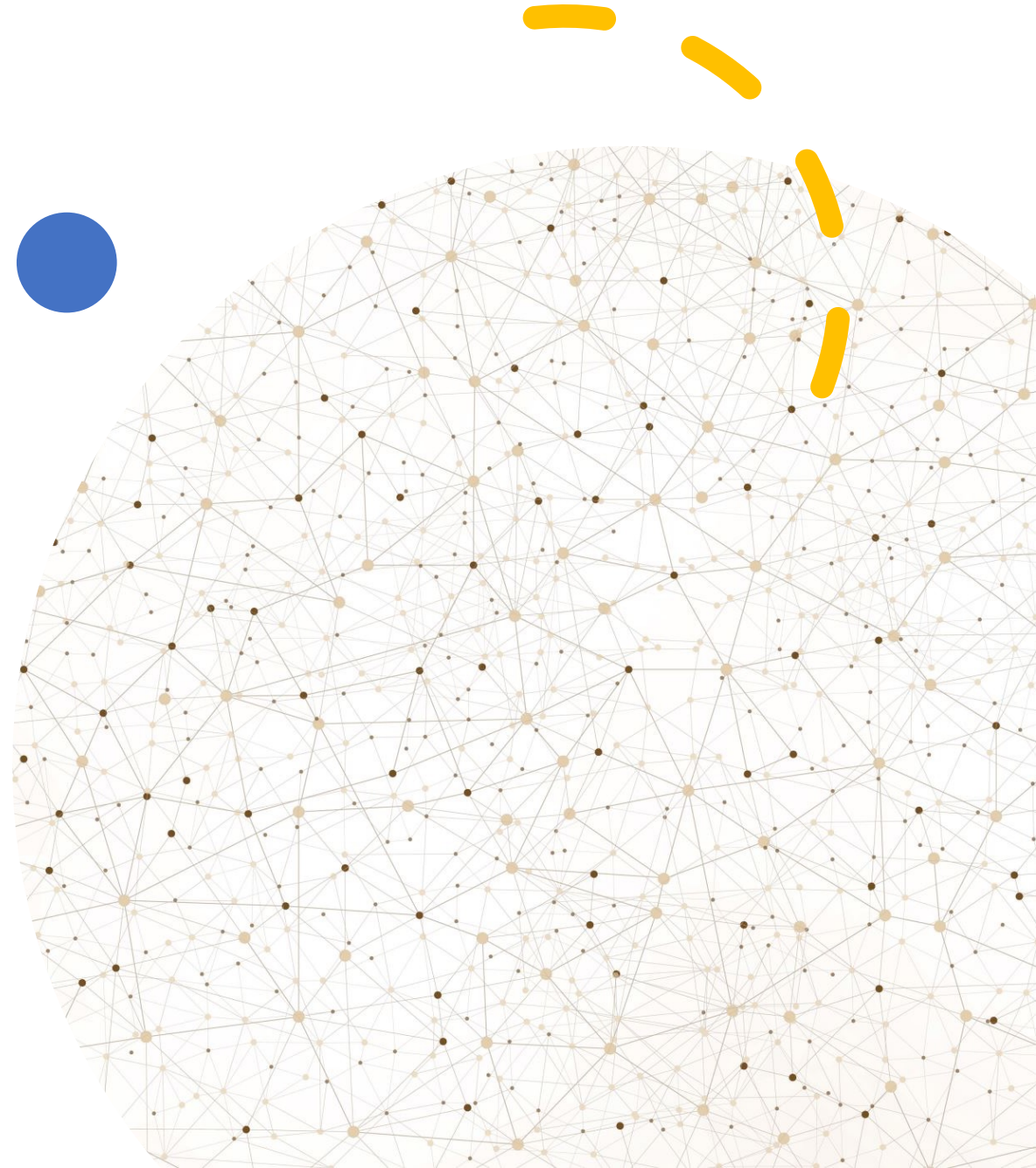


Constitutionally-Mandated National Human Rights Institutions (NHRI)

- Melissa A. Kotulski
- President, International Attestations
- melissa@internationalattestations.com
- The Global Summit on Constitutionalism
- March 18, 2023, 8:15-9:45 a.m.



Thank You!

With gratitude to the University of Texas Austin's Law School for hosting this panel

Particular thanks go out to Richard Albert for all that he provided during this time.

And appreciation sent out to my co-panelist and attendees for coming out so early!

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The Mirabelle Family of Prospect, Connecticut



Overview

- Overview of national human rights institutions
- NHRI relationship to international law
- Potential nexus to the proposed World Court of Human Rights

Foundations of This Research

a general overview of constitutionally-mandated human rights commissions in English-speaking nations.

