

THE DANISH  
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REVIEW OF  
LITERATURE ON  
NATIONAL HUMAN  
RIGHTS INSTITUTIONS

**Authors: Stéphanie Lagoutte, Senior researcher, Annali Kristiansen,  
Senior adviser and Lisbeth A. N. Thonbo, external consultant**

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Denmark's National Human Rights Institution  
Wilders Plads 8K  
DK-1403 Copenhagen K  
Phone +45 3269 8888  
[www.humanrights.dk](http://www.humanrights.dk)

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## 1. BACKGROUND

A lot of academic literature on national human rights institutions (NHRIs) has been published in English the past decade.<sup>1</sup> This literature supplements other sources such as official documents, reports from NHRIs or other actors within national, regional, and international human rights protection systems.

The purpose of this review is to provide an overview of the available literature on NHRIs and to disseminate the main issues and discussions raised in that literature. The idea here is to draw a roadmap that will allow interested readers to navigate in the wealth of information, sources and approaches.

The review renders an overall account of the theoretical dimension of the publications on NHRIs as well as of the empirical material and analysis to be found in that literature. The main research questions and conclusions have been mapped out. A complete bibliography is annexed to this review.

## 2. GENERAL OVERVIEW OF THE LITERATURE

The literature illustrates the lack of consensus that there is on a definition of an NHRI. Consequently, the variation in the numbers of NHRIs that exist around the world, put forward by scholars is puzzling. For instance, Sonia Cardenas talks about “300 to 500”<sup>2</sup>, Koo and Ramirez “178” NHRIs,<sup>3</sup> and Cole and Ramirez write “By 2004, nearly 180 NHRIs”<sup>4</sup>. In comparison, the numbers announced by the International Coordination Committee (ICC) of the National Human Rights Institutions are very clear: at the moment of writing, the ICC has accredited 71

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<sup>1</sup> This literature review focuses on books and articles published in English until 2015.

<sup>2</sup> Cardenas, S.: Emerging Global Actors: The United Nations and National Human Rights Institutions, *Global Governance*, Vol. 9, 2003, 23-42.

<sup>3</sup> Koo, J. W.; Ramirez, F. O.: National Incorporation of Global Human Rights: Worldwide Expansion of National Human Rights Institutions: 1966-2004, *Social Forces*, Vol. 87(3), 2009, 1321-1354.

<sup>4</sup> Cole, W. M.; Ramirez, F. O.: Conditional Decoupling: Assessing the Impact of National Human Rights Institutions, 1981 to 2004, *American Sociological Review*, Vol. 78(4), 2013, 702-725.

members with A-status, 25 with B-status and 10 with C-status.<sup>5</sup> However, many of the articles that discuss the definition of an NHRI address this issue which is linked to the non-legal binding status of the Paris Principles<sup>6</sup> and the fact that not all NHRIs seek the accreditation of the ICC.

A large majority of the authors who write about NHRIs have a legal background. However, new scholarship from international relations, global governance, political sciences or sociology has been emerging along the side of more traditional legal studies of NHRIs.<sup>7</sup>

There is a rather sceptical approach to NHRIs in the research that has been published so far. Some of the main questions addressed by scholars revolve around the following: Do we need all these NHRIs, are they/can they at all be independent, are they at all efficient and do they have any impact on human rights? There is little indication about possibility or suggestions for improving the situation.

NHRIs in different countries operate under very different and sometimes very difficult circumstances. Any NHRI has its own list of priorities in terms of problems to be solved in its particular context. The literature on NHRIs identifies

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<sup>5</sup> See: <http://nhri.ohchr.org/EN/AboutUs/ICCAccreditation/Pages/default.aspx>. These numbers may change after the next session of the Sub-Committee on Accreditation scheduled for May 9 to 13, 2016.

<sup>6</sup> See the UN General Assembly resolution 48/134 endorsing the Paris Principles. This resolution has been followed by a several HRC resolutions (of which the latest is A/HRC/RES/27/18), a number of GA resolutions on the role of the Ombudsman, mediator and other national human rights institutions in the promotion and protection of human rights, of which the latest are A/RES/69/168 and A/RES/70/163.

<sup>7</sup> See, for instance, books and articles Sonia Cardenas and Tom Pegram: Goodman, R.; Pegram, T. (eds.): *Human Rights, State Compliance, and Social Change: Assessing National Human Rights Institutions*, Cambridge University Press, 2012; Cardenas, Sonia: *Adaptive States: The Proliferation of National Human Rights Institutions*, *Centre for Human Rights Policy, Working Paper T-01-04*, 2004; Cardenas, S.: *Emerging Global Actors: The United Nations and National Human Rights Institutions*, *Global Governance*, Vol. 9, 2003, 23-42. See also the articles co-authored by Francisco Ramirez, which follow a sociological approach: Koo, J. W.; Ramirez, F. O.: *National Incorporation of Global Human Rights: Worldwide Expansion of National Human Rights Institutions: 1966-2004*, *Social Forces*, Vol. 87(3), 2009, 1321-1354; Cole, W. M.; Ramirez, O.: *Conditional Decoupling: Assessing the Impact of National Human Rights Institutions, 1981 to 2004*, *American Sociological Review*, Vol. 78(4), 2013, 702-725.

some of the key issues and challenges faced by NHRIs. They include, but are not limited to, the following:

- What are the rules governing NHRIs, i.e. the status, interpretation and usefulness of the Paris Principles?
- What do NHRIs actually do, what role do they play?
- How can the independence of NHRIs be secured in order for them to be the prominent actor of the national human rights system that they are supposed to be?
- What is the effectiveness/efficiency and impact of NHRIs on human rights compliance? And how do NHRIs improve the implementation of human rights on the ground?
- What is the relationship between NHRIs and other actors of the national human rights system: governmental actors, parliament, courts, police, civil society, business community, academia, etc.?
- Do NHRIs work equally with human rights? What is their role in terms of enforceability of economic, social and cultural rights?

