active suppression or regulatory restrictions. It extends to the many dimensions of legal, social and other factors that support the institution to function and thrive.⁸

⁸ UNDP 2008

Gap Analysis

Gap analysis is the term used to describe several of the A-GA processes. A challenge is the tendency to confuse current capacity with future capacity, for example by defining current capacity in relation to “potential” capacity. In another case, the term “gap” is seen as equivalent to “weakness.” Conflating weaknesses and gaps is understandable, but confusions in concepts and terminology can result in confusion about current capacity and gaps. For further discussion of this terminology, see Capacity Gaps.

Reliability

Reliability as discussed in this review refers to consistency; that is, the degree of random error such that the results can be considered to be consistent.

Rule of Law

“The rule of law” is a complex expression that addresses certain fundamental attributes of a just society. It is referred to in the Universal Declaration of Human Rights: it is “essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law.” Among the fundamental components of the rule of law is, first, the notion that penalties and liabilities can only be established through a breach of the established law of the land, enforced and established before independent and impartial courts. Second, every person, regardless of rank or condition, is subject to the ordinary law of the land and no one is above the law. All persons are subject to the same law administered in the same courts. Third, and more generally, all persons and authorities within a state, whether public or private, “should be bound by and entitled to the benefit of laws publicly made, taking effect ... in the future and publicly administered in the courts” (Bingham, 2010, pp. 3–4). Not only should human rights be protected by the rule of law, but the rule of law should itself be informed by and embrace the protection of human rights (*ibid.*, p. 67).

Self-Assessment

The Asia-Pacific and NANHRI approaches are externally facilitated “self-assessments” or self-analyses. Self-assessments should not be confused with “self-evaluations.” According to UNDP tools on capacity assessment, self-evaluation means that the institution itself carries out the evaluation without an external consultant.

Self-assessment on the other hand, is defined in the CA context as requiring external facilitators. The term does not, therefore, refer to who undertakes the assessment. Rather, it serves mainly to highlight the fact that most of the information about capacity comes from the institution itself.

Other types of capacity assessments or CA-like processes do not rely as heavily on the use or rhetoric of self-assessment. Instead, they rely on the judgment of an external evaluator or consultant to make their assessments of baseline information or institutional performance. As many of the key consultees pointed out, the significance of the judgment of the external facilitators imports a strong evaluative component to the CA process, despite the rhetoric of “self-assessment.”

Validity

Validity is the extent to which concepts or measurements are well-founded and correspond to what is actually occurring in the real world. For example, in the context of this review the validity of data sets generated through the questionnaires is assessed based on whether they measure what they claim to measure.

Annex 2

CA Report Templates

Format

The template for reports in the Asia–Pacific methodology context is:

- Background;
- Capacity challenges and issues;
- Capacity development for NHRI;
- Appendices
(Concept note; Overview of NHRI; Brief overview of NHRIs in region; Regional initiative to support CD; List of documents considered; Key Capacity Assessment issues; Questionnaire; Disaggregated data; Implementation plan).

The NANHRI format is less codified and varies from report to report, but includes the following general sections:

- Introduction;
- CA framework and process;
- Character of the institution;
- Findings of the CA;
- General observations;
- Recommendations;
- Capacity development strategies.

Annexes (lists of external meetings; prior report of ICC–SCA, if applicable).

Annex 3

Sample Capacity Issues From Three CA Reports

Country X NHRI has capacity to...	Country Y NHRI has capacity to...	Country Z NHRI has capacity to...
Function as a fully effective NHRI in accordance with the Paris Principles	Function as a fully effective and independent NHRI in accordance with the Paris Principles	Foster independence
Develop and implement a strategic plan, annual work plans	Develop and implement a strategic plan	Develop, communicate and provide direction on policies, strategies
Utilise fully the individual expertise of its members in building a strong NHRI		Ensure availability of resources, adequate utilization of resources
Investigate and resolve complaints regarding human rights violations according to clear procedures		Manage and resolve complaints, secure remedies, conduct public hearings
Monitor prisons and places of detention for compliance with human rights obligations	Monitor prisons and places of detention for compliance with human rights obligations through regular scheduled and unscheduled inspections	Monitor: human rights situation in country places of detention government compliance with human rights standards; existence of strategy for follow-up of recommendations
Undertake programmes of human rights education, training and awareness-raising, both for those with human rights obligations and those at risk of human rights violations	Contribute to the development of a human rights culture through effective human rights education/awareness-raising, both for those with human rights obligations and those at risk of human rights violations	Advocate for human rights, create human rights awareness, whether or not there are arrangements in place, including materials for public education
↓		

Country X NHRI has capacity to...	Country Y NHRI has capacity to...	Country Z NHRI has capacity to...
Undertake research and policy development, and write reports that are based on law and evidence and convincing in advocacy		
Reach marginalized groups and all regions	Be accessible to all residents, taking into account region, gender, disability, age and other obstacles to access	Be accessible to all groups of people including vulnerable groups like persons with disabilities, minorities, etc.
Ensure good communications internally and externally	Have effective internal communications systems and processes, including regular (internal) meetings, information bulletins and emails; reach out to all residents of Country Y through public media, publications and personal contact	Engage stakeholders
Develop and implement rules and procedures for making key decisions and for overall management of the staff	Have internal regulations that enable it to be managed effectively and efficiently, with appropriate delegations to managers and without undue delay in decision making	
Develop and implement rules and procedures for administration and finance	(Develop) business processes to minimise bureaucracy and delay, and enable smooth performance of functions and responsibilities	Develop and implement systems of management
Have sufficient resources, both financial and staff, to perform its responsibilities effectively		
Recruit and retain a skilled workforce on a long-term basis, particularly at senior management level		Ensure knowledge and technical skills or required expertise within the Commission
Ensure accountability of staff to managers and to the Commission, and of the Commission to the parliament and the community for the performance of NHRC and individual responsibilities	Have clear functions and responsibilities as well as clear lines and mechanisms of accountability	Commission's capacity to measure results of its work to adjust policies, programmes and strategies and also to ensure accountability at all levels
↓	Collaborate with key institutions and national and international organisations in human rights advocacy and promotion	

Country X NHRI has capacity to...	Country Y NHRI has capacity to...	Country Z NHRI has capacity to...
		<p>Follow up on Treaty body recommendations; monitor government compliance with recommendations; submit information to UPR as part of a stakeholders' report; interact with regional and international NHRIs</p>
		<p>Advise executive and parliament on human rights issues</p>



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UNDP
One United Nations Plaza
New York, NY 10017 USA
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