Aid to national human rights institutions

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Question

Please identify which donors are financing National Human Rights Institutions (NHRIs) and the modalities through which they are financing them. We are also interested in whether there is a solid evidence base to suggest whether and how particular funding instruments can enhance or hinder NHRI performance and overall aid and development effectiveness.

It would be helpful to know what the challenges are for donors funding NHRIs both generally and in particular in conflict affected and fragile states and how this determines the choice of financial instrument to NHRIs in this context. Whether there is an evidence base or key literature summarising lessons learned and recommending good practices.

Contents

Overview

National human rights institutions (NHRIs) are institutions with a constitutional and/or legislative mandate to protect and promote human rights – they often take the form of human rights commissions, ombudsmen or specialised institutions that protect the rights of a particular group (UNDP-OHCHR 2010).

This report finds:

- **Most NHRIs have been established over the past 20 years** - and there are now 103 accredited NHRIs across the world. NHRIs vary significantly according to their definition of human rights, mandates, structures, budgets and the national political and legal traditions;

- **There is limited publically available and comparable information about aid flows to NHRIs**. At present, the most useful source of this data is the NHRIs themselves – however, levels of budget transparency vary significantly according to each NHRI.

- **The size of budget for NHRIs varies greatly** from less than $10,000 (USD) to over $100 million (USD). In a survey of NHRIs, the majority of respondents said their budgets are funded entirely by the state. Some NHRIs limit, or ban, funding from external sources. Donors play a significant role in financing and providing non-financial support to NHRIs in cases where the resources cannot be provided nationally;

- The literature reviewed for this report revealed a series of **key challenges, lessons learned and good practice** for external actors in regards to funding NHRIs including: donor coordination; donor driven priorities not supporting national priorities; financial constraints on NHRIs; and linking NHRIs with international and regional mechanisms.

- The report concludes with a list of potential areas for further support, as suggested by NHRIs.

1. Background

The 1991 Paris Principles and the 1993 Vienna Declaration and Programme of Action provide the basis for principals governing NHRIs.[1] Via these agreements, the UN encourages its member states to establish NHRIs. NHRIs are 'arm's length' institutions, and should be independent from the state and non-governmental organisations, despite being funded primarily by the state (UNDP-OHCHR 2010).

The 1990s saw a proliferation of NHRIs, and there are now 103 accredited NHRIs across the world (ICC 2013).[2] The Office of the High Commissioner for Human Rights (OHCHR) was set up in 1995 and has since played a central role in promoting and supporting NHRIs. Meanwhile, NHRIs established the International Coordinating Committee of National Institutions for the promotion and protection of human rights (ICC) in 1993. The ICC is responsible for helping governments establish NHRIs in line with the Paris Principles; accrediting NHRIs; and coordinating activities, cooperation and communication between institutions. NHRIs support human rights activities in their own countries, and also act to bridge national and international human rights norms. NHRIs are also coordinated by regional human rights institutions - such as the Asia Pacific Forum of National Human Rights Institutions (APF), the Network of African National Human Rights Institutions (NANHRI), and the Network of National Institutions in the Americas.

NHRIs vary significantly according to their definition of human rights, mandates, structures, budgets and the national political and legal traditions (OHCHR 2005). Typical functions include: advising governments on human rights issues; monitoring human rights violations; handling and resolving human rights complaints; disseminating human rights norms via education and training; and monitoring peace agreements and post-conflict transitional agreements (OHCHR 2005; Durbach 2010).

2. External support for NHRIs

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[1] See the principles relating to NHRIs here -
http://www.ohchr.org/EN/ProfessionalInterest/Pages/StatusOfNationalInstitutions.aspx
[2] For the full list of accredited NHRIs see -
http://nhri.ohchr.org/EN/News/Lists/News/Attachments/104/Chart%20of%20the%20Status%20of%20NHRIs%20(11%20Feb%202013).pdf

2.1 Funding of NHRIs

The size of budget for NHRIs varies greatly from less than $10,000 (USD) (an African NHRI) to over $100 million (USD) (a European NHRI) (OHCHR 2009). The Paris Principles stipulate that NHRIs should have adequate funding to ensure independence – both from the government and from any other organisations (UN 1994). Building on this, the ICC (2009) asserts that the state should take responsibility for providing the core funding for a NHRI – including an office (with communications equipment) and staff salaries. Importantly, it notes that "funding from external sources, such as from development partners, should not compose the core funding of the NHRI as it is the responsibility of the state to ensure the NHRI's minimum activity budget in order to allow it to operate towards fulfilling its mandate" (ICC 2009: 3). This highlights the importance of domestic funding in ensuring national ownership, legitimacy and sustainability.

