UNITED NATIONS
HUMAN RIGHTS
OFFICE OF THE HIGH COMMISSIONER

The status of
NATIONAL MECHANISMS FOR
REPORTING AND FOLLOW-UP
IN SOUTHERN AFRICA

PRACTICES, CHALLENGES AND RECOMMENDATIONS
FOR EFFECTIVE FUNCTIONING

CONSULTATION

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ABBREVIATIONS AND ACRONYMS

CAT	The Convention Against Torture, and Other Cruel, Inhuman or Degrading Treatment or Punishment
CEDAW	Convention on the Elimination of all forms of Discrimination Against Women
CIERD	Comissão Intersectorial para a Elaboração de Relatórios Nacionais de Direitos Humanos (CIERDH) - Intersectoral Commission for Reporting on Human Rights
CPED	International Convention for the Protection of All Persons from Enforced Disappearance
CRC	The Convention on the Rights of the Child
CRC-OP-SC	Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography
CRPD	Convention on the Rights of Persons with Disabilities
FOSAD	Forum of South African Director-General
ICCPR	International Covenant on Civil and Political Rights
ICCPR-OP1	Optional Protocol to the International Covenant on Civil and Political Rights
ICCPR-OP2	Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty
ICERD	The Convention on the Elimination of all forms of Racial Discrimination
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICESCR-OP	Optional Protocol to the Covenant on Economic, Social and Cultural Rights

ICMW	International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families
ICRF	Interministerial Committee for Reporting and Follow-up
IDC	Inter-Departmental Committee on Compliance
NMIRF	National Mechanism for Implementation, Reporting and Follow-up
NMRF	National Mechanism for Reporting and Follow-up
OHCHR	Office of the High Commissioner for Human Rights
OP-CAT	Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
OP-CEDAW	Optional Protocol to the Convention on the Elimination of Discrimination against Women
OP-CRC-AC	Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict
OP-CRC-IC	Optional Protocol to the Convention on the Rights of Child on a communication procedure
OP-CRPD	Optional Protocol to the Convention on the Rights of Persons with Disabilities
ROSA	Regional Office for Southern Africa
SDGs	Sustainble Development Goals
SPT	Subcommittee on Prevention of Torture
UNCT	United Nations Country Team
UPR	Universal Periodic Review
VNR	Voluntary National Report

EXECUTIVE SUMMARY

This report seeks to complement the Office of the United Nations High Commissioner for Human Rights (OHCHR) Practical Guide to Effective State Engagement with International Human Rights Mechanisms and the accompanying Study of State Engagement with International Human Rights Mechanisms. The practical guide identifies the key ingredients for a well-functioning and efficient National Mechanism for Reporting and Follow-up (NMRF). It is prepared following a survey that covered 11 countries in the Southern Africa sub-region (namely Angola, Botswana, Eswatini, Lesotho, Madagascar, Mauritius, Mozambique, Namibia, South Africa, Zambia and Zimbabwe), between 15 April and 31 May 2019. The survey looked at the status of NMRF in Southern Africa, focusing as well on practices, challenges and recommendations for effective functioning.

The present report demonstrates that in Southern Africa there is a clear correlation between the structure of NMRFs and the reporting performance to human rights mechanisms (i.e., reporting to United Nations treaty bodies and the Universal Periodic Review (UPR). Specifically, countries that have a more institutionalised functional NMRF (Angola, Madagascar, Mauritius and Namibia) exhibit effective capacity to engage with human rights mechanisms, coordinate reporting processes with Government ministries, consult with civil society organisations (CSOs) and National Human Rights Institutions (NHRIs) and manage information to facilitate implementation of recommendations. All countries that have less institutionalised reporting and follow-up working processes (Lesotho, Seychelles, Zambia and Zimbabwe) do not demonstrate these capacities.

The survey revealed that the structures of all 11 countries, irrespective of the model, have the executive responsibility to convene meetings with Government ministries and departments and coordinate the collection of information required for reporting purposes. Four countries (Angola, Madagascar, Mauritius, and Namibia) have established a more institutionalised network of focal points from various Government ministries and departments to constitute a NMRF. However, countries without a network of permanent focal points (Botswana, Eswatini, Mozambique, South Africa, Zambia and Zimbabwe), invariably struggle to build the capacity of their staff and to hold regular meetings with human rights focal points in other ministries for purposes of gathering information for reporting and implementing recommendations.

Angola, Madagascar, Mauritius, and Namibia, which have a permanent secretariat, have been able to establish a network of human rights focal points within Government ministries and institutions that endure beyond the writing of individual treaty body reports. They meet regularly with these focal points and make use of an annual work plan to coordinate reporting and follow up activities.

The lack of capacity to produce required reports through a NMRF structure places limits on the capacity of State parties to consult with key role-players, like NHRIs and CSOs. If State parties are unable to produce draft reports, there is no foundation to consult with NHRIs and CSOs. Further, in the absence of a permanent secretariat, which has established the capacity to draft reports, it is unlikely that countries will be able to deepen their consultation capacities. Countries with more institutionalised structures and permanent secretariats demonstrated better capability to enhance the implementation of recommendations from all human rights mechanisms and in turn meet the Sustainable Development Goals (SDGs) reporting requirements.

The survey also revealed several good practices on how States engage with United Nations human rights mechanisms, coordinate with various Government ministries/ departments, consult with other stakeholders, and manage information to foster implementation. For example, Angola has a NMRF established through an executive decree made up of representatives from more than 25 Government ministries with a Secretariat within the Ministry of Justice and Human Rights. Mauritius has a NMRF that consults regularly with CSOs and the Mauritius National Human Rights Commission in the preparation of reports to human rights mechanisms. Madagascar has developed a work plan and calendar of activities together with timelines, assigned responsibilities and estimated budgets. Madagascar has also established an operationalisation plan for the implementation of recommendations (including treaty bodies, the UPR and special rapporteurs) and produced a mid-term report which tracks the implementation of recommendations. Mauritius involves civil society groups in the monitoring and collection of information which demonstrates the implementation of recommendations from human rights mechanisms.

OHCHR's support in establishing effective and functioning NMRFs extends to facilitating dialogue on human rights matters in the sub-region and continue to strengthen good governance. Among the achievements are the following:

- Line ministries have become empowered;
- Human rights expertise has been enhanced beyond the usual actors within the ministries of justice and foreign affairs. Expertise has been extended to other ministries responsible for health, education, and others who work on the 2030 Agenda for Sustainable Development;
- The human rights-based approach to data collection and development of national-level indicators has been strengthened;
- Collaborations with the parliament, national statistics office, SDG coordinating bodies, judiciary, NHRIs and CSOs have been established and formalised; and
- Coordination has been generally enhanced.

While there is still a strong need for several States in the sub-region to provide adequate financial, human and technical resources to ensure that NMRFs meet their full potential and operate effectively, great strides have been made in institutionalising and increasing their engagement with human rights mechanisms.

Finally, the report presents recommendations of measures that should be taken into consideration to strengthen NMRFs. The report recommends that Member States in the sub-region improve their capacity in engagement, coordination, consultation and information management to enhance the functioning of NMRFs.

Introduction

1. INTRODUCTION

There has been an increase in ratifications of international and regional human rights treaties, with the consequent rise in States party reports to the United Nations and African Union human rights treaty monitoring bodies. The cyclic nature of the Universal Periodic Review (UPR) process, as well as the requests for visits and communication from special procedure mandate-holders, requires Member States to increase their interaction with human rights mechanisms. However, this is often done with limited means to meet the corresponding demand. Timely reporting and effective follow-up on recommendations benefits Member States. It enhances good governance, facilitates the receipt of expert advice and good practice at regional or international level on the implementation of human rights obligations. This also ensures that Member States become more accountable to rights-holders. The creation of sustainable national institutional structures has become crucial in responding to reporting and implementation challenges. The structures should also improve the substantive quality of the interaction between the State and international and regional human rights mechanisms, which in turn leads to more relevant and context-specific implementable recommendations.

In order to adequately address these ever-growing, multiple and varied demands, an increasing number of States have adopted a comprehensive and efficient approach to reporting and follow-up by setting up a NMRF. A NMRF is a permanent national governmental mechanism or structure that is mandated to coordinate and prepare reports to and engage with international and regional human rights mechanisms (including treaty bodies, the UPR and special procedures), and to coordinate and track national follow-up and implementation of the treaty obligations, and the recommendations emanating from these mechanisms. It may be ministerial, interministerial or institutionally separate.

Although such national mechanisms are not entirely new, Member States and the United Nations have in recent years put more focus on establishing and reinforcing such permanent mechanisms, as reflected in the OHCHR Study and Practical Guide on *National Mechanisms for Reporting and Follow-up: A Practical Guide to Effective State Engagement with International Human Rights Mechanisms*.[1]

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1 A Practical Guide and Study on National Mechanisms for Reporting and Follow-up (2016)

In recent years, the establishment of NMRFs has been a key recommendation from OHCHR[2] and the Human Rights Council through the UPR and has been increasingly discussed during interactive dialogues with treaty monitoring bodies. Member States have recognised the importance of the matter and have created a Group of Friends on **National Mechanisms for Implementation, Reporting and Follow-up (NMIRF)** in the Human Rights Council. The usefulness of establishing a NMRF is highlighted to States in the letters sent by the High Commissioner after each UPR country review, and in reports to the General Assembly or the Human Rights Council.[3] Furthermore, in September 2019, the Human Rights Council adopted resolution 42/30[4] on "promoting international cooperation to support national mechanisms for implementation, reporting and follow-up" which requested OHCHR "to organise five regional consultations to exchange experiences and good practices relating to the establishment and development of NMIRF, and their impact on effective implementation of human rights obligations and commitments, in consultation with all relevant stakeholders." These consultations will be critical in the sharing of good practices as well as challenges, and promoting NMIRF. The Human Rights Council has adopted two more resolutions related to NMIRF. The resolution 30/25 (2015) encourages States to establish and strengthen national human rights follow-up systems and processes. The resolution 36/29 (2017) underlines the contribution of NMIRF to the implementation of the 2030 Agenda for Sustainable Development.