The review of literature is structured as follows:

- Geographical coverage of the literature
- Key issues covered in NHRI literature
- Commented bibliography
- Annexe: bibliography

### **3. GEOGRAPHICAL COVERAGE OF THE LITERATURE**

In terms of geographical scope, not all parts of the world are covered equally. Following early publications by practitioners on the role of NHRIs,<sup>8</sup> books and

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<sup>8</sup> Lindsnæs, B.; Lindholt, L. and Yigen, K. (eds.), *National Human Rights Institutions. Articles and Working Papers: Input into the Discussions on the Establishment and Development of the Functions of National Human Rights Institutions*, The Danish Centre of Human Rights, 2000. See also a publication from the International Council on Human Rights Policy which presents a wealth of information concerning operational performance and public legitimacy, including on accessibility, on links with other institutions – the judiciary, media, NGOs and international links - and three detailed case studies from Ghana, Indonesia and Mexico. Experience and examples are drawn from all over the world: South Africa, Nigeria, Latvia, New Zealand, Australia, Canada, Guatemala, India, the Philippines, Spain, Togo, Northern Ireland and Malawi (International

articles have focused mainly on Europe. A few studies on the Asia-Pacific region are to be found, whereas NHRIs in Africa, Latin America and the Middle East and North Africa are less studied. More recently, the contributions published in the anthology edited by Pegram and Goodman covers a broad geographical scope: Africa, Asia-Pacific, Central and Eastern Europe and Latin America.<sup>9</sup> Reif's article, which presents a historical review of NHRIs in their different variations, also builds on a considerable number of country cases from Africa, Europe and Latin America.<sup>10</sup>

Anthologies by Mertus and by Meuwissen and Wouters present a number of case studies concerning the role of NHRIs in various European countries.<sup>11</sup> De Beco and Carver have looked into European NHRIs in articles where they discuss models of NHRIs<sup>12</sup> as well as topical issues such as networking and developing best practices among them.<sup>13</sup>

Burdekin's book presents extensive information on NHRIs from the Asia-Pacific region, including a rich annexure e.g. the relevant legislation from 12 countries: Australia, Fiji, India, Indonesia, Republic of Korea, Malaysia, Mongolia, Nepal, New Zealand, Philippines, Sri Lanka and Thailand. It covers issues such as mandates, powers and functions, the relations with the Executive, Parliament, the Judiciary and other institutions and cooperation among NHRIs as well as regional and UN cooperation.<sup>14</sup> Two articles focus on NHRIs in the Asia-Pacific region. Cardenas raises a number of questions concerning the reason for creating

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Council on Human Rights Policy, Performance & Legitimacy: National Human Rights Institutions, Geneva, 2004).

<sup>9</sup> Goodman, R.; Pegram, T. (eds.): *Human Rights, State Compliance, and Social Change: Assessing National Human Rights Institutions*, Cambridge University Press, 2012.

<sup>10</sup> Reif, L.: *Building Democratic Institutions: The Role of National Human Rights Institutions in Good Governance and Human Rights Protection*, *Harv. Hum. Rights J.*, Vol. 13, 2000, 1-69.

<sup>11</sup> Mertus, J. A.: *Human Rights Matters: Local Politics and National Human Rights Institutions*, Stanford University Press, 2009. Meuwissen, K.; Wouters, J. (eds.): *National Human Rights Institutions in Europe: Comparative, European and International Perspectives*, Intersentia, 2013.

<sup>12</sup> de Beco, G.: *National Human Rights Institutions in Europe*, *Human Rights Law Review*, Vol. 7(2), 2007, 331-370; Carver, R.: *One NHRI or Many? How Many Institutions Does It Take to Protect Human Rights? – Lessons from the European Experience*, *Human Journal of Human Rights Practice*, Vol. 3(1), 2011, 1-24.

<sup>13</sup> de Beco, G.: *Networks of European National Human Rights Institutions*, *European Law Journal*, Vol. 14(6), 2008, 860-877.

<sup>14</sup> Burdekin, B.: *National Human Rights Institutions in the Asia-Pacific Region*, Leiden/Boston: Martinus Nijhoff Publishers, 2007.



NHRIs in the Asia-Pacific region, through looking at cases from the Philippines, India and Indonesia and examples from Nepal, Malaysia, Bangladesh and Sri Lanka.<sup>15</sup> Renshaw writes about the role of civil society in the establishment of NHRIs in the Asia-Pacific region, the region's constructive networks of NHRIs and civil society, and finally the potential for civil society to benefit from developments in the ICC.<sup>16</sup>

Finally, a publication on the Middle East and North Africa describes how NHRIs can contribute to reform processes, to constitutional reform and to promoting human rights education reform. It also gives a detailed presentation of an integrated approach to human rights dialogue.<sup>17</sup>

As far as country cases are concerned, the NHRI of Denmark is studied in most anthologies concerning European NHRIs.<sup>18</sup> These anthologies also look into the cases of Belgium, Bosnia, Czech Republic, Germany, the Netherlands, Northern Ireland, Poland and Sweden. Brodie's article on ICC accreditation of members and the dual role of the ICC as representative and regulator of its members looks more closely at the case of Sweden as a case describing the difficulties in obtaining accreditation.<sup>19</sup> Concerning other parts of the world, Cardenas wrote about Canada's international technical assistance to national human rights

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<sup>15</sup> Cardenas, S.: Adaptive States: The Proliferation of National Human Rights Institutions, Centre for Human Rights Policy, Working Paper T-01-04, 2004.

