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National Human Rights Institutions in Post-Conflict Settings: An Evolving Research Agenda?

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The potential contributions that National Human Rights Institutions (NHRIs) can make in post-conflict settings has drawn increased attention from academics and practitioners alike. For some, NHRIs can assume positive roles assisting not only in the protection and promotion of human rights but also peacebuilding and transitional justice processes. Conversely, scholars identify a spectrum of potential obstacles that may hinder the translation of this potential into practice. Others assess that NHRIs can even hamper efforts to transition from conflict to peace. Existing literature identifies a number of factors that determine the contributions that NHRIs can make in conflict-affected settings. These include the institutional design of an NHRI, the degree of autonomy from the government and the level of expertise needed to navigate the post-conflict landscape. This paper considers a number of mechanisms and avenues available that could help NHRIs to navigate post-conflict transitions. Specifically, the paper examines the potential impact of peace agreements that include provisions on NHRIs; post-conflict guidelines developed for NHRIs operating in conflict-affected settings; and various accountability-based mechanisms that monitor NHRIs and post-conflict governments on an ongoing basis. After considering how these options could support the positive contributions that NHRIs make to peace, the paper will argue that more questions than answers arise. By identifying these uncertainties, however, the discussion helps illuminate important gaps in the literature, pointing to the need for a more comprehensive and integrated research agenda on NHRIs in post-conflict contexts.

1. Introduction

National Human Rights Institutions (NHRIs) are one of the key components of national and international human rights protection systems. They can take a variety of forms (see OHCHR 2009). NHRIs can be ombudsmen whose primary function is to receive complaints against government officials. Such institutions are particularly important in societies where government repression has been the norm and where the ability to hold government officials to account is perceived as particularly salient to breaking with the past. Alternatively, NHRIs can be human rights commissions. While often permitted to receive complaints in a similar fashion to that of an ombudsman, these bodies can perform a wider range of functions, including promoting and educating about human rights. In other cases, NHRIs can be hybrids of both or specialised institutions. The latter, according to the OHCHR (2009: 6) are established to 'promote government and social policy which has been developed for the protection of that particular group.'

Sitting at the intersection of government and civil society, NHRIs can, in theory, assist not only in increasing respect for human rights but also contribute to peacebuilding and transitional justice efforts.[1] The ability to support the latter processes arises from, amongst other things, the symbiotic relationship between human rights violations, conflict, and the realisation of rights and peace. Nevertheless, NHRIs also face a spectrum of impediments, such as lack of independence, institutional incapacity and limited funding, challenges which while often present in most settings, are particularly salient in transitioning settings. NHRIs can also undermine transitions from conflict to peace. When NHRIs operate in ways that are insensitive to their broader surroundings or when compromised by clandestine relationships with government officials, these institutions can do more harm than good.

This paper considers different possibilities that exist in post-conflict settings to help overcome obstacles faced and offset against potentially adverse contributions of NHRIs on one hand, while also promoting proactive and positive contributions to peace processes, on the other. Specifically, the paper considers the potential of peace agreements, which include provisions on NHRIs; guidelines developed to inform the activities of NHRIs in conflict-affected settings; and mechanisms designed to hold NHRIs and their governments accountable. In different ways, these various mechanisms could support NHRIs operating in transitioning societies. Peace agreements often serve as foundations for the new post-conflict state. By including provisions addressing NHRIs they can, in theory, help to create NHRIs that are, amongst other things, independent and inclusive. Guidelines designed to inform the activities of NHRIs operating in conflict-affected settings could serve to assist these institutions in conducting context-sensitive activities, while ongoing forms of monitoring of the activities of NHRIs could help to ensure that these institutions do not become compromised. These three mechanisms have been specifically and deliberately chosen as responses to some of the obstacles and dangers identified in the following section. They are, therefore, not exhaustive but chosen to help articulate ways of addressing the many shortcoming identified by existing scholarship.

Nevertheless, in contemplating the potential of these different possibilities to support NHRIs in conflict-affected settings, this paper will show that more questions than answers arise. For instance, while peace agreements may support the creation of independent NHRIs by committing parties publicly to create them, it is wholly uncertain as to what difference any such provisions make in practice. While guidelines might provide NHRIs with templates to be adapted in ways that are context specific and which help inform their activities after conflict, there is little in the way of existing research on what impact these instruments have had or to the extent that they are used. Although ongoing forms of monitoring by such organisations as the Sub-Committee on Accreditation (SAC) opens possibilities for ensuring transparent and inclusive NHRIs, whether and to what extent these interventions achieve these objectives is unclear.

The paper posits that the uncertainties that arise point to a number of blind spots in existing scholarship on NHRIs operating in the aftermath of conflict, identifying an evolving yet thus far partial research agenda. It suggests scope for future and interdisciplinary research and the need for thinking more systematically about NHRIs in conflict-affected settings

The remainder of this paper is organised as follows. Section 2 examines the literature on NHRIs in post-conflict settings. It considers the topic from two primary perspectives, which currently characterise the debate. The first identifies ways in which NHRIs are said to contribute positively in transitioning societies. This includes by promoting and protecting human rights and assisting in peacebuilding and transitional justice efforts. The second examines the ways in which NHRIs can, at times, undermine transitions from conflict to peace alongside a range of obstacles that impede the realisation of positive contributions in transitioning societies. This section concludes by suggesting the need to consider ways in which to bridge the chasm between positive contributions, potentially destabilising activities, and existing impediments

Section 3 examines various mechanisms which, in theory, might help to address the difficulties and dangers identified above to assist translating the potential of NHRIs into practice. It examines the potential of peace agreements, which include provisions on NHRIs to help create institutions that are independent, inclusive and transparent. Beyond this, peace agreements might also play a role in developing context-specific mandates designed to ensure that NHRIs promote the peace process. This section also examines the potential for existing guidelines to help inform the activities of NHRIs operating in post-conflict settings in ways that are context specific and sensitive. Finally, it examines different avenues for holding both governments and NHRIs accountable, ensuring that they adhere to such requirements as independence plurality and the provision of adequate funding. Sections 2 is deliberately descriptive in nature, while section 3 is theoretical, serving as the basis upon which to consider gaps that exist in the literature.

As will become clear, considering whether these various mechanisms and avenues support NHRIs in making proactive contributions raises more questions than answers. However, in doing so, the uncertainties identified help to demonstrate significant yet thus far underexplored gaps in the literature, which require further research. The intention of section 4 is to draw attention to the need for further research so as to extend discussions beyond the impacts of NHRIs to instead interrogating how to advance the research agenda on NHRIs in post-conflict settings. The paper concludes by arguing that so long as scholars and practitioners continue to advance the salience of NHRIs in post-conflict settings, there is scope for better understanding not only the contributions that they can make, but also how best to avail of the immense possibilities for NHRIs to be positive agents of peacebuilding..

2. Situating the Discussion: The Promise and Shortcomings of NHRIs in transitioning societies

NHRIs operating in post-conflict societies face an array of challenges. How they navigate the post-conflict terrain can affect their contributions to the broader peace process. A review of existing literature demonstrates that NHRIs can impact peace processes in both positive and, at times, negative ways.

