CHAPTER 4

Leaving No One Behind

> *As we embark on this great collective journey, we pledge that no one will be left behind. Recognizing that the dignity of the human person is fundamental, we wish to see the goals and targets met for all nations and peoples and for all segments of society. And we will endeavor to reach the furthest behind first.*
>
> —Paragraph 4 in the 2030 Agenda

The implementation of this pledge calls for a comprehensive approach, going well beyond single-factor metrics to understand the severity, multiplicity, and distribution of disadvantages within their societies (UNDP 2018: 8). Inequalities in the context of the SDGs do not refer only to the income-poor, nor do they exist separate from each other. All those living in extreme poverty should be considered left behind, as can those who endure disadvantages or deprivations that limit their choices and opportunities relative to others in society. In other words, people get left behind when they lack the choices and opportunities to participate in and benefit from development progress (UNDP 2018: 3). The ultimate success of the SDGs is directly dependent on political will, which may be lacking where elites defend vested interests. Limited and shrinking space for civil society may also constrain efforts to change minds, reach those who are left behind, and ensure meaningful participation (UNDP 2018: 4).

Equality is at the very center of the 'leaving no one behind' concept. Equality is also fundamental to international human rights. In the human rights framework, equality has instrumental value – inequalities adversely impact the enjoyment of a full array of civil, political, social, economic, and cultural rights. But equality also has intrinsic value – equality in dignity and rights (MacNaughton 2017). As Sakiko Fukuda-Parr (2015) stated, the human rights principles of 'equality and nondiscrimination anchor an alternative framework for analysis of inequality, one that is based on the intrinsic value of equality as a social norm, and one that explores unjust institutions as the source of inequality.'

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Practically, the pledge means all governments must chart a new course aimed specifically at curbing inequalities between people, groups, and places; correcting for legacies of discrimination and exclusion both between and within countries; and prioritizing and fast-tracking progress among the furthest behind (UNDP 2018: 8). However, such prioritization must not be only rhetorical. As noted by Winkler and Satterthwaite (2017: 1076), the litmus test for whether the SDGs will truly 'leave no one behind' is not whether the SDG goals and targets include such (aspirational) language, but whether this language will translate into the implementation of the goals through policies, programs, and specific measures to eliminate discrimination and advance progress for marginalized groups.

Given the urgency of achieving the SDGs, countries have to adopt integrated approaches that would allow working on the several goals simultaneously. UNDP has presented the most elaborate account of the 'leaving no one behind' approach, advocating for integrated approaches which simultaneously: (1) improve what is known about who is left behind, where they are, and why; (2) empower marginalized populations to act and claim their rights; and (3) build the capacity of governments to adopt equity-focused and rights-based SDG targets, policies, and budgets which are inclusive and accountable (UNDP 2018: 21). Ombuds institutions may contribute to all three 'levers.'

To improve what is known about who is left behind and where essentially means to examine why people are left behind. Countries must thus collect and use more and better disaggregated data and people-driven information. Ombuds institutions are already recognized as important data providers for the SDGs (DIHR 2019, 2020).

Empowering marginalized populations means motivating and capacitating them to act and claim their rights. As premier human rights complaint-handling mechanisms, ombuds institutions are natural candidates to support this effort. With their broad mandate, they are well suited to protect people who may experience multiple discrimination (on the basis of gender, indigeneity, minority status, age, disability, and similar).

Empowering those who are left behind, however, means much more than only protecting the rights of marginalized populations. It also means 'ensuring their meaningful participation in decision making and establishing safe and inclusive mechanisms for their civic engagement' (UNDP 2018: 24). In other words, building trust in government institutions, including independent authorities, such as ombuds institutions, is a vital precondition for the readiness of marginalized populations to engage with them and to recognize them as the authority that could protect their rights. UNDP (2018: 24) has explicitly recognized that NHRIs 'play a vital role in bridging state and stakeholder efforts to include excluded and marginalized groups and advance non-discrimination and equity in national policy making.'

Building the capacity of governments to adopt equity-focused and rights-based SDG targets, policies, and budgets refers to the ability to enact policies, laws, reforms, and interventions to confront the drivers that leave people behind across different SDGs. These should all ultimately lead to improving public services on national, regional, and local levels. As shown in Chapter 2, ombuds institutions are designed to do exactly this: to ensure the provision of citizen-orientated public services.

Although the SDGs were negotiated and adopted under the spotlights of the world's capitals, their practical implementation must reach even the smallest communities around the globe; otherwise, they are not as global or universal as they aspire to be. A parallel with human rights is rewarding here. Eleanor Roosevelt (1958), who chaired the Universal Declaration of Human Rights Committee, famously said that 'universal human rights begin in small places, close to home; so close and so small that they cannot be seen on any map of the world.' The same applies to development, that is, the SDGs, which must reach every inch of the world to be truly global. Both development and human rights call for the symbiotic endeavor of national and local actors, instead of becoming arenas of contestation between local and national authorities (Glušac 2018a).

