

The role of ombudspersons, mediators and other national human rights institutions (NHRIs) in the promotion and protection of human rights

This submission is made on behalf of the Child Rights International Network - CRIN (www.crin.org), 24 April 2017.

The Child Rights International Network is a global research, policy and advocacy organisation working on the human rights of children. This submission will focus on national human rights institutions dedicated to children or with mandates covering children. In 2016 we published global research on access to justice for children (www.crin.org/home/law/access) including analysis of NHRIs in 197 jurisdictions, including all UN member states. Statistics included in this submission draw on this research.

This submission is intended to give a brief overview of the prevalence and powers of NHRIs for children globally, but we would be able to provide more detailed information if this would be useful in preparing the report.

Question 1

Do you consider that an independent and autonomous ombudsman, mediator or other national human rights institution has been created or strengthened at the national and, where applicable, the local level in your country?

Our research found that 130 countries have a national human rights institute that has a mandate broad enough to cover children's rights, whether in the form of a national human rights commission, ombudsperson, children's ombudsperson or another form of independent body that can address human rights more broadly.¹ Only 83 States have child specific NHRI, a department within a broader NHRI or a position within the NHRI specifically for children.²

129 States have a NHRI empowered to receive complaints or pursue a complaint through the courts.³ See question 4 below for examples of how these mechanisms can be designed to enforce human rights. According to our research, 73 NHRIs have a mandate that includes reviewing the State's progress in realising children's rights, whether expressed as a power to review compliance with human rights in general or ratified international treaties specifically.

Question 2

Is the ombudsman, mediator or other national human rights institutions endowed with an adequate constitutional and legislative framework, as well as financial and all other appropriate means in order to ensure the efficient and independent exercise of the ombudsman's mandate and to strengthen the legitimacy and credibility of its actions?

Our research did not analyse all of the issues covered in this question, but did examine appointment procedures, considering whether they were transparent. Of the 130 countries with NHRIs, we considered that only 82 had an appointment procedure that was broadly

¹CRIN, *Rights, Remedies and Representation: A global report on access to justice for children*, February 2016, p. 23. Available at: www.crin.org/node/42383.

²List of child specific NHRIs or NHRIs with departments or deputy ombudspersons for children listed in the Annex at the end of this document.

³CRIN, *Rights, Remedies and Representation: A global report on access to justice for children*, February 2016. Available at: www.crin.org/node/42383.

transparent. In making this determination, we excluded institutions where commissioners or ombudspersons were unilaterally appointed by the relevant president or prime minister without additional review or oversight.

Question 4

Please share best practices on the work and functioning of the ombudsman, mediator or other national human rights institutions in your country.

Complaint mechanisms within national human rights institutions or the power for NHRIs to launch legal proceedings to protect rights can be among the most effective means of using these bodies to protect the human rights of vulnerable groups, particularly children. These mechanisms vary significantly in terms of their scope and effectiveness. The examples given below are illustrative of the ways that national human rights institutions have been empowered to address complaints and some of the key features of these mechanisms and are by no means exhaustive:

- **Constitutional rights protection.** Public Defenders in Georgia for example, can receive complaints that state, local government authorities, public institutions or officials have violated the rights provisions of the Georgian constitution.⁴ The Public Defender of Kyrgyzstan has a similar power, as well as the authority to appeal to the Constitutional Chamber of the Supreme Court to declare unconstitutional laws concerning human rights.⁵
- **Class actions.** Fiji's Human Rights Commission,⁶ the New Zealand Director of Human Rights⁷ and Ireland's Human Rights and Equality Commission⁸ all have a similar power to bring proceedings on behalf of a class of persons to vindicate their human rights.
- **Anonymity for victims.** Human rights bodies in Scotland, Northern Ireland, Ireland and Slovenia, among others, can initiate court proceedings in their own name without identifying a victim.⁹
- **Intervention in cases affecting human rights.** The Ombudsman for Bosnia and Herzegovina is empowered to intervene in ongoing cases where he or she considers that the relevant administrative act constituted a human rights violation.¹⁰

4Organic Law of Georgia on the Ombudsman of Georgia, Article 13.

5Law on the Ombudsman of the Kyrgyz Republic, Article 8(3). English translation available at: http://www.ecoi.net/file_upload/1226_1409307712_kyrgyz-law-ombudsman-2002-am2012-en.pdf.