<https://internationalattestations.com/blog/f/a-constitutional-right-to-a-human-rights-commission?blogcategory=Comparative+systems>

Finland's two constitutionally-mandated human rights bodies. <https://internationalattestations.com/blog/f/finland-a-human-rights-study>

What is a constitutionally- mandated National Human Rights Institution?

- An agency, commission, or other body
 - that is dedicated to human rights,
 - that is mandated by the nation's constitution,
 - that can be independent,
 - that can have various degrees of limitations,
 - with varying capacities that may include:
 - Assessments & Reports for various audiences to include government bodies;
 - Awareness / Education;
 - Investigatory capacity;
 - Prosecutorial capacity;
 - Ability to mandate remedies in a judicial fashion; and
 - Responsibilities with an international nexus

Examples of NHRIs

- Human Rights Commission
- The National Council of the Rights of Man
- People's Defender / Right's Defender
- Ombudsman
- Procurator
- Commission on Human Rights and Administrative Justice
- Office of Citizen Protection
- Human Rights and Equality Commission
- High Council for the Defense of Democracy and of the State of Law
- Advocate of the People

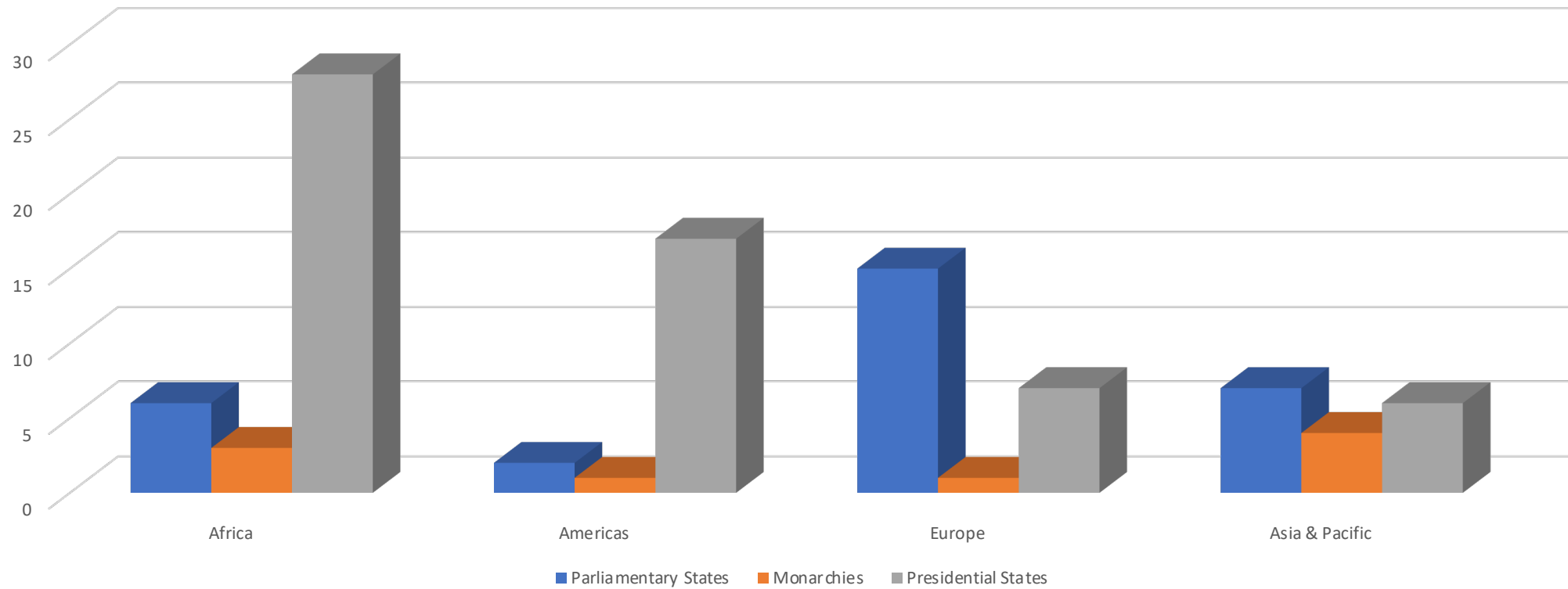
Method of Collection of Data on NHRIs

- Language
- Government structure – presidential states, parliamentary states, and monarchies
- Region of the world – split up by membership in regional human rights courts (except Asia & Pacific)
- NHRI constitutional provisions relating to international matters

