

Rights & Security International's submission to the Joint Committee on Human Rights'
Call for Evidence on the Creation of a Human Rights Ombudsperson

Introduction and summary:

1. Rights & Security International (RSI) is a London-based NGO with more than 30 years of experience ensuring that measures governments take in the name of national security comply with international human rights law. RSI initially focused on rights and accountability for abuses in Northern Ireland, before embracing a UK-wide and now international approach to advancing human rights in the context of national security. Our mission includes promoting strong civic spaces in the global arena, and we co-founded the Civil Society Organisations (CSOs) Coalition on Human Rights and Counter-terrorism (CT),¹ where we and our partners are advocating for the creation of oversight mechanisms to ensure the UN's respect for human rights when it acts in the name of CT. Through this work, RSI has acquired relevant experience on the utility of Ombudsperson offices for promoting and advancing human rights at the national, regional and international levels.
2. As part of our research, RSI has approached national and regional Ombudsperson offices that have a clear human rights mandate. We have interviewed professionals working in these offices, and in some cases, the Ombudsperson themselves. These knowledgeable individuals have provided us with key insights on the procedures, learnings and challenges for Ombudsperson institutions. Along with these interviews, RSI has consulted various CSOs to gain an understanding of the challenges and learnings that civil society actors encounter when submitting complaints to Ombudsperson institutions. What follows is a selection of the main insights arising from this initial research, which we hope will aid the Joint Committee on Human Rights (JCHR).
3. This submission draws on our response to the 'Human Rights Act Reform: A Modern Bill of Rights'² and focuses on the question; 'Should there be a Human Rights Ombudsperson? If so, what **powers and resources** would the ombudsperson need to address the challenges people face in enforcing their rights out of court?'
4. In summary, RSI welcomes the initiative of creating a Human Rights Ombudsperson, as such an institution will increase the ability of vulnerable groups to enforce their rights out of court. This is especially true for those affected by the changes in the Nationality and Borders Bill, who will face extra barriers to access justice mechanisms.
5. RSI highlights the relevance of the available normative framework and the importance of the Venice Principles for ensuring efficient, independent, fair, objective and transparent Ombudsperson offices.
6. For the purposes of this submission, we use the term 'Ombudsperson' according to the definition provided by the United Nations Terminology Database (UNTERM).³ Although Ombudsman is the most widely known concept, UNTERM states that this term is rendered gender-neutral by the use of either "ombudsperson", "ombuds" or "ombud". As of the date of the present submission, none of these alternatives had been adopted for the United Nations (UN) organisational Ombudsman. However, the term was adopted by the Ombudsperson to the ISIL (Da'esh) and Al-Qaida Sanctions Committee at the Security Council⁴ and other relevant human rights oversight mechanisms.

¹ Rights and Security International (RSI). [Civil society as partners in counter-terrorism October 2019](#).

² Rights and Security International. [Rights & Security International's Response to 'Human Rights Act Reform: A Modern Bill of Rights'](#). (8 March 2022).

³ UNTERM. <https://unterm.un.org/unterm/display/record/unhq/na?OriginalId=2e129932e6473e6a85256fd50061e131>

⁴ United Nations Security Council. [Ombudsperson to the ISIL \(Da'esh\) and Al-Qaida Sanctions Committee](#).

The Venice Principles: International standards for efficient Ombudsperson institutions

7. Human rights Ombudsperson offices are one of the defining features of modern democracies. In 1993, the UN General Assembly adopted the resolution on National Institutions for the Promotion and Protection of Human Rights, also known as the Paris Principles.⁵ Although the 'Paris Principles' were specifically written for National Human Rights Institutions (NHRIs), some scholars highlight the effect that they have in accelerating the shift in Ombudsperson roles from oversight of public services to having a broader human rights mandate.⁶
8. According to a recent study, more than 60 percent of Ombudsperson institutions globally have an explicit human rights mandate.⁷ This is an even more striking reality in Europe, where 90 percent of Ombudspersons are mandated to promote and advance human rights.⁸
 9. Since the adoption of the Paris Principles, there has been significant progress on the international standards that apply to NHRIs.⁹ The UN General Assembly and UN Human Rights Council have produced several resolutions on the role of the Ombudsperson and NHRIs,¹⁰ providing more elaborate guidance for governments and CSOs involved in the functioning of these institutions.
 10. Another major development for human rights Ombudspersons came from the work of the European Commission for Democracy through Law. The Venice Commission recognises the fundamental role of Ombudsperson institutions in strengthening democratic systems and good administrations, as well as protecting and promoting human rights at various levels.¹¹ It is worth mentioning that the distinction between these two mandates is not always fixed, as cases of maladministration can have an impact on human rights.
 11. The Venice Commission provides 25 principles intended to serve as a checklist.¹² These principles invest the Ombudsperson with discretionary powers to investigate cases based on complaints, including the competency to request cooperation from other institutions, access privileged information and demand responses from authorities.
 12. Nevertheless, the Venice Principles provide a broad approach, allowing Ombudsperson institutions a certain degree of adaptability to ensure that core values such as independence, fairness and impartiality are upheld. This achievement of the Commission has prompted governments, regional mechanisms and international organisations to embrace the crucial role Ombudsperson institutions play.

