

발 간 등 록 번 호

11-1620000-000504-01

[www.humanrights.go.kr](http://www.humanrights.go.kr)

아시아·태평양 국가인권기구포럼

# 제18차 APF 연례회의 및 제2차 격년 컨퍼런스 참가보고서

The 18th Annual Meeting and 2nd Biennial Conference of the Asia  
Pacific Forum of National Human Rights Institutions

- 2013. 10. 1.~3. 카타르 도하
- 1-3 October 2013, Qatar, Doha





아시아·태평양 국가인권기구포럼

## 제18차 APF 연례회의 및 제2차 격년 컨퍼런스 참가보고서

The 18th Annual Meeting and 2nd Biennial Conference of the  
Asia Pacific Forum of National Human Rights Institutions

- 2013. 10. 1.~3. 카타르 도하
- 1~3 October 2013, Qatar, Doha






---

**제1장 | 제18차 APF 연례회의 및 제2차 격년 컨퍼런스 참가 결과 • 1**

---

|                     |   |
|---------------------|---|
| I. 회의 개요 .....      | 3 |
| II. 위원회 출장 개요 ..... | 5 |
| III. 세부 회의 일정 ..... | 7 |

---

**제2장 | 제18차 APF 연례회의 • 11**

---

|                                    |    |
|------------------------------------|----|
| I. APF 포럼이사회 개요 .....              | 13 |
| II. 제18차 APF 포럼이사회 회의 의제 .....     | 14 |
| III. 제18차 APF 포럼이사회 회의 결정 사항 ..... | 15 |

---

**제3장 | 제2차 APF 격년 컨퍼런스 • 35**

---

|                               |    |
|-------------------------------|----|
| I. APF 격년 컨퍼런스 개요 .....       | 37 |
| II. 제2차 APF 격년컨퍼런스 프로그램 ..... | 37 |
| III. 제2차 APF 격년컨퍼런스 주제 .....  | 40 |

|   |     |
|---|-----|
| 1. 제18차 APF 연례회의 및 제2차 격년 컨퍼런스 자료 .....       | 43  |
| ○ 회의 초청장 .....                                | 45  |
| ○ 회의 세부일정 .....                               | 50  |
| ○ 회의 참가자 명단 .....                             | 56  |
| ○ 제18차 APF 연례회의 결과(Record of Decisions) ..... | 76  |
| ○ APF 연례회의 절차규정(국문) .....                     | 79  |
| ○ APF 연례회의 절차규정(영문) .....                     | 84  |
| ○ APF 컨퍼런스 절차규정(국문) .....                     | 91  |
| ○ APF 컨퍼런스 절차규정(영문) .....                     | 96  |
| <br>  |     |
| 2. 제18차 APF 연례회의 자료 .....                     | 103 |
| ○ 제18차 APF 연례회의 안건자료 .....                    | 105 |
| ○ ICC 의장 보고서(국문) .....                        | 373 |
| ○ ICC 의장 보고서(영문) .....                        | 378 |
| ○ 유엔 고령화 실무그룹 보고서(국문) .....                   | 383 |
| ○ 유엔 고령화 실무그룹 보고서(영문) .....                   | 385 |
| ○ 홍콩기회균등위원회 발표문(국문) .....                     | 388 |
| ○ 홍콩기회균등위원회 발표문(영문) .....                     | 394 |
| <br>  |     |
| 3. 포럼이사회와 ANNI 대화 자료 .....                    | 401 |
| ○ 유엔 인권옹호자 특별보고관 보고서(영문) .....                | 403 |
| ○ 칸디 행동계획(국문요약) .....                         | 426 |
| ○ 칸디 행동계획(영문) .....                           | 428 |
| ○ ANNI 보고서-한국 국가인권위원회(국제민주연대-영문) .....        | 435 |
| <br>  |     |
| 4. 제2차 APF 격년 컨퍼런스 자료 .....                   | 453 |
| ○ ICC 의장 개회사(국문) .....                        | 455 |
| ○ ICC 의장 개회사(영문) .....                        | 463 |
| ○ <주제 1> 발표문-니달 줄디(영문) .....                  | 472 |
| ○ <주제 1> 발표문-원 프라(영문) .....                   | 477 |

|  |     |
|--|-----|
| ○ <주제 2> 발표문-하스미 아감(영문) .....                            | 485 |
| ○ <주제 2> 참고자료-여성수감자 APT 가이드(영문) .....                    | 491 |
| ○ <주제 4> 발표문-길리안 트리그(영문) .....                           | 515 |
| ○ <주제 4> 발표문-시마 사마르(영문) .....                            | 520 |
| ○ <주제 4> 발표문-아메드 토랄(영문) .....                            | 534 |
| ○ <주제 4> 참고자료-암만 선언 및 행동 계획(국문) .....                    | 548 |
| ○ <주제 4> 참고자료-암만 선언 및 행동 계획(영문) .....                    | 556 |
| ○ <주제 4> 참고자료-여성과 소녀의 인권에 관한<br>APF 행동계획(국문) .....       | 566 |
| ○ <주제 4> 참고자료-여성과 소녀의 인권에 관한<br>APF 행동계획(영문) .....       | 567 |
| ○ <주제 5> 발표문-사미라 알-투와이지리(영문) .....                       | 569 |
| ○ <주제 5> 발표문-나다 다와제(영문) .....                            | 580 |
| ○ <주제 5> 발표문-킨 오마르(영문) .....                             | 585 |
| ○ <주제 5> 참고자료-법과 관습에 있어서 여성 차별에 관한<br>워킹그룹 보고서(영문) ..... | 593 |
| ○ 발표자 약력 .....   | 616 |

# 제 1 장

## 제18차 APF 연례회의 및 제2차 격년 컨퍼런스 참가 결과

- I. 회의 개요
- II. 위원회 출장 개요
- III. 세부 회의 일정



# I

## 회의 개요

**1. 회의명:** 제18차 APF 연례회의 및 제2차 격년 컨퍼런스  
(The 18th Annual Meeting and second Biennial Conference of the Asia Pacific Forum of National Human Rights Institutions)

**2. 장 소:** 카타르, 도하(Doha)

**3. 기 간:** 2013. 10. 1.(화) ~ 10. 3.(목)

### 4. 회의 일정

| 일자              | 내용               |
|-----------------|------------------|
| 2013. 10. 1.(화) | APF 포럼이사회 및 연례회의 |
| 2013. 10. 2.(수) | 격년 컨퍼런스          |
| 2013. 10. 3.(목) | 격년 컨퍼런스          |

**5. 주 관:** 카타르 국가인권위원회(National Human Rights Committee of Qatar)

**6. 주 최:** 아시아·태평양 국가인권기구 포럼(APF)

### 7. 회의 개요

- APF 연례회의는 주요 의사결정 포럼으로 새로운 프로그램과 공동의 정책 개발을 목적으로 개최
- 격년 컨퍼런스는 2년에 한번 APF 연례회의와 연계하여 개최되며, 특정 인권주제로 국가인권

기구, 유엔기구, NGO, 학계 등이 모여 논의

○ 회의 연도 및 개최지

- 1차 지역 워크숍, 1996. 7.8~10. 호주, 다윈
- 2차 지역 워크숍, 1997. 9.10~12. 인도, 뉴델리
- 3차 연례회의, 1998. 9.7~9. 인도네시아, 자카르타
- 4차 연례회의, 1999. 9.6~8. 필리핀, 마닐라
- 5차 연례회의, 2000. 8. 7~9. 뉴질랜드, 로토루아
- 6차 연례회의, 2001. 9.24~27. 스리랑카, 콜롬보
- 7차 연례회의, 2002. 11. 11~13. 인도, 뉴델리
- 8차 연례회의, 2004. 2. 16~18. 네팔, 카투만두
- 9차 연례회의, 2004. 9. 13. 한국, 서울
- 10차 연례회의, 2005. 8.24~26. 몽골, 울란바토르
- 11차 연례회의, 2006. 7.31~8.3. 피지, 수바
- 12차 연례회의, 2007. 9.24~27. 호주, 시드니
- 13차 연례회의, 2008. 7.28~31. 말레이시아, 콰라룸푸르
- 14차 연례회의, 2009. 8.3~6. 요르단, 암만

※ 연례회의 방식 재편(연례업무회의와 컨퍼런스 구분)

※ 업무회의 : APF 운영 전반에 관한 사항 의결. APF 정회원기구만 참석하는 비공개회의  
※ 컨퍼런스 : 특정 인권주제(예, 이주인권, 기업인권 등)에 관한 패널회의 진행. 국가인권기구 대표, NGO 대표, 정부대표, 학계 대표 등이 참석하는 공개회의

- 15차 연례업무회의, 2010. 8.3~5. 인도네시아, 발리
- 16차 연례업무회의 및 제1차 격년 컨퍼런스, 2011. 9.6~8. 태국, 방콕
- 17차 연례업무회의, 2012. 11. 5. 요르단, 암만
- 18차 연례업무회의 및 제2차 격년 컨퍼런스, 2013. 10.1~3. 카타르, 도하

## II

## 위원회 출장 개요

### 1. 출장 목적

- APF 포럼이사회 회의 참가 등을 통한 APF 운영에 관한 의사결정 및 아시아·태평양 지역 국가인권기구 주요 현안 논의
- 격년 컨퍼런스에 참가하여 특정 인권주제에 대해 논의
- 아태지역 국가인권기구, UN 기구, 시민사회와의 교류협력 강화

### 2. 주요 일정

- APF 포럼이사회 및 연례회의
- APF 격년 컨퍼런스

### 3. 출장국, 출장기간, 출장자

- 출장국 : 카타르, 도하(Doha)
- 기간 : 2013. 9. 30.(월) ~ 10. 5.(토)
- 출장자

| 연번 | 소속      | 직위     | 성명  | 비고 |
|----|---------|--------|-----|----|
| 1  | 국가인권위원회 | 상임위원   | 김영혜 |    |
| 2  | 인권정책과   | 인권정책과장 | 이석준 |    |
| 3  | "       | 국제인권팀장 | 김현철 |    |
| 4  | "       | 담당자    | 서미라 |    |

### 4. 주요 활동 내용

- APF 포럼이사회 및 연례회의에 참석하여 의사결정에 참여
- 격년 컨퍼런스에 참여하여 아시아·태평양 지역의 주요 인권 현안인 민주주의 전환기에서 인권, 여성과 소녀의 인권보호, 국가인권기구의 역할 등의 이슈와 논의 모니터링 및 참여

○ 주요인사 면담

- ICC 의장과 태국 인권위원장 등 면담을 갖고 서울에서 개최되었던 파리원칙 국제회의 참석에 감사인사를 전하고 국가인권기구간 협력에 관해 논의
- APF 사무국장과 면담을 하여 우리 위원회가 현재 추진 중인 ICC의 A등급 회원기구에 관한 실태조사에 관해 설명하고 협력을 요청
  - ※ 우리 위원회는 격년 컨퍼런스 도중에 위 실태조사에 대한 설명과 협조를 요청하는 시간을 공식적으로 가졌고 APF 사무국이 향후 ICC의 A등급 회원기구에 협조를 요청하는 메일을 보내주겠다는 답변을 받았음.

### III

## 세부 회의 일정

| 일시                                 | 주요 일정  | 비고                       |
|------------------------------------|--|--------------------------|
| <b>첫째 날 - APF 포럼이사회 및 연례회의</b>     |  |                          |
| 08:00~09:00                        | • 참가자 등록(포럼이사 및 초청 옵서버)  | 회의장 밖<br>등록데스크           |
| 09:00~12:30<br>(10:30~11:00<br>휴식) | <ul style="list-style-type: none"> <li>• APF 포럼이사회 및 연례회의</li> <li>- 주제 : 아마라 풍사피치, 태국 인권위원장               <ul style="list-style-type: none"> <li>• 참석 확인(의장)</li> <li>• 의제 채택(의장)</li> <li>• APF 의장 선출(사무국)</li> </ul> </li> <li>- 주제 : 알리 빈 스마이크 알-마리, 카타르 인권위원장               <ul style="list-style-type: none"> <li>• 국제활동(의장)</li> <li>: ICC 의장 보고서, ICC 전략계획 과정, ICC 승인소위원회, 고령화에 관한 유엔 개방형 실무그룹</li> <li>• APF 정관 개정(의장)</li> <li>• APF 회원가입-오만 신청(의장)</li> <li>• APF 회원가입-사모아 신청(의장)</li> <li>• APF-ICC 대표성</li> <li>• 2014년 제19차 APF 연례회의 개최지(의장)</li> <li>• 2015년 제20차 APF 연례회의 및 격년 컨퍼런스 개최지(의장)</li> <li>• APF 부의장단 선출(사무국)</li> <li>• APF 활동 및 재정보고서(사무국)</li> <li>• 회계감사 승인(사무국)</li> <li>• 2014/2015년 APF 연간활동계획서(사무국)</li> <li>• 기타</li> </ul> </li> </ul> | Al Mukhtasar<br>Ballroom |
| 12:30~14:00                        | <b>오찬</b>  | 미정                       |
| 14:00~16:00                        | <ul style="list-style-type: none"> <li>• APF 포럼이사와 NGO/ANNI 대화</li> <li><b>사회자 : 무히에든 토크, 전문가</b></li> <li>대화는 APF 회원기구들과 시민사회 대표들이 상호 관심사항에 관한 개입과 협력할 수 있는 실제적이고 건설적인 방안들을 논의하는 기회를 제공하기 위해 마련됨</li> <li><b>의제</b></li> <li>1. 인권옹호자(HRDs)로서 국가인권기구               <ul style="list-style-type: none"> <li>- 인권옹호자로서 국가인권기구를 위한 개선 영역과 모범사례에 관한 ANNI 보고</li> <li>- ANNI가 강조한 모범사례의 측면에서 선정된 국가인권기구</li> <li>- 토론</li> </ul> </li> </ul>  | Al Mukhtasar<br>Ballroom |

| 일시                        | 주요 일정  | 비고                 |
|---------------------------|--|--------------------|
|                           | 2. 국가인권기구와 인권옹호자(HRDs)<br>- 국가인권기구의 다른 인권옹호자와의 관계에 관한 ANNI의 보고, 모범사례와 국가인권기구 인권옹호자 포컬 포인트<br>- ANNI가 강조한 모범사례의 측면에서 선정된 국가인권기구<br>- 토론<br>3. 국가인권기구, 시민사회, APF의 협력   |                    |
| 16:00                     | <b>휴식 및 폐회</b>   |                    |
| <b>둘째 날 - APF 격년 컨퍼런스</b> |  |                    |
| 07:30~08:45               | <ul style="list-style-type: none"> <li>• 참가자 등록(회원기구 및 등록 옵서버)</li> </ul>  | 회의장 밖 등록데스크        |
| 09:05~09:45               | <ul style="list-style-type: none"> <li>• 환영사 : 알리 빈 스마이크 알-마리, APF 의장·카타르 인권위원장</li> <li>• 기조연설 : 카타르 정부 대표</li> </ul>   | Al Wosail Ballroom |
| 09:45~10:30               | <ul style="list-style-type: none"> <li>• 주제 1 - 국가와 시민사회와의 협력 하에서, 민주주의로의 평화적 이행의 달성에서 국가인권기구의 역할-도전과 기회</li> <li>- 주재 : 아마라 풍사피치, 태국 인권위원장</li> <li>- 발표 (각 15분)               <ol style="list-style-type: none"> <li>1. 아말 알 만나이, 카타르 인권위 위원·사회발전센터 사무국장</li> <li>2. 니탈 줄디, OHCHR 중동지역사무소 인권담당:<br/>'전환기 중동지역 국가인권기구와 사회: 기회와 도전'</li> <li>3. 윈 프라, 미얀마 인권위원장: '미얀마 상황에서 도전과 기회'</li> <li>4. 수실 파큐렐, 사회적 대화를 위한 연합(네팔)<br/>(Alliance for Social Dialogue(Nepal)) 의장</li> </ol> </li> </ul> | Al Wosail Ballroom |
| 10. 2<br>(수) 10:30~11:00  | <b>휴식</b>  | Lagoon Restaurant  |
| 11:00~12:30               | <ul style="list-style-type: none"> <li>• 주제 1 발표(계속)</li> <li>• 질의 및 응답</li> </ul>   | Al Wosail Ballroom |
| 12:30~14:00               | <b>오찬</b>  | Lagoon Restaurant  |
| 14:00~14:45               | <ul style="list-style-type: none"> <li>• 주제 2 - 경찰력과 보안군과 함께 일하는데 있어 국가인권기구의 역할</li> <li>- 주재 : 스리 케이 지 발라크리슈난, 인도 인권위원장</li> <li>- 발표 (각 10분)               <ol style="list-style-type: none"> <li>1. 하스미 아감, 말레이시아 인권위원장:<br/>'경찰력과 보안군에 대한 말레이시아 인권위의 개입'</li> <li>2. 로레타 로살레스, 필리핀 인권위원장:<br/>'보안 분야 개혁과 민주적 거버넌스를 향한 보안 행위자와의 협력'</li> </ol> </li> </ul>  | Al Wosail Ballroom |

| 일시                        | 주요 일정  | 비고                       |
|---------------------------|--|--------------------------|
|                           | 3. 란다 시니오라-마탈라, 팔레스타인 인권위 국장:<br>‘팔레스타인에서 인권기구와 보안 기관 : 민간인 감독을 위한<br>긴급 요구’<br>4. 인드리 샵타닝럼, 인도네시아 정책·조사·옹호 연구소<br>(Institute for Policy, Research and Advocacy) 사무국장  |                          |
| 14:45~15:15               | <b>토론 - 질의 및 응답</b>  | Al Wosail Ballroom       |
| 15:15~15:45               | <b>휴식</b>  |                          |
| 15:45~16:30               | <ul style="list-style-type: none"> <li>• <b>주제 3 - 민주주의와 굿 거버넌스에서 국가인권기구의 역할</b></li> <li>- <b>주재</b> : 데이비드 러더퍼드, 뉴질랜드 인권위원장</li> <li>- <b>발표</b> (각 10분)               <ol style="list-style-type: none"> <li>1. 모우사 부라이자트, 요르단 인권센터 인권위원:<br/>                   ‘민주주의와 거버넌스 : 사례연구로서 인권기구의 역할’</li> <li>2. 샤라드 찬드라 신하, 인도 인권위원회 인권위원:<br/>                   ‘민주주의와 굿 거버넌스에서 국가인권기구의 역할’</li> <li>3. 무히에든 토크, 전문가 :<br/>                   ‘민주적 개혁과 전환에서 지역의 사회정치적 맥락과 이렇 국가<br/>                   인권기구의 역할’</li> <li>4. 바라싱엄 스칸타쿠마르, 사회과학연합(스리랑카)</li> </ol> </li> </ul> | Al Wosail Ballroom       |
| 16:30~17:00               | <b>토론 - 질의 및 응답</b>  | Al Wosail Ballroom       |
| 19:00~21:00               | <b>대회 만찬</b>   | Mamig Restaurant, Katara |
| <b>셋째 날 - APF 격년 컨퍼런스</b> |  |                          |
| 10. 3<br>(목)              | <ul style="list-style-type: none"> <li>• <b>주제 4 - 여성과 소녀의 인권에 관한 APF 행동계획: 국가인권기구가<br/>어떻게 여성과 소녀의 인권을 보호하고 증진할 것인가?</b></li> <li>- <b>주재</b> : 미자눌 라만, 방글라데시 인권위원장</li> <li>- <b>발표</b> (각 15분)               <ol style="list-style-type: none"> <li>1. 길리안 트리그, 호주 인권위원장:<br/>                   ‘호주 국방부에서 여성처우에 대한 호주 인권위원회의 검토’</li> <li>2. 시마 사마르, 아프가니스탄 인권위원장:<br/>                   ‘강간과 명예살인에 관한 아프가니스탄 인권위원회의 조사’</li> <li>3. 아메드 토랄, 몰디브 인권위원회 부위원장:<br/>                   ‘여성인권 : 국가인권기구의 몰디브 상황에 대한 고찰’</li> </ol> </li> </ul>                                 | Al Mukhtasar Ballroom    |
| 09:45~10:30               | <b>토론 - 질의 및 응답</b>  |                          |
| 10:30~11:00               | <b>휴식</b>  |                          |

| 일시          | 주요 일정  | 비고                    |
|-------------|--|-----------------------|
| 11:00~11:45 | <ul style="list-style-type: none"> <li>• 주제 5 - 정치적 및 민주적 개혁에서 국가인권기구와 여성</li> <li>- 주재 : 시마 사마르, 아프가니스탄 인권위원장</li> <li>- 발표 (각 15분)               <ol style="list-style-type: none"> <li>1. 사미라 알-투와이지리, UN여성, 아랍국가 지역과장: '폭넓은 전환 : 여성을 대화와 정치적 개혁의 장으로'</li> <li>2. 나다 다와제, OHCHR 중동지역사무소 인권담당/젠더 고문: '아랍세계에서 여성이 직면한 도전과 미래 전망'</li> <li>3. 킨 오마르, 버마 파트너십/88세대(미안마)</li> </ol> </li> </ul> | Al Mukhtasar Ballroom |
| 11:45~12:30 | 질의 응답  |                       |
| 12:30~12:45 | <ul style="list-style-type: none"> <li>• 폐회사</li> <li>- 알리 빈 스마이크 알-마리, APF 의장·카타르 인권위원장</li> </ul>  | Al Mukhtasar Ballroom |
| 12:45~14:00 | 오찬   | Lagoon Restaurant     |

## 제 2 장

### 제18차 APF 연례회의

- I. APF 포럼이사회 개요
- II. 제18차 APF 포럼이사회 회의 의제
- III. 제18차 APF 포럼이사회 회의 결정 사항



# I

## APF 포럼이사회 개요

- APF 포럼이사회는 APF의 의사결정기구로 회원 국가인권기구의 위원장으로 구성
  - 정회원기구 : 15개국 (아프가니스탄, 호주, 인도, 인도네시아, 말레이시아, 몽골, 네팔, 뉴질랜드, 필리핀, 한국, 태국, 동티모르, 요르단, 팔레스타인, 카타르)
    - ※ 우리 위원회는 2002. 11. 정회원기구로 가입
  - 준회원기구 : 6개국 (스리랑카, 몰디브, 방글라데시, 버마, 오만, 사모아)
    - ※ 준회원기구는 포럼이사회에서 의결권을 갖지 못함.
    - ※ 오만과 사모아 인권기구는 이번 APF 연례회의의 포럼이사회에서 준회원 자격이 승인됨.
  
- 의장단 선출
  - 각 국가인권기구가 2년마다 순환하는 방식으로 담당
  - 해당년도 격년 컨퍼런스 (Biennial Conference) 개최기구가 의장직(Chairperson)을 맡고, 이전과 이후 회의 개최기구가 부의장직(Deputy Chairpersons)을 맡는 것이 관례
  
- 포럼이사회는 APF 연례회의에서 매해 회의 개최

## II

## 제18차 APF 포럼이사회 회의 의제

| 의제   |
|--|
| <p>• 주재 : Professor Amara Ponsapich(태국 인권위원장)</p> <ul style="list-style-type: none"> <li>- 참석 확인(의장)</li> <li>- 의제 채택(의장)</li> <li>- APF 의장 선출(사무국)</li> </ul>   |
| <p>• 주재 : Dr. Ali Bin Smaikh Al-Marri(카타르 인권위원장)</p> <ul style="list-style-type: none"> <li>- 국제활동(의장) : ICC 의장 보고서, ICC 전략계획 과정, ICC 승인소위원회, 고령화에 관한 유엔 개방형 실무그룹</li> <li>- APF 정관 개정(의장)</li> <li>- APF 회원가입-오만 신청(의장)</li> <li>- APF 회원가입-사모아 신청(의장)</li> <li>- APF-ICC 대표</li> <li>- 2014년 제19차 APF 연례회의 개최지(의장)</li> <li>- 2015년 제20차 APF 연례회의 및 격년 컨퍼런스 개최지(의장)</li> <li>- APF 부의장단 선출(사무국)</li> <li>- APF 활동 및 재정보고서(사무국)</li> <li>- 회계감사 승인(사무국)</li> <li>- 2014/2015년 APF 연간활동계획서(사무국)</li> <li>- 기타</li> </ul> |

### III

## 제18차 APF 포럼이사회 회의 결정 사항

### 1. 참석확인

- 모든 APF 회원기구가 참석함. 옵서버로 ICC 의장과 OHCHR을 비롯해 바레인, 홍콩, 이라크, 카자흐스탄, 오만, 사모아 등의 인권기구가 참석하였음.

### 2. 의제채택

- APF 사무국에서 제안한 원안이 수정 없이 채택되었음.

### 3. APF 의장 선출

- 포럼이사회 결정에 따라, 연례회의 및 격년 컨퍼런스의 개최기구가 APF 의장의 역할을 수행함. 따라서 제18차 연례회의와 격년 컨퍼런스의 개최기구인 **카타르 인권위원회**를 APF 의장으로 선출하였음.

### 4. ICC 의장 보고서

- ICC 의장의 보고서가 보고되었음.
- ICC 의장이자 남아공 인권위원장 마베들 로렌스 무쉬와나(Mabedle Lawrence Mushwana)가 2013년 5월 ICC 연례회의 이후 ICC 활동에 관해 보고하였음.
- 우선 재정 관련하여 2013년 5월 당시 스위스 법에 의거한 ICC의 법적 지위가 만기하여 이를 회복하기 위한 조치를 취하였음. 그 과정에서 은행계좌에 접근이 불가능하여 채무와 임금 지불의 상황이 발생할 상황에 처했을 때 APF의 도움으로 이 문제를 해결하였음.
- 회비 관련하여 2013년 6월말까지 약 35개 회원국이 회비를 납부하였음. 지난 수년간 아시아·태평양 지역의 경우 회비 납부율이 좋음.
- ICC 제네바 직원에 대하여 카타리나 로스(Katharina Rose)가 출산 휴가를 갖게 되어 브루스 아담슨(Bruce Adamson)이 대신 임무를 맡고 있음. 또한 덴마크 인권기구의 지원을 받아 사라 팔레센(Sarah Pallesen)이 인턴으로 근무하고 있음. ICC 제네바 대표부에 한 명 이상의 직원이 필요함이 명백하여 그 필요성을 향후 있을 ICC 집행이사회 회의에서 발표하겠음.

- 전략계획과 예산과 관련하여 ICC 집행이사회 회의에서 현 전략계획을 2013년 말까지 연장하는 제안을 상정할 계획이고 2016년 12월 31일까지 유효한 3개년 전략계획을 발표할 예정이다. 또한 지난 2013년 7월 뉴욕에서 열린 OHCHR, UNDP, ICC의 전략동반자 회의에서 전략기획팀(Strategic Planning Task Team)이 재구성되었음. 본 전략계획은 1) 유엔과 지역 메커니즘과의 ICC 협력 개선, 2) 동반자관계 구축 및 외부 당사자와의 협력, 3) 지속가능한, 잘 관리된 ICC의 구축, 4) ICC 승인과정의 유지 및 강화 등의 분야에 중점을 둘 것임.
- ICC 승인소위원회는 지난 2013년 5월에 개최되었는데 9개의 국가인권기구가 A등급을 부여받았음. 나머지 평가 대상 국가인권기구들의 재평가 일정은 차후로 예정되었음.
- 고령화에 관한 개방형 실무그룹 관련, 우선 2013년 11월 ICC 집행이사회에서 다양한 ICC 실무그룹의 지위와 기능에 관한 논의가 필요함. ICC 고령화에 관한 실무 그룹은 ICC 결의안 채택으로 설립되었으나 구성, 운영과 권한이 불명확함.
- ICC 의장으로 다양한 중요 회의에 참석하였음.
  - 2013년 27-28일 비엔나 +20 회의 (The Vienna +20 conference in Vienna)
  - 2013년 7월 뉴욕 ICC, OHCHR, UNDP 전략동반자회의 (Strategic partnership meeting in New York)
  - 2013년 9월 13일 서울 파리원칙 20주년 기념 국제회의 (Paris Principles 20th anniversary commemoration workshop)
  - 지난주 열린 제네바 유엔인권이사회 회의
  - 2013년 9월 25일 코펜하겐 아랍-유럽회담 (Arab European dialogue in Copenhagen)

## 5. ICC 승인소위원회

- ICC 승인소위원회 의장(카타르 인권위원회)의 보고서가 보고되었음.
- 카타르 인권위원회는 ICC 승인소위원회의 APF 대표를 맡고 있음. 승인소위원회의 역할은 국가인권기구의 ICC 멤버십 신청을 검토하고 이들 국가인권기구들이 파리원칙에 부합한지 여부를 결정하는 것임. 이는 인권기구의 파리원칙 준수에 대한 ICC의 수락은 인권기구가 유엔인권이사회와 다른 유엔의 장에서 발언할 수 있는 능력을 갖는 ‘국가인권기구’로 유엔에서 공식적으로 인정받을 수 있는지 여부를 결정하는 것으로 중요한 역할임. 카타르 인권위원회는 ICC 승인소위원회의 역할에 관해 구두 보고가 있었음.

## 6. 고령화에 관한 유엔 개방형 실무그룹

### (UN Open-Ended Working Group on Ageing)

- 유엔 고령화 실무그룹에 관한 말레이시아 인권위원회의 보고서가 보고됨.
- 유엔은 고령화에 관한 개방형 실무그룹(Open-Ended Working Group on Ageing, OEWG)를 설립하였음. 노인 인권의 강화를 목적으로 하는 고령화에 관한 OEWG의 임무는 세 가지 관점을 포함함.
  - 노인인권에 관한 현존하는 국제적 프레임워크를 고려할 것
  - 최상의 문제해결방안과 가능한 격차를 규명할 것
  - 적절하고 실행가능한 기구와 방법을 고려할 것
- 제4차 OEWG 회의가 2013. 8. 12.~15.까지 뉴욕 유엔본부에서 개최되었음. 말레이시아 인권위원회 의장은 동 세션의 전문가 패널로 참석하였는데 회의의 진행과 결과에 관해 보고하였음.
  - 동 회의에서 회원국과 시민사회단체들은 1) 각 사회마다 점진적으로 증가하는 고령인구와 함께 전 세계에서 나타나고 있는 전례 없는 인구학적 도전이 머지않아 정부와 사회에 상당한 도전으로 다가올 것 2) 기존 메커니즘으로 고령자의 시민적, 정치적, 사회적, 경제적 그리고 문화적 권리를 최대한 향유할 권리를 보장하기 부족하고 부적절하여 고령자가 학대, 소외, 비난, 무관심, 차별에 직면하고 있고 그들의 기본적 욕구가 충족되고 있지 않다는 것 등 두 가지 측면에서 합의가 있었음.
  - 회원국과 시민사회단체의 대표, 초청 패널리스트의 대다수는 고령자의 인권을 포괄하는 국제협약의 필요성을 제기함

## 7. APF 정관 개정

- 정관 개정안이 승인되었음.
- 개정안은 다음 사항을 담고 있음.
  - 멤버십 신청을 다루는 조항들 : 관련 개정은 신청자가 APF가 사용할 ICC 승인에 관한 결정을 파리원칙 준수의 증거로 제출해야한다고 명시하였음.
  - 멤버십 종류를 다루는 조항들 : 관련 개정은 APF의 정회원(Full member), 준회원(Associate member)의 범주는 유지하나 후보회원(Candidate member) 범주는 삭제하였음. 이는 단순화하고 APF의 정회원과 준회원 멤버십을 ICC의 A등급과 B등급을 맞추기 위함임. 다만 모든 APF 회원기구의 현재 지위에 영향을 미치지 않음.

- 파리원칙의 불이행을 다루는 조항들 : 관련 개정은 포럼이사회에 파리원칙을 준수하지 않는 회원기구를 효과적이고 세심하게 다룰 수 있는 추가적 권한을 부여하는 것임. 기존 정관에서 포럼이사회는 그런 회원기구를 제명할 수만 있었음. 개정안은 포럼이사회에게 제명이 마땅하지 않는 상황에서 멤버십을 중지 또는 강등할 수 추가적 선택권을 부여함. 또한 개정안은 중지 회원(suspended member)의 권리를 명시하고 있음.
- 기타 조항들 : 멤버십을 위한 초기 신청서에 서명하는 후보와 제정자의 요건을 삭제하고 위 조항들의 개정으로 인한 조항 번호를 변경하였음.

#### ❖ 배경

- 포럼이사회는 제12차 APF 연례회의에서 사무국이 APF 멤버십과 ICC 승인 절차를 검토하고 APF 멤버십 등급 결정을 위한 파리원칙 준수의 증거로서 ICC 승인 결정을 채택할지 여부에 관한 제안을 보고할 것을 요청하였음.
- APF 사무국은 검토를 진행하였고 제14차 APF 회의에서 APF 멤버십 등급 결정을 위한 파리원칙 준수의 증거로서 ICC 승인 결정을 채택하기 위한 2단계 과정을 제안하였음. 첫 번째 단계는 APF가 ICC 절차의 수행을 지속적으로 모니터링하면서 APF 멤버십 종류에 일시적 변화를 주는 것임. 두 번째 단계는 포럼이사회가 적절하다고 판단할 때 APF 정관의 멤버십 규정을 공식적으로 개정하는 것임. 포럼이사회는 이러한 제안을 채택하였음.
- 제15차 APF 회의에서 포럼이사회는 ICC 절차를 숙고하는 동안 두 번째 단계의 이행을 연기하는데 동의하였음. 그 사이에 APF 사무국이 포럼이사회에서 검토할 수 있도록 개정안 초안을 만들도록 하였음. 개정안은 2011년 배포되었고 포럼이사회는 2012. 6. 1.까지 개정초안에 대한 의견을 제공하기로 하였음.

## 8. APF 회원 가입

- 포럼이사회는 오만과 사모아 국가인권기구의 회원가입 신청을 검토하고 준회원으로 가입을 승인하였음.
- 배경
  - APF는 오만 국가인권위원회의 멤버십 신청을 접수하였음.
  - APF 정관 제11조에 가입절차가 명시되어있음. 파리원칙을 전적으로 준수하는 가입 신청기구는 정회원 자격이 부여되고, 파리원칙을 부분적으로 준수하는 신청기구는 후보 또는 준회원의 자격이 부여됨.
  - 2009년 포럼이사회는 국가인권기구 국제조정위원회(ICC)의 승인 결정을 파리 원칙을 준수하고 APF 회원자격을 부여받을 수 있는 증거로 인정하고, 파리원칙 준수 여부에 관한 심

사과정을 개정 및 채택하였음. ICC 승인을 받지 못한 경우, 신청기구는 준회원 자격으로만 신청할 수 있음.

- APF 포럼이사회는 APF '정회원' 자격이란 ICC 승인기준 'A' 등급에 준함을 상기해야 함. APF '준회원' 자격이란 ICC 승인기준 'B' 등급에 준함.
- 회원자격과 관련된 모든 결정은 포럼이사회에 위임된다. 포럼이사회는 가입신청을 거부하는 경우, 이에 대한 사유를 제공할 의무가 없음. 또한 포럼이사회는 재량에 따라 가입심사를 차회 APF 이사회 회의로 연기할 수 있음.
- 회원자격과 관련하여, 정회원은 APF가 제공하는 모든 서비스에 접근할 수 있으며, 의사결정과정에서 투표권 및 APF 법률가자문위원회에 후보위원을 지명할 수 있는 권한이 부여됨. 준회원의 경우 APF가 제공하는 서비스에 접근할 수 있으나 투표권 및 APF 법률가자문위원회에 후보위원을 지명할 수 있는 권한은 부여되지 않음.

○ 오만 국가인권위원회(National Human Rights Commission of Oman)

❖ 오만 국가인권위원회

○ 오만

- 오만 왕국은 아라비아반도의 동남부 해안에 위치한 주권국가임. 북서쪽에는 아랍에미리트연합국, 서쪽에는 사우디아라비아, 남서쪽에는 예멘이 국경을 접하고 있음. 인구는 280만 명을 넘음.
- 오만은 절대왕정국가로서 세습군주인 술탄이 입법권, 사법권 및 행정권을 갖고 있음. 술탄 카부스 빈 사이드(Qaboos bin Said)는 중동에서 가장 오랫동안 권력을 유지해오고 있음.
- 오만 의회, 또는 오만 평의회(Council of Oman)는 다음과 같이 구성되어 있음.
  - 하원 자문평의회 (Majlis ash-Shoura)
  - 상원 국가평의회 (Majlis ad-Dawlah)
- 83명의 상원의원은 모두 술탄이 임명함. 84명의 하원의원은 선거 및 술탄과의 협의를 통해 임명됨.
- 2011년 이래 오만의 입법과정은 다음과 같음.
  - 행정부(술탄에 의해 임명)는 법안을 자문평의회에 발의함.
  - 자문평의회는 법안을 심사하여 승인 또는 개정하여 국가평의회로 제출함.
  - 국가평의회는 법안을 심사, 승인한 후 술탄의 승인을 받음.
- 입법과 관련하여 자문평의회와 국가평의회 간 의견일치가 이루어지지 않는 경우, 이를 투표에 부침. 절대다수가 법안을 승인하는 경우, 국가평의회는 술탄에 법안 승인을 요청함.
- 오만 왕국의 국가기본법 제59조는 “법의 우위성은 국가정치의 근간이 된다”고 명시하고 있으며, 제60조는 “사법부는 독립성을 유지한다”고 규정하고 있음.
- 오만 왕국 국가기본법(또는 헌법)은 1996년에 공포되었음. 기본법 제 15-40조에 걸쳐 기본적 권리가 보호되고 있으며, 이는 주요 국제인권조약에서 명시하고 있는 권리 다수를 포함하고 있음. 이 중에는 법 앞에 평등권 및 인종, 출생, 종교, 공직, 신분, 문화, 성, 재산을 이유로 한 차별행위로부터의 자유권 등이 포함되어있음. 특정 권리의 경우 “계엄령이 선포되거나 법에 의해 지정된 기간”동안 제한되거나 유예될 수 있음.

○ 오만 국가인권위원회 (National Human Rights Commission of Oman)

〈설립〉

- 오만 국가인권위원회는 ‘인권위원회 설립과 권한 설정에 관한 칙령 제124/2008호’ 및 승인이 예정되어 있는 ‘인권위원회와 그 권한에 관한 칙령 규정 부칙’에 따라 설립되었음. 전자는 위원회의 설립을 다루고 있으며, 후자는 구성, 지도부, 임기, 기능 및 조직행정과 관련된 추가사항 등을 다루고 있음.

〈목표 및 권한〉

- 칙령은 위원회의 독립성을 명시적으로 규정하고 있고 “국제협약과 기본법에 따라 왕국에서의 인권과 자유의 보호”를 위해 설립되었다고 규정하고 있음.
- 오만 위원회의 권한은 다음과 같은 추가기능을 포함함.
  - 오만의 인권 위반 또는 침해 행위를 감시하고 그 해결을 지원함.
  - 오만 내 관련 당국에 인권 및 자유와 관련된 지문을 제공하고 이에 대한 보고서 작성에 참여함.
  - 인권문화의 확산에 필요한 국내 절차 등을 포함한 연례 계획을 제안하고 이의 승인을 위해 각료회의에 제출함. 이후, 관련 당국과의 조정을 통해 해당 계획의 시행 효과성을 확보함.
  - 인권 분야에서 활동하고 있는 타국가, 국제기구 및 비정부기구의 견해를 조사하여, 관련 당국과의 조정을 통해 이러한 견해에 대해 적절히 대응하도록 함.
  - 위원회에 주어진 권한과 관련된 기타 임무를 수행함.
- 위원회가 그 기능을 수행함에 있어서 모든 국가기관은 위원회와 협조할 의무가 있음. 위원회의 기능, 행정 및 절차는 공식 절차규정에 보다 자세히 명시되어 있음.

〈구성〉

- 위원회는 칙령 부칙 제1조에 명시된 목록에서 임명된 14명의 위원들로 구성됨.
  - 국가평의회에서 1명
  - 국가슈라평의회(State Shura Council)에서 1명
  - 오만산업상공회의소(Oman Chamber of Commerce and Industry)에서 1명
  - 오만왕국 노동자연맹(General Federation for Workers of the Sultanate of Oman)에서 1명
  - 법조계에서 1명
  - 시민단체에서 3명
  - 외무부, 내무부, 사회개발부, 사법부, 인력민원부에서 6명
- 종합적으로 위원회는 시민사회에서 6명, 의회에서 2명, 그리고 정부기관에서 6명이 임명됨. 의회, 정부기관 출신 위원들도 모두 투표권을 가짐. 법에 명시되어있지는 않으나, 위원회는 각 단체가 자체적으로 후보를 지명할 것을 권고하고 있음. 임기는 3년이고 연임이 가능함.
- 위원회는 월례 전원회의를 개최하고 필요한 경우 추가적으로 회의를 열 수 있음. 위원의 다수가 정족수를 구성함.

〈조직과 직원〉

- 위원회는 수도 무스카트에 본부를 두고 있고 비서실과 사무국의 지원을 받음. 사무국은 43명의 직원을 두고 있으며 과반수가 여성임. 사무국은 다음과 같은 행정 부서를 두고 있음.
  - 행정재정 부서
  - 홍보 부서

- 진정(complaints) 및 보고(reporting) 부서
- 국제협력 부서
- 법무 부서
- 정보(information) 및 연구(research) 부서
- 기록(documentation) 부서

**<재정>**

- 현 회계연도의 기준, 위원회는 미화 5,758,500달러의 예산지원을 받았음.

○ 사모아 옴부즈맨(Ombudsman of Samoa)

**❖ 사모아 옴부즈맨**

○ 사모아

- 사모아는 남태평양에 위치한 주권국가임. 사모아는 1962년 뉴질랜드로부터 독립하여 1976년 유엔회원국이 되었음. 인구는 194,000명임.
- 사모아는 의회민주주의를 채택하고 있음. 의회는 단원으로 구성되어 있고, 의원들은 총 49명에 5년 임기를 가짐. 총리는 의회의 다수결 투표로 선출되며 내각행정부(정부)를 조직할 수 있는 권한을 가짐.
- 사모아 헌법 제65조에 의하면 사모아 대법원이 국가의 최고법원으로 규정되어있으며, 헌법 전문 및 취임 선서에서 사법 처리의 중립성이 강조되고 있음. 공정한 재판권 및 법 앞에서의 평등권 등은 헌법 제4조, 제9조 그리고 제10조에 의해 보호되고 있음.
- 헌법 제2부 (제3~15조)는 기본적 인권의 보호를 명시하고 있음. 이 중 생명권 및 신체의 안전권, 공정한 재판권, 존엄권, 법 앞의 평등권 및 다양한 형태의 차별행위로부터의 자유권 등을 포함하고 있음.

○ 사모아 옴부즈맨 (Ombudsman of Samoa)

**<설립>**

- 사모아 옴부즈맨은 1988 옴부즈맨법(Komesina o Sulufaiga Act)에 의해 설립되었음. 본 법이 2013년 5월 개정되면서 국가인권기구의 기능이 추가되었음.

**<구성>**

- 옴부즈맨의 임명과 관련된 규정은 옴부즈맨법 별표 3에 명시되어 있음. 본 규정은 독립 임명 위원회, 공석의 홍보 및 구체적, 일반적 임명 기준을 정하고 있음. 임명 위원회는 후보 심사를 통해 선정된 후보명단을 담은 보고서를 의회에 제출함. 의회가 이들 후보들에 대한 임명 추천을 하면, 국가 원수가 공식적으로 임명하여 6년의 임기동안 옴부즈맨으로써 활동하게 됨. 임기는 갱신이 가능함.

**<조직과 직원>**

- 옴부즈맨은 수도 아피아(Apia)에 본부를 두고 있으며, 보조 옴부즈맨과 5명의 직원으로 구성된 사무국의 지원을 받음. 한 명의 위원으로 구성된 국가기관이라는 점을 고려하여, 다원성은 직원 및 지문, 전문단체 설립을 통해 유지됨.

**<재정>**

- 현 회계연도 기준, 옴부즈맨은 미화 270,000달러의 예산을 지원받았음.

## 9. APF 회원기구의 ICC 대표성 (ICC Representation)

- 포럼이사회는 ICC 집행이사회에 카타르 국가인권위원회의 지명을 승인하였음. 또한 2014년 제19차 연례회의에서 ICC에서의 모든 아시아·태평양 포지션에 대한 선거를 하기로 논의하였음.
- 배경
  - APF 의장은 지역의장으로서 ICC 집행이사회에 선출돼야 함.
  - 현재 APF 지역대표로 ICC 집행이사회에 활동하는 기구는 요르단(4년); 말레이시아(4년); 한국(2년); 태국(2년)의 인권기구임.
  - 우리 지역의 모든 ICC 집행이사회 직위에 대한 선거는 2014년 제19차 APF 연례회의에서 치러질 예정이고 신임 집행이사회 기구는 2015년 첫 번째 ICC 집행이사회부터 역할을 수행할 것임. APF 회원기구의 ICC 집행이사회 선출에 관해 포럼이사회는 ICC 집행이사회에 관한 연속성, 지식, 경험의 정도를 보장하는 동시에 지역 전반에 걸쳐 APF 멤버십의 순환제를 독려하고 있음. 따라서 포럼이사회는 두 개 이상 직위는 보통 어느 경우에서든 연장되지 않는다는 것에 동의함.
  - 새로이 선출된 APF 의장(카타르)이 2014년 선거 이전에 ICC 집행이사회에서 활동하기 위해서는 현재 우리지역의 4개의 ICC 집행이사회 기구 중 하나가 변경돼야 함. 국가인권기구가 자발적으로 물러나고 포럼이사회 동의하에 카타르의 APF 의장이 그 직위를 채우는 것이 이상적임.
- ICC 집행이사회
  - ICC 집행이사회는 ICC의 관리위원회(management committee)로 연례회의 사이에 ICC 멤버십의 결정을 이행함. 16개의 A등급 국가인권기구로 구성되고 지역 당 4개 기구가 3년 임기로 선출됨.
  - 집행이사회에서 APF의 대표성은 ICC, 집행이사회, 보조기구의 활동을 APF 사무국의 지원을 받아 모니터하고 ICC 집행이사회 의사 결정 시 APF 회원기구의 관점에서 활동하는 것임.
  - ICC 집행이사회는 공식적으로 연간 2회, 회 당 2-3일 기간 동안 회의를 가짐. 첫 회의는 제네바에서 개최되며 두 번째 회의는 제네바 또는 4개 지역 중 한 곳에서 개최됨. 두 회의 중간에 집행이사회는 사안이 생기는 대로 전자매체로 회의를 가짐. ICC의 보조기구, 특히 ICC 승인소위원회의 결과에 대한 결정을 하고 검토하는 것을 포함함.
  - APF는 APF 의장(지역 ICC 의장)은 ICC 집행이사회 멤버가 돼야한다는 정책을 채택하였음. 따라서 도하에서 카타르 인권위원회가 APF 의장으로 선출되면 ICC 집행이사회 멤버가 돼야 함. 선거 없이 ICC 집행이사회 현 멤버 중 하나가 2014년 ICC 집행이사회 선출을

- 위한 선거 이전에 카타르가 역할을 할 수 있도록 물러나는 것이 이상적임.
- 현재 APF 지역대표로 ICC 집행이사회에 활동하는 기구는 요르단(4년); 말레이시아(4년); 한국(2년); 태국(2년)의 인권기구임.

## 10. 제19차와 제20차 회의 개최지

- 포럼이사회는 인도 국가인권위원회의 제19차 회의(연례회의) 개최를, 몽골 국가인권위원회의 제20차 회의(연례회의 및 격년 컨퍼런스) 개최를 승인하였음.
- 배경
  - APF는 격년으로 연례회의와 병행회의(연례회의와 격년 컨퍼런스)를 개최함. 제19차 APF 연례회의는 2014년, 제20차 연례회의와 격년 컨퍼런스는 2015년에 개최될 예정임.
  - 지명기구는 A 등급 국가인권기구 모두에게 열려있음.
- APF 연례회의 및 컨퍼런스
  - APF는 이전에 매해 연례회의 및 컨퍼런스를 개최하였음. 제14차 연례회의 및 컨퍼런스에 서 포럼이사회는 다음에 동의하였음.
    - 연례업무회의를 컨퍼런스와 분리하여 개최
    - APF 연례업무회의는 매해 개최
    - APF 연례회의 및 컨퍼런스의 병행회의는 2년마다 개최
    - APF 의장은 병행회의에서 선출되고 임기는 차기 병행회의까지 연장
- 역대 개최기구는
  - 제1차 - 호주 인권위원회 (1996)
  - 제2차 - 인도 국가인권위원회 (1997)
  - 제3차 - 인도네시아 국가인권위원회 (1998)
  - 제4차 - 필리핀 인권위원회 (1999)
  - 제5차 - 뉴질랜드 인권위원회 (2000)
  - 제6차 - 스리랑카 인권위원회 (2001)
  - 제7차 - 인도 국가인권위원회 (2002)
  - 제8차 - 네팔 국가인권위원회 (2004)
  - 제9차 - 한국 국가인권위원회 (2004)
  - 제10차 - 몽골 국가인권위원회 (2005)
  - 제11차 - 피지 인권위원회 (2000)
  - 제12차 - 호주 인권위원회 (2007)

- 제13차 - 말레이시아 인권위원회 (2008)
  - 제14차 - 요르단 국가인권센터 (2009)
  - 제15차 - 인도네시아 국가인권위원회 (2010)
  - 제16차 - 태국 국가인권위원회 (2011)
  - 제17차 - 요르단 국가인권센터 (2012)
  - 제18차 - 카타르 국가인권위원회 (2013)
- 2014년에는 제19차 APF 연례회의만, 2015년에는 제20차 연례회의 및 컨퍼런스 병행회의가 있을 예정입니다.

## 11. APF 부의장 선출

- 포럼이사회는 부의장의 두 자리에 태국 국가인권위원회와 몽골 국가인권위원회를 선출하였음.
- 포럼이사회의 정책 결정에 따라 연례회의와 격년 컨퍼런스를 이번 회의 직전에 개최한 인권기구(태국)와 차기 회의를 개최할 인권기구에서 부의장의 역할을 수행함.

## 12. APF 활동 및 재정보고서

- APF 활동 및 재정보고서가 승인되었음.
- APF 연례보고서 2012-2013

### ❖ APF 연례보고서 2012-2013 요약

#### [본 보고서에 관하여]

본 연례보고서는 2012년 7월 1일부터 2013년 6월 30일까지를 다룸. 본 보고서는 아래와 같은 APF의 5가지 주요 전략 목표를 주 내용으로 다루고 있음

1. 회원기구 역량 강화
2. 회원 간 소통, 협력 및 참여 확대
3. 파리 원칙 준수 증진
4. 국제 및 지역 인권메커니즘에 참여
5. APF의 효과적, 효율적 그리고 전략적인 운영

#### [목표 1 - 회원기구 역량 강화(Enhance members' institutional capacity)]

1. 훈련(Training)
  - a. 복합 교육(Blended Learning)
    - 개론교육을 온라인으로 제공 (4-6주), 교육과정 이수자들을 상대로 오프라인 워크숍 제공

b. 국가실태조사(National Inquiries)

- 각국마다 주요 인권 이슈를 선정하여 국가실태조사 훈련을 진행. 2012년 10월 1~5일 몰디브인권위원회에서 장애아동의 교육권과 관련하여 1주간 국가실태조사에 관한 워크숍 개최
- 인권침해의 체계적 패턴에 대한 국가실태조사 방법(Conducting a National Inquiry into Systemic Patterns of Human Rights Violation) DVD 및 훈련교재 제작
- 2013년 2월 18일~2013년 3월 15일 국가실태조사관련 온라인훈련과정을 제공. 말레이시아, 미얀마, 필리핀, 태국, 동티모르 그리고 아프가니스탄 인권위원회가 참여. 이수자들은 2013년 4월 8~12일 태국 방콕에서 오프라인 워크숍에 참여

c. 국가인권기구를 위한 입문강좌(Foundation course for NHRIs)

- 2012년 10월 15일부터 11월 4일까지 APF는 Raoul Wallenberg Institute(이하 RWI)와 공동으로 국가인권기구 신입직원들을 위한 온라인교육을 실시. 아태지역 16개 인권기구가 참여. 온라인교육 이수자들은 태국 방콕에서 2012년 11월 26일부터 12월 5일까지 오프라인 워크숍에 참여

d. 이민노동자의 권리를 위한 옹호활동(Migrant worker's rights and advocacy)

- 2012년 9월 '이민노동자의 권리 보호 및 증진: 국가인권기구들을 위한 지침서(Manual on Promoting and Protecting the Rights of Migrant Workers: A Manual for National Human Rights Institutions)'를 제작
- 외교훈련프로그램(Diplomacy Training Program)에서 제작한 1주 훈련 프로그램이 카타르 도하에서 2012년 10월 15~19일 개최
- 2013년 3월 18일~4월 12일 이민노동자 권리 보호 및 증진과 관련된 온라인훈련과정을 실시. 아프가니스탄, 호주, 방글라데시, 인도, 인도네시아, 요르단, 말레이시아, 몰디브, 몽골, 네팔, 뉴질랜드, 팔레스타인, 필리핀, 한국, 스리랑카, 태국, 동티모르 인권기구가 참여. 이수자들은 필리핀 마닐라에서 2013년 5월 13~17일 지역 워크숍에 참여

e. 트레이너 교육(Training of Trainers)

- 2013년 4월 8일~5월 3일 11개 APF 회원기구들이 4주 온라인 훈련과정에 참여. 이수자들은 미얀마 양곤에서 2013년 6월 3~7일 지역 워크숍에 참여

2. 역량평가 (Capacity Assessments)

- APF는 APF 회원기구의 역량 및 역량강화 수요 파악을 위해 UNDP, UNOHCHR와 공동으로 역량강화 프로그램 개발
- APF-UNDP-OHCHR 역량평가프로그램의 제작, 방법, 전달, 이행 및 영향에 관한 독립적 검토가 이루어짐. 독립적 검토자들은 2012년 9월 10~14일 개최된 역량평가 프로그램에 참여. APF는 독립적 검토자들의 권고를 모두 채택함

3. 법률가자문위원회 (Advisory Council of Jurists)

- 2010년 법률가자문위원회는 17개 APF 회원기구들을 대상으로 성 정체성에 관한 국내법 및 정책에 관한 조사를 실시. 2012년 12월 발행된 보고서는 이들 법과 정책들이 국제인권기준을 준수하는지 살펴보고 권고를 제시함

#### 4. 전문가 역량 프로젝트 (Specialist Capacity Project)

##### 미얀마

2012년 7월 30~31일 APF는 미얀마 양곤에서 미얀마 인권위원회와 고위급 회담을 주최.

2013년 4월 2~10일 APF는 RWI와 공동으로 미얀마 인권위원회의 호주 및 뉴질랜드인권위원회 방문 및 연수 주최

2013년 5월 17~19일 APF는 미얀마 인권위원회와 만나 지역적 트레이너교육의 이행 및 AusAID 프로그램의 개발에 대하여 논의

##### 태평양제도 국가

2012년 7월 18~20일 APF는 태평양제도 국가들과 지역 인권을 위한 논의를 위해 회의를 공동으로 주최

##### 경제적 사회적 권리

국가인권기구의 경제적, 사회적, 문화적 권리의 감시 및 증진 역량강화를 위해 2012년 7월 23~27일 뉴질랜드 인권위원회에서 1주 훈련 프로그램 실시. 2012년 12월 10~14일 말레이시아 인권위원회에서 1주 훈련 프로그램 실시

2013년 4월 22~25일 APF는 말레이시아 인권위원회와 장애아동의 교육권과 관련된 추가 훈련 프로그램을 실시

##### 몽골, 기업과 인권

2012년 10월 10~12일 APF는 몽골인권위원회와 함께 3일간 국제회의를 개최. 광산개발과 관련된 논의 전개

##### 팔레스타인 및 분쟁 또는 전환기에 있는 국가인권기구

APF는 팔레스타인 인권위원회의 분쟁 또는 전환기에 있는 국가인권기구를 주제로 한 라운드테이블 개최를 지원. ICC 제네바 대표, 북아일랜드, 스코틀랜드, 태국, 에콰도르, OHCHR 대표, 팔레스타인 대표 등 참여

##### 필리핀

2013년 1월 23~24일 APF는 필리핀 인권위원회의 전략적 방향 및 거버넌스 사안을 모색하기 위해 연수회의 형태로 위원 간 담화를 개최

2013년 5월 27~29일 APF는 필리핀 인권위원회의 운영 및 거버넌스 사안을 논하기 위해 연수회의 형태로 고위급 관계자 간 담화를 개최

#### [15.3. 목표 2 - 회원 간 소통, 협력 및 참여 확대

(Enhance members communication, cooperation and engagement)]

##### 1. 협력과 참여 (Cooperation and engagement)

##### 제17차 APF 연례회의

2012년 11월 5일 요르단 암만에서 요르단인권위원회가 제17차 APF 연례회의를 개최. 모든 APF 회원국 및 바레인과 오만인권위원회가 옵저버로 참여

아시아 국가인권기구 NGO 네트워크 (ANNI)

2012년 11월 5일 요르단 암만에서 제17차 APF 연례회의와 함께 ANNI를 초청하여 APF 회원기구들과 교류. 2013년 3월 27~29일 태국 방콕에서 개최된 제6차 ANNI 지역 회의에 APF 사무국 대표, OHCHR, 태국인권위원회 등이 참여

아랍국가인권기구네트워크 (Arab Network of National Human Rights Institutions)

2013년 1월 14~18일 APF는 카타르 도하에서 열린 아랍국가인권기구네트워크 회의에 참여

직원 파견

2013년 3월 10~23일 네팔 인권위원회 직원 2명이 인도 인권위원회 및 한국 인권위원회에서 단기 파견 근무를 완료

2013년 6월 24~28일 몽골 인권위원회 직원 3명이 호주 인권위원회에서 1주 단기 파견 근무를 완료

고위급 간부 네트워크

2013년 6월 24~25일 호주 시드니에서 각 APF 회원기구의 간부급 인사들이 모여 회의를 개최

## 2. 홍보 (Communications)

웹사이트

2011년 7월 APF 홈페이지 재단장

### [15.4. 목표 3 - 파리 원칙 준수 증진(Promote compliance with the Paris Principles)]

#### 1. ICC 승인절차 (Accreditation)

2012년 11월 ~ 2013년 5월까지 ICC 승인소위원회는 32개 국가인권기구의 승인과 재승인 심사를 처리하였다. 그리고 OPCAT, NHRI 성과평가, NHRI 준수법적 권한에 관한 3개의 일반논평(General Observations)를 추가로 작성함

#### 2. 회원기구 및 기타 기구 자문 제공 (Provision of advice to members and others)

2012~2013년 APF는 회원기구, 후보회원, 정부, 국제 및 지역기구와 기타 관계자에게 법적, 정책적 자문을 제공함. APF는 자문요청 24건 중 22건에 대해 자문을 제공해주었음

#### 3. 국가인권기구 설립 (Establishment of NHRIs)

미얀마

2012년 4월 APF는 미얀마 양곤의 미얀마인권위원회와 함께 미얀마인권위원회 설립관련 법안 발의 과정을 지원

사모아

2012년 8월 20~22일 APF는 사모아의 법무장관과 옴부즈맨, 법무부와 함께 사모아 옴부즈맨 사무소에 국가인권기구를 설치하기 위한 법안 작성 과정을 지원. 2013년 5월 30일 본 법안이 통과되어 2013년 중순부터 사모아인권기구가 업무를 개시할 예정

#### [15.5. 목표 4 - 국제 및 지역인권기구에 참여

##### (Engage with international and regional human rights mechanisms)

###### 1. 국제메커니즘 (International mechanisms)

- APF, UN 내에서 국가인권기구들의 목소리 확대 관련 옹호활동 전개
- APF, 2013년을 기점으로 유엔여성지위위원회 내 NHRI 조정역할 임기 만료

2012~2013 APF 회원기구들의 UPR 참여, 국제인권기구 검토, 특별보고관에 의한 방문 및 보고

APF는 국가인권기구가 어떻게 국제인권메커니즘의 효과적 활용을 통하여 국내인권상태를 개선할 수 있는가에 대한 훈련교재를 제작

APF, 2012년 6월 18일~7월6일 유엔인권이사회 제20차 세션에 참석

APF, 2012년 2월부터 유엔총회가 실시한 인권조약기구 강화 및 개선 관련 정부간 프로세스에 참여. 같은해 7월에 아이슬란드 및 인도네시아 대사들과 만나 국가인권기구에 대한 논의 전개. 또한, 당시 유엔총회 의장과 만나 파리원칙에 대한 논의 전개

2013년 3월 4~15일 APF는 유엔 여성지위위원회 제57차 세션에 참가. 호주, 인도, 요르단, 한국, 필리핀, 멕시코, 모로코 인권기구와 함께 참여. 여성과 여아에 대한 모든 형태의 폭력의 퇴치 및 예방에 대하여 논의

APF, 2012년 11월 5~7일 요르단 암만에서 요르단인권위원회의 주최로 열린 제11차 ICC 회의에 참석

###### 2. 지역메커니즘 (Regional Mechanisms)

태평양제도포럼(Pacific Islands Forum)

2012년 APF, UNOHCHR, PIF 간 양해각서(MOU) 최종안이 피지 수바에서 2012년 11월 26~29일에 열린 전략적 계획 회의에서 완성됨

South Asian Association for Regional Cooperation

2012년 10월 APF는 네팔 카트만두에서 SAARC 사무총장과 담화. MOU체결에 관하여 논의

아세안(ASEAN)

2012년 11월18일 ASEAN 인권 선언 채택에 APF 회원기구들이 다양한 견해를 제시함

#### [15.6. 목표 5 - APF의 효과적, 효율적 그리고 전략적인 운영

##### (Effective, efficient and strategic management of the APF)

###### 1. 전략적 경영 (Strategic management)

- APF 의장 보좌, ICC 의장 정책 자문 및 포럼 이사회가 주재하는 포럼이사회 총회 및 소회의 사무지원
- APF의 활동계획 중 포럼이사회가 승인한 모든 활동 이행
- 모니터링, 평가, 보고 직무 이행

- 국제적 사안 파악, APF의 사명과 비전을 충족하는 활동 모색 및 추진
- 비회원 기구, 정부, 시민사회 등 지역적 참여 확대 구상 및 추진
- 모든 사업, 프로젝트 및 APF의 전반적 활동의 위험관리 전략 구상 및 이행
- 효율적이고 효과적이며 합리적인 APF의 재정, 인적자원 운영

2. 젠더 주류화 (Gender mainstreaming)

APF는 성별 정책을 채택하여 성별관련 사안이 APF의 운영에 반영될 수 있도록 함

3. 재정 경영 (Financial magagment)

작년보다 분배 가능한 재정이 감소함. 몇몇 기부단체가 기부를 내년으로 연기함 (2013~14)

### 13. 2014-2015년 APF 연간운영계획

- APF 연간운영계획이 승인되었음.
- 2014-2015년 APF 연간운영계획 초안

#### ❖ 2014-2015년 APF 연간운영계획 초안 요약

##### 목적

APF 연간 계획은 APF 전략목적에 부응하는 2014-15년 APF 연간 운영을 보여줌.

##### 목표

2011-2015년 APF 전략계획은 회원기구의 역량 및 지역 대표성의 강화의 핵심 임무와 관련하여 주요 사업 목적에 중점을 두고 있음. 특히 APF는

- 회원 기구 역량 강화 (Enhance Members Institutional Capacity)
  - 회원 간 소통, 협력 및 참여 확대 (Enhance members' communication, cooperation & engagement)
  - 파리원칙 준수 추진 (Promote compliance with the Paris Principles)
  - 지역, 국제 인권 메커니즘 참여 (Engage with regional & international human rights)
  - 효과적, 효율적, 전략적 APF 운영 확보 (Ensure the effective, efficient & strategic management of the APF)
- 나아가 2011년 포럼이사회는 APF 전략목표에 젠더 주류화의 통합할 것을 동의하였음.

##### 운영

APF 전략목표에 따라 2014-2015 운영은 아래와 같은 전문적 활동을 포함함.

- 파리원칙에 부합하도록 지역 내 국가인권기구의 설립 및 강화를 지원
- 실제 지원 사업을 통한 회원기구의 요구에 부응
- 지역 및 국제 협력과 조직화를 증진
- 지역 및 국제 인권메커니즘에 활발히 참여
- 지역 대표자 활동의 조직, 참여, 이행
- APF 활동, 프로그램, 운영에 있어 젠더 주류화를 통합
- 증가하는 멤버십의 요구에 부응할 수 있는 APF 사무국의 역량 강화
- APF 임무와 비전을 충분히 수행할 수 있는 재정 수준 달성
- 조직화와 활동의 효과적 관리를 확보

##### 실행계획

APF에서 수행하는 대부분의 활동은 관련 당사자들의 상호 용이한 시기에 실시됨. 다음 이행 계획은 APF 전략계획에 맞춰 수립됨

| APF 전략목표            | APF 운영                 | 2014. 7.-9. | 2014. 10-12. | 2015. 1.-3. | 2015. 4.-7. | 합계 |
|---------------------|------------------------|-------------|--------------|-------------|-------------|----|
| 회원 기구 역량 강화         | 역량평가                   |             |              |             |             | 2  |
|                     | 훈련                     |             |              |             |             | 4  |
| 회원 간 소통, 협력 및 참여 확대 | 홍보                     |             |              |             |             | 4  |
|                     | SEO 네트워크               |             |              |             |             | 1  |
|                     | 직원배치                   |             |              |             |             | 1  |
|                     | 연례회의 및 격년 컨퍼런스         |             |              |             |             | 2  |
| 파리원칙 준수 추진          | 회원기구 조언                |             |              |             |             | 4  |
|                     | 새로운 국가인권기구 설립          |             |              |             |             | 4  |
|                     | ICC 승인소위               |             |              |             |             | 4  |
| 지역, 국제 인권 메커니즘 참여   | 유엔인권이사회와 메커니즘 (제네바)    |             |              |             |             | 4  |
|                     | AICHR, LAS, PIF, SAARC |             |              |             |             | 4  |
|                     | ICC                    |             |              |             |             | 2  |
| 전략적 운영              | 젠더 주류화 등 MDML 효과적 운영   |             |              |             |             | 4  |

#### 예산 수입과 지출

다음 표는 2014-2015년 APF 운영을 위한 예산 수입과 지출임. 기부자 명단과 각 기부의 APF 예산 수입에서 차지하는 비율을 보여줌. 또한 5개 전략계획의 각 계획과 관련한 지출이 전체 지출에서 차지하는 비율을 보여줌.

| APF 예산 수입과 지출 내역 (2014. 7. 1.-2015. 6. 30.) |                  |     |
|---|------------------|-----|
| 수입  | 호주달러(AU\$)       | %   |
| <b>기부금</b>                                  |                  |     |
| 호주 국제개발처(AusAID)                            | 650,000          | 26% |
| 맥아더재단(Macarthur)                            | 172,414          | 7%  |
| 스웨덴 국제개발협력청(Sida)                           | 749,700          | 30% |
| 유럽연합(EU)                                    | 419,620          | 17% |
| 민간 기부자(Private Donor)                       | 114,943          | 5%  |
| 인도 인권위원회                                    | 134,483          | 5%  |
| <b>소계</b>                                   | <b>2,241,159</b> |     |
| <b>기타 수입</b>                                |                  |     |
| 한국 기부금                                      | 94,000           | 4%  |
| 태국 기부금                                      | 5,747            | 0%  |
| 회비  | 59,659           | 2%  |
| 이자  | 122,800          | 5%  |
| <b>소계</b>                                   | <b>282,206</b>   |     |

| APF 예상 수입과 지출 내역 (2014. 7. 1.-2015. 6. 30.) |                  |             |
|---|------------------|-------------|
| <b>총 수입</b>                                 | <b>2,523,365</b> | <b>100%</b> |
| <b>지출</b>                                   |                  |             |
| 회원 기구 역량 강화                                 | 1,261,683        | 50%         |
| 회원 간 소통, 협력 및 참여 확대                         | 227,103          | 9%          |
| 파리원칙 준수 추진                                  | 252,337          | 10%         |
| 지역, 국제 인권 메커니즘 참여                           | 302,804          | 12%         |
| 전략 운영                                       | 176,636          | 7%          |
| APF 사무국                                     | 302,804          | 12%         |
| <b>총 지출</b>                                 | <b>2,523,365</b> | <b>100%</b> |

## 14. 기타 사안

### ○ 홍콩 기회균등위원회의 발표가 있었음.

#### ❖ 홍콩 기회균등위원회 발표자료 요약

##### 홍콩 기회균등위원회의 업무 (Work of the Equal Opportunities Commission, Hong Kong)

발표 : Dr. York Y N CHOW, 홍콩 기회균등위원회 의장

홍콩 기회균등위원회(EOC)는 홍콩 내 차별금지법의 이행을 위해 1997년에 세워진 법정기관임. EOC는 차별행위 피해자들을 위한 대응활동, 연구활동, 정책옹호활동, 국민의식수준 향상을 통하여 기회균등의 가치를 증진하고 담론화를 시키고자 노력하고 있음.

EOC의 5개 주요 기능:

1. 차별금지법 검토
  - 현 차별금지관련 법제의 사각지대 포착 및 현대화
2. 성적 지향 및 성 정체성에 관한 차별금지법 입법 활동
  - 동성애자, 트랜스젠더의 권리보호를 위한 입법 운동
3. 민족적 소수 집단 학생 교육
  - 홍콩 내 거주하는 민족적 소수 학생에 대한 중국어 교육 등을 통한 홍콩 사회로부터의 고립감 해소
4. 특별교육을 필요로 하는 학생들을 위한 통합 교육
  - 주의력 결핍, 과잉행동장애 등을 겪고 있는 이들
  - 전문상담을 제공하는 “원스톱 샵(One-stop Shop)”
5. 장애인의 요구를 수용하기 위한 정부의 기능적 접근
  - ‘장애’에 대한 보편적 기준 수용을 통한 서비스 제공의 일관화
  - 세계보건기구(WTO) 국제건강관련분류체계인 ICF의 적용을 통한 장애인 관련 정책의 효과적 수립

현재 진행 중인 주요 활동:

- 1 성추행금지 캠페인
- 1 성차별법 내 고용관련 행동규정에 대한 심사
- 1 인공환경 접근성 관련 모니터링

# 제 3 장

## 제2차 APF 격년 컨퍼런스

- I. APF 격년 컨퍼런스 개요
- II. 제2차 APF 격년컨퍼런스 프로그램
- III. 제2차 APF 격년컨퍼런스 주제



## I APF 격년 컨퍼런스 개요

- APF 격년 컨퍼런스는 특정 인권주제에 관한 패널회의로 진행되고, 국가인권기구 이외에도 UN기구, NGO, 학계 등에서 참석하는 공개회의임
- 컨퍼런스는 2009년까지 매해 APF 연례회의와 함께 병행하여 개최되었으나 2009년 제14차 APF 연례회의에서 격년으로 개최하게 결정됨. 2011년 태국 방콕에서 제1차 격년 컨퍼런스가 개최되었음

## II 제2차 APF 격년컨퍼런스 프로그램

### [10. 2.(수) 첫째 날]

#### ■ 개회식

|      |                |
|------|----------------|
| 환영사  | 알리 빈 스마이크 알-마리 |
| 기조연설 | 카타르 정부 대표      |

#### ■ 주제 1 : 국가와 시민사회와의 협력 하에서, 민주주의로의 평화적 이행의 달성에서 국가인권기구의 역할-도전과 기회

- 주제 : 아마다 풍사피치, 태국 인권위원장
  - 토론
    1. 아말 알 만나이, 카타르 인권위 위원·사회발전센터 사무국장
    2. 니달 줄디, OHCHR 중동지역사무소 인권담당:  
'전환기 중동지역 국가인권기구와 사회: 기회와 도전'
    3. 윈 프라, 미얀마 인권위원장: '미얀마 상황에서 도전과 기회'
    4. 수실 파큐렐, 사회적 대화를 위한 연합(Alliance for Social Dialogue) 의장
- ※ 참고자료 :

- 전환기 아랍 국가들의 인권기구의 역할 : Danish Institute for Human Rights와 Arab-European Human Rights Dialogue 제작

## ■ 주제 2 : 경찰력과 보안군과 함께 일하는데 있어 국가인권기구의 역할

- 주제 : 스리 케이 지 발라크리슈난, 인도 인권위원장
- 토론
  1. 하스미 아감, 말레이시아 인권위원장:  
'경찰력과 보안군에 대한 말레이시아 인권위의 개입'
  2. 로레타 로살레스, 필리핀 인권위원장:  
'보안 분야 개혁과 민주적 거버넌스를 향한 보안 행위자와의 협력'
  3. 란다 시니오라-마탈라, 팔레스타인 인권위 국장:  
'팔레스타인에서 인권기구와 보안 기관 : 민간인 감독을 위한 긴급 요구'
  4. 인드리 샵타닝림, 인도네시아 정책·조사·옹호 연구소(Institute for Policy, Research and Advocacy) 사무국장  
 ※ 참고자료
    - 1) 경찰 구금시설의 모니터링 : 고문방지협회(APT) 제작
    - 2) 구금시설의 모니터링-실용가이드 : 고문방지협회(APT) 제작
    - 3) APT 가이드 - 여성 수감자들을 중심으로 : 고문방지협회(APT) 제작
    - 4) 고문의 방지 - 국가인권기구를 위한 가이드 : APT, APF, UNOHCHR 공동제작

## ■ 주제 3 : 민주주의와 굿 거버넌스에서 국가인권기구의 역할

- 주제 : 데이비드 러더퍼드, 뉴질랜드 인권위원장
- 토론
  1. 모우사 부라이자트, 요르단 인권센터 인권위원:  
'민주주의와 거버넌스 : 사례연구로서 인권기구의 역할'
  2. 샤라드 찬드라 신하, 인도 인권위원회 인권위원:  
'민주주의와 굿 거버넌스에서 국가인권기구의 역할'
  3. 무히에든 토크, 전문가:  
'민주적 개혁과 전환에서 지역의 사회정치적 맥락과 아랍 국가인권기구의 역할'
  4. 바라싱엄 스칸타쿠마르, 사회과학연합(스리랑카)

### [10. 3.(목) 둘째 날]

#### ■ 주제 4 : 여성과 소녀의 인권에 관한 APF 행동계획: 국가인권기구가 어떻게 여성과 소녀의 인권을 보호하고 증진할 것인가?

○ 주제 : 미자눌 라만, 방글라데시 인권위원장

○ 토론

1. 길리안 트리그, 호주 인권위원장:

‘호주 국방부에서의 여성처우에 대한 호주 인권위원회의 검토’

2. 시마 사마르, 아프가니스탄 인권위원장:

‘강간과 명예살인에 관한 아프가니스탄 인권위원회의 조사’

3. 아메드 토랄, 몰디브 인권위원회 부위원장:

‘여성인권 : 국가인권기구의 몰디브 상황에 대한 고찰’

※ 참고자료 :

- 1) 암만선언 및 행동계획
- 2) 여성과 소녀의 인권에 관한 APF 행동계획

#### ■ 주제 5 : 정치적 및 민주적 개혁에서 국가인권기구와 여성

○ 주제 : 시마 사마르, 아프가니스탄 인권위원장

○ 토론

1. 사미라 알-투와이지리, UN여성, 아랍국가 지역과장:

‘폭넓은 전환 : 여성을 대화와 정치적 개혁의 장으로’

2. 나다 다와제, OHCHR 중동지역사무소 인권담당/젠더 고문:

‘아랍세계에서 여성이 직면한 도전과 미래 전망’

3. 킨 오마르, 버마 파트너십/88세대(미얀마)

※ 참고자료

- 1) 법과 관행에서 여성차별에 관한 실무그룹보고서 (A/HRC/23/50)

#### ■ 발표자 약력

### III 제2차 APF 격년컨퍼런스 주제

#### 순서

- 주제 1 : 국가와 시민사회와의 협력 하에서, 민주주의로의 평화적 이행의 달성에서 국가인권기구의 역할-도전과 기회  
The Role of NHRIs, in Cooperation with the State and Civil Society, in working toward a Peaceful Transition to Democracy-Challenges and Opportunities
- 주제 2 : 경찰력과 보안군과 함께 일하는데 있어 국가인권기구의 역할  
The Role of NHRIs in working with Police & Security Forces
- 주제 3 : 민주주의와 굿 거버넌스에서 국가인권기구의 역할  
The Role of NHRIs in Democracy and Good Governance
- 주제 4 : 여성과 소녀의 인권에 관한 APF 행동계획: 국가인권기구가 어떻게 여성과 소녀의 인권을 보호하고 증진할 것인가?  
APF Action Plan on Women and Girls' Human Rights: How are NHRIs Promoting and Protecting the Human Rights of Women and Girls?
- 주제 5 : 정치적 및 민주적 개혁에서 국가인권기구와 여성  
NHRIs and Women in Political and Democratic Reform

# 제 4 장

## 제18차 APF 연례회의 및 제2차 격년 컨퍼런스 참가 결과 참고자료

1. 제18차 APF 연례회의 및 제2차 격년 컨퍼런스 자료
2. 제18차 APF 연례회의 자료
3. 포럼이사회와 ANNI 대화 자료
4. 제2차 APF 격년 컨퍼런스 자료



# 01

## 제18차 APF 연례회의 및 제2차 격년 컨퍼런스 자료

- 회의 초청장
- 회의 세부일정
- 회의 참가자 명단
- 제18차 APF 연례회의 결과  
(Record of Decisions)
- APF 연례회의 절차규정
- APF 컨퍼런스 절차규정



## ● 회의 초청장



18 June 2013

Dear Forum Councillors,

### **Re: INVITATION TO EIGHTEENTH ANNUAL MEETING AND BIENNIAL CONFERENCE OF THE ASIA PACIFIC FORUM OF NATIONAL HUMAN RIGHTS INSTITUTIONS**

We are writing to invite you to attend the Eighteenth Annual Meeting and Biennial Conference of the Asia Pacific Forum of National Human Rights Institutions. This year's meeting will be hosted by the National Human Rights Committee of Qatar, and will be held in Doha, Qatar from **Tuesday 1 to Thursday 3 October 2013**.

Forum Councillors shall have the opportunity to discuss the strategic priorities of the APF and issues of joint common concern, as well as receive the Financial and Director's report at its Annual General Meeting during the first (closed) day. The Biennial Conference shall then proceed over the following two (2) day period:

- |                               |  |
|-------------------------------|--|
| • Day 1 (Tuesday 1 October)   | Forum Councillor and Annual General Meeting:<br>Forum Councillors and Invited Observers only |
| • Day 2 (Wednesday 2 October) | Biennial Conference: APF Members and<br>Registered Observers                                 |
| • Day 3 (Thursday 3 October)  | Biennial Conference: APF Members and<br>Registered Observers                                 |

The Asia Pacific Forum values your attendance and participation at the Forum Councillor Meeting, Annual General Meeting and Biennial Conference. To assist you (and/or your representative) in doing so, the APF has obtained funding for **one** senior representative from each member institution to attend. The APF shall fund the following costs:

- Return airfare (economy class, most direct and cost effective fare of the day)
- Accommodation for 4 nights (check-in Monday 30 September 2013 and check-out by Friday 4 October 2013),
- Travel allowance for any meals and incidentals not already provided for in the program;
- Ground transportation to and from the airport; and
- Visa fees (if any).

Should your institution wish to accept this funding offer, please contact Mr Kwame Owusu-Akyeampong, Finance Manager, at [kwameo@asiapacificforum.net](mailto:kwameo@asiapacificforum.net), no later than **Monday 29 July 2013**.

Upon receipt of your request, Mr Owusu-Akyeampong will send further detailed information regarding the process and procedures for making the necessary travel arrangements, reimbursements and other related matters.

An abbreviated draft program, information sheet and registration form is attached. The final program shall be sent to you prior to the dates of the meeting. **Please note that the deadline for registration is Monday 26 August 2013.**

Please also note that we will write to you shortly to provide background papers and more detailed information about member reporting requirements.

#### Paperless Meeting

As you will recall, at APF 15 in Bali, Indonesia, Forum Councillors approved a 'paperless' policy for annual meetings. What this means in practice is that the APF secretariat will not be producing a 'hard copy' meeting papers. Instead, the APF secretariat will be providing you with a USB flash drive which will include the attached meeting papers. In addition, the USB flash drive will include any additional papers relevant to the theme of the conference and any papers submitted by APF member institutions and external stakeholders to the APF secretariat in an electronic format. It will therefore be essential that each participating NHRI bring with them at least one laptop computer with a USB connection.

In accordance with the APF Gender Policy we encourage members to consider gender parity in their participation at APF meetings.

We look forward to warmly welcoming you and/or your nominated representative(s) to the Eighteenth Annual Meeting and Biennial Conference in Doha.

Yours sincerely



Dr. Ali Ben Smaikh Al-Marri  
Chairperson  
National Human Rights Committee of  
Qatar



Professor Amara Pongsapich  
Chairperson  
Asia Pacific Forum of National Human Rights  
Institutions



**ASIA PACIFIC FORUM**  
ADVANCING HUMAN RIGHTS IN OUR REGION

## **Eighteenth Annual Meeting and Biennial Conference** **DRAFT PROGRAM**

|  |  |
|--|--|
| <b>DAY 1: Tuesday 1 October - APF Forum and Annual General Meeting (Closed)</b>                |  |
| 08:30 – 9:00   | Registration   |
| 09:00 – 10:30  | <b>APF Forum Councillor Meeting</b>  |
| 10:30 – 11:00  | Morning Tea  |
| 11:00 – 12:30  | <b>APF Forum Councillor Meeting (cont.) and Annual General Meeting</b>   |
| 12:30 – 14:00  | Lunch  |
| 14:00 – 15:00  | <b>Forum Councillor – ANNI dialogue</b>  |
| 15:00 – 15:30  | Afternoon Tea and close  |
| 19:00 – 21:00  | Welcome Reception (TBC)  |
| <b>DAY 2: Wednesday 2 October – Biennial Conference (APF members and registered observers)</b> |  |
| 08:30 – 09:00  | Registration   |
| 09:00 – 09:05  | <b>Welcome address</b>   |
| 09:05 – 09:30  | <b>Opening remarks (TBC)</b>   |
| 09:30 – 09:45  | <b>Keynote Speech</b>  |
| 09:45 – 10:30  | <b>Topic 1 – The Role of NHRIs, in Cooperation with State and Civil Society, in Achieving a Peaceful Transition to Democracy</b> |
| 10:30 – 11:00  | Morning Tea  |
| 11:00 – 12:30  | <b>Interventions, Questions and Answers</b>  |
| 12:30 – 14:00  | Lunch  |
| 14:00 – 14:45  | <b>Topic 2 – The Role of NHRIs in working with Police and Security Forces</b>  |
| 14:45 – 15:15  | <b>Interventions, Questions and Answers</b>  |
| 15:15 – 15:45  | Afternoon Tea  |
| 15:45 – 16:30  | <b>Topic 3 – The Role of NHRIs in Democracy and Good Governance</b>  |
| 16:30 – 17:00  | <b>Interventions, Questions and Answers</b>  |
| 19:00 – 21:00  | <b>Opening Ceremony</b>  |
| <b>DAY 3: Thursday 3 October– Biennial Conference (APF members and registered observers)</b>   |  |
| 09:00 – 10:30  | <b>APF Action Plan on Women’s and Girl’s Human Rights</b>  |
| 10:30 – 11:00  | Morning Tea  |
| 11:00 – 12:30  | <b>NHRIs and Women in Political and Democratic Reform</b>  |
| 12:30 – 12:45  | <b>Final Closing Remarks</b>   |
| 12:45  | END  |

# Member Registration Form

## EIGHTEENTH ANNUAL MEETING AND BIENNIAL CONFERENCE

Tuesday 1 - Thursday 3 October 2013

Doha, Qatar

### DELEGATE DETAILS

REGISTRATIONS CLOSE 26 AUGUST 2013

**PERSONAL DETAILS** (NOTE – the information you provide may be copied for the information of other participants)

Title: (Please specify – eg Dr; Mr; Ms; Mrs; other)

Surname: \_\_\_\_\_ Other names: \_\_\_\_\_ Gender: male / female

Please PRINT your name as you would like it to appear on your name badge:

### CONTACT DETAILS

Position: \_\_\_\_\_ Department: \_\_\_\_\_

Organisation: \_\_\_\_\_

Address: \_\_\_\_\_

City/Town: \_\_\_\_\_ State/Province: \_\_\_\_\_ Postcode: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

E-mail: \_\_\_\_\_ Web: \_\_\_\_\_

Please add my name to the APF mailing list

Is disability assistance required: (please specify) \_\_\_\_\_

Other special requirements, (e.g. dietary): (please specify) \_\_\_\_\_

### REGISTRATION (closing date 26 August 2013)

Complete and fax this registration form to the APF Secretariat: +61 2 9284 9825 or post to GPO Box 5218, Sydney NSW 1042, Australia

Inquiries: Mr Kwame Owusu-Akyeampong Email: [kwameo@asiapacificforum.net](mailto:kwameo@asiapacificforum.net) Telephone: +61 2 9284 9703

### CANCELLATION

Should a registered participant be unable to attend, a substitute is always welcome. Please notify us of any changes as soon as possible and fax/email a new registration form to the Secretariat.

### PROGRAM

The APF will make all reasonable attempts to ensure the program for the meeting as set out in this form is adhered to; however the APF reserves the right to vary the program and/or speakers if necessary.

### ACCESS FOR PEOPLE WITH DISABILITIES

If you have any access requirements in order to participate in this meeting, please note them in the space below. A conference organiser will contact you to discuss your requirements further.



ASIA PACIFIC FORUM  
ADVANCING HUMAN RIGHTS IN OUR REGION

# Key Information Sheet

## **Registration Information**

Please ensure that your representative(s) each complete a registration form and return it to Mr Kwame Owusu-Akyeampong at [kwameo@asiapacificforum.net](mailto:kwameo@asiapacificforum.net) or fax + 61 2 9284 9825, by **26 August 2013**.

Should you wish to accept the APF's funding offer, please contact Mr Owusu-Akyeampong with the name of your representative by **29 July 2013**. Mr Owusu-Akyeampong shall provide further information regarding processes and procedures regarding the funding.

## **Visa**

In most cases, participants will be required to obtain an entry visa to Qatar prior to travel. The APF strongly advises that you make visa enquiries for Qatar at the earliest opportunity. For specific visa requirements, please visit <http://english.mofa.gov.qa/details.cfm?id=93>

Should you have any problems or concerns, please contact Mr Owusu-Akyeampong immediately.

## **Number of Participants**

The APF welcomes the participation of representatives from each institution to the annual meeting and biennial conference. However, we kindly request that the number of participants per institution not exceed five and gender parity is given due consideration.

Please note that all costs associated with additional participants must be covered by your institution. The APF can, however, assist in arranging accommodation for additional participants. A preferential rate has been obtained for conference delegates wishing to stay at the venue hotel, but limited rooms are available so please advise us of your requirements by **26 August 2013**.

## **Response dates**

Please remember, the key dates for your institution's response are:

- **29 July 2013**: Advise Mr Owusu-Akyeampong of acceptance of funding offer and provide representative name
- **26 August 2013**: Submit registration form(s) for all participating delegates and advise of accommodation requirements



**EIGHTEENTH ANNUAL MEETING and BIENNIAL CONFERENCE OF THE APF**

**1 to 3 October 2013**

**Ritz Carlton Hotel**

**Doha, Qatar**

DRAFT PROGRAM # 20 (26/9/13)

| <b>DAY 1 – Tuesday 1 October (Forum Councillors and Invited Observers only)</b><br><b>CLOSED MEETING</b> |  |   |
|--|--|---|
| 8.00 – 9.00  | <b>Registration</b>  | Registration desk situated outside Ballroom |
| 9:00 – 10:30   | <p><b>APF Forum Councillors and Annual General Meeting</b></p> <p><i>Chair: Professor Amara Ponsapich, National Human Rights Commission of Thailand</i></p> <ul style="list-style-type: none"> <li>• Confirmation of Attendance and Apologies (Chairperson)</li> <li>• Adoption of Agenda (Chairperson)</li> <li>• Election of APF Chairperson (secretariat)</li> </ul> <p><i>Chair: Dr Ali Bin Smaikh Al-Marri, National Human Rights Committee of Qatar</i></p> <ul style="list-style-type: none"> <li>• International Activities (Chairperson)                             <ul style="list-style-type: none"> <li>○ ICC Chairperson’s Report</li> <li>○ ICC Strategic Planning Process</li> <li>○ ICC Sub-Committee on Accreditation</li> <li>○ UN Open Ended Working Group on Ageing</li> </ul> </li> <li>• APF Constitution Amendments (Chairperson)</li> <li>• APF Membership – Oman Application (Chairperson)</li> <li>• APF Membership – Samoa Application (Chairperson)</li> <li>• APF – ICC Representation</li> <li>• Location of 19<sup>th</sup> APF Annual Meeting in 2014 (Chairperson)</li> <li>• Location of 20<sup>th</sup> APF Annual Meeting and Biennial Conference in 2015 (Chairperson)</li> <li>• Election of APF Deputy Chairpersons (secretariat)</li> <li>• APF Directors and Financial Report (secretariat)</li> <li>• Approval of Audited Accounts (secretariat)</li> <li>• APF Annual Operations Plan for 2014/15 (secretariat)</li> <li>• General business</li> </ul> | Al Mukhtasar Ballroom                       |

|                      |  |                       |
|----------------------|--|-----------------------|
| 10.30-11.00          | Morning tea  |                       |
| <b>11:00 – 12:30</b> | <b>APF Forum Councillors Annual General Meeting (cont.)</b>  |                       |
| 12:30– 14:00         | Lunch  | TBA                   |
| 14.00 – 16.00        | <p><b>Forum Councillor – NGO/ANNI dialogue</b></p> <p>The dialogue is designed to provide an opportunity for APF NHRIs and civil society representatives to discuss practical and constructive ways in which they can engage and cooperate on issues of mutual concern. It will be facilitated by an independent moderator.</p> <p><b>Agenda</b></p> <ol style="list-style-type: none"> <li>1. <u>NHRIs as Human Rights Defenders (HRDs)</u> <ul style="list-style-type: none"> <li>• ANNI to report on the survey and to highlight good practice examples and areas for improvements for NHRIs as HRDs.</li> <li>• Selected NHRIs to highlight practical aspects of the good practice highlighted by ANNI.</li> <li>• Discussion.</li> </ul> </li> <li>2. <u>NHRIs and HRDs</u> <ul style="list-style-type: none"> <li>• ANNI to report on NHRI engagement with other HRDs, particularly good practices and NHRI HRD focal points.</li> <li>• Selected NHRIs to highlight practical aspects of the good practice highlighted by ANNI.</li> <li>• Discussion</li> </ul> </li> <li>3. Collaboration between NHRIs, CSOs and APF</li> </ol> <p>Moderator: Muhyieddeen Touq, Expert</p> | AI Mukhtasar Ballroom |
| 16.00                | Afternoon Tea and close  |                       |

| DAY 2 – Wednesday 2 October (APF Members and Registered Participants) |  |   |
|---|--|---|
| 07:30 – 8:45  | Registration   | Registration desk situated outside Ballroom |
| 9:05 – 9:45   | <p><b>WELCOME AND KEYNOTE SPEECH</b></p> <p><b>Welcome:</b> Dr Ali Bin Smaikh Al-Marri, Chairperson, National Human Rights Committee of Qatar and the Asia Pacific Forum of National Human Rights Institutions.</p> <p><b>Keynote Speech:</b> Representative of the Government of Qatar.</p>   | Al Wosail Ballroom                          |
| 9:45 - 10.30  | <p><b>TOPIC 1 - THE ROLE OF NHRIs, IN COOPERATION WITH THE STATE AND CIVIL SOCIETY, IN WORKING TOWARD A PEACEFUL TRANSITION TO DEMOCRACY – CHALLENGES AND OPPORTUNITIES</b></p> <p><i>Chair: Professor Amara Pongsapich, Chairperson, National Human Rights Commission of Thailand.</i></p> <p><b>Speakers (15 minutes each):</b></p> <ol style="list-style-type: none"> <li>1. Ms Amal Al Mannai, Executive Director, Social Development Centre and Member of Qatar National Human Rights Committee.</li> <li>2. Dr Nidal Jurdi, Human Rights Officer, Middle East Regional Office, OHCHR: <i>'MENA NHRIs and societies in transition: opportunities and challenges'</i>.</li> <li>3. Mr Win Mra, Chairperson, Myanmar Human Rights Commission: <i>'Challenges and Opportunities in the Myanmar context'</i>.</li> <li>4. Mr Sushil Pyakurel, Chair, Alliance for Social Dialogue (Nepal).</li> </ol> | Al Wosail Ballroom                          |
| 10:30 – 11:00   | Morning Tea  |   |
| 11:00 – 12:30   | Continued Presentations followed by questions and answers.   | Al Wosail Ballroom                          |
| 12:30 – 14:00   | Lunch  | Lagoon Restaurant                           |
| 14:00 – 14:45   | <p><b>TOPIC 2 – THE ROLE OF NHRIs IN WORKING WITH POLICE &amp; SECURITY FORCES</b></p> <p><i>Chair: Justice Shri K.G. Balakrishnan, Chairperson, National Human Rights Commission of India.</i></p>  | Al Wosail Ballroom                          |

|               |  |                          |
|---------------|--|--------------------------|
|               | <p><b>Speakers: (10 minutes each)</b></p> <ol style="list-style-type: none"> <li>1. Mr Hasmy Agam, Chairperson, Human Rights Commission of Malaysia (SUHAKAM), <i>'SUHAKAM's engagement with police and security forces'</i>.</li> <li>2. Ms Loretta Rosales, Chairperson, Philippines Commission on Human Rights: <i>'Cooperation with the Security Actors towards Security Sector Reform and Democratic Governance'</i>.</li> <li>3. Ms Randa Siniora-Atallah, Director-General, Palestinian Independent Commission for Human Rights (ICHR): <i>'ICHR and security agencies in Palestine: an urgent need for civilian oversight'</i>.</li> <li>4. Ms Indri Saptaningrum, Executive Director, Institute for Policy, Research and Advocacy, Indonesia (Elsam).</li> </ol>  |                          |
| 14:45 – 15:15 | Open discussion – questions and answers.   | Al Wosail Ballroom       |
| 15:15 – 15:45 | Afternoon Tea  |                          |
| 15:45 – 16:30 | <p><b>TOPIC 3 – THE ROLE OF NHRIs IN DEMOCRACY AND GOOD GOVERNANCE</b></p> <p><i>Chair: David Rutherford, Chairperson, New Zealand Human Rights Commission.</i></p> <p><b>Speakers: (10 minutes each)</b></p> <ol style="list-style-type: none"> <li>1. Mr Mousa Burayzat, Commissioner-General, Jordan National Centre for Human Rights: <i>'Democracy and governance: the role of NHRIs as a case study'</i>.</li> <li>2. Mr Sharad Chandra Sinha, Member, Indian National Human Rights Commission: <i>'The role of the NHRC in democracy and good governance'</i>.</li> <li>3. Dr Muhyieddeen Touq, Expert: <i>'Regional Socio-Political Context and the Role of Arab NHRIs in Democratic Reform and Transformation'</i>.</li> <li>4. Mr Balasingham Skanthakumar, Social Science's Association (Sri Lanka).</li> </ol> | Al Wosail Ballroom       |
| 16:30 – 17:00 | Open discussion – questions and answers.   | Al Wosail Ballroom       |
| 19:00 – 21:00 | <b>CONFERENCE DINNER</b>   | Mamig Restaurant, Katara |

| DAY 3 – Thursday 3 October (APF Members and Registered Participants) |   |                       |
|--|---|-----------------------|
| 9:00 – 9:45  | <p><b>TOPIC 4 - APF ACTION PLAN ON WOMEN AND GIRLS’ HUMAN RIGHTS: HOW ARE NHRIs PROMOTING AND PROTECTING THE HUMAN RIGHTS OF WOMEN AND GIRLS?</b></p> <p><i>Chair: Dr Mizanur Rahman, Chairperson, National Human Rights Commission of Bangladesh.</i></p> <p><b>Speakers: (15 minutes each)</b></p> <ol style="list-style-type: none"> <li>1. Professor Gillian Triggs, President, Australian Human Rights Commission: <i>‘The Australian Commission’s Review into the Treatment of Women in the Australian Defence Force’.</i></li> <li>2. Dr Sima Samar, Chairperson, Afghanistan Independent Human Rights Commission: <i>‘Afghan Commission’s National Inquiry on Rape and ‘Honour’ killings’.</i></li> <li>3. Mr Ahmed Tholal, Vice President, Human Rights Commission of the Maldives: <i>‘Women’s rights: a contextual look at the Maldivian situation from an NHRI perspective’.</i></li> </ol> | Al Mukhtasar Ballroom |
| 9:45 – 10:30   | <b>Open discussion – questions and answers.</b>   |                       |
| 10:30 – 11:00  | Morning Tea   |                       |
| 11:00 – 11:45  | <p><b>TOPIC 5 - NHRIs and WOMEN IN POLITICAL AND DEMOCRATIC REFORM</b></p> <p><i>Chair: Dr Sima Samar, Chairperson, Afghanistan Independent Human Rights Commission.</i></p> <p><b>Speakers: (15 minutes each)</b></p> <ol style="list-style-type: none"> <li>1. Dr Sameera Al-Tuwaijri, Regional Director, Arab States, UN Women: <i>‘An inclusive transition: bringing women to the table in national dialogues and political reform’.</i></li> <li>2. Ms Nada Darwazeh, Human Rights Officer/Gender Adviser, Middle East Regional Office, OHCHR: <i>‘Future prospects and challenges facing women in the Arab world’.</i></li> </ol>   | Al Mukhtasar Ballroom |

|               |  |                       |
|---------------|--|-----------------------|
|               | 3. Ms Khin Ohmar, Burma Partnership/88 Generation (Myanmar).   |                       |
| 11:45 – 12:30 | <b>Questions and answers/interventions from the floor.</b>   |                       |
| 12:30 – 12:45 | <p><b>FINAL CLOSING REMARKS</b></p> <p>Dr Ali Bin Smaikh Al-Marri, Chairperson,<br/>Qatar National Human Rights Committee of Qatar and the<br/>Asia Pacific Forum of National Human Rights Institutions.</p> | Al Mukhtasar Ballroom |
| 12:45 – 14:00 | <b>Lunch</b>   | Lagoon Restaurant     |

회의 참가자 명단

ASIA PACIFIC FORUM OF NATIONAL HUMAN RIGHTS INSTITUTIONS

18<sup>th</sup> Annual Meeting, Doha, Qatar  
1 to 3 October 2013

(As of 26 September 2013)

Please email [apf@asiapacificforum.net](mailto:apf@asiapacificforum.net) with any corrections/amendments

1. MEMBERS OF THE ASIA PACIFIC FORUM OF NATIONAL HUMAN RIGHTS INSTITUTIONS

APF MEMBER - FULL

| Institution   | Delegate Name                                   | E-mail address   | Tel No:         | Fax No:         | Country     |
|---|---|--|-----------------|-----------------|-------------|
| AFGHANISTAN INDEPENDENT HUMAN RIGHTS COMMISSION<br><a href="http://www.aihrc.org.af">www.aihrc.org.af</a> | Dr Sima Samar<br>Chairperson                    | <a href="mailto:Sima_samar@yahoo.com">Sima_samar@yahoo.com</a>                           | +93 20 2500 676 | +93 20 2500 677 | AFGHANISTAN |
|   | Mr Mohammad Farid Hamidi<br>Deputy Chair        | <a href="mailto:Farid-hamidi2005@yahoo.com">Farid-hamidi2005@yahoo.com</a>               | +93 20 2500 676 | +93 20 2500 677 |             |
|   | Mr. Mohammad Musa Mahmodi<br>Executive Director | <a href="mailto:mahmodi@aihrc.org.af">mahmodi@aihrc.org.af</a>                           | +93 20 2500 676 |                 |             |
| AUSTRALIAN HUMAN RIGHTS COMMISSION<br><a href="http://www.humanrights.gov.au">www.humanrights.gov.au</a>  | Prof Gillian Triggs<br>President                | <a href="mailto:president.ahrc@humanrights.gov.au">president.ahrc@humanrights.gov.au</a> | +61 2 9284 9614 | +61 2 9284 9794 | AUSTRALIA   |
|   | Ms Padma Raman<br>Executive Director            | <a href="mailto:padma.raman@humanrights.gov.au">padma.raman@humanrights.gov.au</a>       | +61 2 9284 9740 | +61 2 9284 9794 |             |

Participants List

| Institution   | Delegate Name                                    | E-mail address   | Tel No:          | Fax No:          | Country   |
|---|--|--|------------------|------------------|-----------|
| NATIONAL HUMAN RIGHTS COMMISSION OF INDIA<br><a href="http://www.nhrc.nic.in">www.nhrc.nic.in</a>                     | Justice G K Balakrishnan & spouse<br>Chairperson | <a href="mailto:chairnhrc@nic.in">chairnhrc@nic.in</a>             | +91 11 2338 2514 | +91 11 2338 6521 | INDIA     |
|   | Mr Sharad Chandra Sinha<br>Member                | <a href="mailto:sharadcsinha@gmail.com">sharadcsinha@gmail.com</a> | +91 11 2338 2432 | +91 11 2338 6521 |           |
|   | Mr B S Nagar<br>Under Secretary                  | <a href="mailto:covdrnhrc@nic.in">covdrnhrc@nic.in</a>             | +91 11 2466 3278 | +91 11 2466 3311 |           |
|   | Mr Rishi Pal<br>Private Secretary to Chairperson | <a href="mailto:chairnhrc@nic.in">chairnhrc@nic.in</a>             | +91 11 2338 2514 | +91 11 2338 6521 |           |
| INDONESIAN NATIONAL COMMISSION ON HUMAN RIGHTS (KOMNAS HAM)<br><a href="http://www.komnas.go.id">www.komnas.go.id</a> | Ms. Siti Noor Laila<br>Chairperson               |  | +62 21 392 5230  | +62 21 392 5227  | INDONESIA |
|   | Mr Nur Kholis<br>Commissioner                    |  | +62 21 392 5230  | +62 21 392 5227  |           |
|   | Ms Slane Indriani<br>Commissioner                |  | +62 21 392 5230  | +62 21 392 5227  |           |
|   | Ms Johana Nunik<br>Senior Staff                  |  | +62 21 392 5230  | +62 21 392 5227  |           |

Participants List

2

| Institution   | Delegate Name  | E-mail address   | Tel No:   | Fax No:   | Country  |
|---|--|--|---|---|----------|
| NATIONAL CENTRE FOR HUMAN RIGHTS JORDAN (JNCHR)<br><a href="http://www.nchr.org.jo">www.nchr.org.jo</a>                       | Dr Mousa Burayzat<br>Member of the Board of Trustees   | <a href="mailto:abubraiz@hotmail.com">abubraiz@hotmail.com</a>   | +962 6593 1256  | +962 6593 0072  | JORDAN   |
| NATIONAL HUMAN RIGHTS COMMISSION OF THE REPUBLIC OF KOREA<br><a href="http://www.humanrights.go.kr">www.humanrights.go.kr</a> | Mrs Young-Hye Kim<br>Standing Commissioner<br>Mr Hyun Chul Kim<br>Chief of International Human Rights Team<br>Ms Seo Mi-ra<br>Human Rights Officer<br>Mr Seok-Jun Ri<br>Director | yhk888 @nhrc.go.kr<br><a href="mailto:kimhrc1968@nhrc.go.kr">kimhrc1968@nhrc.go.kr</a><br><a href="mailto:miraseokim@hotmail.com">miraseokim@hotmail.com</a><br><a href="mailto:seokjun@humanrights.go.kr">seokjun@humanrights.go.kr</a> | +82-2-2125-9613<br>+82 2 2125 9825<br>+82 2 2125 9828<br>+822 2125 9820 | +82-2-2125-0911<br>+82 2 2125 0918<br>+82 2 2125 0918<br>+822 2125 0918 | KOREA    |
| HUMAN RIGHTS COMMISSION OF MALAYSIA (SUHAKAM)<br><a href="http://www.suhakam.org.my">www.suhakam.org.my</a>                   | Mr Hasmy Agam<br>Chairman<br>Mr Wan Kasim Wan Kadir<br>International Coordination  | <a href="mailto:hasmyagam@gmail.com">hasmyagam@gmail.com</a><br>wankasim@gmail.com   | +60 3 2612 5600<br>+60 3 2612 5600                                      | +60 3 2612 5666<br>+60 3 2612 5673                                      | MALAYSIA |
| NATIONAL HUMAN RIGHTS COMMISSION OF MONGOLIA  | Dr Byambadorj Jamstran<br>Chief Commissioner   | <a href="mailto:info@mn-nhrc.org">info@mn-nhrc.org</a>   | +97 6 5126 2915   | +976 1132 0284  | MONGOLIA |

| Institution  | Delegate Name  | E-mail address   | Tel No:                          | Fax No:                              | Country     |
|--|--|--|----------------------------------|--------------------------------------|-------------|
| <a href="http://www.mn-nhrc.org">www.mn-nhrc.org</a>   | Ms. Oyunchimeg Purev<br>Commissioner   | <a href="mailto:p.oyunchimeg@mn-nhrc.org">p.oyunchimeg@mn-nhrc.org</a>   | +97 6 5126 2915                  | +976 1132 0284                       |             |
|  | Ms. Dashdeleg Alyeksandr,<br>Executive Director  | <a href="mailto:a.dashdeleg@mn-nhrc.org">a.dashdeleg@mn-nhrc.org</a>   | +97 6 5126 2915                  | +976 1132 0284                       |             |
| NATIONAL HUMAN RIGHTS<br>COMMISSION OF NEPAL<br><a href="http://www.nhrc-nepal.org">www.nhrc-nepal.org</a> | Mr Bed Prasad Bhattarai<br>Acting Secretary  | <a href="mailto:Bed.bhattarai@nhrcnepal.org">Bed.bhattarai@nhrcnepal.org</a>   | +97 7 1 5547 977                 | +97 7 1 5547 973<br>+97 7 1 5547 973 | NEPAL       |
| NEW ZEALAND HUMAN RIGHTS<br>COMMISSION<br><a href="http://www.hrc.co.nz">www.hrc.co.nz</a>                 | Mr David Rutherford<br>Chief Commissioner<br>Dr Jacqueline Dianne Miller<br>Commissioner | <a href="mailto:shonaw@hrc.co.nz">shonaw@hrc.co.nz</a><br><a href="mailto:jackieb@nhrc.co.nz">jackieb@nhrc.co.nz</a> | +64 3 375 8632<br>+64 9 309 0874 | +64 9 308 9905<br>+64 9 377 3593     | NEW ZEALAND |
| PALESTINIAN INDEPENDENT<br>COMMISSION FOR HUMAN<br>RIGHTS<br><a href="http://www.ichr.ps">www.ichr.ps</a>  | Mrs Randa Siniora<br>Executive Director  | <a href="mailto:randa@ichr.ps">randa@ichr.ps</a>   | +97 2 2296 0241                  | +97 2 2298 7211                      | PALESTINE   |
| PHILIPPINES COMMISSION ON<br>HUMAN RIGHTS  | Ms Loretta Rosales<br>Chairperson  | <a href="mailto:Chair.rosales.chr@gmail.com">Chair.rosales.chr@gmail.com</a>   | +63 2 2985 655                   | +632 9290 102                        | PHILIPPINES |

*Participants List*

4

| Institution   | Delegate Name  | E-mail address   | Tel No:  | Fax No:  | Country     |
|---|--|--|--|--|-------------|
| <a href="http://www.chr.gov.ph">www.chr.gov.ph</a>  | Ms Nerissa M. Navarro-Piamonte<br>Director   | <a href="mailto:jake_mejia@ocketmail.com">jake_mejia@ocketmail.com</a>   | +63 2 9287 240   | +63 2 9287 240   |             |
| NATIONAL HUMAN RIGHTS<br>COMMISSION OF THAILAND<br><a href="http://www.nhrc.or.th">www.nhrc.or.th</a>                   | Professor Amara Pongsapich<br>Chairperson<br><br>Mrs Visa Benjamano<br>Commissioner<br><br>Mr ChartChai Suthiklom<br>Secretary General | <a href="mailto:amara@nhrc.or.th">amara@nhrc.or.th</a><br><br><a href="mailto:visa@nhrc.or.th">visa@nhrc.or.th</a><br><br><a href="mailto:chartchai2497@gmail.com">chartchai2497@gmail.com</a> | +66 2 141 3801<br><br>+66 2 141 3802<br><br>+66 2 141 3810 | +66 2 141 9551<br><br>+66 2 143 9552<br><br>+66 2 143 9550 | THAILAND    |
|   | Mr Poowadol Weerawedphisai<br>Director Foreign Affairs Unit<br><br>Mr Ekachai Pinkaew<br>Human Rights Officer                          | <a href="mailto:poowadolw@yahoo.com">poowadolw@yahoo.com</a><br><br><a href="mailto:epinkaew@gmail.com">epinkaew@gmail.com</a>   | +66 2 141 3878<br><br>+662 141 1954                        | +66 2 143 9567<br><br>+662 143 9507                        | THAILAND    |
| TIMOR LESTE OFFICE OF THE<br>PROVEDOR FOR HUMAN RIGHTS<br>AND JUSTICE<br><a href="http://www.pdhj.org">www.pdhj.org</a> | Dr. Sebastiao Dias Ximenes<br>Provedor<br><br>Mr. Aureo Jose Antonio Savio<br>Director General   | <a href="mailto:sdiasximenes@yahoo.com.br">sdiasximenes@yahoo.com.br</a><br><br>Aureo_savio@yahoo.com  | +67 0 333 1030<br><br>+670 333 107 1                       |  | TIMOR LESTE |

| Institution | Delegate Name  | E-mail address        | Tel No:         | Fax No: | Country |
|-------------|--|-----------------------|-----------------|---------|---------|
|             | Mr Antonio Martinho Lopes<br>Chief of Human Rights<br>Investigation Division | abeoantonio@yahoo.com | + 670 7724 9565 |         |         |

**APF MEMBER - ASSOCIATE**

| Institution  | Delegate Name   | E-mail address   | Tel No:         | Fax No:         | Country    |
|--|---|--|-----------------|-----------------|------------|
| NATIONAL HUMAN RIGHTS<br>COMMISSION BANGLADESH<br><a href="http://www.nhrc.nic.in">www.nhrc.nic.in</a> | Dr Mizanur Rahman<br>Chairman                           | chairman@nhrc.org.bd   | +88 02 933 5513 | +88 02 935 1641 | BANGLADESH |
|  | Mr Kazi Reazul Hoque<br>Full time Member                | krh_bnhri@yahoo.com  | +88 02 933 5513 | +88 02 935 1641 |            |
|  | Mrs Mahfuza Khanam<br>Honorary Member                   | nhrc.bd@gmail.com  | +88 02 933 5513 | +88 02 935 1641 |            |
|  | Mr Kazi Arfan Ashik<br>Private Secretary to Chairperson | ashik.nhrc@gmail.com   | +88 02 933 5513 | +88 02 935 1641 |            |
| HUMAN RIGHTS COMMISSION<br>OF THE MALDIVES<br><a href="http://www.hrcm.org.mv">www.hrcm.org.mv</a>     | Mr Ahmed Tholal<br>Vice President                       | <a href="mailto:tholal@hrcm.org.mv">tholal@hrcm.org.mv</a>         | +960 336539     | +960 3338658    | MALDIVES   |
| MYANMAR NATIONAL HUMAN<br>RIGHTS COMMISSION  | Mr Win Mira<br>Chairperson                              | <a href="mailto:chmyanmnhrcc@gmail.com">chmyanmnhrcc@gmail.com</a> | +95 654 669     | +95 – 1 654 669 | MYANMAR    |

*Participants List*

| Institution   | Delegate Name  | E-mail address   | Tel No:                                 | Fax No:                               | Country   |
|---|--|--|---|---------------------------------------|-----------|
| <a href="http://www.mnhrc.org.mm">www.mnhrc.org.mm</a>  | Ms San San<br>Commissioner<br><br>Mr HLA Myint<br>Member | <a href="mailto:Dssan.nov@gmail.com">Dssan.nov@gmail.com</a><br><br><a href="mailto:Sloichme@gmail.com">Sloichme@gmail.com</a> | +95 -942 1027 204<br><br>+95 950 696 43 | +95 - 1 654 667<br><br>+95 - 1 654684 |           |
| HUMAN RIGHTS COMMISSION<br>OF SRI LANKA<br><br><a href="http://www.hrcsl.org">www.hrcsl.org</a> | Dr Sri Warna Mahanamahewa<br>Commissioner                | <a href="mailto:sechrc@sitnet.lk">sechrc@sitnet.lk</a>   | +94 112 696 470                         | +94 11 2689 558                       | SRI LANKA |

2. OTHER INSTITUTIONS

| Institution   | Delegate Name   | E-mail address  | Tel No:                              | Fax No: | Country        |
|---|---|---|--------------------------------------|---------|----------------|
| NATIONAL ADVISORY COMMITTEE FOR THE PROMOTION OF HUMAN RIGHTS (ALGERIA) | MS Taya Yasmina<br>Member   |   | + 21321239133                        |         | ALGERIA        |
| NATIONAL INSTITUTION FOR HUMAN RIGHTS (BAHRAIN)                         | Ahmed Abdullah Farhan<br>Secretary General  | yshaheen@nihr.org<br>aaf@nihr.org.bh  | +97317111666                         |         | BAHRAIN        |
| NATIONAL INSTITUTION FOR HUMAN RIGHTS (BAHRAIN)                         | Mr Atif Abdulsalam Al Majali<br>Expert  | aam@nihr.org.bh   | + 973336096433                       |         | BAHRAIN        |
| NATIONAL COUNCIL FOR HUMAN RIGHTS (EGYPT)                               | Abdul Ghaffar Hussein Ahmed<br>Deputy Chair<br>Mr Taha Mohammed Qasrawi                 | <a href="mailto:Shokri.936@hotmail.com">Shokri.936@hotmail.com</a><br>Taharights2011@yahoo.com                      | +20237624958<br>+201143825564        |         | EGYPT<br>EGYPT |
| EQUAL OPPORTUNITIES COMMISSION (HONG KONG)                              | Dr York Chow<br>Chairperson<br>Ms Susanna Chiu<br>Member<br>Mr Michael Chan<br>Director | yorkchow@eoc.org.hk<br><a href="mailto:susanna.chiu@gmail.com">susanna.chiu@gmail.com</a><br>michaelchan@eoc.org.hk | +852 2106 2123<br><br>+852 2106 2183 |         | CHINA          |

|   |   |  |                  |            |
|---|---|--|------------------|------------|
| HIGH COMMISSION FOR HUMAN RIGHTS (IRAQ)                       | Ms Bushra Salman Hussein<br>Member                                    | d_bushra_alaubadi@yahoo.com  | +9647901758242   | IRAQ       |
| OMBUDSMAN OF KAZAKHSTAN                                       | Mr Askar Shakirov<br>Commissioner<br>Mr Rustam Kypshakbayev<br>Expert | <a href="mailto:R.kypshakbayev@ombudsman.kz">R.kypshakbayev@ombudsman.kz</a><br><a href="mailto:r.kypshakbayev@ombudsman.kz">r.kypshakbayev@ombudsman.kz</a> | +7 701 318 00 81 | KAZAKHSTAN |
| NATIONAL COUNCIL FOR PUBLIC FREEDOMS AND HUMAN RIGHTS (LIBYA) | Mr Mohamed Ibrahim Allaqi<br>Chairman                                 | allagimoh@hotmail.com  | + 218213345407   | LIBYA      |
| NATIONAL COUNCIL FOR PUBLIC FREEDOMS AND HUMAN RIGHTS (LIBYA) | Mr Ahmed Al Ammari Ali<br>Director of Administrative Affairs          | abokbaahmed@yahoo.com  | + 218213345454   | LIBYA      |
| NATIONAL HUMAN RIGHTS COUNCIL (MOROCCO)                       | Mr Mohammed Amarti  | amarti@cndh.org.ma.  | + 2120536712572  | MOROCCO    |

|  |  |  |               |            |         |
|--|--|--|---------------|------------|---------|
| NATIONAL HUMAN RIGHTS COMMISSION OF OMAN   | Hon. Mohammed Abdullah Al Riyami<br>Chairman | <a href="mailto:Laila.alaufi@yahoo.co.uk">Laila.alaufi@yahoo.co.uk</a> |               |            | OMAN    |
|  | Mr. Hussain Jawad<br>Member                  | <a href="mailto:Laila.alaufi@yahoo.co.uk">Laila.alaufi@yahoo.co.uk</a> |               |            |         |
|  | Mr. Saud Al Jabri<br>Member                  | <a href="mailto:Laila.alaufi@yahoo.co.uk">Laila.alaufi@yahoo.co.uk</a> |               |            |         |
|  | Ms Laila Al Aufi                             | <a href="mailto:Laila.alaufi@yahoo.co.uk">Laila.alaufi@yahoo.co.uk</a> |               |            |         |
| OMBUDSMAN, NHRI OF SAMOA<br><a href="http://www.ombudsman.gov.ws">www.ombudsman.gov.ws</a> | Mr Maiava Lulai Toma                         | info@ombudsman.gov.ws  | +685 25394    | +685 21862 | SAMOA   |
|  |  |  |               |            |         |
| HIGH COMMISSION FOR HUMAN RIGHTS (TUNISIA)   | Mr Mohammad Al Hashemi Jgam<br>Member        | kliilamine@yahoo.fr  | + 21671783858 |            | TUNISIA |

3. NON-GOVERNMENTAL ORGANISATIONS

| Organisation  | Delegate Name   | E-mail address   | Tel No:           | Fax | Country     |
|---|---|--|-------------------|-----|-------------|
| BURMA PARTNERSHIP (FA)                                      | Ms No Khin<br>Co-ordinator                            | khinohmar@burmapartnership.org   | +66 0 81 884 0772 |     | BURMA       |
| PHILIPPINE ALLIANCE OF<br>HUMAN RIGHTS ADVOCATES            | Ms Rosemarie Trajano<br>Secretary General             | rosetrajano@gmail.com  | +632 436 2633     |     | PHILIPPINES |
| FORUM ASIA  | Mr Josee Kuan<br>East Asia Programme Associate        | <a href="mailto:ioses@forum-asia.org">ioses@forum-asia.org</a>         | +668 3544 5166    |     | THAILAND    |
| FORUM ASIA  | Mr Ahmad Sayeed<br>Country Program Manager            | <a href="mailto:Sayeed@forum-asia.org">Sayeed@forum-asia.org</a>       | +660 2637 9126 7  |     | THAILAND    |
| CENTER FOR HUMAN RIGHTS<br>AND DEVELOPMENT (FA)             | Ms Mandkhaitseten Urantulkhuur<br>Program Coordinator | <a href="mailto:tsetsentur@yahoo.co.uk">tsetsentur@yahoo.co.uk</a>     |                   |     | MONGOLIA    |
| LAW & SOCIETY TRUST (FA)                                    | Ms Sudharshi Anushaya Collure<br>Programme Officer    | <a href="mailto:Anushaya@gmail.com">Anushaya@gmail.com</a>             |                   |     | SRI LANKA   |
| MALDIVIAN DEMOCRACY<br>NETWORK (FA)                         | Ms Hussain Shameem<br>Chairperson                     | <a href="mailto:hussainshameem@gmail.com">hussainshameem@gmail.com</a> |                   |     | MALDIVES    |
| ELSAM –THE INSTITUTE FOR<br>POLICY RESEARCH AND<br>ADVOCACY | Mrs Indri D Saptaningrum<br>Executive Director        | <a href="mailto:indri@elsam.or.id">indri@elsam.or.id</a>               |                   |     | INDONESIA   |
| KOREAN HOUSE FOR<br>INTERNATIONAL SOLIDARITY<br>(ANNI)      | Ms Mikyung Choe<br>Executive Director                 | <a href="mailto:khis21@hanmail.net">khis21@hanmail.net</a>             |                   |     | KOREA       |
| INFORMAL SECTOR SERVICE                                     | Mr Bijay Raj A Gautam                                 | <a href="mailto:Bijaya@insec.org.np">Bijaya@insec.org.np</a>           | +977 14278770     |     | NEPAL       |

*Participants List*

| Organisation   | Delegate Name                                 | E-mail address   | Tel No:            | Fax               | Country     |
|--|---|--|--------------------|-------------------|-------------|
| CENTER (INSEC)   | Executive Director                            |  |                    |                   |             |
| POTKHAR ORGANISATION FOR DEVELOPMENT ADVOCACY (PODA)                 | Ms Aniqqa Raza<br>Project Coordinator         | <a href="mailto:programs@poda.org.pk">programs@poda.org.pk</a>   | +092 51 260 9743   |                   | PAKISTAN    |
| PEOPLE'S EMPOWERMENT FOUNDATION (PEF)                                | Ms Chumaporn Taengkliang<br>Democracy Officer | <a href="mailto:democ@peoplesempowerment.org">democ@peoplesempowerment.org</a>   | + 662 946 6104     |                   | THAILAND    |
| ACADEMIA SINICA TAIWAN   | Dr Fu-Te Liao                                 | <a href="mailto:ftliao@sinica.edu.tw">ftliao@sinica.edu.tw</a>   | +886 2 265 254 18  |                   | TAIWAN      |
| SOCIAL SCIENTISTS' ASSOCIATION                                       | Mr Balasingham Skanthakumar                   | <a href="mailto:skanthakumarb@gmail.com">skanthakumarb@gmail.com</a>   | +94 77 862 8386    |                   | SRI LANKA   |
| ERA CONSUMER MALAYSIA  | Mr Muhammad Sha'Ani<br>Human Rights Director  | <a href="mailto:mdshaani@tm.net.my">mdshaani@tm.net.my</a>   | +603 7876 4648     |                   | MALAYSIA    |
| AIN O SALISH KENDRA (ASK)  | Ms Akima Ferdows Lisa                         | <a href="mailto:lisahayat@gmail.com">lisahayat@gmail.com</a>   | +880 0172 0242 210 |                   | BANGLADESH  |
| JUDICIAL SYSTEM MONITORING PROGRAMME (JSMP)                          | Mr Jose Pereira                               | <a href="mailto:joseprei@smp.minihub.org">joseprei@smp.minihub.org</a>   | +670 7736 7518     |                   | TIMOR LESTE |
| SOUTH INDIA CELL FOR HUMAN RIGHTS EDUCATION AND MONITORING (SICHREM) | Mr Mathews Philip<br>Executive Director       | <a href="mailto:Mathews.ashok@gmail.com">Mathews.ashok@gmail.com</a>   | +91 9845001338     |                   | INDIA       |
| TAIWAN ASSOCIATION FOR HUMAN RIGHTS                                  | Ms E-Ling Chiu<br>Ms Tsai Chi-Hsun            | <a href="mailto:eeling@tahr.org.tw">eeling@tahr.org.tw</a><br><a href="mailto:ixtsai@tahr.org.tw">ixtsai@tahr.org.tw</a> | +886 2 259 695 25  | +886 2 259 685 45 | TAIWAN      |

|  |   |  |                   |             |
|--|---|--|-------------------|-------------|
| HONG KONG HUMAN RIGHTS MONITOR   | Mr Lut Pong Leo Yau<br>Executive Council Member       | leo.hkhrm@gmail.com  | +852 2811 4488    | TAIWAN      |
| ALLIANCE FOR SOCIAL DIALOGUE (ASD)<br>ACCOUNTABILITY WATCH COMMITTEE (AWC)             | Dr Sushil Pyakurel<br>Chair                           | <a href="mailto:sushil.pyakurel@gmail.com">sushil.pyakurel@gmail.com</a> | +977 1 4272267    | NEPAL       |
| INTERNATIONAL SERVICE FOR HUMAN RIGHTS<br><a href="http://www.ishr.ch">www.ishr.ch</a> | Ms Eleanor Openshaw<br>Regional Advocacy Co-ordinator | <a href="mailto:e.openshaw@ishr.ch">e.openshaw@ishr.ch</a>               | +41 0 789 442 552 | SWITZERLAND |
| CENTER INDEPENDENCE OF THE JUDICIARY   | Nasser Mohammed Amin Abdullah<br>Chairman             | <a href="mailto:acjlp@thewayout.net">acjlp@thewayout.net</a>             | +20223620732      | EGYPT       |
| THE EGYPTIAN ORGANISATION FOR HUMAN RIGHTS   | Mr Hafez Al Sayed Mohamed Saada                       | <a href="mailto:hafzeesada@yahoo">hafzeesada@yahoo</a>                   | +2023620467       | EGYPT       |
| INTERNATIONAL FEDERATION   | Ms Stephanie David                                    | <a href="mailto:sdavid@fidh.org">sdavid@fidh.org</a>                     | +201000761114     | EGYPT       |

|  |   |                           |               |        |
|--|---|---------------------------|---------------|--------|
| CENTER FOR DEFENDING FREEDOM OF JOURNALISTS                                  | Mr Nidal Hasan Mansoor Ahmad  | nidal@cdfj.org            | +96265160820  | JORDAN |
| JUSTICE CENTER FOR HUMAN RIGHTS STUDIES                                      | Mr Asem Mansour Mohammed Miqdad<br>Chairman                               | asem@adaleh-center.org    | +962650327184 | JORDAN |
| ARAB CENTER FOR EDUCATION ON INTERNATIONAL HUMANITARIAN LAW AND HUMAN RIGHTS | Mr Mohammed Amin ALmaidani<br>Chairman                                    | aminalmaidani@hotmail.com | +33388629984  | FRANCE |
| ARAB ORGANISATION FOR HUMAN RIGHTS   | Mr Maha Barjas Hamoud Al-Barjas<br>Vice Chairman of the Board of Trustees | mahabarges@hotmail.com    | +96599600895  | KUWAIT |
| ARAB ORGANISATION FOR HUMAN RIGHTS   | Mr Rasim AL sayed. Suleiman al-Atassi<br>Member of the Board of Trustees  | ed1@yahoo.com             | +963312467616 | SYRIA  |

|                                    |  |  |                  |  |
|------------------------------------|--|--|------------------|--|
| ARAB ORGANISATION FOR HUMAN RIGHTS | Mr Alaa Sayed Kamil Shalaby<br>Secretary General         | <a href="mailto:Ala.shalaby@hotmail.com">Ala.shalaby@hotmail.com</a><br><a href="mailto:AOHRARAB@GMAIL.COM">AOHRARAB@GMAIL.COM</a> | +20224181396     | EGYPT                                    |
| TRAINING CENTER FOR HUMAN RIGHTS   | Mr Ezzedine Said Asbahi<br>Chairman of Information       | Ezzadin4@gmail.com   | +9674216277      | YEMEN                                    |
| GENEVA INSTITUTE FOR HUMAN RIGHTS  | Mr Refaat Mirghani Abbas Al Ameen<br>Program Coordinator | refaat@givr.or   | +212611553349    | SUDANESE CITIZEN<br>RESIDENCE IN MOROCCO |
| ASIA PACIFIC UNION                 | Mr Rajeev Sharma<br>Regional Policy Officer              | rajeev.sharma@bwint.org  | +911141550670/80 | INDIA                                    |

4. GOVERNMENTS

| Government  | Delegate Name  | E-mail address           | Tel No:            | Fax No: | country |
|---|--|--------------------------|--------------------|---------|---------|
| OFFICE OF THE MINISTER OF<br>TRADE AND INDUSTRY                   | Ms Mona Hussein Mohamed Abd<br>Razak<br>Media Consultant                   | Mon_alrazzaq@hotmail.com | + 96522223046      |         | KUWAIT  |
| SWEDISH INTERNATIONAL<br>DEVELOPMENT COOPERATION<br>AGENCY (Sida) | Ms Camilla M Ottosson<br>First Secretary , Embassy of<br>Sweden in Bangkok | camilla.ottosson@gov.se  | +66-(0)2 263 72 57 |         | SWEDEN  |

5. INTERGOVERNMENTAL ORGANISATIONS

| Organisation  | Delegate Name   | E-mail address          | Tel No:        | Fax No: | country  |
|---|---|-------------------------|----------------|---------|--|
| ORGANIZATION OF ISLAMIC COOPERATION   | Mr Mohammad Abdullah Saeed AL Jaleedi<br>Ambassador – Director of the Department of Legal Affairs | eegledi@yahoo.com       | + 96626515222  |         | LIBYAN<br>NATIONAL<br>WORKING IN<br>SAUDI ARABIA |
| OFFICE OF HUMAN RIGHTS SECRETARIAT OF THE COOPERATION COUNCIL FOR THE ARAB STATES OF THE GULF | MS Mudhi Mtrian Mujbil Aerda<br>Director General  | ALARDI@GCCSG.ORG        | + 966558173003 |         | SAUDI ARABIA                                     |
| ARAB HUMAN RIGHTS COMMITTEE (THE COMMITTEE ON THE CHARTER) OF THE LEAGUE OF ARAB STATES       | Mr Asaad Naim Hassan Younes<br>Adviser  | Asadnaem101@hotmail.com | + 970592666960 |         | PALESTINE  |

6. UNITED NATIONS

| UN Agency   | Delegate Name                               | E-mail address   | Tel No:         | Fax No:        | country |
|---|---|--|-----------------|----------------|---------|
| OHCHR – REGIONAL OFFICE FOR THE MIDDLE EAST AND NORTH AFRICA                              | Ms Nada Darwazeh                            | <a href="mailto:ndarwazeh@ohchr.org">ndarwazeh@ohchr.org</a>                       | +961 70 119 101 | +9611962555    | LEBANON |
| OHCHR – MIDDLE EAST REGIONAL OFFICE<br><a href="http://www.ohchr.org">www.ohchr.org</a>   | Mr Nidal Jurdi<br>Human Rights Officer      | <a href="mailto:njurdi@ohchr.org">njurdi@ohchr.org</a>                             | +961 3 599717   | +961 1 962 555 | LEBANON |
| UN WOMEN (ARAB STATES REGIONAL OFFICE)  | Dr Sameera AlTuwaijri<br>Regional Director  | <a href="mailto:sameera.altuwaijri@unwomen.org">sameera.altuwaijri@unwomen.org</a> | +20 2 575-9472  |                | EGYPT   |
| UN HUMAN RIGHTS TRAINING AND DOCUMENTATION CENTRE FOR SOUTH WEST ASIA AND THE ARAB REGION | Dr. Elobaid Ahmed Elobaid<br>Head of Centre | <a href="mailto:eelobaid@ohchr.org">eelobaid@ohchr.org</a>                         |                 |                | QATAR   |

7. OTHERS

| Organisation   | Delegate Name  | E-mail address   | Tel No:                              | Fax No: | country        |
|--|--|--|--------------------------------------|---------|----------------|
| INTERNATIONAL COORDINATING COMMITTEE OF NATIONAL HUMAN RIGHTS INSTITUTIONS (ICC) | Mr Laurence Mabedle<br>Mushwana                                      | <a href="mailto:lmushwana@sahrc.org.za">lmushwana@sahrc.org.za</a> |                                      |         | SOUTH AFRICA   |
| THE CONTROL YUAN OF THE R.O.C (TAIWAN)   | Mr Ming-Huei Lin<br>Executive Secretary<br>Dr Ron-Yaw Chao<br>Member | mhlin@cy.gov.tw<br>rychao@cy.gov.tw                                | +886 2 2356 6547<br>+886 986 877 558 |         | TAIWAN (R.O.C) |
| LAWYER   | Mr Raji Khader Musa  | pchr@pchrgaza.org  | + 82844 299                          |         | PALESTINE      |
| EXPERT   | Dr Muhyieddeen Touq  | mitouq@hotmail.com   |                                      |         | JORDAN         |

8.

