

9 Annexes

9.1 Normative Framework

9.1.1 Principles relating to the status and functioning of national institutions for protection and promotion of human rights – the 'Paris Principles'

Adopted by General Assembly resolution 48/134 of 20 December 1993

COMPETENCE AND RESPONSIBILITIES

1. A national institution shall be vested with competence to promote and protect human rights.
2. A national institution shall be given as broad a mandate as possible, which shall be clearly set forth in a constitutional or legislative text, specifying its composition and its sphere of competence.
3. A national institution shall, inter alia, have the following responsibilities:
 - (a) To submit to the Government, Parliament and any other competent body, on an advisory basis either at the request of the authorities concerned or through the exercise of its power to hear a matter without higher referral, opinions, recommendations, proposals and reports on any matters concerning the promotion and protection of human rights; the national institution may decide to publicise them; these opinions, recommendations, proposals and reports, as well as any prerogative of the national institution, shall relate to the following areas:
 - (i) Any legislative or administrative provisions, as well as provisions relating to judicial organizations, intended to preserve and extend the protection of human rights; in that connection, the national institution shall examine the legislation and administrative provisions in force, as well as bills and proposals, and shall make such recommendations as it deems appropriate in order to ensure that these provisions conform to the fundamental principles of human rights; it shall, if necessary, recommend the adoption of new legislation, the amendment of legislation in force and the adoption or amendment of administrative measures;
 - (ii) Any situation of violation of human rights which it decides to take up;
 - (iii) The preparation of reports on the national situation with regard to human rights in general, and on more specific matters;
 - (iv) Drawing the attention of the Government to situations in any part of the country

where human rights are violated and making proposals to it for initiatives to put an end to such situations and, where necessary, expressing an opinion on the positions and reactions of the Government;

(b) To promote and ensure the harmonisation of national legislation, regulations and practices with the international human rights instruments to which the State is a party, and their effective implementation;

(c) To encourage ratification of the above-mentioned instruments or accession to those instruments, and to ensure their implementation;

(d) To contribute to the reports which States are required to submit to United Nations bodies and committees, and to regional institutions, pursuant to their treaty obligations and, where necessary, to express an opinion on the subject, with due respect for their independence;

(e) To co-operate with the United Nations and any other organization in the United Nations system, the regional institutions and the national institutions of other countries that are competent in the areas of the protection and promotion of human rights;

(f) To assist in the formulation of programmes for the teaching of, and research into, human rights and to take part in their execution in schools, universities and professional circles;

(g) To publicise human rights and efforts to combat all forms of discrimination, in particular racial discrimination, by increasing public awareness, especially through information and education and by making use of all press organs.

COMPOSITION AND GUARANTEES OF INDEPENDENCE AND PLURALISM

1. The composition of the national institution and the appointment of its members, whether by means of an election or otherwise, shall be established in accordance with a procedure which affords all necessary guarantees to ensure the pluralist representation of the social forces (of civilian society) involved in the protection and promotion of human rights, particularly by powers which will enable effective co-operation to be established with, or through the presence of, representatives of:

(a) Non-governmental organizations responsible for human rights and efforts to combat racial discrimination, trade unions, concerned social and professional organizations, for example, associations of lawyers, doctors, journalists and eminent scientists;

(b) Trends in philosophical or religious thought;

(c) Universities and qualified experts;

(d) Parliament;

(e) Government departments (if these are included, their representatives should participate in the deliberations only in an advisory capacity).

2. The national institution shall have an infrastructure which is suited to the smooth conduct of its activities, in particular adequate funding. The purpose of this funding should be to enable it to have its own staff and premises, in order to be independent of the Government and not be subject to financial control which might affect its independence.

3. In order to ensure a stable mandate for the members of the national institution, without which there can be no real independence, their appointment shall be effected by an official act which shall establish the specific duration of the mandate. This mandate may be renewable, provided that the pluralism of the institution's membership is ensured.

METHODS OF OPERATION

Within the framework of its operation, the national institution shall:

- (a) Freely consider any questions falling within its competence, whether they are submitted by the Government or taken up by it without referral to a higher authority, on the proposal of its members or of any petitioner,
- (b) Hear any person and obtain any information and any documents necessary for assessing situations falling within its competence;
- (c) Address public opinion directly or through any press organ, particularly in order to publicise its opinions and recommendations;
- (d) Meet on a regular basis and whenever necessary in the presence of all its members after they have been duly concerned;
- (e) Establish working groups from among its members as necessary, and set up local or regional sections to assist it in discharging its functions;
- (f) Maintain consultation with the other bodies, whether jurisdictional or otherwise, responsible for the promotion and protection of human rights (in particular, ombudsmen, mediators and similar institutions);
- (g) In view of the fundamental role played by the non-governmental organizations in expanding the work of the national institutions, develop relations with the non-governmental organizations devoted to promoting and protecting human rights, to economic and social development, to combating racism, to protecting particularly vulnerable groups (especially children, migrant workers, refugees, physically and mentally disabled persons) or to specialised areas.

Additional principles concerning the status of commissions with quasi-jurisdictional competence

A national institution may be authorised to hear and consider complaints and petitions concerning individual situations. Cases may be brought before it by individuals, their representatives, third parties, non-governmental organizations, and associations of trade unions or any other representative organizations. In such circumstances, and without prejudice to the principles stated above concerning the other powers of the commissions, the functions entrusted to them may be based on the following principles:

- (a) Seeking an amicable settlement through conciliation or, within the limits prescribed by the law, through binding decisions or, where necessary, on the basis of confidentiality;
- (b) Informing the party who filed the petition of his rights, in particular the remedies available to him, and promoting his access to them;
- (c) Hearing any complaints or petitions or transmitting them to any other competent authority within the limits prescribed by the law;
- (d) Making recommendations to the competent authorities, especially by proposing

amendments or reforms of the laws, regulations and administrative practices, especially if they have created the difficulties encountered by the persons filing the petitions in order to assert their rights.

9.1.2 National Human Rights Institutions:

Amnesty International's recommendations for effective protection and promotion of human rights

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INTRODUCTION: STANDARDS ARE A PRE-REQUISITE FOR EFFECTIVE ACTION

National human rights institutions (NHRIs) include institutions such as ombudspersons for the defense of human rights, and the institutions in Latin America known as '*defensorias del pueblo*' and '*procuradorias de derechos humanos*'. Such NHRIs can be distinguished from non-governmental human rights organisations by their very establishment as a quasi-governmental agency occupying a unique place between the judicial and executive functions of the state, and where these exist, the elected representatives of the people. The aim of their establishment should be to promote and protect human rights, through effective investigation of broad human rights concerns and individuals' complaints about human rights violations they have suffered, and through making recommendations accordingly.

Amnesty International has developed the following recommendations, based on the organisation's observations of the work of NHRIs and their impact throughout the world. This document includes examples of good and bad practice. Amnesty International believes that these recommendations are essential elements to ensure the independent and effective establishment and functioning of national human rights institutions. They should be considered alongside other guidelines such as the 'Principles relating to the status of national institutions' (adopted in the UN Commission on Human Rights Resolution 1992/54, known as 'the Paris Principles') as a tool both to assess the effectiveness of existing national human rights institutions, and to ensure that new NHRIs are set up with the requisite ingredients for effective and independent functioning.

The recommendations set out in this document are Amnesty International's assessment of a foundation for effective work to promote and protect human rights. However, implementation of these recommendations on a formal level should not be seen as an end in itself - NHRIs should be judged on their results in effecting improvement in the human rights situation in their country, and in providing investigations and remedies in individual cases. The results of their investigations should be open to scrutiny by civil society, including human rights defenders. They should work to combat impunity for all those who order, carry out, and cover up human rights violations. NHRIs should be judged on how they implement these goals, not solely on their legal or institutional framework. Amnesty International has received reports of many examples of good practices and good results in these aims, but also many shortcomings and these recommendations are meant to encourage best practices in all NHRIs. It is Amnesty International's experience that those NHRIs which have been set up according to the principles in these recommendations and are functioning well and enjoy a level of credibility and trust which facilitates their relationship with the executive, the judiciary

and most importantly, the victims of human rights violations, and makes their work even more effective.

Some of the recommendations concern the establishment of NHRIs and as such are aimed at governments, but others concern the operation of NHRIs, and are therefore aimed at governments, so that they can do all that is necessary to facilitate the efficient running of NHRIs, but also the NHRIs themselves. They may also be useful to those in civil society who are monitoring their performance.

The position of NHRIs as institutions within the state structure and yet independent - and where necessary, critical - is relatively new development in the protection of human rights. It is important to clarify their true role: NHRIs should never be seen as a replacement or alternative to an independent, impartial, properly resourced, accessible judiciary, whose rulings are enforced. NHRIs can however constitute an effective complement to the judiciary and other institutions within the state in promoting and protecting human rights standards. There can be no alternative to a determined government policy to holding the perpetrators of human rights violations accountable.

AMNESTY INTERNATIONAL'S RECOMMENDATIONS ON EFFECTIVE PROTECTION AND PROMOTION OF HUMAN RIGHTS

1. Establishment of NHRIs to ensure independence and effective action

The following recommendations on the establishment are to ensure that action can be taken by the NHRI in full independence and to ensure its ability to take effective action to address violations. Formal independence without effective action is not sufficient.

1.1 Founding legislation

NHRIs must be independent from the executive functions of government and its founding charter should reflect this. It is essential therefore that NHRIs should be established by law or, preferably, by constitutional amendment. Where NHRIs are established merely by presidential or other kinds of decree, it is easier to abolish them, or to limit powers which are necessary to their effective functioning.

1.2 Consultation with civil society

The consultation process on and about the establishment of NHRIs should include representatives of civil society, such as human rights organisations, human rights defenders, lawyers, journalists, academics, the medical profession, social workers, trade unionists, and non-governmental organisations generally. Members of sectors of the population such as women, children and those representing their interests, religious, ethnic and racial groups, and other groups which are vulnerable to human rights violations (and which may be under-represented amongst civil society bodies) should also be consulted about the kind of assistance they require to promote and protect their human rights. The consultation process should be transparent, adequate, effective and properly resourced to ensure proper consultation.