<sup>16</sup> Renshaw, C. S.: National Human Rights Institutions and Civil Society Organizations: New Dynamics of Engagement at Domestic, Regional, and International Levels, *Global Governance*, Vol. 18, 2012, 299-316.

<sup>17</sup> Dalton, P.; Mehyar, M. (eds.), *The role of NHRIs in countries in transition in the Arab World*, The Danish Institute for Human Rights, 2012. This publication is one of the results of the Arab-European Human Rights Dialogue. Contributors originate from the Arab and the European region. The content is in English and Arab.

<sup>18</sup> Meuwissen, K.; Wouters, J. (eds.): National Human Rights Institutions in Europe: Comparative, European and International Perspectives, Intersentia, 2013. Mertus, J. A.: Human Rights Matters: Local Politics and National Human Rights Institutions, Stanford University Press, 2009; Mertus, J. A.: Human Rights Matters: Local Politics and National Human Rights Institutions, Stanford University Press, 2009.

<sup>19</sup> Brodie, M.: Progressing Norm Socialisation: Why Membership Matters. The Impact of the Accreditation Process of the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights, *Nordic Journal of International Law*, Vol. 80, 2011, 143-192.

commissions<sup>20</sup> and Cole and Ramirez looked into the protection of physical integrity rights and civil and political rights in Indonesia and Argentina.<sup>21</sup>

#### **4. KEY ISSUES COVERED IN NHRI LITERATURE**

A number of key issues have been identified to help the reader navigate according to his/her specific needs and interests. This list of issues also gives an overview of the vast number of challenges facing NHRIs in their individual capacity, when cooperating through the ICC network, in relation to the procedures of the UN and treaty bodies, in relation to civil society, etc.

##### **4.1. THE UNITED NATIONS AND THE TREATY BODIES**

Following Cardenas in 2003, a number of authors look into the role of the United Nations in relation to NHRIs. Cardenas questioned the role of the UN in the proliferation of NHRIs. She presented the “*perverse implications [of NHRIs] for global governance*” and argued that “national institutions could have negative effects”.<sup>22</sup> In a new article, Tom Pegram looks into the role of the United Nations, and more specifically the Office of the High Commissioner for Human Rights, in using NHRIs to target state compliance. The article builds on the concept of orchestration and looks into wider implications for global human rights governance.<sup>23</sup>

Two UN human rights treaties include a monitoring mechanism where institutions based on the Paris Principles (not necessarily NHRI’s) play a central role: the Convention against Torture, in its optional protocol (OPCAT) and the

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<sup>20</sup> Cardenas, S.: Trans-governmental Activism: Canada’s Role in Promoting National Human Rights Commissions, *Human Rights Quarterly*, Vol. 25, 2003, 775-790.

<sup>21</sup> Cole, W. M.; Ramirez F. O.: Conditional Decoupling: Assessing the Impact of National Human Rights Institutions, 1981 to 2004, *American Sociological Review*, Vol. 78(4), 2013, 702-725.

<sup>22</sup> Cardenas, S.: Emerging Global Actors: The United Nations and National Human Rights Institutions, *Global Governance*, Vol. 9, 2003, 23-42. Pohjolainen also wrote a PhD dissertation on the role of the United Nations in the evolution of NHRIs. A short publication was published by DIHR in 2006 (Pohjolainen, A. E.: *The Evolution of National Human Rights Institutions - The Role of the United Nations*, Danish Institute for Human Rights, 2006).

<sup>23</sup> Pegram, T.: Global human rights governance and orchestration: National human rights institutions as intermediaries, *European Journal of International Relations*, 2015, 595-620.

Convention on the Rights of Persons with Disabilities (CRPD). A number of publications address this new situation.

The article by Steinerte and Murray discusses the challenges faced when choosing whether an ombudsman or a human rights commission should be appointed national preventive mechanism (NPM) under the OPCAT. A number of these challenges are illustrated by the example of Denmark. The article argues that the NPM is central to the successful implementation of OPCAT.<sup>24</sup> In line with his previous theoretical work on global human rights governance, Pegram reflects on the theory of orchestration in an article of 2015, using OPCAT as an example.<sup>25</sup>

De Beco has written two publications on the role of NHRIs in relation to the UN Convention on the Rights of Persons with Disabilities (CRPD). In his article from 2011, he discusses the suitability of NHRIs as implementation and monitoring mechanisms of the CRPD. The national obligation to implement human rights is stressed together with the fact that the CRPD does not promote NHRIs but rather the Paris Principles. Several models for designating the independent mechanism in accordance with article 33 are presented.<sup>26</sup> Two years later, his book focuses on this new role for NHRIs. A theoretical part is followed by six country cases from Denmark, UK, Italy, Slovenia, Austria and Spain.<sup>27</sup>

Finally, Müller and Seidensticker have made a handbook which covers the role of NHRIs in relation to all the UN human rights treaty bodies. The handbook contains an explanation of the UN human rights treaties and their monitoring mechanisms and the NHRIs' role in the UN treaty body system. It draws on examples from many countries and looks into the existing cooperation between

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<sup>24</sup> Steinerte, E.; Murray, R.: Same but Different. National Human Rights Commissions and Ombudsman Institutions as national preventive mechanisms under the Optional Protocol to the UN Convention Against Torture, *Essex Human Rights Law Review*, Special Issue, 2009, 54-72.

