

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

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

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

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

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

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

- Participation in all substantive agenda items of the Sub-Commission on Human Rights – with speaking limits defined at 7 minutes

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

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

Questions

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

7. How often do you participate in other fora – Sub-Commission; Ad-Hoc Working Group; treaty bodies?
8. How do you participate in these fora (as per pt. 5)?
9. How do you engage with Governments in such fora?
10. How do you engage with civil society in such fora?
11. Should NIs in your opinion have the right to participate in the Commission with the same rights as Governments; NGOs; Specialised Agencies; or other?
