

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 14th 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 15th 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?

* Adopted by the members of the International Coordinating Committee of National Human Rights Institutions at its 16th session, held on 14 April 2005, Geneva, Switzerland.

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 be undertaken in consultation with 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) 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, the European Human Rights Commissioner, etc;
- ❖ Drawing the issue to the attention of the United Nations treaty bodies;
- ❖ Drawing the attention to the key International and Regional NGOs;
- ❖ Drawing attention to the issue of concern in the Commission on Human Rights under agenda item 18(b).