<sup>25</sup> Pegram, T.: Governing Relationships: The New Architecture in Global Human Rights Governance, *Millennium: Journal of International Studies*, Vol. 43(2), 2015, 618-639.

<sup>26</sup> De Beco, G.: Article 33(2) of the UN Convention on the Rights of Persons with Disabilities: Another Role for National Human Rights Institutions? *Netherlands Quarterly of Human Rights*, Vol. 29(1), 2011, 84-106.

<sup>27</sup> De Beco, G. (ed.): Article 33 of the UN Convention on the Rights of Persons with Disabilities: National Structures for the Implementation and Monitoring of the Convention, Leiden/Boston: Martinus Nijhoff Publishers, 2013.

NHRIs and treaty bodies and the authors develop and discuss ideas to improve this interaction.<sup>28</sup>

#### **4.2. THE PARIS PRINCIPLES AND THE INTERNATIONAL COORDINATION COMMITTEE**

Most publications on NHRIs mention the Paris Principles. A few of them look more specifically into their content and implications. In 2015, de Beco and Murray published a thorough commentary on the Paris Principles, which is a *must read* for anybody who needs guidelines for the application of the Paris Principles. Furthermore, the book contains as an annex the ICC General Observations as at May 2013, developed as an interpretive tool of the Paris Principles.<sup>29</sup>

Along the same lines, the role of the ICC is often mentioned in publications on NHRIs, but only a few publications deal specifically with this topic. Brodie wrote an article on the history and evolution of the ICC, especially concerning accreditation of members and the dual role of the ICC as representative and regulator of its members.<sup>30</sup> Analysing the role of the ICC is also an important element in the work of Pegram.<sup>31</sup>

Looking at the organisation of NHRIs at regional level, it must be noted that de Beco wrote an article on the networks of European National Human Rights Institutions where he looks into the advantages of networking in terms of sharing best practices among European institutions as well as the international

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<sup>28</sup> Müller, A.; Seidensticker, F.: *The Role of National Human Rights Institutions in the United Nations Treaty Body Process*, German Institute for Human Rights, 2007.

<sup>29</sup> De Beco G.; Murray, R.: *Commentary on the Paris Principles on National Human Rights Institutions*, Cambridge: Cambridge University Press, 2015.

<sup>30</sup> Brodie, M.: *Progressing Norm Socialisation: Why Membership Matters. The Impact of the Accreditation Process of the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights*, *Nordic Journal of International Law*, Vol. 80, 2011, 143-192.

<sup>31</sup> Pegram, T.: *Global human rights governance and orchestration: National human rights institutions as intermediaries*, *European Journal of International Relations*, 2015, 595-620.

cooperation with the UN system and regionally with the Council of Europe and the EU.<sup>32</sup>

### 4.3. COMPLAINTS HANDLING

Complaints handling is the key competence of some NHRIs such as human rights commissions and ombudspersons. However, there is not much literature yet about this issue. In a new article Linos and Pegram look into complaint handling in a larger analysis of the importance of the design of NHRIs (form) and its influence on the effectiveness of the NHRIs (function).<sup>33</sup> Otherwise complaint mechanisms have been dealt with in earlier publications addressed to practitioners.<sup>34</sup>

### 4.4. EFFECTIVENESS, IMPACT AND PERFORMANCE

A large part of the literature on NHRIs deals with the performance of NHRIs. In their anthology, Goodman and Pegram cover the central issue of assessing NHRI performance as an element of the state human rights compliance.<sup>35</sup>

Effectiveness and impact are key words. Pegram's newest article also deals with how to design effective NHRIs<sup>36</sup>, while Murray's article examines how useful the Paris Principles are in assessing the effectiveness of NHRIs. She concludes that they are not very useful, while recalling that the Paris Principles were created to measure compliance with certain requirements related to the establishment of

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<sup>32</sup> De Beco, G.: Networks of European National Human Rights Institutions, *European Law Journal*, Vol. 14(6), 2008, 860-877.

<sup>33</sup> Linos, K.; Pegram, T.: *Interrogating form and function: Designing effective national human rights institutions*, Matters of Concern Human Rights Research Paper Series, No. 2015/8, The Danish Institute for Human Rights, 2015.

<sup>34</sup> Lindsnæs, B.; Lindholt, L.; Yigen, K. (eds.), *National Human Rights Institutions. Articles and Working Papers: Input into the Discussions on the Establishment and Development of the Functions of National Human Rights Institutions*, The Danish Centre of Human Rights, 2000; International Council on Human Rights Policy, *Performance & Legitimacy: National Human Rights Institutions*, Geneva, 2004.

<sup>35</sup> Goodman, R.; Pegram, T. (eds.): *Human Rights, State Compliance, and Social Change: Assessing National Human Rights Institutions*, Cambridge University Press, 2012.

