

**Draft report of the Fifteenth Session of the  
International Co-ordinating Committee of National Institutions  
for the Promotion and Protection of Human Rights (ICC)**

**Emerald Hall, Lotte Hotel, Seoul, Republic of Korea  
14 September 2004, 1000H - 1200H**

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## **I ORGANISATION OF THE SESSION**

1. The International Co-ordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC) held its Fifteenth Session at the Lotte Hotel, in Seoul, Republic of Korea, on 14 September 2004, prior to the Seventh International Conference of National Human Rights Institutions.
2. The Fifteenth Session was co-chaired by Mr. Morten Kjaerum (Danish Institute for Human Rights), and Ambassador Salvador Campos (the Mexican Human Rights Commission).
3. During his opening statement (*see Annex II*), the Chairperson of the ICC expressed deep appreciation to the commitment of the High Commissioner for Human Rights to the strengthening of national institutions as well as to the Human Rights Commission of the Republic of Korea for hosting the Seventh International Conference of National Human Rights Institutions, 14 – 17 September 2004, in Seoul, Republic of Korea
4. The agenda of the meeting (*see Annex I*) and the report of the Fourteenth session of the ICC were adopted without comment by the members. No proposed amendments had been received by the Secretariat.
5. The Fifteenth Session was attended by representatives of national institutions from Africa, the Americas, the Asia-Pacific and the European regions. Also present were members of the OHCHR National Institutions Unit and ICC Observers (*see Annex IX for a complete list of participants*).

## **II. MATTERS CONCERNING THE SEVENTH INTERNATIONAL CONFERENCE FOR HUMAN RIGHTS INSTITUTIONS**

6. The agenda of the Seventh International Conference of National Human Rights Institutions was presented by Mr. Kim Chang-kuk, President of the National Human Rights Commission of the Republic of Korea and adopted without comment by the ICC members. The Secretariat received no proposed amendments to the agenda, the rules of procedure of the Conference and the rules of procedure of the ICC.
7. Participants were briefed about the modalities of the International Conference (co-organised with the ICC and OHCHR, and with financial support of the Asia Pacific Forum and l'agence inter-gouvernementale de la Francophonie), with the overall theme: *Upholding Human Rights during Conflict and while Countering Terrorism*. For the first time a non-governmental organisations (NGO) Forum was held prior to the Conference with 23 international and 16 Korean NGOs participating actively as observers throughout the Conference and within the thematic Working Groups (which reports formed an integral part of the final Seoul Declaration).

### **III. CONSIDERATION OF THE DRAFT RULES OF PROCEDURE OF THE CREDENTIAL COMMITTEE**

8. The draft rules of procedure of the Sub-Committee on Accreditation, prepared by the Canadian Human Rights Commission (in its capacity as Chairperson of the Sub-Committee on Accreditation) were presented by the French National Advisory Commission of Human Rights and adopted by the ICC members (*see Annex III*). No proposed amendments had been received by the Secretariat.

### **IV. DISCUSSION CONCERNING THE PAPER ON NATIONAL INSTITUTIONS PARTICIPATION IN THE COMMISSION ON HUMAN RIGHTS**

9. The OHCHR National Institutions Unit Coordinator reminded participants that Commission resolution 2004/75 requested the Secretary-General to report on ways and means to enhance the work of national institutions in the work of the Commission on Human Rights. Following the submission of a report by the *Conseil Consulatatif des Droits de l'homme* of Morocco, to the last session of the ICC, a note by the Secretariat (*see Annex IV*) as well as background paper (*see Annex V*) submitted by the Canadian Human Rights Commission (jointly with the French National Advisory Commission of Human Rights and the Australian Human Rights and Equal Opportunity Commission) were distributed to the participants for comments by 22 October 2004. The ICC Chairperson supported the establishment of a Working Group (composed of representatives from each region, the ICC Chairperson and OHCHR), following the submission of the Secretary-General's report to the 61<sup>st</sup> session of the Commission, to study further this issue.
10. On behalf of the Asia Pacific Forum, the Australian Human Rights and Equal Opportunity Commission further made available a paper on the role of national institutions at the United Nations Commission on the Status of Women (*see Annex VI*). OHCHR further noted the expected issuance of a general recommendation on the work of national institutions with the treaty bodies and noted the lack of participation of national institutions during the sessions of the Sub-Commission on the Promotion and Protection of Human Rights.

### **V. DISCUSSION OF PAPER ON EARLY WARNING MECHANISMS**

11. Following a request made at the last session of the ICC, a paper on early warning mechanisms (*see Annex VII*) had been prepared by the Secretariat and was submitted for discussion. The ICC Chairperson encouraged member to provide comments in view of its adoption at the next ICC session as the main guideline on the subject. The Secretariat undertook to ensure that the document would be translated

## **VI. DISCUSSION OF INITIATIVE TO DEVELOP MEASUREMENT INDICATORS CONCERNING NATIONAL INSTITUTIONS AND THEIR COMPLIANCE WITH THE PARIS PRINCIPLES**

12. The National Institutions Unit Coordinator presented an initiative to develop, in cooperation with the International Council on Human Rights Policy jointly with national institutions, measurement indicators concerning national institutions and their compliance with the Paris Principles based on a questionnaire sent to all institutions for comments (*see Annex VIII*).

## **VII. OTHER BUSINESS**

### **Launch of database on complaint handling and news-alert**

13. The ICC Chairperson briefed participants about the launch of the database for procedures and methods of complaint handling of national institutions and the website forum's news-alert ([www.nhri.net](http://www.nhri.net)).

### **Convention on Disability**

14. The National Institutions Unit Coordinator briefed the participants regarding the involvement of national institutions in the drafting of the Convention on Disability and informed participants about the departure of the ICC representative to the Ad Hoc Committee from the South African Human Rights Commission. The Chairperson thanked her for her invaluable contribution in the work of the Ad Hoc Committee. The ICC members agreed that the National Human Rights Commission of India should be the new ICC representative.

### **Conflict and Torture Prevention**

15. OHCHR informed the participants about the approval of a three year regional training project of national institutions on prevention of torture and conflict respectively, developed by OHCHR in cooperation with the NGOs Fahamu and the Association for the Prevention of Torture, and the UN Staff College.

### **Forthcoming roundtables**

16. The participants were informed about the sharing of best practices which will continue with three planned round tables developed in consultation with national institutions:
  - ❖ Migration and National Institutions (with the Comisión Nacional de los Derechos Humanos of Mexico, 14 – 16 October 2004, in Zacatecas, Mexico);
  - ❖ National Institutions and National Mechanisms for the Advancement of Women (with the United Nations Division for the Advancement of Women and the Moroccan Conseil Consultatif des Droits de l'Homme, 15 – 19 November 2004, in Ouazarzate, Morocco);

- ❖ Good Governance and National Institutions (with the Fiji Human Rights Commission, 13-16 December 2004, in Suva, Fiji).

## **VII CLOSING OF THE SESSION**

The ICC closed its Fifteenth Session on the same day, 14 September 2004, at 1200H

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ANNEX I

**FIFTEENTH SESSION OF THE INTERNATIONAL CO-ORDINATING  
COMMITTEE OF NATIONAL INSTITUTIONS  
FOR THE PROMOTION AND PROTECTION  
OF HUMAN RIGHTS (ICC)**

**SEOUL, REPUBLIC OF KOREA  
EMERALD HALL, LOTTE HOTEL  
14 SEPTEMBER 2004  
1000-1200**

**AGENDA**

**TUESDAY, 14 SEPTEMBER 1000-1200**

1. Statement by Mr. Morten Kjaerum, Chairperson of the ICC
2. Adoption of the Agenda
3. Adoption of the report of the previous session
4. Matters concerning the 7<sup>th</sup> International Conference of National Institutions
  - a) Agenda of the Conference and modalities (National Human Rights Commission of the Republic of Korea)
  - b) Any proposed amendments to the rules of procedure of the Conference (Chairperson)
  - c) Any proposed amendments to the rules of procedure of the ICC (Chairperson)
5. Consideration of draft rules of procedure of the Credentials Committee (Canadian Human Rights Commission)
6. Discussion concerning the paper on national institutions participation in the work of the Commission on Human Rights
7. Discussion of paper on early warning mechanisms (Chairperson)
8. Discussion on initiative to develop measurement indicators concerning national institutions and their compliance with the Paris Principles (Chairperson/International Council on Human Rights Policy)
9. Other business
10. Closing session

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ANNEX II

FIFTEENTH SESSION OF THE INTERNATIONAL  
CO-ORDINATING COMMITTEE OF NATIONAL INSTITUTIONS  
FOR THE PROMOTION AND PROTECTION OF HUMAN  
RIGHTS (ICC)

*Seoul, Republic of Korea  
14 September 2004*

***Statement by  
Mr. Morten Kjærum  
Chairperson of the ICC***

Mr. Kim Chang-kuk, President of National Human Rights Commission of the Republic of Korea,  
Ambassador Campos  
Dear colleagues,  
Ladies and gentlemen;

It is a great pleasure and honour to welcome you to the fifteenth session of the ICC. It is a meeting which takes place at a time of many *opportunities* as well as *challenges* and *difficulties*.