2.1. The Potential of NHRIs to Contribute Positively in Post-Conflict Settings

While the precise definition of NHRIs is subject to debate (see Jensen 2018), at their core, they exist as domestic mechanisms tasked with protecting and promoting human rights. In post-conflict settings, this particular function means they can be salient in peacebuilding efforts. Even the institutional structure of a NHRI, such as its degree of independence or composition, can be conducive to peacebuilding efforts. The primary normative standards that govern NHRIs are the Paris Principles ("Principles relating to the status of national institutions for the promotion and protection of human right"). These standards were formulated by NHRIs themselves during the first international workshop of national institutions held in Paris in October 1991. The Commission on Human Rights and the General Assembly subsequently endorsed the principles. Although existing within various regional groupings,[2] the Global Alliance for National Human Rights Institutions (GANHRI) serves as the global network of national human rights institutions. GANHRI accredits NHRIs, in turn, with a particular status according to the Paris Principles.[3] The Sub-Committee on Accreditation- the arm of GANHRI specifically responsible for accreditation- also issues General Observations, which seek to clarify and at times expand aspects of the Paris Principles.[4] The basic requirements for an NHRI to be Paris Principle-compliant are that institutions are founded in national law and are independent from governments. Both components seek to ensure that NHRIs can operate free of state interference. In societies transitioning from contexts where rights have been systematically violated with impunity, these aspects are essential for ensuring that NHRIs can carry out their mandates effectively and independently. Pursuant to the Paris Principles, NHRIs are also to have a broad mandate to promote and protect human rights and a membership based on pluralism (McGregor et al. 2017). Pluralism, according to General Observation 1.7, refers to '[a] diverse decision-making and staff body facilitates the NHRI's appreciation of, and capacity to engage on, all human rights issues affecting the society in which it operates, and promotes the accessibility of the NHRI for all citizens.' The same General Observation goes on to note that '[c]onsideration must be given to ensuring pluralism in the context of gender, ethnicity or minority status. This includes, for example, ensuring the equitable participation of women in the NHRI.' In societies emerging from conflict to peace, the formation of NHRIs based on the principle of inclusiveness can serve as an example for society more generally where different sections and factions are inclusive.

It is primarily through the operations of NHRIs that much scholarship identifies positive contributions that NHRIs can make in societies emerging from periods of conflict. Human rights violations often underpin the onset of violent conflict (Márquez Carrasco et al. 2014; Aroussi and Vandeginste 2013; Frerks 2012). Thoms and Ron (2009), for instance, find that abuses of civil and political rights, notably those linked to physical integrity to be a significant short-term cause of conflict. Repressive governments can deny access to political power or the suffrage to challenge the concentration of political power. This can exist alongside a denial of rights of association or protest, often by heavy-handed security forces. Others argue that socioeconomic rights violations contribute to conflict (Millar 2008; Sharp 2014). Research on horizontal inequalities, for instance, shows that severe socioeconomic inequalities make identity groups more prone to political mobilization by generating a grievance shared among most group members (Langer and Stewart 2013). Although the linkages between human rights and peacebuilding are contested (Cahill-Ripley 2016; MacGinty 2011), the logic proceeds that because human rights violations are linked to the onset of conflict, human rights must be part of the political settlement brokered to end and to sustain the end of violence. NHRIs are in, theory, well positioned to support rights-related aspects of transitioning efforts.

Human rights violations are also always consequences of conflict (see Chega! Final Report of the Commission for the Reception, Truth and Reconciliation in East Timor, 2005; Republic of Liberia Truth and Reconciliation Commission, Final Report, 2009; Sierra Leone Truth and Reconciliation Commission, Final Report 2004). Atrocities may flare up within a short timeframe (e.g., the Rwandan genocide), but they can also occur over long periods of time as the conflicts in Colombia, Sri Lanka, and Iraq reflect (Parlevliet 2018: 19). Many symptomatic violations relate to civil and political rights, but social and economic rights are also affected through destruction of public infrastructure (schools, courts, hospitals) and the use of land mines or scorched earth tactics (Sankey 2014; Schmid 2011; Caranza 2008). The human rights violations that occur during conflict can contribute to calls for the inclusion of human rights post-conflict. The main objective might be to halt ongoing violence and prevent further abuses through, for example, negotiating ceasefires, human rights monitoring, peacekeeping, and humanitarian relief but can also often include transitional justice-related issues. Ensuring that rights are realised, respected, and protected in the aftermath of conflict is, therefore, an important if not essential component of post-conflict transformations (Parlevliet 2010; Sriram et al. 2010; Mertus and Helsing, 2006). Bodies, such as NHRIs, whose primary function is the promotion and protection of human rights can make particularly salient contributions in transitioning contexts.

NHRIs can promote a human rights regime where everybody is equally protected and empowered, while at the same time focus attention on the rights of specific groups, particularly those groups that have previously been marginalised and whose grievances lie at the heart of conflict (Adhikari 2003; Burdekin and Naum 2007: 22-23). In post-conflict Uganda, the Ugandan National Human Rights

Commission has contributed to endogenous development by promoting inclusion and empowerment of the most marginalized and excluded groups of society to help improve their lives (United Nations Development Programme (UNDP 2016). NHRIs can also promote democracy. For instance, they be a key players in calling for inclusivity, transparency, and accountability during the election process, in line with their mandate to promote human rights and democratic values such as pluralism and non-discrimination (The Carter Centre 2014: 32). A study undertaken by the University of Bristol (2012) references the potential for NHRIs to support democracy and the legitimacy of state institutions through the observation of parliamentary elections, participating in the drafting of a new constitution or legislative frameworks, and engaging with newly established constitutional bodies. As Linos and Pegram (2017: 31) further note:

> In a country where the state has traditionally neglected the institutional sphere of representative democracy, the logic pursued by NHRI officials to empower citizens against the public administration by encouraging them to claim their 'right to complain' has had a powerful cultural impact.

NHRIs can play the role of holding to account public officials for rights violations and help to shed light on ongoing instances of systemic discrimination (Renshaw, Byrnes, and Durbach 2011). This is a principal responsibility when attempting to ensure that the same human rights violations that characterised the past are not repeated in the present and future. To that end, NHRIs can direct attention at safeguarding human rights defenders, a point stressed by Special Rapporteur on the situation of human rights defenders, Margaret Sekaggya (2013, para. 77). They can also assume important interim responsibilities, supporting fledging states attempting to rebuild in the aftermath of war. This can include filling gaps when institutions like courts are not fully functional. Scholars such as Reif (2000: 2) argue, for instance, that 'in democratizing states NHRIs … provide a viable forum for the investigation and resolution of human rights complaints… where the judicial system is weak, politicized, slow, or otherwise incapacitated' . Others note the importance of NHRIs in supporting and training the judiciary, particularly regarding the application and interpretation of international human rights law (NIHRC 2006). Moreover, the literature identifies that NHRIs can also help to ensure that a state's security apparatus is human rights-compliant by providing training to the security forces and police, and to the public sector more generally (*Ibid*). This is particularly valuable given the relationship between a state's repressive security apparatus and conflict.

As domestic monitoring mechanisms, NHRIs can also feed into and support international efforts to monitor a post-conflict states adherence to its human rights obligation under international law (Carver 2010). International oversight can be particularly important in the immediate aftermath of a brokered political settlement, helping to ensure that both sides adhere to human rights commitments. Assistance

in this manner can include contributing to the reporting process of the Human Rights Council (HRC) Universal Periodic Review (UPR), treaty body monitoring or the work of special mandate holders of the HRC (Meuwissen 2015). They can, furthermore, be important actors in raising awareness of human rights, an issue that is particularly salient in those contexts where human rights have been systematically denied and where sections of or whole populations might be unaware of the very existence of rights(Liljeblad (017: 116).

Much scholarship focuses on the contributions that NHRIs can make to transitional justice, with scholars contending that NHRIs can assume accountability-related responsibilities. Cardenas (2003), for instance, argues that NHRIs can investigate complaints of abuse; compel production of documents and information; examine witnesses; issue reports on national situation; hold public inquiries and award compensation to victims of abuse. Sarathy (2019: 31) notes that 'NHRIs often can handle complaints, carry out investigations and conduct public consultations' noting that 'the ability to deal with individual allegations is particularly important in post-conflict and transitional justice contexts' (ibid). The Economic and Social Commission for Western Asia (2017) further suggests that NHRIs can help victims to access remedies, including compensation, especially through their complaint mechanisms and the subsequent involvement of other agencies.