UNDP-OHCHR (2010) recognise that there is an alternative view to this which would allow external funding to support core functions in the short to medium term in exceptional cases – e.g. when a government cannot support a NHRI, or to ensure that the NHRI can attract and retain quality staff members.

A survey of 61 NHRIs worldwide carried out by OHCHR (2009) found that 67% of respondents said their NHRIs budget is funded entirely by the state. The majority of respondents (69%) also confirmed that their NHRI is legally allowed to receive funding from sources other than the state (OHCHR 2009). Notably, some NHRIs limit, or ban, funding from external sources - e.g. the Human Rights Commission of Malaysia (Suhakam) is prohibited from receiving foreign funding (ANNI, 2012). Meanwhile, the Human Rights Commission of the Maldives (HRCM) stipulates that all funding should be provided by the state (ANNI, 2012). Conversely, some NHRIs receive substantial funding for activities outside of the core state supported functions - e.g. Ghana's Commission on Human Rights and Administrative Justice, which has received substantial funding from the Danish government for education initiatives (ICHRP 2004). Others are highly dependent on external funding for core and extra activities – e.g. the Palestinian Independent Commission for Human Rights (PICCR) (Byrnes et al. 2008).

2.2 Aid and development cooperation

There is limited publically available and comparable information about aid flows to NHRIs. While the OECD-Development Co-operation Directorate database provides data on aid flows to human rights related issues, a central source with more detailed data on aid flows to NHRIs is not available (expert comment). A bottom up approach – contacting the NHRIs directly – is one way that this information could be generated (expert comment).

Levels of budget transparency vary according to each NHRI. Some NHRIs provide comprehensive data on their websites (e.g. the Afghanistan Independent Human Rights Commission - see below example and table 1). However, the majority of NHRIs do not provide this data in an accessible way on their websites. Other NHRIs provide information to regional human rights institutes or organisations (e.g. the National Human Rights Commission of Nepal – see below example). Finally, some NHRIs do not provide any information on funding, not even to NHRI monitoring bodies (e.g. the Myanmar National Human Rights Commission established in 2011) (ANNI, 2012).

In view of this evidence gap, a group of US academics are currently leading a project – called the National Human Rights Institutions Data Collection Project - to generate descriptive and quantitative data on NHRIs.[3] This project includes a coding exercise which will provide information on whether an NHRI reports to receive funding from: the government; private sources; IGOs; NGOs; and/or other countries.[4] The exercise will not provide information on the exact sources of funding, or on the percentage mix of funding sources. It is important to note that this data is sourced directly from the NHRI, and therefore the information may, or may not, correlate to where the NHRI actually receives its funding in practice.

Aside from providing aid, UNDP and OHCHR work with many NHRIs in-country (particularly in Asia Pacific and Africa) as an implementing partner, through technical assistance or training activities, and as a partner in NHRI related activities (OHCHR 2009). UNDP-OHCHR (2010) have produced a useful toolkit for collaboration with NHRIs which reviews the different funding mechanisms through which UN technical assistance projects can be funded.[5]

2.3 Examples

The Afghanistan Independent Human Rights Commission (AIHRC)

The AIHRC received funding from 17 external sources from January 2010 to March 2011 (AIHRC 2011).[6] Data in the AIHRC Annual Report (2011: 85-86) indicates that approximately 99.8% of the AIHRC's budget over this period was sourced from external donors.[7] Byrnes et al. (2008) also recognise AIHRC's high dependence on external assistance. Table 1 details the five largest contributions made by donors in 2008, 2009 and 2010-2011.