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2   Report by the United Nations High Commissioner for Human Rights on Treaty Body Strengthening in 2012 (A/66/860)

3   See the High Commissioner's report on strengthening the United Nations human rights treaty body system, A/66/860, June 2012, the report of the Secretary-General on "Strengthening United Nations action in the field of human rights through the promotion of international cooperation and the importance of non-selectivity, impartiality and objectivity", A/72/351, August 2017; as well as reports of OHCHR on "Operations of the Voluntary Fund for Financial and Technical Assistance in the implementation of the universal periodic review", A/HRC/41/29 of May 2019, paras 17-18; and "Implementation and enhancement of international cooperation in the field of human rights", A/HRC/41/25 of April 2019

4   https://documents-dds-ny.un.org/doc/UNDOC/LTD/G19/283/86/PDF/G1928386.pdf?OpenElement

1.1   Objectives

This report aims at promoting discussion among States on the importance of NMRFs by providing information on the status and practices of NMRFs in Southern Africa. The study also serves to raise awareness on existing NMRFs in the sub-region, share best practices and suggest ways for States to establish or strengthen existing NMRFs. It further highlights the relationship between having an effective functioning NMRF, timely preparation of reports to human rights mechanisms and the implementation of recommendations from all human rights mechanisms linked to the SDGs. Finally, the report also identifies key areas for intervention to enhance the capacity of NMRFs and to encourage States to establish a NMRF. It also serves as a useful tool for engagement and advocacy. This report also seeks to feed into the deliberations as mandated by Human Rights Council resolution 42/30.

1.2   Methodology

The report draws on information collected in 2019 using a questionnaire, on measures and practices related to NMRFs received from 11 countries in Southern Africa (namely Angola, Botswana, Eswatini, Lesotho, Madagascar, Mauritius, Mozambique, Namibia, South Africa, Zambia and Zimbabwe).[5] The research focused on the functions and tasks of existing NMRF. A range of national mechanisms were studied on the basis of their operational structure and degree of institutionalisation, from ad hoc arrangements to fully institutionalised mechanisms.

The degree of institutionalisation was measured against four key capacities which an effective NMRF typically should have. These capacities are engagement, coordination, consultation and information management.

Engagement capacity: refers to the capacity to engage and liaise with international and regional human rights bodies as well as within the State party to organise and centrally coordinate interaction with human rights mechanisms. In addition, facilitate the preparation of reports and responses to, or organise the visit of, international and regional human rights mechanisms, which requires different levels of technical expertise.

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5   No responses were received from Comoros, Malawi and Seychelles. However, some information obtained through direct contacts and publicly available information is included about these three countries in some sections of this report.

Coordination capacity: refers to the authority to disseminate information, and to organise and coordinate information gathering and data collection from government entities, but also other State actors such as the National Statistics Office, the SDG implementation focal point "agency/ministry", parliament and the judiciary, for reporting and follow-up to recommendations.

Consultation capacity: refers to the capacity to foster and lead meaningful consultations for reporting and follow-up with civil society and NHRIs including with marginalised groups or those left behind.

Information management capacity: refers to the ability to:

(1) track the issuance of recommendations/decisions made by the human rights mechanisms;
(2) cluster recommendations/decisions by theme (including against SDGs) and identify responsible entities for implementation;
(3) develop human rights recommendations implementation plans, national human rights action plans, and feed into SDG roadmaps; and
(4) coordinate and manage information regarding the implementation of human rights obligations, commitments and recommendations.

This capacity would contribute to the States' efforts to "integrate their obligations and commitments under international human rights law into their national legislation and public policies in order to ensure that State action at the national-level is effectively directed towards the promotion and protection of all human rights and fundamental freedoms, in order to contribute to the prevention of human rights violations" as underlined in Human Rights Council resolution 42/30.

The survey was further enriched by information found in:

(i) the 2016 OHCHR Practical Guide and Study on NMRFs;
(ii) country profile on OHCHR treaty body database[6];
(iii) reports from missions undertaken by the OHCHR Regional Office for Southern Africa, under the Treaty Body Capacity Building Programme (TBCBP).

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6   https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Countries.aspx

The degree of institutionalisation was also measured based on the status of **a comprehensive formal legislative or policy mandate**, as well as a common intra-governmental understanding of its role and political ownership at the highest level. In addition**, clear terms of reference** drawn from the mandate and understood by all the members of the NMRF were part of the analysis. **Permanent membership** nominated by officials at ministerial or director level and participating in the work of the NMRF (for example, at plenary meetings, providing inputs for State party reporting and implementation of recommendations, during draft report validation meetings) and the role of an **executive secretariat** that coordinates the work of the NMRF also counts for the measurement of the degree of institutionalisation.

Impact of National Mechanisms for Reporting and Follow-up

2. IMPACT OF NATIONAL MECHANISMS FOR REPORTING AND FOLLOW-UP

2.1 *Baselines for engagement with human rights mechanisms*

The General Assembly in its resolution 68/268 of April 2014[7], as one of the outcomes of the treaty body strengthening process, recognised that many States have difficulties in living up to their multiple reporting obligations and established a Treaty Body Capacity Building Programme within the Office of the High Commissioner for Rights (OHCHR) to provide technical support to States. Under operative paragraph 17 of resolution 68/268, the General Assembly "requests the Secretary-General, through the Office of the High Commissioner for Human Rights, to support State parties in building their capacity to implement their treaty obligations, and provide in this regard advisory services, technical assistance and capacity-building, in line with its mandate, in consultation with and with the consent of the State concerned". Capacity building to States includes support to establish and strengthen NMRFs.

When the OHCHR Regional Office for Southern Africa started engaging with States and other stakeholders in the sub-region at the beginning of 2015, through dedicated staff capacity, NMRFs only existed in Angola, Botswana, Madagascar, Mozambique, Namibia and Zimbabwe. These mechanisms needed technical support and strengthening, which OHCHR has provided. OHCHR has also supported with the establishment of NMRFs in Eswatini, Lesotho, Mauritius and Zambia. Today, as shown on the table below, There are currently 10 established NMRFs in the sub-region and OHCHR continue to engage with Malawi and Seychelles to promote the establishment of NMRFs.

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7 https://www.ohchr.org/Documents/HRBodies/TB/HRTD/A-RES-68-268_E.pdf

The status of ratification was as follows:

Figure 1: National Mechanism for Reporting and Follow-up Survey and Ratification Status to Core Human Rights Treaties.

Seychelles
Treaties ratified:
CAT, CERD, CRC, CR-OP-AC, CRC-OP-SC, OP-CRC-IC, ICCPR, OP-ICCPR, 2nd OP-ICCPR, ICESCR, CEDAW, OP-CEDAW, CRPD, CPED, CMW

Mauritius
Treaties ratified:
CAT, OP-CAT, CERD, CRC, CRC-OP-AC, CRC-OP-SC, ICCPR, OP-ICCPR, ICESCR, CEDAW, OP-CEDAW, CRPD
Not a state party:
CPED, CMW

Madagascar
Treaties ratified:
CAT, CERD, CRC, CRC-OP-AC, CRC-OP-SC, ICCPR, OP-ICCPR, 2nd OP-ICCPR, ICESCR, CEDAW, OP-CEDAW, CRPD, OP-CRPD, CMW
Not a state party:
CPED

Comoros
Treaties ratified:
CAT, CERD, CRC, CRC-OP-SC, CEDAW, CRPD

Malawi
**Treaties ratified:**
CAT, CERD, CRC, CRC-OP-AC, CRC-OP-SC, ICCPR, OP-ICCPR, ICESCR, CEDAW, CRPD, CPED
Not a state party:
CMW

Mozambique
Treaties ratified:
CAT, OP-CAT, CERD, CRC, CRC-OP-AC, CRC-OP-SC, ICCPR, OP-ICCPR, CEDAW, OP-CEDAW, CRPD, OP-CRPD, CMW
Not a state party:
ICESCR, CM

South Africa
Treaties ratified:
CAT, CERD, CRC, CRC-OP-AC, CRC-OP-SC, ICCPR, ICESCR, CEDAW, CRPD, OP-CRPD
Not a state party:
CPED, CMW

Eswatini
Treaties ratified:
CERD, CRC, CRC-OP-AC, CRC-OP-SC, ICCPR, OP-ICCPR, ICESCR, CEDAW, CRPD
Not a state party:
CAT, CPED, CMW

Zimbabwe
Treaties ratified:
CAT, CERD, CRC, CRC-OP-AC, CRC-OP-SC, ICCPR, OP-ICCPR, ICESCR, CEDAW, OP-CEDAW, CRPD, CPED, CMW

Zambia
Treaties ratified:
CAT, CERD, CRC, CRC-OP-AC, CRC-OP-SC, ICCPR, OP-ICCPR, ICESCR, CEDAW, CRPD
Not a state party:
CPED, CMW

Lesotho
Treaties ratified:
CAT, CERD, CRC, CRC-OP-AC, CRC-OP-SC, ICCPR, OP-ICCPR, ICESCR, CEDAW, OP-CEDAW, CRPD, CPED, CMW

Botswana
Treaties ratified:
CAT, CERD, CRC, CRC-OP-AC, CRC-OP-SC, ICCPR, CEDAW, OP-CEDAW, CRPD
Not a state party:
CMW, CPED, ICESCR

Angola
Treaties ratified
CAT, OP-CAT, CERD, CRC, CRC-OP-AC, CRC-OP-SC, OP-CRC, ICCPR, OP-ICCPR, 2nd OP-ICCPR, ICESCR, CEDAW, CRPD
Not a state party:
CPED, CMW

Namibia
Treaties ratified:
CAT, CERD, CRC, CRC-OP-AC, CRC-OP-SC, ICCPR, OP-ICCPR, ICESCR, CEDAW, OP-CEDAW, CRPD, OP-CRPD
Not a state party:
CPED, CMW

(Additional box)
Treaties ratified:
CAT, OP-CAT, CERD, CRC, CRC-OP-AC, CRC-OP-SC, ICCPR, OP-ICCPR, 2nd OP-ICCPR, ICESCR, CEDAW, OP-CEDAW, CRPD, OP-CRPD
Not a state party:
CPED, CMW

The nine core human rights treaties and the optional protocols are as follows:

1. The International Convention on the Elimination of All Forms of Racial Discrimination (**ICERD**),

2. International Covenant on Civil and Political Rights (**ICCPR**),

    •   Optional Protocol to the International Covenant on Civil and Political Rights (**ICCPR-OP1**)
    •   Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty (**ICCPR-OP2**)

3. International Covenant on Economic, Social and Cultural Rights (**ICESCR**),

    •   Optional Protocol to the Covenant on Economic, Social and Cultural Rights (**ICESCR-OP**)

4. Convention on the Elimination of All Forms of Discrimination against Women (**CEDAW**),

    •   Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women (**OP-CEDAW**).

