

# How to Work with National Human Rights Institutions to Abolish the Death Penalty

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# EXECUTIVE SUMMARY

As early as 1946, two years before the adoption of the Universal Declaration of Human Rights, the United Nations (UN) Economic and Social Council addressed the issue of a lack of national institutions and encouraged member states to establish local or national human rights committees. That is how today's national human rights institutions (NHRIs) first began to emerge as distinct human rights entities.<sup>1</sup> As human rights bodies in their countries, NHRIs are natural allies in the fight to abolish the death penalty, occupying a legitimate space to contribute to the implementation of human rights. NHRIs are cornerstones of human rights protection and promotion and operate on numerous human rights fronts. They assist in monitoring their states' compliance with international human rights commitments, as well as interacting with regional human rights mechanisms<sup>2</sup>. They also build bridges between civil society and the State. NHRIs are also part of regional and international networks that exchange good practices and contribute to building a human rights culture. Their role as influential human rights actors is paramount, and as such their contributions to abolition of the death penalty should not be underestimated when developing an anti-death penalty strategy.

The need for this how-to-guide came directly from the World Coalition Against the Death Penalty's (WCADP) membership. Expertly written by the President of the of the Beninese Commission on Human Rights, this guide's content has been bolstered by examples and advice coming from non-governmental organizations (NGOs) in the field.

Working with NHRIs can seem like a daunting task, especially for civil society organizations that do not have previous experience working with them. As such, this guide has been specifically designed for abolitionist civil society groups around the world, both beginners and advanced activists, with a focus on the African continent.

This guide can be seen as a complement to the manual *Abolition of the Death Penalty: A Practical Guide for NHRIs*<sup>3</sup> published by Together Against the Death Penalty (ECPM)<sup>4</sup> in December 2019. The latter, intended for NHRIs themselves, offers advice on best practices to encourage abolitionist approaches in their countries. In the hands of civil society activists, the two guides support each other: one is for the activists themselves and the other gives the tools for NHRIs to act with them.

This practical manual is divided into four main chapters. The first one is dedicated to the presentation of what are NHRIs. This section aims to provide the context for understanding NHRIs and thus provide reference points for the rest of the guide. The second chapter lays out a case for working with NHRIs, while chapter 3 introduces NGOs to what NHRIs can realistically offer regarding capital punishment. The final chapter explores potential entry points for civil society actors and concrete advocacy techniques they can use when trying to meet with NHRIs, and then discusses how to work with them.

## World Coalition Against the Death Penalty

<sup>1</sup> <https://ganhri.org/history-of-ganhri-and-nhris/>

<sup>2</sup> « L'accréditation des Institutions nationales des droits de l'Homme », published by the National Consultative Commission on Human Rights (France) in partnership with the Organisation internationale de la francophonie, p4.

<sup>3</sup> <https://www.ecpm.org/wp-content/uploads/Guide-INDH-2019-gb-250220-md.pdf>

<sup>4</sup> ECPM is a founding member of the World Coalition Against the Death Penalty.

# NOTE FROM THE AUTHOR



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**Former Expert member to the African Commission on Human and Peoples' Rights Working Group on Death Penalty, Extra-Judicial, Summary and Arbitrary Killings and Enforced Disappearances in Africa**

**President of the Beninese Commission on Human Rights**

This guide is a tool for non-governmental organizations (NGOs) to follow a practical approach to advocate to their respective States for the abolition of the death penalty.

The death penalty continues to be practiced in many countries around the world, and as long as it remains in effect, National Human Rights Institutions (NHRIs) and NGOs must work together to get their States to commit to abolishing the death penalty.

Societal changes in the world demand permanent monitoring of the abolition of capital punishment, even in countries where it is already abolished. NHRIs, through their missions of promotion and

protection of human rights, must put a particular and unique emphasis on the abolition of the death penalty.

This guide is a strategic tool to effectively accompany NGOs in realizing the World Coalition Against the Death Penalty's goal, as well as all abolitionist activists worldwide, to see the death penalty abolished in all countries of the world, for all crimes and for all people.

Together, let us contribute to ending the practice of the death penalty through our commitment and determination to preserve life as sacred.

# ACKNOWLEDGEMENTS

**The World Coalition Against the Death Penalty is very grateful to Mr. Isidore Clement Capo-Chichi who, as the principal author of this guide made substantive and invaluable contributions to this publication, offering an enriching perspective for civil society organizations interested in working with NHRIs.**

**The World Coalition Against the Death Penalty also wishes to acknowledge and thank the considerable assistance it received from their following members, NHRI professionals and partners:**

**Abdellah Mousedad,**  
Moroccan Coalition Against the Death Penalty

**Florence Bellivier,**  
International Federation for Human Rights (FIDH)

**Katie Campbell,**  
Reprieve

**Karen Gomez-Dumpit,**  
former Commissioner to the Commission on Human Rights in the Philippines

**Almoustapha Moussa,**  
former Commissioner to the Commission on Human Rights in Niger

**Marie-Lina Perez,**  
Together Against the Death Penalty (ECPM)

**Xavière Prugnard,**  
International Federation of ACATs (FIACAT)

**Christina Palabay,**  
KARAPATAN Alliance

**Ambika Satkunanathan,**  
former Commissioner to the Commission on Human Rights in Sri Lanka

# ABBREVIATIONS AND ACRONYMS

**ACAT** – Action by Christians for the Abolition of Torture

**ACHPR** – African Commission on Human and Peoples’ Rights

**AU** – African Union

**CoE** – Conseil of Europe

**CPJ** – Culture for Peace and Justice

**CSO** – Civil society organization

**ECPM** – Ensemble contre la peine de mort (Together Against the Death Penalty)

**GANHRI** – Global Alliance of National Human Rights Institutions

**ICCPR-OP2** – Second Optional Protocol to the International Covenant on Civil and Political Rights

**MHRC** – Malawi Human Rights Commission

**NGO** – Nongovernmental organization

**NHRI** – National Human Rights Institution

**NHRC** – National Human Rights Commission

**OAS** – Organization of American States

**OHCHR** – Office of the High Commissioner for Human Rights

**Paris Principles** – Principles Relating to the Status of National Institutions for the Promotion and Protection of Human Rights

**SCA** – Sub-Committee on Accreditation (GANHRI mechanism)

**UN** – United Nations

**UPR** – Universal Periodic Review

**WCADP** – World Coalition Against the Death Penalty

# 1

## What is a National Human Rights Institution (NHRI) ?

The first step in working with any abolitionist ally is understanding who they are and what are their functions. For many, NHRIs may not be intuitive advocacy targets compared to other national allies

like parliamentarians or community leaders. Their mandates are very specific to human rights, and the space in which they operate needs to be understood before developing a common advocacy strategy!

### INTRODUCTION

To define NHRIs today, we need to look at their place within the UN human rights system - in particular the Office of the High Commissioner for Human Rights (OHCHR) - which has worked to structure and encourage the growth of NHRIs around the world. As of 2022, there are 117 active NHRIs in the world<sup>5</sup>.

The UN system has created a set of principles and developed monitoring bodies to enable the structuring and development of these human rights actors. NHRIs are bound by the standards set out in the Principles Relating to the Status of National Institutions for the Promotion and Protection of Human Rights (the Paris Principles), adopted by the UN General Assembly in 1993<sup>6</sup>. The Paris Principles are the reference text

concerning the functioning, role, composition, and general organization of an NHRI. Globally, they provide a comprehensive normative framework for the status, structure, mandate, composition, powers, and methods of operation of the main domestic human rights mechanisms<sup>7</sup>.