Today, in our midst I wish to welcome the High Commissioner, Ms. Louise Arbour, a renowned human rights scholar, jurist and practitioner. On behalf of the ICC I would like to express to her our deep appreciation to her commitment to the work of National Human Rights Institutions (NHRIs) as represented by her presence at the 7<sup>th</sup> International Conference.

Her office is an invaluable partner of the ICC. This collaboration gives us a unique possibility for consolidating a strong partnership between international and national mechanisms for monitoring and implementing human rights. The advice and assistance of her National Institutions Unit is a prerequisite for our work.

I want to take this opportunity to sincerely thank the National Human Rights Commission of the Republic of Korea for the preparation and organization of the 7<sup>th</sup> International Conference. It sets the best possible framework for our discussions and creates the possibility for NHRIs jointly to develop approaches to common challenges. Thereby we will all harvest the fruits of your hard work.

An apparent opportunity is indeed the increased recognition of the concept of NHRIs. The mere fact that more than 100 countries have accepted the need for a specialized institution devoted exclusively to human rights promotion and protection creates a much needed core for the strengthening of the national protection systems. With the words of the High Commissioner this is a key development to ensure that our discussion of rights is moving “beyond the declaratory or the aspirational: rather, we are now well engaged in the application and enforcement of legal obligations.”

With this quick growth in the family of NHRIs also follows the challenge of creating transparent accreditation procedures that ensure respect and enforcement of the Paris Principles. The ICC has faced this challenge by

developing draft rules of procedure for the Credentials Committee that ensure clear classifications for accreditation and clear procedures for handling the applications received. I appreciate the positive responses already received, and I hope that they will be adopted at this meeting. It is our aspiration that this will also provide a framework to facilitate assistance to those institutions that have yet to comply.

In the accreditation process the independence of the institution is often the key issue. Time and again we have discussed the political pressures we face when depending on state funding, but we also need to develop thinking in relation to dependency on donor funding. A challenge is to create mechanisms to ensure that we remain in control of policy developments, to avoid undue influence by external donors with their particular interests and perspectives on human rights protection and promotion.

Needless to say, enforcement of international human rights is not only a question of quantity – the key to our success is to continue to increase the quality of our performance in each of our specific national contexts. With the increased recognition of the need for establishing NHRIs, we therefore have a unique opportunity to refine our working methods to ensure that the Paris Principles are not only respected but built upon.

This work has already commenced most apparent in the conclusions of the Roundtable reflecting on the Paris Principles last December, as well as the conclusions of the two Roundtables on NHRIs and the administration of justice and on the combat of racism and xenophobia. Furthermore, we are taking steps to follow-up on the recommendations reached at these and other meetings. An example is the new database available on [www.nhri.net](http://www.nhri.net) which includes documentation and analysis on the practice, procedures and methods of complaint handling used in NHRIs. It is my aspiration that this can be an inspirational tool for making operational the application of the Paris Principles.

It should be a key priority of the ICC to continue the further development and refinement of our working methods. One specific component of this work would be to further develop the National Human Rights Institutions Forum website to include analysis and documentation on the application of our working tools. For instance, interesting developments can be identified in NHRI responses to inquiries related to the advancement of economic, social and cultural rights, including in relation to discrimination. The collection, exchange and comparison of case law

within this and other areas is one possible way of sharing and improving our practice.

Another common headline for these initiatives is the ICC prioritization of an increased follow-up on the recommendations of the international conferences as envisaged in the functions allotted to the ICC in our Rules of Procedure. At the same time these very Rules of Procedure also raise the challenge of identifying our role in relation to possible follow-up on relevant United Nations resolutions. We have already achieved some progress in this area by devoting our thematic discussions at the international conferences of NHRIs to areas of specific concern. At the 6<sup>th</sup> International Conference in Copenhagen, recommendations were issued on the role of NHRIs in providing early warning of the dangers of ethnic cleansing or armed conflict as well as in identifying and addressing new manifestations of racism, racial discrimination, xenophobia and related intolerance. At the 7<sup>th</sup> International Conference we will be addressing how to uphold human rights during conflict and while countering terrorism. There is a direct line from the meeting in Copenhagen to Seoul.

Dear colleagues, hand in hand with these visions and important achievements in strengthening the concept of NHRIs goes the opportunity it creates to increase the understanding of our unique institutional type. In this respect, one current challenge is our participation in the work of the Commission on Human Rights as well as other UN agenda setting bodies, which we will be addressing at this session of the ICC. Our contributions to the development of new instruments such as the international convention on the rights and dignity of persons with disabilities already demonstrates the important role we can play in feeding the national human rights challenges into international agenda setting. At the same time, the increased possibilities for access to the treaty bodies are an opportunity that we should seize.

Finally, I would like to congratulate the National Human Rights Commission of the Republic of Korea, for having included NGO participation in our international conference. A constructive interaction between NHRIs and NGOs is vital for the success of our common goal: the protection and promotion of human rights. The conference the last couple of days with the NGOs was constructive and I hope that there will be a continuation of the dialogue initiated here in Seoul.

I stand fully committed to work closely with you together with the Vice-Chairperson of the ICC to ensure that the ICC will meet our needs for representation at global level. We look forward to further developing

these and other priorities with you. It is therefore with anticipation and gratitude that I welcome you to this 15<sup>th</sup> meeting of the ICC.

I thank you for your attention.

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## ANNEX III

### Rules of Procedure for the ICC Sub-Committee on Accreditation\*

#### 1. Mandate

In accordance with the Rules of Procedure of the International Coordination Committee of National Institutions for the Promotion and Protection of Human Rights (ICC), the Sub-Committee on Accreditation has the mandate to review and analyse accreditation applications forwarded by the ICC Chairperson and to make recommendations to ICC members on the compliance of applicants with the Paris Principles.

#### 2. Composition of the Sub-Committee

2.1. For the purpose of ensuring a fair balance of regional representation on the Sub-Committee on Accreditation, it shall be composed of one (1) ICC accredited national institution for each of the four (4) regional groupings as established by the ICC Rules of Procedure, namely Africa, Americas, Asia-Pacific, and Europe.

2.2. Members are appointed by Regional Groupings for a term of two (2) years renewable.

2.3. The Sub-Committee on Accreditation designates by consensus, for a term of two years renewable, one of its members to act as Chair of the Sub-Committee.

2.4. The Office of the United Nations High Commissioner for Human Rights shall be a permanent observer to the Committee and in its capacity as Secretariat of the ICC, support the Committee's work, serve as a focal point on all communications and maintain records as appropriate on behalf of the ICC Chairperson.

#### 3. Functions

3.1. Each Regional Grouping Representative to the Sub-Committee on Accreditation shall facilitate the application process for national institutions in the region.

3.2. The Regional Grouping Representative shall supply national institutions from their region with all relevant information pertaining to the accreditation process, including a description of the process, requirements and timelines.

3.3. In accordance with the ICC Rules of Procedure (art. 3), any national institution seeking membership shall apply to the ICC Chairperson, supplying support documents through the ICC Secretariat.

3.4. These applications and support documents shall be provided to the ICC Chairperson no later than two (2) months prior to the meeting of the ICC.