5. The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (**CAT**).

    •   Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (**OP-CAT**) establishing a Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of the Committee against Torture hereinafter referred to as the Subcommittee on Prevention of Torture (**SPT**).

6. The Convention on the Rights of the Child (**CRC**):

    •   Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (**CRC-OP-AC**),
    •   Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (**CRC-OP-SC**),

- Optional Protocol to the Convention on the Rights of Child on a communication procedure (**CRC-OP-IC**).

7. International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (**ICMW**).
8. Convention on the Rights of Persons with Disabilities (**CRPD**).

- Optional Protocol to the Convention on the Rights of Persons with Disabilities (**OP-CRPD**).

9. International Convention for the Protection of All Persons from Enforced Disappearance (**CPED**).

At the 28th meeting of Chairpersons of the Human Right Treaty Bodies held in New York from 30 May to 3 June 2016, it was reported that Southern Africa together with Central Africa, are the sub-regions with the highest number of overdue reports. Among the countries having four to nine overdue reports to the treaty bodies, eight countries were from Southern Africa.[8] Since then, the OHCHR Regional Office for Southern Africa has provided technical support to various countries in Southern Africa to establish and strengthen NMRFs in the sub-region, including support in reporting to the treaty bodies, UPR and engagement with Special Procedures mandate holders. As a result of the technical support, the backlog of reports to treaty bodies has been reduced in a number of countries in Southern Africa.

Figure 2: Technical Support Provided by OHCHR Regional Office for Southern Africa.
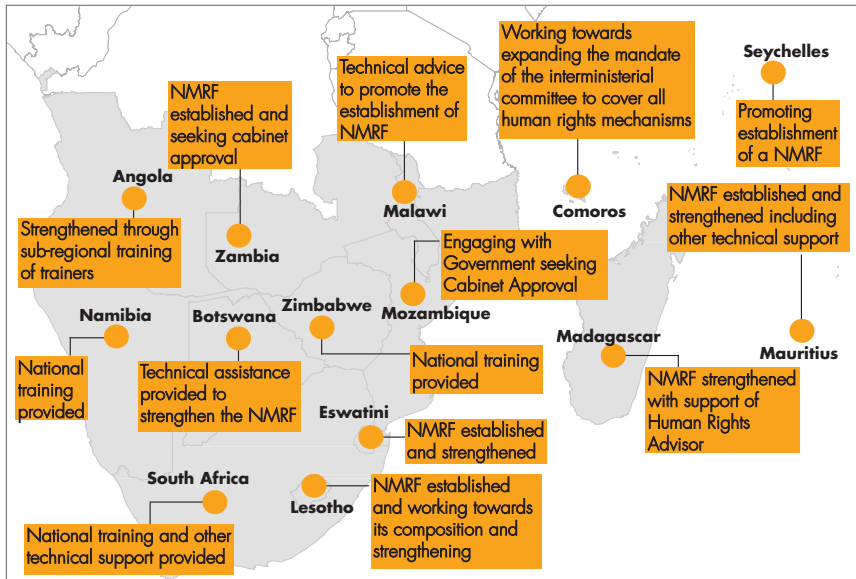
The technical assistance provided relied on the OHCHR Study and Practical Guide on NMRFs (2016) and other OHCHR tools, which are available to States to assist them, especially in their engagement with the treaty bodies, namely: a Treaty Reporting Manual and Trainers Guide (2017), a corresponding online training (2018); and a Practical Guide on National Mechanisms for Prevention of Torture (2018).

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8 Botswana, Eswatini, Lesotho, Malawi, Mozambique, Seychelles, Zambia and Zimbabwe

2.2 Increased institutionalisation of engagement with human rights mechanisms

As noted in the OHCHR Practical Guide on NMRF, State practice shows that there are four main types of national mechanisms, depending on their location within the Government structure, degree of institutionalisation and status:

(i)   ad hoc;
(ii)   ministerial;
(iii)   interministerial; and
(iv)   institutionally separate.

The last three are referred to as standing mechanisms. The increased knowledge and skills, coupled with the requisite political will in some countries led to an increased institutionalisation of NMRFs and to the establishment of standing NMRFs.

Overall, six countries (Botswana, Eswatini, Lesotho ,South Africa, Zambia and Zimbabwe) continue to work towards institutionalising and strengthening their NMRF while Angola, Madagascar, Mauritius and Namibia were found to have more effective institutionalised and supported structures.

More specifically regarding the current structures, **Angola** has established a Comissão Intersectorial para a Elaboração de Relatórios Nacionais de Direitos Humanos (an Intersectoral Commission for Reporting on Human Rights) (CIERDH) serving as a NMRF established by cabinet decree with membership of more than 25 representatives from various Government ministries and a secretariat hosted by the Ministry of Justice and Human Rights. Similarly, **Madagascar** has an Intersectoral Commission for Reporting on Human Rights (ICRF) made up of representatives from various Government ministries with a secretariat hosted by the Ministry of Justice. **Botswana** has established an Interministerial Committee on Treaties, Conventions and Protocols that serves as a NMRF with a secretariat hosted by the Ministry of International Affairs and Cooperation with representatives from various Government ministries. **Namibia** and **Zimbabwe** have Interministerial Committee on Human Rights and International Humanitarian Law with secretariats within the Ministries of Justice. In the case of Namibia, the Cabinet formally approved the mandate of the NMRF in April 2019 although it had been in existence since 2002. **Mozambique** has an interministerial committee responsible for the preparation of reports to human rights mechanisms and to follow-up on recommendations. The interministerial committee is still seeking cabinet approval.

In the case of **Mauritius**, the National Human Rights Action Plan 2012-2020 provided for a standing technical interministerial committee on treaty reporting to serve as a NMRF, which was established with a secretariat currently hosted by the Ministry of Foreign Affairs. In **Zambia** the Ratification of International Agreements Act, No. 34 (2016)[9] provides a legislative framework for Zambia's international agreements and includes reporting to bodies monitoring treaty implementation. Article 11(1) of the Act stipulates that where an international agreement provides for the submission of State reports as part of the monitoring mechanisms, the ministry responsible for the subject matter of the international agreement shall prepare and submit the State report within the period specified in the international agreement. In the absence of a NMRF, the Act cannot effectively address challenges in the preparation of State party reports to human rights mechanisms. Ministries required to prepare State party reports do not have the requisite technical capacity to do so as required in Article 11(1) of the aforementioned Act. Consequently, in December 2018, Zambia established a NMRF with a Secretariat within the Ministry of Justice awaiting cabinet approval.

In **South Africa**, a high-level Inter-Departmental Committee on Compliance (IDC) was established which reports to the Forum of South African Director-Generals (FOSAD) quarterly. The IDC was created to ensure compliance through the timely submission of reports, standardisation and harmonisation of South Africa's country reports and compliance with United Nations reporting guidelines. The IDC operates without permanent nominated membership or focal points from Government ministries/departments and without a designated secretariat to coordinate its overall work. As a result of these institutional and operational gaps, South Africa is currently working towards strengthening the institutional and operational capacity of the IDC. **Eswatini** on the other hand has established an interministerial committee with formal cabinet approval with a secretariat hosted by the Ministry of Justice and Constitutional Affairs. In August 2021, the cabinet of **Lesotho** approved the establishment of an Interministerial committee to function as a NMRF and the structure is still to be assigned with permanent membership. In September 2020, **Comoros** established an interministerial committee with limited mandate that focuses only on follow-up to implementation of recommendations from the UPR. **Seychelles** and **Malawi**, however, are still to set up a NMRF.

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9   http://www.parliament.gov.zm/sites/default/files/documents/acts/The%20 Ratification%20of%20International%20Agreements%20Act%20No.%2034%20of%202016. pdf

Some States in Southern Africa continue to implement a set of ad hoc reporting and follow up practices despite having a NMRF. A structure is created by an individual ministry for the purpose of completing a specific report and is disbanded when it delivers that report. The ad hoc structure does not retain any institutional capacity, practices, network, or knowledge as it is disbanded after completing the task. Usually, it has no objective or mandate for the follow-up to recommendations from international and regional human rights mechanisms although it may make use of standardised reporting and coordination practices.

Ad hoc practices are adopted because these mechanisms have not been effectively institutionalised. The countries where ad hoc practices are adopted include Botswana, which has an interministerial committee on treaties, conventions and protocols; Zambia, which has established an interministerial committee; Zimbabwe, which has an interministerial committee on Human Rights and International Humanitarian Law and South Africa, with an inter-departmental committee. Therefore, although Botswana, South Africa, Zambia and Zimbabwe have NMRFs, they fall into the less institutionalised category for the purpose of this report since they make use of ad hoc reporting and follow-up practices. A common thread of the challenge impacting the effective operation of these institutions is the difficulty of having designated and permanent membership from government ministries. Some newer institutional arrangements still require considerable technical support to strengthen the relevant capacities.

According to the typology in the sub-region, most countries in Southern Africa namely Botswana, Eswatini, Lesotho, Madagascar, Mauritius, Mozambique, Namibia, Zambia and Zimbabwe have opted for an interministerial model or the intersectoral model as in the case of Angola. Comoros also opted for an interministerial model with limited mandate on follow-up to the UPR recommendations.

An example from Mauritius

The Mauritius National Human Rights Action Plan 2012-2020 provided for the establishment of a standing technical interministerial committee to serve as a NMRF. With technical support from OHCHR Regional Office for Southern Africa Treaty Body Capacity Building Programme, Mauritius formally established a NMRF in 2017.

With ongoing technical support from OHCHR, the NMRF has strengthened its key capacities, adopted a formal mandate, terms of reference, and permanent membership from ministries, and is currently a standing technical interministerial committee. OHCHR further provided technical support to Mauritius with the preparation of State reports on ICCPR, ICESCR, CERD, CEDAW and CAT, leading to the submission of these outstanding reports, and a report for the UPR third cycle.

OHCHR is currently assisting the Government in using and customising the National Recommendations Tracking Database (NRTD) to its national context.

