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978-1-107-03573-7 - A Commentary on the Paris Principles on National Human Rights Institutions

Gauthier De Beco and Rachel Murray

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A COMMENTARY ON THE PARIS PRINCIPLES ON NATIONAL HUMAN RIGHTS INSTITUTIONS

The Principles relating to the Status of National Institutions (The Paris Principles) were adopted by National Human Rights Institutions (NHRIs) and endorsed by the UN General Assembly and Human Rights Commission. Since their adoption, they have become the standards applicable to these institutions with a mandate to promote and protect human rights. This book offers a complete study of the Paris Principles, which includes an appraisal of their establishment, evolution and potential for the future; a comprehensive commentary on each provision; and a practical guide to their interpretation including the implications they have for the implementation of the competencies of NHRIs. This is the first book to thoroughly analyse the Paris Principles and will be essential reading for a global audience of both practitioners working for NHRIs and the UN as well as human rights scholars.

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FOREWORD

The Paris Principles have proved to be highly influential – and also beyond their original scope. Even though national human rights bodies were foreseen to complement the system of human rights treaties as early as in the mid-1940s, the idea did not truly take off until decades later. The 1965 UN convention on racial discrimination had, in a rudimentary way, managed to include a reference to such bodies (in Article 14(2)). Suggestions to consider such bodies were also made when drafting the two 1966 UN covenants but were ultimately rejected.

The role of NHRIs finally became more clear with the 1993 Vienna world conference on human rights. At this conference, States signed on to the idea of establishing or appointing national human rights institutions (NHRIs) based on the adoption of the Paris Principles in 1991 (subsequently approved by the United Nations General Assembly in 1993). This happened in the light of the new international human rights agenda emerging after the end of the Cold War and aimed to strengthen the implementation of human rights norms and standards as they had been developed in past decades. Human rights were to be transferred from the international conventions into the everyday lives of people and regarded as integral parts of any democratic governance system. For this to be realised, strong national institutions were and are needed.

In order to ensure a consistently high level of independence and to avoid politicisation, a self-regulatory scheme for accreditation (A-, B- and C-status, with A indicating full compliance with the Paris Principles) through the International Coordination Committee of National Human Rights Institutions was established in 1993. The close linkage between accreditation status and the possibilities of NHRIs to interact with the United Nations monitoring system, most recently underlined and reinforced by the UNGA Resolution A/RES/68/171 on 16 December 2013, further added to the attractiveness of the Paris Principles. The importance of this short and practical document has equally been recognised in international instruments including OP-CAT (Article 18(4)) and CRPD

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(Article 33(2)) as well as in the work of the Council of Europe in its 2012 Brighton Declaration on the reform of the European Court of Human Rights. This links the international, regional and national human rights instruments together in a dynamic way which strengthens the overall human rights architecture.

From my current position with the European Union Agency for Fundamental Rights (FRA), I cannot but highlight this perspective. In the EU, a clear example of the normative role of the Paris Principles can be found in the FRA's Founding Regulation. To ensure the FRA is independent from both EU institutions and EU Member States, the Regulation explicitly refers to the Paris Principles in relation to the composition of the FRA's Management Board. In this way, the Founding Regulation has taken the links created by OP-CAT and CRPD between international instruments and institutions at a national (and regional) level a step further. The Paris Principles should also constitute an obvious starting point in the EU debate on the need to strengthen independence criteria for national-level bodies required under EU law, equality bodies and data protection authorities.

National bodies with a human rights remit are needed for the obvious reason that fundamental rights can most effectively be addressed locally. Therefore, it is very positive that the number of NHRIs has risen from 5 in the early 1990s to more than 100 at the beginning of 2014. However, to effectively address human rights locally, such bodies need to be fully effective and independent, and equipped with sufficient resources and the requisite competence to promote and protect the full spectrum of rights, that is, when NHRIs are Paris Principles-compliant. It should be recalled that while principles create the framework, the people entrusted to fill the frame make the difference. With this book, all of the key actors have a strong tool for helping to ensure the protection of human rights for all.

Morten Kjærum

Director, European Union Agency for Fundamental Rights

*Chairperson of the International Coordination Committee of
NHRIs from 2004 to 2007*

*Director of the Danish NHRI from 1991 to 2008,
an A-status institution*

ABBREVIATIONS

APF	Asia-Pacific Forum
AU	African Union
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
CRC	Committee on the Rights of the Child
CRPD	Convention on the Rights of Persons with Disabilities
CSO	Civil society organisation
DPO	Disabled people’s organisation
ECOSOC	Economic and Social Council
ECOWAS	Economic Community of West African States
EHRC	Equality and Human Rights Commission (UK)
EU	European Union
FRA	Fundamental Rights Agency of the EU
GO	General Observation
HRC	Human Rights Council
ICC	International Coordinating Committee of National Human Rights Institutions
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICHRP	International Council on Human Rights Policy
NGO	Non-governmental organisation
NHRI	National Human Rights Institution
NPM	National Preventive Mechanism
NIHRC	Northern Ireland Human Rights Commission
NIRMS	National Institutions and Regional Mechanisms Section
OAS	Organization of American States
OHCHR	Office of the High Commissioner for Human Rights
OPCAT	Optional Protocol to the UN Convention Against Torture
SAHRC	South African Human Rights Commission
SCA	Sub-Committee on Accreditation of the ICC

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X	LIST OF ABBREVIATIONS
SHRC	Scottish Human Rights Commission
SPT	Subcommittee on Prevention of Torture
UN	United Nations
UPR	Universal Periodic Review