CHAPTER 5

Leaving No One Unaccountable

As argued by GANHRI (2017), given their unique mandate and role, ombuds institutions and other NHRIs can play a key role in the implementation and follow-up of the 2030 Agenda, and are at the core of the SDG 'web of accountability.' In fact, ombuds institutions act as central accountability mechanisms, more generally, including vis-à-vis the security sector, by overseeing and holding to account those in charge of the management, oversight, and provision of security. The six targets covered in this chapter reflect exactly such a role of ombuds institutions, by concentrating on their nature as oversight mechanisms, that is, on making sure that others perform, fulfill, and achieve; and that they are accountable for their actions and failures to act.

Why such a strong emphasis on accountability? Because accountability is essential to effective governance. An effective democratic state relies on legislative, administrative, and judicial institutions, which are empowered to exercise a degree of direct control over how the other institutions exercise their functions. The notion of checks and balances is a constitutional concept, which spans the whole structure and functions of the state. Accountability lies at the very core of the checks and balances system.

The modern state has undergone a reconfiguration of its structure and functions, and new institutions have arisen with control and oversight functions. One of those is the ombuds institution, often regarded as 'a modern mechanism of democratic accountability' (Owen 1993: 1). It serves as an important element of good governance, enhancing the accountability of the government, and in so doing helps to improve the functioning of public administration (Reif 2004: 59).

Due to their specific role, ombuds institutions have the potential to contribute to all three main forms of accountability: horizontal, vertical, and diagonal (Figure 4).

Ombuds institutions can check the abuses by other public agencies and branches of government. This form of oversight or control exercised by one public institution over others is qualified as 'horizontal accountability.' Horizontal accountability requires the existence of

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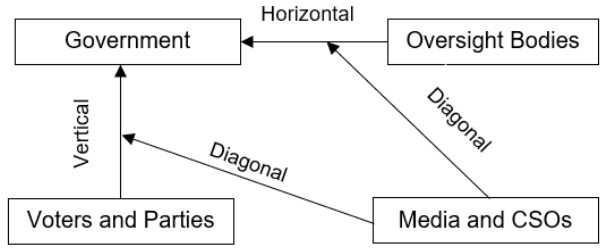

Figure 4: Relationship of accountability subtypes (Lührmann, Marquardt and Mechkova 2020: 812).

institutions – legislative and judicial branches, and other oversight agencies – that can demand information and punish improper behavior (O'Donnell 1998; Rose-Ackerman 1996). In the ombuds case, as noted by Castro, horizontal accountability can take different forms, such as administrative accountability (by reviewing proper conduct including the procedural fairness of bureaucratic acts), legal accountability (by supervising the observance of legal rules), and constitutional accountability (by evaluating whether legislative acts are in accordance with constitutional provisions) (Castro 2019: 8).

Ombuds institutions also act as vertical accountability mechanisms between the public and the government, serving as a channel through which citizens can lodge complaints about the government. Moreover, by assessing the performance of administrative authorities, the ombuds institutions provide feedback on governmental action, helping the government learn from citizens' complaints.

Civil society organizations, independent media, and engaged citizens can use a broad range of actions to provide and amplify information about the government, thereby holding it accountable (Grimes 2013; Lührmann, Marquardt and Mechkova 2020). This form of accountability is usually called diagonal or social. For instance, media reporting can help principals such as voters and legislatures make informed choices and perform additional pressure on public officials, whilst CSOs can directly pressure the government to change a specific policy (Peruzzotti & Smulovitz 2006). As already noted, media and CSOs may also amplify the findings of oversight bodies, including ombuds institutions, and vice versa.

The strong accountability function of the ombuds institutions and their ability to influence both the public decision-making process and the behavior of public authorities have contributed to their acknowledgment as part of the doctrine as a 'fourth power' institution (Addink 2005: 273). As a fourth power, the ombuds institution focuses on institutional integrity. Spigelman (2004: 6–7) writes that institutional integrity goes beyond a narrow concept of legality to concern itself with ensuring that government institutions exercise the powers conferred on them in the manner in which, and for the purposes for which, they are expected or required to do so. He considers fidelity to the public purposes for which the institution was created and the application of the public values that the institution is expected (or required) to obey (Spigelman 2004: 6). In this context, integrity may be understood as compliance with the endorsed legal principles and values intrinsic to the democratic rule of law, including certain principles of good governance (Addink 2015: 30–32). The principle of integrity and discussions around it have inspired some authors, such as Ackerman, to argue that there should be a separate and distinctive constitutional branch of government known as the 'integrity branch' (Ackerman 2000: 691–693). Other authors exploring the new fourth branch include Tushnet (2021), who calls them 'institutions for protecting constitutional democracy,' and Khaitan (2021), who uses the term 'guarantor institutions.'

