



**NANHRI MONITORING FRAMEWORK FOR THE IMPLEMENTATION
OF THE MARRAKECH DECLARATION BY NATIONAL HUMAN RIGHTS
INSTITUTIONS (IMF-NHRI_s)**

- For Better Monitoring and Reporting on Implementation of the
Marrakech Declaration on the rights of Human Rights Defenders
at the National Level -***

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IMPLEMENTATION MONITORING FRAMEWORK OF THE MARRAKECH DECLARATION FOR NATIONAL HUMAN RIGHTS INSTITUTIONS (IMF-NHRIs)

Introduction & Background

This proposal provides a general framework for monitoring the implementation of recommendations issued by national human rights institutions (NHRIs) in the course of protecting the rights of human rights defenders (HRDs), especially women human rights defenders (WHRDs). This Implementation Monitoring Framework (IMF) is a tool developed by the Network of African Human Rights Institutions (NANHRI) for NHRIs. It is an upshot of the 13th International Conference of the Global Alliance of National Human Rights Institutions (GANHRI) held in Morocco, Marrakech in 2018. The Conference was a convergence of several auspicious anniversaries, namely,

- ✚ the 70th anniversary of the Universal Declaration of Human Rights;
- ✚ the 25th anniversary of the adoption of the Paris Principles by the United Nations General Assembly and the establishment of the global network of National Human Rights Institutions (NHRIs), today known as GANHRI; and
- ✚ the 20th anniversary of the United Nations Declaration on Human Rights Defenders.

Reflecting a growing global concern over the shrinking of civic space in many countries, as shown by a spike of attacks, intimidation and harassment of HRDs, the catchy theme of the Conference was *‘Expanding the civic space and promoting and protecting human rights defenders, with a specific focus on women: The role of national human rights institutions’*.

One of the key outcomes of the 2018 GANHRI Conference was the adoption of the Marrakech Declaration. The Declaration came out of a dynamic discussion during the Conference where NHRIs shared experiences on the rights of the HRDs. It contains commitments NHRIs undertook to expand the civic space, promote and protect HRDs, with a specific focus on WHRDs. The delegates clustered the commitments into three main areas: promotion; protection; as well as cooperation and partnerships. The resolutions so adopted at this Conference are accompanied by several activities or action points so that the promotion, protection and cooperative objectives would be achieved in practice.

In order to foster the implementation of the Marrakech Declaration in Africa, the NANHRI has prepared and adopted the National and Regional Action Plans articulating the specific activities different national and regional actors will engage in to achieve full implementation of the Declaration. The Plans replicate the resolutions contained in the Marrakech Declaration, but go further to identify actors that will undertake specific activities and appoints timelines within which these activities ought to be completed in order to achieve the overall objectives of the Declaration.

Yet another tool in the form of the IMF complements the Action Plans and is based on the understanding that recommendations on reparations for violation of human rights will be sufficiently detailed and time bound where possible, so as to facilitate the task of making an accurate monitoring on implementation. It is further based on the premise that NHRIs will communicate with national authorities for purposes of monitoring implementation of recommendations on HRDs and specific aspects of the Marrakech Declaration.

The Framework also envisages an active role of a proposed monitoring unit within the registry of each NHRI or the national Committees NHRI sit in. While compliance monitoring and reporting on recommendations rendered by a NHRI has been an existing internal practice in all the institutions, the formal creation of a monitoring unit is recommended in order to enable continuous and systematic monitoring and reporting on implementation of recommendations on HRDs.

Principles behind the Monitoring Framework

The proposed IMF is premised upon a number of principles inherent international human rights law in general, from which it draws its legitimacy. These include the following:

- a) The legal provisions providing for the mandate of each of the NHRIs afford them competence in terms of the type of remedies they may provide in relation to protection of the rights of HRDs;
- b) The legal provisions providing for the mandate of each of the NHRIs accept the interpretation that each NHRI has competence to monitor implementation of recommendations on HRDs for purposes of reporting;
- c) The African human rights system formally recognises the role played by stakeholders such as Governments, CSOs, the media and other non-state actors

as partners in the promotion and protection of human rights in each country. Accordingly, the role of these stakeholders is formally recognised through the National and Regional Actions Plans that complement this IMF;

The Implementation Monitoring Unit (IMU)