3.5. Applications and documents submitted after this delay will only be examined during the following year's meeting of the ICC, unless the situation warrants otherwise, as determined by the ICC Chairperson.

3.6. The ICC Chairperson will ensure that copies of the applications and supporting documentation are provided to each member of the Sub-Committee on Accreditation.

3.7. The ICC Chairperson, with support from the Office of the United Nations High Commissioner for Human Rights, will also provide a summary of particular issues for consideration by the Sub-Committee.

#### **4. Procedures**

4.1. The Sub-Committee on Accreditation will meet before and during the annual meeting of the ICC in order to review new applications, review additional information submitted on applications presented previously, and prepare recommendations.

4.2. The meeting will be restricted to members of the Sub-Committee on Accreditation and the Office of the United Nations High Commissioner for Human Rights.

4.3 Additional meetings of the Committee may be convened by the Chair with the agreement of the ICC Chairperson and Accreditation Sub-Committee members.

#### **5. Accreditation Classifications**

In accordance with the Paris Principles and the ICC Rules of Procedures, the different classifications for accreditation used by the Committee are:

- A: Compliance with the Paris Principles;
- A(R): Accreditation with reserve – granted where preliminary analysis indicates compliance with the Principles but insufficient documentation is submitted to confer A status;
- B: Observer Status - Not fully in compliance with the Paris Principles or insufficient information provided to make a determination;
- C: Non-compliant with the Paris Principles.

#### **6. Report and Recommendations**

6.1 The Chair of the Sub-Committee on Accreditation will present a report with recommendations and rationale to members of the ICC for their decision.

6.2. The ICC Chairperson will indicate in the report of the meeting decisions taken by ICC members with regards to applications for accreditation.

6.3. The Chairperson of the ICC will inform applicant institutions of the decisions taken and their rationale by ICC members.

\* Adopted by the members of the International Co-ordinating Committee at its 15<sup>th</sup> session, held on 14 September 2004, in Seoul, Republic of Korea.

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## ANNEX IV

### ENHANCING THE ROLE OF NATIONAL INSTITUTIONS IN THE COMMISSION ON HUMAN RIGHTS

**PURPOSE:** The present note is to solicit input from national human rights institutions in relation to the enhancement of their participation in the Commission on Human Rights and its subsidiary bodies. This information will be used in analysis by the United Nations in preparation of a report for submission to the Commission at its 61<sup>st</sup> session by the United Nations Secretary General. This information should be received by the National Institutions Unit of the Office of the High Commissioner for Human Rights no later than 22 October 2004 ([mhaugaard@ohchr.org](mailto:mhaugaard@ohchr.org) or fax 41 22 917 9018).

**BACKGROUND:** The United Nations Secretary General through Commission on Human Rights resolution 2004/75 *National institutions for the promotion and protection of human rights* OP 20 was requested to report to the Commission at its 61st session “*on ways and means to enhance participation of national human rights institutions in the work of the Commission, to enable them to contribute substantially to the work of the Commission by passing on their expert knowledge and practice experience in human rights matters.*”

At its 14<sup>th</sup> session, the ICC was presented with a paper by the then Chair of the ICC, the *Conseil consultative des droits de l’homme du Maroc*. The paper highlighted a number of possible considerations. To recap these included:

Factually, while NIs have no formal status within the United Nations, they can and are participating in the following United Nations arena:

- Participation in the Commission under agenda item 18(b) *National Institutions and regional arrangements*
  - the speaking times are not definite and have varied from 3 to 7 minutes for NIs and for regional groups
  - NIs have been able to have their documents circulated in their own right provided they bring 200-250 of their own copies
  - For the first time two NI related documents were provided with their own UN symbols: E/CN.4/2004/NI/1 and E/CN.4/2004/NI/2
  - A dedicated place is provided in the Commission room – albeit limited in number of seats
  - Note: Resolution 2004/75 *National institutions for the promotion and protection of human rights* under OP 9 welcomes the practice of national institutions which conform with the Paris Principles of participating in an appropriate manner in their own right in meetings of the Commission and its subsidiary body (we draw your attention to the term *appropriate manner* which lacks proper definition)
  
- Participation in all substantive agenda items of the Sub-Commission on Human Rights – with speaking limits defined at 7 minutes

- Participation in their own right in the Ad Hoc Committee on a Comprehensive Convention on the Rights and Dignity of Persons with Disabilities
- Potential for participation as a national preventive mechanism to the Optional Protocol to CAT. Article 18 notes that when States establish a national preventive mechanism that they *shall give due consideration to the Principles relating to the status and functioning of national institutions for the promotion and protection of human rights* (the Paris Principles).
- Increased participation by national institutions in the treaty body process (though each treaty body determines its own operating guidelines).
  - ❖ Three treaty bodies have issued General Comments on National Institutions (CERD 1993; CESCR 1998; and CRC 2002)
  - ❖ The Chairpersons of Treaty Bodies in their annual meeting from 21 to 25 June 2004 agreed to issue a General Recommendation concerning the participation of NIs in the treaty body process
  - ❖ A number of NIs participate independently in State party presentations to the treaty bodies and some have been members of the State party's official delegation
  - ❖ Some NIs have prepared and presented parallel reports to the treaty bodies
  - ❖ NIs are encouraged by the treaty bodies to assist in follow up to the Concluding Observations

Given the above it is clear that there has been increased participation by NIs in United Nations mechanisms even beyond the Commission on Human Rights. The following questions will help in analysing what further could be done to enhance the participation of NIs in the Commission and its subsidiary organs:

### Questions

1. How often do you participate in the sessions of the Commission on Human Rights?
2. What is your interaction with the Commission
  - a. oral statements
  - b. written presentations
3. What is the nature of your intervention – indication of activities; raising particular issues of concern regarding the state of human rights in your country; etc?
4. Do you find merit in participating in the Commission and its subsidiary bodies and if so why?
5. Do you participate in the Commission as:
  - a. an independent capacity (i.e. accredited as a national institutions);
  - b. part of your Government delegation
  - c. both
6. What is your perceived advantage in the approach you take under pt. 5?
7. How often do you participate in other fora – Sub-Commission; Ad-Hoc Working Group; treaty bodies?

8. How do you participate in these fora (as per pt. 5)?
9. How do you engage with Governments in such fora?
10. How do you engage with civil society in such fora?
11. Should NIs in your opinion have the right to participate in the Commission with the same rights as Governments; NGOs; Specialised Agencies; or other?

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## ANNEX V

### **PARTICIPATION BY NATIONAL INSTITUTIONS IN MEETINGS OF THE COMMISSION ON HUMAN RIGHTS AND ITS SUBSIDIARY BODIES\***

#### **I. Purpose of Paper**

1. Participation by national human rights institutions (NHRIs) in the UN Commission on Human Rights (CHR) and its subsidiary bodies has evolved gradually since 1993, when they were granted the right to participate in debates at the Vienna World Conference on Human Rights. The most recent decision on participation was in 1999 when the CHR Chair allowed NHRIs to participate in relevant meetings from a special section of the floor devoted to “national institutions”. While NHRIs have become active and well accepted participants in CHR sessions, their status provides little certainty as demonstrated at CHR58 in 2002. While all speakers’ lists were cut back because of time constraints, individual NHRIs were not given the opportunity to speak at all in their individual capacity during the session – even on the agenda item related to national institutions (item 18 - ‘Further promotion and encouragement of human rights’). This situation was rectified the following year, but serves nevertheless as a testimony to the fragility of NHRI participation in UN meetings.

2. This paper is aimed at reviewing debate within CHR on the participation of NHRI in CHR and its subsidiary bodies and examining a number of options as to how NHRI could more effectively participate in future.