It is those who are isolated, either due to geography or other factors, that are most vulnerable. In today's world characterized by the omnipresence of technology, the inability to access mobile phones and other internet-enabled devices prevents many of the poorest and most marginalized

people from fully participating in their country's economy, society, and political system. As of 2021, the International Telecommunication Union (ITU) estimates that approximately 4.9 billion people – or 63 percent of the world's population – have access to the internet. Although this represents an increase of 17 percent since 2019, with 782 million people estimated to have come online during that period, this still leaves 2.9 billion people offline (ITU n.d.). People in developing countries are particularly disadvantaged as, because of the 2.9 billion still offline, an estimated 96 percent live in those countries (ITU 2021). Furthermore, globally, people in urban areas are twice as likely to use the internet as those in rural areas (76 percent urban compared to 39 percent rural). In the least developed countries (LDCs), urban dwellers are almost four times as likely to use the internet as people living in rural areas (47 percent urban compared to 13 percent rural), according to the 2021 data gathered by ITU (2021). In increasingly interconnected societies and technology-enabled economies, digital exclusion translates into exclusion on many fronts from economic opportunities to participate in 'the public sphere' (UN Broadband Commission 2017).

The COVID-19 pandemic only reiterated the importance of internet access, as many public services were forced to cancel in-person access to their offices. To mitigate this, many public offices, including ombuds institutions, invested efforts to become more accessible through online services. Indeed, the digitalization of complaints-lodging procedures and case-management systems was the key development in the work of most ombuds institutions during the first wave of COVID-19 (Glušac & Kuduzovic 2021: 2).

According to the survey conducted by DCAF in the summer of 2020, which included responses from 41 ombuds institutions in 37 countries coming from five continents, the pandemic accelerated processes of digitalization and has created an impetus for more flexible working environments (Glušac & Kuduzovic 2021: 8). The need for greater adaptability and increased remote access to ombuds institutions has thus been an opportunity to modernize the workstreams of ombuds offices, instituting and refining complaints mechanisms that are accessible through social media or smartphone apps in some cases (Glušac & Kuduzovic 2021: 9).

Being accessible to citizens through various channels is of great importance for ombuds institutions as grievance and complaint mechanisms (Dahlvik 2022). Outside of the traditional means of lodging complaints, in-person or by mail, many ombuds institutions worldwide also introduced the option to file complaints by email or by using special forms on their institutional websites. In addition, some ombuds institutions have tested ways to receive complaints via their social media channels, while others have also used popular instant messaging applications to communicate with citizens (e.g., Senegal and Côte d'Ivoire). According to DCAF's survey, 51 percent of ombuds institutions have introduced new digital procedures from the start of the COVID-19 pandemic, to enable citizens to file complaints by email, web form, or social media (Glušac & Kuduzovic 2021: 12).

Speaking on the challenges to the work of ombuds institutions posed by COVID-19, the Ombudsperson for Bermuda and President of the Caribbean and Latin America Region of International Ombudsman Institute (IOI), Victoria Pearman (2020), has encouraged her peers to use both traditional and electronic means of communication, to remain visible and accessible to the citizens without reliable internet connections, particularly in rural areas, who still mostly rely on landline phones. Automatic phone readings have been widely used by ombuds institutions (during the times when the offices were closed) to transmit important service information and provide assurances to citizens that their messages were regularly checked by ombuds staff.

The isolation that leads to exclusion goes beyond access to the internet or phone network. People are left behind and left open to vulnerability and inequality when they are deprived of access to justice, equal protection under the law, and basic services, such as roads, public transport, sanitation, and energy, etc. As argued by UNDP (2018: 19), 'the more severe the poverty and inequities people experience, the more tightly interwoven and enduring such barriers become and the more vulnerable people become to exploitation and human rights abuses.'

What follows is an attempt to explore what ombuds institutions could and should do to contribute to achieving six targets that directly relate to preventing exploitation and human rights abuses.

Reducing all forms of violence (16.1)

People are left behind when they are vulnerable to risks related to violence, conflict, or displacement. The impact of violent conflict can cause entire communities, regions or countries to be left behind, and they can also often spill over national borders (UNDP 2018: 19). Here, violence is defined as 'the intentional use of physical force or power, threatened or actual, against oneself, another person, or against a group or community, that either result in or has a high likelihood of resulting in injury, death, psychological harm, maldevelopment, or deprivation' (WHO 2002).

Extreme poverty is increasingly concentrated among vulnerable groups displaced by violent conflict and within countries and regions affected by conflict (World Bank 2016). In 2020, fragile contexts and conflict-affected settings were home to 23 percent of the world's population and 76.5 percent of those living in extreme poverty globally (OECD 2020). Violence, armed conflict, and forced displacement are concentrated in fragile countries and territories. In 2019, 79 percent of deaths from violent conflict and 96 percent of deaths from state-based armed conflict occurred in fragile countries and territories. Fragility, multidimensional poverty, and inequalities mutually reinforce each other, as fragility and conflict can lead to the absence of public services, intolerance, and limited access to resources, which in turn can provoke grievances resulting in mistrust and conflict (UNDP 2018: 17). According to the OECD (2020), fragility is the combination of exposure to risk and insufficient coping capacity of the state, systems, and/or communities to manage, absorb, or mitigate those risks. Fragility can lead to negative outcomes including violence, poverty, inequality, displacement, and environmental and political degradation. In 2020, 57 countries and territories were defined as fragile contexts by OECD.

Ombuds institutions may serve as early-warning systems for violent conflict and tools for preventing such conflicts. By quickly responding to and rectifying grievances, ombuds institutions address one of the main root causes of violent conflict. Working with security and judicial actors is essential in this regard, both when discussing armed conflict and peacetime violence, such as intentional homicides or other forms of physical, psychological, or sexual violence, which are all recognized through SDG 16 indicators.