Powers for the Human Rights Ombudsperson

Actions under own initiative: tackling systemic issues

13. The power of the Ombudsperson to undertake actions upon their own initiative is one of the most important competencies of this institution.¹³ For example, the European Ombudsman can launch *ex officio* investigations to approach systemic issues of maladministration, whether or not they relate to complaints submitted by the

⁵ UN. "Principles relating to the Status of National Institutions", General Assembly resolution 48/134. 20 December 1993

⁶ Sześciło, Dawid & Stanisław Zakroczyński. "From Paris to Venice: the international standard of the ombudsman's independence revisited", *The International Journal of Human Rights*, 25:10, 1819-1834, Routledge, 2021 DOI: 10.1080/13642987.2021.1895761.

⁷ Reif, Linda C. "The ombudsman, good governance, and the international human rights system", Vol. 79. Leiden: Brill Nijhoff, 2020, 741.

⁸ Ibid.

⁹ Human Rights Council. "Belgrade Principles on the relationship between National Human Rights Institutions and Parliaments", Serbia 22-23 February 2012, Belgrade.

¹⁰ UN. General Assembly. The role of the Ombudsman, mediator and other national human rights institutions in the promotion and protection of human rights. 20 December 2012. [A/RES/67/163](#); Also see resolutions [A/RES/66/169](#), [A/RES/68/171](#), [A/RES/72/181](#), [A/RES/72/186](#), [A/RES/71/200](#), and [A/RES/65/207](#).

¹¹ European Commission for Democracy through Law (Venice Commission). "Principles on the Protection and Promotion of the Ombudsman Institution ("The Venice Principles")", 118th Plenary Session (Venice, 15-16 March 2019).

¹² Council of Europe Venice Commission, '[Ombudsman institutions](#)'.

¹³ International Ombudsman Institute (IOI). [Own Initiative Investigations. IOI Best Practice Paper](#) – Issue 3 – July 2018.

public.¹⁴ Another example comes from the Police Ombudsman of Northern Ireland (NI), which can look into institutional practices for a matter of public interest. This was the case of the investigation launched on the enforcement of the Coronavirus Public Health Regulations by the NI police during the ‘Black Lives Matter’ and ‘Protect our Statues’ protests in 2020.¹⁵ Although the final reports concluded that the police failed to understand their human rights obligations, the Ombudsman in NI also highlighted wider-ranging issues of unfairness in the distribution of public responsibilities for dealing with public health regulations during the pandemic.¹⁶

14. This set of recommendations from NI provides evidence of an Ombudsperson’s valuable ability to address, on a self-initiated basis, systemic issues that extend beyond the legal framework.
15. In addition, RSI highlights the contribution of the International Ombudsman Institute (IOI), one of the biggest and more prestigious Ombudsman associations providing guidance on good governance and capacity building to more than 200 independent Ombuds institutions from across the globe. IOI suggests that Ombudspersons should have the power to consider and prioritise complaints within their jurisdictions, discontinue an investigation at any time and mediate in conflict resolution.¹⁷