In other cases, NHRIs can supposedly contribute to transitional justice processes by exposing rights violations that have occurred during conflict and championing accountability for violations levelled against certain groups. For example, Sharma (2017) argues that the in Nepal the National Human Rights Commission (NHRC) had previously exposed the brutality of the conflict and prepared the ground for international interest in resolving the human rights crisis in Nepal. A UNDP/Office of the High Commissioner for Human Rights (UNDP and OHCHR 2010) Toolkit outlines how in Burundi, the National Human Rights Commission played a cooperative role in reviewing transitional justice-related processes on an ongoing basis, including attending and preparing reports on human rights aspects of many of these processes. Sajjad (2009: 428) explains how in Morocco, following pressure by victims and human rights organizations, the Human Rights Consultative Council (CCDH) issued a report on 112 disappearance cases and proposed the establishment of a mechanism to provide financial compensation for victims. NHRIs are also said to assist in promoting women's rights in the context of transitional justice. As an illustration, the Economic and Social Commission for Western Asia (2017) highlights the salient role that NHRIs play in compiling data on gender-based violence and documenting its impact and the effectiveness of measures to tackle it. The report also notes that NHRIs can play a key role in dealing with gender-based violence under post-conflict transitional justice arrangements, something discussed in due course.

While only a brief overview, the discussion above helps to demonstrate that NHRIs are increasingly viewed as important institutions in post-conflict landscapes. In outlining a vast range of roles and responsibilities that they can play, NHRIs are presented as positive agents of change in transitional settings.

2.2. Challenges and Dangers associated with NHRIs operating post-conflict

Nevertheless, notwithstanding the potential contributions that NHRIs can make in societies attempting to transition from conflict to peace, various challenges can undermine the ability to translate this potential into the type of contributions detailed above. In most instances, the potential contributions to peacebuilding identified above are contingent on NHRIs operating under certain conditions. These conditions include independence, pluralistic composition and impartiality. Yet, NHRIs might fail to meet these criteria such that the mere existence of a NHRI does not necessarily entail that it will operate in ways which are peace conducive. As an illustration, the Myanmar National Human Rights Commission has, in the past, been critiqued for falling short of adequate levels of transparency in the selection of commissioners, with the selection process given by the Enabling Law not being public and affording little participation for civil society organizations (Liljeblad 2017: 103)., When NHRIs lack independence from governments, they can have little power in practice to make the kinds of contributions that assist transitional justice processes or efforts to hold state actors to account for rights violations.

In addition, not all NHRIs submit themselves to the scrutiny of GANHRI. In a 2010 study by the European Union Agency for Fundamental Rights, only 16 of the then 27 EU Member States have NHRIs applied for international accreditation through the International Coordinating Committee (ICC) of NHRIs.

One problem that scholars identify as a significant obstacle is a NHRIs (lack of) independence. Meg Brodie in 2015 wrote, for instance, that:

> There is an inherent tension in the concept of an NHRI: states which establish an NHRI may not want to be held to account by an independent, powerful and well-resourced entity. … As a result, NHRIs formal powers are often circumscribed, limited, or influenced by state actors, and this has led to criticisms that NHRIs are weak, or incapable of creating real change (2015: 1217-1218).

The lack of independence can serve to stifle the opportunities to make positive contributions to peace processes. For example, in the past, there have been allegations directed at the South African Human Rights Commission, while appointed with a degree of independence from the executive, for responding to government pressure to withdraw from certain court cases (Livingstone and Murray 2005: 13). In extreme cases, where their independence has been insufficiently guaranteed, NHRIs

have even been accused of complicity with governments against the interests of victims. Caroline Evans writing in 2004 highlighted the example of the Sri Lankan Commission, which was previously accused by Non-Governmental Organisations (NGO) of assisting in covering up serious violations, such as torture, by encouraging victims to settle claims for very small amounts of money. In return for compensation, the victim agreed to drop all criminal and civil proceedings, and the Sri Lankan Commission has 'used its teeth to bite the victims and not the perpetrators' (Asian Civil Society Forum (10 Dec 2002 cited in Evans 2004: 728 note 106). While the Sri Lanka Commission subsequently achieved A-Status accreditation, the example demonstrates that in conflict-affected settings, far from promoting peace and human rights, NHRIs can bolster the position of elite level actors responsible for rights violations.

Related is the perception, amongst the public, of both a lack of independence and ineffectiveness (Ghalib Galant and Victoria Maloka, 2004). Some authors attribute such views to low levels of awareness regarding not only the existence of NHRIs but their supposed place as independent watchdogs (Liljeblad 2017). Other reports highlight the lack of appreciation by the authorities and the public about the role of NHRIs in conflict prevention, mitigation and peace-building (NANHRI 2017). In other cases, the limitations of NHRIs that exist prior to conflict can continue to exist even when conflict has subsided influencing public opinion. As Breslin and Wurth (2017: 25) note:

> In cases an NHRI established in a pre-conflict period is not perceived as fully independent of former regimes, other transitional justice mechanisms that are specifically set up to deal with a new phase in society may be better positioned to gain trust by virtue of being new and untainted by any association with previous regimes, or even previous periods of a country's history.

Scholars also draw attention to problems associated with managing expectations as a reason for perceptions of ineffectiveness. Linos and Pegram (2017: 654) note that complaint-handling has posed both opportunities and challenges, particularly with regard to managing expectations in a context of institutional dysfunctionality. Similarly, Kedar (2003: 216) states that any NHRI engaging in transitional justice processes should take care to be very transparent and accountable in order to guard against frustrated expectations. Transitional justice processes that prove disappointing or are deemed unsuccessful may taint the reputation of an NHRI associated with them. On a more practical basis, there are difficulties that stem from lack of funding. A report by the Network of African National Human Rights Institutions (NANRHI) on the role of National Human Rights Institutions in Conflict Resolution, Management and Peace-Building (2017) notes that All the NHRI identified financial constraints as a major challenge. Limited funding affects the effectiveness and sustainability of conflict management and peace building interventions, even for the institutions that had recognized their responsibility in this area.

In conflict-affected settings, wider issues also determine the perceived and actual impact of NHRIs. Scholars contend that the effectiveness of NHRIs depends largely on the domestic political, legal and social conditions that exist in the country in question (Kreienkamp 2016). In 2012, Ryan Goodman and Tom Pegram laid out the challenges facing NHRIs in this regard:

> An NHRI might, for example, perform well in monitoring human rights abuses, but other institutions – the media and human rights advocacy organizations – may fail to build on that work. How far should an NHRI be expected to be engaged in media promotion and in building its legitimacy with the public, and how much of that responsibility should be assigned to these other institutions. … Framed in this manner, a lack of compliance with NHRI recommendations may reflect the failure of complementary actors to fulfill their democratic or accountability function rather than the failure of an NHRI. A conscious regard for such considerations should inform academic researchers' and practitioners' assessment of the potential effectiveness of an NHRI (2012: 15).

In other words, the performance of NHRIs is often determined by the extent to which other structures and institutions are in place and functioning. In societies that are attempting to transition from conflict to peace, even when NHRIs exist independently and with sufficient powers and funding, such issues as a limited space for civil society and inadequate state institutions are often part of a broader package of reforms that take time to implemented.

Another difficulty relates to conflict itself, which can impede the activities of NHRIs. Since its inception in 1996, the activities of the National Commission for Democracy and Human Rights (NCDHR) in Sierra Leone NCDHR have been greatly hampered by the difficult, and even dangerous, conditions that they work under (Human Rights Watch 2001). Similarly, writing on the difficulties facing the Myanmar NHRI, Liljeblad (2017: 116) identifies Myanmar's political context as an environment marked by nascent human rights, underdevelopment, complex transition dynamics, and persistent military influence all of which have posed significant challenges. Even when conflict has ended, post-conflict settings are highly complex, requiring sensitivity and knowledge to help navigate through them. However, according to NANHRI (2017), NHRIs can often lack the required knowledge and skills in such things as mediation of conflicts and conflict management and peace-building generally (). There are also difficulties associated with the stringency of the Paris Principles. Rachel Murray (2007: 194) has previously addressed this line of argument and exemplified areas where the Paris Principles fell short when it came to adequately assessing the issue of effectiveness. She argued that the Paris Principles rely too much on legalism, they are not often judged on how they can be used as a resource by others and on how much attention they pay to the most vulnerable in society' (Ibid). Evans (2004) has also noted that certain issues, such as religious freedom and intolerance, cannot be dealt with in an adequate or comprehensive manner simply by enforcing religious rights through

judicial mechanisms. NHRIs must be able to respond to the realities of the context in question in ways that are responsive and reflexive. However, precisely how they are to do so is often unclear.