1.3 Effective jurisdiction in federal states

Amnesty International has frequently noted that NHRIs have difficulties in ensuring that they can address violations throughout the territory of federal states. In some federal countries, NHRIs have been established with mandates that only permit them to consider cases where federal personnel commit human rights violations, or where human rights violations take place during the enforcement of federal law.

Amnesty International recommends therefore that any legislation in federal systems setting up an NHRI is made explicitly applicable to all parts of the federal system so that there are no de facto gaps in jurisdiction. Any NHRI, whether in a federal state or otherwise, should be able to examine all human rights violations, as defined by international human rights law, throughout the country's territory and regardless of the identity of the perpetrator.

All citizens with complaints of human rights violations should be able to bring them to an NHRI.

1.4 Co-operation with other institutions

The founding legislation of an NHRI should include provisions whereby the NHRI is empowered, on its own initiative, to submit reports to, and where appropriate, to address in person, legislative bodies, the executive, or other political institutions.

The NHRI should be directed to establish effective co-operation with other human rights institutions, whether domestic or from other countries, non-governmental organisations, including human rights organisations, and UN human rights bodies. In some cases, it may be useful to develop memoranda of understanding between NHRIs and other institutions to facilitate such relationships. NHRIs should use such contacts to exchange first-hand information about reports of human rights violations and also to share expertise and experience of best practices.

The NHRI should consider using the NGO sector = s wider social outreach mechanics, which in many cases is larger than that of the NHRI itself, to publicise its activities and to facilitate receiving complaints from sections of society who are either geographically, politically or socially remote. In all its contacts with NGOs and other organs of civil society an NHRI must take steps to protect its independence and impartiality.

1.5 Referrals

Where complainants raise problems which are outside the mandate of the NHRI, referrals may be appropriate to other organisations. This may be appropriate to help with, for example, medical, housing or social problems or consumer difficulties, particularly where complainants coming to the NHRI for help are having difficulties in obtaining assistance. In one case reported to Amnesty International, the NHRI gives the complainant a short letter on NHRI letterhead to bring to the referral agency outlining the problem and suggesting an appropriate response, which frequently leads to a quicker solution for the complainant and is a much appreciated service.

1.6 Assess priorities, measure goals, follow up

NHRIs frequently have a broad remit and scarce resources. It is therefore important to assess priorities through consultation with those affected and work on priorities strategically, ensuring that those goals are met before ending work on the issue.

Violations of the right to life and the right to physical and mental integrity frequently involve crimes under international law, such as extrajudicial and other unlawful killings, torture, 'disappearance', war crimes and crimes against humanity. In many countries NHRIs will need to prioritise work on such violations in order to be effective and credible in their work to protect and promote human rights.

NHRIs should also be empowered to take action on violations of other rights particularly social, cultural and economic rights.

NHRIs should assess priorities and needs through consultation with victims of human rights violations, and the availability of redress through other institutions within the country.

2. Membership

NHRIs require experienced, trained and skilled staff, and particularly strong, independent and effective leadership. NHRIs workers include those who lead the NHRI and take main responsibility for the work. In many cases they are appointed by the legislative or executive parts of government. Amnesty International refers to them in this document as 'members.' NHRI workers also include the staff who assist them, either through administrative or substantive investigative and legal work.

2.1 Qualities of members of the NHRI

Members should be selected on the basis of proven expertise, knowledge and experience in the promotion and protection of human rights. They should have practical expertise and abilities.

2.2 Leadership

It is Amnesty International's experience that the leadership of NHRIs is particularly important, indeed vital, for the effective functioning of NHRIs, as frequently the actions of the senior leadership of the organisation sets the tone for the activities of the institution as a whole. It is of primary importance that the highest calibre candidates, with proven expertise of practical human rights work, be appointed.

2.3 Selection procedures and consultation

The independent procedures of selection, appointment, removal and terms of tenure of NHRI members and staff should be clearly specified, laid down in its founding legislation, so as to afford the strongest possible guarantees of competence, impartiality and independence.

The selection, appointment, and removal procedures of the members of the NHRI should not be handled exclusively by the executive branch of government.

The method of selection and appointment of the members of the NHRI should be fair and transparent, so as to afford all necessary guarantees of independence. Broad representation is also important, and steps should be taken to guarantee this - for example - by allowing members of civil society to nominate possible candidates for membership of the NHRI.

The selection and appointment process should involve representatives of civil society, especially human rights defenders representing the interests of particularly vulnerable sections of society (and members of those groups also), and may also include NGOs, opposition leaders, trade unionists, social workers, journalists.

Civil society should participate in the selection and appointment process as far as possible.

2.4 Representation of society

The NHRI members and staff should as far as possible include representation of all sections of society, including women, ethnic minorities, and people with disabilities.

who may be under-represented in other official bodies and would have particular relevant experience of the needs of those sectors of society. Non-nationals should not be deterred or specifically prohibited from taking up a post at the NHRI.

2.5 Freedom from bias and expectations for further career advancement

The members and staff should consist of men and women known for their integrity and impartiality of judgment who shall decide matters before them on the basis of facts and in accordance with the law, without any restrictions, improper influences, inducements, pressures, threats or interferences from any quarter or for any reason, for example, allegiances to political parties, or strong links with the executive part of government.

In some cases, there may be an expectation that office in an NHRI is a stepping stone leading to ministerial or other political office which limits the independence of NHRI members and staff - as with such expectations, they may be less willing to criticise the executive.

Salaries and working conditions have a positive role to play in recruiting and retaining effective staff, and in ensuring independence. This, along with local factors, such as salary levels for similar positions, whether in the public or private sector, must be taken into account when setting and revising staff terms and conditions.

2.6 Effective support to fulfil tasks

There should be sufficient staffing to fulfil the tasks allotted to the NHRI. The key issue is to ensure effective oversight and action. NHRIs must have a functioning and efficient secretariat to carry out the tasks entrusted to the members.

2.7 Privileges and immunities

Like the judiciary, members of NHRIs should be immune from criminal or civil legal action for all tasks undertaken by them in the proper exercise of their official functions. However, decisions made by them in their official capacity should still be subject to judicial review by the courts.

3. Mandate and powers

The mandate should make the NHRI truly independent in action, to promote and protect human rights in whatever manner is most appropriate. It should not be set up as a purely advisory body to advise the government, rather it should listen to victims of human rights violations, and have their concerns at the heart of its work. It should also work to promote a culture of respect for human rights through education and raising of awareness of human rights issues.

The scope of the NHRI's concerns should be principally and clearly defined in terms of international human rights law. This should include states' obligations under international law to respect and also to ensure that rights are respected by all, that is, to take steps to ensure that domestic law and practice form a framework where the abuses of human rights by non-state actors are effectively addressed. NHRIs should make recommendations for changes in law and practice where states are not fulfilling their obligation to be able to take reasonable steps to protect citizens from abuses of their human rights by other citizens.

3.1 Scope of human rights within an NHRI's jurisdiction

NHRIs should enjoy the broadest possible mandate to address human rights concerns as set out in international human rights law and standards. The mandate should not be defined solely in terms of those rights that are specifically provided for in the country's constitution - particularly as some constitutions do not contain key rights such as the right to life. Rather NHRIs should take as their frame of reference the definitions of human rights as set out in international human rights instruments and standards, whether or not the state has ratified the relevant treaties. The mandate should include the power to protect and promote economic, social and cultural rights, as well as civil and political rights.

This is particularly important to ensure that human rights violations are monitored and acted upon in an accurate way. For example, Amnesty International has received reports that cases of torture are routinely described as 'abuses of official position' rather than torture, which leads to a misleading assessment of human rights violations occurring in the country, as well as a failure to take appropriate action.

3.2 Accountability to ensure effective action

NHRIs should report publicly on their activities and be held accountable for their results - either to an independent civil society body, or to a functioning and exacting parliamentary body. This is particularly important as an ineffective NHRI which does not address human rights violations actively can be an instrument of impunity, rather than a tool to promote and protect human rights.

3.3 Asserting human rights for all

The mandate should include the power specifically to promote and protect the rights those sections of society which are particularly at risk of violations of human rights, for example, children, women, people with disabilities, ethnic minorities, refugees, human rights defenders and non-nationals such as asylum-seekers and migrant workers. It should promote the right not to suffer discrimination, as this is often the source and motivation of other human rights violations, such as torture.

Frequently Amnesty International has received information indicating that NHRIs encounter difficulties because they are perceived to be promoting the rights of criminals because of their work on prison conditions, or the torture of criminal suspects. It is therefore important that all NHRIs emphasise the universal applicability of human rights standards to all persons.

3.4 Participation in international human rights law fora

NHRIs should recommend and facilitate the signature, ratification or accession of its state to new human rights treaties.

The mandate should include the power to monitor government fulfilment of international and regional human rights treaties and human rights obligations under domestic law. This should include the power to monitor and report - independently on its own behalf, not on behalf of its government - on compliance with and implementation of relevant and necessary international human rights standards, essential to the promotion and protection of human rights, including the Universal Declaration of Human Rights, the International Covenant on Cultural and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights

(ICESCR), the UN Declaration and Convention against Torture, the Convention of the Rights of the Child, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Elimination of All Forms of Racial Discrimination, as well as the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, the UN Code of Conduct for Law Enforcement Officials, the UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, the UN Rules for the Protection of Juveniles Deprived of their Liberty, the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials and the UN Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary or Summary Executions. They should also assess compliance with standards relating to the administration of justice, such as the Basic Principles on the Role of Lawyers, the Basic Principles on the Independence of the Judiciary, the Guidelines on the Role of Prosecutors, and the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power.

NHRIs should as far as possible attend and participate in international meetings and fora including the treaty monitoring bodies and UN political bodies concerned with human rights. When doing so, they should represent themselves as independent NHRIs, rather than representing their government.

NHRIs should have the power to take note of and ultimately apply international human rights law and standards in their work. It is essential therefore that NHRIs establish effective means to keep abreast of recent developments of international human rights law and standards.

The NHRI should possess the power to follow-up on recommendations and reports made in relation to implementation and compliance with international human rights standards mentioned above. This should include a suitable framework within which the NHRI may compel the relevant authority to explain and report to the NHRI, within a reasonable period of time, as to why, for example, it has not followed and did not apply recommendations made by human rights treaty bodies or thematic mechanisms.