9. SECRETARIAT

| Institution   | Delegate Name   | E-mail address   | Tel No:  | Fax No:  | Country |
|---|---|--|--|--|---------|
| ASIA PACIFIC FORUM OF NATIONAL HUMAN RIGHTS INSTITUTIONS<br>SECRETARIAT<br><a href="http://www.asiapacificforum.net">www.asiapacificforum.net</a> | Mr Kieren Fitzpatrick<br>Director<br>Ms Pip Dargan<br>Deputy Director<br>Mr Greg Heesom<br>Legal Counsel<br>Mr Kwame Owusu-Akyeampong | <a href="mailto:kierenfitzpatrick@asiapacificforum.net">kierenfitzpatrick@asiapacificforum.net</a><br><a href="mailto:pipdargan@asiapacificforum.net">pipdargan@asiapacificforum.net</a><br><a href="mailto:gregheesom@asiapacificforum.net">gregheesom@asiapacificforum.net</a><br><a href="mailto:kwameo@asiapacificforum.net">kwameo@asiapacificforum.net</a> | +61 2 9284 9673<br>+61 2 9284 9644<br>+61 2 9284 9607<br>+61 2 9284 9703 | +61 2 9284 9825<br>+61 2 9284 9825<br>+61 2 9284 9825<br>+61 2 9284 9825 |         |

## ● 제18차 APF 연례회의 결과(Record of Decisions)

**APF Annual General Meeting**

**1<sup>st</sup> October 2013, Doha, Qatar**

### **Agenda**

1. Confirmation of attendance and observers
2. Adoption of agenda
3. Election of APF Chairperson
4. **INTERNATIONAL ISSUES**
  - ICC Chairperson's Report
  - ICC Sub-Committee of Accreditation
  - UN Open Ended Working Group on Ageing
5. APF Constitution Amendments
6. APF Membership – Oman and Samoan Applications
7. APF-ICC Representation
8. Location of 19<sup>th</sup> APF Annual Meeting in 2014 and location of 20<sup>th</sup> APF Annual Meeting and Biennial Conference 2015
9. Election of Deputy Chairpersons
10. APF Directors and Financial Report
11. APF Annual Operations Plan for 2014-2015
12. General Business

## Record of Decisions

1. Confirmation of Attendance and Observers:
  - All APF member institutions were present. Observers to the meeting included the institutions of Bahrain, Hong Kong, Iraq, Kazakhstan, Oman, Samoa as well as the ICC Chairperson and the OHCHR.
2. Adoption of Agenda:
  - The agenda was adopted with no amendments.
3. Election of APF Chairperson:
  - The National Human Rights Committee of Qatar was elected as APF Chairperson.
4. ICC Chairperson's Report:
  - The report of the ICC Chairperson was noted.
5. ICC Sub-Committee of Accreditation:
  - The report of the Chairperson of the ICC Accreditation Sub-Committee (Qatar) was noted.
6. UN Open-Ended Working Group on Ageing:
  - The report of the Malaysian Human Rights Commission on the UN Open Ended Working Group on Ageing was noted.
7. APF Constitution Amendments:
  - The amendments to the APF constitution were approved.
8. APF Membership:
  - Forum Councilors considered the applications for APF membership from the NHRIs of Oman and Samoa and admitted the institutions as associate members of the APF.
9. APF-ICC Representation:
  - Forum Councilors approved the appointment of the National Human Rights Committee of Qatar to the ICC Bureau. Forum Councilors also noted that an election for all Asia Pacific positions to the ICC at APF 19 in 2014.
10. Location of the APF 19 and APF 20:
  - Forum Councilors approved the nominations of the National Human Rights Commission of India to host APF 19 (annual meeting) and the National Human Rights Commission of Mongolia to host APF 20 (annual meeting and biennial conference).

11. Election of APF Deputy Chairpersons:

- Forum Councilors elected the National Human Rights Commission of Thailand and the National Human Rights Commission of Mongolia to the two positions of Deputy Chairpersons.

12. APF Director's and financial reports:

- The Director's and financial reports were approved.

13. APF Annual Operations Plan for 2014 – 2015:

- The APF Annual Operations Plan was approved.

14. General Business:

- The presentation of the Hong Kong Equal Opportunities Commission was noted.

## ● APF 연례회의 절차규정(국문)

### 목 차

|  |   |
|--|---|
| <ol style="list-style-type: none"> <li>1. 목적</li> <li>2. 연례회의 개최             <ol style="list-style-type: none"> <li>2.1 횟수, 시기, 장소</li> <li>2.2 연례회의 개최에 있어 시간의 연장</li> <li>2.3 연례회의 공지</li> <li>2.4 연례회의 휴회</li> </ol> </li> <li>3. 연례회의 문서화             <ol style="list-style-type: none"> <li>3.1 참고문서 제공</li> <li>3.2 총회 전 회원기구들의 의견교환/제출</li> </ol> </li> <li>4. 참석, 대표성 및 자격             <ol style="list-style-type: none"> <li>4.1 정회원 기구/ 포럼 이사회 / 감사</li> <li>4.2 연례회의 대표</li> <li>4.3 참관자로서 회원신청기구 및 준회원 기구</li> <li>4.4 자격</li> </ol> </li> </ol> | <ol style="list-style-type: none"> <li>5. 회의 진행             <ol style="list-style-type: none"> <li>5.1 의장</li> <li>5.2 의제</li> <li>5.3 논의 사안</li> <li>5.4 정족수</li> <li>5.5 토의 순서</li> <li>5.6 발언권</li> <li>5.7 의사결정</li> <li>5.8 총회 공식 언어</li> </ol> </li> <li>6. APF 본부             <ol style="list-style-type: none"> <li>6.1 역할</li> <li>6.2 보고하기</li> </ol> </li> <li>7. 절차규정의 채택과 개정             <ol style="list-style-type: none"> <li>7.1 채택과 개정</li> <li>7.2 규정 외 사안</li> </ol> </li> </ol> |
|--|---|

### 1. 목적

이하 절차규정은 국가인권기구 아시아 태평양 포럼 (APF) 연례회의에 적용된다.

APF는 연례회의(AGM)를 매년 개최하여 2001년 호주 기업법 (Australian Corporations Act, Cth) 하의 APF의 의무를 충족시킨다. 연례회의의 목적(APF 정회원 기구에 의해 개최)은 APF 정회원 기구가 APF 연례 재정 보고서, 총장 보고서 그리고 감사 보고서를 받게 하기 위함이다.

### 2. 연례회의 개최

#### 2.1 횟수, 시기, 장소

APF는 매 역년 당 1회 연례회의를 열어야 하며, 매 회계연도 말 기준 5개월 내에 개최되어야 한다.

본 규칙은 정관 제13.1(a)조 및 호주 기업법 s. 250N(2)에 따른다.

#### 2.2 연례회의 개최에 있어 시간의 연장

연례회의 개최가 회계연도 말 기준 5개월을 초과 지연되는 경우, 포럼 이사는 호주 기업법 250P에 따라 호주증권투자위원회(Australian Securities and Investment Commission, ASIC)에 연장 신

청을 해야 한다.

본 규칙은 호주 기업법 s. 250P에 따른다.

## 2.3 연례회의의 공지

모든 회원기구, 각 포럼 이사 및 APF 감사에 대한 연례회의의 공지는 팩스, 이메일 또는 선불 우편을 통해 연례회의 개최일 기준 최소 6주 전에 이루어져야 한다. 공지는 회의 날짜, 시간 및 장소를 명시해야 하며, 해당 회의에서 다룰 내용에 대한 설명이 포함되어 있어야 한다.

본 규칙은 정관 제13.2조 및 제19조, 호주 기업법 s. 249H에 따른다.

## 2.4 연례회의의 휴회

연례회의 개최에 앞서, 포럼 이사는 회의의 장소를 변경하거나 연기, 또는 휴회를 할 수 있다(정관 제13.1조에 의거). 연례회의 진행 도중 의장은 회의 시간 및 장소를 변경할 수 있으며, 회의로부터 이러한 요구가 있는 경우에는 이를 반드시 수리해야 한다. 연기된 회의의 경우, 연기 결정을 내릴 당시 보류된 미완료 사안들만을 다룰 수 있다.

본 규칙은 정관 제13.5조에 따른다.

## 3. 연례회의 문서화

### 3.1 참고문서 제공

참고문서는 연례회의 개최일 기준 14일 전까지 모든 정회원 기구에게 공개된다.

### 3.2 회원기구의 연례회의 사전 의견교환/제출

연례회의 때 상정할 모든 의견, 제출 혹은 문서는 APF 사무국에 이메일로 최소한 14일 전에 전달되어야 한다.

## 4. 참석, 대표성 및 자격

### 4.1 정회원 기구 / 포럼 이사회 / 감사

모든 정회원 기구는 연례회의에서 의결권을 가진다. 포럼 이사는 연례회의에 참석 및 발언을 할 수 있다. APF 감사 혹은 그 대표도 연례 회의에 참석 및 발언을 할 수 있다.

본 규칙은 정관 제13.5(f)조 및 호주 기업법 s. 249V에 따른다.

## 4.2 연례회의 대표

각 정회원 기구 당 한 표가 주어지며, 정관 제13.9조에 따라 변호인 또는 대표를 통한 대리투표를 할 수 있다.

본 규칙은 정관 제13.8(a)조 및 제13.9조, 호주 기업법 ss. 250A 및 250D에 따른다.

## 4.3 참관자로서 회원신청기구 및 준회원 기구

포럼 이사의 초청에 따라 그 누구든 연례회의에 참가할 수 있으며, 의장의 승인에 따라 발언을 할 수 있으나 의결권은 갖지 않는다.

본 규칙은 정관 제13.6조에 따른다.

## 4.4 자격

모든 초청대상자는 참여 의사를 최소한 2주 전에 APF 사무국에 통보해야 한다. 단체인 경우, 그 단체는 대변인을 서면을 통해 지정해야 한다.

## 5. 회의 진행

### 5.1 의장

포럼이사회 이사장은 의장으로서 각 연례회의를 주재하고, 절차규정의 준수를 위한, 그리고 회의의 모든 세션을 지휘할 책임을 가진다. 연례회의 의제의 순서, 절차 혹은 진행에 관한 모든 질문은 의장에게 주어지며, 이에 대하여 의장은 최종결정권을 가진다.

의장이 불참, 혹은 의장으로서 주재하기를 원하지 않는 경우, 참가한 정회원 기구들이 연례회의 의장을 선출해야 한다.

### 5.2 의제

포럼 이사는 사무국에서 준비한 임시 의제를 승인한다.

본 규칙은 정관 제13.4조 및 13.5(a)조, 호주 기업법 s. 249U에 따른다.

### 5.3 논의 사안

연례회의에서 논의될 사안은 연례 회계보고, 총장보고 및 감사보고, 감사에 대한 보수의 책정, 그 외 포럼 이사가 승인한 의제의 고려 등이다.

포럼 이사가 연례회의에 반드시 제출해야 할 보고서는 다음과 같다.

- 회계 보고서
- 총장 보고서
- 감사 보고서

또한 의장은 모든 정회원 기구들이 포럼의 운영에 관한 질문 또는 의견을 제기할 수 있는 충분한 기회를 제공해야만 한다.

감사 또는 그 대표가 연례회의에 참가하는 경우, 의장은 모든 정회원 기구들이 감사활동 및 감사 보고서 준비 및 내용에 관하여 질의할 수 있는 충분한 기회를 제공해야만 한다.

본 규칙은 호주 기업법 ss. 250R, 250S 및 250T에 따른다.

#### 5.4 정족수

연례회의에서 다루어지는 의장 선출 및 연기를 제외한 모든 사안은 정회원 기구의 정족수가 충족되지 않는 한 다루어질 수 없다. 정족수는 정회원 기구들이 정하거나, 정회원 기구들이 정하지 않은 경우, 다음과 같은 방법으로 정한다.

- (i) 참석한 정회원 기구 수가 9개 이하인 경우, 정회원 기구 3개
- (ii) 참석한 정회원 기구 수가 10에서 15개인 경우, 정회원 기구 4개
- (iii) 참석한 정회원 기구 수가 15개를 넘는 경우, 정회원 기구 5개

연례회의 개시 후 정족수가 충족되지 않은 채 30분이 초과하는 경우, 회의를 다른 날짜로 연기할 수 있다. 연례회의 연기날짜에 대한 동의가 이루어지지 않는 경우, 연례회의가 개최된 날을 기준으로 그 다음주, 같은 시간, 같은 장소에서 재개하는 것으로 한다.

본 규칙은 정관 제13.3조 및 호주 기업법 s 249E에 따른다.

#### 5.5 토의 순서

토의 순서는 의제에 따라 진행된다.

#### 5.6 발언권

다음 의제 사안으로 넘어가기에 앞서, 각 의제 사안에 대하여 정회원 기구가 발언할 수 있으며, 이어서 후보 및 준회원 기구, 기타 옵저버(의장의 승인에 따름)가 발언할 수 있다.

본 규칙은 정관 제13.6조에 따른다.

## 5.7 의사결정

연례회의 의사결정은 가능한 한 만장일치로 정한다. 의장이 만장일치가 없다고 판단하는 경우, 사안은 거수 투표를 통해 다수결로 정해진다. 의제 사안에 대한 의결권은 정회원 기구만 가지며, 각 정회원 기구 당 한 표가 주어진다. 대리인, 변호인, 대표는 자신이 대표하는 정회원 기구에 대한 투표권을 가질 수 있다. 찬반수가 같을 경우, 사안은 폐기된다. 후보 및 준회원기구는 의결권을 갖지 않는다.

본 규칙은 정관 제13.7조, 제13.8조 및 제13.9조에 따른다.

## 5.8 연례회의 공식 언어

APF 회의의 공식 언어는 영어로 정한다.

## 6. APF 본부

### 6.1 역할

사무국은 정회원 기구의 연례회의 활동을 다음과 같이 지원한다.

- (i) 필요한 지문, 설명, 조언 및 정보의 제공
- (ii) 자료 제공자로서의 역할-특히 참고 문서 작성 시
- (iii) 토의내용 요약 및 회의 최종 보고서 준비

### 6.2 보고하기

사무국은 회의 개최일로부터 60일 내 연례회의 종합 보고서를 발행한다.

## 7. 절차규정의 채택과 개정

### 7.1 채택과 개정

본 규정은 포럼 이사의 채택과 함께 그 효력을 가지며, 포럼 이사에 의해 개정되지 않는 한 그 효력을 유지한다. 포럼 이사는 필요 시 본 규정을 개정할 수 있다.

### 7.2 규정 외 사안

본 규정이 다루지 않는 사안은 정회원 기구의 의결에 따라 정해진다.

## Rules of Procedure for the Annual General Meetings of the APF

### Table of contents

1. **Statement of purpose**
2. **Convening the Annual General Meeting**
  - 2.1 Frequency, time and place
  - 2.2 Extension of time for holding the Annual General Meeting
  - 2.3 Notice of Annual General Meeting
  - 2.4 Adjourning Annual General Meeting
3. **Documentation for Annual General Meeting**
  - 3.1 Provision of background papers
  - 3.2 Communications/submissions by member institutions prior to Annual General Meeting
4. **Attendance, Representation and Credentials**
  - 4.1 Full member institutions/ Forum Councillors/ Auditor
  - 4.2 Representation at Annual General Meetings
  - 4.3 Candidate and Associate member institutions and Observers
  - 4.4 Credentials
5. **Conduct of the Meeting**
  - 5.1 Chairperson
  - 5.2 Agenda
  - 5.3 Business to be discussed
  - 5.4 Quorum
  - 5.5 Order for discussion
  - 5.6 Speaking rights
  - 5.7 Decision-making
  - 5.8 Working language of the Annual General Meeting
6. **The APF secretariat**
  - 6.1 Role
  - 6.2 Reporting
7. **Adoption and Amendment of Rules of Procedure**
  - 7.1 Adoption and amendment
  - 7.2 Matters not covered by the Rules

## **Rules of Procedure for Annual General Meetings of the APF**

### **1. Statement of Purpose**

The following Rules of Procedure apply to Annual General Meetings of the Asia Pacific Forum of National Human Rights Institutions (the APF).

The APF must hold an Annual General Meeting (AGM) each year in order to satisfy its obligations under the Australian *Corporations Act* (Cth) 2001 (the Act). The purpose of the Annual General Meeting (which is hosted by one of the full member institutions of the APF) is to enable the full members of the APF to receive the APF's annual financial report, directors' report and auditor's report.

### **2. Convening an AGM**

#### **2.1 Frequency, time and place**

The APF must hold an AGM once in each calendar year and within 5 months after the end of its financial year.

This rule above accords with clause 13.1(a) of the Constitution and s. 250N (2) of the Act.

#### **2.2 Extension of time for holding the AGM**

If an extension of time is needed for holding the AGM beyond 5 months after the end of the financial year, the Forum Councillors must apply to the Australian Securities and Investments Commission for that extension in accordance with Section 250P of the Act.

This rule above accords with s. 250P of the Act.

#### **2.3 Notice of an AGM**

At least 6 weeks notice of an AGM must be given to every full member institution, each Forum councillor and the auditor of the APF personally, by facsimile, by e-mail or by pre-paid post. The notice must specify the date, time and place of the meeting and state the general nature of the business to be transacted at the meeting.

This rule above accords with clauses 13.2 and 19 of the Constitution and s. 249H of the Act.

#### **2.4 Adjourning an AGM**

Prior to an AGM, the Forum Councillors may change the venue for, postpone or cancel the Meeting (in accordance with clause 13.1 of the Constitution).

At the AGM, the Chairperson may, and must if so directed by the meeting, adjourn the meeting time and place. The only business that can be discussed at any adjourned meeting is the unfinished business from the meeting at which the adjournment took place.

This rule above accords with clause 13.5 of the Constitution.

### **3. Documentation for the AGM**

#### **3.1 Provision of background papers**

Background papers will be available to all full member institutions 14 days prior to the meeting.

#### **3.2 Communications/submissions by member institutions prior to an AGM**

Any communications, submissions or documents to be tabled at an AGM must be forwarded to the APF Secretariat by electronic mail within 21 days of the date of the meeting.

### **4. Attendance, Representation and Credentials**

#### **4.1 Full member institutions/ Forum Councillors/ Auditor**

All full member institutions may attend and vote at AGMs. Forum Councillors may attend and speak at AGMs. The APF's auditor or his/her representative is also entitled to attend and speak at an AGM.

This rule above accords with clause 13.5(f) of the Constitution and s249V of the Act.

#### **4.2 Representation at AGMs**

Each full member institution has one vote and may vote by proxy, attorney or representative in accordance with clause 13.9 of the Constitution.

This rule accords with clauses 13.8(a) and 13.9 of the Constitution and ss. 250A, 250D of the Act.

#### **4.3 Candidate and Associate Member Institutions and Observers**

Any person may attend an AGM if invited by the Forum Councillors and, with the permission of the Chairperson, may speak but not vote at the meeting.

This rule above accords with clause 13.6 of the Constitution.

#### **4.4 Credentials**

All invitees should inform the Secretariat of their intention to participate in an AGM in writing at least two weeks in advance. If that invitee is an organisation, it must nominate, in writing, one spokesperson.

## **5. Conduct of the Meeting**

### **5.1 Chairperson**

The Chairperson of Forum Councillors must preside as Chairperson at each AGM and shall be responsible for the control of all sessions of the meeting and for ensuring that the Rules of Procedure are adhered to. Any question arising relating to the order of business, procedure or conduct of the meeting must be referred to the Chairperson whose decision is final.

If that Chairperson is not present, or not willing to act as Chairperson of the meeting, the full member institutions present must elect a Chairperson of the meeting.

### **5.2 Agenda**

The Forum Councillors shall approve the provisional agenda prepared by the Secretariat.

This rule above accords with clauses 13.4 and 13.5(a) of the Constitution and Section 249U of the Act.

### **5.3 Business to be discussed**

The business of an AGM shall be the consideration of the annual financial report, directors' report and auditor's report, the fixing of the auditor's remuneration and any other item on the Agenda approved by the Forum Councillors.

The Forum Councillors *must* present the following reports to the AGM:

- The financial report;
- The directors' report;
- The auditors' report.

The Chairperson must also allow a reasonable opportunity for full member institutions to ask questions about, or comment upon, the management of the Forum.

If the auditor or his/her representative attends the AGM, the Chairperson must also allow a reasonable opportunity for full member institutions to ask questions about the conduct of the audit and the preparation and content of the auditor's report.

This rule above accords with ss. 250R, 250S and 250T of the Act.

#### **5.4 Quorum**

No business may be transacted at an AGM, except the election of a Chairperson and adjournments, unless a quorum of full member institutions is present when the meeting proceeds to business. A quorum is either a number determined by the full member institutions or, if the full member institutions have not fixed a number, by the following method:

- (i) If the number of full member institutions is 9 or less, 3 full member institutions;
- (ii) If the number of full member institutions is between 10 and 15, 4 full member institutions; or
- (iii) If the number of full member institutions exceeds 15, 5 full member institutions.

If there is no quorum 30 minutes after the starting time of an AGM then it can be adjourned to another date. If there is no agreement about the date for the adjourned AGM it must be adjourned to the same day in the next week at the same time and place.

This rule above accords with clause 13.3 of the Constitution and Section 249E of the Act.

#### **5.5 Order for discussion**

The order for discussion is progression through the agenda.

#### **5.6 Speaking Rights**

Full member institutions may speak to each agenda item and then candidate and associate member institutions and other observers may speak (with the permission of the Chairperson) prior to moving onto the next agenda item.

This rule above accords with clause 13.6 of the Constitution

### **5.7 Decision-making**

Decisions at AGMs will, as far as possible, be arrived at by consensus. Where the Chairperson deems that there is no consensus the matter will be decided by a majority of votes by hand. Only full member institutions may vote on agenda items and each full member institution present has one vote. A proxy, attorney or representative is entitled to a separate vote for each full member institution that the person represents. Where the votes are equal the proposed resolution is lost. Candidate and associate member institutions do not have voting rights.

This rule above accords with clauses 13.7, 13.8 and 13.9 of the Constitution.

### **5.8 Working language of AGMs**

The working language of the meetings of the APF shall be English.

## **6. The APF secretariat**

### **6.1 Role**

The Secretariat shall facilitate the work of the AGMs of the full member institutions by:

- (i) Providing necessary advice, clarifications, inputs and information;
- (ii) Acting as resource persons – particularly in the preparation of background papers; and
- (iii) Summarising discussions and preparing the final report of the meeting.

### **6.2 Reporting**

The Secretariat will publish the executive summary of the AGM within 60 days of the meeting being held.

## **7. Adoption and Amendment of Rules of Procedure**

### **7.1 Adoption and Amendment**

These Rules shall come into force on adoption by the Forum Councillors, will remain in force until amended by the Forum Councillors, and can be amended by the Forum Councillors as required.

### **7.2 Matters not covered by the Rules**

Any matter not covered by these rules may be determined by a vote of the full member institutions.

## ● APF 컨퍼런스 절차규정(국문)

### 목 차

|                   |                      |
|-------------------|----------------------|
| 1. 목적             | 4. 참여                |
| 2. 대표성 및 출석       | 4.1 APF 회원 기관 대표의 참여 |
| 2.1 참석자           | 4.2 유엔의 참여           |
| 2.2 대리인/대표자       | 4.3 정부 대표의 참여        |
| 3. 회의 진행          | 4.4 NGO의 참여          |
| 3.1 회의 공식 언어      | 5. 최종 회의 성명서         |
| 3.2 회의 횟수, 시기, 장소 | 5.1 최종 회의 성명서의 내용    |
| 3.3 공지 요건         | 5.2 최종 회의 성명서 준비     |
| 3.4 의제            | 6. APF 본부의 역할        |
| 3.5 회의 및 분과 의장    | 6.1 역할               |
| 3.6 참고 문서         | 6.2 보고               |
| 3.7 회의 전 의견교환/제출  | 7. 절차규정의 채택과 개정      |
| 3.8 토의 순서         | 7.1 채택과 개정           |
|                   | 7.2 규정의 사안           |

## 1. 목적

국가인권기구 아시아태평양포럼 (APF) 전원 회의(Conference)는 모든 APF 회원기구와 아태지역의 기동록 참관기구들에게 주요 참석 회의이다. 전원 회의의 목적은 국가인권기구, 유엔, 정부 및 시민단체를 조화롭고 실질적인 분위기 속에서 한 자리에 모아 지역인권계획을 위한 협력을 도모하며 파리원칙에 부합하는 새로운 인권기구 설립을 진작시키기 위함이다. 전원회의에서, APF 회원 기구와 기동록 참관기구는 회원 기구 보고서, 아태 지역 국가 정부 보고서, 그리고 대해 보고서에 대해 듣고 토의하며 지역차원에서 중요한 인권 이슈에 대해 논의한다.

## 2. 대표성(representation) 및 출석

### 2.1 참석자

전원회의 참석대상자는 모든 APF 회원기구(정회원, 회원신청기구, 준회원), OHCHR 및 타 유엔 기관의 대표, 정부 대표, NGO 대표, 그리고 전원회의를 참관하거나 발언하도록 초청된 관련 기관 및 개인이다.

모든 초청자는 최소 4주전에 본부에 서면으로 전원회의에 참석하고자 하는 의향을 통지해야 하며 1명의 대변인을 반드시 지정하여 적절한 권한을 위임하여 전원회의 때 기관을 대표하여 발언할

수 있도록 해야 한다.

## 2.2 대리인/대표자

참석자가 회의 참여를 통보하였지만 결과적으로 참석할 수 없을 때에는 대신 참석할 대표자/대리인을 서면으로 제출할 수 있다.

## 3. 회의 운영규정

### 3.1 공식 언어

전원회의의 공식 언어는 영어이다.

### 3.2 회의 횟수, 시기 및 장소

회의 횟수, 시기, 장소 등은 APF 포럼 의원들의 결정에 따라 전원회의의 횟수, 시기와 장소가 결정된다.

### 3.3 공지 요건사항

APF 포럼 의회는 전원회의 일자 기준 최소한 6주 전에 이메일로 공지해야 한다. 대상지는 모든 APF 회원 기구, 전원회의에서 발언하도록 초청된 OHCHR 및 타 유엔기관의 대표, 정부 대표, NGO 혹은 타 관련기관 대표이다.

### 3.4 의제

포럼 이사는 사무국에서 준비한 임시 의제를 승인한다.

### 3.5 회의 및 분과 의장

포럼 의회의 의장(이하 의장)은 회의 절차규정에 준수하여 전원회의를 주재한다. 의제 순서, 회의 절차나 규정과 관련된 질문은 최종 결정권자인 의장에게 부쳐져야 한다.

전원회의의 분과 의장(이하 분과 의장)은 의제에서 결정되는 것과 같이 APF 정회원 기구가 맡는다. 분과 의장은 분과 회의의 통제를 담당하며 절차 규정이 준수되도록 힘쓴다. 분과 의장은 허용 시간 안에 발언을 원하는 모든 이가 그리 하도록 노력한다.

### 3.6 참고 문서

분과 회의 참고 문서는 모든 참가자들에게 제공되며 APF 웹사이트 ([www.asiapacificforum.net](http://www.asiapacificforum.net))에서 다운로드 받을 수 있다.

### 3.7 전원회의 전 의견교환(communications) 및 제출

전원회의 때 상정할 의견, 제출 혹은 문서는 APF 본부에 이메일로 최소한 14일 전에 전달되어야 한다.

### 3.8 토의 순서

토의 순서는 의제에 따라 진행된다.

## 4. 참여

### 4.1 APF 회원 기구 대표단의 참여

APF 회원 기구는 전연회의의 주요 활동주체이며 다른 참석자들에 앞서 발언권이 주어진다.

각각의 분과회의에서 APF 회원기구 대표단은 최초 모두 발표와 논평을 할 수 있다. 만약 APF 회원기구 대표단의 모두 발표시, 발표 문서 혹은 개요가 APF 본부에 이메일로 최소한 14일 전에 전달되어야 한다.

전원회의의 결론을 매듭짓는 책임은 포럼 의회에서 맡는다.

### 4.2 유엔의 참여

유엔인권최고대표사무소 혹은 타 유엔기관의 대표단은 전원회의를 참관하거나 회의에서 발언하도록 초청받을 수 있다.

유엔기구 대표단은 사전에 준비한 발표자료를 APF 본부에 이메일로 최소한 14일 전에 전달되어야 한다.

분과의장은 유엔기구 대표단에게 적절히 발언권을 주어야 한다.

### 4.3 정부 대표단의 참여

정부 대표단은 전원회의를 참관하거나 회의에서 발언하도록 초청받을 수 있다.

정부 대표단은 사전에 준비한 발표자료를 APF 본부에 이메일로 최소한 14일 전에 전달되어야 한다.

분과의장은 정부 대표단에게 적절히 발언권을 주어야 한다.

### 4.4 NGO 대표단의 참여

NGO 대표단은 전원회의를 참관하거나 회의에서 발언하도록 초청받을 수 있다.

NGO 대표단은 종합 보고서를 준비하고 회의에서 발언할 1명의 대표를 지정하도록 권유한다. 종합 보고서의 사본은 회의 14일 전 APF 본부에 전자파일 형태로 제출되어야 한다.

분과의장은 시간이 가능하다면 NGO들에게 추가적으로 발언기회를 허용할 수 있다.

## 5. 최종 회의 성명서

### 5.1 최종 회의 성명서의 내용

최종 회의 성명서는 회의 때 논의된 의제의 요약만을 포함할 수 있다.

### 5.2 최종 회의 성명서의 준비

오직 포럼 의회(Forum Councillors)만이 최종 회의 성명서를 초안하고 채택할 수 있으며 이 절차를 비공개 회의로 진행된다. 회원신청기구나 준회원 기구는 해당 회의를 참관할 수 있다.

## 6. APF 본부의 역할

### 6.1 역할

본부는 전원회의의 업무를 다음과 같이 촉진한다.

- (1) 필요한 지문, 설명, 조언 그리고 정보 제공
- (2) 자료 제공자로서의 역할 - 특히 참고 문서 작성시
- (3) 의장과 분과 의장 보조
- (4) 토의내용 요약 및 회의 최종 보고서 준비

## 6.2 보고하기

본부는 회의 주요 내용을 APF 웹사이트에 회의날로부터 60일 안에 게재한다.

## 7. 절차규정 채택 및 개정

### 7.1 채택 및 개정

본 규정은 포럼 의회에서 채택과 함께 효력이 발생하며 필요시 포럼 의회에서 개정될 수 있다.

### 7.2 규정외 사안

본 규정에 의해 다루어지지 않은 사안은 포럼 의회의 투표로 결정될 수 있다.

## **Rules of Procedure for the Conference of the Asia Pacific Forum of National Human Rights Institutions**

### **Table of Contents**

- 1. Statement of Purpose**
- 2. Representation and Attendance**
  - 2.1 Attendees
  - 2.2 Proxies/representatives
- 3. Conduct of the Conference**
  - 3.1 Working Language
  - 3.2 Frequency, time and place of Conference
  - 3.3 Notice requirements
  - 3.4 Agenda
  - 3.5 Chairing of Conference and Conference sessions
  - 3.6 Background papers
  - 3.7 Communications/submissions prior to the Conference
  - 3.8 Order for discussion
- 4. Participation**
  - 4.1 Participation of APF member institution representatives
  - 4.2 Participation of the United Nations
  - 4.3 Participation of Government representatives
  - 4.4 Participation of NGOs
- 5. The Final Conference Statement**
  - 5.1 Content of the Final Conference Statement
  - 5.2 Preparation of the Final Conference Statement
- 6. The Role of the APF Secretariat**
  - 6.1 Role
  - 6.2 Reporting
- 7. Adoption and Amendment of the Rules of Procedure**
  - 7.1 Adoption and amendment
  - 7.2 Matters not covered by the Rules

## **1. Statement of Purpose**

The Asia Pacific Forum of National Human Rights Institutions (APF) plenary Conference (the Conference) is the key participatory Conference for all APF member institutions and registered observers in the Asia Pacific region. The aim of the Conference is to bring together national human rights institutions, the United Nations (UN), governments and Non-Governmental Organisations (NGOs) in a harmonious and practical setting in order to mobilise co-operation for regional human rights initiatives and to facilitate the establishment of new national human rights institutions in accordance with the Paris Principles. At the Conference, APF member institutions and registered observers hear and discuss reports from APF member institutions, Asia-Pacific governments and NGOs and discuss human rights issues of regional significance.

## **2. Representation and Attendance**

### **2.1 Attendees**

The Conference may be attended by all APF member institutions (full, candidate and associate), representatives of the OHCHR (and other UN agencies), government and NGO representatives, other relevant institutions and individuals who have been invited to observe or address the Conference.

All invitees should inform the Secretariat of their intention to participate in the Conference in writing at least four weeks in advance and must nominate one spokesperson for their organisation that has been granted powers by a proper authority enabling him or her to represent the organisation at the Conference.

### **2.2 Proxies/representatives**

If an attendee has given notice of their intention to participate but they cannot subsequently be present at the Conference, she/he may nominate, in writing, one representative/proxy to attend instead.

### **3. Conduct of the Conference**

#### **3.1 Working Language.**

The working language of the Conference of the APF shall be English.

#### **3.2 Frequency, time and place of Conference**

The frequency, time and place of the Conference shall be determined by the APF Forum Councillors.

#### **3.3 Notice requirements**

The APF Forum Councillors shall provide notice of the Conference at least 6 weeks prior to the Conference date by electronic mail. Notice will be given to all APF member institutions, representatives of the OHCHR and any other UN agencies invited to address the Conference, government and NGO and other relevant institutions.

#### **3.4 Agenda**

The Chairperson of the Forum Councillors shall approve the provisional agenda prepared by the APF Secretariat.

#### **3.5 Chairing of Conference and Conference sessions**

The Chairperson of the Forum Councillors (Chairperson) shall preside at the Conference and ensure that the Rules of Procedure are adhered to. Any question arising relating to the order of business, procedure or conduct of the Conference must be referred to the Chairperson whose decision is final.

Conference's sessions will be chaired by an APF full member institution (session Chairperson) as determined by the agenda. The session Chairperson will be responsible for the control of the session and for ensuring that the Rules of Procedure are adhered to. The session Chairperson shall endeavour to allow all who wish to make interventions to do so during the allotted time.

### **3.6 Background papers**

Background papers prepared for sessions will be available, where possible, to all participants or can be downloaded from the APF website at [www.asiapacificforum.net](http://www.asiapacificforum.net).

### **3.7 Communications/submissions prior to the Conference**

Any communications, submissions or documents to be tabled at the Conference are to be forwarded to the APF Secretariat by electronic mail at least 14 days prior the date of the Conference.

### **3.8 Order for discussion**

The order for discussion is progression through the agenda.

## **4. Participation**

### **4.1 Participation of APF member institution representatives**

Member institutions of the APF are the principal actors of the Conference and interventions by them will take place before those of other participants.

For each session, APF member representatives may make initial introductory presentations and make subsequent comments. If APF member institutions propose to make introductory presentations they should provide a copy or outline of the presentation to APF Secretariat in electronic format 14 days before the Conference.

The responsibility for finalising the Conference conclusions lies with the Forum Councillors.

### **4.2 Participation of the United Nations**

Representatives of the Office of the High Commissioner for Human Rights and other specified United Nations agencies may be invited to observe or address the Conference.

Final draft APF Conference ROP's 16 August 2007

United Nations representatives with prepared written statements are requested to provide a copy of these to the APF Secretariat in electronic format 14 days before the Conference.

The session Chairperson should allow an appropriate opportunity for interventions by representatives of the United Nations.

#### **4.3 Participation of Government representatives**

Representatives of Government may be invited to observe or address the Conference.

Government representatives with prepared written statements are requested to provide a copy of these to the APF Secretariat in electronic format 14 days before the Conference.

The session Chairperson should allow an appropriate opportunity for interventions by government representatives.

#### **4.4 Participation of NGOs**

NGO representatives may be invited to observe or address the Conference.

NGO representatives are encouraged to prepare a collective report and to nominate a single representative to make any oral submissions. A copy of the collective report should be provided to the APF Secretariat in electronic format 14 days before the Conference.

The session Chairperson may allow, if time permits, an opportunity for additional interventions by NGOs.

### **5. Final Conference Statement**

#### **5.1 Content of the Final Conference Statement**

The Final Conference Statement may only contain a summary of items discussed during the Conference.

#### **5.2 Preparation of the Final Conference Statement**

Final draft APF Conference ROP's 16 August 2007

Only Forum Councillors may draft and adopt the Final Conference Statement and they will do so in closed session(s). Candidate and associate member institutions may observe the session(s).

## **6. The Role of the APF Secretariat**

### **6.1 Role**

The Secretariat shall facilitate the work of the Conference by:

- (i) Providing necessary advice, clarifications, inputs and information;
- (ii) Acting as resource persons – particularly in the preparation of background papers;
- (iii) Assisting the Chairperson and session Chairperson; and
- (iv) Summarising discussions and preparing the final report of the Conference.

### **6.2 Reporting**

The Secretariat will publish the executive summary of the Conference on the APF website within 60 days of the Conference being held.

## **7. Adoption and Amendment of the Rules of Procedure**

### **7.1 Adoption and amendment**

These Rules shall come into force on adoption by the Forum Councillors and may be amended by the Forum Councillors as required.

### **7.2 Matters not covered by the Rules**

Any matter not covered by these rules may be determined by a vote of the Forum Councillors.

# 02

## 제18차 APF 연례회의 자료

- 제18차 APF 연례회의  
안건자료
- ICC 의장 보고서
- 유엔 고령화 실무그룹 보고서
- 홍콩기획균등위원회 발표문





**ASIA PACIFIC FORUM**  
ADVANCING HUMAN RIGHTS IN OUR REGION

## Forum Councillors Annual General Meeting

---

### **APF 18**

The 18th Annual Meeting & Biennial  
Conference of the Asia Pacific Forum of  
National Human Rights Institutions

Doha, Qatar, 1 to 3 October 2013

---

# Contents

|           |  |           |
|-----------|--|-----------|
| <b>1</b>  | <b>Purpose</b>   | <b>4</b>  |
| <b>2</b>  | <b>Background</b>  | <b>4</b>  |
| <b>3</b>  | <b>Structure of this Paper</b>   | <b>4</b>  |
| <b>4</b>  | <b>Evaluation of the APF</b>   | <b>5</b>  |
| <b>5</b>  | <b>Confirmation of Attendance &amp; Apologies</b>  | <b>6</b>  |
| <b>6</b>  | <b>Adoption of Agenda</b>  | <b>7</b>  |
| <b>7</b>  | <b>Election of APF Chairperson</b>   | <b>8</b>  |
| <b>8</b>  | <b>International Activities</b>  | <b>9</b>  |
| 8.1       | International Coordinating Committee .....   | 10        |
|           | ICC Chairperson Report.....  | 10        |
|           | ICC Strategic Planning Process.....  | 10        |
|           | ICC Sub-Committee on Accreditation .....   | 10        |
| 8.2       | UN Open-Ended Working Group on Ageing.....   | 10        |
| <b>9</b>  | <b>APF Constitution Amendments</b>   | <b>11</b> |
| 9.1       | Background .....   | 12        |
| 9.2       | Recommendation .....   | 13        |
| <b>10</b> | <b>APF Membership – Oman</b>   | <b>14</b> |
| 10.1      | Background .....   | 15        |
| 10.2      | Oman .....   | 15        |
| 10.3      | National Human Rights Commission of Oman .....   | 17        |
|           | Establishment.....   | 17        |
|           | Objectives and Mandate .....   | 17        |
|           | Composition .....  | 18        |
|           | Structure and Staff .....  | 18        |
|           | Finances.....  | 19        |
| 10.4      | Assessment of Application.....   | 19        |
| 10.5      | Recommendation .....   | 20        |
| <b>11</b> | <b>APF Membership – Samoa</b>  | <b>21</b> |
| 11.1      | Background .....   | 22        |
| 11.2      | Samoa.....   | 22        |
| 11.3      | Ombudsman of Samoa.....  | 23        |
|           | Establishment.....   | 23        |
|           | Objectives and Mandate .....   | 23        |
|           | Structure and Composition.....   | 24        |
|           | Structure and Staff .....  | 24        |
|           | Finances.....  | 24        |
| 11.4      | Assessment of Application.....   | 25        |
| 11.5      | Recommendation .....   | 25        |
| <b>12</b> | <b>APF – ICC Representation</b>  | <b>27</b> |
| 12.1      | Background .....   | 28        |
| 12.2      | ICC Bureau .....   | 28        |
|           | Recommendation .....   | 29        |
| <b>13</b> | <b>Location of the APF 19<sup>th</sup> Annual Meeting in 2014 and 20<sup>th</sup> Annual Meeting &amp; Biennial Conference in 2015</b> | <b>30</b> |
| 13.1      | Background.....  | 31        |
| 13.2      | APF Annual Meeting and Conference .....  | 31        |
| 13.3      | Considerations .....   | 32        |

|           |   |           |
|-----------|---|-----------|
| 13.4      | Nominations .....                                   | 32        |
| 13.5      | Recommendation .....                                | 33        |
| <b>14</b> | <b>Election of APF Deputy Chairpersons</b>          | <b>34</b> |
| <b>15</b> | <b>APF Directors and Financial Report</b>           | <b>35</b> |
| <b>16</b> | <b>APF Annual Operations Plan for 2014-2015</b>     | <b>36</b> |
| <hr/>     |   |           |
| 16.1      | Draft Annual Operations Plan for 2014-2015.....     | 37        |
| 16.2      | Implementation Schedule .....                       | 51        |
| 16.3      | Forecast Income and Expenditure .....               | 52        |
| <b>17</b> | <b>General Business</b>                             | <b>54</b> |
| <b>18</b> | <b>Annexure</b>                                     | <b>55</b> |
| <hr/>     |   |           |
|           | Annex 1 – APF Rules of Procedure .....              | 55        |
|           | Annex 2 – APF 18 Program .....                      | 55        |
|           | Annex 3 – APF Constitution Amendments.....          | 55        |
|           | Annex 4 – Oman Membership .....                     | 55        |
|           | Annex 5 – Samoa Membership.....                     | 55        |
|           | Annex 6 – Nominations from India and Mongolia ..... | 55        |
|           | Annex 7 – APF Directors and Financial Report .....  | 55        |
|           | Annex 8 – APF Audited Accounts .....                | 55        |

## 1 Purpose

---

This report has been prepared by the secretariat of the Asia Pacific Forum of National Human Rights Institutions ('**APF**') for the consideration of Forum Councillors at their Annual General Meeting on Tuesday 1<sup>st</sup> October 2013 to be held in association with the Eighteenth APF Annual Meeting and Biennial Conference in Doha, Qatar from 1 to 3 October 2013.

## 2 Background

---

The Forum Councillors Annual General Meeting ('**AGM**') is a formal meeting held once a year. It is a legal requirement for the APF as a not-for-profit organisation.

The AGM serves as an opportunity for Forum Councillors to review the operation of the APF over the past year and deal with issues such as the election of officers, the admission of new member institutions, and the approval of the annual audited accounts. Although it is a formal meeting, it is also a good opportunity to discuss matters of mutual interest between member institutions and to communicate with partners and other interested stakeholders.

The meeting is restricted to APF member institutions and invited observers. Traditionally, Forum Councillors have invited the Chairperson of the International Coordinating Committee of National Human Rights Institutions ('**ICC**'), representatives of the United Nations ('**UN**'), national human rights institutions ('**NHRI**') which have applied, or are intending to apply, for membership of the APF, and relevant stakeholders as agreed to attend the meeting as observers.

The approved Rules of Procedure for the meetings of Forum Councillors, Annual General Meetings and the APF Conference can be found at Annex 1.

## 3 Structure of this Paper

---

The report is structured in the sequence of the agenda items of the Forum Councillor meeting. Agenda items are preceded by a 'cover sheet' which provides the following information:

- the title of the agenda item;
- a summary of the main issues;
- any relevant considerations that should be drawn to the attention of Forum Councillors;
- who prepared the paper; and finally,
- who will introduce the item for discussion.

Where relevant the 'cover sheet' is then followed by a substantive paper. In order to make the information contained in this report as concise as possible,

electronic references are made to the full text of any substantive supporting documentation.

## 4 Evaluation of the APF

---

The APF secretariat is committed to providing quality services to APF member institutions. To assist us in this task we request your active participation in evaluating our performance and activities.

The APF secretariat will distribute an evaluation form for the annual meeting to Forum Councillors. Secretariat staff will then collect the completed forms at the conclusion of the meeting.

## 5 Confirmation of Attendance & Apologies



**Eighteenth Annual Meeting of the Asia Pacific  
Forum of National Human Rights Institutions**  
Forum Council Meeting Paper

|   |  |
|---|--|
| <b>Title:</b>                                   | Confirmation of attendance & Apologies   |
| <b>Summary of issue:</b>                        | <p>APF Forum Councillors attend the Forum Council meeting. Please note that as there are currently fifteen (15) full member institutions of the APF, clause 13.3(b) of the APF Constitution provides that the quorum for the meeting is four (4) members.</p> <p>Forum Councillors need to approve any other attendances at the meeting. Invitations have been issued to the UN, the ICC Chairperson, NHRIs seeking membership and the Hong Kong Equal Opportunities Commission.</p> |
| <b>Recommendation:</b>                          | That Forum Councillors (i) determine whether a quorum exists & (ii) approve the requests for observer status.  |
| <b>Relevant considerations:</b>                 | Observers may be asked to leave the room for the discussion of specific agenda items at the discretion of Forum Councillors.   |
| <b>Submission prepared by:</b>                  | Director   |
| <b>Forum Councillor or officer responsible:</b> | Chairperson  |

## 6 Adoption of Agenda

---



**Eighteenth Annual Meeting of the Asia Pacific  
Forum of National Human Rights Institutions**  
Forum Council Meeting Paper

|   |   |
|---|---|
| <b>Title:</b>   | Adoption of the Agenda for the 18 <sup>th</sup> Annual Meeting of the APF and Biennial Conference |
| <b>Summary of issue:</b>  | A draft agenda has been circulated to all Forum Councillors for comment and is at Annex 2.        |
| <b>Recommendation:</b>  | That Forum Councillors adopt the agenda.  |
| <b>Relevant considerations:</b><br>(Policy, staffing, expenditure, political etc) | None  |
| <b>Submission prepared by:</b>  | Director  |
| <b>Forum Councillor or officer responsible:</b>                                   | Chairperson   |

## 7 Election of APF Chairperson

---



**Eighteenth Annual Meeting of the Asia Pacific  
Forum of National Human Rights Institutions**  
Forum Council Meeting Paper

|   |  |
|---|--|
| <b>Title:</b>                                   | Election of APF Chairperson  |
| <b>Summary of issue:</b>                        | As per the decision of Forum Councillors, the host institution of the annual meeting & biennial conference assumes the role of Chairperson of the APF. The National Human Rights Committee of Qatar, as the host institution of the 18 <sup>th</sup> Annual Meeting of the APF & Biennial Conference, will therefore assume the role of Chairperson. |
| <b>Recommendation:</b>                          | That Forum Councillors elect the above Commission to the position of APF Chairperson.  |
| <b>Relevant considerations:</b>                 | Only “A” status institutions can hold APF positions.   |
| <b>Submission prepared by:</b>                  | Director   |
| <b>Forum Councillor or officer responsible:</b> | Director   |

## 8 International Activities

---



### Eighteenth Annual Meeting of the Asia Pacific Forum of National Human Rights Institutions

Forum Council Meeting Paper

|  |   |
|--|---|
| Title:                                   | International Activities  |
| Summary of issue:                        | <p>Reports:</p> <ul style="list-style-type: none"> <li>• ICC Chairperson</li> <li>• ICC Strategic Plan</li> <li>• ICC Accreditation Sub-Committee (Qatar)</li> <li>• UN Open-Ended Working Group on Ageing (Malaysia)</li> </ul> <p>Further details are provided in the accompanying paper.</p> |
| Recommendation:                          | That Forum Councillors discuss any issues arising from the reports.   |
| Relevant considerations:                 | As set out in the following background paper.   |
| Submission prepared by:                  | Director  |
| Forum Councillor or officer responsible: | Chairperson   |

## 8.1 International Coordinating Committee

### ICC Chairperson Report

Adv Mabedle Lawrence Mushwana, Chairperson of the International Coordinating Committee of National Institutions ('ICC'), will present an oral report on the major activities of the ICC over the last twelve months.

### ICC Strategic Planning Process

Adv Mabedle Lawrence Mushwana, Chairperson of the ICC, will present an oral report on the development of a new ICC strategic plan.

### ICC Sub-Committee on Accreditation

The Qatar National Human Rights Committee has been the APF's representative on the ICC sub-committee on Accreditation. The role of the sub-committee is to review applications for ICC membership from NHRIs and to determine whether these institutions comply with the Paris Principles. This is a significant role in that the acceptance by the ICC of an institution's compliance with the Paris Principles will determine whether that institution will be formally recognised by the United Nations (UN) as a 'national institution' that has the capacity to address the UN Human Rights Council and other UN fora. The Qatar National Human Rights Committee will provide an oral report to the meeting on their work on the ICC sub-committee.

## 8.2 UN Open-Ended Working Group on Ageing

The United Nations has established an Open-Ended Working Group on Ageing (OEWG) – <http://social.un.org/ageing-working-group/>. The mandate of the OEWG on ageing for the purpose of strengthening the human rights of older persons (resolution 65/182 General Assembly, December 2010) includes three aspects:

- To consider the existing international framework on the human rights of older persons
- To identify possible gaps and how to best address them
- To consider, as appropriate, the feasibility of further instruments and measures.

The fourth session of the OEWG took place from 12 to 15 August 2013 at the UN Headquarters in New York. The Chairperson of the Malaysian Human Rights Commission was an expert panelist at the session and will provide an oral report on the conduct and outcome of the session to the meeting.

## 9 APF Constitution Amendments



### Eighteenth Annual Meeting of the Asia Pacific Forum of National Human Rights Institutions Forum Council Meeting Paper

|  |   |
|--|---|
| Title:                                   | APF Constitution Amendments   |
| Summary of issue:                        | At the request of Forum Councillors, the APF secretariat has prepared amendments to the membership provisions in the APF Constitution. These allow ICC accreditation decisions to be used as evidence of Paris Principles compliance in determining APF membership status. The amendments arise from decisions taken by Forum Councillors at APF12, and APF14 - 16. |
| Recommendation:                          | <p>That Forum Councillors:</p> <ul style="list-style-type: none"> <li>• Note the accompanying briefing paper;</li> </ul> <p>Approve amendments to the membership provisions of the APF Constitution as set out in Annex 3.</p>  |
| Relevant considerations:                 | As set out in the following paper.  |
| Submission prepared by:                  | Director  |
| Forum Councillor or officer responsible: | Chairperson   |

## 9.1 Background

At APF12 Forum Councillors requested that the secretariat undertake a review of the APF membership and ICC accreditation processes and report back with recommendations on whether or not to adopt ICC accreditation decisions as evidence of Paris Principles compliance for determining APF membership status.

The APF secretariat conducted a review and at APF14 proposed a two-stage process for adopting ICC accreditation decisions as evidence of Paris Principles compliance for determining APF membership status. Stage 1 involved making temporary changes to APF membership forms, while allowing the APF to continue to monitor the performance of the ICC process. Stage 2 involved formally amending the membership provisions in the APF Constitution if and when the Forum Council considered it appropriate to do so. Forum Councillors adopted this recommendation.

At APF15 Forum Councillors agreed to defer implementing stage 2 pending further consideration of the ICC process. In the interim, the APF secretariat were requested to draft proposed amendments for the consideration of Forum Councillors. Proposed amendments were subsequently circulated in 2011 and Forum Councillors were requested to provide their views on the draft amendments by 1st June, 2012.

The proposed amendments addressed the following sets of provisions:

- **provisions dealing with applications for membership.** Relevant amendments specified that an applicant must submit, and the APF may use, an ICC decision on accreditation as evidence of Paris Principles compliance;
- **provisions dealing with types of membership.** Relevant amendments maintained the APF's 'Full' and 'Associate' member categories but deleted the 'Candidate' member category. This change simplified and aligned APF 'Full' and 'Associate' membership with the ICC's 'A' and 'B' accreditation. The change does not affect the existing status of any APF members;
- **provisions dealing with non-compliance with the Paris Principles.** Relevant amendments proposed giving Forum Councillors additional powers to deal more effectively and sensitively with members who failed to comply with the Paris Principles. Under the existing Constitution, Forum Councillors could only expel members in such situations. The proposed amendment gave Forum Councillors additional options to suspend or downgrade membership in circumstances where expulsion cannot be justified. In addition, amendments sought to clarify the rights of a suspended member;
- **minor or consequential amendments.** These included removing the requirement for a nominee and seconder to sign the initial application for membership as well as the renumbering of provisions due to the amendments outlined above.

Forum Councillors expressed no concerns about the provisions relating to membership, including the use of ICC accreditation decisions as evidence of Paris Principles compliance in determining APF membership status.

The proposed amendments are set out in full in Annex 3.

## 9.2 Recommendation

That Forum Councillors:

- Note the briefing provided above;
- Note that the proposed amendments have been considered and accepted by members in 2012; and
- Agree to amend the APF Constitution to implement these changes as set out in Annex 3.

## 10 APF Membership – Oman



**Eighteenth Annual Meeting of the Asia Pacific  
Forum of National Human Rights Institutions**  
Forum Council Meeting Paper

|   |  |
|---|--|
| <b>Title:</b>                                   | APF Membership – Oman  |
| <b>Summary of issue:</b>                        | The National Human Rights Commission of Oman has applied for APF membership  |
| <b>Recommendation:</b>                          | <p>That Forum Councillors:</p> <ul style="list-style-type: none"> <li>• Note the accompanying briefing paper; and</li> <li>• Agree to admit the National Human Rights Commission of Oman as an associate member of the APF.</li> </ul> |
| <b>Relevant considerations:</b>                 | As set out in the following paper.   |
| <b>Submission prepared by:</b>                  | Director   |
| <b>Forum Councillor or officer responsible:</b> | Chairperson  |

## 10.1 Background

The APF has received an application for membership from the National Human Rights Commission of Oman.

Rule 11 of the APF Constitution details the procedure for membership.<sup>1</sup> Applicants considered in full compliance with the Paris Principles are granted full membership, while those in partial compliance with the Paris Principles are granted candidate or associate membership.

In 2009, Forum Councillors adopted a revised process for determining compliance with the Paris Principles, agreeing to use the International Coordinating Committee of NHRIs' (the ICC) decision on accreditation as evidence of compliance with the Paris Principles and therefore APF membership status. In the absence of an ICC accreditation decision, an applicant is entitled to apply for associate status only.

Forum Councillors should note that the APF membership classification of 'Full' is equivalent to the ICC accreditation classification of 'A' status. The APF membership classification of 'Associate' is equivalent to the ICC accreditation classification of 'B' status.

All decisions on membership rest with the Forum Councillors.<sup>2</sup> Forum Councillors need not give any reason for rejecting an application.<sup>3</sup> In addition Forum Councillors may, at their discretion, defer consideration of an application for membership until the next meeting of the Forum Council.<sup>4</sup>

In terms of membership, Full members enjoy complete access to APF services, the power to vote in decision-making processes as well as the ability to nominate a member to the APF Advisory Council of Jurists. Associate members enjoy access to APF services, however, they do not have the power to vote in decision-making processes and nor can they nominate a member to the APF Advisory Council of Jurists.

## 10.2 Oman

The Sultanate of Oman is a sovereign State located on the Southeast coast of the Arabian Peninsula. It is bordered by the United Arab Emirates (UAE) to the Northwest, Saudi Arabia to the West, and Yemen to the Southwest. It has a population of over 2.8 million people

---

<sup>1</sup> Rule 11.1, Constitution of the APF, <http://www.asiapacificforum.net/about/governance>

<sup>2</sup> Rules 11.1(d)(1); 11.2(f)(1) and 11.3(i)(1), Constitution of the APF.

<sup>3</sup> Rules 11.1(d)(3); 11.2(f)(3) and 11.3(i)(3).

<sup>4</sup> Rules 11.1(d)(3); 11.2(f)(3) and 11.3(i)(3).

Oman is an absolute monarchy in which legislative, executive and judicial power rests in the hands of a hereditary sultan. Sultan Qaboos bin Said is the longest-serving ruler in the Middle East.

The Parliament, or Council of Oman, is composed of two houses:

- the lower house Consultative Council (or Majlis ash-Shoura); and
- the upper house Council of State (or Majlis ad-Dawlah).

The 83 members of the Upper House are appointed by the Sultan. The 84 members of the Lower House are selected by an election and negotiation with the Sultan.

Since 2011, the process for passage of legislation has been as follows:

- the Executive (appointed by the Sultan) refer proposed laws to the Consultative Council;
- the Consultative Council considers, and refers approved or amended legislation to the Council of State;
- the Council of State considers and approves the law and refers it to the Sultan for assent.

If the Consultative Council and Council of State cannot agree, they vote to resolve the difference. If an absolute majority approves the draft law, the Council of State refers it to the Sultan for assent.

Article 59 of the Basic Statute provides that “the supremacy of the law shall be the basis of governance in the state” while Article 60 provides that “the judiciary is independent”.

The Basic Statute of the State (or Constitution) was promulgated in 1996. Fundamental rights are protected in the Basic Statute, Articles 15 – 40. These include many of the rights protected by the core international human rights instruments. Amongst others, these include equality before the law and freedom from discrimination on the grounds of race, birth, religion, official position, status, culture, sex and wealth. Certain rights may be restricted or suspended “during periods of martial law and within the limits defined by law”.<sup>5</sup>

---

<sup>5</sup> English translation of the Basic Law, Article 73.

## 10.3 National Human Rights Commission of Oman

### Establishment

The National Human Rights Commission of Oman was established by ‘*Royal Decree No. 124 / 2008\* Concerning the Establishment of a Human Rights Commission outlining its mandates*’ and its scheduled ‘*Appendix of the Provisions of the Royal Decrees concerning the Human Rights Commission and its mandate*’. The former establishes the Commission and the latter includes additional provisions relating to the composition, leadership, tenure, functions and organisational administration.

### Objectives and Mandate

The Decree specifies that the Commission shall be independent<sup>6</sup> and that it has been established for the “protection of human rights and freedom in the Sultanate according to basic statute of the state and the international covenants and agreements”.<sup>7</sup>

Its mandate further provides the following additional functions:

- Monitoring any infringements or transgressions concerning human rights in the country and helping in settling them.
- Providing consultations to the concerned authorities in the country concerning the matters related to human rights and its freedom and participating in preparing reports dealing with these matters.
- Proposing an annual plan including the national procedures necessary for spreading the human rights culture and submitting them to the Cabinet of Ministers for approval. Subsequently, coordinating with the concerned authorities to secure the effectiveness of the implementation of this plan.
- Surveying the remarks of the foreign countries, international organizations and non-governmental organizations working in the human rights field and coordinate with the concerned authorities to check and reply to these remarks.
- Performing any other tasks related to its mandates

In undertaking these functions, all state agencies must cooperate with the Commission.<sup>8</sup>

---

<sup>6</sup> English translation of the Royal Decree, Article 1

<sup>7</sup> English translation of the Royal Decree Annex. Article 7.

<sup>8</sup> English translation of the Royal Decree Annex. Article 10.

The Commission's functions, administration and processes are further elaborated in formal rules of procedure.<sup>9</sup>

## Composition

The composition of the Commission consists of 14 members drawn from a list of groups set out in Article 1 of the Royal Decree Annex as follows:

- A member from the State Council.
- A member from the State Shura Council.
- A member from Oman Chamber of Commerce and Industry.
- A member from the General Federation for Workers of the Sultanate of Oman.
- A member of those practicing in the law sector.
- Three members from the civil associations.
- Six members representing the Ministries of Foreign Affairs, Interior, Social Development, Justice, Manpower and Civil Service.

In summary, the commission consists of 6 representatives of civil society, 2 members of parliament and 6 representatives from government agencies. Neither members of parliament, nor representatives of government ministries are excluded from voting.<sup>10</sup> While not specified in the legislation, the Commission advises that each group nominates its own candidate for appointment. Members are appointed for a 3 year term, and are eligible for re-appointment.<sup>11</sup>

The Commission meets in plenary on a monthly basis and has the capacity for additional meetings as and when required. The majority of members constitute a quorum.<sup>12</sup>

## Structure and Staff

The Commission has a central office located in Muscat, and is supported by a General Secretary and a Secretariat.<sup>13</sup> The Secretariat has 43 staff, of which a little more than half are female. The secretariat contains a number of administrative units including the following offices and departments:

- Administration and Finance
- Public Relations and Media

---

<sup>9</sup> English translation of the Rules of Procedure. Refer Annex 4.

<sup>10</sup> English translation of the Royal Decree Annex. Article 1.

<sup>11</sup> English translation of the Royal Decree Annex. Article 2 and 3.

<sup>12</sup> English translation of the Rules of Procedure. Article 16. Refer to Annex 4.

<sup>13</sup> English translation of the Royal Decree Annex. Article 5

- Complaints and reporting
- International Organisation and Relations
- Legal Affairs
- Information and Research
- Documentation.<sup>14</sup>

## Finances

In the current financial year, the Commission received funding of \$USD 5,758,500.

## 10.4 Assessment of Application

As indicated in section 10.1 above, in 2009 Forum Councillors adopted a revised process for determining compliance with the Paris Principles, agreeing to use the ICC's decision on accreditation as evidence of the degree of compliance with the Paris Principles and therefore APF membership status. In the absence of a decision on accreditation by the ICC, an applicant is entitled to apply for associate membership only.

In applying to become an associate member of the APF, the Commission has:

- submitted a completed APF Application Form;
- signed the declaration recognising and agreeing to be bound by the rules of membership; and
- provided additional documentation (at Annex 4).

An assessment of the application has been undertaken to establish whether the National Human Rights Commission of Oman meets certain fundamental requirements necessary for the grant of associate membership, including a consideration of its establishment, competence, method of operation and membership.

The documentation provided establishes that the Commission is a 'national human rights institution' as envisaged in the Paris Principles. A NHRI is understood to be an independent State institution. Such institutions are established by and exercise the power of the State, but operate independently from the executive arm of government.

In this case, the National Human Rights Commission of Oman has clearly been established by the State through Royal Decree 124/2008. The Royal Decree also provides:

---

<sup>14</sup> Refer to the Organisational Structure in Annex 4.

- that the Commission should operate independently, (Royal Decree, Article 1)
- the Commission with independent legal personality, (Royal Decree, Article 1);
- a broad range of rights contained in the Basic Law and in international instruments, (Royal Decree Annex, (Article 7)
- the Commission with various functions encompassing a range of those contained in Paris Principles A(3);
- for the official appointment and tenure of members, (Royal Decree Annex, Article 2 and 3).

In undertaking an assessment of the application, a number of concerns have also been noted. Amongst others, these include that the Royal Decree does not:

- set out appropriate criteria for the selection of Commissioners;
- exclude representatives of government from voting;
- provide clear grounds and a process for the dismissal of members.

From an operational perspective, the Royal Decree also does not provide clear powers that support the functions allocated in Article 7 of the Royal Decree Annex.

It should be noted that the issues raised above do not impact on the assessment of the Commission as a national human rights institution entitled to apply for associate membership, but rather, whether the Commission is in full or partial compliance with the Paris Principles. That is an issue that will be considered by the ICC in the Commission's application for ICC accreditation.

## 10.5 Recommendation

That Forum Councillors:

- Note the accompanying briefing paper;
- Agree to admit the National Human Rights Commission of Oman as an associate member of the APF, pending its application to the ICC for formal accreditation.

## 11 APF Membership – Samoa



**Eighteenth Annual Meeting of the Asia Pacific  
Forum of National Human Rights Institutions**  
Forum Council Meeting Paper

|   |   |
|---|---|
| <b>Title:</b>                                   | APF Membership – Samoa  |
| <b>Summary of issue:</b>                        | The Office of the Ombudsman of Samoa (Komesina o Sulufaiga) has applied for APF membership  |
| <b>Recommendation:</b>                          | <p>That Forum Councillors:</p> <ul style="list-style-type: none"> <li>• Note the accompanying briefing paper; and</li> <li>• Agree to admit the Office of the Ombudsman of Samoa (Komesina o Sulufaiga) as an associate member of the APF.</li> </ul> |
| <b>Relevant considerations:</b>                 | As set out in the following paper.  |
| <b>Submission prepared by:</b>                  | Director  |
| <b>Forum Councillor or officer responsible:</b> | Chairperson   |

## 11.1 Background

The APF has received an application for membership from the Ombudsman of Samoa.

Rule 11 of the APF Constitution details the procedure for membership.<sup>15</sup> Applicants considered in full compliance with the Paris Principles are granted full membership, while those in partial compliance with the Paris Principles are granted candidate or associate membership.

In 2009, Forum Councillors adopted a revised process for determining compliance with the Paris Principles, agreeing to use the International Coordinating Committee of National Human Rights Institutions (the ICC) decision on accreditation as evidence of compliance with the Paris Principles and therefore APF membership status. In the absence of an ICC accreditation decision, an applicant is entitled to apply for associate status only.

Forum Councillors should note that the APF membership classification of 'Full' is equivalent to the ICC accreditation classification of 'A' status. The APF membership classification of 'Associate' is equivalent to the ICC accreditation classification of 'B' status.

All decisions on membership rest with the Forum Councillors.<sup>16</sup> Forum Councillors need not give any reason for rejecting an application.<sup>17</sup> In addition Forum Councillors may, at their discretion, defer consideration of an application for membership until the next meeting of the Forum Council.<sup>18</sup>

In terms of membership, Full members enjoy complete access to APF services and the power to vote in decision-making processes as well as the ability to nominate a member to the APF Advisory Council of Jurists. Associate members enjoy access to APF services, however, they do not have the power to vote in decision-making processes and nor can they nominate a member to the APF Advisory Council of Jurists.

## 11.2 Samoa

The Independent State of Samoa (Samoa) is a sovereign State located in the South Pacific Ocean. Samoa gained independence from New Zealand in 1962 and became a member of the United Nations in 1976. It has a population of over 194,000 people.

---

<sup>15</sup> Rule 11.1, Constitution of the APF, <http://www.asiapacificforum.net/about/governance>

<sup>16</sup> Rules 11.1(d)(1); 11.2(f)(1) and 11.3(i)(1), Constitution of the APF.

<sup>17</sup> Rules 11.1(d)(3); 11.2(f)(3) and 11.3(i)(3).

<sup>18</sup> Rules 11.1(d)(3); 11.2(f)(3) and 11.3(i)(3).

Samoa is a parliamentary democracy. Parliament consists of one house, with the 49 members elected for 5 year terms. The Prime Minister is elected by majority vote of the members of parliament and is responsible for selecting the members of the Executive (government).

Article 65 of the Constitution designates the Supreme of Court of Samoa as the country's superior court, while the constitutional preamble and oath of office highlight the requirement for the impartial administration of justice. Fair trial rights, and rights to recognition as a person and equality before the law, are protected by Articles 4, 9 and 10.

Part II of the Constitution (Articles 3-15) protects fundamental human rights. Amongst others, these include the right to life and security of the person, rights to a fair trial and equality before the law and freedom from discrimination on a range of grounds.

### 11.3 Ombudsman of Samoa

#### Establishment

The Ombudsman of Samoa was originally established by the Komesina o Sulufaiga (Ombudsman) Act (the Act) of 1988. The Act was amended in May 2013 to incorporate the functions of a national human rights institution.<sup>19</sup>

#### Objectives and Mandate

The Act specifies that the objectives of the Ombudsman are:

- “(a) to promote transparency, accountability and integrity in the administration and decision making of Ministries and organisations; and*
- (b) to promote and protect the dignity of humankind enshrined in the Constitution, international human rights law, as the foundation of a fair, just and peaceful society”.*

Human rights are defined in section 2 to include any rights contained in:

- “(a) Part II of the Constitution and other laws of Samoa;*
- (b) customary international law;*
- (c) treaties and conventions listed in Schedule 1”.*

The Ombudsman's mandate is specified in Part 4, Division 1 of the Act and includes broad powers to promote and protect rights. The provision closely follows the requirements established in section A of the Paris Principles, and

---

<sup>19</sup> *Ombudsman (Komesina o Sulufaiga) Act No.12, 2013. Annex 5.*

also includes a broad power to do “anything incidental or conducive to the performance of any . . . other human rights functions under this Act.”<sup>20</sup>

In undertaking these functions, the Ombudsman has broad powers to compel the production of documents, information and witnesses.<sup>21</sup> This power is subject to certain limitations where the Attorney-General specifies that a matter relates to national interest.<sup>22</sup>

The Ombudsman’s independence is protected by section 6, which establishes the Ombudsman as an independent officer who reports to Parliament. The Act further specifies that the Ombudsman shall not to be subject to interference or influence in the conduct of her/his functions. Independence is further protected by limiting the grounds and process for dismissal.<sup>23</sup>

### Structure and Composition

The process for the selection of the Ombudsman is set out in Schedule 3 to the Act. It provides for an independent selection committee, advertising of vacancies, and also sets out specific and generalist selection criteria. The selection committee makes an assessment of candidates and provides a report to parliament specifying the names of qualified candidates. Parliament recommends the appointment of a candidate who is then formally appointed by the Head of State for a renewable 6 year term.<sup>24</sup>

### Structure and Staff

The Ombudsman has a central office located in the capital, Apia, and is supported by an Assistant Ombudsman and a Secretariat of 5 staff. As a small single member national institution, pluralism is afforded through the staff and the capacity to establish advisory and expert groups.<sup>25</sup>

### Finances

In the current financial year, the Ombudsman received funding of \$USD 270,000.

---

<sup>20</sup> *Ombudsman (Komesina o Sulufaiga) Act No.12, 2013, section 33 general, and 33(j) re incidental power. Annex 5.*

<sup>21</sup> *Ombudsman (Komesina o Sulufaiga) Act No.12, 2013, Section 43*

<sup>22</sup> *Ombudsman (Komesina o Sulufaiga) Act No.12, 2013, Section 49*

<sup>23</sup> *Ombudsman (Komesina o Sulufaiga) Act No.12, 2013, Section 16*

<sup>24</sup> *Ombudsman (Komesina o Sulufaiga) Act No.12, 2013, Schedule 3, rules 1, 3, 6 and 7 respectively.*

<sup>25</sup> *Ombudsman (Komesina o Sulufaiga) Act No.12, 2013, ss 33 (f), (g) & 39).*

## 11.4 Assessment of Application

As indicated in section 11.1 above, in 2009 Forum Councillors adopted a revised process for determining compliance with the Paris Principles, agreeing to use the ICC's decision on accreditation as evidence of the degree of compliance with the Paris Principles and therefore APF membership status. In the absence of a decision on accreditation by the ICC, an applicant is entitled to apply for associate membership only.

In applying to become an associate member of the APF, the Commission has:

- submitted a completed APF Application Form;
- signed the declaration recognising and agreeing to be bound by the rules of membership; and
- provided additional documentation (at Annex 5).

An assessment of the application has been undertaken to establish whether the Ombudsman of Samoa meets certain fundamental requirements necessary for the grant of associate membership, including a consideration of its establishment, competence, method of operation and membership.

The legislation and documentation provided establishes that the Ombudsman's Office is a 'national human rights institution' as envisaged in the Paris Principles. A national human rights institution is understood to be an independent State institution. Such institutions are established by and exercise the power of the State, but operate independently from the executive arm of government.

In this case, the Ombudsman of Samoa has clearly been established by the State through broad based legislation that addresses the requirements of the Paris Principles.

In undertaking an assessment of this application, no concerns were noted. Forum Councillors should however note that as the Ombudsman has only recently been granted the powers of a national human rights institution, no assessment of performance could be undertaken. That said, the past Annual Report of the Ombudsman provides detailed information to show it has been functioning as an effective maladministration Ombudsman.

It should also be noted that the issues raised above do not impact on the assessment of the Commission as a national human rights institution entitled to apply for associate membership. Performance will however be an issue to be considered by the ICC when the Ombudsman seeks ICC accreditation in the future.

## 11.5 Recommendation

That Forum Councillors:

- Note the accompanying briefing paper;
- Agree to admit the Ombudsman of Samoa as an associate member of the APF.

## 12 APF – ICC Representation

---



### Eighteenth Annual Meeting of the Asia Pacific Forum of National Human Rights Institutions

Forum Council Meeting Paper

|  |   |
|--|---|
| Title:                                   | APF – ICC Representation  |
| Summary of issue:                        | The APF Chairperson should be appointed to the ICC Bureau. This would require one current APF member institution on the ICC Bureau to stand down. |
| Recommendation:                          | That Forum Councillors nominate the APF Chairperson to the ICC Bureau.  |
| Relevant considerations:                 | As set out in the following background paper.   |
| Submission prepared by:                  | Director  |
| Forum Councillor or officer responsible: | Chairperson   |

## 12.1 Background

The APF Chairperson should be appointed to the ICC Bureau as the nominated 'regional chairperson'.

Currently the APF representatives serving on the ICC Bureau are the NHRIs from **Jordan** (having served 4 years); **Malaysia** (4 years); **Korea** (2 years) and **Thailand** (2 years).

Elections for all ICC Bureau positions from our region will take place at the 19<sup>th</sup> Annual Meeting of the APF to be held in 2014 with the new officer holders assuming their positions at the first ICC Bureau meeting in 2015. In electing APF members to the ICC Bureau, Forum Councillors have adopted a policy of encouraging a rotation of APF membership from across the region while at the same time ensuring a degree of continuity, knowledge and experience on the ICC Bureau. Forum Councillors have therefore agreed that normally no more than two positions be renewed at any one time.

In order for the newly elected APF Chairperson from Qatar to serve on the ICC Bureau prior to the ICC Bureau elections in 2014, one of the existing four ICC Bureau members from our region will need to be replaced. Ideally this would occur through an individual NHRI stepping down from the ICC Bureau and, with the concurrence of Forum Councillors, the position being filled by the APF Chairperson from Qatar.

## 12.2 ICC Bureau

The ICC Bureau is the management committee of the ICC and implements decisions of the ICC membership between annual meetings. It is comprised of 16 "A" accredited members, four from each region, who are normally appointed for a term of 3 years.

The APF's representatives on the Bureau are expected to monitor activities of the ICC, the Bureau and its subsidiary bodies and, with the assistance of the APF secretariat, consult with and promote the views of APF members in decision making at ICC Bureau meetings.

The ICC Bureau formally meets twice annually for a period of 2-3 days. One meeting is held in Geneva, while the second meeting may be in Geneva or in one of the four regions. In between meetings, the Bureau may meet via electronic means as and when issues arise. This includes reviewing and making decisions on the outcome of the ICC's subsidiary bodies, in particular the ICC Sub-Committee on Accreditation.

The APF has adopted a policy that the APF Chairperson (and therefore regional ICC Chairperson) should become a member of the ICC Bureau. In Doha the Qatar NHRI will be elected to be APF Chairperson and should, therefore, become a member of the ICC Bureau. Ideally if this is to occur without the need

for an election, one of the current members of the ICC Bureau could step down to allow Qatar to occupy a space prior to the next round of elections for the ICC Bureau which will occur in 2014.

The current APF representatives on the ICC Bureau are the NHRIs from **Jordan** (having served 4 years); **Malaysia** (4 years); **Korea** (2 years) and **Thailand** (2 years).

The below table shows APF member representation on the ICC Bureau from 2003 - 2013. It also indicates the years of eligibility of a NHRI to nominate a representative. Eligibility to nominate a representative to the ICC Bureau is dependent on a NHRI being accredited with "A" status.

| NHRI          | 2003 | 2004 | 2005 | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 | 2013 | Total | Total /eligibility |
|---------------|------|------|------|------|------|------|------|------|------|------|------|-------|--------------------|
| Afghanistan   |      |      |      |      |      |      |      |      |      |      |      | 0     | 0/8                |
| Australia     | X    | X    |      |      | X    | X    | X    |      |      |      |      | 5     | 5/11               |
| Bangladesh    |      |      |      |      |      |      |      |      |      |      |      | 0     | 0/0                |
| Fiji          | X    | X    | X    | X    |      |      |      |      |      |      |      | 4     | 4/4                |
| India         | X    |      |      |      | X    | X    | X    | X    | X    | X    |      | 7     | 7/11               |
| Indonesia     |      |      |      |      |      |      |      |      |      |      |      | 0     | 0/11               |
| Jordan        |      |      |      |      |      |      |      | X    | X    | X    | X    | 4     | 4/6                |
| Malaysia      |      |      |      |      |      |      |      | X    | X    | X    | X    | 4     | 4/11               |
| Maldives      |      |      |      |      |      |      |      |      |      |      |      | 0     | 0/0                |
| Mongolia      |      |      |      |      |      |      |      |      |      |      |      | 0     | 0/10               |
| Nepal         |      | X    | X    | X    |      |      |      |      |      |      |      | 3     | 3/11               |
| New Zealand   |      |      |      |      | X    | X    | X    | X    | X    | X    |      | 6     | 6/11               |
| Philippines   | X    | X    | X    | X    |      |      |      |      |      |      |      | 4     | 4/11               |
| Qatar         |      |      |      |      |      |      |      |      |      |      |      | 0     | 0/4                |
| Rep. of Korea |      |      | X    | X    | X    | X    | X    |      |      | X    | X    | 7     | 7/9                |
| Sri Lanka     |      |      |      |      |      |      |      |      |      |      |      | 0     | 0/6                |
| Thailand      |      |      |      |      |      |      |      |      |      | X    | X    | 2     | 2/9                |
| Timor Leste   |      |      |      |      |      |      |      |      |      |      |      | 0     | 0/4                |

 Indicates not eligible for that year

## Recommendation

That Forum Councillors:

- seek the agreement of one of the existing ICC Bureau representatives from our region to step down;
- agree to fill this vacancy by nominating the APF Chairperson from Qatar.

If no existing ICC Bureau member is willing to stand down an election will be necessary.

## 13 Location of the APF 19<sup>th</sup> Annual Meeting in 2014 and 20<sup>th</sup> Annual Meeting & Biennial Conference in 2015



### Eighteenth Annual Meeting of the Asia Pacific Forum of National Human Rights Institutions

Forum Council Meeting Paper

|  |  |
|--|--|
| Title:                                   | Location of the APF 19 <sup>th</sup> Annual Meeting in 2014 & 20 <sup>th</sup> Annual Meeting & Biennial Conference in 2015  |
| Summary of issue:                        | Nominations are called to host APF19 in 2014 & APF20 in 2015. These events are normally scheduled in late August/early September.  |
| Recommendation:                          | That Forum Councillors consider nominees and select the hosts.   |
| Relevant considerations:                 | <p>Previous host institutions have been Australia (1996); India (1997); Indonesia (1998); Philippines (1999); New Zealand (2000); Sri Lanka (2001) India (2002); Nepal (2004); Korea (2004); Mongolia (2005); Fiji (2006); Australia (2007); Malaysia (2008); Jordan (2009); Indonesia (2010 – annual meeting only) and Thailand (2011); Jordan (2012 – annual meeting only) and Qatar (2013).</p> <p>Only full members of the APF are entitled to host.</p> <p>The representative of the host of the combined Annual Meeting and Biennial Conference also becomes the APF Chairperson for the two-year period 2013 to 2015.</p> |
| Submission prepared by:                  | Director   |
| Forum Councillor or officer responsible: | Chairperson  |

## 13.1 Background

The APF holds, in alternate years, an Annual Meeting and a combined Annual Meeting and Biennial Conference. The APF 19<sup>th</sup> Annual Meeting will be held in 2014 and the 20<sup>th</sup> Annual Meeting and Biennial Conference will be held in 2015.

Nominations are called to host the 18<sup>th</sup> APF Annual Meeting and Biennial Conference. Nominations are open to all 'A' status institutions.

## 13.2 APF Annual Meeting and Conference

Previously the APF held both its annual meeting and conference each year. At the 14<sup>th</sup> Annual Meeting and Conference of the APF, Forum Councillors agreed to:

- separate the annual business meetings of the APF from the conference;
- continue to convene APF annual business meetings each year;
- convene a combined APF annual meeting and conference every two years; and
- appoint the APF Chairperson at the combined annual meeting and conference and extend the term of office till the next combined annual meeting and conference.

Previous host institutions have been:

- APF 1 – Australian Human Rights Commission (1996);
- APF 2 – National Human Rights Commission of India (1997);
- APF 3 – National Human Rights Commission of Indonesia (1998);
- APF 4 – Philippines Commission on Human Rights (1999);
- APF 5 – New Zealand Human Rights Commission (2000);
- APF 6 – Sri Lankan Human Rights Commission (2001);
- APF 7 – National Human Rights Commission of India (2002);
- APF 8 – National Human Rights Commission of Nepal (2004);
- APF 9 – National Human Rights Commission of Korea (2004);
- APF 10 – National Human Rights Commission of Mongolia (2005);
- APF 11 – Fiji Human Rights Commission (2006);

- APF 12 – Australian Human Rights Commission (2007);
- APF 13 – Human Rights Commission of Malaysia (2008);
- APF 14 – Jordan National Centre for Human Rights (2009);
- APF 15 – National Human Rights Commission of Indonesia (2010);
- APF 16 – National Human Rights Commission of Thailand (2011)
- APF 17 – Jordan National Centre for Human Rights (2012);
- APF 18 – National Human Rights Committee of Qatar (2013).

In 2014, APF 19 will be the annual meeting only.

In 2015, APF 20 will be a combined annual meeting and conference.

### 13.3 Considerations

The practice of rotating the APF annual meetings and combined annual meeting and conference around the region has a range of benefits. Members benefit by seeing first-hand the operations of other APF institutions. Equally, the host institution has an opportunity to engage with and forge relationships with other institutions and the APF. Domestic civil society organisations and regional and international NGOs also gain a better appreciation of the conditions in which APF members work.

Hosting an APF annual meeting or a combined annual meeting and conference is, however, a considerable burden for an individual NHRI. While the majority of the costs associated with these meetings are borne by the APF, the host NHRI needs to fund or facilitate a formal dinner/function. The host NHRI also needs to provide secretariat support in both the lead up to, and the conduct of, the meeting. Finally the host institution of the combined annual meeting and biennial conference will assume the role of the APF Chairperson for a period of approximately two years and will need to undertake activities associated with this position.

### 13.4 Nominations

At APF 17 the National Human Rights Commission of India nominated to host the 19<sup>th</sup> APF Annual Meeting in 2014. Correspondence from the Chairperson of the Commission confirming the nomination was circulated to Forum Councillors on 2 January 2013. This correspondence can be found at Annex 6.

At APF 17 the National Human Rights Commission of Mongolia nominated to host the 20<sup>th</sup> APF Annual Meeting and Biennial Conference in 2015. Correspondence from the Chief Commissioner confirming the nomination was

circulated to Forum Councillors on 18 December 2012. This correspondence can be found at Annex 6.

If any further 'A' status NHRIs wish to nominate to host either APF 19 or APF 20 it would be appreciated if they can send a formal letter confirming their nomination by Friday 20<sup>th</sup> September 2013. All correspondence received will be circulated to all Forum Councillors.

## 13.5 Recommendation

It is recommended that:

- Forum Councillors consider and select nominees to host the APF 19<sup>th</sup> Annual Meeting in 2014 and 20<sup>th</sup> Annual Meeting and Biennial Conference in 2015. If more than one nominee is received for either event an election will be held.

## 14 Election of APF Deputy Chairpersons

---



Eighteenth Annual Meeting of the Asia Pacific  
Forum of National Human Rights Institutions  
Forum Council Meeting Paper

|  |   |
|--|---|
| Title:                                   | Election of the two APF Deputy Chairpersons   |
| Summary of issue:                        | As per the policy decision of Forum Councillors, the immediate past Chairperson (Thailand) assumes the role of one of the Deputy Chairpersons and the host institution of the next combined annual meeting and biennial conference, assumes the role as the other Deputy Chairperson. |
| Recommendation:                          | That Forum Councillors elect the Deputy Chairpersons as per the above policy.   |
| Relevant considerations:                 | As set out in the APF Strategic Plan for 2011-15.   |
| Submission prepared by:                  | Director  |
| Forum Councillor or officer responsible: | Chairperson   |

## 15 APF Directors and Financial Report



**Eighteenth Annual Meeting of the Asia Pacific  
Forum of National Human Rights Institutions**  
Forum Council Meeting Paper

|   |  |
|---|--|
| <b>Title:</b>                                   | APF Directors and Financial Report   |
| <b>Summary of issue:</b>                        | The Directors report on APF activities and finances over the last reporting period is at Annex 7 and the audited accounts are at Annex 8.  |
| <b>Recommendation:</b>                          | That Forum Councillors adopt the Directors and Financial Report and pass the following resolution:<br>“That on the 1 <sup>st</sup> October 2013 the full members of the Asia Pacific Forum of National Human Rights Institutions approve the “Directors’ Declaration” as set out in the audited financial reports for the year ended 30 June 2013 and authorise Dr Ali Ben Smaikh Al-Marri to sign the report on their behalf and the associated management letter to the auditors.” |
| <b>Relevant considerations:</b>                 | These procedures are required in order to satisfy the APF’s obligations under the <i>Corporations Act</i> (Cth) 2001 (the Act).  |
| <b>Submission prepared by:</b>                  | Director   |
| <b>Forum Councillor or officer responsible:</b> | Director   |

## 16 APF Annual Operations Plan for 2014-2015

---



### Eighteenth Annual Meeting of the Asia Pacific Forum of National Human Rights Institutions

Forum Council Meeting Paper

|  |   |
|--|---|
| Title:                                   | APF Annual Operations Plan for 2014-2015  |
| Summary of issue:                        | Each year the APF secretariat produces an annual operations plan which provides details on the activities to be undertaken in line with the previously approved APF five-year strategic plan. |
| Recommendation:                          | That Forum Councillors consider and approve the draft annual operations plan.   |
| Relevant considerations:                 | As set out in the 2011 to 2015 APF Strategic Plan and the attached annual plan.   |
| Submission prepared by:                  | Director  |
| Forum Councillor or officer responsible: | Director  |

## 16.1 Draft Annual Operations Plan for 2014-2015

The draft annual operations plan for the period 1 July 2014 to 30 June 2015 is submitted for the consideration and approval of Forum Councillors.

### Purpose

The APF annual plan outlines the operations of the APF for 2014-15 to meet the APF's strategic objectives.

### Objectives

The APF's 2011 to 2015 strategic plan focuses on key service objectives with regard to its core mission of strengthening the capacity and regional representation of its members. In particular the APF will:

- Enhance member's institutional capacity;
- Enhance member's communication, cooperation and engagement;
- Promote compliance with the Paris Principles;
- Engage with regional and international human rights mechanisms; and
- Ensure the effective, efficient and strategic management of the APF.

Further, in 2011, Forum Councillors agreed to specifically integrate gender mainstreaming into the APF's strategic objectives.

### Operations

In keeping with the APF's strategic objectives, operations for 2014-15 will cover the professional activities necessary to:

- assist in the establishment and strengthening of NHRIs in the region in compliance with the Paris Principles;
- respond to the needs of its member institutions through the delivery of practical support projects;
- promote regional and international cooperation and coordination;
- actively engage in regional and international human rights mechanisms;
- be representative of the region in the organisation, participation and implementation of its activities;
- integrate gender mainstreaming into APF activities, programmes and operations;
- strengthen the APF secretariat's capacity to meet the needs of its growing membership;
- achieve a level of funding that is sufficient to deliver the APF's Mission and Vision; and

- ensure that the organisation and its activities are administered effectively.

The following operations will be undertaken during 2014-15:

| APF STRATEGIC PLAN                                   | ACTIVITY                    | DETAILS   | EXPECTED OUTPUTS   | EXPECTED OUTCOMES   |
|--|-----------------------------|---|--|---|
| <p><b>ENHANCE MEMBERS INSTITUTIONAL CAPACITY</b></p> | <p>Capacity Assessments</p> | <ul style="list-style-type: none"> <li>The APF, in cooperation with UNDP and OHCHR, will facilitate self-assessments of at least two participating APF member institutions.</li> </ul>  | <ul style="list-style-type: none"> <li>Capacity assessment reports for the participating APF member institutions.</li> <li>Development of strategies to address capacity needs.</li> </ul> | <ul style="list-style-type: none"> <li>Greater understanding of capacity strengths and needs.</li> <li>Strengthened capacity to effectively perform institutional mandate.</li> </ul> |
|  | <p>Training</p>             | <ul style="list-style-type: none"> <li>The APF will undertake and report on a new 5 year Training Needs Analysis (TNA)</li> <li>Subject to the outcomes of the TNA report, the APF will provide professional skill development training from the following issues:</li> </ul> | <ul style="list-style-type: none"> <li>TNA Report</li> <li>Training implemented.</li> <li>New training programs developed.</li> </ul>  | <ul style="list-style-type: none"> <li>Clear understanding of members training needs</li> <li>Increased skills for the Commissioners and staff of participating NHRIs.</li> </ul>     |

| APF STRATEGIC PLAN | ACTIVITY | DETAILS   | EXPECTED OUTPUTS | EXPECTED OUTCOMES |
|--------------------|----------|---|------------------|-------------------|
|                    |          | <ul style="list-style-type: none"> <li>• Torture Prevention Training of NHRI Trainers</li> <li>• Migrant Workers National Inquiries Commissioner</li> <li>• high level dialogue</li> <li>• International Human Rights System</li> <li>• Rights of Indigenous Peoples</li> <li>• Human Rights Education</li> <li>• Human Rights Investigations</li> <li>• NHRIs and Economic, Social and Cultural Rights</li> <li>• Foundation NHRI course</li> <li>• NHRIs and Women's Rights.</li> </ul> |                  |                   |

| APF STRATEGIC PLAN                                  | ACTIVITY      | DETAILS   | EXPECTED OUTPUTS   | EXPECTED OUTCOMES  |
|---|---------------|---|--|--|
|   |               | <ul style="list-style-type: none"> <li>▪ Existing training will be supplemented by the development of new training programs and/or materials on:               <ul style="list-style-type: none"> <li>• NHRIs and Economic, Social and Cultural Rights.</li> </ul> </li> </ul>  |  |  |
|   |               |   |  |  |
| <b>ENHANCE MEMBERS COOPERATION &amp; ENGAGEMENT</b> | Communication | <ul style="list-style-type: none"> <li>▪ The APF will disseminate information through a wide range of mechanisms on the role and functions of NHRIs and the activities of the APF. In particular the APF will provide information to our member institutions, governments, UN agencies, NGOs and the general community</li> </ul> | <ul style="list-style-type: none"> <li>▪ E-Bulletin disseminated widely</li> <li>▪ New information placed on website</li> <li>▪ Email broadcasts sent</li> </ul> | <ul style="list-style-type: none"> <li>▪ A greater understanding and awareness amongst members and key stakeholders of the role of NHRIs and the APF.</li> </ul> |

| APF STRATEGIC PLAN | ACTIVITY                          | DETAILS   | EXPECTED OUTPUTS  | EXPECTED OUTCOMES   |
|--------------------|-----------------------------------|---|---|---|
|                    |                                   | <p>through:</p> <ul style="list-style-type: none"> <li>• Publishing at least 10 copies of the APF e-Bulletin each year;</li> <li>• Posting new information on the APF website on at least a monthly basis;</li> <li>• Sending email broadcasts to member institutions on APF, ICC and UN related activities.</li> </ul> |   |   |
|                    | Senior Executive Officers Network | <ul style="list-style-type: none"> <li>• The APF will service the meetings of the SEO network and implement Forum Councillor approved SEO activities.</li> </ul>  | <ul style="list-style-type: none"> <li>• Coordinating and convening an annual SEO Roundtable.</li> <li>• Supporting additional SEO activities as required.</li> </ul> | <ul style="list-style-type: none"> <li>• Improving knowledge, capacity and/or awareness of the various roles and functions undertaken by SEOs in the Asia Pacific region.</li> <li>• Greater cooperation between SEOs.</li> </ul> |

| APF STRATEGIC PLAN | ACTIVITY                   | DETAILS   | EXPECTED OUTPUTS   | EXPECTED OUTCOMES   |
|--------------------|----------------------------|---|--|---|
|                    |                            |   |  | <ul style="list-style-type: none"> <li>▪ Agreed SEO activities to assist APF implement its strategic plan.</li> </ul>   |
|                    | Staff Placements           | <ul style="list-style-type: none"> <li>▪ The APF will facilitate the placement of NHRI staff members in other APF member institutions.</li> </ul>   | <ul style="list-style-type: none"> <li>▪ The placement of NHRI staff.</li> <li>▪ Report on learning opportunities and skills acquisition.</li> </ul>   | <ul style="list-style-type: none"> <li>▪ Greater cooperation between NHRIs.</li> <li>▪ Increased skill development for NHRI staff.</li> </ul>   |
|                    | APF Annual General Meeting | <ul style="list-style-type: none"> <li>▪ The APF will be responsible, in cooperation with the host institution if one is selected, for all aspects of the management of the annual general meeting.</li> <li>▪ APF19 Annual General Meeting in 2014.</li> </ul> | <ul style="list-style-type: none"> <li>▪ APF member approval of key planning and management documents (e.g. audit, annual strategic plans)</li> <li>▪ APF member approval of joint 'concluding statements'.</li> </ul> | <ul style="list-style-type: none"> <li>▪ Effective international, regional and national cooperation and coordination</li> <li>▪ APF representative of its members and responsive to their needs</li> <li>▪ APF organisation and activities effectively managed</li> </ul> |

| APF STRATEGIC PLAN   | ACTIVITY   | DETAILS   | EXPECTED OUTPUTS   | EXPECTED OUTCOMES   |
|--|--|---|--|---|
| <p><b>PROMOTE COMPLIANCE WITH THE PARIS PRINCIPLES</b></p> | <p>Advice on the nature and status of NHRIs to members, governments &amp; other stakeholders involved in the establishment and strengthening of NHRIs.</p> | <ul style="list-style-type: none"> <li>▪ Provision of advice and technical assistance toward the establishment of NHRIs in full compliance with the Paris Principles.</li> <li>▪ Provision of advice and technical assistance to existing NHRIs to improve compliance with the Paris Principles.</li> <li>▪ Provision of advice, on request, to member institutions in ICC Re-accreditation reviews.</li> <li>▪ Provision of advice, on request, to new institutions seeking ICC accreditation and APF membership.</li> </ul> | <ul style="list-style-type: none"> <li>▪ The provision of APF advice and technical assistance to the listed stakeholders seeks to ensure that the NHRIs are established or strengthened so as to be in full compliance with the Paris Principles.</li> </ul> | <ul style="list-style-type: none"> <li>▪ NHRIs established in compliance with the Paris Principles.</li> <li>▪ Existing NHRIs improved compliance with the Paris Principles.</li> </ul> |
|  | <p>Support the APF NHRI</p>  | <ul style="list-style-type: none"> <li>▪ Provision of advice to the APF NHRI</li> </ul>   | <ul style="list-style-type: none"> <li>▪ The provision of legal and policy advice on</li> </ul>  | <ul style="list-style-type: none"> <li>▪ ICC accreditation processes are</li> </ul>   |

| APF STRATEGIC PLAN | ACTIVITY  | DETAILS  | EXPECTED OUTPUTS  | EXPECTED OUTCOMES   |
|--------------------|---|--|---|---|
|                    | <p>representative on the ICC Sub-Committee on Accreditation</p>                   | <p>representative on the ICC Sub-Committee on Accreditation.</p> <ul style="list-style-type: none"> <li>▪ Provision of advice on the development of General Observations.</li> <li>▪ Provision of advice on ICC accreditation procedures.</li> </ul> | <p>accreditation practice and procedure.</p> <ul style="list-style-type: none"> <li>▪ The provision of legal and policy advice on the content and drafting of General Observations.</li> </ul>                              | <p>objective, transparent, rigorous and fair.</p> <ul style="list-style-type: none"> <li>▪ ICC General Observations accurately reflect and promote greater compliance with the Paris Principles.</li> </ul>   |
|                    | <p>Support the participation of APF members in the ICC Accreditation process.</p> | <ul style="list-style-type: none"> <li>▪ APF members seeking ICC accreditation need to participate in the accreditation process.</li> </ul>  | <ul style="list-style-type: none"> <li>▪ Provision of advice to the APF members on the accreditation procedures and documentation.</li> <li>▪ Provision of advice on the interpretation of General Observations.</li> </ul> | <ul style="list-style-type: none"> <li>▪ APF members are more aware of, and better prepared to participate in, the ICC Accreditation process.</li> <li>▪ Member NHRIs are correctly assessed as to their compliance with the Paris Principles.</li> </ul> |
|                    | <p>Participate in the continuing development of</p>                               | <ul style="list-style-type: none"> <li>▪ ICC Sub-Committee Working Group will develop draft General</li> </ul>   | <ul style="list-style-type: none"> <li>▪ Provisions of technical legal and policy advice on existing standards</li> </ul>   | <ul style="list-style-type: none"> <li>▪ General Observations accurately reflect,</li> </ul>  |

| APF STRATEGIC PLAN  | ACTIVITY  | DETAILS  | EXPECTED OUTPUTS   | EXPECTED OUTCOMES  |
|---|---|--|--|--|
|   | General Observations  | Observations for the approval of the ICC.  | and best practice regarding NHRIs.   | <p>clarify and promote greater compliance with, the Paris Principles.</p> <ul style="list-style-type: none"> <li>▪ General Observations provide greater guidance and clarification to NHRIs and to States on the conditions required for a well-functioning NHRI.</li> <li>▪ General Observations are distinguished from best practice and procedural issues.</li> </ul> |
|   |   |  |  |  |
| <b>ENGAGE WITH REGIONAL &amp; INTERNATIONAL HUMAN RIGHTS MECHANISMS</b> | The APF will facilitate NHRI regional advocacy in the UN Human Rights Council | <ul style="list-style-type: none"> <li>▪ Participate in the UN Human Rights Council &amp; its mechanisms.</li> </ul> | <ul style="list-style-type: none"> <li>▪ Participation in relevant mechanisms and meetings.</li> </ul> | <ul style="list-style-type: none"> <li>▪ NHRI input assists in the development of more effective international mechanisms.</li> </ul>  |

| APF STRATEGIC PLAN | ACTIVITY   | DETAILS   | EXPECTED OUTPUTS   | EXPECTED OUTCOMES  |
|--------------------|--|---|--|--|
|                    | and its mechanisms   |   |  |  |
|                    | The APF will seek to facilitate NHRI cooperation with the ASEAN Inter-governmental Human Rights Commission (AICHR), the League of Arab States (LAS), the Pacific Islands Forum (PIF) and the South Asian Association for Regional Cooperation (SAARC). | <ul style="list-style-type: none"> <li>Seek engagement and participation of NHRIs in AICHR, LAS, PIF, SAARC and their subsidiary commissions and committees.</li> </ul> | <ul style="list-style-type: none"> <li>Advocacy for NHRI cooperation and participation with AICHR, LAS, PIF, SAARC and their subsidiary commissions and committees.</li> </ul> | <ul style="list-style-type: none"> <li>NHRI input assists in the development of more effective regional mechanisms.</li> </ul> |
|                    | International Coordinating Committee of National   | <ul style="list-style-type: none"> <li>Participate in the meetings of the ICC.</li> </ul>   | <ul style="list-style-type: none"> <li>Participation in the ICC.</li> <li>Preparation of reports and papers on behalf of members.</li> </ul>                                   | <ul style="list-style-type: none"> <li>APF input assists the ICC to shape effective policy and strategic positions.</li> </ul> |

| APF STRATEGIC PLAN          | ACTIVITY   | DETAILS   | EXPECTED OUTPUTS   | EXPECTED OUTCOMES  |
|-----------------------------|--|---|--|--|
|                             | Institutions (ICC)   |   |  | <ul style="list-style-type: none"> <li>▪ APF input facilitates recognition of regional issues and concerns.</li> </ul>   |
|                             |  |   |  |  |
| <b>STRATEGIC MANAGEMENT</b> | The APF secretariat will be responsible for the overall strategic management of the organisation and its operations including gender mainstreaming | <ul style="list-style-type: none"> <li>▪ Servicing the APF Chairperson, meetings of the full Forum Council and any sub-committees established by the Council.</li> <li>▪ Identifying international issues and pursuing activities that support the APF's mission and vision for the region.</li> <li>▪ Identifying and pursuing opportunities to increase regional participation and representation across the breadth of its activities including the involvement, wherever possible, of non-member</li> </ul> | <ul style="list-style-type: none"> <li>▪ Provision of secretariat assistance and support.</li> </ul> | <ul style="list-style-type: none"> <li>▪ Ensuring the effective operation of the APF as a membership organisation.</li> <li>▪ Ensuring APF relevance and strategic engagement.</li> <li>▪ Ensuring that gender perspectives and attention to the goal of gender equality are central to the planning, implementation and monitoring of APF activities.</li> <li>▪ Enabling the APF to</li> </ul> |

| APF STRATEGIC PLAN | ACTIVITY | DETAILS  | EXPECTED OUTPUTS | EXPECTED OUTCOMES  |
|--------------------|----------|--|------------------|--|
|                    |          | <p>institutions, governments and civil society.</p> <ul style="list-style-type: none"> <li>▪ Completing all monitoring, evaluation and reporting requirements.</li> <li>▪ Identifying and implementing risk management strategies for all project activities and the overall operation of the APF.</li> <li>▪ Implementing a long-term fund development strategy.</li> <li>▪ The effective, efficient and equitable management of APF financial and human resources.</li> <li>▪ Strengthening the APF's governance and organisational structure through the development of board and operational policies.</li> <li>▪ Managing all day to day secretariat operations.</li> </ul> |                  | <p>effectively manage its activities and improve services.</p> <ul style="list-style-type: none"> <li>▪ Achieving financial growth and stability.</li> <li>▪ Ensuring the effective and efficient operation of the APF.</li> </ul> |

| APF STRATEGIC PLAN | ACTIVITY | DETAILS   | EXPECTED OUTPUTS | EXPECTED OUTCOMES |
|--------------------|----------|---|------------------|-------------------|
|                    |          | <ul style="list-style-type: none"> <li>▪ Working in cooperation with external actors, including academics, to review the effectiveness of the APF.</li> </ul> |                  |                   |

## 16.2 Implementation Schedule

Most of the activities carried out by the APF are on-going or occur at times which are mutually convenient to the parties involved. The following implementation schedule sets out these activities which are grouped consistently with the APF Strategic Plan.

| APF Strategic Objectives                                     | APF Operations   | July to Sept Qtr 2014 | Oct to Dec Qtr 2014 | Jan to Mar Qtr 2015 | Apr to Jun Qtr 2015 | TOTALS |
|--|--|-----------------------|---------------------|---------------------|---------------------|--------|
| Enhance Members Institutional Capacity                       | Capacity Assessments                                       |                       |                     |                     |                     | 2      |
|  | Training   |                       |                     |                     |                     | 4      |
| Enhance Members Communication, Cooperation & Engagement      | Communication  |                       |                     |                     |                     | 4      |
|  | SEO Network  |                       |                     |                     |                     | 1      |
|  | Staff Placements   |                       |                     |                     |                     | 1      |
|  | Annual Meeting and Biennial Conference                     |                       |                     |                     |                     | 2      |
| Promote Compliance with the Paris Principles                 | Advice to Members  |                       |                     |                     |                     | 4      |
|  | Establishment of new NHRIs                                 |                       |                     |                     |                     | 4      |
|  | ICC Sub-Committee & GO process                             |                       |                     |                     |                     | 4      |
| Engage with Regional & International Human Rights Mechanisms | Human Rights Council and mechanisms (Geneva)               |                       |                     |                     |                     | 4      |
|  | AICHR, LAS, PIF, SAARC                                     |                       |                     |                     |                     | 4      |
|  | ICC  |                       |                     |                     |                     | 2      |
| Strategic Management   | Effective Management of APF including gender mainstreaming |                       |                     |                     |                     | 4      |

### 16.3 Forecast Income and Expenditure

The following table sets out the forecast income and expenditure of all APF operations for the 2014 to 2015 period. The table presents information on donor sources and provides a breakdown on each contribution as an overall percentage of the APF's forecasted income. Similarly, the table provides a breakdown of the expenditure related to each of the five strategic objectives as a percentage of overall expenditure.

| <b>ASIA PACIFIC FORUM<br/>FORECAST INCOME AND EXPENDITURE STATEMENT<br/>1 JULY 2014 TO 30 JUNE 2015</b> |                  |          |
|---|------------------|----------|
| <b>INCOME</b>   | <b>AU\$</b>      | <b>%</b> |
| <b>Grants:</b>  |                  |          |
| AusAID  | 650,000          | 26%      |
| Macarthur   | 172,414          | 7%       |
| Sida  | 749,700          | 30%      |
| EU  | 419,620          | 17%      |
| Private donor   | 114,943          | 5%       |
| NCHR India  | 134,483          | 5%       |
| <b>Total Grants</b>   | <b>2,241,159</b> |          |
| <b>Other Income</b>   |                  |          |
| Donations - Korea   | 94,000           | 4%       |
| Donations - Thailand  | 5,747            | 0%       |
| Membership fees   | 59,659           | 2%       |
| Interest received   | 122,800          | 5%       |
| <b>Total Other Income</b>   | <b>282,206</b>   |          |

|   |                  |      |
|---|------------------|------|
| <b>Total Income</b>                             | <b>2,523,365</b> | 100% |
| <b>EXPENDITURE</b>                              |                  |      |
| Enhance Member Institutions capacity            | 1,261,683        | 50%  |
| Enhance Members communication/engagement        | 227,103          | 9%   |
| Paris principles compliance                     | 252,337          | 10%  |
| Engage with regional & international mechanisms | 302,804          | 12%  |
| Strategic Management                            | 176,636          | 7%   |
| APF Secretariat                                 | 302,804          | 12%  |
| <b>Total Expenditure</b>                        | <b>2,523,365</b> | 100% |
| <b>NET SURPLUS / (DEFICIT)</b>                  | <b>Nil</b>       |      |

## 17 General Business

---



Eighteenth Annual Meeting of the Asia Pacific  
Forum of National Human Rights Institutions  
Forum Council Meeting Paper

|  |   |
|--|---|
| Title:                                   | General Business  |
| Summary of issue:                        | The discussion of additional General Business items   |
| Recommendation:                          | That Forum Councillors determine whether discussion of any additional general business items is required.<br>The Hong Kong Equal Opportunities Commission have requested the opportunity to make a brief oral report on their activities. |
| Relevant considerations:                 | None.   |
| Submission prepared by:                  | Director  |
| Forum Councillor or officer responsible: | Chairperson   |

## 18 Annexure

---

Annex 1 – APF Rules of Procedure

Annex 2 – APF 18 Program

Annex 3 – APF Constitution Amendments

Annex 4 – Oman Membership

Annex 5 – Samoa Membership

Annex 6 – Nominations from India and Mongolia

Annex 7 – APF Directors and Financial Report

Annex 8 – APF Audited Accounts



**ASIA PACIFIC FORUM**  
ADVANCING HUMAN RIGHTS IN OUR REGION

# ANNEX 1

## Rules of Procedure

### Forum Councillors

## Annual General Meeting

---

#### **APF 18**

The 18th Annual Meeting & Biennial  
Conference of the Asia Pacific Forum of  
National Human Rights Institutions

Doha, Qatar, 1 to 3 October 2013

---

## Annex 1 – APF Rules of Procedure

---

### Meetings of Forum Councillors

#### Table of Contents

- 1. Statement of purpose**
- 2. Convening meetings of Forum Councillors**
  - 2.1 Frequency, time and place
  - 2.2 Adjourning meetings of Forum Councillors
  - 2.3 Notice of meetings of Forum Councillors
- 3. Documentation for meetings of Forum Councillors**
  - 3.1 Provision of background papers
  - 3.2 Communications/submissions by Forum Councillors prior to meetings.
- 4. Attendance, Representation and Credentials**
  - 4.1 Forum Councillors
  - 4.2 Appointment of Alternate Forum Councillors to attend and vote at meetings of the Forum Councillors
  - 4.3 Invitation to attend meetings of Forum Councillors
  - 4.4 Credentials
- 5. Conduct of meetings of Forum Councillors**
  - 5.1 Chairperson
  - 5.2 Business to be discussed
  - 5.3 Quorum
  - 5.4 Order for discussion
  - 5.5 Decision-making
  - 5.6 Written resolutions
  - 5.7 Working language of meetings of Forum Councillors
- 6. The APF secretariat**
  - 6.1 Role
  - 6.2 Reporting
- 7. Adoption and Amendment of Rules of Procedure**
  - 7.1 Adoption and amendment
  - 7.2 Matters not covered by the Rules

## **Rules of Procedure for a meeting of Forum Councillors of the APF**

### **1. Statement of Purpose**

Forum Councillors of the Asia Pacific Forum of National Human Rights Institutions (APF) (Forum Councillors) are directors for the purposes of the Australian Corporations Act (Cth) 2001 (the Corporations Act). The Forum Councillors are responsible for managing the APF's business and affairs. A meeting of Forum Councillors provides an opportunity for Forum Councillors to meet and discuss general business, policy, strategy and membership issues of the APF. The following Rules of Procedure apply to meetings of Forum Councillors.

### **2. Convening a meeting of Forum Councillors**

#### **2.1 Frequency, time and place**

The Forum Councillors may meet together and otherwise regulate their meetings as they think fit. They will, however, hold a meeting of Forum Councillors once in each calendar year immediately before the APF Annual General Meeting ('AGM').

#### **2.2 Adjournment of a meeting of Forum Councillors**

The Forum Councillors may adjourn their meetings as they think fit.

#### **2.3 Notice of a Meeting of Forum Councillors**

At least 6 weeks notice must be given to each Forum Councillor for the meeting of Forum Councillors held immediately before the APF AGM. Reasonable notice should be provided for all other meetings of Forum Councillors. Such notice must be given either personally, by telephone, facsimile, electronic means or by post. The notice must specify the time and place of the meeting. It may state the general nature of the business to be transacted at the meeting.

### **3. Documentation for a meeting of Forum Councillors**

#### **3.1 Provision of background papers**

Background papers prepared will be available to all Forum Councillors 14 days prior to the meeting of Forum Councillors which occurs immediately before the APF AGM. Background papers for all other meetings of Forum Councillors will be provided as soon as practicable prior to the meeting.

#### **3.2 Communications/submissions by members prior to a meeting of Forum Councillors**

Any communications, submissions or documents to be tabled at a meeting of Forum Councillors should be forwarded to the APF Secretariat by electronic mail within 21 days of the date of the meeting.

### **4. Attendance, Representation and Credentials**

#### **4.1 Forum Councillors**

All Forum Councillors may attend and vote at a meeting of Forum Councillors.

#### **4.2 Appointment of Alternate Forum Councillors to attend and vote at a meeting of Forum Councillors**

A Forum Councillor may, with the approval of the Forum Councillors, appoint a person as his or her alternate for a specified period in accordance with rule 14.14 of the Constitution. If the appointer does not attend the meeting, the alternate Forum Councillor may attend and vote in place of, and on behalf of, the appointer.

#### **4.3 Invitation to attend a meeting of Forum Councillors**

The Forum Councillors may invite any person to attend a meeting of Forum Councillors or part thereof. Invitees may speak, with the permission of the Chairperson, but not vote at the meeting.

#### **4.4 Credentials**

All invitees must inform the Secretariat in writing of their intention to attend a meeting of Forum Councillors at least two weeks in advance of the meeting and, if an organisation, must nominate one spokesperson for their organisation.

### **5. Conduct of meetings of Forum Councillors**

#### **5.1 Chairperson**

The Forum Councillors may elect a Forum Councillor as Chairperson (and one or more Forum Councillors as deputy Chairpersons) and may decide the period for which that person is to be the Chairperson<sup>1</sup>.

The Chairperson elected by the Forum Councillors must preside as Chairperson at meetings of Forum Councillors.

If at a meeting there is no Chairperson, or the Chairperson is not present within ten minutes after the time appointed for the meeting, or the Chairperson is present but is unwilling to chair the meeting, then the Forum Councillors present must elect one of the Forum Councillors as Chairperson.

The Chairperson shall be responsible for the control of the meeting and for ensuring that the Rules of Procedure are adhered to. Any question arising

---

<sup>1</sup> Generally the positions of Chairperson, first and second deputy Chairpersons are rotated annually. The established practice has been that the Chairperson/Chief Commissioner/President of the host institution of the APF Annual General Meeting (AGM) is elected as the Chairperson of the APF. The position of first deputy Chairperson is accorded to the Chairperson/Chief Commissioner/President of the institution that will host the next AGM and the position of second deputy Chairperson is accorded to the Chairperson/Chief Commissioner/President of the institution that held the most recently concluded AGM.

relating to the order of business, procedure or conduct of the meeting must be referred to the Chairperson whose decision is final.

## **5.2 Business to be discussed**

The Forum Councillors must discuss any applications for membership to the APF which have been received since the preceding meeting of Forum Councillors. The applicant must not be in attendance while their application for membership is being discussed.

The Forum Councillors may discuss such other business as they see fit. However, where a Forum Councillor has a material personal interest in an issue that is being discussed they must not be present while the matter is being considered.

## **5.3 Quorum**

No business may be transacted at a meeting of Forum Councillors unless a quorum of Forum Councillors is present at the time the business is dealt with.

A quorum consists of a fixed number for the quorum determined by the Forum Councillors.

If the Forum Councillors have not fixed a number, a quorum will be:

- (i) If the number of Forum Councillors is 9 or less, 3 Forum Councillors;
- (ii) If the number of Forum Councillors is between 10 and 15, 4 Forum Councillors; or
- (iii) If the number of Forum Councillors exceeds 15, 5 Forum Councillors.

## **5.4 Order for discussion**

The order for discussion is progression through the agenda.

## **5.5 Decision-making**

Decisions at a meeting of Forum Councillors should, as far as possible, be arrived at by consensus. Where there is no consensus decisions must be decided by a majority of votes cast by the Forum Councillors present. Such a decision is for all purposes a decision of the Forum Councillors. Each Forum Councillor has one vote. Where the votes on a proposed resolution are equal the Chairperson does not have a second or casting vote and the proposed resolution is lost.

## **5.6 Written resolutions**

If a majority of Forum Councillors entitled to vote at a meeting of Forum Councillors assent to a document containing a statement that an act, matter or

thing has been done, or a resolution has been passed, and they would have constituted a quorum at a meeting of Forum Councillors then that act, matter, thing or resolution is taken as done at or passed by a meeting of the Forum Councillors.

If the Forum Councillors assented to the document at different times or on different days, the meeting will be taken as being held at the latest time, or on the last day, when the document was assented to.

A Forum Councillor may signify assent to a document by signing the document or by notifying the Forum Councillors of the Forum councillor's assent in person or by post, telephone, fax or other electronic means.

## **5.7 Working language of a Meeting of Forum Councillors**

The working language of the meetings of the APF shall be English.

## **6. The APF secretariat**

### **6.1 Role**

The Secretariat shall facilitate the work of the meeting of the Forum Councillors by:

- (i) Providing necessary advice, clarifications, inputs and information;
- (ii) Acting as resource persons – particularly in the preparation of background papers; and
- (iii) Summarising discussions and preparing the final report of the meeting.

### **6.2 Reporting**

The Secretariat will publish the executive summary of the meeting of the Forum Councillors within 60 days of the meeting being held.

## **7. Adoption and Amendment of Rules of Procedure**

### **7.1 Adoption and Amendment**

These Rules shall come into force on adoption by the Forum Councillors, will remain in force until amended by the Forum Councillors, and can be amended by the Forum Councillors as required.

### **7.2 Matters not covered by the Rules**

Any matter not covered by these rules may be determined by a vote of the Forum Councillors.

## Annual General Meeting

### Table of Contents

- 1. Statement of purpose**
- 2. Convening the Annual General Meeting**
  - 2.1 Frequency, time and place
  - 2.2 Extension of time for holding the Annual General Meeting
  - 2.3 Notice of Annual General Meeting
  - 2.4 Adjourning Annual General Meeting
- 3. Documentation for Annual General Meeting**
  - 3.1 Provision of background papers
  - 3.2 Communications/submissions by member institutions prior to Annual General Meeting
- 4. Attendance, Representation and Credentials**
  - 4.1 Full member institutions/ Forum Councillors/ Auditor
  - 4.2 Representation at Annual General Meetings
  - 4.3 Candidate and Associate member institutions and Observers
  - 4.4 Credentials
- 5. Conduct of the Meeting**
  - 5.1 Chairperson
  - 5.2 Agenda
  - 5.3 Business to be discussed
  - 5.4 Quorum
  - 5.5 Order for discussion
  - 5.6 Speaking rights
  - 5.7 Decision-making
  - 5.8 Working language of the Annual General Meeting
- 6. The APF secretariat**
  - 6.1 Role
  - 6.2 Reporting
- 7. Adoption and Amendment of Rules of Procedure**
  - 7.1 Adoption and amendment
  - 7.2 Matters not covered by the Rules

## **Rules of Procedure for Annual General Meetings of the APF**

### **1. Statement of Purpose**

The following Rules of Procedure apply to Annual General Meetings of the Asia Pacific Forum of National Human Rights Institutions (the APF).

The APF must hold an Annual General Meeting (AGM) each year in order to satisfy its obligations under the Australian Corporations Act (Cth) 2001 (the Act). The purpose of the Annual General Meeting (which is hosted by one of the full member institutions of the APF) is to enable the full members of the APF to receive the APF's annual financial report, directors' report and auditor's report.

### **2. Convening an AGM**

#### **2.1 Frequency, time and place**

The APF must hold an AGM once in each calendar year and within 5 months after the end of its financial year.

#### **2.2 Extension of time for holding the AGM**

If an extension of time is needed for holding the AGM beyond 5 months after the end of the financial year, the Forum Councillors must apply to the Australian Securities and Investments Commission for that extension in accordance with Section 250P of the Act.

#### **2.3 Notice of an AGM**

At least 6 weeks notice of an AGM must be given to every full member institution, each Forum councillor and the auditor of the APF personally, by facsimile, by e-mail or by pre-paid post. The notice must specify the date, time and place of the meeting and state the general nature of the business to be transacted at the meeting.

#### **2.4 Adjourning an AGM**

Prior to an AGM, the Forum Councillors may change the venue for, postpone or cancel the Meeting (in accordance with clause 13.1 of the Constitution).

At the AGM, the Chairperson may, and must if so directed by the meeting, adjourn the meeting time and place. The only business that can be discussed at any adjourned meeting is the unfinished business from the meeting at which the adjournment took place.

### **3. Documentation for the AGM**

#### **3.1 Provision of background papers**

Background papers will be available to all full member institutions 14 days prior to the meeting.