Figure 3: Types of National Mechanisms for Reporting and Follow-up in the sub-region.
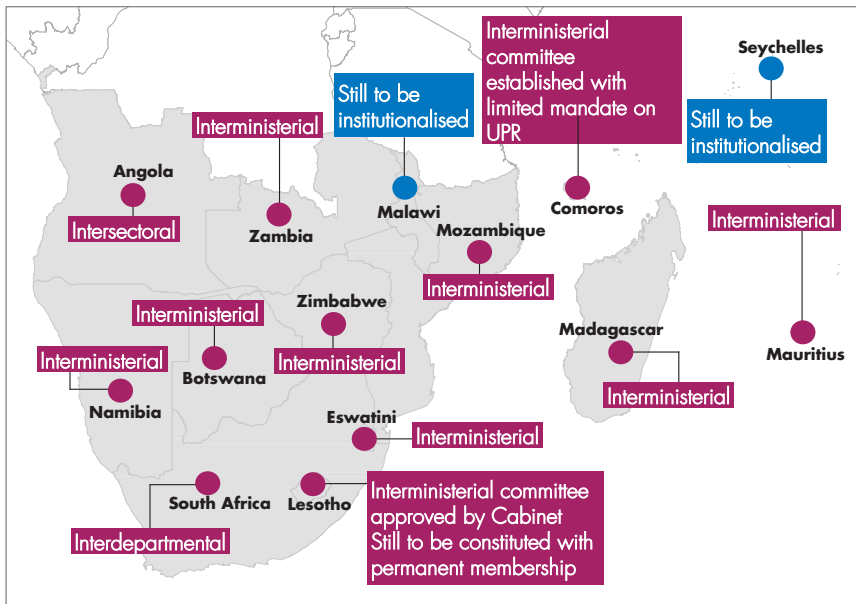
2.3   Decreased backlog in reporting

From January 2015 to date, OHCHR Regional Office for Southern Africa in collaboration with the United Nations Country Teams (UNCTs) have engaged States and provided technical support and guidance to establish/strengthen NMRFs and fulfill State party reporting obligations. This has resulted in an increase in reports submitted and a decrease in the number of outstanding reports, as seen in the figure below.

Figure 4: Impact of Treaty Body Capacity Building Programme on the submission of State party Reports.
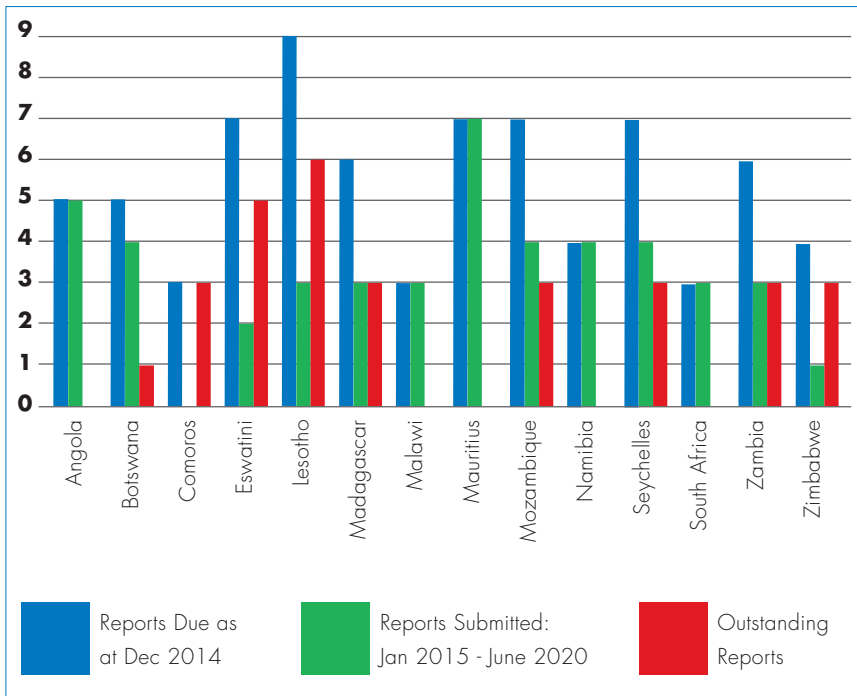
An example from Eswatini

The Kingdom of Eswatini increased its constructive engagement with the treaty bodies over the past four years culminating in the establishment of its national mechanism for reporting and follow-up in 2019.

In 2016, Eswatini had seven overdue reports to the treaty bodies including its initial report under the International Covenant on Civil and Political Rights. With the placement of a treaty body capacity building officer in OHCHR's Regional Office for Southern Africa, Eswatini commenced availing itself of OHCHR's technical assistance. Following an assessment mission in March 2016, a total of six workshops were conducted with focal points in different ministries including to establish a NMRF for engagement with all human rights mechanisms.

This led to the submission of a follow-up report to CEDAW and periodic report to CRC, and a response to the list of issues in the absence of a report under the ICCPR followed by a constructive dialogue with the Human Rights Committee in 2017. In light of the detailed replies to the Committee's list of issues, which the State party submitted in writing, and the constructive dialogue that the Committee had with a high-level delegation of the State party, the Committee considered the written replies as the initial report of the State party. On 11 June 2019, the Eswatini Cabinet also took the Decision to establish its NMRF.

2.4   Improved implementation of recommendations from human rights mechanisms

Many countries are burdened by heavy reporting obligations to international, regional and national human rights mechanisms, in addition to the National Voluntary Review of the SDGs. Human rights recommendations received by States can be numerous, but they are often reinforcing. Tracking recommendations and their implementation requires an effective institutional structure and enhanced information management capacity. To address this need, OHCHR has been supporting States in the sub-region to enhance the information management capacity of their NMRF. This entails the ability to track the issuance of recommendations and decisions by the international and regional human rights mechanisms; systematically capture and thematically cluster (including against SDGs) these recommendations and decisions in a user-friendly spreadsheet or database; identify responsible Government ministries and/or agencies for their implementation; develop recommendations implementation plans, which can feed into any other national action plan or roadmap, including timelines, with relevant ministries to facilitate such implementation and indicators; and manage information regarding the implementation of treaty provisions and recommendations, including with a view to preparing the next periodic report. Several countries in the sub-region have made some strides in implementing human rights recommendations by using such tracking tools (refer to pages 39 - 42 for more information under "3.4.4 information management capacity").

Illustrative examples of implementation of recommendations

Angola: The Universal Periodic Review 2nd cycle recommended that Angola accede to the Convention against Torture, the Convention on the Elimination of all form of Racial Discrimination and the second optional protocol to the Covenant on Civil and Political Rights on the Abolition of the Death Penalty (recommendation 134.11. A/HRC/28/11. In August 2019, Angola acceded to all three treaties.

Eswatini: In 2017, the Human Rights Committee recommended that Government "Promptly adopt legislation to effectively criminalise and combat sexual offences and domestic violence" (Recommendation 27(a) CCPR/C/SWZ/CO/1). In response, the Kingdom of Eswatini adopted the Sexual Offences and Domestic Violence Act 2018.

South Africa: The Human Rights Committee recommended that South Africa "speed up the preparations for the ratification of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and should establish a system for the regular and independent monitoring of all places of detention" (Recommendation 11 CCPR/C/ZAF/CO/1). In 2019, South Africa ratified the optional Protocol and established a national preventive mechanism with the mandate to monitor all places of detention.

Seychelles: The Committee on the Elimination of all forms of Discrimination against Women (CEDAW) recommended that Seychelles expeditiously adopts the national domestic violence bill and legislation criminalising other forms of gender-based violence, including sexual harassment (recommendation 26(a) CEDAW/C/SYC/CO/6). In 2020, Seychelles implemented the recommendation by adopting the Domestic Violence Act 2020.

Good practices and challenges in the establishment and work of National Mechanisms for Reporting and Follow-up

3.   GOOD PRACTICES AND CHALLENGES IN THE ESTABLISHMENT AND WORK OF NATIONAL MECHANISMS FOR REPORTING AND FOLLOW-UP

3.1   *Establishment of the mandate*

As highlighted in the OHCHR Practical Guide on NMRF, a NMRF may be established by legislation (passed through parliament), by a formal regulation (by the executive) or by a policy mandate (formed after the adoption of an executive/ministerial policy provision). In the sub-region, the following countries established an NMRF by legislation, by decree, or by policy mandate: Angola, Botswana, Eswatini, Madagascar, Mauritius, Namibia, South Africa and Zimbabwe. OHCHR found that for purposes of durability and sustainability, a comprehensive legislative mandate for NMRF was the preferred option, as executive decrees or policies were more susceptible to amendment. In addition, it found that political ownership was important for a mechanism's sustainability, as the mechanism needed to have the political influence and standing to ensure that feedback can be sought from and provided by the different institutions and ministries. Ministerial-level membership/designation or support, either through the mechanism's central location within the executive or through the direct participation of ministers (for example, at plenary meetings or during draft report validation meetings), is an important factor in this regard.

In some countries, it is very challenging to get the necessary political commitment for the establishment or strengthening of a NMRF. There are instances where an interministerial committee exists that serves as a NMRF with a secretariat hosted by the ministry of justice but this mechanism is yet to obtain cabinet approval. In countries where a legislative framework on international agreements already exists without a designated body, it is very challenging to position a NMRF as a coordination mechanism in the existing legislation. The complexity of the situation is exacerbated when there is a need to amend the legislation to include a NMRF as a national structure responsible for coordinating reporting and implementation of recommendations.

In countries where there is a lot of reliance on consultants to prepare reports to human rights mechanisms funded by the States or with financial support from members of the UNCT or other international donors, these counties are not motivated to

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establish or strengthen a NMRF. Another challenge faced is the high turnover of staff members working with various government ministries, leading to frequent changes in the membership of the NMRF. This impacts on the effective functioning of a NMRF requiring new staff members to be regularly trained on the content of human rights treaties, State party reporting and the four key capacities of a NMRF.