•Accreditation and monitoring of NHRI compliance with the Paris Principles, as well as overall coordination between NHRIs and the UN, is the responsibility of the Global Alliance of National Human Rights Institutions (GANHRI).<sup>8</sup> Article 1 of the GANHRI Statutes of 5 March 2019 defines an NHRI as *"an independent national institution, established by a member or observer state of the United Nations,*

<sup>5</sup> <https://www.ohchr.org/FR/Countries/NHRI/Pages/NHRIMain.aspx>

<sup>6</sup> On December 20, 1993, the United Nations General Assembly adopted the Principles relating to the status and functioning of national institutions for the promotion and protection of human rights, known as the "Paris Principles", through resolution 48/134. <https://www.ohchr.org/en/professionalinterest/pages/statusofnationalinstitutions.aspx>

<sup>7</sup> General Observations by the Sub-Committee on Accreditation Version adopted on February 21, 2018 in Geneva <https://ganhri.org/accreditation/general-observations/>

<sup>8</sup> For more information on NHRIs, please visit their webpage: <https://ganhri.org/history-of-ganhri-and-nhris/>

whose mandate to promote and protect human rights is defined by a constitution or by law, and which is, or plans to be, accredited by the GANHRI Sub-Committee on Accreditation (SCA) as being in compliance with the Paris Principles<sup>9</sup>.”

- GANHRI has also developed an accreditation system based on peer review - the Sub-Committee on Accreditation (SCA) - which assesses an institution's compliance with the Paris Principles with a score from A - B<sup>11</sup>.

- "A" status indicates full compliance with the Paris Principles;
- "B" status indicates partial compliance<sup>11</sup>.

There are also two obsolete statuses that are no longer used by the SCA<sup>12</sup> :

- "A(R)" status (accreditation "A" granted with reservation) ;
- "C" status (not a member and not compliant with the Paris Principles).

The accreditation of an institution may change after review by the SCA, if there are changes in the institution's activities. NGOs also have a role to play in the accreditation of an NHRI. The SCA will open a call for inputs from local and international NGOs and other civil society organizations (CSO). In these inputs the SCA encourages additional information regarding NHRIs under review and/ or any developments that may prompt a special review. Reports received from NGOs and CSOs are shared with the NHRIs being reviewed for their comments prior to the accreditation session.



*NGO submissions for consideration during an NHRI accreditation can be sent here :*

Section Institutions nationales et  
mécanismes régionaux  
HCDH  
CH-1211 Genève 10  
Switzerland

*Emails :*

vstefanov@ohchr.org,  
sshahidzadeh@ohchr.org,  
lpanuncillo@ohchr.org

*Important dates are found here :* [https://  
ganhri.org/upcoming-sessions/](https://ganhri.org/upcoming-sessions/)

*Consider consulting the SCA practical guide  
prior to submission for more information:*  
[https://ganhri.org/wp-content/uploads/  
2019/11/GANHRI-Manual\\_online1.pdf](https://ganhri.org/wp-content/uploads/2019/11/GANHRI-Manual_online1.pdf)

<sup>9</sup> GANHRI Statutes, 2019 : <https://ganhri.org/General-Observations-by-the-Sub-Committee-on-Accreditation-Version-adopted-on-February-21-2018-in-Geneva>  
<https://ganhri.org/accreditation/general-observations/>

<sup>10</sup> <https://ganhri.org/accreditation/>

<sup>11</sup> *Ibid.*

<sup>12</sup> These statuses are maintained only for NHRIs that were accredited with these statuses prior to April 2008 (for the A(R) status) and October 2007 (for the C status) and have not been reviewed by the Sub-Committee on Accreditation since. <https://ganhri.org/wp-content/uploads/2021/01/Status-Accreditation-Chart-as-of-20-01-2021.pdf>



## CASE STUDY: ACCREDITATION OF THE BENIN HUMAN RIGHTS COMMISSION

In 2022, the Benin Human Rights Commission received an A accreditation from GANHRI.

"Concretely, an NHRI wishing to be accredited under the Paris Principles must submit an application to the GANHRI chairperson. Through the GANHRI Secretariat, the NHRI must submit the following with its application :

- A copy of the law or other instrument under which the NHRI was established and empowered (in its official or published form);
- An outline of its organizational structure, including its staff and annual budget;
- a copy of its most recent annual report or equivalent document (in official or published form);  
a detailed statement showing how it complies with the Paris Principles as well as any instances of non-compliance and any proposals to ensure compliance. The latter involves the applicant NHRI completing the

"Statement of Compliance", a nine point document that must be completed with references to key sources in order to provide the Sub-Committee with background information about the NHRI. Section 8.1 is dedicated to relations with civil society and invites the NHRI to describe how it performs this function.

The Paris Principles stipulate that in the context of their functioning, NHRIs should develop relations with NGOs that are dedicated to the promotion and protection of human rights, economic and social development, the fight against racism, the protection of particularly vulnerable groups (including women's rights, children's rights, migrant workers, refugees, those with a physical and/ or psychosocial disability), or other specialized areas. (...) Reports received from NGOs and CSOs are shared with the reviewed NHRIs for their comments prior to the accreditation session."

**Isidore Clément Capo-Chichi, President of the Beninese Human Rights Commission and author of this guide.**

## NHRI MANDATES

### COMPOSITION AND INDEPENDENCE

Located at the intersection between the State and civil society, NHRIs are required by the Paris Principles to "maintain consultation with the other bodies, whether jurisdictional or otherwise, responsible for the promotion and protection of human rights (in particular, ombudsmen, mediators and similar institutions)"<sup>13</sup>.

There are six primary models of NHRIs: human

rights commissions, human rights ombudsman institutions, hybrid institutions, consultative and advisory bodies, institutions and centers and multiple institutes<sup>14</sup>. Each model changes the structuring of the NHRI and can have a different title. Despite these differences in name and structure, it is important to note that all NHRIs are by mandate bound to uphold the Paris Principles.

Given NHRIs position as protectors and promoters of human rights in their country, they are supposed to retain an independent status

<sup>13</sup> Paris Principles, Methods of operation: <https://www.ohchr.org/en/professionalinterest/pages/statusofnationalinstitutions.aspx>.

<sup>14</sup> <https://williamsinstitute.law.ucla.edu/publications/us-nhri/>

from the State and from other actors. This independence should ensure that they operate in accordance with national, regional, and international human rights treaties and law, while also demonstrating credibility and legitimacy to achieve the objectives they have set. **The NHRI must be able to collaborate with all state institutions and civil society actors in complete independence and impartiality.**<sup>15</sup>

Pluralism in the composition of NHRIs is another key requirement of the Paris Principles. This is particularly important for NHRIs that are commissions, councils, or committees as they bring together a large group of people and can therefore be highly representative. Pluralism aims to foster effective cooperation and is fundamentally linked to the requirement of independence, credibility, and accessibility.

As such, the members and staff of NHRIs can be appointed and represent various disciplines and sectors as an expression of pluralism. For example, they can be representatives of the legislative power (deputies to the national assembly, senators), the judiciary (lawyers, magistrates), trade unions, lawyers, doctors, journalists, qualified academics, and experts, and above all, of NGOs competent in the field of human rights or who focus on specific human rights related themes (women, children, the elderly, people with disabilities, etc.). Having a variety of political views, academic backgrounds, and professional experiences creates a strong network of individuals or organizations that are not necessarily influenced by politics or the government in power.

The rules and processes by which NHRIs operate are determined by its founding texts, which are most often the law, rules of procedure and manuals of procedures. These rules are generally intended to ensure the effectiveness and reliability of actions taken in accordance with the institution's mandate.

According to its operating rules, an NHRI may freely examine all matters within its jurisdiction. These matters can be submitted by the government, suggested internally by the NHRI

itself or following a complaint from victims, NGOs, or any interested person.

## GENERAL MANDATE AND QUASI-JUDICIAL POWERS

According to the Paris Principles, the mission of an NHRI is primarily to promote and protect human rights at the national level.

- **Promotion includes functions that aim to create a society in which human rights are more broadly understood and respected.** These functions may include education, training, advocacy services, public awareness, and advocacy. For example, NHRIs can support or organize events for the World Day Against the Death Penalty.

- **Protection can be interpreted as those that prevent or combat human rights violations.** These functions may include monitoring human rights protection and violations in their country, seeking information, reporting on human rights violations, or even having so-called quasi-judicial jurisdiction, processing complaints. For example, NHRIs can thus support NGOs in the defense of those facing the death penalty.

