

One NHRI or Many? How Many Institutions Does It Take to Protect Human Rights? – Lessons from the European Experience

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Abstract

The question of whether to establish a single national human rights institution (NHRI) with a broad mandate or multiple specialized institutions is a pressing one in several European countries, yet has been largely neglected in the academic literature. Many states have gradually acquired specialized institutions, addressing particular grounds of discrimination or the rights of different vulnerable groups. Often for reasons of cost, the wisdom of having many institutions is being questioned, and several countries – the United Kingdom (UK), Sweden, Croatia, for example – have merged multiple institutions or are considering such a step.

International and European human rights standards provide little guidance on the choice between single and multiple institutions, meaning that the decision is essentially a pragmatic one. On several grounds a single NHRI is likely to prove more able to protect and promote the rights of vulnerable groups. It will provide a unified legal framework, be cost-effective, be readily accessible to those who need to use it, and present a clear profile to the public and to the authorities.

Advocates of multiple institutions correctly point to the need for human rights bodies that are sensitive to the particular needs of different vulnerable groups and politically and culturally accessible. Yet the reality is that not all vulnerable groups can benefit from such separate institutions and the economies provided by a single institution with a broad mandate will provide the best service, provided that they come with inbuilt guarantees of attention to the interests of all groups.

Keywords: anti-discrimination laws; effectiveness; national human rights institutions; vulnerable groups

How many institutions does it take to protect human rights? If having more national human rights institutions (NHRIs) means that rights are better protected, should states continue to add them? And when should they stop? These questions are prompted by the proliferation of human rights institutions, often with an anti-discrimination focus, for multiple disadvantaged or vulnerable

groups. So, in addition to (or even in the absence of) an NHRI with a broad and general mandate, there may also be institutions to safeguard the rights of women, children, ethnic or racial minorities, people with disabilities and so on.¹

In Croatia, these very questions were prompted by the proposal to establish an Ombudsman for the rights of old people. Having already acquired four ombudsman institutions over the years – one general and three specialized – the government decided to draw the line at that point, also initiating a debate on whether to merge the existing institutions. The United Kingdom (UK), likewise, had accumulated three anti-discrimination commissions over the preceding three decades. Yet when it introduced new protections against discrimination on additional grounds, it was decided to create a single human rights and equality commission, doing away with the existing institutions.

This process of incremental creation of new institutions and the debate over whether to merge them has become a common one, especially in Europe. Yet, what are the criteria for making these decisions? The impetus towards merger often stems from budgetary considerations; equally it is often argued that human rights will be more effectively protected by a single all-encompassing body. In response, proponents of multiple institutions argue that, for reasons derived either from principle or practical effectiveness, there should exist specialized bodies devoted to the human rights of particular vulnerable groups.

Given how common is the phenomenon of multiple NHRIs, it is perhaps surprising that the academic literature has barely touched upon this issue.² This article starts with a brief examination of what international and regional standards and authorities have to say on the choice between single and multiple NHRIs. Concluding that guidance from these sources is either non-existent or contradictory, I argue that, in the absence of any clear position in international law, the sole criterion for determining the chosen organizational model should be the greatest effectiveness in promoting and protecting human rights. I then proceed to examine the main arguments usually advanced in favour first of multiple institutions and then of a single institution.

My argument is that generally the model of a single national human rights institution is likely to lead to greater effectiveness, provided that it is designed with inbuilt guarantees that the interests of particular vulnerable groups will not be neglected and will receive an appropriate level of priority. A single institution offers several clear advantages. It will work within a coherent legal framework with consistent powers in relation to all vulnerable groups.

1 It should be stressed that the issue under discussion here is not multiple institutions defined by geographical jurisdiction, as are found in devolved or federal states such as Spain, the United Kingdom, and Russia. In addition, though only of secondary concern in this article, there has been the designation of National Preventive Mechanisms under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT), which may be conferred upon existing NHRIs or be a newly created institution.

2 O'Cinneide (2007) is a rare and useful exception.

It will maximize institutional resources, avoiding duplication and sharing best practice. It will be more accessible to vulnerable groups and better able to address cases of multiple discrimination. It will exercise greater authority in relation to governmental and other bodies and will offer a clear, comprehensible public profile on human rights issues.

There are, however, serious arguments in favour of multiple specialized bodies. They ensure a focus on the concerns of all groups for which there is such a specialized institution (though not, of course, of other groups). They offer a detailed understanding and an empathy that will be far harder for a single institution to achieve. Specialized institutions will relate more naturally to civil society bodies, such as non-governmental organizations (NGOs) working within their sector. Advocates of multiple institutions fear, often with good reason, that neither the expertise they offer nor the priority that they can give to the rights of their constituency can be reproduced by a single, non-specialized NHRI.

Of course, in the debates that take place in real life, decisions are not always taken for the stated reasons. Where multiple institutions exist and a government seeks to merge them, the underlying purpose is most often going to be cost-saving, whatever other arguments may be mobilized. (Credit, then, to the Swedish government: when four existing institutions were replaced in 2008 by a single Equality Ombudsman, the budget for the new institution was the aggregate of the budgets for the old ones.) When multiple institutions resist merger, they deploy arguments about the interests of vulnerable groups, while in reality they may also be concerned about the loss of their own status and position. These are serious considerations, but there are a variety of other valid concerns in the design of a national human rights protection system, and it is on these that this article focuses.

The discussion in this article mainly reflects the European experience. This is because recent shifts in the normative frameworks on equality and anti-discrimination at the regional level have led to changes, or debates about possible changes, in the institutional form taken by anti-discrimination and human rights bodies (Niessen and Cormack, 2004). However, the European experience is not, in principle, very different from what might be found elsewhere. In South Africa, for example, which has multiple constitutional bodies for human rights protection, there has been debate almost from their inception about whether they should be merged. Australia, where various anti-discrimination bodies were merged into a single human rights commission in the 1980s, is also a relevant example (Hatchard, 2003; O'Cinneide, 2002).

International and Regional Standards

If there were any requirement in principle that the rights of different vulnerable groups be protected by specialized human rights institutions, this should be found in international or regional standards. Yet sources of law at these

levels make scant mention of the issue and, when they do, offer few firm prescriptions.

Two treaties require states to assign an implementing or monitoring role to a national human rights institution: the Optional Protocol to the Convention against Torture (OPCAT)³ and the Convention on the Rights of Persons with Disabilities.⁴ Yet neither specifies whether this should be an existing general NHRI or a new specialized institution, and the practice of states parties has varied (see [APT, 2010](#)).