How does accountability play out in the development context? In short – poorly. Many authors have argued that the traditional separation of human rights and development frameworks has led to the absence of specific human rights accountability in development policy and activities (Bradlow 1996; Darrow 2003; Skogly 2001). Human rights cannot properly be upheld because

human rights obligations are not factored into development policies (Mcinerney-Lankford 2009: 74). The absence of legal duties in development policy frameworks, Twomey (2007) argues, undermines the possibility of the key contribution of human rights – accountability – being upheld in the context of development with respect to both process and outcome.

It is true that newer international agreements, such as the Paris Declaration do not *a priori* go against human rights accountability; however, they do not include any corresponding human rights obligations, or human rights impact assessments at least. Mcinerney-Lankford (2009: 75) asserts that 'human rights law norms could deepen and ground existing accountability mechanisms and help fill some of the perceived accountability gaps in both horizontal (state to state) and vertical (state to citizen) relationships.' Such a general trend of the lack of accountability in the development context has, unfortunately, transferred to the 2030 Agenda as well. The neglect of accountability was already clearly reflected in the inter-governmental negotiations leading up to the adoption of the SDGs (Breuer & Leininger 2021: 2). This is, however, not surprising, given the nature of the global regime.

Scholars have, therefore, asserted that accountability can be best pursued through systems for monitoring progress at the national level (Bowen et al. 2017). However, the first cross-national analysis of national horizontal accountability mechanisms to ensure effective SDG implementation has shown that serious formal commitment to accountability in SDGs implementation has been a choice of individual governments rather than a standard in national SDG implementation across countries (Breuer and Leininger 2021: 18). In other words, accountability is only as strong as a country's willingness to submit to accountability.

Despite these first pessimistic results, the national level remains the best *locus*, where real opportunities lie in the accountability mechanisms for the overall implementation of SDGs (Karlsson-Vinkhuyzen, Dahl & Persson 2018: 1385; see also Bowen et al. 2017). Along these lines, Karlsson-Vinkhuyzen and others (2018) have argued that these accountability mechanisms can include: national institutions such as parliaments and audit institutions using their formal mandates to oversee and evaluate government policy; civil society and the media doing the same on more informal mandates; and finally the internal monitoring and evaluation system of the government.

As part of its follow-up and review mechanisms, the 2030 Agenda for Sustainable Development encourages Member States to 'conduct regular and inclusive reviews of progress at the national and sub-national levels, which are country-led and country-driven' (para. 79). These are known as voluntary national reviews (VNRs). They aim to facilitate the sharing of experiences, including successes, challenges, and lessons learned, with a view to accelerating the implementation of the 2030 Agenda. The VNRs also seek to strengthen policies and institutions of governments and to mobilize multi-stakeholder support and partnerships for the implementation of the SDGs. To that end, they can also serve as an accountability tool. Even though these reports are voluntary, almost 180 members of the High-level Political Forum on Sustainable Development (HLPF) have already submitted at least one VNR report. This equates to approximately 90 per cent of UN Member States.

VNRs are most usually prepared by the national SDG coordination body or similar structure. Is there a place for ombuds institutions in VNR structure/process? Some authors (Breuer and Leininger 2021: 10) recommend that ombuds institutions (NHRIs) shall be 'represented either in the national SDG coordination body or in working groups and technical committees collaborating with this body.' This study supports such a view but only if they are members in an advisory capacity. Coopting ombuds institutions in such bodies may affect their independence, so the right distance must be taken, and the government must take full responsibility for the ultimate results. The same applies to a VNR, which should be prepared in a broad consultative process, but the government should also take primary responsibility for its content, and the results therein. Although Breuer and Leininger (2021: 10) claim that NHRIs' 'involvement in the elaboration of their countries' VNRs will add credibility to the national review processes,' this study argues against it. This

should be the job of the government. Ombuds institutions may indeed contribute, in particularly by providing data and evidence as input to the national VNR process.

