

NHRIs

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Outlines

- What is NHRIs?
- Development and contents of Paris Principles
- Relationships with different stakeholders
- Significant issues
- Weaknesses and Strengths
- If the NHRIs is likely to influence national human rights agenda?
- How NHRIs works in states with different political systems?

What is NHRIs?

- “A body whose functions are specifically defined in terms of the promotion and protection of human rights”
- Administrative in nature-not judicial nor law-making
- Having on-going, advisory authority in respect of human rights at national-international levels

Unique characteristics?

- Created by constitution or legislation
- Focusing on implementation of international standards at domestic level
- Following broad human rights mandate
- Wielding moral authority, but not legal authority

Mandates and powers

- Cover both protection and promotion
- Cover both the private and public sector
- Include jurisdiction over all categories of rights
- Addressing both systematic human rights issues and individual complaints

Paris principles : Development

- 1946 ECOSOC invited member states to “consider the desirability” of establishing local bodies in the form of “information groups or local human rights committess”
- September 1978 in Geneva, seminar on National and local institutions for the promotion and protection of human rights-Guidelines endorsed by the UNHCHR and UNGA later on
- 1981 UNGA adopted a resolution which included a section on the conceptual foundation on which the national institutions should be based
- October 1991 conference in Paris on NHRIs
- March 1992 recommendations adopted by the Commission on Human Rights
- December 1993 adopted by General Assembly
- Minimum guidelines on the competence and responsibilities, composition and methods of operation, & standards for independence.
- Accreditation of NHRIs that adhere to the Paris Principles by the International Co-ordinating Committee Of National Institutions (ICCNI)

Paris principles

“NHRIs should be vested with competence, founded on a legislative or constitutional basis and be given as broad mandates as possible. The principles address the question of composition, in the form of guarantees of pluralism in representation and composition, fixed terms of mandates for its members and of a suitable infrastructure with staff and premises. The principles emphasize the guarantee of independence of decision-making, having their own budget. The principles also address the methods of operation”

Paris principles

Legal founding

The institutions shall be “given as a broad mandate as possible, which shall be clearly set forth in the constitutional or legislative text, specifying its composition and its sphere of competence”.

- Constitution or constitutional amendment
- Law or act of parliament
- Presidential decree

Paris principles

Composition

- Appointment and dismissals of leading members
 - methods of appointment
 - criteria for appointment
 - duration of appointment
 - dismissal of members
 - privileges and immunities
- Pluralistic reflection of society – “ensure the pluralist representation of social forces”

Independence

- NHRIs should have adequate resources
- Not dependent on funding cycle
- Not subject to “discipline” by state
- NHRIs should not fall under any executive entities
- NHRIs should be able to make their own agenda and to operate freely
- Staff should be protected against employment termination.

Functions

- Advice

NHRIs should work to: "promote and ensure the harmonization of national legislation, regulations and practices with international human rights instruments to which the State is a party, and their effective implementation".

(Paris principles)

Functions

Protection

- Individual complaints
- Investigations into systematic violations
- Authority to compel production of documents
- Authority to subpoena witnesses
- *Ad hoc* or regularly scheduled visits to state institutions

Functions

Protection

- Initiate new cases
- Intervene as in existing cases
- Refer complainant to proper administrative office or court
- Provide own procedure

Functions

Promotion

- Human rights education and awareness raising
- Library & Documentation Service
- Public dialogue
- Research
- Report writing
- Media work

Promotion

- Treaty monitoring & reporting process
- Provide information to state
- Provide information to treaty bodies
- As issues arise
- Following reporting process timeline
- Shadow Report
- Monitor Concluding Observations Reccs.
- Coordinate NGO input or otherwise cooperate with NGOs

Levels of Mandate

10 Intervening or assisting in court proceedings related to human rights – with the permission of the court

11 Other things as necessary or conducive to the performance of the preceding functions

9 Monitoring/inspecting prisons and/or other facilities where people are detained (including pre-trial detention centres, psychiatric institutions etc)

8 Obtaining documents and evidence using 'quasi judicial' powers

7 Conducting national inquiries on major issues related to human rights

6 Providing / or recommending compensation
be provided/ or having the power itself to seek compensation through a court or specialist tribunal

5 Resolving individual complaints by conciliation / mediation

4 Conducting investigations on its own initiative or in some cases also at the request of the Government or the Courts

3 Advising/making recommendations to Government and/or Parliament on laws, regulations, policies, programs and international human rights Treaties/ Conventions/ Principles/ Standard Minimum Rules etc which the Government should subscribe to

2 Education (of both the general public and particular groups such as: judges, prosecutor, police, prison officials, civil servants etc.)

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Research

Accessibilities

- **Accessibility**
 - Geographically
 - Local offices
 - Format of complaints (fax, phone, email?, etc)
 - Socially
 - Appropriate facilities
 - Visibility
 - Proactive strategies
 - Procedurally
 - Simplicity
 - Free of charge
 - Accessible also for disabled
 - Local languages

Methods of operation

- Freely consider any questions falling within its competence
- Hear any person or obtain any information necessary for assessing situation falling within its competence
- Address public opinion
- Meet on regular basis and whenever necessary with all members
- Maintain consultations with other bodies
- Develop relations with NGOs

Accountability and Relationships with stakeholders

“Goal is to work with government and civil society,
but to remain independent and to occupy a
unique space *between* the state and civil
society”

- Accountability to the public
- Relations with parliament
- Relations with the executive
- Relations with the courts
- Relations with NGOs
- Relations with international treaty machinery

Role of civil soceity

- Advocating for the creation of NHRIs
- Cooperating with NHRIs without being co-opted
- Monitoring and pressuring NHRIs
- To take on NGO's own issues
- To follow Paris Principles
- To move beyond Paris Principles

Possible strengths

- Enforcement of HR more effective at national level
- Promotes “domestication” of international human rights norms
- Allows national variation
- Facilitates democratization
- Supports rule of law efforts
- Access to international network

Weaknesses

- Actions do not have binding force
- May be ignored by government
- Faces hostility from government institutions if too effective
- Danger of becoming too conformist because of dependence on government resources
- Often understaffed, overloaded, lacking coherence and strategy

Significant issues

- NHRIs in conflict situations
- Economic, social, and cultural rights
- Racism
- Environment
- Migrant workers and refugee claimants
- Sex and gender
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