CHAPTER 2

Setting the Scene

Ombuds institutions: definition, mandate, and functions

Evolution, definition, and mandate

Traditionally, ombuds institutions have been understood as public-sector institutions, preferably established by the legislative branch of the government to assess, as a rule, the administrative activities of the executive branch (Reif 2004: 1). The International Bar Association has similarly defined the ombuds institution as an office provided by the constitution or by the action of the legislature (parliament) and headed by an independent high-level public official, who receives complaints from aggrieved persons against government agencies, officials, and employers, or who acts on his or her own motion, and has the power to investigate, recommend corrective actions, and issue reports (Ferris, Goodman & Mayer 1980: 2). This administrative focus of ombuds institutions reflects their origins.

The first-ever (in today's terms) ombuds institution was established in Sweden in 1809 as a parliamentary representative, with the task to safeguard the rights of citizens by establishing a supervisory agency that was completely independent of the executive. This Swedish model is usually called the classical administrative ombuds or first-generation ombuds institution. It was to remain the only one for a long time. In 1919, Finland adopted the ombuds idea in a republican constitution for the first time. Nevertheless, it was Denmark that initiated its increasing popularity and, by creating a new legal structure in the mid-1950s, became a role model for its further development. This Danish model is sometimes referred to as a second-generation ombuds institution, as it has abandoned the strict Swedish legal approach and introduced a less formal complaint procedure. In 1963 this legal structure was adopted by Norway, in 1967 by the United Kingdom, and later by the Netherlands. These institutions have thus been focused on maladministration. The European

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Ombudsman (1997:23) has defined maladministration as that which 'occurs when a public body fails to act in accordance with a rule or principle which is binding upon it.'

The collapse of authoritarian regimes in Portugal, Spain, and Greece, as well as Central and Eastern Europe and the resulting process of democratization, provided new incentives for the idea of the ombuds institution. Portugal and Spain have introduced so-called third-generation ombuds – hybrid or human rights ombuds institutions – as their ombuds institutions were given an explicit mandate to protect and promote human rights, in addition to fighting maladministration. With that, ombuds institutions have been inaugurated as human rights mechanisms, which has changed their approach, provided them with the opportunity to address systemic issues, and extended their reach. By combining the basic concepts of both the rule of law and human rights, hybrid ombuds institutions have lifted the entire ombuds concept to a new level. Consequently, ombuds institutions have been made attractive for countries across the world. Hybrid ombuds institutions today represent a most frequent model in Europe and Latin America.

Africa has an interesting mix of models. The first ombuds institution in Africa was established in Tanzania in 1966, followed by a few more ombuds institutions through to the 1980s. However, the popularity of the ombuds and other national human rights institutions considerably increased in Africa only in the 1990s.

To sum up, the two most recognizable ombuds models are administrative and hybrid (which includes the human rights function). The latter can fulfil the criteria necessary for the status of a national human rights institution (NHRI). NHRIs are independent state-funded statutory bodies mandated to protect and promote human rights on the national level. The establishment and operations of an NHRI must conform to the Paris Principles on NHRIs, as adopted by the UN General Assembly's Resolution 48/134 in 1993. Despite being legally non-binding, the Paris Principles have great political weight. They are the main international reference providing the basic principles and characteristics of an NHRI. The Paris Principles set forth a number of conditions that an institution has to fulfil in order to be recognized and accredited as an NHRI, including establishment under primary law or the Constitution, a broad mandate to promote and protect human rights, formal and functional independence, pluralism (representing all aspects of society), adequate resources and financial autonomy, freedom to address any human rights issue arising, annual reporting on the national human rights situation, and cooperation with national and international actors, including civil society (UNGA 1993).

The accreditation is conducted by the Subcommittee on Accreditation (SCA) of the Global Alliance of NHRIs (GANHRI), whose accreditation system is recognized and facilitated by the UN. To be able to conduct accreditations in consistent and procedurally fair manner, SCA has adopted the General Observations on the Paris Principles, which serves as its authoritative interpretation.

The institutions which are awarded with the highest accreditation – A – can participate fully in sessions of the UN Human Rights Council and take the floor under any agenda item, submit documentation, and take up seating, separate from the state delegation. They can also interact directly with the UN treaty bodies and the Universal Periodic Review, including through the submission of their independent parallel reports, and participation in their sessions and follow-up activities.

As of April 2023, a total of 88 institutions worldwide fulfils the Paris Principles and are thus accredited as A-status NHRIs (GANHRI n.d.). Around 35% of them are (hybrid) ombuds institutions, mostly from Europe and Latin America. Other accredited institutions come in the form of human rights commissions, and to a much lesser degree, human rights institutes.

Some countries have opted to have both a general ombuds institution and human rights commission (or similar collective body). In Europe, this is the case in Scandinavian countries, Ireland, and the Netherlands, while in Africa, such a set-up exists in, for instance, Burkina Faso, Chad, Côte d'Ivoire, Mali, Nigeria, Tunisia, and Uganda. Some ombuds institutions are multi-member bodies. Ghana has incorporated its classical ombuds institution into the new multi-member Commission on Human Rights and Administrative Justice, while Tanzania did the same in 2000 when it created the

Commission for Human Rights and Good Governance, which absorbed the oldest ombuds institution on the continent. Similarly, the National Human Rights Institution of Finland consists of the Parliamentary Ombudsman and the Human Rights Centre along with its Human Rights Delegation.

Although in the past, there was a considerable difference between ombuds institutions and human rights commissions, such a distinction has almost ceased to exist with the emergence of hybrid ombuds institutions and the development of contemporary national human rights institutions. The accreditation in line with the Paris Principles has been a decisive factor in this process (Glušac 2021: 51–52).

Two related notes are necessary here. First, the Paris Principles define individual complaint-handling as an additional function of NHRIs, not a compulsory one. For ombuds institutions, complaint-handling is an essential (primary) function. Second, traditionally ombuds institutions had been designed as *ad personam* institutions, meaning that an ombudsperson was a high public official who was the institution him/herself, where the office was established to help that individual in fulfilling the mandate. In other words, it was a single-headed institution, contrary to the human rights commission as a collective or collegiate body. However, as the gap between the two models started to shrink, this delineation also blurred. Some countries have introduced ombuds institutions as collegiate bodies, as in Bosnia and Herzegovina (Institution of Human Rights Ombudsman of Bosnia and Herzegovina) and Austria (The Ombudsman Board), or collective bodies, with the chairperson being appointed among the members, as in Kenya with the Commission for Administrative Justice (Office of the Ombudsman). Although this difference between single-headed or collective body does not (necessarily) imply differences in mandate or functions, it does influence internal organization and responsibilities.

Finally, the ombuds concept has witnessed an expansion both vertically and horizontally. Some countries have established ombuds institutions on national, regional, and local levels (such as Serbia), while others have a well-developed network of regional and local ombuds institutions but without the national ombuds office (such as Italy). Ombuds institutions have also been established through and for various sectors, creating the difference between general (parliamentary) and specialized ombuds institutions. Hence, specialized ombuds institutions have been established for universities, consumers' rights, tax, patients' rights, police, or armed forces.

