

Table of Contents

Kamal Hossain

Introduction

1

Dr Haile Selassie Gebre Selassie and Dr Edmond Völker Contextualizing the Establishment of the Institutions of Human Rights Protection in Ethiopia

7

Introduction

7

Historical and Socio-Political Setting

10

Change of Regime, Human Rights and Law Enforcement Bodies Post-1991

18

Implementation Mechanisms and the Forthcoming National Commission

23

Concluding Remarks

33

Part One:

Background Papers and Special Topics

Chapter 1. Background Papers

Yash Ghai

The Structure of Human Rights in Federations

41

Human Rights in Federations

44

The scope of rights protected in federations

44

Accommodating Bills of Rights to 'ethnic' federation

48

Economic rights in a federation

50

International human rights and the structure of rights

50

General assessment of human rights record of federations

51

Conclusion: The Case of Ethiopia

51

Kamal Hossain

Human Rights and Development

55

Evolving Human Rights Norms and Development

55

National Constitutions, Human Rights and Development

57

Human Rights and Development: An Integrated Approach

58

Role Judiciary and National Institutions

61

Patricia Hyndman

The Role of International Organizations and NGOs in the Protection of Human Rights

63

Introduction

63

The Development of the Protection of Rights

64

The development of the protection of rights at the international level

66

| | |
|---|-----|
| The development of the protection of human rights within domestic arrangements | 68 |
| The Role of International Organizations in the Protection of Human Rights | 68 |
| The protection of rights by international intergovernmental organizations | 68 |
| The protection of rights by regional intergovernmental organizations | 70 |
| (I) Europe | 71 |
| (II) The Americas | 72 |
| (III) Africa | 72 |
| (IV) Asia and the Pacific | 73 |
| The protection of rights by different types of intergovernmental organizations | 73 |
| (I) The Organization of the Islamic Conference | 73 |
| (II) The Commonwealth | 74 |
| The Role of Non-governmental Organizations (NGOs) in the Protection of Human Rights | 74 |
| Conclusion | 78 |
| <i>Chapter II. Special Topics</i> | |
| <i>Dealing with Human Rights Violations Committed under a Previous Regime</i> | |
| Luc Huyse | |
| To Punish or to Pardon – A Devil's Choice: Dealing with Human Rights Violations Committed under a Previous Regime | 83 |
| I. Policies | 83 |
| II. Dilemmas | 84 |
| The case for prosecution and/or lustration | 84 |
| The case against punishment | 85 |
| Meeting ethical requirements and political constraints | 86 |
| III. Constraints | 87 |
| IV. Conclusion | 88 |
| Alex Boraine | |
| The Truth and Reconciliation Commission in South Africa | 89 |
| Past Injustice, Future Reconciliation | 90 |
| Unique Features of the South African Model | 91 |
| Amnesty | 93 |
| The Need to Know | 93 |
| A Commitment to Truth | 94 |
| Conclusion | 95 |
| Rodolfo Mattarollo | |
| The Importance of the Ethiopian Trials in Reinforcing Human Rights Protection in Ethiopia | 97 |
| Bernard A. Muna | |
| Safeguarding the Rights of the Accused in the Prosecution Process at the International Criminal Tribunal for (of) Rwanda | 101 |
| Introduction | 101 |
| I. The Role of Legal Professionals At the Various Stages of the Process | 102 |
| The Judiciary | 102 |
| The Prosecutor | 103 |
| Defence Counsel | 105 |
| II. Guarantee of the Rights of the Accused At the Pretrial Stage | 107 |
| Investigation | 107 |
| Indictment | 108 |

| | |
|--|-----|
| Initial appearance | 109 |
| Further questioning of the accused by the prosecutor | 109 |
| Disclosure obligations | 110 |
| III. The Trial Stage | 111 |
| IV. At the Conclusion of Trial | 112 |
| The right to life | 112 |
| V. The Post-Trial Stage | 112 |
| Conclusion | 113 |

Craig Etcheson

| | |
|--|-----|
| Dilemmas of Accountability in Cambodia | 115 |
| The Trials and Tribulations of a Democratizing Regime Change in Cambodia | 115 |
| The Failure of Past Efforts to Achieve Accountability in Cambodia | 117 |
| The Cambodian Genocide Program | 123 |
| Chaos and Accountability in Cambodian Politics | 124 |
| Conclusion | 128 |

Human Rights and the Child

Peter Newell

| | |
|--|-----|
| The Place of Child Rights in a Human Rights and Ombudsman System | 133 |
| Children are the future | 135 |
| Children are individuals | 136 |
| Children are more affected by the actions – or inaction – of government than any other group | 136 |
| Children have no vote, play no part in the political process | 137 |
| Children – and especially young children – have particular difficulty in finding and using legal remedies when their rights are breached | 137 |

ANNEX

| | |
|--|-----|
| Children's Commissioners and Ombudspersons Around the World | 142 |
| The Norwegian Act establishing the Commissioner for Children (Barneombudet) | 143 |
| Evaluating the world's first children's ombudsperson – the Norwegian Barneombudet. | 144 |
| The Swedish Act to establish the Office of the Children's Ombudsman | 145 |
| Bibliography | 145 |

Elisa Pozza Pasca

| | |
|---|-----|
| From the New York Convention to the Institution of the Ombudsman | 147 |
| Introduction | 147 |
| Human rights and children: from the first international charters to the United Nations Convention | 147 |
| An Ombudsman for children: a new voice to defend children | 149 |
| Crimes against children are crimes against humanity | 151 |

Part Two:

National Institutions for the Protection of Fundamental Rights

Introduction

Leonard F. M. Besselink

| | |
|--|-----|
| Types of National Institutions for the Protection of Human Rights: An Overview of Organizational and Legal Issues | 157 |
| Single, dual and multi-organ systems | 157 |
| Relation to courts | 158 |

| | |
|---|-----|
| Relations between ombudman and human rights commission | 159 |
| Competence | 159 |
| Investigations on complaint or motu proprio; investigative powers | 160 |
| Institutional and functional independence | 161 |
| Remedies | 162 |
| ANNEX | 163 |
| Questionnaire on National Human Rights Commission | 163 |
| A. Tasks and Competences | 163 |
| B. Organization | 163 |
| Questionnaire on Ombudsman Institutions | 164 |