Table 1: Top five donors to AIHRC 2008-2011

Period	Total budget ($ USD)	Budget contribution - five largest contributions/donors ($ USD)					
		Finland	Denmark	Switzerland	Netherlands	Australia	Canada
2010-March 2011	8,315,391	1,382,830	1,163,779	1,000,000	999,872	924,550	*
2009	11,708,873	1,225,313	2,211,411	1,041,574	910,726	*	4,125,138
2008	12,198,593	1,416,524	1,171,370	1,000,096	1,274,595	*	3,959,060

* Not in top five donors in specific year
Sources: AIHRC 2011, AIHRC 2009, AIHRC 2008

The National Human Rights Commission of Nepal (NHRC)

The NHRC must seek government approval to accept external funding. The Asian NGO Network on National Human Rights Institutions (ANNI) (2012) list the following sources of funding for the NHRC in

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[3] For more detailed on the National Human Rights Institutions Data Collection Project see - http://psci.unt.edu/~demeritt/nhri/The_National_Human_Rights_Institutions_%28NHRI%29_Data_Collection_Project.html

[4] This data will be publically available around May/June 2013.

[5] See page 115-116 - http://www.ohchr.org/Documents/Countries/NHRI/1950-UNDP-UHCHR-Toolkit-LR.pdf

[6] Canada, Denmark, Finland, Norway, New-Zealand, UK, SDG Switzerland, Netherlands, Australia, French Embassy, UNHCR, Save the Children Sweden-Norway (SCS-N), UNICEF, German Development Service (DED), Sweden, Open Society and the German Embassy.

[7] It is important to note that the data provided in the AIHRC report appears inconsistent

2011: National government – $2,115,870 (USD); UNDP – $1,900,000 (USD) (to cover a project running from August 2009 to December 2012); and Save the Children - €200,000.

The Ombudsman for Human Rights and Justice (PDHJ) in Timor-Leste

ANNI (2012) reports that the PDHJ's total budget in 2001 was $1,298,000 (USD), with further funding of $550,000 (USD) received from international donors for institutional and capacity development.

Asia Pacific Forum of National Human Rights Institutions (APF)

The APF is a regional national human rights institution and is funded by membership fees, voluntary contributions and grants from APF members, UN agencies, governments, foundations and other NGOs. External funds have been provided by: governments - Australia, India, New Zealand, Republic of Korea, Sweden and Thailand; multilateral bodies - OHCHR and UNDP; philanthropic organisations - MacArthur Foundation and the Raoul Wallenberg Institute; philanthropic individuals and other private donors (APF, 2012).

3. Challenges, lessons learned and good practice

The Paris Principles provide the basis for good practise in NHRIs, in addition to these, the literature reviewed for this report revealed a number of key challenges, lessons learned and good practice.

Donor coordination

UNDP-OHCHR (2010) toolkit identifies donor coordination as a key challenge noting that NHRIs can be approached by multiples donors with multiple different proposals for programmes and capacity building. Each source of funding usually requires different administrative and financial reporting procedures, and will not necessarily be in line with standard procedures within the NHRI itself.

Notably, nearly half of the respondents in the OHCHR survey (2009) claimed their NHRI budget is insufficient. NHRIs with budget constraints that cannot generate enough funds domestically can find it difficult to refuse donor funds (UNDP-OHCHR 2010). Similarly, NHRIs that are institutionally weak may find it difficult to comply with donor reporting procedures, and may not be able to meet demands linked to technical assistance projects (e.g. integrating consultants into the institution, or providing time and resources for training) (UNDP-OHCHR 2010). Durbach (2008) identifies this as a particularly important concern in fragile states or those negotiating difficult political transitions. Donor coordination efforts to bringing together multilateral and bilaterals are important to enhance aid effectiveness with NHRIs.

Donor driven priorities

GIZ[8] (2011) and ICHRP (2004) identify the following good practice principles for donor activities with NHRIs:

- Respect NHRIs' independence (be cautious of prioritising particular models for the development of NHRIs that are not appropriate to the national context);

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[8] Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ)

- Don't divert NHRIs from their own priorities through cooperation (or at the expense of other human rights mechanisms – e.g. the judiciary);

- Don't overstretch NHRIs' capacities through cooperation;

- External funds should not incentivise the country not negate to fulfil its obligations; and

- Pay particular attention to consulting widely within the country concerned about the purpose, structure and role of new national institutions.