Considering its aim and focus, this research concentrates on general (parliamentary) ombuds institutions, as well as those ombuds institutions specialized in the security sector (police or armed forces). The latter include, for instance, the institutions such as the German Parliamentary Commissioner for the Armed Forces, the Parliamentary Ombud's Committee for the Norwegian Armed Forces, or the South African Military Ombud.

Given this increased diversity among ombuds models and shrinking conceptual distance between ombuds institutions and other forms of national human rights institutions, this research covers all these institutions under the label 'ombuds institutions,' as long as they fulfil the following criteria:

- they are independent institutions, appointed by the Parliament, or by the joint decision of the legislature and the executive;
- they are mandated to handle individual complaints;
- they operate on the national level;
- they have the right to advise the government on the human rights/administrative policy and, ideally, on legislation.

In other words, for the purpose of this research, ombuds institutions are defined as independent oversight bodies that receive complaints and investigate matters pertaining to the protection and promotion of human rights and/or maladministration.

This research uses the term 'ombuds institutions' throughout. The term 'national human rights institutions' (NHRIs) is used only when referring to a specific document or event explicitly mentioning 'NHRIs.'

Independence

Ombuds institutions are, by rule, appointed and supervised by the parliament to which they report. In fact, in a number of countries (e.g., Hungary, Lithuania, Ukraine, Finland), the term 'Parliamentary' is even explicitly included in the official title of the national ombuds institution to make this institutional connection as clear as possible (Glušac 2019a: 534). However, as an ombuds institution is an independent oversight authority, the parliament must not interfere with the work of this body or issue specific instructions and orders to it. The same applies to the executive, irrespective of the fact whether it participates in the appointment of the ombudsperson or not. In some countries, particularly in Africa and Asia, the executive branch has an important role in appointing the ombudsperson. Ideally, the ombudsperson should never be appointed upon the sole decision of the executive. More complex appointment procedures which include both the executive and parliament are much more suitable, while appointment by parliament is preferred option, as it guarantees the highest degree of independence.

Independence presupposes that ombuds institutions should be free from the influence of any political authority. As reaffirmed by former Serbian Ombudsperson Saša Janković, ombuds' independence is not 'a privilege established for anyone's comfort, but a requirement and a necessity needed to ensure that human rights protection does not depend on daily politics' (OHCHR 2012).

Independence is a key characteristic of the ombuds institution (Langtry and Roberts Lyer 2021). It is its *conditio sine qua non*; without independence, an ombuds institution stops being an ombuds institution (Glušac 2021: 45). The independence means that ombuds institutions' decisions are not influenced by any external entity. This applies not only to parliament and the executive, but also to the other branches of the state, and any other public or private entity, such as companies, civil society organizations, and citizens, including complainants. If the ombuds institution is established by the constitution, then the independence is most usually constitutionally guaranteed; otherwise, it is granted by the legislation (founding law).

The literature recognizes different aspects and types of independence of oversight and regulatory bodies (Born & Buckland 2011; Hanretty & Koop 2013). This research differentiates four essential aspects of independence: institutional, functional (operational), personal, and financial. Institutional means that an ombuds institution is independent of the government and, more specifically, that it is not part of any of the bodies that it is mandated to oversee. Whilst institutional independence relates to the position of the office vis-à-vis other institutions, functional (operational) refers to the office's ability to decide which matters and priorities to pursue, free from interference by other institutions or actors (Born & Buckland 2011: 11). Personal independence relates to the security of the ombudsperson's position and tenure in office, including a legally established tenure of office, clear procedures for the potential removal of an ombudsperson from office, and a narrowly defined set of criteria stipulating the circumstances under which this can happen (Born & Buckland 2011: 10). Finally, financial independence means that an ombuds institution obtains and manages its funds independently from any of the institutions over which it has jurisdiction (Born & Buckland 2011: 9). In other words, ideally, the ombuds institution should draft, and the Parliament should adopt, its budget. The Venice Principles on the Ombudsman (Venice Commission 2019: para. 21) particularly highlight financial independence:

> Sufficient and independent budgetary resources shall be secured to the Ombudsman institution. The law shall provide that the budgetary allocation of funds to the Ombudsman institution must be adequate to the need to ensure full, independent and effective discharge of its responsibilities and functions. The Ombudsman shall be consulted and shall be asked to present a draft budget for the coming financial year. The adopted budget for the institution shall not be reduced during the financial year unless the reduction generally applies to other State institutions. The independent financial audit of the Ombudsman's budget shall

take into account only the legality of financial proceedings and not the choice of priorities in the execution of the mandate.

These four aspects of independence are mutually dependent. Absence of any of these robs the institution of independence. All four aspects of independence must be guaranteed by the law. However, such a normative (de jure) foundation of independence is just a basis for actual or de facto independence (see more in Lacatus and Carraro 2023).

Ombuds institutions are de jure (formal) independent to the degree to which the legislation forbids any external influence on their work, in terms of the offering of instructions, inducements, threats, or consideration of political or other preferences. De facto (actual) independence refers to the degree to which the agency takes day-to-day decisions without any external interference coming from political parties, authorities they oversee, the media, or the citizens. Ombuds institutions must take their decisions without taking into consideration any explicit or implicit, expressed or intended, wishes or interests of external entities.

With their unique position, independent of three traditional branches of government, ombuds institutions are a kind of auxiliary component to the checks and balances between state powers. Thus, they have increasingly been described as part of the fourth branch of government, together with other independent constitutional (expert) oversight bodies.

Functions

The Venice Principles on the Protection and Promotion of the Ombudsman, the most elaborated set of principles related to ombuds institutions, adopted by the Council of Europe in 2019, stipulate that 'the mandate of the Ombudsman shall cover the prevention and correction of maladministration, and the protection and promotion of human rights and fundamental freedoms' (Venice Commission 2019: para. 12). Another key international standard applicable for ombuds institutions, the Paris Principles on national human rights institutions, while specifying that those institutions should be mandated to protect and promote human rights, clarify that the human rights mandate should be interpreted in a broad, liberal, and purposive manner to promote a progressive definition of human rights which includes all rights set out in international, regional, and domestic instruments, including economic, social, and cultural rights (GANHRI SCA 2018).

Neither Venice nor Paris Principles define 'protection' and 'promotion' of human rights. However, the SCA of the GANHRI, the expert peer body in charge of accreditation, do provide useful guidelines in this regard. The SCA understands 'promotion' to include those functions which seek to create a society where human rights are more broadly understood and respected. Such functions may include education, training, advising, public outreach, and advocacy. 'Protection' functions may be understood as those that address and seek to prevent actual human rights violations. Such functions include monitoring, inquiring, investigating, and reporting on human rights violations, and may include individual complaint handling (GANHRI SCA 2018). The main weakness of this classification is that it neglects the so-called normative or legislative function, which is explicitly captured in some other conceptualizations of ombuds functions. For instance, Castro differentiates between the protective, preventive, and normative functions of ombuds institutions (Castro 2019: 66).