Chapter III. Single Organ Systems

National Human Rights Commissions

Cameroon

S. Nfor Gwei

The Cameroon Experience in Creating and Running a National Commission for the Promotion and Protection of Human Rights

| | |
|---|-----|
| 1. The Creation and Organization of the Commission | 169 |
| a. Creating the National Commission | 170 |
| b. The Organization | 171 |
| I) The General Assembly | 171 |
| II) The Bureau | 171 |
| III) The Specialised Committees | 172 |
| IV) External Branches | 172 |
| c. The Technical and Administrative Staff | 172 |
| 2. The Mandate of the Commission | 172 |
| 3. The Resources and Administrative Management of the Commission | 173 |
| 4. Work Programme of the Commission in Promoting and Protecting Human Rights and Freedoms | 174 |
| A. The Promotion of Human Rights and Freedoms | 174 |
| I) Contact tours | 174 |
| II) Campaign sensitisation and information | 175 |
| III) Education and training in human rights and freedoms | 175 |
| IV) Working with NGOs | 176 |
| V) Briefing the international human rights community | 176 |
| VI) Working with researchers | 176 |
| VII) International activities | 177 |
| VIII) Celebrating Human Rights Day | 177 |
| B. Protecting Human Right and Fundamental Freedoms | 178 |
| I) Investigating incidents and complaints | 178 |
| II) Visits to detention cells and prisons | 180 |
| III) Observing elections | 180 |
| IV) Refuge problems | 180 |
| V) Other areas of the work of the commission | 180 |
| 5. Some Lessons from the Cameroon Experience | 181 |
| A. Authority and powers of the Commission | 181 |
| B. Selection of members | 181 |
| C. The credibility of the Commission | 181 |
| D. Understanding, cohesion and teamwork | 182 |
| E. Incentives or remuneration for members | 182 |
| F. Administrative and technical staff | 182 |

| | |
|---|-----|
| G. Adequate material and financial resources | 182 |
| H. Advantages as government-created institutions | 182 |
| 6. Recommendations | 182 |
| <i>Legislation</i> | 183 |
| Decree No. 90-1459 of 8 November 1990 to set up the National Commission on Human Rights and Freedoms. | 183 |
| Ghana | |
| Emile Short | |
| The Development and Growth of Human Rights Commissions in Africa – the Ghanaian Experience | 187 |
| The Establishment of the Ghana Human Rights Commission | 188 |
| Independence | 189 |
| Accessibility | 190 |
| Constitutional and Statutory Mandate | 191 |
| Powers | 192 |
| Competence | 192 |
| Enforcement Power | 193 |
| Functioning of the Commission | 194 |
| Investigation of complaints | 194 |
| (a) Administrative justice complaints | 194 |
| (b) Human rights complaints | 195 |
| Proactive investigations | 195 |
| Promotion of human rights | 196 |
| Inspection of prison and police cell | 196 |
| Campaign to eliminate dehumanizing cultural practices | 197 |
| Economic and Political Accountability Jurisdiction | 197 |
| Collaboration with Non-governmental Organizations | 198 |
| Problems and Prospects | 199 |
| Concluding Remarks | 199 |
| <i>Legislation</i> | 200 |
| Constitution 1992 | 200 |
| Chapter Eighteen | 200 |
| The Commission on Human Rights and Administrative Justice Act 1993 (Act 456) | 201 |
| Part I – Establishment of Commission on Human Rights And Administrative Justice | 202 |
| Part II – Functions of The Commission | 202 |
| Part III – Provisions Relating to Complaints And Investigations | 204 |
| Part IV – Procedure After Investigation by the Commission | 206 |
| Part V – Miscellaneous Provisions | 206 |
| Commission on Human Rights and Administrative Justice (Complaints Procedure) Regulations 1994 (Constitutional Instrument No. 7) | 208 |
| India | |
| Justice V.S. Malimath | |
| Report on the National Human Rights Commission of India | 211 |
| A. Tasks and Competences | 211 |
| B. Organization | 214 |
| C. Procedure | 217 |
| D. Rulings | 218 |
| E. Review of Experience of the Human Rights Commission. | 219 |

| | |
|---|-----|
| <i>Legislation</i> | 219 |
| The Protection of Human Rights Act, 1993 [No 10 of 1994 (8 January 1994)] | 219 |
| Chapter I Preliminary | 219 |
| Chapter II The National Human Rights Commission | 220 |
| Chapter III Functions and Powers of the Commission | 222 |
| Chapter IV Procedure | 224 |
| Chapter V State Human Rights Commissions | 225 |
| Chapter VI Human Rights Courts | 228 |
| Chapter VII Finance, Accounts and Audit | 228 |
| Chapter VIII Miscellaneous | 229 |

Ombudsman Institutions

Argentina

Louis Maiorano

| | |
|---|-----|
| The Ombudsman Institution in Argentina | 233 |
| A. Legal or constitutional basis | 233 |
| B. Independence and impartiality | 234 |
| C. Complaints regarding acts of government | 235 |
| D. Investigations, report and recommendation | 235 |

| | |
|---|-----|
| <i>Legislation</i> | 236 |
| National Constitution of Argentina | 236 |
| Defensor Del Pueblo of the Argentine Nation Act 24,284 | 237 |
| Title I Establishment, Appointment, Removal, Terms and Conditions | 237 |
| Chapter I – Capacity and Appointment | 237 |
| Chapter II – Limitations, Removal, Vacancies, Privileges | 238 |
| Chapter III – Deputies | 239 |
| Title II Proceedings | 239 |
| Chapter I – Jurisdiction, Commencement and content of the investigation | 239 |
| Chapter II – Handling of the complaint | 240 |
| Chapter III – Collaboration, Responsibility | 241 |
| Title III Decisions | 242 |
| Single Chapter – Scope of decisions, Notifications, Reports | 242 |
| Title IV Human and material resources | 243 |
| Single Chapter – Staff, Financial Resources, Terms | 243 |
| Regulation for the Organization and Functional Structure of the Office of the Defensor Del Pueblo | 243 |
| I. General Provisions | 243 |
| II. The Defensor Del Pueblo | 244 |
| III. Deputies | 245 |
| IV. Economic and Financial Organization | 245 |
| V. Administrative Board | 245 |
| VI. Handling of Complaints | 245 |
| VII. Staff of the Office of the Defensor Del Pueblo | 246 |
| VIII. Publication | 246 |

Austria

Nikolaus Schwärzler

| | |
|--|-----|
| The Ombudsman Institutions in Austria | 247 |
| 1. The norms for the ombudsman institutions | 247 |