6Constitution of Fiji, Article 45(4)(e) and the Human Rights Commission Decree 2009, Section 12(1)(j).

7Human Rights Act 1993, Sections 90 and 92B. Available at: <http://www.legislation.govt.nz/act/public/1993/0082/latest/DLM304212.html>

8Irish Human Rights and Equality Commission Act 2014, Section 41(1). Available at: <http://www.irishstatutebook.ie/eli/2014/act/25/enacted/en/html>.

9For fuller discussion, see corresponding country reports, available at: www.crin.org/node/42362.

10Law on Administrative Disputes of Bosnia and Herzegovina, Article 2. Available at: www.legislationline.org/download/action/download/id/5515/file/BiH_law_administrative_disputes_2002_en.pdf.

Annex: NHRIs for children

This is a list of national human rights institutions specifically for children or with departments or deputies with a mandate that explicitly covers children. Links are provided to the official websites of the organisations where available.

Afghanistan

Afghanistan Independent Human Rights Commission, Children's Rights Protection Unit.

<http://www.aihrc.org.af/>

Albania

People's Advocate (Subsection for Children's Rights)

<http://www.avokatipopullit.gov.al/>

Argentina

Defensoría del Pueblo de la Nación (Jefe Área Derechos Humanos, Mujer, Niñez y Adolescencia)

<http://www.dpn.gob.ar/index.php>

Defensor de Derechos de Niños, Niñas y Adolescentes

Regional Children's Ombudspersons (Defensor de Derechos de Niños, Niñas y Adolescentes) in Córdoba Province, Corrientes Province, Misiones Province, Neuquén Province.

Armenia

Office of the Human Rights Defender (Defender of Children's Rights)

<http://www.pashtpan.am/>

Australia

Australian Human Rights Commission (National Children's Commissioner)

<http://www.humanrights.gov.au/>

Australian Capital Territory Human Rights Commission (ACT Children and Young People Commissioner)

<http://hrc.act.gov.au/>

New South Wales Commission for Children and Young People

<http://www.acyp.nsw.gov.au/>

New South Wales Children's Guardian

<http://www.kidsguardian.nsw.gov.au/>

Northern Territory Children's Commissioner

<http://www.childrenscommissioner.nt.gov.au/>

Queensland Commission for Children and Young People and Child Guardian

South Australia Guardian for Children and Young People
<http://www.gcyp.sa.gov.au/>

Tasmania Commissioner for Children
<http://www.childcomm.tas.gov.au/>

Victoria Child Safety Commissioner
<http://www.ccyp.vic.gov.au/>

Western Australia (WA) Commissioner for Children and Young People
<https://www.ccyp.wa.gov.au/>

Austria

Regional Ombudspersons for Children and Youth (Burgenland, Carinthia, Lower Austria, Salzburg, Styria, Tyrol, Upper Austria, Vienna, Vorarlberg).

Azerbaijan

Office of the Commissioner for Human Rights (Child Rights Centre)
<http://www.ombudsman.gov.az/az/>

Belgium

Children's Rights Commissioner (Flemish Community)
<https://www.kinderrechten.be/>

Délégué général de la Communauté française aux droits de l'enfant
<http://www.dgde.cfwb.be/>

Bhutan

National Commission for Women and Children (an autonomous agency of the government of Bhutan)
<http://www.ncwc.gov.bt/en/>

Bolivia

Defensoría del Pueblo (Adjuntia para Niñez y Adolescencia)

Bosnia and Herzegovina

Human Rights Ombudsman (Department for the Protection of the Rights of the Child)
<http://www.ombudsmen.gov.ba/Jezik.aspx>

Ombudsman for Children of the Republic of Srpska
<http://www.djeca.rs.ba/>

Bulgaria

The Office of the Ombudsman (Rights of Children, Disabled and Against Discrimination)
<http://www.ombudsman.bg/>

Canada

Regional Offices of the Child and Youth Advocate in Alberta, British Columbia, Manitoba, New Brunswick, Newfoundland and Labrador, Nova Scotia, Ontario, Québec, Saskatchewan, Yukon.