Where an NHRI is mandated to receive, investigate, and respond to complaints alleging human rights violations, it is usually given the powers necessary to fulfil this mandate by its establishing statute. Depending on the statutes, an NHRI may be endowed with **self-referral powers**, i.e. it may be empowered to file a complaint to the relevant competent authorities on its own initiative. An NHRI may also be empowered to receive and examine **complaints and petitions concerning individual situations**. In this case, anyone who wants to bring attention to a human rights violation may submit an application to an NHRI, which may come from individuals or any organization representing victims. The application may be followed up in several way :

<sup>15</sup> *Mise en place et fonctionnement d'une institution nationale des droits de l'Homme, Guide de bonnes pratiques, AFCNDH-OIF, available in French : <https://www.francophonie.org/sites/default/files/2019-09/guide-indh-fevrier2019.pdf>*

- To seek an amicable settlement through conciliation or, within the limits set by the law, through binding decisions, using confidentiality where necessary;
- Inform the petitioner of his or her rights, including the remedies available to him or her, and facilitate access to them;
- Forward the request to any other competent authority within the limits set by law;
- To make recommendations to the competent authorities, in particular by proposing adaptations or reforms of laws, regulations and administrative practices, especially when they are at the origin of difficulties encountered by the petitioners. As such, they can propose that the state become abolitionist in law.

Beyond the variety of their statutes and operating methods, NHRIs must be distinguished from a State body, a non-governmental body or an independent state body. The process of nomination or appointment of their members must be transparent. A sufficient level of adequate funding must be obtained from the State to enable them to carry out their missions by freely determining their priorities, guarantee their independence and ensure the credibility of the institution's activities.

# 2

## Why work with an NHRI ?

In a world of abolition advocacy, allies and building a strategy, the reasons to work with NHRIs may not be obvious. However, there are clear benefits for NGOs and NHRIs to work together to abolish the death penalty.

For NGOs, working with NHRIs as an ally to abolish the death penalty is a crucial strategy because of the **unique space that NHRIs occupy**. It is a space that both commands government attention and directs it to human rights violations, but also separates it from the usual sphere of government influence. This can mean that they have the ear of political leaders and decision makers, without being directly influenced by those political entities.

In the same context, NHRIs can also be **a direct challenge to closed governments that do not want to address the issue of capital punishment**.

Because of their independence and their obligation to uphold international human rights standards, NHRIs can enjoy a freedom of expression that those working in closed regimes feel they may not have. This particular reason, however, does not always reflect the reality on the ground. NHRIs are supposed to be independent and follow the mandates laid out by the Paris Principles. However, in reality, these institutions and individuals do not always work in a vacuum, free from political influence. NHRIs can be influenced by national and regional politics and may not always fulfill their mandate as universal protectors of human rights. Understanding this point, and where your national NIn a world of abolition advocacy, allies and building a strategy, the reasons to work with NHRIs may not be obvious.

*A good starting point for understanding the extent to which an NHRI is independent and operates more or less outside the sphere of political influence is to check its GANHRI accreditation (see Chapter 1). More research tips on identifying the independence of an NHRI on in Chapter 4.*

In addition to being a well-placed ally in supporting the abolitionist cause in the face of local government officials, NHRIs also have **credibility on the international scene**. Because their mandates are governed by international standards and their operations are monitored by their peers, NHRIs stand out as a reputable human rights institution. For instance, the NHRIs operating in Morocco and the Philippines regularly take the floor at the United Nations Human Rights Council to denounce the use of the death penalty or the risk of a return to the death penalty in their countries.

As such, the value of an NGO working with NHRIs lies in the fact that NHRIs provide **a unique bridge** to government, international human rights mechanisms, other NHRIs, and field work that no other advocacy focus can offer. Collaborating with NHRIs can offer a guarantee of having an ally that is a balancing institution, neither NGO, nor legislative, nor executive, nor judicial power but an advisor to these councils. It is also in their own best interest and especially given the pluralistic composition of NHRIs (NGO representatives usually have a prominent place in NHRIs).

For NHRIs, **their effectiveness depends largely on the quality of their working relationships with other organizations**, particularly NGOs. This collaboration can provide them with a better understanding of the scope of the issue of death penalty abolition and the real impact of capital punishment. The Paris Principles expressly recognize *“the fundamental role that non-governmental organizations play in amplifying the work of national human rights institutions.”*<sup>16</sup>

Sharing knowledge, studies and research on the death penalty can help establish useful cooperation that will enable NHRIs to fulfill their role of advising the authorities. NHRIs can, for example, invite authorities to take important decisions that respect the international commitments made by States to abolish any provision relating to the death penalty in their territory<sup>17</sup>.



*Indeed, the importance of the links between civil society and NHRIs was highlighted at the 2016 World Congress Against the Death Penalty. At the 6th World Congress Against the Death Penalty, held from 21 to 23 June 2016 in Oslo, Norway NHRIs were recognized as important relays for abolitionist NGOs. As mentioned in the Proceedings of **the 6th World Congress Against the Death Penalty**, published by ECPM, even though NHRIs are not alike and their independence from the authorities varies from country to country, one fact remains obvious: it is also by working with these institutions that the abolitionist movement will advance abolition around the world. **“Through positive examples but also a critical evaluation of their work on the death penalty, [the plenary presentation] was a question of the importance of engaging with this often neglected actor and rallying new or reluctant NHRIs to the abolitionist cause.”***<sup>18</sup>

<sup>16</sup> Paris Principles, Methods of operation: <https://www.ohchr.org/en/professionalinterest/pages/statusofnationalinstitutions.aspx>

<sup>17</sup> Article 1 of the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, adopted and proclaimed by General Assembly resolution 44/128 of 15 December 1989 <https://www.ohchr.org/en/professionalinterest/pages/2ndopccpr.aspx>.

<sup>18</sup> ECPM, “Reports 6th World Congress Against the Death Penalty, 21-23 June 2016, Oslo”, Cahiers de l’abolition n°4.

# 3

## How can NHRIs take a realistic stand on the issue of the death penalty ?

Once you have understood what an NHRI is and the value of working with one, it is essential to identify how NHRIs can take a stand on the issue of the death penalty. By virtue of their role in protecting human rights and advising governments on ensuring that national law adheres to international law, NHRIs already have a position against the death penalty. However, as with any ally, it is crucial to be clear and precise when requesting the advocacy assistance of an NHRI. This request should be adapted to your country's situation regarding the death penalty (abolitionist, retentionist or under moratorium). In any case, the NHRI you hope to work with will benefit greatly from your resources and tools adapted to the current death penalty situation.

Due to its broad mandate, NHRIs can take a stand on the death penalty in numerous ways, including but not limited to :

**ENCOURAGING THE RATIFICATION** of or accession to international and regional human rights instruments, as well as the effective implementation of international human rights instruments to which the state is a party.<sup>19</sup> The most relevant instruments for the abolition of the death penalty are :



• **the Second Optional Protocol to the International Covenant on Civil and Political Rights** adopted by the United Nations (UN);

• the **Draft Protocol to the African Charter on Human and Peoples' Rights on the abolition of the death penalty in Africa by the African Commission on Human and Peoples' Rights** (African Union - AU);

• the **Protocol to the American Convention on Human Rights to Abolish the Death Penalty** adopted by the Organization of American States (OAS);

• **Protocol No. 13 to the Convention for the Protection of Human Rights and Fundamental Freedoms concerning the abolition of the death penalty** adopted by the Council of Europe (CE).

<sup>19</sup> Paris Principles, Section A, Sub-sections 3b) and 3c).

<sup>20</sup> see pp.32-33 of the ECPM Practical Guide

**FOSTERING REGULAR AND CONSTRUCTIVE COLLABORATION** with all stakeholders concerned with the issue of abolition of the death penalty, in particular NGOs (see page 16 Case Study 1: Malawi).

**DOCUMENTING THE USE OF THE DEATH PENALTY AND THE CONDITIONS OF DETENTION** of persons sentenced to death in their country (see page 17 Case Study 4: Morocco).<sup>20</sup>

**RAISING PUBLIC AWARENESS** on the issues surrounding the application of capital punishment (see page 18 for examples of NHRIs using the World Day Against the Death Penalty as a means for raising public awareness).<sup>21</sup>

**RECOMMENDING LEGISLATIVE REFORMS TO THE STATE**.<sup>22</sup>

**SUBMITTING REPORTS TO INTERNATIONAL AND REGIONAL HUMAN RIGHTS MECHANISMS** such as the Universal Periodic Review at the United Nations or the state review by the ACHPR.