The Paris Principles, adopted by an international conference of NHRIs in 1991 and subsequently endorsed by both the United Nations (UN) Commission on Human Rights and the UN General Assembly, constitute the international standard on the mandate and structure of NHRIs, yet they give no explicit guidance on this issue. They state only that the human rights mandate of an NHRI should be ‘as broad... as possible’ ([UN, 1993](#)). Although the Paris Principles do not explicitly align themselves with either single or multiple human rights institutions within a state, the policy of the International Coordinating Committee, which accredits NHRIs according to the standards in the Principles, appears to favour a single institution. The International Coordinating Committee has determined that only one NHRI may be accredited from each state.⁵

The opinions of the various human rights treaty bodies are another potential source. The Committee on the Rights of the Child, however, is the only one to have addressed this question explicitly.⁶ In its General Comment No. 2 it points out that there are specific and additional justifications for ‘ensuring that children’s human rights are given special attention’. These include

3 Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted 18 December 2002, 2375 UNTS 237 (entered into force 22 June 2006).

4 Convention on the Rights of Persons with Disabilities, adopted 13 December 2006 (entered into force 3 May 2008).

5 The rationale for this is primarily to prevent multiple representation from federal states that may have general human rights institutions at a sub-national level, and provision is made in the International Coordinating Committee’s rules for a single national representative to speak on behalf of multiple institutions. However, the effect, in the opinion of some observers, has been to privilege the single institution model at the expense of multiple institutions.

In practice, the Committee has on occasions allowed multiple accredited institutions to share a single vote. This is currently the case with the United Kingdom, where the Equality and Human Rights Commission, the Northern Ireland Human Rights Commission and the Scottish Human Rights Commission share accreditation. Of greater relevance for this article, in the past several Swedish specialized ombudsman institutions shared accreditation.

6 The Committee on the Rights of the Child is the body of independent experts established under the Convention on the Rights of the Child to monitor its implementation by states parties. Similar monitoring bodies are established to monitor states parties’ implementation of other human rights treaties, including the International Convention on the Elimination of All Forms of Racial Discrimination, and the Convention on the Elimination of All Forms of Discrimination against Women.

children's age, the lack of opportunity to express their opinions, and lack of access to political and judicial remedies. The Committee clearly favours a specialist independent human rights institution for children where possible. However, where resources are limited, 'development of a broad-based NHRI that includes a specific focus on children is likely to constitute the best approach'. This should include either an identifiable commissioner responsible for children's rights or a specific division that has that responsibility (UN, Committee on the Rights of the Child, 2002).

The Committee on the Elimination of Racial Discrimination has spoken of 'national institutions to facilitate the implementation of the Convention', which probably, but not certainly, refers to specialized rather than general institutions (UN, Committee on the Elimination of Racial Discrimination, 1993). The Committee on the Elimination of Discrimination against Women has not made a general comment on NHRIs, but has made a statement on its willingness to work with such institutions. In this, it is clearly referring to non-specialized institutions (UN, Commission on the Status of Women, 2008).

No greater clarity is available at the European level. The Council of Europe Commissioner for Human Rights stated that the existence of specialized ombudsmen might weaken the general ombudsman and cause confusion with the public. It was also observed that:

In a period of transition and financial insecurity, it would be more rational to concentrate all available resources on the office of the existing national ombudsman and, where appropriate, appoint deputies to deal with specific issues ... (Council of Europe, 2000: para. 2)

However, this is flatly contradicted by the position of the Council of Europe's European Commission against Racism and Intolerance (ECRI), which has called for the establishment of specialized national bodies to combat, racism, xenophobia, anti-Semitism and intolerance (ECRI, 1997).

In European Union (EU) states there has been considerable movement in recent years on the question of whether issues of discrimination and equality are best addressed through a single body addressing all grounds for discrimination, or multiple specialized bodies. EU directives are agnostic on this issue and, indeed, some do not even require the creation of an equality body.⁷

7 The Racial Equality Directive (2000/43/EC) requires member states to 'designate an independent body or bodies for the promotion of equal treatment of all persons without discrimination on the grounds of racial or ethnic origin'. This body 'may form part of agencies charged at national level with the defence of human rights or the safeguarding of individual rights'. Directive 2006/54/EC on gender equality contains a similarly worded requirement. The Framework Directive on discrimination on grounds of religion or belief, age, disability, or sexual orientation does not require member states to establish an equality body for monitoring and implementing non-discrimination on these various grounds.

A recent report of the EU's Fundamental Rights Agency (FRA) strongly favours a single institution:

Recent European Experiences

The remainder of the discussion in this article draws upon the experience of seven European countries where the relative merits of single and multiple human rights institutions have been debated in recent years, with different outcomes.

In the United Kingdom, the Equality Act 2006 created a single Commission for Equality and Human Rights, replacing three specialized commissions working against discrimination on grounds of sex, racial or ethnic origin, and disability.⁸ It was not until the Equality Act 2010, however, that the pre-existing legislation against discrimination was harmonized. The new legislation expanded the scope of anti-discrimination law to the grounds of sexual orientation, age, and religion or belief. In addition, the new body was given broad human rights functions relating to the Human Rights Act 1998 (O'Cinneide, 2007).

Recent developments in Sweden have followed a similar pattern to the United Kingdom. In 2008, after a two-year consultation, the Swedish Parliament passed the Discrimination Act. The new Act replaced four specialized ombudsman institutions with a single Equality Ombudsman. The Equal Opportunities Ombudsman, the Ombudsman against Ethnic Discrimination, the Disability Ombudsman and the Ombudsman against Discrimination because of Sexual Orientation were all dissolved. The new institution was created as part of a new law that harmonized the substantive protections against discrimination among the different groups.⁹

Hungary provides an interesting example of separate, but connected, specialized ombudsman institutions. Hungary has four such bodies: the Parliamentary Commissioner for Civil Rights, the Parliamentary Commissioner for the Rights of National and Ethnic Minorities, the Parliamentary Commissioner for Data Protection, and the Parliamentary Commissioner for Future Generations. The Law on the Parliamentary Commissioner for Civil Rights provides the general legal basis for all the ombudsman institutions.¹⁰ The different institutions share an office building, with a combined budget, and have some staff in common. They sometimes consider complaints jointly, have issued joint reports, and made joint references to the Constitutional Court (Kosztolanyi, 2001).

The existence in many Member States of several different independent public bodies with human rights remits contributes to a diffusion of resources and gaps in mandates. In some cases it also results in overlapping mandates. As a result, it is more difficult for those seeking redress to be sure where to turn (FRA, 2010).