Access to confidential information and public facilities

16. Ensuring access to sensitive and confidential information is a fundamental aspect of safeguarding the adequate and efficient performance of an Ombudsperson. The Venice Principles¹⁸, as well as the IOI, envisage access to and sharing of information as a prerequisite for Ombudspersons to fulfil their competencies.¹⁹ Ensuring access to information functions as both a benchmark and a safeguard for independent institutions, enabling best practices and adherence to the highest standards of performance.
17. Access to otherwise confidential or protected information allows Ombudsperson institutions to issue impartial and evidence-based recommendations, and publish informed findings as appropriate. The latter ability is welcomed by CSOs for its potential to prevent further rights violations or aggravation of conflicts.
18. The power to access sensitive information implies cooperation from other government institutions at various levels. The example of the Office of the Ombudsman in Ireland, which has addressed rights violations suffered by asylum seekers, brings useful insight in this regard. This Ombudsperson’s office has developed a programme of visits to Direct Provisions centres²⁰ to increase the institution’s outreach and tackle the barriers that asylum seekers might face in accessing the Ombudsperson’s services.²¹

Engagement with Civil Society

19. Public access to Ombudsperson services to a large extent defines the institution’s capacity to fulfil its human rights mandate. As a complaint-driven mechanism often seen as an alternative to the courts, the Ombudsperson must offer direct channels to facilitate public engagement with the institution.²²
20. For this engagement with the public, CSOs are paramount in ensuring efficient human rights Ombudsperson offices. The development of this constructive engagement between the Ombudsperson and civil society

¹⁴ European Ombudsman. All strategic inquiries. <https://www.ombudsman.europa.eu/en/strategic-issues/strategic-inquiries/all-strategic-inquiries>

¹⁵ Police (Northern Ireland) Act 1998. Section 60A(2).

¹⁶ Police Ombudsman for Northern Ireland. “[Statutory report: Public Statement by the Police Ombudsman pursuant to Section 62 of the Police \(Northern Ireland\) Act 1998](#)” Published 22 December 2020.

¹⁷ IOI. Developing And Reforming Ombudsman Institutions.

¹⁸ Venice Commission. The Venice Principles.

¹⁹ International Ombudsman Institute (IOI). [Developing and reforming Ombudsman Institutions: an IOI guide for those undertaking these tasks](#). IOI Best Practice Papers. Issue 1. June 2017.

²⁰ Direct Provision is the system designed by the Republic of Ireland to support those waiting for the outcome of an application for international protection or asylum. The centres refer directly to the accommodation in place within the system.

²¹ Office of the Ombudsman. [The Ombudsman & Direct Provision: Update for 2018](#). March 2019.

²² IOI. Developing and reforming Ombudsman Institutions.

depends on the institution's policies, the public's perception of the Ombudsperson, and the approach taken by CSOs to engage with public institutions. CSO can play a pivotal role in facilitating victims' access to the Ombudsperson, especially in case related to vulnerable communities. They have acted as liaisons and the main point of contact, and also challenged the Ombudsperson office in some cases due to their monitoring capacity. Ombudsperson offices should have the power to establish solid and productive dialogues with the plurality of forces within civil society advancing human rights.

21. Although the Venice Commission provided little guidance on the role of civil society in the appointment and monitoring of Ombudsperson offices,²³ the UN General assembly has confirmed the importance of CSOs' contributions to the adequate performance of Ombudspersons.²⁴ RSI's consultations among CSOs has confirmed the importance of adequate budget allocation to facilitate meaningful institutional engagement with civil society through – for example – campaigns on human rights, training for human rights defenders and capacity-building processes for communities.
22. The CSOs we consulted have pointed at two more relevant learnings from their experience working with Ombudsperson offices.²⁵ The first is that institutional engagement with domestic and international human rights mechanisms can be an effective means of channelling civil society demands, providing an important prompt toward coordination approaches among civil society groups.
23. The second is the periodic Ombudsperson reports that are often delivered to the Parliament or National Assembly. These documents can serve as a thorough and useful assessment of the State's progress toward complying with international human rights. Thus, the reports work both as an indicator of the context and a navigation chart for CSOs, enabling more efficient discussions of the State's human rights progress and obligations. The recommendations found in these periodic (e.g. annual) reports can help guide changes in legislation

Resources for human rights Ombudspersons

Thematic offices, professionalisation and adequate budget allocation

24. A recent and growing trend in many States is the creation of thematic Ombudspersons. These can be established around particularly sensitive issues, such as access to information, or designed to address the concerns of particular vulnerable communities.
25. On this point, we note a 2013 recommendation by the Council of Europe Parliamentary Assembly pointing to a need to ensure that States do not create specialised bodies in a way that could cause confusion among the public.²⁶ Some scholars have also highlighted the problems that thematic offices might create in terms of coordination, competence and accountability.²⁷
26. However, thematic Ombudsperson offices can aid vulnerable communities that want to report rights violations and lack other effective avenues to access justice. The professionals in these offices can deliver technical expertise on the issues undermining the rights of such communities, and provide recommendations to the Ombudsperson about how to engage effectively.
27. The professionalisation of the Ombudsperson role is a critical element for ensuring compliance with best practices and international standards. This entails the implementation of capacity-building processes for staff members, especially those acting as the first point of contact for the public and members of vulnerable

²³ Venice Commission. The Venice Principles.