Some authors, such as Maaike de Langen (2021), advocate for a Voluntary Ombuds Review. Such exercise would secure ombuds institutions' independence, but also their active participation in the SDG implementation and reporting processes. Whilst this idea has potential, it remains to be seen whether ombuds institutions would go along this path, considering many already experience reporting fatigue. Besides their obligatory annual reports submitted to the parliament (and sometimes to the government as well), most ombuds institutions have developed the practice of producing special reports, while a considerable percentage also prepare submissions to the UN treaty bodies and regional human rights mechanisms.

To that end, it is perhaps more efficient to redesign and restructure ombuds annual reports to serve a double purpose. The ombuds institution of Costa Rica (Defensoría de los Habitantes de la República – DHR) seems to be on a good track here. As early as 2015–2016, DHR did a detailed analysis of the issues it has historically worked with, concluding that they are directly connected to 14 of the 17 SDGs.

Going beyond VNRs and reporting, the chapter presents the account of what ombuds institutions could and should do to assist the efforts of other branches of power to implement (and oversee the implementation of) six SDG 16 targets. The particular focus is on their oversight and accountability role(s).

Promoting the rule of law and ensuring equal access to justice for all (16.3)

There is an interplay between ombuds institutions and the democratic state governed by the rule of law within which this institution operates. On the one hand, the existence of ombuds institutions as an institution presupposes, to a certain extent at least, the rule of law within a democracy, and on the other hand, their work helps to maintain and fortify the rule of law and democracy (Glušac 2020: 3).

Although it is undeniably among the most important targets in the whole 2030 Agenda, sitting at the very core of all other targets, 16.3 has been criticized for its principle-sounding tone, which prevents its operationalization (Satterthwaite and Dhital 2019). The three indicators set for this target only support this. Satterthwaite and Dhital (2019) have demonstrated that the ambition to 'provide access to justice for all' was radically distorted by the selection of two criminal justice indicators – one on unsentenced detainees and another on crime reporting. This strong focus on the criminal justice system is 'not only out of sync with legal needs studies showing that a majority of people's legal issues are civil rather than criminal, but most importantly, fails to provide an assessment of access to justice from the people's perspective' (Laberge & Touihri 2019: 153). The United Nations later added a third indicator focusing on the proportion of the population who have accessed a formal or informal dispute resolution mechanism in the last two years. This indicator has to be adapted to the national context, as formal and informal mechanisms for dispute resolution vary across jurisdictions. In most countries, these would include formal mechanisms, such as the courts of the police, while in others, they are to be complemented by informal mechanisms, such as customary law mechanisms managed by traditional or religious leaders. Reporting on this indicator should thus include all dispute resolution mechanisms generally recognized and used in the community (UN Stats 2021). This means that ombuds institutions should also be included under this indicator. However, it is yet to be fully operational. Currently, there are no data available for this indicator, including in the most comprehensive databases, such as the SDG Tracker (n.d. B).

Regarding the second part of this target, broadly understood, ombuds institutions can be perceived as justice mechanisms on their own, in the sense they serve to redress unfair decisions and abuses of power. With their comprehensive mandate, accessibility, and visibility to the widest

population, they ensure that the rights of marginalized and vulnerable groups are respected. This communicates well with the 'leave no one behind' credo.

From a narrower angle, ombuds institutions' contribution to this target can be analyzed through the lenses of their jurisdiction vis-à-vis the judiciary. To that regard, some ombuds institutions have a stronger role to play than others. Even though most ombuds institutions are not authorized to control the judiciary (neither in terms of intervening in pending court proceedings nor in terms of checking judicial decisions), some legal orders (such as Sweden, Finland, and Poland) provide for an extensive ombuds control of the judiciary, including the substance of judicial decisions, to the same degree as the administrative branch (Castro 2019: 65–66). In other jurisdictions, as in Slovenia, the ombuds institution can intervene in court proceedings in cases, for example, of undue delay and abuse of authority. Still, when ombuds institutions are given some jurisdiction over the judiciary, it is most usually over the administrative conduct of court proceedings (delays, setting down a hearing date, obtaining expert opinions, executed copies, and service of judgments), defaults in executing judgments, deficiencies in court equipment, impolite conduct by officials, and the initiation of disciplinary measures against judges (Castro 2019: 65–66). This is also the standpoint of the Venice Commission (2019: para. 13), which stipulates that 'the competence of the Ombudsman relating to the judiciary shall be confined to ensuring procedural efficiency and administrative functioning of that system.'