8 The new Commission's mandate applies to England, Wales and Scotland. In Northern Ireland there is a separate Northern Ireland Human Rights Commission and the Equality Commission for Northern Ireland.

9 Swedish Code of Statutes 2008:567.

10 Act LIX of 1993. Specific legislation on national and ethnic minorities, data protection, and future generations elaborates the power and functions of the other three institutions in greater detail.

Lithuania provides a contrasting example where there are three ombudsman institutions, which operate almost entirely separately. The Seimas (Parliamentary) Ombudsman is a multi-member institution with two incumbents (recently reduced from five, primarily on financial grounds). In addition, there is an Ombudsman for Equal Opportunities and Ombudsman for the Rights of the Child. Each institution is established by separate statute and has different, though similar, powers. Budgets and office premises are completely separate (Carver and Korotaev, 2007).

Croatia also has multiple national human rights institutions. The oldest of these is the Croatian People's Ombudsman (CPO), which has a general human rights mandate. More recent additions have been ombudsman institutions dealing with children's rights, gender equality and persons with disabilities, the latter created to meet Croatia's obligations under article 33 of the Convention on the Rights of Persons with Disabilities. The four institutions were legally entirely separate until the enactment of anti-discrimination legislation that came into force in January 2009. This designated the CPO as the 'equality body', meaning in effect that it acquired a coordinating role in relation to the other institutions on anti-discrimination matters, as well as having responsibility for reporting. Coincidentally, the CPO was also accredited in 2008 by the International Coordinating Committee of NHRIs. These events prompted the CPO to commission a study to look into the desirability and feasibility of merging the existing bodies into a single national human rights institution, or at least to increase functional coordination (Carver et al., 2010).

Moldova's national human rights institution is a Centre for Human Rights, led by four Parliamentary Advocates (or Ombudsmen). In 2007 the question was raised about the creation of two new institutions: a national preventive mechanism under the OPCAT and a children's rights ombudsman. In the event, after some initial hesitations, both proposed institutions were integrated into the existing one, which underwent some legal changes, including an expansion of its powers. An additional Parliamentary Advocate post was created with exclusive responsibility for children's rights.¹¹

Georgia has a single ombudsman institution, the Public Defender's Office. Within this single institution there exist a number of distinct bodies that address the rights of particular vulnerable sectors. These include a Children's Rights Centre, a National Council for Ethnic Minorities, a National Council for Religions, and a Patients' Rights Centre, including a Monitoring Council for Psychiatric Hospitals (Carver and Korotaev, 2007).

Single or Multiple? A Functional Approach

Given that international and European standards offer no decisive guidance on whether a state should have single or multiple NHRIs, there is no

11 See <http://www.ombudsman.md/md/act2509/>

principled reason for a state to adopt one or other institutional solution, although some advocates for separate institutions sometimes suggest otherwise (a position that will be addressed below). Hence, the choice of single or multiple institutions will be in essence a functional one: which offers the more effective protection of human rights?

It is notoriously difficult to measure the effectiveness of human rights institutions, not least because of the problems in identifying progress in respect for human rights, let alone understanding the impact of particular interventions. Developing a common measure of the effectiveness of NHRIs faces the additional obstacle that institutions may choose to undertake very different activities, dictated either by their mandate or by the social and political context in which they operate.

For the purposes of this article, however, I assume that there is a tendency for effective NHRIs to share certain characteristics that are independent of the particular organizational form adopted (that is, whether they are single or multiple). This list of characteristics derives from my own research for the International Council on Human Rights Policy (Carver, 2000; 2005). Certain of these elements have been reflected in subsequent practice and academic discussion (Murray, 2007; Smith, 2006).

- *Public legitimacy*: This derives in part from the formal status of the institution, but is primarily associated with the perception that it is independent and prepared to defend human rights impartially.
- *Accessibility*: There should be a ready means of gaining access to the institution and its representatives.
- *Open organizational culture*: The institution is seen as approachable, not bureaucratic and remote.
- *Membership*: Members of the institution – commissioners, Ombudsman, and others – have integrity, expertise and dynamism.
- *Diversity*: The membership and/or the staff of the institution are reflective of key social groups, with a good gender balance.
- *Relations with civil society*: The institution develops effective working relationships with interested civil society bodies.
- *Broad mandate*: The institution is empowered to address a wide range of human rights issues.
- *Broad jurisdiction*: The institution is empowered to address the conduct of all key state bodies whose actions bear upon human rights (as well as non-state actors in some instances).
- *Power to monitor compliance*: While NHRIs usually lack the power to enforce recommendations, they should have both the capacity and legal power to monitor the authorities' response to the recommendations that are issued.

- *Systemic approach to human rights issues:* Effective institutions identify priority human rights issues and address these, rather than being driven by complaints from the public or requests from government.
- *Adequate budget:* The institution receives sufficient funds from the state budget to meet both capital and operational costs.

Several of these elements are found in the Paris Principles, relate primarily to the legal framework establishing the institution, and may not be affected by the choice of a single or multiple institutions. However, some of them – including public legitimacy, accessibility, openness, diversity, and civil society relations – may be intimately connected to the choice of institutional model.

Arguments for Separate, Multiple Institutions

Several arguments are customarily advanced in favour of having multiple human rights institutions focused on separate vulnerable groups – or, more specifically, arguments against a single institution. In particular, there are three pragmatic arguments that have merit:

- that a single institution may not provide sufficiently for the specific needs of different vulnerable groups;
- that competing priorities in a single institution will result in competition for resources and attention to different vulnerable groups;
- that separate institutions provide a valuable focal point for vulnerable groups.

An additional argument is that poor leadership of a single institution can have deleterious consequences on the human rights protection system as whole. This is sometimes heard in the United Kingdom, where the new single commission has been blighted by leadership problems that have, no doubt, had a negative impact on its effectiveness across the board. Of course, the converse case might equally well be made: in a single institution, a strong leadership, as in Georgia, can have a positive impact across all sectors. However, the assumption must be that an institution, whether general or specialized, is well-designed, which would include a procedure for selecting its leadership that will protect its independence. This is the best guarantee of good quality leadership, although it is not foolproof and mistakes may be made.