Through media reports and by addressing individual or collective complaints, ombuds institutions may learn of systemic problems within the communities which may potentially lead to conflict. Ombuds institutions must be present on the ground to be able to recognize such developments and engage with local communities and stakeholders timely. This particularly applies to multiethnic and multireligious societies, with a history of conflict. For instance, in order to foster inter-ethnic relations in Serbia, the Protector of Citizens (Ombudsman) established three local offices in South Serbia's municipalities where Albanians form the majority. This helped build trust in public institutions and provided the local community with direct access to national authority with strong mandates and powers.

Ombuds institutions are well-placed to develop trainings for security actors on working in multiethnic and multireligious environments. Learning about the similarities and differences of various social groups populating the country is a precondition to making them feel like equal and productive members of the society.

Mediation and offering good services are two rewarding avenues for working with local community leaders and national actors to resolve conflicts in the early stages or in post-conflict settings, especially when security forces (military and/or armed police) are deployed on the ground. Being independent and impartial, ombuds institutions should work on building stronger ties and confidence with local communities, to be able to bring different social forces to the table and foster dialogue. For example, ombuds institutions from Ecuador (environmental rights), Colombia (peace negotiations), and Costa Rica (public protests) have served as initiators and/or conveners of multi-stakeholder dialogues meant to bring closer the positions of different social actors.

Beyond armed conflict, by working with local administrations, social services, and the police, ombuds institutions may contribute to suppressing family and gender-based violence. Responding quickly to any information received or learned may save lives and protect those most vulnerable.

A good example of an NHRI's systemic action aimed at combating all forms of violence, including sexual harassment, is the Australian Human Rights Commission, which conducted a national survey to investigate the prevalence, nature, and reporting of sexual harassment in Australian workplaces and the community more broadly. The 2018 survey was conducted both online and by telephone with a sample of over 10,000 Australians. It revealed that one in three people (33 percent) have experienced sexual harassment at work in the last five years. In response to the survey, Australia's Sex Discrimination Commissioner announced an unprecedented National Inquiry into sexual harassment (DIHR 2019: 20).

Ending abuse, exploitation, trafficking, and all forms of violence against and torture of children (16.2)

No violence against children is justifiable and all violence against children is preventable
—Paulo Sérgio Pinheiro (2006: 3)

This target is of great importance for general ombuds institutions and those ombuds institutions focusing on children's rights, which exist in a number of countries. Those specialized children ombuds institutions often exist in parallel with general ombuds institutions. That is the case in, for instance, Croatia, Cyprus, Finland, Ireland, Lithuania, or Slovakia. However, more frequently, the protection and promotion of the rights of the child are delegated to general ombuds institutions, which often establish special departments for the rights of the child. Furthermore, many countries appoint a Deputy Ombudsperson for Children within the general ombuds institution to emphasize the importance of protecting the youngest members of society. This is the case in, for example, Serbia, Greece, North Macedonia, Montenegro, Romania, and Slovenia. Finally, in some countries, as in the Netherlands, the Ombudsperson for Children is part of the National Ombudsman but operates as an independent institution.

Although at first sight this target may seem less relevant for specialized military ombuds institutions, it actually may be of high importance, especially in the context of peace operations. While peacekeepers are instrumental in assisting communities in volatile regions and promoting a brighter future after conflicts, there have unfortunately been instances where some peacekeepers have taken advantage of the very people they were sent to protect. These instances include (but are not limited to) UN peacekeeping operations in the Democratic Republic of the Congo (United Nations Organization Mission in the Democratic Republic of the Congo – MONUC and United Nations Organization Stabilization Mission in the Democratic Republic of the Congo – MONUSCO), Central African Republic (United Nations Multidimensional Integrated Stabilization Mission in the Central African Republic – MINUSCA), and Haiti (United Nations Stabilization Mission in Haiti – MINUSTAH), where acts such as rape and other forms of sexual exploitation and abuse, including against children, have been reported and documented (Nordås & Rustad 2013; Kovatch 2016; Lee & Bartels 2020).

Recognizing the gravity of these incidents and to ensure accountability, the United Nations has established various channels for investigating allegations and holding individuals responsible. These include internal investigations, collaboration with national authorities, and dedicated units within peacekeeping missions specifically focused on preventing and addressing sexual exploitation and abuse. One of the potential national remedial mechanisms in these situations could be ombuds institutions. In the framework of the annual International Conference of Ombuds Institutions for the Armed Forces (ICOAF), ombuds institutions have already recognized the potential

to be more actively involved in peace operations, in order to protect the rights of both armed forces personnel deployed abroad and the local population. They have also noted a complex environment pertinent to peace operations, such as post-conflict fragile contexts, the involvement of multiple jurisdictions, and different mandates of ombuds institutions (ICOAF 2016). The Dutch National Ombudsman (and Dutch Inspector-General), the German Parliamentary Commissioner for the Armed Forces, and the Parliamentary Ombud's Committee for the Norwegian Armed Forces have been forerunners in this regard, conducting separate or joint field visits to the troops in Mali (2016, UN mission), Norway (2022, NATO military exercise), and Lithuania (2023, joint troops stationed there). The ombuds work in this area is still very much in progress, with tangible results yet to be seen, particularly in terms of protecting the rights of local population, including children. Various challenges are observed, most notably, legal and institutional quagmire on the line: mission headquarters – mission command – national contingent command – national headquarters. All these instances have some kind of complaint mechanisms that are extremely difficult to map, let alone comprehend and use. Ombuds institutions have to learn how to navigate through these waters, making sure to cooperate well with their counterparts in the country of deployment, and to be visible and accessible to potential complainants on the ground. The latter has proven to be a challenging task even in their own backyards. Still, it is commendable that ombuds institutions are committed to this goal and invest considerable efforts to achieve it.