| | |
|---|-----|
| a) The statutory basis of the Ombudsman Board (Volksanwaltschaft) in Vienna | 247 |
| b) The statutory basis for the state ombudsmen | 248 |
| c) Comparative survey of characteristics of the three Ombudsman Institutions in Austria | 248 |
| 2. History and Background | 249 |
| 3. Access to the Ombudsman | 251 |
| 4. The competences of the Ombudsman | 252 |
| 5. The procedure before the ombudsman | 255 |
| 6. Organization of Ombudsman offices | 256 |
| 7. Appointment and relative position of the Ombudsmen | 256 |
| 8. Statistics of interest regarding ombudsman offices in Austria | 257 |
| 9. A glance into the past and into the future | 258 |
| <i>Legislation</i> | 259 |
| Austrian Federal Constitution | 259 |
| Chapter VII Ombudsmen Council | 259 |
| Federal Law on the Austrian Ombudsman Board [Volksanwaltschaftsgesetz/ Ombudsman Board Act 1982] | 261 |
| Chapter I. Organization of the Ombudsman Board | 261 |
| Chapter II. Proceedings before the Ombudsman Board | 262 |
| Chapter III. Final provision | 262 |
| State Constitutional Act of 21 September 1988 on the Constitution of the State of Tyrol (Tyrolean State Order 1989) [Tiroler Landesordnung] | 262 |
| Law on the Constitution of <i>Land</i> (State) Vorarlberg | 263 |
| Law on the <i>Landesvolksanwalt</i> [Vorarlberg] | 264 |
| <i>Belgium</i> | |
| Pierre-Yves Monnette | |
| The Parliamentary Ombudsman in Belgium: Strengthening Democracy | 269 |
| Introduction | 269 |
| The different roles of the parliamentary ombudsman in Belgium | 270 |
| 1. Mediation role between citizens and public authorities. | 271 |
| Who may call upon the parliamentary ombudsman in Belgium? | 272 |
| Which are the authorities concerned by claims examined by the parliamentary ombudsman of Belgium? | 272 |
| Which acts can be concerned by claims before the Belgian parliamentary ombudsman? What sort of activities can be targeted by the complaints filed with him? | 274 |
| Which conditions have to be complied with in order to make a valid request to the parliamentary ombudsman in Belgium? | 274 |
| What are the grievances that can be formulated on the occasion of a complaint laid before the parliamentary ombudsman? Which activities can he examine? | 275 |
| 2. The exercise of external control by the parliamentary ombudsman. | 276 |
| 3. The reporting function of the parliamentary ombudsman. | 276 |
| 4. The moral role of the parliamentary ombudsman. | 277 |
| The means allocated to the parliamentary ombudsman in Belgium for the accomplishment of his above missions. | 277 |
| 1. The powers of investigation | 278 |
| 2. The powers of injunction | 278 |
| 3. The powers of recommendation | 278 |
| The Independence of the Belgian parliamentary ombudsman | 279 |
| 1. Statutory independence. | 279 |

| | |
|--|-----|
| 2. Organic independence. | 280 |
| 3. Financial independence. | 280 |
| 4. Functional independence. | 281 |
| 5. Political independence. | 281 |
| 6. Intellectual independence. | 282 |
| 7. Organizational independence. | 282 |
| Conclusion. | 282 |
| <i>Legislation</i> | 283 |
| The Constitution of the Kingdom of Belgium (excerpts) | 283 |
| The Federal Ombudsman Act, Kingdom of Belgium, March 22, 1995. | 284 |
| Chapter I. The Federal Ombudsmen | 284 |
| Chapter II. Complaints | 285 |
| Chapter III. Reports by the ombudsmen | 286 |
| Chapter IV. Various provisions | 286 |
| <i>Colombia</i> | |
| Jose F. Castro Caycedo | |
| The Defender of the Public of the Republic of Colombia | 289 |
| A. Legal and Constitutional Bases | 289 |
| B. Independence and Impartiality | 289 |
| C. Complaints Regarding Acts of Government | 291 |
| D. Research, Reports and Recommendations | 291 |
| <i>Legislation</i> | 292 |
| Constitution of Colombia | 292 |
| Law 24 of 1992 (December 15) | 294 |
| Title I. Legal Nature | 294 |
| Title II. Regulation of the office of the Public Defender | 295 |
| Chapter I. Law of the Defender | 295 |
| Chapter II. Powers | 296 |
| <i>Costa Rica</i> | |
| Rodrigo Alberto Carazo | |
| The Ombudsman of Costa Rica | 299 |
| Tasks and Competence | 300 |
| Organization | 306 |
| Procedure | 310 |
| Rulings | 312 |
| Review of experience | 314 |
| <i>Mauritius</i> | |
| Veda Bhadain | |
| The Institution of the Ombudsman in Mauritius | 315 |
| Constitutional Basis | 315 |
| Independence and Impartiality | 316 |
| Complaints regarding acts of Governments | 317 |
| Jurisdiction of the Ombudsman | 317 |
| Investigations, Report and Recommendation | 318 |
| Investigation upon the Ombudsman's own motion | 318 |
| Investigation upon receiving a complaint | 318 |
| Proceedings | 318 |

| | |
|---|-----|
| Power to call and examine witnesses | 318 |
| Power of the Ombudsman and the doctrine of Crown Privilege | 319 |
| Privilege of communication | 319 |
| Remedy after investigation | 319 |
| The Human Rights Commission | 320 |
| <i>Legislation</i> | 320 |
| Constitution of Mauritius | 320 |
| Chapter IX – The Ombudsman | 320 |
| 96 Office of Ombudsman | 320 |
| 97 Investigations by Ombudsman | 320 |
| 98 Procedure in respect of investigations | 322 |
| 99 Disclosure of information | 322 |
| 100 Proceedings after investigation | 323 |
| 101 Discharge of functions of Ombudsman | 323 |
| 102 Supplementary and ancillary provision | 324 |
| 102A Allegation of fraud or corruption | 324 |
| The Protection of Human Rights Act 1998 (Entry into force 23 February 1998) | 325 |
| 1. Short title | 325 |
| 2. Interpretation | 325 |
| 3. Establishment and appointment of the Commission | 326 |
| 4. Functions of the Commission | 326 |
| 5. Staff of the Commission | 327 |
| 6. Powers and duties of the Commission | 327 |
| 7. Investigation | 328 |
| 8. Protection of witnesses | 328 |
| 9. Persons likely to be prejudicially affected | 328 |
| 10. Protection of action taken in good faith | 328 |
| 11. Reports of the Commission | 328 |
| 12. Finance | 329 |
| 13. Offences | 329 |
| 14. Jurisdiction | 329 |
| 15. Regulations | 329 |
| 16. Consequential amendment | 329 |
| 17. Commencement | 329 |
| <i>Namibia</i> | |
| J. Malan | |
| The Office of the Ombudsman in Namibia | 331 |
| Independence of the Ombudsman | 331 |
| Appointment of the Ombudsman | 332 |
| Duties and Functions of the Ombudsman | 333 |
| Complaints and Confidentiality | 334 |
| Refusal to accept Matters | 335 |
| Powers of the Ombudsman | 335 |
| Procedures following an inquiry or investigation | 336 |
| Reports of Ombudsman | 337 |
| Compliance with the provisions of the Act | 338 |
| Conclusion | 339 |
| <i>Legislation</i> | 339 |
| The Namibian Constitution (February 1990) | 339 |