<sup>36</sup> Linos, K.; Pegram, T.: *Interrogating form and function: Designing effective national human rights institutions*, Matters of Concern Human Rights Research Paper Series, No. 2015/8, The Danish Institute for Human Rights, 2015.

an NHRI but not to their activities/operation. It also underlines the necessity of strategic planning in order to measure performance and impact.<sup>37</sup> Cole and Ramirez assess the impact of NHRIs while focusing on civil and political rights.<sup>38</sup>

Related to effectiveness, one may mention Smith's article which looks into the independence and accountability of NHRIs, through looking at the relationship between government and NHRI, composition of an NHRI and relationship to civil society and NGOs. The author underlines the tensions created by the specific situation of NHRIs, a. o. their public funding and the risk that their independence from the government will always be under threat.<sup>39</sup>

#### **4.5. NHRIS AND CIVIL SOCIETY**

Some publications look into the roles of and relations between NHRIs and civil society. Renshaw's article deals with the role of civil society in the establishment of NHRIs in the Asia-Pacific region, the region's networks of NHRIs and civil society, and finally the potential for civil society to benefit from developments in the ICC.<sup>40</sup> Smith looks into the relationship between NHRIs and civil society and NGOs, in order to highlight the unique position of NHRIs.<sup>41</sup>

#### **4.6. GLOBAL HUMAN RIGHTS GOVERNANCE**

NHRIs are seen as a central actor of global human rights governance. Carver has looked into the increasing role they play in domesticating international law, describing NHRIs as the bridge between the international and domestic systems

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<sup>37</sup> Murray, R.: National Human Rights Institutions: Criteria and Factors for Assessing their Effectiveness, *Netherlands Quarterly of Human Rights*, Vol. 25(2), 2007, 189-220.

<sup>38</sup> Cole, W. M. and Ramirez, F. O.: Conditional Decoupling: Assessing the Impact of National Human Rights Institutions, 1981 to 2004, *American Sociological Review*, Vol. 78(4), 2013, 702-725.

<sup>39</sup> Smith, A.: The Unique Position of National Human Rights Institutions: A Mixed Blessing? *Human Rights Quarterly*, Vol. 28, 2006, 904-946.

<sup>40</sup> Renshaw, C. S.: National Human Rights Institutions and Civil Society Organizations: New Dynamics of Engagement at Domestic, Regional, and International Levels, *Global Governance*, Vol. 18, 2012, 299-316.

<sup>41</sup> Smith, Anne: The Unique Position of National Human Rights Institutions: A Mixed Blessing? *Human Rights Quarterly*, Vol. 28, 2006, 904-946.

of human rights protection.<sup>42</sup> Pegram has been carrying out larger theoretical work on compliance, global human rights governance and NHRIs culminating with two articles in 2015.<sup>43</sup>

## 5. COMMENTED BIBLIOGRAPHY

Below follows the entire list of material including various comments and observations. A “clean” version of the list is also annexed for ease of reference.

### 5.1. BOOKS

**1.1.** de Beco G.; Murray, R.: *Commentary on the Paris Principles on National Human Rights Institutions*, Cambridge: Cambridge University Press, 2015.

A recently published, thorough commentary on the Paris Principles; a *must read* for anybody who needs guidelines for the application of the Paris Principles. Furthermore, the book contains as an annex the ICC General Observations as at May 2013, developed as an interpretive tool of the Paris Principles.

**1.2.** de Beco, G. (ed.): *Article 33 of the UN Convention on the Rights of Persons with Disabilities: National Structures for the Implementation and Monitoring of the Convention*, Leiden/Boston: Martinus Nijhoff Publishers, 2013.

This book focuses on the new role for NHRIs to participate in the implementation and the monitoring of the UN Convention on the Rights of Persons with Disabilities. A theoretical part is followed by six country cases from Denmark, UK, Italy, Slovenia, Austria and Spain.

**1.3.** Burdekin, B.: *National Human Rights Institutions in the Asia-Pacific Region*, Leiden/Boston: Martinus Nijhoff Publishers, 2007.

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<sup>42</sup> Carver, Richard: A New Answer to an Old Question: National Human Rights Institutions and the Domestication of International Law, *Human Rights Law Review*, Vol. 10(1), 2010, 1-32.

<sup>43</sup> Pegram, T.: Governing Relationships: The New Architecture in Global Human Rights Governance, *Millennium: Journal of International Studies*, Vol. 43(2), 2015, 618-639; Pegram, T.: Global human rights governance and orchestration: National human rights institutions as intermediaries, *European Journal of International Relations*, 2015, 595-620.

This book presents extensive information on NHRIs from the Asia-Pacific region, including a rich annexure e.g. the relevant legislation from 12 countries: Australia, Fiji, India, Indonesia, Republic of Korea, Malaysia, Mongolia, Nepal, New Zealand, Philippines, Sri Lanka and Thailand. Issues such as mandates, powers and functions, the relations with the Executive, Parliament, the Judiciary and other institutions and cooperation among NHRIs as well as regional and UN cooperation.

**1.4.** Goodman, R.; Pegram, T. (eds.): *Human Rights, State Compliance, and Social Change: Assessing National Human Rights Institutions*, Cambridge: Cambridge University Press, 2012.

This is an anthology containing 12 contributions by various scholars and an introduction by the editors. Contributions are divided under the following headlines: NHRIs in theory and reality, NHRI performance: Global, regional and national domains, NHRIs and compliance: Beyond enforcement, and Final reflections. Geographically, Central and Eastern Europe, Asia-Pacific, Latin America and Africa are covered.

**1.5.** Mertus, J. A.: *Human Rights Matters: Local Politics and National Human Rights Institutions*, Redwood City: Stanford University Press, 2009.