Whilst it is expected that jurisdictional issues count in an international environment, this should be avoided on the national level. Whatever the institutional setup, the legal framework must provide for a clear division of mandates and powers of different public authorities, to avoid conflicts of positive or negative jurisdiction, and to maximize the protection of the rights of the child. Globally, much more effort is needed to suppress violence against children. According to the latest UN data, violence against children is widespread, affecting children regardless of wealth or social status. In 76 (mostly low- and middle-income) countries with available data from 2013 to 2021, 8 in 10 children aged one to 14 years of age were subjected to some form of psychological aggression and/or physical punishment at home in the previous month (UN 2022: para. 152).

Monitoring is the key function of ombuds institutions through which they can contribute to achieving this target. In this context, monitoring 'does not consist merely of passive observation, but rather calls for proactively seeking information, ensuring that it is accurate and then using it to redress wrongs, halt violations and prevent abuse' (UNICEF 2020: 7).

Preventive and reactive visits to all places where children are cared for or detained without the possibility to leave freely (usually based on a judicial or administrative order) should be the highest priority. The main settings are those in which children are in institutional or residential care or are deprived of liberty (e.g., juvenile detention centers or other facilities managed by the juvenile justice system). They may also include prison-type facilities; detention centers hosting children and their parent(s); hospitals and psychiatric institutions; education or rehabilitation centers; and asylum centers, refugee camps, or reception facilities for children on the move, whether unaccompanied or with their parent(s) (UNICEF 2020).

Handling individual complaints from children or regarding children should be a daily priority of ombuds institutions. However, when discussing the prevention of violence against children, more systemic efforts are needed to achieve this complex SDG target. Drafting thematic reports may be regarded as a particularly rewarding avenue of potentially high impact on realizing 16.2. Conducting in-depth studies on the aspects that connect the rights of the child with SDGs may also be another option. Child trafficking and child beggary are among the topics that connect the two in the most comprehensive manner.

Prevention of child trafficking and child beggary requires a strategic engagement of different law enforcement and intelligence/security agencies. Both often constitute organized crime, with transnational elements. Children victims of these crimes are de facto deprived of their liberty, with little or no real possibility to report or complain to either police or human rights mechanisms. Thus, ombuds institutions should be vigilant in monitoring the developments in this area and keep regular consultations with police and social welfare centers to contribute to suppressing these crimes.

The principle of participation – listening to the child's opinion regarding the matters of his/her concern and paying due attention to that opinion – is one of the basic principles enshrined in the UN Convention on the Rights of the Child. Including children in its work should also be a strategy of ombuds institutions. This is sometimes done through the establishment of special permanent bodies, such as the Young Advisors Panel or similar structure. This has been done on both national (e.g., Greece, Serbia, Ireland) and international levels (e.g., the European Network of Young Advisors – ENYA – a child/young people participatory project supported by the members of the European Network of Ombudspersons for Children – ENOC). Such young advisory panels secure a permanent form of participation of children and youth in the activities of ombuds institutions. They usually consist of a limited number of young advisors (up to 30), aged up to 18, elected periodically among pupils that have responded to a public call. The main role of such panels is to convey to ombuds institutions the topics that are important to children and young people, point out the problems they face, present their views, and raise issues that are important to improving the position of children and youth in a given country. For example, the Young Advisors Panel of the Protector of Citizens (Ombudsman) of Serbia has taken active participation in drafting the Child Protection Policy of the Protector of Citizens, aimed at prevention and timely and adequate response to all types of violence against children (Protector of Citizens 2021). This has helped the Protector of Citizens to better understand constantly developing manifestations of violence against children, including peer violence, particularly in cyberspace, which is an increasingly present phenomenon. As a result, the Protector of Citizens is better equipped to oversee the work of police, when it comes to the cases of violence against children.

Broadening and strengthening the participation of developing countries in the institutions of global governance (16.8)

This SDG 16 target aims at providing for more inclusive and active participation of developing countries in institutions of global governance. There is only one indicator associated with it: the proportion of members and voting rights of developing countries in international organizations. It does not include any tangible goal in terms of the percentage or similar measure.

It is challenging to define 'developing countries' in the context of this indicator, as there is no current definition of developing and developed countries (or areas) within the UN system. In 1996, the distinction between 'developed regions' and 'developing regions' was introduced to the standard country or area codes for statistical use (known as M49). However, after the adoption of the SDGs and following consultation with other international and supranational organizations active in official statistics, the United Nations removed 'developed regions' and 'developing regions' from the M49 in December 2021 (UN Statistics n.d.).

At first sight, this target does not seem to have much in common with ombuds institutions. Nonetheless, this target could be applied to ombuds institutions, in terms of the proportion of ombuds institutions and other forms of NHRIs coming from developing countries in the governing bodies of two global peer institutions – GANHRI and IOI. Being present in these structures helps ombuds institutions from developing countries to influence the strategic priorities of these peer networks, by promoting the topics which would not otherwise be on their agenda. This may then lead to stronger advocacy in global arena, as GANHRI and IOI regularly engage with key stakeholders, including the United Nations and the Council of Europe.

It should be noted that neither GANHRI nor IOI have a policy on including a certain number of developing countries in their governing structures.[1] Still, both organizations have put strong emphasis on equal regional representation.