#### **II. Participation of National Institutions in Human Rights Forums – Recent Developments**

3. Recent developments concerning participation of NHRI in human rights fora include the following:

- There are now three General Comments relating to NHRI from the treaty bodies – the Committee on the Elimination of Racial Discrimination (1993), the Committee on Economic, Social and Cultural Rights (1998); and the Committee on the Rights of the Child (2002).
- Article 18 of the Optional Protocol to the Convention Against Torture (yet to be adopted by the General Assembly) opens the possibility for governments, which ratify the Optional Protocol, to use national institutions as the national protection mechanism.
- At its 55<sup>th</sup> session, the Sub-Commission for the Promotion and Protection of Human Rights decided to accredit national institutions to the Sub-Commission in their own right and to allow them to speak on any substantive agenda item.<sup>1</sup>
- NHRIs have been invited to participate in drafting a new International Convention to Protect the Rights of Persons with Disabilities. This is the first time NHRI have been formally invited in their own right to participate in drafting a new international treaty.
- In Resolution 2004/75 of April 2004, CHR “welcomes the report of the Secretary-General (E/CN.4/2004/101) and requests him to report to the Commission at its

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<sup>1</sup> As recorded in the Secretary-General's report entitled *Effective Functioning of Human Rights Mechanisms: National Institutions and Regional Arrangements* E/CN.4/2004/101 para. 9, page 6.

sixty-first session on the implementation of the present resolution and on ways and means to enhance participation of national human rights institutions in the work of the Commission, to enable them to continue to contribute substantially to the work of the Commission by passing on their expert knowledge and practical experience in human rights matters”.

4. In his report of 9 September 2002 concerning the future of the UN, Secretary General Kofi Annan said:

“The capacity of the United Nations to help individual countries to build strong human rights institutions will be strengthened...Building strong human rights institutions at the country level is what in the long run will ensure that human rights are protected and advanced in a sustainable manner. The emplacement or enhancement of a national protection system in each country, reflecting international human rights norms, should therefore be a principal objective of the (United Nations). These activities are especially important in countries emerging from conflict”.

5. Given the growing recognition by the international community of the effectiveness of NHRIs, CHR may well be receptive to granting NHRI enhanced status during sessions of the Commission and its subsidiary bodies. Indeed, many CHR members may see this as welcomed recognition of the evolving and growing role usually accorded to NRHI in the Commission and other human rights fora.

### **III. Previous resolutions and reports concerning participation by NHRI in meetings of the UN Commission on Human Rights (CHR) and its Subsidiary bodies**

6. The issue of participation by national institutions in meetings of CHR and its subsidiary bodies has been the subject of several CHR and UN General Assembly (UNGA) resolutions in the past. In preparing reports pursuant to these resolutions, the Secretary General sought the views of Governments, NHRIs and intergovernmental organisations on possible forms of participation by national institutions in such meetings. A majority of responses received considered that NHRIs should have a distinct status independent from government delegations and they should participate in such meetings in their own right. Responses highlighted a number of advantages in NHRI participation including information sharing, facilitating the work of NHRIs at the UN and providing an opportunity for networking. Some governments also noted that by participating in human rights forums, NHRIs would be able to ensure better follow-up to recommendations.

7. No consensus emerged however on what should be the exact nature of NHRI membership in the UN. In particular, there were different views on whether NHRIs should be direct participants in international bodies, enjoy observer status, or have a status comparable to that of specialized agencies.

8. Nevertheless, the text contained in resolution 2004/75 (referred to above) calling on the UNSG to report on ways to strengthen the participation of NHRIs is an important step forward as, for the first time, it formalizes efforts to strengthen the role of national institutions within UN human rights machinery. It is unclear however if such

report will raise anything substantially new from that written previously (see Annex 1). This report could however comment on the feasibility of various options as outlined below, including amending the ECOSOC rules of procedure to include NHRI participation.

9. Relevant excerpts of the various reports by the Secretary General on NHRIs are contained in Annex 1 below. The decision by the CHR Chair to give NHRIs special status is reflected in CHR resolutions from 1999 onwards and are contained in Annex 2 below.

#### **IV. Accreditation and participation: Modalities**

10. As set out in the most recent CHR resolution (see Annex 2), precedent suggests that only NHRIs which conform with Paris Principles should be entitled to participate and speak in their own right in meetings of the Commission and its subsidiary bodies. This perspective is echoed in successive reports on NHRIs by the Secretary General (see Annex 1). Moreover, successive CHR resolutions clearly acknowledge the role of the International Coordinating Committee of National Institutions, in close cooperation with the Office of the High Commissioner, in assessing conformity with the Paris Principles. Given the UN General Assembly endorsement of the Paris Principles and the importance it places on national institutions conforming to the Principles, one could argue that a logical consequence is to recognize these institutions that are in conformity with the Principles by affording them the right to participate and speak in their own right. Note that successive Secretary General's reports state that it is appropriate for CHR to determine the most suitable type and level of participation by NHRIs in its meetings and those of its subsidiary bodies.

11. Those institutions not yet accredited by the ICC could participate in CHR as they currently do, as observers, but discussion is needed as to how this participation might be categorized. One could consider a 2nd tier 'National Institution' status whereby accredited NHRIs can participate and speak in their own right, and non-accredited NHRIs could participate as observers but would only have a speaking role as part of their government's delegation or possibly as an accredited NGO.

12. A separate issue is whether NHRIs wish to argue for the right to speak not only on the item concerning national institutions (Item 18), but on other relevant human rights issues. However, the proposal that NHRIs speak under a number of agenda items may create logistical and timing problems for both the CHR and NHRIs, particularly given that few NHRIs have either the resources or desire to remain in Geneva throughout the six weeks of the CHR. Instead, one or a combination of the following proposals might be considered:

- each accredited NHRI be allowed to speak on a limited number of agenda items nominated by them (say two or three per NHRI) for a strictly limited period;
- the chair of the ICC (or another authorized representative) be designated to speak on behalf of all institutions or for regional groupings when common positions can be put forward on behalf of the members; and/or

- the capacity to make written submissions under all agenda items be conferred upon accredited NHRIs.

NHRIs might also wish to consider, as a longer term goal, proposing that NHRIs participate at the beginning of the CHR session as a follow-on to the high level segment, thus allowing them to speak on a range of issues in a more prominent fashion.

## **V. Options**

13. Following are some options, some more feasible than others, for better ensuring the effective participation of NHRIs in CHR and its subsidiary bodies in future so as to avoid the problems encountered at CHR58. Preparation will be needed for all of these options, including consultation with states members of the CHR, drafting and coordination of lobbying among ICC National Institutions:

A. CHR Chair's statement: NHRI could seek a statement by the CHR chair to give further precision and certainty in their participation in CHR and its subsidiary bodies. A Chair's statement is similar to a resolution in that it would need to be renegotiated among members of the CHR bureau and other interested CHR member states each year.

B. Decision by CHR: A further option, similar to the Chair's statement, is to request that CHR make a formal decision on NHRI participation at CHR which will presumably set a precedent for further sessions. There are precedents for decisions by one CHR applying to future sessions of the CHR without renegotiation of the decision each year.

C. Amend ECOSOC Rules of Procedure: Amending the rules of procedure of the functional commissions of the Economic and Social Council (ECOSOC) to formalise the role and participation of NRHI in UN system would be the most durable but the most politically difficult and time-consuming option available. Since their adoption, the rules of procedure have only been amended 8 times (most recently in 1982). States are generally reluctant to open such documents as there is no guarantee that amendments will be an improvement on the original text. States would therefore need considerable convincing to devote the resources and negotiating effort necessary to take up the issue. Even if there was some support among States for this option, there would not be any consensus as to how the rules of procedure should be amended to accommodate NHRIs (eg. Seek the creation of a new rule or amend an existing rule? What type of participation should be sought? Which NHRIs should be included?). In that regard, see Annex 3 for formulations proposed by the French National Human Rights Consultative Commission and the Australian Human Rights and Equal Opportunity Commission.

If a common position can be arrived upon as regards those options and the other matters outlined above, then the ICC (in conjunction with OHCHR) might seek to have some input into the report currently being prepared by the UNSG (see para 8 above).

## ANNEX 1

Relevant excerpts of the various reports by the U.N. Secretary General on NHRIs include the following:

January 24, 1995 (E/CH.4/1995/48)

“...In view of the precedent set at the Vienna Conference, the following recommendations are formulated in order to guide the Commission on Human Rights in its deliberations and contribute to the adoption of any decision it deems necessary in this respect

- (c) In the **event that the Commission decides that national institutions should participate in meetings of United Nation human rights bodies, it should pronounce on the conformity of these institutions’ structure and operations with the Principles relating to the status of national institutions**, as adopted by the General Assembly in resolution 48/134 of 20 December 1994;
- (d) The Commission on Human Rights should be informed whenever a national institution is established so as to be able to accord it the appropriate status, after **seeking the opinion of the Coordinating Committee of national institutions**.