Thus, notwithstanding the promise of NHRIs as positive agents for change in post-conflict settings, they face a range of obstacles. They can exist as independent institutions on paper ,afforded wide powers, only to have these roles limited in practice. They can lack adequate funding and be complicit with ongoing repressive governments. They can be unaware as to how best to navigate post-conflict environments and suffer from problems of mistrust among the wider public. Moreover, their activities are often subject to the broader economic, political, social and legal environments in which they operate, with ongoing conflict hampering any contribution to efforts to transition out of conflict.

3. Existing Opportunities for Bridging the Gap?

The experience of NRHIs in post-conflict settings is, therefore, mixed at best. On one hand, they have immense potential to contribute positively to transitions from conflict to peace. On the other hand, NHRIs face numerous challenges and can be compromised in various ways. How then do we ensure that the latter type of impacts occur while at the same time addressing the obstacles faced and offsetting potentially deleterious contributions? Part of the uncertainty associated with answering this questions points to the need, as developed in due course, for further research on NHRIs in conflict-affected settings, The remainder of this paper focuses on three interrelated possibilities, which are somewhat unique to conflict-affected settings. The first is peace agreements that either create or seek to change NHRIs. Formal agreements between conflict protagonists frequently establish or attempt to improve NHRIs. Given their role in shaping such aspects as independence and composition, they could serve as important vehicles for ensuring that these organisations operate in ways that many scholars identify as being conducive to contributing positively to peace processes. Moreover, emerging after periods of conflict, they hold the potential to assist NHRIs in playing context-specific roles by defining mandates they assist NHRIs in responding to human rights violations that have previously plagued the context in question. The second aspect discussed is the role of guidelines developed over the last number of years to help influence and shape the activities of NHRIs operating in post-conflict settings. These documents, which often promote context sensitivity, could be useful in assisting NHRIs attempting to navigate the post-conflict terrain. Finally, and in response to the potential for NHRIs to operate in close collaboration with repressive government, the paper considers existing accountability-based mechanisms that monitor the role of NHRIs. These mechanisms can play an important role in identifying NHRIs that operate in deleterious ways and in contravention of the Paris Principles.

In the absence of robust, empirical examination, the discussion below is largely hypothetical, drawing out possibilities rather than concrete and substantiated examples. Nevertheless, and as will become clear, in contemplating the potential of these various avenues, more questions than answers are raised.

These questions, it will be argued, help illuminate a number of blind spots in existing studies and point to an area that is ripe for further interdisciplinary research,

3.1. Peace Agreements and National Human Rights Institutions

As identified above, to be effective, NHRIs must have certain characteristics. These include independence, a plural composition, transparency, and mandates that enable NHRIs to carry out a wide range of functions. Often, these particular traits are dictated by the foundations upon which a NHRI is built. To this end, peace agreements often serve as the basis for reforming existing, or creating new, NHRIs.

Peace agreements are 'formal, publicly available documents, produced after discussion with conflict protagonists and mutually agreed to by some or all of them, addressing conflict with a view to ending it' (Bell and Sadanjak, 2019: 2). They attempt to address the root causes of conflict, in order to ensure that conflict does not re-emerge. Easterday (2013: 379), for instance, notes that peace agreements seek to transform conflict to peace by 'altering societal norms; negotiating and bargaining over the underlying causes of the conflict; creating a method of discursive conflict resolution; and by establishing new state institutions in an effort to embed these changes into the new political structure.'

As documents that seek to forge a new roadmap for the post-conflict state, peace agreements can serve to lay the foundations for NHRIs, In Nepal, for instance, the 2015 peace agreement constitution creates and defines the composition, mandate, powers, and procedure for appointments (2015: 110-113; 121-124) of the Nepal NHRC.[5] In Bosnia Herzegovina, the 1995 Dayton Peace Agreement includes a new constitution as an annex to the agreement, which also establishes a human rights commission, with a separate annex providing more detail on the function, composition and structure of the NHRI (1995: Annex 6). In other cases, provisions in peace agreements can serve as the basis for subsequent legislative or constitutional amendments that address NHRIs (see Good Friday Agreement or Belfast Agreement, 1998: 7). Peace agreements can also have less direct relationships to creating or developing NHRIs. For instance, peace agreements can encourage parties to implement prior commitments to establish a national human rights institution. The 2004 Accra III Agreement on Cote d'Ivoire enjoins the setting up NHRI as stipulated in the previously negotiated Linas-Marcoussis Agreement. These agreements have the potential to influence the type of NHRI that emerge after conflict. The discussion below considers a number of ways in which peace agreements can attempt to influence NHRIs after conflict, drawing on a number of the obstacles identified above as stifling the potential contributions to peace that these institutions can make.

3.1.1. Promoting Paris-Principal Compliant NHRIs

Peace agreements can help to promote certain characteristics that are included in the Paris Principles. For example, tnegotiated settlements can commit parties to fund NHRIs. As an illustration, in Colombia, a 1991 agreement entitled the 'Acuerdo Final entre el Gobierno Nacional y el Ejército Popular de Liberación – EPL' stipulates that the national government undertakes to support and fund the commission's work, which may also receive support and cooperation from international bodies and NGOs. (art. 3). Similarly, peace agreements in such contexts as Liberia, Rwanda, and Myanmar state unequivocally the necessity of ensuring that a NHRI is independent.[6] They can reiterate the importance of the impartiality and independence by directly referencing the Paris Principles (see Iraq, Law of Administration, 2004: 17; Northern Ireland, Joint Declaration by the British and Irish Governments, 2003: 21; and Sudan, Agreement between the Government of Sudan and the Justice and Equality Movement-Sudan on the Basis of the Doha Document for Peace in Darfur. 2013: 3).

Peace agreements can also address the issue of composition, committing parties to adhere to the Paris Principle requirements of pluralism. An agreement in Darfur, for instance, stipulates that the Government of Sudan shall take urgent steps to empower the National Human Rights Commission and to ensure that its composition and functioning are in accordance with the Paris Principles (Agreement between the Government of Sudan and the Justice and Equality Movement-Sudan on the Basis of the Doha Document for Peace in Darfur, 2013: 3). In other cases, Paris Principle requirements can be implied. In South Africa, the NHRC was to consist of a chairperson and 10 members who are fit and proper persons, South African citizens and broadly representative of the South African community (South African Interim Constitution, 1993: 30). In Northern Ireland, the 1998 GFA states that there will be safeguards to ensure that all sections of the community can participate and work together successfully in the operation of both the Northern Ireland Human Rights Commission (NIHRC) and the Equality Commission Northern Ireland (ECNI) (page 7). Such commitments on paper arguably provide an added pressure to ensure that such stipulations are honoured in practice. The primary point for now is that when the immense potential of NHRIs are undermined by NHRIs that lack certain characteristics, looking to peace agreements as the foundation upon which these institutions are founded could help address these shortcomings.

3.1.2. Reflecting Context in NHRIs

Peace agreements can also seek to utilise NHRIs- both in their design and functions- to respond to challenges faced in that context. In this way, the foundational documents that create or seek to improve NHRIs can help to reflect the particular contexts in which NHRIs are required to operate. This can support more context-sensitive roles and responsibilities. As Bell (2000: 302) notes

> [h]uman rights institutions are shaped not only by the context of the "deal", but also by the
> particular context of past abuses. …The particular human rights addressed, and notions of

past injustice shape the institutions established to address them. The role of such institutions can therefore be understood as inherently transitional – mediating between past and future'.