Donor funded and proposed projects can often be supply rather than demand driven. This means that initiatives may not be appropriate to the local context or may duplicate work already carried out (UNDP-OHCHR 2010). Durbach (2008) notes that the UN OHCHR mission to Nepal (established in 2005) supported and strengthened the capacity of the NHRC, however eventually competed with the NHRC due to both having a similar mandate, and weaknesses in the NHRC's capacity to carry out its mandate.

Donors must also be cautious not to overburden NHRIs with extra mandates or coverage of issues, and should recognise the definition of human rights that the NHRI is operating under. If donor funding does not align with or support national priorities - or even perhaps contradicts national priorities – the overall impact on strategic national goals may be less effective. UNDP-OHCHR (2010) notes that NHRIs "are increasingly called upon to get involved in development-related issues", and this may compromise their activities in other core human rights areas such as torture or arbitrary detention.

Financial constraints – autonomy and source scarcity

As noted above, nearly half of the respondents in the OHCHR survey (2009) claimed their NHRI budget is insufficient. Durbach (2008) highlights that bilateral and multilateral aid is crucial for the NHRC in Nepal, as the government has not provided enough resources. A key recommendation by the OHCHR (2009: 52) following their survey of NHRIs was for NHRIs, UN bodies and donors to prioritise capacity building activities for NHRIs in regards to managing relationships with national government, including in budget allocation.

Linking NHRIs with international and regional mechanisms

The Paris Principles specify that NHRIs are responsible for cooperation with local, regional and international human rights organisations and civil society organisations (CSOs). The OHCHR (2009: 5) survey of NHRIs founds that overall respondents felt that the level of NHRI engagement with international and regional human rights mechanisms is "significantly underdeveloped" – reflected by limited follow up on recommendations and limited familiarity with international systems.

Suggested reasons for this include: budget and resource constraints, and difficulties in accessing the international system (due to insufficient training, problems with communication, high staff turnover, lack of knowledge, etc). ANNI (2012) recognises that the interaction and cooperation between NHRIs and CSOs in many countries in the region has varied and determined by the degree of independence and autonomy of the respective NHRIs. ANNI (2012) identifies a good practice example in Bangladesh, where the Bangladesh National Human Rights Commission (NHRC) has provided financial support to a local CSO to develop a "Practical Handbook" to advise on how to submit complaints to the NHRC. Local CSOs are often underfunded, highlighting an area where external actors could fill an important financing gap.

NHRIs suggestions for support

Finally, it is important to consider the NHRIs' particular concerns. In the OHCHR (2009: 49) survey of NHRIs, respondents identified the followed examples of how external actors can support NHRIs:

- Supporting NHRIs to get financial support;

- Providing training, internship opportunities and funding to attend events for NHRIs (especially in relation to the UN human rights mechanisms and the ICC);

- Showing political support for the decisions/recommendations made by NHRIs in relation to national governments;

- Organising capacity development activities for staff of NHRIs (at the national, regional and international level);

- Targeted technical assistance that builds on expertise on substantive human rights issues (e.g. on issues such as communications, dealing with conflict-related issues, conflict transformation and the role of NHRIs);

- Making the ICC more visible and accessible;

- Increasing awareness about the role of NHRIs amongst government agencies; and

- Greater recognition of the limited capacity of NHRIs to deal with the volume of requests for information or engagement at the international level.

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Key websites

- The International Coordinating Committee for National Human Rights Institutions (ICC) - http://nhri.ohchr.org/EN/Pages/default.aspx
- Asian Forum for Human Rights and Development (FORUM-ASIA) - National Human Rights Institutions (NHRI) - http://www.forum-asia.org/?issues=national-human-rights-institutions-nhri
- Asia Pacific Forum of National Human Rights Institutions (APF) - http://www.asiapacificforum.net/
- Network of African National Human Rights Institutions - http://www.nanhri.org/

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