Single institution cannot provide for specific needs: It is undeniable that different vulnerable groups have needs that are particular to their group. Were this not the case, there would be no debate about whether to have single or multiple institutions. The nature of these differences goes beyond the character of the rights that they enjoy since, by and large, the rights are universal, not specific to the group. Yet the obstacles to enjoyment of those rights are specific to each vulnerable group: gender, age, disability, ethnicity,

and so on. Understanding of these obstacles goes beyond an abstract, intellectual grasp of the rights or, indeed, sympathy or advocacy for the rights-holders. There is a strong case for saying that members of vulnerable groups are best served by an institution whose staff and members can experience *empathy* for their situation.

Advocates of the single institution model would argue that it is still possible for one institution to maintain close links with civil society groups with specialized mandates. One unfortunate aspect of the British experience, however, has been that NGOs with specialized mandates have tended to broaden their focus since the creation of the new unified NHRI, in effect shadowing the mandate of the commission, rather than maintaining their previous specializations.

This provision cannot be reduced to the physical facilities offered, such as disabled access to buildings, or child-friendly offices, all of which could easily be provided by a single institution.¹² Rather, it is an understanding of the experience of oppression that allows a specialized institution to provide a better service.

Vulnerable groups lose out in competition for resources: Resources for human rights protection are always limited and those for particular vulnerable groups may be especially so. Within a single NHRI the interests of particular vulnerable groups may be subject to a scramble for access to those resources, with few staff allocated to these issues and little public profile resulting. Of course, there may be a competition for these same resources if there are multiple institutions, but at least in that instance there will be inbuilt guarantees of a minimum allocation. Australia provides a clear example of the competition for resources, where government funding of a single national human rights commission has been cut – essentially as punishment for criticism of the government – and commissioners responsible for separate mandates have been forced to take on two areas of responsibility. Hence the commissioner responsible for race discrimination also works on disability discrimination; sex discrimination and age discrimination are a single mandate and so on (Sidoti email, 2010).

Separate institutions provide a focal point: It is widely recognized that one of the keys to the success of an NHRI is its ability to mobilize support from civil society groups. This not only maximizes the resources available to the institution, but also ensures the public legitimacy crucial to an effective impact. It is often specialized NGOs and other civil society groups that place the greatest emphasis on the need to create or maintain separate institutions.

In the United Kingdom, for example, organizations in the ethnic minority communities were among the most strongly opposed to the proposal to merge the Commission for Racial Equality (CRE) into a single institution.

12 But are not necessarily, in practice. The office of the Moldovan Ombudsman for Children, for example, is not child-friendly (Roman interview, 2010).

This pushed the CRE from an initially non-committal reaction to the proposal into explicit opposition (O’Cinneide, 2007). In Sweden, opposition to the merger of the ombudsman institutions came most strongly from NGOs working on gender rights. It has been gender rights NGOs that have particularly expressed concern over the loss of the close relationship that they enjoyed with the Equal Opportunities Ombudsman (Falk interview, 2010).

These three arguments for separate institutions all have in common an assumption that the rights of vulnerable groups are best addressed by institutions that understand and identify with the specific needs of those groups. Their weakness, as usually articulated, is that they constitute special pleading. They usually emerge as an argument that a given vulnerable group should have its own institution, rather than a view about the overall design of the human rights protection system. Advocates of multiple institutions do not address the problem that only a finite number of institutions will be possible in practice, creating an implicit hierarchy of rights or needs. Hence, for example, a separate NHRI for the rights of the young may be presented as essential, whereas an institution to protect the rights of the old is unnecessary. Although I would argue that the considerations that apply here are essentially pragmatic and functional, there is a serious danger that advocates of separate institutions undermine the principle of the indivisibility of rights – or at least of solidarity between different rights holders – in the unspoken hierarchy of vulnerable groups that they create.

The rationale for separate institutions needs to be disaggregated somewhat. There are clearly uncontroversial arguments that any institution must be ‘child-friendly’ or physically accessible to people with disabilities, for example. These often shade into a slightly different argument about what might be termed ‘cultural accessibility’. This says that women or ethnic minorities, for example, are more likely to use an institution that is dedicated to their concerns and staffed, wholly or largely, by members of their group. This relates to the quality of empathy that such an institution can offer. In turn this shades into another different argument, which is that these institutions are somehow ‘of’ these separate communities – that they are expressions of the autonomous self-organization of women, ethnic minorities, and so on. Whereas there is practical validity to the first argument certainly, and the second probably, the third argument confuses the role of national human rights institutions with that of other social organizations. Although NHRIs should, according to the Paris Principles, be diverse and pluralistic, there is no sense that they should be seen as instances of the self-organization of particular vulnerable groups. It is in this sense that there is no principled reason for separate human rights institutions, notwithstanding some good pragmatic considerations in favour of separate bodies and other arguments of principle in favour of autonomous self-organization within civil society more broadly.

Arguments for Single Institutions

The arguments favouring a single institution fall into five distinct areas, which will be discussed in turn: legal framework, institutional effectiveness, relationship with vulnerable groups, relationship with the authorities, and public profile.

Legal Framework

The argument in favour of a single NHRI is that one institution, with a single founding statute, will apply a consistent standard to the rights of all groups and individuals. This consideration is particularly relevant where the work of the institution focuses on anti-discrimination. States that have accumulated anti-discrimination legislation over the years, incrementally adding new vulnerable groups, are likely to find considerable inconsistencies in the standards applied to different groups. This was the case, for example, in Sweden, where there were seven different pieces of anti-discrimination legislation, some relating to grounds for discrimination and some to different social sectors. The levels of protection provided on the various grounds of discrimination were different and the mandates of the four ombudsman institutions varied. In the new 2008 law all this was equalized, with a common protection provided and a common mandate for the Equality Ombudsman across all grounds for discrimination.¹³

A similar situation prevailed in the United Kingdom prior to the Equality Act 2006 (Jones, 2005). However, the Act did not harmonize the pre-existing legislation against discrimination on the three existing grounds of sex, racial or ethnic origin, or disability, but rather expanded the scope of anti-discrimination law to the grounds of sexual orientation, age, and religion or belief (O'Cinneide, 2007). The Equality Act 2010 completed this process, harmonizing the anti-discrimination legislation and giving the new commission equivalent powers across the different discrimination grounds.

Failure to harmonize the legal mandates can cause problems. In Québec, Canada, the *Commission des droits de la personne and de la jeunesse* was established in 1995 out of a merger of the human rights commission and the specialized body responsible for supervising youth protection and justice. However, the two mandates remain in separate legislation, although implemented by the same staff, at least as far as the promotional aspects go. The general perception is that the two parts of the institution's mandate have not cohered (Eliadis email, 2010).