Figure 5: Mandate and Powers of National Mechanisms for Reporting and Follow-up.
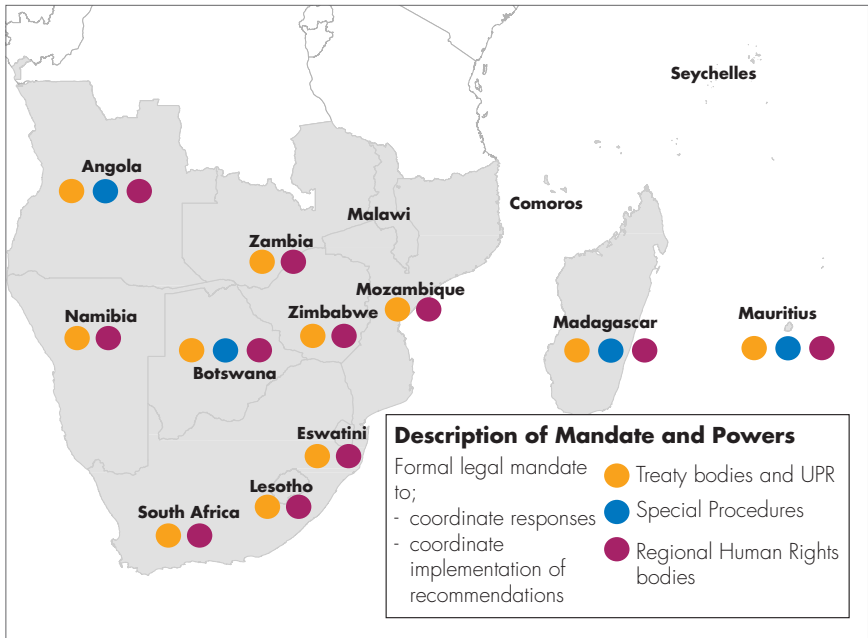
3.2   Structure, composition and permanent secretariat

The OHCHR Practical Guide on NMRF explains that another decisive factor for the effectiveness of a NMRF is the continuity of staff who are responsible for collecting information on specific rights, developing in-depth expertise on those rights and coordinating the national mechanisms' work in relation to those rights. This continuity will build sustainable expertise, knowledge and professionalism at the country level. A stable secretariat, as well as a mechanism with a broad membership, supported further by a network of focal points in various relevant ministries can contribute to such sustainability.

In the sub-region, the structure and composition of NMRFs are as follows:

- Four NMRFs (Angola, Madagascar, Mauritius and Namibia) indicated that their composition included government ministers. Interestingly, these four countries had the best reporting performance.
- Seven countries (Botswana, Eswatini, Mauritius, Mozambique, South Africa, Zambia and Zimbabwe) indicated that their composition included national directors and/or permanent secretaries/director generals of Government departments.
- Six countries (Lesotho, Eswatini, Mauritius, Mozambique, Namibia and Zambia). included legal or management level government officials in their composition.
- One country (Zimbabwe) includes the national human rights institution in its composition.
- Five countries (Angola, Madagascar, Mauritius, Zambia and Zimbabwe) included civil society groups within their composition.
- Madagascar included its national statistics office in the composition of its NMRF.

Using Angola as an example, key staff positions within the NMRF include a national director and a head of department within the ministry. The NMRF has set up a technical group within the Ministry of Justice and Human Rights, which is responsible for drafting various reports to human rights mechanisms. The coordinator of this group receives communications from United Nations bodies, in partnership with the Ministry of Foreign Affairs. However, it is the technical group which is responsible for responding to international human rights bodies. It channels its reports through the Cabinet, the Ministry of Foreign Affairs and the President's Bureau.

Madagascar has also established a permanent interministerial NMRF, the ICRF for the drafting of reports to human rights treaty bodies. The ICRF is composed of 47 representatives from the parliament and line ministries. It also includes representatives of CSOs. It is chaired by the Ministry of Justice and headed by a director. The ICRF has a full-time staff composed of a director, a head of service, a technician and a coordinator. The Human Rights Service within the Ministry of Justice acts as the Committee's permanent secretariat.

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Figure 6: Structure and Composition of National Mechanisms for Reporting and Follow-up.
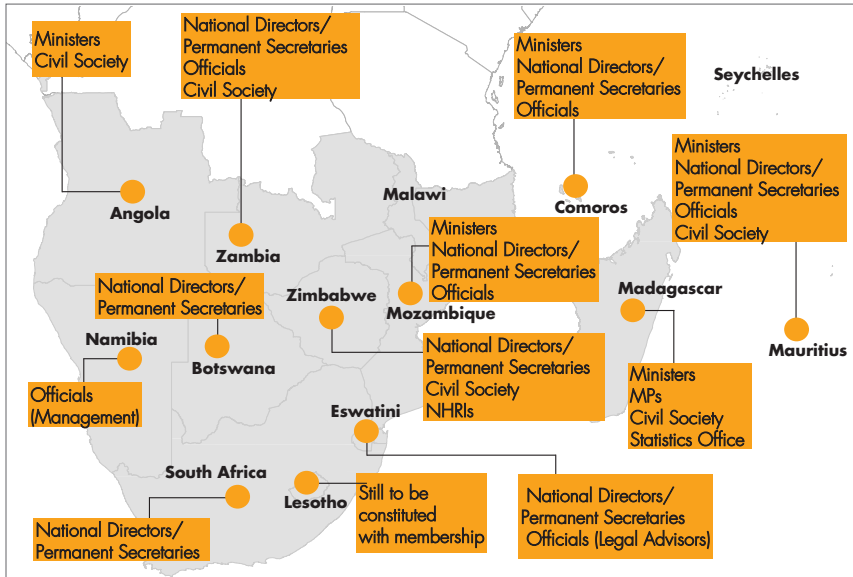
In terms of the staffing:

- Nine countries (Angola, Botswana, Eswatini, Madagascar, Mozambique, Mauritius, Namibia, South Africa and Zimbabwe) have a senior Government official in the form of a national director as a member of the NMRF.

- In seven countries (Botswana, Eswatini, Mauritius, Mozambique, South Africa, Zambia and Zimbabwe) the NMRFs are staffed with representatives or officials from several ministries.

- Six countries, (Angola, Botswana, Eswatini, Madagascar, Mauritius, Namibia), indicated that they had a permanent secretariat.

The absence of a predictable NMRF structure driven by a functional secretariat appears to provide a key indicator for the weak performance of countries in relation to reporting and communication with international human rights bodies. The NMRF of Angola, Madagascar, Mauritius and Namibia have permanent secretariats that service the work of the NMRF. The secretariat is responsible for regularly maintaining

mailing lists of members and ministerial human rights focal points, coordinating information collection, servicing the meetings of the national mechanism, and in collaboration with drafting teams compiling a first draft of reports. The permanent secretariat of a NMRF can be based in the Ministry of Justice (Angola, Madagascar, and Namibia) or the Ministry of Foreign Affairs (Mauritius).

3.3   *Financial and human resources including training*

OHCHR's Practical Guide on NMRF points out that NMRFs are dependent on their parent ministry or ministries for the provision of staff to undertake their various activities and budget allocations for their programmes and activities. The practical guide on NMRF indicates that the effectiveness of NMRFs does not necessarily depend on having their own budgets or direct control over the appointment of their staff. Impressive results can be achieved through extensive planning, if individual ministries make the necessary budget allocations to cover the work of the NMRF for the upcoming financial year (e.g., presence at treaty bodies or UPR meetings, or the collection of necessary information). This eliminates the need for a substantial and separate budget, and for separate staff, and ensures maximum efficiency in the use of available resources.

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All countries were asked to assess their degree of satisfaction with the financial resources allocated to their NMRF and the training of their staff. This included questions on access to financial resources and availability of human resources and on the amount of training provided to representatives sitting on the NMRF. The responses are captured by the graphics below:

Figure 7: Ability of National Mechanisms for Reporting and Follow-up to effectively perform their functions.
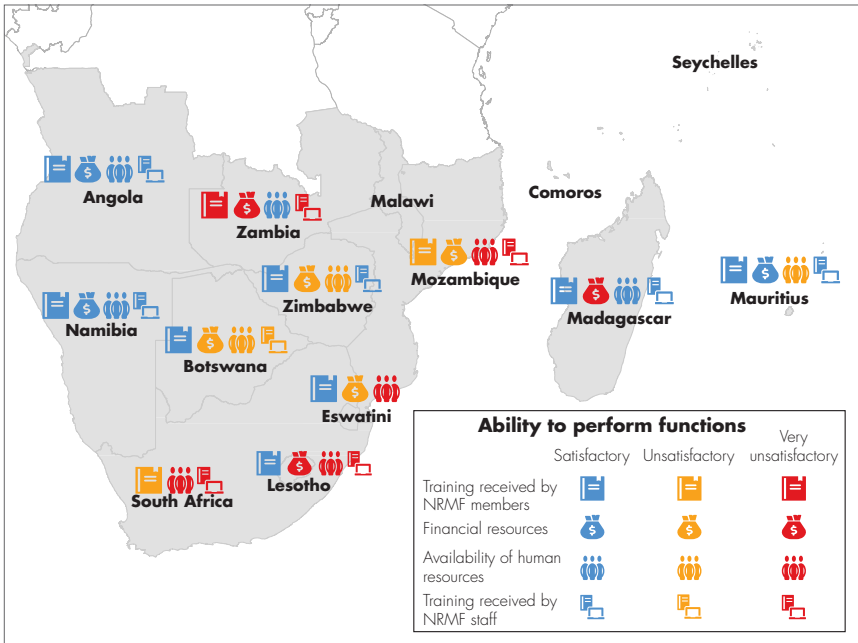

Pertaining to staffing and resources of a NMRF, good examples to highlight in the sub-region are Angola and Madagascar. The secretariat of the Angola intersectoral commission on treaty reporting is hosted by the Ministry of Justice and Human Rights. The activities of the NMRF are funded by budget allocation from the Ministry of Justice and Human Rights.

> "Two officials from the Ministry of Justice and Human Rights in Angola attended the OHCHR Treaty Body Capacity Building Programme sub-regional training on State party reporting in September 2016. Thereafter, there has been a series of engagement and technical support from OHCHR. This has provided additional impetus to Angola's NMRF to fulfil its reporting obligations to human rights mechanisms, enhance ratification of additional human rights treaties and working towards the use of the NRTD to facilitate the implementation of recommendations."
>
> *Anaceleste Januario, State Secretary for Human Rights and Citizenship, Government of Angola*

Interestingly, more than half (four out of six) of the NMRFs that are still implementing ad hoc processes (Botswana, Lesotho, South Africa and Zambia) expressed dissatisfaction with the level of training of their staff. This indicates that there is still a demand for training of NMRF members and staff. This demand is also exacerbated by the high turnover of staff in the civil service, which affects sustainable institutional knowledge. There is also a particular need for the training of staff by States that are practicing ad hoc reporting processes including States that are still to establish a permanent NMRF. However, the investment in this training should be sustainable and State parties should address staff turnover and the lack of security of tenure of staff.