²⁴ UN. General Assembly. The role of the Ombudsman, mediator and other national human rights institutions in the promotion and protection of human rights. [A/RES/72/186](#).

²⁵ RSI held fruitful conversations with national and international CSOs; Committee for Administration of Justice, Colombian Commission of Justice and others.

²⁶ Parliamentary Assembly of the Council of Europe, [Resolution 1959 \(2013\): Strengthening the Institution of Ombudsman in Europe](#), 4 October 2013,

²⁷ Sześciło (2021).

communities. The success or failure of Ombudsperson offices may well be directly linked to the professional expertise of the staff.²⁸ The availability of trained professionals to take on these roles depends significantly on the allocation of adequate financial resources.

28. Insufficient financial support risks reducing the Ombudsperson's capacity to perform effectively and deliver their statutory duties.²⁹ In our view, sufficient financial and career support for the staff is equally essential.

Media visibility and internal procedures

29. Strengthening the Ombudsperson's visibility in the media also supports the institutional aim of delivering accessible services to the public.³⁰ Access to pertinent information about Ombudsperson services is a prerequisite for people to access those services.
30. Accurate information about Ombudsperson services helps to define clear expectations among the public. For example, without a sufficient information campaign, communities may view Ombudspersons inaccurately as judicial bodies with binding decision-making powers. Both communities and public servants should have clarity about the services available and the institution's duties towards the public. Competent communication officers can design mechanisms to provide timely information to the public about the institution's services.
31. Clear internal procedures serve as a navigation chart for public officials facing complex cases and potentially unrealistic expectations from individuals and communities. They help build institutional approaches that are 'standard, consistent and predictable'³¹ and can boost public confidence. But, more importantly, defined procedures help to ensure that the work of the Ombudsperson is efficient and impactful.³² Although institutional policies are not in themselves a guarantee of efficient or impactful performance, they are a first step in advancing the mission of the institution.

Conclusion

32. The creation of a Human Rights Ombudsperson will strengthen the UK's international reputation and long tradition of defence and promotion of human rights. The decision-making process around this initiative should acknowledge the existing principles and relevant guidance from independent Ombudspersons in other contexts. As such, RSI recommends that the JCHR consider the powers and resources listed in this submission as fundamental aspects to ensure an efficient and impactful Human Rights Ombudsperson.
33. RSI highlights the fundamental role of civil society and communities in safeguarding the core principles of Human Rights Ombudspersons. They, as the main beneficiaries of these offices, along with academics and professionals working in these types of institutions, can provide valuable input to ensure that the Ombudsperson has a legitimate, credible and impactful role in defending and promoting human rights.

If you have any further questions, then please do not hesitate to contact Simón Hurtado Delgado, RSI's International Human Rights Coalition Leader at shurtadodelgado@rightsandsecurity.org or Sarah St Vincent, Executive Director, at sstvincent@rightsandsecurity.org

²⁸ IOI. [Hybrid Corruption Ombudsman. IOI Best Practice Paper](#) – Issue 7 – March 2022, p. 13.

²⁹ Police Ombudsman for Northern Ireland. [Annual report and account. 2020–2021](#), p. 15.; Police Ombudsman for Northern Ireland. [Police Ombudsman's Office cuts 'historical' workforce by 25%: Major investigations to be delayed](#). Publication Date: 01.10.2014.

³⁰ Parliamentary Assembly of the CoE. Resolution 1959 (2013)

³¹ Prost, Kimberly. International Centre for Counter-Terrorism (ICCT). [A Decade of Review: The UN's Ombudsperson to the ISIL \(Da'esh\) and Al-Qaida Sanctions Committee](#). 2020.

³² Parliamentary Assembly of the Council of Europe. Recommendation 1615 (2003): [The institution of Ombudsman](#). 08 September 2003.