In Castro's classification, the protective function relates to safeguarding citizens' rights and interests, exercised through handling complaints with a view to securing redress of grievances. The protective function also includes the right of the ombuds institution to lodge individual appeals for relief against rights infringements, such as *habeas corpus* and *recurso de amparo* (Spanish Ombudsman and Peruvian Ombudsman) (Castro 2019: 67).

The preventive function is oriented to influencing the policy level in order to improve the quality of government and public service delivery, by recommending legislative or regulatory reforms, or changes to institutional practices. In such cases, the institution plays what Jacoby calls the 'role of reformer' (Jacoby 1999: 34). The preventive function is performed through own-initiative investigations (the Dutch Ombudsman and Peruvian Ombudsman) or the preparation of special reports (UK Ombudsman and Peruvian Ombudsman), which allow the ombuds institution to focus on general problems and to recommend changes in the administration (Castro 2019: 67). In this classification of ombuds functions, educational activities fall within the preventive function. As argued by Jacoby, when the recommendations arising from the ombuds' investigations are aimed at ensuring that the administration does not make similar mistakes in the future, the institution effectively exercises the educational function (Jacoby 1999: 37). The same function is performed when the institution provides trainings to citizens, civil society organizations, or interest groups about its role, and their rights as citizens; or to civil servants to identify shortcomings in government organization and contribute to improving service quality (Castro 2019: 68).

The third main function attributed to the ombuds institution in this differentiation is its normative function or authoritative function in the development of legal norms (Castro 2019: 68). As noted by Addink (2019b: 6), the ombuds institution as a fourth-power institution develops and applies legal norms, which are an important feature of administrative functioning regarding the protection of citizens as well as supervision of administrative behavior. The institution's contribution to the production of legal norms hinges on the authoritative character of the ombuds' opinion (Castro 2019: 84).

This study adopts the division between the protection and promotion functions, as understood by the SCA, with one important note. The normative function is subsumed under the protection function because its purpose is to advance legislation, enhance the level of human rights protection, and prevent human rights violations. To that end, it falls under the protection functions, as envisaged by the SCA, as it contributes to the efforts to 'address and … prevent actual human rights violations.' Such a normative sub-function is different from 'advising' which is part of the promotion function. This research takes 'advising' as those types of ombuds institutions' advice addressed to public authorities (including government and parliament) that do not require legislative changes. In other words, 'advising' falls under 'promotion,' whilst 'legislative or normative advice' constitutes part of 'protection.'

The following sub-functions in Table 1 can be recognized within these two main ombuds functions:

Table 1: Main functions of ombuds institutions (by author)

Main functions	Protection	Promotion	Additional functions (examples)
Subfunctions	monitoring	education	Fighting corruption
	inquiring	training and research	National Preventive Mechanism against Torture, under UN OPCAT
	investigating (upon complaint or own-motion)	advising	Independent Monitoring Mechanism (IMM), under UN CRPD
	reporting	public outreach and advocacy	
	mediation		
	litigation		
	legislative advice		

Monitoring

Monitoring is an umbrella term describing various activities ombuds institutions use to collect, verify, and use the information to address human rights problems in the country. Monitoring is a process of systematically tracking the activities of and actions by a government with the ultimate objective to reinforce the state's responsibility to respect, protect, and fulfil human rights. To that end, it has a temporal quality in that it generally takes place over a protracted period of time (OHCHR 2001: 9).

Monitoring is performed in order to ascertain whether a state respects its human rights obligations, rooted in both international human rights law and national laws and regulations. The ultimate purpose of monitoring is to improve the human rights situation. This can be done through different sets of activities: by establishing a record of what has taken and/or is taking place; by intervening with the authorities to force the government to answer for or remedy the situation; by informing higher levels of the organization or making the general public aware of human rights violations to prompt wider political reactions. The exact way in which the monitoring is carried out, and what is monitored, will depend on the situation in the country at the time (Mæhlum 2008).

Monitoring is thus an overarching approach that ombuds institutions use to keep track of their countries' human rights records. All ombuds institutions' activities should ultimately contribute to an increased ability of the institution to assess the human rights situation in the country, on individual and systemic levels.

Investigation and inquiry

Ombuds institutions shall have discretionary power, on their own initiative or as a result of a complaint, to investigate cases related to maladministration or human rights violations. The standards of ombuds investigation derived from the Venice and Paris Principles include:

- the right to request the cooperation of any individuals or organizations who may be able to assist in its investigations;
- the right to unrestricted access to all relevant documents, databases, and materials, including those which might otherwise be legally privileged or confidential; this includes the right to unhindered access to government buildings;
- unhindered and unannounced access to prisons and any other institutions where persons may be detained, or their rights restricted;
- the power to interview or demand written explanations of public officials, civil servants, and authorities.

The right to investigate should extend to all alleged human rights violations, including the military, police, and security officers (GANHRI SCA 2018).

The administrative authorities subject to the ombuds´ investigation should be bound to the duty of cooperation. This implies that the administration must facilitate the supervisory activities of the ombuds institution by providing information and access to government buildings, and employees.

Some authors and national legislations recognize the difference between investigation and inquiry in the ombuds context. However, there is no single criterion that could help generalize such a distinction. For instance, Castro uses the term 'inquiry' to refer 'specifically to those investigations conducted by the ombudsman to address the complaints lodged by the citizens,' compared to own-initiative investigations (Castro 2019: 61). Some institutions use this distinction for a different purpose. Some NHRIs in the form of human rights commissions use inquiries for egregious or systematic human rights issues (that they typically initiate themselves), while

instead almost all human rights ombuds institutions use own-motion investigations for the same purpose. For instance, the Human Rights Commission of the Maldives uses 'investigation' for individual cases, while 'inquiry' relates to systemic or thematic investigations. The study adopts this approach.

The most frequent output of investigations is recommendation. All ombuds institutions are vested with the authority to give recommendations to public authorities. Depending on jurisdictions, recommendations may come as single acts or as part of the report. They usually come in the form of a separate act when ombuds institutions determine there was a human rights violation or another omission (wrongdoing) in an individual case. In those cases, the 'recommendation' is an individual written act consisting of an overview of the complaint, the main findings of the ombuds' investigation, and a recommendation (or recommendations) with justification. The recommendation may also come as part of the report resulting from a systemic (or thematic) investigation. In other jurisdictions, as in the Netherlands or the United Kingdom, ombuds recommendations always come together with the report, whether it is a result of an individual or systemic investigation.

A recommendation means a specific proposal by the ombuds institution on how the wrongdoing should be remedied (if it is an individual case), or how legislation or administrative regulations or practices should be changed (if it is a systemic report with recommendations). The ombuds institution focuses on the procedural aspects of the administrative structure, but it is not precluded from examining the substance of the law regulations that may have led to maladministration in a particular case (Castro 2019: 62). Thus, after an objective investigation, the recommendation of the ombuds institution may include suggested amendments to government policy or practice, and even legislation (Castro 2019: 62).