One way that peace agreements can do this is by tailoring the type of NHRI that emerges after conflict. In Kosovo (Rambouillet Accord, 1999), and Burundi (Arusha Peace and Reconciliation Agreement for Burundi), for instance, peace agreements created ombudsman offices to allow individuals to bring complaints regarding human rights violations that occur post-conflict. This was viewed as particularly important given the widespread rights violations that had occurred during the respective conflicts. In such contexts as Cote d'Ivoire (Linas-Marcoussis Agreement, 2003), and Afghanistan (Bonn Agreement, 2001), agreements mention or create human rights commissions. Tasked with responsibilities that included promoting human rights, such mechanisms were understood to be particularly salient in promoting a human rights respecting state underpinned by international human rights norms. Some also establish hybrid mechanisms, whereby one mechanism consists of both a human rights commission and ombudsman. In Iraq, for instance, 2004 the Law of Administration for the State of Iraq for the Transitional Period states that the Iraqi Transitional Government shall establish a National Commission for Human Rights for executing the commitments relative to the rights set forth in that agreement. Alternatively, peace agreements can create and task specialised institutions. In Nepal, the 2015 Constitution also establishes a National Inclusion Commission (NIC), which was a direct response to the Maoist 'People's War', which lasted between 1996 and 2006. The systemic inequalities, resulting in part from the Caste system, served as the basis for a Commission tasked with promoting inclusion of those groups previously excluded.

Peace agreements can also define functions for NHRIs that attempt to respond to the underpinnings of conflict. In Northern Ireland, like most conflicts, human rights violations were part and parcel of the emergence of violence and the subsequent peace treaty that emerged. As stated by Murray et al (2015: 6) 'the degree to which shortfalls in enforceable human rights standards within Northern Ireland law exacerbated and sustained the Troubles is marked by the importance of human rights safeguards within the Good Friday/Belfast Agreement.' Thus, the creation of Northern Ireland Human Rights Commission (NIHRC), like the Equality Commission of Northern Ireland, which it also established, stemmed from the role of human rights violations during the conflict. As is the case with the above examples, the particular types of mechanism that emerged derived directly from the conflict that preceded them. However, owing to the role of human rights violations prior to and during the conflict, alongside the contested nature of human rights, these bodies were also tasked with developing a human rights approach that took account of the situation in Northern Ireland.

Although the Good Friday Agreement includes numerous human rights provisions, it explicitly recognises that the particular circumstances of Northern Ireland required additional protections in the form of a Northern Ireland Bill of Rights. To this end, the Agreement enjoins the NIHRC to:

> consult and … advise on the scope for defining, in Westminster legislation, rights supplementary to those in the [European Convention on Human Rights] ECHR, to reflect the particular circumstances of Northern Ireland, drawing as appropriate on international instruments and experience. These additional rights to reflect the principles of mutual respect for the identity and ethos of both communities and parity of esteem, and – taken together with the ECHR – to constitute a Bill of Rights for Northern Ireland (page 18).

This provision helps to demonstrate the potential for an agreement to engage a NHRI in a particular post-conflict specific task. In this case, the NHRC was asked to take the lead on developing a Bill of Rights that would reflect the circumstances of Northern Ireland, in part because of the political impasse associated with doing so.

In a similar fashion, some agreements will also assign to NHRIs a role in helping to implement aspects of a peace agreement. For instance, in South Sudan, an agreement provides that the Human Rights Commission shall monitor the human rights and fundamental freedoms contained in the agreement (Naivasha Agreement, 2005: 31). Similar provisions are found in the 1996 Peace Agreement between the Government of the Republic of Sierra Leone and the Revolutionary United Front of Sierra Leone (Abidjan Accord, 1996: 8), and the 2006 Comprehensive Agreement concluded between the Government of Nepal and the Communist Party of Nepal (page 12). In Uganda, the Parties to an agreement consider that the Ugandan Human Rights Commission and the Uganda Amnesty Commission are capable of implementing relevant aspects of this Agreement (Agreement on Accountability and Reconciliation between the Government of the Republic of Uganda and the Lord's Resistance Army/Movement, 2007: 7). In Nepal, pursuant to the 23-Point Agreement between the Top Leaders of the Seven-Party Alliance, the National Human Rights Commission was tasked with monitoring aspects of the agreement (page 2).

In addition, as publicly available documents, peace agreements are publicised widely and scrutinised by the public. Including provisions on NHRIs can help to inform the wider public about the existence and type of activities that NHRIs perform. This may help respond to problems associated with a general lack of awareness and understanding about the role of NHRIs in society. Thus, including provisions on NHRIs in peace agreements could and arguably does serve as a potential avenue through which to ensure that NHRIs are independent, well-funded and inclusive/ Moreover, peace agreements have the potential to at least help ensure that NHRIs respond to specific aspects of the conflict in question, thus serving as a mechanism to inform and guide NHRIs post-conflict. This can

be through the particular type of institution that is established or the responsibilities mandated to NHRIs.

3.2. Post-Conflict Guidelines for NHRIs

Peace agreements might be useful in establishing particular types of institutions, promoting compliance with aspects of the Paris Principles and, in some cases, defining post-conflict specific functions for NHRIs. However, peace agreements are often ill-adept at responding to ongoing changes in ways that are responsive and reflexive (cf. Bell and Pospisil 2017). In the context of NHRIs operating in conflict-affected settings, this means that peace agreements might offer little in the way of guidance regarding how to conduct day-to-day operations in ways that allow for changes that might occur. Yet, NHRIs must also be sensitive to the broader contexts in which they operate andgiven the fluid and ever-changing nature of post-conflict environment, be capable of adapting to situations as and when they arise,. Often, as identified above, scholars assess that NHRIs lack the requisite knowledge to do so.

To this end, there now exists a panoply of guidelines to help guide NHRIs operating in conflict-affected settings, which build on the Paris Principles in ways that aim to assist NHRIs operating post-conflict. The universal applicability of the Paris Principles means that they do not speak to how NHRIs should approach contexts of transitional justice or post-conflict situations. They do not expressly mention conflict management or peacebuilding as part of the mandate of NHRIs nor do they define their mandates as related to peacebuilding efforts. As the Kiev Declaration, a document addressing NHRIs in conflict-affected settings discussed further below stipulates:

> [I]n conflict and post-conflict situations the actions required of a National Human Rights Institution differ from usual activities of human rights promotion and protection in peace time[…] the Paris Principles do not provide sufficient guidance on National Human Rights Institutions' role in conflict or post-conflict situations (2015: 2).

The guidelines and declarations that have emerged are thus borne from necessity. Seeking to reflect the challenges and dangers of conflict-affected settings, while also capturing opportunities, these various documents both encourage NHRIs to play more context-specific roles and, in some cases, to adopt a context sensitive approach to their operations.

For instance, a Guidance Note issued by Office of the High Commissioner for Human Rights (OHCHR) in 2008 enjoins NHRIs 'to support processes that ensure accountability and combat impunity, provide remedies to victims, promote respect for the rule of law and strengthen democracy and sustainable peace' (OHCHR 2008: 3). The document also stresses the importance of 'ensuring that transitional justice consultations are undertaken in a culturally sensitive manner that demonstrates

respect for the dignity of victims and others affected by human rights violations' (Ibid, 6). A United Nations Development Programme (UNDP)/OHCHR (2010) Toolkit for NHRIs also seeks to inform NHRIs about different peace-related roles they might play. Amongst other things, the Toolkit states that 'NHRIs can monitor and record violations during both conflict and authoritarian rule and transitional periods. These efforts can support future prosecution initiatives, truth seeking and truth telling bodies, reparations measures and vetting processes' (2010: 47). It also notes that 'NHRIs can assist victims by ensuring that they have equal and effective access to justice; adequate, effective and prompt reparation for harm suffered; and access to relevant information concerning violations and reparation mechanisms. NHRIs can also assist victims and witnesses with measures such as relocation and resettlement' (Ibid, 47).