- There shall be established an Implementation Monitoring Unit (IMU) within the structures of each NHRI to monitor implementation of recommendations on HRDs and the Marrakech Declaration.
- Several NHRIs have inherent competence to establish internal operational structures without seeking budgetary approval.
- Much of monitoring work is conducted by the Unit;
- It must have dedicated personnel to conduct follow-ups in a systematic fashion in respect of all the recommendations of the NHRI.
- The Unit will also be the Focal Point for regional (African Union) and international (United Nations) human rights bodies in respect of all reporting on status of implementation of recommendations and decisions.
- More specifically, the Unit initiates the monitoring process by following up on National and Regional Action plans for the implementation of the Marrakech Declaration.
- The Unit handles all communication between the NHRI and national authorities. Where such information is not forthcoming, the Unit takes an active role in the collection of objectively verifiable information from different sources and report non-implementation to Parliament or other institution they are mandated to report.
- In each case, the Unit assesses the adequacy of measures adopted by national authorities to implement its recommendations and advises the NHRI accordingly.
- The Unit should be active in recommending to regional and international human rights bodies to build capacity of stakeholders to monitor compliance so that national stakeholders become an extension of the Unit in terms of gathering accurate and objectively verifiable information on implementation.

Assumptions informing the IMF

Several assumptions have been identified, which if fulfilled, would result in the successful implementation of the IMF: Thus, it is assumed that;

- there are resources to establish the Implementation Monitoring Unit within each NHRI;
- based on National and Regional Plans of Act all stakeholders willingly contribute resources to support the IMF in so far as it is a tool for the implementation of the Marrakech Declaration;
- Governments and development partners (donors) are willing to sufficiently fund NHRIs to enhance the success of the IMF;
- Governments are fully committed to recognising HRDs in their territories in accordance with the United National Declaration on Human Rights Defenders (UNDHRDs) and accepting this document as the key instrument for the recognition and protection of HRDs.

**IMPLEMENTATION MONITORING FRAMEWORK FOR MONITORING
IMPLEMENTATION OF ASPECTS OF THE MARRAKECH DECLARATION
BY NATIONAL HUMAN RIGHTS INSTITUTIONS**

PART I: ESTABLISHMENT OF THE HRDs MONITORING UNIT (MU)

- 1.1 Each NHRI establishes a Monitoring Unit charged with continuous and systematic monitoring and reporting on implementation of the NHRI's recommendations on HRDs, and possibly recommendations of regional and international human rights supervisory bodies on the state party regarding the protection of HRDs.
- 1.2 The Unit is committed exclusively to monitoring and reporting on implementation as the Unit is essentially a section or department that needs to be created within the secretariat of each NHRI.
- 1.3 The dedicated personnel compliment to carries out follow-ups in a systematic fashion in respect of all the decisions or recommendations of the NHRI.
- 1.4 The Monitoring Unit handles all communication with the parties to follow up on overdue compliance reports by State Parties or and comments on such reports by the victim. Where such information is not forthcoming, the Monitoring Unit takes an active role in the collection of objectively verifiable information from other sources.
- 1.5 The Monitoring Unit assesses the adequacy of measures adopted by a State to implement the decision of human rights organ on HRDs and advises the institution accordingly.
- 1.6 Based on activities or actions in the National Plan of Action, the Monitoring Unit should be active in recommending to Government and other stakeholders on initiatives necessary to build capacity of stakeholders to monitor protection of HRDs or implementation of the Marrakech Declaration in each country.
- 1.7 Based on the National and Regional Action Plans, each Unit shall endeavour to spearhead the following actions, monitors progress and reports on them;

- ✚ Raise awareness on the situation of HRDs in the country with States representatives.
- ✚ Conduct periodic capacity building and refresher consultations with NHRIs to remind them on the various aspects of their mandate relative the Paris Principles
- ✚ Hold consultative meetings with HRDs to assess their needs in the implementation of the Marrakech Declaration
- ✚ Assist NHRIs in collectively developing Model Action Plan to implement the Marrakech Declaration;
- ✚ Conduct capacity building for NHRIs to understand and lobby for laws for the protection of HRDs; and adaptation of existing laws for the protection of HRDs;
- ✚ Build the capacity of NHRIs to identify entry points to advise governments on national legislation, policies and programmes;
- ✚ Assist NHRIs by convening consultations on the development of a Model Policy must lay emphasis on mainstreaming gender in all activities concerning HRDs;
- ✚ Conduct annual review of States implementation the recommendations of NHRIs and call on States to implement such recommendations if they have not yet done so;
- ✚ Assist international human rights mechanisms in conducting investigations and studies on the role of NHRIs in the protection of HRDs with a focus on women HRDs, children and persons with disabilities or forming part of vulnerable groups;
- ✚ Conduct capacity building of public officers who work with or on HRDs in each country placing focus on the vulnerabilities that women, children and HRDs with disability or forming part of minority groups face;
- ✚ Mainstream gender in all programmes on HRDs in order to eliminate all forms of gender discrimination of women HRDs;
- ✚ -Advocate for national law on protection of HRDs;
- ✚ Develop training materials on NHRI engagement with African Commission on Human and Peoples' Rights, the African Court on Human and Peoples' Rights and the African Committee of Experts on

the Rights and Welfare of the Child and human rights bodies at the sub-regional level such as the Court of the Economic Community of West African States and the East African Court of Justice;

- ✚ Lobbying governments through Parliament to increase allocation of resources towards protection of fundamental rights and freedoms;
- ✚ Participate in the state reporting process through the submission of shadow reports;
- ✚ Bring cases/communications of violations of the rights of HRDs to judicial and human rights institutions.