[1] The author thanks a reviewer for raising this question.

To ensure a fair balance of regional representation, GANHRI recognizes four regional networks (Africa, Americas, Asia-Pacific, and Europe). Each regional network appoints four members and one alternate member accredited with 'A' status to represent the regional network on the GANHRI Bureau, as the main governing body, for a three-year term. Only NHRIs accredited with 'A' status are eligible to be voting members of GANHRI. This applies to both General Assembly and the Bureau. For the current composition of the GANHRI Bureau (2023), see Table 10.

Table 10: Composition of the GANHRI Bureau (2023).

Region/Countries				
Africa	Morocco	Zimbabwe	Ghana	DR Congo
Americas	Bolivia	Canada	Guatemala	Argentina
Asia-Pacific	Qatar	Australia	Jordan	Korea
Europe	Finland	Bulgaria	Norway	Albania

Countries highlighted green in the table are considered developing countries by the World Bank's list of low- and middle-income countries, that concentrates on gross national income per capita (GNI) and the UN Human Development Index (HDI) considering a broad range of factors, including economic growth, life expectancy, health, education, and quality of life. Those in blue are considered developing countries by the World Bank, but not by HDI. The opposite cases would be in yellow, but there are none. Looking at the table, it could be said that developing countries are well-represented in the GANHRI Bureau.

The IOI, established in 1978, is the only global organization for the cooperation of more than 200 ombuds institutions from more than 100 countries worldwide. In contrast to GANHRI, which gathers only institutions operating on the national level, the IOI also includes regional and local ombuds institutions. The IOI is organized into six regional chapters (Africa, Asia, Australasia & Pacific, Europe, the Caribbean & Latin America, and North America). It is governed by the Board of Directors, which consists of the members of all regions, elected for a four-year period. The voting members of each region elect their representatives to the Board of Directors, depending on the number of the voting members: a maximum of 3 regional directors where there are fewer than 20 voting members; a maximum of 4 regional directors where there are 20 or more voting members; and a maximum of 5 regional directors where there are 60 or more voting members. The voting members of each region then elect a Regional President (RP) from amongst the elected regional directors.

Given the current number of the voting members, the composition of the IOI Board of Directors is as follows in Table 11:

Table 11: Composition of the IOI Board of Directors (IOI 2023).

Region	Regional President	Regional Director	Regional Director	Regional Director	Regional Director
Africa	Kenya	Angola	South Africa	Zambia	
Asia	Thailand	South Korea	Pakistan	Pakistan	
Australasia & Pacific	Australia	New Zealand	Australia		
Europe	Greece	Portugal	United Kingdom	Belgium	Slovenia
Caribbean & Latin America	Mexico	Curacao	Sint Maarten	Argentina	
North America	Canada	USA	Canada		

Note: The same color scheme is used as in the previous table.

As the candidates for the Board of Directors are elected individually, it is possible to have more than one director from the same country, as in the case of Australia and Canada. In addition, as the IOI accepts regional and local ombuds institutions, it recognizes Curaçao and Sint Maarten, despite the fact they are constituent parts of the Kingdom of the Netherlands. In sum, around half of the members of the IOI Board come from developing countries, expectedly from Africa and Asia regions, which is a solid result.

Providing legal identity for all, including birth registration (16.9)

Legal identity has a critical role to ensure the global community upholds its promise of leaving no one behind as espoused in the 2030 Agenda. Legal identity is widely acknowledged to be catalytic for achieving at least ten of the SDGs, as data generated from civil registration and population registers support the measurement of over 60 SDG indicators (United Nations Legal Identity Expert Group 2019: 2).

This SDG target holds great promise – to implement the fundamental right of everyone to be recognized as a person before the law. Enshrined in Article 6 of the Universal Declaration on Human Rights and Article 16 of the International Covenant on Civil and Political Rights, this fundamental right to a legal identity is a prerequisite for exercising all other rights.

By providing all children with proof of legal identity from day one, their rights can be protected and universal access to justice and social services can be enabled. Yet, according to the latest data, the births of around 1 in 4 children under age 5 worldwide today have never been officially recorded based on data for 2012–2021; only half of the children under five in sub-Saharan Africa have had their births registered (UN 2022: para. 159). This problem goes well beyond birth registration, as it refers to many people worldwide without any personal documents, making them 'legally invisible.' When people are unable to prove their identity, they cannot access basic services like education and health care. In such situations, they turn to informal networks in order to substitute for formal services. They become more exposed to fraud, human trafficking, and other crimes. At the same time, due to their status, access to law enforcement and justice systems is quite limited. To make the situation even worse, sometimes they actively avoid going to police or any other public institutions, as they can be subjected to criminal or misdemeanor proceedings, because in many countries having no personal documents is illegal. Hence, the phenomenon of crime underreporting is very much present among this population. It is in the interest of the state authorities to resolve this problem and make sure that all citizens are legally recognized.

Despite great potential for the promotion of individual rights associated with a legal identity, registration and identification systems may also serve to suppress and exclude, being a tool of state control and surveillance.

As shown by Lyon (2010: 607) and Ajana (2013), governments have regarded the expansion of registration and identification systems as a useful tool for border and movement controls and counter-terrorism, but also suppression of opposition in more authoritarian regimes. Hence, civil society organizations such as Access Now or Privacy International have scrutinized the potential for abuse of identification systems and advocated for robust data protection legislation and privacy safeguards (Beduschi 2019). As argued by Sperfeldt (2021: 8), 'this [security] perspective is usually absent from official documents and advertising materials surrounding the SDGs, but nevertheless an important consideration for governments seeking to implement universal identification and registration systems.' Another problem is that there is no universally accepted definition of legal identity.