More recently, in 2012 and 2013, the Asia Pacific Forum (APF) of NHRIs discussed strategies for NHRIs to work towards supporting genuine and inclusive transitions to democracy in Asia. The APF's Annual Meeting and Biennial Conference, 2013 examined a range of related topics during the two-day conference, including the role of women in political and democratic reform, NHRIs in working with police and security forces, and NHRIs in democracy and good governance. One of the outputs of the conference was a report produced by the Danish Institute of Human Rights (DIHR) entitled the *Role of NHRIs in Countries in Transition in the Arab World,* which further outlined a range of roles that NHRIs should play include promoting gender inclusion, and contributing to transitional justice and peace (DIHR, 2012).

Numerous declarations have also been forthcoming. In its 2009 Rabat Declaration, the Network of African National Human Rights Institutions (NANHR) stated that NHRIs should attempt, '[T]o raise awareness of transitional justice mechanisms and lessons learned, to engage relevant stakeholders, including civil society and institutional actors in transitional justice discourse, and to mobilize the society's action in this area […]' (NANHRI, 2009: 3). The Declaration also encourages NHRIs, '[T]o cooperate in the design and, as appropriate, in implementation of transitional justice mechanisms, and to ensure the centrality of victims in such processes' (Ibid.). The document equally recognises the importance of understanding the 'national context' (Ibid, 2).

In 2015, over 100 representatives from NHRIs, leaders, human rights experts, and civic activists came together in Ukraine to sign and adopt a new declaration calling for a stronger role of NHRIs in conflict and post-conflict settings (ENNHR, 2016). The Kiev Declaration, which was the formal output of this meeting, stipulates that NHRIs should take measures to contribute to the fight against impunity, promote transitional justice processes, facilitate access to justice for those affected by the conflict, including through effective investigations and reparations, to build peace, reconciliation and strengthen social cohesion (Ibid.). It also highlights the important role that NHRIs might place in

advising and advocating for the promotion, protection and respect of the rights of refugees and internally displaced persons (IDPs) (displaced because of conflict).

Other declarations include issues that are pertinent to NHRIs operating in post-conflict settings. The Nairobi Declaration (2008: 5) states, amongst other things, that NHRIs ensure victims of human rights violations receive compensation, including encouragement of the establishment of the fund for this purpose. The Amman Declaration and Programme of Action (2012) asks NHRIs to recognise the particular impacts of conflict on the human rights of women and girls, including gender-based violence. The Merida Declaration (2015) commits NHRIs to help implement the 2030 Agenda for Sustainable Development. In 2018, ENNHRI issued a statement on the Role of NHRIs to Promote and Protect the Human Rights of Internally Displaced Persons (IDPs) in (Post) Conflict (ENNHR, 2018). Finally, the OHCHR and other organisations have produced the document Preventing Torture: An Operational Manual for National Human Rights Institutions (OHCHR, 2010), which can also be regarded as relating to NHRIs in transitioning settings.

Guidelines and declarations such as these can arguably assist NHRIs in navigating post-conflict terrains. Alongside identifying potential contributions that NHRIs can make to peacebuilding and transitional justice processes, they frequently focus on processes rather than outcomes. In particular, a number of existing guidelines identify the importance of adopting context-specific knowledge through different forms of engagement and context analysis.

3.3. Ongoing Accountability and Monitoring of NHRIs after Conflict

While peace agreements can help in the creation of NHRIs and guidelines in guiding the operations of NHRIs in ways that are context-sensitive, it is also important to hold NHRIs accountable. One of the primary limiting factors identified by the literature is that irrespective of a NHRIs foundational document, problems can arise regarding independence, composition, and funding of a NHRI. Moreover, NHRIs can suffer from legitimacy deficits, often emerging from the inadequacies of NHRIs prior to and during a conflict. It is, therefore, important to ensure that NHRIs are monitored in an ongoing manner. Below, the discussion focuses on the potential role of GANHRI through is Sub-Committee on Accreditation (SAC) and UN human rights mechanisms.

3.3.1. Sub-Committee on Accreditation

In accordance with the Statute of the Global Alliance of National Human Rights Institutions (GANHRI), the Sub-Committee on Accreditation (SCA) has the mandate to consider and review applications for accreditation, reaccreditation and special or other reviews received by the National Institutions and Regional Mechanisms Section (NIRMS) of the Office of the United Nations High

Commissioner for Human Rights (OHCHR) in its capacity as the GANHRI Secretariat, and to make recommendations to the GANHRI Bureau members with regard to the compliance of applicant institutions with the Paris Principles. As such, the process can act as a form of ongoing monitoring helping to ensure that a number of the difficulties identified above are addressed.

Various examples help to illustrate the potential. In regard to Afghanistan, the SCA re-accredited the Afghanistan Independent Human Rights Commission (AIHRC) with A-Status in October 2019. However, in doing so it also emphasised that the NHRI must be provided with an appropriate level of funding in order to guarantee its independence and its ability to freely determine its priorities and activities (GANRHI 2019 (October: 7). The SCA also took issue with the terms of office. It noted that the law is silent on the number of times a Commissioner can be re-appointed, which leaves open the possibility of unlimited tenure. In order to promote institutional independence, the SCA took the view that it would be preferable for the term of office to be limited to one (1) re-appointment. In regards to Ghana, the SCA noted that the enabling law of the Commission on Human Rights and Administrative Justice (CHRAJ), does not provide the CHRAJ with an explicit mandate to interact with regional and international human rights systems and encouraged changes (GANHRI March 2019: 21-22) recommending changes to its designated responsibilties. In Croatia, the SCA has drawn attention to the fact that the involvement of civil society in the parliamentary process for selecting the Ombudsman was limited encouraging the Ombudsman of the Republic of Croatia to advocate for amendments to the selection process to better promote broad consultation and the participation of civil society in the selection process (GANHRI March 2019: 18). Similarly, in Bosnia, the SCA encourages the Institution of Human Rights Ombudsman of Bosnia and Herzegovina (IHROBH) to continue to develop, formalise and maintain working relationships, as appropriate, with other domestic institutions established for the promotion and protection of human rights, including civil society organizations and to continue to advocate for the passage of the legislative amendments (GANHRI November 2017: 12). In focusing attention on such issues as independence, mandate and composition, as examples, the SCA can provide a valuable form of accountability in order to ensure that NHRIs continue to function in ways that are not compromised.

3.3.2. UN Mechanisms

A recurring theme throughout SCA recommendations is the importance of NHRIs working with mechanisms of the UN Human Rights system. In 2018, for instance, the SCA recommended that Zimbabwe Human Rights Commission continue to monitor and engage with Human Rights Council and its mechanisms (Special Procedures and UPR) and the United Nations Human Rights Treaty Bodies (GANHRI October 2018: 18). UN mechanisms and procedures also offer an additional form of monitoring.

For instance, the Universal Periodic Review (UPR) was created in 2007, as part of a reform of the UN human rights machinery that culminated in the establishment of the Human Rights Council (HRC). It is a peer review-based process; hence, states assess each other's human rights performances. Although the efficacy of the UPR has been challenged on multiple grounds (Carraro 2019; Etone 2019, it can also serve as a mechanism to hold governments accountable by drawing attention to areas that require improvement. Again, a few illustrations demonstrate the point. For instance, in the second UPR cycle Ukraine recommended that Croatia explore ways of providing the necessary resources to ensure the independent and effective operation of the ombudsman's office (cycle 2), while in Cycle 1 Hungary enjoined Ukraine to Strengthen the independent status of ombudspersons and provide the necessary resources for their effective functioning (cycle 1).[7] Germany has recommended that Afghanistan adequately resource the Afghanistan Independent Human Rights Commission (cycle 2), while Greece noted that Afghanistan should '[e]nsure the independence of the Human Rights Commission, including through providing regular budgeting for the Commission, and proceed to the immediate appointment of its members (Cycle 2). Kenya recommended to Niger to ;[c]ontinue its efforts towards national reconciliation and strengthen the National Human Rights Commission in conformity with the Paris Principles' (cycle 2).