NHRIs from Nations with Most Prominent Languages

	Parliamentary States with NHRIs	Monarchies w/ NHRIs	Presidential States w/ NHRIs
Arabic	Iraq, Somalia, Tunisia (3)	Morocco	Algeria, Egypt, Mauritania, Sudan (4)
English	Fiji, Guyana, Nepal, South Africa, Trinidad and Tobago (5)	Antigua and Barbuda, Eswatini, Lesotho, New Zealand, Papua New Guinea, Solomon Islands (6)	Ghana, Kenya, Kiribati, Malawi, Namibia, Seychelles, Sierra Leone, South Sudan, The Gambia, Uganda, Zambia, Zimbabwe (12)
French			Chad, Congor (Republic), Cote D'Ivoire, France, Haiti, Guinea, Madagascar, Niger, Togo (9)
Portuguese	Cabo Verde		Angola, Brazil, Mozambique, Portugal, Timor-Leste (5)
Spanish		Spain	Argentina, Bolivia, Chile, Colombia, Dominican Republic, Ecuador, El Salvador, Equatorial Guinea, Guatemala, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, Venezuela (16)

NHRIs by Government (Region)



NHRI by Government (Raw Numbers)

	Parliamentary States	Monarchies	Presidential States
Africa	6	3	28
Americas	2	1	17
Europe	15	1	7
Asia & Pacific	7	4	6



Regional Courts of Human Rights

African Court
of Human &
Peoples' Rights

European
Court of
Human Rights

Interamerican
Court of
Human Rights

English-Speaking Sample

Parliamentary States		
Nation	Region	Name of NHRI
Fiji	Asia & Pacific	Human Rights & Anti-Discrimination Commission
Guyana	Americas	Human Rights Commission; Ombudsman
Nepal	Asia & Pacific	Human Rights Commission
South Africa	ACOH&PR	Human Rights Commission
Trinidad and Tobago	Americas	Ombudsman
Monarchies		
Nation	Region	Name of NHRI
Antigua and Barbuda	Americas	Ombudsman
Eswatini	Africa	Commission on Human Rights and Public Administration
Lesotho	ACOH&PR	Human Rights Commission
New Zealand	Asia & Pacific	Human Rights Commission
Papua New Guinea	Asia & Pacific	Ombudsman Commission
Solomon Islands	Asia & Pacific	Ombudsman

Presidential States		
Nation	Region	Name of NHRI
Ghana	ACOH&PR	Commission on Human Rights and Administrative Justice
Kenya	ACOH&PR	Human Rights and Equality Commission
Kiribati	Asia	Banaba Island Council
Malawi	ACOH&PR	Human Rights Commission; Ombudsman
Namibia	Africa	Ombudsman
Seychelles	Africa	Ombudsman
Sierra Leone	Africa	Ombudsman
South Sudan	Africa	Human Rights Commission
The Gambia	ACOH&PR	Ombudsman
Uganda	ACOH&PR	Human Rights Commission
Zambia	Africa	Human Rights Commission
Zimbabwe	Africa	Human Rights Commission

Other NHRI Matters That Have Been Constitutionally Mandated

- Procedural matters
- Operational matters
- Composition
 - Numbers
 - Titles
 - Term Limits
 - Methods of Selection
 - Vacancies
 - Removal

Functions and Responsibilities of NHRIs

Assessments
& Reports

Awareness /
Education

Investigatory
capacity

Prosecutorial
capacity

Judicial
remedies

International
facets

Constitutional Provisions Pertaining to NHRIs that Have an International Nexus

Chad	Croatia	Fiji
Guyana	Lesotho	Montenegro
Morocco	Nepal	New Zealand
Niger	Panama	Somalia
Uganda	Venezuela	

- parliamentary states (6), monarchies (3), and presidential states (5)
- Six different languages within this group of constitutionally-mandated NHRIs with international provisions: English (6), Arabic (2), French (3), Spanish (2), with one each Croatian and Montenegrin
- ECHR (2), Asia & Pacific (3), Americas (2), Africa (2), ACOH&PR (4), IACOHHR (1).

Types of international provisions for the NHRIs

Education of the
public on
international human
rights instruments

Monitor compliance
with implementation
of human rights
treaties

International law
provides for
implementing
features of NHRI

Give credence to
already ratified
international treaty
or agreement

Encourage
engagement with
international
organizations

Provide judicial
mechanisms for
respecting human
rights treaties

Some expressly
prevent
international
engagement by
the NHRIs

Uganda

Tanzania

Ghana

Sample international provisions relevant to the NHRIs

- the desirability of New Zealand becoming bound by any international instrument on human rights. **Sec. 5(2)(k)(ii)**
- to promote the development of new international instruments on human rights. **New Zealand, Sec. 5(2)(k)(kb).**
- advocate for ratification, and recommend the domestication of international and regional human rights instruments. **Lesotho, Sec. 133F(g).**
- If Nepal has to become a party to any international treaty...on human rights, to make recommendations, accompanied by the reasons therefor, to the Government. **Nepal, Art. 249.**

What is the World Court of Human Rights?