NGOs can have varying roles to play in encouraging these actions and others. Practical advice on how to foster relationships and encourage these actions are further detailed in Chapter 4. Reading tools such as the guide developed by ECPM, Abolition of the Death Penalty: A Practical Guide for NHRIs published in 2019 provides crucial insight into what NHRIs are capable of doing to contribute to the abolition of the death penalty. This guide aims to support NHRIs' activities on the death penalty by building their capacity. This tool can also help NHRIs take a stand on capital punishment and help them learn more about what they can and cannot do to support abolition in their countries.



*The Beninese Human Rights Commission noted, in its annual report on the state of human rights in 2019, Benin's efforts in implementing the recommendations accepted in 2017 during the presentation of the third national report on the UPR. This concerns respect for the right to life, after the country's accession on July 5, 2012 to the Second Optional Protocol to the ICCPR, the decision of the President of the Republic on February 15, 2018 to commute to life imprisonment the sentences of 14 people*

*sentenced to death (10 Beninese, 2 Nigerians, 1 Ivorian and 1 Togolese detained for 18-20 years), the entry into force on December 28, 2018 of a new penal code adopted in its aspects related to the abolition of the death penalty, the constitutionalization of the abolition of the death penalty in Law No. 2019-40 of November 07, 2019 revising Law No. 90-32 of December 11, 1990 on the Constitution of the Republic of Benin.*<sup>23</sup>

<sup>20</sup> see pp.32-33 of the ECPM Practical Guide

<sup>21</sup> see pp. 35-38 of the ECPM Practical Guide

<sup>22</sup> see pp. 39-40 of the ECPM Practical Guide

<sup>23</sup> <https://www.cbdh.bj>

# CASE STUDIES: NHRIS TAKING A STAND WITH NGOS AGAINST THE DEATH PENALTY



## Case Study 1: Malawi

"In Malawi, the Malawi Human Rights Commission (MHRC) was engaged to lead on a resentencing project that saw 160 people formerly sentenced to death receive new, lower sentences. In this project, the MHRC led a coalition of partners including government, NGOs and INGOs to facilitate the resentencing hearings. Reprieve U.K., an NGO, sent fellows to be seconded at the MHRC office in Lilongwe in order to provide full time

human resource support to the MHRC, as well as to partners such as lawyers, paralegals, and judiciary stakeholders. By being embedded at the MHRC, Reprieve and MHRC staff were able to work very closely together, allowing a smooth flow of communication and resulting in a highly successful project."

***Testimony gathered by Reprieve in March 2022***



## Case Study 2: Niger

"The Nigerien NHRC is composed of nine elected commissioners from universities, civil society organizations, unions, bar associations, magistrates, and members of the national assembly. Once elected, four of the commissioners are elected internally as a board of directors. The other 5 commissioners who are not part of the board each lead a working group. As a commissioner, I was responsible for leading the working group on torture. I was also the focal point for work with civil society organizations - linking the NHRC with NGOs. Both during my tenure as commissioner and after, the collaboration between the NHRC in Niger and Nigerien civil society has been fruitful. For example, under my mandate, human rights defenders' organizations were involved in the Commission's activities, particularly in monitoring places of detention. Now with this collaboration between NGOs and the NHRC, and even after my mandate, this monitoring has become systematic in synergy with NGOs.

It is crucial that civil society be involved in the actions undertaken by the NHRI. NHRIs do not necessarily have the capacity to cover the entire country and identify all

human rights concerns. Where civil society organizations are the eyes and mouth of human rights issues, NHRIs have the authority and position to reach out to political bodies and get the attention of political leaders. This is a form of collaboration that should be permanent.

In addition, it can be worthwhile to work with an NHRI, as they may be in the position to build the capacity of NGOs. At the NHRC in Niger, we have conducted trainings with civil society on how to document human rights violations and how to write comprehensive reports that will highlight these violations and allow for awareness campaigns.

Our support to NGOs also includes logistical support, such as organizing meetings with the right people and arranging appointments with strategic government bodies."

***Almoustapha Moussa, former Commissioner to the Commission on Human Rights in Niger***





### Case Study 3: Sri Lanka

Some NHRIs, such as the Human Rights Commission of Sri Lanka, have the legal mandate to summon documents and statistics, which means that they can access information from state entities that are not always in the public domain. That is how we obtained the information for the [2020 Study of Prisons in Sri

Lanka<sup>24</sup>], which we then placed in the public domain [and thus made available to NGOs].”

**Ambika Satkunanathan, former Commissioner to the Commission on Human Rights in Sri Lanka**



### Case Study 4: Morocco

“In March 2018, the adoption of Law 76-15 lead to the reorganization of the National Council for Human Rights (in accordance with the provisions of Article 161 of the Constitution, and in application of Morocco's international obligations under human rights conventions, in particular the human rights appeal mechanisms and considering the record of the Consultative Council on Human Rights (CCDH) and the NHRC for more than a quarter of a century, and in order to strengthen the role, prerogatives and means of action of the Council.) This law takes into consideration the constitutional status of the NHRC as an institution responsible for the protection and promotion of human rights, as well as the Paris Principles and the Belgrade Principles governing relations between parliaments and NHRIs.

The NHRC and the Moroccan Coalition Against the Death Penalty act for the abolition of the death penalty in a strategic perspective “Strengthening the steps towards the abolition of the death penalty” conducted in collaboration with ECPM.

The NHRC has taken a clear position in favor of the abolition of the death penalty

and is carrying out various actions to move step by step towards abolition. The strategic perspective mentioned in particular the monitoring of the conditions of detention of death row inmates, the advocacy for legislative reform and in particular the NHRC memorandum for the reform of the Penal Code presented to the Parliament in 2020 and the actions carried out in partnership with ECPM.

The strategy concluded by stating that, the national and international obligations of the Moroccan State required it to take steps toward complete abolition of [the legal] provisions providing for the death penalty- of which executions have not been carried out since 1993. It also said that the NHRC would lead strong advocacy for a Moroccan vote in favor of the [next] UN General Assembly Resolution calling for a universal moratorium on the use of the death penalty.”

**Case study collected by the Moroccan Coalition Against the Death Penalty in August 2022**

<sup>24</sup> 2020 Study of Prisons in Sri Lanka: <http://www.humanrights.asia/news/ahrc-news/AHRC-ANM-001-2021/>

# CASE STUDIES: NHRIS TAKING A STAND WITH NGOS AGAINST THE DEATH PENALTY

## World Day Against the Death Penalty & NHRI Involvement :

In 2021 alone, 8 NHRIs used the opportunity to spread awareness on the death penalty<sup>25</sup>, including France, Mexico, Morocco, Pakistan, Palestine, the Philippines, the Republic of Abkhazia, and Zambia. The variety of activities ranged from producing articles and statements, leading press conferences, hosting webinar discussions and engaging in social media campaigns.



The **Commission on Human Rights in the Philippines (CHRP)**, in 2021 led a host of numerous activities to take part in national awareness raising to keep the Philippines abolitionist in the face of a return to the death penalty, including publishing a book compilation on the death penalty entitled “Dignity of All: Resources of the Commission on Human Rights of the Philippines Against the Death Penalty.”<sup>26</sup> In 2020, on the World Day, the CHRP launched a ‘Right to Life’ website (<https://righttolifeph.online/>) dedicated to anti-death penalty information and advocacy. Many of these activities were done in collaboration with NGOs.

<sup>25</sup> 2021 World Day Report: <https://worldcoalition.org/document/2021-world-day-report/>

<sup>26</sup> Link to the compiled book by the CHRP: [https://elibrary.chr.gov.ph/cgi-bin/koha/opac-detail.pl?biblionumber=4019&shelfbrowse\\_itemnumber=4882](https://elibrary.chr.gov.ph/cgi-bin/koha/opac-detail.pl?biblionumber=4019&shelfbrowse_itemnumber=4882)

# 4

## Where to Start? Opportunities for joint action and collaborative practices.

This section focuses on the practical aspects of working with NHRIs. Where do you start? Who should you contact? How can you be a valuable source of information for the NHRI? What are the opportunities for joint action? What are the best practices in working with an NHRI?