A caveat regarding breaches of criminal law is also needed here.[3] Ombuds institutions are not criminal justice authorities; they do not prosecute crimes. However, when in the course of its own investigations, they learn of conduct that may constitute a criminal offence, they are obliged to inform competent authorities. Furthermore, much of the ombuds work is focused on minimizing the chances of criminal offence to occur. For example, by following up on UN treaty body recommendations on family violence or violence against children, ombuds institutions contribute to creating a system that would effectively protect these vulnerable groups and make sure that criminal justice system would act swiftly and efficiently if such a case were to happen. Similarly, by visiting places of detention, ombuds institutions help to prevent torture and to eliminate the culture of impunity for torture.

Reducing illicit financial and arms flows, strengthening the recovery and return of stolen assets, and combating all forms of organized crime (16.4)

Organized crime and illicit arms flow both have a detrimental impact on the security and stability of a state as they threaten the state's monopoly over the legitimate use of coercive force (Castro 2019: 65–66). The contribution of ombuds institutions to achieving this target could primarily be through the oversight of the work of the police, that is, through investigating individual cases. Ombuds institutions may learn of improper behavior of the police or other state authorities included in the fight against organized crime, through media or complaints. Beyond that, ombuds institutions have a limited role to play, except in the case when they have an explicit mandate to curb corruption, which is the focus of the next target (16.5).

Reducing corruption and bribery (16.5)

The ombuds institutions' role in horizontal and vertical accountability coupled with this strong mandate to protect human rights makes them well-placed to play an important function in applying principles of good governance with a view to improving government quality, including the prevention of corruption (McMillan 2004: 7).

[3] The author thanks the reviewer for suggesting this addition.

A growing number of countries have entrusted ombuds institutions with an explicit mandate to fight corruption. That has been a trend, particularly in Africa, where Lesotho, Mauritius, Namibia, Rwanda, Seychelles, Ghana, and South Africa (The Public Protector) are among notable cases. When an ombudsman has an anti-corruption mandate, it can provide financial (concerning the misuse of public funds, conflict of interest, etc.) as well as constitutional and administrative accountability (Reif 2004: 60). For instance, in Ghana, the Commission on Human Rights and Administrative Justice (CHRAJ or the Commission) is designated as the coordinating body for the National Anti-Corruption Plan. In this role, the Commission convenes a number of thematic international and national dialogues with relevance to advance issues related to SDG 16, such as promoting the relevance of linking human rights in anti-corruption efforts to, for example, strengthen institutions, ensure rule of law and access to justice, and design adequate policies for asset recovery and return (König-Reis n.d.). Furthermore, the CHRAJ organized a national Conference on Anti-Corruption and Transparency, which gathered high-level officials (including Ghana's Vice-President), and key representatives from the governance and justice sectors, civil society, the UN, and the private sector (König-Reis n.d.). Participants reviewed existing policies and strategies and agreed on measures to strengthen institutions involved in fighting corruption and ensuring transparency and accountability (König-Reis n.d.).

Another interesting trend is designating ombuds institutions as external whistleblowing protection authorities, as in Hungary or Croatia. Most national laws provide for a three-layer protection system – internal, external, and public. Internal whistleblowing is defined as disclosing information to an employer, through a confidential person (authorized person). External whistleblowing is achieved by disclosing information to the external public authority, legally designated for this task. The third type is whistleblowing to the public, which often comes as the last resort.

Although the authorities for external whistleblowing vary across the jurisdiction, in some countries, as in Croatia, the Ombudsman (*Pučki pravobranitelj*) is a designated body. The Ombudsman is authorized to receive a report of irregularities and then forward it to the authorities responsible for dealing with its content while protecting the identity of the whistleblower and the confidentiality of the information contained in the report from unauthorized disclosure or disclosure to other persons unless this is contrary to the law. The authorities authorized to act upon the content of the report (e.g., various inspectorates, the State Attorney's Office, and others) are obliged to report back to the Ombudsman of the action taken on the report within 30 days after receiving it and, within 15 days of ending the procedure, to submit a reasoned report on the final outcome of the procedure. This information is then forwarded by the Ombudsman to the whistleblower.