The ombuds' recommendations are *stricto sensu* not legally binding, having a soft-law character. The impact of recommendations is not derived from binding, coercive, or determinative powers of ombuds institutions, but from the rigor, objectivity, and independence with which they conduct their investigations (Glušac 2020: 7). Because the institution has no power of enforcement, ombuds institutions rely on persuasion and publicity as a means to 'force' the compliance with its recommendations. Although the administrative bodies to which the recommendations are addressed are not obliged to implement them, their formal feedback is required. They are obliged to report back to the ombuds institution, to state if they have implemented the recommendation(s), and if not, to explain why. The Venice Principles (2019: para. 17) stipulate that ombuds institutions 'shall have the legally enforceable right to demand that officials and authorities respond within a reasonable time set by the ombuds institution.'

Reporting

All ombuds institutions produce reports. Together with recommendations, reports are the most visible outputs of the work of ombuds institutions. All ombuds reports serve to highlight key human rights developments in a country and provide a public account, and therefore public scrutiny, of the effectiveness of an ombuds institution. As argued by the SCA, the reports also provide a means to make recommendations to the government and monitor respect for human rights by the government (GANHRI SCA 2018).

The reports of ombuds institutions can be national or international; as well as annual, special (thematic), or case reports. International reports refer to submissions to international human rights mechanisms, such as UN treaty bodies or Council of Europe's monitoring bodies. The duty and the right to submit reports to the parliament and international human rights mechanisms are enshrined in all relevant international standards, including the Paris, Venice, and Belgrade Principles.

As ombuds institutions are most usually appointed by parliament, they report to the legislature as well. They are required to submit an annual report on their activities to the parliament. This reporting fulfils several functions, as noted by Castro (2019: 63):

> First of all, the ombudsman accounts for its activities. Second, the annual report can render grievances transparent to the parliament and enable it to employ its own competencies within the democratic control of the administration. In this respect, the ombudsman functions as an auxiliary body of the parliament. A third important function of reporting is the imposition of a form of soft sanction in case of non-compliance with recommendations. Finally, the reporting activity of the ombudsman can draw the attention of parliament to the necessity for amendments to legislation.

In addition to annual reports, ombuds institutions are usually empowered to submit special (thematic) reports. These reports cover a particular topic, by providing an in-depth analysis of a concrete human rights or (mal)administration issue, and often include general recommendations aimed at improving the quality of the government by proposing changes in institutional practices, procedures, or regulations (Castro 2019: 63).

Many ombuds institutions regularly report to universal and regional human rights mechanisms. This function is particularly underlined in the Paris Principles, which recognize engaging with the international human rights system, in particular the Human Rights Council and its mechanisms (Special Procedures and Universal Periodic Review) and the United Nations Human Rights Treaty Bodies, as an effective tool for the promotion and protection of human rights domestically (see Glušac 2022).

Mediation

In addition to the right to initiate and conduct investigations, and to address recommendations, ombuds institutions often have the right to conduct mediation and offer good services. This is, for instance, provided explicitly in the Law on the Protector of Citizens (Ombudsman) of Serbia (2021: Art. 27):

> In addition to the right to initiate and conduct investigations, the Protector of Citizens shall have the right to act preventively by providing good services, mediation and giving advice and opinions on issues within his/her sphere of competence, with a view to improving the work of administrative bodies and protection of human rights and freedoms.

Indeed, for some authors, the resolution of disputes is an integral part of the protective function of the ombuds institution (Remac 2014: 5). Not only does the institution protect citizens against the administration, but it also solves disputes between citizens and the administration, for example in cases when the conduct of the administration was not strictly illegal or irregular, but damage was done to the citizen.

While both are well recognized methods of dispute resolution and are often used interchangeably, there is a difference between good services and mediation. In the case of good services, the ombuds institution serves to bring two sides to the table, but does not actively participate in the process once that happens. When it comes to mediation, the ombuds institution actively works with two parties on finding a solution to the problem (conflict), including by suggesting possible solutions. Such an engagement of ombuds institutions should always be voluntary and should not seek to undermine or interfere with the duty to investigate allegations of human rights violations, where that duty applies (McGregor, Murray & Shipman 2019: 338).

It should be mentioned that human rights commissions, and especially equality bodies, use mediation to settle individual complaints more much often than ombuds institutions. A form of mediation more frequently used by ombuds institutions is the mediation of broader social conflicts. For instance, the Peruvian ombuds institution (*Defensoría del Pueblo*) often performs an important role as a mediator in social conflicts, helping to reduce costs for both the individual and the administration (Castro 2019:67). Ombuds institutions of Costa Rica and Kenya are also known for their mediating efforts. In mediating between the parties, the ombuds institutions must always retain their independence and impartiality (Remac 2014: 6).

(Legislative) advice

As mentioned above, this study recognizes two types of advising: policy and legislative. The former relates primarily to human rights and administrative policy, and how to improve the policy and its implementation. The latter refers to the so-called normative function of ombuds institutions and deserves more attention here.

Most general ombuds institutions are explicitly empowered to submit parliamentary bills (Kucsko-Stadlmayer 2008: 50–51). The Paris Principles also authorize NHRIs to recommend either the adoption of new or the amendment of existing legislation or administrative arrangements (OHCHR 2010: 105). The Belgrade Principles, a key international reference document on relations between NHRIs and parliaments introduced in 2012, endorsed by the UN (UNGA 2012: para. 67), have identified five principles pertaining to the legislative relations between NHRIs and parliaments: (1) NHRIs should be consulted by parliaments on the content and applicability of a proposed new law with respect to ensuring human rights norms and principles are reflected therein; (2) parliaments should involve NHRIs in the legislative processes, including by inviting them to give evidence and advice about the human rights compatibility of proposed laws and policies; (3) NHRIs should make proposals of amendments to legislation where necessary, in order to harmonize domestic legislation with both national and international human rights standards; (4) NHRIs should work with parliaments to promote human rights by legislating to implement human rights obligations, recommendations of treaty bodies, and human rights judgments of courts; and (5) NHRIs should work with parliaments to develop effective human rights impact assessment processes for proposed laws and policies (Belgrade Principles 2012: para. 27–31).

The Venice Principles also stipulate that in the framework of the monitoring of the implementation at the national level of ratified international instruments relating to human rights and fundamental freedoms and of the harmonization of national legislation with these instruments, ombuds institutions shall have the power to present, in public, recommendations to parliament or the executive, including to amend legislation or to adopt new legislation. The legislative role of ombuds institutions is also expressed through encouraging ratification of, or accession to, international human rights instruments, and the effective implementation of international human rights instruments. The Paris Principles prescribe that NHRIs should promote and encourage the harmonization of national legislation, regulations, and practices with these instruments (GANHRI SCA 2018).