The Netherlands

| | |
|--|-----|
| Ric de Rooij | 343 |
| National Ombudsman of the Netherlands | 343 |
| Constitution and the National Ombudsman Act | 343 |
| Appointment | 344 |
| Independence | 345 |
| (Impartiality and) Competence | 346 |
| Acts of government | 347 |
| Complaints | 347 |
| Petition | 348 |
| Own initiative | 349 |
| Investigation, report and recommendation | 349 |
| Intervention method | 349 |
| Investigation leading to a report | 349 |
| Procedure | 350 |
| Powers of investigation | 350 |
| Report of findings | 351 |
| The report | 351 |
| Drafting of the judgement | 351 |
| Status of the judgement | 352 |
| Criteria for assessment and their use | 353 |
| Annual Report | 353 |
| Functions of the National Ombudsman and the impact of the work of the | 354 |
| National Ombudsman | 354 |
| Functions of the National Ombudsman | 354 |
| Impact of the work | 355 |
| Legislation | 355 |
| Constitution of the Kingdom of the Netherlands (as most recently amended, 25 March 1999) | 355 |
| National Ombudsman Act [Act of February 4, 1981; Staatsblad 1981, 53, most recently amended by Act of Parliament of April 26, 1995 (Staatsblad 1995, 250)] | 355 |
| Definitions | 356 |
| Chapter I. The National Ombudsman | 356 |
| Chapter II. The Investigation | 359 |
| Chapter III. Transitional and Final Provisions | 363 |

Norway

| | |
|---|-----|
| Arne Flaoy | 365 |
| Legal Institution of the Ombudsman | 365 |
| Legal or constitutional basis | 365 |
| Independence and impartiality | 366 |
| Complaints regarding acts of government | 366 |
| Investigation, report and recommendation | 367 |
| Legislation | 367 |
| The Constitution of the Kingdom of Norway of 17 May, § 75, 1) | 367 |
| Act concerning the Storting's Ombudsman for Public Administration (22 June 1962, amended by | 367 |
| Acts of 22 March 1968, 8 February 1980, 6 September 1991, 11 June 1993 and 15 March 1996) | 367 |
| § 1. Election of Ombudsman | 367 |
| § 2. Directive | 368 |

| | |
|---|-----|
| § 3. Purpose | 368 |
| § 4. Scope of powers | 368 |
| § 5. Basis for work | 368 |
| § 6. Details regarding complaints and time limit for complaints | 368 |
| § 7. Right to obtain information | 369 |
| § 8. Access to offices in the public administration | 369 |
| § 9. Pledge of secrecy | 369 |
| § 10. Termination of a complaints case | 369 |
| § 11. Notification | 369 |
| § 12. Report to the Storting | 370 |
| § 13. Pay, pension, other business | 370 |
| § 14. Staff | 370 |
| § 15. [Entry into force] | 370 |
| Directive to the Storting's Ombudsman for Public Administration (Laid down by the Storting 19 February 1980 in pursuance of § 2 of the Ombudsman Act. | 370 |
| § 1. Purpose | 370 |
| § 2. Scope of Powers | 370 |
| § 3. The form and basis of a complaint | 371 |
| § 4. Exceeding the time limit for complaints | 371 |
| § 5. Terms and conditions for complaints proceedings | 371 |
| § 6. Investigation of complaints | 371 |
| § 7. Notification to the complainant if a case is not proceeded with | 371 |
| § 8. Cases taken up on own initiative | 372 |
| § 9. Termination of the Ombudsman's proceedings | 372 |
| § 10. Instructions for the staff | 372 |
| § 11. Pledge of secrecy in reports to the public | 372 |
| § 12. Annual report to the Storting | 372 |
| § 13. Entry into force | 372 |
| Slovenia | |
| Ivan Bizjak | |
| The Human Rights Ombudsman of Slovenia | 373 |
| Legal and constitutional basis | 373 |
| Independence and impartiality | 374 |
| Complaints regarding acts of government | 375 |
| Investigation, report and recommendation | 376 |
| Legislation | 377 |
| Constitution of the Republic of Slovenia | 377 |
| Human Rights Ombudsman Act | 377 |
| I. General provisions | 377 |
| II. Election and position of the Ombudsman and his deputies | 378 |
| III. Jurisdiction of the Ombudsman | 380 |
| IV. Proceedings | 380 |
| V. The rights of the Ombudsman | 383 |
| VI. The bureau of the Ombudsman | 384 |
| VII. Penalties | 384 |
| VIII. Interim and final provisions | 384 |
| Human Rights Ombudsman Rules of Procedure | 385 |
| I. General provisions | 385 |
| II. The organization and the system of work | 385 |
| III. The proceedings | 387 |
| IV. Other provisions | 390 |

| | |
|---|-----|
| V. Temporary and final provisions | 390 |
| Act on the Constitutional court (Uradni list Republike Slovenije, Official Gazette RS, No. 15/94) | 390 |

Spain

| | |
|---|-----|
| Prof. Juan Vintó Castells | |
| The Ombudsman and the Parliamentary Committees on Human Rights in Spain | 393 |
| I. Introduction | 393 |
| II. The Spanish Ombudsman | 393 |
| 1. The normative framework | 393 |
| 2. Juridical nature: the Ombudsman is a body of constitutional relevance with full functional independence. | 394 |
| 3. Elements which guarantee the independence of the Ombudsman | 396 |
| A. Parliamentary election | 396 |
| a) Importance | 396 |
| b) Term | 396 |
| c) Proposal for candidate or candidates | 396 |
| d) Requirements for the candidates | 397 |
| e) Secret vote and majority of three fifths in each House of Parliament | 397 |
| f) Re-election | 398 |
| B. Functional autonomy and the system of incompatibilities and prerogatives | 398 |
| a) Functional autonomy | 398 |
| b) Incompatibilities | 399 |
| c) Prerogatives | 399 |
| C. Causes and effects of the dismissal | 399 |
| a) Causes | 399 |
| b) Effects | 400 |
| D. Final consideration | 401 |
| 4. Organization and personal and material resources | 401 |
| A. Organic dependence of Parliament | 401 |
| B. Organization and personal resources | 401 |
| a) The Ombudsman as a nonpersonal body | 401 |
| b) The Deputy Ombudsmen | 402 |
| c) Staff in the service of the Ombudsman | 402 |
| d) Material means | 403 |
| 5. Functions: defence of the constitutional rights and supervision of the activities of the Administration | 403 |
| 6. Scope of action: the Administration in a broad sense | 404 |
| A. General Layout | 404 |
| B. Special cases | 404 |
| a) The administration of justice | 404 |
| b) Military administration | 405 |
| c) Administration of the Autonomous Communities | 405 |
| d) Parliamentary administration | 406 |
| 7. Proceedings | 406 |
| A. Ex officio action | 406 |
| B. Intervention at the petition of a party | 406 |
| a) The complaints brought by citizens or legal entities | 406 |
| b) Petitions of Membership or Parliament or of the parliamentary committees | 407 |
| C. Admissibility of the complaints. | 407 |
| a) Acknowledgement of receipt and admission of the transaction | 407 |