PART II: MANAGEMENT OF RECOMMENDATIONS ON HRDs

This Part deals with NHRI handling, monitoring and reporting on implementation of recommendations specifically dealing with protection of the rights of HRDs. These recommendations could have been issued out of any aspect of the methods of work of the NHRI such as investigations or complaints mechanism. The following are the major highlights of this monitoring;

- 2.1 The NHRI should issue a recommendation containing detailed and clear orders, particularizing the measures Government or a particular department should or should not take in order to fully execute the recommendations on HRDs.
- 2.2 The NHRI may also prescribe the period by which Government should implement the recommendations.
- 2.3 In complex matters, the Unit and Government may agree on a road map to be followed setting out the modalities through which the Government will implement the recommendation(s) in question.
- 2.4 At the least the road map should include the summary of the period within which the Government intends to implement the measures, identify the Department charged with implementing the measures as well as measures for short, medium and long-term implementation.

PART III: GOVERNMENT TO REPORT TO NHRI ON IMPLEMENTATION OF RECOMMENDATIONS ON HRDs

This Part deals with Government taking the lead in implementation of Marrakech Declaration as well as NHRI recommendations with a bearing on HRDs. Involvement of Government is necessary, as it is the primary duty bearer in terms of providing remedies for violation of rights of HRDs. Further, such involvement may encourage authorities to formally recognise human rights defenders and view them as such rather than anti-Government agents.

- 3.1 The Government will be encouraged to submit implementation reports to the Monitoring Unit reporting on progress made in line with its commitments under recommendation and road map.
- 3.4 Depending on timelines for implementation of each case, the Monitoring Unit initiates follows-up on overdue execution reports with Government or Department concerned.
- 3.5 Additionally, and in line with actors identified in the National and Regional Plans of Action, the Unit may request for information on status of implementation from diverse profile of stakeholders with relevant accurate and objective data such as CSOs and media.
- 3.6 After the period for reporting stated in the recommendation has expired, and extension of time as granted by the NHRI have been applied, the NHRI may hold a meeting on compliance in circumstances where the Government has not submitted a report on implementation of the recommendation on HRDs cases within the time set out.
- 3.7 The objective of convening parties to an implementation meeting is to assess if the measures adopted by the Government are consistent with the commitment in the road map and to better understand the challenges, if any, being faced by the Government and provide assistance on how the problems could be overcome.

PART IV: THE UNIT REPORTS ON IMPLEMENTATION OF HRDs RECOMMENDATIONS/MARRAKECH DECLARATION TO THE FULL COMMISSION/NHRI POLICY BODY.

This Part of the framework focusses on internal NHRI processes where the Unit reports to the NHRI on progress realised by Government in terms of implementation of recommendations on HRDs, and by extension, implementation of the Marrakech Declaration in that country. The internal reporting allows for use in terms of developing new programming or realigning existing programmes on better implementation of the Marrakech Declaration and the rights of HRDs. Further, if there is evidence of non-implementation of recommendations, the NHRI escalates engagement with Government and rope in other stakeholders through platforms and activities summarised in the National and Regional Plans of Action.

- 4.1 The Unit shall present its report on implementation of HRDs recommendation and the Marrakech Declaration in general to the full Commission. In the event of non-implementation, the purpose of the Report is to escalate the issue to the full NHRI for decision on the way forward.
- 4.2 On receiving a negative report of non-implementation, the NHRI may decide to further engage the Government through the Office of the NHRI Chairperson conducting a senior Government official until all options are exhausted.
- 4.3 The NHRI may also decide to take another option of litigating the issue before local court seeking the same remedy as contained in its recommendations.
- 4.4 Or it may decide to refer the matter to other stakeholders such as litigation-based CSOs to take the matter further including legal action.
- 4.5 The NHRI also reports cases of non-compliance to Parliament or another organ the NHRI reports to in terms of the law that creates it.

PART V: THE NHRI CLOSES AND ARCHIVES FILES IN ALL CASES OF FULL IMPLEMENTATION

- 5.1 Upon reaching a state of full implementation of each recommendation on HRDs, the NHRI reports this in its Annual Activity Report.
- 5.2 Fully implemented recommendations may only continue to be mentioned in further reports for purposes of statistics.
- 5.4 The NHRI closes the file.
- 5.5 However, the Unit continues with monitoring implementation of the Marrakech Declaration in general and advises the Commission accordingly in terms of Part IV above.

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