### WHERE TO START?

It can be difficult to know where to start when considering working with an NHRI. Here are some general step-by-step recommendations that can help you get started with your advocacy work with an NHRI:



#### STEP 1

*Identify which NHRI with whom you want to work/ perform a risk assessment. Use the GANHRI website to do your research!*



#### STEP 2

*Prepare your advocacy strategy and identify where/how NHRIs will fit into the strategy (use SWOT)*



#### STEP 3

*Identify entry points! This can include direct contact, meeting at a human rights event, etc. Suggest a formal meeting to discuss strategy and joint advocacy.*



#### STEP 4

*Attend the formal meeting and arrive prepared!*



#### STEP 5

*Nurture your collaborative working relationship with the NHRI.*



## STEP 1

### IDENTIFY WITH WHICH NHRI YOU WISH TO WORK & SECURITY RISKS.

For much of this section and throughout we are assuming that you wish to work with the NHRI in your country. To identify the NHRI in a given country, start by visiting the members' section of the GANHRI website<sup>27</sup>, organized by region and country. This makes it easy to identify a specific NHRI and access its website.

From there, you can identify if the NHRI that you want to work with is an institution, ombudsman, or ombudswoman. Note that the general rules of advocacy do not change depending on the type of NHRI, but the relationship you may have with these institutions may vary. For example, an ombudsman or ombudswoman is an individual, whereas an institution may be composed of many members appointed by the government (or as defined in the law that created the institution). In the case of an ombudsman/woman, it will be necessary to try to meet with him or her directly, which may be more complicated in the case of a commission in which you may be able to meet with a few different people who work on the death penalty. **We always recommend, to deepen your understanding of the NHRI that you want to work with, it is worth studying the founding statute or document in the country in which it was created.**

It is also at this stage that you should clearly identify the political will of the NHRI in your country. As mentioned in Chapter 2, even if an NHRI is supposed to be abolitionist as indicated in their commitment to the Paris Principles, this does not mean that the people running it are willing to engage in overt abolitionist activities.

**Here are some steps you can take to verify the political will of the institution to engage in the fight for abolition:**

1

Check their accreditation status with GANHRI. If it is below an A grade, the institution may not be completely independent of political influence.

2

Research their website, and read their Universal Periodic Review (UPR) submissions, treaty body reports, their strategic plan, etc. In countries where the death penalty is still applied, it may be considered suspicious that none of these platforms mention the death penalty.

3

Check whether the NHRI in question already has committees that focus on death penalty issues. In a retentionist country, a lack of committees that focus on the death penalty could be a sign of an NHRI's reluctance to get involved in the topic.

4

Do a little more research on individual commissioners or representatives to the NHRI. Sometimes, knowing more about their past positions, their political leanings, and the person who appointed them to the position can give you a better idea of their position on the death penalty.

<sup>27</sup> <https://ganhri.org/membership/>

**Depending on the information you uncover, you may decide not to continue working with an NHRI on the death penalty issue if you feel it would be counterproductive or a risk to you, your organization, and your colleagues' security/ credibility.**

*If you discover that the NHRI in question is very close to the political power in place, working with them may put your organization either at risk from threats from the authorities or could label your organization as an unreliable GONGO (governmental-nongovernmental organization). This is particularly if the political power in question is staunchly retentionist and/or has policies that suppress civil society.*

## WHAT IF MY COUNTRY DOES NOT HAVE AN NHRI?

What if you have done research on the GANHRI page and elsewhere, but you cannot find an NHRI in your country? There are countries in the world that do not have an NHRI including, but not limited to Belarus, Botswana, China, Iran, Japan, Saudi Arabia, and the federal government of the United States of America.

These countries receive frequent recommendations during their UPR process to create NHRIs within their jurisdictions but either reject ("note") the recommendation or never act upon it. In certain instances, countries have an obligation to develop an NHRI being party to a treaty that has identified NHRIs as the primary implementation mechanism<sup>28</sup>.



### Those treaties are as follows:

1. Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OP-CAT);
2. International Convention on the Protection of the Rights of All Migrant Workers and members of their Families (CMW);
3. International Convention on the Rights of People with Disability (ICRPD).

Foundational treaties on human rights that were created before the adoption of the Paris Principles

have been interpreted, by their respective treaty bodies, to affirm the establishment of an NHRI, including<sup>29</sup>:

4. International Covenant on Civil and Political Rights (ICCPR)
5. Convention on the Rights of the Child (CRC)
6. Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)
7. Convention on Economic, Social and Cultural Rights (CESR)
8. Convention on the Elimination of All Form of Racial Discrimination (CERD).

As such, there is valid international incentive for many states that have not created an NHRI to do so. The lack of an NHRI in a nation significantly impedes the ability to advance and investigate human rights in that nation and hold itself accountable for human rights violations.

For those NGOs who do not have access to an NHRI in your countries, **a part of your abolition advocacy could also include the lobbying of your government to create an NHRI.** A few initial steps to start this process can include:

- Identify if your country is party to one or more of the treaties above;
- Research and take note of the recommendations made to your country to create an NHRI during its UPR cycle and treaty body examinations;

<sup>28</sup> <https://williamsinstitute.law.ucla.edu/publications/us-nhri/>

<sup>29</sup> <https://ganhri.org/membership/>

- Contribute to future UPR cycles and treaty body examinations by highlighting the need for your country to develop an NHRI;
- Lobby with parliamentarians and other government officials to propose legislation in parliament to establish an NHRI in accordance with the Paris Principles.



*For tips on advocating with parliamentarians, check out the World Coalition Against the Death Penalty and Parliamentarians for Global Action practical advocacy guide on “How to Work With Parliamentarians for the Abolition of the Death Penalty.”*

<https://worldcoalition.org/document/how-to-work-with-parliamentarians-for-the-abolition-of-the-death-penalty/>

**STEP 2**

## PREPARE A STRATEGY AND PERFORM A SWOT ANALYSIS.

Once you have identified the NHRI with whom you wish to work, and you have determined that working with them will not endanger your organization or your organization’s credibility, you can prepare your engagement strategy. It involves establishing clear, concrete goals for your anti-death penalty work and identifying your organization's capabilities through a SWOT (Strengths, Weaknesses, Opportunities and

Threats) analysis. The SWOT analysis (see Table 1 below) is a tool for internal discussion and sharing of ideas to identify your organization's strengths and weaknesses. Analyzing what you can realistically do gives you a **better sense of the time and resources that can be allocated to advocacy work.**



*This manual assumes that your organization has already completed this preparatory work. As such, it will not go into detail about building a strategic plan.*

Table 1

Internal origins	Positive points (to achieve the objective)	Negative points (to achieve the objective)
External origins	STRENGTHS	WEAKNESSES
	OPPORTUNITIES	THREATS

In addition to the SWOT analysis, it is important to identify the advocacy objectives most relevant to your situation. For example, if you are working :

- in a **retentionist country** and your goal is to abolish the death penalty at the national level, you can focus on the arguments for abolishing the death penalty and the measures that the NHRI can recommend to parliament ;

- in a **country where the death penalty is abolished for certain crimes only or in a country that has not signed the ICCPR-OP2**, you can encourage the NHRI to push for full abolition and the ratification and adoption of the ICCPR-OP2.
- in an **abolitionist country**: your objective can be to promote abolition at the global level.

## STEP 3

### IDENTIFY ENTRY POINTS.

Now you know which NHRI you will contact and your organizational goals and capacity on working with them. You now need to determine how to get in contact with the right person at the NHRI in question. This depends fundamentally on your organization's capacity (as identified in Step 2) and the specifics of the region or country. However, reaching out to NHRIs is not as complex as reaching out to other advocacy allies like parliamentarians. As mentioned earlier in the guide, by virtue of their mandate, NHRIs are required to work with a variety of actors, including NGOs. In addition, it is not

uncommon for members of an NHRI to have previously worked for an NGO.

In general, NHRIs are open to receiving NGOs by appointment. Other means of contact are also at press conferences or human rights events. The following are a few recommendations that to facilitate points of entry and get the relationship started off on the right foot!