### **3.2 Communications/submissions by member institutions prior to an AGM**

Any communications, submissions or documents to be tabled at an AGM must be forwarded to the APF Secretariat by electronic mail within 21 days of the date of the meeting.

## **4. Attendance, Representation and Credentials**

### **4.1 Full member institutions/ Forum Councillors/ Auditor**

All full member institutions may attend and vote at AGMs. Forum Councillors may attend and speak at AGMs. The APF's auditor or his/her representative is also entitled to attend and speak at an AGM.

### **4.2 Representation at AGMs**

Each full member institution has one vote and may vote by proxy, attorney or representative in accordance with clause 13.9 of the Constitution.

### **4.3 Candidate and Associate Member Institutions and Observers**

Any person may attend an AGM if invited by the Forum Councillors and, with the permission of the Chairperson, may speak but not vote at the meeting.

### **4.4 Credentials**

All invitees should inform the Secretariat of their intention to participate in an AGM in writing at least two weeks in advance. If that invitee is an organisation, it must nominate, in writing, one spokesperson.

## **5. Conduct of the Meeting**

### **5.1 Chairperson**

The Chairperson of Forum Councillors must preside as Chairperson at each AGM and shall be responsible for the control of all sessions of the meeting and for ensuring that the Rules of Procedure are adhered to. Any question arising relating to the order of business, procedure or conduct of the meeting must be referred to the Chairperson whose decision is final.

If that Chairperson is not present, or not willing to act as Chairperson of the meeting, the full member institutions present must elect a Chairperson of the meeting.

### **5.2 Agenda**

The Forum Councillors shall approve the provisional agenda prepared by the Secretariat.

### **5.3 Business to be discussed**

The business of an AGM shall be the consideration of the annual financial report, directors' report and auditor's report, the fixing of the auditor's remuneration and any other item on the Agenda approved by the Forum Councillors.

The Forum Councillors must present the following reports to the AGM:

- The financial report;
- The directors' report;
- The auditors' report.

The Chairperson must also allow a reasonable opportunity for full member institutions to ask questions about, or comment upon, the management of the Forum.

If the auditor or his/her representative attends the AGM, the Chairperson must also allow a reasonable opportunity for full member institutions to ask questions about the conduct of the audit and the preparation and content of the auditor's report.

#### **5.4 Quorum**

No business may be transacted at an AGM, except the election of a Chairperson and adjournments, unless a quorum of full member institutions is present when the meeting proceeds to business. A quorum is either a number determined by the full member institutions or, if the full member institutions have not fixed a number, by the following method:

- (i) If the number of full member institutions is 9 or less, 3 full member institutions;
- (ii) If the number of full member institutions is between 10 and 15, 4 full member institutions; or
- (iii) If the number of full member institutions exceeds 15, 5 full member institutions.

If there is no quorum 30 minutes after the starting time of an AGM then it can be adjourned to another date. If there is no agreement about the date for the adjourned AGM it must be adjourned to the same day in the next week at the same time and place.

#### **5.5 Order for discussion**

The order for discussion is progression through the agenda.

#### **5.6 Speaking Rights**

Full member institutions may speak to each agenda item and then candidate and associate member institutions and other observers may speak (with the permission of the Chairperson) prior to moving onto the next agenda item.

## **5.7 Decision-making**

Decisions at AGMs will, as far as possible, be arrived at by consensus. Where the Chairperson deems that there is no consensus the matter will be decided by a majority of votes by hand. Only full member institutions may vote on agenda items and each full member institution present has one vote. A proxy, attorney or representative is entitled to a separate vote for each full member institution that the person represents. Where the votes are equal the proposed resolution is lost. Candidate and associate member institutions do not have voting rights.

## **5.8 Working language of AGMs**

The working language of the meetings of the APF shall be English.

# **6. The APF secretariat**

## **6.1 Role**

The Secretariat shall facilitate the work of the AGMs of the full member institutions by:

- (i) Providing necessary advice, clarifications, inputs and information;
- (ii) Acting as resource persons – particularly in the preparation of background papers; and
- (iii) Summarising discussions and preparing the final report of the meeting.

## **6.2 Reporting**

The Secretariat will publish the executive summary of the AGM within 60 days of the meeting being held.

# **7. Adoption and Amendment of Rules of Procedure**

## **7.1 Adoption and Amendment**

These Rules shall come into force on adoption by the Forum Councillors, will remain in force until amended by the Forum Councillors, and can be amended by the Forum Councillors as required.

## **7.2 Matters not covered by the Rules**

Any matter not covered by these rules may be determined by a vote of the full member institutions.

## Annual Conference

### Table of Contents

- 1. Statement of Purpose**
- 2. Representation and Attendance**
  - 2.1 Attendees
  - 2.2 Proxies/representatives
- 3. Conduct of the Conference**
  - 3.1 Working Language
  - 3.2 Frequency, time and place of Conference
  - 3.3 Notice requirements
  - 3.4 Agenda
  - 3.5 Chairing of Conference and Conference sessions
  - 3.6 Background papers
  - 3.7 Communications/submissions prior to the Conference
  - 3.8 Order for discussion
- 4. Participation**
  - 4.1 Participation of APF member institution representatives
  - 4.2 Participation of the United Nations
  - 4.3 Participation of Government representatives
  - 4.4 Participation of NGOs
- 5. The Final Conference Statement**
  - 5.1 Content of the Final Conference Statement
  - 5.2 Preparation of the Final Conference Statement
- 6. The Role of the APF Secretariat**
  - 6.1 Role
  - 6.2 Reporting
- 7. Adoption and Amendment of the Rules of Procedure**
  - 7.1 Adoption and amendment
  - 7.2 Matters not covered by the Rules

## **Rules of Procedure for APF Conference**

### **1. Statement of Purpose**

The Asia Pacific Forum of National Human Rights Institutions (APF) plenary Conference (the Conference) is the key participatory Conference for all APF member institutions and registered observers in the Asia Pacific region. The aim of the Conference is to bring together national human rights institutions, the United Nations (UN), governments and Non-Governmental Organisations (NGOs) in a harmonious and practical setting in order to mobilise co-operation for regional human rights initiatives and to facilitate the establishment of new national human rights institutions in accordance with the Paris Principles. At the Conference, APF member institutions and registered observers hear and discuss reports from APF member institutions, Asia-Pacific governments and NGOs and discuss human rights issues of regional significance.

### **2. Representation and Attendance**

#### **2.1 Attendees**

The Conference may be attended by all APF member institutions (full, candidate and associate), representatives of the OHCHR (and other UN agencies), government and NGO representatives, other relevant institutions and individuals who have been invited to observe or address the Conference.

All invitees should inform the Secretariat of their intention to participate in the Conference in writing at least four weeks in advance and must nominate one spokesperson for their organisation that has been granted powers by a proper authority enabling him or her to represent the organisation at the Conference.

#### **2.2 Proxies/representatives**

If an attendee has given notice of their intention to participate but they cannot subsequently be present at the Conference, she/he may nominate, in writing, one representative/proxy to attend instead.

### **3. Conduct of the Conference**

#### **3.1 Working Language.**

The working language of the Conference of the APF shall be English.

#### **3.2 Frequency, time and place of Conference**

The frequency, time and place of the Conference shall be determined by the APF Forum Councillors.

#### **3.3 Notice requirements**

The APF Forum Councillors shall provide notice of the Conference at least 6 weeks prior to the Conference date by electronic mail. Notice will be given to all APF member institutions, representatives of the OHCHR and any other UN

agencies invited to address the Conference, government and NGO and other relevant institutions.

### **3.4 Agenda**

The Chairperson of the Forum Councillors shall approve the provisional agenda prepared by the APF Secretariat.

### **3.5 Chairing of Conference and Conference sessions**

The Chairperson of the Forum Councillors (Chairperson) shall preside at the Conference and ensure that the Rules of Procedure are adhered to. Any question arising relating to the order of business, procedure or conduct of the Conference must be referred to the Chairperson whose decision is final.

Conference's sessions will be chaired by an APF full member institution (session Chairperson) as determined by the agenda. The session Chairperson will be responsible for the control of the session and for ensuring that the Rules of Procedure are adhered to. The session Chairperson shall endeavour to allow all who wish to make interventions to do so during the allotted time.

### **3.6 Background papers**

Background papers prepared for sessions will be available, where possible, to all participants or can be downloaded from the APF website at [www.asiapacificforum.net](http://www.asiapacificforum.net).

### **3.7 Communications/submissions prior to the Conference**

Any communications, submissions or documents to be tabled at the Conference are to be forwarded to the APF Secretariat by electronic mail at least 14 days prior the date of the Conference.

### **3.8 Order for discussion**

The order for discussion is progression through the agenda.

## **4. Participation**

### **4.1 Participation of APF member institution representatives**

Member institutions of the APF are the principal actors of the Conference and interventions by them will take place before those of other participants.

For each session, APF member representatives may make initial introductory presentations and make subsequent comments. If APF member institutions propose to make introductory presentations they should provide a copy or outline of the presentation to APF Secretariat in electronic format 14 days before the Conference.

The responsibility for finalising the Conference conclusions lies with the Forum Councillors.

## **4.2 Participation of the United Nations**

Representatives of the Office of the High Commissioner for Human Rights and other specified United Nations agencies may be invited to observe or address the Conference.

United Nations representatives with prepared written statements are requested to provide a copy of these to the APF Secretariat in electronic format 14 days before the Conference.

The session Chairperson should allow an appropriate opportunity for interventions by representatives of the United Nations.

## **4.3 Participation of Government representatives**

Representatives of Government may be invited to observe or address the Conference.

Government representatives with prepared written statements are requested to provide a copy of these to the APF Secretariat in electronic format 14 days before the Conference.

The session Chairperson should allow an appropriate opportunity for interventions by government representatives.

## **4.4 Participation of NGOs**

NGO representatives may be invited to observe or address the Conference.

NGO representatives are encouraged to prepare a collective report and to nominate a single representative to make any oral submissions. A copy of the collective report should be provided to the APF Secretariat in electronic format 14 days before the Conference.

The session Chairperson may allow, if time permits, an opportunity for additional interventions by NGOs.

## **5. Final Conference Statement**

### **5.1 Content of the Final Conference Statement**

The Final Conference Statement may only contain a summary of items discussed during the Conference.

### **5.2 Preparation of the Final Conference Statement**

Only Forum Councillors may draft and adopt the Final Conference Statement and they will do so in closed session(s). Candidate and associate member institutions may observe the session(s).

## **6. The Role of the APF Secretariat**

### **6.1 Role**

The Secretariat shall facilitate the work of the Conference by:

- (i) Providing necessary advice, clarifications, inputs and information;
- (ii) Acting as resource persons – particularly in the preparation of background papers;
- (iii) Assisting the Chairperson and session Chairperson; and
- (iv) Summarising discussions and preparing the final report of the Conference.

## **6.2 Reporting**

The Secretariat will publish the executive summary of the Conference on the APF website within 60 days of the Conference being held.

## **7. Adoption and Amendment of the Rules of Procedure**

### **7.1 Adoption and amendment**

These Rules shall come into force on adoption by the Forum Councillors and may be amended by the Forum Councillors as required.

### **7.2 Matters not covered by the Rules**

Any matter not covered by these rules may be determined by a vote of the Forum Councillors.



**ASIA PACIFIC FORUM**  
ADVANCING HUMAN RIGHTS IN OUR REGION

## ANNEX 2

### APF 18 Program

## Forum Councillors Annual General Meeting

---

#### **APF 18**

The 18th Annual Meeting & Biennial  
Conference of the Asia Pacific Forum of  
National Human Rights Institutions

Doha, Qatar, 1 to 3 October 2013

---



## EIGHTEENTH ANNUAL MEETING and BIENNIAL CONFERENCE OF THE APF

1 to 3 October 2013

Ritz Carlton Hotel

Doha, Qatar

DRAFT PROGRAM # 12 (29/8/13)

| DAY 1 – Tuesday 1 October (Forum Councillors and Invited Observers only) |  |                       |
|--|--|-----------------------|
| 8.30 – 9.00  | Registration   | TBA                   |
| 9:00 – 10:30   | <p><b>APF Forum Councillors and Annual General Meeting</b></p> <p><i>Chair: Professor Amara Ponsapich, National Human Rights Commission of Thailand</i></p> <ul style="list-style-type: none"> <li>• Confirmation of Attendance and Apologies (Chairperson)</li> <li>• Adoption of Agenda (Chairperson)</li> <li>• Election of APF Chairperson (secretariat)</li> </ul> <p><i>Chair: Dr Ali Bin Smaikh Al-Marri, National Human Rights Committee of Qatar</i></p> <ul style="list-style-type: none"> <li>• International Activities (Chairperson) <ul style="list-style-type: none"> <li>○ ICC Chairperson's Report</li> <li>○ ICC Strategic Planning Process</li> <li>○ ICC Sub-Committee on Accreditation</li> <li>○ UN Open Ended Working Group on Ageing</li> </ul> </li> <li>• APF Constitution Amendments (Chairperson)</li> <li>• APF Membership – Oman Application (Chairperson)</li> <li>• APF Membership – Samoa Application (Chairperson)</li> <li>• APF – ICC Representation</li> <li>• Location of 19<sup>th</sup> APF Annual Meeting in 2014 (Chairperson)</li> <li>• Location of 20<sup>th</sup> APF Annual Meeting and Biennial Conference in 2015 (Chairperson)</li> <li>• Election of APF Deputy Chairpersons (secretariat)</li> <li>• APF Directors and Financial Report (secretariat)</li> <li>• Approval of Audited Accounts (secretariat)</li> <li>• APF Annual Operations Plan for 2014/15 (secretariat)</li> <li>• General business</li> </ul> | Al Mukhtasar Ballroom |
| 10.30-11.00  | Morning tea  |                       |
| 11:00 – 12:30  | <b>APF Forum Councillors Annual General Meeting (cont.)</b>  |                       |
| 12:30– 14:00   | Lunch  | TBA                   |
| 14.00 – 16.00  | <b>Forum Councillor – NGO/ANNI dialogue</b>  | Al Mukhtasar Ballroom |
| 16.00  | Afternoon Tea and close  | TBA                   |

| <b>DAY 2 – Wednesday 2 October (APF Members and Registered Observers)</b> |   |                       |
|---|---|-----------------------|
| 8:30 – 9:00   | Registration  | TBA                   |
| 9:00 – 9:05   | <p><b>Welcome address</b></p> <p><i>Chair: Dr Ali Bin Smaikh Al-Marri, National Human Rights Committee of Qatar and Chairperson, Asia Pacific Forum</i></p>   | Al Mukhtasar Ballroom |
| 9:05 – 9:30   | <p><b>OPENING CEREMONY AND OPENING REMARKS</b></p> <p>Remarks by an eminent person - TBC</p>  | Al Mukhtasar Ballroom |
| 9:30 – 9:45   | <b>KEYNOTE SPEECH - TBC</b>   | Al Mukhtasar Ballroom |
| 9:45 - 10.30  | <p><b>TOPIC 1 - THE ROLE OF NHRIS, IN COOPERATION WITH THE STATE AND CIVIL SOCIETY, IN WORKING TOWARD A PEACEFUL TRANSITION TO DEMOCRACY – CHALLENGES AND OPPORTUNITIES'</b></p> <p>A Chair for this session 'sets the scene' followed by three NHRI speakers</p> <p><i>Chair: Professor Amara Pongsapich, Chairperson, National Human Rights Commission of Thailand.</i></p> <p><b>Speakers:</b></p> <ol style="list-style-type: none"> <li>Ms Amal Al Mannai, Executive Director, Social Development Center and member at the Qatar National Human Rights Committee.</li> <li>Mr Nidal Jurdi, Human Rights Officer, Middle East Regional Office, OHCHR: <i>"MENA NHRIs and societies in transition: opportunities and challenges"</i>.</li> <li>Mr Win Mra, Chairperson, Myanmar Human Rights Commission: <i>"Challenges and Opportunities in the Myanmar context"</i>.</li> <li>Civil society speaker - TBC</li> </ol> | Al Mukhtasar Ballroom |
| 10:30 – 11:00   | Morning Tea   | TBA                   |
| 11:00 – 12:30   | <b>Continued Presentations followed by questions and answers</b>  | Al Mukhtasar Ballroom |
| 12:30 – 14:00   | Lunch   | TBA                   |
| 14:00 – 14:45   | <p><b>TOPIC 2 – THE ROLE OF NHRIS IN WORKING WITH POLICE &amp; SECURITY FORCES</b></p> <p>Chair: TBC</p> <p><b>Speakers:</b></p> <ol style="list-style-type: none"> <li>Tan Sri Hasmy Agam, Chairperson, Human Rights Commission of Malaysia (SUHAKAM), <i>"SUHAKAM engagement with police</i></li> </ol>   | Al Mukhtasar Ballroom |

|  |  |                       |
|--|--|-----------------------|
|  | <p>and security forces”.</p> <ol style="list-style-type: none"> <li>2. TBC</li> <li>3. TBC</li> <li>4. TBC: Civil society</li> </ol>   |                       |
| 14:45 – 15:15  | <b>Open discussion – questions and answers</b>   | Al Mukhtasar Ballroom |
| 15:15 – 15:45  | Afternoon Tea  | TBA                   |
| 15:45 – 16:30  | <p><b>TOPIC 3 – THE ROLE OF NHRIS IN DEMOCRACY AND GOOD GOVERNANCE</b></p> <p>Chair: TBC</p> <p><b>Speakers:</b></p> <p>TBC<br/>TBC<br/>TBC<br/>TBC: Civil society</p>   | Al Mukhtasar Ballroom |
| 16:30 – 17:00  | <b>Open discussion – questions and answer</b>  | Al Mukhtasar Ballroom |
| 19:00 – 21:00  | <b>CONFERENCE DINNER</b>   | TBA                   |
| <b>DAY 3 – Thursday 3 October (APF Members and Registered Observers)</b> |  |                       |
| 9:00 – 10:30   | <p><b>TOPIC 4 - APF ACTION PLAN ON WOMEN AND GIRLS’ HUMAN RIGHTS: HOW ARE NHRIS PROMOTING AND PROTECTING THE HUMAN RIGHTS OF WOMEN AND GIRLS?</b></p> <p><i>Chair: Dr Mizanur Rahman, Chairperson, National Human Rights Commission of Bangladesh.</i></p> <p><b>Speakers:</b></p> <ol style="list-style-type: none"> <li>1. Professor Gillian Triggs, President, Australian Human Rights Commission: <i>“The Australian Commission’s Review into the Treatment of Women in the Australian Defence Force”.</i></li> <li>2. Dr Sima Samar, Chairperson, <i>Afghanistan Independent Human Rights Commission: “Afghan Commission’s National Inquiry on Rape and Honor killings”.</i></li> <li>3. Ahmed Tholal, Vice President, Maldives Human Rights Commission: title to be advised.</li> </ol> <p>Question and Answers/Interventions from the floor</p> | Al Mukhtasar Ballroom |
| 10:30 – 11:00  | Morning Tea  | TBA                   |

|               |  |                       |
|---------------|--|-----------------------|
| 11:00 – 12:30 | <p><b>TOPIC 5 - NHRIs and WOMEN IN POLITICAL AND DEMOCRATIC REFORM</b></p> <p><i>Chair: Dr Sima Samar, Chairperson, Afghanistan Independent Human Rights Commission.</i></p> <p><b>Speakers:</b></p> <ol style="list-style-type: none"> <li>1. Dr Sameera Al-Tuwaijri, Regional Director, Arab States, UN Women.</li> <li>2. Ms Nada Darwazeh, Human Rights Officer/Gender Adviser, Middle East Regional Office, OHCHR: <i>"Future prospects and challenges facing women in the Arab world"</i>.</li> <li>3. NHRI speaker - TBC</li> <li>4. Civil society speaker – TBC</li> </ol> | Al Mukhtasar Ballroom |
| 12:30 – 12:45 | <p><b>FINAL CLOSING REMARKS</b></p> <p><i>Chair: Dr Ali Bin Smaikh Al-Marri, National Human Rights Committee of Qatar and Chairperson, Asia Pacific Forum</i></p>  | Al Mukhtasar Ballroom |
| 12:45 – 14:00 | <b>Lunch</b> (including APF secretariat's donors meeting)  | Venue: TBA            |



**ASIA PACIFIC FORUM**  
ADVANCING HUMAN RIGHTS IN OUR REGION

# ANNEX 3

## APF Constitution Amendments

## Forum Councillors Annual General Meeting

---

### **APF 18**

The 18th Annual Meeting & Biennial  
Conference of the Asia Pacific Forum of  
National Human Rights Institutions

Doha, Qatar, 1 to 3 October 2013

---

## Proposed amendments to APF membership provisions.

[Note: For ease of reference, the substantive changes are highlighted in ***bold italics*** below]

### 11.1 Full members

(a) Qualifications of full members

Each full member must be a national human rights institution in the Asia Pacific region which in the opinion of the Forum councillors complies with the Paris Principles. ***Accreditation by the International Coordinating Committee of National Human Rights Institutions as an 'A' status national human rights institution may be taken as evidence of compliance with the Paris Principles.***

(b) Initial members

The initial members are:

- (1) Human Rights and Equal Opportunity Commission of Australia;
- (2) National Human Rights Commission of India;
- (3) Indonesian National Commission on Human Rights;
- (4) Human Rights Commission of New Zealand;
- (5) Commission on Human Rights of the Philippines;
- (6) Human Rights Commission of Sri Lanka;
- (7) Fiji Human Rights Commission; and
- (8) Human Rights Commission of Nepal.

(c) Status

The initial members are full members.

(d) Admission of full members

- (1) The Forum councillors may admit any institution, meeting the qualifications set out in rule 11.1(a), to full membership of the Forum.
- (2) Every application for full membership must be:
  - (A) made in writing and signed by the applicant;
  - (B) in the form prescribed by the Forum councillors, and
  - (C) ***accompanied by a statement of accreditation status granted by the International Coordinating Committee of National Human Rights Institutions.***
- (3) Subject to rule 11.1(d)(4), at the next meeting of the Forum councillors after the receipt of an application for membership, the Forum councillors must

consider the application and decide whether to admit or reject the admission of the applicant. The Forum councillors need not give any reason for rejecting an application.

- (4) The Forum councillors may, at their discretion, defer the consideration of an application for full membership.

## 11.2 Associate members

### (a) Qualifications of associate members

Each associate member must be a human rights institution in the Asia Pacific region which, in the opinion of the Forum councillors, is in partial compliance with the Paris Principles. ***Accreditation by the International Coordinating Committee of National Human Rights Institutions as a 'B' status national human rights institution may be taken as evidence of partial compliance with the Paris Principles.***

### (b) Admission of associate members

- (1) The Forum councillors may admit any institution having the characteristic set out in rule 11.2(a) to associate membership of the Forum.
- (2) Every application for associate membership must be:
  - (A) made in writing and signed by the applicant;
  - (B) in the form prescribed by the Forum councillors; and
  - (C) ***accompanied by a statement of accreditation status granted by the International Coordinating Committee of National Human Rights Institutions.***
- (3) Subject to rule 11.2(b)(4), at the next meeting of the Forum councillors after the receipt of an application for associate membership, the Forum councillors must consider the application and decide whether to admit or reject the admission of the applicant. The Forum Councillors need not give any reason for rejecting an application.
- (4) The Forum councillors may, at their discretion, defer the consideration of an application for associate membership.

### (c) Rights of associate members

Associate members have no voting rights.

## 11.3 Review of member compliance with the Paris Principles

### (a) Occasion for review

- (1) The Forum councillors may, on their own motion and at any time, decide to review the compliance of a member with the Paris Principles.
- (2) A member must notify the Forum if there has been any change to the constitutional and/or legislative base or administration of the institution which materially impacts upon its compliance with, or ability to comply with, the Paris Principles.

(b) Review

- (1) Following a decision to review under rule 11.3(a)(1) or receipt of a notification under rule 11.3(a)(2), the Forum councillors must meet to consider whether the institution complies with the Paris Principles.
- (2) If the Forum councillors decide that the institution does not so comply, they may, by resolution, **downgrade, suspend or** expel a member under rule 12.

## 12. Changes to membership status

### 12.1 Downgrading, Suspending or Expelling a Member

- (a) The Forum councillors may by resolution **suspend or** expel a member from the Forum if, in their absolute discretion, they decide it is not in the interests of the Forum for the institution to remain a member.
- (b) ***The Forum councillors may downgrade the membership status of, or suspend or expel the member in accordance with rule 11.3 if the member no longer complies or no longer partially complies with the Paris Principles.***
- (c) If the Forum councillors intend to propose a resolution under rule 12, at least one month before the meeting at which the resolution is to be proposed, they must give the member written notice:
  - (1) stating the date, place and time of the meeting;
  - (2) setting out the intended resolution and the grounds on which it is based; and
  - (3) informing the member that a representative of the member may attend the meeting and may give an oral or written explanation or submission before the resolution is put to the vote.

### 12.2 Cessation of Membership

An institution immediately ceases to be a member if the institution:

- (a) resigns as a member by giving written notice to the Forum; or
- (b) becomes insolvent or makes any arrangement or composition with its creditors or if a liquidator, receiver or other external administrator is appointed in respect of the institution; or
- (c) is expelled under rule 12.1

### 12.3 Suspension of Membership

***A suspended member does not have voting rights but may attend and participate in Forum activities at the invitation of the Forum.***



**ASIA PACIFIC FORUM**  
ADVANCING HUMAN RIGHTS IN OUR REGION

## ANNEX 4

### APF Membership

### Oman

### Forum Councillors

### Annual General Meeting

---

#### **APF 18**

The 18th Annual Meeting & Biennial  
Conference of the Asia Pacific Forum of  
National Human Rights Institutions

Doha, Qatar, 1 to 3 October 2013

---

## **ANNEX X: SUPPORTING DOCUMENTS: APPLICATION FOR MEMBERSHIP BY OMAN**

In support of its application, the National Human Rights Commission of Oman provides the following documentation:

- Application to the ICC for accreditation (to be considered at the ICC SCA meeting in November 2013)
- Royal Decree No. 124 / 2008 Concerning the Establishment of a Human Rights Commission outlining its mandates
- Royal Decree 124/2008 Annex: Human Rights Commission Provisions and Determination of Competences
- Royal Decree 10/2013 appointing members of the Human Rights Commission
- Translated extract – Rules of Procedure
- Translated summary - Annual Report for 2011
- Organisation Chart

### **1. ICC APPLICATION FOR ACCREDITATION: STATEMENT OF COMPLIANCE WITH THE PARIS PRINCIPLES OF THE NATIONAL HUMAN RIGHTS COMMISSION OMAN**

#### **CHARACTER OF THE NHRI**

##### **1. ESTABLISHMENT**

***The Paris Principles state that an institution's mandate shall be clearly set forth in a constitutional or legislative text (...).***

*The ICC has adopted the following General Observation on the Establishment of NHRIs: "An NHRI must be established in a constitutional or legal text. Creation by an instrument of the Executive is not adequate to ensure permanency and independence"*

Discuss the instruments that establish the NHRI. Please explain:

**Response:** The National Human Rights Commission in the Sultanate of Oman (the Commission) was established by Royal Decree 124/2008 (the Royal Decree). Articles 1-3 deal with the establishment of the Commission. The powers and functions of the Commission are set out in Articles 1 – 11 of the 'Human Rights Commission Provisions and Determination of Competencies Annex' of the Royal Decree, (the Royal Decree Annex).

In addition to this law, two additional laws have dealt with the appointment of members:

- Royal Decree 10/2010 – First batch of members
- Royal Decree 10/2013 - Second batch of members

A Royal Decree is a law issued by the head of state, His Majesty Sultan bin Qaboos, the Sultan of Oman. Once it is officially issued in public, it becomes into immediate effect.

Copies of these laws are attached at Annex 1

##### **2. INDEPENDENCE**

***Independence is a fundamental pillar of the Paris Principles. All the provisions in the section "Composition and guarantees of independence and pluralism" aim to ensure independence through composition, representation, infrastructure, stable mandate of the NHRI.***

*The ICC has adopted the following General Observation on the **administrative regulation** of NHRIs: "The classification of an NHRI as a public body has important implications for the regulation of its accountability, funding, and reporting arrangements. In cases where the administration and expenditure of public funds by an NHRI is regulated by the Government, such regulation must not compromise the NHRI's ability to perform its role independently and effectively. For this reason, it is important that the relationship between the Government and the NHRI be clearly defined".*

*To preserve the independence of members, the ICC has strongly recommended that "provisions be included in national law to protect legal liability for actions undertaken in the official capacity of the NHRI".*

Discuss the mechanisms that guarantee the independence of the NHRI. Please explain:

**Response:** Article 1 of Royal Decree 124/2008 stipulates that "A National Human Rights Commission affiliated to the State Council shall be established, enjoy a juristic personality, independently practice its mission, and have its headquarters located in Muscat".

The Commission does not receive any instructions from the government.

The Commission has developed internal by-laws that address, amongst other things, conflicts of interest. A copy of the by-law is attached at Annex 2.

### **3. COMPOSITION, APPOINTMENT PROCESS, TENURE**

#### **3.1 Composition**

*The Paris Principles state that "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 cooperation 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).*

*The ICC has adopted the following **General Observations on the composition and pluralism of NHRIs:***

- **Ensuring pluralism:** The Sub-Committee notes there are diverse models of ensuring the requirement of pluralism set out in the Paris Principles. However, the Sub-Committee emphasises the importance of National Institutions to maintain consistent relationships with civil society and notes that this will be taken into consideration in the assessment of accreditation applications. The Sub-Committee observes that there are different ways in which pluralism may be achieved through the composition of the National Institution, for example:*

- 1. Members of the governing body represent different segments of society as referred to in the Paris Principles;*
- 2. Pluralism through the appointment procedures of the governing body of the National Institution, for example, where diverse societal groups suggest or recommend candidates;*
- 3. Pluralism through procedures enabling effective cooperation with diverse societal groups, for example advisory committees, networks, consultations or public forums; or*
- 4. Pluralism through diverse staff representing the different societal groups within the society.*

*The Sub-Committee further emphasises that the principle of pluralism includes ensuring the meaningful participation of women in the National Institution.*

- **Government representatives on National Institutions:** The Sub-Committee understands that the Paris Principles require that Government representatives on governing or advisory bodies of National Institutions do not have decision making or voting capacity.*

Discuss how your NHRI meets the requirement of pluralism. Please explain:

- Whether your founding law requires a diverse composition of members<sup>1</sup>;

**Response:** Article (1) of the Royal Decree Annex ensures diversity in the membership of the Commission. It provides as follows:

- Article (1) : *The Commission shall be composed of fourteen members as follows:*
- *A member from the State Council.*
  - *A member from the Consultative Council.*
  - *A member from the Chamber of Commerce and Industry.*
  - *A member from the General Federation of Oman Trade Unions.*
  - *A member from among law practitioners.*
  - *Three members from civil society organizations.*
  - *Six members representing the following authorities:*
    - *Ministry of Foreign Affairs.*
    - *Ministry of Interior.*
    - *Ministry of Social Development.*
    - *Ministry of Justice.*
    - *Ministry of Manpower.*
    - *Ministry of Civil Service.*

There are two female members from the fourteen members that are present within the commission. Of the staff, majority of the staff are women working at the commission.

Refer to 3.2 regarding the selection and nomination process for candidates.

### 3.2 Selection and appointment

*The ICC has adopted the following **General Observations on selection and appointment:***

• **Selection and appointment of the governing body:** *The Sub-Committee notes the critical importance of the selection and appointment process of the governing body in ensuring the pluralism and independence of the National Institution. In particular, the Sub-Committee emphasises the following factors:*

1. *A transparent process*
2. *Broad consultation throughout the selection and appointment process*
3. *Advertising vacancies broadly*
4. *Maximising the number of potential candidates from a wide range of societal groups*
5. *Selecting members to serve in their own individual capacity rather than on behalf of the organization they represent.*

Discuss how members of the NHRI are selected and appointed. Please explain:

**Response:** Pursuant to Article (1) of the Royal Decree Annex, the process for selecting and nominating candidates for appointment as members of the Commission is as follows:

- the Chairman of the State Council (Parliament) requests that the heads of each entity or group specified in Article 1 nominate candidates that they consider are qualified for appointment;
- each entity or group nominates three candidates;
- the names and qualifications (including CVs) are provided to the Head of State;
- The Head of State selects candidates from each entity or group in accordance with Article 1;
- The Head of State issues a Royal Decree appointing candidates as members of the Commission.

The Decree for appointment of the current commissioners is attached at Annex 1.

<sup>1</sup> Members refers to those individuals that are appointed or elected under the NHRI's founding law (i.e. Chair, Commissioners, Ombudsmen, Deputy Ombudsmen) and with whom the NHRIs functions are vested.

### 3.3. Tenure

***The Paris Principles state that 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.***

*The ICC has adopted the following General Observations on membership tenure:*

- **Full-time Members:** Members of the NHRIs should include full-time remunerated members to:
  1. Ensure the independence of the NHRI free from actual or perceived conflict of interests;
  2. Ensure a stable mandate for the members;
  3. Ensure the ongoing and effective fulfilment of the mandate of the NHRI.
- **Guarantee of tenure for members of governing bodies:** Provisions for the dismissal of members of governing bodies in conformity with the Paris Principles should be included in the enabling laws for NHRIs.
  1. The dismissal or forced resignation of any member may result in a special review of the accreditation status of the NHRI;
  2. Dismissal should be made in strict conformity with all the substantive and procedural requirements as prescribed by law;
  3. Dismissal should not be allowed based on solely the discretion of appointing authorities.

Discuss how the tenure of the NHRIs' members is ensured. Please explain:

**Response:** Article (2) of the Royal Decree Annex states that "A Royal Decree shall be issued regarding the appointment of the members of the Commission nominating both the Chairman and Vice-Chairman. Article (3) provides that "Each member shall serve a three year term renewable for one or more similar terms."

The Chairperson and the Vice Chairperson are full-time, whilst the other members are part-time. Both full and part-time commissioners receive appropriate remuneration.

The process for dealing with vacancies is set out in Article 30 of the Commission's by-laws, (see Annex 2). It states that in the event that a vacancy occurs, the Chairman of the State Council is notified. The Chairman of the State Council is then required to contact the entity or group that nominated the vacating member in order to nominate a replacement.

## 4. ORGANIZATIONAL INFRASTRUCTURE

### 4.1 Infrastructure

***The Paris Principles state that 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.***

Discuss the NHRI's infrastructure.

**Response:** The Commission has sufficient resources, including premises, staff, transport and communications to undertake its mandate. A copy of the organizational structure of the NHRC is attached at Annex 3. The organisational structure and allocation of staff have been determined by the Commission in accordance with its legislative functions and strategic priorities. Further information on staffing, budget and premises is provided below.

Please provide:

- An organizational chart of the NHRI's structure.

### 4.2 Staffing

**The Paris Principles state that the NHRIs should be able to have its own staff.**

*The ICC has adopted the following General Observation on staffing:*

- **Staff of an NHRI:** As a principle, NHRIs should be empowered to appoint their own staff.
- **Staffing by secondment:** In order to guarantee the independence of the NHRI, the Sub Committee notes, as a matter of good practice, the following:
  1. Senior level posts should not be filled with secondees;
  2. The number of seconded should not exceed 25% and never be more than 50% of the total workforce of the NHRI.

Discuss the NHRI's staffing. Please explain:

**Response:** The Commission has the power to select and appoint its own staff. In doing so, it advertises vacancies and conducts an open merit-based selection process. There are currently no secondees placed with the Commission. Please see the Organisational Chart at Annex 3 for the gender distribution of staff.

Please provide:

- A list of the staff of the NHRI or, if provided in another document, refer to the organisational chart illustrating the staffing structure of the NHRI (please indicate gender distribution).

#### 4.3 Premises (accessibility)

**The Paris Principles state that the NHRIs should be able to have its own (...) premises and that, within the framework of its operation, the national institution shall (...) set up local or regional sections to assist it in discharging its functions.**

Discuss the NHRI's premises. Please explain:

**Response:** The Commission has one office in the capital, Muscat. The office is located in a central area, with appropriate signage that includes its logo.

The office is accessible to all; citizens, residents as well as tourists during its official working hours. The office is also accessible for people with disabilities. The Commission can be contacted by email, fax and telephone. Where necessary, representatives of the Commission may attend to individuals who are unable to come to the Commission.

In the near future, the Commission expects to move to new larger premises and will ensure it retains its accessibility.

Please also describe procedures and mechanisms of the NHRI to ensure accessibility to the broader population and in particular, to people who are exposed to human rights violations or non-fulfilment of their rights, i.e. women, ethnic, linguistic, religious or other minorities, non-nationals and persons with disability, as well as the poor.

#### 4.4 Budget

**The Paris Principles state that the national institution shall have an (...) adequate funding (...) and not be subject to financial control which might affect its independence.**

*The ICC has adopted the following General Observation on Adequate Funding: Provision of adequate funding by the state should, as a minimum include:*

- the allocation of funds for adequate accommodation, at least its head office;
- salaries and benefits awarded to its staff comparable to public service salaries and conditions;
- remuneration of Commissioners (where appropriate); and
- the establishment of communications systems including telephone and internet.

*Adequate funding should, to a reasonable degree, ensure the gradual and progressive realization of*

*the improvement of the organization's operations and the fulfillment of their mandate. Funding from external sources, such as from development partners, should not compose the core funding of the NHRI as it is the responsibility of the state to ensure the NHRI's minimum activity budget in order to allow it to operate towards fulfilling its mandate. Financial systems should be such that the NHRI has complete financial autonomy. This should be a separate budget line over which it has absolute management and control.*

Discuss the NHRI's budget. Please explain:

- How the NHRI's budget is developed, submitted and approved (e.g. if it is drafted by the NHRI, presented directly to parliament or through a government ministry or other body, the influence of that body);
- Whether or not the NHRI has control over the management and expenditure of its allocated budget (i.e. if the NHRI is financially independent from the government in how its budget is spent).
- Whether -and what percentage of- the NHRI budget is donor funded.

**Response:** The Commission receives an annual budget from the State. The process for the determination of Commission budget is as follows:

- the Commission, in consultation with the Ministry of Finance prepare a draft budget;
- the budget is approved by the Ministry of Finance. Once approved, the Commission has total control of the use of the funds.

Please provide:

- information relating to the budget of the NHRI, its accounts and financial records;

**Response:** In 2012 the Commission received 652,941 Omani Rial, and in 2013 it received 2,217.311 Omani Rial

## 5. **WORKING METHODS**

Please indicate whether your organization has adopted internal regulations and/or an annual/strategic plan. Briefly describe its main elements.

**Response:** Pursuant to Article 6 of the Royal Decree Annex, the Commission has adopted internal regulations addressing its working methods, practices and procedures. These address a range of issues including: definitions, internal work systems, personnel, finances, accounting, purchasing and stores. A copy of the internal regulations is attached at ANNEX 4.

### 5.1 **Regular meetings**

*The Paris Principles state that within the framework of its operation, the national institution shall meet on a regular basis and whenever necessary in the presence of all its members after they have been duly convened.*

Discuss how the meetings of the NHRI's members operate. Please explain:

- The frequency and composition of the NHRI meetings in practice (at the senior and staff level).

**Response:**

Article (9) of the Royal Decree Annex provides that:

*"The Commission shall be convened upon the invitation of its Chairman four times per annum or as and when necessary. Its meeting shall be deemed validly convened if attended by two thirds of the members of the Commission whose resolutions shall be passed by a majority vote of members present. Upon a tie, the Chairman's side shall prevail".*

There are four subcommittee; Legal Affairs, Reporting and Documenting, International Relations and Organizations, and Awareness and Media. Members are distributed amongst all subcommittees and meet with the directors on a monthly basis in order to carry out tasks set forth.

### 5.2 **Working groups**

***The Paris Principles state that within the framework of its operation, the national institution shall establish working groups from among its members as necessary.***

Discuss the NHRI's working groups (if any). Please explain:

- Whether the NHRI has established any working groups;
- If so, what are the mandate, composition and working methods of these groups.

**Response:** The Commission has established internal working groups that are required to undertake certain tasks in order to fulfil the mandate of the Commission. The following are examples of the working groups that have been established:

- Working group to implement the awareness and education plan
- Working group to prepare for the Gulf Forum 2012
- Working group to amend the internal regulations

## **GENERAL MANDATE**

### **6. GENERAL COMPETENCE AND RESPONSIBILITIES**

For each of the functions described in the following sections, please discuss:

- the relevant provisions in the NHRI's founding law,
- the powers the NHRI is vested with (e.g. if it can act on its own initiative), and
- concrete examples of how the NHRI fulfils the function in practice.

**Response:**

**Article (7)** : The Commission shall have the following competences:

- Follow up the protection of human rights and freedoms in the Sultanate in accordance with the Basic Statute of the State and the international charters and conventions.
- Monitor such observations and points as the foreign governments, international organizations and NGO's may raise in the area of human rights in the Sultanate; and liaise with the concerned authorities to investigate on and reply to such observations and points.
- Provide advice to the concerned authorities in the Sultanate regarding issues relating to human rights and freedoms and contribute to the preparation of reports which address such issues.
- Monitor any violations or transgressions in respect of human rights in the Sultanate and help remedy the same.
- Propose an annual plan to include such national measures as may be necessary for disseminating the culture of human rights, submit the same to the Council of Ministers for ratification then liaise with the competent authorities to guarantee good implementation thereof.
- Any other duties assigned to the Commission in respect of its competences.

Article (10) of the Royal Decree Annex stipulates that *"The Units of the Administrative Apparatus of the State shall assist the Commission in the performance of its duties, facilitate the discharge of its competences and provide it with such data or information as relation to its competence in such a manner as to comply with the laws and regulations applicable in the Sultanate"*.

Section 6.1 below provides examples of how the NHRI fulfils the function in practice.

#### **6.1 Mandate to promote and protect human rights**

***The Paris Principles state that a national institution shall be vested with competence to promote and protect human rights. A national institution shall be given as broad a mandate as possible, which shall be clearly set forth in a constitutional or legislative text (....). Within the framework of its operation, the national institution shall 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 petition.***

*The ICC has adopted the following General Observation on **Human rights mandate**: All NHRIs*

*should be mandated with specific functions to both protect and promote human rights, such as those listed in the Paris Principles.*

Discuss the broad legal mandate of the NHRI. Please explain:

- How human rights are defined in the NHRI's founding law;
- Which rights the NHRI is mandated to address: e.g. civil, political, social, economic and cultural;
- If the institutions' mandate refers to any limitation in the mandate or jurisdiction (e.g. rights or areas of the countries that are excluded);
- Broadly, how the NHRI is able to exercise its mandate in practice.

**Response:**

**Article (7)**

The Commission shall have the following competences:

- Follow up the protection of human rights and freedoms in the Sultanate in accordance with the Basic Statute of the State and the international charters and conventions.
- Monitor such observations and points as the foreign governments, international organizations and NGO's may raise in the area of human rights in the Sultanate; and liaise with the concerned authorities to investigate on and reply to such observations and points.
- Provide advice to the concerned authorities in the Sultanate regarding issues relating to human rights and freedoms and contribute to the preparation of reports which address such issues.
- Monitor any violations or transgressions in respect of human rights in the Sultanate and help remedy the same.
- Propose an annual plan to include such national measures as may be necessary for disseminating the culture of human rights, submit the same to the Council of Ministers for ratification then liaise with the competent authorities to guarantee good implementation thereof.
- Any other duties assigned to the Commission in respect of its competences.

Section 7 (see 6.1 above) outlines the Commission's competencies and provides that it has responsibility for the promotion and protection of human rights and freedoms as established in the Basic Law (or Constitution) and in international charters and conventions. Parts 2 and 3 of the Basic Law provides for a broad range of rights including civil, political, economic, social and cultural rights. Oman is also a party to CERD, CEDAW, CROC and its two OPs, ILO 29 and CRPD.

The Commission exercises its mandate through the country. Examples of the Commission's activities are provided in the responses below.

## 6.2 Advisory Functions

*The Paris Principles state that a national institution shall, inter alia, have the responsibility 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 (...).*

- Discuss the legal provisions for this function and how the NHRI carries out this responsibility in relation to the following functions:

**Response:** Article 7 of the Royal Decree Annex provides that the Commission may provide advice to concerned authorities regarding human rights and freedoms and may propose measures to promote human rights. Furthermore, Article 11 provides that the Commission shall prepare an "annual report on its efforts and activities . . . [and] shall include such propositions as it may deem appropriate within the scope of its competences".

Article (11) : The Commission shall draw up an annual report on its efforts and activities, in which report, the Commission shall include such propositions as it may deem appropriate within the scope of its competences. The report shall be submitted

through the Chairman of the State Council to His Majesty the Sultan.

In practice the Commission makes use of these and other provisions to provide a range of Advisory Services. For example the Commission:

- study and review domestic legislation and submit recommendations to parliament and other entities;
- monitors and documents violations and brings these to the attention of government agencies which, pursuant to Article 10 of the Royal Decree Annex, then required to cooperate with the Commission in the performance of its functions.
- provide advice to individuals who have come to the Commission with grievances.

Examples of such activities can be found in the Commission's Annual Report at pages x

### 6.2.1 Functions regarding national legislation

***The Paris Principles state that a national institution shall have the responsibility to promote and ensure the harmonization of national legislation regulations and practices with the international human rights instruments to which the State is a party, and their effective implementation.***

***It is also stated that a NHRI shall have responsibilities in relation to any of 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 the adoption of new legislation, the amendment of legislation in force and the adoption or amendment of administrative measures.***

Discuss how the NHRI carries out this function. Please explain:

- The legal provisions that vest the NHRI with this function;
- How the NHRI carries out this function in practice;
- What recommendations the NHRI has made on legislative and administrative provisions; amendment of legislation and bills, etc.;
- What advocacy the NHRI has undertaken to harmonize national laws and practices to international standards and/or to implement recommendation of international human rights system).

**Response:** As mentioned in 6.2 above, the Commission, through its legal department and Legal Committee review and provide advice on national legislation in relation to international commitments that the Sultanate has ratified or is a signatory.

The Commission also participates in various Committees responsible for preparing national reports on the States international obligations. For example, the Commission is represented on the Committees developing reports on CROC and CEDAW.

The Commission, through private consultation has begun advising the Sultanate in taking a more proactive role in ensuring to commit to international commitments.

The Commission has also taken steps to engage in regional and international human rights organizations by applying for membership of the regional and international NHRI organisations. By engaging at the regional and international level, the Commission hopes to improve its capacity, expertise and effectiveness, particularly in relation to its monitoring of, and engagement with government.

### 6.2.2 Encouraging ratification and implementation of international standards

***The Paris Principles state that a national institution shall have the responsibility to encourage ratification of international human rights instruments to which the State is a party, and to ensure their effective implementation.***

***The ICC has adopted the following General Observations on NHRIs' encouraging ratification or accession to international human rights instruments: The Sub-Committee interprets that the***

*function of encouraging ratification or accession to international human rights instruments, set out in the Paris Principles, is a key function of a National Institution. The Sub-Committee therefore encourages the entrenchment of this function in the enabling legislation of the National Institution to ensure the best protection of human rights within that country.*

Discuss how the NHRI carries out this function. Please explain:

- The legal provisions that vest the NHRI with this function;
- How the NHRI carries out this function in practice;
- Examples of advocacy or awareness raising campaigns the NHRI has undertaken to encourage ratification or accession to international instruments.

**Response:** As per the roles and responsibilities outlined in the internal regulations, a role of the international relations and the legal affairs departments is to coordinate with one another in order to carry out the function of encouraging international ratification. See also the responses to 6.2.1 and 6.2.2 above. As of yet, the Commission has not promoted the ratification of any international conventions. However, this is an objective the commission intends to achieve in the future.

### 6.3 Monitoring functions

***The Paris Principles state that a NHRI shall have responsibilities in relation to (...) any situation of violation of human rights which it decides to take up; and (...) on 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.***

Discuss how the NHRI carries out this function. Please explain:

- The legal provisions that vest the NHRI with this function;
- How the NHRI carries out this function in practice;
- How the NHRI is active in monitoring domestic human rights situations (e.g. decision-making bodies, courts, government agencies), including visiting places of deprivation of liberty, etc.
- Whether the Institution monitors government compliance with its advice and recommendations.

**Response:** Article 7 of the Royal Decree Annex stipulates that the role of the Commission is to "... Monitor any violations or transgressions in respect of human rights in the Sultanate and help remedy the same."

The Commission monitors the human rights situation in Oman through a variety of means. Complaints handling provides one direct method for monitoring human rights violations and the Commission monitors and reviews the types of complaints coming before it. In addition, the Commission engages in various activities, such as visits to places of detention, where it is able to assess directly whether human rights are being observed. The Commission also seeks to monitor the human rights situation in Oman in a variety of ways:

- Its members represent various aspects of civil society and professions including legal practitioners;
- monitoring the national media;
- Through outreach programs including our awareness raising and education programs.

As previously advised above (see 6 above) the Commission has the power to monitor and provide advice to government, and government agencies are required to cooperate with the Commission. The Commission follows up on whether the recommendations have been implemented or incorporated.

#### 6.3.1 Investigation

***The Paris Principles state that within the framework of its operation, the national institution shall: hear any person and obtain any information and any documents necessary for assessing situations falling within its competence.***

*Please complete this section if the NHRI does not have quasi-jurisdictional competence as set out in section 7 below.*

Discuss how the NHRI carries out this function. Please explain:

- The legal provisions that vest the NHRI with this function;
- Whether individuals, government, public bodies etc are obliged to provide the NHRI with requested documentation;
- How the NHRI carries out this function in practice (e.g. in the conduct of public inquires).

**Response:** Article (10) from the Royal Decree 124/2008 stipulates that "The Units of administrative apparatus of the state shall assist the Commission in the performance of its duties, facilitate the discharge of its competences and provide it with such data or information as relating to its competences in such a manner as to comply with the laws and regulations applicable in the sultanate." Refer to section 6 above. All entities within the sultanate whether they be governmental or non-governmental are required as a result of the royal decree to comply with the requests of the commission. When investigations are being carried out then all entities are obliged to comply with us. Currently the commission has not faced any difficulties by any entity as cases have been handled in coordination and with the assistance of the authorities concerned.

As a result of the Commission being established through Royal Decree and due to the weight of what a Royal Decree is recognized as a "decision" by His Majesty, This automatically obliges all entities; government and non-governmental to respect and adhere to his requests.

### 6.3.2 Reporting

***The Paris Principles state that a NHRI shall have responsibilities in relation to (...) The preparation of reports on the national situation with regard to human rights in general, and on more specific matters.***

*The ICC has adopted the following General Observations on:*

- **Annual Report:** *The Sub-Committee stresses the importance for an NHRI to prepare and publicize an annual report on its national situation with regard to human rights in general, and on more specific matters. This report should include an account of the activities undertaken by the NHRI to further its mandate during that year and should state its opinions, recommendations and proposals to address any human rights issues of concern.*
- **Recommendations by NHRIs:** *NHRI recommendations contained in annual, special or thematic human rights reports should normally be discussed within a reasonable amount of time, not to exceed six months, by the relevant government ministries as well as the competent parliamentary committees. These discussions should be held especially in order to determine the necessary follow up action, as appropriate in any given situation. NHRIs as part of their mandate to promote and protect human rights should ensure follow up action to recommendations contained in their reports.*

Discuss how the NHRI carries out this function. Please explain:

- The legal provisions that vest the NHRI with this function;
- How the NHRI carries out this function in practice;
- How annual and thematic reports are delivered (e.g. publicity, distribution, and languages available; authorities to which it is submitted);
- Whether relevant parties (individuals, government, public bodies etc) are obliged to formally respond to the recommendations and reports of the NHRI;
- How the NHRI follows up with authorities on its recommendations.

**Response:** Articles 7 and 11 of the Royal Decree Annex provide the Commission with powers to prepare general and annual reports and Article 10 requires cooperation from the state in response to the activities of the Commission.

With the combination of members and certain staff an official internal working group has been formulated with the responsibility of preparing the annual report. Once completed, the report is delivered through the chairman of the State Council to His Majesty the Sultan of Oman.

Where recommendations were presented necessary action had been undertaken accordingly.

The annual report is printed and distributed for all to read. It is currently being translated into English.

There is no obligation for external parties to implement the recommendations provided. Nevertheless, a response is provided to the commission as per what was mentioned in the report. However, where the commission has provided recommendations, entities do cooperate.

## 6.4 Promotional Functions

### 6.4.1 By raising awareness on human rights norms and issues

***The Paris Principles state that a national institution shall have the responsibility to publicize 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.***

Discuss how the NHRI carries out this function. Please explain:

- The legal provisions that vest the NHRI with this function;
- How the NHRI carries out this public education function in practice;
- Whether it makes publications or services available in several languages and if it makes interpretation available;
- What public awareness campaigns the NHRI has undertaken in relation to combating racism.

**Response:** Article 7 of the Royal Decree Annex emphasizes the importance of spreading awareness to the public on issues concerning human rights.

The commission has so far carried out local events as well as international events in which to discuss the promotion and protection of human rights.

The Commission attends the police academy on a monthly basis in order to promote an understanding the duties and responsibilities of citizens and residents where human rights are concerned.

Schools, colleges and universities have been visited, and the Commission attends summer camps around the sultanate in order to raise awareness through presentations and discussions of human rights.

The Commission has developed a strong relationship with the media to ensure coverage of events that have taken place. Representatives of the commission have regular presentations on the radio, television in order to push the agenda for human rights.

### 6.4.2 Through programmes for teaching and research

***The Paris Principles state that a national institution shall have the responsibility 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.***

Discuss how the NHRI carries out this function. Please explain:

- The legal provisions that vest the NHRI with this function;
- How the NHRI carries out this education function in practice;
- Examples of the NHRI's initiatives in such programmes in schools, universities and professional groups.

**Response:** The commission has had several discussions with the Research Council, Ministry of Education and Higher Education in order to incorporate principles of human rights into the education system. This falls under the mandate as per promoting human rights within Oman. For example, the Commission has attend various Schools and Universities to provide presentations and seminars that consist of; the role of the commission, the different departments that are present, human rights as per the Basic Statute of the State. The Commission has also attended summer schools in order to provide the same presentations as mentioned above. A dialogue session in collaboration with the National Youth Commission has taken place in order for a platform to be provided for the youth to discuss rights and responsibilities when enjoying your rights through; social media, daily activities and issues of concerns were discussed.

### 6.4.3 By addressing public opinion

*The Paris Principles state that within the framework of its operation, the national institution shall address public opinion directly or through any press organ, particularly in order to publicize its opinions and recommendations.*

Discuss how the NHRI carries out this function. Please explain:

- The legal provisions that vest the NHRI with this function;
- How the NHRI carries out this public education function in practice;
- What policies and strategies the NHRI has to engage with the media.

**Response:** The commission addresses public opinion through issuing statements in the newspaper, on the website and by the presence of representative of the commission on the television and or radio. However, the commission also encourages that people come to the commission in order to be advised where issues concern human rights.

## 7. QUASI-JURISDICTIONAL FUNCTIONS (optional, only for those NHRIs having quasi-judicial powers)

*The Paris Principles state that a national institution may be authorized 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.*

Discuss how the NHRI carries out this function. Please explain:

- The legal provisions that vest the NHRI with this function;
- How the NHRI carries out this complaints handling function in practice (i.e. an overview of the mechanisms and procedures adopted to receive, investigate, and handle complaints received).

Please provide an account of complaints-handling statistics (e.g. number and typology of complaints received and processed; resolved; dismissed; referred).

## 8. RELATIONSHIP WITH RELEVANT HUMAN RIGHTS STAKEHOLDERS AND OTHER BODIES

### 8.1 Relationships with Civil Society

*The Paris Principles state that within the framework of its operation, the national institution shall, 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 specialized areas.**

Discuss how the NHRI carries out this responsibility. Please explain:

- Whether the provisions in the NHRI's founding law formalises relationships between the NHRI and civil society;
- How the NHRI has developed relationships with NGOs in practice;
- Which civil society groups the NHRI cooperates with (i.e. NGOs, trade unions, professional organisations, individuals or organisations espousing trends in philosophical or religious thought, universities and qualified experts, parliament and government departments);
- How frequent and what type of interaction the NHRI has with NGOs (e.g. workshops, meetings, joint projects, through complaints handling).

**Response:** The fact that certain members within the commission represent civil society also stipulates the importance in maintaining that representation. The members currently represent; civil society, trade unions, law practitioners, parliament government department. This melange is very effective where issues concerned regarding a members specializing, the member does not 'defend' the government but instead their expertise is provided in order to provide solutions for the commission. Collaboration in problem solving and participations in workshops also maintain the relationship. The Commission has in collaboration with the Women's Association provided seminars on the rights of the Child as per the CRC in various regions of the Sultanate. The Commission has also collaborated with the Lawyers Association in order to provide awareness to the public as per the domestic legislation and training as per human rights. The commission met with representatives from the contractors association in order to inform them of the role of the commission as well as advise them on the rights and duties as per domestic legislation. The breast cancer association were also contact in order to again inform them of our role, issues that were discussed where possible future collaborations where healthcare is concerned. On several occasions the commission visited the disable association, here rights and responsibilities were notified. Also the commission contacted entities to ensure that facilities in public buildings were individuals with special needs. The Commission engages with associations on a regular basis through the representatives present on the board members.

## 8.2 Relationship with other with other bodies

***The Paris Principles state that within the framework of its operation, the national institution shall 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).***

*The ICC has adopted the following General Observations on **Cooperation with other human rights institutions**: NHRIs should closely cooperate and share information with statutory institutions established also for the promotion and protection of human rights, for example at the state level or on thematic issues, as well as other organizations, such as NGOs, working in the field of human rights and should demonstrate that this occurs in their application to the ICC Sub-Committee.*

Discuss how the NHRI carries out this responsibility. Please explain:

- Whether the provisions in the NHRI's founding law formalise relationships between the NHRI and other bodies with human rights responsibilities;
- How the NHRI has developed relationships with these bodies in practice;
- Which bodies the NHRI cooperates with (i.e. governmental agencies, the justice system, the parliament, any human rights committees, or any other bodies that might affect the human rights situation in the country);
- How frequent and what type of interaction the NHRI has with such bodies (e.g. training, consultations, meetings, joint projects, through complaints handling)
- The NHRI's relationship with other human rights institutions at the national level (e.g. specialised human rights institutions, ombudsmen) (OPTIONAL: only for NHRIs operating in countries where such bodies have been established).

**Response:** Part of the mandate is for the commission to establish local, regional and international relations with experts in in the field of rights. Through attending regional and international conferences the commission has facilitated to build relations with other experts. By also attending local workshops and conferences the same has happened. Through attending workshops and meetings relationships

have been built also on a local level. The Commission had organized and invited international experts and various NHRI representatives to "the Gulf Forum: National institutions Experiences" in March 2012. This was a platform which invited local, regional and international bodies to discuss human rights issues. Representatives from the Commission have also participated in ICC meetings in 2011, 2012, 2013. Several Asian Pacific Forum meetings as well as meetings and or workshops within the Arab region have also been attended.

### 8.3 Cooperation with the United Nations and other organizations

***The Paris Principles state that a national institution shall have the responsibility to cooperate 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. It is important for NHRIs to engage with the international human rights system, in particular the Human Rights Council and its mechanisms (Special Procedures Mandate Holders) and the United Nations Human Rights Treaty Bodies. This means generally NHRIs providing input to, and participating in, these human rights mechanisms and following up at the national level to the recommendations resulting from the international human rights system. In addition, NHRIs should also actively engage with the ICC and its Sub-Committee on Accreditation, Bureau as well as regional coordinating bodies of NHRIs.***

***The ICC has adopted the following General Observations on the Interaction with the International Human Rights System: The Sub-Committee would like to highlight the importance for NHRIs to engage with the international human rights system, in particular the Human Rights Council and its mechanisms (Special Procedures Mandate Holders) and the United Nations Human Rights Treaty Bodies. This means generally NHRIs making an input to, participating in these human rights mechanisms and following up at the national level to the recommendations resulting from the international human rights system. In addition, NHRIs should also actively engage with the ICC and its Sub-Committee on Accreditation, Bureau as well as regional coordinating bodies of NHRIs.***

Discuss how the NHRI carries out this function. Please explain:

- The legal provisions that vest the NHRI with this function;
- How the NHRI carries out this function in practice;
- Which UN mechanisms the NHRI has engaged with (e.g. Human rights Council, UPR, Treaty Bodies, Special procedures mandate holders, Commission on the Status of Women, etc)
- Which regional mechanisms the NHRI has engaged with (e.g. regional human rights commissions, courts, etc);
- The type of interaction the NHRI has had with these bodies (e.g. sending information, parallel reports, amicus curiae briefings; attending the meetings; acting as an implementing partner etc)
- How your NHRI has followed up at the national level to the recommendations resulting from these bodies, etc.);
- Which UN agencies the NHRI has engaged with (e.g. OHCHR regional or field offices, UNDP, UNCHR, human rights components of UN peacekeeping missions, etc);
- The type of interaction the NHRI has had with these bodies (e.g. sharing information, undertaking joint activities, acting as an implementing partner etc).

**Response:** The commission has through its royal decree but also within the internal regulations emphasized the importance of coordinating with international experts. Training has been provided to staff and members by the United Nations human rights center situated in Doha. Representatives from the United Nations center in Lebanon have also provided training and consultation to the commission in Oman. The commission was present with the Omani delegation for the submission of the first UPR report by Oman. The commission is and has been in contact with representatives from the OHCHR in providing us with consultations.

**2. ROYAL DECREE NO. 124 / 2008\* CONCERNING THE ESTABLISHMENT OF A HUMAN RIGHTS COMMISSION OUTLINING ITS MANDATES**

I, Qaboos bin Said, Sultan of Oman

With reference to the basic statute law of the state issued by the royal decree No 101 / 96 and upon the public interest, I, The Sultan Qaboos bin Said - Sultan of Oman decree the following:

Article 1: A human rights Commission shall be established and shall be attached to the State Council. This Commission shall have a legal nominal status and be independent<sup>^</sup> carrying out its duties, it shall be located in Muscat City.

Article 2: The Commission shall follow the attached appendix.

Article 3: This decree shall be published in the official gazette and shall be applied the day following its publication.

### **3. ROYAL DECREE: HUMAN RIGHTS COMMISSION PROVISIONS AND DETERMINATION OF COMPETENCES ANNEX**

- Article (1)** : The Commission shall be composed of fourteen members as follows:
- A member from the State Council.
  - A member from the Consultative Council.
  - A member from the Chamber of Commerce and Industry.
  - A member from the General Federation of Oman Trade Unions.
  - A member from among law practitioners.
  - Three members from civil society organizations.
  - Six members representing the following authorities:
    - Ministry of Foreign Affairs.
    - Ministry of Interior.
    - Ministry of Social Development.
    - Ministry of Justice.
    - Ministry of Manpower.
    - Ministry of Civil Service.
- Article (2)** : A royal decree shall be issued regarding the appointment of the members of the Commission nominating both the Chairman and Vice-Chairman.
- Article (3)** : Each member shall serve a three-year term renewable for one or more similar terms.
- Article (4)** : The Commission shall be represented by its Chairman before the courts of justice and in its relationship with third parties. When the Chairman is absent or his office becomes vacant, he shall be replaced by the Vice-Chairman.
- Article (5)** : The Commission shall have a Secretariat General and a Secretary General entrusted with the execution of the Commission decisions and the supervision of its financial and administrative affairs in accordance with the By-laws. The Commission shall decide to appoint the Secretary General from within or from outside its members with the same term as the Member of the Commission.
- Article (6)** : The Commission shall prepare the By-laws which regulate its work system and its financial and administrative affairs provided that the same is ratified by the State Council.
- Article (7)** : The Commission shall have the following competences:
- Follow up the protection of human rights and freedoms in the Sultanate in accordance with the Basic Statute of the State and the international charters and conventions.
  - Monitor such observations and points as the foreign governments, international organizations and NGO's may raise in the area of human rights in the Sultanate; and liaise with the concerned authorities to investigate on and reply to such observations and points.
  - Provide advice to the concerned authorities in the Sultanate regarding issues relating to human rights and freedoms and contribute to the preparation of reports which address such issues.
  - Monitor any violations or transgressions in respect of human rights in the Sultanate and help remedy the same.
  - Propose an annual plan to include such national measures as may be necessary for disseminating the culture of human rights, submit the same to the Council of Ministers for ratification then liaise with the competent authorities to guarantee good implementation thereof.
  - Any other duties assigned to the Commission in respect of its competences.
- Article (8)** : The financial resources of the Commission shall be made up of the credits allocated in the general budget of the State and any other resources endorsed by the Council of Ministers.

- Article (9)** : The Commission shall be convened upon the invitation of its Chairman four times per annum or as and when necessary. Its meeting shall be deemed validly convened if attended by two thirds of the members of the Commission whose resolutions shall be passed by a majority vote of members present. Upon a tie, the Chairman's side shall prevail.
- Article (10)** : The Units of the Administrative Apparatus of the State shall assist the Commission in the performance of its duties, facilitate the discharge of its competences and provide it with such data or information as relating to its competence in such a manner as to comply with the laws and regulations applicable in the Sultanate.
- Article (11)** : The Commission shall draw up an annual report on its efforts and activities, in which report, the Commission shall include such propositions as it may deem appropriate within the scope of its competences. The report shall be submitted through the Chairman of State Council to His Majesty the Sultan.

#### **4. ROYAL DECREE NO. 10/2013 APPOINTING MEMBERS OF THE HUMAN RIGHTS COMMISSION**

Article One: Appointing the listed below, representing the entities mentioned in Article (1) of the attached annex of the above mentioned Royal Decree No.124/2008 as members in the Human Rights Commission as follows:

- Mohammed bin Abdullah bin Masoud Al Riyami – Chairman
- A'mer bin Hamad bin Mohammed Al Hajri - Deputy Chairman
- Sa'ad bin Suhail bin Salim Al Mukhaini
- Hussein bin Jawad bin Mohammed Abdul Rasool
- Saud bin Ali bin Abdullah Al Jabri
- Jihad bin Abdullah bin Mohammed Al Taei
- Awadh bin Said bin Ali BaQwair
- Ahamd bin Saif bin Ahmed Al Barwani
- Majidah bint Shekhan bin Majid Al Maamariyah
- Sheikh Muhana bin Saleh bin Saud Al Ma'awali
- Zakiyah bint Hamdan bin Rashid Al Farsiyah
- Dr. Mohammed bin Sulaiman bin Abdullah Al Rashdi
- Dr. Nasser bin Saif bin Nasser Al Shamsi
- Fahd bin Ahmed bin Hamad Al Jabri

Article Two: The decree comes into force from the date of its issue.

#### **5. TRANSLATED EXTRACT – RULES OF PROCEDURE**

Article (13) from the Internal Rules and regulations stipulates that through the decision (4/2011) by the Chairman of the State Council, the principal organs of the Commission are outlined as the following:

- A - Office of the Committee.
- B - The Main Sub-Committees.
- C - The Secretariat.

The organs mentioned above facilitate the implementation of the Mandate of the Commission and assist in achieving its goals.

##### First: The Bureau of the Committee

The Bureau Committee is compromised of the Chairman, Vice-Chairman and the Chairpersons of the Sub-Committees. The meetings are to be comprised of the mentioned above including the Secretary General. The meetings take place according to invitations by the Chairman of the Commission. The

Commission also has the authority to invite experts that he/she sees fit to attend the meeting. However, any non-members to the meeting do not have voting powers. Article (16) from the internal rules and regulations stipulates that meetings are to take place on regular basis (monthly) and where necessary, emergency meetings are to be held. Meetings can take place in the presence of a majority.

#### Second: The Main Sub-Committees

Article (19) of the Regulations provides that: a decision of the Committee may form major sub-committees in accordance with the requirements of the mandate. This includes: the Legal Affairs Committee, the Reporting and Documenting Committee and the International Relations and Organizations Committee.

\*Note: A recent Awareness and Education has recently been established but is yet to be included in the upcoming and updated version of the internal rules and regulations.

#### Third: The General Secretariat

As stated in Article (24) The General Secretariat is the executive organ of the Commission whereby it handles financial and administrative matters related to the Commission headed and managed by the Secretary-General, assisted by a number of directors and personnel departments and divisions within the organizational structure.

#### Commission Reports

According to Chapter 7 of the Internal Rules and Regulations where report writing is concerned, Article (42) states that a subcommittee is to be formulated with no less than three members with the goal and intention of formulating an annual report which strives to portray the status of human rights within the Sultanate.

The Secretary-General shall provide the data, information and documents to prepare the report crisis.

As stipulated in Article (43) states that: annual report includes an objective and accurate assessment of the human rights situation in the Sultanate, and includes:

A - to monitor the situation of human rights and fundamental freedoms in the sultanate.

B - to highlight the progress made during the year in the field of protection of human rights and fundamental freedoms in various fields.

C - the Commission's efforts in the field of monitoring and follow-up to what is being said about the protection of human rights and fundamental freedoms in the sultanate.

D - Monitoring and analysis of the main obstacles that have prevented progress in the implementation of the functions of the Commission.

E - recommendations which the Committee believes that it promotes the protection of human rights and fundamental freedoms in the sultanate.

And - Total achievements of the Committee's work during the year.

G - a proposal for a work program for the coming year.

H - Supplements containing statistical data and information related to the annual report.

Article (44) states that: The Commission shall adopt its annual report and submit it to the Chairman of the State Council in preparation for submission to His Majesty the Sultan.

Article (45): the Commission to be issued in addition to the annual report, other reports related to specific topics relevant to its terms of reference.

## **6. TRANSLATED SUMMARY OF THE ANNUAL REPORT FOR 2011**

### **Chapter One: Human Rights Developments and Legal Amendments**

This chapter of the annual report highlights the domestic amendments that had taken place in Oman where rights are concerned:

- Amending the authoritative powers of Majlis Oman where it's monitoring powers are concerned.
- A Royal Decree was issued for the establishment of a Authority for Consumer Protection
- Amendments were made to the Penal Code
- Oman had withdrawn four out of its five reservations to the Convention to the rights of the child
- Amendments were made to the freedom of press and publishing law
- Royal Decree 111/2011 was issued to formulate a monitoring mechanism to monitor financial matters within the State. This is to ensure transparency.
- Royal Decree 112/2011 was issued to focus on the Protection of Public Money and Avoid Conflict of Interest
- Royal Decree 116/2011 was issued to formulate the legislation for the Municipality Council.
- Royal Decree 177/2011 was issued for the establishment of a National Youth Commission

### **Chapter Two: Human Rights and Fundamental Freedoms in Oman**

This chapter focuses on discussing various rights:

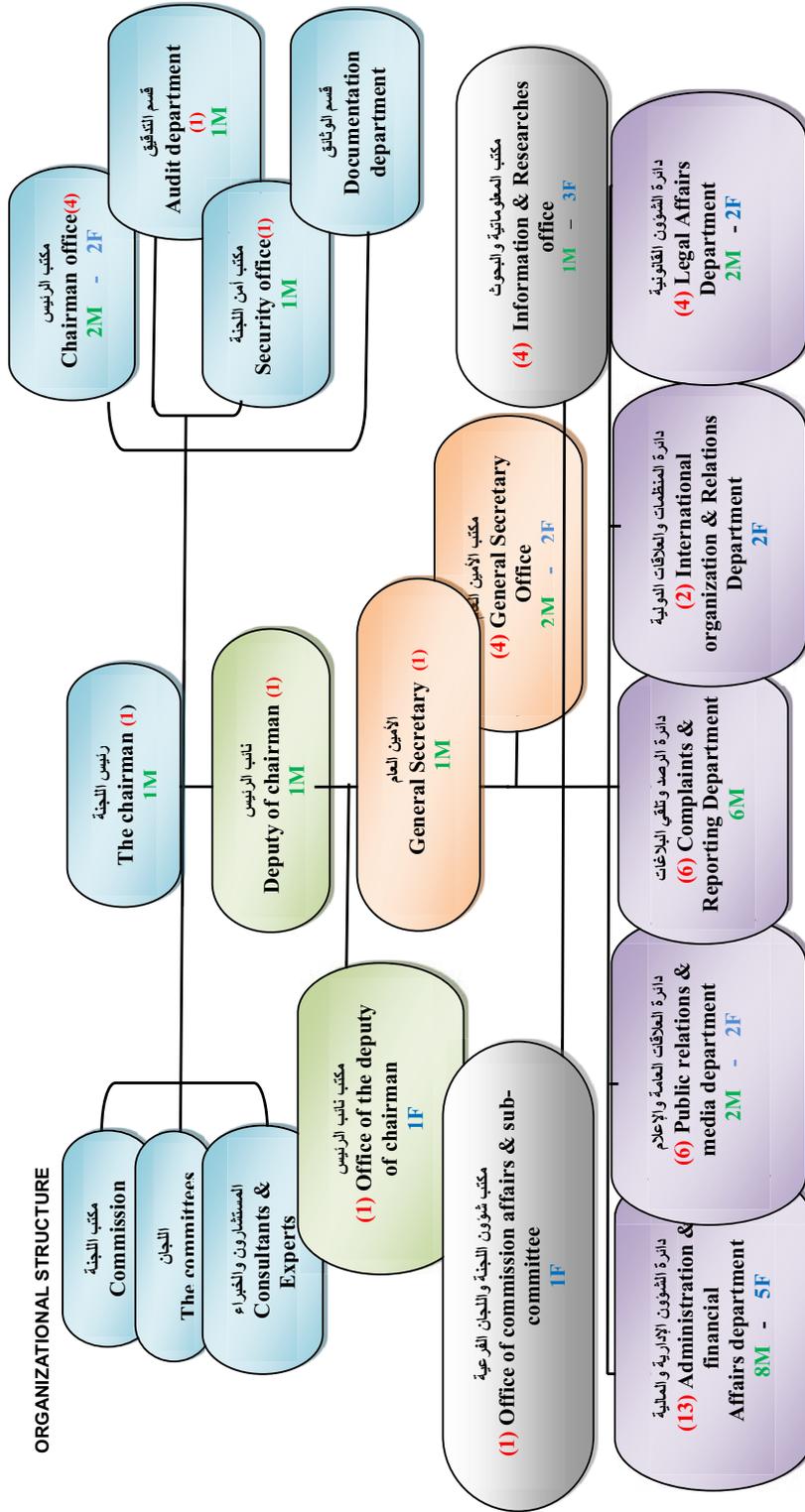
1. The right to life and integrity and forced disappearances: The Commission did not receive any cases of such violations in the year of 2011.
2. The right to freedom and personal safety: Five cases from the Central Prison were registered at the Commission where this issue is concerned. The individuals who contacted the Commission for their enquiries were later pardoned through Royal Decree in order to release them. Where such cases are brought to the attention of the Commission, the NHRC Oman coordinates with the concerned authorities in order to investigate the queries.
3. Places of detention: The Commission visited various detention centers during 2011 as well as the Central Prison in Samail. Issues such as services provided to inmates were discussed: health care facilities, extracurricular activities etc. The Commission collaborates with the authorities at the Central Prison in order to improve the services provided to inmates.
4. The right to free trial and litigation: 69 grievance cases were brought to our attention. This concerned plaintiffs who felt that their court hearings was unjust. However, as the Commission does not have powers that can override court decisions. The Commission provides legal consultation to the plaintiff in order to attempt to resolve their issue.
5. Freedom of expression: The Commission emphasizes the importance of responsibility enjoying this right. 2011 saw an increase in citizens and residents enjoying this right through various social media channels. The Commission provided seminars and presentations to various entities in order to ensure that citizens and residents are enjoying this right without the violating the integrity and rights of others.
6. The right to freedom of assembly: this year saw a increase of individual in certain areas enjoying their right to peacefully assembly. Unfortunately, due to the lack of awareness of certain legislation where this issue is concerned, laws were violated. Various individuals took matters the extreme and began vandalizing areas and disturbing the peace. This is when arrests started taking place by the Security authorities. The Commission played an immense role in mediating cases and ensuring that rights were not violated and also ensured that their families were notified. The Commission was also present during the court hearings of the individuals arrested.
7. The right to equality: this right concerned the right to individuals without discrimination whether it be through: gender, religion, race etc as mentioned in the Basic Statute of the State. No cases involving this matter was registered.
8. The right to participate in political life: the right to political participations one of the fundamental rights stipulated in all modern states. As mentioned in Article (10) of the Basic Statute of the State, the foundations are laid for the consolidation of the Shurra. The commission provided consultations and seminar to various governmental entities in order to ensure that such rights are enjoyed responsibly. Forums, conferences and seminars were organized by the Commission regarding this matter.

9. The right to a decent life: the Basic Statute of the state highlights economic, social and cultural rights and this is emphasized in the everyday life individuals enjoy in Oman. These rights implemented are witnessed in the manner in which Oman has prospered within such a small timeframe. Rights to development as a State as well as an individual is a crucial element for the Head of State. The Commission investigated many enquires online where discussion about wage increase and improved quality of life was concerned. Despite the minimum wage being increased by His Majesty, the commission continues to investigate issues and reports them through recommendations to concerned entities.
10. The right to employment: the government in 2011 formulate a special budget in order to tackle the unemployment issues in Oman. Tens of thousands of unemployed citizens were provided with employment as this was a project specifically formulated to tackle some of the demands of citizens. The Commission applauds the efforts of the State in tackling such a matter. Where employment is concerned, the Commission registered certain violations of the employment contract where domestic workers and laborers are concerned. The Commission provided recommendations to the entities concerned in order to attempt to tackle this matter.
11. The right to housing: as mentioned in the Universal Declaration of Human Rights, this is one of the Fundamental rights. The Commission applauds the efforts of the government in tackling this issue. The government provides housing for those who cannot afford as well as land.
12. Right to healthcare: the sultanate provides health services for citizens in Oman. However, the commission investigated cases where requests are brought for individuals wanting medical assistance to be provided outside of Oman for certain cases. The commission is coordinating with the Ministry of healthcare where this is concerned. Also, it is worth noting that government health care facilities are free for all citizens.
13. Civil society: civil society associations in Oman are funded by the government with the purpose of focusing on certainly citizens and residents. The existence of various societies include: journalists association, lawyers association, woman's association, general federation of trade unions, disabled association etc.
14. women's rights: the importance of women rights and equality within society is an emphasis made in Oman, women are to be treated as equals to men in the social, economic and cultural sphere. This point was emphasized during the elections of the Shurra Council where the nominations that were women was clearly shown.
15. Children rights: the rights of children are of high priority in Oman. Four of the five reservations were lifted from the convention of the rights of the child were lifted. Also better healthcare facilities have been provided.
16. Workers rights: the Commission has registered various cases here workers are taken advantage of and where laws are violated concerning laborers. The commission has requested for improved protection of this sector of society and the proved implementation of their rights. The commission also highlights the presence of the human trafficking law that should also be considered where recruitment of expatriate workers are concerned.
17. The right to education: the commission has investigated certain violations where individuals rights education was violated. This was thereto fixed through mediation and consultation. The Commission strives to implement principles and concepts of human rights into education curriculum in schools in Oman. With the coordination and assistance of the Ministry of Education, this is being achieved.
18. Rights of the elderly: special attention is put on the needs and requirements of the Elderly. A civil society organization has been formulate in order to address their needs.

### **Chapter Three: The Commissions Activities:**

1. International and local coordination with various entities where human rights are concerned, whether it be regional, local or international conferences, workshops and or meetings.
2. Providing awareness and education presentation to various schools, colleges, and universities.
3. Received various international delegations which consisted of: The United Nations Human Rights Commissioner, the Qatari NHRC delegation, representatives from the United Nations Human rights training in Doha.

ORGANIZATIONAL STRUCTURE



يعتمد :



**ASIA PACIFIC FORUM**  
ADVANCING HUMAN RIGHTS IN OUR REGION

# ANNEX 5

## APF Membership

### Samoa

## Forum Councillors

### Annual General Meeting

---

#### **APF 18**

The 18th Annual Meeting & Biennial  
Conference of the Asia Pacific Forum of  
National Human Rights Institutions

Doha, Qatar, 1 to 3 October 2013

---

## SAMOA

### Arrangement of Provisions

#### PART 1 PRELIMINARY

1. Short title and commencement
2. Interpretation
3. Objectives
4. Act binds Government

#### PART 2 OMBUDSMAN

5. Continuation and legal personality
6. Independence
7. Appointment
8. Selection and criteria
9. Oath of office
10. Terms of office
11. Remuneration
12. Ombudsman to hold no other office
13. Acting Ombudsman
14. Resignation
15. Removal and suspension
16. Automatic vacation of office
17. Vacancy

#### PART 3 ADMINISTRATIVE DECISIONS

#### *Division 1 – Powers and proceedings*

18. Powers to investigate administrative decisions
19. Referral of matters by parliamentary committees or Prime Minister
20. Overriding powers
21. Matters not to be investigated
22. Mode of complaint
23. Refusal to investigate complaint
24. Proceedings
25. Right to be heard and consultation
26. Referral of matters to appropriate authority
27. Other procedures

#### *Division 2 – Results of investigations and immunities*

28. Procedures after investigation
29. Right to be heard on any adverse comments
30. Complainant to be informed of result of investigation
31. Proceedings not to be questioned or to be subject to review

32. Ombudsman not to give evidence

**PART 4  
HUMAN RIGHTS**

*Division 1 - Functions*

33. Functions

*Division 2 - Inquiries*

34. Initiating inquiries

35. No inquiry on matters before the courts

36. Inquiry reports

37. Parliamentary scrutiny

*Division 3 – Other matters*

38. Complaints

39. Advisory groups and experts

40. State of human rights report

**PART 5  
SPECIAL INVESTIGATION  
UNIT**

41. Establishment and functions

**PART 6  
GENERAL POWERS**

42. Application

43. Production of documents, information and evidence

44. Secrecy protected

45. Privileges and immunities

46. Allowances and fees

47. Disclosure of certain matters not to be required

48. Power to enter premises

49. National interest matters

50. Confidentiality of information

51. Directives for non-disclosure of information

52. Delegation of powers

**PART 7  
ADMINISTRATION  
AND FINANCE**

*Division 1 – Office*

53. Establishment

54. Appointment and remuneration of staff

55. Guidelines for employment

*Division 2 – Funds and annual reports*

56. Funds

57. Annual reports

**PART 8  
OFFENCES**

58. Offences of obstruction, non-compliance, false statements, etc.

59. Offence of failure to attend or provide documents

60. Offence of refusal to give evidence

61. Perjury

62. Contempt

63. Victimisation

**PART 9  
MISCELLANEOUS**

64. Exemption from fees

65. Exemption from personal liability

66. Non-derogation

67. Regulations

68. Repeals, savings and transitional

Schedules

**2013, No. 12****AN ACT to:**

**(a) continue the Ombudsman (*Komesina o Sulufaiga*) established under the *Komesina o Sulufaiga (Ombudsman) Act 1988*; and**

**(b) provide the functions, duties and powers to promote good governance in public administration; and**

**(c) provide the functions, duties and powers relating to human rights for ensuring the dignity, equality and worth of individuals and recognising that individuals have the right to life, liberty and freedom from discrimination; and**

**(d) provide for related purposes.** *[5th June 2013]*

**BE IT ENACTED** by the Legislative Assembly of Samoa in Parliament assembled as follows:

**PART 1  
PRELIMINARY**

**1. Short title and commencement-**(1) This Act may be cited as the Ombudsman (*Komesina o Sulufaiga*) Act 2013.

(2) This Act commences on the date of assent by the Head of State.

**2. Interpretation** - In this Act, unless the context otherwise requires:

“administrative decision” means a decision or recommendation made (including any recommendation made to a Minister), or any act done or omitted, on a matter of administration of a Ministry or organisation;

“complaint”, for Part III, means a complaint about an administrative decision, and “complainant” has a corresponding meaning;

“human rights” means human rights contained in any of the following:

- (a) in Part II of the Constitution and other laws of Samoa;
- (b) customary international law;
- (c) treaties and conventions listed in Schedule 1.

“investigation” means an investigation carried out under Part 3;

“Ministry or organisation” means:

- (a) a Ministry listed under the Ministerial and Departmental Arrangement Act 2003 or established by an Act; or
- (b) a public office, government agency or government corporation established by an Act or the Government; or
- (c) a public body listed under the Public Bodies (Performance and Accountability) Act 2001.

“Office” means the Office of the Ombudsman continued by section 53;

“officer” for a Ministry or organisation, includes an employee, a member of a board or committee or any other person engaged to perform an administrative decision;

“Ombudsman” means the person appointed under section 7 as the Ombudsman (*Komesina o Sulufaiga*);

“Speaker” means the Speaker of the Legislative Assembly;

“staff” means Assistant Ombudsmen, officers and other staff of the Office, and includes other persons engaged to carry out the functions, duties and powers under this Act.

**3. Objectives** - The objectives of this Act are:

- (a) to promote transparency, accountability and integrity in the administration and decision making of Ministries and organisations; and
- (b) to promote and protect the dignity of humankind enshrined in the Constitution, international human rights law, as the foundation of a fair, just and peaceful society.

**4. Act binds Government** - This Act binds the Government.

## PART 2 OMBUDSMAN

**5. Continuation and legal personality** - The Ombudsman (*Komesina o Sulufaiga*), previously established under the *Komesina o Sulufaiga (Ombudsman) Act 1988* continues and is established under this section as an independent corporate sole with perpetual succession and common seal and may:

- (a) own and dispose of property and other assets; and
- (b) enter into contracts; and
- (c) sue and be sued; and
- (d) do any other thing that a person may do in law.

**6. Independence**-(1) The Ombudsman:

- (a) is an independent officer of Parliament; and
- (b) must independently carry out the functions, duties and powers under this Act; and
- (c) when carrying out the functions, duties and powers under this Act, is not to be subject to a direction or influenced by a person, officeholder or authority.

(2) This section does not prevent a court from making a direction or order whether the Ombudsman:

- (a) has carried out the functions, duties and powers under this Act; or
- (b) should or should not carry out the functions, duties or powers.

**7. Appointment** - Subject to section 8, the Head of State may appoint a person recommended by the Legislative Assembly as the Ombudsman.

**8. Selection and criteria**-(1) The Ombudsman is to be selected pursuant to the selection processes and criteria set out in Schedule 3.

(2) An appointment that is not pursuant to section 7 and Schedule 3 is void.

**9. Oath of office** - The Ombudsman must, before taking office, take before the Speaker the oath of office set out in Part 1 of Schedule 2.

**10. Terms of office** - The Ombudsman:

- (a) is appointed for six (6) years; and
- (b) is eligible for re-appointment; and
- (c) on expiry of the term, continues in office until re-appointed or a successor takes the oath of office.

**11. Remuneration**-(1) The salary, allowances and other benefits of the Ombudsman are determined under the Remuneration Tribunal Act 2003 by the Tribunal taking into account the terms and conditions of other parliamentary officers and constitutional office holders.

(2) The salary, allowances and other benefits of the Ombudsman are not to be reduced during the term of office of the Ombudsman, unless as part of a general reduction of salaries applied proportionately to all persons whose salaries, allowances and other benefits are determined under the Remuneration Tribunal Act 2003.

(3) The salary, allowances and other benefits referred to in subsection (1) are to be charged on the Treasury Fund, without further appropriation than this subsection.

**12. Ombudsman to hold no other office**-(1) The Ombudsman must not:

- (a) become a Member of Parliament while in office; or
- (b) without the approval of the Speaker in each particular case, hold any other office or employment or engage in any activity or practice that may in any way conflict with the Ombudsman's actual or perceived independence or impartiality.

(2) If the Ombudsman becomes aware of an actual or perceived conflict of interest, the Ombudsman must:

- (a) immediately inform the Speaker; and
- (b) take immediate action to avoid the conflict of interest.

**13. Acting Ombudsman** - If the Ombudsman is unable to carry out the functions of the office because of illness, absence on leave or from Samoa, vacancy or any other reason:

- (a) the Ombudsman; or
- (b) the Head of State for vacancy of office on death,

may, in writing, designate an Assistant Ombudsman to carry out the functions of the Ombudsman.

**14. Resignation** - The Ombudsman may, in writing to the Head of State, resign from office.

**15. Removal and suspension**-(1) The Head of State, acting on the recommendation of the Legislative Assembly, may remove the Ombudsman from office for inability to perform the functions of the office arising from infirmity of body or mind or for misconduct in office.

(2) The Ombudsman may not otherwise be removed except under this section.

(3) If the Legislative Assembly considers that the question of removal from office ought to be investigated, the Legislative Assembly may appoint a tribunal, consisting of:

- (a) a retired judge in Samoa or elsewhere or a lawyer qualified for appointment as a judge of the Supreme Court, as chairperson; and
- (b) two (2) other members.

(4) If the question relates to infirmity of body or mind, one of the members under subsection (3)(b) must be a medical practitioner registered under the Medical Practitioners Act 2007.

(5) The tribunal must enquire into the matter and provide a written report of the facts and its findings to the Legislative Assembly.

(6) If the question of removing the Ombudsman has been referred to the tribunal, the Head of State, acting on the recommendation of the Legislative Assembly, may suspend the person from office pending the determination of the question of removal.

(7) The terms and conditions for a tribunal are to be prescribed by regulations or determined by the Speaker if no regulations are made.

**16. Automatic vacation of office-**(1) As an exception to section 15, the office of the Ombudsman automatically becomes vacant if the Ombudsman:

- (a) becomes subject to an order of medical custody under the Mental Health Act 2007; or
- (b) has been adjudged bankrupt by a court of competent jurisdiction; or
- (c) has been duly nominated under section 48 of the Electoral Act 1963; or
- (d) has been convicted by a court or tribunal of competent jurisdiction, in Samoa or elsewhere, of any of the following -
  - (i) a serious criminal offence;
  - (ii) misuse of public funds;
  - (iii) a provision of this Act.

(2) In this section, “serious criminal offence” means an offence that prescribes a fine of at least 20 penalty units or imprisonment of at least two (2) years.

(3) The effective date of vacation of office is the date of the order, adjudication or conviction.

(4) If there is doubt as to the effective date of vacation of office, the Speaker may determine the date.

**17. Vacancy-**(1) The office of the Ombudsman becomes vacant when the Ombudsman dies, retires or resigns or is removed from office or vacates the office under section 16.

(2) A vacancy is to be filled pursuant to section 7 and Schedule 3.

**PART 3**  
**ADMINISTRATIVE DECISIONS**

*Division 1 – Powers and proceedings*

**18. Powers to investigate administrative decisions-**(1) The Ombudsman may, on complaint or own initiative, investigate any administrative decision that affects a person in the person's personal capacity made by any of the following:

- (a) a Ministry or organisation; or
- (b) an officer when carrying out a power or function conferred by an enactment.

(2) The Ombudsman may, commence an investigation upon receiving a complaint even if the complaint may not, on its face, be against any administrative decision.

**19. Referral of matters by parliamentary committees or Prime Minister-**(1) Without limiting section 18, a parliamentary committee may refer to the Ombudsman:

- (a) to investigate a petition that is before that committee for consideration, or a matter to which the petition relates; and
- (b) subject to any special direction of the committee -
  - (i) investigate the petition or matter if it is within the Ombudsman's jurisdiction; and
  - (ii) make a report to the committee.

(2) Section 23, 29 or 30 does not apply to the investigation or report made under subsection (1).

(3) Without limiting section 18 and subsection (1), the Prime Minister may, refer a matter to the Ombudsman (except a matter about a judicial proceeding) if the Ombudsman consents to such a referral for investigation and report.

(4) Despite other provisions of this Act, the Ombudsman:

- (a) must -
  - (i) investigate the matter under subsection (3) if it is within the Ombudsman's jurisdiction; and
  - (ii) make a report to the Prime Minister; and

- (b) may send a copy of the report to Parliament.
- (5) Section 28 does not apply to an investigation or report made under subsection (4).

**20. Overriding powers** - The powers of the Ombudsman under this Act may be exercised as an exception to any enactment to the effect that:

- (a) the administrative decision is final; or
- (b) no appeal lies for the administrative decision; or
- (c) no proceeding or decision of the person or organisation whose administrative decision it is must be challenged, reviewed, quashed, or called into question.

**21. Matters not to be investigated**-(1) This Act does not authorise the Ombudsman to investigate any of the following:

- (a) an administrative decision for which there is, under an enactment, a right of appeal or objection, or a right to apply for a review, on the merits of the case, to a court, or to any tribunal constituted under an enactment, whether or not -

- (i) the right of appeal, objection or application has been exercised in the particular case; and

- (ii) any time, prescribed for the exercise of that right has expired;

- (b) a decision, recommendation, act, or omission of a trustee within the meaning of the Trustee Act 1975;

- (c) a decision, recommendation, act, or omission on any proceedings made -

- (i) by the legal adviser to the Ombudsman pursuant to the rules of the time being approved by the Government for the conduct of Government legal business; or

- (ii) by counsel for the Government.

- (2) If a question arises whether the Ombudsman has jurisdiction to investigate a case or class of cases under this Part, the Ombudsman may apply to the Supreme Court for a

declaratory order determining the question under the Declaratory Judgments Act 1988.

**22. Mode of complaint-**(1) A complaint to the Ombudsman may be made in person, in writing, by telephone or in any other form of communication.

(2) As an exception to any enactment, a letter written and addressed to the Ombudsman by:

(a) a person in custody on a charge or after conviction of an offence; or

(b) an inpatient under the Mental Health Act 2007,

must be immediately forwarded, unopened, to the Ombudsman by the person-in-charge of the place or institution where the writer of the letter is detained or of which writer is an inpatient.

(3) A person, other than the Ombudsman, who opens a letter in contravention to subsection (2) commits an offence and is liable to a fine not exceeding 20 penalty units.

**23. Refusal to investigate complaint-**(1) The Ombudsman may refuse to investigate a complaint further, if, when investigating the complaint within his or her jurisdiction, it appears to the Ombudsman that:

(a) under the law or existing administrative practice there is an adequate remedy or right of appeal, other than the right to petition Parliament, for the complaint (whether or not the complainant has utilised the remedy or right); or

(b) having regard to all the circumstances of the case, a further investigation is unnecessary.

(2) Without limiting the powers under this Act, the Ombudsman may decide not to investigate or not to further investigate a complaint if:

(a) it relates to an administrative decision of which the complainant has had knowledge for more than 12 months before the complaint is received by the Ombudsman; or

(b) in the Ombudsman's opinion -

(i) the subject-matter of the complaint is trivial;  
or

- (ii) the complaint is frivolous or vexatious or is not made in good faith; or
- (iii) the complainant does not have a sufficient personal interest in the subject-matter of the complaint.

(3) If the Ombudsman decides not to investigate or further investigate a complaint, the Ombudsman must inform the complainant of the decision (and may state reasons for the decision).

**24. Proceedings-**(1) The Ombudsman must, before investigating a matter, inform the chief executive officer of the Ministry or organisation affected, of the Ombudsman's intention to make the investigation.

- (2) The Ombudsman may:
  - (a) hear or obtain information from a person; and
  - (b) make inquiries.
- (3) The Ombudsman:
  - (a) must conduct the investigation in private; and
  - (b) is not required to hold a hearing.

**25. Right to be heard and consultation-**(1) A person is not entitled as of right to be heard by the Ombudsman.

(2) If during an investigation it appears to the Ombudsman that there may be sufficient grounds for the Ombudsman to make a report or recommendation that may adversely affect a Ministry, organisation or person, the Ombudsman must give the Ministry, organisation or person an opportunity to be heard.

(3) The Ombudsman may, during or after an investigation, consult the Minister responsible for the matter being investigated.

(4) On the request of the Minister responsible for the matter being investigated or if an investigation relates to any recommendation made to a Minister, the Ombudsman must, after making the investigation, consult the Minister before forming a final opinion on a matter referred to in section 28(1) or (2).

**26. Referral of matters to appropriate authority** - If, during or after an investigation, the Ombudsman is of the opinion that there is evidence of a breach of duty or misconduct on the part of an officer of a Ministry or organisation, the Ombudsman must refer the matter to the appropriate authority.

**27. Other procedures** - Subject to this Act, the Ombudsman may regulate other procedures under this Part.

*Division 2 - Results of investigations  
and immunities*

**28. Procedures after investigation**-(1) This section applies to the following cases:

(a) a case where, after an investigation, the Ombudsman is of the opinion that the administrative decision which was the subject-matter of the investigation -

(i) appears to have been contrary to law; or

(ii) was unreasonable, unjust, oppressive, or discriminatory, or was in accordance with a rule of law or a provision of any enactment or a practice that is or may be unreasonable, unjust, oppressive, or discriminatory; or

(iii) was based wholly or partly on a mistake of law or fact; or

(iv) was wrong;

(b) a case where the Ombudsman is of the opinion that -

(i) in the making of the administrative decision under an enactment, a discretionary power has been exercised for an improper purpose or on irrelevant grounds or on the taking into account of irrelevant considerations; or

(ii) for a decision made in the exercise of a discretionary power, reasons should have been given for the decision.

(2) If in a case to which this section applies the Ombudsman is of the opinion that:

- (a) the matter should be referred to the appropriate authority for further consideration; or
- (b) the omission should be rectified; or
- (c) the decision should be cancelled or varied; or
- (d) any practice on which the decision, recommendation, act, or omission was based should be altered; or
- (e) any law on which the decision, recommendation, act, or omission was based should be reconsidered; or
- (f) reasons should have been given for the decision; or
- (g) any other steps should be taken,

the Ombudsman must report the opinion and reasons to the appropriate Ministry or organisation, and may make recommendations.

(3) For the purposes of subsection (2), the Ombudsman:

- (a) may request the Ministry or organisation to notify the Ombudsman, within a specified time, of any steps that it proposes to take to give effect to the Ombudsman's recommendations; and
- (b) must also send a copy of the report and recommendations to the Minister or organisation concerned with the report; or
- (c) may make the report public if the report relates -
  - (i) to an own motion investigation; or
  - (ii) to an issue that is already in the public domain and it is in the public interest to make the report public.

(4) If, within a reasonable time after the report is made, no action is taken which in the opinion of the Ombudsman to be adequate and appropriate, the Ombudsman may:

- (a) after considering any comment made by the Ministry or organisation affected by the report, send a copy of the report and recommendations to the Prime Minister; and
- (b) make a report to Parliament on the matter.

(5) The Ombudsman must attach to a report sent or made under subsection (4) a copy of any comment made by the Ministry or organisation affected by the report.

**29. Right to be heard on any adverse comments** - As an exception to section 28, the Ombudsman must not, in any report made under this Act, make a comment that is adverse to a person unless the Ombudsman has given the person an opportunity to be heard.

**30. Complainant to be informed of result of investigation**-(1) If, on an investigation following a complaint, the Ombudsman makes a recommendation under section 28(2) and (3), and no action which seems to the Ombudsman to be adequate and appropriate is taken on the recommendation within a reasonable time, the Ombudsman:

(a) must inform the complainant of the recommendation; and

(b) may make any comment on the matter.

(2) The Ombudsman must in any case inform the complainant in writing of the result of the investigation.

**31. Proceedings not to be questioned or to be subject to review**-(1) A proceeding of the Ombudsman must not be held bad for want of form, except on the ground of lack of jurisdiction.

(2) A proceeding or decision of the Ombudsman must not be challenged, reviewed, quashed, or called into question in a court.

(2) A proceeding or decision of the Ombudsman must not be challenged, reviewed, quashed, or called into question in a court.

**32. Ombudsman not to give evidence**-(1) The Ombudsman or a staff member must not be called to give evidence in a court, or in any proceedings of a judicial nature, for anything coming to his or her knowledge when carrying out the functions, duties or powers under this Part.

(2) Anything said or any information supplied or any document or thing produced by any person in an inquiry or proceedings before the Ombudsman under this Part has the same privilege of an inquiry or proceedings in a court.

(3) A report made by the Ombudsman under this Part is taken to be an official report made by a person holding an inquiry under the authority of the Legislative Assembly.

## **PART 4 HUMAN RIGHTS**

### *Division 1 - Functions*

**33. Functions** - The Ombudsman has the following human rights functions:

(a) to promote public awareness of human rights and efforts to combat all forms of discrimination or corruption through the provision of information and education;

(b) to inquire into, and report on, alleged violations of human rights;

(c) to monitor and promote compliance with international and domestic human rights law including through any of the following -

(i) making recommendations as to the desirability of Samoa becoming a party to an international human rights instrument;

(ii) reviewing existing and proposed legislation or reviewing other laws for consistency with international human rights law and recommending additional legislative and other measures to protect human rights;

(iii) advising the Government on its reporting obligations under international human rights instruments and on the content of those reports;

(iv) providing information to the international human rights system, including the Human Rights Council and its mechanisms and the human rights treaty monitoring bodies;

(d) with the approval of a court, to participate in judicial proceedings as a friend of the court or as a party where human rights issues arise; or

(e) to visit all public and, subject to section 48, private places of voluntary and involuntary confinement or detention;

(f) to consult, engage and cooperate with relevant civil society organisations, including business and labour organisations, ethnic and minority organisations, and academic institutions, as the Ombudsman considers appropriate;

(g) to consult, engage and cooperate with other national, regional and international human rights bodies as the Ombudsman considers appropriate;

(h) to advise on any matter referred to the Ombudsman by the Government, having regards to the available resources and priorities of the Ombudsman;

(i) to produce and publicise reports on any of the functions in this section;

(j) to do anything incidental or conducive to the performance of any of the functions in this section or carry out any other human rights function under this Act.

### *Division 2 - Inquiries*

**34. Initiating inquiries** - If the Ombudsman becomes aware of widespread, systemic or entrenched situations or practices that violate human rights, the Ombudsman may initiate an inquiry.

**35. No inquiry on matters before the courts** - The Ombudsman may not inquire into a matter that is the subject of any proceedings pending in any court, unless the court proceedings have been unreasonably delayed and are invited to do so under section 33(d).

**36. Inquiry reports**-(1) If an inquiry finds evidence of human rights violations, the report may include any or all of the following:

(a) a determination that a violation of human rights has occurred and should not be repeated or continued;

- (b) a recommendation that a person should perform reasonable acts to redress the violation of human rights; and
  - (c) a recommendation that victims of violations are entitled to compensation for any loss or damage suffered;
  - (d) a recommendation for action to any person and require the person to report to the Ombudsman on the steps that the person has taken to give effect to the recommendations.
- (2) The Ombudsman shall:
- (a) make public the report, findings and recommendations; and
  - (b) provide Parliament with a copy of the report, findings and recommendations.
- (3) The Speaker shall cause the report to be tabled in Parliament pursuant to its Standing Orders for debate or referral to the relevant parliamentary committee.

**37. Parliamentary scrutiny-**(1) The parliamentary committee must scrutinise the report referred to it under section 36(3) under the Standing Orders and may require the Government or other persons to make formal responses to the report.

(2) The parliamentary committee must table its report, including any formal response, in Parliament for debate at its current or next meeting pursuant to its Standing Orders.

*Division 3 - Other matters*

**38. Complaints-**(1) The Ombudsman may receive oral or written complaints about breach of human rights.

(2) The Ombudsman may not investigate any individual complaints relating to human rights violations but the complaints may form the basis for conducting an inquiry under Division 2.

(3) With the written consent of the complainant, the Ombudsman may refer the complaint to the authority responsible for handling the complaint.

**39. Advisory groups and experts** - The Ombudsman may establish advisory groups or appoint an expert or a group of experts for the purpose of this Part pursuant to terms the Ombudsman considers appropriate.

**40. State of human rights report**-(1) The Ombudsman must, before 30 June in each year:

(a) prepare a report on the status of human rights in Samoa for the previous year, including the following -

(i) recommendations about reforms and other measures, whether legal, political or administrative, which could be taken to prevent or redress human rights violations;

(ii) any action taken by the Government on recommendations in any previous report;

(iii) any action taken by the Government to promote and protect human rights; and

(b) submit the report to the Speaker for tabling in the Legislative Assembly under its Standing Orders at its next meeting.

(2) When the report is tabled, the Legislative Assembly must refer the report to the parliamentary committee responsible for human rights to scrutinise the report pursuant to the Standing Orders.

(3) The parliamentary committee must:

(a) summon a Minister, public servant or other person affected by the report to appear before it to respond to any matter in the report; and

(b) prepare and transmit its report and recommendations to the Legislative Assembly to debate the report and the state of human rights in Samoa.

## PART 5 SPECIAL INVESTIGATION UNIT

**41. Establishment and functions**-(1) The Ombudsman may establish within the Office a special investigation unit for the purposes of:

- (a) receiving, investigating and determining any complaints about a police officer, prison officer or officer of other prescribed disciplined force; and
  - (b) carrying out any other functions, duties or powers under any other Act or as are prescribed by regulations.
- (2) The functions, duties and powers of the special investigation unit are as prescribed by regulations.
- (3) The unit:
- (a) must not investigate any matter that is being investigated or inquired into by the Police, Prisons or prescribed disciplined force under their respective Acts; or
  - (b) as an exception to paragraph (a), may investigate the matter if the Ombudsman has reasons to believe that -
    - (i) there is an abuse of process by the Police, Prisons or prescribed disciplined force; or
    - (ii) there has been an unreasonable delay in the investigation; or
    - (iii) the matter has not been appropriately investigated.
- (4) The Police or Prisons or prescribed disciplined force must not:
- (a) investigate any matter investigated by the unit; or
  - (b) continue investigating a matter being investigated under subsection (3)(b).

## PART 6 GENERAL POWERS

**42. Application** - This Part applies to Parts 3, 4 and 5.

**43. Production of documents, information and evidence-(1)**  
Subject to section 49, the Ombudsman may, for the purposes of Part 3, 4 or 5, require a person:

- (a) to provide any information; or

(b) to produce a document or thing, which may be in the possession or under the control of the person or for Part 3 under the possession or control of a Ministry or organisation.

(2) The Ombudsman may:

(a) summon and examine on oath -

(i) a person who is able to give the information under subsection (1);

(ii) the complainant under Part 3 or 5; or

(iii) any other person who is able to give the information; and

(b) administer oaths.

(3) The offence of perjury under the Crimes Ordinance 1961 applies to an examination under subsection (2) of this section.

(4) In conducting an investigation or inquiry, the Ombudsman:

(a) is not bound by strict rules of evidence or procedures; but

(b) must, at all times, conform to the principles of natural justice.

**44. Secrecy protected-**(1) Subject to subsection (2), a person who is bound by an enactment, other than the Public Service Act 2004, to maintain secrecy on a matter is not required:

(a) to supply any information to or answer a question put by the Ombudsman on that matter; or

(b) to produce a document or thing relating to the matter, if complying with the requirement would breach the enactment.

(2) The Ombudsman may require the person, with the prior written consent of a complainant, to supply information or answer a question or produce a document or thing relating only to the complainant.

(3) The person must comply with subsection (2).

**45. Privileges and immunities-**(1) A person has the same privileges and immunities in the giving of information, answering of questions, and production of documents and things as witnesses have in a court.

(2) Except on the trial of a person for perjury under the Crimes Ordinance 1961 on the person's sworn testimony:

(a) no statement made or answer given by the person or another person in an inquiry by or proceedings before the Ombudsman is admissible in evidence against a person in a court or at an inquiry or in any other proceedings; and

(b) no evidence in any proceedings or inquiry before the Ombudsman must be given against a person.

(3) No person is liable to prosecution for an offence against an enactment, other than this Act, by reason of the person's compliance with a requirement of the Ombudsman under this Division.

**46. Allowances and fees-**(1) A person who is required to attend before the Ombudsman under Parts 3, 4 or 5 is entitled to the witnesses' fees, allowances, and expenses fixed under regulations made under the Criminal Procedure Act 1972.

(2) For the purpose of subsection (1), the Ombudsman has the powers of a court under the regulations to fix or disallow, in whole or in part, or increase the amounts payable under the regulations.

**47. Disclosure of certain matters not to be required** - Subject to section 49, any enactment or other law which authorises or requires the withholding of a document, or the refusal to answer any question, on the ground that the disclosure of the document or the answering of the question would be injurious to the public interest does not apply to an investigation, proceedings or inquiry under this Act.

**48. Power to enter premises-**(1) For the purposes of this Act, but subject to other provisions of this section, the Ombudsman may:

(a) enter and inspect any premises occupied by a Ministry, organisation, and subject to sections 43 and 44, carry out an investigation in the premises under Part 3;

(b) enter any public premises or with the consent of the occupier, enter any private premises, for the purposes of an inquiry under Part 4 or 5.

(2) Before entering the premises under subsection (1)(a), the Ombudsman must notify the chief executive officer of the Ministry or organisation by which the premises are occupied.

(3) If consent is not given under subsection (1)(b) or in the opinion of the Ombudsman consent will not be given, the Ombudsman may apply to a judge of the District Court for a warrant to enter the premises.

**49. National interest matters-**(1) If the Attorney General certifies that the exercise of the powers under section 43 or 48:

(a) would prejudice the security or defence of Samoa (including Samoa's relations with the government of another country or with an international organisation), or the investigation or detection of offences; or

(b) would involve the disclosure of the deliberations of Cabinet; or

(c) would involve the disclosure of proceedings of Cabinet, or of a committee of Cabinet, on any matter of a secret or confidential nature,

the Attorney General -

(i) must not require the information or answer to be given or the document or thing to be produced for the purposes of Part 3, 4 or 5; or

(ii) for Part 3, may by written notice to the Ombudsman, exclude the application of section 48 to any specified premises or class of premises;

(iii) for Part 4 or 5, may by written notice to the Ombudsman, exclude the application of section 48 to any specified premises.

(2) Subsection (1)(a) applies only to subparagraph (ii) or (iii).

(3) The Attorney General must send the certificate (including the reasons for the certificate) to the Speaker for tabling in Parliament.

**50. Confidentiality of information-**(1) The Ombudsman and staff must maintain secrecy on matters that come to their knowledge under this Act.

(2) A staff must, before starting employment, take before the Ombudsman the secrecy oath set out in Part 2 of Schedule 2.

(3) As an exception to subsections (1) and (2) and subject to section 49, the Ombudsman may disclose in an Ombudsman's report made under this Act any matter as in the Ombudsman's opinion ought to be disclosed in order to establish grounds for the Ombudsman's conclusions and recommendations.

**51. Directives for non-disclosure of information-**(1) The Ombudsman may direct the following not to be published or disclosed to another person:

- (a) the name and identifying information concerning a person appearing before the Ombudsman;
- (b) any evidence given to the Ombudsman;
- (c) a document or thing produced to the Ombudsman.

(2) A person who contravenes a direction given under subsection (1) commits an offence and is liable on conviction to a fine not exceeding 50 penalty units.

**52. Delegation of powers-**(1) The Ombudsman may delegate to a member of staff any of the Ombudsman's functions, duties and powers under this Act ("delegation") except this power of delegation and the power to make any report under this Act.

(2) A delegation:

- (a) may be made to a member of staff or an office or a class of staff or offices;
- (b) may be made to a case or class of cases;
- (c) may be subject to conditions;
- (d) does not prevent the carrying out of delegated functions, duties or powers by the Ombudsman;
- (e) may be amended, suspended or revoked;
- (f) continues until revoked;
- (g) if the Ombudsman ceases to hold office, continues as if the delegation were made by the successor.

(3) A person purporting to exercise a delegated power must, when required, produce the authority of the delegation.

**PART 7**  
**ADMINISTRATION AND FINANCE**

*Division 1 - Office of the Ombudsman*

**53. Establishment-**(1) The Office of Ombudsman continues under this section comprising the following:

- (a) the Ombudsman;
- (b) one (1) or more Assistant Ombudsmen;
- (c) officers and staff;
- (d) any other person engaged by the Ombudsman for the purpose of this Act.

(2) Members of the staff report to and are accountable to the Ombudsman.

(3) The Ombudsman and staff are taken not to be employed in the Public Service for the purposes of the Public Service Act 2004.

**54. Appointment and remuneration of staff-**(1) Subject to this section, the Ombudsman may appoint sufficient number of staff for the purposes of this Act.

(2) The Ombudsman may determine:

- (a) the salaries and allowances of staff; and
- (b) the terms and conditions of their appointments,

taking into account the salaries, allowances, terms and conditions of appointment of similar independent agencies of the State.

(3) The Ombudsman must:

- (a) employ persons under this Act under contracts of employment; and
- (b) take into account the budget of the Office when appointing persons for the purpose of this Act.

(4) In this section, “appoint” includes confirm, promote, demote, re-grade, discipline, suspend, terminate or re-appoint.

(5) If officers and employees in the Public Service are given general increases in salaries or allowances, the salaries or allowances of staff are to be increased accordingly.

**55. Guidelines for employment-**(1) The Ombudsman may issue employment guidelines setting out:

- (a) procedures for appointments, disciplinary matters, demotions, suspensions or terminations; and
- (b) other matters relating to employment under this Act.

(2) If there are no guidelines issued under subsection (1), the Ombudsman must adopt the employment procedures in the Public Service.

*Division 2 - Funds and annual reports*

**56. Funds-**(1) The funds of the Ombudsman comprise the following:

- (a) monies appropriated by Parliament for the purpose of this Act; and
- (b) any fund received under subsection (3).

(2) Parliament must ensure that the Ombudsman has sufficient funds for the purposes of this Act.

(3) The Ombudsman may seek and receive additional funding from any person or organisation in Samoa or elsewhere, without compromising the independence of the Ombudsman or the objectives set out in section 3.

(4) The Ombudsman has the sole responsibility for the allocation of its funds.

(5) The Public Finance Management Act 2001 and the Audit Office Ordinance Act 1961 apply to the funds of the Ombudsman.

**57. Annual reports-**(1) Without affecting other reporting provisions in this Act, the Ombudsman must, in each year, prepare an annual report setting out the operations and financial matters of the Ombudsman for the preceding year.

(2) The Ombudsman must send the annual report to the Speaker for tabling in Parliament under its Standing Orders.

## PART 8 OFFENCES

### **58. Offences of obstruction, non-compliance, false statements, etc.**-(1) A person commits an offence who:

(a) without lawful justification or excuse, wilfully obstructs, hinders, threatens, intimidates, interferes with or resists the Ombudsman, staff or any other person when carrying out a function, duty or power under this Act; or

(b) without lawful justification or excuse, refuses or wilfully fails to comply with any lawful requirement of the Ombudsman or any other person under this Act; or

(c) wilfully makes any false statement to or misleads or attempts to mislead the Ombudsman or any other person in the exercise of the Ombudsman's powers, duties or functions under this Act.

(2) A person convicted under subsection (1) is liable:

(a) for an individual, to a fine not exceeding 200 penalty units or to imprisonment for a term not exceeding six (6) months;

(b) for a body corporate, to a fine not exceeding 500 penalty units.

**59. Offence of failure to attend or provide documents** - A person commits an offence who, after having been summoned, fails, without reasonable excuse, to appear or to produce any documents, books or information in the person's custody or control, before the Ombudsman, and is liable on conviction:

(a) for an individual, to a fine not exceeding 200 penalty units or to imprisonment for a term not exceeding six (6) months; and

(b) for a body corporate, to a fine not exceeding 500 penalty units.

**60. Offence of refusal to give evidence** - A person appearing as a witness before the Ombudsman commits an offence who refuses to be sworn or to make an affirmation or to

answer a question relevant to the inquiry put to the witness, and is liable on conviction:

- (a) for an individual, to a fine not exceeding 100 penalty units or to imprisonment for a term not exceeding three (3) months; and
- (b) for a body corporate, to a fine not exceeding 500 penalty units.

**61. Perjury** - A witness before the Ombudsman who knowingly gives evidence that is false commits the offence of perjury under the Crimes Ordinance 1961.

**62. Contempt** - A person commits an offence who wilfully insults the Ombudsman, or wilfully interrupts the proceedings of the Ombudsman, or is in any manner guilty of wilful contempt of the Ombudsman, and is liable on conviction:

- (a) for an individual, to a fine not exceeding 200 penalty units or to imprisonment for a term not exceeding six (6) months; and
- (b) for a body corporate, to a fine not exceeding 500 penalty units.

**63. Victimisation**-(1) A person commits an offence who wilfully victimises, intimidates, threatens or harasses another person on the ground that the person, or any associate of the person:

- (a) intends to make use of his or her rights under this Act; or
- (b) has made use of his or her rights, or promoted the rights of some other person, under this Act; or
- (c) has given information or evidence on a complaint, investigation, inquiry or proceeding under this Act; or
- (d) has declined to do an act which would contravene this Act; or
- (e) has done anything under this Act.

- (2) A person convicted under subsection (1) is liable:
- (a) for an individual, to a fine not exceeding 200 penalty units or to imprisonment for a term not exceeding six (6) months; and
  - (b) for a body corporate, to a fine not exceeding 500 penalty units.

## PART 9 MISCELLANEOUS

**64. Exemption from fees** - The Ombudsman is exempted from paying fees for any court or tribunal proceedings.

**65. Exemption from personal liability** - The Ombudsman or a staff member is not personally liable for carrying out, in good faith, any function, duty or power under this Act.

**66. Non-derogation** - This Act:

- (a) is in addition to any other enactment or law under which -
  - (i) a remedy or right of appeal or objection is provided for a person; or
  - (ii) a procedure is provided for the inquiry into or investigation of a matter; and
- (b) does not limit or affect the remedy, right of appeal, objection or procedure.

**67. Regulations**-(1) The Head of State, acting on the advice of Cabinet, may make regulations to give effect to or for the purposes of this Act, and in particular to amend Schedule 1 or 2.

(2) Regulations are to be laid before the Legislative Assembly.

**68. Repeals, savings and transitional**-(1) The *Komesina o Sulufaiga* (Ombudsman) Act 1988 is repealed.

(2) At the commencement of this Act:

- (a) the current Ombudsman continues in office under this Act for a term of six (6) years from the commencement of this Act unless he resigns or

is removed from office pursuant to this Act before the expiry of six (6) years;

(b) the current staff of the Ombudsman continue as if they were appointed under this Act as staff of the Office, subject to their current terms of employment;

(c) any pending complaint or investigation continues as if it were made under this Act;

(d) any property of the Government under the control or possession of the Ombudsman continues to be under the control or possession of the Ombudsman, subject to any agreement between the Government and the Ombudsman as to the ownership and transfer of the property.

(3) Regulations may be made under section 67 within two (2) years of commencement of this Act to deal with any other transitional or saving matter.

**SCHEDULE 1**

(section 2)

**LIST OF TREATIES AND CONVENTIONS**

- 1. Convention on the Elimination of Discrimination Against Women
- 2. Convention on the Rights of the Child
- 3. Discrimination (Employment and Occupation) Convention 1958 (No. 111)
- 4. International Covenant on Civil and Political Rights

**SCHEDULE 2**

(sections 9 and 50(2))

**OATHS**

**PART 1 – OATH/AFFIRMATION  
OF OFFICE OF OMBUDSMAN**

I,.....,[*swear by Almighty God/affirm*] that I:

(a) will well and truly serve the Independent State of Samoa;  
and

(b) will justly and faithfully carry out the duties of the Office  
of the Ombudsman in accordance with the law, without fear  
or favour, affection or ill will; and

(c) will not directly or indirectly, except as may be required  
in the discharge of my office, divulge any information  
received by me or on behalf of myself.

[*So help me God*].

## PART 2 - OATH/AFFIRMATION OF SECRECY FOR STAFF

I,....., [*swear by Almighty God/affirm*] that I will not directly or indirectly, except as may be required in the discharge of my duties under the Ombudsman Act 2013, divulge any information received by me or on behalf of myself under the Act.

[*So help me God*].

### SCHEDULE 3 (sections 8 and 17)

#### SELECTION AND CRITERIA

**1. Establishment-**(1) The Screening Committee (“Committee”) is established comprising the following members:

- (a) the Chairperson of the Public Service Commission, as Chairperson;
- (b) a retired judge or a lawyer qualified for appointment as a Supreme Court judge, appointed by the Chairperson;
- (c) a member to represent civil society groups and the private sector, appointed by the Chairperson.

(2) The following persons are not eligible for appointment under clause 1(1)(b) or (c):

- (a) a member of Parliament;
- (b) a Minister;
- (c) public servant or a person engaged by the Government or in the “service of Samoa” within the meaning under Article 111 of the Constitution;

- (d) a director or employee of a public body regulated under the Public Bodies (Performance and Accountability) Act 2001;

- (e) any other person prescribed by regulations.

(3) All members constitute a quorum.

(4) The Committee may regulate its own meeting procedures.

**2. Functions** - The Committee must consider applications and determine candidates for appointment or re-appointment as the Ombudsman.

**3. Advertisement of vacancies**-(1) When the position of the Ombudsman becomes vacant or will become vacant within six (6) months before expiry of the term, the Government must advertise the position in a newspaper having wide circulation in Samoa.

(2) The Government must send the list of applicants who responded to the advertisement under subsection (1), including any qualified individual it considers for appointment (“applicants”), to the Committee for determinations.

(3) If no applicant qualifies under clause 6, the vacancy must be re-advertised.

**4. Determination of applications** - When determining the suitability of the applicants for appointment or re-appointment, the Committee:

- (a) must take into account clause 6; and
- (b) may take into account clause 7.

**5. Report of the Committee**-(1) After determining the applications, the Committee must prepare and send to the Legislative Assembly a report on its determination setting out:

- (a) the names of all qualified applicants; and
- (b) the screening process.

(2) The report:

- (a) must include information and documentation that demonstrates how an applicant meets the criteria in clause 6 and why the Committee believes the applicant is suitable to be recommended by the Legislative Assembly to the Head of State for appointment;

- (b) may include information and documentation that demonstrate how an applicant meets any general criteria under clause 7.

(3) A copy of the report is to be sent to the Prime Minister.

**6. Specific criteria** - An applicant is not eligible for appointment as the Ombudsman unless the applicant is qualified for appointment as a judge of the District Court and meets the following criteria:

- (a) has extensive knowledge or experience in all of the following -
  - (i) the principles of human rights and relevant domestic and international human rights law;
  - (ii) the promotion and protection of human rights;
  - (iii) good governance and public administration;
 and
- (b) has the knowledge and experience in public governance and administration;
- (c) is recognised as being a person of integrity and good character; and
- (d) is capable of fulfilling the position with independence and impartiality; and
- (e) is a citizen of Samoa; and
- (f) any other criteria prescribed by regulations.

**7. General criteria** - In considering applicants, the Committee may consider any of the following general criteria:

- (a) knowledge of, or experience in -
  - (i) current economic, employment, and social issues;
  - (ii) cultural issues, Fa'a-Samoa and the needs and aspirations (including life experiences) of different communities in Samoa;
  - (iii) other diverse matters likely to come before the Ombudsman;
- (b) skills or experience in -
  - (i) public advocacy and education;
  - (ii) financial management;

- (iii) academia, social welfare, community development, law, business, commerce, economics or industry;
- (c) any other criteria prescribed by regulations.

---

**The Ombudsman (*Komesina o Sulufaiga*) Act 2013  
is administered by the Office of the Ombudsman.**

2. Annual Report



**OMBUDSMAN OF SAMOA**

***UPDATE REPORT  
TO PARLIAMENT***

**30 June 2012**

## TABLE OF CONTENTS

Page No.

|  |    |
|--|----|
| OFFICE OF THE OMBUDSMAN- What is it? .....                     | 3  |
| History of Ombudsman and why its works .....                   | 3  |
| How does it operate? .....                                     | 3  |
| Conclusions on Completion of Investigations .....              | 4  |
| Perspective of Samoan Ombudsman's Office .....                 | 4  |
| VISION .....   | 4  |
| MISSION .....  | 5  |
| Values and Principles .....                                    | 5  |
| Leadership Code Mechanism .....                                | 6  |
| The Office .....   | 6  |
| Staff .....  | 7  |
| Staff Capacity Building .....                                  | 7  |
| Practical Operations .....                                     | 8  |
| Remedies .....   | 9  |
| Relations with Other Agencies .....                            | 9  |
| Professional Standards Unit – Police .....                     | 11 |
| Human Rights Mandate .....                                     | 12 |
| Responsiveness and Attitude of Officials .....                 | 13 |
| Manner of Public Sector Service Delivery.....                  | 14 |
| Complaints Outside Jurisdiction .....                          | 15 |
| Complaints Received.....                                       | 15 |
| Ancillary Activities .....                                     | 16 |
| GENERAL COMPLAINTS:  |    |
| Electric Power Corporation (EPC)                               |    |
| ▪ Cash Power .....   | 16 |
| Ministry of Justice & Courts Administration                    |    |
| ▪ Alleged Defective Administration .....                       | 17 |
| Public Service Commission (PSC)                                |    |
| ▪ Insufficient Payment of Resignation Leave Entitlements ..... | 17 |
| Land Transport Authority                                       |    |
| ▪ Agency found to have acted reasonably and fairly .....       | 18 |
| Customs  |    |
| ▪ Internal weaknesses led to allegations of misconduct .....   | 18 |
| National Health Service & Samoa Medical Council                |    |
| ▪ Denial of medical practising .....                           | 19 |
| Ministry of Police & Prisons Services (MoPPS)                  |    |
| ▪ Failure to act/Unreasonable delay .....                      | 19 |
| Ministry of Justice & Courts Administration (MJCA)             |    |
| ▪ Irregular maintenance payments .....                         | 19 |
| Ministry of the Prime Minister & Cabinet (MPMC)                |    |
| ▪ New Passport Withheld .....                                  | 20 |
| Ministry of Education Sports & Culture (MESOC)                 |    |
| ▪ Unreasonable decision to decline re-employment .....         | 20 |
| Accident Compensation (ACC)                                    |    |
| ▪ Compensation claim .....                                     | 20 |
| Unbecoming Conduct - Abuse of Position and Power .....         | 21 |
| Baby Miracle : Right to Life .....                             | 23 |
| Unexpected loss in an election petition case .....             | 24 |

## **OFFICE OF THE OMBUDSMAN - What is it?**

In a nutshell, the Ombudsman is an institution that is premised on the people's right to proper governance. The Institution is independent from the Executive Government and serves to promote **fairness** and **justice** in the administration of Government policy. It has investigative powers that can be employed to protect people from abuses of power, arbitrariness, unintentional or intentional error, neglect and other manifestations of defective administration. As an Officer of Parliament the Ombudsman works under the auspices of Parliament. Ombudsman reporting is sanctioned as the reporting of Inquiries held by authority of the Legislative Assembly of Samoa.