NHRIs should prepare 'shadow reports' (reports of their assessment of the human rights situation in their country) to submit to the UN human rights treaty monitoring bodies on their own behalf; they should not write the state's reports to treaty monitoring bodies.

3.5 Advising governments on domestic legislation

The mandate should include the power to review the effectiveness of existing legislation or administrative provisions in protecting human rights and should be able to make recommendations for the amendment of such legislation or the introduction of new legislation as necessary.

This is especially important regarding internal security laws, administrative detention laws, and police detention and interrogation procedures, which can often facilitate human rights violations, or where enabling legislation implementing international standards does not implement the international obligations effectively.

The NHRI should also examine bills and proposals for new legislation put forward by

the government or parliament to assess its conformity with international human rights standards and to ensure the state's compliance with international human rights standards.

3.6 Participation in domestic legal cases

NHRIs should have the power to bring legal cases to protect the rights of individuals or to promote changes in law and practice. Amnesty International has received information about excellent work including the use of legal applications such as judicial review, constitutional applications and challenges, etc.

NHRIs should have the legal power to bring applications on behalf of those who may be unable to bring cases to protect their rights themselves (for example, children, those with mental health problems or otherwise lacking mental capacity, prisoners).

NHRIs should also have the legal power to bring cases (such as judicial review) to challenge the legality of executive action and to obtain judicial orders to remedy the situation, particularly where the executive has ignored the NHRIs recommendations on the subject.

NHRIs must also have the legal power to submit advice to the courts, such as *amicus curiae* briefs or third party interventions, on legal issues within its field of expertise in an independent capacity, without being a party to the case. This is important to ensure that the courts are informed about specialised human rights law concerns and to ensure that human rights standards are actively implemented in court decisions.

3.7 Effective communication with government to bring about change

NHRIs should be mindful of their official position within state structures and communicate their recommendations confidently and with the expectation that the executive part of government, or the prosecuting authorities, should implement them. NHRIs should open strong and effective methods of communication with all agencies of government, the prosecuting authorities and the judiciary in order to promote their recommendations, and should ensure compliance with recommendations, and not accept recommendations being ignored. NHRIs should also make recommendations to parts of the state, for example, the judiciary and the legislative organs.

4. Investigations and Inquiries

4.A General recommendations on investigations

The NHRI should have the powers to conduct wide-ranging national enquiries on human rights concerns; they should have access to government information; they should respond to victims' concerns in their investigations.

4.A.1 Time limits

Although some reasonable time limits may be used to ensure that complainants come forward speedily with their complaints, NHRIs should undertake any investigation where there is evidence in existence to consider; they should not be inhibited by arbitrary time limits on investigations, and should not be inflexible in rejecting cases for being brought to their attention outside of time limits.

4.A.2 Power to investigate on its own initiative

NHRIs should have precisely defined powers to investigate on its own initiative situations and cases of reported human rights violations. It should be able to set clear

priorities for its work in accordance with the seriousness of the violations reported to it, specifically including alleged violations of the right to life and security of the person, and the right to physical and mental integrity, including the right not to be tortured; as well as to the right not to be arbitrarily arrested or detained.

Many NHRIs lose credibility within their countries by failing to engage with such issues directly, and instead focusing almost exclusively on human rights education or promotion or implementation of those rights which involve less criticism of the government.

NHRIs should accept information from any reliable source, and should co-operate with national and international NGOs.

4.A.3 Investigating individual cases and wider patterns

Pending completion of investigations the NHRI should always identify any systematic pattern of human rights violations, and address the root causes, rather than solely treating each case in isolation. They should not look at individual cases in isolation, nor report abstractly on trends and developments - rather they should focus on the facts of individual cases, and identifying patterns, using well-researched, well-attested and evidenced cases.

4.A.4 Persistent problems and root causes

In their reports, NHRIs should conduct a critical analysis of the factors which have contributed to the persistence of human rights violations within the national territory. This should include an assessment of the failure of existing institutions and legal mechanisms to provide adequate human rights protection, and its links with impunity, the administration of justice, and for example, treatment of foreign nationals, women, and prisoners.

Recommendations for legal and institutional reform to address human rights violations should be proposed on the basis of the findings.

4.A.5 Addressing all perpetrators without fear

Many NHRIs undermine themselves and lose credibility by asking the alleged violators of human rights - such as the armed forces or the police - to investigate allegations of violations of human rights themselves, rather than the NHRI making an investigation itself. On some occasions, NHRIs simply forward the complainant's initial communication of his or her complaint to the alleged perpetrators (including the complainant's name, address, and other details) to ask the alleged perpetrators, or their colleagues, to investigate. This does not constitute an impartial investigation and can put complainants at risk.

Especially, NHRIs should be authorised to investigate the conduct of the police and the security forces throughout the national territory, and should promptly, effectively, independently and impartially carry out such investigations - especially in situations of internal armed conflict, and during states of emergency. This authorisation should not just be made explicit in its implementing legislation; it should also be made a practical reality in its work. NHRIs should not be debarred from operating during states of emergency.

NHRIs should also undertake investigations into human rights violations, even if those responsible include politicians or other powerful agents in society. To do this

effectively, the NHRI should have adequate facilities to conduct thorough investigations, independent of the security forces, whose conduct it will be called upon to assess. It should also have effective powers to protect its own staff and witnesses engaged in such investigations.

This is an all too frequent failure of NHRIs around the world, and a major cause of frustration and cynicism towards NHRIs from victims and the general population within countries, as well as NGOs, especially when the actions of major violators of human rights have not been addressed in a satisfactory way.

4.A.6 Compelling evidence

State officials should be legally obliged to co-operate with the NHRI's investigations. NHRIs should have full and effective powers to compel the attendance of witnesses and the disclosure and production of documents and other pieces of evidence. Effective sanctions should be in place to use when the NHRI's work is obstructed or otherwise interfered with.

4.A.7 Accurate statistics lead to an accurate picture of human rights violations

NHRIs should collect and publish accurate data on, for example, reports of 'disappearances', deaths in custody, rape and other forms of torture. Collection of data should be a by-product of day to day work, rather than an aim in itself. Statistics should detail the nature of the complaints, how and when they were investigated, the findings, and follow-up to recommendations.

4.B. Methodologies of investigation

In carrying out investigations NHRIs should pursue all available sources of information. These may include statements from victims, witnesses and alleged perpetrators; medical reports; police investigation files; court files; media reports; information from NGOs, families of victims and lawyers.

This is particularly important as investigations that, for example, simply constitute an examination of an existing police investigations file, may lead to a repetition of failures in investigation and in such cases, this may promote or contribute to impunity.

Amnesty International has also received information about cases where the onus of proof is on the complainant to prove his case, rather than the NHRI carrying out an investigation. NHRIs should always take steps to investigate information independently.

4.B.1 Independent investigation professionals

NHRIs should have their own investigative machinery and should have access to expert assistance (forensic pathologists, forensic doctors, ballistic experts, specialists on sexual violence etc.) whenever required to investigate alleged violations of human rights, particularly those involving physical injury (including injuries from sexual violence) and death. It is also important to have access to relevant experts to assist with interviews with victims who may be suffering from the psychological effects of torture, including sexual violence, to identify and record the psychological effects, and to ensure that interviews are conducted in a manner which does not lead to further psychological damage.

Sometimes it will be necessary to bring expertise in from outside the country, where no trained expertise is available.

Wherever possible, such forensic expertise should be at hand at short notice so that effective investigations and recording of, for example, injuries caused by torture or sexual violence, or post mortem investigations, can be made efficiently. When such reliable forensic information is available, then it is much more likely that effective action can be taken in prosecutions of perpetrators.

Such experts should be truly independent - frequently Amnesty International has received reports that such experts have strong links with state officials such as the police, as most of their work is for such state officials. Amnesty International has received some reports of investigators for NHRIs who are actually police officers on secondment from the regular police forces - who were unwilling to investigate allegations against fellow police officers.

NHRIs should have adequate facilities to carry out on-the-spot investigations, including transport, to be able to obtain access to any place in the territory where human rights violations take place.

4.B.2 Training

Effective and practical training of staff working on investigations - especially sharing of skills and best practice from colleagues abroad - should be a priority. Frequently investigations undertaken with good will fail because of lack of training in investigative sciences and skills. They should also receive training in international human rights law so that they can identify and understand legal issues regarding their investigations.

4.B.3 Protection of witnesses

NHRIs should have full and effective access to mechanisms to ensure that witnesses, complainants, or others providing evidence to the NHRI are given appropriate protection. Mechanisms should be in place, which can be triggered by the NHRI, that can lead to the suspension or transfer of officials allegedly involved - without prejudice pending completion of investigations - to other duties where they would have no power over witnesses or complainants.

4.B.4 Protection of evidence

Evidence gathered during investigations, such as witness statements, reports (including reports such as post mortem examinations or other expert reports) and physical evidence (such as evidence gathered during exhumations) should be kept securely by the NHRI.

4.C. Individual complaints

4.C.1 Who can complain?

NHRIs should have powers to begin investigations on its own initiative. It should be able to receive communications not only from the complainants themselves but also, if the complainants themselves are unable or prevented from doing so, from lawyers, relatives or others acting on their behalf, including non-governmental groups. Individual complaints procedures should be free of charge.

It is important that all people have the opportunity to be represented in applications to NHRIs, regardless of their status under national law. Children, prisoners, the mentally ill, and foreign nationals, for example, must all have access to the NHRI.

4.C.2 Reaching out to victims

NHRIs should use networks of communication and outreach already existing among NGOs and civil society groups such as medical associations, to ensure that victims of human rights violations are aware of the procedures open to them.

4.C.3 Keeping the interests of victims at the centre of the process

Victims or relatives should have access to all relevant information and documents relating to the investigation into their complaints and be granted all necessary facilities to present evidence. Victims should in particular, be kept informed of the process of the NHRI's investigation, and be given reasons for decisions taken about their case, and consulted where there are choices as to how their case will develop. NHRIs should be able to provide financial assistance to witnesses enabling them to travel and be accommodated in order to present their evidence before the NHRI. Where the NHRI is unable to take up a case, for example, because it is outside its mandate, it should inform the complainant as soon as possible and give reasons for its decision.