As premier independent human rights authorities, (general) ombuds institutions are well-placed to actively contribute to achieving this target, particularly in the contexts where the right to legal identity and the procedure of providing the proof of legal identity are not legally or procedurally fully regulated. Special attention should be given to ensure that identification and

registration systems are introduced with the purpose of inclusion, not the exclusion of stateless people or those with no personal documents. The case of the Serbian Ombudsman (Protector of Citizens) is a good illustration of how this can be done in practice.

In 2010, the Protector of Citizens (then Saša Janković) identified the problem of the "so-called legally invisible citizens, that is persons who have not been entered into birth or other registers (mostly internally displaced persons from Kosovo and Metohija, namely the Roma), thereby being unable to exercise their civil rights." (Protector of Citizens 2011: 25). The Protector of Citizens conducted several control procedures which resulted in registration in the register (of births, deaths, and marriages) and issuance of personal documents for these persons. However, the systemic problem remained. In 2012, the Ombudsman published a comprehensive 'Report on the Status of "Legally Invisible" Persons in the Republic of Serbia' (Protector of Citizens 2012). The same year, the Ombudsman initiated amendments to the Law on Non-Contentious Procedure, which passage enabled persons who were not able to register in birth registers in the administrative procedure of late registration of birth, to exercise this right within a reasonable time through judicial proceedings. Before the Ministry of the Interior, the Protector of Citizens also initiated amendments to the Law on Permanent and Temporary Residence of Citizens and the Law on Identity Cards, which was passed by the National Assembly, whereby citizens who had not been able to exercise their rights because they did not have a registered permanent residence were enabled to do so after registering at the address of the social work center in the local self-government in which they lived (Protector of Citizens 2013: 63). To assist the authorities in implementing this new system, the Protector of Citizens, the Ministry of Justice and Public Administration, and the United Nations High Commissioner for Refugees concluded the Memorandum of Understanding (MoU). Under this MoU, the Protector of Citizens has continued to oversee the implementation of the new legislation and has participated in several rounds of trainings for judges, registrars, employees of centers for social work, and Roma organizations on how to implement the new procedures in practice.

Ensuring public access to information and protecting fundamental freedoms (16.10)

Judging by its title, one would rightly assume that this SDG 16 target is among the broadest defined targets in the entire 2030 Agenda. However, when analyzed through the lenses of the indicators, the perspective changes. There are only two indicators associated with this target: (1) the number of verified cases of killing, kidnapping, enforced disappearance, arbitrary detention, and torture of journalists, associated media personnel, trade unionists, and human rights advocates in the previous 12 months; and (2) the number of countries that adopt and implement constitutional, statutory, and/or policy guarantees for public access to information. The former relates to 'protecting fundamental freedoms' and has a narrow focus on the physical well-being of the media and civil society representatives, while the latter concentrates on 'ensuring public access to information.' These indicators do not necessarily reflect the stated aim of the target itself, nor they can objectively testify if the target is achieved or not. Still, this is what the states have agreed upon.

Ombuds institutions and the media are both oversight mechanisms. Before the widespread development of independent oversight institutions, it was the media that was often described as the fourth branch of power. The media is of crucial importance for the ultimate success of ombuds' efforts. It serves as a megaphone of the findings of ombuds institutions and a pressuring channel. Often public officials react to ombuds' requests and recommendations only after being pressured by media reports. Cooperation with media outlets (traditional and electronic) is essential for ombuds institutions' ability to conduct large-scale advocacy, awareness-raising, and educational campaigns.

An excellent example of the cooperation between an ombuds institution and public media is found in Austria. Since 1979 (with a hiatus between 1991 and 2002), the Austrian Ombudsman

Board (AOB) has a weekly broadcast on public TV (*Bürgeranwalt)* in which recent cases are discussed in the presence of an ombudsperson, a complainant, and sometimes representatives of the relevant authority (Dahlvik and Pohn-Weidinger 2021). Through this show, the ombuds institution is provided with the opportunity to present its work, elaborate on its mandate and approach, and demonstrate the power to find solutions not only for individual problems of citizens but also to address more systemic issues. As noted by Dahlvik and Pohn-Weidinger (2021), the broadcast is highly popular, attracting an average of 324,000 viewers in 2017 (a 23 percent market share at that time slot). According to the head of the public broadcasting company, between 2007 and 2018, around 1,000 cases were discussed on the program (Hadler 2018). Such a broadcast remains rather unique in the ombuds world.

Ombuds institutions also regularly follow the media for information-gathering purposes. As argued by one of three ombudspersons of Bosnia and Herzegovina, Ljubinko Mitrović:

> Namely, media reporting on citizens' life situations, their needs and interests is the best way for an Ombudsman to learn about the violations of the rights and fundamental freedoms of citizens. This information in a number of cases serves as the basis for the opening of cases *ex officio* in order to examine the veracity of the allegations presented by the media and to take the appropriate action in accordance with the Ombudsman's mandate aimed at redress and remedy of human rights and fundamental freedoms violations (Mitrović & Romić 2017: 97).

In return, ombuds institutions pay particular attention to protecting the rights of media workers (journalists, editors, etc.), as they are often subject to threats and attacks coming from various sources, including government officials and the criminal milieu.