### **History of Ombudsman and why it works**

The Ombudsman Institution has a long continuous history in Scandinavia. There were also much earlier manifestations of the concept in China and elsewhere. The modern version of it, introduced in 1962 into the English-speaking world has had resounding success and has spread quickly around the globe as a desirable addition to the constitutional machinery of the modern democratic state. Countries that emerged into nationhood after the advent and spread of the modern ombudsman concept have written the institution of ombudsman into their constitutions. Re-written constitutions

have also inserted Ombudsmen as constitutional bodies. In addition, some Pacific states have established Leadership Codes and have incorporated into their constitutions Leadership Commissions to administer such Codes. The Ombudsman is the central element of these Leadership Commissions.

The emergence of the Ombudsman in its now well established conventional form was a conscious effort in developed democracies to counter perceived tendencies, under the pressures of modern circumstances, to gloss over democratic ideals and other cherished values in the workings of governments. It is because such values are so highly cherished and universally espoused within a mature democratic society that the institution of the Ombudsman, with no axe of its own to grind, its informality of process and lack of coercive powers, works so well. In such environment, executive agencies of government readily assist Ombudsman effort to get to the bottom of investigated matters and generally stand ready to heed any remedial recommendations that may flow from such examination. In newer democracies and their still developing bureaucracies, attitudes and responses can be somewhat less accommodating.

### **How does it operate?**

The Ombudsman investigates complaints against public bodies, usually to ascertain whether the action complained of:

- (a) appears to have been contrary to law;

- (b) was unreasonable, unjust, oppressive, or improperly discriminatory, or was in accordance with a rule of law or a provision of any enactment or a practice that is or may be unreasonable, unjust, oppressive, or improperly discriminatory;
- (c) was based wholly or partly on a mistake of law or fact; or
- (d) was wrong.

In other instances, the Ombudsman seeks to form an opinion whether in the making of a decision or recommendation, or in the doing or omission of an act, a discretionary power was exercised for an improper purpose, or on inappropriate grounds, or on the taking into account of irrelevant considerations.

The Ombudsman may refuse to investigate a complaint if there is an adequate alternative remedy or right of review available, or having regard to all circumstances of the case, he considers any further investigation unnecessary.

The Ombudsman may also decide not to investigate a complaint on any matter of which there has been complainant knowledge of more than twelve months. Furthermore, a complaint may not be investigated if in the opinion of the Ombudsman the subject matter is trivial; the complaint is frivolous or vexatious or is not made in good faith; or if the complainant has not a sufficient personal interest in the subject matter of the complaint.

### **Conclusions on Completion of Investigations:**

The Ombudsman ordinarily may conclude and recommend:

- that a matter be referred to the appropriate authority for further consideration;
- that an omission be rectified;
- that a decision be cancelled or varied;
- that any practice on which a decision, recommendation, act, or omission was based be altered;
- that any law on which a decision, recommendation, act, or omission was based be reconsidered;
- that reasons be given for a decision;
- that any other steps be taken.

### **Perspective of Samoan Ombudsman's Office:**

#### **VISION**

*A Samoa that is governed to the satisfaction of its people, in accordance with enlightened democratic principles and practices while cherishing proven traditional values, in the pursuit of its economic and social welfare.*

## **MISSION**

*To redress administrative injustice and illegality in the public sector and to work with the Government and people in the promotion and entrenchment of good governance in Samoa.*

The Office also seeks to –

- ensure that the people are given explanations of decisions particularly affecting them; and
- improve the quality of public sector administration, by examining and where appropriate recommending changes to particular practices and procedures in public sector agencies.

The people of Samoa are entitled to good governance from their Government and to be treated legally, fairly and respectfully in their dealings with Government authorities. The Ombudsman's Office seeks to ensure that this happens.

## **Values and Principles**

Citizens have a proprietary interest in their elected government. The Ombudsman takes for granted their right to praise or criticise their government and to expect their quality of life to be enhanced and not detracted from, by what the Government does. In this respect the Office of the Ombudsman works on the premise that among other things the people expect that:

- *the rule of law will be observed and can be relied upon;*

- *ordinary citizens can get on with life in an environment of peace and security;*
- *citizens of whichever religion, ethnic origin, age or sex are not subject to improper discrimination;*
- *there is no curtailment of basic human rights; and of the liberty of the individual;*
- *standards of personal behaviour and integrity are maintained which guard against corruption and improper behaviour in the public sector.*
- *officials are adequately trained to carry out their duties with a minimum of maladministration and with sensitivity to how best to deliver services to the public;*
- *there is transparency in the process of government, to the extent that people understand the reasons why government takes the decisions it does, and are able to debate the issues so that the political executive could take note of their views;*
- *public officials are held G1*
- *accountable for their actions.*

Natural habitat for the Ombudsman institution is a community wherein universal commitment to democratic principles, fairness and justice is taken for granted and in which an enlightened and concerned public, and a preponderantly non-partisan free press are facts of life. This is the only environment in which the institution routinely works, as it should. This is the environment it must therefore endeavour to fashion.

Samoa cannot by any means claim parity with environment and circumstances that exist in the more mature democracies. On the other hand it has nothing to be ashamed of in its record of democratic governance. This is not to say that there need not be anxiety on account of practical democracy in Samoa as it continues to unfold. Samoa does not have the worst of the problems in governance that many new developing nations demonstrate in chronic fashion. In these, relatively speaking, very fortunate circumstances, the Samoan Ombudsman continues to see institution building and consolidation, awareness promotion and the fostering of values that underpin enlightened governance in an environment of justice and fairness as proper concerns for his office above all else at this time.

### **Leadership Code Mechanism**

Individual conduct that is not conducive to proper governance occurs in all communities. Samoa does not have a Leadership Commission as is found in neighbouring Pacific countries. Stand-by leadership code mechanism that is not elaborate can be put in place to address, should it be necessary, any problematical situations that arise that might not otherwise receive adequate attention. Suggestions to this end have been made by the Ombudsman to Government and recommended legislation in draft form has been in existence for some time. It remains to be seen whether Samoa opts for such mechanism.

Other good governance mechanisms that should be considered are freedom of information and privacy protection regimes. These are procedures that the Office of the Ombudsman could well oversee.

### **The Office**

The Office is located on the 5<sup>th</sup> floor of the Central Bank Building. The premises are excellent but few situations can ever be ideal in all respects. It has been put to us for instance that elements of prospective clientele could find the surroundings somewhat intimidating and a barrier to their coming forward to lodge complaints. The setting up of kiosks in public places such as the market during peak crowd time to facilitate the lodging of complaints from members of the public is an idea that arises from time to time. It has not been put totally out of consideration, as there is always something to be said for facilitation measures, provided they are not tantamount to solicitation.

### **Staff**

Leaving out the Ombudsman, the Office currently consists of the Assistant Ombudsman who often deputises for the Ombudsman and has day to day responsibilities for general administration and budgetary matters, the Principal Complaints Officer, an Office Manager and two supporting staff. This compares with an investigative strength of four when the Office was first established. It has not been possible with the money we offer to recruit and retain suitable officers to properly investigate, analyse, assess, and to write reports of acceptable quality. The Office has therefore not really enjoyed the optimal capacity it needs to have to carry out its functions with appropriate vigour. There seems no realistic alternative at the present time to recruiting at a lower level, individuals who are inexperienced but intelligent, conscientious and diligent

enough to become sufficiently proficient quickly on the job.

### **Staff Capacity Building**

The Investigations team within the Ombudsman's Office is of key importance to the achievement of the Law & Justice sector's goals and objectives under the head "Integrity & Good Governance". The team presently consists of the Assistant Ombudsman and the Principal Complaints Officer. The Office Manager is utilized also in investigative activities. The team is well respected in its dealings with agencies and complainants under the leadership of the Assistant Ombudsman. A significant element in this is perception of high ethical standards and soundness of character in members of the team. This is valuable in the small client community of the Office with the mix of cultures and standards, traditional and otherwise, found in it and the influence these have on people.

While the investigating team by the personal attributes and talents of its members and leader in particular is well placed to interact effectively with the client community on matters of interest to the Ombudsman's office it has not been attaining end results commensurate with its potential. Of particular concern has been weakness in progressing investigations and inability to produce finished work in the form of reports. To remedy this situation the Samoa Ombudsman sought assistance from the Pacific Ombudsman Alliance in the form of an experienced Ombudsman officer to work intimately with investigative staff in the full range of the office's work. We set out by such assignment to continue the links that have existed between the

Samoa Ombudsman's Office and the Office of the Australian Commonwealth Ombudsman for many years, and increasingly more formally from 2003, through successful placements in Samoa and in Canberra and other supportive interaction.

A three month placement of an officer from the Office of the Australian Commonwealth Ombudsman was a resounding success due largely to the ability of the placed officer to forge a relationship with staff that was immediately functional and effective for professional exchanges and for imparting knowledge and experience. The match-up of personalities was by chance a winning combination with potential that we were later able to exploit in follow up attachments to upgrade human capacities within the Samoa Office of the Ombudsman.

A programme of self-examination and institutional strengthening with the assistance of POA and AUSAID. consisted simply of attaching a single experienced officer from a regional jurisdiction to work alongside local officers for short periods of time. The objective of activities was the re-focusing of systems and processes as well as most importantly, staff efforts towards facilitating and dealing efficiently with complaints from the general public and especially from those least able to ensure that their concerns are examined.

The first stages of an outreach awareness programme financed by AUSAID through POA were implemented resulting in a

surge of approaches and complaints from the least empowered sector of the population. Happily, a revitalized office has shown great competence and energy in dealing with the increased work flow and new range of complaints.

In dealing with new work described here and immediately below, the Office has relied on the enthusiasm and expanded utilization of existing staff. While this has produced the highly satisfactory outcome just mentioned, office capacity to investigate the more complex issues and producing final reports thereon remains weak still. This can only be remedied by the recruitment into the office of staff with appropriate capabilities. We intend to do this in tandem with the expansion of the Office's mandate to include Human Rights. New personnel of appropriate calibre will play a crucial role in investigations, analysis and reporting on Human Rights issues as well as on identified matters for Ombudsman own motion investigations.

### **Practical Operations**

In the day-to-day context, the Office presently exists and operates under the Komesina o Sulufaiga (Ombudsman) Act 1988 to protect the individual against bureaucratic injustice and to contribute to the good governance of Samoa. Impartiality, informality, accessibility and affordability of service are elements that are implicit in the Ombudsman's role. Education of the people as to their rights and duties in a free and democratic society coupled with the enhancement of proper responsibility and accountability of public officers are other central tasks.

Although the Ombudsman Act requires complaints to be made in writing, complaints made by telephone or fax are acted upon. The Act also requires a fee to be paid with every complaint unless the Ombudsman directs no such fee to be payable. The Ombudsman has waived this fee from the beginning. It is not normal practice around the world to require payment of a fee when complaining to the Ombudsman.

Complainants are encouraged to appear in person when making complaints. At these interviews complaints are checked to see that they are within jurisdiction and that all appropriate information is obtained to assist an investigation. In this way investigations may be commenced immediately and appropriate advice and referrals made quite quickly. Many complaints are resolved at the complaints receiving officer level through telephone calls to the appropriate government organizations. In many cases, the dissatisfaction had arisen out of a lack of information or unproductive interaction with the agency concerned.

The first step in the investigation process is to inform the relevant agency or agencies of the complaint and to invite comment on allegations made. In some cases there is no need to proceed further. In others an investigator would visit the agency and interview appropriate officers. These informal methods are quicker and more productive than correspondence but the nature and substance of some complaints make extensive and drawn out exchanges of correspondence

unavoidable. There can also be cases where formal procedure requiring the taking of evidence under oath is employed. Strict confidentiality is maintained and the privacy of the complainant protected throughout unless complainants themselves make their complaints public or unless it is impossible to investigate properly without revealing the identities of the complainants.

## Remedies

The Ombudsman cannot direct remedial action. He may only recommend remedies he considers appropriate to the agencies concerned. This is consistent with the conventional Ombudsman model adopted by Samoa under its Act.

Whether or not the review of actual matters examined results in remedial action, the investigations and interaction with the Ombudsman that is generated by complaints serve to bring openness and transparency into the operations of public bodies. This is desirable in itself.

## Relations with Other Agencies

Public sector agencies are sometimes confrontational in their relations with each other due to perception of challenges to turf or perhaps even status. The Ombudsman is sometimes conscious of such attitudes towards his office from public agencies. It has to be appreciated that the Ombudsman does not get involved in issues he takes up for his own personal or institutional gratification. The functions and powers of the Ombudsman are given to him to be exercised **in the right** of the citizen who otherwise would

be relatively powerless against a governmental agency with which that citizen may take issue on matters of vital interest to him.

The Ombudsman is disinterested and not advocate for a complainant but a neutral entity that endeavours to form opinions on complaints based on reasonableness and fairness. Where the agency is considered to be right in any matter the Ombudsman must be equally forthright in declaring it as he would were the opposite to be the case.

Greater understanding will emerge only slowly as long as the Office of the Ombudsman is perceived as it tends to be viewed by almost everyone in authority as just another government department competing with others for resources and in the exercise of power. The Ombudsman is not interested in any power games, either with the agencies of Government or with regard to the general public. Unlike these agencies, the Ombudsman does not exercise any executive power or have any part to play in the formulation and implementation of the Executive Government's programme of activities that may dispense or withhold benefits etc. from the citizenry. It is not mandated like other agencies to carry out a particular service for which the Executive Government has a responsibility to provide.

The Ombudsman is unique among state functionaries in that he exerts no power, makes no laws, dispenses no public benefits, determines no policy and exercises no discretion over the affairs of people. He has extensive investigative

powers, which are accompanied not by directive or coercive powers but by a function only to recommend.

**The Ombudsman is a good governance mechanism created simply to put at the disposal of the people the special powers entrusted to the Ombudsman to scrutinize, from a position of independence and neutrality, the workings of the Executive Government in light of legitimate concerns of members of the public who may be affected by the activities of Government.** The Ombudsman's objective is to form an opinion on the reasonableness of official action or inaction brought to his attention and to recommend remedial action where appropriate.

In proper perspective and on the assumption that it is the Executive's intention in the first place to implement its various agendas fairly and justly, the Ombudsman is not a foe to be circumvented but a neutral observer who would look independently at "questionable" situations that arise, for fair and reasonable resolution.

Without coercive powers to impose his determinations on government agencies, the Ombudsman function can only be important and useful when there is a general will to make it so. The lead that the Executive gives in this regard is crucial.

### **Professional Standards Unit, Police**

The Police Service Act 2009 brought into existence the Professional Standards Unit

within the Police establishment to investigate complaints alleging neglect of duty, misconduct or corrupt or improper practice within the Police Service. The Act requires the Ombudsman to review the work of the PSU on a regular basis.

A Memorandum of Understanding signed between the Commissioner of Police and the Ombudsman on 18 January 2012 established procedures for the conduct of Ombudsman reviews of investigations carried out by the PSWU.

The first review carried out in February 2012 focussed on familiarising Ombudsman staff with the work of the PSU and on developing a methodology for future reviews. A follow up ad hoc review in April continued the focus on developing methodology and pressing the PSU to put their Standard Operations Procedures into routine practice. It was clearly early days yet in the Unit's establishment and finding its feet, nevertheless notice was given that rather than focussing on procedural aspects the next review of the PSU would give more attention to the quality and outcome of the investigations undertaken.

That subsequent review was not entirely satisfactory as the following quote from the Review Report of 25 June 2012 shows but hope of better things to come was also indicated: :

*"Due to absences of PSU staff at the time of review, it was not possible to carry out the full review intended by the Ombudsman for this quarter. The intention had been to quantitatively and qualitatively review work carried out by PSU on the complaints lodged since the establishment of the Register of Complaints in February 2012 as well as complaints about missing files lodged earlier.*

*The state of action on the various complaints was indicated on the PSU data base but it*

*was not possible to meaningfully review the results so recorded because the investigation files were not all available.*

***It is important to view completed files to ascertain whether the PSU investigations are:***

- (i) diligently carried out; and***
- (ii) taken to appropriate conclusions***

***Without proper clearance by independent review of these aspects, much of the value of having a PSU at all vanishes. There is serious indication that the PSU is not acting with the degree of diligence, objectivity and impartiality that is required.***

*This could well be a function of old habits and practices because this review has also revealed that the PSU is perfectly capable of carrying out its functions efficiently and effectively.*

*It is clear that visibly committed leadership to changing established habits and organizational culture can positively take things forward for the PSU and thereby the Samoa Police as a whole. Strategic leadership and effort as proven elsewhere can be highly transformative.*

*There is still much room for improvement in the area of PSU compliance with its established procedure. The processes set out in the PSU Operational Manual promote efficiency and professionalism in the conduct of investigations as well as appropriate accountability towards complainants.”*

## **Human Rights Mandate**

The Government after long consideration intends to expand the mandate of the Ombudsman in 2013 beyond his traditional maladministration and good governance role to include the protection and promotion of Human Rights in Samoa.

The impetus to create a National Human Rights Institute for Samoa has existed for a number of years. Within Samoa there have been strong advocates for such an institution in the public sector and perhaps even more so among the Non Governmental Organisations community. Externally there have been calls for the creation of an NHRI also. The Universal Periodic Review carried out in 2011 by the United Nations had this as one of its main recommendations and the Convention on the Rights of the Child (to which Samoa is a party) calls for an NHRI as part of Samoa's treaty obligations.

A number of workshops and meetings held in recent years discussed how the establishment of a national institute might be approached. In 2011 a scoping mission was carried out for Samoa by consultants at the expense of the Asia Pacific Forum. Their report detailed the best approach in the context of Samoa and identified the Ombudsman as the logical vehicle for the NHRI. NHRIs take two forms - a dual purpose Ombudsman or a stand-alone Human Rights Commission. The report concluded that resources and potential demand for

services indicated that a dual function Ombudsman would be cost-effective and best suited for the role.

The Report and Recommendations of the specialist consultants were considered by Government and eventually accepted by Cabinet on 21 May 2012. as the basis for moving forward on the establishment of an NHRI for Samoa.

Much work lies ahead and steps have been taken to make a start. An Australian Youth Ambassadors for Development Volunteer, Mr Ashley Bowe has been chosen to join the office as its Human Rights Officer to assist in the preparatory and transitional phases of the expanded office.

There will be consultations with overseas entities in the Human Rights field in the coming months as lead up to the drafting of legislation. The Attorney General's Office will undertake the actual drafting. The incoming Human Rights Officer will assist the office through these activities as he will also in the orientation of staff, the drawing up of a budget and with the preparatory work for the recruitment of new staff.

The Office will need to recruit three high calibre people with appropriate background to effectively execute its important duties and to satisfactorily discharge the educational, investigatory and reporting responsibilities it will be required to meet. It is envisaged that they will work to drive both the traditional Ombudsman objective of integrity in governance and the Ombudsman's Human Rights Mandate. It is expected that the skills they bring will be transferred to the existing staff, improving the effectiveness of the Office overall.

**The two main functions of the Ombudsman as the NHRI of Samoa will**

**be to promote and protect human rights, dignity and respect in Samoa.**

Within the responsibility to promote human rights lie a range of potential activities that will be considered for the NHRI strategy for an effective approach towards a more human rights conscious society.

To discharge the mandate to protect human rights the NHRI will conduct thematic investigations into areas of human rights violations, reporting to Parliament with their findings and recommendations. The NHRI will also work towards gaining the expertise to be able to review all future legislation to ensure it meets international standards of human rights and fulfils Samoa's treaty obligations. With legal expertise the NHRI will also be able to review case law and may be invited to sit in on ongoing cases to ensure application of human rights standards within the judicial system.

In addition to these two primary functions the NHRI will be mandated to interact with the international human rights framework through sharing information and knowledge with other NHRIs, helping Government with their UN Treaty Body reporting requirements and making representations to the international community where appropriate.

**Responsiveness and Attitude of Officials**

No one likes to be the cause of a complaint. This is only natural. It is unacceptable, however, that a public official should ever resent complaint from members of the public and any scrutiny of the official's actions or decisions that may ensue. The situation in this regard in the Samoan public sector has improved greatly but in my respectful view, routine acceptance of the public's entitlement to good service and reasonable treatment

still has some way to go. High tolerance for less than ideal service from the public sector is, on the other hand, a characteristic of the Samoan public that is still quite evident. Traditional deference to formal authority is also a factor.

### **Manner of Public Sector Service Delivery**

An important part of this office's mission is to foster instinctive acceptance of the community as a constant focus of public sector attention; and a healthier appreciation by public officials of the citizen's rightful place and dues in the scheme of things. A proper perspective of these things is often assumed to be part and parcel of the character and behaviour of public institutions. This however cannot be taken for granted.

There are many good, talented and dedicated individuals in the public sector of Samoa, but sadly, preponderant self perception of public officials seem to be very far from that of being servants of the public.

In the circumstances, power or opportunity to affect the lives and affairs of the ordinary citizen that is available to public sector operatives can too easily be exercised insensitively, or worse, in self-serving manner that satisfies officialdom's sense of importance first and foremost, ahead of the citizen's concerns and the business at hand.

Failure to accord appropriate priority to the public and its concerns is also

reflected in the sluggish manner in which some agencies respond to the inquiries of the Ombudsman on behalf of complainants. We have had to exercise a great deal of patience in the knowledge that resorting too readily to the formal measures available to the Ombudsman, besides its doubtful effectiveness in present local circumstances, can ultimately be counterproductive.

Perceiving the public as the reason for public sector existence has been receiving attention in good governance promotional activities instituted by Government in recent years within Public Service institutional strengthening programmes. Sadly, these activities have had little perceptible impact on the attitudes of public officials towards members of the public and their concerns.

The behaviour of many conveys a perception of roles as public overlords rather than public servants. Officials more often than not are preoccupied with flaunting power they can exercise or withhold. By action, demeanour and innuendo members of the public are made to feel that successful outcomes depend entirely on the personal dispositions of the officials concerned. These circumstances make for arrogant bureaucratic conduct, abuse of power and corruption.

When actions are opposed or questioned, officials appear concerned primarily to establish that they have legal power to do as they intend. Even when the basis or

extent of such power is questionable they do not relent, preferring to hold out at all costs against an individual who challenges authority or dares to point out that officials could be wrong. Against such single-minded and often ego based official determination the individual, the individual, in his mind, is left with little alternative in really important matters but to go to Court to get what may only be his reasonable due. This course of action has heavy financial costs. Such a state of affairs and its causative attitudes have no place in the public service of a population which typically has no money, little education beyond middle school and relies heavily on its public officials to do the right thing by it. Ironically enough the public service elite in large measure was educated and trained at public expense.

The Ombudsman takes a two-pronged approach to the issues that arise from the attitudes described. Firstly, the office undertakes education and promotion activities that help the public understand the role of the Ombudsman and the public servants understand their role better and that there is a watchdog to ensure that their powers are exercised appropriately. The second, more direct approach is to handle and deal with individual complaints against public officials or agencies, ensuring that the outcome produces a fair result and educates both the public and the official/agency of their role at the same time.

It would be trite and impractical to report the petty encounters and treatment experienced daily at public service counters. The complaints detailed below have been selected to provide insight into service delivery within the public sector. Three cases, although quite old are also included as examples of unusual issues

that the Ombudsman sometimes finds before him.

### **Complaints Outside Jurisdiction**

Some complaints and enquiries made to the Office fell outside the jurisdiction of the Ombudsman. Many of these approaches related to land and titles disputes.

The impact of some of these matters on the people who came to the Office are such that a great deal of time and effort is often required to deal with them.

### **Complaints Received**

The Office has been fielding numerous enquiries, oral complaints and requests for assistance on a wide range of public activities. Many of these were resolved informally through approaches to the agencies concerned. In the last twelve months about 350 matters raised were within jurisdiction. About 74% of complaints investigated were sustained. Alternative remedies were available for some complaints and were not taken up.

### **Ancillary Activities:**

An ancillary sphere of interest for the Ombudsman institution is the promotion of open government. In keeping with this, the Ombudsman has been accepting occasional invitations to chair dialogue seminars between planning and policy making agencies of Government and the private sector. Invitations were also

accepted to participate and to address good governance initiatives at the regional level.

The Ombudsman has been called upon from time to time to assist in worthwhile activities such as mediation in the service of the community.

The Office holds itself out ready to help and to participate in good governance programmes instituted by Government.

The Ombudsman has been serving on ad hoc committees in need of impartial personnel and has responded in the past to invitations to be involved in regional assignments.

## **GENERAL COMPLAINTS:**

### **ELECTRIC POWER CORPORATION (EPC)**

#### ***Cash Power***

An irate elderly consumer accused EPC of high-handedness when she discovered that without anybody telling her, she was not being credited with the full value of her cash power purchases. She could only afford to make small cash power purchases and the action taken by EPC was making life extremely difficult.

On inquiry she was told that she owed \$93.00 which EPC needed to recoup. She did not receive this well, reasoning that all her earlier cash power payments had been allowed their full value. Furthermore, as the published lists of people owing EPC arrears did not list her name, she assumed that she owed nothing to EPC.

EPC explained that when the cash power meter was installed, people in the house at the time were told like all other consumers that existing arrears would be recovered by deductions from future cash power payments. Published lists of accounts arrears were not represented as exhaustive. The uploading of data from hard copies to EPC's electronic accounting system meant that it took time for many accounts to be fully updated. The experience of the complainant was typical of accounts in this category.

It was explained to the Ombudsman also that much as the EPC might wish to relieve the kind of hardship claimed for the very small consumers by the complainant, the magnitude of her indebtedness was typical of the bulk of EPC consumers. It just was not plausible to do anything but recover the full amount of these debts from all consumers.

The complainant was fully satisfied when Ombudsman staff quietly explained the position of the EPC.

**MINISTRY OF JUSTICE & COURTS  
ADMINISTRATION (MJCA)**

***Alleged Defective Administration***

Mr D complained that MJCA had released an award he had won in Court to his lawyer when he (Mr D) had requested the cheque to be made out to him personally.

MJCA explained that Mr D had already been advised verbally and in writing that it was standard practice to release cheques to the lawyers on behalf of their clients.

The Ombudsman advised the complainant that MJCA had acted correctly and that should he have issues with his lawyer concerning fees then he should take these up with his lawyer or with the Law Society.

**PUBLIC SERVICE COMMISSION (PSC)**

***Insufficient Payment of Resignation  
Leave entitlements***

Mr P complained to the Ombudsman that an unreasonable decision by PSC had deprived him of final pay entitlements when he resigned to take up studies at a Theological Institute.

Mr P's regular position was Principal Officer in one of the Government Ministries but he took up an additional role as a Project Manager in a short term special project with PSC approval. His combined salary as Principal Officer/Project Manager was \$80,000 when he resigned both roles. Mr P believed that his termination benefits should have been calculated on his combined salary instead of his remuneration as Principal Officer.

Calculations of termination leave entitlement are based on an officer's regular salary and not on any temporary emoluments he may be receiving at the time of resignation. This was confirmed to the PSC by the Attorney General's Office as the legal position.

The Ombudsman did not consider the legal position unreasonable.

**LAND TRANSPORT AUTHORITY**

***Agency found to have acted  
reasonably and fairly***

An Ombudsman investigation found that a complaint regarding the suspension of Mrs A's bus licence was actually a grievance over whether her bus should be allowed to enter the Fugalei Market.

The investigation found that the LTA had taken all reasonable steps by carrying out proper safety and practicality field tests before coming to their decision, which was based on a need to ensure the safety of all market customers and stallholders.

The Ombudsman concluded that the LTA had taken a non-arbitrary approach and praised their actions as an example of good governance, finding nothing in the complaint to uphold.

any suggestion of misconduct on her part was dismissed.

Nonetheless the investigation concluded that poor record keeping and a lack of security relating to confidential information had led to this situation and recommendations were made to Customs as to what steps should be taken. It was noted that the Ombudsman would pay continuing attention to the agency to ensure steps were taken to implement the recommendations made in the report, and to provide assistance in improving their internal governance, if requested.

## **CUSTOMS**

### ***Internal weaknesses led to allegations of misconduct***

Under section 11(2) of the Komesina o Sulufaiga (Ombudsman) Act, an own motion investigation was initiated following an article in the Samoa Observer alleging a senior Customs official failed to prevent the importation of a prohibited vehicle, raising doubts as to whether this may have been a deliberate act.

The basis for the article was a leaked document to the newspaper which showed that Mrs B had changed the year of registration for the vehicle. During the course of the investigation it became evident that Mrs B had acted honestly and

## **NATIONAL HEALTH SERVICE AND SAMOA MEDICAL COUNCIL**

### ***Denial of medical practising licence was fair***

Upon referral from the Prime Minister, the Ombudsman investigated the case of Dr A, who had worked for the NHS as an eye doctor for a number of years until his contract ran down and the decision was made not to renew. It was understood at the NHS that Dr A would be returning to his native India and made provision for his travel.

However, Dr A had foreseen the non-renewal of this contract and established an independent eye clinic which was featured in newspaper coverage just prior to its opening. At this

stage Dr A had not secured the necessary practicing license and made hurried attempts to obtain this from the Samoa Medical Council.

The license was denied for a range of reasons, amongst which was that non-citizen doctors do not have an inherent right to come to Samoa and establish clinics.

In finding that Samoa Medical Council had not acted improperly in their denial of practicing licence, the Ombudsman also observed the need for a specialist eye doctor in Samoa and the barriers that existed in remedying this situation.

#### **MINISTRY OF POLICE & PRINSONS SERVICES (MPPS)**

##### ***Failure to act/Unreasonable delay***

At a celebratory party, a Police Officer allegedly threw a beer bottle at a female Police Officer causing injury to her face. She filed a complaint with the Police Professional Standards Unit. As there had been no apparent progress over a period of several months the father of the injured policewoman approached the Ombudsman about the matter.

Matters did move shortly afterwards resulting in criminal charges being laid. A conviction for actual bodily harm and

sentence of two months imprisonment followed.

#### **MINISTRY OF JUSTICE & COURTS ADMINISTRATION (MJCA)**

##### ***Irregular maintenance payments***

Ms. N complained to the Ombudsman that her former husband had failed to make regular maintenance payments as required by Court order. Presumably the primary cause of this would be her defaulting former husband but she seemed particularly unhappy also with the extent of the monitoring of the payments by MJCA and the explanations given to her by the Ministry.

MJCA undertook to meet with the complainant and to address straight away her concerns. The complainant was told to return to the Office of the Ombudsman if things did not turn out satisfactorily. It is assumed that things turned out well for her because she did not return.

In another similar case, the complainant returned to tell the Ombudsman that she was totally satisfied with the resolution of her problem and concerns by the Ministry.

#### **MINISTRY OF THE PRIME MINISTER & CABINET (MPMC)**

##### ***New Passport Withheld***

The complainant applied for a passport but after completing all the formalities she was told that she would not be getting one. Instead she was told that she already had been issued with a passport and that she needed to provide the Immigration Office with a Police Report on the loss of that passport.

It turned out that the complainant had been mistakenly identified by the Office as somebody else with the same name and year of birth. The confusion was sorted out appropriately.

## **MINISTRY OF EDUCATION, SPORTS & CULTURE (MESC)**

### ***Unreasonable decision to decline re-employment***

Mr. I was a former teacher who was dismissed for misconduct. After 5 years he sought reinstatement but was declined, he then reapplied 5 years later but was again refused. Mr. I felt that he had been sufficiently punished for his past transgressions and that PSC/MESC refusal to reemploy him was unfair.

The Ministry explained to the Ombudsman that at the time of dismissal PSC had decided, based on MESC recommendations, not to reemploy Mr. I anywhere in the Public Service in the future because of the seriousness of his misconduct. MESC stood by the decision due to Mr. I's unacceptable behaviour at

the time and that the reasons his request had been repeatedly declined had already been conveyed to him via correspondences and meetings.

The Ombudsman noting that MESC, as a matter of policy, was taking firm action to eradicate from the classrooms of today the kind of conduct, for which the complainant had been dismissed, determined that the Ministry's position in this matter was not unreasonable. The complainant would just have to look elsewhere for employment.

## **ACCIDENT COMPENSATION CORPORATION (ACC)**

### ***Compensation claim***

Mr. T complained to the Ombudsman that ACC declined his request for compensation from an accident in which he had sustained a spinal injury. Mr. T claimed that at the time of the accident which had occurred at his plantation, he was employed by a private fishing proprietor as a fisherman.

When Mr. T approached ACC, he was advised to procure all the necessary documents (medical report and employer confirmation) for process. After furnishing the relevant documentation, Mr. T was

later informed that his request was unsuccessful as it was difficult to ascertain the reliability of the information provided. At first glance of Mr. T, he was indeed someone who had suffered a severe injury, with his impaired walking and difficulty to write.

The ACC's investigations on the other hand revealed that Mr. T was actually unemployed at the time of the accident. The fishing proprietor explained that the employment of fishermen was undertaken on the basis of a fishing trip and ended once the fishing boat docked at the wharf. This was because there was no guarantee that the fishermen would turn up for the next fishing trip.

Mr. T's last fishing trip had been 7 weeks before the accident. He had also travelled to New Zealand a couple of months earlier under the RSE Scheme. The complainant was not an employee at the time of the accident and was not entitled to compensation under the ACC Act.

**The following three cases are quite old but are included as examples of unusual issues that can find their way to the Ombudsman:**

***Unbecoming Conduct; Abuse of Position and Power***

The complaint of sexual harassment, unfair demotion and victimization was

aimed at a Public Agency which did not have a grievance procedure in place. There had been "gossip" mention in local newspapers of allegations by a female employee against a superior officer. The media had maintained interest in the story. In due course it reported comments of full denial from the subject of the complaint and the fact that the matter was before the Ombudsman.

The complaint was of special interest to the media and to the public because it was the first sexual harassment complaint to be formally dealt with in Samoa. Sexual offences were generally regarded as matters for the criminal courts. Sexual harassment in the workplace was a foreign concept that was little understood. No domestic sexual harassment legislation had been enacted although the promotion of such legislation had been under serious consideration by certain agencies of Government.

The circumstance presented the Ombudsman's investigation with two difficulties. Firstly, sexual harassment had to be defined in an acceptable manner. Secondly, legal basis and legitimate criteria needed to be identified against which the alleged and independently gathered facts of the complaint could be considered.

With regard to the first matter we simply noted that in many countries sexual harassment is explained in legislation as unwelcome behaviour or attention of a sexual nature that interferes with an

individual's life. We noted further that in jurisdictions where sexual harassment had been extensively considered by the courts and special tribunals certain categories of sexual harassment in the work place had come to be well established.

For legal basis we focused on the common law implied duty of employers to employees under the employment contract, constitutional provisions against discrimination and the provisions of international conventions on women's rights.

**A conclusion of the report read:**

*“The total evidence point to the occurrence of sexual harassment as popularly perceived around the world and definitively expressed in the legislation of many countries. Central to the concept is personal entitlement not to be subjected to unwanted sexual advances, sexually objectionable environment, or sexually discriminatory treatment in the work place. Such entitlements are reasonable expectations in a free society and would appear in their essence to be encapsulated in the Constitution and Common Law of Samoa not to mention international conventions to which Samoa has acceded.*

*It is reasonable to conclude from all that was examined that the complainant was subjected on a number of occasions in the work place to unwelcome and unsolicited*

*sexual advances of a grave nature from the [officer concerned].”*

Findings of abuse of power were also recorded.

The Ombudsman's recommendations concerning the complainant were accepted.

The Management Board of the public enterprise concerned on receipt of the Ombudsman's report immediately terminated the employment of the officer concerned. The complainant's loss of pay and job content were appropriately remedied.

**Baby Miracle : Right to Life**

Media coverage of events following the birth at the National Hospital of a child identified in the reporting as “Baby Miracle” captured public interest and concern. The nature of allegations contained in the reporting prompted an own motion investigation into the matter.

The Hospital Authorities explained as follows:

- That the baby was born by caesarean section due to an abnormal lie as breech and had

congenital (born with) malformations that could only be surgically corrected at a certain age if she survived.

- Due to her malformations especially the mouth area, the baby could only be fed with expressed milk by spoon or syringe, thus resulting in poor weight gain and failure to thrive.
- That the only food for newborn babies in the first four to six months was breast milk and that solid food would cause fatal aspiration chest infection.
- That she was kept warm in an incubator like other newborns delivered by caesarean section.
- That the parents were informed of the baby's congenital problems and the medical prognosis being that it was generally considered rare for a newborn in this condition to survive for more than a few months or even a year.
- That after being informed, the parents requested the discharge of their baby from the hospital.

The issue that interested the Ombudsman in this matter was the simple question of whether or not hospital staff had given instructions not to feed the newly born baby. Comments in the press by the father of the baby insinuated that instructions to that effect had been given.

The comment and insinuation were repeated several times in the newspapers and were not countered in any way by the authorities.

The own motion investigation provided opportunity for the authorities to explain what actually happened and whether misunderstanding featured in media portrayal of events. The opportunity was not taken up.

At the time this writing was filed, Baby Miracle had undergone surgery in the United States through the kindness of THORN Ministries and other generous benefactors and had celebrated her 2nd birthday.

#### ***Unexpected loss in an election petition case***

A former Member of Parliament complained that malice and abuse of power brought about his loss in an election petition against his election following an overwhelming electoral victory in the General Elections. He claimed that personal animosity motivated or affected the manner of official intervention in the hearing of the petition.

The complainant had served as a cabinet minister in the parliamentary term immediately preceding the elections. He claimed that positions he had taken on a particular matter as a minister had been strongly resented by a certain official who according to the complainant had conflict of interests in such matter. The complainant believed that personal

animosity towards him from these past encounters resulted in his downfall at the hands of the government lawyers who were involved in the election petition case. For this reason, the complainant sought monetary compensation from the government to offset the heavy legal costs of defending against an election petition which in his view he ought not to have lost.

The Ombudsman very quickly concluded on the face of things that the complaint was out of jurisdiction. The Ombudsman does not investigate the conduct of the State's affairs by counsel representing it in legal proceedings. A formal investigation of the complaint was therefore not instituted. In view however of the seriousness of the allegations made by the complainant against government personnel and the nature of the issues raised it is appropriate to report briefly on the complaint.

Two things about the election petition case aroused suspicion and resentment in the complainant. One was the fact that the electoral authorities had never before taken part in any of the numerous election petition cases that had come to court since independence. It has to be noted however, that the General Elections in question were the first to be held after the creation of the

office of the Electoral Commissioner.

The second was an unexpected late development in the hearing when after the two contending parties had closed and the

government lawyer acting as counsel for the Electoral Commissioner had declared that he had nothing to add, the latter changed his mind and volunteered case law which by some accounts clinched the case against the complainant. Counsel acted in this way on the following morning reportedly against the wishes and instructions of the Electoral Commissioner who stood in the case as *amicus curiae* or friend of the Court.

Comments in the *Observer* newspaper by an important entity expressed strong criticism of the sequence of events. The commentary suggested that the actions of the government lawyers had improperly impacted unfairly on the complainant's interests and hinted at the complainant being deserving of some redress.

The complainant was adamant in his view that he had the case won but for the uninvited intervention at the last moment of government lawyers, not at the behest of their client in the case, the Electoral Commissioner, but on counsel's own initiative. The complainant saw this as wrong.

With all due respect to the complainant and his confident assertions in this matter, the fact remains that he lost because the Court ruled against him. The Court, it has to be assumed, took into account evidence and information it considered relevant from sources it considered appropriate. Acceptance by the Court of any party as *amicus curiae* is entirely the business of

the Court. As for the “uninvited” intervention of counsel in the matter, it has to be pointed out that it is a duty of appearing counsels as officers of the Court to draw the Court’s attention to all relevant authorities in a matter.



**ASIA PACIFIC FORUM**  
ADVANCING HUMAN RIGHTS IN OUR REGION

# ANNEX 6

## Nominations

### India and Mongolia

## Forum Councillors

### Annual General Meeting

---

#### **APF 18**

The 18th Annual Meeting & Biennial  
Conference of the Asia Pacific Forum of  
National Human Rights Institutions

Doha, Qatar, 1 to 3 October 2013

---

*Justice K. G. Balakrishnan*  
Chairperson  
(Former Chief Justice of India)



**National Human Rights Commission**  
Faridkot House, Copernicus Marg,  
New Delhi-110 001 India  
Phone : 91-011-23382514  
Fax : 91-11-23384863, 23386521  
E-mail : [chairnhrc@nic.in](mailto:chairnhrc@nic.in)

No. 7(7)/2012-Coord

Dated: 21<sup>st</sup> December 2012

**Dear Kieren Fitzpatrick**

I sincerely thank you and the APF Secretariat for the excellent arrangements made for the APF meetings in Amman, where we were able to take important decisions on the role National Human Rights Institutions should play to promote gender equality in the Asia Pacific Region.

I am writing to formally reiterate our offer at Amman to host the annual meeting of the Asia Pacific Forum in 2014 in India at New Delhi. We hope Forum Councillors will accept our offer. We would be honoured and delighted to host the meeting.

I hope to hear from you in due course.

With regards,

Yours sincerely,

  
(K G Balakrishnan)

**Mr. Kieren Fitzpatrick**  
Director,  
Asia Pacific Forum of NHRIs (APF),  
Sydney, Australia  
Email : [KierenFitzpatrick@asiapacificforum.net](mailto:KierenFitzpatrick@asiapacificforum.net)



**NATIONAL HUMAN RIGHTS  
COMMISSION OF MONGOLIA**

15140 Government Building no. XI, Liberty Square,  
Chingeltei district, Ulaanbaatar, MONGOLIA  
Tel: (976-51) 26-29-15, 26-65-06, Fax: (976-11) 32-02-84,  
E-mail: info@mn-nhrc.org; http://www.mn-nhrc.org

Date 28 Nov 2012  
Ref. 1/560

Kieren Fitzpatrick  
Director  
Asia Pacific Forum Secretariat  
Level 3, 175 Pitt Street  
Sydney NSW Australia  
Tel: +61 2 9284 9845  
By facsimile: +61 2 9284 9825  
By email: [kierenfitzpatrick@asiapacificforum.net](mailto:kierenfitzpatrick@asiapacificforum.net)

Dear Mr. Kieren Fitzpatrick,

Warm greetings from Mongolia!

First of all, I would like to congratulate the Secretariat of the Asia Pacific Forum of National Human Rights Institutions for successful Business Meeting held in Amman, Jordan, from 4 to 7 November, 2012.

The meeting was a great opportunity for convening to share experiences, strengthening relationships with other national institutions and discussing about future cooperation. The National Human Rights Commission of Mongolia greatly appreciates your positive responses to the proposals we raised during the meeting including hosting of 18<sup>th</sup> Annual Meeting of the Asia Pacific Forum.

Taking this opportunity, I would like to officially nominate the National Human Rights Commission of Mongolia for hosting of 18<sup>th</sup> ANNUAL MEETING AND BIENNIAL CONFERENCE of the Forum in Ulaanbaatar, Mongolia in 2015.

We sincerely hope that the Forum Councilors and the Secretariat will consider positively our proposal and support our willingness to be a host of the Meeting.

I wish all the best to your work and look forward to continuous and fruitful cooperation.

Sincerely yours,

Dr. Byambadorj Jamsran  
Chief Commissioner



**ASIA PACIFIC FORUM**  
ADVANCING HUMAN RIGHTS IN OUR REGION

## ANNEX 7

### Directors & Financial Report

## Forum Councillors

### Annual General Meeting

---

#### **APF 18**

The 18th Annual Meeting & Biennial  
Conference of the Asia Pacific Forum of  
National Human Rights Institutions

Doha, Qatar, 1 to 3 October 2013

---



ASIA PACIFIC FORUM  
ADVANCING HUMAN RIGHTS IN OUR REGION

# Annual Report 2012-2013



© Copyright Asia Pacific Forum of National Human Rights Institutions 2013

The APF permits free reproduction of extracts from this publication provided that due acknowledgement is given and a copy of the publication carrying the extract is sent to the following address:

Asia Pacific Forum of National Human Rights Institutions  
GPO Box 5218  
Sydney NSW 1042  
Australia

### **Design and layout**

Lisa Thompson, JAG Designs

### **Cover and section images**

United Nations photographs are the property of the United Nations, which holds all rights in connection with their usage. The photograph by Jerry Dohnal is copyright and reproduced under a Creative Commons license.

*Top left:* A child at the Mobarakpur community clinic in Kulaura Upazila, northeastern Bangladesh. UN Photo by Mark Garten.

*Bottom left:* Woman selling wares at the Damnoen Saduak floating market, Thailand. Photo by Jerry Dohnal.

*Top right:* An elderly Palestinian woman stands in front of her home, destroyed by a winter flood, in Mughraqa village in the middle of the Gaza Strip. UN Photo by Shareef Sarhan.

*Centre right:* A farmer walking to the paddy fields, Maos village, Indonesia. UN Photo by Ali Mustofa.

*Bottom right:* Villagers in Kyauk Ka Char, Shan State, Myanmar. UN Photo by Mark Garten.

*Page 52:* Afghan women sort pistachios by hand at a factory in Herat, Afghanistan. UN Photo by Eric Kanalstein.

# Contents

|  |           |
|--|-----------|
| List of abbreviations  | 2         |
| <hr/>  |           |
| <b>Introduction</b>  | <b>3</b>  |
| The Asia Pacific Forum   | 3         |
| Strategic objectives and activities                                      | 4         |
| Evaluation of performance  | 9         |
| <hr/>  |           |
| <b>1. Enhance members' institutional capacity</b>                        | <b>10</b> |
| 1.1. Training  | 11        |
| 1.2. Capacity assessments  | 15        |
| 1.3. Advisory Council of Jurists   | 18        |
| 1.4. Specialist capacity projects  | 19        |
| <hr/>  |           |
| <b>2. Enhance members' communication, cooperation and engagement</b>     | <b>24</b> |
| 2.1. Cooperation and engagement  | 25        |
| 2.2. Communications  | 29        |
| <hr/>  |           |
| <b>3. Promote compliance with the Paris Principles</b>                   | <b>32</b> |
| 3.1. Accreditation   | 33        |
| 3.2. Provision of advice to members and others                           | 35        |
| 3.3. Establishment of NHRIs  | 36        |
| <hr/>  |           |
| <b>4. Engage with international and regional human rights mechanisms</b> | <b>38</b> |
| 4.1. International mechanisms  | 39        |
| 4.2. Regional mechanisms   | 44        |
| <hr/>  |           |
| <b>5. Effective, efficient and strategic management of the APF</b>       | <b>46</b> |
| 5.1. Strategic management  | 47        |
| 5.2. Gender mainstreaming  | 48        |
| 5.3. Environmental impact  | 49        |
| 5.4. Financial management  | 50        |
| 5.5. Corporate governance  | 51        |
| 5.6. Allocation of expenditure   | 51        |

## List of abbreviations

|                         |   |
|-------------------------|---|
| <b>ACJ</b>              | Advisory Council of Jurists   |
| <b>ANNI</b>             | Asian NGOs Network on National Human Rights Institutions  |
| <b>APF</b>              | Asia Pacific Forum of National Human Rights Institutions  |
| <b>ASEAN</b>            | Association of Southeast Asian Nations  |
| <b>CSW</b>              | United Nations Commission on the Status of Women  |
| <b>ICC</b>              | International Coordinating Committee of National Institutions   |
| <b>NGO</b>              | Non-governmental organisation   |
| <b>NHRI</b>             | National human rights institution   |
| <b>OHCHR</b>            | United Nations Office of the High Commissioner for Human Rights   |
| <b>Paris Principles</b> | Principles Relating to the Status of National Institutions for the Promotion and Protection of Human Rights |
| <b>PIFs</b>             | Pacific Islands Forum secretariat   |
| <b>RWI</b>              | Raoul Wallenberg Institute  |
| <b>SAARC</b>            | South Asian Association for Regional Cooperation  |
| <b>SCA</b>              | ICC Sub-Committee on Accreditation  |
| <b>UN</b>               | United Nations  |
| <b>UNDP</b>             | United Nations Development Programme  |
| <b>UPR</b>              | Universal Periodic Review   |

# Introduction

The Asia Pacific Forum of National Human Rights Institutions (APF) is a regional organisation that supports the establishment and strengthening of national human rights institutions (NHRIs) in the Asia Pacific. It provides practical assistance and support to its individual member institutions to enable them to more effectively undertake their own human rights protection, monitoring, promotion and advocacy. The objective of the APF is to protect and promote the human rights of the people of the Asia Pacific region.

## THE ASIA PACIFIC FORUM

The work of the APF can be categorised under three broad areas:

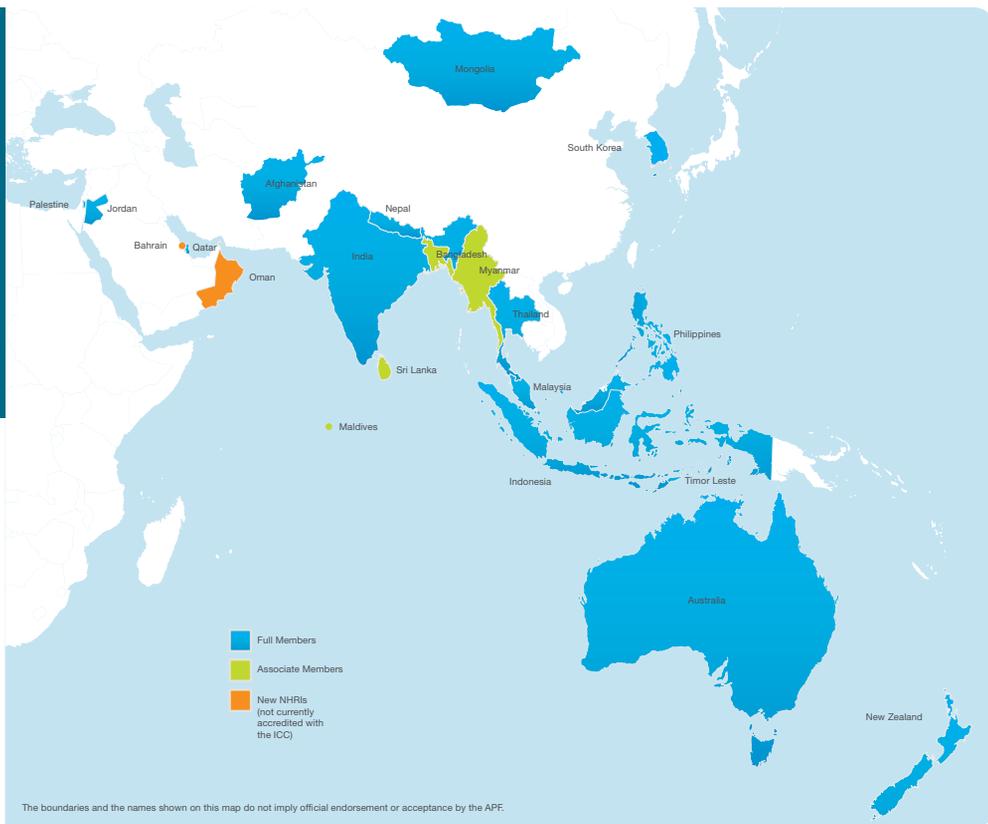
1. Strengthening the capacity of individual APF member institutions to enable them to more effectively undertake their national mandates.
2. Assisting governments and civil society to establish and strengthen NHRIs in compliance with the minimum criteria contained in the Paris Principles.
3. Promoting sub-regional, regional and international cooperation on human rights issues.

Throughout the reporting period the APF worked with its member NHRIs, local, regional and international non-governmental organisations (NGOs), governments, and international organisations to bring about improvements in human rights.

The APF currently has the following 19 member institutions:

- the **Afghanistan** Independent Human Rights Commission
- the **Australian** Human Rights Commission
- the National Human Rights Commission of **Bangladesh**
- the National Human Rights Commission of **India**
- the **Indonesian** National Commission on Human Rights
- the **Jordan** National Centre for Human Rights
- the Human Rights Commission of **Malaysia**
- the Human Rights Commission of the **Maldives**
- the **Myanmar** National Human Rights Commission
- the Human Rights Commission of **Mongolia**
- the National Human Rights Commission of **Nepal**
- the **New Zealand** Human Rights Commission
- the **Palestine** Independent Commission for Human Rights
- the **Philippines** Commission on Human Rights
- the National Human Rights Committee of **Qatar**
- the National Human Rights Commission of the **Republic of Korea**
- the Human Rights Commission of **Sri Lanka**
- the National Human Rights Commission of **Thailand**, and
- the Provedor for Human Rights and Justice of **Timor-Leste**.

The APF's membership increased by one institution during 2012–13 with the inclusion of the Myanmar National Human Rights Commission as an associate member. Further information on the APF and its individual members is available at [www.asiapacificforum.net](http://www.asiapacificforum.net).



## STRATEGIC OBJECTIVES AND ACTIVITIES

This Annual Report covers the period 1 July 2012 to 30 June 2013. The report details the APF's activities under the following five key strategic objectives:

1. enhance members' institutional capacity
2. enhance members' communication, cooperation and engagement
3. promote compliance with the Paris Principles
4. engage with international and regional human rights mechanisms, and
5. effective, efficient and strategic management of the APF.<sup>1</sup>

The following major activities were undertaken by the APF during the reporting period.

<sup>1</sup> As amended by Forum Councillors at the 16th Annual Meeting of the APF to include gender mainstreaming as a cross-cutting strategic objective.

| Date and location   | Activity  |
|---|---|
| <b>JULY 2012</b>  |   |
| 23 June – 6 July 2012<br>Geneva, Switzerland                  | 20th Session of the United Nations (UN)<br>Human Rights Council   |
| 7–9 July 2012<br>Doha, Qatar                                  | Meetings with the National Human Rights Committee<br>of Qatar   |
| 9–24 July 2012<br>Philippines                                 | Philippines Commission on Human Rights:<br>Capacity assessment  |
| 16–21 July 2012<br>New York, United States                    | International Coordinating Committee of National<br>Institutions/Office of the High Commissioner<br>for Human Rights/United Nations Development<br>Programme (ICC-OHCHR-UNDP) tripartite meeting<br>and NHRI-UN General Assembly advocacy |
| 18–20 July 2012<br>Brisbane, Australia                        | Pacific parliamentarians engagement   |
| 23–27 July 2012<br>Christchurch, New Zealand                  | Economic and social rights pilot project with the<br>New Zealand Human Rights Commission on<br>earthquake recovery  |
| <b>AUGUST 2012</b>  |   |
| 30 July – 4 August 2012<br>Yangon and Nay Pyi Taw,<br>Myanmar | Myanmar National Human Rights Commission:<br>High-level dialogue and parliamentary advocacy   |
| 6–17 August 2012<br>New Zealand                               | New Zealand Human Rights Commission:<br>Capacity assessment   |
| 20–22 August 2012<br>Apia, Samoa                              | Samoa: Legislative drafting advice  |
| <b>SEPTEMBER 2012</b>   |   |
| 3–5 September 2012<br>Bangkok, Thailand                       | Engagement with the Asian NGOs Network on<br>National Human Rights Institutions (ANNI) on<br>NHRI-NGO collaboration   |
| 10–14 September 2012<br>Bangkok, Thailand                     | Regional meeting of NHRIs to evaluate the capacity<br>assessment project with the United Nations<br>Development Programme (UNDP) and the Office of<br>the High Commissioner for Human Rights (OHCHR)                                      |
| <b>OCTOBER 2012</b>   |   |
| 1–5 October 2012<br>Male, Maldives                            | Human Rights Commission of the Maldives:<br>National inquiries training course  |





| Date and location                                   | Activity   |
|---|--|
| 8–10 October 2012<br>Bangkok, Thailand              | Meetings with the UNDP, OHCHR, UN Women and the UN Population Fund regarding APF-UN collaboration projects   |
| 10–12 October 2012<br>Ulaanbaatar, Mongolia         | Human Rights Commission of Mongolia: Business and human rights workshop  |
| 11–12 October 2012<br>Kathmandu, Nepal              | Meeting with the Secretary-General of the South Asian Association for Regional Cooperation (SAARC) regarding the development of an APF-SAARC memorandum of understanding |
| 15–19 October 2012<br>Doha, Qatar                   | Regional training course on NHRIs and migrant workers' rights  |
| 15 October –<br>4 November 2012<br>Online           | Online component of the regional NHRI foundation training course   |
| <b>NOVEMBER 2012</b>                                |  |
| 5 November 2012<br>Amman, Jordan                    | 17th Annual Meeting of the APF   |
| 5–7 November 2012<br>Amman, Jordan                  | ICC International Biennial Conference  |
| 8–11 November 2012<br>Palestine                     | Palestine roundtable on NHRIs in situations of conflict and/or transition  |
| 19–23 November 2012<br>Geneva, Switzerland          | ICC Sub-Committee on Accreditation   |
| 26–29 November 2012<br>Suva, Fiji                   | APF-OHCHR-Pacific Islands Forum tripartite meeting on the development of a memorandum of understanding   |
| <b>DECEMBER 2012</b>                                |  |
| 26 November –<br>December 2012<br>Bangkok, Thailand | Regional NHRI foundation training course   |
| 10–14 December 2012<br>Kuala Lumpur, Malaysia       | Human Rights Commission of Malaysia: Economic and social rights pilot project on children with learning disabilities in the education system                             |
| <b>JANUARY 2013</b>                                 |  |
| 14–18 January 2013<br>Doha, Qatar                   | Arab Network of National Human Rights Institutions   |

| Date and location                                  | Activity  |
|--|---|
| 23–24 January 2013<br>Manila, Philippines          | Philippines Commission on Human Rights:<br>Commissioner retreat   |
| <b>FEBRUARY 2013</b>                               |   |
| 31 January –<br>4 February 2013<br>Yangon, Myanmar | Myanmar National Human Rights Commission:<br>Legislative drafting advice  |
| 17–25 February 2013<br>Kabul, Afghanistan          | Afghanistan Independent Human Rights<br>Commission: Follow-up on capacity assessment<br>recommendations               |
| 18 February – 15 March 2013<br>Online              | Online component of the regional national inquiries<br>training course  |
| <b>MARCH 2013</b>                                  |   |
| 4–7 March 2013<br>Apia, Samoa                      | Meetings with the Attorney-General of Samoa on the<br>establishment of a NHRI   |
| 4–8 March 2013<br>New York, United States          | 57th Session of the UN Commission on the Status of<br>Women   |
| 3–9 March 2013<br>New Delhi, India                 | Nepalese staff placements with the National Human<br>Rights Commission of India                                       |
| 10–23 March 2013<br>Seoul, Korea                   | Nepalese staff placements with the National Human<br>Rights Commission of the Republic of Korea                       |
| 18 March – 12 April 2013<br>Online                 | Online component of the regional NHRI and migrant<br>workers' rights training course                                  |
| 27–29 March 2013<br>Bangkok, Thailand              | 6th Regional Consultation of ANNI on NHRI-NGO<br>collaboration  |
| <b>APRIL 2013</b>                                  |   |
| 2–10 April 2013<br>Australia and New Zealand       | Myanmar National Human Rights Commission:<br>Study tour to the Australian and New Zealand Human<br>Rights Commissions |
| 8–12 April 2013<br>Bangkok, Thailand               | Regional national inquiries training course   |
| 8 April – 3 May 2013<br>Online                     | Online component of the regional training-of-trainers<br>course   |
| 22–25 April 2013<br>Kuala Lumpur, Malaysia         | Human Rights Commission of Malaysia: Economic<br>and social rights pilot project – public hearings                    |





| Date and location                     | Activity   |
|---------------------------------------|--|
| 22–26 April 2013<br>Doha, Qatar       | 18th Annual Meeting of the APF: Planning meeting with the National Human Rights Committee of Qatar |
| <b>MAY 2013</b>                       |  |
| 6–8 May 2013<br>Geneva, Switzerland   | ICC General Meeting  |
| 13–17 May 2013<br>Geneva, Switzerland | ICC Sub-Committee on Accreditation   |
| 13–17 May 2013<br>Manila, Philippines | Regional training course on NHRIs and migrant workers' rights                                      |
| 17–19 May 2013<br>Yangon, Myanmar     | Meetings with the Myanmar National Human Rights Commission   |
| 27–29 May 2013<br>Manila, Philippines | Philippines Commission on Human Rights: Directors' retreat   |
| <b>JUNE 2013</b>                      |  |
| 3–7 June 2013<br>Yangon, Myanmar      | Regional training-of-trainers workshop   |
| 24–25 June 2013<br>Sydney, Australia  | Senior Executive Officers meeting  |
| 24–28 June 2013<br>Sydney, Australia  | National Human Rights Commission of Mongolia: Study tour to the Australian Human Rights Commission |

The above activities are detailed under each of the five APF strategic priorities in sections 1–5 below.

## EVALUATION OF PERFORMANCE

The APF undertakes a rigorous approach to evaluating its progress in achieving its strategic objectives. At the end of June each year, the APF seeks organisational-wide impact feedback and evaluative information from our member institutions and other key stakeholders. This information is supplemented with the APF's ongoing project-based evaluative tools. Utilising this information, this report presents an assessment of the APF's performance against its strategic objectives.

The assessment measures whether the APF's performance is 'on track', whether 'more work is needed' to progress a strategic objective or, in certain circumstances, whether there was 'not enough information' to make an informed assessment.

Where possible the assessment is based on the relationship of measurements to benchmarks and the trends over time. For the year in review the status of the APF's performance, arranged by strategic objective and indicator, is presented below.

### Asia Pacific Forum performance 2012–13

| Strategic objective  | Indicator            | Status           |  |
|--|----------------------|------------------|--|
| <b>Enhance members' institutional capacity to promote and protect human rights</b> | Capacity             | On track         | Increase in capacity needs assessments and the mainstreaming of blended learning programs, but further work on the Advisory Council of Jurists' recommendations on sexual orientation and gender identity may be required. |
|  | Training             | On track         |  |
|  | ACJ references       | More work needed |  |
| <b>Enhance members' communication, cooperation and engagement</b>                  | Engagement           | On track         | Growing support of networking opportunities, for example, the Senior Executive Officers Network and new media channels.  |
|  | Communication        | On track         |  |
|  | Cooperation          | On track         |  |
| <b>Promote compliance with the Paris Principles</b>                                | Accreditation        | On track         | Increase in membership (Myanmar) and encouraging progress in the establishment of new NHRIs in the region (Samoa).   |
|  | Advice               | On track         |  |
|  | Establishment        | On track         |  |
| <b>Engage with regional and international human rights mechanisms</b>              | Influencing          | On track         | Rising member engagement in the region and internationally points to the successful role of the APF in influencing and building capacity.  |
|  | Advocacy             | On track         |  |
| <b>Effective, efficient and strategic management of the APF</b>                    | Strategy             | On track         | Solid progress on gender mainstreaming and overall sound corporate management of financial and human resources.  |
|  | Management           | On track         |  |
|  | Environment          | On track         |  |
|  | Gender mainstreaming | On track         |  |
|  | Corporate Compliance | On track         |  |

# 1

Enhance members' institutional capacity to promote and protect human rights



Under this strategic objective the APF works to protect and promote the human rights of people in the Asia Pacific region through the work of its member institutions. The majority of the APF's activities are directed towards supporting and strengthening its members, including:

- training programs to build knowledge and skills that are central to the work of effective NHRIs
- capacity assessments that enable its members to identify achievable and sustainable steps to strengthen their institutions
- the work of the Advisory Council of Jurists providing authoritative and independent legal analysis on issues of shared concern across the region, and
- specialist programs tailored to meet specific requests of individual member institutions.

## 1.1. TRAINING

### EVALUATION FINDINGS

#### **Outcome indicator**

#### **Training**

#### **Performance rating**

**On track**



The APF's training programs are designed to assist its member institutions in carrying out their core functions, which include investigating and resolving complaints, monitoring human rights, providing advice to government, reviewing laws and policies and undertaking human rights education programs. The APF's training programs help build the professional and knowledge-based skills that strengthen the capacity of more than 145 Commission members and 3,000 staff employed in our 19 member institutions.

The APF, with its partners, conducted a total of 14 training courses for NHRI staff during the reporting period. This included courses which used the blended learning approach of online training and face-to-face training. Additionally, the APF ran 11 specialist capacity projects with member NHRIs.

Evaluations indicate that both the participants and the member institutions themselves regarded the courses as highly relevant and of a high quality. The average response on relevance across courses and participants was 4.6 out of 5. Participants also consistently regarded courses as of a very high quality (an average response across courses of 4.5 out of 5). Of the 16 members that responded to a questionnaire on the relevance of courses to the member institutions themselves (as opposed to the individual course participants), all but one NHRI confirmed that knowledge gained from training had been disseminated to other staff. These members, on average, thought the courses very relevant (4.2 out of 5), indicating that the expectations of member NHRIs continue to be aligned with course participants' experiences of training courses.

In line with best practice adult education approaches, the APF is increasingly contextualising training to the operational requirements of the participating NHRIs through the use of work-based projects.

Members identified quite a number of projects that had benefited from this training approach in 2012–13, including:

- the conduct of a national inquiry on rape and honour killing by the Afghanistan Independent Human Rights Commission
- the development of a work plan for the betterment of migrant workers by the National Human Rights Commission of Bangladesh and improvements to complaints handling from migrant workers by the Jordan National Centre for Human Rights

- a project on education access for children with learning disabilities by the Human Rights Commission of Malaysia and a national inquiry on the same topic by the Human Rights Commission of the Maldives
- formulation of an action plan in the conduct of a national inquiry on the right to health and education of Indigenous peoples by the Philippines Commission on Human Rights
- the creation of an effective media strategy by the Provedor for Human Rights and Justice of Timor-Leste.

Further details of the APF's training activities are set out below.

## Blended learning

Since 2009, the APF has delivered its core training programs online as an integral part of our training strategy. The courses use a blended learning approach, which includes an introductory online program, usually run over five to six weeks, followed by a face-to-face workshop for participants who successfully complete the online component. This approach allows participants to explore core human rights concepts in detail over an extended period of time, to raise questions directly with the trainers and to discuss issues with colleagues from other NHRIs. It also offers participants flexibility in how they learn and ensures there is greater opportunity for detailed and practical discussions during the face-to-face workshops.

The online training program presents key information in a variety of ways, including through set readings, discussion topics, quizzes and webinars. Up to 30 participants take part in each course. They are expected to contribute to weekly online discussions and to submit regular assignments. To date, the APF has delivered the following training programs online:

- Prevention of torture
- Foundation course for NHRIs
- National inquiries
- Training-of-trainers, and
- Migrant workers' rights.

The APF's online training programs are directly coordinated by the APF through its own virtual learning environment. In early 2013 the APF launched a new Arabic interface for the learning environment which will enable all of the APF's existing training programs to be run in Arabic.

## National inquiries

NHRIs have used national inquiries to place a broad range of issues at the centre of public attention, including among others, human rights and mental illness (Australia); the right to food (India); the land rights of indigenous peoples (Malaysia); freedom from torture (Mongolia); and accessible public transport for people with disabilities (New Zealand).

The APF, in partnership with the Raoul Wallenberg Institute (RWI), undertakes training for APF member institutions on running effective national inquiries. The training provides NHRI representatives with a step-by-step understanding of the process of establishing and conducting a national inquiry.

The training covers a range of practical issues, such as:

- selecting the inquiry subject
- setting the terms of reference
- appointing the inquiry team
- collecting evidence
- engaging the media, and
- planning follow-up activities to promote inquiry findings and advocate for recommendations.

The APF has produced a training manual and accompanying DVD, *Conducting a National Inquiry into Systemic Patterns of Human Rights Violation* which draws on the experiences of NHRIs from across the Asia Pacific and the lessons learnt from holding public inquiries into a broad spectrum of issues.

During the reporting period the APF conducted a week-long workshop from 1–5 October 2012 for the Human Rights Commission of the Maldives. The training workshop was to assist the Commission to prepare for its forthcoming national inquiry on access to education for children with disabilities.

In addition, from 18 February – 15 March 2013, the APF undertook its online component of the blended learning training course on national inquiries. More than 20 representatives from five NHRIs in southeast Asia (Malaysia, Myanmar, the Philippines, Thailand and Timor-Leste) and the Afghanistan Independent Human Rights Commission participated exploring in detail the key steps involved in conducting a successful national inquiry.

The online component of the course examined what a national inquiry is; how it can strengthen the work of NHRIs; the process of establishing and running a national inquiry; and follow-up activities that NHRIs can undertake once the national inquiry process has been completed. Online discussions also consider the experiences of NHRIs in the region that have conducted national inquiries, including examples of good practice and different challenges they encountered.

The participants who successfully completed the online course were then invited to participate in the face-to-face workshop component, which was held in Bangkok, Thailand from 8–12 April 2013. The workshop focused on the implementation of the skills learnt in the online component, by working through assignments submitted by NHRI participants.



National inquiries training resource.

## Foundation course for NHRIs

From 15 October – 4 November 2012, the APF and the RWI jointly ran an online course for new staff of NHRIs. The aim was to introduce NHRI staff to the history, concept, role and mandates of NHRIs, and to encourage sharing of good practices of NHRIs in the Asia Pacific region.

The course was structured into four core modules:

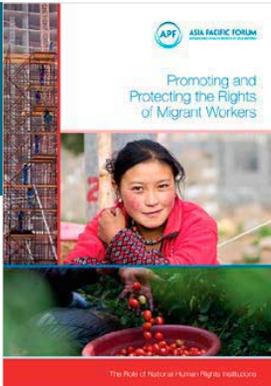
- the origin, mandate and concept of NHRIs
- the advisory and educational mandate of NHRIs
- the investigative and monitoring mandate of NHRIs, and
- NHRI engagement with international and regional stakeholders.

Thirty-two participants from 16 NHRIs from across the Asia Pacific region participated in the course. In addition to guided readings and video materials, the online course utilised a range of learning activities, including quizzes and assignments, and online discussions aimed at encouraging participants to share their experiences and learn from each other.

Participants who completed the online course then went on to participate in a face-to-face training workshop, which was held from 26 November – 5 December 2012 in Bangkok, Thailand. In line with the APF and RWI's emphasis on blended learning, the online course included assignments that directly linked to sessions held during the face-to-face workshop. The program for the workshop built on the syllabus of the online course, and also included additional thematic sessions exploring human rights issues of concern to many NHRIs in the region, including human rights and business, and the engagement of NHRIs with international human rights mechanisms. Several days were also devoted to presentations by participants, regarding the achievements and challenges of their own NHRI, with the aim of facilitating peer-to-peer learning amongst NHRI staff. The facilitation of the workshop was led by RWI with the participation of the APF for specific topics.

## Migrant workers' rights and advocacy

Migrant workers' rights training resource.



In September 2012, the APF published its training and information manual on *Promoting and Protecting the Rights of Migrant Workers: A Manual for National Human Rights Institutions*. The manual includes a number of practical good practice examples submitted by the migrant worker focal point officers situated in each APF member institution.

In addition, a week-long training program, organised by the Diplomacy Training Program, was held in Doha, Qatar from 15–19 October 2012. Nine staff from APF member NHRIs participated in the training with the financial support from the APF. Key goals of the program were to forge stronger partnerships between NHRIs, NGOs and trade unions and to develop concrete strategies to advance the rights of migrant workers at the national and regional level. Participants were provided with the knowledge and advocacy skills to begin to narrow the gap between international standards and real life experiences of many migrant workers.

From 18 March – 12 April 2013, the APF undertook the online component of the APF's pilot blended learning program on NHRIs and their role in the protection and promotion of migrant workers' rights. Representatives from the NHRIs of Afghanistan, Australia, Bangladesh, India, Indonesia, Jordan, Malaysia, the Maldives, Mongolia, Nepal, New Zealand, Palestine, the Philippines, the Republic of Korea, Sri Lanka, Thailand and Timor-Leste participated. Over four weeks of online discussions, participants examined:

- the international framework on the rights of migrant workers
- the United Nations (UN) Convention on the Rights of Migrant Workers
- protecting irregular migrant workers in detention, and
- the role of NHRIs in promoting and protecting migrant workers' rights.

Participants who successfully completed the online course then took part in a five-day regional workshop, held in Manila, Philippines from 13–17 May 2013. Participants developed project proposals on migrant workers to take back to their respective NHRIs for consideration.

Participants in an APF regional training workshop on the rights of migrant workers. Photo by the APF/ Suraina Pasha.



## Training-of-trainers

Human rights education is critical to building a human rights culture within a country and an essential part of the work of NHRIs. Across the Asia Pacific, NHRIs develop programs that engage and empower children, young people, adults and communities to identify and address the human rights issues facing them. Many NHRIs also design and deliver training programs to support public officials – such as law enforcement agencies, the judiciary, parliamentarians, the military and others – to understand and meet their obligation to respect, protect and fulfil the human rights of those within their jurisdiction.

The APF has established a blended learning training course to support and equip human right trainers in APF member institutions to carry out this important work. It was developed following a comprehensive training needs assessment of APF members in 2010, which noted the need for a larger number of highly skilled human rights trainers in the Asia Pacific region.

The training-of-trainers course provides knowledge and skills on the planning, design, delivery and evaluation of human rights training programs. It combines a four-week online training component with a regional face-to-face workshop, encouraging participants to share strategies for conducting effective human rights training.

Participants who run, evaluate and report back on a human rights training session that they deliver within three months of returning to their respective NHRIs have the opportunity to be accredited as an APF master trainer and be provided with opportunities to assist in the delivery of future APF training programs.

During the reporting period, a total of 15 participants from 11 APF member institutions completed the four-week online program from 8 April – 3 May 2013, which explored the following key themes:

- assessing the needs of adult learners
- developing training materials for adult learners
- face-to-face workshop facilitation skills, and
- evaluating human rights training courses.

Participants then put their learning into practice during a five-day regional workshop held in Yangon, Myanmar from 3–7 June 2013. The workshop was hosted by the Myanmar National Human Rights Commission.

## 1.2. CAPACITY ASSESSMENTS

### EVALUATION FINDINGS

#### **Outcome indicator**

**Capacity**

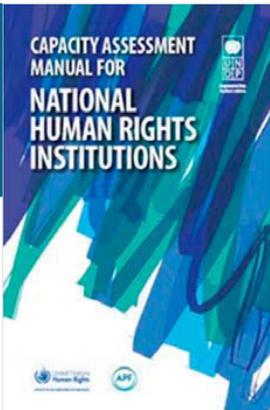
#### **Performance rating**

**On track**



The capacity assessment program is an initiative that supports APF member institutions to identify the capacities they have and those they need to develop in order to fulfil their respective mandates to promote and protect rights at the national level. The assessment proposes strategies to strengthen NHRIs as a whole, to develop the capacities of staff members and to make the internal processes of NHRIs more efficient and more effective. The program is jointly facilitated by the APF, the UN Development Programme (UNDP) and the UN Office of the High Commissioner for Human Rights (OHCHR).

Capacity assessment manual for NHRIs.



Capacity assessments have, so far, been conducted with the following member NHRIs:

- the Human Rights Commission of Malaysia (2008)
- the Human Rights Commission of the Maldives (2009)
- the Jordan National Centre for Human Rights (2010)
- the National Human Rights Commission of Thailand (2010)
- the Palestinian Independent Commission for Human Rights (2011)
- the Afghanistan Independent Human Rights Commission (2011)
- the National Human Rights Commission of Mongolia (2011)
- the Human Rights Commission of Sri Lanka (2012), and
- the Australian Human Rights Commission (2012).

During the reporting period, the APF completed capacity assessments with an additional two member NHRIs:

- the Philippines Commission on Human Rights (June preliminary trip and 9–24 July 2012), and
- the New Zealand Human Rights Commission (6–17 August 2012).

The Afghanistan Commission also requested that the APF send a follow-up mission to Afghanistan to discuss the implementation of the recommendations of the capacity assessment undertaken in 2011 and this occurred from 17–25 February 2013.

**Impacts and outcomes** directly linked to the capacity assessments are set out below.

As at 30 June 2013, all of the 11 NHRIs that have participated in the capacity needs assessment process reported complete or partial implementation of the action plans. These were the NHRIs of Malaysia (2009), the Maldives (2009), Jordan (2010), Thailand (2011), Palestine (2011), Afghanistan (2011), Mongolia (2011), Sri Lanka (2012), Australia (2012), the Philippines (2012) and New Zealand (2012).

**Figure 1: Implementation of capacity needs assessment recommendations – percentage of participating NHRIs reporting fully, partially or not implementing recommendations (by year)**

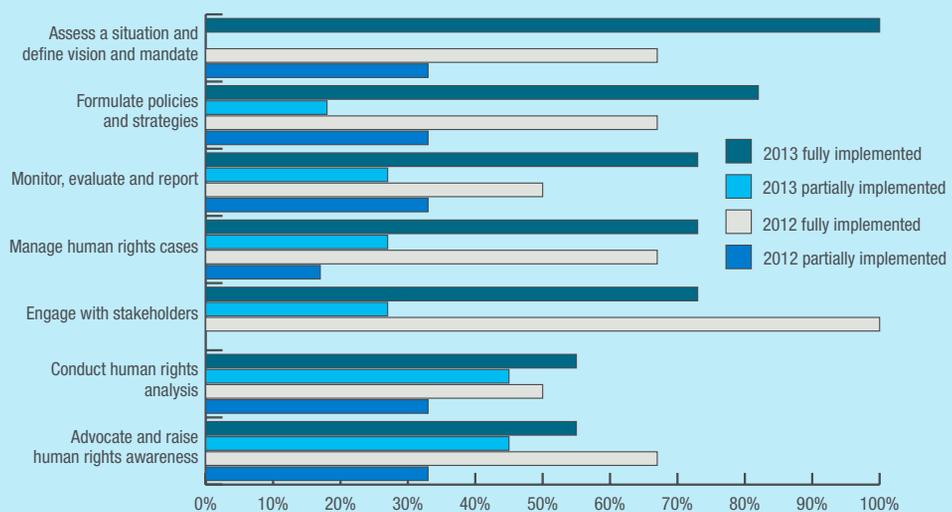
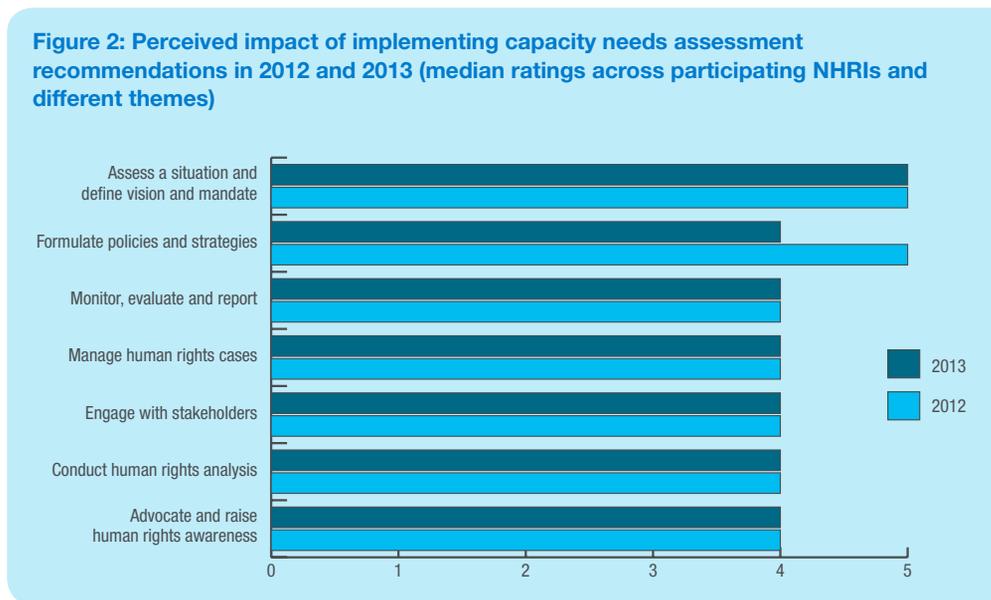


Figure 1 shows the collective progress in implementing the action plans. The figure indicates steady progress in implementing recommendations regarding situational assessment, defining visions and mandates, formulating policies and strategies, monitoring, evaluation and reporting, the management of human rights cases, and those regarding the conduct of human rights analysis. The reduction in implementation of recommendations regarding stakeholder engagement, advocacy and awareness can be attributed to the recent completion of a number of capacity needs assessments, where the NHRIs have not yet fully implemented outreach activities.

Figure 2 shows the extent to which the capacity needs assessments have improved capacity by NHRI, as measured by the mean of each participating NHRIs' views on the degree to which the capacity needs assessment has been effective.



Most members participating in the capacity needs assessment program to date agree that the recommendations arising from the assessment have improved their capacity in all areas (the median response across the participating NHRIs and across different themes was 4 out of 5). The Palestinian Independent Commission for Human Rights, which last year indicated that the recommendations had not improved their capacity in several areas, has this year acknowledged progress in these areas. The Australian and New Zealand Human Rights Commissions indicated that it was too early to tell whether the recommendations, made in 2012, had demonstrably improved their capacity. They also indicated a need to review the program evaluation methodology in response to improvements to the capacity needs assessment process in the course of the year.

An independent review of the design, methodology, delivery, implementation and impact of the APF-UNDP-OHCHR capacity assessment program was undertaken during the reporting period. The reviewer undertook a desktop review of all capacity assessments to date and travelled to two NHRIs to discuss the implementation of the recommendations of their capacity assessments and their resulting impact. The reviewer also participated in a regional meeting of all NHRIs that have participated in the capacity assessment program to date which was held in Bangkok, Thailand from 10–14 September 2012.

The independent review strongly supported the capacity assessment program and made a number of recommendations to the three partners to further strengthen it. The APF adopted all the recommendations of the independent review.

### 1.3. ADVISORY COUNCIL OF JURISTS

#### EVALUATION FINDINGS

**Outcome indicator**

**ACJ references**

**Performance rating**

**More work needed**



In 2010 the APF's (ACJ) conducted an in-depth study of the domestic laws and policies relating to sexual orientation and gender identity in the States of the (then) 17 APF member institutions.

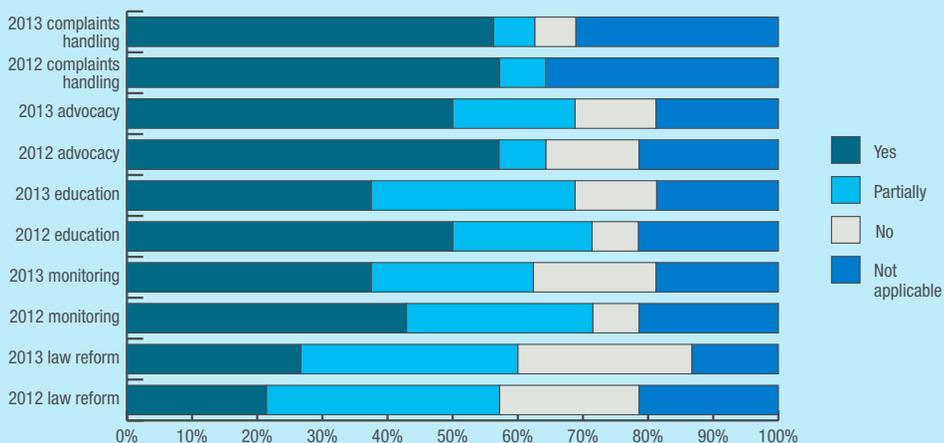
The report, published in December 2010, assessed the consistency of these laws and policies with international human rights standards and provided recommendations to assist NHRIs address identified shortcomings.

The ACJ report and recommendations provided a framework for the work of the APF and its member institutions in promoting and protecting the rights of people of diverse sexuality and gender identity.

**Impacts and outcomes** directly linked to this activity are set out below.

Fifteen member NHRIs responded to a survey on the implementation of the ACJ recommendations. Three of these, the NHRIs of Jordan, the Palestinian Territories and Qatar did not regard the recommendations on sexual orientation and gender identity as applicable. The Human Rights Commission of the Maldives, which regarded the recommendations as not applicable last year, reported partial implementation this year.

**Figure 3: Implementation of ACJ recommendations in relation to sexual orientation and gender identity in 2012 and 2013 – percentage of participating NHRIs reporting not applicable, fully, partially or not implementing recommendations**



The implementation of the report's recommendations remains relatively unchanged since 2011–12, as shown in Figure 3. The minor changes in the reported implementation can largely be attributed to changes in the cohort of members reporting this year, compared with last year.

The APF's annual performance evaluation has found that more work continues to be required to ensure the effectiveness of this ACJ reference.

The APF is nonetheless pleased to report that since its initial regional workshop on NHRIs and sexual orientation and gender identity, held in Indonesia in 2009, the issue has moved from being seen as sensitive to becoming a normal part of the ongoing work of the majority of member institutions. This holds true for our members in the sub-regions of the Pacific, southeast Asia, south Asia and north Asia. However member institutions in west Asia continue to find it difficult to do any work in this area and the APF's focus to date continues to be to increase their own internal understanding of the issue rather than outreach/external advocacy.

## 1.4. SPECIALIST CAPACITY PROJECTS

Within available resources, the APF responds to requests from individual member institutions for the delivery of specialist capacity projects. During the reporting period the following activities were undertaken.

### Myanmar

From 30–31 July 2012 the APF facilitated a high-level dialogue with the Chairperson and members of the Myanmar National Human Rights Commission, in Yangon, Myanmar. The dialogue provided an opportunity for the 15-strong leadership team of the Commission to discuss the strategic direction of the new organisation, as well as their responsibilities as Commissioners within an independent NHRI.

The two-day program included practical discussions on the role of NHRIs and the importance of engaging with both the State – including the government, parliament, judiciary, police and military – and the community to promote and protect fundamental rights. Other specific topics covered included:

- the importance of drafting and finalising the Commission's founding legislation, in conformity with the Paris Principles
- developing effective complaint handling procedures
- establishing human rights education programs and partnerships, and
- building relationships with NHRIs in the region and internationally.



Bagan,  
Myanmar.  
Photo by  
Ben Lee.

The APF delegation was led by Tan Sri Hasmy Agam, Chairperson of the Human Rights Commission of Malaysia. Following the dialogue, the delegation travelled to the capital Nay Pyi Taw, to hold meetings with government officials, parliamentarians and civil society groups.

From 2–10 April 2013, the APF in partnership with the RWI, facilitated a study tour by representatives of the Myanmar Commission to the Australian and New Zealand Human Rights Commissions. The study tour examined the full range of NHRI functions with regards to complaints, education and monitoring of State performance. The representatives of the Myanmar Commission also had the opportunity to meet with representatives of the Australian and New Zealand Governments.

From 17–19 May 2013 the APF travelled to Yangon, Myanmar to meet with the Commission to discuss the implementation of a regional training-of-trainers program and the possible development of an AusAID program of technical assistance.

## Pacific parliamentarians

From 18–20 July 2012, the APF partnered in a meeting for parliamentarians from Pacific Island countries to discuss human rights issues in the region. Organised by the Regional Rights Resource Team of the Secretariat of the Pacific Community, the consultation explored a broad range of topics, including:

- sexual and gender-based violence
- the rights of people with disabilities
- the rights of people living with HIV
- human rights and climate change
- ratification of international human right conventions, and
- participation in the Universal Periodic Review (UPR) and other international human right mechanisms.

The program also focused on opportunities to develop or strengthen human rights mechanisms at both the domestic and the regional level. The APF addressed the parliamentarians on international standards and best practice in the establishment of NHRIs, as well as recent developments in the region. A number of Pacific Island countries have taken steps towards establishing an NHRI, including Nauru, Palau, Papua New Guinea, Samoa, Solomon Islands and Vanuatu.

Nauru sunrise.  
Photo by  
Ben Lee.



## Economic and social rights

In early 2012 the APF, in partnership with the Center for Economic and Social Rights, requested APF member institutions to express their interest in participating in two pilot projects to build the capacity of NHRIs to monitor and promote economic, social and cultural rights.

A wide range of proposals were received. The two winning bids selected were from the New Zealand Human Rights Commission, dealing with earthquake recovery efforts, and the Human Rights Commission of Malaysia, dealing with children with learning disabilities in the education system.

A training program was run for one week each with the New Zealand Commission from 23–27 July 2012 and the Malaysian Commission from 10–14 December 2012. The training program, developed by the Center, introduced participants to a simple, four-step framework – the OPERA framework<sup>2</sup> – to assess the adequacy of public policies in realising economic, social and cultural rights, such as the right to health, housing, education and an adequate standard of living. In addition, the program trained Commissioners and staff in the monitoring tools and techniques that underpin the framework. Following the workshops, the Center and the APF provided a minimum of six months of targeted support and consultation to the Commissions during the implementation and monitoring stages of each project. For example, the APF and the Center returned to Malaysia from 22–25 April 2013, to work with the Malaysian Commission, government and community stakeholders in the holding of additional training and a roundtable on children with learning disabilities in the education system.

The New Zealand Human Rights Commission used the framework to guide its contribution to the Canterbury region earthquake recovery program, particularly in relation to issues around the right to housing and rebuilding the city of Christchurch as the world's most accessible city. The Human Rights Commission of Malaysia used the framework to enhance its data collection techniques in monitoring Malaysia's progress towards providing universal primary education, with a specific focus on access to quality and inclusive education for children with learning disabilities.

The pilot program was developed following an APF training needs assessment in 2010, in which APF member institutions expressed a strong need for additional support on human rights monitoring and on economic, social and cultural rights. Staff from both institutions which piloted the training completed a self-assessment and evaluation of the training workshops. The self-assessment results clearly indicate participants' increased confidence in applying knowledge and skills related to monitoring economic, social and cultural rights. The evaluation scores also confirmed a high rating of the workshops overall.

Once the lessons learned from these pilot projects are examined and a regional training course developed, it is hoped that NHRIs will be better able to prepare strong and rigorous reports on their government's performance in meeting international commitments on economic, social and cultural rights. The training will seek to equip them with data analysis tools to constructively engage with key decision-makers in order to have an impact on discussions around the development and monitoring of public policies.

## Mongolia, business and human rights

The APF co-partnered with the National Human Rights Commission of Mongolia on a three-day conference, held in Ulaanbaatar, Mongolia from 10-12 October 2012. The conference brought together representatives from the Mongolian Government, the mining industry, civil society groups and international human rights and development organisations.

The conference examined the human rights impacts of the country's booming mining sector and looked at international best practice in order to better protect the environment and the rights of affected communities. The conference specifically looked at the impact of mining on vulnerable communities and the environment, including soil erosion, degradation of pastoral land, water shortages and pollution.

---

2 The OPERA framework refers to outcomes, policy efforts, resources and assessment.

A herder woman milks her yaks in Must, Mongolia. UN Photo by Eskinder Debebe.



According to the Commission, many herders in mining areas have been forced to leave their traditional lands and find alternative means to support themselves. It expressed concern about the impact of these changes on the human rights of herders, in particular, their right to live in a healthy and safe environment, their property rights and the right to preserve one's culture and traditions. In addition, it noted that conflict between mining companies and artisanal miners, civil society organisations and local people has been escalating in recent times, occasionally resulting in violence.

The conference discussed these and other matters – such as the rights of workers in the mining industry and public participation in decision-making for mining activities – and heard how similar issues have been addressed in other countries. It drew on the experiences and perspectives of a broad range of stakeholder groups, including mining operators, the UN Working Group on Business and Human Rights, the Philippines Commission on Human Rights and the APF secretariat, as well as research and analysis by independent experts. A key focus for the Commission was to use the information shared at the conference to develop recommendations to strengthen the national legal framework, including identifying international treaties which Mongolia should ratify.

In addition to attending the conference, the UN Working Group on Business and Human Rights spent 12 days in Mongolia as part of its first official country visit.

## Palestine and NHRIs in situations of conflict and/or transition

The APF assisted the Palestinian Independent Commission for Human Rights to organise a roundtable meeting on the role of NHRIs in situations of conflict and/or transition. The roundtable was attended by the Geneva representative of the International Coordinating Committee of National Institutions (ICC), and nine other representatives of four NHRIs from Northern Ireland, Scotland, Thailand and Ecuador, a representative of OHCHR in the occupied Palestinian Territory, and representatives of official Palestinian institutions, diplomatic missions, civil society organisations and the media.

Two field trips were undertaken preceding the roundtable in East Jerusalem and the Jordan Valley area. The keynote speaker at the opening session was Prime Minister Salam Fayyad, who welcomed the visiting delegations to Palestine, and emphasised in his speech the government's commitment to human rights and the rule of law in Palestine and the role of the Commission.



Villagers returning home as the sun sets in the Philippines. UN Photo by Oddbjorn Monsen.

## The Philippines

The APF undertook two specialist capacity projects with the Philippines Commission on Human Rights following the conclusion of the capacity assessment project.

The first, from 23–24 January 2013, was a retreat and dialogue for the Commissioners to discuss the Commission’s strategic directions and governance issues.

The second, from 27–29 May 2013, was a retreat and dialogue for the senior managers and directors of the Commission to discuss operational and governance issues.

# 2

Enhance members' communication, cooperation and engagement



A strength of the APF is the quality and depth of collaboration that exists between its members. The APF's annual meetings, professional networks and staff placement programs each provide opportunities to deepen those links, share experiences and develop cooperative programs of work.

## 2.1. COOPERATION AND ENGAGEMENT

### EVALUATION FINDINGS

**Outcome indicators**  
**Cooperation and engagement**

**Performance ratings**  
**On track**



The APF benefits from the expertise, knowledge and support that its member institutions contribute through participating on the Forum Council, which is the APF's board of directors, and at APF annual meetings. In turn, member institutions benefit from the cooperative relationships established through the APF's programs and services. Overall, members remain highly engaged with APF processes and find the APF's services relevant.

### 17th Annual Meeting of the APF

The Jordan National Centre for Human Rights hosted the 17th Annual Meeting of the APF in Amman, Jordan, on 5 November 2012. The annual meeting was attended by representatives from all the APF's member institutions. Representatives from the NHRIs of Bahrain and Oman also attended the event as observers.

Membership of the APF expanded to include 19 NHRIs, with the Myanmar National Human Rights Commission admitted as an associate member during the meeting. Along with the NHRIs of Bangladesh, the Maldives and Sri Lanka, the Myanmar Commission is one of four APF associate members. There are currently 15 full members of the APF.

To be admitted as a full member, a NHRI must fully comply with the UN endorsed minimum international standards set out in the Paris Principles. Institutions that partially comply with the Paris Principles are granted associate membership. To ensure consistency and to minimise duplication, the APF adopts the accreditation decisions of the ICC to determine compliance with the Paris Principles. Full member institutions, as distinct from associate member institutions, have voting rights at the APF and can appoint a representative to the APF Forum Council. Both full and associate member institutions can fully participate in APF capacity building programs.

Institutions that have not sought accreditation through the ICC, such as the Myanmar Commission, may be granted associate membership by the APF Forum Council until a determination of their accreditation status is made by the ICC.

The next combined APF annual meeting and biennial conference will be hosted by the National Human Rights Committee of Qatar in October 2013.

### Asian NGOs Network on National Human Rights Institutions

In addition to individual NGO-NHRI relationships, the APF held two consultations with regional NGOs during the reporting period.

The first was at the 17th Annual Meeting of the APF held in Jordan, Amman on 5 November 2012. The APF promotes cooperation between NHRIs and NGOs and at each APF annual meeting, the APF facilitates interaction and cooperation with the Asian NGOs Network on National Human Rights Institutions (ANNI). ANNI held an NGO meeting in parallel with the APF's annual meeting and representatives from ANNI were invited to meet with all APF member institutions during the APF's Forum Councillor meeting. The APF's Forum Councillors expressed their appreciation for the constructive contribution of ANNI.

The second consultation was at the 6th Regional Consultation of ANNI held in Bangkok, Thailand, from 27–29 March 2013 which brought together 40 participants. Representatives of the APF secretariat, OHCHR and the National Human Rights Commission of Thailand also participated.

The Chairperson of the APF and the National Human Rights Commission of Thailand, Professor Amara Pongsapich, provided the meeting with an update on the activities of NHRIs at the international level. Professor Amara also hosted an NGO group visit to the office of the Commission. The APF secretariat reported on the APF's programs and priorities and underlined the importance of the relationship between NHRIs and civil society organisations. The APF made a number of suggestions for future collaboration between ANNI and APF member institutions. These suggestions contributed to ANNI's strategic planning and were incorporated into the outcome document of the meeting.

## Arab Network of National Human Rights Institutions

From 14–18 January 2013, the APF participated in a meeting of the Arab Network of NHRIs, held in Doha, Qatar and hosted by the National Human Rights Committee of Qatar.

Dr Ali bin Futais Al Marri, Chairman of the National Human Rights Committee of Qatar and President of the Arab Network for NHRIs, addressed the opening session of a conference on strengthening the capacity of national institutions for human rights in the Arab region. The aim of the conference was to support NHRIs to build their capacity and address the human rights challenges in the Arab world and ensure that countries do not retreat from the positive changes that they have achieved so far. The APF presented on the requirements of the Paris Principles and on the role of NHRIs in the UPR mechanism, focusing particularly on recommendations common to States in the Middle East and north Africa region.



Middle Eastern market scene.  
UN Photo by  
Shareef Sarhan.



A firewood seller arranges his pile of wood in Jharkhand, India. UN Photo by Somenath Mukhopadhyay.

## Staff placements

Two staff members from the National Human Rights Commission of Nepal completed short-term placements with the NHRIs of India and the Republic of Korea in March 2013.

Mr Yagya Prasad Adhikari, Regional Director, Pokhara, and Ms Durga Khadka, Deputy Director, Investigation and Monitoring Division, participated in the placements to examine good practices in human rights monitoring and investigations.

The pair were hosted for a week from 3–9 March 2013 by the National Human Rights Commission of India, where they met with Commission members and senior officials. Among other activities, they were introduced to the Commission's complaint management system, which handles over 90,000 complaints each year; the composition and activities of the Investigations Division; and the Commission's thematic monitoring of human rights issues such as mental illness, sexual harassment, bonded labour and human trafficking.

A two-week placement, from 10-23 March 2013, with the National Human Rights Commission of the Republic of Korea also looked at effective approaches for resolving complaints of human rights violations, including the development of recommendations for government agencies. In addition, the placement program focused on the work of the Commission in other areas, including its engagement with international human rights mechanisms and its research work on business and human rights and on the rights of women, people with disabilities, migrant workers and detainees.

Three staff members from the Human Rights Commission of Mongolia completed a one-week staff placement with the Australian Human Rights Commission from 24–28 June 2013. They examined the work of the Australian Commission and its functional responsibilities with a particular focus on complaint handling and education.

## Senior Executive Officers Network

From 24–25 June 2013, the senior executive officers from each APF member institution met in Sydney, Australia for a roundtable discussion of issues related to the administration of effective NHRIs. The two-day meeting, hosted by the Australian Human Rights Commission, allowed members of the APF's Senior Executive Officers Network to share their experiences on key management issues, such as NHRIs and the media, capacity assessments, organisational design and development and good governance and corruption. This is the first year that all senior executive officers reported at least some contact with their colleagues since collection of this data commenced in 2010.

**Impacts and outcomes** directly linked to the APF's cooperation and engagement activities are set out below.

Although engagement is difficult to quantify, members' active participation in annual meetings provides some indication. At the 17th Annual Meeting of the APF in 2012, all members contributed oral interventions or written submissions. The high level of members' participation in annual meetings reflects the success of the meeting processes. A survey of members' views on the quality of events organised by or in partnership with the APF, including training and meetings, indicated ongoing very high satisfaction (4.2 out of 5).

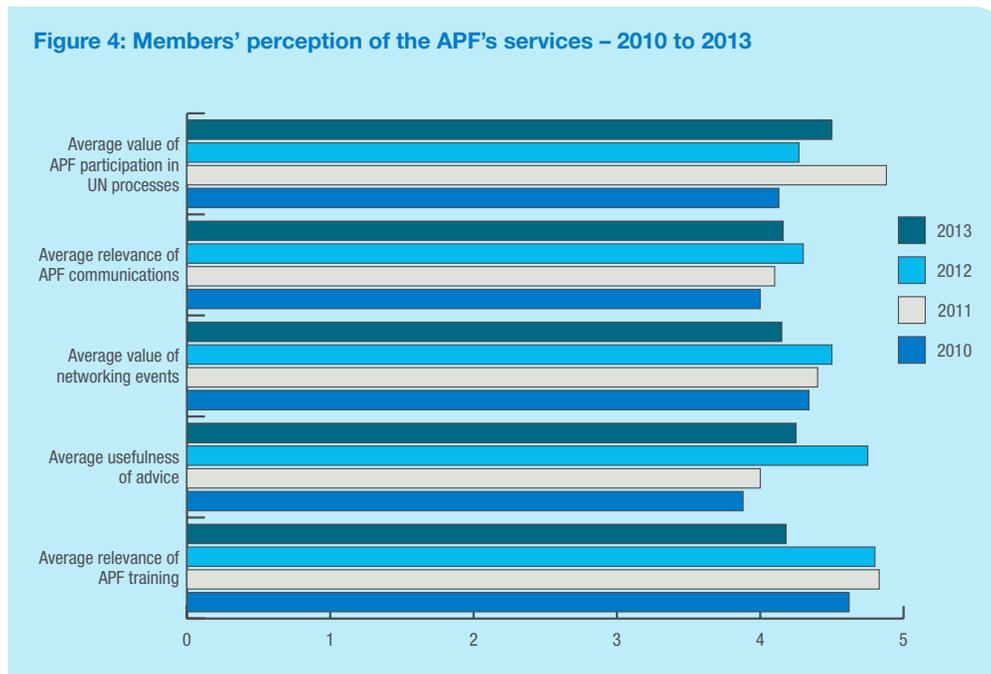


Figure 4 shows APF members' views on the relevance of training and communications services; the value of APF participation in UN processes to members; and the utility of APF advice, provides further indication of their engagement. In 2012–13 a composite index of members' views in these areas showed a rating of 4.2 out of 5 – a slight decrease on the previous year.

The separate data contributing to the high rating shown on the member engagement index is discussed in more detail in the relevant section of this report (training, communications, advice and advocacy).

## 2.2. COMMUNICATIONS

### EVALUATION FINDINGS

**Outcome indicator**  
**Communication**

**Performance rating**  
**On track**



During the reporting period, the APF undertook a range of information and promotional activities on the role and functions of NHRIs and the activities of the APF. These educational activities are designed to:

- improve awareness among political and administrative decision-makers and the wider community of the value and importance of NHRIs
- improve awareness among relevant regional governments and agencies of the appropriate functions, powers, structures and legislation for NHRIs established in accordance with the Paris Principles
- improve awareness among NHRIs of the legislation, casework, techniques, procedures and outcomes of other institutions both within and outside the region, and
- provide information about APF activities to member institutions, governments, UN agencies, NGOs and the general community.

The APF employs a number of communication channels to inform members on the role and function of NHRIs and to promote the activities of the APF.

### Website

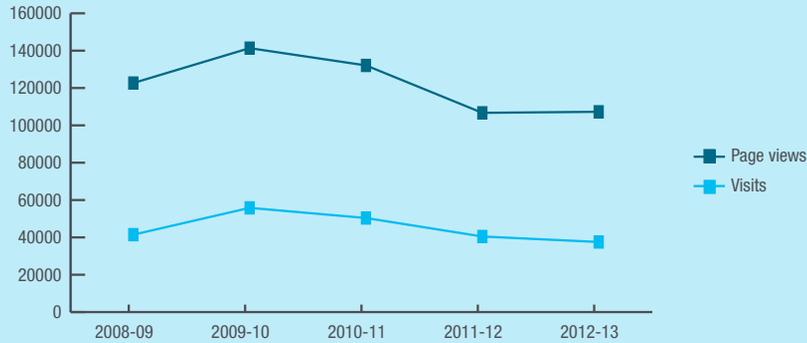
The APF website was upgraded in July 2011 with content organised in a way that better reflects the needs of different groups of visitors (APF members, new NHRIs, partners and other stakeholders). New content was uploaded on at least a monthly basis and often more regularly. The APF also developed its own YouTube channel featuring audio visual training materials and interviews with representatives of APF member institutions and key stakeholders.<sup>3</sup> The 10 new videos posted on the channel over the last year have been viewed on 1,458 occasions. These are mostly short interviews with representatives of APF member institutions or partner organisations. The total number of views of the videos in the 12 months to 30 June 2013 is around 2,200, which includes material previously published to the site from APF training resources on the prevention of torture and conducting national inquiries.

The decline in overall usage of the APF website over the last years, as show in Figure 5, appears to have stopped. It remains relatively high at 48,439 visits and 118,171 page views. Importantly, the satisfaction of members with the website remains high, at 4.2 out of 5. In a recent survey, members commented on the usefulness of the YouTube channel and on the good navigability of the website. User feedback about the APF website has also been positive, with the overwhelming majority of respondents to an online survey saying that the information on the website was useful and easy to find.

62.5 percent of all visits to the site came from search traffic. 'Paris Principles', 'women's rights in Asia' and 'issues in Asia' are among the top five search terms. In addition, campaigns, like the *APF Bulletin*, accounted for 16.5 percent of all visits, direct traffic for 11.5 percent of all visits and referral traffic, for example, links from other sites, for 9.3 percent of all visits.

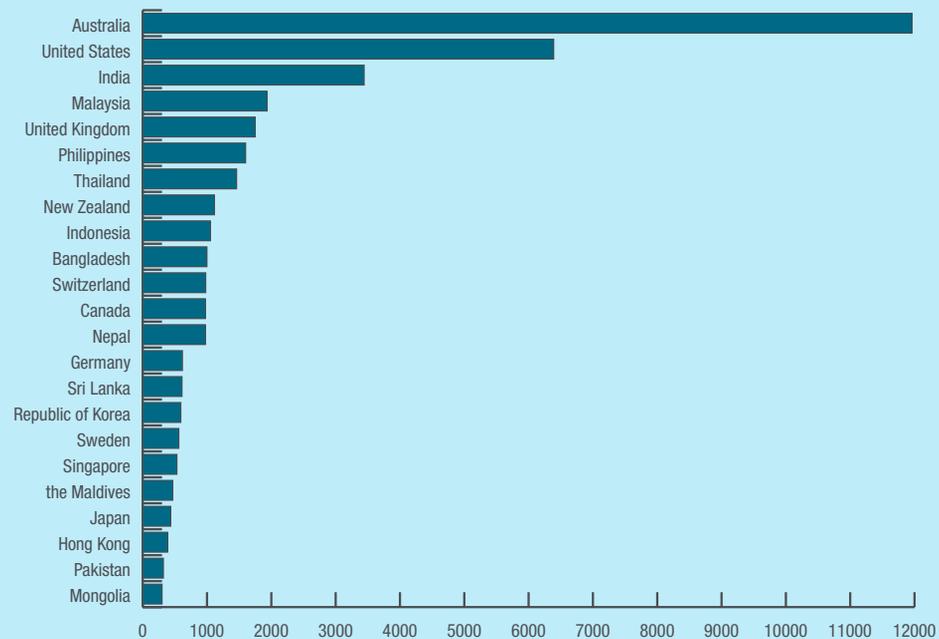
3 See [www.youtube.com/user/AsiaPacificForum](http://www.youtube.com/user/AsiaPacificForum).

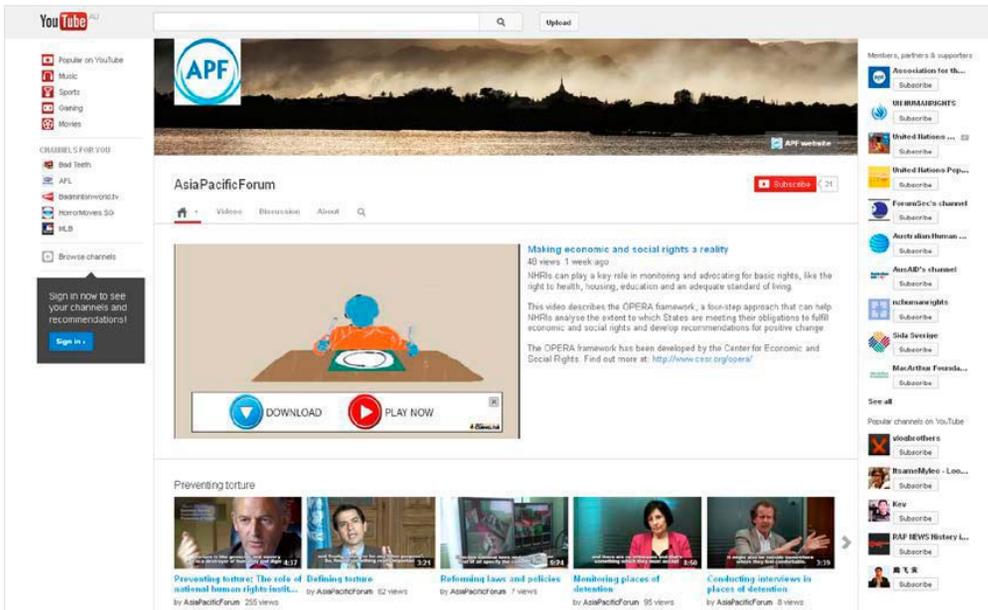
**Figure 5: Number of visits to, and pages viewed on, the APF website: 2008-09 to 2012-13**



Users of the APF website come from a wide range of countries. During the reporting period, visits from Australia, the United States, India, Malaysia and the United Kingdom accounted for just over half the traffic to the website, as show in Figure 6. The predominance of Australian visits can be attributed to operational activities associated with the APF secretariat. Other country-specific traffic may be associated with the activities of NHRIs, NGOs, governments or academic institutions. Another input into this analysis is changes over the last year in the use of the site by visitors from different countries.

**Figure 6: Visits to the APF website by country in 2012-13**





The APF's YouTube channel.

## APF Bulletin

The APF published monthly issues of its newsletter, the *APF Bulletin*, to keep APF members, governments, NGOs and stakeholders informed of important policy, legal, administrative and training developments in the region.

There was again growth in the number of active subscribers to the *APF Bulletin* to 1,304 during the year, an increase of eight percent. The unique open rate and the average clicks to articles remained stable from last year, indicating that the *APF Bulletin*, distributed 11 times during 2012–13, has been well-utilised by subscribers and is an effective tool in drawing visitors to the site (accounting for 16 percent of traffic). Members' rating of the relevance of the Bulletin increased from high to very high, (a median rating of 5 out of 5).

## Email broadcasts

Throughout the year regular email broadcasts were sent to Forum Councillors and their nominated staff contacts. These email broadcasts covered a range of APF-specific, thematic and operational issues. In addition, the APF acts as the relevant communication channel for correspondence from the UN and the ICC. In 2013 members rated the relevance of email broadcasts highly, consistent with their response in 2011, but slightly down from a very high rating in 2012.



APF Bulletin, June 2013 issue.

# 3

## Promote compliance with the Paris Principles



The Paris Principles set out the minimum standards required of NHRIs if they are to be considered credible and to operate effectively.

The guidelines were developed at a UN meeting held in Paris, France in 1991, which brought together representatives of NHRIs from all parts of the globe to define the core attributes that all new or existing institutions should possess. The Paris Principles were subsequently adopted by the UN General Assembly in 1993. The Paris Principles identify six criteria that NHRIs should meet in order to be effective, including:

- a clearly defined and broad-based mandate based on universal human rights standards
- autonomy from government
- independence guaranteed by legislation or the constitution
- pluralism, including membership that broadly reflects their society
- adequate resources, and
- adequate powers of investigation.

A fundamental role of the APF is to support its members, new NHRIs and governments looking to establish NHRIs in the region, to comply with the Paris Principles. During the reporting period, the APF assisted in the reaccreditation of existing members and assisted the establishment of new complying NHRIs.

### 3.1. ACCREDITATION

#### EVALUATION FINDINGS

**Outcome indicator**  
**Accreditation**

**Performance rating**  
**On track**



The Paris Principles provide the core framework for assessing the independence and effectiveness of NHRIs. In particular, they are used by the ICC to determine the accreditation status of NHRIs.

Accreditation assesses the extent to which an NHRI meets the minimum standards set out in the Paris Principles. It is a peer-based evaluation process.

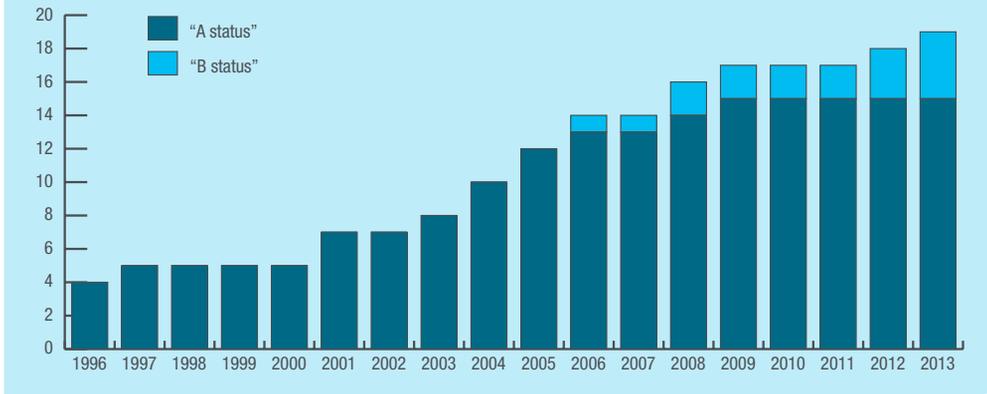
NHRIs which are considered to fully comply with the Paris Principles are accredited as “A status” institutions, while those that partially comply are accredited as “B status” institutions. “A status” NHRIs are permitted to participate in the work and discussion of the UN Human Rights Council and its subsidiary bodies.

The APF adopts the accreditation decisions of the ICC to determine APF membership status.

- Full members of the APF are NHRIs in the Asia Pacific region accredited with “A status” by the ICC. Each full member is represented on the Forum Council – the APF’s decision-making body – by a voting councillor. Full members also nominate a jurist to sit on the APF’s ACJ.
- Associate members of the APF are NHRIs in the Asia Pacific region accredited with “B status” by the ICC. Associate members are entitled to participate in APF programs and activities, however, they are not entitled to vote on Forum Council decisions or nominate a jurist to the ACJ.

Since its inception in 1996, APF membership has steadily risen, as shown in Figure 7. Fifteen out of the APF's 19 member institutions currently have "A status". This reflects a global rising trend in the accreditation of NHRIs, although this trend has softened in recent years, both in the Asia Pacific and globally.

**Figure 7: APF membership from 1996 to 2013 ("A" and "B status")**



Currently in the Asia Pacific region the NHRIs of Bangladesh, the Maldives, Myanmar and Sri Lanka have been accredited "B status" by the ICC and, as a result, are associate members of the APF.

Accreditation by the ICC is an ongoing process which may entail either the upgrading or downgrading of the status of individual NHRIs. The accreditation process aims to be comprehensive, rigorous and transparent. It is conducted by the ICC Sub-Committee on Accreditation which is comprised of one representative from each of the four ICC regions of Africa, the Americas, the Asia Pacific and Europe, who are supported by their regional NHRIs secretariats. It considers the following:

- information provided by the NHRI including, a statement of compliance with the Paris Principles; its founding/empowering legislation or instrument; an outline of its organisational structure, including staffing and budget; its most recent annual report and any other relevant documents
- a summary of issues relevant to the application, which is prepared by the National Institutions and Regional Mechanisms Section of the OHCHR and provided to the NHRI for its review and response, and
- reports from other organisations, such as national or regional civil society organisations, that are able to provide information on the work of the NHRI.

Accreditation reviews of "A status" institutions occur every five years. The ICC Sub-Committee on Accreditation meets twice a year, normally in March and November. The APF provides support to its regional representative on the sub-committee.

At its meetings in November 2012 and May 2013, the sub-committee considered the accreditation, reaccreditation or review of 32 NHRIs. The sub-committee also revised all existing general observations and drafted three additional general observations on:

- NHRIs operating as national preventative mechanisms under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
- assessing the performance of NHRIs for the purposes of accreditation, and
- NHRIs with quasi-judicial competence.

The purpose of general observations is to provide guidance to NHRIs in developing their own processes and mechanisms, as well as, assist governments address issues relating to a NHRI's compliance with the Paris Principles. The sub-committee also uses the general observations, along with the Paris Principles to guide its assessment of applications for accreditation, reaccreditation and special reviews of NHRIs.

The APF secretariat attends accreditation meetings in an ex-officio capacity and is a member of the sub-committee's drafting group, which is responsible for revising the existing general observations and preparing drafts of new general observations. It provides advisory and drafting support to the sub-committee, however, it does not have a recommendatory role.

## 3.2. PROVISION OF ADVICE TO MEMBERS AND OTHERS

### EVALUATION FINDINGS

**Outcome indicator**  
**Advice**

**Performance rating**  
**On track**



A central focus of the APF is to support the establishment and/or strengthening of independent NHRIs in the region. To help achieve this goal, the APF provides advice to NHRIs, governments and civil society groups on the unique status of NHRIs; their roles and functions; their relationship with government, parliament and civil society; and the international accreditation process. This can also include technical advice on compliance with international standards set out in the Paris Principles; operational issues such as organisational structure, operational procedures and financial resources; and the development of best practice models.

In 2012–13 the APF provided advice to existing members, potential members, governments, international and regional organisations and other stakeholders, including legal and policy advice on such topics as NHRI models, NHRI legislation, constitutional interpretation and amendment, international standards, accreditation and institutional cooperation.

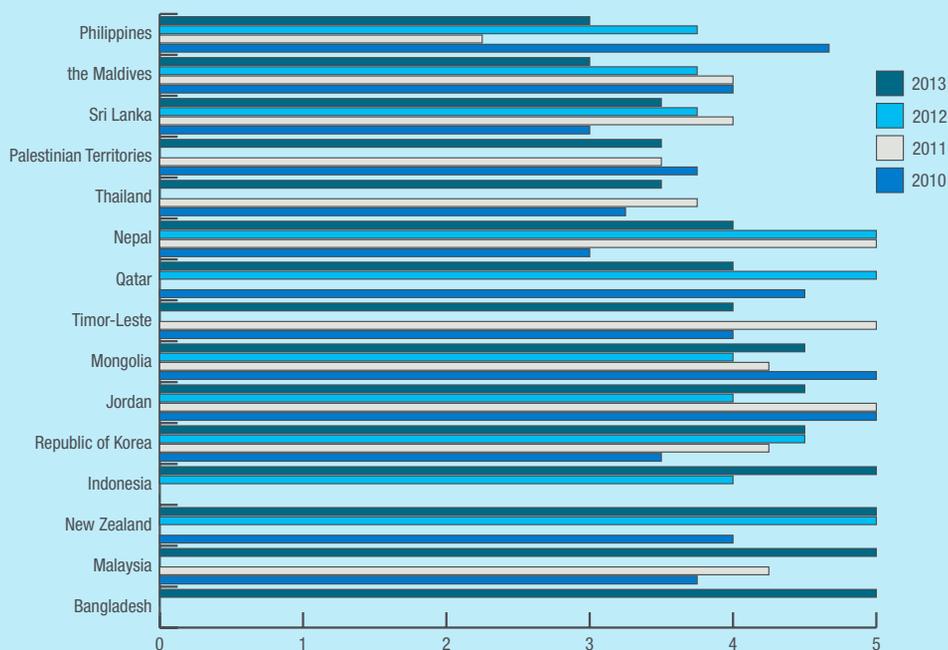
The APF secretariat was able to respond fully to 22 of the 24 requests for advice received, providing draft responses in the remaining two cases. Advice was provided in a broad range of areas including:

- the impact of international standards on amended legislation or proposed amendments to NHRI law
- the accreditation of NHRIs
- the application of the constitution and rule of law in situations of conflict
- statutory interpretation and statutory amendment, and
- policy development including improvements to accreditation processes.

Members continued to value the APF's advice highly this year, however, the median member rating across a number of areas of advice dropped slightly from 4.75 out of 5 in 2012 to 4.25 out of 5 in 2013. This was largely attributable to a drop in members' perception of the usefulness of advice on accreditation, a result of the reduced numbers of members engaged in ICC accreditation during the year.

As shown in Figure 8, the value of the advice to some members grew, especially the NHRIs of Indonesia, Malaysia, Bangladesh, Indonesia and New Zealand. For other members the value of advice dropped slightly, most significantly for the Maldives, Nepal and the Philippines. Australia indicated that it did not require advisory services during the year.

Figure 8: Member rating of the utility of APF advice – 2010 to 2013 (out of 5)



### 3.3. ESTABLISHMENT OF NHRIs

#### EVALUATION FINDINGS

**Outcome indicator**  
**Establishment**  
**Performance rating**  
**On track**



The APF provides advice to countries within the region that are considering the development of a NHRI. The APF enters into a dialogue with government and civil society representatives, assists in drafting legislation and otherwise provides advice on establishing NHRIs in compliance with the Paris Principles. In a number of cases, the APF provides advisory services in collaboration with other partners in the region, including OHCHR and the Pacific Islands Forum secretariat.

During the reporting period the APF responded positively to requests for missions and ongoing advice from Myanmar and Samoa.

#### Myanmar

In April 2012, the APF travelled to Yangon to work with the Myanmar National Human Rights Commission on the development of legislation to formalise the NHRI through an Act of Parliament. The APF met with the Chairperson and members of the Commission to discuss all aspects of the founding legislation of a NHRI.



A 70 year-old woman laughs with a family member inside a grocery store in Tachilek, Myanmar. UN Photo by Kibae Park.

The two-day meeting provided an opportunity to consider and compare founding legislation from NHRIs in the southeast Asian region, the broader Asia Pacific region and other parts of the world, with a focus on highlighting good practice in relation to the structure and functions of a NHRI. The discussions also addressed the international standards relating to the establishment and functioning of NHRIs, the Paris Principles, and the general observations of the ICC.

Following the meeting the APF continued to assist the Commission with legislative advice via email and a first draft of the legislation was produced. This draft was then sent to the Office of the President of Myanmar and circulated to Ministers and their departments for comment. The APF then returned to Yangon, Myanmar from 31 January – 4 February 2013 to participate in a meeting chaired by the Commission which included representatives from the Office of the President and government departments to work through a second draft of the legislation.

Following the meeting, the APF continued to assist the Commission with legislative advice via email and a final draft of the legislation was produced. The Commission subsequently sent the draft to the Office of the President for public dissemination and eventual submission to Parliament. It is anticipated that the draft will be considered by Parliament during 2013.

## Samoa

From 20–22 August 2012, the APF worked with Samoa's Attorney-General, the Ombudsman and the Attorney-General's Department to begin the process of drafting a new law to establish a NHRI within the Office of the Ombudsman.

The APF provided information on the key elements of the Paris Principles and on the legislative frameworks adopted by countries in the region. On the basis of these discussions the APF prepared drafting instructions from which the Office of the Attorney-General prepared a draft law. The APF provided advice during and following the drafting process. The draft law extended the powers of the Office of the Ombudsman to include a range of human rights functions. The draft law was then submitted to, and approved by, the Samoan Cabinet.

The APF returned to Samoa from 4–7 March 2013 to meet with the Attorney-General and the Ombudsman to discuss additional APF assistance to the Office of the Ombudsman and the timetable of Parliament's consideration of the Bill. The Bill was subsequently submitted to Parliament in late March 2013 and it was passed without amendment with full cross-party support on 30 May 2013. The Samoan NHRI will commence operations by mid-2013.

# 4

## Engage with international and regional human rights mechanisms



The APF advocates for members' participation in international and regional mechanisms. It does this by promoting joint APF member policy positions and in ensuring that NHRIs are effectively recognised in these mechanisms.

During 2012–13 the APF provided a strong and consistent voice for the region, influencing international mechanisms on behalf of our member institutions.

## 4.1. INTERNATIONAL MECHANISMS

### EVALUATION FINDINGS

**Outcome indicator**  
**Influencing**

**Performance rating**  
**On track**



The APF, with its member institutions and other partner organisations, seeks to support and engage with the various human rights protection systems internationally and across the region. During 2012–13 APF members participated in the UPR, in human rights treaty body examinations, and in visits by, or reports of, special procedure mandate holders.

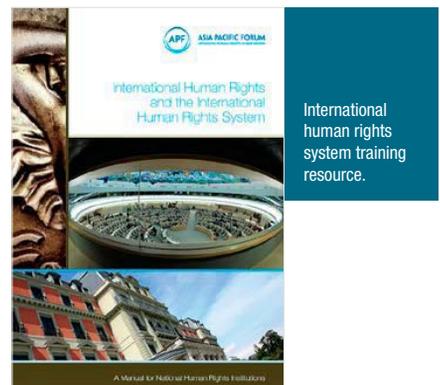
During the reporting period the APF produced a training manual on how NHRIs can effectively utilise international human rights mechanisms to drive domestic human rights improvements. The manual explores, in plain language, the opportunities for engagement and the experiences of NHRIs that do so.