**Familiarize yourself with the NHRI website** and where possible, the name of the person or department who is best suited to manage advocacy related to the death penalty (which could be also the person or department who manages questions related to torture, prisons, penal reform, etc).



**Find email and telephone contact details** on the NHRI website. This may be the easiest way to contact an NHRI. Note that many email and telephone numbers are the standard numbers of an NHRI.



**Schedule a formal meeting** through contacting the staff of an NHRI, a Commissioner, or the ombudsman/woman. In the case that your NHRI is comprised of a group of people, you can also take this opportunity to ask who the best person is to

meet with for issues related to the death penalty. Make sure you explain the reason for the meeting.



**Ask another NGO or allied colleague to introduce you** ; to an NHRI or the death penalty focal point at an NHRI.



**Consult NHRI event calendars, if they are available on their website.** If possible, join events that are related to the death penalty to show interest and support while capitalizing on an opportunity to introduce yourself.



**Invite the NHRI to an event or forum you are organizing.**



## STEP 4

### YOU HAVE AN APPOINTMENT, SO ARRIVE PREPARED!

Once you have scheduled your meeting or identified a time for a possible meet-up with an NHRI, it is important to develop concrete suggestions for joint action and collaboration. **In all cases, preparation is necessary to engage in advocacy. You need to make sure that you develop arguments and a suggested course of action that will overlap with the interests and capacities of the NHRI with whom you are working.**

To do this, you need to prepare your case before the meeting: select the arguments that are most likely to be persuasive, identify short-term goals, and develop advocacy techniques based on them. If you already have a global advocacy plan you can share this information with the NHRI to share your strategy. More suggestions on joint collaboration and goals can be found in Section B of this Chapter. It is also useful in any advocacy context to arrive with documents prepared for the meeting. Documentation is a useful aid to make references to during your meeting, as well as a useful item to leave behind to help the recipient remember you and your organization better.



## STEP 5

### NURTURE YOUR RELATIONSHIP WITH THE NHRI FOR LONG-TERM COLLABORATION.

As is crucial with any advocacy ally, it is important to work on fostering a collaborative approach long after the first contact. Nurturing the professional relationships developed with an NHRI is an on-going process, particularly if your abolition goal is a long-



**Prepare a summary document** of your work on the death penalty issue, such as a policy brief, to facilitate discussion and leave a summary of your arguments.

**Prepare details of a case of a person sentenced to death for which you wish to file a complaint.** This is especially useful for lawyers and civil society organizations that work directly with people on death row.

**Bring with you any existing documentation you may have on ongoing campaigns** related to the death penalty. You do not always need to create new documentation if you already have thoughtfully created documents and tools for ongoing campaigns.

**Bring copies of ECPM's guide Abolition of the Death Penalty: A Practical Guide for NHRIs to distribute** during your meeting as it is a guide tailored specifically to speak to NHRIs.

**Don't forget your business cards !**

term one. There are numerous follow-up actions that can be taken depending on what the NHRI agrees to:





**Keep your contacts at the NHRI informed** about your actions and about key developments regarding capital punishment. Example: Creating list serves, sending out Newsletters, sharing relevant articles;

**Organize awareness-raising and capacity-building events and inviting the NHRI** to speak and take part;

**Spearhead or take-part in working groups devoted to the question of the death penalty**, or other related topics such as penal reform, prison conditions, etc;

**Animate a low-key, informal Signal group** with the NHRI and other allied stakeholders and CSOs.

## WHAT ARE THE OPPORTUNITIES FOR JOINT ACTION ?

Given the variety of actions that NHRIs can take to promote the abolition of the death penalty, civil society organizations can suggest different options for possible joint action. As such, it is useful to focus

your advocacy on a concrete action plan that the NHRI could implement, **for example:**

### In retentionist or moratorium countries:

- ➔ Request the support of the NHRI in advocating for the introduction of a bill to reduce the scope of the death penalty or abolish it entirely;
- ➔ Request the creation of an informal working group on the death penalty within the NHRI and ask to be part of this group;
- ➔ Organize a conference, seminar or congress and invite the NHRI to speak on behalf of the abolition of the death penalty;
- ➔ Collaborate in events such as the World Day Against the Death Penalty, celebrated every October 10- provide support for a conference room, logistical support, etc;<sup>30</sup>
- ➔ Provide support for the research or drafting of reports, such as the UPR;
- ➔ Provide support for the research or drafting of studies that help promote better understanding of the social impact of the death penalty;
- ➔ Provide information about a case of a person sentenced to death for which you wish to file a complaint;
- ➔ Support strategic litigation against the death penalty and coordinating stakeholders in a project that limits the application of the death penalty;
- ➔ File a complaint on behalf of an alleged victim with her/his consent or submit a request for assistance on behalf of the victim if the matter is already before the courts.

<sup>30</sup> ECPM, Acts of the 6th World Congress Against the Death Penalty, 21-23 June, Oslo, Cahiers de l'abolition n.4, pg. 103.

## In abolitionist countries:

- ➔ Request NHRI support in advocating for the adoption and ratification of the ICCPR-OP2;
- ➔ Encourage NHRIs to be committed actors for the adoption of regional protocols.

## In countries where there is a risk of a return to capital punishment:

- ➔ Request the support of the NHRI to raise in parliament, on social networks, in the media, etc., the human rights violations that would result from a return to the death penalty.
- ➔ Encourage the NHRI to conduct a study on the disadvantages of returning to the death penalty. This study could include developments on the state of public opinion, the impact of a return to the death penalty on the judicial system and the country's human rights record.



*In the case of a possible return to the death penalty, research examples of countries that have abolished and then returned to capital punishment. This information can be valuable for NHRIs in formulating their arguments. You can find out more on the World Coalition's Countries at Risk webpage: <https://worldcoalition.org/campagne/preventing-the-return-of-the-death-penalty/> as well as the CHRP's Right to Life webpage: <https://www.righttolifeph.online/>*

In all cases, it is important to offer and share your NGO's knowledge and data on the practice of the death penalty in your country with the NHRI. A reliable flow of information that can be incorporated into studies, reports and other communications is useful, and will encourage two-way information sharing. In addition, offering to serve as a bridge to other NGOs, civil society, and abolitionist

community leaders can help maintain close collaborations.

In joint work with NHRIs, it is imperative to conduct advocacy with governments, for example to encourage them to ratify an international right to life instrument such as the Second Optional Protocol to the ICCPR. In working with NHRIs, it is also relevant to assess and report on the compliance of national law and practice with obligations under international instruments to which States are party, including through annual or special reports or the Universal Periodic Review process.

During your first meeting with the NHRI, and beyond, it is important to remain flexible in your abolitionist approach and to remain open to different suggestions. You may arrive with a specific abolitionist goal or step forward in mind, but the NHRI may have a different suggestion based on work they are already doing or on political information they have. In keeping an open mind, you will allow for flexible collaboration.

# ADDITIONAL COLLABORATION CASE STUDIES: NGOS WORKING WITH NHRIS TO ABOLISH THE DEATH PENALTY



## Benin

### The creation of the Chamber of Consultation

“The creation of the Chamber of Consultation with NGOs aims to pool and harmonize their potential, strengthen their capacity to promote and protect human rights in alliance and synergy with the [us] the NHRI. This Chamber of Consultation takes into account not only the growing number of NGOs (12,000 in Benin, according to official statistics in 2012), but also their status, some of which may operate informally, by including them in discussions taking into account their dynamism and representativeness.

The NHRI that wants to set up this bridge of permanent dialogue and collaboration will establish a basis for participation in the Chamber of Consultation, specifying the selection criteria of NGOs to be involved. A ceiling on the number of NGOs to be involved in the Chamber of Consultation is foreseen, divided by categories of rights in which they

are specialized.

At the end of the constitution of the Chamber of Consultation, in view of the census carried out by the NHRI, the Chamber of Consultation will determine the themes of common interest that should serve as a basis for its action.

In this respect, training sessions specific to the chosen themes will be delivered to the members of the Chamber of Consultation concerned by the theme on which they will act jointly with the NHRI (in this case the abolition of the death penalty).”