Ombuds institutions may also have an active role in performing an *ex-post* evaluation of legislation or post-legislative scrutiny (PLS), understood as a broad form of review, the purpose of which is to address the effects of the legislation in terms of whether the intended policy objectives have been met by the legislation and, if so, how effectively (UK Law Commission 2006: 7). Studies have demonstrated that ombuds institutions and other NHRIs have already been conducting activities most relevant for PLS, even though those have not been often labelled as such, neither formally by parliaments nor by scholarly literature (Glušac 2019d: 155). In other words, their de

facto role in PLS has already been well established through their practice, despite the often-lacking de jure recognition by parliamentary procedures (Glušac 2019d: 155).

Finally, many ombuds institutions have the power to initiate proceedings before the Constitutional Court for the assessment of the constitutionality and legality of laws, other regulations, and general acts. This is explicitly stipulated in the Venice Principles, providing for ombuds institutions' power to challenge the constitutionality of laws and regulations or general administrative acts (Venice Commission 2019).

Additional functions

Besides their core mandate and functions presented above, ombuds institutions often receive additional ones. A number of ombuds institutions have an explicit mandate to contribute to the fight against corruption. This most often happens in Africa, where, for instance, the ombuds institutions of Lesotho, Mauritius, Namibia, Rwanda, and South Africa (Public Protector) all have mandates to fight corruption. Ombuds institutions have also increasingly been designated as the external bodies for the protection of whistleblowers. The case of the Croatian Ombudsman is particularly notable, as the Law on the Protection of Persons Reporting Irregularities from 2019 explicitly designated the Ombudsman as an external reporting instance for whistleblowers (Art. 21). The Venice Principles note that ombuds institutions should give particular attention and protection to whistleblowers within the public sector (Venice Commission 2019: para. 16).

In many countries, under applicable international human rights conventions, ombuds institutions have been designated as, or as part of, a National Preventive Mechanism against Torture (NPM), under the Optional Protocol to the UN Convention against Torture (OPCAT), and/or Independent Monitoring Mechanism (IMM), under the UN Convention on the Rights of Persons with Disabilities (CRPD).

The OPCAT and CRPD do not prescribe any specific structure or model for independent monitoring mechanisms. Each state is free to choose its own model, taking into account its own national context and institutional architecture. Monitoring mechanisms could be a new, specialized body or an existing institution taking on the role. To illustrate, in the case of NPMs, several models have emerged. As seen below, in most of them, ombuds institutions play the key role:

- creating a new and specialized body on torture prevention (e.g., France, Germany, Italy, Tunisia);
- designating a national human rights commission (e.g., Turkey, Uruguay, Maldives, Morocco, Lebanon) or ombuds institution (e.g., Spain, Poland, Montenegro);
- designating an ombuds institution with formal involvement of civil society organizations (e.g., Serbia, Slovenia, Ukraine);
- designating an ombuds institution with formal involvement of specific regional NPM Commissions (e.g., Austria);
- designating several institutions to serve the purpose of the NPM (e.g., United Kingdom, Brazil, Argentina).

Good governance and principles of good (security sector) governance

There is no universally accepted definition of governance that would provide a convenient device for organizing the literature (Keefer 2009; Weiss 2000). Governance can be understood both as a system and a process. It is the system of values, policies, and institutions by which a society

manages its economic, political, and social affairs through interactions within and among the state, civil society, and private sector. It includes the mechanisms and processes for citizens and groups to articulate their interests, mediate their differences, and exercise their legal rights and obligations (UNDP 2011). As a process, it refers to the formation of formal and informal rules that regulate the public realm (Hyden et al. 2004: 16). As noted by Addink (2014: 29), governance is an act of governing; it relates to decisions that define expectations, grant power, or verify performance that has legal consequences, and factual acts.

Good governance adds a normative or evaluative attribute to the process of governing (Gisselquist 2012). Both governance and good governance have been criticized for their lack of theoretical utility. UN OHCHR (2007: 2) defines good governance as the exercise of authority through political and institutional processes that are transparent and accountable, and encourage public participation. To that end, good governance is linked to the development of regulatory frameworks that guide a 'manner' for government actions, showing a specific way in which powers are exercised by the government (Castro 2019: 30).

Together with rule of law and democracy, good governance is one of the main cornerstones of the modern constitutional state. Those three are interconnected, as they 'make up the structure of the state and its institutions, the position of the governmental institutions and the citizens, and the norms for the relation between the government and the citizens' (Addink 2019a: 3).

How does one know if governance is good governance? What makes 'good governance'? In answering these questions, the focus here should be not on different, individual acts of governance (governance), but rather on the different principles as the overarching steering mechanisms for these activities (the principles of good governance) (Addink 2019a: 18).

Principles can be defined, in general terms, as 'goal norms' (Castro 2019: 153). Principles are future-looking norms as they establish a state of affairs that needs to be built. Principles are optimization requirements (Alexy 2010: 47–48), and immediate finalistic norms that describe an ideal state of affairs to be promoted (Avila 2007: 35–36). Compared to principles, rules are immediate descriptive norms that describe behaviors (Avila 2007: 36). Principles require more specific rules and procedures to operate. Principles may function to assemble or intermediate conflicting ideas. Likewise, principles generate and provide validity to the norms that operationalize them. Therefore, principles need rules to operate, and in turn provide the rationale for these rules (Botchway 2001: 182).

The realization of the ideal state of affairs requires the adoption of certain behaviors. These behaviors or conducts represent the means required in order to reach the state of affairs. On the other hand, the absence of these conducts hinders the realization of the state of affairs set by the norm as ideal, and consequently prevents the purpose from being reached (Castro 2019: 153–154). Such conducts 'become practical needs whose effects are needed to progressively advance to the purpose' (Ávila 2007: 41). Therefore, principles impose the duty of adopting the behaviors required, even if indirectly or regressively, to realize a state of affairs. In this regard, it is said that principles have a deontic-teleological character (Castro 2019: 154). They can be considered deontic because they set forth reasons for the existence of obligations, permissions, or prohibitions. They are teleological because obligations, permissions, and prohibitions stem from the effects of a given behavior that preserves or advances a certain state of affairs (Ávila 2007: 35).

At higher levels, good governance can be established as a legal norm in terms of constitutional principles. In this regard, it is important to keep in mind the difference between good governance and principles of good governance. As Addink (2014: 31) has pointed out, 'the principles of good governance have a strong normative connotation and may function mainly instrumentally, whereas good governance is the underlying concept and the consequence of the observance of the principles'. This implies that good governance also aims towards a goal and thus represents an end

in itself. Therefore, good governance has an axiological dimension and constitutes a fundamental value (Castro 2019: 31).

The principles of good governance are the legal parameters for different kinds of government activities associated with the fulfilment of public tasks oriented to the citizens' well-being and the efficiency of the government. These principles are oriented to the good functioning of the entire state apparatus from the perspective of the democratic rule of law (Castro 2019: 32).