In many corners of the world, journalists and other human rights defenders are subject to state violence, illegal detention, and even enforced disappearance. This has particularly been the case in Latin America. For instance, the 2021 report by Ecuador's Alliance for Human Rights examines abuses against indigenous and environmental rights defenders over the past 10 years, and finds 449 defenders subjected to intimidation, threats, harassment, persecution, and assassination (AOHR 2021). Since 2019, the Ombudsman of Ecuador has invested efforts to bring public authorities and civil society to the table, by organizing the interinstitutional discussion on formulating a public policy to guarantee the work of human and environmental rights defenders (AOHR 2021).

Ombuds institutions should pay particular attention to human rights defenders who are detained, to make sure that such state actions do not present retaliation or suppression of media freedom, but are indeed legally justified. Ombuds institutions can also use their right to visit them in detention, to make sure they are treated fairly. Independent media should support these efforts by objectively reporting and participating in awareness-raising campaigns.

The media are, however, not always ombuds' friends; sometimes they are foes, as they are used as channels for attacking ombuds institutions. Government-controlled media are sometimes used for smear campaigns against ombuds institutions when their actions are not favorable to those in power (see more in Vladisavljević, Krstić & Pavlovic 2019).

Speaking of access to information, firstly, there is a question of the ability of ombuds institutions to access information to be able to fulfil their mandate. This type of access to information should not be confused with the access to public information or information of public importance, which is the focus of this SDG 16 target.

As discussed in Chapter 2, public authorities must cooperate with the ombuds institution, including by providing it with unhindered access to information (oral and written), premises, and people. Such an exchange of information is usually regulated by the founding law on the ombuds institution or by more general law on the exchange of information between state authorities if such a law exists. The problems with access to information by ombuds institutions indeed exist in practice, particularly with classified information (Glušac 2018b), but that is a separate question.

In other words, the law regulating access to public information should not apply in the case of ombuds institutions. Such a law is meant for the public access to information, that is, by the citizens and the media, most usually. Nevertheless, it would be wrong to conclude that such a law is not relevant for ombuds institutions.

Oversight of the implementation of the law on access to public information is usually delegated to either a new, separate institution, such as the Commissioner for Information of Public Importance (or of a similar title) or to an already existing independent body, not rarely an ombuds institution. In the former case, if the general ombuds institution exists, it is usually in charge of overseeing the work of the Commissioner, as it is part of the public administration. In the latter case, it is the ombuds institution that has an additional mandate, and with that a primary responsibility of making sure that the public is, indeed, able to access information of public importance. This is, for instance, the case in Kenya, where the mandate of the Commission on Administrative Justice (Office of the Ombudsman) is two-fold. As a constitutional commission established under the 2010 Constitution, it tackles maladministration in the public sector. Since 2016, it has also had the mandate of overseeing and enforcing the implementation of the Access to Information Act. In sum, ombuds institutions can assist the public in ensuring their right to access to information and that the laws and policies guaranteeing this right are respected.

Strengthening relevant national institutions (16.A)

The NHRI indicator is a tribute to the sound work which so many NHRIs are doing
—UN High Commissioner for Human Rights (GANHRI 2017: 33)

As mentioned above, besides 10 'regular' targets, SDG 16 includes two targets described as 'means of implementation' (MoI). The first MoI target is this one – strengthening relevant national institutions. The Member States have defined only one indicator of the achievement of this target: the existence of independent national human rights institutions in compliance with the Paris Principles.

Ombuds institutions and other NHRIs can use this indicator to advance their legislation and overall status. The National Human Rights Commission of Mongolia (NHRCM) took part in national consultations on defining national indicators and targets for the SDGs. The NHRCM provided its feedback on this indicator and its comments were included in the national indicators and sources. The NHRCM recommended amending the Law on NHRCM and including specific references to the Paris Principles as indicators. Subsequently, the Law on NHRCM was revised, and the new law was adopted in January 2020 (DIHR 2020: 8), contributing to NHRCM's successful A-status reaccreditation in 2021.

To achieve this target, all UN Member States should have A-status NHRI by 2030. In 2015, the Office of the High Commissioner for Human Rights (OHCHR) prepared a chart showing that in order to reach this indicator by 2030, the Member States must establish 10 new A-status NHRIs per year (Figure 2). This further reiterates the commitment to establish a Paris Principles-compliant institution made by the vast majority of UN Member States under the Universal Periodic Review (UPR) (Glušac 2022).

According to UN data, on average, four new NHRIs applied for accreditation every year for the period 2015–2017 compared to only one new application for NHRI accreditation per year for the period 2018–2021. In sum, in 2022, only 43 percent of countries benefit from independent NHRIs (UN 2022: para. 161).

As can be seen from the table, according to this plan, there should be already 127 A-status NHRIs in 2023. As of April 2023, there are only 88 (GANHRI 2023). Looking ahead, starting from the current 88 NHRIs, to reach the indicator, there should be 16 new A-status NHRIs every year until 2030 (Figure 3).