4.D. Addressing failed investigations effectively

Where the police have made an inconclusive or otherwise unsatisfactory investigation, the NHRI should undertake a prompt, thorough, effective and impartial investigation and not be hampered or otherwise inhibited by following the conclusions of a previous investigation. Investigations should not simply constitute an examination of an existing police investigations file.

An NHRI which fails to investigate individual complaints effectively may be an instrument of impunity - rather than allowing a victim access to a remedy, it closes off opportunities to secure a remedy, deterring the reporting of abuses.

4.D.1 Separation of roles of the NHRI and the judiciary

A clear line should be drawn between appropriate roles for the NHRI and the judiciary. The NHRI should be able to investigate, but should not have judicial powers. The result of the NHRI's investigations should be referred to appropriate judicial bodies without delay so that they can take appropriate action.

Evidence obtained by NHRIs should not be made inadmissible in other proceedings simply by virtue of having been first given to the NHRI.

Amnesty International has received reports which indicate that some NHRIs consider that investigations by the police or the security forces *prima facie* are sufficient investigations. It is important that NHRIs make their own assessment of the effectiveness of such investigations and follow up themselves with prompt, effective, thorough and impartial investigations where existing internal police or army investigations, or judicial investigations are not effective.

Where the NHRI finds evidence that certain individuals may have been responsible for committing human rights violations or for ordering, encouraging or permitting

them, the facts of the case should be investigated promptly, effectively, thoroughly and impartially by authorities empowered to bring criminal prosecutions, and if appropriate, those responsible should be brought to justice in legal proceedings which respect internationally-recognised rights to a fair trial, and do not lead to punishments involving torture or cruel, inhuman or degrading treatment, including the death penalty. NHRIs should have powers to recommend that superior officers are brought to justice for acts committed under their authority and should be mandated to closely follow subsequent legal proceedings in the case, by monitoring trials, or if necessary appearing before the court to make legal submissions to press for appropriate legal action to be taken within a reasonable time. If the NHRI, in the course of its work, is able to identify short-comings in the law whereby it is not possible to hold such officers accountable, the NHRI should make recommendations for legal reform that would ensure that domestic law does not facilitate impunity.

The government should ensure that any prosecutions for crimes involving the abuse of human rights are brought by authorities which are distinctly independent from the security forces or other bodies allegedly implicated in human rights violations.

4.D.2 Parallel jurisdiction of NHRI and the judiciary

The fact that a complainant has been charged and a criminal prosecution is under way should not be a pretext for stopping NHRIs from acting on a complaint, or taking any other action within their mandate to address human rights concerns.

Where prosecutions are pending, the NHRI should not consider the substance of the criminal charge, but should be able to look at ancillary matters relating to the human rights of the accused person, for example, allegations that he or she has been tortured while in custody.

In some jurisdictions, the NHRI is not permitted to receive complaints from a person who has been charged with an offence or who is otherwise under judicial supervision; therefore if the judiciary is not taking appropriate steps to protect the accused person from human rights violations such as torture and ill-treatment in custody, then that person is without recourse to protect their rights.

4.D.3 Role of NHRI in following up the actions of prosecutors and the judiciary in cases of criminal acts

Although it is important to maintain independence of function between the judiciary and the NHRI, the NHRI should monitor whether its recommendations are followed up. Amnesty International frequently receives reports that an NHRI has recommended that, on the basis of their investigations, criminal investigations and prosecutions should be initiated - but the police or prosecuting authorities take no action.

NHRIs should not stand by in silence where recommendations to investigate and bring prosecutions are ignored. In such cases, the NHRI should continue to request that the authorities take up the case, if necessary through domestic and international publicity, or where possible, to bring judicial review action challenging the decision of the prosecuting authorities. NHRIs should not be complicit with impunity.

Where domestic remedies for human rights violations are exhausted or ineffective, NHRIs should raise the matter with the international bodies mandated to assess compliance with human rights standards, such as the human rights treaty monitoring

bodies, or the United Nations' thematic mechanisms and special procedures, such as the Special Rapporteurs.

5. Recommendations and non-judicial remedies

5.1 Remedies and interim measures

NHRIs should have powers to ensure effective non-judicial remedies, including interim measures to protect the life and safety of an individual and adequate medical treatment where necessary; it should ensure measures of redress and rehabilitation are taken in appropriate cases.

5.2 Remedies but not impunity

NHRIs should not broker agreements for only reparations, such as compensation, to be paid, where the appropriate response would rather be reparation and prosecution of the perpetrator - for example in cases of torture.

Amnesty International has received reports that some NHRIs order compensation for crimes such as torture, and where the government encourages this or other forms of conciliation rather than bringing cases forward for prosecution. Conclusion of a case through friendly settlement should not prevent or hamper prosecutions for crimes under international law, such as torture, war crimes, or crimes against humanity.

5.3 Recommendations should be followed up

The government should undertake an obligation to respond, within a reasonable time, to the case- specific as well as the more general findings, conclusions and recommendations made by the NHRI. The government's response should be made public.

In cases where the government fails to respond, or refuses to respond or implement recommendations, the NHRI should continue to take all possible measures to press the government, for example, through pressure by the media, through parliament, and through international pressure of opinion and bringing the case to the attention of the international human rights bodies, such as the treaty monitoring bodies and the special mechanisms. Cases should remain open and as far as practically possible, the members and staff who dealt with the case up to the NHRI giving its recommendation should remain actively involved with the case and monitoring the implementation of the recommendation to ensure that the situation has been remedied. Continuity of staff is important to ensure that the initial problem has been addressed effectively.

6. Human rights education

Amnesty International has noted that a population which is educated in their human rights is an asset to assist NHRIs to carry out their task. Educating the population on human rights is a task that NHRIs working even under the most repressive governments are able to attempt, so it is important that it is done effectively.

General human rights education should be undertaken in a practical, illustrative way - if possible using media broadcasts to illustrate or dramatise human rights issues - rather than producing glossy, but abstract, promotional material which simply sets out general principles. It is also vital to ensure that material is disseminated to suitable target audiences.

Human rights training should be targetted at people who may have to consider and apply human rights issues in their work - law-makers, administrative decision-makers, judges,

lawyers, the medical profession, teachers, social workers, prison officers and police officers, and the armed forces - and they should be encouraged to promote human rights standards among their colleagues. Again, this professional education should be undertaken in a practical way to illustrate the transformative effect of using human rights standards in daily professional life. NGOs and victims groups should be encouraged to participate in such training to ensure that a variety of viewpoints are expressed within the education process.

7. Visits to places of detention

An important role that NHRIs can fulfil is as independent professional body empowered to visit places of detention, with the aim of making recommendations to change conditions in order to prevent the incidence of torture and other cruel, inhuman and degrading treatment or punishment.

Amnesty International has received reports of a wide range of competence in fulfilling this role among NHRIs around the world. Amnesty International has received information regarding cases where an NHRI has given assurances that a certain individual although reported to have been tortured, was fine and in good health, only for the organisation's representatives to visit the same individual shortly afterwards to find him showing signs of torture consistent with earlier reports - giving rise to the possibilities that either the NHRI had not visited, or had mis-reported their findings, or lacked the necessary expertise to carry out visits. Thorough training is essential.

On the other hand, Amnesty International has received excellent general reports by NHRIs detailing the conditions of detention, and making recommendations which have led to a decrease in the incidence of torture and cruel, inhuman and degrading treatment and punishment. Unfortunately, recommendations are frequently not implemented by governments.

Even in cases where NHRIs undertake effective visits to places of detention, they are not provided with the human and practical resources (such as transport to all places of detention in all regions) so that they can ensure effective coverage and assessment of all places of detention.

7.1 Modalities of visits

The modalities of visits provided for in the Geneva Conventions of 1949 - Article 126 of the Third Geneva Convention, and Article 143 of the Fourth Geneva Convention - should be used by NHRIs in setting out the modalities for visits to places of detention.

These modalities are that:

I. the visiting mechanism shall have access to all places of detention, and have access to all premises in which detainees may be held.

Frequently, NHRIs are denied access to particular categories of places of detention, such as police stations, military prisons, or prisons where detainees are held under security or 'anti-terrorist' legislation. These are frequently the very institutions from which many reliably attested complaints of torture are received, so it is vitally important that independent monitors have access to those places to assess conditions and make recommendations for change.

2. the visiting mechanism shall be able to interview detainees without witnesses, either personally or through the mechanism's own interpreter.

3. the visiting mechanism shall have liberty to select the places they wish to visit.

Frequently NHRIs are required to seek permission or give long notice of their visit. NHRIs should be able to visit 'any place, at any time' without prior authorisation in order to make a true assessment of conditions of detention.

4. the duration and frequency of visits shall not be restricted.

The only reason for denying access to a particular place of detention should be physical danger equal to the provision within the Geneva Conventions regarding compelling military necessity - which in practice means that a place of detention should only be out of bounds for visits if it is under weapon fire, and only during the period of danger. State security should not be an issue which would affect visits. The NHRI itself should assess and take appropriate precautions regarding any other risks, such as risk to health through disease prevalent within a certain institution.

8. Publicity

8.1 Media

NHRIs should ensure that they have access to the media in order to publicise their work to ensure that the population as a whole is aware of the services that the NHRI can provide; that they have human rights that can be protected and enforced; and to ensure a forum for discussion of human rights and publicity (therefore transparency) of the NHRI's activities. It is very important that the NHRI be seen by all to be taking effective action. NHRIs should also publicise their role as an institution independent from the executive part of the government, and its policies regarding confidentiality and security.

The NHRI should use the most effective media available to make contact with as many people as possible - so, for example, in places where illiteracy is high or where newspapers are hard to obtain, radio broadcasts should be used.

8.2 Annual reports

NHRIs should ensure that their reports, particularly their annual reports, are published and circulated widely.

Amnesty International recommends that NHRIs should be empowered to publish their materials at any time. Amnesty International has received reports that some NHRIs must present their reports to parliament or other political bodies before they are empowered to publish their reports, and frequently parliamentary time is not made available for this purpose. Therefore the NHRI is effectively silenced.