February 5, 1997 (E/CH.4/1997/41):

“...In view of their past and potential contribution, it **would be appropriate for the Commission on Human Rights to make a determination concerning the participation of national institutions in its meetings and in those of its subsidiary bodies**. A number of different forms of participation are possible. **National institutions could, for example, be granted the right to participate as a separate category of participant** or even as a separate entity within official delegations. The latter option is, however, somewhat anomalous in view of the fact that national institutions should, according to the Principles endorsed by the Commission and the General Assembly, operate independently from Government. Irrespective of the precise status granted to national institutions, it is strongly recommended that the Commission on Human Rights continue its practice of allocating speaking time to these bodies which is independent of the time allocated to their respective Governments.

Should national institutions be granted a certain status or certain rights within the Commission on Human Rights, it will be necessary to address the question as to which institutions are, in fact, entitled to this status or to enjoyment of these rights. The **principles set out the essential characteristics of national institutions which can be used to determine which institutions may be considered as such.**”(paragraphs 41-42)

December 30, 1997 (E/CH.4/1998/47):

“...According to the option chosen for the participation of national institutions in United Nations human rights forums, national institutions may: (a) be part

of the delegation of their Government and be granted part of the delegation's speaking time; (b) be part of the delegation of their Government and be granted separate speaking time, in addition to that of their delegation; (c) participate in meetings in their own right with separate speaking time (as is the case with observers for non-governmental organizations). (paragraph 9)

February 3, 1999 (E/CH.4/1999/95):

“...At the fifty-second session of the Commission on Human Rights, the Chairman decided to introduce an interim arrangement whereby national institutions could speak from the seat of their Government's delegation, but in their own right and with separate speaking time, during consideration of the item on the agenda relating to national institutions. This arrangement was maintained at the fifty-third session of the Commission. At the fifty-fourth session of the Commission, the Chairman decided that national institutions addressing the Commission could do so from a special section of the floor, set aside specifically for this purpose, under the name plate “National Institutions”. Eighteen national institutions from all regions each received seven minutes' speaking time during consideration of the item on national institutions.”

## ANNEX 2

The decision by the CHR Chair to give NHRI special status is reflected in CHR resolutions from 1999 onwards. Relevant operative paragraphs on participation of NHRI since that time are as follows:

(1999/95): Notes the section of the report of the Secretary General concerning participation by national institutions in United Nations meetings dealing with human rights and considers that the arrangement at the Commission which allows national institutions to address the Commission from a special section of the floor set aside specifically for the purpose, behind the nameplate “National Institutions” should be continued (op 15).

(2000/76): Welcomes the practice of national institutions for the promotion and protection of human rights participating in an appropriate manner in their own right in meetings of the Commission on Human Rights and its subsidiary bodies (op 17).

(2001/80, 2002/83, 2003/76, 2004/75): Welcomes the practice of national institutions, which conform with the Paris Principles, of participating in an appropriate manner in their own right in meetings of the Commission and its subsidiary bodies (op 8/9).

## ANNEX 3

### PROPOSED AMENDMENTS TO ECOSOC RULES

**(Note: Amalgamation of proposals of French and Australian National Institutions, with square brackets marking various options/elements of the text)**

Title XII bis Consultation With and Representation of National Institutions for the Promotion and Protection of Human Rights

Rule 74 (a) – Participation of National Institutions for the Promotion and Protection of Human Rights

National Institutions for the promotion and protection of human rights which have been accredited by the International Coordinating Committee pursuant to the Principles concerning the status of National Institutions for the promotion and protection of human rights, adopted by the General Assembly in resolution 48/134 of 20 December 1993 may designate authorized representatives to participate in the [Commission on Human Rights/ECOSOC functional commissions] [and their subsidiary organs] [as observers] [without right to vote][on questions within the scope of the said institutions]

Consultation

Rule 74(b)

1. The Commission or any subsidiary organ may consult National Institutions for the promotion and protection of human rights which have been accredited by the International Coordinating Committee pursuant to the Principles concerning the status of National Institutions for the Promotion and Protection of Human Rights adopted by the General Assembly in Resolution 48/134 of 20 December 1993 (the Paris Principles). In all cases, such consultations may be arranged on the invitation of the commission or subsidiary organ or at the request of the national institution.
2. On the recommendation of the Secretary-General and at the request of the commission or subsidiary organ, such National Institutions may also be heard by the commission or subsidiary organ.

\* Paper submitted by the Canadian Human Rights Commission jointly with the French National Advisory Commission of Human Rights and the Australian Human Rights and Equal Opportunity Commission

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## ANNEX VI

### **BRIEFING FOR THE 9<sup>TH</sup> ANNUAL MEETING OF THE ASIA PACIFIC FORUM OF NATIONAL HUMAN RIGHTS INSTITUTIONS**

#### **THE ROLE OF NATIONAL HUMAN RIGHTS INSTITUTIONS IN THE UNITED NATIONS' COMMISSION ON THE STATUS OF WOMEN\***

##### **1. Purpose**

The purpose of this paper is to provide the Asia Pacific Forum of National Human Rights Institutions (APF) with background information to inform a discussion on the role of national human rights institutions (NIs) in the United Nations' Commission on the Status of Women (CSW). The paper also puts forward recommendations for future APF action on this issue.

##### **2. Background**

In his report of 9 September 2002 to the United Nations General Assembly concerning the future of the UN (A/57/387, Summary and para 50), Secretary-General Kofi Annan said:

... the capacity of the United Nations to help individual countries to build strong human rights institutions will be strengthened ...

Building strong human rights institutions at the country level is what in the long run will ensure that human rights are protected and advanced in a sustainable manner. The emplacement or enhancement of a national protection system in each country, reflecting international human rights norms, should therefore be a principal objective of the Organization [the United Nations]. These activities are especially important in countries emerging from conflict.

Establishment and strengthening of NIs is a priority of the Office of the High Commissioner for Human Rights. One of the ways in which this commitment to the importance of NIs is given expression in the Commission on Human Rights (CHR) is through the special status afforded to NIs in sessions of CHR.

In particular, NIs are given speaking rights in relation to the agenda item 18(b) "Effective functioning of human rights mechanisms: National institutions and regional arrangements".

National human rights commissions (institutions) or coordinating committees of such commissions may only take the floor under the relevant agenda item (currently item 18(b)) and make one statement of up to seven minutes from special seats reserved for them. Copies of oral statements made by representatives of national institutions may be circulated in the conference room during the consideration of agenda item 18(b) and, if requested, information or reports received from national institutions on their regional

meetings may be circulated as documents of the Commission. (E/CN.4/2002/16, 12 February 2002, para 22)

The issue of participation by national institutions in meetings of CHR and its subsidiary bodies has been the subject of several CHR and UN General Assembly (UNGA) resolutions in the past. Relevant excerpts of the various reports by the Secretary General on NIs are contained in Annex 1 below.

The decision by the CHR Chair to give NIs special status is reflected in CHR resolutions from 1999 onwards. Relevant operative paragraphs on participation of NIs since that time are as follows:

Notes the section of the report of the Secretary-General (E/CN.4/1999/95) concerning participation by national institutions in United Nations meetings dealing with human rights, and considers that the arrangement at the Commission which allows national institutions to address the Commission from a special section of the floor set aside specifically for this purpose, behind the nameplate "National Institutions", should be continued (E/CN.4/RES/1999/72, 28 April 1999, para 15);

Welcomes the practice of national institutions which conform with the Principles relating to the status of national institutions for the promotion and protection of human rights of participating in an appropriate manner in their own right in meetings of the Commission on Human Rights and its subsidiary bodies (E/CN.4/RES/2000/76, 27 April 2000, para 17; E/CN.4/RES/2001/80, 25 April 2001, para 7);

Welcomes the practice of national institutions which conform with the Paris Principles of participating in an appropriate manner in their own right in meetings of the Commission and its subsidiary bodies. (E/CN.4/RES/2002/83, 26 April 2002, para 8; E/CN.4/RES/2003/76, 25 April 2003, para 8; E/CN.4/RES/2004/75, 21 April 2004, para 9).