Figure 8: Level of training, human and financial resources of National Mechanisms for Reporting and Follow-up.

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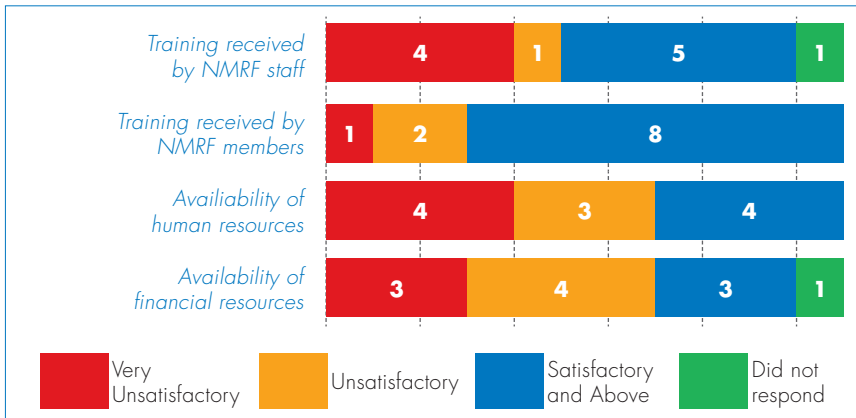
3.4   Capacities

The OHCHR Practical Guide on NMRFs advises that a NMRF needs to develop a set of core capacities for engagement, coordination, consultation and information management. These core capacities were found to contribute to strengthening the effectiveness of NMRF, their coordination and, ultimately, human rights-based governance and national accountability. The efficiency of a NRMF is measured against these four core capacities.

3.4.1 Engagement capacity

As per OHCHR Practical Guide on NMRFs, the engagement capacity of a NMRF refers to its capacity to:

a)   engage and liaise with international and regional human rights bodies (in the context of reporting, interactive dialogues or facilitation of visits by special procedure mandate holders or the Subcommittee on Prevention of Torture); and

b)   organise and centrally facilitate the preparation of reports to international and regional human rights mechanisms, and of responses to communications and follow-up questions and recommendations/decisions received from such mechanisms.

It is important for a NMRF to have a comprehensive mandate to engage with all human rights mechanisms (treaty bodies, special procedures, and the UPR) as they often make reinforcing recommendations and the implementation of recommendations from one mechanism may imply the implementation of a similar recommendation from another mechanism. Recommendations from the different mechanisms relating to a similar right might also give more clarity and direction to recommendations from another mechanism. In addition, thematic guidance issued by the mechanisms, for example in the form of general comments by the treaty bodies or through special procedure mandate-holders, thematic reports can give practical guidance to implementation.

In their responses to the survey, all 11 countries indicated that their NMRF facilitated engagement with the UPR and the treaty bodies. The NMRF in all countries except South Africa and Lesotho have responsibility for engaging with regional human rights mechanisms. Eswatini, Lesotho, Mozambique, Namibia, South Africa and

Zimbabwe indicated that their NMRF are not currently responsible for engaging with special procedures.

The NMRFs of Angola, Mauritius and Namibia have the power to respond directly to queries, comments and observations from the UPR, special procedures and treaty bodies. It is significant to highlight that all three of these NRMFs are institutionalised structures. By contrast, the NMRFs of Botswana, Mozambique and South Africa are only empowered to respond after referring their responses to their respective executive arms of Government. In the case of Botswana and South Africa, this can be explained by the fact that their mechanisms operate on an ad hoc basis in practice. Similarly, in the case of Lesotho, Madagascar, Eswatini and Zimbabwe (which have ad hoc processes, with the exception of Madagascar), they could only respond directly after obtaining some higher authorisation. Only Zambia indicated that it could not respond directly at all.

When NMRFs do not have the power to respond directly to communications received from treaty bodies, the UPR and special procedures, this requires the onward referral of these communications to more senior structures in the Government hierarchy. Having to wait for the responses of these structures inevitably results in delays to the submission of responses to international human rights bodies.

Although Zambia's NMRF has a mandate to coordinate responses to the communications of treaty bodies and the UPR and to coordinate the implementation of recommendations, the *2016 Ratification of International Agreements Act* of Zambia, does not mention the NMRF. Consequently, the NMRF is still in the process of obtaining formal cabinet approval of its mandate. Article 11 of the 2016 *Ratification of International Agreement Act* could be revised to include the NMRF as a national coordinating body for State party reporting and implementation of recommendations.

Concerning the scope of the NMRF's powers, the institutional structures in all 11 countries covered by the survey have the authority to request information and documents from State ministries, departments and agencies, and national statistics offices. To highlight a good example, the Mozambique ICRF established a drafting group from among the staff members within the directorate, under the coordination of the Head of Human Rights Service. The secretariat of the human rights service disseminates the draft report to focal points of concerned ministries. All members of the ICRF participate in writing reports and following-up the implementation of recommendations. The ICRF has the mandate to coordinate and prepare reports

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and to engage with international and regional human rights mechanisms. The focal points at the ministries of foreign affairs and justice receive communications, observations and recommendations from international human rights bodies and coordinate with respective ministries. All focal points, as members of the NMRF, are responsible for responding to communications. The ICRF sends reports and responses through the Ministry of Foreign Affairs.

3.4.2 Coordination capacity

As explained in the OHCHR Practical Guide on NMRFs, the coordination capacity of a NMRF refers to its capacity and authority to disseminate information as well as to organise and coordinate information gathering and data collection from government entities. Further, coordinating capacity also involves capacity to collect information from other State actors such as parliament, the judiciary, the national office for statistics, and the national SDG coordination body, for reporting and to follow-up on recommendations.

Table 1: The coordination between National Mechanisms for Reporting and Follow-up in Southern Africa with ministerial human rights focal points, parliament and the judiciary

Countries	Focal points from Gov't Ministries	Parliament	Judiciary
Angola	☑	☑	☑
Botswana	☑	☒	☒
Eswatini	☑	☑	☑
Lesotho	☑	☒	☑
Madagascar	☑	☒	☒
Mauritius	☑	☒	☑
Mozambique	☑	☑	☑
Namibia	☑	☒	☑
South Africa	☑	☒	☒
Zambia	☑	☑	☑
Zimbabwe	☑	☑	☑

When it comes to coordinating capacity, as a good example, Angola's NMRF has an annual work plan and has established a network of human rights focal points within Government Ministries and institutions which meet regularly. The CIERDH of Angola coordinates the writing of reports with parliament and the judiciary. The reporting cycle in Angola begins with meetings to prepare the reports, coordination with relevant Government Ministries, data collection, preparation of the first draft and a meeting with the heads of the sectors to validate information and data. The report is then translated and sent to the relevant mechanism or treaty monitoring body. The technical group then prepares for the engagement with the relevant treaty bodies. It chooses the head of the delegation to undertake the constructive dialogue with a specific treaty monitoring body. After the dialogue with the treaty body, it translates the recommendations received and prepares the monitoring and distribution of the implementation plan for different sectors. After the CIERDH does the follow-up of the plan, the sectors fill in the information that will lead to the next report and start of the new cycle.

Coordination with Parliament

Botswana, Lesotho, Madagascar, Mauritius, Namibia and South Africa indicated that their NMRF did not coordinate with parliament in the writing of treaty body reports but coordinated with parliament when preparing for the UPR report. Angola, Eswatini, Mozambique, Zambia and Zimbabwe indicated that they coordinate with the parliament when preparing reports to treaty bodies. The Parliament is an important actor that works with the Human Rights Council and UPR as well as other human rights mechanisms as articulated in the draft Principles on Parliaments and Human Rights (Annex 1 of A/HRC/38/25)[10]. These Draft Principles underscore the role of the Parliament in the promotion and protection of human rights. Parliaments in the sub-region should consider the establishment of a parliamentary human rights committee with a clear mandate dedicated to leading and coordinating its tasks including the following responsibilities:

- Encourage the ratification of or accession to international and regional human rights instruments;
- Participate in the national consultations held in preparation of and during the drafting process of reports to the international and regional human rights mechanisms;

10   https://www.ohchr.org/Documents/HRBodies/UPR/Parliaments/DraftPrinciplesParliament_EN.pdf

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- Participate in the national consultations held in preparation of and during the drafting process of reports to the international and regional human rights mechanisms;
- Review and comment on the Government draft reports which the State is required to submit to the international and regional human rights mechanisms, such as the universal periodic review;
- Participate in the UPR and in sessions of the treaty bodies, either as part of the Government delegation or on its own;
- Participate, through a designated focal point, in the national mechanism for reporting and follow-up, and ensure that recommendations of international and regional human rights mechanisms that require legislative reform, the adoption of new laws, or budgetary adjustments are identified and given priority consideration;
- Lead the parliamentary oversight of the work of the Government in implementing recommendations of international and regional human rights mechanisms; and
- Meet separately from the Government with special procedure mandate holders of the Human Rights Council, treaty body members, or UN officials dealing with human rights and regional human rights bodies when they conduct a country visit.

Coordination with the Judiciary

Botswana, Madagascar and South Africa indicated that their NMRFs did not coordinate with the judiciary in the writing of treaty body reports except for the UPR report. Angola, Eswatini, Lesotho, Mauritius, Mozambique, Namibia, Zambia and Zimbabwe coordinate with the judiciary in the writing of treaty body reports. States are required to provide case law in the State report to substantiate interpretation and implementation of human rights treaties by the judiciary. A NMRF provides for a structured approach to coordinate with the judiciary either directly or through the ministry of justice. The judiciary also plays an important role in the implementation of recommendations from human rights mechanisms. Coordination with the judiciary provides for an opportunity for the judiciary to be informed of the concluding observations and recommendations of the human rights mechanisms directly or via the Ministry of Justice. The judiciary can also provide information for the State report on the status of implementation of these recommendations.