Whistleblowing is particularly relevant for the security sector. Military whistleblowers face particular challenges: a rigid command structure, rules on discipline, and restrictions on speech with potential criminal consequences for non-compliance (Whistleblowing International Network 2019). The same applies to those whistleblowers coming from the police or intelligence services.

In this context, in its 2010 resolution, the Parliamentary Assembly of the Council of Europe (PACE 2010: para. 6.2) stressed that legislation on whistleblowers should be comprehensive and should cover the private and the public sectors, including members of the armed forces and special services. A 2014 recommendation by the Council of Europe's Committee of Ministers (Council of Europe 2014) noted, however, that in national normative, institutional, and judicial networks established to protect the rights and interests of whistleblowers, special schemes or rules, including modified rights and obligations, may apply to information related to national security or defense.

Such 'special schemes and rules' are widely applied by the Member States, not only of the Council of Europe but of the European Union as well. Before the adoption of the Directive on Whistleblowing in 2019, only 10 EU Member States had comprehensive or fragmented protection systems for whistleblowers (EUROMIL n.d.). The same applies to other jurisdictions where legislation on the protection of whistleblowers simply does not apply to security sector personnel (including

military personnel). Often, they are explicitly excluded from the legislation, such as in the United Kingdom or Canada.

Whilst whistleblower protection for security sector employees is virtually non-existent, many countries have adopted robust legislation penalizing the disclosure of state secrets. This varies in form, especially concerning how an 'official secret' is defined. However, national security consistently appears as a reason to bar disclosure and coupled with the lack of whistleblower protection for security sector employees, creates an almost impenetrable fortress of secrecy in security matters (Kagiaros 2015: 410). A similar protection applies to military personnel. They will continue to suffer unnecessarily if countries do not specifically address the importance of protecting military whistleblowers in their national whistleblowing laws (Whistleblowing International Network 2019). Excessive labeling of information as confidential remains the major obstacle for military whistleblowers, severely shrinking their maneuvering space. In cases when they are reporting wrongdoings for the actions/information not classified as secret, military personnel have different options and avenues of action.

In jurisdictions where ombuds institutions are designated as the authorities for external whistleblowing, they should invest efforts in bettering the legal and actual position of the security sector whistleblowers, both in individual cases and more systemically, through advocating for more inclusive legislation, protecting those brave enough to disclose severe irregularities in the security sector institutions.

Developing effective, accountable, and transparent institutions (16.6)

Developing effective, accountable, and transparent institutions may be understood as a supreme goal of ombuds institutions, the ultimate result they strive for. This SDG 16 target covers three principles of good governance that are of the highest importance for good governance – effectiveness, accountability, and transparency. All activities of ombuds institutions aim to contribute to developing such institutions. This is, however, a never-ending task, calling for constant and consistent efforts, on both individual and systemic levels. It is also not by any means an exclusive task of ombuds institutions. It is the responsibility of each public authority to invest efforts in making itself an effective, accountable, and transparent institution. To that end, this target applies to both ombuds institutions themselves, and those institutions they are mandated to oversee.

Although ombuds institutions are widely accepted as important accountability mechanisms, it is less illuminated in the literature that they can also make a substantive contribution to the effectiveness of the security sector. As argued by Born and Geisler Mesevage (2012: 7), good oversight covers elements well beyond the propriety and legality of a security apparatus' activities, including also their effectiveness and efficiency. Unlike some other external state oversight mechanisms, such as the judiciary, which primarily assesses the legality of the work of security institutions (compliance with the law), ombuds institutions can, in addition, actually influence the service's effectiveness and efficiency (Glušac 2018b: 65). This is recognized by ombuds institutions themselves. For instance, in the framework of the annual International Conference of Ombuds Institutions for the Armed Forces (ICOAF), ombuds institutions underlined their important role in contributing to the operational effectiveness of the armed forces they oversee, through upholding individual rights and improving the governance of the defence sector (ICOAF 2021: para. 4). While noting that the scope of the contribution of ombuds institutions to the operational effectiveness of the armed forces varies depending on their particular mandate, ombuds institutions reiterated that they are all well placed to contribute to respecting the legal limits of operational effectiveness (ICOAF 2021: para. 7). To develop effective, accountable, and transparent institutions, collective action with broad stakeholder participation is needed. Collective action is also linked to accountability in the classic 'free rider' problem: actors may be reluctant to participate in collective action towards

the implementation of a common goal unless they are confident that progress will be made (Sachs 2012). Developing democratic institutions is notoriously challenging, because years of effort may be diminished in only seconds. It only takes one wrong decision to lose the trust in the process, and lose those 'bandwagoning' free riders, necessary for the ultimate success.