The Expanded Bureau of the fifty-ninth session recommended enhancing the role of NIs in CHR as part of its report on improvement of the organization of work of the Commission. The secretariat of CHR reported these recommendations to the 60<sup>th</sup> session of CHR.

The role and status of national institutions in the Commission should be strengthened. In particular:

- (a) **Adequate time** should be allocated to the national institutions (7 minutes);
- (b) The **date and time** allocated for national institutions should be fully respected and not bear the consequences for any slippage in the timetable;
- (c) A **designated place** in the meeting room should be reserved for national institutions;
- (d) The Expanded Bureau of the sixtieth session of the Commission should look into the current procedure for **accreditation** of national institutions; and

- (e) **More interaction** between national institutions and participants should be encouraged. (E/CN.4/2004/110, 26 January 2004, para 9)

The decision to formalize efforts to strengthen the role of national institutions within the UN human rights machinery is reflected in the resolution on national institutions adopted at the 60<sup>th</sup> session of CHR (E/CN.4/RES/2004/75, 21 April 2004, chapeau, para 15 & 20).

Noting the valuable role played and contributions made by national institutions in United Nations meetings dealing with human rights and the importance of their continued appropriate participation,

...

Welcomes efforts, through the Secretary-General's action 2 programme (see A/57/387 and Corr.1), to ensure effective engagement by all parts of the United Nations with national institutions ...

Welcomes the report of the Secretary-General (E/CN.4/2004/101) and requests him to report to the Commission at its sixty-first session on the implementation of the present resolution and on ways and means to enhance participation of national human rights institutions in the work of the Commission, to enable them to continue to contribute substantially to the work of the Commission by passing on their expert knowledge and practical experience in human rights matters.

The International Coordinating Committee (ICC) of National Institutions for the Promotion and Protection of Human Rights has also undertaken work with a view to further formalising and strengthening the role of NIs in CHR and its subsidiary bodies. The 2002 meeting of the ICC established a working group on this issue, consisting of Australia, Canada and France. The working group is currently preparing a revised discussion paper which will be discussed at the meeting of the ICC to be held in South Korea on 14 September 2004.

There are other relevant examples of NI involvement in international human rights fora. At its 55<sup>th</sup> session, the Sub-Commission for the Promotion and Protection of Human Rights decided to accredit national institutions to the Sub-Commission in their own right and to allow them to speak on any substantive agenda item.<sup>2</sup>

National institutions are also playing a valuable role in the development of human rights standards. Last year, the Ad Hoc Committee on a Comprehensive and Integral International Convention on Protection and Promotion of the Rights and Dignity of Persons with Disabilities invited national human rights institutions to take up a position on its working group to develop a draft text - the first time such an invitation has been made to national institutions. This invitation is an acknowledgement of the value of a having an independent voice in the development of standards and recognition of the professional and technical experience that national institutions can bring to the negotiating table.

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<sup>2</sup> As recorded in the Secretary-General's report entitled *Effective Functioning of Human Rights Mechanisms: National Institutions and Regional Arrangements* E/CN.4/2004/101 para. 9, page 6.

### **3. Current situation in CSW**

NIs do not have standing in their own right in CSW. This means that NIs must attend CSW as part of their country's government delegation or to seek registration as a non-government organisation observer. Neither of these options enables NIs to speak in their own right within CSW. Nor do these options reflect the unique status of NIs as independent official bodies established in compliance with the UN endorsed Principles Relating to the Status of National Institutions (Paris Principles).

In 2005 it will be the 10th anniversary of the 1995 Beijing World Conference on Women and the Beijing Platform for Action (BPFA), and the 5th anniversary of the outcomes document of the special session of the General Assembly entitled "Women 2000: gender equality, development and peace for the twenty-first century" (the Outcomes Document).

To mark this event, CSW will review implementation of the BPFA and the Outcomes Document, and consider current challenges and forward looking strategies for the advancement and empowerment of women and girls. This will occur at the 49<sup>th</sup> session of CSW, to be held in New York from 28 February to 11 March 2005.

As such, 2005 is a milestone for the development of women's rights. This means that it is timely for the APF to consider the role of NIs in CSW and ways in which this interaction can be enhanced. The participation of NIs in human rights forums, and in particular in meetings of the Commission on Human Rights (CHR) and its subsidiary bodies is informative in this regard.

### **4. Benefits of NI participation in CSW**

The participation of NIs in sessions of the Commission on Human Rights (CHR) provides a possible model for NI participation in CSW and would deliver the following benefits:

- i.** *Assist recognition of women's rights as human rights.* It would give formal recognition within the UN system to the role of NIs in promoting and protecting women's rights and implementing the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) at a domestic level.
- ii.** *Encourage consistency in the working methods between UN bodies.* By mirroring the model established by the CHR, the role of NIs in the protection and promotion of human rights would be extended to another of the Commissions of the Economic and Social Council. This outcome would be consistent with the Secretary-General's reform agenda to mainstream both human rights and women's rights throughout the UN system.
- iii.** *Assist in information sharing and networking between NIs, governments and NGOs.* Sharing of best practice is a significant focus of CSW, through high level roundtables and interactive discussions as part of the main session, and through side events.

For example, the Australian Human Rights and Equal Opportunity Commission held a side event at the 48<sup>th</sup> session of CSW. The event was a lunchtime session involving an interactive panel discussion of practical strategies for involving men in family responsibilities. The panel included speakers from Norway, the United Kingdom, New Zealand and Australia. The session was well attended by approximately 300 non government organisation and government representatives.

- iv. *Provide NIs with a distinct status independent from government delegations.* Granting NIs the right to participate in sessions of CSW in their own right is consistent with the Paris Principles, which require that NIs operate independently from government. This point was made by the Secretary-General in relation to NI participation in CHR.

“...National institutions could, for example, be granted the right to participate as a separate category of participant or even as a separate entity within official delegations. The latter option is, however, somewhat anomalous in view of the fact that national institutions should, according to the Principles endorsed by the Commission and the General Assembly, operate independently from Government.”(E/CN.4/1997/41, 5 February 1997, para 41).

- v. *Ensure NIs can undertake better follow-up of recommendations and implement Agreed Conclusions at a domestic and regional level.* Participation rights within the CSW would enable NIs to take a more proactive role in the development of the priority actions and outcomes of the CSW, and to incorporate these objectives in their own domestic and regional work programs.

The APF is an important regional forum for NIs and it is in the APF’s direct interest to promote the role of its members at CSW.

## **5. Recommendations**

Adoption of the model of NI participation used by CHR would require a resolution to be moved by a member of CSW or a statement by the Chair of CSW. Australia is not currently a member of CSW. A list of current CSW membership is at Annex 2. Ms Kyung-wha Kang of the Republic of Korea was elected Chairperson of CSW on 25 March 2003 for a term of two years (forty-eighth and forty-ninth sessions, 2004-2005).

Should the APF agree to proceed with this issue, the following actions are recommended to facilitate the development and introduction of such a resolution and ensure its subsequent adoption at the CSW:

- i. That APF Forum Councillors support NI participation in CSW, consistent with NI participation in sessions of CHR;
- ii. That the APF convey this support to the Bureau of the CSW and the Director of the United Nations’ Division for the Advancement of Women (DAW);

- iii. That the APF develop a draft resolution for CSW regarding NI participation in sessions of CSW; the Australian Human Rights and Equal Opportunity Commission will be happy to assist with the drafting;
- iv. That the draft resolution be circulated by the APF Secretariat to APF Councillors for their consideration and comment;
- v. That APF Forum Councillors seek the support of their governments for formalising a role for NIs in CSW, including support of a resolution on this issue for consideration at the 49<sup>th</sup> session of CSW;
- vi. That APF Forum Councillors whose Governments are members of CSW, seek their Government's sponsorship of a resolution on NI participation in CSW to be put to the 49<sup>th</sup> session of CSW.
- vii. That the Australian Human Rights and Equal Opportunity Commission note the APF discussion and support of NI participation in CSW at the ICC meeting on 14 September 2004 as part of the ICC discussions on further formalising and strengthening the role of NIs in CHR and its subsidiary bodies.