Coordination with the National Statistics Office

Madagascar is the only country to include its national statistics office in the composition of its NMRF. As explained in the **OHCHR Practical Guide on NMRF,** all States need to give consideration to building the capacity of their national mechanism to work closely with the national statistics office and to develop centralised information-gathering systems capable of collecting and analysing information from a wide range of sources, for instance:

(a)   legal, policy, strategic planning and other administrative documents;

(b)   events-based data (including data collected by judicial or quasi-judicial mechanisms and relevant civil society organisations);

(c)   socioeconomic and administrative statistics (including administrative records, census data, statistical surveys, for example on victimisation and living conditions);

(d)   perception and opinion surveys; and

(e)   public resource management documents (planning, resource mobilisation, budgeting, spending and performance information).

Coordination with the national SDG coordination body

The 2030 Agenda sets out a clear imperative that the SDGs must aim to "realise the human rights of all" and reaffirms that the development agenda is "grounded in the United Nations Charter, the Universal Declaration of Human Rights, international human rights treaties and other instruments, including the Declaration on the Right to Development". Member States committed to ensure that development is implemented "in a manner that is consistent with the obligations of states under international law", which includes ensuring consistency with their existing obligations under human rights law. Additionally, all Member States committed to "engage in systematic follow up and review of implementation" of the agenda, including through establishing a "robust, voluntary, effective, participatory, transparent and integrated follow-up and review framework" at national, regional and global levels. The agenda encourages Member States to "conduct regular and inclusive reviews of progress at the national and sub-national levels, which are country-led and country-driven". It suggests that this can be built as far as possible on existing national and local mechanisms and processes, but should ensure broad multi-stakeholder

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participation, and be based on a review of high-quality data that is accessible, timely, reliable and disaggregated.[11]

The UN Department of Economic and Social Affairs (DESA) *Handbook for the Preparation of Voluntary National Reviews* (VNR) recommends that States draw reports and use "existing national platforms and processes that could contribute in the writing and analyses of the VNR". These include, "reports submitted to international bodies, including human rights mechanisms, such as the UPR and international treaties"[12]. The data generated in engaging with all three United Nations human rights mechanisms could contribute important evidence into the SDG implementation and follow-up processes. The recommendations made by the human rights mechanisms can give substance to the analysis of national progress under each SDG target, including with respect to ensuring that no one is being left behind. In addition, SDG reports are often prepared with the support of the United Nations Country Team (UNCT) and the United Nations Development Programme (UNDP), which can then also support the implementation of recommendations made by the human rights mechanisms. Collaboration with an NMRF in the process of developing Voluntary National Reviews (VNRs) is an obvious means of maximising collaborations and also reducing duplication of reporting efforts.

However, the survey responses received during the current study revealed that coordination and collaborations between NMRFs and the structure for reporting on the SDGs have been explored in only two out of 11 countries (Mauritius and Mozambique). It also found that only one NMRF was involved in undertaking a VNR on its realisation of the SDGs (Mauritius). This means that the majority of countries have yet to explore synergies between their NMRFs and the mechanisms established for reporting on the implementation of SDGs.

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11   Reporting to the United Nations Human Rights Treaty Bodies Training Guide, Part I- Manual, page 23

12   The UN Department of Economic and Social Affairs (DESA) *Handbook for the Preparation of Voluntary National Reviews* (VNR), 2020 edition, page 10.

> ### Good Practice Example: Coordination with SDG focal points in Mauritius
>
> In its 2019 VNR report, Mauritius explicitly mentioned their national mechanism for reporting and follow up, including it having become a platform for consultation with the civil society, and the national Human Rights tracking database (pages 103 and 106). The VNR mentions alignment with specific conventions such as CRC and CRPD, for example under reporting on SDG 4, and CEDAW for the SDG 5 section of the VNR. The report also noted the national commitment to ensuring that national legislation is fully compliant with international human rights provisions, incorporating relevant norms in the domestic legal system and Mauritian Courts (page 102, under SDG 16). The report refers to a human rights based approach to HIV/AIDS (SDG 3) and human rights awareness raising (SDG 16). The VNR also includes an SDG progress tracker, with a traffic light system for demonstrating progress made and useful tables outlining challenges and opportunities.

Coordination tools

The most frequent working methods in ensuring coordination with the different Governmental actors are listed below:

Table 2: Most frequent methods for coordination

Countries	Annual work plans	Coordinating meetings	Email list	Implementation plans
Angola	✅	✅	✅	✅
Botswana	✅	✅	✅	❌
Eswatini	✅	✅	✅	✅
Lesotho	❌	❌	✅	❌
Madagascar	✅	✅	✅	✅
Mauritius	✅	✅	✅	✅
Mozambique	❌	✅	✅	❌
Namibia	❌	✅	✅	❌
South Africa	❌	✅	✅	❌
Zambia	✅	❌	✅	❌
Zimbabwe	✅	✅	✅	✅

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3.4.3 Consultation capacity

As outlined in the OHCHR Practical Guide on NMRFs, the consultation capacity of a NMRF refers to its capacity to foster and lead consultations with civil society and NHRIs. The Guidelines on the effective implementation on the right to participate in public affairs[13] and the practical recommendations suggested by the Special Rapporteur on the rights to freedom of peaceful assembly and of association (A/HRC/1/41/Add.2) in facilitating participation by civil society and NHRIs in the implementation of human rights and of the 2030 Agenda make further suggestions in this regard.

Effective NMRFs facilitate the realisation of human rights on the ground, active participation in governance, and dialogue around international human rights commitments, recommendations and their implementation. Consultations that involve civil society and NHRIs provide an opportunity to openly discuss draft reports, facilitate data collection and can also garner support for the implementation of recommendations made by the human rights mechanisms (e.g. parent-teacher association in implementing recommendations related to the right to education).

The study revealed much higher levels of consultation between national mechanisms and civil society and NHRIs than coordination with parliaments and the judiciary. NMRFs, irrespective of their type, consult broadly with civil society and NHRIs. Eswatini, Madagascar, Mauritius and Mozambique indicated that civil society groups who had not been explicitly invited to participate could not contribute during consultations on reports to international human rights bodies. This creates a barrier to effective and unhindered participation by civil society groups who may seek to make inputs on state party reports to international human rights bodies.
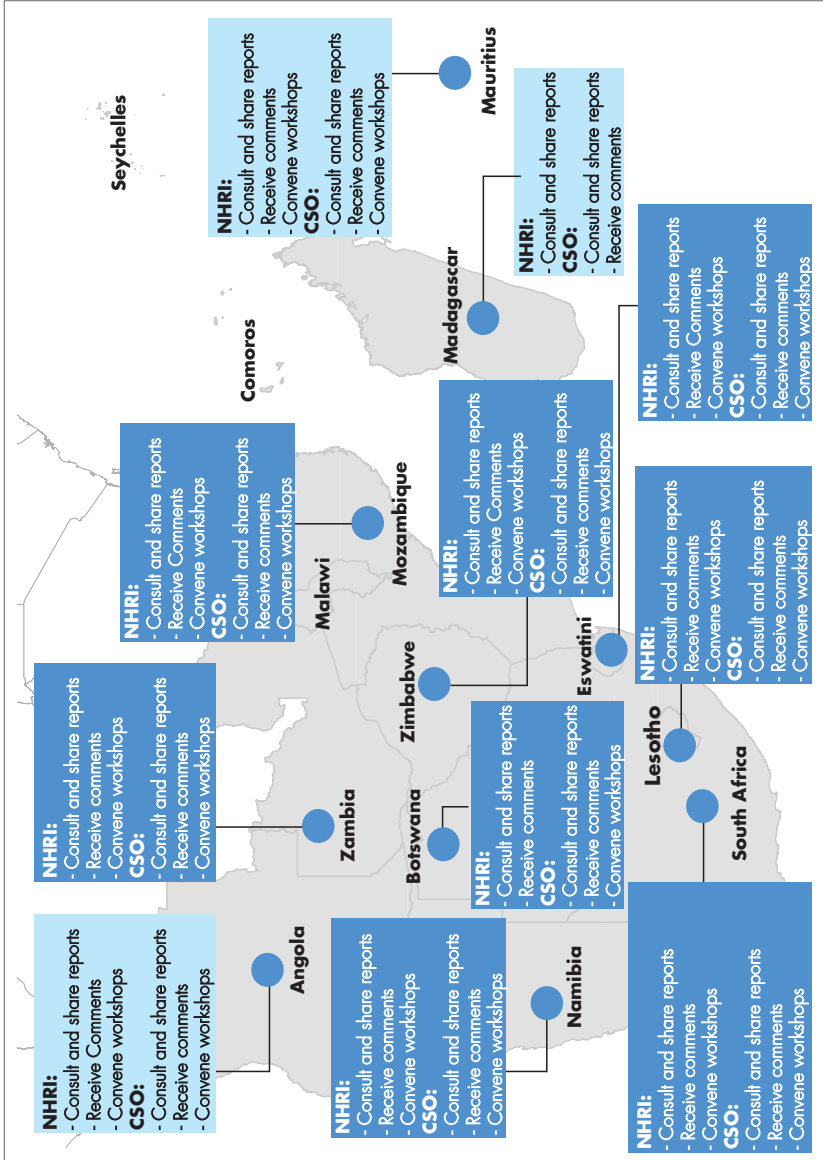
Angola, Botswana, Lesotho, Mauritius, Namibia, Zambia and Zimbabwe all report that they allow all civil society organisations to participate in consultations on draft reports to international human rights bodies.

In terms of good practice, NMRFs in Angola, Madagascar and Mauritius consult with civil society and NHRIs on the content of draft reports and convene meetings with both to discuss reports. In addition, they received comments and suggested amendments from both constituencies prior to the finalisation of treaty body reports. In general, the consultation process must be inclusive, meaningful and participatory and include representation of groups most left behind.

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13   Guidelines on the effective implementation on the right to participate in public affairs, see https://www.ohchr.org/EN/Issues/Pages/DraftGuidelinesRighttoParticipationPublicAffairs. aspx

Figure 9: National Mechanism for Reporting and Follow-up Consultation with NHRIs and CSOs.