It also includes case studies on the international engagement of the NHRIs of Australia, Jordan, Malaysia, the Maldives, the Philippines and Timor-Leste. Featuring practical advice throughout, it is designed to be a ready reference for NHRIs in their work with the international human rights system, as well as a key resource in the APF's training course on the international human rights system.

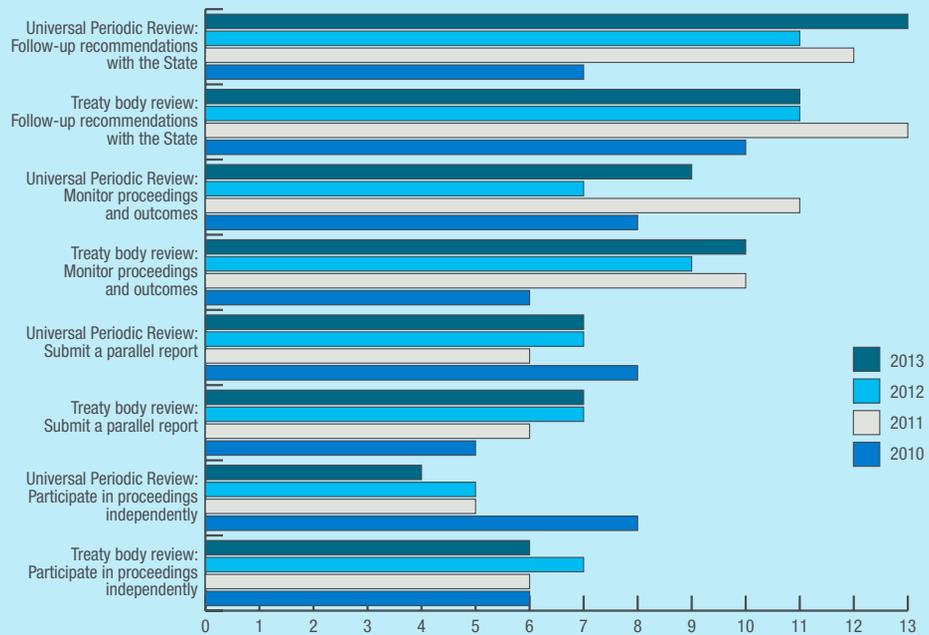
Figure 9 shows that the level of overall positive engagement with UN processes across the APF membership remains consistently high.

The cyclical nature of the UPR and treaty body reviews account for the difference between years. However, despite annual variations, there appears to be an increasing trend for member NHRIs to follow-up recommendations with their States, to monitor proceedings and outcomes, and to submit parallel reports, as encouraged through capacity building by the APF. The exception appears to be a declining trend in member NHRIs participating in proceedings independently. This may be a result of limited resources to support independent participation.

Members' engagement in the universal cyclical processes is more frequent than in the targeted processes associated with special procedures mandate holders. Therefore trends in universal processes are slightly easier to identify over time.

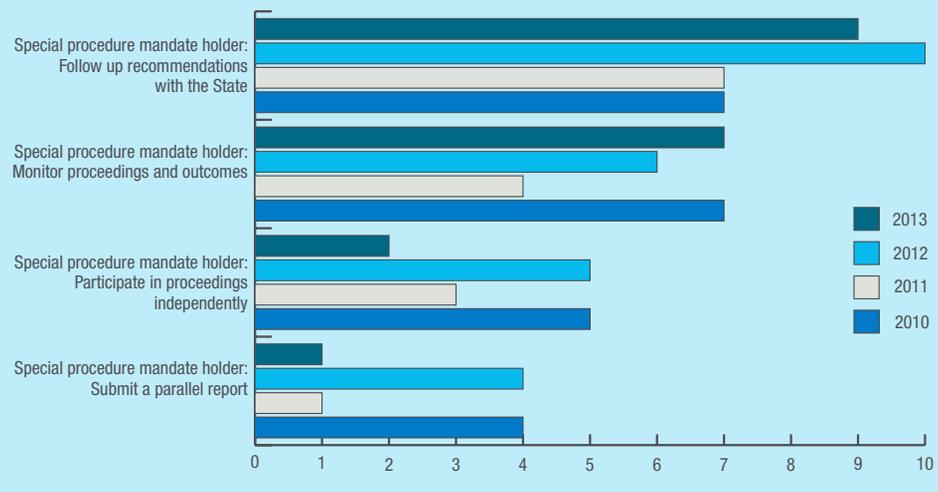


**Figure 9: Number of members participating in UN processes – UPR and treaty body reviews**



However, as shown in Figure 10, there is some indication of a trend for more member NHRIs to follow-up recommendations of special procedure mandate holders with their States and to monitor these proceedings and outcomes that may be, in part, encouraged through capacity building by the APF.

**Figure 10: Number of members participating in UN processes – special procedures**

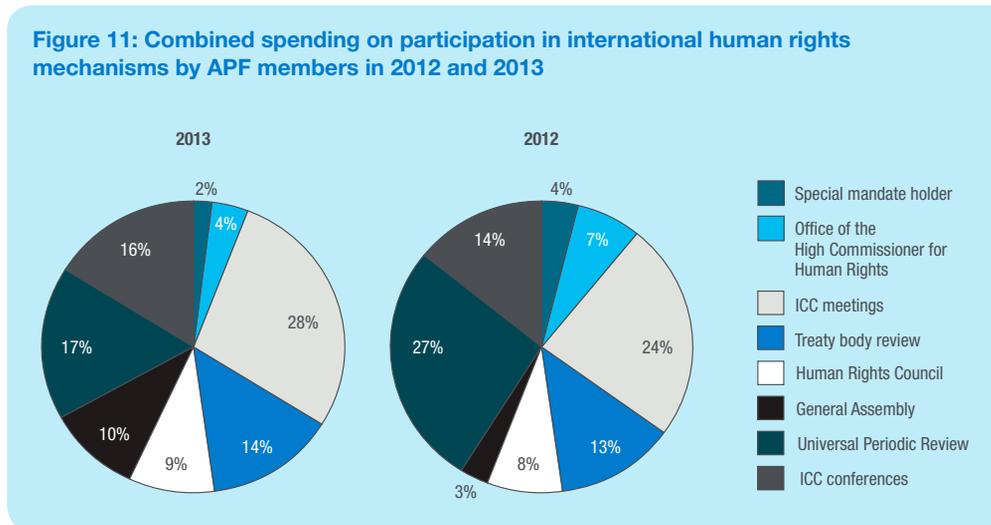


Although not shown in Figures 9 and 10, APF advocacy for independent speaking rights for NHRIs in UN processes has contributed to these being expanded in the last two years and now being further exercised by members. In 2013, four members spoke at treaty body review plenary sessions and three at UPR plenary sessions. Two members arranged sessions in-parallel with treaty body reviews.

The APF continues to engage constructively with the UN Human Rights Council, the General Assembly, the Commission on the Status of Women (CSW), the UN Open Ended Working Group on Ageing, and the ICC. It should be noted, however, that 2013 marks the final year of APF leadership in coordinating NHRI participation at the CSW. This role has now been handed over to the African region and the new ICC Chair, the South African Human Rights Commission. The APF has also been very active in the region facilitating the development of Pacific regional mechanisms, partnerships with the Association of Southeast Asian Nations, the South Asian Association for Regional Cooperation and Asian civil society.

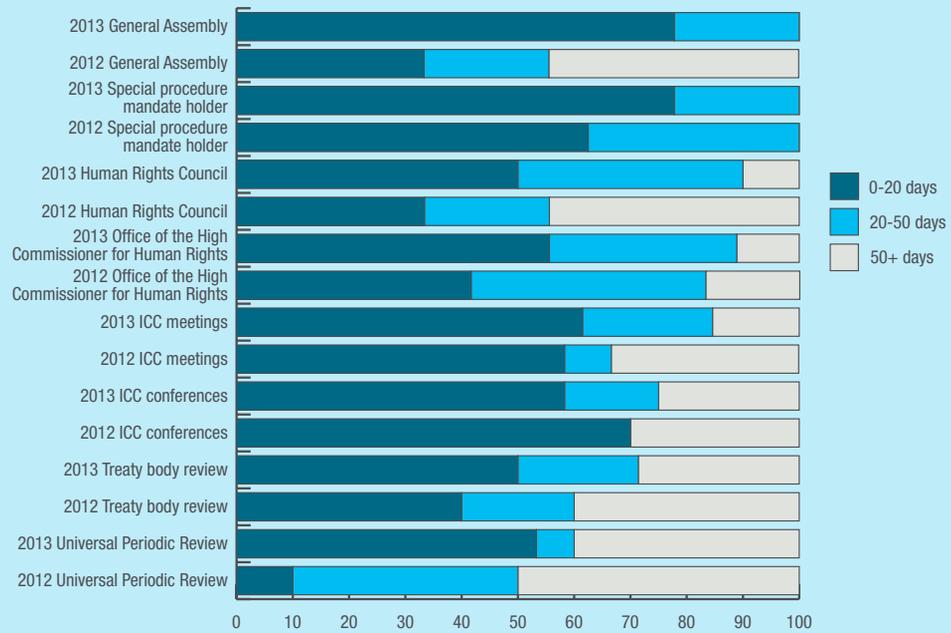
### APF member resourcing of international mechanisms

Together the 15 members that responded to a survey on the resourcing of international human rights mechanisms indicated a combined spend of \$US 1.17 million in 2012–13. This is an increase of 23 percent on the combined spend reported in 2012. Figure 11 shows the proportional allocation of these resources to different international processes. In both years the largest cost was participation in the UPR and ICC meetings, with proportion devoted to the UPR reducing significantly in 2013. ICC conferences and treaty body reviews were the next largest costs.



A major component of the cost of members participating in international mechanisms is staff time. Figure 12 shows the average amount of staff time spent on international process by APF members. The amount of time devoted to different processes varies considerably for year to year. In both years the most time was devoted to the UPR process, followed by treaty body reviews.

**Figure 12: APF member staff time devoted to participation in international human rights mechanisms in 2012 and 2013 (average across members)**



## UN Human Rights Council

The APF participated in the 20th Session of the UN Human Rights Council held in Geneva from 18 June – 6 July 2012 and, in particular, assisted in the development of a resolution on NHRIs.

The resolution was a significant step forward for NHRIs as it called for Paris Principles-compliant NHRIs to be able to participate in other UN meetings and forums, including the General Assembly.

The Council's resolution also:

- welcomed the strengthening of contribution opportunities for Paris Principles-compliant NHRIs at the Council via its five-year review
- welcomed the contribution of NHRIs to the ongoing treaty body strengthening process
- welcomed the UN Secretary-General's recognition of the contributions that Paris Principles-compliant NHRIs have made to the work of the CSW, the Conference of States Parties to the Convention on the Rights of Persons with Disabilities and the Open Ended Working Group on Ageing
- welcomed the efforts of the Secretary-General to encourage NHRIs to continue to interact with, and advocate for, independent participation in all relevant UN mechanisms, and
- expressed appreciation for the work of regional bodies of NHRIs, including the APF.

In addition, the APF made an oral statement at the Council session that addressed the Secretary-General's 2012 report on NHRIs and submitted written reports on the APF's partnership with and contributions to the UN over the last year, as well as the APF's Regional Conference on Business and Human Rights held in Seoul, Korea, in October 2011.

## UN General Assembly

In February 2012, the UN General Assembly launched an open-ended intergovernmental process to strengthen and enhance the human rights treaty body system. The General Assembly's process builds on a two-year multi-stakeholder process led by OHCHR, to which the APF contributed. In recognition of the contribution that NHRIs have made to the treaty body strengthening project, the General Assembly has taken the positive step of providing for arrangements to be made to enable its process to benefit from the input and expertise of NHRIs. In July 2012, the APF met with the two co-facilitators of this process, the Ambassadors of Iceland and Indonesia, to discuss the views of NHRIs and their input into the review.

The APF also met with the (then) President of the General Assembly and a range of Ambassadors to progress the Human Rights Council's resolution calling on Paris Principles-compliant NHRIs to be provided with an equivalent access to the General Assembly and its mechanisms as now exists in the Human Rights Council in Geneva.

## UN Commission on the Status of Women

During the reporting period, the APF concluded a five-year advocacy campaign at the CSW, having garnered increased recognition for the role they play in promoting and protecting the rights of women and girls. The APF attended the 57th Session of the CSW, held in New York from 4–15 March 2013, leading a delegation of NHRIs from Australia, India, Jordan, the Republic of Korea, the Philippines, Mexico and Morocco. The priority theme of the CSW's discussion was the elimination and prevention of all forms of violence against women and girls.

Since 2008, a growing number of NHRIs have attended the annual meeting of the global policy-making body on women's rights, building strong relationships with government delegations, UN agencies, diplomatic missions and NGOs. They have also hosted and participated in a range of side events during the CSW sessions, highlighting the practical work they do to promote gender equality at the national level and the unique contribution they make to the international human rights system.

A key goal of the campaign was to advocate for the independent participation of NHRIs in the annual meetings of the CSW, similar to the opportunities available to "A status" NHRIs to take part in discussions at the UN Human Rights Council. Currently, NHRIs may only participate in CSW meetings if they are invited to attend as part of their government's delegation or if they seek accreditation through a participating NGO. Neither of these options appropriately recognises the independent role of NHRIs.

The APF has coordinated the advocacy campaign on behalf of the ICC, which has resulted in:

- significantly greater understanding of the role and functions of NHRIs among the government delegations that make up the CSW
- the role of NHRIs being recognised by the CSW on each occasion it has adopted agreed conclusions at the end of its annual session (2009, 2011 and 2013). Prior to 2009, NHRIs had not been specifically mentioned in these statements
- the Human Rights Council adopting a resolution in 2012 that recognised the contribution of NHRIs at the CSW and encouraged their ongoing advocacy for independent participation, and
- the rights of women and girls gaining greater prominence within NHRIs around the globe, including through the decision of the ICC to dedicate its biennial conference in 2012 to the issue of women and girls' human rights and gender equality. It also ensured that women and girls' human rights will be a standing annual agenda item at ICC general meetings.

The APF presented their concluding report on the CSW advocacy campaign to the ICC General Meeting in May 2013. The report also outlined the process and procedures for the ICC to apply for permanent observer status at the General Assembly and provide information on the review of the Economic and Social Council and the opportunities this may present.

## International Coordinating Committee of National Institutions

The 11th ICC Conference, held in Amman, Jordan from 5–7 November 2012, was hosted by the Jordan National Centre for Human Rights and organised in cooperation with the OHCHR and the ICC. Along with representatives from NHRIs, the conference included civil society organisations, governments, UN agencies, academics and leading international experts. The conference was preceded by a major NGO forum, which contributed a range of issues for discussion during the conference and highlighted the strategic value of NHRIs working in partnership with civil society. The focus of the conference was on the rights of women.

NHRIs from around the world agreed on a series of concrete actions to promote gender equality and address the factors that lead to discrimination, violence and other violations of the rights of women and girls. These commitments were outlined in the final conference statement titled the 'Amman Declaration and Programme of Action'.

Supported by more than 70 NHRIs, the Amman Declaration sets out a number of broad principles and areas of work to promote greater gender equality, including that NHRIs:

- monitor the performance of the State in promoting and protecting the rights of women and girls and, where appropriate, monitor the activities of business and other non-State actors
- respond to, and investigate allegations of, violations of the rights of women and girls and work to eliminate the stigma associated with raising human rights violations
- undertake education, promotion and awareness-raising activities to promote the human rights of women and girls and to counter prejudice and stereotypes, and
- build strategic partnerships with key national and UN agencies that have a role to promote gender equality.

In addition, the Amman Declaration sets out a number of practical steps that NHRIs can take to promote women's political and public participation; advance women's economic and social rights; respond to violence against women and girls; and address women's health and reproductive rights. The Declaration is also supported by regional action plans developed by the four regional groupings of NHRIs from Africa, the Americas, the Asia Pacific and Europe.

The APF also participated in the 26th Session of the ICC which was held in Geneva from 6–8 May 2013.

## 4.2. REGIONAL MECHANISMS

The APF seeks to work with regional intergovernmental mechanisms to promote and protect human rights.

### Pacific Islands Forum

The Pacific Islands Forum is an intergovernmental regional mechanism comprised of the member States from Australia, Cook Islands, Kiribati, Marshall Islands, Micronesia, Nauru, New Zealand, Niue, Palau, Papua New Guinea, Samoa, Solomon Islands, Tonga, Tuvalu and Vanuatu. The APF, the OHCHR and the Pacific Islands Forum secretariat (PIFs) developed a new memorandum of understanding to strengthen their partnership in promoting the establishment of NHRIs in the Pacific region. The new agreement builds on a 2009 memorandum of understanding between the APF and PIFs, and the APF's partnership agreement with OHCHR.

The agreement will ensure the sustainability of the work in the region and will highlight the particular areas of expertise that each organisation brings to the partnership. The APF, OHCHR and PIFs are currently working with the governments of Nauru, Palau, Papua New Guinea, Samoa, Solomon Islands and Vanuatu to set up NHRIs in their countries.

OHCHR and PIFs also work in partnership with Pacific governments and civil society to promote treaty ratification and to support their contributions to the work of the UN's human rights mechanisms, including the human rights treaty bodies, the special procedures and the UPR mechanism.

The draft memorandum of understanding was finalised in a strategic planning meeting held in Suva, Fiji from 26–29 November 2012 and submitted to the respective heads of each organisation for signature.

## South Asian Association for Regional Cooperation

The South Asian Association for Regional Cooperation (SAARC) is an intergovernmental regional mechanism comprised of member States from Afghanistan, Bangladesh, Bhutan, India, the Maldives, Nepal, Pakistan and Sri Lanka.

In October 2012, the APF travelled to Kathmandu, Nepal to meet with the Secretary-General of SAARC. The APF proposed the development of a memorandum of understanding for joint activities to promote and protect human rights. The Secretary-General agreed to explore this proposal and a draft memorandum of understanding was developed and submitted to the member States of SAARC for their consideration. It is hoped a decision on the draft will be taken during 2013.

## Association of Southeast Asian Nations

The Association of Southeast Asian Nations (ASEAN) is an intergovernmental regional mechanism comprised of the member States from Brunei Darussalam, Cambodia, Indonesia, Laos People's Democratic Republic, Malaysia, Myanmar, the Philippines, Singapore, Thailand and Vietnam.

The APF continued to hold discussions with representatives of the ASEAN Inter-Governmental Human Rights Commission and its related mechanisms on migrant workers and women on the role that NHRIs may be able to play in these mechanisms.

The APF's member institutions in southeast Asia welcomed the adoption of the ASEAN Human Rights Declaration on 18 November 2012 during the ASEAN Summit in Cambodia as a positive development in the promotion and protection of human rights in the region. They expressed disappointment, however, that while the Declaration covers a wide range of rights categorised separately as civil and political rights; economic, social and cultural rights; the right to development; and the right to peace, all of these are subject to nine general principles. These principles permit restrictions to be made on grounds wider than what are accepted internationally. More importantly, General Principle 7, which declares on the one hand, that all human rights are universal, indivisible, interdependent and interrelated, recognises on the other, that member States may take into consideration their political, economic, legal, socio-cultural, and historical backgrounds in the realisation of human rights in their countries.

# 5

## Effective, efficient and strategic management of the APF



The APF operates as an independent, non-profit legal entity, with a board of directors – the Forum Council – that reflects the APF’s broad regional diversity.

The key elements of the APF’s organisational structure are as follows:

- The Forum Council is the decision-making body of the APF. Established by the APF constitution, the Forum Council is comprised of one voting councillor nominated by each full member. It sets the APF’s policies and priorities, determines membership applications and exercises all the powers set out in the constitution.
- The Forum Council elects, from within its membership, a chairperson and two deputy chairpersons of the APF.
- Forum Councillors can establish committees of councillors to administer different aspects of the APF’s operations. A management committee has been established to oversee the operations of the APF.
- The APF secretariat is responsible for implementing the decisions of the Forum Council. The Director of the secretariat reports to the Chairperson of the Forum Council on a regular basis and to the Forum Councillors. The Forum Council meets each year as part of the APF’s annual meeting and on other occasions as required. Meetings are run according to the APF rules of procedures for Forum Councillors’ meetings.

## 5.1. STRATEGIC MANAGEMENT

### EVALUATION FINDINGS

**Outcome indicator**  
**Strategy**

**Performance rating**  
**On track**



During the year, the APF secretariat was responsible for the strategic management of the organisation and its operations, which involved:

- servicing the APF Chairperson, meetings of the full Forum Council and sub-committees established by the Council and providing policy advice to the ICC Chairperson
- implementing all the activities approved by the Forum Council in the APF’s strategic plan
- completing all monitoring, evaluation and reporting requirements
- identifying international issues and pursuing activities that support the APF’s mission and vision for the region
- identifying and pursuing opportunities to increase regional participation and representation across the breadth of its activities including the involvement, wherever possible, of non-member institutions, governments and civil society
- identifying and implementing risk management strategies for all project activities and the overall operation of the APF
- implementing a long-term fund development strategy, and
- managing in an effective, efficient and equitable manner the APF’s financial and human resources.

Members’ feedback on the management of the APF was again unanimously positive and their median rating of various strategic management services, shown in Figure 13, remain consistently high (4.6 out of 5 in 2012 and 2013). Members’ comments support this finding.

“The NHRC is learning a lot from the Secretariat to be more effectively working for the people of Bangladesh.”

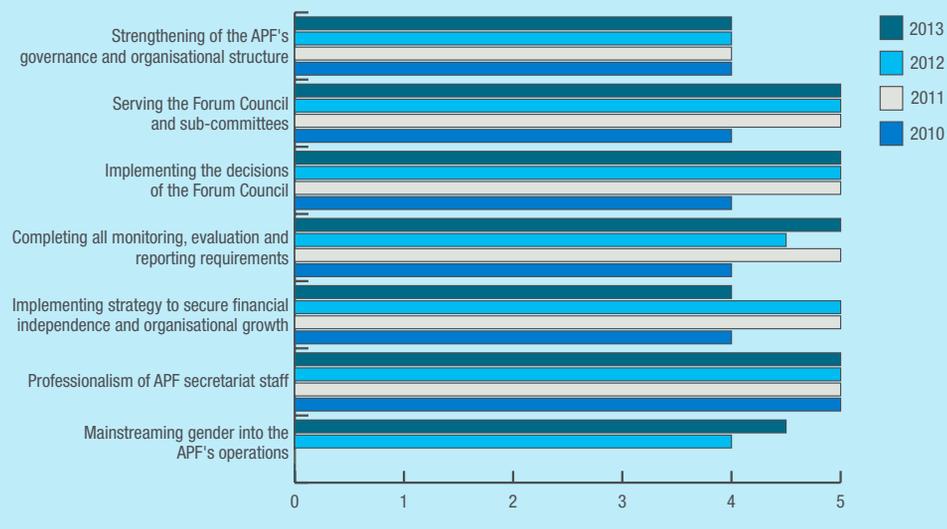
**NATIONAL HUMAN RIGHTS COMMISSION OF BANGLADESH**

“The Secretariat has been very effective in managing the APF, particularly in facilitating technical assistance and capacity building for the APF member institutions.”

**HUMAN RIGHTS COMMISSION OF MALAYSIA**



**Figure 13: Members' ratings of the APF's strategic management services – 2010 to 2013**



## 5.2. GENDER MAINSTREAMING

### EVALUATION FINDINGS

**Outcome indicator**  
**Gender mainstreaming**

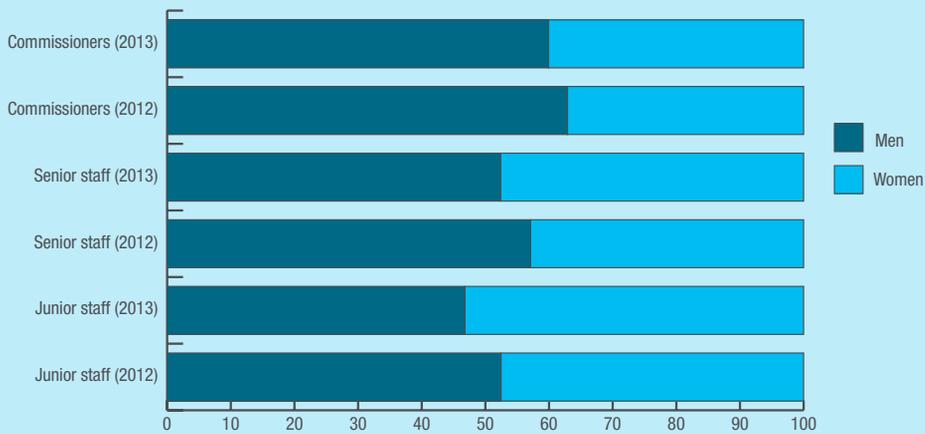
**Performance rating**  
**On track**



The APF has adopted a gender policy and, for the second year, members were asked to rate the APF's efforts at mainstreaming gender into its operations. A slight increase in the median response (4.5 out of 5 in 2013, up from 4 out of 5 in 2012) indicates an ongoing high degree of satisfaction with this initiative.

The average ratio of males to females at the level of Commissioner, senior staff and junior staff for the 15 members who responded is shown in Figure 14. On average there is slightly higher proportion of men overall except in junior staff, this tendency increases with seniority.

**Figure 14: Gender make-up among APF members in 2012 and 2013**



The results this year show an increase in women at all levels, on average, although it is not possible to say whether this is a trend or annual variation at this point. It is important to note that there is significant variation in the gender balance across the membership, with some showing a strong preponderance of women at all levels (notably Australia and New Zealand) and others a strong preponderance of men, especially in senior roles (notably Jordan and Afghanistan).

At the 11th International Conference of the ICC on the promotion of human rights on the theme of ‘Human rights of women and girls: Promoting gender equality – the role of national human rights institutions’ held in Amman, Jordan, from 5–7 November 2012, APF members reaffirmed their commitment to mainstream gender equality into all APF objectives.

### 5.3. ENVIRONMENTAL IMPACT

#### EVALUATION FINDINGS

**Outcome indicator**  
**CO2 emissions**

**Performance rating**  
**On track**



The APF’s small secretariat operates from leased premises in a water and energy efficient building with a certified four star green star rating and best practice waste recycling systems. The secretariat use few other resources, create only minor waste streams and has been able to reduce its environmental impact further through the introduction of a virtual learning environment that has reduced the need for training-related air travel. The APF conferences and meetings have moved from providing meeting documents and resources in hard copy to soft copy – available on the APF website and USB drives.

## 5.4. FINANCIAL MANAGEMENT

### EVALUATION FINDINGS

**Outcome indicator**  
**Spending by objective**

**Performance rating**  
**On track**



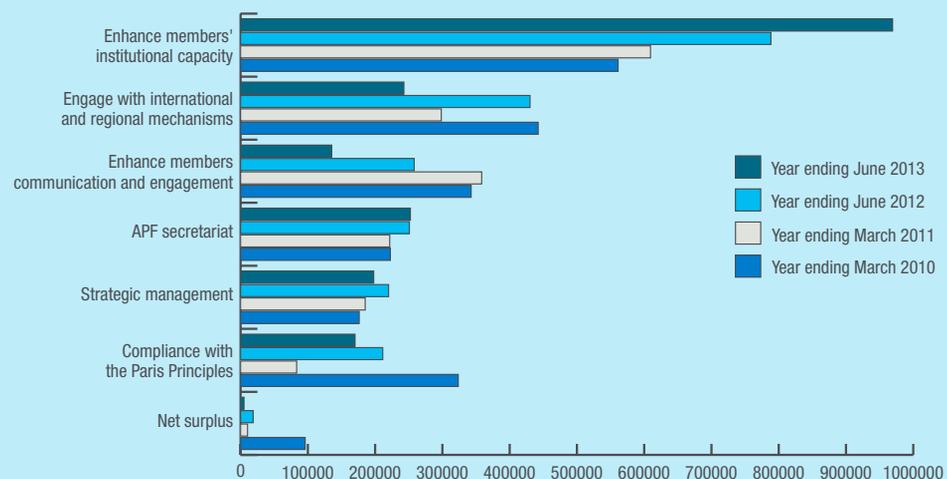
The APF is a non-profit organisation supported entirely by membership fees, voluntary contributions and grants. The APF receives its funding from APF members, governments, foundations, UN agencies and other NGOs. To ensure its continued independence and impartiality, the APF endeavours to maintain a diversified base of support for its activities.

The APF is very grateful for the generous contributions of its donors and the commitment they share in advancing human rights in the Asia Pacific region. Supporters have included the APF's member institutions through membership fees and other financial and in-kind donations, the Governments of Australia, India, New Zealand, the Republic of Korea, Sweden and Thailand (often as a result of the direct advocacy of the NHRIs from those States), philanthropic organisations such as the MacArthur Foundation and the RWI, philanthropic individuals and intergovernmental organisations such as the UNDP, and other private donors.

Figure 15 compares the spending by objective for the last four financial years (noting a change in reporting year from April/March in 2010 and 2011 to July/June from 2012 due to alignment of strategic processes). The total revenue available for distribution was smaller than the previous year, largely due to some donor funds being deferred to the following year (2013–14).

Due to ongoing efforts to align the APF donor and financial reporting obligations, the formal audit of these accounts is yet to be completed. An auditor's statement will be available by mid-September and will be tabled with the report at the 18th Annual Meeting of the APF in October 2013. No changes are anticipated.

**Figure 15: APF secretariat spending by objective – 2010 to 2013**



The allocation of spending has changed a little from 2011–12 to 2012–13. The main changes in this reporting period compared with the previous year are:

- spending on engagement with international and regional mechanisms has reduced with the end of financial support for the ICC Chairpersonship during a transition between chairs
- spending on enhance members' institutional capacity has risen further due to a significant increase in the capacity needs assessment program during the year, engaging with the NHRIs of the Philippines, Afghanistan, Australia, New Zealand and Nepal
- a smaller than expected spend on Paris Principles compliance is due to changing political circumstances in the Pacific which slowed the regional engagement program. Moreover, engagement with Samoa proved to be more financially cost effective than initially budgeted.

## 5.5. CORPORATE GOVERNANCE

### EVALUATION FINDINGS

**Outcome indicator**  
**Compliance**

**Performance rating**  
**On track**

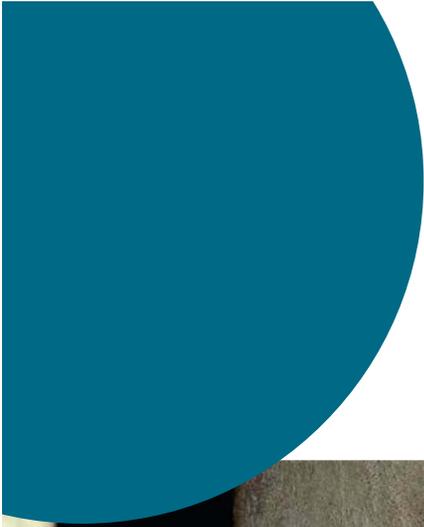


The APF is a company limited by guarantee and is required to meet a range of regulatory obligations. Directors of a company limited by guarantee are subject to all of the duties and obligations for a company as set out in the Corporations Act 2001. This includes the preparation of an audited financial report in accordance with the Australian Accounting Standards and a Directors' report in accordance with the Corporations Act. There are also compliance requirements on companies limited by guarantee relating to health and safety, equal opportunities and industrial relations. In 2012–13 no non-compliance incidents in any of these areas were recorded. All financial, regulatory and statutory obligations have been undertaken.

## 5.6. ALLOCATION OF EXPENDITURE

Figure 16: APF income and expenditure during 2012–13 by objective





# Asia Pacific Forum of National Human Rights Institutions



## MEMBERS

### Afghanistan

Afghanistan Independent Human Rights Commission  
W: [www.aihrc.org.af](http://www.aihrc.org.af)  
E: [aihrc@aihrc.org.af](mailto:aihrc@aihrc.org.af)

### Australia

Australian Human Rights Commission  
W: [www.humanrights.gov.au](http://www.humanrights.gov.au)  
E: [communications@humanrights.gov.au](mailto:communications@humanrights.gov.au)

### Bangladesh

National Human Rights Commission of Bangladesh  
W: [www.nhrc.org.bd](http://www.nhrc.org.bd)  
E: [nhrc.bd@gmail.com](mailto:nhrc.bd@gmail.com)

### India

National Human Rights Commission of India  
W: [www.nhrc.nic.in](http://www.nhrc.nic.in)  
E: [covdnhrc@nic.in](mailto:covdnhrc@nic.in)

### Indonesia

Indonesian National Commission on Human Rights  
W: [www.komnasham.go.id](http://www.komnasham.go.id)  
E: [info@komnasham.go.id](mailto:info@komnasham.go.id)

### Jordan

Jordan National Centre for Human Rights  
W: [www.nchr.org.jo](http://www.nchr.org.jo)  
E: [mail@nchr.org.jo](mailto:mail@nchr.org.jo)

### Malaysia

Human Rights Commission of Malaysia  
W: [www.suhakam.org.my](http://www.suhakam.org.my)  
E: [humanrights@suhakam.org.my](mailto:humanrights@suhakam.org.my)

### Maldives

Human Rights Commission of the Maldives  
W: [www.hrcm.org.mv](http://www.hrcm.org.mv)  
E: [info@hrcm.org.mv](mailto:info@hrcm.org.mv)

### Myanmar

Myanmar National Human Rights Commission  
E: [maungkhin2011@gmail.com](mailto:maungkhin2011@gmail.com)

### Mongolia

National Human Rights Commission of Mongolia  
W: [www.mn-nhrc.org](http://www.mn-nhrc.org)  
E: [info@mn-nhrc.org](mailto:info@mn-nhrc.org)

### Nepal

National Human Rights Commission of Nepal  
W: [www.nhrcnepal.org](http://www.nhrcnepal.org)  
E: [nhrc@nhrcnepal.org](mailto:nhrc@nhrcnepal.org)

### New Zealand

New Zealand Human Rights Commission  
W: [www.hrc.co.nz](http://www.hrc.co.nz)  
E: [infoline@hrc.co.nz](mailto:infoline@hrc.co.nz)

### Palestinian Territories

The Palestinian Independent Commission for Human Rights  
W: [www.ichr.ps](http://www.ichr.ps)  
E: [ichr@ichr.ps](mailto:ichr@ichr.ps)

### Philippines

Philippines Commission on Human Rights  
W: [www.chr.gov.ph](http://www.chr.gov.ph)  
E: [comsec@chr.gov.ph](mailto:comsec@chr.gov.ph)

### Qatar

National Human Rights Committee of Qatar  
W: [www.nhrc.org.qa](http://www.nhrc.org.qa)  
E: [nhrc@qatar.org.qa](mailto:nhrc@qatar.org.qa)

### Republic of Korea

National Human Rights Commission of Korea  
W: [www.humanrights.go.kr](http://www.humanrights.go.kr)  
E: [nhrc@humanrights.go.kr](mailto:nhrc@humanrights.go.kr)

### Sri Lanka

Human Rights Commission of Sri Lanka  
W: [www.hrcsl.lk](http://www.hrcsl.lk)  
E: [sec@hrcsl.lk](mailto:sec@hrcsl.lk)

### Thailand

National Human Rights Commission of Thailand  
W: [www.nhrc.or.th](http://www.nhrc.or.th)  
E: [info@nhrc.or.th](mailto:info@nhrc.or.th)

### Timor-Leste

Timor Leste Office of the Provedor for Human Rights and Justice  
E: [sdiasximenes@yahoo.com.br](mailto:sdiasximenes@yahoo.com.br)



**ASIA PACIFIC FORUM**  
ADVANCING HUMAN RIGHTS IN OUR REGION

**Asia Pacific Forum of National Human Rights Institutions**

GPO Box 5218  
Sydney NSW 1042  
Australia

E: [apf@asiapacificforum.net](mailto:apf@asiapacificforum.net)  
W: [www.asiapacificforum.net](http://www.asiapacificforum.net)



**ASIA PACIFIC FORUM**  
ADVANCING HUMAN RIGHTS IN OUR REGION

## ANNEX 8

### APF Audited Accounts

## Forum Councillors

### Annual General Meeting

---

#### **APF 18**

The 18th Annual Meeting & Biennial  
Conference of the Asia Pacific Forum of  
National Human Rights Institutions

Doha, Qatar, 1 to 3 October 2013

---

**Report to the Board of Directors**  
Asia Pacific Forum of National Human Rights Institutions  
30 June 2013

29 August 2013

Level 15, 135 King Street  
Sydney NSW 2000

T +61 (0)2 8236 7700  
F +61 (0)2 9233 4636

[www.moorestephens.com.au](http://www.moorestephens.com.au)

29 August 2013

The Board of Directors  
Asia Pacific Forum of National Human Rights Institutions  
Level 3, 175 Pitt Street  
Sydney NSW 2000

Attention: Mr Kieren Fitzpatrick

Dear Board Members,

We have substantially completed the audit of Asia Pacific Forum of National Human Rights Institutions ("the Company") for the year ended 30 June 2013. We attach a report setting out the scope, results and a brief summary of matters noted in connection with our audit.

It should be appreciated that our procedures are designed primarily to enable us to form an opinion on the financial statements and therefore may not bring to light all weaknesses in the systems and procedures that may exist. We aim however to use knowledge gained during our audit to make comments and suggestions for management in considering the financial statements.

We have prepared this report solely for your use. As you are aware, this report is part of a continuing communication between the Company and us and therefore is not intended to include every matter that has come to our attention. For this reason we believe it would be inappropriate for this report to be made available to third parties without our express permission and if this was to occur we would not accept any responsibility for any reliance they may place on it.

We would like to take this opportunity to extend our appreciation to Mr Kwame Owusu-Akyeampong and all the staff during the course of our audit.

We look forward to the opportunity to discuss this report and any other issues that you may wish to raise.

Yours faithfully

**MOORE STEPHENS SYDNEY**

**Chris Chandran**  
Partner

Moore Stephens Sydney ABN 90 773 984 843. Liability limited by a scheme approved under Professional Standards Legislation\*  
\*Other than for the acts or omissions of financial services licensees. An independent member of Moore Stephens International Limited -  
members in principal cities throughout the world The Sydney Moore Stephens firm is not a partner or agent of any other Moore Stephens firm.

## Contents

|                   | Page No.  |    |
|-------------------|---|----|
| 1                 | Audit Scope and Results                         | 4  |
| 2                 | Outstanding Matters and Opinion                 | 5  |
| 3                 | Independence and the Company's Responsibilities | 6  |
| 4                 | Addressing Specific Fraud Risk                  | 7  |
| 5                 | Uncorrected Misstatements                       | 8  |
| 6                 | Audit Matters of Governance Interest            | 9  |
| 7                 | Other Matters                                   | 10 |
| <b>Appendix A</b> | <i>Moore Stephens Sydney Independence</i>       | 11 |

For further detail please contact:

**Chris Chandran**  
Engagement Audit Partner  
[cchandran@moorestephens.com.au](mailto:cchandran@moorestephens.com.au)

**Jefferson Junsav**  
Engagement Audit Manager  
[jjunsav@moorestephens.com.au](mailto:jjunsav@moorestephens.com.au)

## 1 Audit Scope and Results

Our audit has been conducted in accordance with Australian Auditing Standards to determine whether the annual financial statements give a true and fair view of the financial position of the Company as at 30 June 2013 and of its performance for the year then ended in accordance with the Australian Accounting Standards – Reduced Disclosure Requirements.

| We confirmed:   | Our procedures included:   |
|---|--|
| An unqualified audit opinion will be issued once the outstanding matters in Section 2 will be obtained. | Reviewing and discussing with management the presentation requirements of the financial statements                       |
| No limitation on scope encountered.   | Audit of transactions, account balances and disclosures in line with Moore Stephens Australia ("MSA") audit methodology. |
| Aspects of the audit completed were in line with planned approach.                                      | Obtaining audit evidence from third parties where relevant.  |
| No amendments to the audit strategy required.   | Addressing regulatory and compliance requirements.   |
| Required reconciliations were performed, prepared and supported at year end.                            | Addressing all identified risks.   |
| Transactions and account balances relating to the audit were verified.                                  | Ongoing discussions with management as relevant.   |
| Books and records were maintained with no issues noted.   | Reporting results to Board and management  |
| Recommendations and other matters arising from the audit are detailed in this report                    |  |
| Adjustments required have been discussed with no exceptions noted.                                      |  |

## 2 Outstanding Matters and Opinion

| List of Outstanding Items   |
|---|
| a. Review of any developments (subsequent events) to the date of signing of the financial statements; |
| b. Receipt signed Management Representation Letter;   |
| c. Formal adoption of the financial statements by the Board of Directors, and                         |
| d. Receipt of signed Directors' Declaration and Directors' Report.                                    |

At this time, we do not anticipate any issues with clearing these items prior to signing our audit opinion.

In forming our audit opinion we considered the results of all audit evidence obtained including the testing of transaction cycle controls, and the substantive testing of the reported assets, liabilities, income and expenditure of the Company.

### 3 Independence and Company's Responsibilities

| <p><i>Management Representation</i></p>                               | <ul style="list-style-type: none"> <li>▶ We have assessed our independence at planning, fieldwork and completion stages and to the best of our knowledge and belief we are of the opinion that Moore Stephens Sydney is not in contravention of the auditor independence requirements of Division 3 of Part 2M.4 of the <i>Corporations Act 2001</i>.</li> <li>▶ We have further considered APES110 Code of Ethics for Professional Accountants and based upon the safeguards Moore Stephens Sydney has in place we are satisfied that the provision of services by Moore Stephens Sydney and associated firms has not compromised our independence as external auditor of the Company. Please refer to <b>Appendix A</b> for further discussion on our policies and procedures regarding maintenance of auditor independence.</li> <li>▶ We have not carried out any engagements for the Company that in our opinion would impair our firm's professional independence as auditor.</li> <li>▶ Other than in respect to our audit engagement, we have undertaken the following engagements for the Company during the year ended 30 June 2013.</li> </ul> <table border="1" data-bbox="715 672 782 1456"> <thead> <tr> <th data-bbox="715 672 753 780">Engagement Details</th> <th data-bbox="715 780 753 868">Fee (\$)</th> </tr> </thead> <tbody> <tr> <td data-bbox="753 672 782 780">Review of Director's Instructions and Financial Management Guidelines</td> <td data-bbox="753 780 782 868">\$2,500</td> </tr> </tbody> </table> | Engagement Details | Fee (\$) | Review of Director's Instructions and Financial Management Guidelines | \$2,500 |
|---|--|--------------------|----------|---|---------|
| Engagement Details  | Fee (\$)   |                    |          |   |         |
| Review of Director's Instructions and Financial Management Guidelines | \$2,500  |                    |          |   |         |
| <p><i>Management Representation</i></p>                               | <ul style="list-style-type: none"> <li>▶ Responsibility for the financial statements, including adequate disclosure, is that of those charged with governance. This includes designing, implementing and maintaining internal control relevant to the preparation and fair presentation of the financial statements that is free from material misstatement, whether due to fraud or error, selecting and applying appropriate accounting, policies, and making accounting estimates that are reasonable in the circumstances.</li> <li>▶ We also require that where any document containing the financial statements indicates that this has been reviewed; our report will also be included in the document.</li> </ul>  |                    |          |   |         |
| <p><i>Management Representation</i></p>                               | <ul style="list-style-type: none"> <li>▶ As part of our audit, written representations from management concerning assertions made in connection with the audit was requested.</li> </ul>   |                    |          |   |         |

## 4 Addressing Specific Fraud Risk

The Australian Auditing Standard relating to fraud ASA 240 'The auditor's responsibility to consider Fraud in an audit of a Financial Report', requires the auditor to perform specific fraud procedures during the audit.

The primary responsibility for the prevention, deterrence and detection of fraud remains with the directors and management of the Company. As auditors, we obtain reasonable assurance that the financial statements, taken as a whole, are free from material misstatements due to fraud or error. Below are the procedures that we performed as part of our audit and our perspective on the fraud risk of the Company.

|   |
|---|
| <p>➤ Made enquiries of those charged with governance, senior management and key staff involved in financial reporting to specifically discuss the risk of fraud;</p>  |
| <p>➤ Evaluated the risk of fraud (including fraudulent financial reporting, misappropriation of assets and other areas susceptible to fraud);</p>   |
| <p>➤ Evaluated the impact of systems controls in relation to fraud;</p>   |
| <p>➤ Maintained a mindset of professional skepticism - maintaining an attitude that a material misstatement due to fraud could exist notwithstanding our previous experience with the Company about the honesty and integrity of those charged with governance;</p> |
| <p>➤ An increased focus on fraud risk relating to intentional misstatement through revenue recognition and management override of controls;</p>   |
| <p>➤ Reviewed accounting estimates, current and/or retrospective, for biases;</p>   |
| <p>➤ Evaluated business rationale for significant unusual transactions;</p>   |
| <p>➤ Performed preliminary analytical audit procedures to highlight potentially fraudulent activities or bypassing of controls;</p>   |
| <p>➤ Expanded management representations; and</p>   |
| <p>➤ Reviewed of journal entries near year end.</p>   |

## 5 Uncorrected Misstatements

We have worked closely with management and assisted in finalising the financial report. Uncorrected misstatements that arose during the audit have been listed below.

| No. | Description   | Account Name                | Debit  |                                 | Credit        |                             |
|-----|---|-----------------------------|--------|---------------------------------|---------------|-----------------------------|
|     |   |                             | \$     | Statement of Financial Position | \$            | Statement of Profit or Loss |
| 1   | Membership Income - Accrual basis in line with AASB 118 | Trade and Other Receivables | 19,358 | -                               | -             | -                           |
|     |   | Membership Income           | -      | -                               | 19,358        | 19,358                      |
|     |   |                             |        |                                 | <b>19,358</b> | <b>(19,358)</b>             |

Management has assessed these unadjusted differences to be immaterial for the financial statements. Based on our assessment of the audit materiality, we concur with management that uncorrected misstatements identified during our audit are immaterial to the true and fair presentation of the financial statements.

## 6 Audit Matters of Governance Interest

We summarise matters that arose with regard to the Company's accounting systems and internal controls, and its financial records generally, noting that these matters are being reported by way of information and exception only.

The matters set out in this report in respect thereto are intended to improve and further enhance the effectiveness of the accounting systems and controls in place and the on-going management and governance of the Company.

| Matters Identified  | MSS Comments  | Management Responses |
|---|---|----------------------|
| <p><b><u>Annual Leave Days</u></b><br/>Our audit revealed that a number of staff have annual leave entitlements over and above one year's entitlement of twenty five (25) days.</p> | <p>We recommend that regular monitoring of employees' annual leave entitlements be performed each calendar year so as to reduce the leave liability within the Company.</p> |                      |

## 7 Other Matters

During the year, we were engaged by the Company to review its Director's Instructions and Financial Management Guidelines. We have issued a separate report to management.



## Appendix A – Moore Stephens Sydney Independence

The continued provision of our audit services to the Company is subject to the firm's strict policies and procedures in respect to maintaining our independence. This is achieved through the application of our Quality Assurance Manual and Independence Policy, and our IQA Monitor proprietary software system to ensure our firm's compliance with the requirements of APES 320 *Quality Control for Firms*, the *Corporations Act 2001* and APES 110 *Code of Ethics for Professional Accountants* ("the Code"). The Moore Stephens Australia Quality Assurance Manual and Independence Policy, including all policies and procedures contained therein, is adopted by all member firms of the Moore Stephens Australia network, thus ensuring that we are compliant with the 'network firm' requirements of the Code.

As auditor, direct and material indirect investment in Company or its controlled entities and material associates is prohibited to us. This prohibition extends to:

- All partners of any firm within the Moore Stephens Australia network, and any superannuation fund, companies or trusts controlled by them and all other staff of the firm engaged;
- The spouse/defaulto and dependents of these partners and professional staff;
- Certain other relatives of partners and professional staff who directly provide any professional services to the Company and its controlled entities; and
- The firm and all other firms within the Moore Stephens Australia network including their superannuation funds.

The following safeguards are enforced by our Quality Assurance Manual and Independence Policies to ensure our objectivity is maintained and we are free from conflicts of interest when discharging our professional responsibilities:

- Partners or staff do not act in a managerial or decision-making capacity, and are not involved in processing or originating transactions for our assurance clients;
- Where non-assurance services are provided to our assurance clients, we are satisfied that the non-assurance services will not have a material impact on our planned assurance procedures and we will not express assurance on these non-assurance procedures; and
- Partners and staff involved in the provision of non-assurance services to our assurance clients do not participate in the client's approval or authorisation processes.

Below policies and procedures are undertaken to ensure compliance with the requirements of our Quality Assurance Manual and Independence Policy:

- Six monthly declarations are signed by all partners and staff confirming they hold no prohibited financial or employment relationships with assurance clients of any firm within the Moore Stephens Australia network;
- Independence declarations are signed by all engagement team members confirming their independence;
- Conflict checks are undertaken for all new engagements, be they new or current clients, to identify any potential conflicts of interest;
- Where non-assurance services are to be provided to an assurance client and where the risk of it impacting independence is anything other than clearly insignificant, approval by the firm's Quality Assurance Partner is obtained prior to the commencement of the engagement; to ensure compliance with the requirements of the Quality Assurance Manual and Independence Policy;
- All new partners and professional staff undertake mandatory ethics and independence training when joining the firm and on an annual basis;
- Monitoring processes are applied to ensure compliance with the requirements of the Quality Assurance Manual.

In accordance with the requirements of Section 307C of the *Corporations Act 2001*, we will provide a declaration of our audit independence.

**ACT**

**Moore Stephens Canberra**

1st Floor, 10 Townshend Street  
Phillip ACT 2606

T +61 (0)2 6234 6900  
F +61 (0)2 6234 6990  
canberra@moorestephens.com.au

**NEW SOUTH WALES**

**Moore Stephens Sydney**

Level 15, 135 King Street  
Sydney NSW 2000

T +61 (0)2 8236 7700  
F +61 (0)2 9233 4636  
sydney@moorestephens.com.au

**Moore Stephens Sydney West**

Level 6, 460 Church Street  
Parramatta NSW 2150

T +61 (0)2 9890 1111  
F +61 (0)2 9890 1313  
sydneywest@moorestephens.com.au

www.moorestephens.com.au

**QUEENSLAND**

**South-East Queensland**

**Moore Stephens Queensland\***

Level 12, 10 Eagle Street  
Brisbane QLD 4000

T +61 (0)7 3640 4000  
F +61 (0)7 3640 4001

brisbane@moorestephens.com.au  
Office also in Toowoomba

**Moore Stephens Gold Coast\***

Level 3, 1 Lawson Street  
Southport QLD 4215

T +61 (0)7 5519 1000  
F +61 (0)7 5519 1099  
goldcoast@moorestephens.com.au

**North Queensland**

**Moore Stephens Queensland\***

Northtown, Level 5, 280 Flinders St  
Townsville QLD 4810

T +61 (0)7 4796 9999  
F +61 (0)7 4796 9998

townsville@moorestephens.com.au  
Offices also in the Burdekin, Cairns and Innisfail

**SOUTH AUSTRALIA**

**Moore Stephens Adelaide**

Level 4, 81 Flinders Street  
Adelaide SA 5000

T +61 (0)8 8205 6200  
F +61 (0)8 8205 6288  
adelaide@moorestephens.com.au

**VICTORIA**

**Moore Stephens Melbourne**

Level 10, 530 Collins Street  
Melbourne VIC 3000

T +61 (0)3 8635 1800  
F +61 (0)3 8102 3400  
melbourne@moorestephens.com.au

**WESTERN AUSTRALIA**

**Moore Stephens Perth**

Level 3, 12 St Georges Terrace  
Perth WA 6000

T +61 (0)8 9225 5355  
F +61 (0)8 9225 6181  
perth@moorestephens.com.au

Liability limited by a scheme approved under Professional Standards Legislation. \* Moore Stephens Queensland and Moore Stephens Gold Coast are separate and independent firms. Moore Stephens is a network of independent firms which are independent members of Moore Stephens International Limited – members in principal cities throughout the world.



ASIA PACIFIC FORUM  
ADVANCING HUMAN RIGHTS IN OUR REGION

1 October 2013

Moore Stephens Sydney  
Chartered Accountants  
P O Box 473  
SYDNEY NSW 2001

Attn: Mr Chris Chandran

Dear Mr Chandran,

In connection with your audit examination of the financial report of **Asia Pacific Forum of National Human Rights Institutions** ("the Company") for the year ended 30 June 2013 we hereby confirm, at your request, that to the best of our knowledge and belief, the following representations relating to the accounts are correct.

#### **Financial Report**

The financial report of the Company has been drawn up so as to give a true and fair view of the Company's financial position as at 30 June 2013 and performance for the period ended on that date.

The accounting records of the Company were maintained in accordance with the requirements of the Corporations Act 2001 and the financial report was prepared in accordance with Australian Accounting Standards – Reduced Disclosure Requirements.

#### **Assets**

##### Receivables

- (1) Current receivable at balance sheet date amount to \$21,405 are valid debts and do not include amounts due for goods on consignment or on approval.
- (2) There are no debts due that are known to be uncollectible and therefore no provision for impairment of receivables have been made to cover allowances, discounts and losses that may be sustained in the collection of debts.

##### Other Current Assets

We expect to realise all other current assets at least at the amounts at which they are stated in the financial report.

##### Plant and Equipment

- (1) The additions to plant and equipment accounts, as recorded in the books, represent the cost of additions or improvements to existing facilities or replacements thereof. All units of plant and equipment which have been replaced, sold, dismantled or otherwise disposed of, or which are permanently unusable, have been removed from the fixed asset register. Adequate provision determined in a manner consistent with that of the preceding year, has been made to write off depreciable assets over their useful lives.

Level 3, 175 Pitt Street  
Sydney NSW 2000  
Australia

T +61 2 9284 9845  
F +61 2 9284 9825  
W [www.asiapacificforum.net](http://www.asiapacificforum.net)

GPO BOX 5218  
Sydney NSW 1042  
ABN 98 099 972 997

Asia Pacific Forum  
of National Human Rights Institutions

- (2) No circumstances have arisen which render adherence to the existing basis of depreciation misleading or inappropriate.
- (3) Allowances for depreciation have been adjusted for all important items of property, plant and equipment that have been abandoned or are otherwise unusable.
- (4) Depreciation rates have been reviewed against asset usage and the rate of technical and commercial obsolescence. Any adjustment to reflect the most recent assessment of the useful lives of all non-current assets has been recognised and disclosed in the financial report.
- (5) All additions to plant and equipment represent actual additions or improvements of a capital nature. No items of repairs and maintenance have been carried forward as property, plant and equipment and no capital additions or improvements were charged to expenses.
- (6) Where the recorded value of any item of plant and equipment exceeds its recoverable amount, the asset's recorded value has been written down to its recoverable amount. We have considered the requirements of *AASB 136 Impairment of Assets* when assessing the carrying value of non-current assets and in ensuring that no non-current assets are stated in excess of their recoverable amount.
- (7) The Company has satisfactory title to all assets and there are no deficiencies or encumbrances attaching to the title of the assets of the Company at 30 June 2013 other than those reflected in the financial report and these are not greater than the value of the asset.
- (8) No operating or finance lease commitments exist that have not been included in the financial report. All operating lease expenses have been disclosed in the notes to the Statement of Profit or Loss and Other Comprehensive Income.

#### **Liabilities**

- (1) All liabilities including those arising under derivative financial instruments, which have arisen or which will arise out of the activities of the members of the Company to the end of the financial year have been recorded and/or disclosed in the financial report.
- (2) There were no provisions or contingent liabilities including:
  - (a) Guarantees;
  - (b) Bills and accounts receivable discounted, assigned or sold and which are subject to recourse;
  - (c) Endorsements;
  - (d) Pending law suits, unsatisfied judgements or claims;
  - (e) Repurchase agreements; or
  - (f) Uncalled capital on shares held in other companies at reporting date;
 which are not shown in the notes to the financial report.

#### **Commitments**

- (1) There are no material commitments for construction or acquisition of plant and equipment or to acquire other non-current assets, such as investments or intangibles, other than those disclosed in the financial report.
- (2) There were no commitments for purchase or sale of securities or assets or any options given by the Company.

#### **Related party transactions**

- (1) We have made available to you all information regarding the identification of related party relationships and transactions.
- (2) We have made available to you details and records relating to:
  - (a) Any agreements or transactions between employee controlled entities and the Company.
  - (b) Any equity interests or directorships held by employees in other entities, which are party to, directly or indirectly, any agreements or transactions with this organisation and/or any controlled entity or related party of this organisation.

- (c) Any external accounting advice received on these agreements, transactions or interests.
- (3) All details concerning related party transactions and related amounts receivable or payable (including sales, purchases, loans and guarantees) have been correctly recorded in the accounting records and have been properly disclosed in the Company's financial report or the notes thereto, either where required by statute or where such disclosure is necessary for the fair presentation of the Company's financial report.

#### **Taxation**

- (1) The Company is exempt from income tax under Division 50 of the Income Tax Assessment Act 1997.
- (2) There are no activities that invoke the anti-avoidance provisions of any applicable tax legislation.
- (3) The Company is exempt from under section 48 (1)(c) of the NSW Payroll Tax Act 2007.

#### **Environmental issues**

We have considered whether environmental matters could have a material impact on the financial report and conclude that:

- We are not aware of any material liabilities or contingencies arising from environmental matters, including those resulting from illegal or possibly illegal acts.
- We are not aware of environmental matters that may result in a material impairment of assets.

#### **Accounting misstatements detected by audit**

- (1) We acknowledge that any misstatements which have been brought to our attention have been corrected in the financial statements except for those disclosed in **Appendix A**. We conclude these misstatements are quantitatively and qualitatively immaterial to the financial report taken as a whole, when considered individually or in aggregate.
- (2) We have advised to you that there are no identified material misstatements requiring adjustment on the financial report from previous periods.

#### **Insurance**

The Company has an established procedure whereby an officer reviews at least annually the adequacy of insurance cover on all assets and insurable risks. This review has been performed, and where it is considered appropriate, assets and insurable risks of the Company's committee members are adequately covered by insurance.

#### **Litigation and claims**

We have advised you that there are no outstanding legal matters relating to the Company.

#### **Accounting estimates**

We confirm that significant assumptions used in making accounting estimates are reasonable and have been disclosed in the financial report.

#### **Fair value measurements and disclosures**

We confirm the significant assumptions used in fair value measurements and disclosures are reasonable, and appropriately reflect our intent and ability to carry out specific courses of action on behalf of the Company.

#### **Going concern**

In the opinion of the directors of the Company, there are reasonable grounds to believe that the Company will be able to:

- Pay its debts as and when they fall due.
- Continue as a going concern for the foreseeable future.

We, therefore, confirm that the going concern basis is appropriate for the financial report.

### **Events after reporting date**

We are not aware of any events that have occurred between the financial report date to the date of this letter that we need to disclose or recognise in the financial report.

### **Fraud and error**

- (1) There has been no:
  - (a) Fraud, error, or non-compliance with laws and regulations involving management or employees who have a significant role in the internal control structure.
  - (b) Fraud, error, or non-compliance with laws and regulations that could have a material effect on the financial report.
  - (c) Communications from regulatory agencies concerning non-compliance with, or deficiencies in, financial reporting practices that could have a material effect on the financial report.
- (2) We are not aware of any frauds or suspected frauds known to management that may have affected the Company.
- (3) We have assessed that the risk that the financial report may be materially misstated as a result of fraud is low.

### **General**

- (4) We have made available to you:
  - (a) All financial records and related data, other information, explanations and assistance necessary for the conduct of the review.
  - (b) Minutes of meetings of directors.
- (5) Neither the Company nor any directors have any plans or intentions that may materially affect the book value or classification of assets and liabilities at balance sheet date.
- (6) The Company accepts responsibility for the implementation and operations of accounting and internal control systems that are designed to prevent and detect fraud and error. We have established and maintained adequate internal control to facilitate the preparation of a reliable financial report, and adequate financial records have been maintained. There are no material transactions that have not been properly recorded in the accounting records underlying the financial report.
- (7) We have no plans or intentions that may materially affect the carrying values, or classifications, of assets and liabilities.
- (8) The following have been properly recorded or disclosed in the financial report, as applicable:
  - (a) Share options, warrants, conversions or other requirements.
  - (b) Arrangements involving restrictions on cash balances, compensating balances and line-of-credit or similar arrangements.
  - (c) Agreements to repurchase assets previously sold.
  - (d) Unasserted claims or assessments that our lawyer has advised us are probable of assertion.
  - (e) Losses arising from the fulfilment of, or an inability to fulfil, any sale commitments or as a result of purchase commitments for inventory quantities in excess of normal requirements or at prices in excess of prevailing market prices.
- (9) The minutes of meetings of directors made available to you are complete and authentic records of all such meetings held during the year. All other statutory records were properly kept during the period.
- (10) Records maintained during the period were in accordance with the Australian Taxation Office requirements.
- (11) There are no violations or possible violations of laws or regulations whose effects should be considered for disclosure in the financial report or as a basis for recording an expense.

- (12) The Company has complied with all aspects of contractual agreements that would have a material effect on the financial report in the event of non-compliance.

**Other**

- (1) No solicitor has been engaged during the year. Accordingly there is no requirement to send out solicitor confirmation.
- (2) The Company is authorised to fundraise under the *Charitable Fundraising Act 1991*. We confirmed that no fundraising appeals were conducted during the year and as such the Company did not utilise this authority in order to meet its charitable fundraising purposes.
- (3) Grant income is recognised in accordance with the Company's accounting policies appropriately and expensed in accordance with the requirements set out in the grant agreements between the Company and respective grant donors.
- (4) The Company has determined that there are neither contractual nor legal obligations for members to pay the membership fees.

We understand that your examination was made in accordance with Australian Auditing Standards and was, therefore, designed primarily for the purpose of expressing an opinion on the financial report of the Company taken as a whole, and that your tests of the financial records and other auditing procedures were limited to those which you considered necessary for that purpose.

Yours faithfully,  
On behalf of the Board of Directors



---

**Kieren Fitzpatrick**  
Company Secretary



---

**Kwame Owusu-Akyeampong**  
Finance Manager

Dated in Doha, Qatar this 1<sup>st</sup> day of October 2013.

**Appendix A**

**SUMMARY OF UNCORRECTED MISSTATEMENTS**

| No. | Description   | Account Name                | Debit                           | Credit | Debit                       | Credit |
|-----|---|-----------------------------|---------------------------------|--------|-----------------------------|--------|
|     |   |                             | \$                              | \$     | \$                          | \$     |
|     |   |                             | Statement of Financial Position |        | Statement of Profit or Loss |        |
| 1   | Membership Income - Accrual basis in line with AASB 118 | Trade and Other Receivables | 19,358                          | -      | -                           | -      |
|     |   | Membership Income           | -                               | -      | -                           | 19,358 |
|     |   |                             | <b>19,358</b>                   |        | <b>(19,358)</b>             |        |

**ASIA PACIFIC FORUM OF NATIONAL HUMAN RIGHTS  
INSTITUTIONS**  
**(A Company Limited by Guarantee)**  
**ABN: 98 099 972 997**

**FINANCIAL STATEMENTS  
FOR THE YEAR ENDED 30 JUNE 2013**

FINANCIAL STATEMENTS  
FOR THE YEAR ENDED 30 JUNE 2013

|          |
|----------|
| CONTENTS |
|----------|

|  | <u>Page</u> |
|--|-------------|
| Directors' Report  | 1 - 4       |
| Auditor's Independence Declaration                         | 5           |
| Financial Statements                                       |             |
| Statement of Profit or Loss and Other Comprehensive Income | 6           |
| Statement of Financial Position                            | 7           |
| Statement of Changes in Members' Funds                     | 8           |
| Statement of Cash Flows                                    | 9           |
| Notes to the Financial Statements                          | 10 - 20     |
| Directors' Declaration                                     | 21          |
| Independent Auditor's Report                               | 22 - 23     |

**ASIA PACIFIC FORUM OF NATIONAL HUMAN RIGHTS INSTITUTIONS**  
**ABN 98 099 972 997**

**DIRECTORS' REPORT**

Your Directors present their report on the Asia Pacific Forum of National Human Rights Institutions ("the Company") for the financial year ended 30 June 2013.

**Directors**

The names of the Directors in office at any time during or since the end of the financial year are:

Sima Samar  
Kedar Nath Upadhyay  
Sebastio Dias Ximenes  
Padma Priya Raman  
Amara Pongsapich  
Konakuppakattil Gopinathan Balakrishnan  
Byun-Chul Hyun  
Randa Siniora-Attalah  
Jamsran Byambadorj  
Amal Abulatif Al-Mannai  
Loretta Ann Pargas Rosales  
Jafar Taher Mustafa Hikmat Ayyashy  
David Michael Rutherford  
Gillian Triggs (appointed 28 September 2012)  
Rodziah Abdul (appointed 26 April 2013)  
Dianto Bachriadi (appointed 7 May 2013)  
Hasmy Agam (resigned 26 April 2013)  
Ifdhal Kasim (resigned 27 November 2012)  
Catherine Margaret Branson (resigned 27 July 2012)

Directors have been in office since the start of the financial year to the date of this report unless otherwise stated.

**Company Secretary**

The following person held the position of Company Secretary at the end of the financial year:

Kieren John Fitzpatrick - Director, Secretariat of the Asia Pacific Forum of National Human Rights Institutions. Mr. Fitzpatrick has worked for the Company and appointed as Company Secretary since incorporation.

**Principal Activity**

The principal activity of the Company during the financial year was to promote the establishment and strengthening of national human rights institutions in the Asia-Pacific region.

**The Company's short-term objectives are to:**

- Respond to the needs of its member institutions through the delivery of practical support projects;
- Enhance members' institutional capacity to promote and protect human rights within their respective countries and the Asia Pacific Region;
- Enhance members' communication, co-operation and engagement through regional, sub-regional workshops and meetings;
- Assist governments and civil society to establish and strengthen national institutions in compliance with minimum criteria contained in the Paris Principles;
- Promote sub-regional, regional and international cooperation on human rights issues;
- Engage with regional and international human rights mechanisms for advocacy, promotion and strengthening human rights; and
- Ensure the effective, efficient and strategic management of the Company.



ASIA PACIFIC FORUM OF NATIONAL HUMAN RIGHTS INSTITUTIONS  
ABN 98 099 972 997

DIRECTORS' REPORT

Information on Directors (Continued)

|   |  |
|---|--|
| <b>Rodziah Abdul</b><br>Experience  | Secretary of the Human Rights Commission of Malaysia   |
| <b>Dianto Bachriado</b><br>Experience   | Commissioner, Indonesian National Commission on Human Rights   |
| <b>Bhung-Chul Hyun</b><br>Experience  | Chairperson, National Human Rights Commission of Korea   |
| <b>Amal Abulatif Al-Mannai</b><br>Experience<br>Special Responsibilities                | Commissioner, National Human Rights Committee of Qatar<br>Deputy Chairperson of the Forum Council      |
| <b>Randa Siniora-Attalah</b><br>Experience  | Secretary-General, Palestine Independent Commission for Human Rights                                   |
| <b>Konakuppakattil Gopinathan<br/>Balakrishnan</b><br>Experience                        | Chairperson, National Human Rights Commission of India   |
| <b>Jafar Taher Mustafa Hikmat<br/>Ayyashy</b><br>Experience<br>Special Responsibilities | Deputy Chairperson, Jordan National Centre for Human Rights<br>Deputy Chairperson of the Forum Council |
| <b>David Michael Rutherford</b><br>Experience   | Chief Commissioner, New Zealand Human Rights Commission  |

**ASIA PACIFIC FORUM OF NATIONAL HUMAN RIGHTS INSTITUTIONS**  
**ABN 98 099 972 997**

**DIRECTORS' REPORT**

**Meetings of Directors**

| DIRECTORS                               | DIRECTORS' MEETINGS       |                 |
|---|---------------------------|-----------------|
|   | Number eligible to attend | Number attended |
| Amara Pongsapich                        | 1                         | 1               |
| Gillian Triggs                          | 1                         | 1               |
| Jamsran Byambadorj                      | 1                         | 1               |
| Kedar Nath Upadhyay                     | 1                         | -               |
| Loretta Ann Pargas Rosales              | 1                         | 1               |
| Sebastio Dias Ximenes                   | 1                         | 1               |
| Sima Samar                              | 1                         | 1*              |
| Padma Priya Raman                       | 1                         | 1               |
| Hasmy Agam                              | 1                         | 1               |
| Ifdhal Kasim                            | 1                         | 1               |
| Byung-Chul Hyun                         | 1                         | 1               |
| Amal Abulatif Al-Mannai                 | 1                         | 1               |
| Randa Siniora-Attalah                   | 1                         | 1               |
| Konakuppakattil Gopinathan Balakrishnan | 1                         | 1               |
| Jafar Taher Mustafa Hikmat Ayyashy      | 1                         | 1*              |
| David Michael Rutherford                | 1                         | 1*              |

\* denotes attendance by proxy

The Company is limited by guarantee incorporated and domiciled in Australia. If the Company is wound up, the Constitution states that each member is required to contribute a maximum of \$100 each towards meeting any outstanding obligations of the Company. At 30 June 2013, the number of full members was 15 (2012: 15).

**Auditor's Independence Declaration**

The lead auditor's independence declaration for the year ended 30 June 2013 required under section 307C of the *Corporations Act 2001* is set out on page 5.

Signed in accordance with a resolution of the Board of Directors:

.....  
(Director)

Dated in Qatar on ..... of October 2013.

Level 15, 135 King Street  
Sydney NSW 2000

T +61 2 8236 7700  
F +61 2 9233 4636

[www.moorestephens.com.au](http://www.moorestephens.com.au)

**ASIA PACIFIC FORUM OF NATIONAL HUMAN RIGHTS INSTITUTIONS**  
**ABN 98 099 972 997**

**AUDITOR'S INDEPENDENCE DECLARATION**

In accordance with the requirements of section 307C of the *Corporations Act 2001*, as lead auditor for the audit of Asia Pacific Forum of National Human Rights Institutions for the year ended 30 June 2013, I declare that, to the best of my knowledge and belief, there have been:

- a) no contraventions of the auditor independence requirements of the *Corporations Act 2001* in relation to the audit; and
- b) no contraventions of any applicable code of professional conduct in relation to the audit.

**Moore Stephens Sydney**  
Chartered Accountants

**Chris Chandran**  
Partner

Dated in Sydney this ..... day of October 2013.

**ASIA PACIFIC FORUM OF NATIONAL HUMAN RIGHTS INSTITUTIONS**  
**ABN: 98 099 972 997**

**STATEMENT OF PROFIT OR LOSS AND OTHER COMPREHENSIVE INCOME**  
**FOR THE YEAR ENDED JUNE 2013**

|   | Notes | 2013<br>\$          | 2012<br>\$           |
|---|-------|---------------------|----------------------|
| <b>REVENUE</b>  | 2     | <u>2,001,757</u>    | <u>2,207,051</u>     |
| <b>EXPENSES</b>                                       |       |                     |                      |
| Administration expenses                               |       | 85,038              | 88,179               |
| Travel expenses                                       |       | 510,895             | 608,795              |
| Employee benefit expenses                             |       | 798,724             | 771,171              |
| Consultancy fees                                      |       | 387,336             | 377,668              |
| International Co-Ordinating Committee General Support |       | 16,360              | 131,879              |
| Project expenses                                      |       | 10,208              | 13,132               |
| Occupancy expenses                                    | 3     | 81,857              | 78,000               |
| Human Rights Institutions training/courses            |       | 17,500              | 39,371               |
| Meeting expenses                                      |       | 42,350              | 14,719               |
| Asia Pacific Forum Web and Bulletin                   |       | 47,736              | 68,843               |
| Depreciation  | 3     | 3,041               | 4,450                |
| Other expenses from ordinary activities               |       | (4,191)             | (7,834)              |
| <b>TOTAL EXPENSES</b>                                 |       | <u>1,996,854</u>    | <u>2,188,373</u>     |
| <b>SURPLUS FROM ORDINARY ACTIVITIES</b>               |       |                     |                      |
| <b>BEFORE INCOME TAX EXPENSE</b>                      |       | 4,903               | 18,677               |
| Income tax expense                                    | 1(a)  | <u>-</u>            | <u>-</u>             |
| <b>SURPLUS FROM ORDINARY ACTIVITIES</b>               |       |                     |                      |
| <b>AFTER INCOME TAX EXPENSE</b>                       |       | 4,903               | 18,677               |
| Other comprehensive income                            |       | <u>-</u>            | <u>-</u>             |
| <b>TOTAL COMPREHENSIVE INCOME</b>                     |       |                     |                      |
| <b>FOR THE YEAR</b>                                   |       | <u><u>4,903</u></u> | <u><u>18,677</u></u> |

The accompanying notes form part of these financial statements.

**ASIA PACIFIC FORUM OF NATIONAL HUMAN RIGHTS INSTITUTIONS**  
**ABN: 98 099 972 997**

**STATEMENT OF FINANCIAL POSITION**  
**AS AT 30 JUNE 2013**

|                                      | Notes | 2013<br>\$       | 2012<br>\$       |
|--------------------------------------|-------|------------------|------------------|
| <b>CURRENT ASSETS</b>                |       |                  |                  |
| Cash and cash equivalents            | 4     | 196,944          | 327,038          |
| Financial assets                     | 5     | 2,300,000        | 2,043,190        |
| Receivables                          | 6     | 21,405           | 37,310           |
| Other assets                         |       | 18,722           | 15,556           |
| <b>TOTAL CURRENT ASSETS</b>          |       | <b>2,537,071</b> | <b>2,423,094</b> |
| <b>NON-CURRENT ASSETS</b>            |       |                  |                  |
| Plant and equipment                  | 7     | 8,086            | 4,487            |
| <b>TOTAL NON-CURRENT ASSETS</b>      |       | <b>8,086</b>     | <b>4,487</b>     |
| <b>TOTAL ASSETS</b>                  |       | <b>2,545,157</b> | <b>2,427,581</b> |
| <b>CURRENT LIABILITIES</b>           |       |                  |                  |
| Payables                             | 8     | 2,366            | 617              |
| Provisions                           | 9     | 77,441           | 90,460           |
| Other Liabilities                    | 10    | 327,762          | 233,216          |
| <b>TOTAL CURRENT LIABILITIES</b>     |       | <b>407,569</b>   | <b>324,293</b>   |
| <b>NON-CURRENT LIABILITIES</b>       |       |                  |                  |
| Provisions                           | 9     | 144,080          | 114,684          |
| <b>TOTAL NON-CURRENT LIABILITIES</b> |       | <b>144,080</b>   | <b>114,684</b>   |
| <b>TOTAL LIABILITIES</b>             |       | <b>551,649</b>   | <b>438,976</b>   |
| <b>NET ASSETS</b>                    |       | <b>1,993,508</b> | <b>1,988,605</b> |
| <b>MEMBERS' FUNDS</b>                |       |                  |                  |
| Accumulated surplus                  |       | <b>1,993,508</b> | <b>1,988,605</b> |
| <b>TOTAL MEMBERS' FUNDS</b>          |       | <b>1,993,508</b> | <b>1,988,605</b> |

The accompanying notes form part of these financial statements.

**ASIA PACIFIC FORUM OF NATIONAL HUMAN RIGHTS INSTITUTIONS**  
**ABN: 98 099 972 997**

---

**STATEMENT OF CHANGES IN MEMBERS' FUNDS**  
**FOR THE YEAR ENDED JUNE 2013**

|   | <b>2013</b> | <b>2012</b> |
|---|-------------|-------------|
|   | \$          | \$          |
| <b>MEMBERS FUNDS AT THE BEGINNING OF THE YEAR</b> | 1,988,605   | 1,969,927   |
| Comprehensive income                              |             |             |
| Surplus from ordinary activities                  | 4,903       | 18,677      |
| Other comprehensive income                        | -           | -           |
|   | 4,903       | 18,677      |
| <b>MEMBERS FUNDS AT THE END OF THE YEAR</b>       | 1,993,508   | 1,988,605   |

The accompanying notes form part of these financial statements.

**ASIA PACIFIC FORUM OF NATIONAL HUMAN RIGHTS INSTITUTIONS**  
**ABN: 98 099 972 997**

---

**STATEMENT OF CASH FLOWS**  
**FOR THE YEAR ENDED JUNE 2013**

|  | Notes | 2013<br>\$  | 2012<br>\$  |
|--|-------|-------------|-------------|
| <b>CASH FLOWS FROM OPERATING ACTIVITIES</b>                  |       |             |             |
| Grants received  |       | 1,901,693   | 1,992,110   |
| Donations received   |       | 85,118      | 89,038      |
| Membership fees received                                     |       | 45,202      | 62,872      |
| Other revenue received                                       |       | 11,297      | 30,812      |
| Payments to suppliers and employees                          |       | (2,061,668) | (1,994,694) |
| Interest received  |       | 151,713     | 121,486     |
| Net cash inflows from (used in) / from operating activities  |       | 133,355     | 301,623     |
| <b>CASH FLOWS FROM INVESTING ACTIVITIES</b>                  |       |             |             |
| Payment for plant and equipment                              |       | (6,640)     | (762)       |
| Receipts from financial assets                               |       | (256,809)   | (743,189)   |
| Net cash intflows from (used in) / from investing activities |       | (263,449)   | (743,951)   |
| Net (decrease) / increase in cash held                       |       | (130,094)   | (442,328)   |
| Cash and cash equivalents at the beginning of financial year |       | 327,038     | 769,366     |
| Cash and cash equivalents at the end of financial year       |       | 196,944     | 327,038     |

The accompanying notes form part of these financial statements.

NOTES TO THE FINANCIAL STATEMENTS  
FOR THE YEAR ENDED JUNE 2013

1. STATEMENT OF ACCOUNTING POLICIES

**Basis of Preparation**

These general purpose financial statements have been prepared in accordance with the Australian Accounting Standards - Reduced Disclosure Requirements of the Australian Accounting Standards Board, the *Corporations Act 2001*, the *Charitable Fundraising Act 1991* and associated regulations as appropriate for not-for-profit oriented entities.

The financial statements are for Asia Pacific Forum of National Human Rights Institutions ("the Company") as an individual entity. The Company is limited by guarantee, incorporated and domiciled in Australia.

The financial statements have been prepared on an accruals basis and under the historical cost convention.

The financial statements were authorised for issue by the Board of Directors on 1 October 2013.

**Accounting Policies**

The following is a summary of the material accounting policies adopted by the Company in the preparation of the financial statements. The accounting policies have been consistently applied, unless otherwise stated.

**(a) Income Tax**

As the Company is a charitable institution in terms of subsection 50-5 *Income Tax Act 1997*, as amended, it is exempt from paying income tax.

**(b) Plant and Equipment**

Plant and equipment is stated at historical cost, less accumulated depreciation and impairment. Historical cost includes expenditure that is directly attributable to the acquisition of the item.

*Depreciation*

Depreciation is calculated on straight line basis to write off the net cost of each item of property, plant and equipment over their expected useful lives

The depreciation rates used for each class of depreciable assets are:

| <b>Class of fixed asset</b>      | <b>Depreciation rates</b> | <b>Depreciation basis</b> |
|----------------------------------|---------------------------|---------------------------|
| Office Equipment                 | 10% - 20%                 | Straight Line             |
| Computer Equipment               | 25% - 33%                 | Straight Line             |
| Furniture, Fixtures and Fittings | 6.67%                     | Straight Line             |

The residual values, useful lives and depreciation methods are reviewed and adjusted if appropriate at each reporting date.

**NOTES TO THE FINANCIAL STATEMENTS  
FOR THE YEAR ENDED JUNE 2013**

**1. STATEMENT OF ACCOUNTING POLICIES (Continued)**

**(b) Plant and Equipment (continued)**

An item of property, plant and equipment is derecognised upon disposal or when there is no future economic benefit to the Company.

Gains and losses on disposals are determined by comparing proceeds with the carrying amount. These gain or losses are included in the profit or loss.

**(c) Impairment of Assets**

At each reporting date, the Company reviews the carrying values of its non-financial assets to determine whether there is any indication that those assets have been impaired. If such an indication exists, the recoverable amount of the asset, being the higher of the asset's fair value less costs to sell and value in use, is compared to the asset's carrying value. Any excess of the asset's carrying value over its recoverable amount is expensed to the profit or loss.

**(d) Foreign Currency Transactions and Balances**

Foreign currency transactions during the financial year are converted to Australian currency at the rates of exchange applicable at the dates of the transactions. Amounts receivable and payable in foreign currencies at financial position date are converted at the rates of exchange ruling at that date.

The gains and losses from conversion of short term assets and liabilities, whether realised or unrealised, are included in the profit or loss as they arise.

**(e) Employee Entitlements**

*Wages and salaries and annual leave*

Liabilities for wages and salaries, including non-monetary benefits, and annual leave expected to be

*Long service leave*

The liability for long service leave is recognised in current and non-current liabilities, depending on the

**(f) Cash and cash equivalents**

For the purposes of the Statement of Cash Flows, cash and cash equivalents include cash on hand and at call deposits with banks or financial institutions.

**(g) Revenue**

Grant revenue is recognised in the profit or loss when it is controlled. When there are conditions attached to grant revenue relating to the use of those grants for specific purposes, it is recognised in the Statement of Financial Position as a liability until such conditions are met or services provided.

**NOTES TO THE FINANCIAL STATEMENTS  
FOR THE YEAR ENDED JUNE 2013**

**1. STATEMENT OF ACCOUNTING POLICIES (Continued)**

**(g) Revenue (continued)**

Donations are recognised as revenue when received unless they are designated for a specific purpose, where they are carried forward as deferred income on the Statement of Financial Position.

Interest revenue is recognised on a proportional basis taking into account the interest rates applicable to the financial assets.

Revenue from the rendering of the service is recognised upon the delivery of the service to the customers.

Membership fees and other revenue are recognised when the right to receive the revenue has been

**(h) Goods and Services Tax (“GST”)**

Revenues, expenses and assets are recognised net of the amount of GST, except where the amount of GST incurred is not recoverable from the Australian Taxation Office. In these circumstances the GST is recognised as part of the cost of acquisition of the asset or as part of an item of expense.

Receivables and payables in the Statement of Financial Position are shown inclusive of GST.

The net amount of GST recoverable from, or payable to the ATO is included as a current asset or liability in the Statement of Financial Position.

**(i) Leases**

Lease payments for operating leases, where substantially all the risks and benefits remain with the lessor, are charged as expenses in the periods in which they are incurred.

**(j) Operating Segment**

The Company operates only in Australia and their principal activity is the support of the development of national rights institutions in the Asia-Pacific region.

**(k) Payables**

Payables represent the liability outstanding at reporting date for goods and services received by the Company during the reporting period. The balance is recognised as a current liability.

**NOTES TO THE FINANCIAL STATEMENTS  
FOR THE YEAR ENDED JUNE 2013**

**1. STATEMENT OF ACCOUNTING POLICIES (Continued)**

**(l) Unexpended Grants and Monies in Advance**

The Company receives grant monies, either from government or private funding, to fund projects either for contracted periods of time or for specific projects, irrespective of the period of time required to complete those projects. It is the policy of the Company to treat grant monies as unexpended grants in the Statement of Financial Position where the Company is contractually obliged to provide the services in a subsequent financial period.

**(m) Critical accounting judgements, estimates and assumptions**

The preparation of the financial statements requires management to make judgements, estimates and assumptions that affect the reported amounts in the financial statements. Management continually evaluates its judgements and estimates in relation to assets, liabilities, contingent liabilities, revenue and expenses. Management bases its judgements, estimates and assumptions on historical experience and on other various factors, including expectations of future events, management believes to be reasonable under the circumstances. The resulting accounting judgements and estimates will seldom equal the related actual results. The judgements, estimates and assumptions that have a significant risk of causing a material adjustment to the carrying amounts of assets and liabilities (refer to the respective notes) within the next financial year are discussed below :

*Estimation of useful lives of assets*

The Company determines the estimated useful lives and related depreciation and amortisation charges for its property, plant and equipment and finite life intangible assets. The useful lives could change significantly as a result of technical innovations or some other event. The depreciation and amortisation charge will increase where the useful lives are less than previously estimated lives, or technically obsolete or non-strategic assets that have been abandoned or sold will be written off or written down.

*Impairment of non-financial assets*

The Company assesses impairment of non-financial assets at each reporting date by evaluating conditions specific to the Company and to the particular asset that may lead to impairment. If an impairment trigger exists, the recoverable amount of the asset is determined. This involves fair value less costs to sell or value-in-use calculations, which incorporate a number of key estimates and assumptions.

*Long service leave provision*

As discussed in note 1(e), the liability for long service leave is recognised and measured at the present value of the estimated future cash flows to be made in respect of all employees at the reporting date. In determining the present value of the liability, estimates of attrition rates and pay increases through promotion and inflation have been taken into account.

**(n) Comparatives**

Comparative figures have been adjusted to conform to changes in presentation for the current financial year where required by accounting standards or as a result of changes in accounting policy.

**NOTES TO THE FINANCIAL STATEMENTS  
FOR THE YEAR ENDED JUNE 2013**

|                             | <b>2013</b>      | <b>2012</b>      |
|-----------------------------|------------------|------------------|
|                             | \$               | \$               |
| <b>NOTE 2: REVENUE</b>      |                  |                  |
| <b>Operating activities</b> |                  |                  |
| - Grant revenue             | 1,712,045        | 1,887,311        |
| - Donations                 | 85,118           | 89,038           |
| - Membership fees           | 44,911           | 62,872           |
| - Bank interest             | 121,341          | 137,331          |
| - Other revenue             | 38,342           | 30,499           |
|                             | <u>2,001,757</u> | <u>2,207,051</u> |

**NOTE 3: SURPLUS FROM ORDINARY ACTIVITIES**

Surplus from ordinary activities has been determined after:

Expenses:

|                                     |               |               |
|-------------------------------------|---------------|---------------|
| Depreciation of non-current assets  |               |               |
| - Plant and equipment               | <u>3,041</u>  | <u>4,450</u>  |
| Lease of Secretariat offices        | <u>81,857</u> | <u>78,000</u> |
| Provision for employee entitlements | <u>16,377</u> | <u>71,158</u> |

**NOTE 4: CASH AND CASH EQUIVALENTS**

|              |                |                |
|--------------|----------------|----------------|
| Cash at bank | 196,744        | 326,838        |
| Cash on hand | 200            | 200            |
|              | <u>196,944</u> | <u>327,038</u> |

Cash at bank is held at an average rate of 2.85% (2012: 2.4%).

**NOTE 5: FINANCIAL ASSETS**

|               |                  |                  |
|---------------|------------------|------------------|
| Term deposits | <u>2,300,000</u> | <u>2,043,190</u> |
|               | <u>2,300,000</u> | <u>2,043,190</u> |

Term deposits are held at an average rate of 4.35% (2012: 5.8%), with an average maturity of six months (2012: three months).

**NOTES TO THE FINANCIAL STATEMENTS  
FOR THE YEAR ENDED JUNE 2013**

|                            | <b>2013</b> | <b>2012</b> |
|----------------------------|-------------|-------------|
|                            | \$          | \$          |
| <b>NOTE 6: RECEIVABLES</b> |             |             |
| Interest receivables       | 4,920       | 35,292      |
| Other debtors              | 16,485      | 2,018       |
|                            | 21,405      | 37,310      |

**NOTE 7: PLANT AND EQUIPMENT**

|  |          |          |
|--|----------|----------|
| Office equipment - at cost                 | 23,741   | 23,741   |
| Less accumulated depreciation              | (23,741) | (23,741) |
|  | -        | -        |
| Computer equipment - at cost               | 31,166   | 24,526   |
| Less accumulated depreciation              | (23,080) | (20,039) |
|  | 8,086    | 4,487    |
| Furniture, fixtures and fittings - at cost | 803      | 803      |
| Less accumulated depreciation              | (803)    | (803)    |
|  | -        | -        |
| Total plant and equipment                  | 8,086    | 4,487    |

**(a) Movements in Carrying Amounts**

Movement in the carrying amounts for each class of plant and equipment between the beginning and the end of the current financial period:

|                                      | <b>Computer<br/>equipment</b> | <b>TOTAL</b> |
|--------------------------------------|-------------------------------|--------------|
|                                      | \$                            | \$           |
| Balance at the beginning of the year | 4,487                         | 4,487        |
| Additions                            | 6,640                         | 6,640        |
| Depreciation expense                 | (3,041)                       | (3,041)      |
| Carrying amount at end of year       | 8,086                         | 8,086        |

**NOTES TO THE FINANCIAL STATEMENTS  
FOR THE YEAR ENDED JUNE 2013**

|                         | 2013<br>\$ | 2012<br>\$ |
|-------------------------|------------|------------|
| <b>NOTE 8: PAYABLES</b> |            |            |
| Sundry creditors        | 2,366      | 617        |

Sundry creditors are repayable within 30 days.

**NOTE 9: PROVISIONS**

|                              |         |         |
|------------------------------|---------|---------|
| Short-term employee benefits | 77,441  | 90,460  |
| Long-term employee benefits  | 144,080 | 114,684 |
|                              | 221,521 | 205,143 |

Analysis of total provisions :

|             |         |         |
|-------------|---------|---------|
| Current     | 77,441  | 90,460  |
| Non-current | 144,080 | 114,684 |
|             | 221,521 | 205,143 |

|                                 |   |   |
|---------------------------------|---|---|
| Number of employees at year end | 7 | 7 |
|---------------------------------|---|---|

**NOTE 10: OTHER LIABILITIES**

|                  |         |         |
|------------------|---------|---------|
| Accrued expenses | 98,317  | 128,417 |
| Deferred income  | 229,445 | 104,799 |
|                  | 327,762 | 233,216 |

**NOTE 11: CAPITAL AND LEASING COMMITMENT**

**Operating lease commitments**

Non cancelable operating leases contracted for but not capitalised in the financial statements:

|   |        |         |
|---|--------|---------|
| Payable   |        |         |
| - not later than one year                           | 84,365 | 78,000  |
| - later than one year and not later than five years | -      | 78,000  |
|   | 84,365 | 156,000 |

The operating lease is in the form of a Memorandum of Understanding with the Australian Human Rights Commission (AHRC) signed on 30 June 2011 which will expire on 30 June 2014. Refer to Note 12 for further information.

**NOTES TO THE FINANCIAL STATEMENTS**  
**FOR THE YEAR ENDED JUNE 2013**

**NOTE 12: RELATED PARTY TRANSACTIONS**

**(a) Directors**

The names of each person holding the position of Director of the Company during the financial year were:

Sima Samar  
 Kedar Nath Upadhyay  
 Sebastio Dias Ximenes  
 Padma Priya Raman  
 Amara Pongsapich  
 Konakuppakattil Gopinathan Balakrishnan  
 Byun-Chul Hyun  
 Randa Siniora-Attalah  
 Jamsran Byambadorj  
 Amal Abulatif Al-Mannai  
 Loretta Ann Pargas Rosales  
 Jafar Taher Mustafa Hikmat Ayyashy  
 David Michael Rutherford  
 Gillian Triggs (appointed 28 September 2012)  
 Rodziah Abdul (appointed 26 April 2013)  
 Dianto Bachriadi (appointed 7 May 2013)  
 Hasmy Agam (resigned 26 April 2013)  
 Ifdhal Kasim (resigned 27 November 2012)  
 Catherine Margaret Branson (resigned 27 July 2012)

The Directors of the Company did not receive any remuneration, superannuation or retirement payments from the Company. No Directors have entered into material contract with the Company since the beginning of the financial period and there were no material contracts involving Directors' interests at year end.

|   | <b>2013</b> | <b>2012</b> |
|---|-------------|-------------|
|   | \$          | \$          |
| <b>(b) Director-related entities</b>  |             |             |
| Occupancy Fees paid to the Australian Human Rights Commission. Ms Gillian Triggs, a Director of the Company, is the President of the Australian Human Rights Commission. Furthermore, Ms Padma Raman is a Director of the Company who is also the Executive Director of AHRC. | 81,857      | 78,000      |
| Amounts paid to AHRC for the Company's share of the accommodation costs that have been paid by AHRC and AHRC on-charges the costs that are to be paid by the Company.   | 12,835      | 17,355      |
|   | 94,692      | 95,355      |

**NOTES TO THE FINANCIAL STATEMENTS**  
**FOR THE YEAR ENDED JUNE 2013**

|  | 2013    | 2012    |
|--|---------|---------|
|  | \$      | \$      |
| <b>NOTE 12: RELATED PARTY TRANSACTIONS (Continued)</b>   |         |         |
| <b>(c) Transactions with related parties</b>   |         |         |
| <b>(i)</b> There are related party transactions in relation to membership fees paid by the Directors which are on normal commercial terms and conditions no more favourable than those available to other members unless otherwise stated. |         |         |
| <b>(ii) Funding received from related members :</b>  |         |         |
| National Human Rights Institution of the Republic of Korea   | 80,467  | 84,150  |
| National Human Rights Institution of India   | 93,026  | 92,019  |
| National Human Rights Commission of Thailand   | 4,651   | 4,888   |
|  | 178,144 | 181,056 |
| <b>(iii) Payments to related members :</b>   |         |         |
| Afghanistan Independent Human Rights Commission  | 6,482   | 13,531  |
| Human Rights Commission of Malaysia  | 9,675   | 4,144   |
| Human Rights Commission of Sri Lanka   | 3,000   | 5,073   |
| Human Rights Commission of The Maldives  | 4,452   | 5,404   |
| Jordan National Centre for Human Rights  | 2,383   | 78,109  |
| National Human Rights Commission of Bangladesh   | 4,487   | 3,176   |
| National Human Rights Commission of India  | 6,063   | 1,938   |
| National Human Rights Commission of Indonesia  | 8,031   | -       |
| National Human Rights Commission of Myanmar  | 1,716   | -       |
| National Human Rights Commission of Mongolia   | 9,334   | 20,377  |
| National Human Rights Commission of Nepal  | 2,004   | 3,973   |
| National Human Rights Commission of Thailand   | 2,956   | 1,273   |
| National Human Rights Institution of the Republic of Korea   | 2,960   | 2,961   |
| National Human Rights Institution of Qatar   | 3,003   | -       |
| New Zealand National Human Rights Commission   | 28,792  | 58,416  |
| Philippines Commission on Human Rights   | 6,993   | 4,519   |
| The Palestinian Independent Commission for Human Rights  | 4,716   | 7,100   |
| Timor Leste Office of the Provedor for Human Rights & Justice  | 2,076   | 3,773   |
|  | 109,123 | 213,767 |

The above payments pertain to travel related expenses for members attendance to training workshops and meetings and consultancy charges for producing the APF manuals.

**NOTES TO THE FINANCIAL STATEMENTS**  
**FOR THE YEAR ENDED JUNE 2013**

|   | <b>2013</b>    | <b>2012</b>    |
|---|----------------|----------------|
|   | \$             | \$             |
| <b>NOTE 12: RELATED PARTY TRANSACTIONS (Continued)</b>  |                |                |
| <b>(d) Key management personnel compensation</b>  |                |                |
| Key management personnel of the Company include the Director and Deputy Director, being Kieren John Fitzpatrick and Phillippa Erica Dargan. |                |                |
| Salaries and wages  | <u>335,479</u> | <u>386,863</u> |

**NOTE 13: ECONOMIC DEPENDENCE**

A significant portion of the revenue is dependent on the funding from a small number of donors, being the Australian Agency for International Development, Swedish International Development Cooperation Agency and New Zealand Ministry of Foreign Affairs & Trade.

**NOTE 14: INFORMATION AND DECLARATIONS TO BE FURNISHED UNDER THE CHARITABLE FUNDRAISING ACT 1991**

The Company is authorised to fundraise under the Charitable Fundraising Act 1991. No fundraising appeals were conducted during the year and as such the Company did not utilise this authority in order to meet its charitable fundraising purposes.

**NOTE 15: CAPITAL MANAGEMENT**

Management control the capital of the Company to ensure that adequate cash flows are generated to fund its mentoring programs and that returns from investments are maximised. The Board of Directors ensures that the overall risk management strategy is in line with this objective.

Management operates under policies approved by the Board of Directors. Risk management policies are approved and reviewed by the Board on a regular basis. These include credit risk policies and future cash flow requirements.

The Company's capital consists of financial liabilities, supported by financial assets.

Management effectively manages the Company's capital by assessing the entity's financial risks and responding to changes in these risks and in the market. These responses may include the consideration of debt levels.

There have been no changes to the strategy adopted by management to control the capital of the entity since prior year. The strategy of the entity is to ensure that sufficient cash is on hand to meet trade and sundry payables, as well as ensuring the delivery of its mentor programs.

**NOTES TO THE FINANCIAL STATEMENTS  
FOR THE YEAR ENDED JUNE 2013**

**NOTE 16: CONTINGENT LIABILITIES**

The Company is not aware of any contingent liability as at end of the financial year.

**NOTE 17: MEMBERS' GUARANTEE**

The Company is limited by guarantee. If the Company is wound up, the Constitution states that each member is required to contribute a maximum of \$100 each towards meeting any outstanding obligations of the Company. At 30 June 2013, the number of full members was 15 (2012: 15).

**NOTE 18: EVENTS AFTER REPORTING DATE**

The Directors are not aware of any other item, transaction or event of a material and unusual nature not otherwise dealt within the report or financial statements that has significantly affected, or may affect the operations of the Company with results of those operations or that state of the Company in subsequent years.

**ASIA PACIFIC FORUM OF NATIONAL HUMAN RIGHTS INSTITUTIONS**  
**ABN 98 099 972 997**

**DIRECTORS' DECLARATION**

The Directors of the Company declare that:

1. The financial statements and notes, as set out on pages 6 to 21 are in accordance with the *Corporations Act 2001* and:
  - (a) comply with Accounting Standards – Reduced Disclosure Requirements and the Corporations Regulations 2001; and
  - (b) give a true and fair view of the financial position as at 30 June 2013 and of the performance for the financial year ended on that date of the Company.
2. In the Directors' opinion there are reasonable grounds to believe that the Company will be able to pay its debts as and when they become due and payable.

This declaration is made in accordance with a resolution of the Directors.

.....  
(Director)

Dated in Qatar on..... of October 2013.

## **INDEPENDENT AUDITOR'S REPORT**

### **TO THE MEMBERS OF ASIA PACIFIC FORUM OF NATIONAL HUMAN RIGHTS INSTITUTIONS**

#### **Report on the Financial Report**

We have audited the accompanying financial report of Asia Pacific Forum of National Human Rights Institutions ("the Company"), which comprises the statement of financial position as at 30 June 2013, and the statement of profit or loss and other comprehensive income, statement of changes in members' funds and statement of cash flows for the year ended on that date, a summary of significant accounting policies, other explanatory notes and the directors' declaration.

#### *Directors' Responsibility for the Financial Statements*

The directors of the Company are responsible for the preparation and fair presentation of the financial statements in accordance with Australian Accounting Standards – Reduced Disclosure Requirements (including the Australian Accounting Interpretations) and the *Corporations Act 2001* and for such internal control as the directors determine are necessary to enable the preparation of the financial report that is free from material misstatement, whether due to fraud or error.

#### *Auditor's Responsibility*

Our responsibility is to express an opinion on the financial report based on our audit. We conducted our audit in accordance with Australian Auditing Standards. These Auditing Standards require that we comply with relevant ethical requirements relating to audit engagements and plan and perform the audit to obtain reasonable assurance whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial report. The procedures selected depend on the auditor's judgement, including the assessment of the risks of material misstatement of the financial report, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the Company's preparation and fair presentation of the financial report in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Company's internal control. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by the directors, as well as evaluating the overall presentation of the financial report.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

#### *Independence*

In conducting our audit, we have complied with the independence requirements of the *Corporations Act 2001*.

*Auditor's Opinion*

In our opinion the financial statements of Asia Pacific Forum of National Human Rights Institutions is in accordance with the *Corporations Act 2001*, including:

- a) giving a true and fair view of the Company's financial position as at 30 June 2013 and of its performance for the year ended on that date; and
- b) complying with Australian Accounting Standards – Reduced Disclosure Requirements (including the Australian Accounting Interpretations) and the Corporations Regulations 2001.

**Moore Stephens Sydney**  
Chartered Accountants

**Chris Chandran**  
Partner

Dated in Sydney this ..... day of October 2013.



INTERNATIONAL COORDINATING COMMITTEE OF  
NATIONAL INSTITUTIONS FOR THE PROMOTION AND  
PROTECTION OF HUMAN RIGHTS (ICC)

제 18 차 아시아태평양인권기구포럼(APF) 지역회의  
카타르 도하

마베들 로렌스 무쉬와나<sup>1</sup>

ICC 의장 보고서

**2013 년 5 월 총회 이후 ICC 활동에 관한 보고**

저는 2013 년 11 월 가나 아크라(Accra)에서 개최될 ICC 집행이사회 회의에서 2013 년 5 월 제네바에서 열린 총회 이후 ICC 의 활동에 관한 종합 보고서를 발표할 예정입니다만, 이 기회를 빌어 저희 활동의 주요사항 및 저희가 직면한 도전과제에 대해서 나누고자 합니다.

**1. 재정**

2013 년 5 월 제네바를 떠날 당시,

- ICC 의장은 ICC 은행계좌에 접근할 수 없었습니다.
- 스위스 법에 의거한 ICC 의 법적 지위가 만기하였습니다.
- 2012 년 회계감사가 완료되지 않았습니다.
- 회계 장부는 2013 년 1 분기에 작성될 예정이었습니다.

2013 년 5 월 제네바를 떠난 이래, ICC 가 스위스 법에 의거한 법적 지위를 회복하기 위하여 필요조치를 취하였습니다. 이를 통해 ICC 은행계좌에 접근할 수 있게 되었습니다. 이는 지체된 과정이었으며 8 월말이 되어서야 ICC 은행계좌에 접근할 수 있게 되었습니다.

ICC 는 채무 및 임금 지불을 할 수 없는 어려운 상황에 있었습니다. 저는 이와 관련하여 ICC 가 은행계좌에 접근할 수 있고 APF 에 상환할 수 있을 때까지 ICC 제네바 직원들의 임금을 임시적으로 지불하기로 한 APF 의 망설임 없는

<sup>1</sup> 의장, 국가인권기구 국제조정위원회 & 위원장, 남아공인권위원회.

도움에 공개적으로 감사의 말씀을 드리고 싶습니다. 여러분의 지원은 매우 큰 도움이 되었습니다.

APF 는 ICC 제네바 직원들에게 5, 6, 7 월의 임금을 지불하였으며, ICC 는 이를 모두 상환하였습니다.

**2012 년 회계장부에 대한 감사가 이루어져야 하며, 회계장부가 총회 이후 한달 이내에 갱신되어야 한다는 결의안이 총회에서 통과되었습니다.**

이와 관련하여 요르단국가인권센터, 특히 센터 직원이신 후세인 비타르(Hussein Bitar) 씨의 적극적인 협력에도 불구하고 이는 가능하지 못했습니다.

저희 사무실은 ICC 제네바의 회계사의 협력을 구하는데 큰 어려움을 겪었습니다. 하지만 끊임없는 노력 끝에 말씀드릴 수 있는 것은 2012 년 감사보고서가 수일 내에 발간될 예정이며 1, 2 분기 회계장부가 모두 정리되었다는 사실입니다.

## **2. 회비**

ICC 은행계좌에 접근이 불가능했던 동안에는 회비 내역에 대해 확인할 수 없었습니다. 하지만 접근이 가능해지면서 곧바로 내역 파악에 착수하였습니다.

저희 사무실은 2013 년 첫 두 분기에 대한 회비보고서 초안을 ICC 재정소위원회에 제출하였으며, 다양한 지역 조정기관과 협력하여 후속조치에 접어들었습니다. 현재 본 과정은 매우 순조롭게 진행되고 있습니다.

2013 년 6 월 말까지 약 35 개 회원국이 회비를 지불하였습니다. 최근 회비와 관련하여 제 사무실과 각 국가인권기구 간 의사전달이 있었으며, 이에 따라 본 내역은 연말까지 더 증가할 것으로 보입니다.

지난 수년간과 마찬가지로 아시아태평양 지역은 건전한 회비 지불 기록을 유지하고 있으며, 회비를 납부해주신 모든 국가인권기구에게 감사의 말씀을

전합니다. 특히 이와 관련된 후속 조치를 취하는데 있어서 APF 사무국의 도움이 매우 컸습니다.

### 3. ICC 제네바 직원

저희가 2013년 5월 제네바를 떠날 당시, ICC 제네바 지부는 카타리나 로스(Katharina Rose)께서 출산 휴가로 나가계시는 동안 브루스 아담슨(Bruce Adamson) 씨께서 임시 ICC 제네바 지부 대표를 맡아주셨습니다. 아담슨 대표는 덴마크인권기구의 지원을 받아 ICC에서 인턴으로 근무한 사라 팔레센(Sarah Pallesen) 씨의 든든한 보조를 받았습니다.

사라의 인턴십 기간은 2013년 5월 31일에 만기 예정이었으나 덴마크인권기구의 너그러운 지원으로 2013년 9월까지 계약을 연장할 수 있었습니다. 오늘, 제네바 지부에 한 명 이상의 직원이 필요하다는 것이 명백해졌습니다. 저는 본 사항을 ICC 집행이사회 회의에서 발표하고자 합니다.

ICC 의장실은 최근 몇 개월 간 다양한 채용 관련 사안을 다루어왔습니다. 본 사안에 대한 종합보고서가 작성되어 ICC 집행이사회 회의에 제출될 예정입니다.

### 4. 전략계획 및 예산

또한 2013년 5월 제네바를 떠났을 당시에는 2013년 전략계획 및 예산안이 존재하지 않았습니다.

11월에 개최될 ICC 집행이사회 회의에서 현 전략계획을 2013년 말까지 연장하는 제안이 상정될 것으로 보입니다. 또한, 2016년 12월 31일까지 유효한 3개년 전략계획이 발표될 예정입니다.

이는 전략계획 및 ICC 예산이 동시에 운영되는 것을 가능케 할 것입니다. 현 상황에 있어서 예산안은 1월부터 12월까지, 전략계획은 5월부터 이행될 것입니다.

또한 이는 ICC 전략계획 순환주기를 OHCHR와 UNDP의 순환주기와 맞추는 데 도움이 될 것입니다.

저희는 또한 연례이행계획 및 예산안을 작성하고 있는 중입니다. 2013년 7월 뉴욕에서 열린 OHCHR / UNDP / ICC 전략동반자회의에서 전략기획팀이(Strategic Planning Task Team) 재구성된 바 있습니다.

본 전략계획은 다음과 같은 분야에 중점을 둘 것으로 예상됩니다.

1. 유엔과 지역메커니즘과의 ICC 협력 개선
2. 동반자 관계 구축 및 외부 당사자와의 협력
3. 지속가능한, 잘 관리된 ICC의 구축
4. ICC 승인과정의 유지 및 강화

본 전략계획의 최종안이 만들어지기까지 회원국과의 충분한 협의와 협력이 반영될 수 있도록 보장하기 위해 지속적인 노력이 필요합니다.

#### **5. ICC 승인소위원회**

2013년 5월에 개최된 승인소위원회 회의에서 9개 국가인권기구가 A 등급을 부여 받았습니다.

나머지 평가대상 국가인권기구들은 재평가를 위해 각자 차후 일정으로 배정되었습니다.

#### **6. 고령화에 관한 개방형 실무그룹(Open-ended working group on ageing)**

2013년 11월에 개최될 ICC 집행이사회 회의에서 다루어야 할 사안 중 하나는 다양한 ICC 실무그룹의 지위와 기능에 관한 것입니다.

ICC 고령화에 관한 실무 그룹은 제 사무실과 함께 ICC 결의안 채택을 통해 설립되었습니다만, 아직까지 모든 지역 기구들이 본 그룹에 보낼 대표를 선정하였는지, 모임을 가진 적이 있는지 확실치 않으며, 어떠한 국가인권기구들이 본 실무 그룹에 참여하는지, 그리고 권한 사항이 작성되었는지 불확실합니다.

저희는 UN 고령화에 관한 개방형 실무 그룹이 진행 중에 있고 이에 대한 국가인권기구들의 목소리가 공식적으로 인정되지 않은 상황에서 본 사안에 대한 조속한 대응이 필요하다고 봅니다.

다음 총회에서는 본 사안과 더불어 다른 ICC 실무 그룹에 관하여 보다 확실한 정보를 바탕으로 보고할 수 있기를 기대합니다.

## 7. 회의 참석

지금까지 저는 ICC 의 의제를 추구하면서 다음과 같이 다양한 중요 회의에 참석한 바 있습니다.

- 2013 년 27-28 일 비엔나 +20 회의(The Vienna +20 conference in Vienna)
- 2013 년 7 월 뉴욕 ICC/OHCHR/UNDP 전략동반자회의(Strategic partnership meeting in New York)
- 2013 년 9 월 13 일 서울 파리원칙 20 주년 기념 국제회의(Paris Principles 20<sup>th</sup> anniversary commemoration workshop)
- 지난주 열린 제네바 유엔인권이사회 회기
- 2013 년 9 월 25 일 코펜하겐 아랍-유럽회담(Arab European dialogue in Copenhagen)



INTERNATIONAL COORDINATING COMMITTEE OF  
NATIONAL INSTITUTIONS FOR THE PROMOTION AND  
PROTECTION OF HUMAN RIGHTS (ICC)

The 18<sup>th</sup> Asia Pacific Forum for NHRIs Regional Meeting  
Doha, Qatar

By Adv M L Mushwana<sup>1</sup>

## ICC Chairperson's report

### *Brief update on ICC work since general meeting in May 2013*

At the next **ICC Bureau Meeting which will take place on 25 and 26 November 2013 in Accra, Ghana** I will present a full report on the work of the ICC since the General Meeting which took place in Geneva in May 2013. However I wish to take advantage of the opportunity of being here to share with you some of the **highlights** of the work that has been done and also some of the **challenges** which we have faced.

#### **1. Finances**

When we left Geneva in May 2013,

- the ICC Chairperson did not have access to the ICC bank account,
- the legal status of the ICC in terms of Swiss law had lapsed,
- the audit for 2012 was outstanding and
- the books of account were due to be written up for the first quarter of 2013.

Since leaving Geneva in May 2013, the necessary arrangements were made in order to ensure that the legal status of the ICC in terms of Swiss law was regularised. This then ensured that access to the ICC bank account could be attained. This has not been a quick process and **it took until late August to access the ICC bank account.**

---

<sup>1</sup> Chairperson, International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights & Chairperson, the South African Human Rights Commission

The ICC was in a difficult situation as it **could not pay its creditors or its staff salaries. I wish to publicly thank the APF for unhesitatingly coming to our rescue and offering to pay the ICC Geneva staff salaries on an interim basis** until such time the ICC was in a position to access its bank account and reimburse the APF. This support is greatly appreciated.

The APF paid the ICC Geneva staff salaries for the period May, June and July and we have now repaid this debt to the APF.

**A resolution was passed at the General Meeting that the books of account for 2012 should be audited and that the books of account should be brought up to date within one month of the General Meeting.**

Despite **excellent cooperation** from the Jordan National Centre for Human Rights, in particular their staff member **Hussein Bitar, whose name I feel I ought to mention**, this has not been possible.

My offices have experienced great challenges in securing co-operation from the ICC accountant in Geneva. However, through much effort I can now report that **the audit for 2012 is about to be released by the auditors any day now, and that the books of account have been written up for the first and second quarter.**

## ***2. Membership Fees***

Whilst my office did not have access to the ICC bank account we were unable to determine the status of the membership fees. However, as soon as access was gained to the account we were in a position to quickly ascertain the position.

My office has provided draft membership fees report to the ICC finance subcommittee for the first two quarters of 2013 and engaged in a follow up process with the excellent cooperation of the various regional coordinators. I am pleased to report that this process is progressing smoothly.

**Some 35 members had paid their subscription fees by the end of June 2013; however there has been much correspondence between my office and individual NHRIs concerning payment of their membership fees and it can be anticipated that this figure will rise significantly by the end of the year.**

**As with previous years, the Asia Pacific region enjoys a good membership fee payment track record and I wish to thank all those NHRIs who have made their payments. In particular, the APF Secretariat has been very supportive in assisting my office with the follow-up.**

### ***3. ICC Geneva staff***

When we left Geneva in May 2013, the ICC Geneva office was staffed by Bruce Adamson as the temporary ICC Geneva representative whilst Katharina Rose was on maternity leave. He was also ably assisted by Sarah Pallesen the ICC intern who is funded by the Danish Institute.

Sarah's internship was set to end on 31 May 2013 and the Danish Institute was very generous in being persuaded to extend her contract until the end of September 2013. It has become clear that there is a need for more than one staff member in the Geneva office. I intend addressing this matter at the forthcoming ICC bureau meeting.

The ICC chair's office has had to address various staffing matters in recent months relating to and full report their own will be tabled at the ICC bureau meeting.

### ***4. Strategic plan and budget***

Again when we left Geneva in May 2013 **there was no strategic plan or budget for 2013.**

At the ICC Bureau Meeting in November, it is anticipated that a proposal will be made to **extend the current strategic plan until the end of 2013 and that a three-year strategic plan running from one January until 31 December 2016 will be presented.**

This will allow for the strategic plan and the budget of the ICC to run concurrently. As the situation now stands the budget runs from January until December and the strategic plan runs from May onwards.

It will also more closely align the ICCs strategic planning cycle with that of the OHCHR and UNDP.

We are also in the process of developing an annual implementation plan and budget. The Strategic Planning Task Team was reconstituted during the OHCHR / UNDP/ ICC Strategic Partnership and meeting in New York in July 2013.

**It can already be anticipated that the strategic plan will focus on**

1. enhancing and ICC engagement with the United Nations and regional mechanisms;
2. Building partnerships and engage external stakeholders;
3. Developing a sustainable and well managed ICC;
4. Maintaining and strengthening the ICC accreditation processes and

There is still more work that needs to be done on the strategic plan to ensure that its finalisation provide sufficient opportunity for consultation and engagement with members.

***5. ICC Subcommittee on Accreditation***

**During the May 2013 meeting of the subcommittee on accreditation, 9 NHRIs were reaccredited with A status.**

The rest of NHRIs who were assessed were deferred to different periods for further assessments.

***6. Open-ended working group on ageing***

**One of the issues that need to be addressed at the ICC Bureau Meeting in November 2013 is the status and functioning of the different ICC working groups.**

Whilst my offices have established that an ICC working group on ageing was constituted in terms of a resolution that was passed by the ICC, it is not clear and at this stage whether all regions have submitted names of members for this working group and whether it has ever met, determined which NHRI will share the working group and drafted a terms of reference.

There is a need to address this matter urgently as we are all aware that the UN open-ended working group on ageing continues with its business and that the NHRI voice is not formally recognised.

The trust that they will be more concrete information to report on with regards to this matter as well as in relation to the other ICC working groups at the next general meeting.

## **7. Meetings attended**

To date, I have attended a number of important meetings at which to participate and pursue the agenda of the ICC, such meetings include:

- The Vienna +20 conference in Vienna on 27 and 28 June 2013
- the ICC/OHCHR/UNDP strategic partnership meeting in New York in July 2013
- Paris Principles 20<sup>th</sup> anniversary commemoration workshop in Seoul, Korea on 13 September 2013
- the Human Rights Council session in Geneva last week
- Arab European dialogue in Copenhagen and 25 September 2013.

## ● 유엔 고령화 실무그룹 보고서(국문)

고령화에 관한 유엔개방실무그룹 제 4 차 세션(OEWGA)  
국제연합, 뉴욕, 2013 년 8 월 12~15 일

APF 포럼이사회 및 연례총회 말레이시아 국가인권위원회 보고서  
2013 년 10 월 1 일 도하

감사합니다 의장님 그리고 APF 의장으로 선출되신 것을 축하드립니다. 전 APF 의장이셨던 아마라 풍사피치 교수님께 이때까지 보여주셨던 리더십에 진심으로 감사를 드립니다. 또한 전 ICC 의장이셨던 무사 부라이자트(Mousa Burayzat) 박사님께도 좋은 성과를 보여주신 것에 대해 진심으로 감사드립니다.

그리고 이곳 도하에 오신 모든 APF 회원 여러분, 그리고 APF 사무국과 이를 성실하게 이끌고 계시는 키렌 피츠패트릭(Kieren Fitzpatrick) 씨에게도 인사를 드립니다.

유엔인권최고대표사무소의 초청에 따라 저는 2013 년 8 월 12 일부터 15 일까지 고령화에 관한 유엔개방실무그룹 제 4 차 세션(OEWGA)에 참석한 바 있습니다. OEWGA 는 유엔총회결의 제 65/182 (2010)호와 제 67/139 (2012)호에 의거하여 국제적 틀의 반영 및 기타 협약과 조치의 반영 가능성, 그리고 간극 해소 등 고령자의 인권 보호 강화를 위한 목적으로 소집되었습니다.

양방간의 활발한 교류가 이루어진 본 실무그룹은 고령자의 인권과 관련된 회원국들의 기존 정책 및 사례, 그리고 법제 등에 관련된 사안을 두고 다양한 관점에서 심화적인 논의를 진행하였습니다. 이 외 기타 사안은 나이에 따른 차별, 사회적 소외, 독립적인 생활 및 보건의료에 대한 접근성, 사회적 보호 및 사회보장에 대한 권리, 폭력 및 남용, 그리고 사법 접근권 등이 포함되었습니다.

시간 제약에 따라 OEWGA 의장님께서 폐회사를 해주시면서 지적하신 주요 쟁점을 간단히 강조하면서 제 견해도 곁들이고자 합니다. 그 주요 쟁점이란 다음과 같습니다.

- 회원국과 시민사회단체 회원들이 일반 토론(general debate)에서 한 발언을 통해 고령자 사안과 관련하여 두가지 주요 측면에 있어서 합의가 있음을 알 수 있었습니다.

1) 각 사회마다 점진적으로 증가하는 고령인구와 함께 전세계에서 나타내고 있는 전례없는 인구학적 도전은 머지 않아 정부와 사회에 상당한 도전으로 다가올 것이다.

2) 고령자가 자신의 시민적, 정치적, 사회적, 경제적 그리고 문화적 권리를 최대한 향유할 수 있도록 보장하기 위한 기존 메커니즘의 부족 및 부적절에 따라 고령자는 학대, 소외, 비난, 무관심, 차별을 직면하고 있으며 이에 따라 그들의 기본적 욕구가 충족되고 있지 않다.

- 위에서 언급한 합의에 따라 의장님이 말씀하신 바와 같이 “고령자의 권리를 보호하는 보다 강한 국제적 보호를 위한 새로운 사회계약”이 고려되어야 하며, 이를 위하여 OEWGA 에 참여한 전문가 패널리스트, 국가대표 및 시민사회대표들이 다양한 메커니즘을 제기하였습니다.

- 몇몇 국가대표 및 패널리스트에 의하면 고령화에 관한 마드리드국제행동계획 등 국제적으로 채택된 행동계획 기존 협약 및 메커니즘의 보다 효과적인 이행을 통해 보다 강력한 보호를 달성할

수 있다고 말합니다 (즉, 국제협약의 작성보다 현존하는 협약과 메커니즘을 보다 효과적으로 활용해야 한다는 것입니다).

- 하지만 회원국, 시민사회단체 및 초청 패널리스트 (저를 포함하여) 대다수는 고령자의 인권을 포괄하는 국제협약 작성함으로써 고령자들이 각자 사회 속에서 전적으로 기여하고 참여할 수 있고 편견, 차별, 무시 및 남용에 맞설 수 있도록 해야 할 필요성에 대해 동감하였습니다.

- 이와 같이 고령자 관련 사안에 관한 관점의 차이가 존재하는 가운데, 고령자의 인권에 관한 유엔특별보고관의 임명, 인지도 개선, 지역 간 경험 공유, 그리고 시민사회단체와의 동반자 관계 강화 등 세션에 제출된 다양한 제의를 두고 합의를 이끌어내야 할 필요가 있었습니다.

- 또한 본 세션은 몇몇 대표들의 의사를 반영하여 인지도 강화 및 고령자 인권 보호를 위하여 개방실무그룹 세션과 세션 사이에 그 업무를 이어갈 수 있도록 “고령자의 친구들의 개방그룹 (open-ended "Group of Friends of Older Persons")”의 개설안을 강조하였습니다.

- 그리고 “유엔 체계 및 국내적 선상에서 고령화 사안을 담론화” 하기 위한, 그리고 “고령자의 권리에 관한 유엔원칙의 갱신을 통한 새로운 지침의 소개”를 위한 제의 등이 있었습니다.

- 회원국 대표 및 시민사회 대표 간 매우 활동적이고 건설적인 대화가 이루어졌습니다 (대부분 유럽과 북아메리카에서 오셨습니다). 의장님께서서는 이러한 소통을 환영하셨고 장애인권리협약의 사례를 시사하고자 회원국, 특히 개발도상국들로 하여금 실무그룹 국가대표단에 자국의 시민사회단체 회원들을 포함할 것을 권하였습니다.

- 개발도상국 등에서 시사하고 있는 국제협약에 대한 상당한 수요에 따라, 결의 제 67/139 호에 의거하여 고령자의 권리와 존엄성을 보호하고 증진하기 위한 국제협약 작성을 위한 주요 자료의 준비 등 해당 사안과 관련된 다양한 측면을 두고 논의를 이어가기로 합의하였습니다. 의장님께서서는 결의 제 67/139 호에 대한 의결 기권을 장벽으로 보기 보다는, 새로운 국제협약을 위한 과정에 있어서 기회인 동시에 도전으로 받아들여야 한다고 말씀하셨습니다. [물론, 한 대표는 전적인 합의가 이상적이지만 유엔 고령자에 관한 협약 작성에 대한 결정은 총회에서 다수결로 결정이 가능하다고 말씀하셨습니다]. 또한 의장님께서서는 제 4 차 세션에서 해당 결의에 대하여 기권한 바 있는 회원국 대표들이 적극적으로 참여하는 것을 보며 국내적, 국제적으로 고령자 보호에 있어서 강한 의지가 존재하고 있다고 말씀하셨습니다. 의장님께서서는 이러한 목표를 달성하는데 있어서 다른 관점과 요소가 있으나 이 모두 유효하며 보다 깊은 분석과 토론이 이루어져야 한다면, 이와 관련된 보다 건설적인 대화가 이어지기를 기대한다고 말씀하셨습니다.

이상으로 뉴욕 OEWSGA 에서 진행된 전개에 대하여 아주 간단히 설명하였습니다.

물론 ICC 의장이 방금 시사하신 바와 같이 고령자에 관한 국제적 법적 효력이 있는 문서를 작성하기 위해서는 아직 많은 작업이 필요합니다.

감사합니다.

**REPORT BY CHAIRMAN OF SUHAKAM TO THE APF FORUM COUNCILLORS AND ANNUAL GENERAL MEETING  
1 OCTOBER 2013, DOHA**

Thank you Mr Chairman and congratulations on your election as Chairperson of the APF and our thanks and appreciation to our former Chair, Prof Amara Pongsapich for her stewardship; and also our thanks and appreciation to Dr Mousa Burayzat the former Chairperson of the ICC for a job well done.

And warm greetings to all Members of the APF present here in Doha, and also to members of the APF Secretariat very ably headed by Mr Kieren Fitzpatrick.

At the invitation of the Office of the High Commissioner for Human Rights (OHCHR), I attended the 4th Session of the UN General Assembly's Open-ended Working Group on Ageing at the United Nations in New York from 12-15 August 2013. This OEWGA was convened pursuant to the UN General Assembly resolutions 65/182 (2010) and 67/139 (2012) aimed at strengthening the protection of the human rights of older persons by considering existing international frameworks and identifying possible gaps and how best to address them, including, if appropriate, the feasibility of further instruments and measures.

The interactive working sessions discussed in depth various aspects of the subject, including in particular, the adequacy of existing policies and practices of member states, as well as their legislations relating to the human rights of older persons. The other issues discussed relate to age discrimination; social exclusion; independent living and access to healthcare; social protection and the right to social security; violence and abuse; as well as access to justice.

Given the time constraint, I shall simply highlight the main points made by the Chair of the OEWGA during his closing remarks, with a few comments of mine. These main points are as follows:

- From the general debate, and the statements made by both Member States and members of civil society, there was clear consensus on two important aspects of the issue of Older Persons, namely :

1) the unprecedented demographic challenges throughout the world, with the steady increase in the number of Older People in our societies, would pose great challenges for governments and societies in the near future;

2) that existing mechanisms for the full enjoyment of older persons of their civil, political, social, economic and cultural rights are insufficient and inadequate and as a result Older Persons continue to face mistreatment, exclusion, stigmatization, indifference, discrimination, and that therefore their basic needs remain unfulfilled.

- In view of the above-mentioned consensus, it is apparent that there is a need for the consideration of - in the words of the Chairman -- "a new social contract that responds to the need for greater international protection of the rights of older persons", and for this purpose, various mechanisms were

proposed by expert panellists, Member States delegates and civil society representatives attending the OEWGA.