The World Service Authority along with individuals like Mark Oettinger and Manfred Nowak have implemented steps to establish a World Court of Human Rights

Designed to adjudicate selected, qualifying, human rights cases in which judicial review is sought by affected individuals, or classes of individuals, who are found by the Court to have standing

UN human rights conventions and their case law, regional human rights conventions and their case law, customary international human rights law

Promote worldwide awareness of, respect for, and compliance with world law of human rights



Statute of the World Court of Human Rights

Drafted by Mark Oettinger and the World Service Authority

Thirty-four articles on the implementation, procedure, and composition of the Court

Article 4(A). Geographical distribution of the Justices (4 from Asia; 4 from Africa; 4 from the United States, Canada, and Europe; 3 from Latin America, the Caribbean, and Oceania).

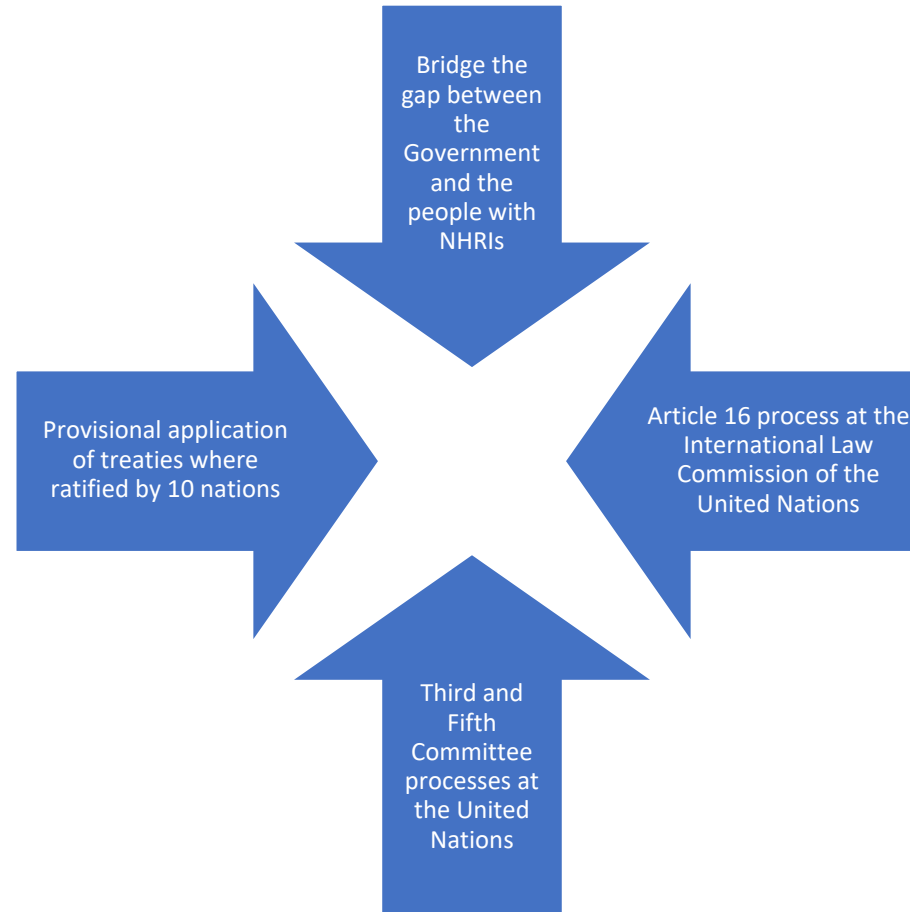
Article 32(A). The official language of the Court will be English

Article 9. Location tbd (possibly Asia—considering Klaus Schlichtmann's work)

Article 1(G). The Treaty shall come into effect upon the accension of the 10th Member...



Multiprong approach to implementation of the WCHR



World Court of Human Rights & the National Human Rights Institutions

Chad (problems with current
suspension, new constitution pending?)

Lesotho

Nepal

New Zealand



Conclusion

- Some NHRIs that have international provisions in their constitutions are gateways to implementation of the World Court of Human Rights
- These NHRIs with an international focus may provide a pathway for other constitutionally-mandated NHRIs to implement the WCHR



Conclusion

- WCHR Coalition meets on March 29, 2023 at 1 p.m. EST
- melissa@internationalattestations.com
- <https://worldcourtofhumanrights.net>