Before concentrating on the principles of good governance, one additional distinction is needed here – between good governance and good administration. Good governance is essential for the effective functioning of any administration. It provides a framework of principles that guide administrative actions and ensure the proper exercise of power. These principles serve as norms for administrative behavior and can be applied to promote good administration or protect individuals' rights. When implemented, they contribute to making sound decisions and maintaining a balance between safeguarding citizens' rights and advancing the general interest.

The concept of good administration encompasses the performance of administrative activities, adherence to best practices, and compliance with legal requirements. It emphasizes the need for transparency, accountability, participation, and responsiveness in administrative processes. Good administration is characterized by the responsible use of discretionary powers, which involves making decisions that are fair, reasonable, and in line with established norms and objectives. On the other hand, the absence of good administration leads to maladministration, which refers to administrative actions that fall short of the expected standards. Maladministration can include actions that are unjust, arbitrary, or in violation of individuals' rights. It represents a failure to uphold the principles of good governance and can undermine public trust in the administration.

Overall, good administration is a manifestation of good governance at the administrative level. By adhering to the principles of good governance, administrations can ensure effective and accountable decision-making processes, protect citizens' rights, and work towards the collective well-being of society.

Principles of good (security sector) governance

What makes the principles of good governance? It is hard to find two identical classifications of the principles of good governance. This was perfectly captured by Louis Meuleman, Rapporteur for the UN Committee of Experts on Public Administration (2019):

> How does one know when countries have implemented good governance? Although a cornerstone of all developmental efforts and the *sine qua non* of sustainability, governance is often nebulous. As a concept, it is hard to decipher. As a practice, it is hard to pin down. We can debate endlessly over the different elements that can go into its conceptual foundations. We can apply all kinds of elaborate models of analysis to get to the bottom of it. All efforts will surely and squarely lead to our pure dazzlement by the richness of its multifarious applications around the world.

Indeed, classifying and defining the principles of good governance is a challenging task. However, it does not mean that such an exercise is futile or counterproductive *per se*. It helps one to better understand the true nature of governance and what constitutes good governance.

International organizations, development agencies, and scholars have all offered different classifications of the principles of good governance. Table 2 lays down the principles most frequently referenced in the literature.

Table 2: Most usual principles of good governance with sources.

Principle (alphabetically)	Source (chronologically)
accountability	UNDP (1997), Graham (2003), CoE (2008), Lockwood (2010), DCAF (2015), Keping (2018), Castro (2019), Addink (2019a), Pomeranz and Stedman (2020)
capability	Lockwood (2010), Pomeranz and Stedman (2020)
competence	CoE (2008)
consensus-oriented	UNDP (1997)
direction	Graham (2003), Pomeranz and Stedman (2020)
effectiveness	UNDP (1997), CoE (2008), DCAF (2015), Keping (2018), Castro (2019), Addink (2019a)
efficiency	UNDP (1997), CoE (2008), DCAF (2015)
equity	UNDP (1997)
ethical conduct	CoE (2008)
fairness	Graham (2003), Lockwood (2010), Pomeranz and Stedman (2020)
human rights	CoE (2008), Addink (2019a)
inclusiveness	Lockwood (2010), Pomeranz and Stedman (2020)
innovation and openness to change	CoE (2008)
legitimacy	Graham (2003), Lockwood (2010), Keping (2018), Pomeranz and Stedman (2020)
participation	UNDP (1997), CoE (2008), DCAF (2015), Castro (2019), Addink (2019a)
performance	Graham (2003), Pomeranz and Stedman (2020)
properness	Castro (2019), Addink (2019a)
responsiveness	UNDP (1997), CoE (2008), DCAF (2015), Keping (2018)
rule of law	UNDP (1997), CoE (2008), DCAF (2015), Keping (2018)
sound financial management	CoE (2008)
strategic vision	UNDP (1997)
sustainability and long-term orientation	CoE (2008)
transparency	UNDP (1997), CoE (2008), Lockwood (2010), DCAF (2015), Keping (2018), Castro (2019), Addink (2019a), Pomeranz and Stedman (2020)

Initial attempts to determine and classify principles of good governance came from the international (development) community, not from scholars. The United Nations Development Program's 1997 report entitled 'Governance and Sustainable Human Development' (UNDP 1997) enunciates a set of principles that, with slight variations, appear in much of later literature.

As shown in the table, transparency, participation, responsiveness, efficiency, effectiveness, rule of law, and accountability are recognized in a vast majority of classifications. Some principles, such as properness, capability, or fairness, are recognized by some classifications but subsumed or named differently in some others.

The context that gave birth to some of those classifications should be considered. For instance, the 12 Principles of Good Democratic Governance were adopted in 2008 by the Council of Europe

as part of the Strategy for Innovation and Good Governance at the Local Level. The Strategy and the Principles were agreed upon earlier at the 2007 Ministerial Conference in Valencia and endorsed by a decision of the Committee of Ministers of the Council of Europe in 2008. Although the 12 Principles as 'a reference point can help public authorities at any level measure and improve the quality of their governance and enhance service delivery to citizens' (Tatarenko n.d.), their focus on the local level led the drafter to include some principles not usually found in similar exercises, such as sound financial management, or innovation and openness to change.

Finally, some classifications disaggregate principles into their constituent parts/sub-components. That is the case for one set of principles designed particularly for good governance in the development context. In 2018, The United Nations Committee of Experts on Public Administration (CEPA), established by the Economic and Social Council (ECOSOC), formulated the Principles of Effective Governance for Sustainable Development, intending to organically integrate good governance into the implementation of the 2030 Agenda for Sustainable Development so that no one is left behind.

The Committee recognized three main principles – effectiveness, accountability, and inclusiveness, which were then divided into a total of 11 sub-principles (Table 3).

Table 3: Principles of effective governance for sustainable development (UN ECOSOC 2018).

Main category	No.	Principle
Effectiveness	1.	competence
	2.	sound policy making
	3.	collaboration
Accountability	4.	integrity
	5.	transparency
	6.	independent oversight
Inclusiveness	7.	leaving no one behind
	8.	non-discrimination
	9.	participation
	10.	subsidiarity
	11.	intergenerational equity

Some of the principles that stand alone in Table 3, such as transparency or participation, have been subsumed in the CEPA's classification by these three main categories. In contrast, in some other classifications, inclusiveness is subsumed by participation, whilst responsiveness is consumed by accountability. It is, thus, duly noted that these principles often overlap or even conflict at some point; they play out in practice according to the actual social context; applying such principles is complex; and they concern not only the results of power, but how well it is exercised (Graham, Amos & Plumptre 2003).

After comparing and contrasting these different categories, this study opted for the adoption of the classification of the principles of good (security sector) governance as proposed by DCAF – the Geneva Centre for Security Sector Governance (2015), to include: (1) accountability, (2) rule of law, (3) transparency, (4) participation, (5) responsiveness, (6) effectiveness, and (7) efficiency. This classification contains key principles featured in almost all attempts to grasp good governance. It is both comprehensive and avoids duplications. DCAF's classification is created for a specific context of SSG/R, which is of particular relevance for this study, which attempts to connect ombuds institutions, SDGs, and the security sector. With the emphasis on participation and responsiveness, it covers the central *credo* of the 2030 Agenda, to leave no one behind, whilst

with the inclusion of the principles of accountability, rule of law and transparency, it directly relates with SDG 16, aiming at achieving accountable and just institutions.