Croatia faces the opposite problem from the gradual accretion of anti-discrimination laws. Unlike Sweden and the United Kingdom, which have accumulated anti-discrimination legislation over time, Croatia passed a single Anti-Discrimination Act, which came into force in 2009, creating for the first time a common basis for equality and anti-discrimination, but with

13 Swedish Code of Statutes 2008:567.

implementation divided between the four ombudsman institutions in addition to their other functions. The Croatian People's Ombudsman functions as 'equality body' – that is to say that it has a coordinating role among the four institutions in relation to anti-discrimination issues (but not on other matters that may be of common concern). A memorandum of understanding between the institutions seems to have provided insufficient basis for common action, with implementation of the new law hampered by organizational divisions. This has been one of the factors pushing the institutions towards some sort of closer practical coordination of their work (Carver et al., 2010).

Hungary has made an unusual attempt to resolve this issue. The founding statute of the Parliamentary Commissioner for Civil Rights provides the general legal basis for all four ombudsman institutions, which overcomes the problem of distinct legal standards and powers. Each institution has its own distinct mandate enshrined in separate legislation.

Institutional Effectiveness

There are broadly three arguments for the creation of a single NHRI that are commonly advanced in the area of institutional effectiveness. It is argued that diversity within the institution can lead to a productive cross-fertilization between individuals, teams or departments working on different issues. Second, just as a single institution can work to a single legal standard, so it can offer a consistent service to anyone who approaches it, regardless of the human rights issue involved or the origin of the individual or group. Thirdly, a single human rights institution is able to make economies that allow it to be considerably more cost-effective than multiple institutions.

Diversity and cross-fertilization: The Paris Principles set great store by the notion of diversity and plurality within a national human rights institution, requiring that the membership of an institution 'ensure the pluralist representation of the social forces (of civilian society)'. The clear inference to be drawn here is that NHRIs work more effectively when they are diverse. Partly, as has already been indicated, this is because diversity allows NHRI staff and members to have a better understanding of the issues affecting vulnerable groups and partly because it makes it easier for vulnerable groups to approach the institution. However, another important reason is that working within a single institution allows the exchange of best practice from work with different grounds for discrimination and varying social sectors. The experience of the unified Equality Ombudsman from Sweden, for example, is that this cross-fertilization between different areas of expertise has been beneficial (Falk interview, 2010).

It would be interesting to reflect on what internal organizational structure best facilitates the exchange of best practice. Where an institution has a single complaints department, as in Georgia and Moldova, this means that complaints officers are likely to bring the experience of handling a certain

type of complaint to bear on their handling of another. This is a benefit not enjoyed by, for example, the staff of the Croatian People's Ombudsman, where internal units are structured by theme or topic. However, the advantage of the latter structure is clearly that staff who handle complaints will also have a broader experience of the issues complained about, or of the section of the public lodging the complaints.

Consistency of service: The argument that a single institution will offer a more consistent service to the public flows in part from the assumption that good practice will be shared within the institution and that there will be a cross-fertilization of ideas between specialists in different human rights issues or different vulnerable groups.

One of the areas where there is a strong argument in favour of a single institution is in the handling of cases where there is multiple discrimination. When confronted, for example, by a complaint lodged by a Roma woman, a single institution with jurisdiction in relation to both women and ethnic minorities is better able to address the complexities and multiple layers involved (Falk interview, 2010). A single institution is also able to resolve jurisdictional questions. In Croatia, for example, the law is ambiguous on who has jurisdiction over cases involving children with disabilities, with both the Ombudsman for Children and the Ombudsman for People with Disabilities claiming responsibility (Carver et al., 2010). If there were a single institution the issue would be moot and, arguably, the multiple layers of discrimination or human rights violation would be more effectively addressed.

Cost-effectiveness: The argument that a single NHRI is more cost-effective than multiple institutions easily becomes confused with a quite distinct point: that governments may seek to merge multiple institutions in order to cut costs. The latter point may well be true, but is strictly irrelevant. Government enthusiasm for a 'rationalization' of the human rights protection system in Croatia was doubtless driven by a desire to save money and the hope that this could be achieved by merging existing institutions. Human rights activists might see this as an unworthy consideration, but conversely it is hard to see the validity in human rights terms of an argument that says that money should be spent wastefully, simply in order that the human rights budget not be cut. Cost-effectiveness must stand as a quite separate and legitimate consideration.

Those states that have opted for single institutions certainly proceed on the assumption of greater cost-effectiveness. Both Moldova and Georgia resisted pressure to create a separate children's ombudsman, instead incorporating these functions into the existing NHRI. In both instances cost-effectiveness arguments were highly persuasive in a context of financial stringency (Roman interview, 2010). Similar reasoning lies behind the Hungarian model, where four ombudsman institutions share offices and certain core support staff. Each institution requires a receptionist, bookkeeper and

cleaner, for example, but there is no good reason why it should not be the *same* receptionist, bookkeeper or cleaner for all institutions.

In Croatia there was a detailed study of the cost-effectiveness of the existing separate institutions, against the possibility of a merged institution (or at least a merging of premises and logistical services, along the Hungarian lines). A very high proportion of the budget of the ombudsman institutions goes on staff, rather than project activities. In 2008 the proportion was 84.67 per cent for the Croatian People's Ombudsman, 64.16 per cent for the Ombudsman for Children and 62.57 per cent for the Ombudsman for Gender Equality. The figure for the Ombudsman for People with Disabilities is only low (21.33 per cent) because this was the year of its establishment and the budget includes one-off start-up costs. Expenditure per employee was relatively low in the ombudsman institutions compared with the government offices dealing with human rights issues, indicating a low absorptive capacity (that is, an inability to raise funds from other sources than the state budget) and a low level of programme activity. The study found a relatively high level of expenditure on office and information technology equipment, again by comparison with the government human rights offices, which work within the infrastructure of the public service.

The overwhelming majority of the budget of these institutions thus goes on staff costs and office and information technology infrastructure, and only a very small proportion on projects or programme activity. These large budget items are all ones that contain a significant element of duplication across the ombudsman offices. The Croatia study calculated that there could be substantial improvements in cost-effectiveness if these duplications were eliminated (Carver et al., 2010).

Relationship to Vulnerable Groups

As discussed above, several of the arguments for multiple specialized institutions relate to the capacity of these bodies to provide expert and empathetic service to vulnerable groups in society, who are most likely to be victims of human rights violations or to be 'clients' of the NHRI in some other way – essentially that they will represent their rights and interests better. Yet it can also be argued that a single NHRI has certain advantages in the way that it relates to vulnerable groups that may not be available to multiple specialized bodies. A single institution makes it easier to identify the correct institution to approach; a single institution is more likely to be physically accessible; a single institution provides a better service to its clients; and a single institution gives more equal coverage to all vulnerable groups.