| | |
|--|-----|
| b) Investigation and resolution | 407 |
| c) Time limit | 408 |
| D. Permanent functioning | 408 |
| 8. Powers | 408 |
| A. Investigation | 408 |
| B. Powers to ensure the collaboration of the Administration during the investigations | 408 |
| a) The public statement of lack of collaboration | 408 |
| b) Transfer of record to the Public Prosecutor for the institution of criminal proceedings for the offence of disobedience | 408 |
| C. Resolutions on the investigations | 409 |
| a) Lack of coercive power | 409 |
| b) Power of direction: warnings, recommendations, reminders and suggestions | 409 |
| D. Dissemination of the actions and resolutions: identification and publicity of the noncompliance of the Administration | 410 |
| E. Legitimation in judicial procedures | 410 |
| a) Habeas corpus | 410 |
| b) Appeal of unconstitutionality | 411 |
| c) Appeal for protection | 411 |
| 9. Relationships with the Parliament | 412 |
| A. The Parliamentary Joint Committee | 412 |
| B. The Annual Report | 412 |
| III. The parliamentary Committees on Human Rights | 413 |
| Basic Bibliography | 413 |
| Legislation | 414 |
| Constitution of Spain | 414 |
| Organic Act Regarding the Ombudsman | 414 |
| Part I Appointment Functions and Term of Office | 414 |
| Chapter I Nature and Appointment | 414 |
| Chapter II Dismissal, Resignation and Replacement | 415 |
| Chapter III Prerogatives Immunities and Incompatibilities | 415 |
| Chapter IV The Deputy Ombudsmen | 416 |
| Part II Procedure | 416 |
| Chapter I Initiation and Scope of Investigations | 416 |
| Chapter II Scope of Competence | 417 |
| Chapter III Complaints procedure | 417 |
| Chapter IV Obligatory Co-operation of Bodies Requested to do so | 418 |
| Chapter V Confidential Documents | 419 |
| Chapter VI Responsibilities of Authorities and Civil Servants | 419 |
| Chapter VII Reimbursement of Expense to Individuals | 420 |
| Part III Decisions | 420 |
| Chapter I Content of Decisions | 420 |
| Chapter II Notifications and Communications | 421 |
| Chapter III Reports to Parliament | 421 |
| Part IV Human and Financial Resources | 422 |
| Chapter I Staff | 422 |
| Chapter II Financial Resources | 422 |

Sweden

| | |
|---|-----|
| Claes Eklundh | 423 |
| The Swedish Parliamentary Ombudsman System | 423 |
| Introduction | 423 |

| | |
|--|-----|
| Historical Background | 423 |
| The Parliamentary Ombudsmen and the Constitution | 424 |
| The Duties of the Ombudsmen | 425 |
| The Jurisdiction of the Ombudsmen | 425 |
| The Investigatory power of the Ombudsmen | 426 |
| The Weapons of the Ombudsmen | 426 |
| The Organization | 427 |
| The Handling of Complaint Cases | 427 |
| Cases initiated by the Ombudsmen | 429 |
| Inspections | 430 |
| Annual Reports | 430 |
| The Impact of the Ombudsmen | 430 |
| <i>Legislation</i> | 431 |
| Act with Instructions for the Parliamentary Ombudsmen (issued 13 November 1986, consolidated 1 April 1999) | 431 |
| Tasks | 431 |
| Organization | 433 |
| Complaints | 434 |
| General regulations about the treatment of cases | 434 |
| Miscellaneous regulations | 436 |
| <i>Zambia</i> | |
| J.K. Kampekete | |
| The Investigator-General (Ombudsman) of Zambia | 437 |
| Introduction | 437 |
| Constitutional and Legal Basis | 437 |
| Details | 438 |
| Power of Appointment in the Office of Ombudsman | 438 |
| Independence and Impartiality | 438 |
| Impartiality | 439 |
| Separation of His Field of Competence From The Courts and Human Rights Commission | 439 |
| Separation | 440 |
| Complaints Regarding Acts of Government | 440 |
| Complaint Handling | 440 |
| Investigation, Report and Recommendation | 440 |
| Reporting and Recommendation | 441 |
| <i>Legislation</i> | 441 |
| Constitution of Zambia | 441 |
| Part V | 441 |
| Part XII Human Rights Commission (As amended by Act No. 18 of 1996) | 442 |
| Commission for Investigations Act 1991. | 443 |
| Part I Preliminary | 443 |
| Part II Establishment of Commission and Appointments | 444 |
| Part III Power and Procedure | 444 |
| Part IV Reports and Enforcement, Submission of reports to the President | 447 |
| Part V Immunities of the Commission | 448 |

*Chapter IV. Dual Systems***Canada**

| | |
|---|-----|
| Michelle Falardeau Ramsy | |
| Canadian Human Rights Commission | 453 |

| | |
|--|-----|
| Tasks and Competences | 453 |
| Organization | 454 |
| Procedure | 455 |
| Rulings | 456 |
| Review of the experience of existing Human Rights Commissions | 457 |
| Gerard Savard, Director General, Canadian Human Rights Commission | |
| Complaint Handling at the Canadian Human Rights Commission | 459 |
| The Canadian Human Rights Act | 460 |
| Dealing with Complaints | 460 |
| Systemic Discrimination | 461 |
| Challenges | 463 |
| <i>Legislation</i> | 464 |
| Canadian Human Rights Act | 464 |
| Chapter H-6 (An Act to extend the laws in Canada that proscribe discrimination) | 464 |
| Part I Proscribed Discrimination | 464 |
| General | 464 |
| Discriminatory Practices | 464 |
| Part II Canadian Human Rights Commission | 471 |
| Remuneration | 473 |
| Officers and Staff | 473 |
| Part III Discriminatory Practices and General Provisions | 475 |
| Investigation | 475 |
| Conciliator | 479 |
| Canadian Human Rights Tribunal | 480 |
| Inquiries into Complaints | 484 |
| Offences and Punishment | 488 |
| Reports | 488 |
| Minister Responsible | 489 |
| Application | 489 |
| Part IV | 490 |
| Application | 490 |
| Related Provisions | 490 |
| Employment Equity Act | 491 |
| Part I Employment Equity | 493 |
| Employer Obligations | 493 |
| Records and Reports | 497 |
| Part II Compliance | 500 |
| Undertakings and Directions | 501 |
| Employment Equity Review Tribunals | 503 |
| Limitations respecting Directions and Order | 505 |
| Privileged Information | 505 |
| Part III Assessment of Monetary Penalties | 506 |
| Violations | 506 |
| Options | 506 |
| Enforcement of Monetary Penalties | 507 |
| Part IV General | 508 |
| Transitional Provision | 509 |
| Consequential Amendments | 510 |
| Repeal | 510 |
| Coming into Force | 510 |
| Related Provisions | 510 |