The author presents a number of case stories concerning operationalization of human rights at the local level. The countries covered are: Denmark, Northern Ireland, Bosnia-Herzegovina, the Czech Republic and Germany.

**1.6.** Meuwissen, K.; Wouters, J. (eds.): *National Human Rights Institutions in Europe: Comparative, European and International Perspectives*, Antwerp: Intersentia, 2013.

This anthology contains contributions from almost 20 scholars including the editors. The subject is NHRIs in Europe and there are case studies from Denmark, Poland, Netherlands, and Belgium as well as considerations on a number of subjects, e.g. comparative European and international perspectives, NHRIs and the European Court of Human Rights, the EU and NHRIs, the ICC, etc.



## **5. 2. ARTICLES (INCLUDING WORKING PAPERS BY SCHOLARS)**

**2.1.** de Beco, G.: Article 33(2) of the UN Convention on the Rights of Persons with Disabilities: Another Role for National Human Rights Institutions? *Netherlands Quarterly of Human Rights*, Vol. 29(1), 2011, 84-106.

This article discusses the suitability of NHRIs as independent treaty mechanisms. In this connection the content of article 33 is explained together with the functions of NHRIs. The national obligation for the implementation of human rights is stressed together with the fact that the CRPD does not promote NHRIs but rather the Paris Principles. Several models for designating the independent mechanism in accordance with article 33 are presented.

**2.2.** de Beco, G.: Networks of European National Human Rights Institutions, *European Law Journal*, Vol. 14(6), 2008, 860-877.

The article looks into the advantages of networking in terms of sharing best practices among the European institutions as well as the international cooperation with the UN system and regionally with the Council of Europe and the EU.

**2.3.** de Beco, G.: National Human Rights Institutions in Europe, *Human Rights Law Review*, Vol. 7(2), 2007, 331-370.

The article analyses three different models of composition and the principal competencies of NHRIs in Europe. It includes a brief description of the history and role of NHRIs from 1946 to 1991.

**2.4.** Brodie, M.: Progressing Norm Socialisation: Why Membership Matters. The Impact of the Accreditation Process of the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights, *Nordic Journal of International Law*, Vol. 80, 2011, 143-192.

The article presents a history and evolution of the International Coordinating Committee (ICC), especially concerning accreditation of members and the dual role of the ICC as representative and regulator of its members. It also includes Sweden as a case describing the difficulties in obtaining accreditation, and in the case of Sweden, not being able to get an A-status for the time being).

**2.5.** Burdekin, B.: "National Human Rights Institutions" in G. Alfredsson et Al. (eds.), *International Monitoring Mechanisms: Essays in Honour of Jacob Th. Möller*, Brill, 2009, 659-663.

The article makes a presentation of NHRIs and the Paris Principles. It describes the development since the first mention of the concept of NHRI in 1946, the 8 NHRIs existing in 1991 and up to date (2009). The author stresses the process of human rights from ratification of treaties, cooperation with the treaty bodies and the actual implementation, where only the former can be said to be up to expected standard. He reminds us that it is the UN which adopted the Paris Principles, as a minimum standard for establishing NHRIs.

**2.6.** Cardenas, S.: *Adaptive States: The Proliferation of National Human Rights Institutions*, Centre for Human Rights Policy, Working Paper T-01-04, 2004.

This article raises a number of question concerning the reason for creating NHRIs and why they are so similar (seemingly ignoring the existence of the Paris Principles). The geographical focus is on the Asia-Pacific region with cases from the Philippines, India and Indonesia and examples from Nepal, Malaysia, Bangladesh and Sri Lanka. The approach is clearly that of political science, e.g. stating that "NHRIs are important precisely because they serve to politicize human rights issues ..." There may be more than one definition of politicizing, however, the strict requirement of independence of NHRIs is meant to keep NHRIs out of politics and operating in a strictly factual, professional manner. The article also contains an interesting presentation of the paradox that "most NHRIs remain too weak to protect society from human rights violations at the same time they create and unprecedented demand for such protection".

**2.6.** Cardenas, S.: Trans-governmental Activism: Canada's Role in Promoting National Human Rights Commissions, *Human Rights Quarterly*, Vol. 25, 2003, 775-790.

Using Canada as an example, the article analyses international support given to national human rights commissions. There are four major forms of technical assistance: training, consultation, exchanges and networking. Three basic obstacles are defined: foreign government commitment, resource shortage and lack of evaluation.

**2.7.** Cardenas, S.: Emerging Global Actors: The United Nations and National Human Rights Institutions, *Global Governance*, Vol. 9, 2003, 23-42.

The author questions the role of the UN in the proliferation of NHRIs, presents "perverse implications [of NHRIs] for global governance" and argues that "national institutions could have negative effects". As NHRIs emanate from the UN system, its role as supporter and promoter of NHRIs seems only natural. It seems that applying the Paris Principles would to a large degree solve these perversities and prevent any negative effects of NHRIs.

**2.8.** Carver, R.: One NHRI or Many? How Many Institutions Does It Take to Protect Human Rights? – Lessons from the European Experience, *Human Journal of Human Rights Practice*, Vol. 3(1), 2011, 1-24.

The article presents a discussion of whether to have a single NHRI or multiple specialized institutions. It includes examples from the UK, Sweden, Hungary, Lithuania, Croatia, Moldova and Georgia. An unequivocal conclusion is not reached although leaning in favour of a single institution.