Many NHRIs do not produce annual reports - it is very important that they do so in order to be accountable and transparent, and to be seen to be fulfilling its role, evaluating its results, and planning its future activities. Statistics on the numbers and types of cases received, action taken and results achieved by the NHRI in resolving the cases should be included.

8.3 Confidentiality

Although there should be an assumption in favour of transparency, particularly in reports and the findings of investigations, in such publicity, care should be taken that

sensitive details which could lead to complainants, their families, witnesses and human rights defenders being put in danger, or which leads to an invasion of their privacy, should not be released. However this need for confidentiality for sensitive information should not be used as an excuse not to publish any information at all, as this could be an excuse to cover up evidence of human rights violations.

9. Accessibility

9.1 Regional offices

Local and regional offices are vitally important to the effective functioning of NHRIs in a large country, or a county with isolated and inaccessible centres of population, or where transportation is difficult. Mechanisms should allow local offices a positive role in following up cases. Unfortunately Amnesty International has received reports of local offices undertaking prompt and effective investigations, but they are not empowered to follow up with local authorities: instead they have to refer cases to a central office. This can frequently become a 'black hole' of bureaucracy, and effectively, cases are not followed up. Where there is a network of local and central offices, effective co-ordination and communication between all should be ensured. Responsibility for following up on cases must be clearly allocated and periodic evaluations should ensure that follow-up is taking place.

9.2 Accessible premises

NHRI offices must be stationed in appropriate places - unfortunately Amnesty International has received reports of NHRI offices being located near military installations or police stations. In such cases, potential complainants may fear being noticed or monitored by the security forces if they bring their complaints. Amnesty International has received other reports of offices being intimidatingly smart or located in very up-market areas, so that the poor and other disadvantaged groups feel too uncomfortable and conspicuous to be seen going there. Other reports indicate that some offices are located in inaccessible areas where it is difficult for complainants to visit.

Within offices, there should be facilities such as private meeting rooms where complainants can discuss their complaints with NHRI staff in confidence.

9.3 Communication with victims

NHRIs should take steps to ensure effective communications between itself and potential complainants.

Amnesty International has received reports of excellent initiatives to facilitate such contact - such as free-phone (toll-free) telephone lines, email and internet access, and travelling offices (one example was a specially adapted bus) or travelling field officers who can go to very isolated areas. NGO networks can also facilitate contacts with victims and witnesses.

In countries where some complainants are likely only to be able to speak minority or local languages, these should be catered for. When using interpreters, careful consideration should be given to issues of confidentiality and impartiality. Cultural sensitivities should also be taken into account, which may include the gender of the interpreter. Interviewees (including complainants and witnesses) should consent to the use of interpreters.

In countries where there is widespread illiteracy, there should be common use of oral communication techniques, such as radio, and NHRI staff should take care to explain their procedures verbally, rather than relying on explanatory leaflets.

10. Budget

The government must provide the NHRI with adequate funding and resources in order to be able to fully carry out, and without restrictions and limitations, the aims and functions set out within the mandate, and particularly, to address the demands of the caseload that has been brought to its attention. The NHRI should have all necessary human and material resources to examine, thoroughly, effectively, speedily and throughout the country, the evidence and other case material concerning specific allegations of violations reported to it.

NHRIs are mandated by international standards, such as the Paris Principles, and by recommendations of civil society, such as the recommendations in this document, to cover a wide range of human rights issues, and clearly some prioritisation of activities by NHRIs is required. Professional training and sharing of working skills so that NHRIs can maximise effective action within the bounds of resource constraints is therefore important.

Amnesty International has received reports that restrictions in NHRI budgets are used as a punitive measure to control an NHRI which is deemed to be too critical of government. AI has received reports of many examples where once set up, NHRIs are underfunded to the extent that they cannot function effectively - leading to reasonable doubts about how serious the government was in the first place about improving the implementation human rights through the NHRI.

The mandate should specifically and explicitly include the power to be able to establish effective and alternative routes to receive funding, either from private donors or international agencies, for whatever human rights activities the NHRI is undertaking. NHRIs should develop guidelines to ensure that any such fundraising does not compromise its independence and impartiality.

Funding should be secured with a longterm perspective to enable the NHRI to plan and develop its activities with confidence about being able to fulfil them.

9.1.3 Best Practice Guide of the Commonwealth Secretariat (2001)

Human Rights Best Practice Guide available in pdf at:

http://www.thecommonwealth.org/Shared_ASP_Files/UploadedFiles/{BF05153F-7565-4A2F-8F2A-F002F05594EC}_

9.2 UN Treaty Bodies recommendations and general comments

9.2.1 General Assembly Resolution: National Institutions for the Promotion and Protection of Human Rights A/RES/48/134

A/RES/48/134, 85th plenary meeting, 20 December 1993

48/134. NATIONAL INSTITUTIONS FOR THE PROMOTION AND PROTECTION OF HUMAN RIGHTS

The General Assembly,

Recalling the relevant resolutions concerning national institutions for the protection and promotion of human rights, notably its resolutions 41/129 of 4 December 1986 and 46/124 of 17 December 1991 and Commission on Human Rights resolutions 1987/40 of 10 March 1987, 1988/72 of 10 March 1988, 1989/52 of 7 March 1989, 1990/73 of 7 March 1990, 1991/27 of 5 March 1991 and 1992/54 of 3 March 1992, and taking note of Commission resolution 1993/55 of 9 March 1993,

Emphasising the importance of the Universal Declaration of Human Rights, the International Covenants on Human Rights and other international instruments for promoting respect for and observance of human rights and fundamental freedoms,

Affirming that priority should be accorded to the development of appropriate arrangements at the national level to ensure the effective implementation of international human rights standards,

Convinced of the significant role that institutions at the national level can play in promoting and protecting human rights and fundamental freedoms and in developing and enhancing public awareness of those rights and freedoms,

Recognising that the United Nations can play a catalytic role in assisting the development of national institutions by acting as a clearing-house for the exchange of information and experience,

Mindful in this regard of the guidelines on the structure and functioning of national and local institutions for the promotion and protection of human rights endorsed by the General Assembly in its resolution 33/46 of 14 December 1978,

Welcoming the growing interest shown worldwide in the creation and strengthening of national institutions, expressed during the Regional Meeting for Africa of the World Conference on Human Rights, held at Tunis from 2 to 6 November 1992, the Regional Meeting for Latin America and the Caribbean, held at San Jose from 18 to 22 January 1993, the Regional Meeting for Asia, held at Bangkok from 29 March to 2 April 1993, the Commonwealth Workshop on National Human Rights Institutions, held at Ottawa from 30 September to 2 October 1992 and the Workshop for the Asia and Pacific Region on Human Rights Issues, held at Jakarta from 26 to 28 January 1993, and manifested in the decisions announced recently by several Member States to establish national institutions for the promotion and protection of human rights,

Bearing in mind the Vienna Declaration and Programme of Action, in which the World Conference on Human Rights reaffirmed the important and constructive role played by national institutions for the promotion and protection of human rights, in particular in their advisory capacity to the competent authorities, their role in remedying human rights violations, in the dissemination of human rights information and in education in human rights,

Noting the diverse approaches adopted throughout the world for the promotion and protection of human rights at the national level, emphasising the universality, indivisibility and interdependence of all human rights, and emphasising and recognising the value of such approaches to promoting universal respect for and observance of human rights and fundamental freedoms,

1. Takes note with satisfaction of the updated report of the Secretary-General, prepared in accordance with General Assembly resolution 46/124 of 17 December 1991;
2. Reaffirms the importance of developing, in accordance with national legislation, effective national institutions for the promotion and protection of human rights and of ensuring the pluralism of their membership and their independence;
3. Encourages Member States to establish or, where they already exist, to strengthen national institutions for the promotion and protection of human rights and to incorporate those elements in national development plans;
4. Encourages national institutions for the promotion and protection of human rights established by Member States to prevent and combat all violations of human rights as enumerated in the Vienna Declaration and Programme of Action and relevant international instruments;
5. Requests the Centre for Human Rights of the Secretariat to continue its efforts to enhance co-operation between the United Nations and national institutions, particularly in the field of advisory services and technical assistance and of information and education, including within the framework of the World Public Information Campaign for Human Rights;
6. Also requests the Centre for Human Rights to establish, upon the request of States concerned, United Nations centres for human rights documentation and training and to do so on the basis of established procedures for the use of available resources within the United Nations Voluntary Fund for Advisory Services and Technical Assistance in the Field of Human Rights;
7. Requests the Secretary-General to respond favourably to requests from Member States for assistance in the establishment and strengthening of national institutions for the promotion and protection of human rights as part of the programme of advisory services and technical co-operation in the field of human rights, as well as national centres for human rights documentation and training;
8. Encourages all Member States to take appropriate steps to promote the exchange of information and experience concerning the establishment and effective operation of such national institutions;
9. Affirms the role of national institutions as agencies for the dissemination of human rights materials and for other public information activities, prepared or organised under the auspices of the United Nations;
10. Welcomes the organization under the auspices of the Centre for Human Rights of a follow-up meeting at Tunis in December 1993 with a view, in particular, to examining ways and means of promoting technical assistance for the co-operation and strengthening of national institutions and to continuing to examine all issues relating to the question of national institutions;

11. Welcomes also the Principles relating to the status of national institutions, annexed to the present resolution;
12. Encourages the establishment and strengthening of national institutions having regard to those principles and recognising that it is the right of each State to choose the framework that is best suited to its particular needs at the national level;
13. Requests the Secretary-General to report to the General Assembly at its fiftieth session on the implementation of the present resolution.