- For several Member States and some panellists, greater protection could be achieved through a better and more effective implementation of existing instruments and mechanisms, including action plans adopted at the international level, such as the Madrid International Plan of Action on Ageing. (In other words, make better use of these existing instruments and mechanisms, instead of pushing for an international legal instrument).

- However, for the majority of Member States, civil society organisations and the invited panellists (including yours sincerely, myself) there was agreement on the need for an international legal instrument that encompasses all of the human rights of older persons, thereby allowing them to fully and actively contribute to and participate in their societies, as well as combat stereotypes, discrimination, indifference and abuse.

- In view of these differing approaches of addressing the issue, there was a need to reach agreement on the various proposals presented at the session, including the possibility of appointing a Special Rapporteur of the Human Rights Council on the rights of older persons; raising awareness; sharing developments across regions; as well as enhancing partnership with civil society organisations;

- The session also noted the intention of some delegates to form an open-ended "Group of Friends of Older Persons" for the purpose of carrying on working continuously and in between the Open-ended Working Group sessions to strengthen awareness and protection of the rights of older persons;

- In addition, there were proposals made "to mainstream ageing issues throughout the United Nations system and at national levels", as well as "proposals to consider updating the United Nations principles on the rights of older persons so as to present new guiding principles";

- There was very lively and constructive dialogue between delegates of member states and representatives of civil society organisations present at the meeting (which were mostly from Europe and North America). The Chair welcomed this interaction and alluded to the practice during the Convention on the Rights of Persons with Disabilities, and invited Member States, especially the developing countries, to include members of their own civil society organisations in their national delegations to the Working Group;

- Given the strong demand for an international legal instrument, largely from the developing countries, it was agreed that discussions would continue on various aspects of the issue, including preparation of the main elements of such an international legal instrument to promote and protect the rights and dignity of older people, as requested in resolution 67/139. The Chair noted that the abstentions on the voting record of resolution 67/139 should not be viewed as an obstacle, but rather an opportunity as well as a challenge to continue with the deliberations towards the consideration of a new international instrument. [Indeed, a delegate pointed out that while getting a full consensus is the ideal approach, a decision to have a UN Convention on Older Persons could be obtained through a majority vote in the General Assembly]. The Chairman also noted that the active participation within the fourth session of

many delegations that had abstained in voting for the resolution, demonstrated a strong commitment to the protection of older persons nationally and internationally. The Chair noted that while there were different approaches and elements for achieving this goal, they were all nevertheless valid and should be further analysed and discussed, and he looked forward to more constructive dialogues on the matter.

That, in a nutshell, was the thrust of the deliberations that took place during the OEWGA in New York.

Clearly, there is still a lot of work to be done before the realisation of an international legally binding instrument on Older Persons-- which the Chair of the ICC has also alluded to just now.

Thank you.

## ● 홍콩기획균등위원회 발표문(국문)

아시아태평양인권기구포럼 제 18 차 연례회의 및 격년회의 (APFNHRI)  
카타르 도하  
2013 년 10 월 1~3 일

### 홍콩균등기획위원회의 역할

알-마리 박사님 (Dr. Ali Ben Smaikh Al-Marri, 카타르국가인권위원회 위원장),  
폰사피치 교수님 (Prof. Amara Pongsapich, APF 의장), 친애하는 대표들, 신사  
숙녀 여러분,

이 자리에 와서 홍콩균등기획위원회의 역할에 대하여 나눌 수 있게 되어  
매우 기쁩니다.

#### EOC 개요

EOC 는 1997 년 성차별법, 장애차별법, 가족지위차별법 등 홍콩의  
차별금지법을 이행하기 위해 세워진 법정기관입니다. 저희 위원회는  
정부로부터 독립되어있으며, 저희 위원회의 법적 권한은 정부에게도  
적용됩니다.

지난 수년간 저희 위원회는 불법적 차별로 고통 받는 이들을 구제하고자  
노력해왔습니다. 2012/13 년 EOC 는 16,600 이상의 문의와 총 929 건의  
진정사건을 처리하였으며, 72 퍼센트의 높은 중재성공율을 보였습니다.  
중재가 실패한 사건의 경우 피해자들은 저희 위원회에 법적 지원을 요청할  
수 있습니다. 지난 수년간 저희 위원회는 기소를 통해 복장규정, 성희롱,  
장애인에 대한 차별 등 균등기회와 관련된 법적 선례를 세우는데 기여한  
바 있습니다.

또한 저희 위원회는 연구분야를 개척하고 정책을 옹호하며 선전활동을  
통한 대중 교육을 통해 균등기회의 가치를 촉진하고 담론화하고자  
노력하고 있습니다. 저희 위원회는 최근 기업과 교육 분야에서 발생하는  
성희롱행위 및 통합 교육과 학습장애자들에 대한 연구에 착수하였습니다.  
저희 위원회는 이러한 사안을 두고 대중과 소통하기 위하여 훈련, 간담회,  
언론, 영상매체, 공공전시회 및 행사 등 다양한 방법을 시도하고 있습니다.  
한 예시로 저희 위원회의 TV 다큐드라마인 “균등기회를 위한 목적”은  
실제 사례를 바탕으로 한 영상으로서 각 에피소드마다 시청횟수가 평균 약

10 만 명을 상회합니다.

이미 많은 분들께서 아시다시피 홍콩은 현재 “한 국가 두 체제” 원칙 하에 운영되고 있습니다. 중국의 일부로서 홍콩 헌법인 기본법은 몇가지 권리를 명시하고 있으며, 이 중에는 법 앞의 평등의 권리(제 25 조), 표현의 자유(제 30 조), 종교의 자유(제 32 조)가 있습니다. 따라서 기본법은 홍콩에게 넓은 범위의 자유 및 독립성을 부여하고 있으며 자체적 관할권에 있는 저희들의 권리를 보호하고자 합니다.

EOC 는 균등기회는 모든 사람들의 기본권이 되어야 한다고 생각합니다. 이러한 중요한 원칙을 지키고자 하는 것이 저희들의 역할입니다. 이를 실천하는데 있어서 EOC 는 최선을 다하고자 노력하고 있으며, 타 지역에 대해서도 좋은 모델이 될 수 있도록 해야 할 것입니다.

저희 위원회의 비전은 차별로부터 자유롭고 균등기회를 가로막는 장벽이 없는 다원적이고 포괄적인 사회를 만들어나가는 것입니다.

## EOC 의 5 가지 주요 역할 분야

이러한 비전을 달성하기 위해서 EOC 는 4 대 차별금지법의 이행뿐만 아니라, 법에 따라 관할권 밖에 있는 차별 및 균등 관련 사안을 검토할 수 있는 일반의무를 가집니다. 이러한 관점을 바탕으로 앞으로 3 년 동안 저희 위원회의 주요 분야를 설정하였습니다.

### 1. 차별법 검토

우선, 저희들은 기존 차별금지법에 대한 종합적인 검토를 진행하고 있습니다. 이는 저희 위원회의 지속적인 법제 검토 의무와 부합합니다. 지난 16 년간 EOC 가 쌓아온 경험을 바탕으로 보았을 때 현 차별금지법에는 한계와 부조화가 존재합니다. 지속적인 차별 및 불균등의 존재, 특히 이미 보호받고 있는 이들에 대한 차별 및 불균등에 관한 증거는 현존하는 보호장치를 강화해야 할 필요성을 피력하고 있습니다. 또한 법제를 간소화해야 할 필요성도 존재하며, 홍콩이 균등의 개념의 현대화 및 차별행위의 국제적 근절 동향과 보조를 맞출 수 있도록 보장할 필요가 있습니다. 저희는 국제적 동향에 따라 4 대 차별금지법을 하나의 법제로 통합할 수 있는 방향으로 노력을 계속해나갈 것입니다. 본 과정은 실무그룹이 구성되어 이미 내부적으로 진행 중에 있습니다. 본 사안과 관련하여 2014 년에 대중과 상의할 계획을 갖고 있습니다.

## 2. 성적 취향 및 성 정체성에 의한 차별행위금지 입법활동

EOC 는 성적 취향 및 성 정체성에 의한 차별행위를 금하는 입법 옹호 활동을 전개해나가고 있습니다. 본 사안은 논란의 여지가 많았습니다. 저희는 지난 5 개월 간 40~50 개의 관련단체와 회동한 바 있습니다. 본 법안을 한 쪽이 반대하면, 다른 쪽은 지지했습니다. 저희는 본 법안이 물론 필요하다는 관점을 갖고 있습니다. 저희들은 홍콩에서 심각한 차별을 직면하고 있는 성적 소수자의 평등권 보호가 필수라고 보고 있으며 이에 대하여 목소리를 높이고 있습니다. 유엔인권위원회는 홍콩 및 다른 회원국에게 관련 차별금지법을 제정할 것을 수차례 권고한 바 있습니다. 최근 홍콩에서는 최고법원인 중심법원에서 여성으로서 결혼할 권리를 위해 투쟁해오던 성전환 여성에 대하여 전례 없는 판결을 내릴 바 있으며, 이는 성적 소수자에 대한 대중의 관심을 한데 모았습니다. EOC 는 본 사안과 관련하여 2014 년 대중과 상의할 예정이며, 이와 관련된 해외 사례를 검토할 계획입니다. 최근 홍콩 정부는 이와 관련하여 성적 소수자 차별행위 근절에 관한 자문그룹을 설치하는 등 노력을 강화하고 있습니다. EOC 는 이에 대하여 노력이 중복되지 않도록 정부와 협의할 것입니다.

## 3. 소수 민족 출신 학생에 대한 교육

저희가 중점을 두고 있는 세번째 주요 분야는 소수 민족 출신 아동의 교육 문제입니다. 소수 민족은 홍콩 인구의 6.4 퍼센트를 구성하고 있으며, 주요 소수 민족으로서 필리핀인, 인도인, 인도네시아인, 네팔인, 파키스탄인, 그리고 태국인 등이 있습니다. 특히 저소득층은 홍콩에서 그들의 권리와 서비스에 접근하는데 있어서 상당한 장벽을 직면하고 있으며, 그 중 교육은 중국어 습득 및 기타 언어적, 문화적 장벽으로 인해 접근에 큰 어려움을 겪고 있습니다. 상당수는 홍콩에 오랫동안 정착했음에도 불구하고 아직까지 주류 사회와 분리되어 있습니다. 이 문제는 주로 소수 민족이 다니고 정부 지원을 받고 있는 소위 “지정 학교”에 의하여 사실상 분리가 더 악화되고 있습니다. 사실, 지정 학교는 80 퍼센트 이상의 학생들이 소수 민족 출신인 경우도 있으며, 이는 홍콩 주류 사회와의 통합을 저해하고 중국어조차도 배우기 어렵게 만듭니다. 이들이 중국어를 구사할 수 없다는 점은 앞으로 그들의 진학 및 고용 등에 심각한 영향을 초래할 수 있습니다. EOC 는 초등학교 이전 시기부터 진학까지에 걸친 소수 민족 출신 학생들의 교육관련 요구에 대한 구체적인 조치를 옹호하는 등 소수 민족 출신 학생들에 대한 포괄적인 지원을 옹호해왔습니다. 특히, 저희는 중국어를 제 2, 3 외국어로 배우는 이들을 위한 중국어 대안교재 및

평가제도를 옹호하여 이들의 교육 및 고용에 도움이 될 수 있도록 노력하고 있습니다. 본 사안과 관련하여 현재 정부와 협의 중에 있습니다.

#### 4. 특별교육을 필요로 하는 학생들을 위한 통합 교육

네번째 주요 분야는 특별 교육을 필요로 하는 학생들을 위한 통합 교육 사안입니다. 자폐증, 난독증, 주의력 결핍 및 과잉 행동 장애를 겪고 있는 학생들은 수준 높은 교육을 받는데 큰 어려움을 겪고 있습니다. 저희가 2012 년에 진행한 조사에서는 특별교육에 대한 오해가 존속하고 있으며, 통합 교육을 지원하기 위하여 보다 많은 자원, 훈련 및 인력이 필요하다는 결과가 나왔습니다. 현재 정부 및 관련 단체들은 특별교육을 필요로 하는 학생들의 수용한계가 겨우 6,000 명에 지나지 않습니다. 약 7,000 명이 현재 대기명단에 올라와 있으며 그 수는 점진적으로 증가 추세에 있습니다. 이는 3~6 세가 조기치료를 위한 최적 연령이라는 점에 있어서 저해적 요인이 됩니다. 따라서 EOC 는 특별교육을 필요로 하는 학생들에 대한 포괄적 접근이 가능할 수 있도록 언어치료사, 심리학자, 작업 요법사 및 기타 전문가 등 다양한 분야의 지원과 함께 “원스톱 숍(One-stop Shop)”에 대한 옹호활동을 진행하고 있습니다. 본 사안과 관련해서도 정부와 꾸준히 협의 중에 있습니다.

#### 5. 장애인의 요구를 수용하기 위한 정부의 기능적 접근

최종적으로, EOC 는 장애인의 요구를 수용하기 위한 정부의 기능적 접근을 촉구하고 있습니다. 저희는 정부가 태도적, 환경적 장벽이 장애인들의 전적인 사회 참여를 저해하고 있음을 반영하여 장애에 대한 보다 광의적인 해석을 채택할 것을 옹호하고 있습니다. 이는 국제기준을 준수하는 것입니다. 현재 장애에 대한 정의는 의료업, 재활업, 장애인 보조금, 부상당한 고용인에 대한 고용배상 등 각 정부 정책과 서비스마다 다르게 설정되고 있습니다. 이들 서비스들은 서로의 정의를 감안할 수 있도록 설계되어있지 않으므로 일관성을 세우는데 있어서 정부의 주도적인 역할이 요구되고 있습니다. EOC 는 정부가 장애에 대한 정의를 표준화시킬 수 있도록 권고를 지속하고 장애인 관련 정책 및 서비스를 제공하는데 있어서 세계보건기구 국제건강관련 분류체계인 ICF 를 채택할 것을 요구할 것입니다.

#### 현재 진행 중인 세가지 주요 활동

위에서 본 다섯 가지 주요 분야와 함께 EOC 는 현재 세가지 주요 활동을

진행하고 있습니다. 첫번째는 성추행금지 캠페인입니다. 사실 성차별법에 의거하여 접수되고 있는 진정사건 중 30 퍼센트 정도가 성추행관련 사건이며, 이러한 성추행의 근절은 EOC 의 우선과제였습니다. 본 사안을 정책적 관점에서 접근하기 위하여 EOC 는 교육 및 기업부문을 대상으로 구조적 차원에서 성추행금지 캠페인을 개시하여 다양한 연구조사, 훈련과정 및 공공교육 프로그램을 주최하고 있습니다.

저희가 진행하고 있는 두 번째 주요 활동은 성차별법(SDO) 내 고용관련 행동규정에 대한 심사활동입니다. 직업규약은 법제의 주요 개념을 설명하고자 하며, 이를 위해 풍부한 사례를 제공하여 독자들로 하여금 그 실용적 측면을 이해할 수 있도록 돕습니다. 현 SDO 고용에 관한 직업규약은 1996 년 EOC 가 창설될 무렵에 제정되었습니다. 그 이래 EOC 는 지난 15 년간 법적 판례의 동향에 따른 SDO 의 이행과 관련된 경험을 축적해왔습니다. 저희는 2011 년 장애차별법 고용에 관한 직업규약에 대한 검토를 완료하였으며, 이어서 SDO 직업규약에 대한 검토에도 착수하여 법제 이행 및 좋은 관습의 정착을 위하여 고용주와 고용인에게 보다 명확한 설명을 제공하고자 합니다.

마지막 주요 활동으로서 EOC 는 2010 년 6 월 접근가능 공공시설에 관한 정식 조사 보고서를 발표한 이래 인공환경 접근성에 대한 모니터링을 활발히 진행해왔습니다. 그 이후 정부는 13 억 홍콩달러를 투입하여 포괄적인 보강 계획을 실시하여 현존하는 3,500 개 정부기관 및 시설, 약 240 개 공공주택부지 내 장애인 친화적 시설에 대한 보강에 착수하였습니다. 또한 정부는 접근성 조정인(Access Coordinators)을 각 부처에 두어 접근성 관련 사안의 중심되는 접촉점(Point of Contact) 역할을 가질 수 있도록 하고 기관 내 인지도를 끌어올리고자 하였다. 최종적으로 공공주택부지 내 쇼핑몰 대다수를 관리하고 있는 ‘더 링크’도 총개발계획에 2 억 홍콩달러를 투자하여 시설 보강에 착수하였다.

추가적으로 EOC 는 인터넷 접근성 기능과 디자인의 확대 등 장애인들의 정보 및 서비스 접근성을 강화하고자 하는 노력의 일환으로 모두가 정보와 커뮤니케이션 기술에 접근할 수 있도록 보장하는데 최선을 다하고 있습니다. EOC 는 접근성과 관련하여 이미 국제적으로 수용된 보편적 디자인 원칙 채택을 위해서도 옹호활동을 전개하고 있습니다. 본 원칙의 목적은 장애인, 고령자, 기타 특별 대우가 요구되는 이들을 포함하여 모두의 접근이 용이하고 이용 가능한 건물, 제품, 서비스, 그리고 환경의 건설에 있습니다.

## 결론

EOC 는 위에서 살펴본 주요 분야 및 구상에 대한 신중한 고려와 자원 분배가 이루어져야 하며, 이는 균등기회를 가로막는 장벽이 없는 사회를 만들어나가는데 큰 도움이 될 것입니다. 지난 17 년간 EOC 는 홍콩에서 균등기회를 보호하는 기관으로서 이행 경험을 쌓아왔습니다. 하지만 저희들은 역내 다른 기관들로부터 배울 것이 아직 많습니다. APF 는 역내 인권 및 균등기회의 발전에 기여할 수 있는 구상을 서로 공유할 수 있는 중요한 장입니다. 또한 APF 는 역내 국가인권기구들이 서로 공유하는 우려를 함께 대응할 수 있는 틀을 제공하고 있습니다. 이에 저희는 차별에 대응하는 저희의 경험과 전문지식도 공유할 수 있다면 도움이 되지 않을까 싶습니다. 저희는 APF 의 준회원 자격을 취득하여 여러분과 함께 배우면서 전진할 수 있기를 희망합니다.

도하에서의 성공적인 회의가 될 수 있기를 빕니다. 감사합니다.

---

요크 Y.N. 차우 박사 (Dr. York Y N CHOW)

홍콩균등기회위원회 위원장

2013 년 9 월

● 홍콩기회균등위원회 발표문(영문)

Eighteenth Annual Meeting and Biennial Conference of  
the Asia Pacific Forum of National Human Rights Institutions  
(APFNHRI)  
Doha, Qatar  
1-3 October 2013

**Work of the Equal Opportunities Commission, Hong Kong**

Dr. Al-Marri (Dr. Ali Ben Smaikh Al-Marri, Chairperson, National Human Rights Committee of Qatar); Professor Pongsapich (Prof. Amara Pongsapich, Chairperson, APFNHRI); distinguished delegates; ladies and gentleman,

It is my pleasure to be invited here to share with you the work of the Equal Opportunities Commission (EOC) in Hong Kong.

Introduction to the EOC

The EOC is the statutory body tasked since 1997 to implement the anti-discrimination ordinances in Hong Kong, namely the Sex Discrimination Ordinance, the Disability Discrimination Ordinance, the Family Status Discrimination Ordinance and the Race Discrimination Ordinance. We are independent from the Government, and the legislation under our purview are also applicable to the Government.

Over the years, we have sought to provide those who have been aggrieved by unlawful discrimination with redress. In the year 2012/13, the EOC answered over 16,600 enquiries and handled a total of 929 complaints, with a successful conciliation rate of 72%. In cases where conciliation failed, aggrieved persons may apply to us for legal assistance. Over the years, we have taken a number of cases to court which has helped to set legal precedent in the city on equal opportunity-related issues, including on issues relating to dress code, sexual harassment, and disability discrimination.

In addition, we try to promote and mainstream the values of equal opportunities through pioneering research, advocating policies, and

educating the public with publicity activities. We have recently launched research on sexual harassment in the business and education sectors, as well as on the issue of integrated education and students with special educational needs. We employ a variety of means to communicate with the public about these issues, through training, talks, the media, broadcast media platforms, or public exhibitions and events. For instance, our TV docu-drama series, “A Mission for Equal Opportunities,” which are based on real-life cases, averaged 1 million viewers per episode.

Hong Kong, as many of you may know, is currently operating under the principle of “One Country, Two System.” As a part of China, and our constitution, the Basic Law, provides for a number of rights, including equality before the law (Art. 25), freedom of speech (Art. 30), and freedom of religion (Art. 32). The Basic Law thus provides Hong Kong with a wide range of freedom and independence and safeguard our rights within our own jurisdiction.

The EOC firmly believes that equal opportunities is everyone’s basic right. It is our mandate to safeguard this important principle. In performing our role, the EOC strives towards excellence and wishes to be a reference model to other parts of our region.

Our vision is to create a pluralistic and inclusive society free of discrimination where there is no barrier to equal opportunities.

### The EOC’s Five Priority Areas of Work

To achieve this vision, other than enforcing the four anti-discrimination ordinances, the EOC has a general duty under the law to look into discrimination and equality-related issues outside our jurisdiction. It is with this perspective that we set out our priority areas over the next three years.

#### 1. The Discrimination Law Review

First, we are conducting a comprehensive review of the existing Anti-Discrimination laws. This is in line with our duty under the law to keep the legislation under review. Based on the EOC’s experience

over the last 16 years, there are limitations and inconsistencies in the current anti-discrimination legislation. Available evidence of continued discrimination and inequality, even for those groups presently protected, highlights the need to strengthen the existing protection. There is also a need to simplify the legislation and ensure that Hong Kong keeps pace with modernization in the concepts of equality and eliminating discrimination internationally. We will further give consideration to consolidating the four ordinances into one piece of legislation, in line with international trends. Internally, this process is already under way, with an internal task group formed. We are aiming to consult the public on this issue in 2014.

## 2. Anti-discrimination legislation on the basis of sexual orientation and gender identity

The EOC is also advocating for legislation to protect against discrimination on the basis of sexual orientation and gender identity. This has been a hotly debated issue. We have met with 40-50 stakeholder groups in the past 5 months. Some opposed the legislation, and some supported it. We have formed the view that legislation is indeed necessary. We have been vocal about equal rights for sexual minorities, because we are aware that they face significant discrimination in Hong Kong and that their human right to equality must be safeguarded. The UN Human Rights Committee has recommended to the Hong Kong Government on numerous occasions to introduce anti-discrimination legislation on this front, as it has recommended that all member states to do so. Recently in Hong Kong, the Court of Final Appeal, our highest court, has handed a landmark decision in the case of a transsexual woman who was fighting for her right to marry as a woman, which has also drawn public attention to the issues facing this community. The EOC intends to consult the public in 2014 on this issue, and will be examining the experience of other countries on this front. The Government has taken some recent steps on this front, including setting up an advisory group on eliminating discrimination against sexual minorities. The EOC will complement the Government on this subject to ensure no duplication of efforts.

### 3. Education for ethnic minority students

The third priority area that we will be devoting attention to is the issue of education for ethnic minority children. Ethnic minorities form 6.4% of Hong Kong's population, with major ethnic groups including Filipino, Indian, Indonesian, Nepali, Pakistanis, and Thais. A number, especially those from low-income families, face significant barriers in accessing their rights and services in Hong Kong, including in education due to the difficulty they face in learning Chinese and other linguistic and cultural barriers. Many remain segregated from the larger Hong Kong community even after residing here for a long time. This is not helped by the de facto segregation caused by so-called "designated schools", which are local schools who have a large concentration of ethnic minority students and receive government funding to address their needs. In fact, such schools can have up to 80% of their students being ethnic minority, which is neither conducive to these students' integration into the larger mainstream society nor to their ability to learn Chinese. The inability to speak Chinese has serious impact on their prospects for further education and employment over their entire lifetime. The EOC has been outspoken in advocating holistic support for ethnic minority students, starting from the pre-primary level onwards with specific measures for ethnic minority students with special educational needs. Importantly, we have been pushing for an alternative Chinese curriculum and assessment suitable for second- or third-language learners, which could then be used to help them advance in education and employment. We are now following up with the Government on the above points.

### 4. Integrated education for students with special educational needs

Integrated education for students with special educational needs form our 4<sup>th</sup> priority area. Students with special educational needs, such as those with autism, dyslexia, or attention deficit hyperactivity disorder, are facing enormous difficulties in attaining quality education. We conducted a study, released in 2012, which showed that misunderstanding about special educational needs remain common, and that more resources, training, and manpower are

necessary to support integrated education. Currently, the Government and related organisations have the capacity to support only 6,000 students with special educational needs. 7,000 more remain on the waiting list, which grows steadily. This is not conducive for early intervention as the best time to achieve successful outcome is between age 3-6. In this regard, the EOC advocates “one-stop shops” with wide-ranging support from speech therapists, psychologists, occupational therapists, and other experts to comprehensively address the needs of students with special educational needs. We have also been following up diligently with the Government on this issue.

#### 5. Functional Approach in addressing the needs of people with disability by the Government

Finally, the EOC is urging for a functional approach in addressing the needs of persons with disability by the Government. We have advocated that they should adopt a broader definition of disability by taking into consideration attitudinal and environmental barriers which hinder people with disability from full participation in society. This will be in line with international standards. Currently, the definition of disability varies in regard to different government policies and services, including medical services, rehabilitation services, disability allowance, and in assessing employee compensation for injured employees. These services are not designed to take reference from one another, and there is a need for the Government to take the lead in aligning them. The EOC will continue to recommend to the Government to standardize the definition and adopt the new international classification of Functioning, Disability and Health (ICF) introduced by the World Health Organization, in formulating its policies and providing service to persons with disability.

#### Three Major Ongoing Undertakings

In addition to these five priority areas, the EOC currently has three major ongoing undertakings. The first is our Anti-Sexual Harassment campaign. In fact, sexual harassment complaints amount, on average,

to around 30% of total number of complaints under the Sex Discrimination Ordinance, and elimination of sexual harassment has always been the work priority of the EOC. In an effort to approach the problem from a policy perspective, a structured anti-sexual harassment campaign targeting the education and business sectors has been launched by the EOC, with various planned research studies, training packages and public education initiatives underway.

The second major undertaking we have going on is the review of our Code of Practice on Employment under the Sex Discrimination Ordinance. The Code of Practice aims to explain the key concepts of the law with abundant case illustrations to help readers understand its practical applications. The current Code of Practice on Employment under the SDO was issued in 1996, when the EOC first began. Since then, the EOC has gathered experience in relation to administering the ordinance in conjunction with developments in legal jurisprudence over the last 15 years. In 2011, we completed the review of the Code of Practice on Employment under the Disability Discrimination Ordinance. Following this, we have been embarking on doing the same for the Code under the SDO in order to continue to provide clarity to employers and employees on the application of the law and instill good practices.

In our last major undertaking, the EOC has been actively following up on the issue of accessibility in the built environment, after the release of our Formal Investigation on Accessibility in Publicly Accessible Premises in June 2010. The Government has, since then, put in place a comprehensive retrofitting programme to upgrade the barrier-free facilities for about 3,500 existing government premises and facilities, as well as about 240 public housing estates at a total cost of HK\$1.3 billion. In addition, the Government has appointed Access Coordinators in individual bureaux and departments in order to be a central point of contact for access-related issues and raise awareness within the organization. Finally, The Link, which manages a majority of the shopping malls in public housing estates, also pledged to invest HK\$200 million to its Total Improvement Plan to upgrade their facilities.

In addition, the EOC is committed to ensuring that information and communications technology is accessible to all, including widening the adoption of web accessibility features and design, in an effort to ensure that persons with disability have access to information and services. The EOC is also advocating the adoption of the principles of universal design, which is already an internationally accepted access design concept. Its aim is to create buildings, products, services, and environments which are accessible to and useable by all, irrespective of whether one has a disability, is ageing, or has a special need.

### Conclusion

The EOC believes the above identified priority areas and initiatives deserve careful attention and allocation of resources, and will help us towards our vision of fostering a society with no barriers to equal opportunities. Throughout the last 17 years, the EOC has gathered implementation experience as the body tasked with defending equal opportunities in Hong Kong. However, we are mindful that we still have much to learn from others in the region. The APF is an important platform which allows each organization to exchange ideas and contribute to the development of human rights and equal opportunities in this region. It also provides a framework for national human rights institutions to share information and work together on a regional basis to respond to issues of shared concern. We believe our experience and expertise in addressing discrimination would be beneficial to share, and hope to explore the possibility of becoming an associate Member of APF so that we can learn from each other going forward.

I thank you for your kind attention, and wish all the delegates and participants a successful meeting and a exchange of ideas and experiences here in Doha.

---

Dr. York Y N CHOW  
Chairperson, Hong Kong Equal Opportunities Commission  
September 2013

## 포럼이사회와 ANNI 대화 자료

- 유엔 인권옹호자  
특별보고관 보고서
- 칸디 행동계획
- ANNI 보고서-  
한국 국가인권위원회  
(국제민주연대)





---

**Human Rights Council**

**Twenty second session**

Agenda item 3

**Promotion and protection of all human rights, civil,  
political, economic, social and cultural rights,  
including the right to development**

**Report of the Special Rapporteur on the situation  
of human rights defenders, Margaret Sekagya\***

*Summary*

In the present report, submitted pursuant to Human Rights Council resolutions 7/8 and 16/5, the Special Rapporteur provides an account of her activities during the reporting year and draws the attention of Member States to the 252 communications sent under the mandate during the past year.

The main focus of the report is the role of national human rights institutions in the promotion and protection of human rights, highlighting the fact that they can be considered as human rights defenders.

The Special Rapporteur elaborates on the potential role national institutions can play in the protection of human rights defenders. She outlines a number of measures currently in practice in institutions in various Member States which could be replicated in other contexts. She also points to a number of areas where national institutions need strengthening in order to effectively protect human rights defenders.

The Special Rapporteur provides her conclusions and recommendations.

## Contents

|   | <i>Paragraphs</i> | <i>Page</i> |
|---|-------------------|-------------|
| I. Introduction.....  | 1–4               | 3           |
| II. Activities during the reporting period.....   | 5–22              | 3           |
| A. Communications transmitted to States.....  | 5                 | 3           |
| B. Country visits.....  | 6–8               | 3           |
| C. Cooperation with the United Nations system and intergovernmental organizations.....              | 9–14              | 4           |
| D. Invitations by Governments.....  | 15                | 5           |
| E. Cooperation with non-governmental organizations.....   | 16–22             | 5           |
| III. National human rights institutions.....  | 23–83             | 6           |
| A. Introduction and methodology.....  | 23–27             | 6           |
| B. The Paris Principles and beyond.....   | 28–33             | 7           |
| C. National human rights institutions as human rights defenders.....                                | 34–83             | 8           |
| IV. The role of national human rights institutions in the protection of human rights defenders..... | 84–114            | 15          |
| A. Formal complaints mechanisms and protection programmes.....                                      | 85–90             | 15          |
| B. Advocacy in favour of a conducive work environment for defenders.....                            | 91–94             | 16          |
| C. Interaction with international and regional mechanisms.....                                      | 95–97             | 17          |
| D. Public support in cases of violations against human rights defenders.....                        | 98–102            | 17          |
| E. Visits to prisons and detention centres and provision of legal assistance.....                   | 103–105           | 18          |
| F. Conflict mediation.....  | 106–108           | 18          |
| G. Capacity strengthening for human rights defenders.....   | 109–114           | 19          |
| V. Conclusions and recommendations.....   | 115–123           | 19          |
| A. Conclusions.....   | 115–118           | 19          |
| B. Recommendations.....   | 119–123           | 20          |

## **I. Introduction**

1. The present report is the fifth submitted to the Human Rights Council by the Special Rapporteur, and the thirteenth thematic report submitted by the mandate holder on human rights defenders since 2000. The report is submitted pursuant to Human Rights Council resolutions 7/8 and 16/5.

2. Since the inception of the mandate, the key role played by national human rights institutions in the promotion and protection of human rights has continuously been emphasized. As independent public bodies, national institutions can play an important part in advising Governments on national developments in the light of their human rights obligations as well as mainstreaming international human rights principles and standards in public law and policymaking. The Special Rapporteur is of the opinion that national institutions can be considered as human rights defenders.

3. In addition, the interaction between such institutions and individuals and associations acting in defence of human rights has always been considered essential by the mandate holder. National institutions can cooperate with defenders to assess the human rights situation on the ground and ensure accountability for human rights violations. As emphasized by the Special Rapporteur in her 2010 report to the Human Rights Council, national institutions, especially those mandated to receive complaints and follow individual cases, can be powerful allies of human rights defenders and contribute significantly to their protection if needed.<sup>1</sup>

4. After providing an overview of her activities during the reporting period, the Special Rapporteur briefly outlines her approach to national human rights institutions and the methodology used in the current report. She then focuses on the vital role played by national institutions in the promotion and protection of human rights. She goes on to provide observations on the current mechanisms in place within these institutions to protect human rights defenders. In the last section, the Special Rapporteur provides her conclusions and recommendations.

## **II. Activities during the reporting period**

### **A. Communications transmitted to States**

5. Between 1 December 2011 and 30 November 2012, the Special Rapporteur sent 252 communications. Communications were sent to 83 States, and, at the time of writing, 104 responses had been received, which indicates only a 41 per cent response rate. In addition, the Special Rapporteur received 40 responses to communications sent prior to the current reporting period. Observations on communications sent during the period and on the corresponding responses by Governments are included in addendum 4 to the present report (A/HRC/22/47/Add.4).

### **B. Country visits**

6. During the reporting period, the Special Rapporteur visited Honduras from 7 to 14 February 2012; Tunisia from 27 September to 5 October 2012; and Ireland from 19 to 23

---

<sup>1</sup> A/HRC/13/22, para. 108.

November 2012. Separate reports on these visits have been submitted to the 22nd session of the Human Rights Council.

#### **Pending requests**

7. As of December 2012, the Special Rapporteur has the following outstanding visit requests: Bahrain (2012), Belarus (2002, 2003, 2004, 2010, 2011), Bhutan (2001, 2002), Burundi (2012), Cambodia (2012), Cameroon (2012), Chad (2002, 2003, 2004), China (2008, 2010), Dominican Republic (2012), Egypt (2003, 2008, 2010, 2012), Equatorial Guinea (2002), Fiji (2010, 2012), Indonesia (2012), Jamaica (2012), Kazakhstan (2011, 2012), Kenya (2003, 2004), Kyrgyzstan (2012), Malawi (2012), Malaysia (2002, 2010), Maldives (2006), Mexico (2011), Mozambique (2003, 2004), Namibia (2011), Nepal (2003, 2004, 2005, 2008, 2009, 2012), Oman (2012), Pakistan (2003, 2007, 2008, 2010), Philippines (2008, 2010, 2012), Russian Federation (2004, 2011), Saudi Arabia (2012), Senegal (2012), Singapore (2002, 2004), Sri Lanka (2008, 2010), Syrian Arab Republic (2008, 2010), Thailand (2012), Turkmenistan (2003, 2004), United Arab Emirates (2012), Uzbekistan (2001, 2004, 2007), Bolivarian Republic of Venezuela (2007, 2008, 2010), Viet Nam (2012) and Zimbabwe (2002, 2004, 2008, 2010, 2011). The Special Rapporteur regrets that some of these requests are long-standing, and hopes that States will give due attention to all her requests in a timely manner.

8. The Special Rapporteur thanks the Governments of Mongolia and Turkey for having accepted her requests to visit in 2013. The modalities and dates of these visits are currently being negotiated. Concerning her request to visit Turkey, the Special Rapporteur hopes that sufficient time will be given to her in order to assess the situation of defenders in a thorough and impartial manner.

### **C. Cooperation with the United Nations system and intergovernmental organizations**

9. The Special Rapporteur has continued to place particular emphasis on cooperation with all bodies of the United Nations and other regional intergovernmental human rights organizations.

10. Following the publication of her online commentary to 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 (Declaration on human rights defenders) in July 2011, the Special Rapporteur applauds the fact that during 2012 unofficial translations were made by the Euro-Mediterranean Human Rights Network into Arabic and by the OHCHR offices in Colombia, Guatemala and Mexico into Spanish. The Special Rapporteur is deeply grateful to the organizations concerned for their work in this regard, which will facilitate the dissemination of the commentary and the Declaration. Both unofficial translations and the original publication are available in the section on the work of the Special Rapporteur at the website of the Office of the United Nations High Commissioner for Human Rights (OHCHR).<sup>2</sup>

11. On 8-9 March 2012, the Special Rapporteur took part in the intermechanisms meeting, which was also attended by representatives of the African Commission on Human and People's Rights, the Inter-American Commission on Human Rights, the Council of Europe and the European Commission. The event took place in Geneva and was hosted by the Office of the United Nations High Commissioner for Human Rights (OHCHR).

---

<sup>2</sup> <http://www.ohchr.org/EN/Issues/SRHRDefenders/Pages/SRHRDefendersIndex.aspx>

12. On 26 June 2012, the Special Rapporteur participated in the annual full-day discussion on women's human rights at the twentieth session of the Human Rights Council, in a panel discussion concerning women human rights defenders.

13. From 27 September to 5 October 2012, the Special Rapporteur conducted a joint country visit to Tunisia with the Special Rapporteur on human rights defenders in Africa, of the African Commission on Human and Peoples' Rights, resulting in a joint statement at the end of the visit.<sup>3</sup> The observations and recommendations of the United Nations Special Rapporteur are presented to the Human Rights Council as an annex to the current report (A/HRC/22/47/Add.2).

14. The Special Rapporteur was scheduled to present her fifth report to the General Assembly (A/67/292) on 29 October 2012. Due to Hurricane Sandy, the Special Rapporteur regretfully had to cancel her participation at the General Assembly, and the Special Rapporteur in the field of cultural rights kindly read out her statement on 2 November 2012. The report focused on the use of legislation to regulate the activities on human rights defenders, including the most common restrictions faced by human rights defenders in the context of different sorts of legislation. The report provided recommendations to States to ensure legislation respects the rights of defenders, as well as guidance on procedural and other safeguards to be followed in the implementation of legislation.

#### **D. Invitations by Governments**

15. From 6 to 8 June 2012, the Special Rapporteur, together with other independent experts, participated in a seminar entitled "Human Rights Defenders and Peaceful Protests" organized by the Governments of Norway and Switzerland in cooperation with the International Service for Human Rights, which was held in Oslo, Norway. The Special Rapporteurs present issued a joint statement on human rights defenders and peaceful protests following the meeting.<sup>4</sup>

#### **E. Cooperation with non-governmental organizations**

16. The Special Rapporteur continued the fruitful cooperation of the mandate holder with civil society at national, regional and international levels. The Special Rapporteur regrets that, due to time constraints, she was unable to participate in all the conferences and seminars to which she was invited. On occasions where the Special Rapporteur could not be present herself, she endeavoured, to the extent possible, to have an OHCHR staff member participate.

17. From 23 to 25 March 2012, the Special Rapporteur participated in the Movies that Matter Festival, an initiative of Amnesty International where human rights take centre stage through a wide-ranging programme of films, held in The Hague, Netherlands.

18. On 13 and 14 April 2012, the Special Rapporteur participated in a regional consultation in Cairo, Egypt, with human rights defenders from the Middle East and North Africa organized by the International Service for Human Rights and the Cairo Institute for Human Rights Studies

---

<sup>3</sup> <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=12631&LangID=E>

<sup>4</sup> <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=12524&LangID=E>

19. On 19 April 2012, an OHCHR staff member participated in the conference entitled “The Internationalization of the Protection of Human Rights and Human Rights Defenders” organized by Lawyers Without Borders in London, United Kingdom.

20. The Special Rapporteur was the keynote speaker at a regional conference organized by the OHCHR Regional Office for the Middle East in Beirut, Lebanon, on 22 and 23 May 2012 to promote enhanced respect for fundamental freedoms.

21. On 18 June 2012, the Special Rapporteur hosted a round table in Geneva in collaboration with Protection International on national mechanisms and public policies for the protection of human rights defenders.

22. On 24 and 25 October 2012, an OHCHR staff member participated in a conference in London, United Kingdom, organized by Peace Brigades International entitled “Women Human Rights Defenders: Empowering and Protecting the Change-makers”.

### **III. National human rights institutions**

#### **A. Introduction and methodology**

23. As independent public bodies, ideally established by the Constitution and an act of Parliament, national institutions are in a unique position to guide Governments regarding their human rights obligations and ensure international human rights principles and standards are incorporated into the law and mainstreamed and implemented in public policymaking. The Special Rapporteur believes that national institutions which operate in compliance with the Paris Principles relating to the Status of National Institutions,<sup>5</sup> and their members and staff, can be considered as human rights defenders, as they strive to promote and protect human rights. In a number of countries, they face significant challenges and are exposed to attacks and threats,<sup>6</sup> as well as intimidation, harassment, arrest and detention in connection with their human rights activities. On a number of occasions, the Special Rapporteur and her predecessor have expressed concerns about the challenges faced by members and staff of national institutions both through communications sent to Governments and in recommendations issued after country visits.

24. Interaction between national institutions and individuals and associations working for the defence and promotion of human rights is essential. National institutions can work in tandem with defenders to assess the human rights situation on the ground and ensure accountability for human rights violations, hence becoming an essential actor in the fight against impunity. These institutions can also play a vital role in ensuring adequate protection for defenders when needed.

25. With this report, the Special Rapporteur intends to highlight the vital role played by national institutions in the promotion and protection of human rights and provide recommendations, in particular to States and national institutions, with a view to ensuring that these institutions operate in an environment that is conducive for them to carry out their activities.

26. When national institutions are able to operate independently and efficiently, they are also more capable of offering adequate protection to individuals and organizations that may be targeted due to their human rights work. The protection of human rights defenders was identified by the national institutions survey conducted by OHCHR in 2009 as “one of the

---

<sup>5</sup> A/RES/48/134, annex.

<sup>6</sup> E/CN.4/2006/95, paras. 76-77.

weaker areas of engagement for national human rights institutions”. According to the survey, only about 62 per cent of respondents had activities specifically designed for defenders. The importance of strengthening the capacity of national institutions in this area has already been highlighted.<sup>7</sup>

27. The Special Rapporteur intends to assess existing initiatives in this respect and provide recommendations to States and national institutions on how to protect defenders more effectively. To this end, the Special Rapporteur sent questionnaires to States, national institutions and human rights defenders. She is very grateful for the large number of responses received and would like to thank all stakeholders for their time and interest. Responses to the questionnaires can be consulted in their entirety as received on the website of the mandate.<sup>8</sup> Examples highlighted in chapters III and IV are largely taken from the responses to the questionnaire and referenced specifically only when they are documented elsewhere.

## **B. The Paris Principles and beyond**

28. The Paris Principles (1991) are a set of minimum standards that national institutions, regardless of their structure and mandate, should respect. They are now broadly accepted as benchmarks for the accreditation of national institutions and a litmus test of an institution’s legitimacy.<sup>9</sup>

29. The network of national institutions was formally established in 1993 as the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC). ICC, through its Bureau, coordinates the activities of the national institutions, accredits its members and assists them in various ways, including by recommending the provision of technical assistance.

30. ICC has four Regional Coordinating Committees representing and supporting national institutions at the regional level. They are responsible for nominating members to the Bureau as well as to the positions of Chairperson and Secretary of ICC. A representative of each regional network, known as Regional Coordinator, acts as the regional focal point on the Bureau and works closely with the Chairperson in the implementation of decisions.

31. The Paris Principles require that national institutions work in the promotion and protection of human rights, including by receiving and investigating complaints, mediating in conflicts, and raising awareness about human rights. The Paris Principles establish six main criteria for fully functioning national institutions, that is, broad mandate and competence; autonomy from Government in their functioning and methods of operation; independence, which should be enshrined by law or in the Constitution; pluralism through membership or cooperation; adequate financial, material and human resources; and adequate powers of investigation.

32. The Paris Principles also acknowledge the importance of non-governmental organizations (NGOs) in “expanding the work of the national institution” and encourage national institutions to establish relations with civil society. This interaction can assist

---

<sup>7</sup> OHCHR, *National Human Rights Institutions: History, Principles, Roles and Responsibilities*, Professional Training Series, No. 4 (Rev.1) (2010), p. 23.

<sup>8</sup> <http://www.ohchr.org/EN/Issues/SRHRDefenders/Pages/SRHRDefendersIndex.aspx>

<sup>9</sup> *National Human Rights Institutions* (see note 7 above), chap. III.

national institutions in protecting their independence and pluralism, thereby enhancing their effectiveness and reinforcing their legitimacy.<sup>10</sup>

33. In addition to the Paris Principles, the ICC Sub-Committee on Accreditation has adopted general observations,<sup>11</sup> which provide further guidance on how to interpret and implement the Paris Principles.

### C. National human rights institutions as human rights defenders

34. The Special Rapporteur considers that national institutions which operate in compliance with the Paris Principles and their members and staff, can be considered as human rights defenders. She is aware that they face important challenges and are exposed to attacks, threats, intimidation and harassment in connection to their human rights activities.

35. The Special Rapporteur and her predecessor have expressed concerns about the challenges faced by members and staff of national institutions on a number of occasions. In connection with the country visit to Guatemala in 2008, the issue of members and staff of national institutions often being the victims of threats or attacks was raised in the report.<sup>12</sup>

36. Furthermore, the mandate has sent a number of communications to Governments on reported attacks against staff of national institutions while conducting an inquiry (Philippines, 2008);<sup>13</sup> threats to the life of a chairperson of an institution for reporting on abuses by security forces (Kenya, 2008);<sup>14</sup> alleged acts of intimidation, harassment and reprisals against the head of a national institution who cooperated with the former mandate holder during a country visit (Indonesia, 2007),<sup>15</sup> a reported case of harassment of the Chairperson of an institution for his engagement with ICC (Malawi, 2012),<sup>16</sup> and the reported undue interference of the Government in the extension of the mandate of the head of a national institution (France, 2009).<sup>17</sup>

37. The responses received to the questionnaire sent by the Special Rapporteur indicate that national institutions face considerable challenges and constraints when discharging their functions to promote and protect human rights, including when interacting with human rights defenders, which could seriously undermine their independence, efficiency and legitimacy. Despite their institutional and thematic diversity, reported challenges relate inter alia to the mandates of the institutions and their implementation; to composition, selection and appointment of members and staff; to conditions of tenure; and to the availability of resources. The responses have also served to identify examples of good practice.

#### 1. Mandate and competence

38. As stated in the Paris Principles, mandates entrusted to national institutions should be broad, set forth in a constitutional or legislative text specifying its composition and

---

<sup>10</sup> International Council on Human Rights and OHCHR, “Assessing the effectiveness of National Human Rights Institutions” (2005), p. 15.

<sup>11</sup> *National Human Rights Institutions* (see note 7 above), annex IV.

<sup>12</sup> A/HRC/10/12/Add.3, para. 66.

<sup>13</sup> A/HRC/10/12/Add.1, paras. 2103-2106.

<sup>14</sup> A/HRC/10/12/Add.1, paras. 1489-1491.

<sup>15</sup> A/HRC/7/28/Add.1, paras. 1109, 1113, 1114 and 1117.

<sup>16</sup> A/HRC/21/49, p. 36.

<sup>17</sup> A/HRC/13/22/Add.1, paras. 832-838.

sphere of competence. The mandate should be clearly stated and include the promotion and protection of human rights, which is the case for many national institutions, such as Afghanistan, Canada, Nicaragua, Nigeria, South Africa and Uruguay, among others.

39. However, there are instances where the mandate of national institutions is reportedly established by a royal decree (Morocco), a presidential decree (Algeria, Kazakhstan) or an executive order (Philippines).

40. Moreover, limitations to the mandate or sphere of competence of national institutions have been reported in some cases which include restrictions to their jurisdiction, such as limitations on the type of issue they can handle. Other restrictions concern the branches of the State or the type of actors they can monitor, notably military and private actors in some cases exempted from the oversight of national institutions.

41. Several national institutions are not empowered to investigate complaints against the Head of State and Parliament (Hungary, Kazakhstan, Philippines). The national institution of the Philippines is limited to consideration of violations of civil and political rights, although the institution has managed to work on economic, social and cultural rights under its Omnibus Rules of Procedure. It is also reported that the national institution in India cannot deal directly with members of the armed forces and has to seek reports from the Ministry/ Departments with competence over them.

42. As established by the Paris Principles, the mandate of national institutions should include preparing and submitting reports to relevant international bodies, including the Universal Periodic Review of the Human Rights Council and the Treaty Bodies, as well as interacting with regional and international human rights mechanisms, including with the special procedures of the Human Rights Council. This is the case for the mandate of the national institution in Canada and, while not as specific, that in Afghanistan.

43. The mandate of national institutions should also be clear enough to avoid any overlap or confusion with the mandate and work of other branches of the State or human rights-related bodies, such as thematic human rights commissions (India, Indonesia) or human rights institutions at the constituent unit level<sup>18</sup> in federal States (Canada, Mexico, South Africa). As stated by the Sub-Committee on Accreditation in its general observations, national institutions should cooperate with other statutory bodies, coordinate their work and share information with them.

44. The Special Rapporteur would like to highlight the fact that several national institutions reported facing important challenges when trying to ensure adequate implementation of and follow-up to their recommendations. In the absence of necessary provisions in the statutory framework obliging the Government and other public bodies to formally respond to their recommendations, implementation of such appears to be a problem (South Africa). This is likely to be the case with most institutions which are provided with a limited consultative or advisory type of mandate (Germany, Kazakhstan), which could undermine their impact and effectiveness.

45. In the opinion of the Special Rapporteur, the credibility and legitimacy of national institutions is certainly strengthened if their mandate originates from a legislative act of Parliament, is clear and broad, including interaction with regional and United Nations human rights mechanisms and establishing coordination mechanisms with other relevant human rights bodies. The mandates of national institutions should state their jurisdiction, and they should be accountable to Parliament through the submission of a periodic report

---

<sup>18</sup> This refers to the states, provinces or cantons within federal systems. For more details, refer to “National human rights institutions in federal States. A study for the Office of the High Commissioner for Human Rights” (September 2011).

on activities which should be discussed by the legislature, made public and disseminated by all necessary means. Appropriate provisions should be made in order to allow effective implementation and follow-up to the recommendations made by national institutions.

## 2. **Autonomy from Government and independence**

46. National institutions should be able to work independently, without interference of any sort from the authorities or other branches of the State. In this connection, the Paris Principles and the general observations of the Sub-Committee on Accreditation provide substantive guidance on how to strengthen the organizational and operational structure of institutions with the aim of ensuring their autonomy and independence.

47. The criteria and processes for nomination, appointment and security of tenure of the members of the governing bodies of these institutions should be established and controlled by Parliament. They should ensure an open and transparent process for nomination and appointment. The Sub-Committee on Accreditation has indicated that the participation of members of Government in national institutions should be limited to an advisory capacity and that no secondments of civil servants should be allowed. Tenure should be secure and dismissal only possible in exceptional and clearly defined circumstances.

48. The participation of civil society, including defenders, and other relevant stakeholders in the nomination and appointment process is also considered essential in order to ensure independence and autonomy. This is the case in various countries and national institutions, which positively affects the degree of pluralism of the institutions and enhances their credibility. In this connection, through the responses to her questionnaire, the Special Rapporteur has identified various examples of good practices in relation to the criteria and process of nomination and appointment of members of governing bodies of national institutions.

49. For example, the position of Commissioner of the national institution in Canada is widely advertised when vacant, and anyone can apply. In Uruguay, the law establishes that the members of the national institution can be nominated by NGOs, which is also widely the case in practice. In New Zealand, the criteria for appointment of Commissioners are clearly established in the regulatory framework and groups and individuals can nominate candidates. In South Africa, an ad-hoc Parliamentary Committee is set up to interview potential Commissioners following a nationwide public announcement of the vacancies. Interviews take place in public and civil society organizations are allowed to attend.

50. In the development of the law establishing the Irish Human Rights and Equality Commission, which was yet to be adopted at the time this report was finalized, it was emphasized that its independence would be strengthened if it was empowered to recruit its own staff and that there should be no civil service secondment at senior level to the body.<sup>19</sup>

51. On the other hand, it has also been reported that the selection process for members of the Commission on Human Rights of the Philippines is not defined in its regulatory framework. This lack of procedure reportedly allows for the President to be the only authority entitled to nominate and appoint its members. The Commission is advocating for the adoption of the “Commission on Human Rights Charter” precisely to strengthen its organizational, operational and fiscal structure, including the procedure for selection and appointment of its members.

---

<sup>19</sup> Oireachtas Joint Committee on Justice, Defence and Equality, “Report on hearings in relation to the Scheme of the Irish Human Rights and Equality Commission Bill” (July 2012).

52. In India, the Chairperson and members of the national institution are appointed by the President on the recommendations of a Committee formed by the Prime Minister as a Chair and members of the ruling party as well as the opposition parties. It is reported that consultations are carried out by the members of the Committee in order to ensure consensus in the nominations. After her visit to India, the Special Rapporteur recommended that the functioning of the national commission be strengthened by, inter alia, broadening the selection criteria for the appointment of the Chair and diversifying the composition of the Commission, including regarding gender.<sup>20</sup>

53. The Special Rapporteur would like to emphasize that, as underlined by the Sub-Committee on Accreditation, the selection of staff working for national institutions should be carried out by the national institution itself.

54. The Sub-Committee on Accreditation has strongly recommended that provision be included in legislation to protect members and staff of national institutions from legal liability for official actions. The Special Rapporteur believes that privileges and immunities for members and the staff of national institutions discharging their functions in good faith are an important safeguard, allowing them to carry out their activities without undue interference.

55. It has been reported that members and staff of the Uganda Human Rights Commission enjoy immunity from civil proceedings for any act done in good faith in the performance of their duties. In some cases, members of the governing body enjoy immunities but provisions regarding staff are unclear (Togo, Jordan). In Panama, a decision of the Supreme Court in 1998 declared the immunities of the head of office unconstitutional. In Egypt, the legislative framework that established the National Council for Human Rights (Law No. 94, 2003) does not provide immunities for its staff members, including the President and Vice-President. The institution in Egypt has proposed amendments to the existing legislation to address this shortcoming.

56. An illustration of the serious challenges that the staff working for a national institutions face is the reported case of the arbitrary detention of three staff working for the national institution in El Salvador while verifying the deportation of a non-national in 2005.

57. The Special Rapporteur is of the opinion that national institutions with a broad and clear mandate are able to work independently and more effectively, leading to a higher degree of legitimacy among their constituencies. She also considers that all members and staff of national institutions should enjoy immunity from civil and criminal proceedings while discharging their functions in good faith to avoid undue liabilities and restrictions in the conduct of their legitimate human rights work.

### **3. Adequate resources**

58. The Paris Principles also indicate that national institutions should have adequate infrastructure and funding in order for them to have their own staff and premises and be financially independent from the Government. The source and nature of funding must be clearly stated and secured in the regulatory framework. The institution should be able to manage its funding independently. The Sub-Committee on Accreditation provides additional details on what adequate funding should include, as a minimum.<sup>21</sup>

---

<sup>20</sup> A/HRC/19/55/Add.1, para. 149.

<sup>21</sup> *National Human Rights Institutions* (see note 7 above), annex IV.

59. The Special Rapporteur and her predecessor have raised the issue of lack of financial and human resources in several reports following fact-finding visits (Armenia, Honduras, Ireland, Togo and the Democratic Republic of Congo).<sup>22</sup>

60. It is reported that some national institutions have discretion to propose their own budgets to legislators (Uruguay). In the case of the Netherlands Institute for Human Rights, the draft budget is made public when submitted to Parliament for approval.

61. However, responses to the questionnaire sent by the Special Rapporteur indicate that there are instances where the financial autonomy of national institutions has been challenged and/or revoked (Panama and the Philippines) by the Supreme Court. This has had an important impact on the independence and capacity of the institutions.

62. It has been widely reported that national institutions face financial constraints of various sorts. In some countries, there are limitations to the type of expense to be covered under public budgets, such as in Jordan, where the budget allocated is only meant to cover operational costs and not activities. This severely undermines the capacity of national institutions to interact with defenders, amongst other things.

63. In other countries, national institutions claim to be financially ill-resourced in general which, in some instances, amounts to lack of basic office equipment (Burkina Faso) or means that they are not able to be fully operational in the regions, thereby restricting opportunities for interaction with grass-roots organizations (South Africa). An extreme situation would be the case of the national institution in El Salvador which, 20 years after its establishment, does not have premises of its own.

64. The Special Rapporteur is conscious of the fact that the financial crisis in 2008 and the economic recession that followed have led to drastic cuts in public expenditure affecting the public sector in general, including national institutions. Nevertheless, she strongly recommends that national institutions be adequately resourced and be able to propose and manage their own budgets independently.

#### **4. Composition and pluralism**

65. The Paris Principles establish that the composition of a national institution and the appointment of its members should ensure a pluralistic representation of the actors involved in the promotion and protection of human rights. NGOs working on human rights issues are acknowledged specifically in this context. The Sub-Committee on Accreditation emphasizes the importance for national institutions of keeping regular contact with civil society and acknowledges that pluralism can be achieved in various ways.

66. National institutions should therefore be inclusive and accessible to the different constituencies. This could be reflected at the level of the composition of their membership and staff, but also in the ways they interact with the main stakeholders, including defenders and activists. Interaction with civil society will reinforce the credibility and legitimacy of the institution and can certainly strengthen the design and implementation of its activities.

67. As mentioned, members of the national institution in Uruguay are usually nominated by NGOs, and all five current members come from the NGO sector. In New Zealand, civil society is part of the interview panels for the selection of members of the national institution.

---

<sup>22</sup> In alphabetical order: Armenia (A/HRC/16/44/Add.2); Honduras (A/HRC/22/47/Add.1); Ireland (A/HRC/22/47/Add.3); Togo (A/HRC/10/12/Add.2); Democratic Republic of the Congo (A/HRC/13/22/Add.2).

68. The national institution in India is composed of members who have occupied high-level seats in the judiciary, which is reported to ensure their credibility and also serve as a protective mechanism. Similarly, the Executive Secretary of the Governing Council of the Nigerian Human Rights Commission is to be a retired judge or a lawyer with relevant experience, although other members of the Council can include representatives from human rights organizations, journalists, trade unions and the Bar Association. The Special Rapporteur believes that the composition of the governing body of a national institution should be as diverse as possible, including representatives from civil society and people with relevant human rights experience.

69. The Special Rapporteur has stated on various occasions that standard operating procedures to ensure interaction with civil society in the work of national institutions are important and can endorse the legitimacy of the work of defenders (Indonesia, 2007). In this connection, she has recommended the establishment of a focal point on human rights defenders and systematic consultation with civil society (Armenia, 2010).

70. In the responses to her questionnaire, it has been reported that some national institutions have a dedicated focal point or desk for human rights defenders (India, Philippines and Uganda). Others report having a service dealing specifically with external stakeholders, including human rights defenders (New Zealand). Some institutions are mandated to establish relations with civil society working in relevant areas (Afghanistan and Mexico) and do so by establishing agreements and memoranda of understanding with NGOs for promotion, protection and capacity-building activities.

71. Some national institutions have reported that they have regular contact and meetings with defenders and civil society networks and organize different types of events and activities in coordination with them (Jordan, Sri Lanka). In certain countries, national institutions establish advisory groups which include defenders in their composition (Norway), in some cases with thematic focus (Serbia, Ukraine). Other institutions report that they encourage civil society to establish advocacy committees to increase synergies with the institution (Afghanistan).

72. The Special Rapporteur is of the view that regulatory frameworks for national institutions should mandate the establishment of a permanent, dedicated focal point for human rights defenders. Ideally, they should also encourage the collection of disaggregated data on violations against them and the establishment of a protection programme taking into account their specific profile and risks. In addition, she considers that the existence of regional or local offices of the institution established in the regions, either permanent (South Africa, Uganda) or itinerant (New Zealand), certainly makes the institution more accessible to local, grass-roots organizations and defenders working in remote areas. The Special Rapporteur emphasizes the importance of such local offices being responsive to complaints received.

## **5. Adequate powers of investigation**

73. The Paris Principles contain additional guidance for national institutions with a mandate to hear and consider individual complaints and petitions.

74. From the responses to the questionnaire, the Special Rapporteur is pleased to note that most national institutions are entrusted by law to receive individual complaints on alleged violations of human rights. Most commonly, national institutions can receive individual complaints and are able to conduct an enquiry and then refer the matter to the specialized body or to the courts to obtain a binding decision (El Salvador, India).

75. Some of them have quasi-judicial powers to investigate any individual complaint and provide effective protection and remedies to victims. Some institutions have the power to issue interim protective measures for human rights defenders (Mexico).

76. The Special Rapporteur is of the view that national institutions should be mandated to receive and consider individual complaints, including visiting detention centres. In addition, institutions should have a specific protection programme to address the situation and allegations of violations against human rights defenders. Further observations in this regard are provided in Chapter IV.

#### **6. Protection of national institutions against attacks, harassment, threats and intimidation**

77. The Special Rapporteur is aware that members and staff of national institutions face different levels of harassment and intimidation by State and non-State actors due to their human rights-related work. As stated above, she has been apprised of cases in various instances and has acted upon them. Moreover, responses to the questionnaire also contain information that confirms this trend, which is a source of great concern to the Special Rapporteur.

78. It is reported that members and staff working for national institutions have faced attacks, including armed attacks, while conducting investigations (the Philippines), including by members of the police (Panama). In other instances, they have been attacked and threatened by private individuals who come to enquire about their services (Canada, South Africa). Members and staff of institutions have also been harassed and intimidated by members of the Government or other branches of the State. In one instance, a Commissioner was summoned by the Supreme Court and in another instance suspended by the Attorney General's Office in connection with their work (Afghanistan).

79. There are also instances of reported retaliation against staff working for national institutions in the form of administrative and legal actions against them, such as an inspection by tax authorities or retention of salaries, or legal action on the part of private businesses immediately after an enquiry (Hungary).

80. National institutions report that they use the existing channels to raise situations of threats, harassment and intimidation towards their staff, including the corresponding complaint with the police or relevant authority. Some indicate that they resort to the highest levels of Government to try to dilute tensions.

81. The Special Rapporteur welcomes steps taken by the Canadian Human Rights Commission, which conducted a Threat and Risk Assessment in 2008 and has reportedly implemented various measures to guarantee the security of its staff, including access control through card-activated locks to all its offices; live monitoring; full-time security guards; panic buttons connected to the police; and self-protection and risk awareness training for staff.

82. In addition, the legal framework of the Canadian Commission includes a provision to consider it a discriminatory practice on the part of a person against whom a complaint has been filed, or any person acting on their behalf, to retaliate or threaten retaliation against the individual who filed the complaint or against the alleged victim. Under the regulatory act, any person who threatens, intimidates or discriminates against an individual who has made a complaint is guilty of an offence and liable on summary conviction to a fine not exceeding \$50,000.

83. The Special Rapporteur believes that members and staff of national institutions should be aware of the risks that their work could entail and should be properly equipped and trained to face such risks. In addition, specific provisions and resources should be made available in order to provide them with adequate protection if needed.

## **IV. The role of national human rights institutions in the protection of human rights defenders**

84. National human rights institutions can potentially play a substantive role in protecting human rights defenders. The Special Rapporteur has recommended on numerous occasions that such institutions establish a focal point for human rights defenders with the responsibility of ensuring their protection.<sup>23</sup> Protection constitutes a wide range of possible measures and interventions, including formal complaints mechanisms and protection programmes; advocacy in favour of a conducive work environment for defenders; public support when violations against defenders are perpetrated; visits to defenders in detention or prison and provision of legal aid in this context; mediation when conflicts occur between defenders and other parts of society; and strengthening of the capacity of defenders to ensure their own security. The Special Rapporteur has noted a number of commendable initiatives taken by national institutions which are detailed below.

### **A. Formal complaints mechanisms and protection programmes**

85. The most common measure by national institutions to ensure protection of human rights defenders appears to be complaints mechanisms. Most national institutions are mandated to receive complaints from individuals whose rights have been violated, with some also allowed to receive petitions from representatives of victims and associations. The majority of the institutions which responded to the Special Rapporteur's questionnaire indicated that defenders could present complaints to them using the same channels as other individuals.

86. The Special Rapporteur has on previous occasions provided observations and guidelines on national protection mechanisms and other formal protection programmes (see A/HRC/13/22, paras. 70-83). Several national institutions reported that they are involved in such mechanisms. In Mexico, both the National Human Rights Commission and some institutions at state level are involved in protection programmes of this sort. At state level, the most developed appears to be the Human Rights Commission of the Federal District (Mexico City), which has had a unit dedicated to human rights defenders since 2007.

87. National human rights institutions usually have a mandate to provide recommendations to various parts of the Government on what actions should be taken in a given case without these recommendations carrying any legal obligation. The national institutions in Mexico and El Salvador both noted that they used such a mechanism to issue recommendations with precautionary measures to be taken by the Government in cases involving human rights defenders. In Mexico, such recommendations are made public, and the national commission has published a guide on how to implement precautionary measures awarded to human rights defenders. The National Human Rights Commission of India is using a similar mechanism to alert the relevant authorities about reported violations against defenders. The Indian commission has established a focal point for defenders which has a hotline and is accessible online.

88. In a similar vein, some national institutions have engaged actively with the authorities when reported violations against defenders occur. The Afghanistan Independent Human Rights Commission noted that it intervenes directly with the police and security officials once complaints are received of threats or intimidation of defenders by State or non-State actors. The Commission on Human Rights of the Philippines is mandated to

---

<sup>23</sup> See A/HRC/13/22, para. 108; A/66/203, para. 86, *inter alia*.

perform a number of services which are available to defenders and other individuals, including legal assistance, witness protection, financial assistance and medical assistance to victims of violations. The Philippines Commission noted that it is working on consolidating its services available to defenders, which include a focal point for cases pertaining to them. Submissions from NGOs confirmed that such consolidation is needed.

89. The Special Rapporteur notes that in a number of Member States where national institutions have resources dedicated specifically to the protection of human rights defenders, she has received information indicating a lack of effectiveness, responsiveness and transparency in the proceedings. Human rights defenders have in many cases reported that once a complaint is lodged with the institution, it is difficult to find out what action has been taken, if any. National institutions should ensure transparency in complaints handling, especially in urgent cases. The example referred to above of the recommendations of the institution being made public is commendable, although this needs to be assessed according to the situation in order to ensure the security of the defender(s) affected is not compromised. It is also important that national institutions clearly communicate to human rights defenders what sort of protection they are able to provide them in order to manage expectations and ensure defenders can do a proper security assessment in relation to their own situation.

90. The Special Rapporteur is concerned about accounts of a lack of responsiveness and effectiveness among national institutions in their response to violations reported by human rights defenders, as this discourages defenders from filing cases under the mechanisms that were designed to protect them. She reiterates the importance of institutions working closely with civil society in the development of protection policies (A/HRC/13/22, para. 113(a)). Comprehensive policies and guidelines on protection of human rights defenders should be developed and disseminated by national human rights institutions. Furthermore, resources dedicated to the protection of defenders need to be sufficient, and national institutions should reflect this in their proposed budgets to Governments.

## **B. Advocacy in favour of a conducive work environment for defenders**

91. As provided for in the Paris Principles, a key function of national institutions should be their ability to pronounce opinions and recommendations on the domestic legal framework in an effort to bring this into compliance with the country's international human rights obligations. In several Member States, national institutions have fulfilled this function in a proactive manner. For example, in Serbia, the Protector of Citizens drafted on its own initiative a law to ensure whistle-blowers are protected from retaliation when submitting complaints to public authorities.

92. Some national institutions have entrusted their focal points for human rights defenders to monitor the legal framework affecting their activities. The human rights defenders desk within the Uganda Human Rights Commission reviews draft legislation relevant to defenders on a regular basis, informing the Commission's inputs to the Government in this context.

93. The Afghanistan Independent Human Rights Commission works with advocacy committees made up of NGOs in Afghanistan to advocate for increased respect for human rights, including the protection of human rights defenders.

94. In other cases, national institutions engage actively with Government authorities to create awareness about defenders and the importance of their work. The National Human Rights Commission of India has organized workshops, trainings and seminars with State officials to sensitize them in this regard.

### **C. Interaction with international and regional mechanisms**

95. The advocacy activities of national institutions are not limited to the national level. These institutions have also participated actively in international forums such as the Human Rights Council, treaty bodies and the Universal Periodic Review. The Special Rapporteur notes with appreciation that, for example, in the preparation of submission to the Universal Periodic Review, many national institutions have consulted and cooperated closely with human rights defenders. Among recent examples, the National Human Rights Commission of India closely consulted civil society in the preparation of its report for the review of India in 2012 (A/HRC/WG.6/13/IND/1, also confirmed by reports from civil society), and the Commission on Human Rights and Administrative Justice in Ghana (see A/HRC/WG.6/14/GHA/3) prepared a joint submission with a prominent network of human rights organizations for the review of the country in the same year. The Special Rapporteur believes such cooperation strengthens the visibility and credibility of human rights defenders, thereby contributing to their protection.

96. The Special Rapporteur has found few examples of national institutions including information on the situation of human rights defenders in their reports under the Universal Periodic Review. She recommends institutions strengthen this aspect in their reports.

97. The Special Rapporteur also observes that few national institutions provide information to her mandate or regional mechanisms authorized to monitor the situation of human rights defenders, even though a number of cases raised in their annual reports relate to defenders. The Special Rapporteur recommends national institutions make use of such international mechanisms when they deem it appropriate.

### **D. Public support in cases of violations against human rights defenders**

98. When violations are perpetrated against defenders, in the form of threats, harassment, attacks and others, it is commonplace for human rights associations to make public statements condemning such acts. The Paris Principles stipulate that national human rights institutions should be in a position to address public opinion directly or through the press in order to convey to the public its opinions and recommendations (para. 3(c)). In the Special Rapporteur's view, this should include denouncing violations suffered by individuals and associations acting to defend human rights as a result of their work, as well as voicing public support for this.

99. Examples reported to the Special Rapporteur include the Institution of the Human Rights Defender of Armenia, which issued statements on the occasion of attacks against a human rights defender in April 2012 and called for prompt and impartial investigation of the case by the Government.

100. A great number of national institutions have established forums to facilitate dialogue and cooperation with civil society, for example through advisory councils and working groups on various themes. The Office of the Ombudsman in El Salvador reports that such coordination has led to joint action on various human rights issues in the country, including joint public statements. The Special Rapporteur observes that such joint actions should also be taken in response to violations perpetrated against human rights defenders.

101. A less immediate measure applied by several national institutions is reporting on the situation of human rights defenders as part of their annual report. The national institutions in India and Uganda reported that this is done on a systematic basis, and the Special Rapporteur considers this a good practice in terms of creating public awareness around the situation of defenders and the challenges they face in their work.

102. The Special Rapporteur has received disconcerting information that upon receipt of complaints, notably in relation to peaceful protests by human rights defenders, certain national institutions have deemed such complaints inadmissible on grounds that the activities undertaken by defenders were unlawful. The Special Rapporteur wishes to stress that international standards should be the guiding principles for national institutions. In this connection, as long as activities are conducted peacefully and in defence of human rights, national institutions should intervene on behalf of defenders.

## **E. Visits to prisons and detention centres and provision of legal assistance**

103. Numerous national institutions are mandated to conduct visits to prisons and detention centres. The Special Rapporteur considers as good practice the ability of such institutions to conduct visits without prior authorization. Notably, in cases where human rights defenders are detained or imprisoned, national institutions should be able to access them without restrictions. Information sharing is important in this context between defenders and national institutions. Defenders should notify national institutions if they believe they are persecuted and face charges as a result of their peaceful activities in defence of human rights.

104. The Afghanistan Independent Human Rights Commission reported that in addition to visiting human rights defenders in detention, the institution is in a position to provide them with free legal assistance through cooperation with the Afghanistan Bar Association. The Special Rapporteur finds this initiative highly commendable and recommends its replication in other countries.

105. The Institution of the Human Rights Defender in Armenia has entered into formal cooperation with NGOs specialized in monitoring of prisons and detention centres. Besides strengthening cooperation between the national institution and civil society in this field, the NGOs concerned are granted access to prisons, detention centres and other relevant institutions. The Special Rapporteur notes that this is a useful way of enhancing cooperation with regard to monitoring of prisons and places of detention, including in cases where human rights defenders are detained.

## **F. Conflict mediation**

106. The Special Rapporteur receives information every year about disputes between human rights defenders and Government authorities or other parts of society. Typically, conflicts involve local governance issues, including land and environmental rights, as well as labour conditions and workers' rights.

107. The State Human Rights Commission in Campeche in Mexico reported that it had intervened in several such conflicts to mediate between the parties, notably in relation to land rights. The Institution of the Human Rights Defender in Armenia helped to diffuse tension between protesters and the Government in a dispute over environmental issues, resulting in a peaceful solution.

108. The Special Rapporteur notes that, as illustrated above, national institutions can play a constructive role in such conflicts and confrontations between the Government and civil society. With an appropriate mandate and working methods, national institutions can be a facilitator and mediator in such processes because they are not part of the Government or civil society.

## **G. Capacity strengthening for human rights defenders**

109. The Special Rapporteur has argued on previous occasions (A/HRC/13/22, paras. 67 and 68) that one of the most important efforts to protect human rights defenders is measures taken by defenders themselves. This includes individual security measures related to their work and personal life, as well as organizing themselves in networks with other defenders.

110. Several national human rights institutions reported that they are engaged in activities aimed at strengthening the capacity of human rights defenders to protect themselves and otherwise make their work more effective. In Mexico, both the National Human Rights Commission and the Human Rights Commission of the Federal District (Mexico City) have developed publications which provide guidelines on protection of human rights defenders.

111. In other countries, national institutions are working directly with defenders by providing them with technical assistance. The Uganda Human Rights Commission has contributed to strengthening the advocacy skills of defenders, and through strategic partnerships the institution has secured the participation of defenders and their organizations at events and training sessions organized by the commission. The Uganda Human Rights Commission also participates in events organized by civil society to strengthen links with defenders. The National Human Rights Commission in Togo is also engaged in activities organized by NGOs, and the institution has NGOs participate in its own activities.

112. The Afghanistan Independent Human Rights Commission has included the strengthening of civil society in its strategic plan. It has identified the capacity of civil society to advocate for increased protection of human rights as one of the key elements of its interventions in this area and is working actively with NGOs to this end.

113. Similarly, the Protector of Citizens in Serbia noted that the institution has a long-standing tradition of working closely with human rights defenders in advocating for legislative changes, organizing campaigns and conferences, and conducting investigations. The Protector of Citizens has established permanent advisory councils on several thematic issues comprised of human rights defenders, among others.

114. The Special Rapporteur notes that defenders working in rural areas are marginalized, with few means to protect themselves in cases of violation. Certain national institutions work to increase awareness of human rights in rural areas, which contributes to a more conducive environment for defenders. This is for example the case with the New Zealand Human Rights Commission, which has a project designed to build human rights knowledge and expertise in regional communities and works in partnership with organizations from marginalized groups to promote awareness of the rights of such groups.

## **V. Conclusions and recommendations**

### **A. Conclusions**

**115. As independent public bodies, national human rights institutions are in a unique position to hold Governments accountable to their human rights obligations and international standards and principles in this regard, thereby becoming a vital actor in the fight against impunity for human rights violations.**

**116. As established by the Paris Principles, national human rights institutions should have broad and solid mandates and be properly equipped to be able to operate independently. Credible national institutions are autonomous from the influence of Government and ensure pluralism in their composition and activities, particularly**

through effective interaction with civil society organizations working on human rights issues. Members and staff of these institutions can be considered as human rights defenders and, as such, should be supported by public authorities and protected if needed.

117. National human rights institutions can potentially play a significant role in the protection of human rights defenders. Such a role is ensured by national institutions having a robust mandate with competence to receive complaints from individuals and associations working to defend human rights, investigate such complaints and provide a wide range of protection measures.

118. The most common measure applied by national institutions to protect human rights defenders appears to be formal complaints mechanisms. Several institutions have established focal points and units dedicated specifically to human rights defenders in recent years. This is highly commendable, but there is a need to ensure that such entities are adequately resourced and have the capacity to act promptly when violations against defenders are reported. Their effectiveness and transparency are crucial in order to ensure such mechanisms are credible in the eyes of those they are designed to protect. To ensure this, relevant authorities must be responsive to the recommendations issued by the national human rights institution. As these rarely carry legal responsibility due to the advisory function of the national institution, Governments should find ways to implement the recommendations effectively and promptly. In this connection, it is of great importance that Government officials are sensitized to the important work of defenders and familiar with the Declaration on human rights defenders.

## **B. Recommendations**

119. To Member States:

(a) Should follow the Paris Principles and the advice provided by the Sub-Committee on Accreditation and ICC when it comes to establishing, mandating and supporting the work on national institutions in order to ensure that institutions are strong, independent and effective partners in the promotion and protection of human rights;

(b) National human rights institutions should be accountable to Parliament and to the public, including through the discussion of annual reports, which should be widely disseminated and made easily available to the public;

(c) Appropriate follow-up mechanisms to recommendations issued by national institutions should be established. In this connection, it is advisable that annual reports of national institutions be presented and discussed in Parliament and that adequate follow-up be entrusted to the corresponding parliamentary committees and that an interministerial task force be appointed to mainstream their recommendations and monitor their implementation;

(d) Members and staff working for national institutions should be considered, in law and in practice, as human rights defenders and, as such, be publicly recognized and supported by the Government and public authorities;

(e) Governments and other branches of the State should refrain from unduly interfering with the independence and autonomy of national human rights institutions. Any instance of intimidation, stigmatization, harassment or attack against members or staff of national institutions should be promptly investigated, with perpetrators brought to justice and remedy provided to victims;

(f) Effective protection measures or programmes should be in place to guarantee the security of members and staff of national institutions. Both staff and members should enjoy immunity while discharging their official functions in good faith;

(g) National institutions should be given the highest profile possible, beyond merely consultative or advisory bodies, and all branches of the State should be mandated to cooperate with them and implement their recommendations;

(h) There should not be any limitations to the jurisdiction of national institutions and they should be able to investigate all allegations of violations by all branches of the State and all types of actors, including armed forces and private businesses;

(i) National human rights institutions should be provided with adequate resources, financial, material and human, as well as with the necessary autonomy to propose and manage their own budgets and recruit their own staff;

(j) National human rights institutions should be entrusted with adequate powers of investigation, including authorization to visit detention centres, to allow them to conduct prompt and impartial investigations into all allegations of violations and provide remedy to victims;

120. To national human rights institutions:

(a) Should widely disseminate the Declaration on human rights defenders at the national level, including by making it available and by translating it into local languages;

(b) Should make every effort to sensitize Government officials and other branches of the State about the provisions of the Declaration on human rights defenders to raise awareness of the important role played by human rights defenders in society and the protection they are entitled to under international law, including strengthening their capacity to deal effectively with defenders;

(c) Should raise awareness among their own members and staff about the Declaration on human rights defenders and about their role as defenders, including the risks associated to this role as well as basic self-protection measures;

(d) Any instance of intimidation, stigmatization, harassment or attack against members or staff of the institution should be immediately reported, documented and processed, including by taking the necessary protection measures at the institutional level;

(e) Should coordinate actions with other existing national institutions whose mandates are related to human rights, including thematic commissions or institutions at the constituent unit level in federal States, in order to create synergies and avoid unnecessary duplication;

(f) Should interact with defenders and civil society in a regular manner and include them in the planning and implementation of their activities;

(g) Should establish a focal point or an entity dedicated to human rights defenders with specific attention to groups of defenders at particular risk such as women defenders and those working for women's rights and gender issues; those working on the rights of lesbian, gay, bisexual and transgender (LGBT) communities; defenders working on environmental and land issues; journalists; and lawyers. This entity must be adequately resourced in order to respond promptly to reported violations and to offer necessary protection;

(h) Should work closely with human rights defenders when setting up, implementing and evaluating programmes and policies aimed at ensuring their protection;

(i) Should make sure that protection mechanisms for defenders are adequately resourced and have adequate capacity to respond to and investigate complaints received in a prompt and impartial manner;

(j) Should ensure that the mechanisms available for protecting human rights defenders are widely known to them and easily accessible through telephone, Internet, social media and publications. It should be possible to present complaints by various means, including on the website of the institution, through a hotline and through text messaging;

(k) Annual reports on activities should be widely disseminated and include a specific section on the situation of defenders with a brief description of the general context, relevant references to the regulatory frameworks, main challenges and opportunities, and groups most at risk;

(l) Should strengthen their interaction with regional and United Nations human rights mechanisms by actively reaching out to them, including for their protection when needed, and periodically providing reports and/or participating in their sessions;

121. To ICC and the regional networks:

(a) Should advocate for the consideration of national human rights institutions as defenders and disseminate knowledge about the Declaration on human rights defenders among its members;

(b) Should continue to publicly support those national institutions whose members and staff are intimidated, harassed, stigmatized and attacked;

(c) ICC should provide guidance to national institutions about risks assessment and protective measures for members and staff, including by offering relevant information on how to react depending on the specific case and context. This could be done in cooperation with OHCHR, if necessary;

(d) Regional networks should enhance their cooperation, ideally by setting up permanent secretariats, to reinforce the regional dimension of the work of national institutions and provide the necessary guidance at this level;

(e) Regional networks should be active in providing support to their members, notably when they are exposed to harassment or intimidation, and strengthen their capacity where needed;

(f) Regional networks should also strengthen their interaction with regional and United Nations human rights mechanisms.

122. To defenders and civil society:

(a) Continue disseminating the Declaration on Human Rights Defenders, in particular regarding the work of national human rights institutions;

(b) Continue supporting the work of national human rights institutions by cooperating with them, advocating for their strengthening and collaborating in the planning and implementation of their activities and programmes;

(c) Cooperate with national institutions in the follow-up to their recommendations, including by giving visibility to their work;

**(d) Advocate for the establishment of a national institution fully compliant with the Paris Principles where such does not yet exist.**

**123. To donors and the international community:**

**(a) Continue supporting the work of national human rights institutions, including capacity-building programmes as necessary, and mainstreaming issues related to them in their work with the main stakeholders;**

**(b) Advocate for the consideration of national human rights institutions as defenders and support their work publicly as a protective measure if needed;**

**(c) Allocate additional (emergency) resources to address instances of physical threats against members and staff working for national human rights institutions if necessary;**

**(d) Continue engaging in constructive dialogue with Governments when members or staff of national institutions are exposed to intimidation or harassment.**

## ● 칸디 행동계획(국문요약)

### 칸디 행동 계획: 국가인권기구와 비정부기구 간 협력

#### 협력 구조 및 기제

국가인권기구와 NGO 간의 자문활동 강화; 공동훈련프로그램 개최; 상호간 임시직원배치 프로그램; 정부 및 국가기관에 대한 공동자문; 상호간 협력과 관련된 OHCHR 로부터 자문 요청; 공동 관심분야에 관한 워크숍 개최; 국가인권기구 및 NGO 간 대화기제 설치

#### 교육

교육관련 제도 검토; 제도수립관련 도구활용; 교육자문을 위한 국가인권기구와 NGO 간 협력; 공무원, 교사, 군인, 경찰, 사법계, 교도관을 대상으로 한 훈련 프로그램; 공공 및 언론 캠페인을 통한 인권교육 증진

#### 진정 및 수사

진정 및 수사 시스템과 관련된 국가인권기구와 NGO 간 정보교환세션; 국민의식 증진; NGO 의 수사 참여 도모; 정보통신기술 활용; 공동훈련프로그램;

#### 공공실태조사

공동워크숍 개최; 현장활동 및 관련정보 교류; 입법 로비활동; 언론노출

#### 입법부와의 관계

국가인권기구와 NGO 의 입법 로비활동 역량강화를 위한 워크숍 개최; 입법부에 인권위원회 설치 독려;

#### 입법활동

기존 법제 검토; 법안에 대한 공개 자문 기제 개발; 입법 과정에 있어서 국가인권기구와 NGO 의 법안 관련 의견 발의 장려; 국제인권기준을 준수하는 법제 제정 증진; 국제인권협약의 비준 및 이행 노력

#### 새 국가인권기구 설립

새 국가인권기구 설립을 위한 파리원칙을 바탕으로 한 최소 기준 수립; 국가인권기구의 독립성 보장; NGO 와의 협력 강화; 설립과정의 투명성.

### 아시아태평양인권기구포럼

본 행동계획의 배포; 행동계획 이행을 위한 자금 확보 관련 역내 국가인권기구 및 NGO 와 협력; 국가인권기구 및 NGO 는 이와 관련한 연례 보고서 제출; 국가인권기구 활동에 NGO 참여 강화

### 국제활동

정부의 인권관련 의무 이행 모니터링 및 권고; 국가인권기구와 NGO 의 국제 및 지역인권회의 참여 지원; 유엔 및 정부간기체에 인권침해사례 통보 보장을 위한 협력

**THE KANDY PROGRAM OF ACTION: COOPERATION  
BETWEEN NATIONAL INSTITUTIONS AND NON-  
GOVERNMENTAL ORGANISATIONS**

**Asia Pacific Forum of National Human Rights Institutions**

*Workshop on National Institutions and Non-Governmental Organisations:  
Working in Partnership*

**Kandy, Sri Lanka  
26 - 28 July 1999**

**1 Introduction**

1.1 Members of the Asia Pacific Forum of National Human Rights Institutions and non-governmental human rights organisations met in Kandy in the presence of observers from United Nations agencies, governments and international non-governmental organisations, to further their cooperation in the promotion and protection of human rights in the region. The Workshop took place in the context of increasing activity on the strengthening of human rights institutions and on the work of NGOs. This work has included the establishment of the Forum itself, the series of United Nations-sponsored workshops on regional arrangements in the Asia Pacific Region and a range of subsidiary meetings aimed at implementing agreed technical cooperation projects. The Workshop was one of the projects identified by regional governments as part of their technical assistance program under the auspices of the United Nations High Commissioner for Human Rights. This reflects the importance of multiparty cooperation for the promotion and protection of human rights.

1.2 Organisations represented at the Workshop expressed their appreciation to the Human Rights Commission of Sri Lanka for hosting the meeting and for their hospitality. The Workshop also expressed its appreciation to the Office of the High Commissioner for Human Rights for cosponsoring the Workshop with the Asia Pacific Forum of National Human Rights Institutions and the Asia Pacific NGO Human Rights Facilitating Team. The Workshop expressed its appreciation to the Office of the High Commissioner and to the Governments of New Zealand and Australia for providing financial support for the Workshop.

1.3 Organisations represented at the Workshop thanked presenters, facilitators and rapporteurs for their contributions.

1.4 Organisations represented at the Workshop expressed satisfaction that it had been organised in a co-operative manner, with full opportunity having been given for input by both national institutions and non-governmental organisations. Organisations urged that this cooperative spirit should be carried forward into work of national institutions and NGOs at the national and international levels.

1.5 The Workshop reaffirmed faith in the crucial importance of cooperation between national human rights institutions and NGOs and recognised they should work together on the basis of their common commitment to the universality and indivisibility of human rights as expressed in the Universal Declaration of Human Rights, international human rights instruments and the Vienna Declaration. The Workshop also recognised that national human rights institutions and NGOs have different roles in the promotion and protection of human rights and that the independence and autonomy of civil society and NGOs and of national human rights institutions must be respected and upheld.

1.6 Given the diversity in the nature and composition of national human rights institutions and NGOs and the common objective of protecting and promoting human rights it was agreed that there should be mutual consultation and cooperation in human rights projects and education.

1.7 Participants from national institutions and organisations represented at the Workshop agreed on the following action strategies they committed themselves to implement as appropriate:

## **2 Structures and mechanisms of co-operation**

2.1 Recognise the importance of, and implement, better consultation processes between national human rights institutions and NGOs, which should be regular, transparent, inclusive and substantive; encourage NGOs to decide on what processes and mechanisms best suit their circumstances and relations with the national human rights institution in their country; encourage national institutions to establish focal points to facilitate relations with NGOs;

2.2 Hold joint training programs;

2.3 Consider temporary personnel attachments between national institutions and NGOs;

2.4 Cooperate where possible when making recommendations to governments or other national bodies;

2.5 Cooperate and seek advice from OHCHR in encouraging the development of national human rights action plans;

2.6 Hold workshops on specific issues of mutual interest, with a particular focus on ensuring a balanced approach to participation and organisation;

2.7 Establish mechanisms for discussion between national institutions and NGOs with a view to maximising possibilities of using information technology to keep each other informed of their activities and issues arising from monitoring of human rights questions as well as relevant recommendations;

### **3 Education**

- 3.1 Recognise that effective human rights education must be based on an analysis of the human rights situation in the particular country and on the Universal Declaration of Human Rights and other international human rights instruments;
- 3.2 Adopt as the goal of human rights education the creation of an environment which enables recognition and respect for the human rights of all people and maximises individuals' and communities' awareness of their own human rights and their capacity to utilise available mechanisms for the enforcement of these rights;
- 3.3 Undertake an evaluation of existing programs at the national and regional level;
- 3.4 Use available tools for planning, e.g. the guidelines for national action plans in the field of human rights prepared within the framework of the International Decade for Human Rights Education;
- 3.5 Consult on human rights education in order to facilitate planning and implementation, to encourage governments to fulfil their obligations to provide human rights education, to identify the organisations best placed to undertake particular programs, to avoid duplication, to coordinate fund raising and to monitor the effectiveness of programs. A potentially fruitful area of cooperation would be for national institutions and NGOs to exchange materials and resources to enable them to carry out human rights education activities;
- 3.6 Consult in the development of curriculum designed for the mainstream education system, whether at the primary, secondary or tertiary levels;
- 3.7 Develop cooperative programs and facilitate joint participation in programs of training for teachers and public officials, including the military, the police and corrective services personnel;
- 3.8 Develop cooperative programs and facilitate joint participation in programs of training for human rights educators, including teachers and parents;
- 3.9 Cooperate with relevant judicial authorities in programs of training for members of the judiciary;
- 3.10 Develop memoranda of agreement with government agencies to facilitate the provision of training to government officials;
- 3.11 Develop panels of speakers from both NGOs and national institutions who would be available for human rights education presentations;
- 3.12 Cooperate in the dissemination of information on international and domestic human rights instruments, including the Paris Principles and the Declaration on Human Rights Defenders;

- 3.13 Where appropriate, promote human rights education through public or media campaigns, to be undertaken individually as well as jointly;
- 3.14 Develop relations with the media, particularly the state-owned media in some countries, to promote informed coverage of human rights issues;
- 3.15 Facilitate joint participation in public meetings, conferences and media events;
- 3.16 Establish mutual links on internet websites;
- 3.17 Develop joint or separate approaches to technical assistance and potential funding agencies, including OHCHR and UNDP, with proposals for human rights education programs;
- 3.18 Cooperate in using reports of national human rights institutions, NGOs, the United Nations human rights mechanisms and treaty monitoring bodies as tools for increasing public awareness and pursuing specific issues;

#### **4 Complaints and Investigations**

- 4.1 Agreed that it was vital that national institutions should have their own independent investigations capacity;
- 4.2 Arrange information sessions at which NGOs and national institutions would inform each other better about their complaints and investigations systems, to discuss trends, to improve mechanisms, to take into account international materials and to avoid duplication;
- 4.3 Facilitate public awareness of national institution complaints and investigations systems. This could include the preparation of relevant materials, such as a manual, as well as non-written materials targeted at people who are illiterate. Special attention should be given to vulnerable groups;
- 4.5 Consider joint action aimed at promoting changes to national institutions investigatory mandates where those mandates are too narrow or otherwise unsatisfactory in the investigations area;
- 4.6 Facilitate transmission of information from NGOs to national institutions and vice versa on specific cases, where appropriate;
- 4.7 Facilitate cooperation at the local level between NGOs and national institutions when inquiring into specific cases;
- 4.8 Develop transparent and inclusive mechanisms whereby NGOs could be involved in the investigation process;

4.9 Explore means of using information technology to facilitate exchanges of information on specific cases;

4.10 Arrange joint training courses aimed at strengthening the effectiveness of complaints and investigations and reporting systems;

## **5 Public Inquiries**

5.1 Hold joint workshops aimed at promoting awareness of the concept of public inquiries, their objectives and their mechanisms and possible subjects; consult with national institutions and NGOs to ensure that best practice is followed;

5.2 Where consideration is being given to the establishment of a public inquiry, consult in the development of its terms of reference and on a strategic plan for the inquiry;

5.3 Cooperate closely where a national institution is carrying out a public inquiry, particularly in the exchange of information and on-site activities;

5.4 Lobby for legislation to ensure that it is incumbent on legislatures to discuss national human rights institution reports within a specific time frame and that national human rights institutions are empowered in cases of undue delay to make their reports public;

5.5 Cooperate in facilitating media coverage of public inquiries; cooperate in conveying public inquiry reports to relevant UN mechanisms;

5.6 Cooperate in promoting the implementations of any public inquiry's recommendations;

5.7 Organisations represented also recommended that the Asia Pacific Forum should organise a regional workshop on public inquiries as part of the Forum's program of annual thematic workshops;

## **6 Relations with Legislatures**

6.1 Cooperate in promoting constructive relations and joint meetings with legislatures and legislators aimed at promoting and protecting human rights;

6.2 Consider holding workshops aimed at strengthening the capacity of national institutions and NGO personnel to lobby legislatures effectively including through campaigns aimed at promoting specific action by legislatures on human rights issues;

6.3 Consider jointly participating in workshops aimed at better informing legislators about human rights and the role and functions of national institutions and NGOs;

6.4 Encourage legislatures to establish human rights committees; where appropriate, approach the Inter-Parliamentary Union to encourage the national parliament to give greater emphasis to human rights;

6.5 Work jointly in order to bring the protection and promotion of human rights into political party platforms;

## **7 *Legislation***

7.1 Systematically review existing legislation and other instruments having the force of law to ensure consistency with human rights law, including relevant international humanitarian law standards, in a holistic way, to ensure compliance with the principle of indivisibility of human rights with a view to recommending appropriate changes to ensure consistency with those standards;

7.2 Develop mechanisms for public consultation and discussion on proposed legislation and other instruments having the force of law to ensure consistency with human rights and related standards with a view to recommending appropriate changes to ensure consistency with those standards;

7.3 Cooperate in encouraging governments to develop mechanisms whereby government departments seek NGO and national human rights institution inputs into new legislation, review of legislation and human rights treaty negotiations;

7.4 Establish mechanisms whereby national institutions seek NGO input into national institution recommendations to government about legislation;

7.5 Cooperate in promoting the development of domestic legislation in accordance with international human rights norms;

7.6 Coordinate effort for the ratification and implementation of international human rights instruments and the removal of declarations, derogations and reservations to such instruments;

7.7 Encourage where appropriate the establishment of forums with a broadly based membership that could specialise in the review of the human rights aspects of legislation;

## **8 *Establishment of new national institutions***

8.1 Recommended that the Asia Pacific Forum, in consultation with NGOs, should adopt by its Annual Meeting in 2000, minimum standards for mechanisms and processes for the establishment of new national human rights institutions in the region in conformity with the Paris Principles. These guidelines should pay particular regard to the need for new institutions to have independence built into their mandates, for processes and mechanisms to be developed in partnership with NGOs, for public hearings and for public review of proposed national human rights institution

legislation and for transparency in the appointment of commission members. Such institutions should have advisory, educational and investigatory functions;

8.2 Agreed that, in cooperation with the Office of the High Commissioner for Human Rights, national institutions and NGOs would provide information and advice to governments and NGOs of other countries, where requested, on models for the establishment of national institutions in conformity with the Paris Principles;

## **9 Asia Pacific Forum of National Human Rights Institutions**

9.1 Requested the Forum Secretariat, in cooperation with NGOs, to disseminate this Program of Action widely to governments, national institutions, non-governmental organisations, the United Nations and other international and regional organisations;

9.2 Requested the Forum Secretariat to collaborate with national institutions and NGOs of the region in the mobilisation of funds through programs of technical cooperation aimed at giving effect to activities proposed in this Program of Action;

9.3 Agreed that national institutions and NGOs would provide brief annual reports to the Forum on measures taken to give effect to this Program of Action;

9.4 Took note of the arrangements for NGO participation at the Third Annual Meeting of the Asia Pacific Forum of National Human Rights Institutions, held in Jakarta in September 1998, and requested that the Forum attempts to ensure that NGO participation continues to improve in future Forum meetings;

## **10 International activity**

10.1 Cooperate in monitoring and encouraging government compliance with international obligations and implementation of recommendations, views or opinions given by international human rights monitoring bodies; cooperate in reporting to treaty monitoring bodies and in disseminating treaty body reports, recommendations, views and opinions;

10.2 Consult and cooperate in support of the participation of national human rights institutions and NGOs in international and regional human rights meetings under the auspices of the United Nations; cooperate for the strengthening of United Nations mechanisms, including, where appropriate, through coordinated approaches to government and parliaments;

10.3 Conduct jointly information sessions on the United Nations protection mechanisms; work cooperatively to ensure that alleged violations of human rights are presented to appropriate United Nations or other intergovernmental mechanisms.

## SOUTH KOREA: MORE CONCERN THAN HOPE

*Korean House for International Solidarity (KHIS)<sup>1</sup>*

### I. General Overview

Democracy can support human rights and human rights can strengthen democracy. Since June 1987, the time of a national pro-democratic resistance movement, Korea gradually developed through a long journey to democratization. By 2001, it created the National Human Rights Commission of Korea (NHRCK) as an institutional symbol of human rights. Despite its belated establishment in the Asia-Pacific region, the NHRCK achieved rapid growth to become an example to other regional commissions. This was due to the capabilities and experiences of Korean civil society, the positive will of the democratic governments, and support and cooperation from international human rights institutions.

In 2008, Korean society encountered a crucial challenge to the continued optimism about the improvement of human rights conditions and the progress of the national human rights institutions. The new government that was elected in 2007 was not familiar with free civil society and democratic communication. By downsizing the NHRCK, the government weakened the NHRCK's capacity to monitor government activities related to human rights. By appointing to the position of chair, a non-expert who blindly followed government policies, the government prevented the Commission's dedication to protecting and promoting of human rights.

Since then, the NHRCK has gone from being a role model among Commissions in the Asia-Pacific region to becoming a questionable institution. Its independent status, which is a crucial condition for its candidature as the chair of the International Coordinating Committee of National Institutions (ICC), is in dispute. Even in 2012, Korean society and the NHRCK remain in a long, dark, tunnel.

After the 2012 election, the new government that took office in 2013 was put to the test with regard to its dedication to, and action on, human rights. The new government has promised to improve economic and social rights and to strengthen social security for marginalized social groups. It is a chance for Korea's democratization and the NHRCK to turn back from regressing.

But the new government has demonstrated its belief in the principle of 'economic development first', which dominated Korea from 1960 to 1980 and has disregarded human rights. As a result there is much more concern than hope for the future of human rights in Korea and the status and role of the NHRCK under the new government.

### A. Human rights situation of South Korea

There is a gap between Korea's economic and international status and the status of its human rights. South Korea has the world's 12<sup>th</sup> largest Gross Domestic Product and is a member of the UN Security

---

<sup>1</sup> *Mikyung Choe, Executive Director, Korean House for International Solidarity, and supported by assistant leader Dayeh Yu, graduate student, and assistants Nari Shin, Jinsil Lee, Kyoung Sul, students at Sook Myung Women's University, translated by Sahng-ah Rhee, Heewon Chun, Suji Park, Sungae Choi, and proof-read by Esther Choi*

Council and Human Rights Council. Meanwhile, the status of civil, political, economic, social and cultural rights is much poorer than other comparable country. Even though the state of human rights in Korea has surely improved since the days of military rule; civil and political rights have not been sufficiently ensured; and the rights of freedom of speech, assembly and association are often under serious threat or violation by law enforcement agencies. Also, following the two periods of economic crisis since the 1990s, the welfare of social minorities has been forced to the periphery, and the country's social safety nets are failing to properly protect them.

At the 2012 Universal Periodic Review (UPR) by the UNHRC, South Korea was advised to reform its obsolete systems which violate human rights. The systems include the death penalty, National Security Act (NSA), criminal penalty against conscientious objectors, absence of general prohibition on discrimination, and discrimination and human rights violations against migrant workers.

In May 2013, the UN **Special** Rapporteur on the situation of Human Rights Defenders (UN SR on HRDs) visited Korea and pointed out that the government has seriously threatened or violated human rights in Korea, especially freedom of expression, assembly and association as summarized below.<sup>2</sup>

***Freedom of expression:*** There are serious challenges to guaranteeing this right in practice. The criminalization of defamation leads to considerable limitations on the exercise of the fundamental right to freedom of expression; and the NSA still appears to be a serious impediment on the exercise of the freedom of expression.

***Freedom of peaceful assembly:*** The fundamental right to peaceful assembly has been unduly restricted. The prior notification procedure of public gatherings seems to have turned into a de facto authorization system; and the police have resorted to excessive use of force when handling protests. The UN SR on HRDs recommended that excessive use of force by the police and private security firms against participants of peaceful assembly be restricted to meet international human rights standards. Above all, effective dialogue and participation of residents should be ensured in places where large-scale protests are happening, such as in Jeju and Miryang.

***Freedom of association and labor rights:*** The existing legal framework places important limitations on the right to form trade unions. The right to strike is unduly restricted and often criminalized; prosecution is often accompanied by heavy claims for damages by companies and provisional seizures of property.

Direct and significant human rights violations by government agencies had continued to decrease but have recently re-emerged. Powerful governmental authorities organized special groups to carry out long-term illegal surveillance of political opponents or critics. Moreover, when such cases were revealed, the government tried to illegally destroy the evidence. Employees of National Intelligence Service, who are not allowed to participate in domestic political activities, were systematically engaged in influencing the presidential election through Social Network Services (SNS). A high-ranking commanding officer of the police was caught trying to conceal the case, when he was supposed to be investigating it. He became the object of investigation by the National Assembly.

---

<sup>2</sup> Statement by the United Nations Special Rapporteur on the situation of human rights defenders at the end of her visit to the Republic of Korea (29 May-7 June 2013)  
English version: <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=13423&LangID=E>  
Korean version: <http://www.ohchr.org/Documents/Issues/Defenders/EndMissionStatementKoreanVersion.pdf>

Furthermore, there were a number of cases where regular citizens were convicted of and penalized for illegal activities when they merely expressed their political ideas. In 2012, political rights that should be fully protected in Korea are being violated, and the exercise of such rights has been reduced. This threatens the fundamental conditions of democracy.

These threats against human rights and democracy lead to a series of strikes by journalists, defending freedom of speech. The previous government appointed or helped bring into office pro-government personnel as the president of the media so that they could promote news that favorably reflected the government. Severe encroachment on the independence of the media and the fairness and objectivity of news led to an unprecedented long-term, large scale strike by media workers.

Typical examples are the strikes by MBC (largest commercial broadcasting corporation), which went on strike for 170 days (January-July 2012), and KBS (largest public broadcasting company), YTN (24 news channel on digital broadcasting system), and Yonhap News (largest news agency in Korea). A large number of journalists who participated in the strikes experienced unfair discipline or dismissal.

Workers during the former government faced job insecurity, underemployment, and violations of labor rights by the company. Many workers in Korea are facing chronic intimidation of disguised redundancy or layoff, and low wages and job insecurity through the illegal dispatch system. Repressive measures were also instituted to stop the association of workers.

Hyundai Motors, the leading global automobile company of Korea, did not fulfill the order of National Labor Relations Commission (NLRC) based on the judgment of the Supreme Court to reinstate dismissed workers. SJM, an automobile parts company, employed a private security enterprise to exercise direct violence against the union members.

The number of migrant workers in Korea is increasing and they play an important part in the industries of Korea. However, faced with poor and insecure labor conditions, their fundamental human rights and three primary labor rights, including the freedom of contract and the freedom of choice to workplace, are not properly protected.<sup>3</sup>

## **B. Responses of the NHRCK on Human Rights issues in Korea**

The National Human Rights Commission of Korea (NHRCK), since its establishment in 2001, had been strengthening its capacity under four commissioners over seven years until 2008. During that time, the NHRCK, as an independent national human rights institution, monitored government activities and led to improvement of the law and order system. NHRCK had effectively organized itself and properly selected and trained its staff to continue improving its ability to challenge and provide effective remedy for pending human rights issues.

A big change occurred when the new Chairperson was appointed in 2008. Led by Byung Chul Hyun, who was nominated by the president of the previous administration, the NHRCK has continued dealing with daily human rights issues using its previously established capacities. However, it no

---

<sup>3</sup> Human rights situation in Korea is mainly based on *2012 Korea Human Rights Report* by MINBYUN-Lawyers for a Democratic Society

longer monitors and criticizes the government, responds to social issues, or communicates with civil society. In 2012, Byung Chul Hyun was reappointed as the chairperson by the same president. The NHRCK, under Hyun, deals in routine human rights work but ignores or downplays serious human rights violations in Korea.

In 2012, NHRCK demonstrated some outcomes in less-controversial human rights issues. It aimed to improve human rights issues in military camps; the rights of the socially marginalized such as migrants, elders, children, and inmates of prison, and address the discrimination against these groups. However, as mentioned by the UN Special Rapporteur on the situation of Human Rights Defenders, it did not challenge or act upon threats or violations against human rights such as freedoms of expression, assembly, association, and other key issues. Its *2012 Annual Report* acknowledges this fact. The report states that “NHRCK drew some significant recommendations for improvement of various pending human rights issues and rights of the people in places where there are no human rights but did not actively respond to issues regarding civil and political rights such as freedom of expression.”<sup>4</sup>

A typical example of the NHRCK's dilution and abdication of its responsibility to address pending human rights issues is its silence regarding unlawful surveillance of civilians by governmental institutions. Under the previous administration, the government illegally watched a number of civilians and politicians. People who posted video clips criticizing the government and the president were under observation, and civilians who sustained a loss of their fortunes filed complaints to NHRCK in 2010.

The Commission refused the complaints saying it could not examine cases that are being dealt with by the State prosecution. The request for an ex-officio investigation on the alleged surveillance of civilians (including politicians) by the government agencies was raised within the Commission. However, it was rejected and Hyun played a crucial role in this decision. Some Commissioners stated that “[Hyun’s] decision was based on checking with the views of the president,” and the NHRCK union criticized him for “abandoning the responsibility of the commission.”<sup>5</sup> Moreover, the NHRCK turned down or ignored many other issues such as the rail company and military information agency’s surveillance of union members, and the National Intelligence Service’s surveillance of the UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression during her country visit.<sup>6</sup>

Surveillance of civilians by government agencies was the key human rights issue of the time involving state power. The media reported its illegality; the prosecution re-launched the investigation; and the victims whose petitions were rejected filed civil actions in court. It was not until 2012, when there was a high probability that the officers involved would be found guilty, and the civil actions would win, that the NHRCK planned its ex-officio investigation. The decision was made in January 2013. The Commission stated that the President should “take credible action,” the Chairman of the National Assembly should “take measures of legislation if necessary,” and the Prime Minister should “formulate guidelines that are known to the public.”<sup>7</sup>

---

<sup>4</sup> NHRCK. 2012 Annual Report

<sup>5</sup> The Kyunghyang Shinmun, 7 April 2012

[http://news.khan.co.kr/kh\\_news/khan\\_art\\_view.html?artid=201204071014381&code=940100](http://news.khan.co.kr/kh_news/khan_art_view.html?artid=201204071014381&code=940100)

<sup>6</sup> MBC NEWS. 17 May 2010. [http://imnews.imbc.com/replay/nwdesk/article/2624650\\_5780.html](http://imnews.imbc.com/replay/nwdesk/article/2624650_5780.html)

<sup>7</sup> NHRCK. 28 January 2013. 12-ex officio-0000500(Ex officio investigation of the illegal surveillance by the Prime

This conduct and decision shows that the Commission has abandoned its responsibility to provide appropriate support to victims of human rights violation. With no concrete but only abstract recommendations, NHRCK tried to avoid criticism about its lack of response and lessen the burden on government agencies.

One of the key human rights issues during the first half of 2013 in Korea was the closure of a public medical center. Located in a medium-sized city where private medical services are poor, the local government targeted the medical center (Jinju Medical Center) for closure because of its financial deficit and militant union. Nearing the closing date in March 2013, the Korea Health and Medical Workers' Union (KHMU), along with patients of Jinju Medical Center and their families, filed complaints to NHRCK regarding human rights violation, such as coercive discharge from the center, and asked for a stringent remedy. The Commission rejected the request for a remedy and postponed the complaint process. The postponement was criticized as a step to avoid burdening the ruling party during the parliamentary investigation that was to be held soon after the decision.<sup>8</sup>

The respondent local government announced the closure of the hospital on May 29<sup>th</sup> and 22 patients who had been hospitalized around the date were tallied to die. On July 22<sup>nd</sup>, about two months after the closure of the hospital, the NHRCK made a decision that the coercive discharge from the public medical center was an infringement on human rights. NHRCK gave up its right to recommend a stringent remedy that would protect victims of urgent human rights violations; and by making a decision on the closure of the hospital after the event happened, it made its recommendation ineffective. In this way, the Commission created an alibi for the state authorities, central and local government by absolving them of responsibility for human rights,<sup>9</sup> while protecting itself by responding to the violation in an ineffective manner.

In contrast, the NHRCK under Hyun shows such great interest in North Korea's human rights issues that it is mockingly called the 'North Korean Human Rights Commission'. 'Promoting human rights of North Koreans' is selected as the special activity of the South Korean Commission. The NHRCK conducts all kinds of ineffective events and activities regarding North Korean human rights. For three consecutive years, the 'Korea Human Rights Award,' which is supposed to be given to organizations that improve domestic human rights, was given to organizations related to work on North Korean human rights.

The NHRCK's activities regarding North Korea are for show and wholly ineffective as violations in North Korea are outside the Commission's authority, role and jurisdiction. It has been criticized as "illogical for the human rights commission in South Korea to focus not on North Korean defectors but North Koreans in general."<sup>10</sup> The Blue House (Office and Official Residence of the South Korean President) says that Hyun was appropriate as the chairperson because he turned North Korean human rights issues into an international issue. It is deeply concerning that the NHRCK is not independent from political authority but is politicizing human rights in collaboration with the president and the

---

Minister's Office's ethics office)

<sup>8</sup> Yonhap News. 26 June 2013

<http://www.yonhapnews.co.kr/bulletin/2013/06/25/0200000000AKR20130625218800004.HTML?input=1179m>

<sup>9</sup> The Hankyoreh. 22 July 2013

<sup>10</sup> The Hankyoreh. 11 June 2012. [http://www.hani.co.kr/arti/society/society\\_general/537149.html](http://www.hani.co.kr/arti/society/society_general/537149.html)

ruling party.<sup>11</sup>

## II. Independence

In accordance with the National Human Rights Commission Act enacted by the National Assembly, the NHRCK was established in 2001. It was established based on the ‘Paris Principles’ on national human rights institutions. The Act sets out the Commission’s composition and operation, work and authority, and powers of investigation of human rights violation; and remedies available to victims. Its subsidiary statute on operational matters of the NHRCK was decreed by the president, titled National Human Rights Commission and its extension agency.

The status of NHRCK is guaranteed by the Act and the Chairperson and Commissioners are appointed and expected to operate according to the Act. However, there was a unilateral amendment of the subsidiary statute by the administration to downsize the NHRCK in 2008, which undermined its independence, and an unqualified chairperson was appointed by presidential authority by the Act. These events show that the National Human Rights Commission Act, based on the Paris Principles, is not a sufficient but minimum condition for the NHRCK’s independence.

### A. *Composition, appointment process, and tenure*

The NHRCK consists of one Chairperson and 11 Commissioners. The tenure of a commissioner is three years and limited to one consecutive term. Even though the Act orders the appointment of at least four female Commissioners, diversity of members is not sufficiently guaranteed by the Act. Just conventionally one or two religious figures had been appointed as members. Most of the members are judges, lawyers and professors in law, with the exception of several people from private sector organizations. In fact, there were seven jurists and professors, one religious figure, and one with a private sector background among the 11 Commissioners in 2012.

This composition indicates that NHRCK is only willing to follow positivist legal approaches instead of fulfilling real expectation of human rights protection and promotion. For instance, Nam Geun Yoon, a non-standing Commissioner and former judge, is known to have said, at the general meeting in September 2012, that “the current Korean criminal law could cover most of the conditions and situations” when the UN Committee Against Torture recommended revising or amending Korean criminal law because the regulations related to torture are not adequate to the international human rights obligations.<sup>12</sup> Additionally, he said: “I wonder how she could ask for drinking water and a phone battery while she was illegally occupying the company,” referring to Jin Suk Kim’s sit-in protest on a crane at the shipyard against Hanjin heavy industries.<sup>13</sup> Human rights organizations have criticized him for judging cases only through legalistic perspectives.

### *Nomination and appointment of the chairperson and commissioners*

Four of the NHRCK Commissioners are nominated by the President of the Republic of Korea, four by the National Assembly, three by the Chief Justice of the Supreme Court, and the appointments are

<sup>11</sup> The Hankyoreh. 11 June 2012. [http://www.hani.co.kr/arti/society/society\\_general/537149.html](http://www.hani.co.kr/arti/society/society_general/537149.html)

<sup>12</sup> Human Rights Oreum No.315. 19 Sept 2012. <http://hr-oreum.net/article.php?id=2203>

<sup>13</sup> The Hankyoreh. 20 Sept 2011. [http://www.hani.co.kr/arti/society/society\\_general/497016.html](http://www.hani.co.kr/arti/society/society_general/497016.html)

made by the President. According to the Korean political system and convention in the National Assembly (legislature), the ruling party nominates 2 people. Therefore, based on this selection process, the six members appointed by the president and the ruling party have a controlling majority on the NHRCK. The major reason for the decline of the Commission after 2008 is the nomination or selection process provided by the Act. In particular, the President has the power to appoint the Chairperson from among the Commissioners. The Chair is the central authority related to decision-making and operation. The Commission's situation in 2012 is evidence of the negative effects of the NHRCK's composition.

### ***Qualification of chairperson, and the selection procedure***

According to the National Human Rights Commission Act, the qualifications of the chairperson are knowledge and experience with issues related to human rights and the ability to work fairly and independently to improve human rights. However, there is no way to stop the nominator from designating someone who is unqualified. If an unqualified person is appointed as the Chairperson, he undermines the professionalism and independence of NHRCK. In fact, Byung Chul Hyun, current Chairperson since 2008, is such a case. When ex-president Myeong Bak Lee decided to appoint him, Korean civil society disagreed with his decision because Hyun had no experience related to human rights; which is one of the pre-requisites for being a Chairperson. The worries of civil society became a reality and have been elaborated in previous *ANNI Reports*.

The case of Byung Chul Hyun called the public's attention to the harmful effects of the President's arbitrary authority to appoint, and led to criticism from civil society and the national assembly. Finally, the Act was amended in order to require a confirmation hearing for the candidate. In 2012, the first confirmation hearing was conducted when Byung Chul Hyun was reappointed as a Chairperson of NHRCK, and this new process proved to be very effective in demonstrating the candidate's lack of qualification.

Throughout the hearing, he was shown to be unethical and unqualified to deal with human rights issues. Before his appointment, he had committed plagiarism in his thesis and had never participated in any activities related to human rights. Various statements and evidence were provided which allege he has violated human rights during his three-year tenure since 2008. Human rights organizations publicized through the media<sup>14</sup> instances of him prohibiting the operation of the heating system and elevator during a protest by disabled people in the winter;<sup>15</sup> and blocking the Bill related to the Yongsan case.<sup>16</sup>

Even though the confirmation hearing showed he was unqualified, it did not have any legal power to challenge the president's authority to appoint. In fact, the president designated an unqualified person in spite of the result of confirmation hearing. This proved the limits of the hearing process and that it is highly necessary to establish a system which prevents abuse of authority to appoint.

---

<sup>14</sup> Press release by Urgent Action network to oppose reappointment of Byung Chul Hyun, a Chairperson of NHRCK, and reform NHRCK. 19 July 2012

<sup>15</sup> A disabled activist who went into a sit-in demonstration in NHRCK building died of acute pneumonia after the heating was discontinued in December 2010 by the management

<sup>16</sup> Yongsan case: Evicted residents from dwellings to be demolished who had resisted compensation plan of redevelopment in Yongsan-Gu, Seoul claimed reasonable compensation. While they occupied Namildang building which was located in Yongsan-Gu in 19 Jan 2009 and stood against the police, a fire broke out in the building. 6 people died and 24 were injured

### *Diversity and Professionalism*

According to the National Human Rights Commission Act, the institutional guarantee for diversity is only applied with regard to appointing women. In contrast, the Act allows establishment of an advisory body with an advisory committee and expert committees to ensure diversity in the composition of the Commission. In 2009, the advisory committee and expert committees faced a huge change. Many expert committee members resigned, after human rights experts and civil society organizations declared non-cooperation with the Commission headed by Byung Chul Hyun. The vacuum was filled with people who were pro-government and authoritarianism, without sufficient experience related to human rights.

In 2007, before Hyun was appointed, the advisory committee consisted of 34 people. The number increased to 38 in 2012. It was not only the number of members but also the composition of the advisory committee that changed much between 2007 and 2012. In 2012, five members were high-ranking members of the army, two were high-ranking members of the national police agency and three were professors of a university where Hyun had worked before being nominated as the Chairperson. Most of them are not professionals, nor do they have sufficient experience in human rights. In other words, the advisory committee became a place where high-ranking state officials and previous co-workers of Hyun received senior positions.<sup>17</sup>

As of December 2012, NHRCK's expert committee has 96 members and addresses six human rights areas, including economic, social and cultural rights; human rights education; international human rights, civil and political rights; discrimination remedy; and disability rights. The conciliation committee has 14 members and addresses four areas: conciliating discrimination; sexual discrimination; disability discrimination; and human rights violations.

In comparison, as of December 2007, the expert committee had 101 members and dealt with 14 areas: economic, social and cultural rights; rights of children; international human rights; investigation of police and prosecution; rights of soldiers, correctional institution; care facilities; discrimination; sexual discrimination; disability discrimination; rights of foreigners; school human rights education; public and civil rights education; and persons with mental illness. The conciliation committee had 38 members and dealt with four areas: discrimination; sexual discrimination; disabilities discrimination; and human rights violations.

In the five years between 2007 and 2012, the total size of the expert committee has stayed almost the same but the areas of specialization were reduced. The conciliation committee's areas of specialization has remained the same; but the number of members has decreased significantly.

The composition of the expert committee and conciliation committee has changed significantly after critical civil society's declaration of non-cooperation with the Commission in 2009. Particularly, a number of professors of Hanyang Academy, where Byung Chul Hyun had worked, were appointed as expert committee members and conciliation committee members. For the expert committee, the number of members has doubled (from four to eight) in 2012 compared to 2007; and three out of the eight are professors of Hanyang Cyber University, where Hyun was the former Dean. For the conciliation committee, even though the total number of members decreased by 63 percent, the

---

<sup>17</sup> NHRCK. 2012 Annual Report. May 2013, p. 301; NHRCK. 2007 Annual Report 2007. June 2008. p. 343

number of members who were professors of Hanyang Academy increased from one to two. In 2012, among the two members of the conciliation committee belonging to Hanyang Academy, one is a professor of Hanyang Cyber University.

The composition of the conciliation committee and expert committee reveals typical cronyism. Byung Chul Hyun, as an unqualified chairperson, is ignoring or weakening the NHRCK role of monitoring and criticizing the government and undermining the professionalism of the NHRCK committees by cronyism.

This observation is supported by the deliberation of the Korean state report in the 81<sup>st</sup> session of the UN Committee on the Elimination of Racial Discrimination (held in August 2012); where the final recommendations for Korea emphasized the independence and specialized competence of the NHRCK, and recommended that the state party ensure the independence of NHRCK and appoint human rights experts with sufficient experience.<sup>18</sup>

### ***Government representatives on NHRCK and staffing by secondment***<sup>19</sup>

As of July 2013, there were four seconded staff from government among 187 workers in NHRCK: which accounted for two percent of the total number. Among the four individual seconded to the Commission, three are deputy directors and account for 3.3 percent of the total number of deputy directors (86). When seconded staff are appointed, each department provides a two day-training. The information about appointments of seconded staff is available to all staff of the NHRCK.

The recruitment policy of NHRCK is to preserve diversity through a variety of ways; such as open, competitive employment and career competitive employment. To enhance the specialized capabilities of its staff, the NHRCK recruits people who have field work experience, research experience or related qualifications such as legal expertise. NHRCK prohibits any kind of discrimination against women and persons with disabilities in the recruitment process.

As public officials, Article 7 of the Constitution and Article 68 of the National Public Service Law guarantee the status of workers of NHRCK. However, in April 2012, it was revealed that the Blue House had sent a black list which analyzed the ideological tendencies of NHRCK employees (saying that some of employees were left-leaning) to the secretary-general of the NHRCK in October 2009.<sup>20</sup> In other words, the Blue House intervened in the personnel administration in order to control the NHRCK. This case shows that there is a huge gap between law and practice.

Additionally, activities of the NHRCK during a state of emergency are highly important, considering the experience of the pro-democracy movements in the Middle East and North Africa ('Arab Spring'). Therefore, immunity and laws that protect activities of the NHRCK from threat during emergency conditions are necessary.

---

<sup>18</sup> CERD/C/KOR/CO/15-16,  
[http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CERD%2fC%2fKOR%2fCO%2f15-16&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CERD%2fC%2fKOR%2fCO%2f15-16&Lang=en)

<sup>19</sup> This part is based on an official response from the NHRCK (dated 18 July 2012) to KHIS's inquiries

<sup>20</sup> Ohmynews. 9 April 2012

[http://www.ohmynews.com/NWS\\_Web/View/at\\_pg.aspx?CNTN\\_CD=A0001719290&CMPT\\_CD=P0001](http://www.ohmynews.com/NWS_Web/View/at_pg.aspx?CNTN_CD=A0001719290&CMPT_CD=P0001)

Several cases of human rights violations within the NHRCK came to the fore in 2012. Some workers sexually humiliated a female journalist but they were only punished with a cut in their salaries for one month.<sup>21</sup>

### III. Effectiveness

#### A. 2012 Amendment of Enabling Act

The NHRCK law was amended in 2012 to expand and consolidate its effectiveness. Before this amendment in March 2012, there were only powers of recommendation but no obligation or compulsion for institutions to follow recommendations from the NHRCK. According to the amended Act, the organization should notify implementation of a plan to implement NHRCK recommendations within 90 days; and the organization should notify the NHRCK of the reason when it cannot implement its plan.

The second meaningful revision of the law was the expansion of subjects of investigation. According to Clause 30 of Article 1 in the National Human Rights Commission Act, the NHRCK can investigate even private schools and nongovernmental public service-related organizations.

Before the amendment, NHRCK rejected some petitions based on the fact that the NHRCK could not investigate allegations of all kinds of human rights violations in public organizations. The NHRCK could investigate only allegations of discrimination. But with the amendment of the Act in 2012, NHRCK finally has legislative requirement for investigating all kinds of schools and public service-related organizations.

NHRCK can respond to violations by submission and expression of opinion and advice on policy.

First, NHRCK can submit opinions about specific cases to courts or the Constitutional Court. The NHRCK submitted opinions about six cases in 2008, three in 2009, four in 2010, two in 2011, and none in 2012. Considering that there has been an increase in the number of cases of people being accused of defamation when they expressed political opinions and criticized the government over this period, it seems the NHRCK is trying to decrease its submissions of opinion about defamation cases related to government criticism.

Second, the NHRCK can express its opinion if a governmental organization requests to do so. The NHRCK expressed its opinion on 28 cases in 2008, 29 in 2009, 17 in 2010, 20 in 2011, and 18 cases in 2012. The number of requests from governmental organizations is decreasing. There are two possible reasons: either the human rights cases that governmental organizations deal with are decreasing; or, the governmental organizations are disregarding NHRCK and requesting its opinion less.

Third, NHRCK can give recommendation about laws and policies related to human rights. In contrast to the number of cases of submitting and expressing opinion, the number of recommendations from NHRCK has been increasing. Recommendations in 2012 focused on improving institutionalized

---

<sup>21</sup> Newsis.2 Jan 2012

[http://www.newsis.com/ar\\_detail/view.html?ar\\_id=NISX20120102\\_0010119266&cID=10201&pID=10200](http://www.newsis.com/ar_detail/view.html?ar_id=NISX20120102_0010119266&cID=10201&pID=10200)

practices and technical actions such as procedure of criminal cases, immigrants, the disabled, and the military. In other words, there were no detailed and hard-hitting recommendations which reflect the most critical human rights issues in Korea.

The actual practices of NHRCK are passive. The NHRCK tends to manage cases in a way that does not antagonize the president and his administration. It usually deals with simple cases which will not create social controversy, and tries to avoid utilizing stringent remedy. Furthermore, NHRCK does not make efforts to reflect what it has learned from past petitions in current policies.

Additionally, not many recommendations of NHRCK are accepted. According to statistics published by NHRCK in January 2013, NHRCK gave 2,768 recommendations from 2001 to 2012 and only 1904 recommendations (68.7 percent) were accepted. The police have received the most recommendations (688) and accepted 392 (58.6 percent). The police rejected 14.3 percent of recommendations and in the remainder, accepted them only in part.<sup>22</sup>

Considering that the NHRCK's bad reputation has been growing, and that human rights organizations have stopped supporting it, it does not seem that the government and public service-related organizations are mindful of the recommendations of NHRCK.