#### ANNEX 1

Relevant excerpts of the various reports to CHR by the U.N. Secretary General on NIs include the following:

24 January 1995 (E/CN.4/1995/48, para 36)

In view of the precedent set at the Vienna Conference, the following recommendations are formulated in order to guide the Commission on Human Rights in its deliberations and contribute to the adoption of any decision it deems necessary in this respect

- (a) In the event that the Commission decides that national institutions should participate in meetings of United Nation human rights bodies, it should pronounce on the conformity of these institutions' structure and operations with the Principles relating to the status of national institutions, as adopted by the General Assembly in resolution 48/134 of 20 December 1994;
- (b) The Commission on Human Rights should be informed whenever a national institution is established so as to be able to accord it the appropriate status, after seeking the opinion of the Coordinating Committee of national institutions.

5 February 1997 (E/CN.4/1997/41, para 41-42):

In view of their past and potential contribution, it would be appropriate for the Commission on Human Rights to make a determination concerning the participation of national institutions in its meetings and in those of its subsidiary bodies. A number of different forms of participation are possible.

National institutions could, for example, be granted the right to participate as a separate category of participant or even as a separate entity within official delegations. The latter option is, however, somewhat anomalous in view of the fact that national institutions should, according to the Principles endorsed by the Commission and the General Assembly, operate independently from Government. Irrespective of the precise status granted to national institutions, it is strongly recommended that the Commission on Human Rights continue its practice of allocating speaking time to these bodies which is independent of the time allocated to their respective Governments.

Should national institutions be granted a certain status or certain rights within the Commission on Human Rights, it will be necessary to address the question as to which institutions are, in fact, entitled to this status or to enjoyment of these rights. In this connection, reference is once again made to the Principles relating to the status of national institutions for the promotion and protection of human rights. The principles set out the essential characteristics of national institutions which can be used to determine which institutions may be considered as such.

30 December 1997 (E/CN.4/1998/47, para 9):

According to the option chosen for the participation of national institutions in United Nations human rights forums, national institutions may: (a) be part of the delegation of their Government and be granted part of the delegation's speaking time; (b) be part of the delegation of their Government and be granted separate speaking time, in addition to that of their delegation; (c) participate in meetings in their own right with separate speaking time (as is the case with observers for non-governmental organizations).

3 February 1999 (E/CN.4/1999/95, para 58):

At the fifty-second session of the Commission on Human Rights, the Chairman decided to introduce an interim arrangement whereby national institutions could speak from the seat of their Government's delegation, but in their own right and with separate speaking time, during consideration of the item on the agenda relating to national institutions. This arrangement was maintained at the fifty-third session of the Commission. At the fifty-fourth session of the Commission, the Chairman decided that national institutions addressing the Commission could do so from a special section of the floor, set aside specifically for this purpose, under the name plate "National Institutions". Eighteen national institutions from all regions each received seven minutes' speaking time during consideration of the item on national institutions.

28 January 2004 (E/CN.4/2004/101, para 9):

At its fifty-fifth session, the Sub-Commission [Sub-Commission for the Promotion and Protection of Human Rights] decided that national institutions could, for the first time, be accredited to the Sub-Commission in their own right and speak on any substantive agenda item of the Sub-Commission.

28 January 2004 (E/CN.4/2004/101, Annex II: “The Paris Principles: A Reflection”, p24):

A substantive contribution by independent national institutions to international forums such as the Commission on Human Rights and its subsidiary bodies should be encouraged.

## ANNEX 2

### **Membership of the Commission on the Status of Women at its forty-eighth session (2004) (membership expires at the conclusion of 49th, 50th, 51st and 52nd sessions in 2005, 2006, 2007 and 2008, respectively)**

(<http://www.un.org/womenwatch/daw/csw/members.PDF>)

(45 members; four-year term)

#### ***Membership***

*Conclusion of 49th, 50th, 51st and 52<sup>nd</sup> sessions respectively*

Algeria .....	2007
Argentina .....	2005
Armenia .....	2007
Azerbaijan .....	2005
Belgium .....	2007
Bolivia .....	2007
Botswana .....	2006
Burkina Faso .....	2006
Canada .....	2007
China .....	2008
Congo .....	2007
Cuba .....	2006
Dominican Republic .....	2008
El Salvador .....	2008
Gabon .....	2006
Germany .....	2005
Ghana .....	2008
Guatemala .....	2006
Guinea .....	2005
Hungary .....	2008
Iceland .....	2008
India .....	2007
Indonesia .....	2006
Iran (Islamic Republic of) .....	2006
Japan .....	2005
Kazakhstan .....	2008
Malaysia .....	2005
Mauritius .....	2004
Netherlands.....	2005
Nicaragua.....	2006

Nigeria .....	2007
Pakistan .....	2005
Peru .....	2005
Republic of Korea .....	2006
Russian Federation .....	2007
South Africa .....	2006
Sudan .....	2006
Suriname .....	2008
Thailand .....	2007
Tunisia.....	2005
Turkey .....	2007
United Arab Emirates .....	2006
United Kingdom of Great Britain and Northern Ireland .....	2005
United Republic of Tanzania .....	2005
United States of America .....	2008

\* Paper prepared by the Australian Human Rights and Equal Opportunity Commission for the 9<sup>th</sup> session of the Asia Pacific Forum, and transmitted to the 15<sup>th</sup> session of the International Coordination Committee for consideration.

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## ANNEX VII

### **National Institutions in need: Guidelines for Early Warning**

**Purpose:** The International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC) at its 14<sup>th</sup> session in April 2004 decided to consider a paper relating to Early Warning mechanisms for national human rights institutions (NIs). It requested the Secretariat to prepare a draft paper for discussion at its 15<sup>th</sup> session to be held in Seoul, Republic of Korea in September 2004. The purpose of this note is therefore to meet with that request and provide general guidelines for NIs to follow when they or their members or staff are under threat.

**Background:** A number of NIs and/or their members and staff have recently been the subjects of threats. These threats, which may be more or less direct in nature, can for instance take the following forms

- Calls for abolition of the institution;
- Impediments placed on the institution concerning required support to ensure their very existence and the effective functioning of their mandates including:
  - ❖ Financial
  - ❖ Restriction of mandate
  - ❖ Creation of additional/competing institutions which are more government oriented
- Intimidation and/or threats of death or violence against members or staff of the institution.

The reasons behind such threats may relate to certain actions which the NI has undertaken, e.g. criticising Governmental authorities or civil servants; issuing reports and or statements (in annual or extraordinary reports, to international human rights treaty bodies, special mechanisms of the United Nations, the media, etc.); or disgruntled complainants who feel that their requests for remedies have not been satisfied.

The ICC, while not explicitly noted within its mandate as being empowered to take action in support of its members when under threat, is implicitly empowered to do so by virtue of its mandate to strengthen NIs and to ensure that they conform to the Paris Principles; to co-ordinate joint activities and co-operation among NIs; and to liaise with the United Nations and other international organisations. It is therefore appropriate that the ICC provide some general guidelines for NIs to refer to in a Call for Action in support of their institution.

Questions which the ICC will need to consider when such action is requested include:

- ❖ Is there sufficient evidence to justify a particular course of action?;
- ❖ Is the institution in question actually an NI?;
- ❖ What is the most appropriate course of action?;
- ❖ Through which medium is the action going to be most effective?

## Draft Guidelines

The following are the proposed steps which a NI and the ICC may wish to take when a NI is under threat. Such action should never be undertaken without the consent of the NI whether the threat is against the institution or a member or staff:

- ❖ Contact the Chair of the ICC, the Regional Coordinator and/or Secretariat, and the Office of the High Commissioner for Human Rights (OHCHR) explaining the facts and necessary details behind a particular initiative;
- ❖ In consultation with these bodies identify an appropriate course of action, depending on the nature of the threat and the context of the NI at the national level etc., aimed at achieving the most effective remedy.