**2.9.** Carver, R.: A New Answer to an Old Question: National Human Rights Institutions and the Domestication of International Law, *Human Rights Law Review*, Vol. 10(1), 2010, 1-32.

The article discusses the increasing role of NHRIs in domesticating international law, describing NHRIs as the bridge between the international and domestic systems of human rights protection.

**2.10.** Cole, W. M.; Ramirez, F. O.: Conditional Decoupling: Assessing the Impact of National Human Rights Institutions, 1981 to 2004, *American Sociological Review*, Vol. 78(4), 2013, 702-725.

Focusing on the protection of physical integrity rights in particular and civil and political rights, more generally, the article looks into the impact of NHRIs. It contains cases from Indonesia and Argentina.

**2.11.** Koo, J. W.; Ramirez, F. O.: National Incorporation of Global Human Rights: Worldwide Expansion of National Human Rights Institutions: 1966-2004, *Social Forces*, Vol. 87(3), 2009, 1321-1354.

A number of hypotheses concerning the likelihood of countries adopting NHRIs under various circumstances are discussed with the result that “What we find is that the political culture of the world is the only variable that consistently and positively influences both adoption rates”.

**2.12.** Kumar, C.R.: National Human Rights Institutions: Good Governance Perspectives on Institutionalization of Human Rights, *American University International Law Review*, Vol. 19(2), 2003, 259-300.

The article examines the historical circumstances that have resulted in the creation of NHRIs.

**2.13.** Linos, K.; Pegram, T.: *Interrogating form and function: Designing effective national human rights institutions*, Matters of Concern Human Rights Research Paper Series, No. 2015/8, The Danish Institute for Human Rights, 2015.

This theoretical article discusses “what institutional features make NHRIs effective?” The article goes “into depth on the causal linkage between formal rules and their effect on actor behaviour and practice”. The importance of and influence on effectiveness of the design of the institution are discussed. The importance of accessibility is stressed.

**2.14.** Murray, R.: National Human Rights Institutions: Criteria and Factors for Assessing their Effectiveness, *Netherlands Quarterly of Human Rights*, Vol. 25(2), 2007, 189-220.

The article examines how useful the Paris Principles are in assessing the effectiveness of NHRIs and concludes that they are not very useful. It may be useful to keep in mind then that the Paris Principles were created to measure compliance with certain requirements for their establishment and not their activities/operation. The article also describes the necessity of strategic planning in order to measure performance and impact.

**2.15.** Pegram, T.: Governing Relationships: The New Architecture in Global Human Rights Governance, *Millennium: Journal of International Studies*, Vol. 43(2), 2015, 618-639.

In line with article 2.17, the author applies the concept of orchestration with OPCAT as an example. A development from global human rights governance towards orchestration in relation to the process from establishing standards to an actual implementation of human rights.

**2.16.** Pegram, T.: Global human rights governance and orchestration: National human rights institutions as intermediaries, *European Journal of International Relations*, 2015, 595-620.

The article dwells on the gap between standards and implementation – the so-called compliance gap, making use of the concept of orchestration and identifying NHRIs as intermediaries of this orchestration. It also looks into the wider implications of identifying such a role for NHRIs, for global human rights governance.

**2.17.** Pegram, T.: Diffusion across political systems: the global spread of national human rights institutions, *Human Rights Quarterly*, Vol. 32(3), 2010, 729-760.

This article presents the differences between ombudsmen, NHRIs and human rights commissions and their history and diffusion. It contains examples from a number of countries.

**2.18.** Reif, L.: Building Democratic Institutions: The Role of National Human Rights Institutions in Good Governance and Human Rights Protection, *Harv. Hum. Rights J.*, Vol. 13, 2000, 1-69.

The article presents a historical review of NHRIs in their different variations, also builds on a considerable number of country cases from Europe, Latin America and Africa.

**2.19.** Renshaw, C. S.: National Human Rights Institutions and Civil Society Organizations: New Dynamics of Engagement at Domestic, Regional, and International Levels, *Global Governance*, Vol. 18, 2012, 299-316.

This article deals with the role of civil society in the establishment of NHRIs in the Asia-Pacific region, the region's constructive networks of NHRIs and civil society, and finally the potential for civil society to benefit from developments in the ICC.

**2.20.** Smith, A.: The Unique Position of National Human Rights Institutions: A Mixed Blessing? *Human Rights Quarterly*, Vol. 28, 2006, 904-946.

The article deals with the independence and the accountability of NHRIs, and to do so, looks into the relationship between government and NHRI, their composition and their relationship to civil society and NGOs. In dealing with these core issues, the author points out the public funding of NHRIs as being a source of “ongoing tension with the need for NHRIs to maintain independence”. The article also contains information about the problems faced by the Northern Ireland Human Rights Commission, demonstrating that not only NHRIs in developing countries, countries in transition, etc. struggle to establish viable NHRIs.

**2.21.** Steinerte, E.; Murray, R.: Same but Different. National Human Rights Commissions and Ombudsman Institutions as national preventive mechanisms under the Optional Protocol to the UN Convention Against Torture, *Essex Human Rights Law Review*, Special Issue, 2009, 54-72.

This article discusses the challenges faced when choosing whether an ombudsman or a human rights commission should be appointed national preventive mechanism (NPM) under the OPCAT. It highlights the clear link in OPCAT and CRDP to the national obligation to implement. The NPM is thus central to the successful implementation of OPCAT. A number of these challenges are illustrated by the example of Denmark.