#### ***Case Study: Asiana Airlines***

One of the cases that the NHRCK has dealt with in a positive way, was the petition regarding compulsory wearing of skirt uniforms by female flight attendants. The labor union of Asiana Airlines filed the petition in June 2012, and the NHRCK said that it was obvious sexual discrimination for Asiana Airlines to require female flight attendants wear skirts and have a specific hair style. The NHRCK added that this regulation on uniform implied discrimination against women. The NHRCK judged, "wearing skirts can cause difficulties in case of an emergency and considering that other domestic airlines have allowed wearing of trouser-pants, the degree of regulation is excessive."<sup>23</sup>

Asiana Airlines accepted advice from NHRCK and announced that they would allow female attendants to wear trousers. But actually, many female attendants continue to wear skirts only. The airline allegedly put pressure on female attendants to wear skirts and it became an issue once again after the landing accident at San Francisco airport (in the USA) in 2013.<sup>24</sup> After the accident, people criticized the fact that all the female flight attendants were wearing skirts, which was inappropriate for safety, and demanded the airline to allow female attendants to wear trousers and sports shoes.

A staff of NHRCK who has dealt with the petition regarding Asiana Airlines' female flight attendants uniform commented that "Asiana Airline outwardly accepts our advice, but it seems that their internal conventions inhibits female attendants from wearing pants" and "because the problems in wearing pants keep happening, (we) are closely monitoring."

This case shows us well that additional measures such as institutional methods and publicity are

---

<sup>22</sup> The Kyunghyang Shinmun. 29 Jan 2013

[http://news.khan.co.kr/kh\\_news/khan\\_art\\_view.html?artid=201301290903441&code=940100](http://news.khan.co.kr/kh_news/khan_art_view.html?artid=201301290903441&code=940100)

<sup>23</sup> NHRCK. 16 Jan 2013. 12 Petition 0415100

<sup>24</sup> Ohmynews. 11 July 2013

[http://www.ohmynews.com/NWS\\_Web/View/at\\_pg.aspx?CNTN\\_CD=A0001884798&CMPT\\_CD=P0001](http://www.ohmynews.com/NWS_Web/View/at_pg.aspx?CNTN_CD=A0001884798&CMPT_CD=P0001)

needed to enforce recommendations even after NHRCK points out human rights violations and gives advice.

**Case Study: North Korean Human Rights Center**

The NHRCK established a reporting center for North Korean human rights violations in March 2011. In May 2011, Byung Chul Hyun acting as chairperson sent letters to 15,000 North Korean defectors to encourage them to submit petitions. The letter said that NHRCK would investigate human rights violations in North Korea, in order to improve the situation there. A total of 80 petitions were accepted by the violation reporting center for North Korean human rights. However, subsequently the NHRCK said that investigation into cases of human rights abuse in North Korea was impossible and they couldn't investigate a case nor give advice to North Korean authorities, making the whole affair inconsequential.

The abusers identified by victims in these cases were officers and employees of North Korean authorities like the Political Prison Camp, State Political Security Department and Labor Training Camp, so the investigation was impossible from the outset. In 2006, when Professor Kyong Whan Ahn was the Chairperson, "The stance of NHRCK on human rights in North Korea" stated that "Article 3 of the Constitution states Korean Peninsula includes North Korea as Korean territory. But the status of North Korea as a sovereign state and a member nation of the U.N. can't be denied," and concluded that "the cases of human rights abuse or violation in North Korean territory, where South Korea government can't exercise jurisdiction, can't be admitted into the NHRCK's investigation list."<sup>25</sup>

Despite this reasonable interpretation by the NHRCK, Byung Chul Hyun, the NHRCK's current Chairperson, urges filing of petitions against North Korea's human rights abuses and is criticized internally for wanting to "leave a legacy of achievements on the plea of human rights abuse in North Korea."<sup>26</sup> A staff of NHRCK stated, "This is utterly nonsensical that he promised by letter to investigate thoroughly and only within a year turned it down as it's not on the investigation list," and sarcastically commented "He's going to be re-appointed with this being recognized as his best achievement!"<sup>27</sup>

**IV. Thematic Focus on Human Rights Defenders**

Human rights defenders are people who act to promote or protect human rights, and they must accept the universality of human rights as defined in the Universal Declaration of Human Rights and take actions in peaceful ways in the arena of human rights. They collect and disseminate information on human rights violations, and support, educate and train victims of the violations. Not only those who defend human rights through professional activities being paid or voluntarily, but also those who are not a specialist in human rights but active in human rights area are also considered human rights defenders. For example, human rights defenders may include a student who organizes other students to campaign for an end to torture in prison; or a farmer who organizes protest to resist environmental pollution.<sup>28</sup>

<sup>25</sup> NHRCK's decision. 11 Dec 2006. [http://www.humanrights.go.kr/03\\_sub/body02\\_2\\_v.jsp](http://www.humanrights.go.kr/03_sub/body02_2_v.jsp)

<sup>26</sup> The Hankyoreh. 18 Jun 2012. [http://www.hani.co.kr/arti/society/society\\_general/538198.html](http://www.hani.co.kr/arti/society/society_general/538198.html)

<sup>27</sup> The Hankyoreh. 18 Jun 2012. [http://www.hani.co.kr/arti/society/society\\_general/538198.html](http://www.hani.co.kr/arti/society/society_general/538198.html)

<sup>28</sup> Who is a defender. <http://www.ohchr.org/EN/Issues/SRHRDefenders/Pages/Defender.aspx>

The international human rights community has asserted that national human rights institutions (NHRIs) can and should play a core role in protecting human rights defenders.<sup>29</sup> NHRIs have to protect and support human rights defenders who are subject to human rights violations themselves, directly and indirectly, in the process of responding to human rights violations of others.

This section considers the National Human Rights Commission of Korea's measures to protect human rights defenders in South Korea.<sup>30</sup>

***Prohibition of Disadvantage and Support:*** In the National Human Rights Commission Act ('NHRC Act'), there is no clause which directly addresses the protection of human rights defenders. The NHRCK, however, says: "according to Article 55 (of the NHRC Act, that is 'Prohibition of Disadvantage and Support') prescribes that no one should be disadvantaged in her/his status and treatment for the reason of filing a petition, making a statement, presenting materials, and responding to the NHRCK". The NHRCK claims that "it is the intent of Article 55 to protect human rights defenders who raised issues related to human rights violations and discrimination by helping lift the veil [on abuses and violations]."

***Focal-Point/Task Force/Help-Desk:*** According to the NHRCK, the Communication and Cooperation Division within the Commission is the focal-point for relations with civil society organizations (in compliance with Paragraph 5, Article 8 of 'Organizing NHRI and affiliated organizations' of the NHRCK law). Therefore, it can be said that there is no focal-point or help-desk specifically for the protection of the rights of human rights defenders. The NHRCK's support for group and individual activities for defending and promoting human rights is through grant-making and offering space at the NHRCK for public debates or academic seminars to strengthen cooperation with human rights organizations.

***Special Trainings:*** In 2012, the NHRCK organized two events for human rights defenders in Busan and Daegu Office of Human Rights; and supported two programs for human rights defenders through cooperation with human rights organizations. The programs in 2012 in cooperation with human rights organizations include: 'I am a proud activist for ending prostitution' and 'Education program for development of agenda regarding human rights of women with disabilities.' Also, there were case presentations and workshops for leaders of organizations affiliated to a human rights counseling network and a human rights leadership workshop for activists in Daegu.

***Public Statements:*** According to the NHRCK, decisions and results regarding human rights violations, discrimination, improvement of laws, policies and systems are made and announced usually through deliberation of the Commission composed of human rights commissioners. Only when there is a "special case" do they take measures such as public statements. The only statement regarding human rights defenders released by the NHRCK in 2012 was for North Korean human rights activist Young Hwan Kim when he was being captured and tortured in China. Considering the numerous instances of severe human rights violations in 2012, it is puzzling as to the NHRCK's definition of "special case". Its silence has only raised suspicions as to whether the NHRCK does not wish to be seen as anti-

---

<sup>29</sup> <http://www.ohchr.org/en/countries/nhri/pages/nhrmain.aspx>; <http://www.asiapacificforum.net/news/nhris-must-support-human-rights-defenders.html>

<sup>30</sup> The information in this section is based on an NHRCK response (dated 18 July 2012) to KHIS's inquiries for information

government.

**Public Activities:** In Korea in 2012, there were many acute and significant incidents related to human rights defenders. Surveillance of 4 major rivers (4 daegang) activist by the Prime Minister Office; protest against construction of the naval base in Jeju island; sit-in protest on a steel tower against Hyundai Automobile in Ulsan; and protest against the building of power transmission towers in Miryang are the emblematic examples.<sup>31</sup>

The ‘Jeju Kangjung Incident’ is the biggest issue among those. According to the Ministry of Justice, 649 people were arrested by the police; and 473 people were under indictment from 2007 until December 2012. Not only that, Samsung C&T Corporation as construction company of the naval base, demanded compensation for the delay; which put the right to indemnity of the protesters at risk.

In May 2012, a joint letter from 3 UN Special Rapporteurs on freedom of expression, freedom of assembly and human rights defenders, was sent to the Korean government expressing their concern on human rights violated in Kangjung village in Jeju island.<sup>32</sup>

What were the NHRCK’s measures on the Jeju case? The Commission dispatched its staff to Jeju island to stop and mitigate the violent confrontations between the residents and the police. It requested an emergency remedy to allow activists access to drinking water. It also pledged to inquire into activists detained without charge; and urged authorities to prepare countermeasures to safeguard protesters while dispersing public assemblies. On the other hand, the NHRCK Commissioners rejected an investigation on video-camera surveillance by the police on residents.<sup>33</sup> The Commission has been criticized for its delay in processing 60 percent of the complaints within the due date. Won-shik Woo, a national assembly member (legislator) issued a press release strongly criticizing the NHRCK’s neglect of human rights violations in Kangjung<sup>34</sup>. The measures and remedies from the NHRCK are inadequate for the severity of the range of violations associated with this incident. The NHRCK’s activities were ineffective in mitigating violence and human rights violations against human rights defenders by the police.

## V. Thematic Focus on Business and Human Rights

The National Human Rights Commission of Korea is known to conduct researches, workshops and provide remedies for discrimination related to business and human rights. However, Korean civil society is not satisfied with the activities of the NHRCK regarding business and human rights. In March 2012, there is a positive change that the NHRCK Act was revised for NHRCK to investigate public [state-owned] companies, which widened the NHRCK’s scope of protection. But there are many doubts whether the current NHRCK will utilize this positive legal change.

**Investigations and Legal Reform proposals:** The NHRCK has investigated complaints of violations of human rights by businesses and recommended legislative changes related to business and human rights. On legislative improvement related to business in 2012, the NHRCK recommended the

<sup>31</sup> Human Rights NGOs in Korea. 2013 Human Rights Defenders’ Situation report in Korea.

<sup>32</sup> The Hankyoreh. 13 Sept. 2012. [http://www.hani.co.kr/arti/society/society\\_general/551650.html](http://www.hani.co.kr/arti/society/society_general/551650.html)

<sup>33</sup> Newsis. 14 Jan. 2013. [http://article.joins.com/news/article/article.asp?total\\_id=10417366&ctg=1200](http://article.joins.com/news/article/article.asp?total_id=10417366&ctg=1200)

<sup>34</sup> Jejudominilbo. 29 Oct. 2012. <http://www.jejudomin.co.kr/news/articleView.html?idxno=36169>

Ministry of Labor that, in relation to compensation insurance system of industrial accident, the burden of proof on the cause of the industrial accident is shared by the employer or the state and not the sole responsibility of the victim. Also, the NHRCK received and investigated complaints concerning accessibility of persons with disabilities to the website of a broadcasting company; accessibility of persons with disabilities when boarding an airplane; discrimination against the visually-impaired when they seek insurance coverage, and so on.

***Business and Human Rights conference of NHRIs in the Asia Pacific Region:*** Human rights organizations in Korea were highly critical of the hypocrisy of the NHRCK in hosting an international conference regarding business and human rights in Seoul in October 2011, when it has ignored the rights violations of workers of Hanjin Heavy Industries and Construction. In other words, the NHRCK takes up ‘soft’ issues in business and human rights through promotional activities such as workshops, while avoiding or delaying on ‘hard’ issues in sensitive cases where it neglects its role in protecting human rights from abuse.

***Human Rights Violations by Domestic Corporations Abroad:*** As foreign investment by Korean corporations and capital expands with the emphasis on diplomatic relations for resource-extraction during Myung Bak Lee administration, the human rights violations by Korean companies in other countries were revealed as were the absence of countermeasures.

The NHRCK dismissed a petition involving Korea Gas Corporation (KOGAS), a state-owned company in Korea, and a private company Daewoo International in Burmese gas development and human rights violations jointly filed in April 2008 by Korean House for International Society (KHIS), Korean Public Interest Lawyers Group Gong-Gam, Burmese organizations in Korea, and the International Human Rights Clinic in Harvard Law School.<sup>35</sup>

Disappointed with the passive attitude of the NHRCK in not doing anything about human rights violations by corporations, civil society organizations have given up filing any complaints at the moment.<sup>36</sup>

The NHRCK which strives for international exchange and cooperation can shine in the field of business and human rights so it must devote itself to policy research, advocacy with corporations, and monitoring their human rights obligations. If it fails to do so, it not only cannot avoid non-cooperation from the companies but will also be ignored by them.

## **VI. Cooperation with Civil Society Organizations**

According to the Principles relating to the Status of National Institutions (‘Paris Principles’), National Human Rights Institution (NHRI) should cooperate with civil society.<sup>37</sup> This is reflected in the NHRCK Act (Article 19.8) that states the Commission will cooperate with organizations and individuals engaged in any activity for the protection and promotion of human rights.

This clause recognizes that the Commission needs the collaboration of civil society to create the

---

<sup>35</sup> Full text of the petition:

[http://www.law.harvard.edu/programs/hrp/documents/Shwe%20Complaint%20\(Final\)%20\(Public%20Version\).pdf](http://www.law.harvard.edu/programs/hrp/documents/Shwe%20Complaint%20(Final)%20(Public%20Version).pdf)

<sup>36</sup> Interview with human rights activist A in May 2013

<sup>37</sup> <http://www.ohchr.org/EN/ProfessionalInterest/Pages/StatusOfNationalInstitutions.aspx>

environment for the NHRI's recommendations or decisions to be better known and achieve acceptance in society.

Nobody can deny the fact that civil society struggled strongly for years to establish the NHRCK. Also civil society strongly criticized the government's downsizing of the NHRCK in 2009.

The relationship between the NHRCK and civil society has been distant since 2008. If the NHRCK continue to ignore political or sensitive human rights issue, the situation will become worse.

Also, if the NHRCK appoints former military and police officers as advisory committee members; then the message from the NHRCK is that it is disinterested in consultations with civil society. It is only when the NHRCK demonstrates in practice that it recognizes and upholds the role of national human rights institutions in the protection of human rights defenders; that the channels of communication and cooperation with human rights organizations can re-open.

## **VII. Conclusion and Recommendations**

Professor Kyong Whan Ahn, former Chairperson of the NHRCK says: “by nature and by definition, human rights are universal values that transcend politics, national border, and even ideology. However, in reality, they could easily be entangled with politics. The case of NHRCK shows an example how the public perception and protection mechanism of human rights can fluctuate depending on the changes in the political environments.”<sup>38</sup> This reflection by a former leader of the Commission reflects the concerns in Korean society that the NHRCK has become an ‘alibi’ institution: making excuses for the government and manipulated by the government to conceal its human rights record.

The effectiveness and quality of investigation and remedial procedures are based on the devotion of the Chairperson, Commissioners and staff to human rights protection and promotion and their years of experience and competence. However, after the 2009 reorganization and downsizing of the Commission, its competence has virtually decreased and it became vulnerable to politicization.

Its lack of competence leads the NRHCK to outsource its activities; which then results in failing to accumulate internal competence.<sup>39</sup> In the area of business and human rights, the NHRCK needs to seriously prepare to equip itself to deal with the ongoing and future human rights violations by private companies and overseas companies.

Only after the NHRCK gains moral leadership based on human rights vision and principles can its activities be effective. When everyone in the NHRCK including its Chairperson fulfils that role, the Commission can stand upright and be respected by government departments, corporations, and the people.

### ***Recommendations to the Government of South Korea:***

- Ensure full independence and effectiveness of the National Human Rights Commission of

---

<sup>38</sup> Kyong Whan Ahn. The National Human Rights Commission of Korea: A Decade of Glories and Disgraces (2001-2011). [http://www.taiwanhrj.org/admin/uploadfiles/thrj\\_2\\_1\\_ahn.pdf](http://www.taiwanhrj.org/admin/uploadfiles/thrj_2_1_ahn.pdf)

<sup>39</sup> Interview with human rights expert B in May 2013

Korea;

***Recommendations to the National Assembly:***

- Nominate only qualified persons who are human rights experts to the Commission;
- Amend the enabling law of the NHRCK to ensure the selection of Commissioners is based upon human rights expertise;

***Recommendations to the National Human Rights Commission of Korea:***

- Ensure timely interventions and responsiveness to human rights issues in line with international human rights norms and standards;
- Ensure active engagement and consultation with all groups of human rights defenders;
- Ensure the recruitment of staff based upon their human rights consciousness;
- Guarantee the rights of its own staff, including their freedom of association, assembly and expression.

***ANNEX: Extract on the National Human Rights Commission of Korea from statement by the United Nations Special Rapporteur on the situation of human rights defenders***<sup>40</sup>

Established in 2001 as a body independent from the government and accredited “A” status from the ICC in 2004, the mandate of the institution is broad as it receives individual complaints, carries out human rights education programs and issues policy recommendations which are, nevertheless, not binding. When I visited Gwangju, I was pleased by the activities carried out by the local branch of the NHRCK in disseminating information on human rights issues to the public.

However, during the reaccreditation process of the NHRCK, a number of issues of concern have been raised regarding the appointment process of its Chairperson and Commissioners, consultation and participation of civil society as well as budgetary cuts. According to information I have received, the NHRCK has lost the confidence of many national stakeholders, including defenders and it is no longer seen as a key player in the promotion and protection of human rights in the country.

In order for the NHRCK to regain the confidence of human rights defenders, it must be able to work independently and professionally with members and staff who can exercise integrity and impartiality and offer trust to the Korean people and its institutions.

***Recommendations***

- Implement the recommendations of the Sub-Committee on Accreditation of the International Coordinating Committee of National Human Rights Institutions in order to strengthen the independence and effectiveness of the institution;
- Ensure timely interventions, responsiveness and accessibility of the institution to all citizens and actively engage with all groups of human rights defenders.

---

<sup>40</sup> Statement by the United Nations Special Rapporteur on the situation of human rights defenders, Margaret Sekaggya, at the end of her country visit to the Republic of Korea (29 May-7 June 2013)  
English version: <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=13423&LangID=E>  
Korean version: <http://www.ohchr.org/Documents/Issues/Defenders/EndMissionStatementKoreanVersion.pdf>

## 제2차 APF 격년 컨퍼런스 자료

- ICC 의장 개회사
- <주제 1> 자료
- <주제 2> 자료
- <주제 4> 자료
- <주제 5> 자료
- 발표자 약력





INTERNATIONAL COORDINATING COMMITTEE OF  
NATIONAL INSTITUTIONS FOR THE PROMOTION AND  
PROTECTION OF HUMAN RIGHTS (ICC)

개회사

제 18 차 아시아태평양인권포럼 지역회의  
카타르 도하

마베들 로렌스 무쉬와나<sup>1</sup>

마베들 로렌스 무쉬와나<sup>2</sup>

존경하는 각하 내외분, 국가인권기구 동료 여러분, 그리고 내외 귀빈 여러분,

저는 오늘 제 18 차 APF 지역네트워크 회의에서 연설할 기회를 제공해주신 것에 대해 카타르인권위원회 위원장이시며 ICC 승인소위원회 의장이신 알-마리 박사님, 아시아태평양 지역 의장이신 태국국가인권위원회의 아마라 풍사피치 교수님, 아시아태평양인권기구포럼 사무국을 이끌고 계시는 키렌 피츠패트릭 씨와 국원 여러분, 그리고 APF 회원 여러분에게 감사의 말씀을 드리고 싶습니다. 여기 계신 NHRI 대표들 중에는 최근 덴마크 코펜하겐에서 개최된 제 8 차 아랍-유럽 간 회담에서 만나보았던 분들도 계십니다. 또 이렇게 교류할 수 있는 기회를 얻게 되어 매우 기쁩니다.

저는 APF 의 역내 활동을 크게 치하하고 싶습니다. 이러한 활동이 다른 지역에 어떻게 적용될 수 있을지 밝혀나갈 수 있기를 기대합니다.

<sup>1</sup> 국가인권기구 국제조정위원회 의장 & 남아프리카인권위원회 위원장

<sup>2</sup> 국가인권기구 국제조정위원회 의장 & 남아프리카인권위원회 위원장

## 개요

지역네트워크는 ICC의 중추와 같으며 이들 네트워크들이 ICC가 전적으로 지원하는 것이 중요합니다.

모든 지역 네트워크들이 서로 각자의 지역에 전적으로 참여(engage)할 수 있도록 하는 것이 저의 개인적인 목표입니다.

아랍-유럽 간 회담에서 얻은 경험이 말해주는 것과 같이, 역내 뿐만 아니라 지역 간 협력이 더욱 요구되고 있습니다.

국가인권기구들은 경험, 모범 사례 및 교훈을 공유할 수 있는 기회가 부여되어야 하며, 이들 기회를 충분히 활용할 수 있어야 합니다.

또한 ICC는 역내 국가인권기구 활동에 전적으로 동참해야 합니다.

ICC는 영향력, 신뢰성 및 실천성(viability)의 강화를 위한 구조를 개선할 수 있는 기회를 탐색해야만 합니다.

이를 이행하기 위해서 ICC는 지역 NHRI 체계와의 관계, 제도적 기억 및 정보의 축적과 이에 대한 회원의 접근용이성, 다른 인권 관련 당사자와 보다 견고하고 지속가능하며 상호이익적인 관계의 건설 등 세가지 주요 요소를 고려해야 합니다.

## ICC와 지역조정위원회

ICC와 그 지역기구 간의 관계에 있어서 짚어야 할 중요한 질문이 몇가지 있습니다.

예를 들어, ICC는 자 기관의 의제를 선전하는 데 있어서 지역조정위원회들을 어떻게 지원하였는가? ICC는 각 국가인권기구의 역량을 국내적, 지역적 그리고 국제적 차원으로 강화하기 위하여 지역네트워크를 효과적으로 지원하였는가? ICC가 지역적 선상에서 그 연관성을 유지하기 위해서는 역내 존재감을 강화해야 합니다.

지역네트워크는 이들이 직면하고 있는 도전과 변화 앞에서 그 견고함을 지킬 수 있어야 합니다. 그 도전과 변화란 현재 이집트, 아프가니스탄, 시리아 그리고 이라크에서 볼 수 있는 것들입니다. ICC 는 이들 국가에 소재한 국가인권기구들에 대하여 파리 원칙의 발효 및 강한 독립성 및 효과성을 보장할 수 있도록 지원해야 합니다.

강한 지역 네트워크는 인권침해 및 인권옹호가로서의 역량과 독립성을 저해하는 위협에 대응하는데 있어서 국가인권기구를 지원해줄 수 있는 ICC 의 역량을 강화해줄 것입니다.

대표 통솔 기구로서 ICC 는 국내적으로 발생하고 있는 중대한 인권침해 및 대규모 인권침해에 대한 정책과 활동범위를 설정해야 합니다.

ICC 와 지역네트워크 간의 연결고리 및 협력 강화는 UN 체계에서의 NHRI 의 지위를 위협하는 국가행위와 같은 제도적 위협에 대응할 수 있는 NHRI 의 역량을 확장시킬 수 있습니다.

ICC 는 국가들이 충분한 예산이 지원되고 파리원칙 준수 및 존중을 기반으로 한 강한 독립성을 가진 국가인권기구의 중요성에 대해 보다 확실히 인지할 수 있도록 하는 전략을 개발해야 합니다.

국가들은 파리원칙에 대한 인지도를 높이고 어떻게 하면 NHRI 의 활동을 위한 최적의 환경을 보장할 수 있을지 고려해야 합니다.

ICC 와 NHRI 의 역할과 UN 체계에 대한 기여를 알리기 위한 제 첫번째 캠페인으로서 지난 주 제네바에 주재한 아프리카 지역의 대사님들과 회동하였습니다.

비록 시간의 제약이 있었지만 저희들은 매우 유익한 논의를 할 수 있었으며, 앞으로 남아프리카 지역 뿐만 아닌 모든 지역 간의 회의와 대화로 이어질 것으로 봅니다.

그럼 잠시 시간을 내어 본 모임에서 제기된 중요한 쟁점 몇가지를 공유하고자 합니다.

## 제도적 기억의 설계 및 효과적인 정보 관리 시스템 개발

ICC가 지역네트워크, 국가인권기구 및 주요 이해당사자와의 협력을 강화하기 위해서는 우선 그 존재감이 강화되어야 합니다.

제도적 기억과 주요 제도 관련 정보에 접근할 수 있는 적절한 시스템이 없다면 ICC는 정기적으로 교류하고 있는 이들을 제외하고는 그 교류의 범위가 제한될 수밖에 없습니다.

ICC는 지난 20년간 소수의 NHRI와 시작해 현재 눈부신 성장을 통해 약 100개 이상의 NHRI와 함께 하고 있습니다. 하지만 ICC와 그 역사, 운영에 관한 실용적 경험 및 인권의 세계적인 보호 및 증진에 있어서 ICC의 중요성 등에 관한 최신 정보를 받는 것이 어렵습니다.

이러한 정보에 대한 접근이야말로 ICC의 연관성을 보장하는 데 중추적인 역할을 합니다.

ICC는 위원장이라는 개인으로부터 독립된 기관이어야 합니다. ICC의 성향은 ICC의장이나 다른 주요 직책을 맡고 있는 이들이 아닌, ICC 회원들의 종합적인 성향에 의해 판단되어야 합니다.

ICC가 제대로 성장하기 위해서는 네트워크 (ICC 지역)가 기반이 되어야 합니다. ICC 지역은 마찬가지로 강하고 독립적인 기관으로서 자 기관 뿐만 아닌 역내 NHRI들을 위해야 합니다.

리더십의 변화가 ICC 지역과 국내 ICC 기관의 기능성과 실행성에 그 어떠한 물결효과를 미쳐서는 안됩니다.

이러한 기반이 튼튼한 반석 위에 세워지게 되면 ICC는 그 존재감을 역내 소구역 및 지역사회, 특히 절망적인 빈곤에 시달리고 있는 지역 등에 확립하는 데 있어서 더욱 용이할 것이며, 이에 따라 접근이 용이해지고 불처벌되고 있는 다양한 인권침해로부터 보호할 수 있을 것입니다.

## 회원으로부터의 지원

ICC의 관련성은 그 회원들의 활동과 깊이 연관되어 있습니다.

ICC의 우선순위는 국가인권기구가 국내적으로 세운 우선순위를 반영할 수 있어야 하며, 이에 따라 지역적 선상에서 결정된 우선순위와도 일관성을 가질 수 있도록 해야 합니다.

국가인권기구는 최악의 경우 불처벌까지 목격할 수 있는 취약사회에 대하여 범해지는 인권침해를 막는데 있어서 선두자가 되어야 합니다.

국가인권기구들이 이를 달성하게 되면 보호받는 이들로부터 존경을 받게 될 것이며 앞으로 국가인권기구의 고결성을 여러 위협으로부터 지켜나가는데 있어서 지역사회라는 좋은 동맹을 얻게 될 것입니다.

이 이야기를 하니 덴마크인권기구가 그 권한의 제한 및 제재를 가하겠다는 외부 위협에 맞섰을 때의 일이 가장 먼저 제 머리에 떠오릅니다.

이 때 개인 및 NGO들로 구성된 덴마크인권이사회가 덴마크인권기구에 대한 전폭적인 지원을 보냈고, 이 덕분에 덴마크인권기구는 우리가 이렇게 모여있는 오늘날에도 왕성한 활동을 벌이며 현재까지 존속하고 있습니다.

이와 같이 다수, 특히 가난한 이들과 취약한 이들, 그리고 소외된 이들과 함께하면 여러분들께서는 절대로 무너지지 않을 것입니다.

ICC 총회는 국가인권기구의 활동을 반영하여 상당한 비용을 들이면서 본 총회에 참석하는 국가인권기구들에게 그 정당성을 보장할 수 있어야 합니다.

ICC의 전략적 방향 설정과 같은 의사결정과정은 포괄적이고 참여적인 방법으로 진행되어야 합니다.

따라서 저는 APF의 각 국가인권기구가 ICC의 3개년 전략계획에 전적으로 동참할 것을 권합니다.

본 전략계획안은 의견수렴을 위해 전 지역에 발부될 예정이며 2013년 11월에 있을 다음 ICC 집행이사회 회의에 반영될 것입니다.

보다 포괄적인 과정을 보장하고 회원들로 하여금 그 가치를 느낄 수 있는 기관으로서의 확립을 통해 ICC의 주요 수입인 회비 지불 등 ICC 회원들의 ICC에 대한 지원이 촉진될 것입니다.

ICC는 그 금전적 기반의 한계를 극복하기 위하여 회원들이 회비를 지불할 수 있도록 독려할 수 있도록 지역네트워크와 지속적으로 협력해나가야 합니다.

현재 연간 회비 지불의 연체 등으로 인하여 ICC는 장기적 계획을 수립하는데 한계가 있습니다.

예를 들어 ICC의 성장 및 세계적 인권체계의 발전 등에 따라 상주 직원 및 상설 ICC 사무국 설립에 대한 요구가 높아지고 있으나 안정적인 수입원의 부재로 인하여 단기적으로 보았을 때 이에 대한 미래는 불투명해 보입니다.

ICC의 권한과 목적의 발효를 보장하기 위하여 ICC 활동 지원을 위한 정부 로비 활동을 통한 수입원의 추가 등을 모색할 수 있을 것입니다.

이 기회를 빌어 ICC를 금전적으로 지원하고 있는 분들에 대하여 깊은 감사의 말씀을 전달하고 싶습니다. 저희들의 감사의 마음을 충분히 전달하지 못했다고 생각하는 바, 가나에서 있을 다음 ICC 집행이사회 회의에서 수년간 ICC를 지원해주신 국가들에 대한 감사를 전달할 수 있는 발의를 갖고자 합니다. 현재 발의내용에 대한 세부사항은 갖고 있지 않지만, 이에 대한 문맥과 배경에 대해서는 확실히 이해하고 있으며, 조만간 모든 ICC 회원에게 그 내용을 전달하도록 하겠습니다.

### **동반자관계의 수립**

ICC는 어떠한 이들과 강한 동반자 관계를 수립해야 할지에 관한 평가 및 모색을 계속해나가야 합니다.

ICC가 집중하고 노력을 기울여야 할 분야는 전직 국가인권기구 위원장님들, 위원님들 그리고 임직원 풀에 축적되어있는 방대한 지식과 기술을 습득하는 것입니다.

국가인권기구 분야 내에서 활동하는 이들 인권전문가들은 재임기간이 끝난 후에는 그 전문성에도 불구하고 그 접근이 단절되는 경우가 많습니다.

따라서 ICC 는 재임기간을 마치면서 중요한 인적자원이 될 수 있는 전직 ICC 의장님들, 국가인권기구 위원장님 및 위원님들의 지식과 전문성을 어떻게 활용할 수 있을지 신중하게 고려해야 합니다.

이들 집단은 지역네트워크 및 각 국가인권기구에 유익한 기여를 할 수 있습니다.

이전에 언급하였었고 지금 다시 말씀드리는 바 “ICC 는 상호신뢰와 존중, 고귀한 윤리적 행동의 보장 등의 공동의 목표의식을 기반으로 한 UN 체계 내에서 운영되는 인권기구입니다.”

이러한 천부적 특징은 ICC 의 모든 활동과 기능의 바탕입니다.

다른 기관들과 공조하면서 발생하는 부조화는 국가인권기구 간의 관계를 강화하고 응결시키는 건설적인 방법으로 해결해야 합니다.

ICC 는 인가/승인된 비정부인권단체(NGO) 및 국가인권기구의 독립성 및 특유성을 존중하고 특정 사안에 관한 공동의식을 갖고 있는 기타 행위자들과 강한 동반자 관계를 맺음으로서 인권의 보호 및 증진을 강화할 수 있습니다.

## 결론

끝으로 국가인권기구가 현재 직면하고 있는 도전은 다음과 같습니다.

국가적 이행기가 국가인권기구들의 신뢰성 및 독립성에 미치는 여파는 더 이상 낮은 개념이 아닙니다.

예를 들어 “아랍의 봄”의 경우 국가인권기구들이 인권을 보호하고 증진하는데 있어 그 역량을 넓힐 수 있도록 하였으나 동시에 파리 원칙 준수에 대한 영향 등 이행기에 발생할 수 있는 중대한 도전에 이들을 노출시켰습니다. 이는 ICC 에게도 어려운 문제입니다.

이와 함께 저는 앞으로 3 일간 진행될 이 토론의 장에서 파리 원칙을 효과적으로 준수하기 위한 방법을 포착할 수 있기를 기대합니다.

여기서 확실한 것은 회원국가와의 지속적인 연계를 통해 인권 보호와 증진을 위한 국가인권기구들의 역할이 전적으로 실현될 수 있도록 보장해야 한다는 것입니다.

ICC 와 국가인권기구들이 인권의 효과적인 보호 및 증진을 보장하기 위해서는 각자의 우선순위를 설정하고 효과적인 전략을 수립하는 것이 중요할 것입니다.

감사합니다.



INTERNATIONAL COORDINATING COMMITTEE OF  
NATIONAL INSTITUTIONS FOR THE PROMOTION AND  
PROTECTION OF HUMAN RIGHTS (ICC)

### OPENING REMARKS

The 18<sup>th</sup> Asia Pacific Forum for NHRIs Regional Meeting  
Doha, Qatar

By Adv M L Mushwana<sup>1</sup>

By Adv M L Mushwana<sup>2</sup>

**Your Excellencies**, Dignitaries, Distinguished guests, Colleagues from national human rights institutions, Ladies and gentlemen.

I extend my **sincere appreciation** to the

- Chairperson of the Qatar Human Rights Committee and Chairperson of the ICC's Sub-Accreditation Committee Dr Al-Marri,
- The Regional Chairperson of the Asia Pacific region, Professor Amara Ponsapich, of the National Human Rights Commission of Thailand
- the Asia Pacific Forum's (APF) secretariat headed by Kieren Fitzpatrick and his entire team and
- the membership of the APF for giving me the opportunity to address this 18<sup>th</sup> gathering of the APF regional network.
- A number of NHRI representatives here were also present at the recently concluded 8<sup>th</sup> Arab-European Human Rights Dialogue that was held in Copenhagen, Denmark and it is a pleasure once again to have an opportunity to interact with you.

---

<sup>1</sup> Chairperson, International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights & Chairperson, the South African Human Rights Commission

<sup>2</sup> Chairperson, International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights & Chairperson, the South African Human Rights Commission

I commend the APF for the work that it is doing within the region and look forward to identifying ways in which some of its work can be translated to the other regions.

### ***Introduction***

Regional networks are the backbone of the ICC and it is important that the networks are fully supported by the ICC.

It is a personal commitment that I gave you and all other regional networks to be fully engaged with what happens within the regional networks.

The experience at the Arab European Human Rights Dialogue meeting bears testimony to the need for greater collaboration not only within the networks but also across the networks.

NHRIs need to be provided with and take full advantage of the opportunities to share experiences, best practice and lessons.

The ICC also needs to be fully engaged with the work of NHRIs within their regions.

The ICC must explore the available opportunities to enhance its structures which would in turn increase its impact, credibility and viability.

In doing this the ICC needs to consider three key elements: its relationship with the regional NHRI structures; the need to develop its own institutional memory and information that is accessible to its membership and building stronger, and more sustainable and mutually beneficial relationships with other human rights stakeholders.

### ***The ICC and the Regional Coordinating Committees***

There are a number of important questions that need to be asked about the relationship between the ICC and its regional structures.

For example, how has the ICC assisted the regional coordinating committees in pushing forward the ICC agenda? Has the ICC effectively assisted the regional networks in enhancing the capacity of individual national human rights institutions at a domestic, regional and international level? For the ICC to remain relevant at the regional level, it must increase its presence in of its regions.

The regional networks have to be strong entities given the challenges and dynamics that they face, we need only think for instance about what is happening currently in Egypt, Afghanistan, Syria and Iraq. The ICC needs to support the NHRIs in these countries in a manner that gives effect to the Paris Principles and ensures their continued existence as strong independent and effective bodies.

Stronger regional networks will enhance the capacity of the ICC to respond to situations where national institutions require support during periods of conflict where there are significant instances of human rights violations and threats to their independence and ability to be human rights defenders.

As a representative umbrella body, the ICC needs to determine and define its voice and the extent of the actions that it may take where there are significant threats to human rights occurring at a domestic level and also in situations where gross violations of human rights are taking place.

Strengthening the links and cooperation between the ICC and the regional networks will also serve to enhance the capacity of NHRIs to respond to institutional threats brought about by State action that may negatively impact on the NHRIs accreditation status with the UN.

It is important that the ICC develops a strategy to create greater awareness amongst States about the importance of having a strong independent national human rights institution that is well funded and that this can be achieved through ensuring the adherence to and respect for the Paris Principles.

States need to be made more aware of the Paris Principles and what it takes to ensure that NHRIs operate in an optimal environment.

As part of my initial campaign to popularize the ICC and its NHRIS on the nature of their work and contribution with the UN system; I met with Ambassadors of the Africa Region based in Geneva on Monday last week.

We had a fruitful discussion and although time was somewhat limited this meeting opened up similar future meetings and dialogues not only with the South Africa group but to target all such groups from all of our regions.

Time permitting I plan to share with you some of the important points they raised during my next address in this Conference.

### ***Building Institutional Memory and Developing an effective Information Management System***

In order for the ICC to enhance its capacity to work closely with the regional networks, national human rights institutions and key stakeholders, it must be more visible and identifiable.

Without proper systems to ensure institutional memory and access to important institutional information, the ICC remains limited in its reach and relevance beyond those who interact regularly with its structures.

The ICC has grown exponentially in the past twenty years from a handful of NHRIs to over one hundred (100), yet it is difficult to access up to date information about the ICC, its history, practical experiences about how it works and the importance of its work in promoting and protecting human rights around the globe.

Access to this important information is key to ensure that the ICC becomes more relevant.

The ICC must exist as an institution that is independent of its Chairperson as an individual person. The character of the ICC must be judged by the character of the membership of the institution as a whole and not only by the character of its Chairperson or other office bearers.

In order for the ICC to grow as it should do, it must be underpinned by its Networks (ICC Regions). The ICC Regions must be equally strong, autonomous bodies that exist on their own in the name of and on behalf of their regional NHRIS.

Changes of leadership must not be allowed to have a rippling effect of the functionality and viability of the ICC Regions and indeed the National ICC itself.

Once these structures are built on solid grounds, it will then become easier to cascade their presence to sub-regions and the lowest spheres where our communities, some of whom are living in abject poverty, are located and would therefore have easy access to and be protected from any form of human rights violations (sometimes with impunity) that we are witnessing every day.

### ***Support from Membership***

The ICC's relevance is tied to the appreciation of its own membership of the work that it does.

The priorities of the ICC must speak to those priorities identified at the domestic levels by national human rights institutions and in turn must correlate to those identified at the regional levels.

NHRIS must become champions in defense against human rights violations that are committed against vulnerable communities and at worst of times; with impunity.

Once NHRIS do this, they will earn the respect of those it defend and thus win an ally in the form of communities who will one day stand up in defense of a NHRIS that may one day become threatened by powers that may be.

What immediately comes to my mind when talking about this is a recent situation when the Danish Human Rights Institution received threats that it would be closed or have its powers and mandate drastically reduced.

The Danish human rights Council, consisting of private individuals and Ngos came up in full support of the human rights institution that is alive with full vibrancy even today as we gathered here today.

Therefore once you are on the side of the majority and in particular the poor; the vulnerable and indeed the marginalized you will never be assailable in whatever manner.

The ICC General Meetings have to speak to the work of national human rights institutions to ensure that such important meetings can be justified given the high costs incurred by the NHRIs to attend these meetings.

The processes of decision making for instance in defining the ICC's strategic direction need to be done in an inclusive and participatory manner.

I therefore encourage each NHRI within the APF to be fully engaged with the development of the next 3-year Strategic Plan for the ICC.

The draft Strategic Plan will be circulated shortly to all regions for comments and will thereafter be tabled for discussion at the next ICC Bureau meeting in November 2013.

By ensuring greater inclusive processes and creating an institution that has value for its members; the ICC membership will be encouraged to support the ICC for instance through paying of subscription fees which is the primary source of income for the ICC.

It is important that the ICC continues to work closely with the regional networks to encourage members to pay their membership fees to safeguard and indeed beef up the ICC's limited financial base.

Currently due to the poor state in adherence to the payment of the annual membership fees, such as not all members paying and many paying the membership fees very late in the day, the ICC is limited in what it can do and in planning for the long term.

For instance, while the growth of the ICC and demands from an ever evolving global human rights system justify the establishment of a permanent ICC Secretariat including having several permanent staff, the lack of a stable financial source limits the prospects of this happening in the near future.

Additional sources of funding such as lobbying States to support the ICC's activities could perhaps be explored to ensure that the ICC gives effect to its mandate and purpose.

I never want to miss any opportunity to thank those states who continue to support the ICC financially. I do not think we have sufficiently thanked them and I hope to move a motion during the next ICC Bureau Meeting in Ghana thank those countries that have for many years been supporting the ICC. I do not have the details of this motion but once I am fully aware of the details, form and nature of such a meeting I will circulate it to all ICC members.

### ***Building Partnerships***

The ICC needs to assess and further explore which stakeholders it should build strong partnerships with.

One area in which the ICC needs to do more work and concentrate on, is harnessing the enormous knowledge and skills that exist in the pool of former NHRI chairpersons, commissioners and senior staff members.

This group of human rights experts within the field of national institutions remain ignored and unused and very often not being approached at all once their tenures comes to an end.

Therefore ICC needs to seriously consider how it could continue to benefit from the knowledge and expertise of former ICC Chairpersons or NHRIS Commissioners who could become important and valuable resource persons after their tenure to other NHRIs.

This group of persons has the potential to make a valuable contribution to the regional networks and individual NHRIs.

I have said before and I am saying it again that “The ICC is a human rights institution operating within the UN system which is built on a common vision of mutual trust and respect, and observance of high ethical conduct.

These intrinsic characteristics, I have just mentioned must permeate through all the activities and functions of the institution.

Any differences that may arise when working with other institutions need to be addressed in a manner that will strengthen and concretise our relationship as NHRIs among ourselves on the one hand and our relationship with our partners on the other.

The ICC can also enhance the promotion and protection of human rights by building stronger relationships and partnerships with accredited or recognised human rights non-governmental organisations (NGOs) and actors who share a common vision on particular issues and respect for the independence and unique nature of NHRIs.”

### ***Conclusion***

In conclusion, there are a number of challenges that NHRIs face.

The impact of transition on the credibility and independence of NHRIs is all too familiar.

The “Arab Spring” for instance has on the one hand opened up spaces for NHRIs to expand their promotion and protection role but on the other exposed the significant challenges that may arise in the face of transition especially the impact on compliance with the Paris Principles. It has also raised unanswerable questions for the ICC itself.

I look forward to the discussions that will take place over the next three days as we seek to identify ways to effectively address compliance with the Paris Principles.

What is clear is that there is still need to continue engaging with Member States to ensure that the role that NHRIs can play in promoting and protecting human rights is fully appreciated and realized.

For the ICC and for NHRIs it will be important that we define our priorities and develop effective strategies to ensure more effective promotion and protection of human rights.

I THANK YOU

● <주제 1> 발표문 - 니달 줄디(영문)

**UN Office of High Commissioner for Human Rights**

**'MENA NHRIs and societies in transition: opportunities and challenges'.**

**Nidal Jurdi<sup>1</sup>**

The Arab world has been witnessing historical developments calling for change and transition to democracy and rule of law for more than three years. Despite pitfalls and shortages, it is the voice of the people and the call for freedom and democracy. The Arab Spring has been embodied in popular revolutions; some witnessed a fast regime changes, while other have been passing into a Calvary trail.

This is the core challenge; the challenge of transition from tyranny to democracy; from dictatorship to rule of law; from impunity for human rights violations to accountability. After years of suppression and "divide to rule", the burden of societal reconciliation is a further heavy burden for the society to move forward.

With these realities in mind, Transitional Justice comes as a suitable vehicle for shifting from dictatorships to democracy and rule of law. For the UN; Transitional justice is the full range of processes and mechanisms associated with a society's attempt to come to terms with a legacy of large-scale past abuses, in order to ensure accountability, serve justice and achieve

---

<sup>1</sup> Ph D in International Criminal Law and Human Rights, National University of Ireland, UCC, Cork. Human rights Officer, UN OHCHR, Middle East Regional Office, Beirut.

reconciliation. It is a combination of judicial and non-judicial processes to move a society from conflict situation or tyranny to Rule of Law and Democracy.

Contrary to what some may think, **transitional justice is not a soft justice or a substitute of regular justice.** Transitional Justice delineates; the centrality of accountability through prosecution of gross human rights violations and grave breaches of international humanitarian law; it stresses on the pivotal right to truth for victims and community; it highlights the importance of setting reparation scheme for the affected individuals and society at large; it underlines the necessity for institutional re-building and vetting for establishing rule of law and guarantee non-recurrence.

Through this holistic approach, any transitional justice will have a meaningful sense to translate the demands of the people for change into sustainable outcomes. Therefore, Transitional justice focuses on **the process and the goal:** A process of inclusion and participation, and a goal for accountability, reconciliation, and democracy.

This holistic approach should be a societal self-driven process. Through that it can achieve accountability and truth and helps the society to reconcile with itself after periods of suppression, divisions, and tyranny.

In talking about societal ownership, the major challenge here is to identify who can be play the pivotal role in steering the process; the state executive? Can be – but what if the society has lost trust in the eyes of the public. Can the the civil society play such a role ?CSOs are partners, but not duty bearers. What is left? Either a separate process of establishing independent vehicles for transition to rule of law and democracy through finding truth, accountability, right to reparation, and institutional reform **or using the unique and pivotal role of which the NHRI** can play in transitional justices process. The NHRI has a

unique Independent role to play in the former option, but also a more crucial one in the latter too. According to the UN OHCHR Guidance Note on NHRI and TJ:

NHRIs are well placed to contribute to transitional justice processes through information gathering, documenting and archiving human rights abuses, conducting investigations, monitoring and reporting, cooperating with national, regional, hybrid or international judicial mechanisms, providing assistance to victims, ensuring respect for international standards, advising on legislative and institutional reforms, and conducting education and training on human rights and national reform efforts.

For instance, the **prosecution** for international crimes and gross human rights violations is a duty in international treaty and customary law. A status NHRIs enjoy the power to gather information and to investigate (para- judicially) violations and to advocate for prosecutions. In Morocco, the then Human Rights Consultative Council (now the National Human Rights Council) inquired into human rights violations and issued reports on cases of disappearances, but no prosecution has followed.

The CCDH requested the Minister of Justice to initiate proceedings against fourteen current and former government officials. The CCDH followed on that by asking the Parliament to form a commission of inquiry to investigate the crimes. In Lebanon, the draft law for the proposed NHRI empowers it –close to a *parties civiles* - to activate the public case for prosecution of gross violation. This is an important model for NHRIs to enjoy for transitional processes.

Furthermore, **the Right to Truth** is a legal right and a moral remedy to victims. The Human Rights Council emphasized its legality in Resolution 9/11, stressing that it stems from human rights treaties and obligations. The ICCPR, Art 2, delineates the duty of state to identify the perpetrators, and the right of the victims to identify the perpetrators. The NHRIs in observing the implementation

of ratified international treaties has a crucial role to play. In Morocco, it was the CCDH that conducted inquiries into human rights violations, and was instrumental in establishing the Equity and Reconciliation Commission that gathered information on missing persons. The CCDH was tasked to follow on the Equity and Reconciliation's recommendation using the facts collected. Fact finding reports has been conducted by many NHRI in Egypt, Palestine, and Jordan, albeit not in a transitional justice process context.

Also, The **Right to Reparation** is an established right in most international human rights law and international criminal law treaties. The recently adopted General Comment 3 on implementation of Article 14 of the Convention against Torture adopts a broad definition of reparation to include "restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition". It has a wide interpretation for what is reparation; building a school in a village that was deliberately deprived during suppression can be a suitable remedy. This is an example of what happened in Morocco during the hey days of suppression in the 70's. The CCDH recommended on that, and changes have taken place. Furthermore, in 2006 and 2007, around 23,500 victims received compensation checks. The CCDH also worked with the Government and State Social Welfare Bodies Fund to ensure that more than 2,000 victims of human rights violations received health insurance. The CCDH and its partners have worked to increase coverage so that more than 12000 people receive health insurance within a reparation package.

**Security sectors' vetting** is a logical outcome and is a need, stemming from the obligation for non-repetition of gross human rights violations. However, this should happen under the rule of law with independent judicial overview to avoid sliding to vengeance and exclusion of communities and groups.

In the same vein, the violations and crimes that occurred during the time of the tyrannical regimes in the Middle East are a reflection of the absence or weakness of institutions that can provide a proper check and balance over the executive and its security forces.

**Building institutions** is at the heart of transition to a democratic system. It is a guarantee for prevention of any retreat or slide to past practices and abuses. In Morocco, the CCDH issued recommendations for the harmonization of national law with Morocco's international human rights commitments. It recommended modifying the penal code so that it accurately reflects the contents of international human rights standards

There is no one model fit all for transitional justice, and any process should be a holistic societal self-driven process. However, again the question arises on **who** can be the locomotive to move forward with the process? Who should be involved? The answer for the latter is easy; all affected parties in the society. But for the former, if it is the NHRI, then what kind of NHRI can efficiently be tasked with that?

It is only the **independent NHRI – not only by its status A – but by the confidence of the public.** It is the public perception of independence, effectiveness, and pluralism that empowers the national institution to promote various components of transitional Justice. Through such guarantees, a Transitional Justice process becomes meaningful accountability, to the rights of the victims in truth and reparation, and for the society in guaranteeing rule of law and non-reoccurrence.

With that, the change in the Arab world can be meaningful and long lasting... not for the watching world... but more importantly to its own people.

● <주제 1> 발표문 - 윈 므라(영문)

✓ **The role of NHRIs in cooperation with the State and Civil Society, in working toward a peaceful transition to democracy\_ “Challenges and Opportunities in the Myanmar context” by Chairperson U Win Mra of Myanmar National Human Rights Commission  
2 October 2013, Ritz Carlton Hotel  
Doha, Qatar**

The MNHRC which was established by the government notification No. 34/2011 of 5 September 2011 with a mandate to promote and safeguard the fundamental rights of the citizens enshrined in the Constitution of the Republic of the Union of Myanmar completed the second year of its existence on 5<sup>th</sup> September 2013.

I would first of all like to state that it is the first time ever in the country's experience of establishing an independent national human rights institution which happened in tandem with the political, economic and social changes in the country.

One of the first tasks of the Commission was to give protection to the fundamental rights of the citizens guaranteed by the Constitution. In order to give this protection, the first major challenge was to create awareness among the people of the establishment of the Commission and to make them aware that they can send complaints concerning human rights violations to the Commission. The public had been informed of the establishment of the Commission through announcement in the newspaper by the government. On 6 October 2012, soon after its establishment, the Commission made an announcement in the newspaper on how complaints on human rights violations could be sent to the Commission.

Complaints began to reach the Commission in growing numbers after the announcement, for it had generated a great deal of interests and raised hopes for better enjoyment of their rights. In the first three months alone the Commission received more than a thousand letters of complaints. Due to a sustainable mechanism for addressing the complaints and assiduousness with which the Commission handled the complaints in daily meetings of the Commissioners, seeing to it that no complaint that fulfilled the requirements was left unattended, the interest of the public grew. In 2012, the Commission received a total of 2866 letters

of complaints and from the time of its inception till the end of August 2013, it has received 5025 complaints.

According to the present procedure for complaint handling, the government Ministries can be accessed only through the Office of the Union Government which has caused unnecessary delays due to the time spent in the process for transmitting to reach the Ministry concerned. The direct access would be more conducive to obtaining speedier results. In our Annual Report for 2012 to the President, we have recommended this approach. Apathetic response from the government side at the present juncture could also be attributable to the heavy nature of work of the Ministries, overburdened with policy matters especially during this time of rapid transition to democracy. The public on its part should not entertain excessive expectations to obtain immediate results to their complaints and to understand that the Commission can only help seek remedies through its advisory role which is complementary to that of the judiciary. It is the courts which must ultimately ensure that human rights are protected.

In the human rights training workshops conducted by the Commission with institutions and organizations such as the RWI and OHCHR, we would invite government officials to participate at the workshops for through them we could send a clear message to higher authorities that cooperation of the government is crucial for the success of the work of the Commission especially in areas such as complaints handling and that the Commission is not encroaching into the domain of the government ministries in referring complaints to them for remedial action.

One of the important functions of the Commission is to make field trips to conduct investigations concerning serious complaints of human rights violations, including the conflict areas. Visits by private organizations to conflict areas would not be normally allowed by the government. However, the requests from the Commission were invariably agreed to by the authorities and the Commission teams had visited many conflict areas such as the Kachin State, the Rakhine State, Chin

State, Lepadaungtaung Copper Mine Project, Sabetaung and Kyesintaung Mines in Salingyi Township of Sagaing Region.

The Commission issued statements regarding these trips in the newspapers containing specific recommendations. In order for these trips to contribute meaningfully toward the improvement of the situation, the Commission has to work in close collaboration with the local authorities concerned especially to have access to the troubled areas and to have logistic supports, keeping always in mind the independent role of the Commission. The Commission would always try to issue balanced statements conducive to having cooperation and understanding of all involved in the conflict. For example, in the statement we issued after our first trip to the Kachin State in December 2011, in addition to issues such as the IDPs, education and humanitarian needs, we touched on a very thorny issue of the removal of the land mines. Instead of naming names as to which side was responsible, the Commission simply urged the avoidance of the use of land mines which had caused grievous harm to innocent civilians. In another statement issued on 28 March 2013, the Commission stressed that demining is essential before rehabilitation tasks to enable the displaced persons to return to their homes and that armed groups, relevant domestic and foreign organizations should cooperate when demining is undertaken and that villagers should be educated on land mines. Similarly, the Commission strongly urged the armed groups, meaning both the government as well as the opposing forces to strive for restoration of security and stability to the region.

The Commission while welcoming the bold initiative of the President in instructing the Tatmadaw (Armed Forces) for the government military forces in the Kachin State not to engage in offensive operations against the KIA and observe a unilateral cease fire except in self defence, strongly urged the KIA to reciprocate in the same manner. Realizing that there was difficulty in the flow of humanitarian assistance, the Commission again urged in the Statement issued on 28 March 2013 to implement as a matter of priority the issue of humanitarian access and safe passage for humanitarian supplies in the peace talks. Today we learned that there have been

significant improvements in the situation regarding these crucial issues. The question of land mines is being addressed and dramatic developments have taken place in the peace process between the government and the KIA/KIO.

The most challenging task the Commission had undertaken was in the area of the release of the political prisoners.

Believing that the right to participation in the conduct of public affairs plays a crucial role in a democratic society, the Commission made appeals in a series of open letters to the President to consider the granting of amnesty to prisoners, including what the Commission referred to as “prisoners of conscience” who did not pose a threat to the stability of the State, to enable them to participate in the nation building task.

Today, thousands of prisoners, including prisoners of conscience have been released in batches. Some of the prisoners of conscience are taking part in the democratization process which is conducive for the national reconciliation process. Some have even been included as members in the Independent Commission established by the government to make inquiries into the problems that have arisen in the Rakhine State.

It may be pertinent to mention here that although the government earlier did not countenance the use of the term political prisoners for those arrested for engaging in political activities asserting that action was taken against them for violation of the laws of the land, the Commission’s ingenuity in mentioning this particular category of prisoners as “prisoners of conscience” in its open letters of appeal to the President gradually gained acceptance leading to their release and the government’s eventual recognition of their status as political prisoners.

Today, a Political Prisoners’ Scrutiny Committee has been established to examine the cases of the remaining political prisoners. The Secretary of the MNHRC is a member of this Committee. The President has stated his intention to release all the remaining political prisoners before the end of the year.

When the MNHRC was established one of the immediate challenges was the pressing need for dissemination of human rights knowledge to the people. The establishment of the Commission had created expectations among the people that its establishment would also give them opportunities for better enjoyment of human rights which had been denied in the past. At the same time, it was necessary for the people to know the basic norms of human rights before they can claim to enjoy it. It is also important that human rights should not be used to satisfy or promote one's own selfish interests.

The MNHRC set about engaging in activities to enhance the public awareness and knowledge of human rights. One of the first such activities undertaken by the Commission was to organize a workshop in collaboration with the UNICEF on "Enhancing Awareness of Child Rights and Human Rights Education in Schools and Community" attended by participants from government departments concerned, representatives from civil societies and officials from UNICEF. The workshop made recommendations as to how best these rights should be promoted.

The workshop recommended that education of human rights should be started at the elementary level and be included in the curriculum of the secondary and tertiary levels. Today, one and a half years after this workshop, we are gratified to learn that the teaching of human rights has been included in the curriculum of 4<sup>th</sup> and 5<sup>th</sup> grades by the Ministry of Education under the rubric of "civic and morality".

The importance of the need to raise human rights knowledge has spread to other institutions. The Commission has been invited to give lectures on human rights at the Central Institute of Civil Service at Phaunggyi, which is an institute for giving training to the civil servants of different levels; at the training workshops conducted by the Ministry of Home Affairs to train police officials; at the Basic Diplomatic Skill (BDS) training courses conducted by the Ministry of Foreign Affairs for the university graduates who would like to study basic skills in diplomacy; and also at the National Defence College, Nay Pyi Taw \_ an institution under the Ministry of Defence for training senior military officials.

With a view to wider dissemination of human rights norms, the Commission has translated the UDHR text from English into Myanmar language and its publication (English and Myanmar) done with the cooperation and funding of SIDA has been extensively distributed to the Ministries, members of the parliament, the State and Regional governments and to schools through the departments concerned of the Education Ministry.

In its recent engagement with the government, a team of Commissioners went to the administrative capital\_ Nay Pyi Taw and met with the Ministers/Deputy Ministers of five Ministries concerned to gather information about the communal conflicts that had taken place in some States and Regions with a view to contributing its efforts towards the government's endeavours to restore peace and tranquility and harmonious living.

Three separate teams composed of Commissioners visited towns and cities in Bago and Mandalay Regions and Lashio in the Northern Shan State where problems between the two communities had taken place. In these places the Commissioners would address a gathering of townspeople organized with the help of the local authorities, informing them about the functions of the MNHRC and educating them about the rights and freedoms set forth in the Universal Declaration of Human Rights and urging upon them to live in peace and harmony.

In engaging with the Parliament, our Commissioners have gone before the Bill Committees of the Amyotha Hluttaw (the Upper House) and the Pyidaungsu Hluttaw (the Lower House) at their requests to brief them on the various articles contained in the Human Rights Draft Law that has been submitted to the Parliament for consideration and enactment into law. In the drafting of the enabling law, the government stakeholders together with the legal experts from the APF, RWI and OHCHR were involved at every important stage of the process.

In view of the important role played by civil society in the field of human rights, the Commission has cultivated its relationship with civil society by inviting them to the Commission to engage in discussions with them to find out possible areas of

cooperation. As part of the activities to engage with the civil society these organizations were invited to the Commission to seek their views on the provisions of the enabling law that the Commission had drafted. The emerging role of the civil society in a democratic society has also been recognized by the President.

Their participations at the Workshop on Enhancing Awareness of Child Rights and Human Rights Education in Schools and the Community held in collaboration between the MNHRC and UNICEF in January 2012 at the Traders Hotel, Yangon; Seminar on Practices in Achieving Compliance with the Paris Principles on NHRIs held from 30-31 August 2012 at the Chatrium Hotel, Yangon, organized by MNHRC and OHCHR; Workshop for Civil Society held on 22 January 2013 at the Summit Parkview Hotel by OHCHR; Seminar on Human Rights Council Universal Periodic Review, held in Nay Pyi Taw by MNHRC and OHCHR on 13-14 June 2013, are clear indications of the increasing role of civil society on human rights issues.

This growing cooperation needs to be further intensified in the future, especially in areas which require submission of reports to the treaty bodies to which Myanmar is party. In the light of changing trends in the country's political scene, there are more NGOs and civil society that have emerged and it is learned that some are facing difficulties in getting their organizations registered due to procedural delays. The registration process should be made easier to enable NGOs and civil society to operate more freely and effectively in areas of their specialization.

The MNHRC, during the two-year period, has striven to make significant contributions to promoting and protecting human rights. The Commission has created public reliance on it to give vent to their human rights grievances through the complaint mechanism and has established a culture of respect for human rights. Through holdings of workshops in cooperation with the international human rights institutions concerned, visits of the Commission's teams to the States and Regions on human rights educational trips, and wide distribution of UDHR translated text in Myanmar language, we have been able to awaken interest and instill knowledge of human rights among all the stakeholders concerned. The Commission has also

contributed towards the release of the political prisoners by writing open letters to the President and working in close coordination with the authorities concerned. Through public statements of the field investigation trips and on some topical issues, the Commission has been able to create awareness among the public of the crucial issues the country is confronted with.

Despite these accomplishments, challenges remain. The main challenge being creation of greater awareness of human rights norms and understanding of principles regarding the roles and functions of NHRIs; the need to enhance cooperation with the State as well as intensifying relations with the emerging NGOs and the civil society in areas of common interest.

## ● <주제 2> 발표문 - 하스미 아감(영문)

APF Annual Meeting and Biennial Conference  
Doha, Qatar (1-3 October 2013)

SUHAKAM's Engagement with Police and Security Forces  
(2 October 2013, 2.00pm)

Mr Chairman, Distinguished Delegates, Ladies & Gentlemen

It is indeed a great privilege and honour for me to be invited to speak on this topic: "SUHAKAM's Engagement with Police and Security Forces."

Let me state at the outset that the Commission of Human Rights of Malaysia (which is popularly called "SUHAKAM" by its acronym) deals essentially with the Police and not the other Security Forces. Let me also add that because we have often been critical of the police for their infringements of human rights in the performance of their duties they have looked askance at us and considered the Commission as being unfriendly, even hostile to them; hence, our relationship with them has not been an easy one. This is really unfortunate as we do want them to be effective and be among the best police forces in the world.

1. SUHAKAM's engagement with the police is mainly in relation to 4 areas, namely:
  - i. Complaints handling
  - ii. Public inquiries
  - iii. Right to peaceful assembly
  - iv. Human rights training

### Complaints Handling

2. On Complaints Handling, as always, complaints about the police constitute the highest percentage of complaints received by SUHAKAM. These complaints relate to:
  - i. Inaction by the police – delays in acting on reports lodged to the police
  - ii. Use of excessive force – allegations that arrested persons were assaulted while in custody especially during interrogation to compel the detainees to admit to the wrongdoing.
  - iii. Abuse of power – unlawful arrests, intimidation, etc.
3. In our engagement with the Police, particularly in the context of training in the area of human rights, the Commission underscored the need for the police to emulate best practices of other police forces in the world and had made the following main recommendations:
  - i. non-use of force of any kind during interrogation, and to employ other techniques of investigation including forensic science;

- ii. more thorough investigations before arrests;
- iii. continuous training on best police techniques based on a more humane approach;
- iv. use of closed-circuit television cameras in interrogation rooms;
- v. medical examinations of detainees before and after interrogations; and
- vi. complaints against officers be properly investigated.

#### Public Inquiries

4. Now, on Public Inquiries, to date, SUHAKAM has conducted nine public inquiries. Seven of them focussed on allegations of the excessive use of force by the police during public assemblies. The most recent public inquiries were in relation to the allegation of use of excessive force by enforcement officers, specifically the police, during July 2011 and April 2012 Public Assemblies (the so-called BERSIH 2 and BERSIH 3 assemblies respectively).
5. Many of the findings and recommendations derived from the public inquiries are similar, such as: unprofessional conduct; not assisting in crowd control, use of disproportionate force; suppressing freedom of expression, including rough handling of journalists;
6. With respect to peaceful assemblies, the Commission had made a number of recommendations, such as:
  - i. The need for the Police to facilitate rather than making it difficult for the holding of these assemblies;
  - ii. The need for the police to make a distinction between a peaceful assembly and a riot;
  - iii. The need for the police to review and amend their Standard Operating Procedure (SOP) Standing Orders in the dispersal of assemblies in accordance with international human rights standards such as Universal Declaration of Human Rights (UDHR) and other international human rights instruments;
  - iv. The need for the authorities to act professionally, impartially and fairly at all times in the discharge of their duties and responsibilities.
7. However, in spite of these findings, SUHAKAM finds that the implementation of these recommendations by the police is lacking. At a recent Roundtable Discussion with stakeholders, including the police, to follow up on the recommendations of the public inquiries, we found the police to be very defensive and not open to new ideas.

They keep stressing on the uniqueness of Malaysia as a multi-racial, multi-religious country and hence, the importance of retaining existing laws for the maintenance of law and order and public security.

On Human Rights Training for the Police,

8. SUHAKAM conducts human rights training to enforcement officers, particularly the police, on a regular basis. Among the training programmes organised are:
  - i. Human Rights Training for the Criminal Investigation Department (CID) Chiefs nationwide;
  - ii. Human Rights training for officers-in-charge of police stations;
  - iii. Training for new recruits – most new recruits have scant human rights knowledge;
  - iv. Development of human rights training modules for the police;
  - v. Development of a human rights curriculum to be incorporated into police training programmes – the curriculum has been submitted to the police for their consideration and adoption; and
  - vi. Talks on human rights, including on best human rights practices by enforcement officers.
9. SUHAKAM's training sessions cover the following aspects:
  - i. Basic understanding of the concept of human rights;
  - ii. International human rights law, with focus on CAT, ICCPR and conventions to which Malaysia is party (CEDAW, CRC and CRPD);
  - iii. Code of conduct for enforcement officers, in relation to arrests, detention, use of force and firearms, interrogation and investigations.

In the realm of Public Assemblies, there have been a number of positive developments:

10. SUHAKAM welcomes these positive developments, such as the repeal of those provisions in the Police Act requiring a police permit before a public assembly can be held. [Sections 27, 27A and 27B of the Police Act]
11. The Commission also welcomes the Public Assembly Act (PAA), which came into force in April 2012, leading to the following changes, such as, among others:

- i. - doing away with the police permit, but requires notification to be given to the police 10 days ahead of the assembly.
  - ii. - however, the new Act incorporates new provisions that give the police discretion to impose conditions, which could potentially undermine the right to peaceful assembly. These discretionary powers may inhibit rather than facilitate the assemblies.
- 12. SUHAKAM has called for a review of the Public Assembly Act so as to ensure that the right to freedom of peaceful assembly is not undermined by the discretionary powers of the police.
- 13. SUHAKAM strongly believes that the police should play a role in facilitating public assemblies. They should ensure the smooth running and security of the assemblies and focus on certain aspects such as:
  - i. maintaining a discreet presence, focussing on minimizing disruption to traffic and commercial life, and ensuring free movement of other users of public spaces, and maintaining neutrality in dealing with different groups of demonstrators.
  - ii. Riot police may be on standby but should remain out of sight so as not to intimidate or provoke.

## Challenges and Observations

Let me conclude with some remarks on Challenges and Observations:

- 14. The role of the police in maintaining public order and security is well appreciated by the general public. However, there is a perception that the approach taken and procedures used in discharging their duties are questionable. This perception needs to be addressed to instil public confidence in the police, which is very much lacking at the moment.
- 15. SUHAKAM finds that while the training sessions have enhanced the police's awareness and understanding of human rights, in practice, these human rights standards are not generally observed as they are not well absorbed or integrated into the general conduct of the police who will ultimately follow the orders of their superiors.
- 16. Based on our dialogues with Police Officers at all levels, including their top leadership level, they see themselves as "enforcers of the law". In other words Their actions will be based on the provisions of existing laws. If existing laws do not incorporate human rights standards, chances are that these standards will not be complied with. Based on this attitude, SUHAKAM finds that harmonizing domestic legislation with

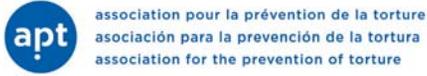
human rights principles and standards is crucial in addressing such attitude of the police.

17. A lot of Malaysia's laws are security-oriented, largely out of the country's experience of fighting against Communist insurgency for 12 years in the late 1940's and 1950's. The police have been accustomed to such laws, which are not human rights compliant. Therefore, after the Internal Security Act (ISA) and the Emergency Ordinance (EO) were repealed in 2012, the police found it more difficult to fight crime leading to the increase in crime rate in the country. The Ministry of Home Affairs is now calling for amendments to the Prevention of Crime Act (PCA), to include provisions that allow for detention without trial. The amendment Bill is currently being tabled in Parliament but is opposed by human rights groups, including SUHAKAM.
18. The police also do not feel obliged to observe human rights standards that are provided under treaties which Malaysia are not party to. It is very difficult to convince the police to comply with provisions of international human rights treaties when they are aware that Malaysia is not party to such treaties. In this regard, there is a need for political will to accede to the core human rights instruments so that the police force will recognize their obligation to comply with the provisions of those treaties.
19. The principle of the presumption of innocence until proven guilty is not embraced by a large portion of the police force. Rather, it is more likely that the police would presume that those arrested are guilty until proven innocent. This mindset leads to the ill-treatment and use of excessive force to those arrested even before they are proven guilty.
20. The Commission is of the opinion that police officers in their investigatory capacity play a critical role in the judicial process. The detection of crime through investigation and gathering of evidence is the first step in the judicial process that can subsequently lead to successful conviction and punishment of criminals. The right to a fair trial and the presumption of innocence should form the basis for investigating every crime.
21. A lawful and ethical investigation can protect the right to a fair trial, but an unlawful or unethical investigation can subvert that right even before the trial commences. There are also practical reasons for proper investigation to avoid the possibility of a conviction being lost because of procedural 'shortcuts' by the police.
22. After conducting visits to several police stations, SUHAKAM also finds that the police are under resourced, in terms of both facilities and manpower. The offices are in poor condition and lack the necessary facilities, such as furniture and printers, etc. This leads to a very negative working environment and unmotivated officers. The number of cases that need to be investigated by the investigating officers are also

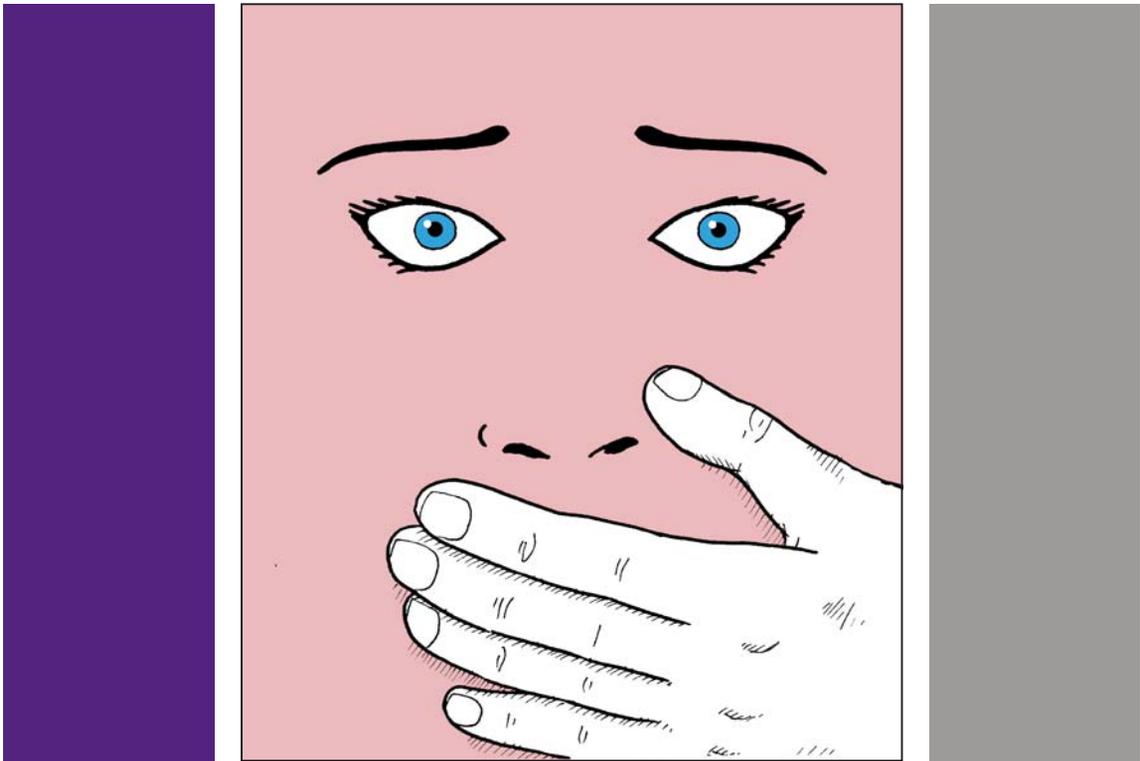
overwhelming. Officers would then be tempted to use ‘shortcuts’ in completing their investigations.

Thank you for your attention.

● <주제 2> 참고자료 - 여성수감자 APT 가이드(영문)



**Women in detention:**  
a guide to gender-sensitive monitoring





---

## Contents

---

|            |  |           |
|------------|--|-----------|
| <b>I</b>   | <b>Introduction</b>  | <b>3</b>  |
| <b>II</b>  | <b>Why should monitoring bodies look at this issue?</b>                                    | <b>5</b>  |
| <b>III</b> | <b>Concepts</b>  | <b>6</b>  |
|            | 1. Gender and gender mainstreaming   | 6         |
|            | 2. Discrimination and violence against women   | 6         |
| <b>IV</b>  | <b>Risk factors and measures to reduce risk</b>  | <b>8</b>  |
|            | 1. Certain contexts which heighten risk  | 8         |
|            | a. Societal context  | 8         |
|            | b. Legislative context   | 8         |
|            | 2. Certain times that heighten risk  | 9         |
|            | a. Police custody and pre-trial detention  | 9         |
|            | b. Transit   | 9         |
|            | 3. Certain policies and practices that heighten risk or cause physical or mental suffering | 10        |
|            | a. Inadequate safeguards and assessments on admission                                      | 10        |
|            | b. The nature and scope of medical examinations  | 10        |
|            | c. Not separating male and female prisoners  | 11        |
|            | d. Supervision by male staff/ mixed gender staffing  | 12        |
|            | e. Searching policies and practices  | 12        |
|            | f. Solitary confinement/ disciplinary segregation  | 13        |
|            | g. The inappropriate and unjustified use of restraints                                     | 14        |
|            | h. Inadequate provision for gender specific hygiene, sexual and reproductive healthcare    | 15        |
|            | i. Inadequate provision for family contact   | 16        |
|            | j. Inappropriate decisions to separate dependent children from their mothers in prison     | 17        |
|            | k. Detention for protection  | 17        |
|            | 4. Certain categories of women who are at heightened risk                                  | 18        |
|            | a. Girls   | 18        |
|            | b. Victims of human trafficking and sex workers  | 18        |
|            | c. Women with mental healthcare needs  | 19        |
|            | d. Other groups that are at heightened risk  | 19        |
| <b>V</b>   | <b>What qualities do monitoring bodies need to engage in this issue?</b>                   | <b>20</b> |
|            | <b>Recommended further reading</b>   | <b>20</b> |

---

### Women in detention: a guide to gender-sensitive monitoring

Penal Reform International and the Association for the Prevention of Torture (APT) would like to thank Tomris Atabay for authoring this paper.

This paper has been produced under Penal Reform International's project *Strengthening institutions and building civil society capacity to combat torture in 9 CIS countries*, in partnership with the Association for Prevention of Torture (APT) and with the financial assistance of the UK Government and the European Union under the European Instrument for Democracy and Human Rights (EIDHR).

The contents of this document are the sole responsibility of Penal Reform International and can in no circumstances be regarded as reflecting the position of the European Union or the UK Government.

This publication may be freely reviewed, abstracted, reproduced and translated, in part or in whole, but not for sale or for use in conjunction with commercial purposes. Any changes to the text of this publication must be approved by Penal Reform International. Due credit must be given to Penal Reform International and to this publication. Enquiries should be addressed to [publications@penalreform.org](mailto:publications@penalreform.org).

Cover illustration by John Bishop, based on an original illustration by Yara Kassem.

Penal Reform International  
60–62 Commercial Street  
London E1 6LT  
United Kingdom  
Telephone: +44 (0) 20 7247 6515  
Email: [publications@penalreform.org](mailto:publications@penalreform.org)  
[www.penalreform.org](http://www.penalreform.org)

Association for the Prevention of Torture  
PO Box 137  
CH-1211 Geneva 19,  
Switzerland  
Telephone +41 (22) 919 21 70  
Email: [apt@apt.ch](mailto:apt@apt.ch)  
[www.apt.ch](http://www.apt.ch)

ISBN 978-1-909521-03-2

© Penal Reform International 2013

**Penal Reform International** (PRI) is an international, non-governmental organisation, working on penal and criminal justice reform worldwide. It aims to develop and promote international standards for the administration of justice, reduce the unnecessary use of imprisonment and promote the use of alternative sanctions which encourage reintegration while taking into account the interests of victims. PRI also works for the prevention of torture and ill-treatment, for a proportionate and sensitive response to women and juveniles in conflict with the law, and promotes the abolition of the death penalty. PRI has regional programmes in the Middle East and North Africa, Central and Eastern Europe, Central Asia and the South Caucasus. It has Consultative Status at the United Nations Economic and Social Council (ECOSOC) and the Council of Europe, and Observer Status with the African Commission on Human and People's Rights and the Inter-Parliamentary Union.

To receive our monthly newsletter, please sign up at [www.penalreform.org/keep-informed](http://www.penalreform.org/keep-informed).

## I Introduction

This paper is addressed to monitoring bodies responsible for the external scrutiny of places of deprivation of liberty. It outlines the risks faced by women deprived of their liberty of being subjected to torture and ill-treatment and measures that can be taken to reduce such risks. The main focus of the paper is the situation of women in detention in the criminal justice system, though the discussion is in many cases equally relevant to women deprived of liberty in other contexts, such as psychiatric institutions and immigration detention facilities.

The paper focuses only on women. It does not include a discussion of the risks faced by men who may also be subjected to gendered violations, especially men who are perceived not to conform to socially accepted gender roles,<sup>1</sup> due to their sexual orientation or gender identity. An examination of the particular risks faced by lesbian, gay, bisexual and transgender (LGBT) persons deprived of their liberty, in general, is not developed in this paper, as it is felt that this topic requires a separate discussion. The paper also does not include a discussion of the risks women face in the private sphere or in the community, though the links between the wider context and places of deprivation of liberty is referred to as relevant, due to the intricate relationship between the two spheres. It is hoped that, in this way, the paper will contribute to the development of a holistic understanding of the issues that need attention.

The adoption of the UN Rules on the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules)<sup>2</sup> represents an important step forward in recognising the distinct gender specific needs of women in the criminal justice system and introducing safeguards to respond to women's risk of ill-treatment and torture. The Bangkok Rules provide a key reference point for monitoring bodies in fulfilling their responsibilities in relation to women in detention.<sup>3</sup>

While detention centres holding asylum-seekers and other immigration detainees are not covered by the Bangkok Rules, many of the rules are also highly relevant to those settings. For example the UNHCR guidelines contain specific references to women asylum-seekers in detention, referring to the provisions of the Bangkok Rules.<sup>4</sup>

Monitoring bodies, while using the Bangkok Rules as a reference point for their work, should also be aware that the risks faced by women in prisons<sup>5</sup> is often a reflection of a wider lack of understanding, prejudicial attitudes and discriminatory practices in society. As noted in the preamble of the Updated Model Strategies and Practical Measures on the Elimination of Violence against Women in the Field of Crime Prevention and Criminal Justice: "Violence against women is often embedded in and supported by social values, cultural patterns and practices. The criminal justice system and legislators are not immune to such values and thus have not always regarded violence against women with the same seriousness as other types of violence....."<sup>6</sup>

Thus, the high risk women face of ill-treatment and torture in places of deprivation of liberty is not an issue that can be resolved only by focusing on those places. The root causes of women's vulnerability in detention are often to be found outside the prison walls, though such vulnerability is intensified significantly in places of deprivation of liberty.

In addition to the particular vulnerability of women to torture and ill-treatment, especially gender based violence, women also have gender specific needs, which are rarely met in places of detention (e.g. special healthcare needs) or which are exacerbated dramatically by the mere fact of detention (e.g. women may be abandoned by their families once imprisoned, due to the stigma associated with women's imprisonment). The children of women prisoners represent an additional consideration in this

1 See CAT General Comment No. 2, CAT/C/GC/2, 24 January 2008, para. 22

2 Adopted by the UN General Assembly on 21 December 2010, A/RES/65/229

3 SPT had referred to the Bangkok Rules in a number of its country reports, recommending the States concerned to ensure that protection measures and conditions of detention in the country's prisons are compatible with the Bangkok Rules. See for example CAT Report on Sri Lanka, 8 December 2011, CAT/C/LKA/CO, para. 14; CAT Report on Belarus, 7 December 2011, CAT/C/BLR/C/O/4, para. 20

4 UNHCR, Guidelines on the Applicable Criteria and Standards relating to the Detention of Asylum-Seekers and Alternatives to Detention (2012), Guideline 9.3, p. 37. <http://www.unhcr.org/505b10ee9.html>

5 Where the word "prison" is used, it is used to refer to all detention facilities, including police lock-ups, pre-trial detention facilities and prisons where sentenced prisoners are held.

6 A/RES/65/228, Annex, para. 3

context, taking into account that women are usually the primary carers of children and immense harm can be caused to dependent children, both if they are separated from their detained mothers or imprisoned with them. As such, there has been increasing recognition of the need to take into account the best interests of such children and to give preference to alternatives to detention and imprisonment in the case of women who are pregnant and mothers with dependent children, in line with the Bangkok Rules.

In specific circumstances the lack of attention to women's gender specific needs can be considered to amount to cruel, inhuman or degrading treatment or punishment or can evolve into cruel, inhuman or degrading treatment. The Subcommittee on Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (SPT) has specifically stated that "The scope of preventive work is large, encompassing any form of abuse of people deprived of their liberty which, if unchecked, could grow into torture or other cruel, inhuman or degrading treatment or punishment."<sup>7</sup> The SPT recommends that this broad approach is also reflected in the work of National Preventive Mechanisms (NPMs).<sup>8</sup>

The mandate of NPMs require that they examine regularly the treatment of persons deprived of their liberty, with a view to strengthening their protection against torture and other cruel, inhuman

or degrading treatment or punishment. NPMs are mandated to make recommendations to the relevant authorities with the aim of improving the treatment and conditions of persons deprived of their liberty and to prevent torture and other cruel, inhuman or degrading treatment or punishment, taking into consideration the relevant norms of the United Nations, and to submit proposals and observations concerning existing or draft legislation in this context.<sup>9</sup> It is important to underline that visits to places of detention enable NPMs to gain first-hand information, but they only constitute the first step of a holistic preventive strategy. In order to contribute to sustainable improvements NPMs are expected to go beyond the facts found in places of detention to try to identify possible underlying causes of the challenges faced.<sup>10</sup>

This paper aims to assist all monitoring bodies, and in particular NPMs, to ensure that their activities include gender-specific considerations, by outlining the particular risks women face of being subjected to torture or ill-treatment, the particular circumstances that increase such risks and what measures can be taken to prevent the torture and ill-treatment of women in all places of detention. Monitoring bodies are encouraged to use this paper in mainstreaming a gender perspective into their monitoring activities and in preparing thematic reports or reviews on women in detention.

7 SPT, First annual report, (February 2007 to March 2008), CAT/C/40/2, 14 May 2008, para. 12

8 Optional Protocol to the UN Convention against Torture Implementation Manual, Revised Edition, Inter-American Institute for Human Rights (IHR), Association for the Prevention of Torture (APT), (2010) p. 28 [http://www.apt.ch/content/files\\_res/OPCAT%20Manual%20English%20Revised2010.pdf](http://www.apt.ch/content/files_res/OPCAT%20Manual%20English%20Revised2010.pdf)

9 Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT), Article 19

10 OPCAT Implementation Manual, Revised edition, op. cit. p. 234

---

## II Why should monitoring bodies look at this issue?

---

The particular risks women face of ill-treatment and torture in detention has received limited attention to date. Efforts to reduce violence against women usually focus on the private sphere or the community, with less attention being given to gender based violence encountered by women deprived of their liberty. While torture and ill-treatment in detention, in general, has been an area of great concern, the gender-specific angle of the topic has not been adequately discussed or explored.

The Committee against Torture, in its General Comment No. 2, has underlined the lack of information in State reports on the implementation of the Convention with respect to women, and has emphasised that gender represents a key factor in torture prevention.<sup>11</sup>

Monitoring bodies can play an important role in filling this gap and encouraging their governments

to do so as well. They can do this by assessing the risk factors in the places where women are held, the safeguards, if any, which have been put in place by authorities and by making recommendations to their governments and all relevant key actors, in line with the provisions of the Bangkok Rules, to improve the protection of women against ill-treatment and torture.

In examining the risks women face, and within a holistic understanding of their prevention work, monitoring bodies can also go beyond the facts found in places of detention to try to identify possible root causes of problems. A problem encountered during a visit to a place of detention may be the result of external factors and it is therefore essential for monitoring bodies to also analyse the legal framework, criminal justice policies and practices.<sup>12</sup> Some examples of such an approach are provided in this paper.

---

11 CAT/C/GC/2, 24 January 2008, para. 22

12 Optional Protocol to the UN Convention against Torture Implementation Manual, Revised Edition, op. cit. p. 235

---

### III Concepts

#### 1. Gender and gender mainstreaming

WHO describes “gender” as the socially constructed roles, behaviours, activities, and attributes that a given society considers appropriate for men and women.<sup>13</sup> While a person’s sex as male or female is a biological fact, which is the same in any culture, what that sex means in terms of a person’s gender role as a ‘man’ or a ‘woman’ in society can be quite different cross culturally.<sup>14</sup> In sociological terms ‘gender role’ refers to the characteristics and behaviours that different cultures attribute to the sexes.<sup>15</sup>

Inequalities based on gender are prevalent in all societies to different degrees, with women enjoying less power than men in most spheres of life. This unequal balance of power is exacerbated in societies where other factors, such as religious or cultural norms, assign women a lesser status. Such power imbalances and social or cultural attitudes or beliefs are most often intensified in closed environments, which mirror the outside society in a way which is all the more pronounced.

The term “gender mainstreaming” originated in United Nations policy language in 1997 when the Economic and Social Council of the UN (ECOSOC) agreed that ‘Mainstreaming a Gender Perspective into all Policies and Programmes of the United Nations System’ be performed. The Council defines gender mainstreaming as:

‘Integration of gender concerns into the analyses, formulation and monitoring of policies, programmes and projects, with the objective of ensuring that these reduce inequalities’<sup>16</sup>

The concept of gender mainstreaming is of key importance when applied to policies and programmes in places of deprivation of liberty. In these closed environments, where societal attitudes and power

structures are reflected in an intensified way, women’s powerlessness and sense of powerlessness is increased. At the same time, perhaps paradoxically, women’s gender specific needs are recognised to an even lesser extent than in society at large, due to the fact that places of deprivation of liberty, and in particular places of detention, are male dominated worlds with little recognition and understanding of gender related needs, with the exception, perhaps, of those needs which relate to child-birth and pregnancy.

Promoting gender mainstreaming in places of deprivation of liberty is a long-term process, which involves not only changing the attitudes, policies and practices in these places, but also in wider society, in order to achieve durable change. Nevertheless, changing specific laws, rules, policies, procedures and practices can have a real and immediate impact on the protection of women from torture and ill-treatment.

#### 2. Discrimination and violence against women

The Convention on the Elimination of Discrimination Against Women (CEDAW), Article 1 describes the term “discrimination against women” as “any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.”

The most extreme form of discrimination faced by women is gender-based violence, that is, “violence that is directed against a woman because she is a woman or that affects women disproportionately. It includes acts that inflict physical, mental or sexual

<sup>13</sup> <http://www.who.int/gender/whatisgender/en/>

<sup>14</sup> Ann-Maree Nobelius (23 June 2004). “What is the difference between sex and gender?”. Monash University. <http://www.med.monash.edu.au/gendermed/sexandgender.html>. Retrieved May 10, 2012.

<sup>15</sup> Ann-Maree Nobelius (23 June 2004). “What is the difference between sex and gender?”. Monash University. <http://www.med.monash.edu.au/gendermed/sexandgender.html>. Retrieved May 10, 2012.

<sup>16</sup> E/1997/66, 12 June 1997

harm or suffering, threats of such acts, coercion and other deprivations of liberty.”<sup>17</sup> Gender-based violence amounts to ill-treatment and depending on the circumstances and nature of the violence, to torture. One of the gravest forms of gender based violence is rape.

Women may be subjected to rape in places of deprivation of liberty as a means of coercion to elicit confessions, to humiliate and dehumanise them or merely to use the opportunity of their absolute powerlessness. Rape may also take place in the form of sexual services which women prisoners are forced to provide in return for access to goods and privileges or for enjoying their most basic human rights. In addition, sexual abuse of women by male prisoners may take place, sometimes with the complicity of prison guards.

It is widely recognized, including by Special Rapporteurs on Torture and by regional jurisprudence, that rape constitutes torture when it is carried out by or at the instigation of or with the consent or acquiescence of public officials.<sup>18</sup> The International Criminal Tribunal for the former Yugoslavia decisions also recognise rape and other forms of sexual violence as torture when certain criteria are met.<sup>19</sup>

Women who are raped not only have to overcome the trauma and confront the potential pregnancy and other health consequences caused by this violent act, but also the shame which is associated with the act and the additional stigma which women who have been raped face in many societies, and especially those where discrimination against women is pervasive, due to cultural, traditional or religious norms. Many women who are raped in detention choose not to report their cases for this and other reasons, such as the lack of appropriate responses by the authorities to their complaints, as well as the fear of retaliation.

Custodial violence against women encompasses many acts, in addition to rape. These include threats of rape, touching, insults and humiliations of a sexual nature, using mechanical restraints on women in labour and virginity testing, among others. Other practices may amount to ill-treatment depending on the manner in which they are carried out, why they are carried out and their frequency. These practices are covered in more detail in Part IV.

Women are usually discriminated against in prisons also in many other ways, both due to their gender, as well as due to the fact that they constitute a minority in all prison systems of the world, making up between 2 and 9 per cent of the general prison population in the large majority of countries.<sup>20</sup> Thus, their distinctive needs are usually not taken into account in policy formulation and programme development and their special safety requirements are frequently ignored. While more attention may be given to their needs in prisons allocated exclusively to women, the lack of attention, at headquarters level, to strategies, policies, programmes and corresponding budgets, aiming to respond to women’s gender specific needs, are still largely reflected in such prisons. In addition, prisons which hold only women are generally located far away from the women’s homes, due to the small number of women prisoners. Therefore one of the primary needs of women – that of the maintenance of family links – is severely compromised.

Discrimination in accessing gender specific programmes and services and maintaining family links does not always constitute ill-treatment, but in certain circumstances such discrimination may evolve into ill-treatment.

17 CEDAW General Recommendation No. 19, para. 6

18 A/HRC/7/3, 15 January 2008, para 34. See also *Prosecutor v. Zdravko Mucic aka "Pavo", Hazim Delic, Esad Landzo aka "Zenga", Zejnil Delalic (Trial Judgement)*, IT-96-21-T, International Criminal Tribunal for the former Yugoslavia (ICTY), 16 November 1998, paras. 480 to 493 for a detailed discussion of rape as torture and the international and regional bodies which have described it as such, available at: <http://www.unhcr.org/refworld/docid/41482bde4.htm> [accessed 1 October 2012]

19 *Prosecutor v. Zdravko Mucic aka "Pavo", Hazim Delic, Esad Landzo aka "Zenga", Zejnil Delalic (Trial Judgement)*, IT-96-21-T, International Criminal Tribunal for the former Yugoslavia (ICTY), 16 November 1998, para 496. It is important to note that the internationally accepted definition of rape does not restrict the act of rape to penetration by the sexual organ. See *ibid*, para. 478, available at: <http://www.unhcr.org/refworld/docid/41482bde4.html> [accessed 1 October 2012]; Crimes of sexual violence that can be prosecuted as rape in international criminal tribunals include oral sex and vaginal or anal penetration through the use of objects or any part of the aggressor’s body. See A/HRC/7/3, 15 January 2008, para 35

20 UNODC, *Handbook for Prison Managers and Policymakers on Women and Imprisonment*, 2008, p. 2

## IV Risk factors and measures to reduce risk

Women are at heightened risk in certain contexts, at certain times and as a consequence of certain policies, practices and conditions in places of detention. In addition, certain categories of women are particularly vulnerable. Some of the key factors that represent particular risks for women are discussed below.

### 1. Certain contexts which heighten risk

#### a. Societal context

Firstly, it is important to reiterate that the values and attitudes in society are reflected in prisons, which are microcosms of the outside world, made up of people who are part of that same society, sharing the same culture, values and prejudices. As the former Special Rapporteur on Torture has noted, a society's indifference to or even support for the subordinate status of women, together with the existence of discriminatory laws and a systematic failure to bring perpetrators to justice and protect victims, create the conditions which increase women's risk of being subjected to physical and mental suffering<sup>21</sup> in all spheres of life, including in prisons.

A typical example of such a societal attitude is when, in some countries, women who report violence to the police are often returned home without any action, because domestic violence is regarded as a family problem by society, including law enforcement officials. Where an investigation does take place States often fail to provide justice to victims, due to ineffective and unfair investigation mechanisms and deeply engrained attitudes that regard domestic violence as a private matter. Often victims are re-victimised, by the nature and methods of investigations.

In a society where such attitudes and prejudices exist, where perpetrators routinely avoid being held accountable for their acts, and where this is regarded as normal, in places of deprivation of liberty, where

the vulnerability of women is all the more acute and even minimal social controls absent, women are at heightened risk of ill-treatment and torture, including specifically gender-based violence.

#### b. Legislative context

A range of laws, including those not directly related to detention, have a significant impact on the risks women face. These may include: criminal and criminal procedure laws which discriminate against women<sup>22</sup> or which do not allow courts to take into account women's background and circumstances sufficiently in deciding pre-trial detention or sentences;<sup>23</sup> anti-human trafficking laws, which do not provide sufficient protection for victims and even require their prosecution and imprisonment, leading to secondary victimisation; legislation and rules governing prisons, which do not provide for the gender specific needs of women; laws on illegal migrants or asylum seekers, which pave the way to the routine detention of such people, and which do not take into account women's special needs and safety requirements; and laws and rules relating to confinement in psychiatric institutions and their management, which may not take into account women's particular vulnerability and needs.

Although changing legislation alone will not be sufficient to safeguard women against torture and ill-treatment, legislation is a key starting point. Changing attitudes, prejudices and discriminatory laws in society entails a long-term process. It needs coordinated efforts by civil society to lobby for change, including for legislative reforms, conducting public awareness campaigns and systematically reporting on the discrimination and violence experienced by women, including women in detention, and the harmful long-term consequences for the women themselves, their families and the community.

Monitoring bodies can, within the framework of a holistic approach to their work, and depending on their capacity and resources, have a key role to play in all of these activities. Their access to women deprived of their liberty and the information they can

21 A/HRC/7/3, 15 January 2008, para. 29

22 An extreme example of the way in which laws can impact on the risks women face is, where, in some countries, certain interpretations of religious laws are adhered to, and where the definition of rape is not clear in legislation, women who have been raped may be imprisoned for having had sexual intercourse outside marriage (referred to as *zina*). See, for example, UNODC, Afghanistan, Female Prisoners and their Social Reintegration, Atabay, T., 2007, p. 21

23 See Bangkok Rules, Rules 57, 58, 60, 61, 62, 64 and 65.

gather on the impact of such laws on some of these women puts them in a unique position to develop recommendations to their governments, deriving from real experiences, to reform their laws in order to reduce the risks women face.

## 2. Certain times that heighten risk

### a. Police custody and pre-trial detention

All detainees are at heightened risk of torture or ill-treatment during the first period after arrest. This is the time when detainees are more likely to be coerced and pressurised to confess to criminal acts or provide information about such acts and persons. Women are vulnerable to sexual abuse and other forms of violence during this period, as has been documented on numerous occasions, including by SPT.<sup>24</sup>

In some societies where the role of women in public life and contact with men other than their family members are limited due to laws and attitudes that discriminate against women, the interrogation by men is likely to intimidate women and make them feel extremely vulnerable. This also contains a threat of sexual abuse, whether or not such a threat is realised. Women are also usually much more vulnerable than male detainees during this time, because the majority of women who confront the criminal justice system in countries worldwide have a lower educational and economic status than men (often dependent on their spouses) and are less aware of their legal rights. There are numerous reports of illiterate and poor women signing statements the contents of which they do not understand, while they are held by the police, due to abuse, coercion or fear of abuse.

The same risks faced in police custody continue in pre-trial detention, especially in systems where the authority responsible for pre-trial detention is not separate from the authority which is responsible for law enforcement. (e.g. the Ministry of Interior, which is responsible for security and the police service, rather than a Ministry of Justice with a civil status and culture).

In addition to considerations relating directly to the risk or fear of torture and ill-treatment, it is important also to note that the impact of being held in pre-trial detention, even for short periods, can be severe if the women suspects have dependent children, and in particular if they are the sole carers of the children. Even a mother's short period in prison may have

damaging, long-term consequences for the children concerned, causing immense worry to the mother at this time.

Monitoring bodies, taking the Bangkok Rules as a reference point,<sup>25</sup> can assess whether any or all of the following measures to safeguard women against ill-treatment and torture in police custody and pre-trial detention are in place, and make recommendations to improve such safeguards where they are insufficient: medical examinations by an independent healthcare professional on admission and on release or transfer to another facility; prompt access to legal counsel; prompt access to families; supervision by female staff and strict separation from male detainees; the existence of an independent, effective complaints mechanism and the regular monitoring of pre-trial detention facilities by monitoring bodies, which include women members.<sup>26</sup>

An important systemic safeguard, which would not only protect women from facing the risks in detention but also reduce the harm done by the detention, also taking into account the best interests of any children concerned, would be to use pre-trial detention only when strictly necessary for women, in line with the provisions of the Bangkok Rules, Rule 58, which requires that "...diversionary measures and pretrial and sentencing alternatives, shall be implemented wherever appropriate and possible." This is one example where the recommendations of monitoring bodies can go beyond the narrow focus of prisons to encompass legislation and practice in relation to the use of pre-trial detention by judicial authorities.

### b. Transit

Detainees are at particular risk of ill-treatment and torture during transit between different institutions by law enforcement officials, since this is a time when there are usually very little, if any, safeguards against abuse and prisoners are totally unprotected. Women prisoners are at heightened risk of sexual abuse during this period.<sup>27</sup>

Monitoring bodies should check whether measures are in place to protect women against torture and ill-treatment during transit. Such measures may include ensuring that female staff are responsible for the transport of women deprived of their liberty, or that at least women staff are also present during transport; the installation of CCTV cameras in vehicles used for transport, with a careful supervision of the use of such cameras and ensuring that independent and accessible complaints procedures are in place.

<sup>24</sup> See for example, Report on the visit of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment to Honduras, CAT/OP/HND/1, 10 February 2010, para 55; Report on the visit of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment to Brazil, CAT/OP/BRA/1, 5 July 2012, para. 80

<sup>25</sup> Bangkok Rules, Rule 56

<sup>26</sup> Bangkok Rules, Rule 25 (3)

<sup>27</sup> See for example, Amnesty International, Mexico: Violence against women and justice denied in Mexico State, October 2006, Ref. AMR 41/028/2006, pp. 6-7

In all cases the training of staff on the prohibition of torture and ill-treatment, conducting independent investigations of complaints and bringing perpetrators to justice when ill-treatment occurs, are fundamental to the protection of all persons deprived of their liberty against torture and ill-treatment, including women. Monitoring bodies are advised therefore to look into the issue of staff training in institutions where women are held, using the Bangkok Rules<sup>28</sup> as a benchmark to assess the shortcomings and develop recommendations.

### 3. Certain policies and practices that heighten risk or cause physical or mental suffering

#### a. Inadequate safeguards and assessments on admission

Detainees' prompt access to family members and lawyers, following arrest, has long been recognised as one of the key safeguards against torture and ill-treatment. All prisoners are entitled to inform, or have informed, members of their family or other appropriate person of their choice of their imprisonment, promptly after arrest.<sup>29</sup> Experience worldwide has shown that women are especially vulnerable at the time of their admission to prison. Many women who come in confrontation with the criminal justice system are uneducated or illiterate and unaware of their rights. In many countries, being detained or imprisoned will entail a particular stigma in the case of women, which will add to their distress. Most women who are admitted to prison are mothers, and the separation from their children and their families can have a severely negative impact on their mental wellbeing.

Monitoring bodies need to pay special attention to the admission procedures of women prisoners and assess what assistance women are given at this time, with reference to the Bangkok Rules, which require prison authorities to provide them with "facilities to contact their relatives; access to legal advice; information about prison rules and regulations, the prison regime and where to seek help when in need in a language that they understand; and, in the case of foreign nationals, access to consular representatives as well."<sup>30</sup>

Monitoring bodies should also take into account that the time of admission is the point when prisoners' risks and needs should be determined via individual assessments and check whether a gender sensitive risks assessment is carried out in the case of women being admitted to prisons, with reference to the provisions of the Bangkok Rules,<sup>31</sup> in order to ensure that their individual, gender-specific needs are provided for during their detention, thereby reducing the potential damage of imprisonment on their mental wellbeing and promoting their social reintegration.

#### b. The nature and scope of medical examinations

Medical screening on entry is one of the essential components of policies that aim to detect ill-treatment and torture by law enforcement officials or others, to bring perpetrators to justice and provide the requisite support and care for victims, when such acts have taken place. When complaints of sexual abuse or other forms of violence are ignored, the likelihood of custodial violence passing undetected by state authorities is increased, contributing to the lack of protection for women victims of such violence in prison.

Monitoring bodies should find out whether the medical examination of women on admission to prison include an examination of any sexual abuse and other forms of violence that may have occurred prior to admission, as required by the Bangkok Rules.<sup>32</sup> They should check whether a female doctor is made available to conduct such examinations, especially if this is specifically requested by the woman prisoner,<sup>33</sup> and where this is not possible, whether a female chaperone is used, if the detainee so requests.<sup>34</sup>

The Bangkok Rules, Rule 7 sets out the prison authorities' responsibilities in cases when the medical examination reveals that a woman prisoner has been subjected to ill-treatment or torture, including sexual abuse or rape, during previous custody.<sup>35</sup> Monitoring groups should examine whether the provisions of this rule are reflected in the legislation governing prisons, whether they are included in staff training and assess whether they are implemented in practice.

<sup>28</sup> Bangkok Rules, Rules 29 to 35

<sup>29</sup> Body of Principles, Principle 16 (1).

<sup>30</sup> Bangkok Rules, Rule 2

<sup>31</sup> Bangkok Rules, Rules 40 and 41

<sup>32</sup> Bangkok Rules, Rule 6 (e)

<sup>33</sup> Bangkok Rules, Rule 10 (2)

<sup>34</sup> Bangkok Rules, Rule 10 (2)

<sup>35</sup> See PRI Guidance Document, Bangkok Rules, Working Draft, pp. 41-42, for further guidance. (<http://www.penalreform.org/publications/bangkok-rules-guidance-document-and-index-compliance>)

Medical examinations on admission are also crucial to assess women's gender specific healthcare needs and to develop healthcare programmes based on individual requirements in order to ensure that women's physical and mental health is protected and promoted during their period of detention. Therefore it is also important for monitoring bodies to examine policies and practices relating to healthcare screening on admission, in particular whether they include a determination of women's gender specific healthcare needs, with reference to the Bangkok Rules<sup>36</sup> and to develop recommendations to improve the scope and quality of such assessments, as necessary.

Medical examinations on admission to prison to detect any signs of sexual abuse or to determine sexual and reproductive healthcare needs should never be confused with virginity tests undertaken in some countries for entirely different purposes. Virginity tests represent a gross form of discrimination against women and are considered to be a form of custodial violence against women.<sup>37</sup> They should be explicitly prohibited.

Where such a practice may exist, monitoring groups should include an examination of legislation and practice relating to virginity tests in their preventive activities and recommend their prohibition in law and practice, where such tests are carried out.

In December 2011 a court in Cairo ordered forced virginity tests on female detainees in military prisons to be stopped. The court made the decision after a case was brought by a protester arrested during a protest in Tahrir Square. Human rights organisations had said the Egyptian military has used the practice widely as a punishment.<sup>38</sup>

### c. Not separating male and female prisoners

The Standard Minimum Rules for the Treatment of Prisoners (SMR) are very clear that, as a matter of principle, women deprived of their liberty should be held in accommodation which is physically separate from that of male prisoners, in order to protect them against sexual harassment and abuse.<sup>39</sup> In order to protect young girls in prison from sexual and other forms of abuse from older prisoners, juvenile female prisoners should be separated from adult women.<sup>40</sup>

In some countries there has been a move towards limited contact between men and women prisoners, following careful selection and subject to close supervision. Such arrangements may bring some normality to prison life and enable female prisoners to participate in a larger variety of prisoner programmes. They must never be made, however, without the consent of the female prisoners concerned, and unless the prison administration is in a position to undertake the requisite selection and supervision of prisoners to guarantee their safety.<sup>41</sup>

The examples below from SPT country visit reports demonstrate the different ways in which this requirement may not be applied and how prison staff may turn a blind eye to or be complicit in the sexual abuse of women prisoners.

"The Subcommittee observed that men and women in San Pedro Sula Prison were not held separately, women being a small minority. It noted the easy relations between men and women prisoners, and the presence of men in the women's cells. The Subcommittee had clear indications, on the basis of accounts corroborated by its own observations, that some women prisoners were working as prostitutes in the two prisons visited. .... The women's coordinator commented that the female prisoners did not wish to be separated from the male prisoners because they made a living from the products they sold during visits to male prisoners. When questioned by the Subcommittee, the coordinator said that the women are not sexually harassed by the men, since the general coordinator maintains order. The Subcommittee noticed that some of the women prisoners had been instructed in how to reply, and noted their apprehensiveness regarding certain subjects."<sup>42</sup>

".... the women's quarters were separated from the men in that one had to go through a closed metal door to enter the women's quarters. The door was guarded by a male detainee guard in a green uniform. In practice, the delegation observed that on a number of occasions the male detainee guard and other men (including the chef de brigade) entered the women's quarters with no warning."<sup>43</sup>

36 Bangkok Rules, Rule 6

37 Human Rights Council, Seventh Session, Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Manfred Nowak, A/HRC/7/3, 15 January 2008, para. 34

38 Egypt court stops virginity tests in military prisons, <http://www.bbc.co.uk/news/world-middle-east-16339398>

39 SMR, Rule 8 (a)

40 SMR, Rule 8 (d)

41 The CPT Standards (2006), Extract from the 10th General Report [C&PT/Inf (2000) 13], para. 24.

42 Report on the visit of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment to Honduras, CAT/OP/HND/1, 10 February 2010, para 259

43 Report on the visit of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or degrading Treatment or Punishment to Benin CAT/OP/BEN/1, 15 March 2011, para 185

Monitoring bodies should therefore not only check whether women are being held separately from men, but whether this separation is enforced in practice. They should also assess the possibility of whether staff, including women staff, may be complicit in allowing or even facilitating interaction between women and men, without any safeguards, such as those referred to earlier.

#### d. Supervision by male staff / mixed gender staffing

Women are at risk of sexual abuse, if male staff are involved in their supervision, and especially if male staff are allowed to work in contact positions with female prisoners. Such actions may include, at best, spying on women when they are in their private accommodation areas, in showers and toilets, entering accommodation areas of women when they are in a state of undress, at worst, demanding sex in exchange for services and goods and rape as a matter of routine. Women who complain of abuse often receive no response from authorities and experience retaliation from male staff. Recognizing the vulnerability of women to sexual abuse, SMR prohibit any involvement of male staff in the supervision of women's prisons.<sup>44</sup>

However, this rule is not applied in many countries, sometimes due to a shortage of female prison staff, in other cases because of concerns for equal employment opportunities and in some because mixed gender staffing is regarded as a practice which can normalise prison life. In a small number of countries mixed gender staffing in women's prisons has been proven to bring "normalising" benefits. But the success of such an approach relies heavily on a sufficient number of staff with adequate training, the strict enforcement of safeguards, the effectiveness of confidential complaints' mechanisms and the existence of independent inspections. In societies where the "normal" is not what is desirable (e.g. where a culture of gender based discrimination and violence is prevalent), in systems where human rights violations in prisons are widespread and where human and financial resource restrictions hinder the adequate training of staff, the risks of such a policy are very high, with possible devastating consequences for the prisoners. For example, sexual abuse, including rape, by male staff in prisons in the U.S., where a mixed gender staffing policy is

implemented, has been documented and reported on numerous occasions.<sup>45</sup>

SMR are very clear on this issue, and the Bangkok Rules, which supplement the SMR, have not introduced any new provisions in relation to the gender of staff allowed to work in women's prisons. Monitoring bodies should be aware of this and use these rules as a reference point in their assessment of risk factors and recommendations. But if male staff are, nevertheless, allowed to work in women's prisons, contrary to the provisions of SMR and the Bangkok Rules and to recommendations by monitoring bodies, such bodies should check whether male staff are ever employed in positions responsible for the direct supervision of prisoners, whether they are allowed access to private areas, such as dormitories and sanitary areas or placed in a position where they can observe these areas, and make recommendations, at the very least, to bring such practices to an end, where they exist. They should also be aware that female staff do also abuse women prisoners, thus policies to protect women prisoners from violence are necessary also in prisons where women staff are responsible for the supervision of prisoners.

Monitoring bodies should also pay special attention to the recruitment and training of all staff who work in women's prisons, with reference to the Bangkok Rules<sup>46</sup> and women's access to independent and confidential complaints' mechanisms.<sup>47</sup> They should also try to assess whether women prisoners who report abuse are provided with protection, support and counselling, as required by the Bangkok Rules, while their claims are investigated by independent authorities.<sup>48</sup> Such examination should include the legislative framework governing prisons, as well as practice, where possible.

#### e. Searching policies and practices

Personal searches is a highly sensitive issue for all prisoners, but especially women because of their typical background, which may involve having been subjected to sexual violence. In all societies, but especially in societies where women have a subordinate role to men and where their sexuality is repressed or denied, being searched can be extremely humiliating and even traumatising if undertaken by the opposite sex.

<sup>44</sup> SMR, Rule 53

<sup>45</sup> 'See for example, "Frequent and severe" sexual violence alleged at women's prison in Alabama', by Elizabeth Chuck, 23 May 2012 [http://usnews.msnbc.msn.com/\\_news/2012/05/23/11830574-frequent-and-severe-sexual-violence-alleged-at-womens-prison-in-alabama?lite](http://usnews.msnbc.msn.com/_news/2012/05/23/11830574-frequent-and-severe-sexual-violence-alleged-at-womens-prison-in-alabama?lite); "Sentenced to Rape—Behind Bars in America", by Ayale Waldman and Robin Levi, November 10, 2011, based on their book *Inside This Place, Not of It: Narratives from Women's Prisons (Voice of Witness)*, 2011. <http://www.thedailybeast.com/articles/2011/11/10/sentenced-to-rape-behind-bars-in-america.html>; All too Familiar, Sexual Abuse of Women in U.S. State Prisons, Human Rights Watch (1996); Kim Shayo Buchanan, *Impunity: Sexual Abuse in Women's Prisons*, Harvard Civil Rights-Civil Liberties Law Review [Vol. 42], pp. 45-87

<sup>46</sup> Bangkok Rules, Rules 29 to 35

<sup>47</sup> SMR, Rule 36

<sup>48</sup> Bangkok Rules, Rule 25 (1) and (2)

In some systems where male guards are responsible for supervising women or where a mixed gender staffing policy is implemented, women detainees may be searched by male staff. This may include pat-down searches or frisk searches, where the staff may use the opportunity to grope or touch women inappropriately and to sexually humiliate them. It may also extend to strip searches and invasive (or intimate) body searches.<sup>49</sup> In some countries women are subjected to strip searches on a routine basis in the presence of male staff, and may be humiliated during the process.

Even where only women staff are involved in the process, strip searches and invasive body searches can cause immense humiliation for the women being searched, if they are conducted arbitrarily and on a routine basis, and if the dignity and privacy of women being searched are not respected.

It is very important for monitoring bodies to check whether the provisions of the Bangkok Rules relating to this highly sensitive issue are applied in women's prisons. The Bangkok Rules, Rule 19 requires prison authorities to take effective measures to ensure that women prisoners' dignity and respect are protected during personal searches. The rule provides that searches of women are carried out only by "women staff who have been properly trained in appropriate searching methods and in accordance with established procedures."

Monitoring groups should also take into account that invasive body searches should either not be carried out at all or conducted only in exceptional circumstances prescribed by law, after all other means of investigation have been employed. Medical personnel are often requested to carry out such searches. Normally, healthcare personnel should not be involved in the search of prisoners, as searches are part of a prisons security procedures and physicians' responsibility to protect and promote the health of their patients may be compromised by their

involvement in such an act.<sup>50</sup> However, in exceptional cases, and especially when requested by the prisoner concerned, physicians' participation in invasive body searches may be justified, to prevent any harm to the prisoner during the search. In such cases the search may be carried out by a medical specialist other than the prison doctor, in line with the World Medical Association's Statement on Body Searches of Prisoners,<sup>51</sup> in order to protect the woman from any harm, while also not compromising the prison doctor's position of trust with the prisoner, given that the search is essentially a security issue, rather than a medical intervention.<sup>52</sup> The physician carrying out such a search should explain to the prisoner that the usual conditions of medical confidentiality do not apply and that the results of the search will be revealed to the authorities.

Alternatively, body cavity searches may be conducted by medically trained staff of the same gender that are not part of the regular health-care service of the prison or by prison staff with sufficient medical knowledge and skills to safely perform the search.<sup>53</sup>

Monitoring bodies should also ascertain whether every strip and invasive body search is recorded, with the reasons, outcomes and authorisation for the search.

The Bangkok Rules, Rule 20, urges the development of alternative screening methods, such as scans, to replace strip searches and invasive body searches, in order to avoid the harmful psychological and possible physical impact of invasive body searches—a rule which monitoring groups should use as a reference point in their fact finding and recommendations.

## f. Solitary confinement / disciplinary segregation

It has been documented on numerous occasions that solitary confinement can have extremely harmful psychological, and sometimes physiological, ill

49 A strip search refers to the removal or rearrangement of some or all of the clothing of a person so as to permit a visual inspection of a person's private areas. Invasive body searches involve a physical inspection of the detainee's genital or anal regions.

50 See The Principles of Medical Ethics relevant to the Role of Health Personnel, particularly Physicians, in the Protection of Prisoners and Detainees against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Adopted by General Assembly resolution 37/194 of 18 December 1982, Principle 3.

51 In line with the Statement on Body Searches of Prisoners, World Medical Association (Adopted by the 45th World Medical Assembly, Budapest, Hungary, October 1993 and editorially revised at the 170th Council Session, Divonne-les-Bains, France, May 2005. (<http://www.wma.net/e/policy/b5.htm>), which states:

[...]. The purpose of the search is primarily security and/or to prevent contraband, such as weapons or drugs, from entering the prison. These searches are performed for security reasons and not for medical reasons. Nevertheless, they should not be done by anyone other than a person with appropriate medical training. This non-medical act may be performed by a physician to protect the prisoner from the harm that might result from a search by a non-medically trained examiner. In such a case the physician should explain this to the prisoner. The physician should furthermore explain to the prisoner that the usual conditions of medical confidentiality do not apply during this imposed procedure and that the results of the search will be revealed to the authorities. If a physician is duly mandated by an authority and agrees to perform a body cavity search on a prisoner, the authority should be duly informed that it is necessary for this procedure to be done in a humane manner.

If the search is conducted by a physician, it should not be done by the physician who will also subsequently provide medical care to the prisoner.

The physician's obligation to provide medical care to the prisoner should not be compromised by an obligation to participate in the prison's security system. [...]

52 See Statement on Body Searches of Prisoners, World Medical Association, adopted by the 45th World Medical Assembly, Budapest, Hungary, October 1993 and editorially revised at the 170th Council Session, Divonne-les-Bains, France, May 2005. (<http://www.wma.net/e/policy/b5.htm>)

53 Ibid.

effects.<sup>54</sup> The Istanbul Statement recommends that “[t]he use of solitary confinement in prisons should therefore be kept to a minimum”<sup>55</sup> and absolutely prohibited for mentally ill prisoners, among others.<sup>56</sup> The Basic Principles for the Treatment of Prisoners encourages efforts to abolish solitary confinement as punishment, or to restrict its use.<sup>57</sup> The Committee against Torture has recognized the harmful physical and mental effects of prolonged solitary confinement and has expressed concern about its use, including as a preventive measure during pre-trial detention, as well as a disciplinary measure.<sup>58</sup> More recently the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) and the Special Rapporteur on Torture have raised similar concerns.<sup>59</sup> The Special Rapporteur has set out in detail the situations in which solitary confinement may amount to torture or cruel, inhuman or degrading punishment, including “when used as a punishment, during pretrial detention, indefinitely or for a prolonged period, for juveniles or persons with mental disabilities”.<sup>60</sup>

Women are at particular risk of having existing mental healthcare needs on admission to prison or developing mental health disorders in prison. Therefore they constitute a high risk group in terms of their susceptibility to the harmful psychological effects of solitary confinement, as one example below, of a highly publicised case in Canada, demonstrates.

In 2007 a 19-year-old woman prisoner with a mental disability committed suicide in Ontario, Canada while her guards stood outside her segregation cell door, watching and videotaping her. The guards had been instructed not to intervene after previous attempts at self-harm. She had spent her final year in solitary confinement, had been transferred 17 times among nine different prisons in five provinces with little treatment for her mental illness. A coroner’s inquest was on-going at the time of writing.<sup>61</sup>

In the case of women who are pregnant, breastfeeding mothers or women who have children with them in prison, solitary confinement harms not only the women’s mental wellbeing, but also that of their children, penalising the children as well, with possibly long-term harmful ill-effects. The health of pregnant women and women who have recently given birth can also be compromised. Taking into account these risk factors, monitoring groups should assess whether punishment by disciplinary segregation is used in the case of pregnant women, women with infants and breastfeeding mothers in prison, and develop recommendations to bring an end to such practices, with reference to the Bangkok Rules, Rule 22, which prohibits the use of solitary confinement as punishment for these categories of women. They should also bear in mind that a measure that is prohibited as punishment is all the more unacceptable when applied in situations where no disciplinary offence has occurred and formulate their recommendations on that basis.

Going further, and with reference to the Istanbul Statement and other international jurisprudence referred to above, they should also determine whether solitary confinement is used in the case of women with mental healthcare needs and a history of self-harm and suicide attempts, and recommend the prohibition of this practice in the case of these categories of women. (See also Section 4 (c)).

## 9. The inappropriate and unjustified use of restraints

The use of mechanical restraints on prisoners is another highly sensitive issue. Being restrained is humiliating to all prisoners and if restraints are used unjustifiably and for prolonged periods the requirement to treat prisoners with dignity is violated.<sup>62</sup> The SMR place strict restrictions on the use of body restraints on prisoners.<sup>63</sup> Nevertheless, in some countries body restraints, such as shackles, are used on pregnant women during transfers to hospitals, gynaecological examinations and birth,<sup>64</sup>

54 Istanbul Statement on the Use and Effects of Solitary Confinement, Adopted on 9 December 2007 at the International Psychological Trauma Symposium, Istanbul, Annexed to the Interim report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, A/63/175, 28 July 2008, p. 23

55 Ibid., p. 24

56 Ibid., p. 25

57 The Basic Principles for the Treatment of Prisoners, Principle 7

58 UN Doc/ A/63/175, 28 July 2008, para. 80. See also UN Doc/A/66/2685, August 2011, interim report prepared by the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Juan E. Méndez, p. 2

59 21st General Report of the CPT, European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, 1 August 2010 – 31 July 2011 (<http://www.cpt.coe.int/en/annual/rep-21.pdf>); Interim report of the Special Rapporteur of the Human Rights Council on torture and other cruel, inhuman or degrading treatment or punishment, 5 August 2011, A/66/268, (<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N11/445/70/PDF/N1144570.pdf?OpenElement>)

60 Interim report of the Special Rapporteur of the Human Rights Council on torture and other cruel, inhuman or degrading treatment or punishment, 5 August 2011, A/66/268, para. 81

61 See, “Our prison system was not designed for women”, by Dawn Moore, Associate Professor in the Carleton University Department of Law. The Ottawa Citizen October 20, 2012 <http://www.ottawacitizen.com/opinion/prison+system+designed+women/7421624/story.html> and <http://www.cp24.com/news/ashley-smith-inquest-resumes-amid-legal-battles-1.1006497#zzz2A7a3hLbH>

62 As required by ICCPR, Article 10

63 SMR, Rules 33 and 34

despite pronouncements by medical specialists against the use of shackling during labour and childbirth.<sup>65</sup> CPT has stated that “[...] from time to time, the CPT encounters examples of pregnant women being shackled or otherwise restrained to beds or other items of furniture during gynaecological examinations and/or delivery. Such an approach is completely unacceptable, and could certainly be qualified as inhuman and degrading treatment. Other means of meeting security needs can and should be found.”<sup>66</sup>

Monitoring groups should ensure that their fact finding activities include an examination of the use of restraints on women, in particular on women who are in labour, who are giving birth and who have just given birth, with reference to the Bangkok Rules, which explicitly prohibit the use of instruments of restraint on these categories of women.<sup>67</sup>

#### **h. Inadequate provision for gender specific hygiene, sexual and reproductive healthcare**

Poor conditions and services, exacerbated by overcrowding in many prisons, have a serious impact on the mental and physical wellbeing of all prisoners, including women. As this paper focuses only on those needs that are unique to women or which women experience much more acutely than men, two particular issues deserve being singled out. These are women’s gender specific hygiene and healthcare requirements.

Women need to have regular access to water, especially in the case of women who are menstruating, who are going through menopause, who are pregnant or who have children with them in prison. Women also need to have ready access to sanitary towels/pads, free-of-charge, and without being embarrassed to have to ask for them.<sup>68</sup> CPT considers that the failure to provide basic necessities, such as sanitary pads, can amount to degrading treatment.<sup>69</sup>

Particularly in resource poor countries the special hygiene requirements of women and any children with them in prison can be severely compromised. They may also be discriminated against, as in the examples from Benin, referred to in an SPT country visit report:

“The delegation observed a woman in police custody with her 8 month old naked baby... The cell smelt overpoweringly of urine and faeces. The woman explained that there was no bucket for sanitation in the cell, as the police indicated that they would allow the woman out to use the toilet; however, she had called in vain at night and the baby had defecated in the corner of the cell. The woman had no means of cleaning the cell. Flies buzzed in the cell and the baby had several mosquito bites. In the morning the staff had come and taken her to the toilet near the cell. The delegation also observed a second cell (5m x 4.4m with a height of 2.7m) in which five men were detained. This cell had access to running water as well as a separate area with a toilet and a shower.”<sup>70</sup>

“In [the] prison....there were four buildings in which detainees slept, but approximately 60 women, including babies and young children and all the female adolescent detainees, slept outside for lack of space. ....The conditions outside were extremely harsh and unhygienic, particularly for those women with young babies or for pregnant women.”<sup>71</sup>

Monitoring groups should always check whether women’s special hygiene requirements are being provided for and whether the accommodation of pregnant women, breastfeeding mothers and women with dependent children take into account their and their children’s special hygiene needs. Monitoring groups can go further and, using the Bangkok Rules as a reference point, encourage the use of alternatives to imprisonment in the case of such categories of women, in order to protect the women from conditions which, in some countries, amount to inhuman and degrading treatment and taking into

64 For example, in the U.S. since 2000, while 14 states have banned shackling women prisoners while they are in labour, efforts to halt the practice elsewhere are opposed by jail administrators. (see: <http://www.thecrimereport.org/archive/2011-08-chained-and-pregnant> and <http://ipsnews.net/news.asp?idnews=106119>); see also “Va. House subcommittee rejects bill to restrict use of restraints on pregnant prison inmates”, By Associated Press, Published: February 9, [http://www.washingtonpost.com/local/va-house-subcommittee-rejects-bill-to-restrict-use-of-restraints-on-pregnant-inmates/2012/02/09/gQA52UR1Q\\_story.html](http://www.washingtonpost.com/local/va-house-subcommittee-rejects-bill-to-restrict-use-of-restraints-on-pregnant-inmates/2012/02/09/gQA52UR1Q_story.html)

65 For example, the American College of Obstetricians and Gynecologists and the American Public Health Association have condemned the practice of shackling, recognising that it compromises women’s health and causes severe pain and trauma. The Center for Reproductive Rights points out that unrestrained movement is critical during labour, delivery, and the post-delivery recovery period. (See Shackling of pregnant women and girls in correctional systems, NCCO Center for Girls and Young Women, ([http://www.nccoglobal.org/sites/default/files/publication\\_pdf/shackling.pdf](http://www.nccoglobal.org/sites/default/files/publication_pdf/shackling.pdf)). Amnesty International has reported the concerns expressed by an obstetrician and gynecologist at Northwestern University’s Prentice Women’s Hospital; in “Not part of my sentence: Violations of the Human Rights of Women in Custody,” AI Index: AMR 51/01/99, Amnesty International, March 1999.)

