

Event Report

***National Human Rights Institutions:
a panel discussion on their work and mandate.***
Wednesday 28 January 2015, Essex Human Rights Centre.

Speakers

- [Bruce Adamson](#), Legal Officer for the Scottish Human Rights Commission
- Tamás Kádár, Senior Policy Officer for [Equinet \(European Network of Equality Bodies\)](#)
- Chair: [Lorna McGregor](#), Director of the Human Rights Centre

About

National Human Rights Institutions (NHRIs) are key actors in the promotion and protection of human rights. This panel discussion covered the work and mandate of NHRIs (including human rights commissions, ombudsmen institutions and equality bodies). The speakers considered the role that NHRIs play in the international and national human rights framework, including the different types of NHRIs and their functions. The speakers reflected on the continuing validity of the Paris Principles (which guide the establishment of NHRIs) as well as the differences and links between equality bodies and NHRIs. Finally, the discussion covered the ways in which it is possible to assess the effectiveness of NHRIs as well as the developing role of NHRIs in both the UN and regional frameworks.

This panel discussion was connected to the Nuffield Foundation funded research project: [The Role of National Human Rights Institutions in Providing Access to Justice](#).

The panel discussion commenced with introductions to the two speakers, Bruce Adamson (Legal Officer for the Scottish Human Rights Commission and European Network of NHRIs) and Tamás Kádár (Senior Policy Officer for Equinet (European Network of Equality Bodies)). The speakers took it in turn to make short presentations before taking questions from the floor.

Bruce Adamson

Mr Adamson started off with a brief explanation about the background of National Human Rights institutions (NHRIs) and the role of the International Coordinating Committee (ICC) and the Paris Principles. In doing so, Mr Adamson introduced the broad concept of universality of human rights as being relevant to the role of NHRIs and noted that there has been a rapid increase in number of NHRIs: from a handful in 1993 to over a hundred now.

The Paris principles were then broken down, with explanations of the requirements relating to constitutional set up; pluralism; state funding; and, of course, the broad mandate to promote and protect human rights. NHRIs that meet the Paris Principles

have direct speaking rights in the Human Rights Council. However, the process by which accreditation is worked out is through peer review.

Mr Adamson moved on to speak about the four networks on NHRIs (see e.g. <http://www.ijrcenter.org/national-human-rights-institutions/regional-nhri-networks-and-forums/>) and the European network specifically. The Scottish Commission is currently serving as the European network's chair.

Explanations were given about the relationship of the networks and the ICC with United Nations (UN), mainly through monitoring and reporting, as well as supporting the work of the UN by providing national level information to the UN processes. It is also about collectively working towards progression of human rights at a global level. At the regional level, there is a concept of collective *amicus curiae* within the European Court of Human Rights but there are also issues relating to protecting the standards and integrity of that court in face of local criticism (such as within the UK at the moment). At the national level, the mandate is more about the combination of promotion and protection of human rights.

Mr Adamson made an important point about the great diversity within how NHRIs look and work, at the national level. There are a myriad of different considerations about what the Paris Principles provide and how each NHRI should answer to them.

One example might be drawn from the Ombudsmen type institutions, which traditionally had a protection role and then subsequently had the human rights mandate added to their role. Some of the challenges that these types of bodies have in relation to satisfying the Paris Principles and the mandate to 'promote and protect human rights' is the difficulty in showing the latter. With the commission model, there is less of a direct focus on complaints but there is often a very broad mandate to promote human rights. The advisory council model is common in French speaking world and is composed of small groups of experts. The challenges in those institutions relate to their smaller size and scope, so that they have trouble evidencing the promotion and protection role at all.

Complications arise where institutions have more than one function – merging equality bodies with human rights commissions, for example. In those cases, the problems relate to which issues an NHRI will cover and which functions can or should fit within the body's mandate. The result for the person on the street is the potential for confusion or at least a lack of clarity about what NHRIs do, in terms of their specific functions.

Tamás Kádár

Dr Kádár spoke to the European Union (EU) level and equality bodies specifically. It was explained that equality bodies are set up under the EU directives (gender equality directives and the race equality directive). The original EU documents – the Treaty of Rome – did contain some basic elements such as requirements for member states to protect equal pay but that was mainly for economic reasons.