Public institutions are invented to fulfil the needs of the people. However, people around the world suffer from institutions that are ineffective, unjust, exclusive, corrupt, unaccountable, and/or unresponsive, as well as by-laws, policies, and budgets that are inequitable, discriminatory, or regressive. Not rarely, those are the result of state capture, described as an 'intentionally political undertaking in which individuals and groups (business magnates, politicians, criminals and, as is often the case, all of these together) gradually and systematically rewrite the formal "rules of the game" in order to pursue their particular interests, financial or political, to the detriment of the public good' (Petrović & Pejić Nikić 2020: 7).

In the more advanced stages of state capture, the separation of powers comes to exist in name only, and the institutions of the state cease granting socio-economic, political, and other rights to the citizenry, functioning instead completely in the service of a tight circle of individuals and groups Petrović & Pejić Nikić 2020: 7). Such contexts are characterized by drastically shrunk space for the actions of organized civil society and independent oversight bodies, which operate under constant threat. Insufficient capacity, funding, and/or political autonomy often undermine the role ombuds institutions can play in ensuring governing institutions are accountable, inclusive, rights-based, and capable of investigating and seeking redress for human rights violations (UNDP 2018: 14).

Ensuring responsive, inclusive, participatory, and representative decision-making (16.7)

Ensuring responsive, inclusive, participatory, and representative decision-making essentially means recognizing and achieving diversity. The type(s) of diversity depends on the nature and composition of a given society, meaning that what counts as 'diverse' depends on the existence and recognition of various minorities (gender, ethnic, religious, sexual, etc.).

The United Nations have set two indicators for achieving this target: (1) proportions of positions in national and local institutions, including (a) the legislatures, (b) the public service, and (c) the judiciary, compared to national distributions, by sex, age, persons with disabilities, and population groups; and (2) proportion of the population who believe decision-making is inclusive and responsive, by sex, age, disability, and population group (SDG Tracker n.d. A; Global Indicators n.d.). While not underestimating the importance of other types of diversity, two sub-indicators are of particular importance for this study: gender and minority representations.

National parliaments have traditionally been male-populated. To mitigate this, the world has witnessed the rapid expansion of electoral gender quotas in the past few decades. Such a strategy has informational and normative effects. Public debates on introducing quotas raise individual awareness about the underrepresentation of women (informational effect), while, once adopted, they give a clear signal that persistent gender imbalance is a social problem to be redressed (normative effect). Many studies, including large-scale and regional, have reaffirmed that quotas stimulate support for stronger female representation (Aldrich & Daniel 2020; Clayton & Zetterberg 2018; Dimitrova-Grajzl & Obasanjo 2019). Furthermore, citizens in countries with gender quotas also display stronger support for increased female participation in politics (Fernández & Valiente 2021).

Across Africa, many countries are world leaders in terms of women's representation in parliament with more than a dozen countries having 30 percent women or more in their national legislatures. Such a result is attributed largely to the adoption of an electoral gender quota (Bauer 2021). Research has shown that stronger female representation in African parliaments leads to a number of substantive and symbolic effects. These include the adoption of laws that address

women's interests in the areas of gender-based violence, land rights, and family law, and women's enhanced engagement in politics (e.g., voting) (Bauer 2021).

While it should be noted that having more women in parliament has not always led to more democratic polities, it is anticipated that experienced women legislators may contribute to more democratic dispensations in the future (Bauer 2021). Even in authoritarian one-party systems, the researchers found that quotas may result over time in what Joshi and Thimothy (2019) call a delayed integration process featuring a gradual rise of women into arenas of power alongside increasing professionalization and capabilities of women within parliament.

Nonetheless, the potential of the quota system should not be overestimated. In order to empower women and secure their long-term participation and representation, the quota system, as a legislative device usually adopted through elite-driven (top-down) initiatives, should be complemented with a parallel bottom-up process of transforming gendered power relations.