It should be noted that the principles of good governance do not always aim in the same direction; there are issues concerning their mutual relationship, and they do not yet have a univocal meaning (Addink 2019b: 7). With this in mind, this research uses the following definitions of the seven aforementioned principles.

Accountability de facto constraints the government's use of political power through requirements for justification of its actions and potential sanctions by both citizens and oversight institutions (Lührmann, Marquardt, and Mechkova 2020: 812). It means that administrators and administrative bodies must fulfil the functions and obligations of the positions they hold. If they fail to fulfil their bounden functions or duties, or if they do so in an inappropriate manner, their conduct constitutes dereliction of duty or lack of accountability (Keping 2018). In the context of the security sector, accountability refers to clear expectations for security provision, and independent authorities oversee whether these expectations are met and impose sanctions if they are not met.

Essentially, rule of law means that law is the supreme observed by all government officials and citizens, who should all be equal before the law. All persons and institutions, including the state, are subject to laws that are publicly known, enforced impartially, and consistent with international and national human rights norms and standards.

Transparency means that information is freely available and accessible to those who will be affected by decisions and their implementation (DCAF 2015).

Participation means that people of all backgrounds have the opportunity to take part in decision-making and service provision on a free, equitable, and inclusive basis, either directly or through legitimate representative institutions (DCAF 2015). Inclusiveness is here subsumed by participation. Inclusiveness means that institutions promote participatory empowerment of citizens, and invest efforts in including all individuals and groups, specifically individuals or groups who were previously not included or excluded. This goes along with the appreciation of diversity in personal characteristics. The term inclusive suggests that individuals have equal access to the social, political, and economic mainstream (Dörffel & Schuhmann 2022).

Responsiveness indicates that public institutions serve all stakeholders and respond to the demands of citizens in a timely and responsible manner. Institutions are sensitive to the different security needs of all parts of the population and perform their missions in the spirit of a culture of service.

Effectiveness means that institutions fulfil their respective roles, responsibilities, and missions to a high professional standard.

Finally, efficiency implies that institutions make the best possible use of public resources in fulfilling their respective roles, responsibilities, and missions.

Connecting good governance, human rights, security, and development

This chapter deals with four concepts that could all be labeled as 'essentially contested' (Baldwin 1997: 10; Gallie 1956) and can only be defined in general terms: good governance, human rights, security, and development. The relationship between any two of these four concepts has been widely described as 'a nexus' in the literature. Here, a nexus is understood as 'a network of connections between disparate ideas, processes or objects; alluding to a nexus implies an infinite number of possible linkages and relations' (Stern & Öjendal 2010: 11). This chapter does not attempt to provide any grand definitions of these concepts but to lay down how these interrelated concepts are understood and used in this study. It starts with the nexus between good governance and human rights, then it focuses on human rights and development, turning to governance and development, and closes with security and development.

There is an intrinsic link between good governance and human rights. As shown in the previous chapter, some authors have included human rights as one of the principles of good governance. Regarding the latter, the right to good administration has been increasingly recognized, most notably through Article 41 of the Charter of Fundamental Rights of the European Union. From a human rights perspective, good governance refers primarily to the process whereby public institutions conduct public affairs, manage public resources, and guarantee the realization of human rights. As further argued by OHCHR (n.d.):

> The true test of 'good' governance is the degree to which it delivers on the promise of human rights. Human rights standards and principles provide a set of values to guide the work of governments and other political and social actors. They also provide a set of performance standards against which these actors can be held accountable. Moreover, human rights principles inform the content of good governance efforts: they may inform the development of legislative frameworks, policies, programmes, budgetary allocations and other measures. On the other hand, without good governance, human rights cannot be respected and protected in a sustainable manner. The implementation of human rights relies on a conducive and enabling environment. This includes appropriate legal frameworks and institutions as well as political, managerial and administrative processes responsible for responding to the rights and needs of the population.

Human rights norms and good governance norms can only be realized by each other, in the sense that human rights need good governance and good governance needs human rights (Addink 2019a: 173). The interaction between good governance and human rights has already been established in international and domestic law. For example, some principles of good governance, such as transparency or participation, can be found in the sources of international human rights law (Table 4). The principles of participation and transparency have been embedded in the right to access information, as stipulated by the European Convention on Human Rights (Hins & Voorhoof 2007).

Table 4: Articles from international treaties in which the principles of good governance have been reflected.

Principle/treaty	UDHR	ICCPR	ECHR
participation	6, 8, 14(1), 21(1), 29(2)	6, 9(4), 13, 16, 25	15, 22
transparency		8, 40ff	10
accountability	30	1, 5, 40ff	19ff
effectiveness	22, 25(1)		5(2,3), 13,17

Note: Universal Declaration of Human Rights (UDHR), International Covenant on Civil and Political Rights (ICCPR), and European Convention on Human Rights (ECHR).

Good governance and human rights are thus mutually reinforcing, although characterized by many tensions. The same applies to the nexus between human rights and security. As observed by Jenkins-Smith and Herron (2009: 1096), tensions between civil liberties and security measures are sometimes mistakenly cast in zero-sum terms, suggesting that gains in security and order necessarily come at the expense of freedom and liberty, or that increasing freedom always diminishes security. Indeed, the relationship between security and liberty (human rights) is better understood as symbiotic rather than conflicting. Although many political regimes try to promote the view that more security has to come at the expense of the rights of citizens, this is more an attempt to securitize, to use extraordinary measures, to move away from ordinary democratic procedures,

with the goal to consolidate political power. Insisting on the principles of good governance serves to help prevent such attempts. Good security sector governance means that the security sector should be held to the same high standards of public service delivery as other public sector service providers (DCAF 2015).

The link between human rights and development has also been well recognized ever since the 1986 Declaration on the Right to Development. There are strong reasons for much systemic integration of human rights into development policy and practice. Mcinerney-Lankford (2009:52) offers three. First, they are intrinsically valuable in aiming to protect human dignity (e.g., *jus cogens*) and may be (negatively) affected by development so development policy should identify ways to, at a minimum, meet the 'do no harm' threshold. Second, they are also instrumentally useful to enhance development processes, address certain types of social risk, ensure accountability, and ultimately secure more equitable and sustainable development outcomes. Third, as a matter of public international law, human rights treaty obligations are legally binding, and under custom bind all states other than persistent objectors; as such they should be respected in all contexts, including development.