There are no specific standards for equality bodies in Europe because the EU directives are laconic about what these bodies should look like. These bodies simply need to be set up by the state and be a part of the public administration. In this way,

they are very similar to NHRIs in that they sit somewhere between Non Governmental Organisations (NGOs) and the government. In most countries equality bodies are stand-alone bodies, separated from the executive, but in a few states these are (worryingly) departments in government.

Equinet is the European network of equality bodies. It has 42 members: 42 equality bodies in 32 countries. 13 of these bodies are also ombudsmen institutions and 10 are also accredited as NHRIs. Equinet's mission is to promote equality in Europe by promoting the work of these bodies and supporting their work. National equality bodies are also seen more generally as catalysts for more equal societies. The network, like the ENNHRI, has a Secretariat. It has more resources than in the ENNHRI, is based in Brussels and has a small staff of five. Equinet's main objective, given in the strategic plan for 2015-16, is to organise seminars and promote knowledge sharing between equality bodies. The second objective is to contribute to the European equality body agenda through the publication of reports, which are disseminated to policy makers and legislators. The EC find this useful since it cuts out the work of going to each individual nation and the national equality bodies directly. The third objective is to become a knowledge and information hub on equal treatment. This is to some extent to be carried out through research, although the resources are limited in terms of both staff and funding. The fourth objective is an inward looking one, to consolidate the network and position of Equinet's members.

Dr Kádár noted that equality bodies face two main challenges:

1. A lack of specific standards for equality bodies. Equinet have been working to persuade European policy makers that these are necessary, suggesting this should occur either through the amendment of directives or some other binding instrument. Since those outcomes are not very likely, soft law may be a useful tool, through the making of recommendations etc. In particular it would be good to point out specific standards relating to resources, appointments processes, accountability and also the scope of an effective equality body. Some assistance on this aim is expected from the European Commission (EC) but it is also a point of discussion within the network itself (in terms of what the standards and how to achieve them). There is also a degree of engagement with ENNHRI and European agencies such as the Fundamental Rights Agency (FRA) and the European Institute for Gender Equality. This is in addition to cooperation with other bodies such as the Council of Europe and UN institutions.
2. There is a problem relating to the under-reporting of discrimination. The sense is that what equality bodies see are the tip of the iceberg and that most discrimination never reach the organisations, as a result of victims' fear of reporting or even lack of awareness about to whom to take the matter. It is important to remember that, for victims, this is an emotional and difficult experience and there may be a tendency to hold back from reporting issues of discrimination to public officials. There are some good initiatives at the national level among some members: eg a project by Swedish Equality Ombudsman about mutual education within Roma community. The number of reports from the Roma community then rose dramatically (See further Equinet's factsheet on the 'Rights of Roma People' at page 3: http://www.equineteurope.org/IMG/pdf/roma_factsheet_edited_2-2.pdf)

Finally, Dr Kádár reflected on the arguments for combining multiple functions into one body. The rational, he explained, is usually related to budget rather than being a conscious choice based on the of similarity functions.

This relates back to the lack of specific standards for equality bodies. The mission of equality bodies under the equality directives is to provide independent assistance to victims of discriminations; conduct independent surveys; deliver independent reports; make independent recommendations to policy makers and legislators. These bodies, however, can get flooded with cases and the result is that there will be limited possibility for the functions such as report writing or making recommendations. The directives are silent on the effectiveness of equality bodies and what resources these bodies should have. A good example can be drawn from Slovenia, where the equality body consists of a single person. This set up represented such an extreme that the EC started an infringement procedure (ongoing) but there are a number of less extreme examples where no infringement has been found.

A general conclusion to the discussion was to outline the main priorities in NHRIs: dealing with the broad mandate (or in the case of equality bodies, a lack of specific standards) and balancing the functions and work in order to achieve the aim. To this end, increasingly, national action plans are developed among different countries but much work remains to be done.

This event is connected to the Nuffield Foundation funded project: [*The Role of National Human Rights Institutions in Providing Access to Justice*](#).

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