ANNEX

Principles relating to the status of national institutions

Competence and responsibilities

1. A national institution shall be vested with competence to promote and protect human rights.
2. A national institution shall be given as broad a mandate as possible, which shall be clearly set forth in a constitutional or legislative text, specifying its composition and its sphere of competence.
3. A national institution shall, inter alia, have the following responsibilities:
 - (a) To submit to the Government, Parliament and any other competent body, on an advisory basis either at the request of the authorities concerned or through the exercise of its power to hear a matter without higher referral, opinions, recommendations, proposals and reports on any matters concerning the promotion and protection of human rights; the national institution may decide to publicise them; these opinions, recommendations, proposals and reports, as well as any prerogative of the national institution, shall relate to the following areas:
 - (i) Any legislative or administrative provisions, as well as provisions relating to judicial organizations, intended to preserve and extend the protection of human rights; in that connection, the national institution shall examine the legislation and administrative provisions in force, as well as bills and proposals, and shall make such recommendations as it deems appropriate in order to ensure that these provisions conform to the fundamental principles of human rights; it shall, if necessary, recommend the adoption of new legislation, the amendment of legislation in force and the adoption or amendment of administrative measures;
 - (ii) Any situation of violation of human rights which it decides to take up;
 - (iii) The preparation of reports on the national situation with regard to human rights in general, and on more specific matters;
 - (iv) Drawing the attention of the Government to situations in any part of the country where human rights are violated and making proposals to it for initiatives to put an end to such situations and, where necessary, expressing an opinion on the positions and reactions of the Government;
 - (b) To promote and ensure the harmonisation of national legislation regulations and practices with the international human rights instruments to which the State is a party, and their effective implementation;

- (c) To encourage ratification of the above-mentioned instruments or accession to those instruments, and to ensure their implementation;
- (d) To contribute to the reports which States are required to submit to United Nations bodies and committees, and to regional institutions, pursuant to their treaty obligations and, where necessary, to express an opinion on the subject, with due respect for their independence;
- (e) To co-operate with the United Nations and any other organization in the United Nations system, the regional institutions and the national institutions of other countries that are competent in the areas of the promotion and protection of human rights;
- (f) To assist in the formulation of programmes for the teaching of, and research into, human rights and to take part in their execution in schools, universities and professional circles;
- (g) To publicise human rights and efforts to combat all forms of discrimination, in particular racial discrimination, by increasing public awareness, especially through information and education and by making use of all press organs.

Composition and guarantees of independence and pluralism

1. The composition of the national institution and the appointment of its members, whether by means of an election or otherwise, shall be established in accordance with a procedure which affords all necessary guarantees to ensure the pluralist representation of the social forces (of civilian society) involved in the promotion and protection of human rights, particularly by powers which will enable effective co-operation to be established with, or through the presence of, representatives of:

- (a) Non-governmental organizations responsible for human rights and efforts to combat racial discrimination, trade unions, concerned social and professional organizations, for example, associations of lawyers, doctors, journalists and eminent scientists;
- (b) Trends in philosophical or religious thought;
- (c) Universities and qualified experts;
- (d) Parliament;
- (e) Government departments (if these are included, their representatives should participate in the deliberations only in an advisory capacity).

2. The national institution shall have an infrastructure which is suited to the smooth conduct of its activities, in particular adequate funding. The purpose of this funding should be to enable it to have its own staff and premises, in order to be independent of the Government and not be subject to financial control which might affect its independence.

3. In order to ensure a stable mandate for the members of the national institution, without which there can be no real independence, their appointment shall be effected by an official act which shall establish the specific duration of the mandate. This mandate may be renewable, provided that the pluralism of the institution's membership is ensured.

Methods of operation

Within the framework of its operation, the national institution shall:

- (a) Freely consider any questions falling within its competence, whether they are submitted by the Government or taken up by it without referral to a higher authority, on the proposal of its members or of any petitioner;
- (b) Hear any person and obtain any information and any documents necessary for assessing situations falling within its competence;
- (c) Address public opinion directly or through any press organ, particularly in order to publicise its opinions and recommendations;
- (d) Meet on a regular basis and whenever necessary in the presence of all its members after they have been duly convened;
- (e) Establish working groups from among its members as necessary, and set up local or regional sections to assist it in discharging its functions;
- (f) Maintain consultation with the other bodies, whether jurisdictional or otherwise, responsible for the promotion and protection of human rights (in particular ombudsmen, mediators and similar institutions);
- (g) In view of the fundamental role played by the non-governmental organizations in expanding the work of the national institutions, develop relations with the non-governmental organizations devoted to promoting and protecting human rights, to economic and social development, to combating racism, to protecting particularly vulnerable groups (especially children, migrant workers, refugees, physically and mentally disabled persons) or to specialised areas.

Additional principles concerning the status of commissions with quasi-jurisdictional competence

A national institution may be authorised to hear and consider complaints and petitions concerning individual situations. Cases may be brought before it by individuals, their representatives, third parties, non-governmental organizations, associations of trade unions or any other representative organizations. In such circumstances, and without prejudice to the principles stated above concerning the other powers of the commissions, the functions entrusted to them may be based on the following principles:

- (a) Seeking an amicable settlement through conciliation or, within the limits prescribed by the law, through binding decisions or, where necessary, on the basis of confidentiality;
- (b) Informing the party who filed the petition of his rights, in particular the remedies available to him, and promoting his access to them;
- (c) Hearing any complaints or petitions or transmitting them to any other competent authority within the limits prescribed by the law;
- (d) Making recommendations to the competent authorities, especially by proposing amendments or reforms of the laws, regulations and administrative practices, especially if they have created the difficulties encountered by the persons filing the petitions in order to assert their rights.

9.2.2 Committee on Economic, Social and Cultural Rights (CESCR) General Comment No. 10: The Role of National Human Rights Institutions in the Protection of economic, Social and Cultural Rights (14/12/98. E/C.12/1998/25)

Convention Abbreviation: CESCR: Committee on Economic, Social and Cultural Rights
Nineteenth session, Geneva, 16 November-4 December 1998. Agenda item 3

SUBSTANTIVE ISSUES ARISING IN THE IMPLEMENTATION OF THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

General comment No. 10:

The role of national human rights institutions in the protection of economic, social and cultural rights*

1. Article 2, paragraph 1, of the Covenant obligates each State party 'to take steps ... with a view to achieving progressively the full realisation of the [Covenant] rights ... by all appropriate means'. The Committee notes that one such means, through which important steps can be taken, is the work of national institutions for the promotion and protection of human rights. In recent years there has been a proliferation of these institutions and the trend has been strongly encouraged by the General Assembly and the Commission on Human Rights. The Office of the United Nations High Commissioner for Human Rights has established a major programme to assist and encourage States in relation to national institutions.

2. These institutions range from national human rights commissions through Ombudsman offices, public interest or other human rights 'advocates', to 'defensores del pueblo'. In many cases, the institution has been established by the Government, enjoys an important degree of autonomy from the executive and the legislature, takes full account of international human rights standards which are applicable to the country concerned, and is mandated to perform various activities designed to promote and protect human rights. Such institutions have been established in States with widely differing legal cultures and regardless of their economic situation.

3. The Committee notes that national institutions have a potentially crucial role to play in promoting and ensuring the indivisibility and interdependence of all human rights. Unfortunately, this role has too often either not been accorded to the institution or has been neglected or given a low priority by it. It is therefore essential that full attention be given to economic, social and cultural rights in all of the relevant activities of these institutions. The following list is indicative of the types of activities that can be, and in some instances already have been, undertaken by national institutions in relation to these rights:

- (a) The promotion of educational and information programmes designed to enhance awareness and understanding of economic, social and cultural rights, both within the population at large and among particular groups such as the public service, the judiciary, the private sector and the labour movement;
- (b) The scrutinising of existing laws and administrative acts, as well as draft bills and other proposals, to ensure that they are consistent with the requirements of the International Covenant on Economic, Social and Cultural Rights;
- (c) Providing technical advice, or undertaking surveys in relation to economic, social and cultural rights, including at the request of the public authorities or other appropriate agencies;

- (d) The identification of national-level benchmarks against which the realisation of Covenant obligations can be measured;
 - (e) Conducting research and inquiries designed to ascertain the extent to which particular economic, social and cultural rights are being realised, either within the State as a whole or in areas or in relation to communities of particular vulnerability;
 - (f) Monitoring compliance with specific rights recognised under the Covenant and providing reports thereon to the public authorities and civil society; and
 - (g) Examining complaints alleging infringements of applicable economic, social and cultural rights standards within the State.
4. The Committee calls upon States parties to ensure that the mandates accorded to all national human rights institutions include appropriate attention to economic, social and cultural rights and requests States parties to include details of both the mandates and the principal relevant activities of such institutions in their reports submitted to the Committee.

9.2.3 Committee on the Elimination of Racial Discrimination (CERD) General Recommendation No. XVII: Establishment of National Institutions to Facilitate Implementation of the Convention (25/03/93, Gen. Rec. No. 17)

THE COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION,

Considering the practice of States parties concerning the implementation of the International Convention on the Elimination of All Forms of Racial Discrimination,

Convinced of the necessity to encourage further the establishment of national institutions to facilitate the implementation of the Convention,

Emphasising the need to strengthen further the implementation of the Convention,

1. **Recommends** that States parties establish national commissions or other appropriate bodies, taking into account, *mutatis mutandis*, the principles relating to the status of national institutions annexed to Commission on Human Rights resolution 1992/54 of 3 March 1992, to serve, *inter alia*, the following purposes:

- (a) To promote respect for the enjoyment of human rights without any discrimination, as expressly set out in article 5 of the International Convention on the Elimination of All Forms of Racial Discrimination;
- (b) To review government policy towards protection against racial discrimination;
- (c) To monitor legislative compliance with the provisions of the Convention;
- (d) To educate the public about the obligations of States parties under the Convention;
- (e) To assist the Government in the preparation of reports submitted to the Committee on the Elimination of Racial Discrimination;

2. Also recommends that, where such commissions have been established, they should be associated with the preparation of reports and possibly included in government delegations in order to intensify the dialogue between the Committee and the State party concerned.

* Contained in document A/48/18.