| | |
|---|-----|
| Robert L. Jamieson | |
| The Ombudsman of Ontario, Canada | 511 |
| The Legal Foundation for the Ombudsman | 511 |
| Selection of the Ombudsman | 511 |
| Independence and Impartiality | 512 |
| The Impartiality of the Ombudsman | 512 |
| Complaints Regarding Acts of Government | 512 |
| Investigation, Reports and Recommendation | 513 |
| Investigative Powers | 514 |
| Access and Equity | 514 |
| The Ombudsman As Advocate | 514 |
| Accountability | 515 |
| <i>Legislation</i> | 515 |
| Ontario Ombudsman Act | 515 |
| Revised Statutes of Ontario, 1990, Chapter 0.6 | 515 |
| Regulation Under Ombudsman Act | 523 |
| General Rules R.R.O. 1990, Reg. 865 (No Amendments. This Regulation is made in English only.) | 523 |
| Malawi | |
| Justice E.M. Singini | |
| Malawi's Human Rights Commission | 527 |
| Tasks, competences and organizational structure | 527 |
| Organization | 530 |
| Procedure | 531 |
| Rulings | 531 |
| Review of experience of Malawi's HCR | 532 |
| Hon. James Makoza Chirwa | |
| A General Overview on the Set-up of the Malawi Office of the Ombudsman | 533 |
| Background | 533 |
| Duties, Functioning and Powers of the Malawi Office of the Ombudsman | 533 |
| Independence and Privileges of the Ombudsman | 535 |
| Investigations, report and recommendation | 536 |
| Conclusion | 537 |
| <i>Legislation</i> | 537 |
| Constitution of the Republic of Malawi | 537 |
| Chapter X The Ombudsman | 538 |
| Chapter XI Human Rights Commission | 539 |
| Human Rights Commission Act 1998 | 540 |
| Part II – Membership of the Commission | 541 |
| Part III – Competence and Responsibilities of the Commission | 542 |
| Part IV – Hearings, Investigations and Remedies | 544 |
| Part V – Meetings | 546 |
| Part VI – Administrations | 547 |
| Part VII – Finance | 548 |
| Part VIII – Miscellaneous | 548 |
| Schedule s.36 | 549 |
| Organizations | 549 |
| Nigeria | |
| Dr Muhammed Tabiu | |
| National Human Rights Commission of Nigeria | 553 |

| | |
|--|-----|
| Introduction | 553 |
| Mandate and Competence of the Commission | 553 |
| Scope of Competence | 554 |
| Role of NGO's | 555 |
| Organizational Structure | 555 |
| Governing Council | 555 |
| The Secretariat | 556 |
| Zonal Offices | 556 |
| Complaint Procedure | 556 |
| Manner of lodging complaints | 556 |
| Treatment of complaints | 557 |
| Redress | 557 |
| Representation | 557 |
| Provisional measures | 557 |
| Funding | 558 |
| Conclusion: Review of Experience | 558 |
| Prioritising its work | 558 |
| Power to obtain information | 558 |
| Assertion of independence | 558 |
| Effective working relations | 559 |
| Delegation of functions and powers | 559 |
| Accessibility | 559 |
| Chief J.I. Edokpa | |
| The Ombudsman Institution | 561 |
| Introduction | 561 |
| Historical Background | 561 |
| Organizational Structure | 562 |
| Activities of the Public Complaints Commission | 563 |
| Operational Procedure | 564 |
| Publicity | 565 |
| Limitations of Commissioners' Powers | 566 |
| Impact of the Public Complaints Commission on Good Governance in Nigeria | 566 |
| Legislation | 567 |
| National Human Rights Commission Decree 1995 (Supplement to Official Gazette Extraordinary No. 28, Vol. 82, 6th October 1995 Part A) | 567 |
| Decree No. 22 | 567 |
| Part I – Establishment of the Human Rights Commission, etc. | 568 |
| Part II – Functions and Powers | 568 |
| Part III – Staff | 569 |
| Part IV – Financial Provisions | 570 |
| Part V – Miscellaneous Provisions | 571 |
| Schedule Section 2 (4) (Supplementary Provisions Relating to the Council, etc. | 571 |
| Proceedings of the Council | 571 |
| Committees | 572 |
| Public Complaints Commission Act (Laws of Nigeria 1990, Chapter 377) | 572 |
| Uganda | |
| Edmond R.B. Nkalubo | |
| Uganda Human Rights Commission including the Office of the Inspectorate of Government (Ombudsman) | 579 |
| The Uganda Human Rights Commission | 579 |

| | |
|---|-----|
| Background to the UHRC | 579 |
| Staff and activities | 584 |
| Inadequate funds for the programmes | 584 |
| Investigations carried out | 584 |
| Civic education, training and research in human rights in the Constitution | 585 |
| Civic education for the public | 585 |
| Research on human rights and freedoms | 586 |
| Publication of civic educational material | 586 |
| Civic education for schools | 586 |
| Education on the Constitution | 586 |
| Co-ordination and overseeing of civic education programmes | 586 |
| Monitoring government's compliance with international instruments on human rights | 587 |
| The Inspectorate of the Government | 588 |
| Background | 588 |
| The current status of the Inspectorate of government | 589 |
| Functions | 589 |
| Structure | 590 |
| Jurisdiction of Inspectorate | 590 |
| Independence of the Inspector General of Government | 590 |
| Financial resources | 591 |
| Special powers of Inspectorate | 591 |
| Reports of Inspectorate | 591 |
| Methodology | 591 |
| Recommendations | 591 |
| <i>Legislation</i> | 593 |
| The Uganda Human Rights Commission Act 1997 | 597 |
| Inspector-General of Government Statute 1987 | 601 |
| Part I Preliminary Provisions. | 601 |
| Part II Establishment of Office and Appointments. | 602 |
| Part III Functions Powers | 603 |
| Part IV Procedure for Investigations | 605 |
| Part V Investigations | 606 |
| Part VI Reports. | 608 |
| Schedules | 608 |
| First Schedule | 608 |
| Part A | 608 |
| A. Oath of the Inspector-General of Government | 608 |
| B. Official Oath | 609 |
| Part B | 609 |
| Column 1, Person to take Oath | 609 |
| Column 2, Nature of Oath (omitted) | 609 |
| Column 3, Authority to Administer Oath (omitted) | 609 |
| Second Schedule | 609 |
| Search Warrant. Form 1. | 609 |
| Witness Oath. Form 2. | 610 |
| Witness Summons. Form 3. | 610 |
| Warrant of Arrest. Form 4. | 610 |
| <i>Chapter V. Multi Organ Systems</i> | |
| <i>South Africa</i> | |
| David McQuoid-Mason | |
| The Role of Human Rights Institutions in South Africa | 617 |

| | |
|--|-----|
| Introduction | 617 |
| The Public Protector | 617 |
| Role | 617 |
| Achievements | 618 |
| Budget | 618 |
| The Human Rights Commission | 618 |
| Role | 618 |
| Achievements | 619 |
| Budget | 619 |
| The Commission for Gender Equality | 619 |
| Role | 619 |
| Achievements | 619 |
| Budget | 619 |
| The Youth Commission | 620 |
| Role | 620 |
| Achievements | 620 |
| Budget | 620 |
| Commission for the Restitution of Land Rights | 620 |
| Role | 621 |
| Achievements | 621 |
| Budget | 621 |
| The Truth and Reconciliation Commission | 621 |
| Role | 621 |
| Achievements | 622 |
| Budget | 622 |
| Other Commissions Supporting Human Rights and Democracy | 622 |
| Commissions for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities | 622 |
| The Auditor-General | 623 |
| The Electoral Commission | 623 |
| Independent Broadcasting Authority | 624 |
| The Pan South African Language Board | 624 |
| Conclusion | 624 |
| N. Barney Pitso | |
| The South African Human Rights Commission | 627 |
| Establishment and Operations | 628 |
| Relations with the Executive | 629 |
| Independence of the Commission | 630 |
| Programmes | 631 |
| Complaints Handling | 632 |
| Human Rights Education and Public Awareness | 633 |
| Other Programmes | 634 |
| Accountability | 635 |
| Challenges | 636 |
| Adv. S.A.M. Baqwa | |
| South Africa's Ombudsman | 639 |
| The Ombudsman | 640 |
| The Public Protector | 640 |
| Conclusion | 642 |
| <i>Legislation</i> | 643 |
| Constitution of South Africa 1996 | 643 |