Easier identification: The clear advantage of a single institution is that it presents one unambiguous public profile on human rights issues. There is further discussion below on the value of this for public understanding of human rights issues. For those who may be the direct clients of the institution – often members of the most vulnerable social groups who have

little experience or confidence in dealing with state institutions – it is important to be able to identify which institution to approach. In the frequent cases of multiple discrimination referred to above, there is no confusion about whom to approach since the one institution will deal with all aspects of the single case.

A good example is Georgia, where the Public Defender's Office uses its high public profile on politically sensitive issues to advance consciousness of human rights in general. It is clear, because of its positive public reputation – or public legitimacy – that anyone wishing to bring a human rights complaint would go to the Public Defender's Office.

Accessibility: There is a common argument in favour of multiple institutions that a specialized institution will be more accessible to vulnerable groups wishing to use them. While there is a potentially persuasive argument to be made in relation to cultural accessibility, there is evidence that a single institution may be more physically accessible. Physical accessibility has been identified as a key factor in determining the effectiveness of NHRIs and has various aspects. The offices of the NHRI must be accessible to all, including people with disabilities. They should be located on public transport routes and in areas that are not seen as intimidating to groups that may seek access – so, not next to a police station or army base, and not in a salubrious and exclusive residential neighbourhood (Carver, 2000). These are all choices that can be made, correctly or incorrectly, quite independently of whether there are single or multiple institutions.

However, the most important element of accessibility is having offices or other points of contact throughout the country, not only in the capital city. This is almost entirely an issue of cost and it is for financial reasons that many NHRIs fail to establish local offices. The study of the Croatian human rights system found that the savings to be made from merging the infrastructure of the four ombudsman institutions would allow the establishment of regional offices that could serve all the institutions. In the short term, the one ombudsman institution that already had regional offices – the Ombudsman for Children – could allow these to be used as access points for filing complaints to all four bodies. In the longer term greater cost-effectiveness would create savings that would allow the establishment of new offices (Carver et al., 2010).

Savings resulting from greater cost-effectiveness may also increase the accessibility of the institution in other ways. For example, cost and time considerations are one of the factors restricting the number of visits an NHRI can make to prisons and other closed institutions. People in closed institutions are one of the groups most vulnerable to human rights violations and most likely to seek to use the services of the NHRI. One of the arguments in favour of locating an OPCAT national preventive mechanism within an existing NHRI is that this often increases the legal powers of the institution to conduct visits of closed institutions, as well as generating more resources and

expertise in this area. Moldova provides an example of how the addition of OPCAT responsibilities (as well as a mandate on children's rights) increased the capacity of a poorly funded institution, although the Parliamentary Advocates remain chronically underfunded (APT, 2010; Roman interview, 2010).

Nationwide accessibility may be created in other ways, for example by using local community organizations or NGOs as intermediaries or licensed representatives of the NHRI. Advocates of separate institutions advance the argument – discussed above – that closer relationships develop between NGOs and specialized institutions than with single, generalized ones. This may often be true in practice, although there is no reason in principle why a single institution with specialized units should not develop equally fruitful relationships with specialized NGOs. This is precisely what happens in the Georgian Public Defender's Office, where a department known as the Tolerance Centre convenes a number of committees with broad participation from specialized civil society organizations.

Better service: The greater cost-effectiveness of a single institution should create several ways in which the NHRI would provide a better service for vulnerable groups. Savings in employment of support staff could be used to increase those involved in complaints-handling, or in conducting systemic investigations into important human rights issues. One simple advantage is a reduction in the number of misdirected complaints. In situations where there are multiple institutions, many complaints from the public come to the wrong institution and have to be redirected. Since good practice demands that even inadmissible complaints must go through the initial stage of processing, this can create a considerable bureaucratic burden. In a single institution, either all complaints staff will be able to handle all matters, or it will simply be a case of redirecting the complaint within the same institution. An effective interim solution (recommended by the study team in the Croatia case) is the creation of a unified complaints database between multiple institutions. This allows a complaint to be registered just once and details to be shared between the institutions.

If the preceding arguments about sharing of good practice and handling of multiple discrimination are correct, this should translate into a better quality of service for members of vulnerable groups.

Equal coverage: Advocates of the multiple-institution model usually argue that the shortcoming of a single institution is that certain vulnerable groups – women, children, ethnic minorities, for example – will be downgraded in importance. No doubt this is a danger that should be guarded against, but actually there is a greater risk, within a multiple-institution set-up, that particular vulnerable groups who do not have their own human rights institution will be neglected. Those who advocate multiple institutions usually do so from the viewpoint of a particular social sector that is seen as especially vulnerable and hence deserving of a separate institution. Yet the number of vulnerable groups

will always in practice be greater than the possible human rights institutions established to protect them. As described above, Croatia, for example, has drawn a line under the creation of new institutions after its fourth – the Ombudsman for Persons with Disabilities. It is noteworthy in the Croatian context that one of the most vulnerable groups of all – members of national minorities – has never had a separate autonomous national institution.

The creation of the UK Equality and Human Rights Commission was likewise prompted by the extension of legal protection against discrimination – on grounds of age, religion, and sexual orientation – and the practical impossibility of establishing new, separate institutions to address each of these, in addition to the three existing commissions on gender equality, racial discrimination and disabilities. Unsurprisingly, groups representing those affected by the ‘new’ discrimination grounds tended to favour the creation of the new commission, while opposition was to be found among groups representing women, ethnic minorities, and people with disabilities (O’Cinneide, 2007).

Relationship with the Authorities

One of the strongest arguments in favour of a single institution is the greater ease and authority with which the NHRI will be able to relate to government and, as relevant, to other bodies over which it has jurisdiction. This improved relationship works both ways. Government authorities and other bodies will be able to relate more easily to a single institution charged with human rights and anti-discrimination. The institution itself will have greater weight if it is perceived as the sole body responsible for human rights.

Easier access for authorities: It is important for government authorities, as well as other bodies that have to comply with human rights or anti-discrimination law, to be clear about which institution is relevant to their concerns. An important part of the work of institutions with an anti-discrimination mandate, for example, is to assist both public and private bodies to develop their own policies and practices in relation to employment, the services they provide, accessibility and other aspects of combating discrimination. Many, if not most, of these practices are the same, or comparable, across the different grounds of discrimination and it makes greater sense for a single institution to have responsibility. The alternative is that a company or public body developing its anti-discrimination policy will have to contact several different institutions for advice and guidance, with the likelihood that certain important aspects will be overlooked. This was a persuasive argument in the UK consultation on the creation of a single equality commission, with smaller businesses in particular favouring the existence of a single interlocutor on anti-discrimination practices.¹⁴

14 See the discussion in the government White Paper *Fairness for All: A New Commission for Equality and Human Rights*, Cm 6185, 2004.