Similar to the case of the nexus between good governance and human rights, the principles of good governance are also the tenets of the development policy. Principles such as participation, inclusiveness, and accountability are well established in development discourse. As early as 2001, the UN Independent Expert on the Right to Development, Arjun Sengupta, in his report to the UN Commission on Human Rights, asserted that the right to development is a vector of all human rights, and emphasized 'the realization of each human right and all of them together has to be carried out in a rights-based manner, as a participatory, accountable and transparent process with equity in decision-making and sharing of the fruits of the process while maintaining respect for civil and political rights' (Sengupta 2001: 21).

The United Nations have indeed been at the forefront of efforts to establish stronger links between human rights and development. The so-called rights-based approach to development (HRBA) is mandated as integral to the form and content of the UN's development policy (UNSDG 2003). Despite these efforts, the relationship between human rights and development today is defined more by its distinctions and disconnects. Some authors recognize the deep tension between presenting moral ambitions in the language of (human) rights and presenting them in the language of (development) goals, as a first and most fundamental concern. Pogge and Sengupta (2016: 2) argue that the development goals discourse invites an incremental approach to overcoming deprivations, while the human rights discourse suggests that deprivations must be ended right away. When severe deprivations constitute unfulfilled human rights – and, given their social origins, even human rights violations – then they categorically require immediate and top-priority remedial attention (Pogge and Sengupta 2016: 2). The same authors criticize the UN language of 'progressive realization,' as it indicates that the full eradication of various deprivations recognized by the SDGs may take as much time as the governments deem reasonable to complete the task (Pogge and Sengupta 2016: 3).

If one problem is the pace of 'progressive realization,' another one is the generalist and abstract inclusion of human rights into development policy at the level of principles, perspectives, or considerations, rather than obligations. Often the references to human rights instruments are put either in a preambular way or in general terms. Consequently, human rights become part of the general policy narrative but rarely are the legal ramifications of specific instruments articulated in development policies that reference them, potentially limiting the degree to which human rights can be integrated (Mcinerney-Lankford 2009: 58–59). For these reasons, many scholars and practitioners have advocated for an international convention on the right to development. The drafting process is already in an advanced stage (Teshome 2022). As with other similar conventions, the drafting process is characterized by a struggle to resolve theoretical ideality and the political

reality, that is, to reconcile expert views with the political standpoints of Member States. While the UN Convention on the Right to Development should contribute to closing the gap between human rights and development, the same process has also reiterated the importance of the nexus between governance and development.

As famously noted by former United Nations Secretary-General Kofi Annan, 'good governance is perhaps the single most important factor in eradicating poverty and promoting development' (UN 1998). Many studies have focused on measures and assessments of governance quality, either in individual countries or cross-nationally (Apaza 2009; Arndt & Oman 2006; Besançon 2003), and the relationship between governance and main outcomes such as economic growth (Holmberg, Rothstein & Nasiritousi 2009; Kaufmann, Kraay & Zoido-Lobatón 1999; Keefer 2009;). However, an increasing body of literature questions the causal effect of the quality of governance on various outcomes, particularly economic growth (Kurtz & Schrank 2007a; 2007b). Some authors, such as Grindle (2004), also raise a similar argument as is the case with the nexus between human rights and development, pointing out that the good governance agenda is a poor guide for policy because it is *ad hoc*, 'unrealistically long,' and not attuned to issues of sequencing and historical development.

Given the ambiguities of the concepts of governance and good governance, it seems more potent to concentrate on the disaggregated components or principles of good governance, rather than on good governance as the *ad hoc* macro concept (Gisselquist 2012: 2), or the meta-concept (Addink 2019a: 19). Such a focus on the disaggregation of the concept should allow for more precision in the formulation (Gisselquist 2012: 2). For these reasons, the study accepts the principle-led approach, as already indicated. The same applies to the relationship between security and development to a large extent.

Today, the importance of the nexus between security and development is well established in the literature and among practitioners. However, historically, notions of 'security' and 'development' emerge from disparate ontologies. In the colonial era, attention to 'security' was a pinnacle of much 'development' strategy, whilst the Marshall Plan offers an example of 'development' concerns as central to Western security policies. Since the end of the Cold War, security and development concerns have been increasingly interlinked. As noted by Chandler (2007: 362–363), 'since the end of the 1990s, and particularly after 9/11, the framework of the "security-development nexus" has been hailed as a way of cohering national and international policy-making interventions in non-Western states.'

Two major factors contribute to such a change. Firstly, development was no longer equated with economic growth. Secondly, the rise of the human security concept within the development community has provided a rich playground for a more comprehensive understanding of both security and development (Dursun-Özkanca 2021; Khagram, Clark & Firas Raad 2003). The policy documents started to talk about the joining of practices and theories in these two policy areas as a way of creating a 'joined-up government' or of facilitating multilateral intervention under new 'holistic,' 'coherent,' or 'comprehensive' approaches to non-Western states (Chandler 2007: 362–363).

This process also included adding the prefix 'sustainable' to development, recognizing that development is not an exclusively positive notion. It may indeed bring negative effects on nature, human development, and human rights.

The security apparatus is increasingly involved in large-scale development projects, particularly when such projects do not enjoy the support of the local community. Sometimes, they are employed to clear the terrain, in other places to enforce expropriation, elsewhere to keep protesters away, or even run the projects themselves. Understood in narrow terms and applied selectively, security and development may indeed contribute to authoritarian tendencies. To make development sustainable, good governance and human rights have to be added to the equation. This

essentially means guiding the development by the principles of good governance and good security sector governance.

As in the case of good governance and development, it was again Kofi Annan that has acted as the key proponent of a strong nexus between security and development, arguing:

> Development and security are inextricably linked. A more secure world is only possible if poor countries are given a real chance to develop. Extreme poverty and infectious diseases threaten many people directly, but they also provide a fertile breeding ground for other threats, including civil conflicts (UN 2004: vii).

This citation depicts the richness of the link(s) between security and development, uniting different historical trajectories, approaches, and narratives. As demonstrated by Stern and Öjendal (2010: 22), references to 'a more secure world' draw upon the framing of 'globalized security–development,' which arguably lends legitimacy and urgency to the call for 'giving the poor countries a real chance to develop' as the only viable way out of the implied 'insecure' world in which we now live. The threats emanating from 'extreme poverty' arguably draw upon the 'broadening, deepening and humanizing' discourse in its depiction of human insecurities and symptoms of arrested human development or underdevelopment. The citation then shifts to the 'modern teleological narrative' as a source for presenting the scenario of 'other threats,' civil conflicts, and the violence and destruction they wreak (Stern and Öjendal 2010: 23). These authors see the depiction of a 'fertile breeding ground for threats' as evoking the image of the political body/society as an infested wound, which must be cured of its 'germs' for it to be secure (Stern and Öjendal 2010: 23). This part of the quote brings in an understanding of security as a 'technique of governmentality' (Stern and Öjendal 2010: 23).

Building on this comprehensive understanding of the security-development nexus, the next chapter adds ombuds institutions to the equation, by presenting the methodological framework for a better understanding of the role of these institutions in achieving the SDGs, particularly SDG 16, in the context of SSG/R.