The international human rights regime allows for positive discrimination and positive action measures for people with disabilities and minorities (EQUINET 2014). Assuring minority representation in public administration is a precondition for an inclusive society. In conflict-prone societies, ensuring optimal minority representation in security forces, particularly in the police, should be a strategic goal. Positive action may be a useful strategy to recruit minority talents to work in the police. That especially applies to societies with a history of inter-ethnic violence, even more so if the police have taken part in violent actions. The results of a recent study published in *Science* suggest that diversity reforms can improve police treatment of minority communities (Bocar et al. 2021).

Ombuds institutions can contribute to achieving this target by overseeing the implementation of those positive action measures (including quotas). This particularly applies to advocating for better minority (gender, ethnic, etc.) representation in public administration, where ombuds institutions are expected to have stronger influence, given their jurisdiction and direct access.

They can also take an active part in awareness-raising and advocacy campaigns promoting diversity in the security sector institutions. For instance, there is an opportunity for the Indian National Human Rights Commission to get involved in the discussions (and controversies) around the new recruitment scheme in Indian Armed Forces, called 'Agnipath,' which aims to transform the Indian Armed Forces and decrease the average age of the armed forces personnel, but also with potentially severe consequences on the rights of those new armed forces personnel and their future professional trajectories.

Finally, ombuds institutions should ensure the pluralism of their ranks. Ensuring pluralism is also a requirement for an A-status NHRI, according to the Paris Principles. The Subcommittee on Accreditation notes that there are diverse models for ensuring the requirement of pluralism in the composition of the NHRIs as set out in the Paris Principles (G.O. 1.7. GANHRI SCA 2018). While for the human rights commission, such pluralism may be ensured through the composition of the decision-making body, given that the ombuds institution is most frequently single-headed, pluralism may be demonstrated through the composition of senior management, such as the deputy ombudspersons or secretary-general, who should be representatives of the diverse segments of society (Glušac 2021: 52).

Promoting and enforcing non-discriminatory laws and policies for sustainable development (16.B)

The human rights promise of equality and non-discrimination is at the heart of the 2030 Agenda
—UN High Commissioner for Human Rights (2015)

These were the words of the UN High Commissioner for Human Rights at the UN Summit launching the 2030 Agenda. The words are important as they reiterate the strong nexus between human rights and discrimination. The list of prohibited grounds of discrimination in

international human rights law is not only long but is also formulated in open-ended terms to make clear that it applies to evolving forms of discrimination (Winkler & Satterthwaite 2017: 1079).

As with some other SDG 16 targets, there is only one adopted indicator for this global and comprehensive target: the proportion of the population reporting having felt personally discriminated against or harassed in the previous 12 months on the basis of a ground of discrimination prohibited under international human rights law. As argued by Winkler and Satterthwaite (2017: 1079), 'a balance must be struck between over-simplification and demanding disaggregation that overburdens statistical offices.' However, this indicator does not come near striking such a balance. It does not allow monitoring progress for marginalized groups.

In most countries, the protection of equality (anti-discrimination) and of human rights is designated to different state authorities, which testifies to different understandings, discourses, and approaches taken to fulfil these mandates. There are a few exemptions. Examples include the Equality and Human Rights Commission, which promotes and upholds equality and human rights ideals and laws across England, Scotland, and Wales, and the Irish Human Rights and Equality Commission. Both institutions are accredited with A status with GANHRI. Other exemptions include ombuds institutions with explicit human rights mandates, which are also either formally designated as national anti-discrimination (equality) bodies, such as Georgia, Greece, or Montenegro, or not, but still having jurisdiction over different aspects of non-discrimination law within their general human rights mandates, as in Croatia or Lithuania.

Being designated as an explicit equality body or not, ombuds institutions/NHRIs may address systemic problems related to discrimination. They can use their right to provide 'legislative' advice or directly propose law (when having this mandate) that would help eradicate discriminatory legislation. They are also well-placed to report on the status of discriminatory policies and legislation. Ombuds institutions and other NHRIs can take advantage of participating in formulating national SDG indicators. The Human Rights Commission of Mongolia did this during the consultations on national indicators, by recommending drafting and adopting comprehensive anti-discrimination legislation concerning SDG target 16.b and suggesting including each discriminatory ground as a national indicator in line with the international human rights instruments as well as the Declaration of Principles on Equality.

The 2030 Agenda provides a strong narrative for eliminating inequalities and eradicating discrimination. 'Inequalities and discrimination are the defining challenges of our time,' reaffirmed the UN High Commissioner for Human Rights in 2015. A challenge yet to be fully addressed, it seems fair to add.