It might be assumed that one of the advantages of having a specialized institution is that at least it is clear who is responsible for addressing that particular issue. The Convention on the Rights of Persons with Disabilities goes further than earlier human rights instruments in requiring states parties to designate both a governmental ‘focal point’ with responsibility for implementing the rights in the Convention and an autonomous monitoring body established in conformity with the Paris Principles. In Croatia the rationale for establishing the Disabilities Ombudsman was precisely to discharge the second of these obligations after ratification of the Convention. Yet no governmental focal point has been designated and there is apparently confusion – not to say complete ignorance – about the role of the Disabilities Ombudsman under the Convention (Carver et al., 2010).

Unified and authoritative institution: NHRIs, by their nature, have neither judicial nor executive power. There are good reasons why they have limited power of direct implementation and, in most cases, no powers of enforcement. The limit of these powers might be legislative initiative – the power to bring draft legislation before parliament – and the right to initiate or be party to court proceedings (Carver, 2010). Even when NHRIs have the latter powers, which are valuable ones, they tend to be used very sparingly. An NHRI proceeds largely by recommendation, whether in an individual case, a general investigation, or a review of legislation. Whether these recommendations are acted upon is dependent upon a number of factors, of which the most important are probably the predisposition of the authorities and the ‘soft power’ of the human rights institution.

The capacity of NHRIs to have their recommendations implemented is dependent upon the extent to which there is a culture of the rule of law, with oversight of the public service, and also public awareness of human rights. Especially in situations where these two elements are weaker, as with the several post-Communist countries included among the case studies here, the greatest possible political and social weight of the NHRI becomes especially important. In situations where there are multiple institutions – Lithuania, Croatia, Hungary – the different institutions encounter very similar problems in ensuring a positive response from the authorities. Yet, with the exception of Hungary, where there is a formal linkage between the four ombudsman institutions, they do not take advantage of their potential collective influence by taking joint action. In Hungary, the legal and institutional links between the four institutions make it much easier for them to take joint action, including joint investigations and a joint submission to the Constitutional Court (Kosztolanyi, 2001). The situation is simpler still in a country like Georgia, where the enormous public prestige of the Public Defender can be brought to bear on a range of issues. The power wielded by such an institution may be ‘soft’ but it is far from negligible.

Public Profile

The public culture of human rights, as well as the public legitimacy of the institution, may be an important factor in increasing the social weight and effectiveness of an NHRI. A single institution may be more effective than multiple institutions in generating both awareness of the institution itself and broad knowledge and support for human rights.

Coherent message: Many European NHRIs are notoriously poor at formulating a coherent communications strategy. While in principle there is no reason why an institution should not have a strategy that clearly defines the messages it wishes to convey, the audiences it wishes to reach, and the means by which they will do this, in practice this is seldom so (Carver and Korotaev, 2007). NHRIs vary between those with a largely responsive approach to media work – Croatian People’s Ombudsman, Moldova – and those with a scattergun and saturation approach, as in Georgia. In a situation like Georgia, where the institution concerned is highly respected, such an approach works well. The reactive strategy is dependent upon the media having prior knowledge of the NHRI and thinking that its opinion is worth seeking.

In either situation a single institution has considerable advantages. If it takes an active saturation approach then, provided the media are broadly sympathetic, it will acquire a high public profile. If reactive, it will at a minimum be perceived as the single authoritative source of information on human rights.

The importance of coherence – and its greater likelihood with the single institution model – is closely connected with the capacity of an NHRI to apply pressure on the authorities. It was argued above that an important element of the soft power of an NHRI is the public support that it is able to generate. The source of this public support is, in part, the perceived effectiveness of the institution in addressing human rights issues, as well as the public profile it is able to project (which of course influences the perception of its effectiveness). This is most clearly seen in a country like Georgia, where the high public profile enhances a perception of effectiveness and authority, which will be beneficial for all human rights issues that the Public Defender’s Office addresses.

There are, of course, specialized institutions that have coherent and persuasive public profiles, creating public legitimacy and a perception of effectiveness. This has been true, for example, of the Lithuanian Children’s Ombudsman. The difference is that the positive public perception of that institution benefits only the institution itself (and the work that it does). It does not generate a positive perception of the human rights protection system as a whole.

Encompassing more vulnerable groups: One of the arguments for multiple specialized institutions is that it is easier for members of a vulnerable group

to feel some sense of identification with an institution devoted specifically to that group's interests. Hence, for example, the fact that an Ombudsman for Persons with Disabilities is herself disabled would increase the sense of identification. As discussed above, there is clearly some validity in this argument.

The same rationale – that identification increases public support – can however be used to argue for a single institution. This is based on the assumption that public support for human rights in the abstract is generally low, but support for the rights of a specific group to which they have membership will be high. If the single NHRI encompasses active work on behalf of the rights of all vulnerable groups, so the argument goes, then greater numbers will be inclined to identify with and support all its work. This argument, which emerged in the debate on the creation of the Equality and Human Rights Commission in the United Kingdom (O'Cinneide, 2007), is rather difficult to test but has a certain common-sense plausibility about it.

Conclusion

The relevant human rights standards offer no reason to adopt any particular institutional model for protection of human rights at the national level. The very purpose of *national* human rights institutions is that they are tailored to the political, cultural and institutional traditions of each state. Even when a strong argument is advanced in favour of a separate specialized institution, as by the UN Committee on the Rights of the Child, this is framed in terms of pragmatism and effectiveness, not the requirements of international law. Indeed, the only really relevant principles of human rights law to be kept in mind are those of universality and indivisibility.

Arguments for separate institutions that rest upon notions of self-organization, ownership or representativeness are, I have maintained, mistaken and lacking any foundation in human rights law. They are also, almost invariably, inconsistent since they rest upon the assumption, usually unstated, that one particular vulnerable group is more entitled than others to have its 'own' institution.

Arguments of pragmatism and effectiveness weigh overwhelmingly on the side of a single national human rights institution. A single institution applies consistency in its standards, can share good practice, is more cost-effective, is more publicly identifiable, has more impact on the authorities and is likely to enjoy broader public support.