In addition, various other UN mechanisms have a role to play in holding NHRIs and governments to account. Treaty bodies regularly reference NHRIs in their reviews of country compliance with international human rights law. As examples, the Human Rights Committee and the Committee on the Elimination of Racial Discrimination have urged previously the authorities in Bosnia to strengthen efforts to ensure that the Office of the Ombudsman enjoyed the financial autonomy and human resources required to function effectively, in compliance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles) (CCPR/C/BIH/CO/3, para. 10, and CERD/C/BIH/CO/12-13, para. 14). Similarly, in regards to Afghanistan, the Committee against Torture has previously recommended that Afghanistan continue allocating additional and adequate budgetary resources to the Afghanistan Independent Human Rights Commission; enable it to make regular and unannounced visits to all places of detention, including those controlled by the armed forces and international forces; and enable all personnel of the Commission to safely conduct their work without fear of reprisals (CAT/C/AFG/CO/2, para. 32).

Forms of ongoing accountability could help to offset the adverse impacts that can stem from NHRIs who are compromised in different ways. They can help to ensure ongoing independence, pluralism and improve the processes by which NHRIs employ. They can also promote wider mandates and, in theory, advocate for more context-specific roles for NHRIs. In doing so, fears and misconceptions among the wider public about NHRIs can be allayed.

4. Gaps in the literature and towards an emerging research agenda

In theory, peace agreements, guidelines and accountability-based mechanisms could help to address some of the challenges and dangers associated with NHRIs in these settings. Peace agreements, as publicly available documents, can bind parties to commit to provisions on the need to establish NHRIs in line with the Paris Principles. They can also push NHRIs to make context-specific contributions in ways that conform to agreements made. Moreover, as widely publicised agreements, parties can be held accountable to these promises. Guidelines can respond to the uncertainties associated with operating in post-conflict settings. Informing NHRIs about potential contributions as well as developing processes, such as context sensitivity, can help to develop awareness and knowledge about how best to navigate post-conflict transitions. Existing accountability mechanisms, which hold both NHRIs and governments accountable, could help to offset challenges associated with autonomy, funding, mandate, and composition. However, in promoting these possibilities as potential solutions, uncertainties arise. As the discussion below seeks to capture, at present the proposed solutions raise more questions than answers, usefully highlighting gaps that a more robust and comprehensive research agenda could help to address.

4.1. The Uncertainty around NHRIs and Peace Agreements

When considering the potential relationship between peace agreements and NHRIs, numerous questions arise.While in theory, provisions on NHRIs within peace agreements can bolster the potential for ensuring that these provisions are met, there is no existing studies examining whether this is the case in practice. Some studies have examined the relationship between peace agreements and NHRIs (Lacatus and Nash 2019; Parlevliet 2005). Others have examined the extent to which peace agreements are implemented (Joshi 2015; Joshi and Quinn 2015; Joshi and Darby 2013). However, there is scant research on whether provisions on NHRIs translate into practice and, by implication, whether inclusion in peace agreements can in fact help to support Paris Principle compliant NHRIs. Yet, if the potential for NHRIs to

Relatedly, there are questions relating to why some agreements include references to NHRIs and others do not? For instance, in the area of gender provisions, there are numerous studies examining the relationship between Security Council Resolution 1325 and UN involvement (Bell and O'Rourke 2010; Bell and McNicholl 2019). However, there is little in the way of similar research on UN involvement and the Paris Principles. Despite the possibility that the inclusion of NHRI provisions could support NHRIs, which are independent etc. how does the involvement of international actors such as the UN influence the extent to which parties actually commit to adhering to these obligations. This arguably points to a much broader issue. How does the composition of peace negotiations impact the NHRI that subsequently emerges? Are NHRIs produced via peace agreements less stringent on the

necessity of independence or composition? Are certain groups that belong to those negotiating agreements prioritised in NHRIs? Do negotiations that include civil society groups result in more transparent hiring practices and policies?

In some cases, uncertainties raise questions that could shed light on existing studies. For instance, in terms of the functions that NHRIs perform, scholars have examined why particular NHRIs are given specific responsibilities offering valuable insights into the choices governments make to establish NHRIs and to grant them certain structural designs (Welch 2017; Pegram 2010). However, in the context of transitioning societies, it would also be necessary to contend with the possibility that NHRI functions are curtailed as a result of prior agreements on such issues as amnesty. It is common for amnesties to be granted as part of a set of trade-offs to get belligerents to lay down their arms or as a compromise to help facilitate truth (Mallinder 2018). Thus, a broader context-specific examination might reveal that the scope of responsibilities designated to NHRIs are curbed by parallel developments in the area of transitional justice mechanisms. Still again, the institutional capacity or mandate afforded to a NHRI might reflect the balance of political power? For instance, are peace agreements which create power sharing arrangements more likely to establish ombudsmen offices or human rights commissions. Does the inclusion of certain factions of society in political power sharing arrangements influence the decision to create specific mechanisms that attempt to promote the rights of certain groups?

Examining NHRIs and peace agreements can contribute to existing research in other ways. Richard Carver and Alexey Korotaev wrote in 2007 that:

> [t]he efficiency of the NHRI's activities depends significantly on the level of development of democratic institutions and judicial system in the country. NHRI cannot usually be much better than the general level of institutional development and effectiveness in the country. They have to develop and improve together. But there is a complex two-way relationship: active, consistent and efficient NHRIs can greatly contribute to the democratic development of their country (2007: 5).

In certain respects, the efficiency of NHRIs will often depend on developments in the area of institutional reform, democracy building and changes to the judicial system. If this is the case, any examination of NHRIs in conflict-affected settings must also grapple with wider areas of transformation that can impact a NHRIs performance. For instance, as part of this process of transformation, peace agreements often create new or significantly revise existing institutions. As examples, where legal structures and institutions are inadequate, corrupt, or even destroyed by conflict, peace agreements can provide for law reform in a range of ways including judicial reform, vetting of legal institutions, and legislative amendments or promulgations. Where security services are

perceived as favouring one particular section of society, they can be restructured, often-integrating marginalised groups into their ranks and underpinning their operations in the rule of law and human rights. While numerous other examples could be offered, the primary point is that peace agreements not only address national human rights institutions but simultaneously attempt to address the broader contexts within which NHRIs operate and target areas for reform that will. Despite the plethora of literature on the importance of the surrounding environments in which NHRIs exist, there is little discussion on the relationship between NHRIs, peace agreements and broader processes of institutional reform. As such, potential solutions to the problems associated with, for example, an undeveloped civil society could be missed in failing to consider the place of peace agreements.

4.3. The Unknown Impact of Guidelines

As detailed above, there is now a host of guidelines that exist to assist NHRIs operating in transitioning societies. However, there is little available evidence as to whether NHRIs are utilising them and how, if at all, these guidelines are shaping how NHRIs operate in conflict-affected settings. If NHRIs utilise these guidelines, which ones do they choose and why? What have been the impacts and are their externalities associated with their use?

Moreover, additional matters arise when considering guidelines. Guidelines are necessarily general in nature, albeit targeting NHRIs operating in conflict-affected settings. It is their general nature that allows NHRIs to contextualise them thus helping to inform how to go about conducting their activities in both context sensitive and beneficial ways. However, one of the potential downsides and uncertainties surrounding these initiatives is that they still require NHRIs to make difficult, often politically oriented decisions. To be sure, NHRIs are always embedded in politics and human rights are always political. However, the politicised nature of NHRIs is particularly pertinent in contexts where war has ended as a result of complex negotiations. For example, NHRIs are frequently encouraged to help address the root causes of conflict, particularly when they are human rights related. But the underlying reasons for conflict emerging are often highly contested, leading to meta-conflicts or conflicts over what a conflict was actually about. In many respects, the outcomes of peace negotiations reflect compromises over these fundamental disagreements whereby, as suggested, different parties both gain and give away some ground. In promoting and encouraging NHRIs to play active roles in addressing a conflict's triggers, there is a risk that NHRIs engage in drawing conclusions about a conflict that remain undecided and which can lead to accusations of political motivated institutions. Again, further research is required not only on when, why and how NHRIs have utilised these initiatives but also the internal dynamics and political motivations of those in charge and the processes by which they determine what issues to address and what not to.