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3.4.4 Information management capacity

As per OHCHR Practical Guide on NMRFs, the information management capacity
of a NMRF refers to its capacity to:

a)   track the issuance of recommendations and decisions by the international and
regional human rights mechanisms;

b)   systematically capture and thematically cluster these recommendations (for
example, in a spreadsheet or database);

c)   identify responsible government ministries and/or agencies for their
implementation;

d)   develop follow-up plans, including timelines, with relevant ministries to
facilitate such implementation; and

e)   track and manage information regarding the implementation of
recommendations from human rights mechanisms, including with a view to
preparing the next periodic report.

Lesotho, Namibia, South Africa and Eswatini reported that they do not have the
capacity to track recommendations from international human rights mechanisms.
Lesotho, Madagascar, Namibia and South Africa said they do not have the
capacity to identify the ministries or departments responsible for the implementation
of recommendations. Lesotho, Madagascar, Namibia, South Africa and Eswatini
do not capture recommendations systematically (or use a database to capture
recommendations). Botswana, Eswatini, Lesotho, Namibia, South Africa, Zambia
said that they do not develop follow-up plans with relevant ministries to facilitate
the implementation of recommendations. It is important to note that no meaningful
difference between the information management capacities of ad hoc and of
standing NMRFs could be observed.

Less than half of the sub-region's NMRFs reported that they are mandated to
develop an implementation plan to facilitate the implementation of human
rights recommendations or are able to make use of such a plan in tracking the
implementation of recommendations.

Table 3:   Tracking issuing of recommendations by National Mechanisms and Follow-up

Country	Track Issuance of Recommendations and Decisions from International and Regional Human Rights Instruments	Identify responsible Government Ministries for Implementation of Recommendations	Captured recommendations systematically	Captured recommendations in a database	Clustered Recommendations by Theme	Seek assistance from OHCHR in establishing NTRD [14]	Follow-up plans with Ministries, and agreed timelines
Angola	✓	✓	✓	✗	✓	✓	✓
Botswana	✓	✓	✓	✓	✓	✓	✗
Eswatini	✗	✓	✗	✗	✓	✓	✗
Lesotho	✗	✗	✗	✗	✗	✓	✗
Madagascar	✓	✗	✗	✗	✓	✓	✓
Mauritius	✓	✓	✓	✓	✗	✓	✗
Mozambique	✓	✓	✓	✓	✓	✓	✓

Having said this, a few good examples are worth highlighting. The ICRF in Madagascar develops a work plan and calendar of activities together with timelines, the assignment of responsibilities and estimated costs for the implementation of recommendations. It then establishes an operationalisation plan for the implementation of the recommendations of all human rights mechanisms (including Treaty Bodies, the UPR and Special Rapporteurs).

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14   National Recommendation and Tracking Database an electronic system that facilitates the recording, tracking and reporting on the implementation of human rights recommendations emanating from *international, regional and national* human rights mechanisms at the national level.

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In Angola, the CIERDH tracks the recommendations and decisions of international and regional human rights bodies, captures, and clusters these by theme. It identifies the ministries, departments and agencies responsible for implementing recommendations, and draws up follow-up plans to track their implementation. However, the CIERDH does not use a database for this purpose and is currently seeking technical support from OHCHR to be able to make use of the NRTD.

In Southern Africa, two countries (Botswana and Mauritius) have also availed themselves of OHCHR's NRTD through a technical assistance package customised to the capacity and need of these States. Mauritius is the second country in the world and first in Africa to roll out the NTRD.

The NRTD is an online database that facilitates the recording, tracking and reporting on the implementation of human rights recommendations emanating from international, regional and national human rights mechanisms. It is a generic database which OHCHR developed based on previous similar support to the development of national databases in Paraguay (SIMORE+), Uganda and Samoa. The NRTD can be customised by States to support national reporting both internally and externally, for the UPR and Treaty Bodies as well as to regional mechanisms and in preparation of Voluntary National Reviews (VNRs) under the 2030 Agenda.

The NRTD aims at increasing the information management capacity of States, enhancing coordination across State structures, facilitating States' human rights implementation efforts, and promoting accountability towards and participation of relevant stakeholders. States can use the NRTD to customise human rights recommendations; cluster and prioritise recommendations and their implementation; develop a plan to implement recommendations, including indicators and responsible institutions; report on the implementation of recommendations; as well as search and retrieve all this information with several searching parameters (e.g. thematic areas, affected persons or groups, SDGs and targets, human rights mechanism, responsible institutions).

In Botswana and Mauritius, as a first step, OHCHR provided technical guidance on how to develop a plan to implement recommendations stemming from the human rights mechanisms. In Botswana, the NMRF is currently working on internal modalities and procedures to guide the use of the NRTD. The Mauritius NMRF is gradually entering their implementation plan into the NRTD.

"Mauritius benefitted from technical support through the OHCHR Treaty Body Capacity Programme over the last years. This has enabled us to establish and strengthen the standing Interministerial Technical Committee that serves as our NMRF. This Committee facilitates the coordination of State Party reporting to human rights mechanisms and also follows up on the implementation of recommendations made thereat. Members of the Committee consist of not only representatives of Ministries, NHRIS and other institutions but also representatives of NGOs and the Civil Society.

Moreover, through this instrumental Institutional structure and the assistance of the OHCHR, Mauritius has started using, on a pilot basis, the National Recommendations Tracking Database to record, track and report on the implementation of human rights recommendations in a more effective way. We are most grateful to the OHCHR for providing us with the technical know-how and accompany us through our quest in better protecting and promoting human rights in Mauritius."

Mrs Asha Burrenchobay, Senior Chief Executive, Ministry of Foreign Affairs, Regional Integration and International Trade (Human Rights Division), Mauritius

OHCHR Regional Office for Southern Africa is currently working in collaboration with the Government of Angola and UNDP Angola to offer similar technical assistance and offer the NRTD in Portuguese to Angola. Other States in Southern Africa such as Lesotho, Mozambique, Namibia, South Africa and Zambia have expressed an interest to make use of the NRTD. It is important to note that for the NRTD to function, it requires a specific institutional set up and working arrangements such as an effective NMRF regulating who will use the NRTD, when and how. The NRTD is just an online tool and States need to have a plan to implement recommendations to be populated into the database to be able to effectively achieve the objectives of the NRTD.

It is important that all NMRFs stakeholders be trained on how to establish and maintain a NRTD and on how to develop follow-up plans with relevant ministries to facilitate the implementation of recommendations before being able to benefit from the database itself.

Recommendations to enhance National Mechanisms for Reporting and Follow-up in the sub-region

4.   RECOMMENDATIONS TO ENHANCE NATIONAL MECHANISMS FOR REPORTING AND FOLLOW-UP IN THE SUB-REGION

The recommendations for enhancing the effective functioning of NMRFs in the southern Africa, are classified based on the four key capacities.

4.1   Engagement capacity

- Countries that are currently implementing ad hoc practices for reporting and follow-up should consider establishing standing NMRFs with the necessary human and financial resources required to fulfil their basic capacities.
- States without a formal legislative or executive mandate (Mozambique, Lesotho and Zambia) are encouraged to adopt one.
- NMRFs should have a comprehensive coverage of all human rights mechanisms. Lesotho, Mozambique, Namibia, South Africa and Eswatini should consider taking steps to extend the mandate of their respective NMRFs to include engagement with special procedures.

4.2   Coordination capacity

- NMRFs should take the necessary steps to maximise synergies with SDG reporting structures and contribute to the writing of VNRs on the achievement of SDG targets linked to recommendations from human rights mechanisms.
- State parties should take steps to ensure that the mandate of the NMRF is clearly communicated to all members from various line ministries and departments.
- Treaty specific reports should include specific data and statistics, disaggregated according to age, sex and other relevant criteria, which are pertinent to the implementation of the provisions of treaties.
- NMRFs should collaborate with national statistics offices to collect disaggregated data and gather information from government entities, parliament, and the judiciary for reporting on and following up recommendations and decisions.

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4.3   Consultation capacity

• Structured and formalised contacts with civil society should be facilitated to enable the mainstreaming of human rights at the national-level, the strengthening of public discourse on human rights, and the improvement of transparency and accountability. National consultations or other forms of regular dialogue, convened by the national mechanism and involving civil society, should provide the space to openly discuss draft reports and responses to international and regional human rights bodies.

• Countries that limit the consultations on reports to only invited civil society organisations should examine their current consultation practices to include members of any CSOs who wish to participate in state party consultations on draft reports to international human rights bodies. Inclusive and meaningful participation should be promoted, including populations most left behind.

• The United Nations human rights mechanisms also count on the cooperation of the people they serve. States and NMRFs need to establish an enabling environment and avoid acts of intimidation and reprisals against individuals and groups seeking to cooperate with the United Nations on human rights mechanisms.

• The solid link between human rights and SDGs offers a very positive avenue to make their reporting and follow-up aligned and more efficient through concerted reporting and monitoring implementation to both human rights and the SDGs. This also ensures that there is joint accountability on reporting and implementation. In circumstances where there are separate structures coordinating reporting and monitoring the implementation of recommendations from human rights mechanisms and for the achievement of the SDGs, States should ensure that there is coordination amongst both structures to foster complementarity and reduce the reporting burden.

4.4   Information management capacity

• NMRFs should ensure that the data is accurate, comprehensive, and meaningful in relation to the content of the treaties. Led by the National Statistics Office, data should be collected on a continual basis, so that the progress in implementation can be measured over time. On-going data collection can also help evaluate the impact of new policies, laws and practices.

- In order to optimise the information management capacity, NMRFs should include representatives of the national statistics office in their composition.
- Countries in the sub-region must take the necessary steps to develop the capacity to track recommendations from international, regional and national human rights mechanisms.
- Lesotho, Madagascar, Namibia and South Africa should take steps to develop the capacity to identify the ministries or departments responsible for the implementation of recommendations.
- Lesotho, Madagascar, Namibia, South Africa and Eswatini should develop the capacity to capture recommendations systematically (and develop the capacity to use a database to capture recommendations).
- Botswana, Lesotho, Mauritius, Namibia, South Africa and Eswatini should develop follow-up plans with relevant ministries to facilitate the implementation of the recommendations of international human rights mechanisms.

RECOMMENDATIONS TO ENHANCE THE EFFECTIVE FUNCTIONING OF NATIONAL
MECHANISMS FOR REPORTING AND FOLLOW-UP IN THE SUB-REGION

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