Colombia

Defensoría del Pueblo (Defensoría Delegada para los Derechos de la Niñez, la Juventud y las Mujeres)

<http://www.defensoria.gov.co/>

Costa Rica

Defensoría de los Habitantes (Dirección de Niñez y Adolescencia)

<http://www.dhr.go.cr/index2.html>

Croatia

Ombudsman for Children

<http://www.dijete.hr/>

Cyprus

Commissioner for Children's Rights

http://www.childcom.org.cy/ccr/ccr.nsf/DMLindex_gr/DMLindex_gr?OpenDocument

Denmark

National Council for Children

<http://www.boerneraadet.dk/>

Dominican Republic

Defensor del Pueblo (Defensor Adjunto para la Niñez y la Juventud)

Ecuador

Defensoría del Pueblo (Defensoría Adjunta de la Mujer y de la Niñez)

El Salvador

Procuraduría para la Defensa de los Derechos Humanos (Procuraduría Adjunta para la Defensa de los Derechos de la Niñez y la Juventud)

<http://www.pddh.gob.sv/>

Estonia

Chancellor of Justice (Ombudsman for Children)

<http://www.oiguskantsler.ee/et/laste-ja-noorte-%C3%B5igused/>

Ethiopia

Ethiopian Institution of the Ombudsman (Ombudsman for Women and Children).

<http://www.ethombudsman.gov.et/>

Finland

Ombudsman for Children

<http://www.lapsiasia.fi/>

France

Défenseur des Droits (Défenseur des enfants)

<http://www.defenseurdesdroits.fr/>

Georgia

Public Defender (Child's and Women's Rights Centre)

<http://www.ombudsman.ge/ge/>

Ghana

Commission on Human Rights and Administrative Justice (no specific children's rights department, but the human rights division action plan focuses on the rights of vulnerable groups, including children, women and people living with HIV/AIDs).

<http://www.chraighana.com/>

Greece

Greek Ombudsman (Deputy Ombudsman for Children's Rights)

<http://www.0-18.gr/>

Guatemala

Procuraduría de los Derechos Humanos (Defensoría de la Niñez y la Adolescencia)

<http://www.pdh.org.gt/>

Guyana

Human Rights Commission (Rights of the Child Commission).

Honduras

Comisionado Nacional de Derechos Humanos (Programa Especial de Derechos Humanos de la Niñez y la Adolescencia)

<http://conadeh.hn/>

Hungary

Commissioner for Fundamental Rights (Deputy-Commissioner for Fundamental Rights (Future Generations))

<http://www.ajbh.hu/>

Iceland

Ombudsman for Children

<https://www.barn.is/>

Ireland

Ombudsman for Children

<https://www.oco.ie/>

India

National Commission for Protection of Children's Rights

<http://ncpcr.gov.in/>

Indonesia

Komnasham - National Human Rights Commission (Sub-Commission for the Protection of the Rights of Children)

<https://www.komnasham.go.id/>

Italy

National Ombudsman for Children and Adolescents

Jamaica

Office of the Children's Advocate

<http://www.ocajamaica.gov.jm/>

Japan

City based Ombudspersons for Children exist in Kawanishi, Saitama Prefecture, Tajimi City, Akita Prefecture, Shime Town, Nabari City, Meguro City, Toyota City, Sapporo City, Chikuzen Town.

Kosovo

Ombudsperson (Children's Rights Team)

Kyrgyzstan

Office of the Ombudsman (Young People and Children's Rights Protection Department)

<http://www.ombudsman.kg/>

Latvia

Ombudsman (Department for Children's Rights)

<http://www.tiesibsargs.lv/>

Liechtenstein

Ombudsperson for Children

<http://www.oskj.li/>

Lithuania

Ombudsperson for Children

<http://www3.lrs.lt/pls/inter/vaikai>

Luxembourg

Ombuds-Comité pour les Droits de l'Enfant

<http://ork.lu/index.php/fr/>

Macedonia (FYRO)

Ombudsman (Department for Protection of Children's Rights, headed by a Deputy Ombudsman)

Malawi

Human Rights Commission (Child Rights Unit and Child Rights Committee)

Malta

Office of the Commissioner for Children

<http://tfal.org.mt/en/Pages/default.aspx>

Mauritania

Commission Nationale de Droits de l'Homme (Children's Rights Unit)

Mauritius

Ombudsperson for Children's Office

Mexico

Comisión Nacional de Derechos Humanos (Programa sobre Asuntos de la Niñez y la Familia)

<http://www.cndh.org.mx/>

Moldova

Center for Human Rights (Ombudsman for Children's Rights)

Mongolia

National Human Rights Commission (Commissioner with specific mandate on children's rights)