4.4. Uncertainties Regarding the Impact of Monitoring and Accountability

As identified, there are different possibilities for holding both NHRIs and governments accountable. But to what extent do these processes actually influence how NHRIs perform? Do states act on the recommendations that emerge from the UPR process? Are treaty body findings capable of promoting Paris Principle compliant NHRIs? To what extent do NHRIs improve as a result of SCA rulings and recommendations? While these questions are relevant to NHRIs generally and the efficiency of different forms of human rights monitoring beyond conflict-affected settings, they are particularly relevant in post-conflict settings for reasons identified in section 1. If, as some suggest, the potential for NHRIs to make proactive contributions in transitioning context depends on such issues as independence, further research could examine the extent to which ongoing accountability promotes effective NHRIs. Research could also consider how these processes feed into public perceptions about NHRIs. Moreover, given the existence of simultaneous forms of monitoring by the SCA, UN mechanisms, civil society and other states, research could examine how these various mechanisms and procedures overlap, including whether they support or undermine the efforts of each other. In short, while accountability-based mechanisms have the potential to improve how NHRIs perform their roles post-conflict, there is the need for further research as to if and how this is in fact the case.

4.5. The Interrelatedness of Existing Options

Each of the above sections could invoke an obvious response: why not simply take one of these issues and focus on that as the subject this article. The difficulty is two-fold. Firstly, in thinking about these different available options, it is also necessary to consider how and if they relate to each other. For example, although peace agreements often include references to the Paris Principles, might they also include references to existing post-conflict guidelines that could be utilised? If the answer to this is yes, it would support the above claim that research must identify which guidelines have been useful and why. Conversely, could guidelines draw attention to the importance of peace agreements and the centrality of engaging with conflict protagonists. If NHRIs are to assume more peace-related roles, should those monitoring NHRIs also examine and assess the extent to which these responsibilities are being carried out? Is there space for, for instance, for peacekeeping missions to assume the role of overseeing NHRIs? Some scholars highlight the importance of interacting with civil society as a precursor to effective operations (Palmer 2019). But to what extent are peace negotiations, particularly those that attempt to expand the space for civil society, precursors to NHRIs. Moreover, what specific civil society groups do NHRIs engage with and why. An evolving research agenda on NHRIs in conflict-affected settings.

Secondly, there is clearly scope for interdisciplinarity. As section 1 demonstrates, there is a wide range of proposed contributions that NHRIs can make to peace. However, whether and to what extent these contributions actually do so is uncertain. Part of the difficulty revolves around defining what it is that we mean by peace and furthermore how peace is to be measured. In the field of peace studies,

both issues are highly contested. The Everyday Peace Indicators project's for instance, adopts an approach that employs an inductive, participatory approach to the generation of indicators in order to measure difficult-to-measure concepts such as peace (see MacGinty 2013). It exists in opposition to standardised and technocratic measurements of peace, which often fail to account for local and lived experiences and what they mean for how we define peace. This project, alongside a host of alternative approaches (see Molloy 2018) demonstrate that what we mean by peace and how we measure it are contested issues.

However, such nuances are not reflected in literature addressing NHRIs in post-conflict settings. Instead, contributions to peace are assumed and NHRI's role in peacebuilding is mapped according to whether they carry out some or all of these functions. To this end, there are numerous studies that explore possible ways to measure the effectiveness of NHRIs (Cardenas and Flibbert 2005; Carver 2014; Linos and Pegram 2017; Lacatus 2018). While useful starting points, by integrating debates on peace and measuring peace into the discussion on NHRIs, more developed ways of defining, measuring and monitoring the role of NHRIs in peace processes might emerge. Thus, a new set of questions arise. Firstly, how do we measure the impact of NHRI activities on peace? Secondly, how might efforts to measure effectiveness of NHRIs also respond to and incorporate more nuanced developments in the area of peace and monitoring it? Ultimately, the question is not only whether NHRIs contribute to peace but how to quantify any such contributions.

5. Conclusion

The importance of examining NHRIs in societies attempting to transition from conflict to peace stems from the polarised nature of debate on the topic. On one hand, NHRIs can be positive agents for change, promoting and protecting rights in contexts where they have previously been overlooked or ignored. NHRIs can also facilitate and undertake responsibilities conducive to peacebuilding and transitional justice efforts. On the other, the literature demonstrates both the difficulties associated with realising this potential, often manifesting in various obstacles that NHRIs face. These obstacles can equally lead to scenarios where NHRIs are damaging to peace processes.

The challenges associated with NHRIs operating in conflict-affected settings maps onto similar difficulties and dangers facing all such organisations. Paradoxically, however, notwithstanding the fact that most NHRIs confront difficulties associated with independence, mandate, institutional structure and composition, the particular circumstances of conflict-affected settings could provide opportunities to offset these limitations. While peace agreements, conflict-specific guidelines and different forms of accountability were examined above, additional options include civil society, truth commissions and supranational organisations, as examples.

Yet considering these possibilities raises more questions than answers. This paper has suggested that it is the existence of these uncertainties that warrants further research into NHRIs not only in terms of their potential contributions- both positive and negative- to post-conflict transitions but also how NHRIs exist within the broader context of reform and transformation. If NHRIs continue to be promoted as positive institutions in transitioning settings it is necessary to better understand them. Contemplating potential avenues and mechanisms to address the difficulties facing NHRIs in post-conflict settings helps to generate questions about what we know about these mechanisms and avenues and point to the centrality of further examination. There is, therefore, space for an emerging research agenda, which pushes beyond their pros and cons to thinking about the additional players, aspects of a transition and factors that have a bearing on how NHRIs operate in the aftermath of conflict alongside potential solutions.

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[1] Transitional justice is often defined as 'the full range of processes and mechanisms associated with a society's attempt to come to terms with a legacy of large-scale past abuses to ensure accountability, serve justice and achieve reconciliation' (UN, 2010: 3)

[2] See, for example, Africa: Network of African National Human Rights Institutions (NANHRI); Americas: Red de Instituciones Nacionales para la Promoción y Protección de los Derechos Humanos del Continente Americano; Asia-Pacific: Asia Pacific Forum of National Human Rights Institutions (APF); Europe: European Network of National Human Rights Institutions

[3] Conforming institutions are accorded "A" status; those that do not conform are accorded "B" or "C" status. "A" status NHRIs have speaking rights in the Human Rights Council and other international human rights fora, and are entitled to request that they be recognized as the official national monitoring mechanism under the Optional Protocol to the Convention Against Torture and the Convention on the Rights of Persons with Disabilities (Renshaw, 2012: 301).

[4] For General Observations see https://nhri.ohchr.org/EN/Pages/default.aspx

[5] All references to peace agreements in this article are taken from the PA-X peace agreement dataset www.peaceagreements.org

[6] See Liberia, Peace Agreement between the Government of Liberia, the Liberians United for Reconciliation and Democracy (LURD), the Movement of Democracy in Liberia (MODEL) and the Political Parties (Accra Agreement) (18/08/2003); Rwanda, Protocol of Agreement between the Government of the Republic of Rwanda and the RPF on the Rule of Law (18/08/1992); and Myanmar, Agreement Between the Chin National Front (CNF) and Union-Level Peace Working Committee at the 2nd Round of Peace Talks (09/12/2012).

[7] See UPR Info for full list of recommendations (https://www.upr-info.org/database/)