| | |
|--|-----|
| Chapter 9 State Institutions Supporting Constitutional Democracy | 643 |
| Public Protector Act, 1994 (No. 23 of 1994) | 647 |
| Act | 647 |
| Preamble | 647 |
| Definitions | 647 |
| Deputy Public Protector and staff of Public Protector | 648 |
| Finances and accountability | 650 |
| Reporting matters to and additional powers of Public Protector | 650 |
| Investigation by Public Protector | 651 |
| Publication of findings | 652 |
| Contempt of Public Protector | 652 |
| Compensations for expenses | 652 |
| Offences and Penalties | 652 |
| Guideline for Provincial public protectors | 653 |
| Application of Act | 653 |
| Repeal of laws | 653 |
| Short title | 653 |
| Human Rights Commission Act 1994 (No. 54 of 1994) | 653 |
| Act | 653 |
| Preamble | 653 |
| Definitions | 654 |
| Seat of Commission | 654 |
| Term of office of members of Commission | 654 |
| Independence and Impartiality | 655 |
| Committees of Commission | 655 |
| Commission may approach President or Parliament | 655 |
| Powers, duties and functions of Commission | 655 |
| Mediation, conciliation or negotiation by Commission | 656 |
| Investigations by Commission | 656 |
| Entering and search of premises and attachment and removal of articles | 657 |
| Vacancies in Commission | 659 |
| Meetings of Commission | 659 |
| Remuneration and allowances of members of Commission | 660 |
| Compensation for certain expenses and damage | 660 |
| Reports by Commission | 660 |
| Staff, finances and accountability | 660 |
| Legal proceedings against Commission | 661 |
| Offences and Penalties | 661 |
| Regulations | 662 |
| <i>United Kingdom</i> | |
| Stephen C. Neff and Eric Avebury | |
| Human Rights Mechanisms in the United Kingdom | 667 |
| Introduction: The UK Legal System | 667 |
| Ombudsmen And Similar Entities | 668 |
| Central government | 668 |
| Local government | 669 |
| Legal services | 670 |
| Data protection | 670 |
| Health services | 671 |
| Prisons | 671 |
| Private-sector housing | 672 |
| Press and Broadcasting standards | 673 |

| | |
|--|-----|
| Police | 673 |
| Trade unions | 674 |
| Northern Ireland (general) | 675 |
| II. Human Rights Commission and Related Bodies | 675 |
| Commission for Racial Equality | 675 |
| Equal Opportunities Commissions | 676 |
| Criminal Cases Review Commissions | 676 |
| Fair Employment Commission for Northern Ireland | 677 |
| Standing Advisory Commissions on Human Rights (for Northern Ireland) | 677 |
| III. Other Human Rights Safeguards in UK Law | 678 |
| Civil actions against public officials for violations of law | 678 |
| Judicial review of official acts | 678 |
| Challenges to forms of detention | 678 |
| Unlawfully obtaining evidence in criminal trials | 679 |
| Recourse to the European Commission and Court of Human Rights | 679 |
| Actions of members of Parliament | 680 |
| Activities of human rights NGOs | 680 |
| <i>Legislation</i> | 680 |
| Parliamentary Commissioner Act 1967 (1967 c 13) | 680 |
| The Parliamentary Commissioner for Administration | 680 |
| 1. Appointment and tenure of office | 680 |
| 2. Salary and pension | 680 |
| 3. Administrative provisions | 681 |
| 3a. Appointment of acting Commissioner | 681 |
| 4. Investigation by the Commissioner | 681 |
| 5. Matters subject to investigation | 682 |
| 6. Provisions relating to complaints | 683 |
| 7. Procedure in respect of investigations | 684 |
| 8. Evidence | 684 |
| 9. Obstruction and contempt | 685 |
| 10. Reports by Commissioner | 685 |
| 11. Provision for secrecy of information | 686 |
| 11A. Consultations between Parliamentary Commissioner and Health Service Commissioners | 686 |
| 12. Interpretation | 686 |
| 13. Application to Northern Ireland | 687 |
| 14. Short title and commencement | 687 |
| Schedule 4 (section 5(8)) | 689 |
| Christopher Boothman | 691 |
| The Commission of Racial Equality | 691 |
| Tasks and Competencies | 691 |
| Codes of Practice | 692 |
| Rights | 692 |
| Specified Unlawful Acts or Behaviours | 692 |
| Direct discrimination | 692 |
| Indirect discrimination | 693 |
| Victimisation | 693 |
| Aiding unlawful acts | 693 |
| Commission named proceedings | 693 |
| Discriminatory advertisements | 693 |
| Instructions to discriminate | 694 |
| Pressure to discriminate | 694 |

| | |
|--|-----|
| Discriminatory practices | 694 |
| Persistent discrimination | 694 |
| Judicial Review | 694 |
| Specified Fields | 694 |
| Limitation Period | 695 |
| Organization | 695 |
| Geographical Remit | 696 |
| Organizational Structure | 696 |
| Procedures | 696 |
| Applications for assistance | 696 |
| Such inquiries as it thinks fit | 697 |
| Remedies | 697 |
| Formal investigation | 697 |
| Power to obtain information | 698 |
| Disclosure of information | 698 |
| Non-discrimination notices | 699 |
| Recommendations and public reports of investigations | 700 |
| <i>Legislation</i> | 700 |
| The Race Relations Act 1976 | 700 |
| Part I – Discrimination to Which Act Applies | 700 |
| Part II – Discrimination in The Employment Field | 701 |
| Part III – Discrimination in Other Fields | 706 |
| Part IV – Other Unlawful Acts | 710 |
| Part V – Charities | 711 |
| Part VI – General Exceptions From Parts II to IV | 712 |
| Part VII – The Commission For Racial Equality | 714 |
| General | 714 |
| Establishment and duties of the Commission | 714 |
| Assistance to organizations | 715 |
| Research and education | 715 |
| Annual reports | 715 |
| Codes of practice | 715 |
| Investigations | 716 |
| Power to conduct formal investigations | 716 |
| Terms of reference | 716 |
| Power to obtain information | 717 |
| Recommendations and reports of formal investigations | 718 |
| Restriction on disclosure of information | 718 |
| Part VIII – Enforcement | 719 |
| General | 719 |
| Part IX – Enforcement of Part III | 720 |
| Non-discrimination notices | 721 |
| Other enforcement by Commission | 722 |
| Period within which proceedings to be brought | 725 |
| Evidence | 726 |
| Part X – Supplemental | 727 |
| Schedules Section 43 | 727 |
| Schedule I – The Commission For Racial Equality | 727 |
| Incorporation and status | 727 |
| Tenure of office of Commissioners | 727 |
| State | 727 |
| Tenure of office of chairman and deputy chairmen | 727 |
| Remuneration of Commissioners | 727 |