<http://www.mn-nhrc.org/>

Montenegro

Ombudsman- Protector of Human Rights and Freedoms (Deputy Ombudsman for Children)

<http://www.ombudsman.co.me/>

Nepal

National Human Rights Commission (Child Rights Desk)

<http://www.nhrcnepal.org/>

Netherlands

National Ombudsman (Deputy Ombudsman for Children)

<http://www.dekinderombudsman.nl/>

New Zealand

Office of the Children's Commissioner

www.occ.org.nz

Nicaragua

Procuraduría para la Defensa de los Derechos Humanos (Procuraduría Especial de la Niñez y la Adolescencia)

Nigeria

National Human Rights Commission (Special Rapporteur on Child Rights)

Norway

Ombudsman for Children

<http://barneombudet.no/>

Pakistan

National Ombudsman

Provincial Ombudsman - Sindh (Children Complaints Office)

<http://www.mohtasibsindh.gov.pk/index.php>

Panama

Defensoría del Pueblo (Unidad Especializada de Niñez y Adolescencia)

Paraguay

Defensoría del Pueblo (Departamento de la Niñez y la Adolescencia)

<http://www.defensoriadelpueblo.gov.py/>

Peru

Defensoría del Pueblo (Adjuntía para la Niñez y la Adolescencia)

<http://www.defensoria.gob.pe/>

Philippines

Commission on Human Rights (Child Rights Centre)

Poland

Ombudsman for Children

<http://brpd.gov.pl/>

Portugal

Provedor de Justiça (Work Unit on Minors, Elderly People, Persons with Disabilities and Women)

<http://www.provedor-jus.pt/index.php>

Romania

People's Advocate (Deputy for Rights of Children, Family, Youth, Retired Persons and Disabled Persons)

<http://www.avp.ro/index.php?lang=ro-ro>

Russian Federation

Children's Rights Commissioner for the President of the Russian Federation

Serbia

Ombudsman / Protector of Citizens (Deputy Ombudsman for Children's Rights)

<http://www.ombudsman.rs/>

Provincial Ombudsman's Office for the Province of Vojvodina (Deputy Ombudsman for the Protection of Children's Rights)

<http://www.ombudsmanapv.org/>

Sierra Leone

Human Rights Commission (Women and Children's Rights Unit)

<http://www.hrcsl.org/>

Slovakia

Office of the Public Defender of Rights (integrated within the Defender's office)

<http://www.vop.gov.sk/>

Slovenia

Human Rights Ombudsman (Special Group on Children's Rights, headed by a Deputy Ombudsman)

<http://www.pravice-otrok.si/>

South Africa

South African Human Rights Commission (Coordinator for Children's Rights)

<http://www.sahrc.org.za/>

Spain

Defensor del Menor de Andalucía

Síndic de Greuges de Catalunya (Adjunto para defensa de niños y adolescentes)

<http://www.sindic.cat/ca/page.asp?id=113>

Valedor do Pobo De Galicia (Vicevaledor de menores)

<http://www.valedordopobo.gal/>

Ararteko País Vasco (Oficina de la Infancia y la Adolescencia)

<http://www.ararteko.net/home.jsp?language=eu&codResi=1>

Sweden

Ombudsman for Children and Young Persons

<https://www.barnombudsmannen.se/>

Tanzania

Commission for Human Rights and Good Governance (Children's Desk)

Turkey

The Ombudsman Institution (Ombudsman for women's and children's rights, disability and education)

<https://www.ombudsman.gov.tr/English/>

Ukraine

Children's Ombudsman under the President of Ukraine

United Kingdom

Children's Commissioner for England

<http://www.childrenscommissioner.gov.uk/>

Northern Ireland Commissioner for Children and Young People

<http://www.nickey.org/>

Scotland's Commissioner for Children and Young People

<https://www.cypcs.org.uk/>

Children's Commissioner for Wales

<http://www.childcomwales.org.uk/>

United States

The National Conference of State Legislatures maintains details of Children's Ombudspersons and Child Advocates across the jurisdictions of the United States:

<http://www.ncsl.org/research/human-services/childrens-ombudsman-offices.aspx>

Venezuela

Defensoría del Pueblo (Defensoría Delegada Especial en materia de Niños, Niñas y Adolescentes)

<http://www.defensoria.gob.ve/>

Zambia

Human Rights Commission (Office of the Commissioner for Children's Rights)