**Isidore Clément Capo-Chichi,  
President of the Beninese Human Rights  
Commission and author of this guide.**



## Ivory Coast

“ACAT Ivory Coast (ACAT-IC) had to collaborate with the National Human Rights Commission (NHRC) in the framework of advocacy for the ratification of the ICCPR-OP2. Indeed, in 2016, following a seminar to create awareness amongst opinion leaders, an advocacy working group was set up by ACAT-IC, which included a member of the NHRC. This group was specifically composed of the President of ACAT-IC, a traditional leader, a religious leader, a member of a partner NGO and a member of the NHRC. Unfortunately, the latter left the NHRC and since his departure, his successor has not been appointed, so things have not worked out as well as we would

have liked. However, the collaboration continued and still continues because this Commission, which has now become a Council, is present every year at the activities organized by ACAT IC on the occasion of the World Day Against the Death Penalty. Moreover, during various other advocacy meetings with the Council, officials promise to support the advocacy by including in the report of the NHRC addressed to the State of Ivory Coast. The ICCPR-OP2 as a priority instrument to be ratified in order to make the abolition of the death penalty irreversible.”

**Case study provided by ACAT Ivory Coast**



## Kenya

"In Kenya, Reprieve is now [in 2022] working alongside the Kenya National Commission on Human Rights (KNCHR) to facilitate a resentencing project for as many as 5,000 eligible people who have been sentenced to death. This enormous project requires significant support from all relevant stakeholders. Reprieve and KNCHR have joined forces to serve as supporting/facilitating partners for the long list of stakeholders who are critical to ensuring the project goes forward. KNCHR is a leader on human rights issues in Kenya and was instrumental in seeking the abolition of the mandatory death penalty ruling that led to this project. Reprieve brings its experience from Malawi's resentencing project to serve as a guide for the process in Kenya. Together, KNCHR and Reprieve have the connections and experience to facilitate a successful project, even one on such a large scale. The project is still in its early stages, but we have high hopes that the involvement of KNCHR will lead to success for the project.

In both Kenya and Malawi, collaboration with NHRIs allowed for Reprieve and other NGO partners to help maintain momentum for long-term projects, which can often drop off without a champion to push them forward. Further, it allows us to provide much needed human resource to "special projects" like resentencing that fall outside the already full dockets of the court system. This human resource also allows us to provide support in the way of fundraising and technical expertise that may be already overstretched. Finally, and most importantly, by working with NHRIs, Reprieve can be sure that we are adhering to best practice in the settings where we work and are being led by the experts on human rights in the country context."

***Case study provided by Reprieve***

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## Democratic Republic of the Congo (DRC)



"The examples of collaboration between ACAT DRC and the NHRC are numerous and varied. First of all, ACAT DRC participates in the NHRC's monthly meetings on the [national] human rights situation. ACAT and the NHRC also occasionally advocate in synergy on the abolition of the death penalty, the UN General Assembly resolution calling for a moratorium on the application

of the death penalty or the law protecting human rights defenders. The NHRC is regularly invited to participate and/or speak at activities organized by ACAT DRC, such as in August 2021, a workshop dedicated to creating awareness amongst opinion leaders to the abolition of the death penalty in the DRC. Finally, it should be noted that ACAT DRC was able to participate in the observation of the so-called 100-day trial at the Makala prison (Kinshasa) under the label of the NHRI."

***Case study and photograph provided by ACAT DRC***

" Culture for Peace and Justice, CPJ, in partnership with ECPM works closely with the National Human Rights Commission, NHRC, as well as with all actors concerned with the abolition of the death penalty. CPJ supports all legislative initiatives aimed at passing laws to abolish or restrict the scope of the death penalty as well as all mechanisms to strengthen the rights guaranteeing a fair trial for those facing the death penalty and the improvement of detention conditions for those sentenced to death.

The NHRC has always welcomed collaboration with CPJ in the development of its five-year plan regarding the abolition of the death penalty and especially its support in carrying out its missions, including that of promoting and protecting human rights and preventing torture and other forms of cruel, inhuman, or degrading treatment in places of deprivation of liberty. In 2017, CPJ contributed to the development of the NHRC's five-year action plan by including the abolition of the death penalty and, with its partners including ECPM and the DRC Coalition Against the Death Penalty. CPJ had requested and [ultimately] obtained from the NHRC the Opinion No. 001/AP/CNDH-RDC/2017 on the need to move the DRC from a **de facto moratorium** to a **de jure moratorium**.

Collaboration between CPJ and the NHRC is also done through joint visits of death row inmates in prison especially during the realization of investigative missions or for monitoring on death row inmates.

Additionally, the NHRC's regular presence at the celebration of the World Day Against the Death Penalty is sufficient proof of its commitment to the abolition of the death penalty in the DRC.

Finally, the two structures visit each other (often) and it is with the CPJ and ECPM that the NHRC was able to design and publish its practical guide **[Abolition of the Death Penalty: A Practical Guide for NHRIs]** and organize a training workshop on strategies for the implementation of its roadmap on the abolition of the death penalty in March 2021. "

***Case study and examples of collaboration provided by CPJ in August 2022***

## CONCLUSION

This guide has worked to demystify what an NHRI is and how they can be useful targets and allies in a strategy to achieve abolition of the death penalty. In most nations around the world, NHRIs hold a sensitive space for the protection of human rights, and that space is primed for the promotion of abolition and bridging the divide between different stakeholders.

It is essential that, under the leadership of NHRIs and with the strong involvement and continual support of NGOs, respect for the steps and methods recommended in this guide can lead to effective advocacy with

decision-makers for the abolition of the death penalty. A concerted implementation of the different actions between NHRIs and NGOs can make a vision towards the abolition of the death penalty realistic.

The fight against the death penalty is a global trend that continues to grow around the world. This fight, an important cause for the protection of human dignity and human rights, is best led in tandem with coordinated allies to develop a dynamic and rigorous approach..

# ANNEXES

## Annexe 1

### Principles relating to the Status of National Institutions (The Paris Principles)<sup>31</sup>

#### **General Assembly resolution 48/134**

**20 December 1993**

#### **Competence and responsibilities**

1. A national institution shall be vested with competence to promote and protect human rights.
2. A national institution shall be given as broad a mandate as possible, which shall be clearly set forth in a constitutional or legislative text, specifying its composition and its sphere of competence.
3. A national institution shall, inter alia, have the following responsibilities:
  - a) To submit to the Government, Parliament and any other competent body, on an advisory basis either at the request of the authorities concerned or through the exercise of its power to hear a matter without higher referral, opinions, recommendations, proposals and reports on any matters concerning the promotion and protection of human rights; the national institution may decide to publicize them.
  - b) To promote and ensure the harmonization of national legislation, regulations and practices with the international human rights instruments to which the State is a party, and their effective implementation;
  - c) To encourage ratification of the above-mentioned instruments or accession to those instruments, and to ensure their implementation;
  - d) To contribute to the reports which States are required to submit to United Nations bodies and committees, and to regional institutions, pursuant to their treaty obligations and, where necessary, to express an opinion on the subject, with due respect for their independence;
  - e) To cooperate with the United Nations and any other organization in the United Nations system, the regional institutions and the national institutions of other countries that are competent in the areas of the protection and promotion of human rights ;
  - f) To assist in the formulation of programs for the teaching of, and research into, human rights and to take part in their execution in schools, universities and professional circles;
  - g) To publicize human rights and efforts to combat all forms of discrimination, in particular racial discrimination, by increasing public awareness, especially through information and education and by making use of all press organs.

#### **Composition and guarantees of independence and pluralism**

1. The composition of the national institution and the appointment of its members, whether by means of an election or otherwise, shall be established in accordance with a procedure which affords all necessary guarantees to ensure the pluralist representation of the social forces (of civilian society) involved in the protection and promotion of human

<sup>31</sup> <https://www.ohchr.org/fr/instruments-mechanisms/instruments/principles-relating-status-national-institutions-paris>

rights, particularly by powers which will enable effective cooperation to be established with, or through the presence of, representatives of :

- a) Non-governmental organizations responsible for human rights and efforts to combat racial discrimination, trade unions, concerned social and professional organizations, for example, associations of lawyers, doctors, journalists and eminent scientists ;
- b) Trends in philosophical or religious thought ;
- c) Universities and qualified experts ;
- d) Parliament ;
- e) Government departments (if these are included, their representatives should participate in the deliberations only in an advisory capacity).

