

Administrative reform is threatening the independence of the Equality and Human Rights Commission

blogs.lse.ac.uk/politicsandpolicy/administrative-reform-is-threatening-the-precarious-independence-of-the-equality-and-human-rights-commission/

11/25/2015

Conservative plans to scrap the Human Rights Act have been postponed amid opposition. Yet despite the absence of radical change, [Katherine Tonkiss](#) explains how administrative reforms to the Equality and Human Rights Commission's governance impact directly on its independence, and possibly on how human rights in the UK are being protected.



One of the earliest and loudest protests against the incoming Conservative government in May 2015 concerned proposals [to abolish](#) the Human Rights Act. It was feared the move would significantly compromise human rights protections in the UK. Such was the outcry that the [plans were postponed](#) for at least a year to allow more time for consultation.

Yet the debate about the quality of human rights protections has been rumbling for much longer. Under the coalition government, plans to radically reform the responsibilities and governance of the Equality and Human Rights Commission (EHRC), the institution responsible for the protection and promotion of human rights in England, Scotland and Wales, were implemented. The plans were introduced off the back of longstanding concerns about the institution's governance since its set-up in 2007, combined with a strengthening anti-human rights agenda, one which was tempered only by the [presence of the Liberal Democrats](#) in the coalition.

While concern about the consequences of changes to the responsibilities of the EHRC was [widespread](#), the implications of more administrative reforms to its governance structures fell somewhat under the radar. My research, undertaken as part of [larger project](#) on the reform of arm's length bodies (or 'quangos') under the coalition, examined these administrative aspects of the reform of the EHRC. The findings suggest that attempts to tighten governmental oversight particularly with regards to the financial affairs of the institution are impacting on its day to day operational independence.

Independence and Accountability

The EHRC is formally recognised as a national human rights institution (or NHRI). NHRIs locate the promotion and protection of international human rights within individual nation-states. Their duties are shaped by the so-called 'Paris Principles' which were agreed by the United Nations in 1991. However, NHRIs do occupy a somewhat awkward position within the state, both independent from governments but also accountable to them for their performance and effective governance. Accountability relationships with government are therefore quite tricky. While NHRIs are funded through public expenditure and therefore the government of the state in which they are based holds them to account for efficient use of public funds, one of the most important roles of any NHRI is to hold those same governments to account on the protection of human rights.

In addition, because of their relationship with government, the existence of NHRIs rests quite precariously on public and political support. While the government of an unpopular NHRI may be loath to abolish the institution in order to protect its human rights reputation internationally, it does have the option to implement substantial reforms in order to marginalise human rights protections.

So, while government has a legitimate concern in ensuring that NHRIs are accountable for spending public money, the challenge is in ensuring that in holding these institutions to account they do not stray into interference in the day to day operations of NHRIs which might compromise the quality of human rights protections as a result.

Reforming the EHRC

My research into the reform of the EHRC focused on institutional reform as a kind of contestation over the value and reach of human rights. It involved the analysis of a large documentary dataset related to the reform obtained from public sources as well as from contacts at the EHRC and in the Government Equalities Office (GEO), together with interviews with senior staff at the EHRC and with civil servants at the GEO.

The research shows that internal governance problems which had plagued the EHRC since its set-up raised a need for the government to carry out administrative reform of the institution in order to ensure effective accountability for public expenditure. This, combined with growing hostility towards the human rights agenda and a desire to increase public sector efficiency as the result of a strong austerity agenda, created a political impetus for administrative reform. However, the reforms undertaken to improve the internal governance of the EHRC had a wider impact on its operational independence.

For example, spending on administrative 'back office' functions must be signed off by civil servants representing the government, but this has had implications for day to day independence. Recruiting lawyers to challenge government policy would need to be signed off by the government itself, for instance, and this was perceived by research participants to compromise operational independence. So too was requiring sign-off for spending on campaigns designed to promote human rights to a wider public.

In addition, reform has involved a shift in the composition of the board of the EHRC as mainly experts with experience of working in various fields of equality and human rights, to individuals who are valued for their experience of working with government. As one participant described, the focus has shifted to 'people who know how government works'. While this is seen as beneficial to the quality of the relationship the government is able to establish with the EHRC and therefore to the quality of its oversight, it means that the representativeness of the governing board has been challenged.

Findings such as these suggest that administrative reform of the EHRC has had implications for its operational independence. While narrowing the EHRC's remit has been recognised to have potentially problematic consequences for human rights protections, this research shows that the administrative reforms undertaken also carry potentially negative consequences for these protections as a result of increased governmental oversight. The EHRC had significant governance problems, particularly surrounding its financial management, but more governmental oversight is impacting on already precarious independence.

Note: The article represents the views of the author and not those of the British Politics and Policy blog nor the LSE. Please read our [comments policy](#) before posting.

About the Author

Katherine Tonkiss is a Lecturer in Sociology and Policy at the School of Languages and Social Sciences, Aston University. She has research interests in the theory and practice of migration, human rights and post-nationalism, with a particular empirical focus on the UK. Her book, [Migration and Identity in a Post-National World](#), was published in 2013 by Palgrave Macmillan.



Featured image credit: [University of Essex](#) CC BY 2.0