### **5. 3. OTHER PUBLICATIONS (WORKING PAPERS, GUIDELINES AND PUBLICATIONS BY UN, ICC, NHRIS AND NGOS)**

**3.1.** Centre for Human Rights: *National Human Rights Institutions: A Handbook on the Establishment and Strengthening of National Institutions for the Promotion and Protection of Human Rights*, Geneva: Centre for Human Rights, Professional Training Series No 4, 1995.

This handbook gives a comprehensive historic overview of the development of NHRIs which is interesting in itself.

**3.2.** Dalton, P.; Mehyar, M. (eds.): *The role of NHRIs in countries in transition in the Arab World*, The Danish Institute for Human Rights, 2012.

This publication is one of the results of the Arab-European Human Rights Dialogue. Published in the wake of the Arab Spring, it describes e.g. how NHRIs can contribute to reform processes, to constitutional reform and to promoting human rights education reform. It also gives a detailed presentation of an integrated approach to human rights dialogue. Contributors originate from the Arab and the European region and the content is in English and Arab.

**3.3.** International Coordinating Committee of NHRIs (ICC): *National Human Rights Institutions and Universal Periodic Review Follow-Up* (available on the website of the OHCHR).

A brief paper to Paris Principle compliant NHRIs on their role in UPR follow-up. It was prepared prior to the second cycle of the UPR, i.e. the first time that the question about follow-up became relevant. Brief cases from Australia, South Africa, Kenya and Norway are included as inspiration. The paper highlights the catalyst effect the UPR has for the creation of new NHRIs, as one of the most frequent recommendations made to states is the establishment or strengthening of NHRIs.

**3.4.** International Council on Human Rights Policy and Office of the United Nations High Commissioner for Human Rights, *Assessing the Effectiveness of National Human Rights Institutions*, International Council on Human Rights Policy, 2015 (drafted by Richard Carver).

This report looks at the “issue of effectiveness and examines how national institutions might improve their performance and impact by using benchmarks and indicators to assess their work.” It gives useful advice on the use of indicators and a plethora of recommendations throughout the report.

**3.5.** International Council on Human Rights Policy: *Performance & Legitimacy: National Human Rights Institutions*, Geneva, 2004.

This publication presents a wealth of information concerning operational performance and public legitimacy, including on accessibility, on links with other



institutions – the judiciary, media, NGOs and international links - and three detailed case studies from Ghana, Indonesia and Mexico. Experience and examples are drawn from all over the world: South Africa, Nigeria, Latvia, New Zealand, Australia, Canada, Guatemala, India, the Philippines, Spain, Togo, Northern Ireland and Malawi. The publication dates back to year 2000 but is still worthwhile not least due to the case studies. The publication discusses why more or less Paris Principle compliant institution can be completely ineffective while others with little independence and inadequate funding have had a positive impact on human rights in their country. Finally, the publication presents a number of useful recommendations, and stresses how economic, social and cultural rights should top the agenda for NHRIs during the next decade.

**3.6.** Lindsnæs, B.; Lindholt, L.; Yigen, K. (eds.), *National Human Rights Institutions. Articles and Working Papers: Input into the Discussions on the Establishment and Development of the Functions of National Human Rights Institutions*, The Danish Centre of Human Rights, 2000.

An early publication covering standard-setting, effectiveness, independence, jurisdiction and quasi-judicial competence. In addition, seven contributions describe the European, the Asian, the African and the Latin American perspective respectively. Finally, a number of annexes presents various illustrative data.

**3.7.** Müller, A.; Seidensticker, F.: *The Role of National Human Rights Institutions in the United Nations Treaty Body Process*, German Institute for Human Rights, 2007.

This is a handbook covering the role of NHRIs in relation to all the UN human rights treaty bodies. The authors see “enormous potential for improved implementation of international human rights law” in this area and thus examine the existing cooperation and develop and discuss ideas to improve this interaction. The handbook contains an explanation of the UN human rights treaties and their monitoring mechanisms and the NHRIs’ role in the UN treaty body system.

**3.8.** Office of the High Commissioner for Human Rights (OHCHR): *National Human Rights Institutions: History, Principles, Roles and Responsibilities*. Geneva: Office of the United Nations High Commissioner for Human Rights, 2011.

A very useful handbook on NHRIs, covering the UN system, ICC, human rights promotion and protection, the Paris Principles, etc. It outlines four main challenges for NHRI: Institutional diversity, thematic diversity, minimum standards and core protection activities.

**3.9.** Office of the High Commissioner for Human Rights (OHCHR): *Thematic Study on the Structure and Role of National Mechanisms for the Implementation and Monitoring of the Convention on the Rights of Persons with Disabilities*. Geneva: Office of the United Nations High Commissioner for Human Rights, 2009.

The CRPD is the first treaty that contains specific requirements on its national implementation, and the study provides a brief overview of the convention and its status, mechanisms and procedures for monitoring, and the national mechanisms for the implementation and monitoring focussing on art. 33 of the convention. Some examples are given of how States have given art. 33 effect domestically.

**3.10.** Pohjola, A. E.: *The Evolution of National Human Rights Institutions - The Role of the United Nations*, Danish Institute for Human Rights, 2006.

The study is based on the author's PhD dissertation building on research carried out mainly between the years 2000 and 2003.

# ANNEXES

## BIBLIOGRAPHY ON NATIONAL HUMAN RIGHTS INSTITUTIONS

### 1. BOOKS

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