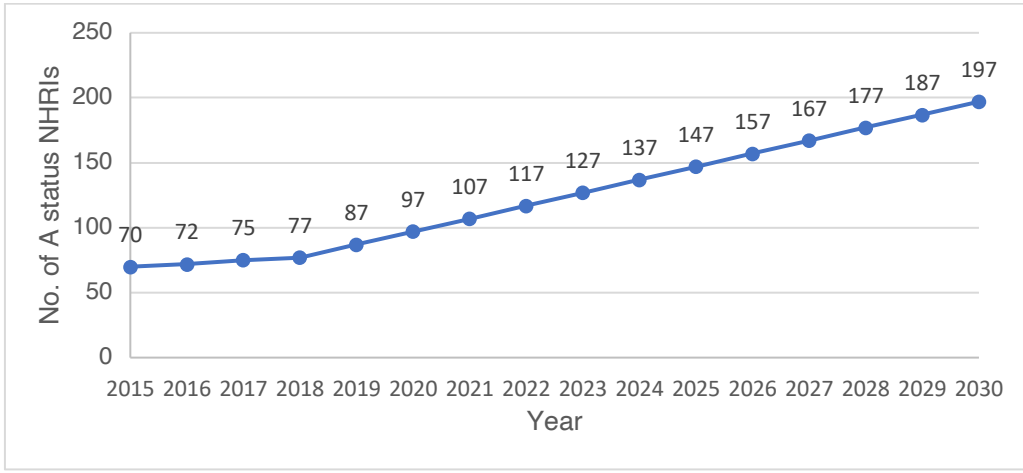

Figure 2: Accelerating the pace of progress of A-status NHRIs per year (2015–2030) (DIHR 2019: 9).

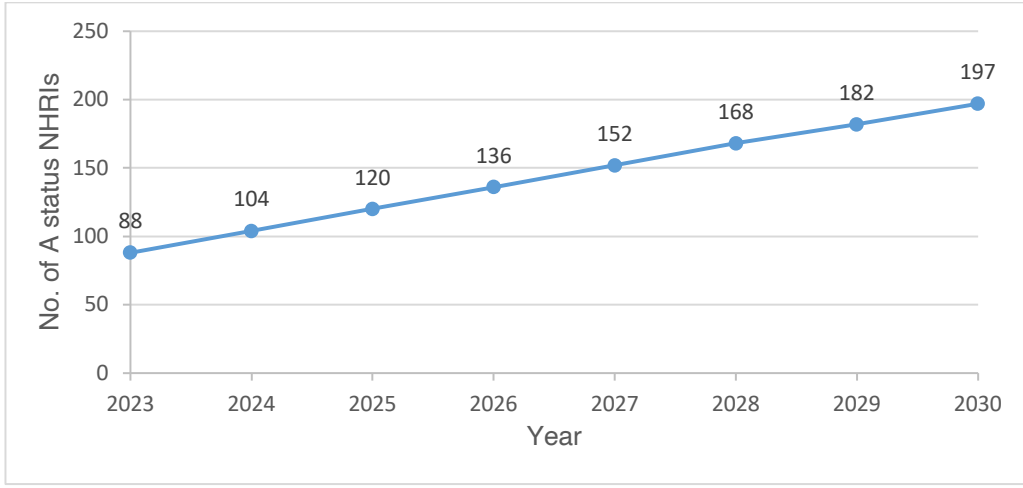

Figure 3: Accelerating the pace of progress of A-status NHRIs per year (2022–2030) (by author).

This would be extremely hard if not impossible to achieve. There are more than a few strong reasons for this. Firstly, judging from the pace since 2015, it is highly unlikely that the Member States would suddenly start adopting complex laws such as those establishing NHRIs at such a speed to allow for this indicator to be reached. Domestic negotiations for the establishment of an NHRI usually take years, particularly in developed countries, such as Norway or Sweden, because they affect an entire national human rights architecture (Glušac 2022). On the other hand, with a visible global trend of democratic backsliding, it is unlikely that such regimes will be interested in creating or strengthening an NHRI.[2] Secondly, even when a new independent human rights institution is established, it cannot immediately apply for A status, because GANHRI's Subcommittee on Accreditation assesses not only the legal framework, but also the practice of an institution (see more in: De Beco and Murray 2015; Langtry and Roberts Lyer 2021). Hence, it takes at least a few years before the institution could apply. Furthermore, applying for an NHRI status does

[2] The author thanks the reviewer for bringing up this argument.

not mean that the institution will receive A status. In fact, the Subcommittee has recently downgraded some NHRIs from A to B status (e.g., Sri Lanka, Azerbaijan, and Hungary). Finally, the Subcommittee on Accreditation holds only two sessions per year. At each session, it does not only assess new applications; it also conducts reaccreditations (as each A-status NHRI is reassessed every five years) and often performs deferrals (postponed reaccreditations), alterations of accreditations, and special reviews. As an illustration, at its second session in 2022, the SCA has had the following agenda, seen in Table 12:

Table 12: SCA agenda for the October 2022 session (GANHRI 2022).

Type of procedure	Institutions to be reviewed
(New) Accreditation	Turkey
Reaccreditation	Canada, Colombia, Great Britain, Indonesia, Liberia, Niger, Norway, Perú, Sierra Leone
Deferral	Cyprus, El Salvador, Nepal, Northern Ireland
Alteration of Accreditation	Sri Lanka
Special Review	Madagascar

SCA is comprised of four (representative of) NHRIs, each from one of four GANHRI's regional networks, working on a voluntary basis. The current dynamics of the sessions can already be considered too heavy, given the volume of documents associated with each case. Without deep structural and conceptual changes in the accreditation process, it would be impossible to review 16 new accreditations each year, together with all regular reaccreditations. However, one should also consider this indicator was just too ambitious. That does not mean that the accreditation process is perfect. *Au contraire*. It should be enhanced – only for different reasons, which are beyond the scope of this study.