9.2.4 Convention on the Rights of the Child (CRC) General Comment No. 2: The Role of Independent National Human Rights Institutions in the Protection and Promotion of the Rights of the Child (15/11/2002. CRC/GC/2002/2)

THE ROLE OF INDEPENDENT NATIONAL HUMAN RIGHTS INSTITUTIONS IN THE PROMOTION AND PROTECTION OF THE RIGHTS OF THE CHILD

1. Article 4 of the Convention on the Rights of the Child obliges States parties to 'undertake all appropriate legislative, administrative and other measures for the implementation of the rights recognised in the present Convention'. Independent national human rights institutions (NHRIs) are an important mechanism to promote and ensure the implementation of the Convention, and the Committee on the Rights of the Child considers the establishment of such bodies to fall within the commitment made by States parties upon ratification to ensure the implementation of the Convention and advance the universal realisation of children's rights. In this regard, the Committee has welcomed the establishment of NHRIs and children's ombudspersons/children's commissioners and similar independent bodies for the promotion and monitoring of the implementation of the Convention in a number of States parties.

2. The Committee issues this general comment in order to encourage States parties to establish an independent institution for the promotion and monitoring of implementation of the Convention and to support them in this regard by elaborating the essential elements of such institutions and the activities which should be carried out by them. Where such institutions have already been established, the Committee calls upon States to review their status and effectiveness for promoting and protecting children's rights, as enshrined in the Convention on the Rights of the Child and other relevant international instruments.

3. The World Conference on Human Rights, held in 1993, in the Vienna Declaration and Programme of Action reaffirmed '... the important and constructive role played by national institutions for the promotion and protection of human rights', and encouraged '... the establishment and strengthening of national institutions'. The General Assembly and the Commission on Human Rights have repeatedly called for the establishment of national human rights institutions, underlining the important role NHRIs play in promoting and protecting human rights and enhancing public awareness of those rights. In its general guidelines for periodic reports, the Committee requires that States parties furnish information on 'any independent body established to promote and protect the rights of the child ...', hence, it consistently addresses this issue during its dialogue with States parties.

4. NHRIs should be established in compliance with the Principles relating to the status of national institutions for the promotion and protection of human rights (The 'Paris Principles') adopted by the General Assembly in 1993 transmitted by the Commission on Human Rights in 1992. These minimum standards provide guidance for the establishment, competence, responsibilities, composition, including pluralism, independence, methods of operation, and quasi-judicial activities of such national bodies.

5. While adults and children alike need independent NHRIs to protect their human rights, additional justifications exist for ensuring that children's human rights are given special attention. These include the facts that children's developmental state makes them

particularly vulnerable to human rights violations; their opinions are still rarely taken into account; most children have no vote and cannot play a meaningful role in the political process that determines Governments' response to human rights; children encounter significant problems in using the judicial system to protect their rights or to seek remedies for violations of their rights; and children's access to organisations that may protect their rights is generally limited.

6. Specialist independent human rights institutions for children, ombudspersons or commissioners for children's rights have been established in a growing number of States parties. Where resources are limited, consideration must be given to ensuring that the available resources are used most effectively for the promotion and protection of everyone's human rights, including children's, and in this context development of a broad-based NHRI that includes a specific focus on children is likely to constitute the best approach. A broad-based NHRI should include within its structure either an identifiable commissioner specifically responsible for children's rights, or a specific section or division responsible for children's rights.

7. It is the view of the Committee that every State needs an independent human rights institution with responsibility for promoting and protecting children's rights. The Committee's principal concern is that the institution, whatever its form, should be able, independently and effectively, to monitor, promote and protect children's rights. It is essential that promotion and protection of children's rights is 'mainstreamed' and that all human rights institutions existing in a country work closely together to this end.

MANDATE AND POWERS

8. NHRIs should, if possible, be constitutionally entrenched and must at least be legislatively mandated. It is the view of the Committee that their mandate should include as broad a scope as possible for promoting and protecting human rights, incorporating the Convention on the Rights of the Child, its Optional Protocols and other relevant international human rights instruments - thus effectively covering children's human rights, in particular their civil, political, economic, social and cultural rights. The legislation should include provisions setting out specific functions, powers and duties relating to children linked to the Convention on the Rights of the Child and its Optional Protocols. If the NHRI was established before the existence of the Convention, or without expressly incorporating it, necessary arrangements, including the enactment or amendment of legislation, should be put in place so as to ensure conformity of the institution's mandate with the principles and provisions of the Convention.

9. NHRIs should be accorded such powers as are necessary to enable them to discharge their mandate effectively, including the power to hear any person and obtain any information and document necessary for assessing the situations falling within their competence. These powers should include the promotion and protection of the rights of all children under the jurisdiction of the State party in relation not only to the State but to all relevant public and private entities.

ESTABLISHMENT PROCESS

10. The NHRI establishment process should be consultative, inclusive and transparent, initiated and supported at the highest levels of Government and inclusive of all relevant elements of the State, the legislature and civil society. In order to ensure their

independence and effective functioning, NHRIs must have adequate infrastructure, funding (including specifically for children's rights, within broad-based institutions), staff, premises, and freedom from forms of financial control that might affect their independence.

RESOURCES

11. While the Committee acknowledges that this is a very sensitive issue and that State parties function with varying levels of economic resources, the Committee believes that it is the duty of States to make reasonable financial provision for the operation of national human rights institutions in light of article 4 of the Convention. The mandate and powers of national institutions may be meaningless, or the exercise of their powers limited, if the national institution does not have the means to operate effectively to discharge its powers.

PLURALISTIC REPRESENTATION

12. NHRIs should ensure that their composition includes pluralistic representation of the various elements of civil society involved in the promotion and protection of human rights. They should seek to involve, among others, the following: human rights, anti-discrimination and children's rights non-governmental organisations (NGOs), including child- and youth-led organisations; trade unions; social and professional organisations (of doctors, lawyers, journalists, scientists, etc.); universities and experts, including children's rights experts. Government departments should be involved in an advisory capacity only. NHRIs should have appropriate and transparent appointment procedures, including an open and competitive selection process.

PROVIDING REMEDIES FOR BREACHES OF CHILDREN'S RIGHTS

13. NHRIs must have the power to consider individual complaints and petitions and carry out investigations, including those submitted on behalf of or directly by children. In order to be able to effectively carry out such investigations, they must have the powers to compel and question witnesses, access relevant documentary evidence and access places of detention. They also have a duty to seek to ensure that children have effective remedies - independent advice, advocacy and complaints procedures - for any breaches of their rights. Where appropriate, NHRIs should undertake mediation and conciliation of complaints.

14. NHRIs should have the power to support children taking cases to court, including the power (a) to take cases concerning children's issues in the name of the NHRI and (b) to intervene in court cases to inform the court about the human rights issues involved in the case.

ACCESSIBILITY AND PARTICIPATION

15. NHRIs should be geographically and physically accessible to all children. In the spirit of article 2 of the Convention, they should proactively reach out to all groups of children, in particular the most vulnerable and disadvantaged, such as (but not limited to) children in care or detention, children from minority and indigenous groups, children with disabilities, children living in poverty, refugee and migrant children, street children and children with special needs in areas such as culture, language, health and education. NHRI legislation should include the right of the institution to have access in conditions of privacy to children in all forms of alternative care and to all institutions that include children.

16. NHRIs have a key role to play in promoting respect for the views of children in all matters affecting them, as articulated in article 12 of the Convention, by Government and throughout society. This general principle should be applied to the establishment, organisation and activities of national human rights institutions. Institutions must ensure that they have direct contact with children and that children are appropriately involved and consulted. Children's councils, for example, could be created as advisory bodies for NHRIs to facilitate the participation of children in matters of concern to them.

17. NHRIs should devise specially tailored consultation programmes and imaginative communication strategies to ensure full compliance with article 12 of the Convention. A range of suitable ways in which children can communicate with the institution should be established.

18. NHRIs must have the right to report directly, independently and separately on the state of children's rights to the public and to parliamentary bodies. In this respect, States parties must ensure that an annual debate is held in Parliament to provide parliamentarians with an opportunity to discuss the work of the NHRI in respect of children's rights and the State's compliance with the Convention.

RECOMMENDED ACTIVITIES

19. The following is an indicative, but not exhaustive, list of the types of activities which NHRIs should carry out in relation to the implementation of children's rights in light of the general principles of the Convention. They should:

- (a) Undertake investigations into any situation of violation of children's rights, on complaint or on their own initiative, within the scope of their mandate;
- (b) Conduct inquiries on matters relating to children's rights;
- (c) Prepare and publicise opinions, recommendations and reports, either at the request of national authorities or on their own initiative, on any matter relating to the promotion and protection of children's rights;
- (d) Keep under review the adequacy and effectiveness of law and practice relating to the protection of children's rights;
- (e) Promote harmonisation of national legislation, regulations and practices with the Convention on the Rights of the Child, its Optional Protocols and other international human rights instruments relevant to children's rights and promote their effective implementation, including through the provision of advice to public and private bodies in construing and applying the Convention;
- (f) Ensure that national economic policy makers take children's rights into account in setting and evaluating national economic and development plans;
- (g) Review and report on the Government's implementation and monitoring of the state of children's rights, seeking to ensure that statistics are appropriately disaggregated and other information collected on a regular basis in order to determine what must be done to realise children's rights;
- (h) Encourage ratification of or accession to any relevant international human rights instruments;

- (i) In accordance with article 3 of the Convention requiring that the best interests of children should be a primary consideration in all actions concerning them, ensure that the impact of laws and policies on children is carefully considered from development to implementation and beyond;
- (j) In light of article 12, ensure that the views of children are expressed and heard on matters concerning their human rights and in defining issues relating to their rights;
- (k) Advocate for and facilitate meaningful participation by children's rights NGOs, including organisations comprised of children themselves, in the development of domestic legislation and international instruments on issues affecting children;
- (l) Promote public understanding and awareness of the importance of children's rights and, for this purpose, work closely with the media and undertake or sponsor research and educational activities in the field;
- (m) In accordance with article 42 of the Convention which obligates State parties to 'make the principles and provisions of the Convention widely known, by appropriate and active means, to adults and children alike', sensitise the Government, public agencies and the general public to the provisions of the Convention and monitor ways in which the State is meeting its obligations in this regard;
- (n) Assist in the formulation of programmes for the teaching of, research into and integration of children's rights in the curricula of schools and universities and in professional circles;
- (o) Undertake human rights education which specifically focuses on children (in addition to promoting general public understanding about the importance of children's rights);
- (p) Take legal proceedings to vindicate children's rights in the State or provide legal assistance to children;
- (q) Engage in mediation or conciliation processes before taking cases to court, where appropriate;
- (r) Provide expertise in children's rights to the courts, in suitable cases as *amicus curiae* or *intervenor*;
- (s) In accordance with article 3 of the Convention which obliges States parties to 'ensure that the institutions, services and facilities responsible for the care or protection of children shall conform with the standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision', undertake visits to juvenile homes (and all places where children are detained for reform or punishment) and care institutions to report on the situation and to make recommendations for improvement;
- (t) Undertake such other activities as are incidental to the above.