This could include such steps as:

- ❖ Posting on the NI website ([www.nhri.net](http://www.nhri.net)) information concerning facts regarding the threat and the proposed action;
- ❖ Requesting the ICC Chair and OHCHR to write or make contact with the requisite authority concerning the alleged threat;
  - ICC Chair can request the intervention of other NIs and in particular ICC Members
  - OHCHR, can if appropriate, make contact with the Governmental authorities

Depending on the nature of the threat the process can be incremental. If resolved through direct contact with the authorities then the process can stop. If not then additional pressure may be required, i.e.:

- ❖ Engaging with the national and international media;
- ❖ Requesting the intervention of the relevant United Nations or regional special mechanisms, in particular for example the United Nations Special Rapporteur on Human Rights Defenders, the African Rapporteur on Human Rights Defenders, etc;
- ❖ Drawing the issue to the attention of the United Nations treaty bodies;
- ❖ Drawing the attention to the key International NGOs i.e. Amnesty International, Human Rights Watch, International Commission of Jurists, etc.
- ❖ Drawing attention to the issue of concern in the Commission on Human Rights under agenda item 18(b).

\* \* \*

## ANNEX VIII

### QUESTIONNAIRE

#### Measuring the Effectiveness of National Human Rights Institutions

In March 2000, the International Council on Human Rights Policy published a report entitled *Performance and legitimacy: national human rights institutions*. Based upon detailed research in three countries and a broader survey of many national human rights institutions, the report attempted to look beyond questions about the constitution and legal structure of national institutions to assess what made such bodies effective in practice. The report was widely acknowledged to be a valuable and original contribution to the continuing debate about the role and importance of national human rights institutions.

In early 2005, with assistance from the Office of the High Commissioner for Human Rights (OHCHR), the International Council will publish a further report, with the working title *Knowing what works: Benchmarking tools for national human rights institutions*. The aim of this new report, building on the approach taken in the earlier one, will be to provide ideas to national human rights institutions on how they can measure the effectiveness of their own work.

The purpose of this questionnaire is to ensure the full input of national institutions in the process of drafting the report and any suggestions which come out of it. In addition, it will help update the picture of what national human rights institutions are actually doing, as well as how they are structured. While much of this information is available in the annual reports and other documents of such institutions what is less clear is the ways in which national institutions currently plan and evaluate their own work and what indicators they use to measure their effectiveness. It is hoped that this questionnaire will clarify these latter issues.

The questionnaire is not to compile quantitative data (statistics) but rather gather practical information on how you evaluate your effectiveness. While it would, of course, be appreciated if you could answer all the questions relevant to you, any information that you are able to provide, even if you answer the questionnaire only partially, would be most welcome.

We shall send you our findings and recommendations, both in draft for your comments and when they are finally published. For those participating in the 7<sup>th</sup> International Conference of National Institutions we hope to be able to discuss the project with you as well as the questionnaire.

We are grateful to you for taking the time to complete this questionnaire.

### QUESTIONNAIRE

#### HOW NATIONAL HUMAN RIGHTS INSTITUTIONS EVALUATE THE EFFECTIVENESS OF THEIR WORK

Please complete as many questions as you are able and send the information to both Fairouz El Tom, International Council on Human Rights Policy at Fax # +41 22 775 3303 or Email: [eltom@international-council.org](mailto:eltom@international-council.org) and Jacqueline Broussin, National Institutions Unit, OHCHR, Geneva at Email: [jbroussin@ohchr.org](mailto:jbroussin@ohchr.org).

We would be most grateful if you could return your replies by **AUGUST 31**

**A. BASIC FACTS ABOUT YOUR INSTITUTION**

A1. Name

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A2. Year established

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A3. Legislative basis

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A4. Composition – members and staff

(a) What proportion of the membership and staff of your institution is drawn from the following groups:

- Women
- National or ethnic minorities
- Persons with disabilities

(b) How do you determine whether your institution ensures pluralist representation?

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A5. Appointment criteria

(a) Who appoints the members (commissioners, ombudsman, etc.) of your national human rights institution?

(b) What process of appointment is followed (executive decree, selection committee, other)?

(c) What is the role of civil society?

(d) What criteria (if any) guide the selection of members of the institution?

(e) What form do they take (legislation, rules of procedure, other)?

**INDEPENDENCE**

B1. What indicators do you use to determine whether your institution is independent?

B2. What do you consider to be the most important elements for maintaining the independence of your institution?

B3. What system is in place to protect independence in relation to the financing of your institution (sources of funds, allocation of funds etc)? How do you audit, manage and report on your budget?

## **C. ACCESSIBILITY**

- C1. Who do you see as your “Client”?
- C2. How many offices do you have outside the capital city?
- C3. Do you consider that your institution is effective in reaching remote sections of the population? If so, what leads you to that conclusion?
- C4. What steps have you taken to ensure access by disadvantaged groups such as women, minorities, persons with disabilities, etc?
- C5. Do you meet regularly with civil society, the public, etc.?
- C6. How do you monitor the effectiveness of these steps?

## **D. ACTIVITIES**

### **D1. Activities of your institution**

- (a) What are the main activities of your institution?
- (b) Is equal attention paid to Cultural and Political Rights (CPR) and Economic, Social and Cultural Rights (ESCR)? If not, why not ?
- (c) What is the process by which you plan your work?
- (d) What is the relationship between your activities and how you plan your work?
- (e) How do you determine whether your activity is “successful”?
- (f) In the course of the planning process, do you set targets, indicators or benchmarks? Do you use any results-based methodologies?
- (g) How often do you review your implementation rate of activities?

### **D2. Human Rights Education**

- (a) What activities do you undertake?
- (b) Who are your clients in this area?
- (c) How do you determine client satisfaction?
- (d) How do you measure results?

### **D3. Promotional activities**

- (a) What human rights promotional activities do you undertake?

- (b) How do you measure their impact?
- (c) Do you have a communications plan? If yes, who was involved in drawing it up?
- (d) What measures do you use to evaluate your effectiveness in getting your messages across to the public?

**D4. Complaints**

- (a) Does your institution handle individual complaints from members of the public?
  - i) If yes, how do you evaluate your own effectiveness in dealing with complaints?
  - ii) Are complaints admissible in relation to public and private sector matters?
  - iii) Do you analyse complaints (by the nature of the complaint, characteristics of the complainant, way in which the complaint was resolved etc?) If so, what categories do you use?
  - iv) What process is followed to arrive at recommendations? What steps are taken to monitor and follow-up recommendations (please explain)?

**D5. Monitoring respect for human rights**

- (a) What monitoring systems are in place and what tools are made available to monitors?
  - (b) In monitoring respect, protection and fulfilment of human rights in your country, what standards, benchmarks or indicators do you use?
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**D6. Advice to government**

- (a) In the past year, have you given the government advice on human rights issues (policy, legislation etc)? If yes, what was the advice and has that advice been followed?
- (b) What steps do you take to monitor adherence to the advice you have given?
- (c) Have you provided legislative advice to ensure compliance with international human rights instruments? If so, what process was followed?

**D7. Regional and international relations**

- (a) What is your engagement with the international treaty body process?

- (b) Do you contribute to the preparation of state party reports? If yes how do you do so?
- (c) Do you report to international treaty bodies? If yes, do you do so directly, or via contributions to or comments on your government's report?
- (d) Do you undertake any activities in relation to follow-up to Treaty Bodies concluding observations?

**E. OVERALL EFFECTIVENESS**

- E1. What indicators are particularly important for measuring the effectiveness of your institution?
  - E2. How does your organisation arrive at this assessment? What criteria are used?
  - E3. Does your organisation arrive at this assessment alone, or do you work with other partners to arrive at it (Government, consultants, public surveys, etc)?
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**F. OTHER ISSUES**

Please cite any other issues which you feel are relevant in measuring impact and effectiveness.

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*Thank you for your assistance. If you have any inquiries about this questionnaire, or about the questions it contains, please contact Fairouz El Tom at*

Email: [eltom@international-council.org](mailto:eltom@international-council.org)

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**ANNEX IX**

**List of participants and observers of the Fifteenth Session of the ICC**

**[To be inserted]**

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