| | |
|---|-----|
| Additional Commissioners | 728 |
| Staff | 728 |
| Advisory committees | 729 |
| Proceedings and business | 729 |
| Finance | 729 |
| Disqualification Acts | 729 |
| <i>Chapter VI. National Human Rights Institutions in Africa</i> | |
| Richard Carver and Paul Hunt | |
| National Human Rights Institutions in Africa | 733 |
| Introduction | 733 |
| Historical Review | 735 |
| Key Features | 737 |
| Mandate | 737 |
| Appointment and accountability | 739 |
| Investigations | 741 |
| Case Studies | 744 |
| Tanzania | 744 |
| Togo | 745 |
| Uganda | 747 |
| Zaire | 749 |
| The Gambia | 750 |
| Observations and Suggestions | 751 |
| Independence and impartiality | 751 |
| Human rights institutions and the judiciary | 755 |
| Compulsory powers and enforcement | 756 |
| Governmental and non-governmental human rights bodies | 757 |
| The importance of promotion | 758 |
| Alex de Waal | |
| Human Rights in Africa; Values, Institutions, Opportunities | 759 |
| Overview | 759 |
| Human Rights Traditions in Western Europe and North America | 760 |
| Primary mobilization | 760 |
| Legal aid and public interest litigation | 761 |
| Philanthropy | 762 |
| The laws of war | 763 |
| Second Generation Human Rights Organizations | 763 |
| What are second generation human rights organizations? | 765 |
| Successes of second generation human rights organizations | 768 |
| Possible failures of second generation human rights organizations | 769 |
| Human rights organizations as an exportable commodity | 770 |
| Human Rights as a Foreign Policy Tool for Western Governments | 772 |
| Aid conditionalities | 772 |
| Free enterprise as a fundamental right | 774 |
| Have Human Rights Instruments become "Over-Inflated"? | 775 |
| The Genocide in Rwanda and the Routinisation of Human Rights | 777 |
| A Human Rights Agenda for Africa | 780 |
| Part Three: | |
| Principles and Guidelines for Establishing Human Rights Institutions | |
| Harley Johnson | |
| Ombudsman – Essential Elements | 785 |

| | |
|---|-----|
| Essential Elements | 786 |
| Independence | 786 |
| Impartiality | 786 |
| Investigator | 787 |
| Powers of Recommendation | 787 |
| Jurisdiction | 787 |
| Confidentiality | 787 |
| Delegation | 787 |
| Communications | 787 |
| Referrals | 788 |
| Discretion | 788 |
| Fees | 788 |
| Prisons and Mental Hospitals | 788 |
| Government files | 788 |
| Public reporting | 788 |
| Review | 789 |
| Concrete Models | 789 |
| Malta | 789 |
| USSR | 789 |
| Thailand, Cambodia, Vietnam | 789 |
| Yukon Territory | 789 |
| Tom Hadden | |
| The Role of a National Commission in the Protection of Human Rights | 791 |
| Introduction | 791 |
| National and International Protection of Human Rights | 792 |
| Monitoring and Enforcement | 793 |
| Human Rights Commissions | 793 |
| International standards for national commissions | 793 |
| Human rights and anti-discrimination commissions in common law jurisdictions | 794 |
| A Human Rights Commission for Ethiopia | 795 |
| Human Rights And Constitutional Courts | 796 |
| The Creation of A Human Rights Culture | 797 |
| Brian Burdick | |
| Human Rights Commissions | 801 |
| Introduction and definition | 801 |
| The office of ombudsman and human rights commissions | 801 |
| Scope of the paper | 802 |
| Domestic and international scope | 803 |
| Participation in international meetings | 809 |
| Participation in the drafting of legislation | 811 |
| Review of human rights legislation | 811 |
| Drafting or review of other legislation (existing or proposed) | 811 |
| Recommending legislative action | 812 |
| Quasi-judicial powers | 812 |
| Power to compel production of documents and giving of evidence and powers to prevent interference with activities | 813 |
| Power to make determinations | 814 |
| Activities For Promotion And Protection of Human Rights | 816 |
| Effective and accessible remedies | 816 |
| Involvement in legal proceedings | 818 |
| Community education, awareness of human rights and participation | 818 |

| | |
|--|---------|
| Public inquiry powers | 819 |
| Relations with Non-governmental Organizations (NGOs) | 820 |
| Specific issues of general human rights jurisdiction | 822 |
| Relations with individuals | 824 |
| Individual complaints | 824 |
| “Class Actions” and representative complaints | 825 |
| Complaints by third parties or NGOs | 825 |
| Can the Commission initiate investigations itself? | 826 |
| Relations with the State | 826 |
| Advisory Or Binding Jurisdiction | 827 |
| Conflicts of jurisdiction | 828 |
| National commissions and the courts | 828 |
| Human rights commissions, ombudsmen and other agencies | 829 |
| Federal – state conflicts | 829 |
| Conclusion and Recommendations | 829 |
| Appendix A (Structure And Functions of Australian Human Rights and Equal Opportunity Commission) | 831 |
| Human Rights and Equal Opportunities Act | 831 |
| Appendix B (Public Inquiries on Human Rights in Australia) | 832 |
| The Toomelah Inquiry | 832 |
| The Homeless Children Inquiry | 832 |
| The Racist Violence Inquiry | 833 |
| The Cooktown Inquiry | 834 |
| The Mental Illness Inquiry | 834 |
| APPENDIX | |
| Ethiopian Legislation Establishing the Institution of the Ombudsman and the Human Rights Commission | 835 |
| Introductory Note | 837 |
| Ethiopian Human Rights Commission Establishment Proclamation No. 210/2000 | 839 |
| Part One General Provisions | 839 |
| Part Two Powers and Duties of Appointees | 843 |
| Part Three Rules of Procedure of the Commission | 844 |
| Part Four Administration of the Council of Commissioners and Staff of the Commission | 845 |
| Part Five Miscellaneous Provisions | 846 |
| Institution of the Ombudsman Establishment Proclamation No. 211/2000 | 849 |
| Part One General Provisions | 849 |
| Part Two Powers and Duties of Appointees | 853 |
| Part Three Rules of Procedure of the Institution | 854 |
| Part Four The Council Ombudsmen and Administration of the Staff of the Institution | 855 |
| Part Five Miscellaneous Provisions | 856 |
| Index | 859 |