REPORTING TO THE COMMITTEE ON THE RIGHTS OF THE CHILD AND CO-OPERATION BETWEEN NHRIS AND UNITED NATIONS AGENCIES AND HUMAN RIGHTS MECHANISMS

20. NHRIs should contribute independently to the reporting process under the Convention and other relevant international instruments and monitor the integrity of government reports to international treaty bodies with respect to children's rights, including through dialogue with the Committee on the Rights of the Child at its pre-sessional working group and with other relevant treaty bodies.

21. The Committee requests that States parties include detailed information on the legislative basis and mandate and principal relevant activities of NHRIs in their reports to the Committee. It is appropriate for States parties to consult with independent human rights institutions during the preparation of reports to the Committee. However, States parties must respect the independence of these bodies and their independent role in providing information to the Committee. It is not appropriate to delegate to NHRIs the drafting of reports or to include them in the government delegation when reports are examined by the Committee.

22. NHRIs should also co-operate with the special procedures of the Commission on Human Rights, including country and thematic mechanisms, in particular the Special Rapporteur on the sale of children, child prostitution and child pornography and the Special Representative of the Secretary-General for Children and Armed Conflict.

23. The United Nations has a long-standing programme of assistance for the establishment and strengthening of national human rights institutions. This programme, which is based in the Office of the High Commissioner for Human Rights (OHCHR), provides technical assistance and facilitates regional and global co-operation and exchanges among national human rights institutions. States parties should avail themselves of this assistance where necessary. The United Nations Children's Fund (UNICEF) also offers expertise and technical co-operation in this area.

24. As articulated in article 45 of the Convention, the Committee may also transmit, as it considers appropriate, to any specialised United Nations agency, OHCHR and any other competent body any reports from States parties that contain a request or indicate a need for technical advice or assistance in the establishment of NHRIs.

NHRIS AND STATES PARTIES

25. The State ratifies the Convention on the Rights of the Child and takes on obligations to implement it fully. The role of NHRIs is to monitor independently the State's compliance and progress towards implementation and to do all it can to ensure full respect for children's rights. While this may require the institution to develop projects to enhance the promotion and protection of children's rights, it should not lead to the Government delegating its monitoring obligations to the national institution. It is essential that institutions remain entirely free to set their own agenda and determine their own activities.

NHRIS AND NGOS

26. Non-governmental organisations play a vital role in promoting human rights and children's rights. The role of NHRIs, with their legislative base and specific powers, is complementary. It is essential that institutions work closely with NGOs and that Governments respect the independence of both NHRIs and NGOs.

REGIONAL AND INTERNATIONAL CO-OPERATION

27. Regional and international processes and mechanisms can strengthen and consolidate NHRIs through shared experience and skills, as NHRIs share common problems in the promotion and protection of human rights in their respective countries.

28. In this respect, NHRIs should consult and co-operate with relevant national, regional and international bodies and institutions on children's rights issues.

29. Children's human rights issues are not constrained by national borders and it has become increasingly necessary to devise appropriate regional and international responses to a variety of child rights issues (including, but not limited to, the trafficking of women and children, child pornography, child soldiers, child labour, child abuse, refugee and migrant children, etc.). International and regional mechanisms and exchanges are encouraged, as they provide NHRIs with an opportunity to learn from each other's experience, collectively strengthen each other's positions and contribute to resolving human rights problems affecting both countries and regions.

9.3 Co-operation Machinery for NHRIs

The International Co-ordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC): Rules of Procedure

<http://www.nhri.net/2007/ICCProcedureEng2006.pdf>

[last accessed 11 October 2007]

Application for Accreditation and Re-Accreditation of National Human Rights Institutions to the International Co-ordinating Committee of National Human Rights Institutions. Version 2 – May 2007

http://www.nhri.net/2007/Statement_of_Compliance_May_2007_En.pdf

[last accessed 11 October 2007]

ICC Accreditation Status

http://www.nhri.net/2007/List_Accredited_NIs_Nov_2007.pdf

[last accessed 11 October 2007]

Commonwealth Secretariat Human Rights Unit Scoping Paper on the CF-NHRI

9.4 Enabling Legislation

AUSTRALIA

Human Rights and Equal Opportunities Commission Act 1986:

<http://www.comlaw.gov.au/comlaw/management.nsf/lookupindexpagesbyid/IP200401635?OpenDocument>

[last accessed 11 October 2007]

NEW ZEALAND

Human Rights Act 1993:

<http://www.hrc.co.nz/index.php?p=308>

[last accessed 11 October 2007]

INDIA

Protection of Human Rights Act 1993:

<http://nhrc.nic.in/hract.htm>

[last accessed 11 October 2007]

MALDIVES

Human Rights Commission Act 2006:

<http://www.hrcm.org.mv/downloads/HRCM%20Act%20English%20translation.pdf>

[last accessed 11 October 2007]

MALAYSIA

Human Rights Commission Act 1999:

http://www.suhakam.org.my/en/act_597.asp

[last accessed 11 October 2007]

SRI LANKA

Human Rights Commission Act No 21 of 1996:

http://www.asiapacificforum.net/members/apf-member-categories/full-members/sri-lanka/downloads/enabling-legislation/slact_english.pdf

[last accessed 11 October 2007]

FIJI

Human Rights Commission Act 1999:

http://www.humanrights.org.fj/about_us/hrc_act_part02.html

[last accessed 11 October 2007]

ZAMBIA

Human Rights Commission Act 39 of 1996:

<http://www.nhri.net/Ni/Files/79/ZM%20Act%20no%2039%20of%201996%20Human%20Rights%20Commission.pdf>

[last accessed 11 October 2007]

NIGERIA

National Human Rights Commission Act 1995:

Not available online

GHANA

Commission on Human Rights and Administrative Justice Act 1993, Act 456:
Not available online

UGANDA

Uganda Human Rights Commission Act 1997:
<http://www.nhri.net/Ni/Files/60/UG%20Act%20no.%204%20of%201997%20Uganda%20Human%20Rights%20Commission%20Act.pdf>
[last accessed 11 October 2007]

MAURITIUS

Protection of Human Rights Act 1998:
<http://www.gov.mu/portal/site/nhrsite/menuitem.6a46a0254804c86512c7c91048a521ca/>
[last accessed 11 October 2007]

KENYA

Kenya National Commission on Human Rights Act 2002:
<http://www.knchr.org/>
[last accessed 12 October 2007]

MALAWI

Malawi Human Rights Commission Act 1998:
Not available online
Constitution of the Republic of Malawi:
<http://www.sdp.org.mw/constitut/intro.html>
[last accessed 12 October 2007]

SOUTH AFRICA

Human Rights Commission Act No 54 of 1994:
http://www.sahrc.org.za/sahrc_cms/publish/article_243.shtml
[last accessed 12 October 2007]

UNITED REPUBLIC OF TANZANIA

Human Rights and Good Governance Act 2001:
<http://www.bunge.go.tz/Polis/PAMS/Docs/7-2001.pdf>
[last accessed 12 October 2007]

CANADA

Canadian Human Rights Act 1985:
<http://laws.justice.gc.ca/en/showdoc/cs/h-6/20070213>
[last accessed 12 October 2007]
Employment Equity Act 1995:
<http://www.legislationline.org/legislation.php?tid=99&lid=2789>
[last accessed 12 October 2007]

NORTHERN IRELAND

Northern Ireland Act 1998:

<http://www.opsi.gov.uk/acts/acts1998/19980047.htm>

[last accessed 12 October 2007]

The Human Rights Act 1998 enacted by the UK parliament is also applicable in Northern Ireland:

<http://www.opsi.gov.uk/acts/acts1998/19980042.htm>

[last accessed 12 October 2007]

ENGLAND AND WALES

Equality Act 2006:

http://www.opsi.gov.uk/acts/acts2006/pdf/ukpga_20060003_en.pdf

[last accessed 12 October 2007]

Human Rights Act 1998:

<http://www.opsi.gov.uk/acts/acts1998/19980042.htm>

[last accessed 12 October 2007]

DENMARK

Act Governing the Establishment of the Danish Centre for International Studies and Human Rights 2002:

<http://www.humanrights.dk/about+us/founding+law>

[last accessed 12 October 2007]

9.5 Enabling Legislation: Ombudsman Offices of the Americas

PAPUA NEW GUINEA

No precise statute available online, but see:

<http://www.paclii.org/pg/OC/main.htm>

[last accessed 12 October 2007]

BELIZE

The Ombudsman Act 2000:

<http://www.belizelaw.org/lawadmin/PDF%20files/cap005.pdf>

[last accessed 12 October 2007]

JAMAICA

Public Defenders Act 1999:

<http://www.opd.gov.jm/act.php>

[last accessed 12 October 2007]

ANTIGUA AND BARBUDA

The Ombudsman Act 1994:

<http://www.laws.gov.ag/acts/1994/a1994-5.pdf>

[last accessed 12 October 2007]

TRINIDAD AND TOBAGO

The Ombudsman Act 1976:

<http://www.ombudsman.gov.tt/applicationloader.asp?app = articles&id = 947>

[last accessed 12 October 2007]

BARBADOS

Not available online

NAMIBIA

The Ombudsman Act 1990:

<http://www.ombudsman.org.na/theact.html>

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- Commonwealth Manual on Human Rights Training for Police: <http://www.thecommonwealth.org/Templates/Internal.asp?NodeID=152764>
- Commonwealth Secretariat Deputy Secretary General Ransford Smith's call for action on 12 September 2006: http://www.thecommonwealth.org/news/155947/commonwealth_welcomes_call_for_action_on_climate_c.htm
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