

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

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

### **1. Purpose**

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

### **2. Background**

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

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

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

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

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

National human rights commissions (institutions) or coordinating committees of such commissions may only take the floor under the relevant agenda item (currently item 18(b)) and make one statement of up to seven minutes from special seats reserved for them. Copies of oral statements made by representatives of national institutions may be circulated in the conference room during the consideration of agenda item 18(b) and, if requested, information or reports received from national institutions on their regional meetings may be circulated as documents of the Commission. (E/CN.4/2002/16, 12 February 2002, para 22)

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

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

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

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

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

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

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

- (a) **Adequate time** should be allocated to the national institutions (7 minutes);
- (b) The **date and time** allocated for national institutions should be fully respected and not bear the consequences for any slippage in the timetable;
- (c) A **designated place** in the meeting room should be reserved for national institutions;
- (d) The Expanded Bureau of the sixtieth session of the Commission should look into the current procedure for **accreditation** of national institutions; and
- (e) **More interaction** between national institutions and participants should be encouraged. (E/CN.4/2004/110, 26 January 2004, para 9)

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

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

...

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

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

The International Coordinating Committee (ICC) of National Institutions for the Promotion and Protection of Human Rights has also undertaken work with a view to further formalising and strengthening the role of NIs in CHR and its subsidiary bodies. The 2002 meeting of the ICC established a working group on this issue, consisting of Australia, Canada and France. The working group

is currently preparing a revised discussion paper which will be discussed at the meeting of the ICC to be held in South Korea on 14 September 2004.

There are other relevant examples of NI involvement in international human rights fora. At its 55<sup>th</sup> session, the Sub-Commission for the Promotion and Protection of Human Rights decided to accredit national institutions to the Sub-Commission in their own right and to allow them to speak on any substantive agenda item.<sup>1</sup>

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

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

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

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

To mark this event, CSW will review implementation of the BPFA and the Outcomes Document, and consider current challenges and forward looking

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

strategies for the advancement and empowerment of women and girls. This will occur at the 49<sup>th</sup> session of CSW, to be held in New York from 28 February to 11 March 2005.

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

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

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

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

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

Zealand and Australia. The session was well attended by approximately 300 non government organisation and government representatives.

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

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

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

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

## **5. Recommendations**

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

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

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

## ANNEX 1

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## ANNEX 2

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

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

(45 members; four-year term)

#### ***Membership***

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

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

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