2. The national institution shall have an infrastructure which is suited to the smooth conduct of its activities, in particular adequate funding. The purpose of this funding should be to enable it to have its own staff and premises, in order to be independent of the Government and not be subject to financial control which might affect its independence.

3. In order to ensure a stable mandate for the members of the national institution, without which there can be no real independence, their appointment shall be effected by an official act which shall establish the specific duration of the mandate. This mandate may be renewable, provided that the pluralism of the institution's membership is ensured.

#### **Methods of operation**

Within the framework of its operation, the national institution shall :

- a) Freely consider any questions falling within its competence, whether they are submitted by the Government or taken up by it without referral to a higher authority, on the proposal of its members or of any petitioner,
- b) Hear any person and obtain any information and any documents necessary for assessing situations falling within its competence ;
- c) Address public opinion directly or through any press organ, particularly in order to publicize its opinions and recommendations ;
- d) Meet on a regular basis and whenever necessary in the presence of all its members after they have been duly concerned ;
- e) Establish working groups from among its members as necessary, and set up local or regional sections to assist it in discharging its functions;
- f) Maintain consultation with the other bodies, whether jurisdictional or otherwise, responsible for the promotion and protection of human rights (in particular, ombudsmen, mediators and similar institutions) ;
- g) In view of the fundamental role played by the non-governmental organizations in expanding the work of the national institutions, develop relations with the non-governmental organizations devoted to promoting and protecting human rights, to economic and social development, to combating racism, to protecting particularly vulnerable groups (especially children, migrant workers, refugees, physically and mentally disabled persons) or to specialized areas.

#### **Additional principles concerning the status of commissions with quasi-judicial competence**

A national institution may be authorized to hear and consider complaints and petitions concerning individual situations. Cases may be brought before it by individuals, their

representatives, third parties, non-governmental organizations, associations of trade unions or any other representative organizations. In such circumstances, and without prejudice to the principles stated above concerning the other powers of the commissions, the functions entrusted to them may be based on the following principles :

- a) Seeking an amicable settlement through conciliation or, within the limits prescribed by the law, through binding decisions or, where necessary, on the basis of confidentiality ;
- b) Informing the party who filed the petition of his rights, in particular the remedies available to him, and promoting his access to them ;
- c) Hearing any complaints or petitions or transmitting them to any other competent authority within the limits prescribed by the law ;
- d) Making recommendations to the competent authorities, especially by proposing amendments or reforms of the laws, regulations and administrative practices, especially if they have created the difficulties encountered by the persons filing the petitions in order to assert their rights.



## Annexe 2

# Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty<sup>32</sup>

**General Assembly resolution 44/128**

**15 December 1989**

**Entry into force: 11 July 1991, in accordance with article 8(1)**

The States Parties to the present Protocol,  
Believing that abolition of the death penalty contributes to enhancement of human dignity and progressive development of human rights,  
Recalling article 3 of the Universal Declaration of Human Rights, adopted on 10 December 1948, and article 6 of the International Covenant on Civil and Political Rights, adopted on 16 December 1966,  
Noting that article 6 of the International Covenant on Civil and Political Rights refers to abolition of the death penalty in terms that strongly suggest that abolition is desirable,  
Convinced that all measures of abolition of the death penalty should be considered as progress in the enjoyment of the right to life,  
Desirous to undertake hereby an international commitment to abolish the death penalty,  
Have agreed as follows :

### **Article premier**

1. No one within the jurisdiction of a State Party to the present Protocol shall be executed.
2. Each State Party shall take all necessary measures to abolish the death penalty within its jurisdiction.

### **Article 2**

1. No reservation is admissible to the present Protocol, except for a reservation made at the time of ratification or accession that provides for the application of the death penalty in time of war pursuant to a conviction for a most serious crime of a military nature committed during wartime.
2. The State Party making such a reservation shall at the time of ratification or accession communicate to the Secretary-General of the United Nations the relevant provisions of its national legislation applicable during wartime.
3. The State Party having made such a reservation shall notify the Secretary-General of the United Nations of any beginning or ending of a state of war applicable to its territory.

### **Article 3**

The States Parties to the present Protocol shall include in the reports they submit to the Human Rights Committee, in accordance with article 40 of the Covenant, information on the measures that they have adopted to give effect to the present Protocol.

### **Article 4**

With respect to the States Parties to the Covenant that have made a declaration under

<sup>32</sup> <https://www.ohchr.org/fr/instruments-mechanisms/instruments/second-optional-protocol-international-covenant-civil-and>

article 41, the competence of the Human Rights Committee to receive and consider communications when a State Party claims that another State Party is not fulfilling its obligations shall extend to the provisions of the present Protocol, unless the State Party concerned has made a statement to the contrary at the moment of ratification or accession.

#### **Article 5**

With respect to the States Parties to the first Optional Protocol to the International Covenant on Civil and Political Rights adopted on 16 December 1966, the competence of the Human Rights Committee to receive and consider communications from individuals subject to its jurisdiction shall extend to the provisions of the present Protocol, unless the State Party concerned has made a statement to the contrary at the moment of ratification or accession.

#### **Article 6**

1. The provisions of the present Protocol shall apply as additional provisions to the Covenant.
2. Without prejudice to the possibility of a reservation under article 2 of the present Protocol, the right guaranteed in article 1, paragraph 1, of the present Protocol shall not be subject to any derogation under article 4 of the Covenant.

#### **Article 7**

1. The present Protocol is open for signature by any State that has signed the Covenant.
2. The present Protocol is subject to ratification by any State that has ratified the Covenant or acceded to it. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.
3. The present Protocol shall be open to accession by any State that has ratified the Covenant or acceded to it.
4. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.
5. The Secretary-General of the United Nations shall inform all States that have signed the present Protocol or acceded to it of the deposit of each instrument of ratification or accession.

#### **Article 8**

1. The present Protocol shall enter into force three months after the date of the deposit with the Secretary-General of the United Nations of the tenth instrument of ratification or accession.
2. For each State ratifying the present Protocol or acceding to it after the deposit of the tenth instrument of ratification or accession, the present Protocol shall enter into force three months after the date of the deposit of its own instrument of ratification or accession.

#### **Article 9**

The provisions of the present Protocol shall extend to all parts of federal States without any limitations or exceptions.

#### **Article 10**

The Secretary-General of the United Nations shall inform all States referred to in article

48, paragraph 1, of the Covenant of the following particulars:

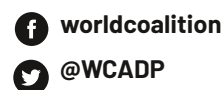
- a) Reservations, communications and notifications under article 2 of the present Protocol;
- b) Statements made under articles 4 or 5 of the present Protocol;
- c) Signatures, ratifications and accessions under article 7 of the present Protocol;
- d) The date of the entry into force of the present Protocol under article 8 thereof.

#### **Article 11**

1. The present Protocol, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited in the archives of the United Nations.
2. The Secretary-General of the United Nations shall transmit certified copies of the present Protocol to all States referred to in article 48 of the Covenant.



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The World Coalition Against the Death Penalty is an alliance of more than 160 NGOs, bar associations, local authorities, and unions. The aim of the World Coalition is to strengthen the international dimension of the fight against the death penalty. Its ultimate objective is to obtain the universal abolition of the death penalty. The World Coalition allows for a global dimension to the sometimes isolated action taken by its members on the ground. It complements their initiatives while constantly respecting their independence.



This publication was produced by the World Coalition Against the Death Penalty, written by Isidore Clément Capo-Chichi, as part of a project to consolidate abolitionist efforts in Africa, and around the world. The publication was produced with the financial support of the AFD (Agence Française de Développement), the European Union (EU), the Federal Public Service Foreign Affairs of the Kingdom of Belgium, and the Federal Department of Foreign Affairs of the Swiss Confederation. The content of this document is the sole responsibility of the World Coalition Against the Death Penalty and should in no way be considered to reflect the position of the AFD, the EU, the Federal Public Service Foreign Affairs of the Kingdom of Belgium, and the Federal Department of Foreign Affairs of the Swiss Confederation.



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