Yet there remains a danger that the rights of particular groups will be neglected within a single institution. One institutional solution to this problem has been to designate a specialized section of a single institution, with ring-fenced funding. Hence, for example, when the single UK Commission was created it was felt that special provision needed to be made for the right of persons with disabilities. A specialized Disability Committee was established by law within the Commission. There was pressure for a similar committee

on racial equality, which was resisted on the grounds that it was difficult to disentangle issues of race and religion. Attempts to amend the draft law to guarantee quotas of women, ethnic minorities and people with disabilities among the commissioners failed (O'Cinneide, 2007).

In Moldova, there was strong pressure for the creation of a separate Children's Ombudsman. The ultimate compromise was the creation of an additional Parliamentary Advocate within the existing institution as a specialized children's rights protector (Roman interview, 2010). Similarly in Georgia the child rights centre was established within the Public Defender's Office.

Australia provides one of the longest-standing examples of the merger of separate institutions to create a robust single body that has succeeded in protecting the interests of its constituent parts. Prior to 1986 there were separate bodies responsible for human rights, community relations, sex discrimination and various other aspects of employment discrimination. These were merged into a single Human Rights and Equal Opportunity Commission (renamed the Australian Human Rights Commission in 2009). The commissioners each retained separate areas of responsibility, with additional mandates (and commissioners) added over the years.

Of course, the question of whether to adopt the model of a single or multiple institutions is seldom one that is addressed with a blank slate. Human rights protection systems are not usually designed from scratch. South Africa's new Constitution in 1994 created a system of multiple bodies with elements of a human rights mandate, but this is unusual. More usually multiple institutions emerge incrementally, before at some point addressing the question – as in the United Kingdom, Sweden, Australia, and Croatia – of whether it would be more rational that they be merged into a single body. I have argued for the clear advantages of a single institution or, at a minimum, a hybrid like the Hungarian model where there is a shared infrastructure and a common legal framework for joint action. Ultimately, however, it is almost impossible to set down rules. The decision to merge or not will have to take account of national and institutional circumstances, and while there should be, I argue, a strong presumption in favour of a single institution, there may on occasions be an equally strong desire not to disrupt functioning and effective multiple institutions by merging them.

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References

- Association for the Prevention of Torture (APT). 2010. OPCAT Country Status: Ratification and Implementation. 11 June. <http://www.apr.ch> (referenced 10 July 2010).
- Carver, Richard. 2000. *Performance and Legitimacy: National Human Rights Institutions*. Versoix: International Council on Human Rights Policy.
- . 2005. *Assessing the Effectiveness of National Human Rights Institutions*. Versoix: International Council on Human Rights Policy.
- . 2010. A New Answer to an Old Question: National Human Rights Institutions and the Domestication of International Law. *Human Rights Law Review* 10(1): 1–32.
- Carver, Richard, and Alexey Korotaev. 2007. *Assessing the Effectiveness of National Human Rights Institutions*. Bratislava: United Nations Development Programme.
- Carver, Richard, Srđan Dvornik, and Denis Redžepagić. 2010. *The Rationalization of the Croatian Human Rights Protection System*. Zagreb: United Nations Development Programme.
- Council of Europe, Office of the Commissioner for Human Rights. 2000. Conclusions of the Meeting between the Ombudsmen of Central and East Europe and Mr Alvaro Gil-Robles, Commissioner for Human Rights, Budapest 23–24 June 2000.
- European Commission against Racism and Intolerance (ECRI). 1997. General Policy Recommendation No. 2 on Specialised Bodies to Combat, Racism, Xenophobia, Antisemitism and Intolerance at National Level. Strasbourg: Council of Europe.
- European Union Agency for Fundamental Rights (FRA). 2010. *National Human Rights Institutions in the EU Member States: Strengthening the fundamental rights architecture in the EU*. Luxembourg: Publications Office of the EU.
- Hatchard, John. 2003. *The Inter-relationship between Commonwealth Human Rights Commissions and Other National Human Rights Institutions*. London: British Council.
- Jones, Jackie. 2005. The Proposals for a Commission for Equality and Human Rights. *Journal of Social Welfare and Family Law* 27(1): 91–104.
- Kosztolanyi, Gusztav. 2001. An Ombudsman to Protect Us. *Central Europe Review* 24(3).
- Murray, Rachel. 2007. National Human Rights Institutions: Criteria and Factors for Assessing their Effectiveness. *Netherlands Quarterly of Human Rights* 25(2): 189–220.
- Niessen, Jan, and Janet Cormack. 2004. National Specialised Equality Bodies in the Wake of the EC Anti-discrimination Directives. In Janet Cormack (ed.),

- Considerations For Establishing Single Equality Bodies and Integrated Equality Legislation*. Belfast: Equality Commission for Northern Ireland (ECNI) and others: 20–29.
- O’Cinneide, Colm. 2002. A Single Equality Body: Lessons from Abroad. Working Paper No. 4. Manchester: Equal Opportunities Commission.
- . 2007. The Commission for Equality and Human Rights: A New Institution for New and Uncertain Times. *Industrial Law Journal* 36(2): 141–62.
- Smith, Anne. 2006. The Unique Position of National Human Rights Institutions: A Mixed Blessing? *Human Rights Quarterly* 28(4): 904–46.
- United Nations (UN). 1993. Principles relating to the Status and Functioning of National Institutions for Protection and Promotion of Human Rights. Adopted by UN General Assembly Resolution A/RES/48/134. 20 December.
- UN, Commission on the Status of Women. 2008. Results of the Fortieth Session of the Committee on the Elimination of Discrimination against Women. 11 February. E/CN.6/2008/CRP.1.
- UN, Committee on the Elimination of Racial Discrimination (CERD). 1993. General Recommendation XVII: On the Establishment of National Institutions to Facilitate the Implementation of the Convention. In Report of the CERD to the UN General Assembly. A/48/18(supp): 116–17.
- UN, Committee on the Rights of the Child. 2002. General Comment No. 2: The Role of Independent National Human Rights Institutions in the Promotion and Protection of the Rights of the Child. CRC/GC/2002/2.

Interviews and correspondence with the author

- Eliadis, Pearl. Email message to the author, 3 April 2010.
- Falk, Mattias, International Secretary, Equality Ombudsman (Diskrimineringsombudsmannen). Telephone interview with the author, 30 January 2010.
- Roman, Dumitru, Consilier al avocatului parlamentar. Interview with the author, Chisinau, 22 July 2010.
- Sidoti, Chris. Email message to the author, 5 March 2010.