66 The European Committee for the Prevention of Torture and Inhuman or Degrading Punishment, The CPT Standards, CPT/Inf/E (2002) 1–Rev. 2006, Extract from the 10th General Report [CPT/Inf (2000) 13], para. 27.

67 Bangkok Rules, Rule 24

68 Bangkok Rules, Rule 5

69 CPT Standards, 2006 Edition, Extract from the 10th General Report, CPT/Inf (2000) 13, para. 31.

70 Report on the visit of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or degrading Treatment or Punishment to Benin CAT/OP/BEN/1, 15 March 2011, para 114

71 Ibid. para. 185

account the best interests of the children, as required by the Bangkok Rules and CRC.<sup>72</sup>

Women's gender specific health rights, including specifically their reproductive and sexual health rights, are very often violated in prisons. These may include women's lack of access to preventive healthcare services focusing on gender specific healthcare needs (e.g. cervical and breast cancer), as well as services to treat sexually transmitted infections (STI), including voluntary testing, treatment and care for HIV/AIDS to which women are particularly vulnerable,<sup>73</sup> and despite the reality that women in prison comprise a high risk group for having acquired STI, due to their typical background, which may include experience of sexual violence, sex work and drug use. Pre- and post-natal care and healthcare services during delivery are also usually extremely inadequate.

It is also important to note that medical examinations themselves can be experienced as inhuman and degrading in certain circumstances, for example, when a woman requests to be examined and treated by female healthcare specialists and her wishes are not granted for unjustifiable reasons. Women prisoners' right to medical privacy and dignity during examinations may also be denied with the presence of security staff (sometimes male) during intimate examinations. For women who have been victims of gender based violence such practices can cause immense distress and humiliation.

Monitoring bodies should assess whether gender-specific healthcare services, at least equivalent to those available in the community, are being provided to women prisoners, in line with the requirements of the Bangkok Rules.<sup>74</sup> They should also check if when a woman requests that she be examined or treated by a woman physician or nurse, a woman physician or nurse is made available, to the extent possible, except for situations requiring urgent medical intervention, and where a male medical practitioner undertakes the examination, a woman staff member is present during the examination.<sup>75</sup> Monitoring groups should also determine whether Rule 11 of the Bangkok Rules is being applied. This rule prohibits the presence of non-medical staff during medical examinations, but provide that, if exceptionally it is necessary for non-medical staff to be present, for justified security reasons or because

the woman requests a female chaperone, "such staff should be women and examinations shall be carried out in a manner that safeguards privacy, dignity and confidentiality."<sup>76</sup>

### **i. Inadequate provision for family contact**

A key problem many women prisoners face is that the location of their place of detention is often far away from their homes, due to the small number of women prisoners and the corresponding small number of women's prisons. This means that their families face challenges in maintaining contact with them. The disruption of links with their communities, families and especially their children can cause immense worry and distress to the women, many of whom are the primary carers of their children. In some countries where prisoners' access to food is inadequate and where prisoners rely on their families for food, women prisoners can be severely disadvantaged. In addition, where conjugal visits are allowed, women prisoners usually do not enjoy the same rights as those of men. This is one of those areas where women prisoners are discriminated against in most prison systems, with very adverse consequences on the mental wellbeing of women prisoners. This disadvantage may be exacerbated in systems where disciplinary punishments include the reduction or prohibition of family contact.

The Bangkok Rules place responsibility on the authorities to make special efforts to accommodate women close to their places of residence or the place where they would like to be eventually released.<sup>77</sup> They also require prison authorities to make a special effort to facilitate links between women prisoners and their families, and to ensure that women have the same right to conjugal visits as men.<sup>78</sup> Monitoring groups should assess whether such an effort is being made by the prison authorities in their countries and develop recommendations to ensure that women are accommodated closer to their homes, in line with the Bangkok Rules. They should also check whether, in cases where this cannot be done, prison authorities have introduced any measures which compensate for the disadvantages faced by women and make recommendations, where such measures have not been introduced. For example authorities may assist with transportation; if prisoners have access to telephones, they may increase the telephone calls

<sup>72</sup> Bangkok Rules, Rule 64

<sup>73</sup> Women have a particular physical vulnerability to HIV. Studies have shown that women are at least twice as likely as men to contract HIV through sex. The pre-existence of sexually transmitted infections (STI) can greatly increase the risk of contracting HIV. (Women and HIV in Prison Settings, HIV/AIDS Unit, UNODC, p. 3. [www.unodc.org/unodc/en/drug\\_demand\\_hiv\\_aids.html](http://www.unodc.org/unodc/en/drug_demand_hiv_aids.html))

<sup>74</sup> Bangkok Rules, Rule 10 (1)

<sup>75</sup> Bangkok Rules, Rule 10 (2)

<sup>76</sup> Bangkok Rules, Rule 11

<sup>77</sup> Bangkok Rules, Rule 4

<sup>78</sup> Bangkok Rules, Rules 26-28

female prisoners are allowed to make to their families and they may allow the extension of the length of visits, among other measures.<sup>79</sup>

Monitoring groups should also determine whether disciplinary sanctions include prohibition of family contact and with reference to the Bangkok Rules<sup>80</sup> develop recommendations to bring an end to this measure in legislation and practice.

#### **j. Inappropriate decisions to separate dependent children from their mothers in prison**

Dependent children are allowed to stay with their mothers until a certain age determined by law in most countries, though the age at which they must be removed from prison varies. The removal of dependent children from prison, without a proper assessment of the best interests of the children concerned and of alternative care arrangements outside prison, can have grave consequences both for the mother and the child, causing immense suffering and worry to the mother and probable long-term emotional, developmental and possibly physical harm to the child. The Bangkok Rules, for the first time, introduced international standards with respect to the decision-making process on removing children from prison, in addition to rules, which relate to the treatment of such children in prison. They require that decisions are made to remove children from prison on a case-by-case basis, based on individual assessments, always taking into account the best interests of the children concerned and never without having ensured that satisfactory care arrangements have been made outside prison.<sup>81</sup> The SPT has, for example, raised concerns about non-compliance with this rule in its report on Brazil:

“The SPT was concerned by allegations received that mothers with children in prison were deprived of their right to keep custody of their child after the age of two, who in some cases had been put up for adoption.

“The SPT recommend that decisions to allow children to stay with their mothers in prison shall be based on the best interests of the children, and be based on careful individual assessment.\* The SPT further requests the State party to

provide clarification on the practice of placing children for adoption, and on the application of child custody legislation in these situations.”<sup>82</sup>

*\*Bangkok Rules, rules 49 and 52.*

Monitoring groups should include an examination of the laws and practices relating to the permission for dependent children to stay with their mothers in prison and the removal of such children from prison in their countries, with reference to the Bangkok Rules, Rules 49 and 52, and make recommendations to revise legislation and change practice in line with the requirements of the Bangkok Rules, where necessary.

#### **k. Detention for protection**

In some countries women are detained in prisons for their own protection against gender based violence. These include women who have been raped and may be in danger of harm by the perpetrator or his relatives in order not to testify, women who may have overstepped the strict norms required by custom, tradition or religion, putting them at risk of an “honour based killing”. In some countries prisons may be used to protect victims of trafficking.

In principle using prisons as a means of protection is not the right solution for these circumstances, penalising the victim or potential victim, and, in the absence of other measures to bring a long term solution to such practices, providing only a short-term response to the complex problem. In some countries women are held for prolonged periods for their protection, which, as such, can become ill-treatment, as noted by the Special Rapporteur on Torture, in the case of Jordan, for example, where women may be detained for up to 14 years because they are at risk of becoming victims of honour crimes.<sup>83</sup>

The best option for the protection of such women would be to place them, temporarily, in shelters or safe houses run by independent bodies or social welfare services, provided that the women expressly wish to be protected in this way.<sup>84</sup> Regrettably, the demand for safe houses is higher than the supply, which can mean that women may have to be placed in separate sections of detention facilities or prisons, on a temporary basis, to protect them.<sup>85</sup>

79 See PRI Guidance Document, UN Rules for the Treatment of Women Prisoners and Non-custodial Measures for Female Offenders, working draft, pp. 79 – 80, for further guidance. <http://www.penalreform.org/publications/bangkok-rules-guidance-document-and-index-compliance>

80 Bangkok Rules, Rule 23

81 Bangkok Rules, Rule 52

82 Report on the visit of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment to Brazil, CAT/OP/BRA/1, 5 July 2012, paras, 120, 121

83 A/HRC/7/3, para. 43, with reference to the report of the Special Rapporteur to Jordan in June 2006, A/HRC/4/33/Add.3, paras. 39 and 72

84 Bangkok Rules, Rule 59

85 In Afghanistan, for example, the Law on Prisons and Detention Centres, includes an article which allows heads of detention centers, with permission of the ministry of justice and written request by the individual to provide temporary shelter and protection in detention centers and prisons to those who have been seriously threatened and their safety are at serious risk. (Article 53)

Recognising the reality of the need for such protection in some countries and the additional risks it may entail for such women, the Bangkok Rules provide that “..... Temporary measures involving custody to protect a woman shall only be applied when necessary and expressly requested by the woman concerned and shall in all cases be supervised by judicial or other competent authorities. Such protective measures shall not be continued against the will of the woman concerned.”<sup>86</sup> In the longer term, States have the responsibility to develop comprehensive, legal, political and administrative measures to protect women from violence and prevent the re-victimisation of women, in order for such extreme measures not to be necessary.<sup>87</sup>

In countries where such practices exist, monitoring bodies can be instrumental in identifying such women, especially those who have been detained for prolonged periods, examining their circumstances, and assisting with measures to enable their protection in other ways, by facilitating links between NGOs and women’s groups who run shelters, by developing recommendations to change specific laws which allow perpetrators to avoid justice, while their victims seek protection.

#### 4. Certain categories of women who are at heightened risk

##### a. Girls

Girls comprise one of the most vulnerable groups in detention, due to their age, gender and small numbers. Most prison systems around the world lack specific policies and programmes to accommodate for their unique needs, including their needs for protection. Where mixed gender staffing is used, serious abuse by male staff in juvenile girl prisons has been reported, demonstrating the extent of girl prisoners’ vulnerability.<sup>88</sup> Girls may also be abused by older women and female staff. The Bangkok Rules, Rule 36 puts explicit responsibility on prison authorities to “put in place measures to meet the protection needs of juvenile female prisoners.”

Monitoring groups should assess whether special measures are in place to protect girls from ill-treatment and torture, which include: ensuring that the accommodation of girls is strictly separated from boys and from adult male and female prisoners; that they are supervised by women staff who are carefully selected and who have received special training; that they are properly supervised, to prevent abuse by other prisoners or members of staff and have access to a confidential and independent complaints’ mechanism.<sup>89</sup>

##### b. Victims of Human Trafficking and sex workers

In many countries victims of human trafficking are imprisoned, on charges of prostitution, illegal entry, illegal residence or work, despite international conventions which require States to protect and not to re-victimise victims of human trafficking.<sup>90</sup> Such women are particularly vulnerable in detention due to their background in sex work and prejudicial perceptions about their perceived promiscuity. Similar concerns apply to sex workers, for the same reasons. The vulnerability of victims of human trafficking is exacerbated by their foreign nationality and in many cases their lack of knowledge of the language of the country in which they are imprisoned. Their lack of social networks and inability to communicate further isolates them, makes it difficult for them to understand the internal rules and codes, whether formal or informal, of their place of detention and increases their vulnerability to coercion and abuse, including specifically sexual abuse.

The United Nations High Commissioner for Human Rights Principles and Guidelines on Human Rights and Human Trafficking provides for the non-criminalisation of trafficked persons.<sup>91</sup> UNHCR has underlined that “[t]he prevention of trafficking or re-trafficking cannot be used as a blanket ground for detention, unless it can be justified in the individual case ..... Alternatives to detention, including safe houses and other care arrangements, are sometimes necessary for such victims or potential victims, including in particular children.”<sup>92</sup>

<sup>86</sup> Bangkok Rules, Rule 59

<sup>87</sup> Declaration on the Elimination of Violence against Women, Article 4 (f)

<sup>88</sup> See for example, “Custody and Control, Conditions of Confinement in New York’s Juvenile Prisons for Girls,” Human Rights Watch, American Civil Liberties Union, September 2006

<sup>89</sup> See PRI Guidance Document, Bangkok Rules, Working Draft, p. 105, for further guidance.

<sup>90</sup> UN General Assembly, Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime, 15 November 2000, available at: <http://www.unhcr.org/refworld/docid/4720706c0.html> [accessed 20 October 2012], Articles 6 – 8 and 9 (b)

<sup>91</sup> United Nations High Commissioner For Human Rights Recommended Principles and Guidelines on Human Rights and Human Trafficking, E/2002/68/Add.1 (2002), Principle 7

<sup>92</sup> UNHCR, Guidelines on the Applicable Criteria and Standards relating to the Detention of Asylum-Seekers and Alternatives to Detention (2012), Guideline 9.4, p. 38. <http://www.unhcr.org/505b10ee9.html>

If and when victims of human trafficking and sex workers are detained, for whatever reason, the detaining authorities need to take measures to protect them against ill-treatment and torture, including gender based violence. They should also ensure that those who do not speak the language most commonly spoken in the prison are provided with interpretation services on admission and when required during their detention, and ensure that they receive all information relating to the place of detention, rules and regulations, their rights and obligations and access to independent complaints' procedures in a language that they understand.

Monitoring bodies can play a key role in identifying such women at risk and taking action to ensure that their safety is protected, while at the same time recommending that their governments ratify the "Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime", and to put into practice its provisions, as required by the Bangkok Rules.<sup>93</sup>

### c. Women with mental healthcare needs

Women who are admitted to prison are more likely than men to suffer from mental disabilities, often as a result of domestic violence, physical and sexual abuse.<sup>94</sup> Imprisonment generates new mental health problems or exacerbates existing ones, especially where women's gender specific needs are not met and links with their families are disrupted. In addition, it is not uncommon for women with mental disabilities to be housed in a higher security level than necessary, since their needs may be regarded

as risks, which can be extremely harmful to their mental wellbeing, worsening their condition. Women with mental disabilities are highly vulnerable to abuse, since they may not have the psychological makeup to protect or defend themselves, may not be able to determine when certain boundaries are being violated and their complaints may not be believed or taken seriously. Women in psychiatric institutions face similar risks.

Monitoring groups should check whether the provisions of the Bangkok Rules on mental health in women's prisons are being applied to ensure that the risks faced by women with mental healthcare needs are reduced and their mental wellbeing is protected. These include a thorough individual assessment of mental healthcare needs on admission to prison<sup>95</sup> and the provision of individualised, gender-sensitive mental health treatment for those in need.<sup>96</sup> Women who are diagnosed with mental healthcare needs should be housed in the least restrictive environment possible and should never be placed in solitary confinement.<sup>97</sup> During sentencing alternatives to detention should be preferred, wherever possible, for women with mental healthcare needs, enabling them to be treated in the community, rather than subjecting them to the harmful impact of imprisonment on mental health.<sup>98</sup>

### d. Other groups that are at heightened risk

Other women, who are particularly vulnerable to ill-treatment and torture, include women with disabilities, foreign national women, ethnic and racial minorities, indigenous peoples and lesbians.<sup>99</sup>

93 The Bangkok Rules, Rule 66

94 UNODC, Handbook for Prison Managers and Policymakers on Women and Imprisonment, p. 10

95 Bangkok Rules, Rule 6

96 Bangkok Rules, Rule 12

97 Istanbul Protocol, op. cit. p.24

98 Principles for the protection of persons with mental illness and the improvement of mental health care make clear that persons with mental disabilities should have the right to be treated and cared for, as far as possible, in the community in which they live. (Principles for the protection of persons with mental illness and the improvement of mental health care, Principle 7.1)

99 For detailed guidance on the treatment of these groups in prison and alternatives to detention, see UNODC Handbook on Prisoners with Special Needs and UNODC Handbook for Prison Managers and Policymakers on Women and Imprisonment. (<http://www.unodc.org/documents/justice-and-prison-reform/Prisoners-with-special-needs.pdf>; <http://www.unodc.org/documents/justice-and-prison-reform/women-and-imprisonment.pdf>)

## V What qualities do monitoring bodies need to engage in this issue?

Having the right composition, expertise and experience among members of monitoring groups is important to ensure that risks women face are identified in a gender-sensitive manner and solutions explored/ actions taken to reduce and eliminate such risks in an informed way.

The first important rule is that monitoring bodies should be composed in a gender-inclusive manner, meaning that their members should include women.<sup>100</sup> In addition, monitoring groups should include female doctors and psychologists. There should be at least some members who have experience of dealing with post-traumatic stress disorder and other trauma experienced by women who have experienced violence, including especially sexual violence. It is highly desirable that all members are trained to deal with sexual violence and other sensitive gender-specific issues. They need to be able to ask the right questions using gender-sensitive language.

All members should be fully aware of the provisions of key international instruments which aim to protect women from violence and discrimination and to ensure that women's gender specific needs are met in places of detention.

Monitoring groups should also include female members of those ethnic and racial minorities, indigenous peoples or foreign nationals which comprise a significant proportion of the women prison population in their countries. These groups of women face particular challenges and multiple vulnerabilities, which can be better understood and dealt with by members of their own groups. They should also include at least some members who have knowledge of child psychology, in order to ensure that interviews with girls are conducted in a child and gender sensitive manner and the responses and recommendations are professional.

### Recommended further reading:

This list includes only some key documents referred to in this paper and is by not exhaustive.

PRI Guidance Document, UN Rules for the Treatment of Women Prisoners and Non-custodial Measures for Female Offenders (Bangkok Rules) and PRI Index of Compliance, UN Rules for the Treatment of Women Prisoners and Non-custodial Measures for Female Offenders (Bangkok Rules), Working Drafts (at the time of writing)

(<http://www.penalreform.org/publications/bangkok-rules-guidance-document-and-index-compliance>)

UNODC Handbook for Prison Managers and Policymakers on Women and Imprisonment, Atabay, T., New York, 2008

<http://www.unodc.org/documents/justice-and-prison-reform/women-and-imprisonment.pdf>

Report of the Special Rapporteur on torture and other cruel, inhuman and degrading treatment of punishment, Manfred Nowak, 15 January 2008, A/HRC/73

International Centre for Prison Studies, "Penal Reform and Gender" in *Gender and Security Sector Reform*

*Toolkit, Update on the Bangkok Rules*, Eds. Megan Bastick and Kristin Valasek, Geneva: DCAF, OSCE/ODIHR, UN-INSTRRAW, 2008, Update 2012.

AdvocAid, *United Nations Rules for the Treatment of Female Offenders*, 2011. <http://www.advocaidsl.com/wp-content/uploads/2011/03/AdvocAid-Bangkok-Rules-training-booklet-Nov-11.pdf>

Penal Reform International, Submission to the UN Working Group on Discrimination against Women in Law and Practice, January 2012

United Nations Office on Drugs and Crime and World Health Organization, *Women's Health in Prison: Action Guidance and Checklists to Review Current Policies and Practices*, 2011, Brenda van den Bergh and Alex Gatherer, WHO Regional Office for Europe; Tomris Atabay and Fabienne Hariga, United Nations Office on Drugs and Crime [http://www.euro.who.int/\\_data/assets/pdf\\_file/0015/151053/e95760.pdf](http://www.euro.who.int/_data/assets/pdf_file/0015/151053/e95760.pdf)

A number of relevant publications by the Quaker United Nations Office Geneva (QUNO) can be accessed at:

<http://www.quno.org/humanrights/women-in-prison/womenPrisonLinks.htm>

100 Bangkok Rules, Rule 25 (3)

Penal Reform International (PRI)  
60-62 Commercial Street  
London E1 6LT  
United Kingdom  
[www.penalreform.org](http://www.penalreform.org)

Association for the Prevention of Torture  
PO Box 137  
CH-1211 Geneva 19  
Switzerland  
[www.apr.ch](http://www.apr.ch)

© Penal Reform International 2013  
ISBN 978-1-909521-03-2



● <주제 4> 발표문 - Gillian Triggs(영문)

Australian Human Rights Commission

Professor Gillian Triggs  
President

3 October 2013

*The Review into the Treatment of Women  
in the Australian Defence Force*  
18<sup>th</sup> Annual Meeting and Biennial  
Conference of the APF

Australian Human Rights Commission  
everyone, everywhere, everyday

Australian Human Rights Commission

Review into the  
Treatment of Women in the  
Australian Defence Force  
PHASE 2 REPORT - 2012

Review into the Treatment  
of Women in the Australian  
Defence Force

August 2012



Australian  
Human Rights  
Commission  
*everyone, everywhere, everyday*

## **Review, report and make recommendations on:**

- **Gender equality, women's safety, sexual harassment and abuse, and sex discrimination**
- **Training, education, mentoring and development**
- **Effectiveness of previous cultural change initiatives**
- **Improve pathways for increased representation of women into the senior ranks and leadership of the Australian Defence Force**



Australian  
Human Rights  
Commission  
*everyone, everywhere, everyday*

## **Approach and consultations**



- **Thorough, consultative and constructive**
- **Senior leaders briefings, focus groups, interviews, submissions, surveys, literature review**
- **Spoke with over 2,000 ADF personnel**
- **Surveyed over 6,000 ADF personnel**



Australian  
Human Rights  
Commission  
*everyone, everywhere, everyday*

## ADF senior leadership



Australian  
Human Rights  
Commission  
*everyone, everywhere, everyday*

## Barriers to inclusion

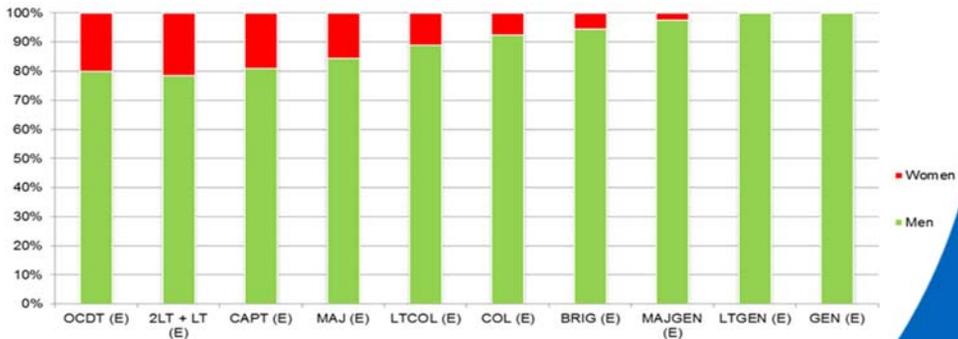
- **Belief barriers** – e.g. good mother belief, ideal worker belief
- **Organisational cultural barriers** – e.g. career development systems that look neutral on their face but reproduce disadvantage for a particular group
- **Structural barriers** – e.g. lack of a paid parental leave scheme; cost and availability of child care



Australian  
Human Rights  
Commission  
*everyone, everywhere, everyday*

### Principle 1: Strong leadership drives reform

### Principle 2: Diversity of leadership increases capability



Gender breakdown of officer ranks in the ADF



Australian  
Human Rights  
Commission  
*everyone, everywhere, everyday*

### Principle 3: Increasing numbers requires increasing opportunities

### Principle 4: Greater flexibility will strengthen the ADF

### Principle 5: Gender based harassment and violence ruins lives, divides teams and damages operational effectiveness



Australian  
Human Rights  
Commission  
everyone, everywhere, everyday

## SeMPRO

- Sexual Misconduct Prevention and Response Office, to coordinate timely responses, victim support, education, policy, practice and reporting for any misconduct of a sexual nature, including sexual harassment and sexual abuse in the ADF
- 24 hour/7 day a week telephone hotline and online service, with call, click or text access



Australian  
Human Rights  
Commission  
everyone, everywhere, everyday

*“Women are essential to the sustainability and operational effectiveness of the ADF because they contribute to a diverse workforce which strengthens the ADF’s ability to be an effective, modern, relevant and high performing organisation”*

- Chiefs of Service Committee statement, 12 October 2012





## **Women face violence in Afghanistan**

---

Afghanistan Independent Human  
Rights Commission  
By: Dr. Sima Samar

APF 18<sup>th</sup> Annual Meeting and Biennial Conference  
1-3 October 2013, Doha



Women in Afghanistan have been suffering tremendously from some of bad practice of traditions, misinterpretation of religious texts, coupled with male dominant society that further make the situation difficult for women.



Under the present conservative environment in different parts of Afghanistan women and girls are forbidden to go to school, universities and to work outside home, and were restricted to enjoy of their human rights.



Nevertheless, the situation is improving slowly as the country moves forward. The AIHRC, since its establishment in 2002, has been trying rigorously to protect and defend women's rights; and this is a top priority of the AIHRC mission and strategy.

## Women face various forms of violence

Physical (beating, injuring, burning, poisoning, amputating, shackling etc)



A girl tortured and shackled by his father in Faryab province.

## Women face various forms of violence

- Sexual (rape, forced prostitution, forced pregnancy, forced abortion, other types of sexual exploitations)
- Economic (lack of participation in family decision-making, ownership barriers, lack of provision of alimony, prevention of employment, selling women's property without their consent, extortion of their salary by husbands and male members of the family, deprivation of inheritance etc)



## Women face various forms of violence

---

- Early marriages
- Forced marriages including *Bad & Badal*
- Forced divorces
- Expulsions from home
- Prevention of education and access to health service
- Movement restrictions posed by male members of the family etc.
- verbal and physiological treatments



## Women face various forms of violence

---

Women and girls are victims of the armed conflict in the country. The AIHRC's findings show that during 2012, children (girls and boys) constitute 19.5%, women constitute 5% and men constitute 62.8% of the total civilian casualties. Meanwhile, gender identity of 12.6% of the victims is not known.



## Women face various forms of violence

---

- Despite that the Government policy is to promote women's position in the states departments, but still, due to lack of political will, women have not been enjoyed of given higher official positions.
- Afghanistan still is very back in gender equality, this is very evident in all civil service and security departments as well as in the private sector



## National Inquiry

---

- The AIHRC formulated five goals to address by undertaking the National Inquiry on Rape and Honor Killing:
- To collect and analyze relevant data
  - to investigate cases of "honor killings" and rape for referring to relevant judicial offices
  - To assess the situation of victims and future social implications
  - To raise public awareness
  - To recommend on amending/changing in the laws and policies

## National Inquiry

### Performance under Inquiry

- More than 2000 people including representatives from the government, civil society organizations, justice and judicial organs, media, provincial councils, heads of women safe shelters, elders and influential figures participated in consultative sessions, joint focus group meetings and public hearings to discuss about cases of sexual assault and “honor killings”.

## National Inquiry



Public Hearing session on Rape and “Honor Killings”,  
Dikundi province, AIHRC, 2012.



## National Inquiry

---

- 136 individuals including accused persons, offenders, victims, eyewitnesses and family members of the victims were interviewed. Almost 127 cases of sexual assaults (84 cases) and “honor killings” (43 cases) were documented. It is guessed that such cases goes far beyond but due to social taboo and lack of trust on legal system, there is no willing to disclose these cases



## Findings

---

- 50 percent of “honor killings” committed for the reason of sexual relations outside marriage.
- Victims of rape constitute 3.8 % of “honor killings”. Close relatives of rape victim try to so-called make-up their “honor” by killing the victim.

## Findings



Sabro a young women from Said Karam district of Paktia province killed by her husband and his family members, AIHRC, 2012

## Findings

- Almost 15.4% of “honor killings” attributed to women or girls who had escaped from home, which has not been stipulated as a crime in the law.
- 3.8% of the cases occurred for not accepting forced marriage by women; 1.9% of the cases happened to those who did marry without her parent consent.

## Findings

- 35% of rapes against women are committed by someone known to victims. Out of this, 17% by relatives, 10% by neighbors, 4% by father, 2% by brother, 1 % by uncles, and 1% by other acquaintance.

## Findings

- 82% of sexual assault and "honor killing" are females between 19-30 years of age.



A young women killed by her close relatives in connection with "honor killings" in Faryab province, 2012, AIHRC.



## Findings

---

- **Rape and underage boys:** under 18 years old boys have no role in honor killings, but they are responsible for 10.7 percent of sexual assaults.



## Findings

---

### Connection between of poverty and honor killing and rape:

- AIHRC's findings indicate that almost 17.6% of perpetrators of sexual assault and "honor killings" are laborers, 14.5% are shopkeepers, 7.6% are farmers and 4.7% are drivers. Almost 11 percent of perpetrators of such crimes are jobless people.



## Findings

---

### Police: honor killing and rape

- Police committed 14.6 percent of “honor killings” and sexual assault.



## Findings

---

### Poverty and victims:

- Poor women are mostly victims of sexual assault and “honor killings”.
- 58.2% of sexual assault and honor killing cases attributed to individuals living in poor families. Almost 38% of victims belong to middle class families. This figure indicates severe vulnerability of women in poorer families.



## Findings

---

### Action for justice

- 91% of sexual assault and “honor killings” cases registered during this research were referred to judicial departments. Out of this, 64.5% cases have been followed up successfully; but measures taken about 35.5% of other cases are not successful.



## Findings

---

### Arrestment and prosecution

- 67% of the perpetrators have been arrested by the police.
- In 60.5% of the cases, offenders have been trialed and punished, but in 39.5 percent of the cases, the perpetrators and offenders have not been trialed and punished.



## What is next?

---

### Women and legislation

- In recent years, a major achievement for women and girls in Afghanistan was the enactment of the Law on the Elimination of Violence Against Women (EVAW law) by the Presidential Decree in 2009. In spite of some challenges, its is being executed by judicial offices The law imposes criminal penalties for child marriage and forced marriages, domestic violence, and numerous other abuses against women.



## What is next?

---

- During a parliamentary debate in May 2013, a number of Afghan MPs spoke out against the EVAW law for being contradictory to Islamic principles, while many other MPs were trying to approve the law. Following to the very frustrated debates, the law was taken out from the Lower House session's agenda.



## **What is next?**

---

- As part of continued lobbying, the AIHRC has been trying rigorously and engaged with key policy actors in the government, civil society and the international community to adopt the EAW law by the Parliament without making any amendment contrary to the international human rights standards.



## **Let's join together!**

---

- And this is vital for securing women and girls' rights in Afghanistan, and there is a crucial need for making strong synergy to protect Afghan women as well as other women in the Asia-Pacific region who live with similar situation as Afghan women.

● <주제 4> 발표문 - 아메드 토랄(영문)



## Women's Rights

A Contextual Look  
at the  
Maldivian Context  
from an NHRI Perspective

## Maldives



- A low lying group of coral islands amounting to approximately 2000 Islands of which about 200 are inhabited.
- A nation with its history dating back more than 2500 years.
- A largely matriarchal society during the early days with a strong patriarchal influence since the mid 15<sup>th</sup> century.

# Maldives



- A low lying group of coral islands amounting to approximately 2000 Islands of which about 200 are inhabited.
- A nation with its history dating back more than 2500 years.
- A largely matriarchal society during the early days with a strong patriarchal influence since the mid 15<sup>th</sup> century.

## Maldives and International Human Rights Obligations

- Maldives is party to all human rights conventions except the Convention protecting the rights of migrant workers.
- Maldives holds a seat in the UN Human Rights Council.
- Yet despite all these advancements, the human rights situation in the Maldives, particularly to women, remain bleak.



## Maldives and International Human Rights Obligations



- The accountability of Maldives to international human rights obligations have not been very forthcoming.
- HRCM has continuously monitored the progress of the State in relation to the international human rights obligations only to identify the lack of progressive realization as far as most conventions are concerned.

## CEDAW and Maldives



- The implementation of CEDAW in the Maldives has been with little or nominal progress, since most of the concluding observations seem to be ignored by the State.
- CEDAW is probably one of the least implemented conventions and with the least amount of work to progressively realize the rights of women.

## CEDAW and Maldives: An HRCM Perspective



- As an NHRI, the Human Rights Commission of the Maldives has continuously liaised with the State to monitor and recommend the implementation of the Articles of the Convention.

HRCM conducted a monitoring exercise to gauge the level of implementation of the concluding observation in some of the Islands in Maldives.

- The results are less than encouraging

## CEDAW and Maldives: An HRCM Perspective



- The concluding observation insists the State interpret the term “All forms of Discrimination” in conformity to what has been interpreted in Article 1 of the Convention and to include this definition in the Constitution as well as to ensure an end to gender discrimination by enacting a specific legislation and to include the definition of ‘discrimination’ in the Act as is defined in Article 1 of the Convention.

## CEDAW and Maldives: An HRCM Perspective

- Progress: While the State has shown no progress in implementing the recommendation it was also noted that most of the people in the islands visited during the monitoring project didn't even know what discrimination against women meant. However they did have some idea about domestic violence.

## CEDAW and Maldives: An HRCM Perspective

- The CEDAW Committee recommended that the Constitution be amended to ensure that women are not barred from becoming the Head of State.

## CEDAW and Maldives: An HRCM Perspective

- Progress: The Maldivian Constitution has progressively removed that obstacle and the present Constitution of 2008 does facilitate for either a man or a woman to be the head of State. However, this Constitutional provision is challenged by almost everyone claiming the religious principle of a woman unable to assume the responsibilities of a leader. The State has done nothing to counter this belief.

## CEDAW and Maldives: An HRCM Perspective

- Progress: The Maldivian Constitution has progressively removed that obstacle and the present Constitution of 2008 does facilitate for either a man or a woman to be the head of State. However, this Constitutional provision is challenged by almost everyone claiming the religious principle of a woman unable to assume the responsibilities of a leader. The State has done nothing to counter this belief.

## CEDAW and Maldives: An HRCM Perspective

- Other issues not addressed according to the comments mentioned by CEDAW Committee:
  - CEDAW has not been advocated for by the State. Almost non of the participants of the survey knew about CEDAW and the Councils had not been supplied with copies of CEDAW.
  - While gender equality is established through legal mechanisms, non of the laws had been advocated for within the Island.

## CEDAW and Maldives: An HRCM Perspective

- Other issues not addressed according to the comments mentioned by CEDAW Committee:
  - CEDAW has not been advocated for by the State. Almost non of the participants of the survey knew about CEDAW and the Councils had not been supplied with copies of CEDAW.
  - While gender equality can be ascertained and established through legal mechanisms, non of the laws have been advocated for within the Island.

## CEDAW and Maldives: An HRCM Perspective

- While the Committee emphasizes the importance of implementing every and all means to ensure 'all forms of discrimination' against women are checked, the State has done little to realize this recommendation.
- The Family and Children Service Centers are barely functional and its only a few islands that has an FCSC base.

## CEDAW and Maldives: An HRCM Perspective

- While the Committee emphasizes the importance of implementing every and all means to ensure 'all forms of discrimination' against women are checked, the State has done little to realize this recommendation.
- The Family and Children Service Centers are barely functional and its only a few islands that has an FCSC base.

## CEDAW and Maldives: An HRCM Perspective

- While it is incumbent upon the State to ensure that victimized women as well as complaints of gender based violence, discrimination etc are provided necessary redress, it is quite apparent that the State institutions are not properly capable of addressing such issues.
- In certain cases the Police have dismissed cases of domestic violence by claiming them to be domestic issues that need to be resolved within the household. In one famous case, the released husband went back and beat the wife to an inch of her life.

## CEDAW and Maldives: An HRCM Perspective

- Article 3 of CEDAW clearly mandates the State to ensure that women are afforded equal opportunity both legally and through other administrative means to engage in all areas of life, especially political, social and economic spheres.
- Although there are no legal impediments to this end, the practical reality is that the mindset of both the ordinary person as well as policy makers, parliamentarians, Councilors, etc are purposefully attuned to believe that women are not fit to stand neck and neck to men

## CEDAW and Maldives: An HRCM Perspective

- During the survey as well as during human rights clinics (Advocacy programs targeting Atolls) it became very apparent that some of the Councilors were vehemently against gender equality.
- Some of them believed that advocating for gender equality and women's rights was in itself an atrocity against women since if they were to even try the work men were doing women might not survive.

## CEDAW and Maldives: An HRCM Perspective

- Affirmative action and positive discrimination, though integral and vital part of CEDAW, are terms that have virtually little meaning in the Maldives.
- Through awareness programs, HRCM has continuously attempted to familiarize people to the term but with limited success.
- The State has done virtually nothing to advocate for positive discrimination while no State policy has yet seen the incorporation of this term.

## Gender Equality and Religious Fundamentalism

- Religious fundamentalism is one of the most severe threats to the full realization of women's rights.
- There is continuous advocacy by such groups to promote women's subjugation, keep them from working as well as discredit any arguments in favour of women's rights by calling them Western and un-islamic.

## Gender Equality and Religious Fundamentalism

- Religious fundamentalism has created a sense of mass belief that has continuously advocated for concepts such as:
  - women or girls who aren't properly covered are asking to be raped.
  - Child marriages
  - Corporal punishment even to children
  - Subjugation of women in all walks of life
  - Belittling of the domestic violence act by calling it an obstacle for the men to keep an eye on their women.

## Gender Equality and Religious Fundamentalism

- Continuous religious rhetoric has also created a mindset amongst many women that domestic violence and gender based violence are something that women rightfully deserve and that it is a sin to criminalize it.
- Their belief stems from the fact that some extreme religious scholars preach about the absolute right a husband has over the wife or a father has over the daughter and so on.
- It is unfortunate that even scholars with more moderate views choose to remain silent in such matters.

## Gender Equality and Religious Fundamentalism

- HRCM is able to combat these systemic and very controversial issues only with limited success.
- Advocacy programs need to be subtle and overt openness often leads to retribution from religious extremists and even mainstream religious scholars and policymakers.

## Gender Equality and Religious Fundamentalism

- However there are consistent advocacy programs highlighting women's rights, empowerment and even regular women's forums to provide counter arguments to downplay concepts encouraging the subjugation of women.

## Women's Rights: Maldivian Situation in Practice

- The Flogging Case of a 15 year old rape victim
  - Case Introduction
  - State Violations
  - The Verdict
  - HRCM Intervention
  - Court Process
  - Amicus Curiae Submission
  - Role in Court
  - Overturned Verdict



## Women's Rights: Maldivian Situation in Practice

- The Flogging Case of a 15 year old rape victim
  - Case Introduction
  - State Violations
  - The Verdict
  - HRCM Intervention
  - Court Process
  - Amicus Curiae Submission
  - Role in Court
  - Overturned Verdict

## ● <주제 4> 참고자료-암만 선언 및 행동 계획(국문)

### 암만 선언 및 행동 계획

#### (AMMAN DECLARATION AND PROGRAMME OF ACTION)

제 11회 인권증진과 보호를 위한 국가인권기구 국제조정위원회(ICC) 국제 회의는 “여성 인권, 양성 평등 추진, 국가인권기구의 역할”을 주제로 2012년 11월 5일부터 7일까지 인권 고등판무관실(OHCHR)과 국가 인권기구 국제 조정 위원회(ICC)와의 협력과 요르단 국가 인권센터(JNCHR)에서 주최로 요르단의 암만에서 개최되었다.

국가인권기구들은 요르단 국가 인권센터의 훌륭한 회의 진행과 따뜻한 환대에 감사하였다. 참가자들은 또한 인권 고등판무관실, 국제 조정위원회 및 아시아 태평양 국가인권기구 포럼의 국제 회의 조직 지원에 감사를 표현하였다. 참가자들은 요르단 국무 총리에 의해 개막된 본 국제회의에 대한 요르단 국왕 압둘라 이븐 후세인 2세의 후원에 깊이 감사하였다. 참가자들은 인권위원회 고등 판무관, 인권위원회 위원장과 여성차별철폐위원회 회원 및 법률 및 관행에서의 여성 차별에 대한 유엔 실무 그룹 위원장으로 구성된 기초연설자의 연설과 전 세계 각 국의 국가인권기관의 유익한 공헌을 환영하였다. 유엔 아동 기금 (UNICEF), 유엔 인구 기금 (UNFPA) 및 양성평등 및 여성의 권한강화 유엔 기구 (UN Women) 등 UN 기관의 참여 또한 환영되었다.

세계 각국의 비정부 기관은 이번 회의의 협의에 큰 도움이 된 사전NGO 포럼 및 선언을 포함, 회의에 귀중한 공헌을 하였다.

제 11회 국제 회의는 암만 선언과 행동 계획 (the Amman Declaration and Programme of Action)을 채택하였다. 국가인권기관 지역별 그룹에서 제시한 지역별 행동 계획은 본 선언 및 행동 계획에 첨부되어있으며, 여성의 권리를 보장하기 위한 핵심 도구 또한 본 선언 및 행동 계획에 첨부되어 있다.

## 암만 선언 (AMMAN DECLARATION)

참가자들은 여성 및 여아의 권리가 모든 인권 조약에서 보장하는 인권이라는 점을 확인하였다. 이러한 인권은 정치, 시민, 경제, 사회, 그리고 문화적 권리를 포함한다. 이러한 공약에도 불구하고, 수십억 여성의 인권이 침해 및 부정되고 있는 것이 현실이다.

참가자들은 인권의 불가분성과 상호 연계성을 강조하고 다양한 여성의 인권 침해와 여아의 특수한 상황 및 필요와 권리간 관계를 인정하였다. 가난과 불평등은 차별, 기아 및 성에 근거한 폭력을 증가시키는 주요 요인이다. 가부장적 구조, 시스템 및 거시 경제적 선택은 이에 따른 무장화, 전쟁, 폭력, 실업 및 불안정한 고용으로부터 불균형적으로 고통 받고 있는 여성의 삶과 기여의 가치를 낮추고 있다. 이러한 선택은 여성의 시간, 보건 및 안전에 부정적인 영향을 미치며 여성과 여아는 보건, 교육 및 사회 보장 등 공공 서비스 예산 삭감을 포함하는 긴축 조치로 인한 타격을 받고 있다. 전 세계적 그리고 국가별 금융 위기의 영향은 빈곤층에서 가장 크게 느끼게 되며, 이중 대부분이 여성이다.

UN 기업 인권 지침 (UN Guiding Principles on Business and Human Rights)에서 규정하는 바와 같이 여성의 인권을 보호하기 위한 의무를 다하기 위하여 정부 및 다국적 기관은 인권을 침해하는 기업에 책임을 물을 의무를 가진다.

참가자는 여전히 너무 많은 여성들이 복합적이며 교차적인 차별로부터 고통 받는 것과 소수 민족 여성, 부족민 여성, 아프리카 후손, 난민 및 실향 여성, 이주 여성, 농촌 또는 낙후 지역 거주 여성, 극빈 여성, 기관 내 구금 또는 수용 여성, 장애 여성, 고령 여성, 미망인, 무력 분쟁 및 분쟁 종식 이후 상황에 처한 여성, HIV 상태 등을 사유로 차별당하는 여성, 국내 및 가정 폭력, 성 노동자, 다양한 생물학적 성별, 성적 취향, 및 사회학적 성별의 여성, 약물 주사 또는 기타 다른 방법을 통해 마약에 의존하는 여성, 인신 매매 여성 피해자 등 일부 여성이 특히 취약한 상황에 처해있음을 인정하였다.

여성의 인권은 국제, 지역 및 국가 수준의 다양한 국제 조약, 선언 및 정치적 약속을 통해 확실히 구분되어 있다. 국가인권기구는 정부에서 기 인정된 약속과 의무를 즉각적으로 완전히 이행하는 것이 핵심적임을 강조하였다.

회의에 참석한 국가인권기구는 다음의 광범위한 원칙과 업무 분야에 합의하였다.

1. 양성 평등을 달성하기 위한 지속 가능한 개입을 수립하기 위한 목적으로 모든 전략적 계획, 절차, 정책, 프로그램 및 활동에서 여성의 인권과 양성 평등을 우선적으로 다루고 주요 주제에 편입시켜야 한다. 이는 또한 양성 평등에 대한 국가인권기구 회원 및 직원 교육 개발 및 시행과 국가인권기구 내 모든 등급과 모든 업무 분야에서 양성 평등을 달성하기 위한 목적으로 국가인권기구에서 성희롱, 폭력 및 집단 괴롭힘 등이 없도록 하는 등 내부 구조를 검토하는 것을 포함할 것이다. 필요한 경우, 국가인권기구는 전문UN 기관, 국제조정위원회(ICC), 지역 조정위원회 또는 이러한 노력을 지원하는 기타 기관에 기술적 지원을 요청하여야 한다.
2. 여성인권 및 양성평등을 촉진하고 이를 보호하기 위하여 관련 기관이 존재하거나 이에 해당되는 경우, 국가인권기구의 여성 및 아동 인권 부서간 협조를 강화하고, 이러한 이슈를 다루는 국가별 특별 기관 과 협력하며, 노동 조합, UN 기관, 비 국가 기관, 시민 사회 단체, 그리고 지역 및 정부간 기구 (inter-governmental organizations) 등 국가, 지역 및 국제적으로 기관 및 이해관계자의 참여를 도모하여야 한다.
3. 국가의 인권 의무 이행여부 및, 국가인권기구의 권한이 허용하는 경우 비 국가 기관의 여성 인권 및 양성 평등과 관련된 인권 기준 준수 여부를 모니터링 하여야 한다. 국가인권위원회는 여성의 법적, 그리고 사실적 인권 또는 남성과의 실질적 평등을 보장하기 위한 노력을 기울여야 하며, 이러한 노력이 특별한 조치 및 차등한 대우를 요구할 수도 있다는 사실을 인지하여야 한다. 이러한 노력은 여성 인권과 양성 평등을 국가인권정책기본계획 및 기타 관련 법률 및 정책 적용하는 것을 포함할 수 있다. 베이징 행동 강령 (Beijing Platform for Action) 과 그 핵심 논점의 12개 분야는 여성 인권을 보장하기 위한 국가 활동을 평가하기 위한 지침 구조의 역할을 수행하여야 할 것이다.
4. 모든 형태의 여성과 소녀에 대한 차별, 성에 근거한 폭력, 경제적, 사회적 및 문화적 권리의 침해, 생식권의 침해, 공공 및 정치 활동에서의 차별 등을 포함하는 여성 인권 위반에 대응, 문의 및 이러한 혐의를 수사하고 이러한 위반 사항을 지속시킬 수 있는 구조적 문제를 파악하여야 한다. 이러한 조사 및 보고서는 정부가 여성 인권을 보장하고 불처벌을 근절할 의무를 이행할 수 있도록 권고안을 제시하여야 한다.
5. 해당 기관의 권한에 따라 사법 및 비사법적 구제를 포함하는 법적 절차에 여성들이 용이하게 접근할 수 있도록 하여야 한다.

6. 국가인권기구가 준사법적 권한을 가지는 경우, 여성 피해자를 돕고 행정 조치를 취하거나 범죄자의 형사 처벌을 위해 이러한 권한을 적극적으로 행사하여야 한다.
7. 유엔여성차별철폐위원회(CEDAW), 시민적 및 정치적 권리에 관한 국제협약, 경제, 사회, 문화적 권리에 관한 국제협약, 아동권리협약, 장애인권리협약 및 기타 인권 규칙 및 기준에서 찾아볼 수 있는 여성 인권을 국내 법 및 정책에 추진하고 실현하여야 한다.
8. 모든 인권 조약 실행을 강화하기 위하여 이러한 조약에 대한 유보 철폐를 장려하여야 한다.
9. 조약 기관의 권고안 및 특별 절차, UN 총회, 인권 위원회, UN 여성 지위 위원회 (Commission on the Status of Women, UN CSW) 및 인구개발위원회 등을 포함하는 UN 정부간 기구 (UN intergovernmental bodies) 결의안 및 국가별 인권 상황 정기 검토 (Universal Periodic Review, UPR)에 따라 국가에서 인정된 권고안의 이행을 감시하고 장려하여야 한다.
10. 여성 인권 운동자들과 협력하고, 여성 인권 운동자들이 여성이기 때문에 또는 성 특정적 목적을 지지하기 때문에 당하게 되는 성 특정적 폭력에 특별한 관심을 기울이는 한편, 폭력 피해가 발생한 경우 여성 인권 운동자들의 구제책 접근을 추진하여야 한다.
11. 여성 인권을 더욱 효과적으로 추진하고 보호할 수 있도록 국가인권기구와의 협력과 국가 협력기구의 역량을 강화하기 위하여 UN 여성기구, UNDP, UNICEF, UNFPA, 및 OHCHR 등 UN 기관과 전략적 파트너십을 구축하여야 한다. 여성 인권, 양성 평등 및 관련 국제 기준에 대한 교육, 홍보 및 인지도 향상 활동을 수행하여야 한다. 특정 성별의 우월성 또는 열등성, 또는 남성과 여성의 전형적 역할에 근거하는 편견과 관습 및 다른 모든 관행을 없애는데 특별한 주의를 기울여야 할 것이다. 국가인권위원회는 인권이 침해되었을 때 여성에게 낙인 되는 오명을 없애기 위해 노력할 것이다.
12. 가능한 경우 여성 인권과 관련된 지침을 개발하고 정부의 해당 지침 준수 여부를 모니터링 하여야 한다.
13. 여성 차별이 없는 것을 확인하기 위하여 민간 부문 및 비 정부 분야의 개인 및 기관을 감시하고 협력하여야 한다. 지역 및 전 세계적 영업 활동을 감시하고 여성 인권에 미치는 악영

향을 보고하여야 한다.

14. 모든 국제 및 지역별 인권 장치에 대한 약속과 2015년 이후 개발 의제, ICPD 2014년 이후 글로벌 리뷰, 베이징 행동 강령 및 비엔나 행동 계획 등 국제 과정에 대한 약속을 통해 여성 인권 및 양성 평등을 우선화하고 이를 촉진하여야 한다.
15. 국제 금융 및 무역 기구와의 업무 및 이러한 분야의 국제 협약 협상에서 여성인권을 포함하는 인권을 우선시하도록 정부에 요구하여야 한다.

### 암만 행동 계획 (AMMAN PROGRAMME OF ACTION)

회의 준비위원회는 모든 지역의 국가인권기구의 업무와 특별히 연관된 문제를 제안한 토론 테마를 선정하였다. 회의는 해당 주제에 대하여 국가인권기구가 향후 10년 또는 그 이상의 기간 동안 우선적으로 수행하여야 할 다음과 같은 행동 계획에 동의하였다.

#### 국가인권기구와 여성의 정치 및 공공 참여

1. 여성의 시민 및 정치 참여 능력을 억제하는 차별적 법률 철폐를 지지함.
2. 여성의 투표권 행사 또는 기타의 방법으로 공공, 평화 및 정치 과정 참여를 막거나 단념하도록 하는 전통과 사회문화적 걸림돌 및 고정관념을 제거하기 위한 교육과 법률 및 관행 채택 등을 포함하는 조치를 추진함.
3. 문맹, 언어, 빈곤, 여성의 이동의 자유의 장애 등 공공 및 정치 참여를 가로막는 사회경제적 걸림돌을 마주한 여성에게 도움 또는 지원을 제공하여 이러한 어려움을 극복할 수 있도록 함.
4. 정부의 행정, 입법 및 사법 기관에 충분한 수의 여성이 선출 및 임명을 통해 대표될 수 있도록 하는 임시 특별 조치 채택을 장려하고 더 많은 여성 후보를 지원할 수 있는 적극적 조치를 채택하도록 정치 기관과 협력함.
5. 여성 (아동)의 의견이 그들의 안녕에 영향을 미치는 문제에 있어 수렴되는 것을 보장할 수 있는 방법을 추진함.

#### 국가인권기구 및 여성의 경제 사회적 권리

6. 정부가 가지는 여성의 경제, 사회, 문화적 권리를 존중, 보호 및 충족하여야 하는 의무와 이러한 권리 행사에 차별이 없도록 할 의무 준수 여부를 감시 및 보고함. 건축 조치와 기타 금

용위기에 대한 대응과 관련하여 여성이 경제 사회 문화적 권리를 누릴 수 있도록 특별한 관심을 기울여야 할 것이다.

7. 계획 과정과 인권 및 성인지 예산 기법에서 정부의 성인지적 관점 사용 장려를 통해 정부가 여성의 경제 사회 문화적 권리를 점진적으로 실현하는데 이용가능한 모든 자원을 최대한 사용하고 있는지를 분석하는 노력을 지원함. 국가인권기구는 예산 의사 결정을 돕기 위해 국회와 연구 결과를 공유하고 국회의 인권 예산 및 성인지 도구 사용을 촉진하여야 한다.
8. 새천년선언(Millennium Declaration) 및 목표를 달성하기 위한 거시 경제 및 무역 정책과 빈곤 퇴치 전략, 인구 전략 및 기타 전략을 포함하는 법률, 공공 정책 및 예산을 감시 및 평가하고, 여성 차별적이거나 차별 효과를 가지는 조항 철폐를 촉진하고, 적절한 경우 시정 조치를 추진하기 위하여 관련 분야와 협력함.
9. 여성의 경제, 사회 및 문화적 권리에 대해 변호사, 검사, 판사, 국회의원 및 정부 공무원의 교육을 촉진함.
10. 경제 사회 문화적 권리 침해를 겪은 여성을 지원하고 구제책 접근을 가능하게 하며, 필요한 경우 국가 내 경제 사회 문화적 권리의 사법심사가능성(justiciability)을 지지함.
11. 자신의 권리와 자신의 경제 사회 문화적 권리를 주장하기 위해 제공되는 방법을 교육하기 위해 여성의 인지도 증대 활동 착수.
12. 여성을 차별하거나 불리하게 하지 않는다는 점과 양성 평등과 여성 인권 달성에 우선순위를 둔다는 점을 보장하기 위한 개발 원조 프로그램을 감시하기 위한 노력 지원.
13. 동등한 보수, 교육, 훈련 및 전문 개발에 대한 동등한 접근을 포함하고 모든 업무 현장에서 여성의 건강, 안전 및 안녕을 보장하는 적절한 직업을 가질 여성의 권리를 감시하거나 감시하기 위한 노력 지원.
14. 여성의 무급 노동을 감시하거나 감시하기 위한 노력을 지원하고, 가정에서 동등한 노동 분할을 촉진하는 한편 적절한 보육, 유급 부모 휴가 및 유연 근무 등의 조치와 같은 개호책임(caring responsibilities)을 가지는 여성을 지원하기 위한 권고안을 제공함.

#### 국가인권기구 및 여성에 대한 폭력

15. 모든 형태의 성에 근거한 폭력의 종류, 범위, 원인 및 영향과 성에 근거한 폭력을 예방하고 대응하기 위한 조치의 효과성에 대한 증거 기반(예: 데이터, 수사, 연구) 편찬을 지지 및 지원함.
16. 국제 인권 기준에 따라 가정 폭력, 성폭력 및 모든 형태의 성을 근거로 하는 폭력에 대한 법률의 채택을 촉진하고 지원함.

17. 독립적으로 감시 및 평가되어야 하는 국가 행동 계획 조항을 포함하는 여성에 대한 폭력에 대응하기 위한 국가 행동 계획 채택 지원
18. 국가인권기구의 권한이 허용하는 경우, 사법 및 법 집행 임원, 의료 전문가 및 기타 공무원 을 대상으로 여성에 대한 폭력, 양성 평등 및 여성 인권 대응에 대한 교육 실시
19. 형사 조항, 예방 및 재활 대책 등을 포함하는 인신매매와 다른 형태의 성 착취로부터 여성 을 보호하기 위한 조치를 추진함.
20. 여성 피해자가 고소 절차 및 보상을 포함하는 구제 방안에 접근할 수 있도록 지원하고 여성 을 대상으로 하는 폭력에 대한 항의에 대응하기 위하여 국가인권기구의 준사법 권력 사용을 보장함.
21. 성희롱을 방지하고 퇴치하기 위한 프로그램과 직장, 학교 및 구급시설 등 기타 기관에서 성희 롱 및 기타 다른 형태의 성을 근거로 한 폭력으로부터 여성을 보호하기 위한 조치를 개발함.
22. 난민, 특수 훈련 보건 요원, 재활, 상당 및 법률 서비스를 포함하는 가정 폭력, 성폭력 및 다른 형태의 성을 근거로 한 폭력 피해자를 위한 충분한 자원이 지원되는 핵심 서비스를 수 립하거나 지원하고 특히 불우한 여성들이 이러한 서비스에 접근할 수 있도록 함.
23. 개정된 범죄방지 및 형사사법분야에서 여성에 대한 폭력근절을 위한 표준전략 및 실천대책 및 여성수용자의 처우 및 여성 범죄자를 위한 비구금형 대안에 관한 UN규칙 (방콕 규칙) 시행 추진
24. 무력 분쟁 및 성폭력 상황에 처한 여성이 겪는 인권 위반을 해결하기 위한 조치를 수립 및 지원하고 가해자들에게 이러한 폭력에 대한 책임을 지도록 함.

#### 국가인권기관 및 여성의 건강과 생식권

25. 베이징 행동 강령과 인구개발 국제회의의 행동 계획에서 규정하는 바와 같이 생식권이 가장 높은 수준의 성/생식 보건 기준에 대한 권리와 자녀의 수, 나이 차 및 시기와 자녀의 성 성 향과 관련된 사항을 자유롭고 책임감 있게 결정하고, 차별, 폭력 또는 강압 없이 이를 결정 하기 위한 정보 및 수단을 가질 수 있는 모두의 권리를 포함한다는 사실을 인정하며, 차별 없이 생식권을 보호하고 촉진함.
26. 성/생식 건강 정보 및 서비스 접근에서 법적, 그리고 사실상의 차별, 강제 불임, 강제 낙태, 조혼, 강제 결혼, 여성 할례, 편향적 성별 선택 및 기타 다른 유해 관행 등을 포함하는 생식 권 및 성/생식 건강권 행사와 관련된 증거 기반 (예: 데이터, 수사, 연구) 편찬을 지지 및 지원함.
27. 성/생식 보건 서비스 접근을 차별 또는 불법화 하는 법 등을 포함하는 가족, 성/생식 건강권

등 생식권과 관련된 국내 법과 행정 규정을 검토하고, 국가가 인권 의무를 수행하는데 도움이 될 수 있는 권고안을 제안함.

28. 종합적 성/ 생식 보건 정보 및 서비스 접근을 보장하고 이러한 접근을 방해하는 걸림들을 제거하는 조치를 추진하고, 인권 의무가 위반되었을 경우 구제 수단에 대한 법과 규정을 효과적으로 적용할 수 있는 책임 매커니즘 수립을 지원함.

**국제회의는 또한 다음과 같은 국제조정위원회 (ICC)의 역할에 동의하였다.**

29. 연례 총회에 여성의 권리를 촉진 및 보호하는 국가인권기관의 역할에 대한 회의를 할애함.
30. 인정 하위 위원회를 포함, 성별, 인종 또는 소수 민족 구성을 고려하는 기구와 같이 파리 원칙에서 요구하는 국가인권기구의 다원적 구성을 추진함. 이는 예를 들어 국가인권기구 내 여성의 동등한 대표 및 참여 보장을 포함한다.
31. UN 인권위원회 결의안 20/14에서 장려하는 바와 같이 A-등급 국가인권기관의 UN 여성지위위원회 (CSW) 독립적 참여 지지를 지속하고, 국제조정위원회와 지역별 국가인권기관 조정위원회 및 국가인권기관이 가능한 경우 해당 정부와 함께 “모든 형태의 여성 폭력 철폐 및 방지”에 초점을 맞추는 여성지위위원회 제 57회 회의 (2013년 3월 4일-15일)에 참여하도록 장려함.

**국가인권기구는 또한 다음의 활동을 수행할 수 있다.**

32. 암만 선언 및 행동 계획을 기반으로 지역별 국가인권기구 네트워크 회의 및 국제조정위원회 회의에서 보고될 특별 지역별 발의안 및 활동으로 이를 보완하여 여성 인권 촉진 및 보호에 대한 지역별 국가인권기구 행동 계획을 시행함.
33. 지역 사회 내 본 선언에 대한 인지도를 넓히기 위하여 본 선언 및 행동 계획을 현지어로 번역하여 언론, 웹사이트, 소셜미디어, 시민 사회 네트워크 및 다른 방법을 통해 널리 배부함.
34. 본 회의의 결과와 암만 행동 계획을 국가 수준에서 시행하기 위한 절차를 논의하기 위하여 모든 이해관계자와 협력기관을 포함하여 국가 협의회를 구성함.

● <주제 4> 참고자료 - 아만 선언 및 행동 계획(영문)



**AMMAN DECLARATION AND PROGRAMME OF ACTION**

The Eleventh International Conference of the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights took place in Amman, Jordan from 5-7 November 2012 and was hosted by the Jordan National Centre for Human Rights (JNCHR), in cooperation with the Office of the High Commissioner for Human Rights (OHCHR) and the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC). The focus of the Conference was “The human rights of women and girls: Promoting gender equality: The role of national human rights institutions.”

National Human Rights Institutions (NHRIs) expressed their gratitude to the JNCHR for the excellent organization and warm hospitality they had enjoyed. Participants also thanked OHCHR, the ICC, and the Asia Pacific Forum of National Human Rights Institutions for their contribution to the organization of the Conference. They warmly thanked His Majesty Abdullah II bin Al-Hussein for his patronage of the Conference, which was opened by His Excellency the Prime Minister of Jordan. They further welcomed the statements of the Deputy High Commissioner for Human Rights, the President of the Human Rights Council and keynote speakers including the Member of the Committee on the Elimination of Discrimination against Women (CEDAW) and the Chairperson of the UN Working Group on Discrimination against Women in Law and Practice as well as the fruitful contributions by NHRIs from all regions. The participation of UN agencies including, the United Nations Children’s Fund (UNICEF), the United Nations Population Fund (UNFPA), and the UN Entity for Gender Equality and the Empowerment of Women (UN Women) was also welcomed.

Non-governmental organizations from around the world made a valuable contribution to the Conference, including the pre-Conference NGO Forum and Declaration that greatly enhanced the Conference’s deliberations.

The Eleventh International Conference adopted the Amman Declaration and Programme of Action. Regional plans of action, elaborated by NHRI regional groups at the Conference, are annexed to this Declaration and Programme of Action. An annex of central instruments guaranteeing women’s and girls’ rights, is also attached to this Declaration and Programme of Action.

## AMMAN DECLARATION

The participants affirmed that women's and girls' rights are human rights, which are guaranteed in all human rights treaties. These human rights include political, civil, economic, social and cultural rights. Despite these commitments, the human rights of billions of women and girls are violated and denied.

The participants stressed the indivisibility and interrelatedness of human rights and recognized the interlinkages between a variety of violations of women's human rights, as well as the distinct situation, needs and rights of girls. Poverty and inequality are significant factors that increase vulnerability to discrimination, hunger and gender-based violence. Patriarchal structures, systems and macro-economic choices devalue the lives and the contributions of women, who also suffer disproportionately from the ensuing militarization, war, violence, unemployment and precarious employment. These choices impact negatively on women's and girls' time, health and safety and women and girls bear the brunt of austerity measures including through budget cuts on public services, such as health, education and social security. The worst impacts of the global and national financial crises are felt by those who are poor, the majority of whom are women and girls.

In accordance with their obligation to protect the human rights of women and girls as in the UN Guiding Principles on Business and Human Rights, States and multi-lateral bodies have an obligation to hold corporations that violate human rights accountable.

The participants recognized that still too many women suffer from multiple and intersecting forms of discrimination, and that some women are particularly vulnerable including : women belonging to minority groups, indigenous women, Afro-descendants, refugee and internally displaced women, migrant women, women living in rural or remote communities, women living in extreme poverty, women in institutions or in detention, women with disabilities, elderly women, widows, women in situations of armed conflict and post-conflict, women who are otherwise discriminated against, including on the basis of HIV status, domestic and family violence, sex workers, women of diverse sex, sexuality, and/or gender, women who inject drugs or are otherwise dependent on drugs, and women victims of trafficking.

The human rights of women and girls are well articulated in a wide array of international treaties, declarations and political commitments at international, regional and national levels. NHRIs stressed that it is essential for Governments to fully and without delay implement the commitments and obligations which they have accepted.

The NHRIs assembled agreed to the following broad principles and areas of work :

1. Prioritize and mainstream the human rights of women and girls and gender equality throughout all their strategic planning, processes, policies, programmes and activities with a view to establishing sustainable interventions to achieve gender equality. This would also include developing and implementing training for NHRI members and staff on gender equality and reviewing their internal

structures with a view to achieving gender equality at all levels and in all aspects of their work, including ensuring that NHRI workplaces are free of sexual harassment, violence and bullying. When required, NHRIs should seek technical assistance from specialist UN agencies, ICC, Regional Coordinating Committees or other institutions to support these efforts;

2. Strengthen coordination between NHRI women's and children's rights departments where they exist, or as relevant, cooperate with specialized institutions at the national level dealing with these issues and engage with organizations and stakeholders at the national, regional and international levels, including trade unions, UN agencies, non-State actors, civil society organizations, and regional- and inter-governmental organizations to promote and protect women's and girl's human rights and gender equality;
3. Monitor the States' fulfilment of their human rights obligations and, where the NHRI mandate permits, non-State actors' compliance with human rights standards, including those relating to the human rights of women and girls and gender equality. NHRIs should support efforts to ensure women's right of de jure and de facto or substantive equality with men, recognizing this may require special measures and differential treatment. These efforts can include integration of the human rights of women and girls and gender equality in Human Rights National Action Plans and other relevant laws and policies. The Beijing Platform for Action and its twelve areas of critical concern should serve as the guiding framework for assessing State action to ensure women's and girls' human rights;
4. Respond to, conduct inquiries into and investigate allegations of violations of women's and girls' human rights, including all forms of discrimination against women and girls, gender-based violence, violations of economic, social and cultural rights, violations of reproductive rights and discrimination in public and political life, and identify systemic issues which may perpetuate these violations. These investigations and reports should result in recommendations to the State to meet their obligations to ensure women's and girls' human rights, and to combat impunity;
5. Facilitate women's and girls' access to justice, including judicial and non-judicial remedies, in accordance with their mandate;
6. Where NHRIs have quasi-judicial powers, exercise them fully to provide relief to the women and girl victims and press for administrative action against or the criminal prosecution of offenders;
7. Promote the realization of the human rights of women and girls, including as found in CEDAW, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Rights of the Child, the Convention on the Rights of Persons with

Disabilities, and other human rights norms and standards, into national law and policies;

8. Encourage the withdrawal of reservations to such treaties with a view to strengthening the implementation of all human rights treaties;
9. Monitor and encourage the implementation of the recommendations of treaty bodies and special procedures, resolutions of UN intergovernmental bodies, including the General Assembly, Human Rights Council, Commission on the Status of Women (UN CSW) and the Commission on Population and Development; and recommendations accepted by States in the context of the Universal Periodic Review (UPR);
10. Work with women human rights defenders, and devote particular attention to the gender-specific violations that women human rights defenders suffer for being women or because of the gender-specific causes that they defend, and promote their access to remedies in case of violations;
11. Forge strategic partnerships with UN agencies such as UN Women, UNDP, UNICEF, UNFPA, and OHCHR to strengthen cooperation with, and the capacities of, NHRIs to more effectively promote and protect women's and girls' human rights;
12. Undertake education, promotion and awareness-raising activities on the human rights of women and girls, gender equality and relevant international standards. Particular attention should be paid to eliminating prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women. NHRIs will work to eliminate stigma attached to women and girls who come forward when their rights are violated;
13. Develop guidelines, where applicable, relating to the human rights of women and girls and monitor State compliance with such guidelines;
14. Monitor and work with individuals and entities in the private sector and non-governmental sphere to ensure that they do not discriminate against women and girls;
15. Monitor the activities of businesses, from local to global, and report on any adverse impacts on women's and girls' enjoyment of their human rights;
16. Prioritize and promote the human rights of women and girls and gender equality through their engagement with all international and regional human rights mechanisms, and in their engagement with global processes such as the post-2015 development agenda, the ICPD Beyond 2014 Global Review, the Beijing Platform of Action, and the Vienna Programme of Action;

17. Urge States to prioritize human rights, including those of women and girls, in their engagement with international financial and trade institutions, and in the negotiation of international agreements in these areas.

### **AMMAN PROGRAMME OF ACTION**

The Preparatory Committee of the Conference selected themes for discussion, which represented issues particularly relevant to the work of NHRIs in all regions. The Conference agreed to the following action points on these themes, to which NHRIs will give priority over the next decade, and beyond:

#### **NHRIs and Women's Political and Public Participation**

1. Advocate for the removal of any discriminatory laws which inhibit women's ability to participate in public and political life;
2. Promote measures, including through education and the adoption of laws and practices, to eliminate traditions and social and cultural barriers and stereotypes that discourage or prevent women from exercising their right to vote or from otherwise participating in public, peace and political processes;
3. Provide assistance or support to women who face social and economic barriers to public and political participation, such as illiteracy, language, poverty, and impediments to women's freedom of movement, in order that these barriers may be overcome;
4. Encourage the adoption of temporary special measures to ensure that women are sufficiently represented in elected as well as appointed positions within the executive, legislative and judicial arms of Government, and work with political parties to adopt affirmative measures to support more women candidates;
5. Promote mechanisms to ensure that girls' voices are heard in matters affecting their well being;

#### **NHRIs and Women's Economic and Social Rights**

6. Monitor and report on States' compliance with their obligations to respect, protect and fulfil women's economic, social and cultural rights, and to guarantee non-discrimination in the exercise of these rights. Particular attention should be paid to ensuring women's enjoyment of economic, social and cultural rights in the context of austerity measures and other responses to the financial crises;

7. Support efforts to analyse whether States are spending the maximum of available resources on the progressive realization of women's economic, social and cultural rights through encouraging Government use of a gender perspective in their planning processes, and human rights and gender budgeting tools. NHRIs should share their findings with Parliaments as a contribution to decision making on budgeting and promote the use of human rights budgeting and gender budgeting tools by Parliaments;
8. Monitor and evaluate laws, public policies and budgets, including macroeconomic and trade policies, as well as poverty reduction strategies, population strategies and other strategies aimed at the achievement of the Millennium Declaration and Goals, and engage with relevant sectors, with a view to promoting the removal of provisions which are discriminatory against or have a discriminatory effect on women, and promoting corrective action, if and as appropriate;
9. Facilitate training of lawyers, prosecutors, judges, parliamentarians, and government officials on women's economic, social and cultural rights;
10. Support and facilitate access to remedies for women who have suffered violations of their economic, social and cultural rights, and advocate for the justiciability of economic, social and cultural rights in countries where necessary;
11. Undertake awareness raising activities with women to educate them about their rights and mechanisms at their disposal for claiming their economic, social and cultural rights;
12. Support efforts to monitor development assistance programmes to ensure that they do not discriminate against or disadvantage women and that they prioritize the achievement of gender equality and women's and girls' human rights;
13. Monitor or support efforts to monitor women's rights to decent work, including equal remuneration and equal access to education, training and professional development, as well as ensuring women's health, safety and well-being in all workplaces;
14. Monitor or support efforts to monitor women's unpaid work and provide recommendations for support to women who have caring responsibilities, such as ensuring adequate child care, paid parental leave and flexible working arrangements among other measures, while promoting equal division of labour in the home;

#### **NHRIs and Violence against women and girls**

15. Encourage and aid the compilation of an evidence base (e.g., data, inquiries, research) on the nature, extent, causes and effects of all forms of gender-based violence, and on the effectiveness of measures to prevent and address gender-based violence;

16. Promote and support the adoption of laws against domestic and family violence, sexual assault and all other forms of gender-based violence, in accordance with international human rights standards;
17. Support the adoption of National Action Plans to address violence against women that include provision for the National Action Plans to be independently monitored and evaluated;
18. Where their mandate permits, conduct training of judicial and law enforcement officers, medical professionals, and other public officials on responding to violence against women, gender equality and women's human rights;
19. Promote measures, including penal provisions, preventive and rehabilitation measures to protect women and girls subject to trafficking and other forms of sexual exploitation;
20. Assist women and girl victims in accessing complaints procedures and remedies, including compensation and ensure the use of NHRIs' quasi-judicial powers to address complaints of violence against women and girls;
21. Develop programmes to prevent and combat sexual harassment, and measures to protect women from sexual harassment and other forms of gender-based violence in the workplace, schools, or in other institutions such as places of detention;
22. Establish or support adequately resourced critical services for victims of domestic and family violence, sexual assault and other forms of gender-based violence, including refuges, specially trained health workers, rehabilitation, counselling and legal services, and ensure these services are accessible to particularly disadvantaged groups of women;
23. Promote implementation of the updated Model Strategies and Practical Measures on the Elimination of Violence Against Women in the Field of Crime Prevention and Criminal Justice, as well as the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules);
24. Establish and support measures to address human rights violations experienced by women in situations of armed conflict, especially sexual violence, and to hold perpetrators of these violations accountable;

### **NHRIs and Women's Health and Reproductive Rights**

25. Protect and promote reproductive rights without any discrimination, recognizing reproductive rights include the right to the highest attainable standard of sexual and reproductive health, the right of all to decide freely and responsibly the number, spacing and timing of their children, and on matters related to their sexuality, and to

have the information and means to do so free from discrimination, violence or coercion, as laid out in the Beijing Platform for Action and the Programme of Action of the International Conference on Population and Development.

26. Encourage and aid the compilation of an evidence base (e.g., data, inquiries, research) concerning the exercise of reproductive rights and the right to sexual and reproductive health, including but not limited to cases of *de jure* and *de facto* discrimination in access to sexual and reproductive health care information and services, forced sterilization, forced abortion, child marriage, forced marriage, female genital mutilation/cutting, biased sex selection and other harmful practices;
27. Review national laws and administrative regulations relating to reproductive rights such as those governing family, sexual and reproductive health, including laws which are discriminatory or criminalize access to sexual and reproductive health services, and propose recommendations to assist States in meeting their human rights obligations;
28. Promote measures to ensure access to comprehensive sexual and reproductive health information and services and to remove barriers which hinder such access, and support the establishment of accountability mechanisms for the effective application of the laws and the provision of remedies when obligations have been breached;

The Conference also agreed that the ICC should:

29. Dedicate a session to the role of NHRIs in promoting and protecting women's rights in its annual general meetings;
30. Promote a pluralistic composition of NHRIs as required by the Paris Principles, as one that considers the context of gender, ethnicity or minority status, including within its sub-committee on accreditation. This includes, for example, ensuring the equal representation and participation of women in the NHRI;
31. Continue its advocacy for the independent participation of A-status NHRIs at the UN CSW, as encouraged by UN Human Rights Council Resolution 20/14, and encourage the ICC, its regional NHRI coordinating committees, and NHRIs to engage, together with their respective governments where appropriate, at the 57<sup>th</sup> session of CSW (4 to 15 March 2013) focused on the 'Elimination and prevention of all forms of violence against women and girls';

NHRIs may also take the following actions:

32. Implement the regional NHRI action plans on promoting and protecting the human rights of women and girls, using the Amman Declaration and Programme of Action as a framework, and supplementing it with specific regional initiatives and actions

that will be reported on at regional NHRI network meetings and at ICC Conferences;

33. Translate this Declaration and Programme of Action into local languages and distribute it widely through press releases, websites, social media, civil society networks and other mechanisms to ensure broad national community awareness of the Declaration;
34. Organise national consultations that include all relevant stakeholders and partners to discuss the outcomes of the Conference and steps for the implementation of the Amman Programme of Action at the national level.

## ANNEX 1

### CENTRAL INSTRUMENTS RELATED TO WOMEN'S AND GIRLS' HUMAN RIGHTS

#### International treaties

- International Covenant on Civil and Political Rights
- International Covenant on Economic, Social and Cultural Rights
- Convention on the Elimination of all forms of Discrimination Against Women
- Convention on the Rights of the Child
- Convention on the Rights of Persons with Disabilities
- Rome Statute on the International Criminal Court
- Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime

#### Regional human rights treaties

- African Charter on Human and Peoples' Rights, and the Protocol on the Rights of Women in Africa (Maputo Protocol)
- American Convention on Human Rights, and the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women
- Arab Charter on Human Rights
- European Convention on Human Rights, and the Council of Europe Convention on preventing and combatting violence against women and domestic violence

#### ILO Conventions

- Equal Remuneration Convention, 1951 (No. 100)
- Discrimination (Employment and Occupation) Convention, 1958 (No. 111)
- Workers with Family Responsibilities Convention, 1981 (No. 156)
- Indigenous and Tribal Peoples Convention, 1989 (No. 169)
- Convention concerning Part-time work (No 175)
- Maternity Protection Convention, 2000 (No. 183)
- Domestic Workers Convention, 2011 (No. 189)

#### International Declarations and Political Commitments

- Vienna Declaration and Programme of Action
- Cairo Declaration and Programme of Action
- Beijing Declaration and Platform for Action
- Millennium Declaration

#### Security Council resolutions

- 1325 on women, peace and security
- 1820, 1888 and 1960 on sexual violence in conflict
- 1889 on women's role in post-conflict and reconstruction.

## ● <주제 4> 참고자료-여성과 소녀의 인권에 관한 APF 행동계획(국문)

### 여성과 소녀의 인권에 관한 APF 행동계획

(APF Action Plan on the Human Rights of Women and Girls: Promoting Gender Equality)

APF는 2011년 제16차 회의에서 APF의 목적과 업무에 성평등을 주류화하기로 약속하였고 성평등에 관한 법률가자문위원회의 권고에 대한 이행을 위한 약속을 재확인한다.

APF 회원기구는 아래 사항에 동의한다.

1. 유엔여성지위위원회와 총회에서 A등급 국가인권기구의 독립적 참여권을 위한 활동 지속
2. 여성차별철폐협약과 선택의정서의 당사국 이행을 모니터하고 동 협약의 정기 심사, 보고 과정, 일반적 권고 개발에 참여하며 선택의정서의 개인통보 및 조사 과정에의 참여
3. UPR에 참여, 여성과 소녀의 권리에 관한 당사국의 권고 수용한 사항의 이행 모니터
4. 여성과 소녀의 인권 증진을 위한 모든 조약기구와 특별절차에 참여하여 여성과 아동의 이슈를 주류화하고 여성과 소녀의 인권과 관련한 권고의 당사국 이행의 후속조치
5. 여성과 소녀의 인권 관련 이슈에 관한 ASEAN, AICHR, ACWC, LAS, PIFS, SAARC와 같은 지역 정부간 기구에 참여
6. 국내 차원에서 여성의 인권 전반의 보호와 증진 모니터
7. 여성과 아동을 위한 전문화된 위원회와 긴밀히 협력
8. 여성과 소녀의 인권 보호 증진을 위해 비정부기구와 시민사회단체와의 협력
9. 여성 인권옹호자의 요구와 어려움에 특별한 주의
10. 여성과 소녀의 인권을 주류화하고 우선시하는 국가인권행동계획을 채택하고 이행하도록 국가에 촉구
11. 국제조약의 국내 법률, 정책, 관행에서의 이행 증진
12. 국내 차원에서 여성의 경제적, 사회적, 문화적, 시민적 그리고 정치적 권리 전반의 보호와 증진 모니터
13. 여성과 소녀의 인권과 국가인권기구의 역할에 관한 통합훈련과정의 이행과 개발을 통해 APF 회원기구의 역량 강화
14. 여성과 소녀의 인권 보호와 증진에 관한 모범사례를 APF에 제공
15. 국가인권기구의 거버넌스, 리더쉽, 직원 지위 등 모든 차원에서 성평등을 위해 노력하고 국가인권기구 업무공간에서 성희롱, 폭력, 따돌림의 근절을 보장
16. 2013년 APF 연례회의에서 이러한 행동과 진전을 보고

● <주제 4> 참고자료 - 여성과 소녀의 인권에 관한 APF 행동계획(영문)

**APF Action Plan on the Human Rights of Women and Girls: Promoting Gender Equality.**

The APF reaffirms its:

Commitments made at APF 16 in 2011 to mainstream gender equality into APF objectives and work; and

Commitments towards the implementation of the Advisory Council of Jurists recommendations in relation to gender.

APF member institutions agree to:

1. continue advocacy for independent participation rights for A-status NHRIs at the UN Commission on the Status of Women and the General Assembly;
2. monitor the State Party's implementation of CEDAW and its Optional Protocol and engage in the periodic examinations, reporting processes and development of general recommendations under the treaty, as well as engage in the communication and inquiries process under the Optional Protocol, where appropriate;
3. engage with the UPR and monitor the State's implementation of the recommendations on women and girl's rights that have been accepted in the UPR;
4. mainstream women's and children's issues in engagement with all Treaty Bodies and Special Procedure Mandate Holders to promote the human rights of women and girls and follow up the State's implementation of recommendations relating to women and girl's human rights;
5. engage with regional intergovernmental bodies such as the ASEAN Intergovernmental Commission on Human Rights (AICHR), the ASEAN Commission on the Promotion and Protection of the Rights of Women and Children (ACWC), the League of Arab States (LAS), Pacific Island Forum Secretariat (PIFS), the South Asian Association for Regional Cooperation (SAARC) on issues relating to human rights of women and girls;
6. monitor the promotion and protection of the full range of women's human rights at the national level;

7. work closely with specialised commissions for women and children, where they exist, ensuring that their work on the promotion and protection of the rights of women and girls is complementary and mutually supportive;
8. work in cooperation with non-governmental organisations and other civil society organisations to promote and protect women's and girl's human rights;
9. give particular attention to the needs and problems of women who are human rights defenders or who suffer discrimination because of the human rights issues they raise;
10. encourage States to adopt and implement a national human rights action plan, which should mainstream and prioritise the rights of women and girls;
11. promote the implementation of international treaty commitments into domestic legislation, policy and practice;
12. monitor the promotion and protection of the full range of women's economic, social, cultural, civil and political rights at the national level using benchmarks such as the Millennium Development Goals and the UNDP's Gender Empowerment Index to assess the progress made by States;
13. strengthen APF member institutions' capacities (particularly to support them in undertaking points 4 to 6) by developing and implementing a blended learning training programme on the human rights of women and girls and the role of NHRIs;
14. provide good practice case studies on the promotion and protection of women and girl's human rights to the APF for a possible compilation;
15. strive for gender equality across all levels of governance, leadership and staff positions in NHRIs and ensuring that NHRI workplaces are free of sexual harassment, violence and bullying; and
16. report on these actions and developments at APF annual meetings starting from 2013.

Adopted at the 11th International Conference of the International Coordinating Committee of National Institutions on the Promotion of Human Rights on the theme of Human Rights of Women and Girls: Promoting Gender Equality: The Role of National Human Rights Institutions held in, Amman, Jordan, 5<sup>th</sup> to 7<sup>th</sup> November 2012.

● <주제 5> 발표문 - 사미라 알 - 투와이지리(영문)

  
United Nations Entity for Gender Equality  
and the Empowerment of Women

*An inclusive transition:  
Bringing Women to the  
Table in National  
Dialogues and Political  
Reform*

EIGHTEENTH ANNUAL MEETING and BIENNIAL CONFERENCE OF THE APF  
Doha, Qatar  
October 3, 2013  
UN WOMEN Arab States

  
United Nations Entity for Gender Equality  
and the Empowerment of Women

# WHAT?



## Status of Women:



### Violence Against Women:

**Egypt:** 30 % of ever-married women responding to the demographic health survey believe a husband is justified in beating his wife if she goes out without his permission, neglects her children, or refuses to have sexual intercourse with him

**Jordan:** 1 in 3 ever-married women aged 15-49 years reported being subjected to physical violence

### Legislation:

- Faith-based personal status laws may contradict other sources of legislation upholding women's rights
- Lack of implementation where legislation exists
- Harmonization of national legislation with international human rights instruments on gender equality

## Status of Women

### Economic Empowerment:

**Lowest rates of female labor force participation globally:**
  
 26 % compared to the global average of 52%



The informal sector = 1/3 of the labour force in Egypt, 25 per cent of the workforce in Jordan, and between 40-50 per cent of non-agricultural employment in Algeria, Morocco and Tunisia

# Status of Women

## Political Participation:

Arab states has the lowest participation of women in decision making bodies



Women are better represented in upper houses of parliament than lower houses, (i.e appointed rather than elected)

## Women in parliament (2013)

| Rank | Country      | % Women | Women/Seats |
|------|--------------|---------|-------------|
| 27   | Algeria      | 31.6    | 146/462     |
|      | Tunisia      | 26.7    | 58/217      |
| 45   | Iraq         | 25.2    | 82/325      |
| 69   | Saudi Arabia | 19.9    | 30/151      |
|      | UAE          | 17.5    | 7/40        |
| 83   | Morocco      | 17      | 67/395      |
| 86   | Libya        | 16.5    | 33/200      |
| 105  | Jordan       | 12.2    | 18/148      |
| 116  | Bahrain      | 10      | 4/40        |
| 131  | Kuwait       | 6.2     | 4/65        |
|      | Lebanon      | 3.1     | 4/128       |
| 140  | Egypt        | 2.0     | 10/508      |
| 143  | Yemen        | 0.3     | 1/301       |
|      | Qatar        | 0       | 0/35        |

## Strong rooted, harmful cultural practices grounded in patriarchy



- Women are under represented in public life
- Women are disproportionately affected by conflict and violence
- Women are disproportionately affected by unemployment
- Women and girls are subject to physical and emotional abuse – just for being female
- Women are rarely in decision making bodies

## WHY?



*“If you are a man, you can fail; if you are a woman you are not allowed to.”*

– Dr. Soukeina Bouraoui Executive  
Director Center for Arab Women Training  
and Research (CAWTAR), Tunisia

## Why Include Women?

- Women can best speak to the socio-economic and political challenges facing women, children and disadvantaged groups
- Women often disproportionately suffer the consequences of armed conflict
- Women, as bearing the brunt of housework, often have a different perspective than that of men of community development and needs
- Women are strongly linked to positive developments in education, infrastructure and health standards at the local level
- Where rates of gender development and empowerment are higher, human rates of development and standards of living are also higher

“Countries where women’s share of the seats in political bodies is greater than 30% are more inclusive, egalitarian, and democratic.”

In Egypt there would be a 34% impact on the GDP if employment among women increases. This is the conservative number; the more liberal figures from the same study estimate a 56% impact on the GDP.

**Bottom Line:  
Investing in  
Women is Smart  
Economics!**

# HOW?



*“The women of this nation in 1876,  
have greater cause for discontent,  
rebellion, and revolution than the  
men of 1776.”*

– Susan B. Anthony, American suffragette

### Gender-responsive governance:

The management of public affairs in a manner that addresses the social relations that undermine women’s capacity to participate in public decisions and responds to gender biases and patterns of exclusion. Women’s inclusion in oversight processes and advancing women’s human rights is a key standard against which the performance of officials should be assessed

## Women's role in the creation of a new state: the case of South Sudan



Women mobilizing = the post-independence National Transitional Constitution guarantees women at least 25% representation in the executive and legislative branches.

Women hold 88 of 382 seats in the National Legislative Assembly—just exceeding the 25 percent quota—and the deputy speaker is also a woman.



## South Sudan International Engagement Conference Step-by-Step



### 1) Preparation:

- Working groups South Sudan women civil society leaders, privatesector leaders, parliamentarians and staff from the MoGCSW, UNWomen and the World Bank
- Consultations
- Access to information (from the government)
- Diverse delegation

### 2) Gender Symposium:

- Clear recommendations
- Tailored messages for advocacy
- Media interest/visibility

### 3. IEC Conference:

- Advocacy Throughout

## Summary of Recommendations from the South Sudan Experience: Replicating Successful Gender Symposia



1. Define clear roles and responsibilities between collaborating organizations early
2. Ensure strong relationships with the conference host and national governments. Connect and forge strong communication channels as soon as possible to shape women's inclusion in the conference and support for a Gender Symposium.
3. Involve a diverse, committed group of women from civil society and government in a Gender Symposium. Formulate a selection process in collaboration with women attending consultations.
4. Allocate appropriate funds to support women's full participation in a high quality programme
5. Create and distribute a list of concrete asks for the host and national governments to strengthen support for the Gender Symposium and women's participation in the conference
6. Engage gender and development subject matter experts to analyze the national government's proposed development policy and work with women in consultations to conduct thorough analysis and formulate recommendations.

## Summary of Recommendations from the South Sudan Experience: Replicating Successful Gender Symposia



7. Host a Gender Symposium reception immediately prior to the conference at the same location. Invite senior level policymakers to speak
8. Facilitate the host government's involvement in the Gender Symposium and IEC by providing talking points for remarks and coordinating the content of messages made by different actors
9. Increase the likelihood of visibility. For example, enable access to media organizations. Encourage the women's delegation to all wear the same color scarf as a symbol of solidarity throughout the event. Print the women's official statement and recommendations on colored paper and bring attention to the document in any presentation
10. Ensure women civil society delegates address the full plenary with their recommendations at a time of day chosen to increase the reach of their message
11. Develop clear and actionable recommendations in the Gender Symposium and select a subset for emphasis. Distribute copies widely, from placing them on resource tables at the conference to emailing them to the media
12. Support national actors to identify mechanisms to continue engagement with national planning actors and support implementation of recommendations, where appropriate.

## Case Study: Egypt

- Post January 2011: quota system abolished resulting in only 2% of women in parliament
- 10% of members on the constitution drafting committee are women
- Awareness campaigns on the new constitution: Know your rights
- Consultations with women's groups and civil society



## Your ID, Your Right



## How to Engender Transitions: When Numbers Aren't Enough

- a) Inclusive transitions need to span from the first talks about talks through peace talks through national dialogs transitional justice mechanisms and all decision-making forums and government itself
  
- a) Increasing regional capacity, creating spaces for women to emerge as leaders

## Role of Human Rights bodies

- Nationalizing international instruments
  
- Lobby government (watch dog)
  
- Rights education
  
- Push for increased and better statistics on GEWE
  
- Protect women in the public sphere

● <주제 5> 발표문 - 나다 다와제(영문)

**Future Prospects and Challenges facing women in the Arab World**  
**A paper presented at**  
**The Eighteenth Annual Meeting and Biennial Conference of the Asia Pacific**  
**Forum**  
**1 – 3 October, 2013**  
**Presented by Nada Darwazeh**  
**Office of the High Commissioner for Human Rights – Regional Office for Middle**  
**East**

---

It is my pleasure to address you in this unique opportunity that would allow us to reflect collectively on the impact of recent events in the region on the lives of women in the region in such a critical moment of the world's economic, social and political change.

Last year, during the Eleventh International Conference for the International Coordinating Committee of National Institution, the Amman Declaration and Programme of Action was adopted. The declaration provides broad principles and areas of work for NHRIs to ensure that women's rights and concerns are high up on their agendas. I see that dedicating a session today on the subject is to further reaffirm the role of NHRIs to realising the human rights of women.

I would like to focus my discussion this morning on the future prospects and challenges facing women in the Arab world at the socio-economic and political levels and examine further how national actors could work together to address these challenges.

While some countries are still in the throes of the uprisings, others are embarking on a critical reform agenda. In some countries, important achievements had already been realized before the political upheaval. Now, as the future is being

discussed, we are witnessing a critical moment. There is a fear this moment might be captured by a backlash against women's rights, and that the status and value of women who have fought hand in hand with their brothers may be worse off after the revolution. We need not to forget that many slogans that were/ are raised in demonstrations called for freedom, dignity and human rights; certainly, women's rights are at the heart of these demands. Let us also remember that equality and non-discrimination are core to human rights' basic principles along with universality, Inalienability, indivisibility and interdependence.

It is certain now, regardless of the various assessments of what was coined as the "Arab Spring" that the past three years events have succeeded in shaking up long standing structures and governing systems. However, in some countries already beginning to consider their future governance, women's rights have not been adequately considered, and have essentially been sidelined as secondary to the important task of state building. This is not only contrary to a State's human rights obligations, but short-sighted. States in the region have an opportunity to solidify respect for women's human rights during this time of reform. With women as equal partners in rights as well as in designing the future, these States will realize a brighter future based on respect for fundamental human rights.

International commitments including treaties, which governments in the region joined voluntarily including the Convention on the Elimination of all forms of Discrimination against Women (CEDAW) provide a framework that could help countries in ensuring inclusiveness and equality for all.

The Universal Periodic Review, which is now in its second cycle is equally important. The fact that the process allows for countries to support recommendations that are in line with their set priorities and progress in the field of human rights provides an ample opportunity for women's rights and gender equality. A recent study by UNDP has highlighted that, although most of the Arab countries rejected recommendations that relates to family rights and citizenship rights, they did accept a large number of recommendations relating to women's economic and political participation.

Discrimination in other spheres of life prevents women's effective participation in public life. When women's economic, social and cultural rights are denied, women are also unlikely to be able to realize opportunities to enter public life. Without quality education, housing, health care, and access to basic services, many women are literally fighting for their own survival, leaving little time for taking their concerns to ballot box. Strong patriarchal systems remain key to underlining the social structures and social stereotypes in the region, be it in educational institutions or within the family or within the society at large.

Addressing long standing economic problems is essential to the reform agenda many countries are embarking on to realise the full potentials of the society. Nonetheless, women's limited economic participation has been a neglected issue in the past decades. While existing data and research highlight that women's participation in the labour market is influenced by societal factors, emerging countries should examine policies that absorb an increasing demands for jobs and a growing labour force.

Notwithstanding the earlier discussion on UPR reject recommendations, and taking into consideration some progress in many states, family laws, laws governing citizenship and social entitlements remain a key hindering factor towards achieving an equal status of women in the Arab society. Women in the Arab world are still not able to pass their nationality to their children. In many occasions, women's access to work is also hindered by the consent of her male guardian.

While the larger political context at the national level has grievous implications on the choices made in each country given the conflicting ideologies in play, perhaps the biggest challenge women face is their lack of organisation. History of some of the countries in the region illustrated that women's concerns and rights are easily ignored by women themselves. Available literature on Iran during the revolution, in Gaza Strip during the first Intifada in the eighties and the recent Yemeni transitional period shows that lack of women's solidarity in their demands for women's rights and prioritising political parties' demands or national agendas has not always worked for them in the aftermath. In fact, what these experiences show us is that women's rights should be part of the agenda from the beginning of the struggle. Women in the Arab world need to keep these experiences vivid in their discussions and find allies in the national struggles who will support them in the future once the new constitutions and laws are in the making.

In a recent article, Shirin Ebadi, the prominent Iranian human rights defender noted that "A revolution is not all about toppling a dictator. Fulfilling a revolution's democratic promises and the institutionalization of democracy are the main aim of a

revolution.” It is certainly the time to work in the Arab region, all State institutions need to vigorously involve in the nation building process.

Ensuring gender is on the agenda of National Human Rights Institutions and that women are represented on these bodies is also a critical step for ensuring broader respect for women’s rights. National human rights institutions will play an important role in guiding the transitional authorities and ensuring respect for all human rights. If gender issues and women’s rights are not firmly within their priorities, there is a serious risk that these issues will also be omitted from national human rights priorities.

The Regional Office for the Office of the High Commissioner for Human Rights in the Middle East has recently started a programme that aims at supporting National Human Rights Institutions in their endeavours to address women’s rights issues. The programme is based on previous recommendations including the Amman Declaration adopted last year to “Strengthen coordination between National Human Rights Institutions, women’s and children’s rights departments where they exist...”

● <주제 5> 발표문 - 킨 오마르(영문)



**NHRIs and Women in Political & Democratic Reform**  
APF 18<sup>th</sup> Annual Meeting and Biennial Conference  
October 1 – 3, 2013, Doha

**Presented by Khin Ohmar**  
**Coordinator, Burma Partnership**

**+ Women in Political and Democratic Reform Process**



- Burma needs to address the long overdue deficits from many generations
- “Women enjoy equal rights with men” Vs the lack of women in decision making
- Deprivation from enjoyment of basic rights including education and health
- Rape and sexual violence against women at family and communal level – further exacerbated by economic disparity
- Worse – Crimes against Humanity: Rape and gang-rape by the Burma Army were widespread and systematic.
- Etc..

## + Women in Democratic and Political Reform

- Decision Makers in Political, Social and Economic Spheres
- Rights Promoters/Defenders
- Victims/Survivors of the Violence/Conflicts
- Peace Makers and Peace Builders



## Women in Politics & Decision Making

Burma ranks 134 out of 143 in the world in terms of female participation in parliament with 3.5% in lower house (24), 1.8% in upper house (4). (IPU & UN Women; 2012)

## + Challenges for Women as Decision Makers in Political Sphere

- Constitution
- Parliament
- Cabinet
- Judiciary
- Political Parties
- Institutions
- Cultural/Traditional Norms and Stereotypes & Mindsets & Practices
  - Decisions making/politics is men's affairs
  - Women are not decisive; not smart enough politically or in political affairs, etc... and thus not suitable in politics

## + Politically, Socially, Culturally and Economically

- Women organizations from previous military regimes need to reform (MWAF, MMWCA) in line with democratic fundamentals, principles and values
- Little/limited capacity building at all level, while internalized mind set and practices in the system
- Esp women at community levels should be able to have equal access to international aid of any forms flowing in (**corruption must be tackled here as well!**)
- Existing laws from previous regimes AND current draft laws/incoming draft laws that hinder/can hinder the advancement of women (Buddhist Women Marriage Act & National Race Protection Law)
- Cultural and Traditional Norms, Stereotypes, Practices
  - women as mothers, as bearers of culture Vs men as breadwinners and decision makers
  - Assimilation to Burman majority culture need to come to an end!



**Women as  
Human Rights  
Defenders and  
Promoters**

**BUT NOT Trouble  
Makers**

+

**Naw Ohn Hla:**

Arrested on Aug 13, 2013. Found guilty of disturbing public tranquility under Section 505(b) of Penal Code. Sentenced to two years in prison with hard labour (Aug 29, 2013).

**Since Jan 2013, 51 out of 232 activists awaiting trial are women. 13 out of 99 sentenced and 4 out of 52 imprisoned are women.**

## + Challenges for Women as HRDPs

- Oppressive laws from previous regimes (i.e., Unlawful Association Act, Electronic Act, Penal Code Section 505)
- New laws (Article 18 of Peaceful Proceeding and Assembly; Association Draft Law, Media laws, mobilization of National Race Protection draft law)
- Judiciary – Corrupt and Compliant
- Attitude and mindset among law makers and law enforcement agencies
- Infiltration of security sector people in Media and Civil Society – poses security threat (“visit” from intelligences)
- As Burma becomes the world’s most branded, no one wants to hear about the problems but “good news” when talk about Burma. HRDPs are labeled as “trouble makers”, “reform hurlers”, “peace spoilers”, “boat rockers”, etc.
- Intimidation, harassment, threat, arrest, imprisonment – MUST STOP. \*\*\*



The use of rape and sexual violence in conflict in Burma must be stopped.

UNSCR 1325: If Not Now, When?

## + Use of Rape

### Burma Army as main perpetrator

#### ■ In Shan State:

- 173 of cases (1996 and 2001)
- More than 300 complaints (2002 to 2011)
- More than 10 reports of rape (in less than a year after the government signed a ceasefire with Shan rebels in January 2012)

#### ■ In Kachin State:

- More than 60 cases in past 2 years; with a shocking case in May 2012, a grandmother with 12 children was reportedly beaten and gang-raped by 10 soldiers in a church.

■ During current transition, rape against ethnic women become more & more complicit by **business actors/cronies**

■ **Communal Level:** Use of rape has become recently a factor to instigate the communal /religious violence

## + Challenge for Women for Participation in Peace Process

- So far no women in peace process
- Myanmar Women's Forum (organized by Thai-border based Women's League of Burma and inside-Myanmar based Women Organizations Network in Sept 2013) called for the change of constitution and women participation in peace process
- Participation of women in peace process is a must! Official recognition by both the government and NSAGs
  - A shock to see Nobel Peace Laureate was never welcomed to take any role in peace process let alone other women
- UNSCR 1325 on Women, Peace and Security –
  - If not now, when?

## + MNHRC Role

### **National:**

- Bridge between people and government/system
- **Trust & Confidence is the KEY! "A" status will be real "A" only when it comes from the people**, whose rights are most deprived under the system (Vs who benefited from the system). Especially in the time of transition because of long overdue HR deficits
- Draft enabling law – inclusive and meaning consultation could have been a definite good start!

### **International:**

- Liaison between the government and international bodies, treaties, instruments and mechanisms
- Facilitator to encourage the government uphold its international obligations (i.e. apply CEDAW in domestic laws)

## + Recommendations -

- Amend and/or repeal old laws hindering advancement of women to be in line with CEDAW
- Encourage parliament not to make any new or amend existing laws (such as national race protection law)
- Ratify CEDAW Optional Protocol
- Sign the **Declaration of Commitment to End Sexual Violence in Conflict** (a set of practical and political commitments to end the use of rape and sexual violence in conflict zones. Prohibits amnesties for sexual violence in peace agreements and allows for suspects to be apprehended wherever they are in the world. Will adopt a new international protocol in 2014 to help ensure that evidence collected in such crimes can be used in court proceedings.

## + Recommendations -

- Sign Convention Against Torture (CAT)
- UNSCR 1325: Women participation in peace process (women from conflict affected communities)

### **Cooperation & Collaboration with CSOs:**

- Strengthen national level collaboration and cooperation with CSOs, especially grassroots, community-based groups, social justice networks and activists that include women
- Consultation = meaningful, participatory and inclusive in a conducive atmosphere, persistent and in spirit of partnership

## Proactive & Out of the Box

The rights-based CSOs, especially those who are/will be directly affected by the anti-HR, injustice system, political and HR activists should be the primary ones NHRIs need to be in touch with, consult with and collaborate/cooperate with.

Former political prisoners  
HR activists/Ethnic rights activists  
Social justice networks  
Environmental groups  
Peace networks  
Women rights groups  
Labor rights activists  
Land rights activists (farmers)  
Students and youth  
HRD lawyers, etc...

## Myanmar National Human Rights Commission issues news release on complaints

Republic of the Union of Myanmar  
Myanmar National Human Rights Commission  
Acceptance of Complaints

1. The Myanmar National Human Rights Commission was constituted with the aim of raising and protecting the fundamental rights of citizens in accord with the Constitution of the Republic of the Union of Myanmar and its office is kept open at No. 27 on Pyay Road in Hline Township of Yangon.
2. If the fundamental rights of a citizen prescribed in the Constitution of the Republic of the Union of Myanmar are violated, he/she may lodge complaints to Myanmar National Human Rights Commission with the following attachments-
  - (a) The name of complaint, address and contact address (phone/mobile phone, fax and e-mail if any)
  - (b) The facts and figures for violation of fundamental rights to the attachment of the evidence related to the case
  - (c) Signature certifying that the complaint is true
3. To ensure the case, the complaints attached to the copy of citizenship scrutiny card of the submitter may be sent to the Chairman or the Secretary of the MNHRC at No. 27 on Pyay Road in Hline Township of Yangon through registered letter of postal service or in person.
4. The complaints must be described in line with paragraphs 2(a), (b), (c) and 3 for enabling the commission to carry out effective tasks.
5. This announcement is not inclusive of the cases that were opened files at any court, the cases under interrogation at the court and the cases handed down by the court.
6. If necessary, the Myanmar National Human Rights Commission will meet the complaint maker in scrutinizing the accepted complaints.
7. In scrutinizing the case, if the fundamental rights are found to have been violated, the commission will carry out the tasks for raising and protecting the fundamental rights of citizens in line with its rules and regulations.

Myanmar National Human Rights Commission

# THANK YOU

+

# FOR YOUR ATTENTION!



## General Assembly

Distr.: General  
19 April 2013

Original: English

---

### Human Rights Council

Twenty-third session

Agenda item 3

**Promotion and protection of all human rights, civil,  
political, economic, social and cultural rights,  
including the right to development**

### **Report of the Working Group on the issue of discrimination against women in law and in practice**

#### *Summary*

The present report is submitted in accordance with Human Rights Council resolution 15/23. This first thematic report of the Working Group records current achievements in women's political representation and articulates the further challenges to women's equal, full and effective participation in political and public life in the context of democracy and human rights, including in times of political transition. The Working Group identifies critical issues to address in eliminating the structural and social underpinnings of gender discrimination in political and public life and presents a framework to eliminate discrimination in law, with some examples of good practices. The recommendations of the Working Group outline a road map for next generation efforts to achieve substantive gender equality in political and public life.

## Contents

|  | <i>Paragraphs</i> | <i>Page</i> |
|--|-------------------|-------------|
| I. Introduction .....  | 1–3               | 3           |
| II. Activities .....   | 4–13              | 3           |
| A. Sessions.....   | 4                 | 3           |
| B. Country visits.....   | 5–6               | 3           |
| C. Communications and press releases.....  | 7–8               | 4           |
| D. Commission on the Status of Women.....  | 9                 | 4           |
| E. Other activities.....   | 10–13             | 4           |
| III. Thematic analysis: eliminating discrimination against women in political and public life with a focus on political transition ..... | 14–93             | 5           |
| A. International and regional context.....   | 14–17             | 5           |
| B. Targets and achievements in women’s representation .....  | 18–28             | 6           |
| C. Women’s political participation, democracy and human rights.....  | 29–52             | 8           |
| D. Eliminating structural and societal discrimination against women in political and public life.....                                    | 53–76             | 13          |
| E. Eliminating discrimination in law .....   | 77–93             | 17          |
| IV. Conclusions and recommendations .....  | 94–97             | 21          |

## I. Introduction

1. The present report is submitted pursuant to Human Rights Council resolution 15/23. In section II, the Working Group summarizes its activities since its last report to the Human Rights Council up until 26 March 2012. In section III it addresses the topic of eliminating discrimination against women in political and public life with a focus on political transition.
2. For the preparation of this report, the Working Group has availed itself of a wealth of information elicited through various means. In December 2011, it circulated a questionnaire to Governments requesting information highlighting legislative and policy reforms for the advancement of women's rights and gender equality in times of political transition, and received 57 replies. It received inputs from various stakeholders, including the United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women), non-governmental organizations and academic experts. Five regional background papers and a global summary were commissioned to further help inform the report. The Working Group wishes to express gratitude to States and other stakeholders for the information provided and will make the materials publically available on its website ([www.ohchr.org/EN/Issues/Women/WGWomen/Pages/WGWomenIndex.aspx](http://www.ohchr.org/EN/Issues/Women/WGWomen/Pages/WGWomenIndex.aspx)).
3. On the basis of this information, the Working Group has identified good practices that will contribute to the compendium of good practices mandated in paragraph 18 (b) of Human Rights Council resolution 15/23.

## II. Activities

### A. Sessions

4. The Working Group held three sessions during the reporting period. At its fourth session (23–27 July 2012), it engaged with a number of stakeholders, including UN-Women, relevant parts of the United Nations Secretariat and other experts on various issues related to women in public and political life. It also exchanged views with the Committee on the Elimination of Discrimination against Women on, inter alia, ways to ensure close coordination, avoid duplication and strengthen information exchange between the two mechanisms. At its fifth session (1–5 October 2012), the Working Group continued to exchange views with experts, focusing on region-specific information. It also met with Member States to seek views on different legal systems and their integration into its work. At its sixth session (14–18 January 2013), the Working Group consolidated the regional and global information gathered to inform the present report.

### B. Country visits

5. During the period under review, the Working Group requested invitations to visit Chile, China, Peru and Spain. An earlier request was also reiterated to the Government of South Sudan.
6. The Working Group visited the Republic of Moldova from 20 to 31 May 2012 (see A/HRC/23/50/Add.1) and Tunisia from 7 to 11 January 2013 (see A/HRC/23/50/Add.2). It would like to thank these Governments for having responded positively to its requests for a visit and urges those Governments that have not yet done so to provide a favourable response.

### **C. Communications and press releases**

7. Communications sent to Governments during the reporting period, either individually or jointly with other mandates, concerned a wide array of issues falling within its mandate.<sup>1</sup> These included, for example, allegations of violence against women in the context of protests, cases of women sentenced to death by stoning for adultery, and cases of women and girls allegedly victim of forced religious conversion and forced marriage. The Working Group also sent communications in relation to draft constitutions.

8. The Working Group issued press statements, either individually or jointly with other mandate holders, on, inter alia, gender equality provisions in draft constitutions, on the criminalization of adultery whose enforcement leads to discrimination and violence against women, and at various occasions, such as for the first International Day of the Girl Child and for International Women's Day.

### **D. Commission on the Status of Women**

9. On 11 March 2013, the Vice-Chairperson of the Working Group addressed the Commission on the Status of Women at its fifty-seventh session, during an interactive dialogue between the Commission and special procedures mandate holders. Her statement focused on violence against women as a cross-cutting issue in the four thematic areas the Working Group has established as its conceptual framework.

### **E. Other activities**

10. From 17 to 19 April 2012, the Chairperson of the Working Group attended a meeting in Addis Ababa on gender and enforced disappearances convened to inform a draft general comment by the Working Group on Enforced or Involuntary Disappearances.

11. The Chairperson participated in a regional consultation (Kathmandu, 19–20 September 2012) focusing on women's public and political life in Asia and the Pacific, followed by a one-day national consultation on the same subject matter. She also took part in a regional expert group meeting (Seoul, 4–5 December 2012) on women, gender equality and political transitions and lessons learned from Asia. On 17 and 18 January 2013, the Working Group collaborated with the Special Rapporteur on freedom of religion or belief on a preliminary discussion on the issue of gender equality and freedom of religion or belief. These activities were aimed at informing the present report.

12. On 18 February 2013, the Vice-Chairperson participated in a discussion organized by the Committee on the Elimination of Discrimination against Women to inform its process of elaborating a general recommendation on access to justice. Her address focused on the impact of discriminatory legal frameworks, and in particular constitutions, on women's access to justice.

13. Various members of the Working Group also participated in numerous conferences and meetings, including the workshop organized by the Office of the United Nations High Commissioner for Human Rights on enhancing cooperation between the United Nations and regional mechanisms (Geneva, 12–14 December 2012), the eleventh biennial conference of the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights on the role of national human rights institutions

---

<sup>1</sup> See A/HRC/21/49 and A/HRC/22/67, Corrs. 1 and 2.

in the protection of women's and girls' human rights (Amman, 4–7 November 2012), and side events during the fifty-seventh session of the Commission on the Status of Women.

### III. Thematic analysis: eliminating discrimination against women in political and public life with a focus on political transition

#### A. International and regional context

14. In 1981, the Convention on the Elimination of All Forms of Discrimination against Women (the Convention) entered into force. Article 7 of the Convention articulates women's right to equal participation in political and public life as encompassing the right to vote in all elections and public referenda and to be eligible for election to all publicly elected bodies; to participate in the formulation of government policy and the implementation thereof and to hold public office and perform all public functions at all levels of government; and to participate in non-governmental organizations and associations concerned with the public and political life of the country. Article 8, in addition, refers to State obligations to take all appropriate measures to ensure to women, on equal terms with men and without any discrimination, the opportunity to represent their Governments at the international level and to participate in the work of international organizations. The Convention thus specified and expanded the State obligations set out under articles 2, 3 and 25 of the International Covenant on Civil and Political Rights, which require a guarantee of the equal right to take part in the conduct of public affairs, including direct participation as well as participation through freely chosen representatives.

15. Since the introduction of the Convention, the world's political landscape has gone through substantial changes. These have been marked, variously in different regions and States, by the dismantling of long-standing totalitarian regimes, democratization and the emergence of new forms of authoritarianism. This period has also witnessed armed conflicts both between and within States, the creation of refugee populations and international involvement in conflict resolution and peacebuilding. Technological leaps in the field of information and communications, particularly the Internet, have created a new public and political space, with revolutionary impact on the development and the exercise of human rights, allowing new forms of political expression and mobilization, and facilitating political communication and organization for men and women globally.<sup>2</sup>

16. At the same time, international commitment to fulfilling women's equal right to political participation has grown substantially. The 1993 World Conference on Human Rights and its outcome document, the Vienna Declaration and Programme of Action, whose twentieth anniversary is being commemorated in 2013, gave recognition to women's rights as human rights. In 1995, the Fourth World Conference on Women and its outcome document, the Beijing Declaration and Platform for Action, became the catalyst for governments around the world to introduce special measures, such as quotas for women's political representation, and propelled the doubling of the global average of such representation in less than two decades.<sup>3</sup> Further, the Security Council made an historic breakthrough in 2000 when it adopted its resolution 1325 (2000), with a view to enhancing the role of women and the gender perspective in conflict resolution and peacebuilding.

<sup>2</sup> See Human Rights Council resolution 20/8 and A/HRC/17/27, para. 19.

<sup>3</sup> Inter-Parliamentary Union (IPU) statistical archive of women in parliament. Available from [www.ipu.org/wmn-e/classif-arc.htm](http://www.ipu.org/wmn-e/classif-arc.htm).

17. Yet, despite decades of efforts, the Working Group notes that, in 2012, the General Assembly expressed its concern at the reality that women in every part of the world continued to be largely marginalized from the political sphere and saw it necessary to again dedicate a resolution to promote women's political participation.<sup>4</sup> In 2012, the Committee on Women's Rights and Gender Equality of the European Parliament indicated its alarm at the underrepresentation of women in the European Union legislative council and leadership positions, and at the stagnation of women's representation at one third or less in parliaments across the region.<sup>5</sup> In 2011, the Inter-American Commission on Human Rights (IACHR) reported on the "inequitable and sluggish" progress made in women's political representation at different levels of government in the Americas.<sup>6</sup> In 2012, the World Bank found that in the Asia-Pacific region, rapid growth and economic development, with the highest female labour force participation rate in the developing world, have not been enough to attain gender equality, including in the area of political agency and representation.<sup>7</sup>

## B. Targets and achievements in women's representation

18. General recommendation No. 23 (1997) of the Committee on the Elimination of Discrimination against Women refers to political and public life as encompassing the exercise of legislative, judicial, executive and administrative powers; covering all aspects of public administration and the formulation and implementation of policy at the international, national, regional and local levels; and including civil society, such as public boards and local councils and the activities of organizations such as political parties, trade unions, professional or industry associations, women's organizations, community-based organizations and other organizations concerned with public and political life (para. 5). The Beijing Platform for Action, in its paragraph 182, referred to the scant progress made towards achieving by 1995 the 30 per cent target for women in decision-making positions. Global progress in achieving the goals for women's political representation set by the international community continues to be excruciatingly slow and is far from being met 18 years after the target date.

19. In the legislative branch, the current global average of women in national parliaments is 20 per cent.<sup>8</sup> While this achievement marks a first in history, the climb has been slow, revealing a global average increase of less than 1 per cent per year.<sup>9</sup> Only 33 countries out of 149 have national parliaments where women constitute 30 per cent or more of the members.<sup>10</sup> With parity as the ultimate measure of equality, then a mere two countries have reached this point. Furthermore, there are wide divergences among States, with women accounting for less than 10 per cent of representatives in 45 States.

<sup>4</sup> General Assembly resolution 66/130.

<sup>5</sup> Committee on Women's Rights and Gender Equality, report on women in political decision-making – quantity and quality (A7-0029/2012), pp. 5-6.

<sup>6</sup> IACHR, *The Road to Substantive Democracy: Women's Political Participation in the Americas* (2011), para. 11.

<sup>7</sup> World Bank, *Toward Gender Equality in East Asia and the Pacific: A Companion to the World Development Report*, Conference Edition (2012), pp. ix and 13.

<sup>8</sup> IPU archive, world average (footnote 3).

<sup>9</sup> Department for International Development (DFID) and International Development Research Centre (IDRC), summary of discussions at the expert meeting on "Women's Political Empowerment: The State of Evidence and Future Research", London, 11-12 September 2012, p. 3.

<sup>10</sup> IPU archive (footnote 3).

20. The right to representation in the legislative branch includes the right to vote in all elections and public referenda. This condition has gradually been fulfilled during the course of the twentieth century and is now almost universally implemented. Nevertheless there remain some discriminatory laws and practices, such as kinship voting practices. In one State, women have still have not been granted the right to vote.

21. In the executive branch, only 17 women are Heads of State/Government.<sup>11</sup> Women's representation in Governments is far lower than their representation in parliaments. Good practice where women occupy more than 40 per cent of Government positions were found in only a small number of States: six in the region of Western European and other States, two in sub-Saharan Africa and three in Latin America and the Caribbean. The Working Group notes that the obligation of States to secure women's equal representation includes the executive branch, and draws attention to the good practice in different regions which has demonstrated the feasibility of female-headed States and gender-balanced Governments.

22. In the judicial branch, women account for only 27 per cent of judges worldwide.<sup>12</sup> There is wide divergence among States as regards the numbers of women in the judiciary, with some States in the Eastern European region having a majority of women judges. Even in countries that have a higher representation of women in the judiciary, the numbers of women decrease at higher levels. There are few women in the highest courts, including supreme courts, and rarely are the presidents women. In most religious courts women are excluded from holding office. There is, however, good practice in the Asia-Pacific region: in one country, women judges have been part of the religious courts since the institution was created in the 1950s, reaching a participation rate of 20 per cent in 2011;<sup>13</sup> in another, female judges were appointed to the Sharia court pursuant to the removal of its reservation to article 7 (b) of the Convention.<sup>14</sup>

23. In other public bodies there is no systematic data regarding women's representation which covers the whole spectrum of political and public life as defined by the Committee on the Elimination of Discrimination against Women: public administration, local government, political parties, trade unions, professional or industry associations, women's organizations, community-based organizations and other organizations concerned with public and political life.

24. Within the United Nations system, the Secretary-General set a target, endorsed in the Beijing Platform for Action, of 50 per cent of managerial and decision-making positions for women by 2000. Gender parity was achieved at the lowest two levels (P1 and P2) in 2011; the percentage of women at the professional levels was 40.7; but only 27.4 to 30.2 per cent at the highest decision-making levels (D-1, D-2 and Under-Secretary-General).<sup>15</sup>

<sup>11</sup> IPU, *Women in Politics: 2012*, map. Available from [www.ipu.org/pdf/publications/wmnmap12\\_en.pdf](http://www.ipu.org/pdf/publications/wmnmap12_en.pdf).

<sup>12</sup> UN-Women, *Progress of the World's Women: In Pursuit of Justice* (2012), p. 59.

<sup>13</sup> 2011 Annual Report of the Supreme Court of Indonesia, [www.badilag.net/lakip-dan-laptah/465-laptah/10211-laporan-tahunan-2011.html](http://www.badilag.net/lakip-dan-laptah/465-laptah/10211-laporan-tahunan-2011.html) (Indonesian only).

<sup>14</sup> Background global report prepared for the Working Group, p. 48.

<sup>15</sup> UN-Women, *The Status of Women in the United Nations System*, available from [www.un.org/womenwatch/uncoordinated/documents/overview/unsystem/unsystem-factsheet.pdf](http://www.un.org/womenwatch/uncoordinated/documents/overview/unsystem/unsystem-factsheet.pdf), and *Representation of Women in the United Nations System*, available from [www.un.org/womenwatch/uncoordinated/documents/overview/unsystem/unsystem-infographic.pdf](http://www.un.org/womenwatch/uncoordinated/documents/overview/unsystem/unsystem-infographic.pdf). The category of Under-Secretary-General also includes Assistant Secretary-General positions.

25. In peacebuilding processes, studies made a decade after the adoption of Security Council resolution 1325 (2000) show that only 16 per cent of 585 peace agreements referenced women.<sup>16</sup>

26. The focus of the Working Group on political transition has been carried out through its communications, country visits and regional and global expert input. Experience in countries in transition has varied greatly. In the Russian Federation and Eastern Europe during the 1990s, as in some of the recent political transitions in the Middle East and North Africa, there was backsliding on key gains for gender equality and/or the numerical representation of women was reduced. In contrast, in some political transitions in various countries in many regions, the introduction of quotas facilitated a significant rise in representation of women, producing, for instance in sub-Saharan Africa, some of the highest percentages of women members of parliament. Good practice in these States included the active engagement with the international community in the peacebuilding process and an emphasis on democracy, human rights and women's rights as human rights.

27. The Working Group observes that the impact of political transitions on gender equality in public and political life is inherently related not only to the nature of regime change but also to the political will of the incoming Government to guarantee women's human rights, including the right to equal representation, and requires a responsive political leadership with respect to gender equality concerns, including as raised by autonomous women's movements. The Working Group notes the urgency for women's equal and full participation in peace negotiations and in decision-making in all transitional authorities, mechanisms and processes.

28. The Working Group is concerned that the knowledge gap remains on the whole spectrum of women's participation in political and public life. This undermines the capacity to move to gender-responsive inclusive democracy, development and peace. Most available data is not sufficiently disaggregated to allow the understanding of the intersectionality of gender with other grounds of discrimination, in the light of Committee on the Elimination of Discrimination against Women general recommendation No. 28 (2010) according to which "discrimination against women based on sex and gender is inextricably linked with other factors that affect women, such as race, ethnicity, religion or belief, health, status, age, class, caste and sexual orientation and gender identity" (para. 18). Evidence-based knowledge is weak on the extent of violence against women in political and public life and its impact on women's capacity to exercise their right to political participation.

### **C. Women's political participation, democracy and human rights**

29. Democracy and human rights are mutually reinforcing. Women's rights are human rights and hence are an integral element of the democracy and human rights axis. The General Assembly, in its resolution 59/201 (para. 1), declared the "essential elements of democracy" to consist of respect for human rights and fundamental freedoms, inter alia, freedom of association and peaceful assembly and of expression and opinion; the right to take part in the conduct of public affairs, directly or through freely chosen representatives; to vote and to be a candidate in free elections by universal and equal suffrage; a pluralistic system of political parties and organizations; respect for the rule of law; the separation of powers; the independence of the judiciary; transparency and accountability in public administration; and free, independent and pluralistic media.

<sup>16</sup> Christine Bell and Catherine O'Rourke, "Opinion: UN Security Council 1325 and peace negotiations and agreements" (Centre for Humanitarian Dialogue, March 2011), p. 7.

30. These essential elements of democracy are a necessary condition for women's substantive equality in public and political life. The Working Group would like to emphasize that there can be no true democracy without women's full and equal participation in all its institutions and that women's substantive equality in political and public life can be fully realized only in conditions of democracy.

31. There is growing recognition of the Internet as a key means by which individuals can exercise their right to freedom of opinion and expression (A/HRC/17/27, para. 20). Through initiatives on e-government and e-democracy and the innovative use of information and communications technologies (ICTs) by civil society, there is also a rising awareness of the Internet's role in expanding the concept of citizenship online. The Working Group welcomes the work by the International Telecommunication Union, the World Bank and civil society organizations, and encourages them to continue such work so as to deepen the knowledge on gender differences in the use of the Internet and other ICTs.

32. Political transitions present an opportunity for States to democratize and to advance women's equal representation in the reformed State institutions. However, they can also pose a danger of undermining or reversing human rights and women's gains in public and political life achieved under the previous regime. In some political transitions, women who had been pro-democracy activists have been excluded from formal political processes negotiating the new division of power.

33. The conflict and post-conflict experience leads to an increased awareness of the different conditions of States, including weak, fragile, failed and/or hybrid States, and an increasing focus on State-building processes. State-building is understood as "purposeful action to develop the capacity, institutions and legitimacy of the state in relation to an effective political process for negotiating the mutual demands between state and societal groups".<sup>17</sup> Such processes reveal the complex and critical roles and relations of State and non-State actors in the renegotiation of the balance of power, the allocation of resources and entitlements, and the formation of the identity of whole nations. Contestations over national identity are heightened during times of political change and present new vulnerabilities for those women whose values, roles and behaviours do not fit the power elite's idealized imagery of womanhood. Where identity politics are predominant, women's movements defending universal standards of gender equality risk marginalization and stigmatization, especially when such standards are characterized as unwanted external influence and a source of threat.

#### **1. Women's equal enjoyment of fundamental freedoms and human rights**

34. For women to have the capacity to participate in political and public life on equal footing with men, including to build autonomous movements for their own empowerment, they must be able to exercise their rights to freedom of thought, conscience, religion, expression, movement and association. It is imperative to recognize and secure these rights as individual rights for women's effective participation in political and public life, in the light of the complex tensions between collective rights and women's rights.

35. Women's right to enjoy their cultural rights as equals is an integral part of their right to participation in political and public life. In the light of the persistent use of cultural and traditional values to justify resistance to women's political and public roles, women's capacity for equal participation depends on their autonomous agency regarding cultural life. As articulated by the Special Rapporteur in the field of cultural rights, this involves:

<sup>17</sup> Organization for Economic Cooperation and Development, "Concepts and dilemmas of State building in fragile situations: from fragility to resilience," *Journal on Development*, vol. 9, No. 3 (2008), offprint, p. 14.

The freedom to create new communities of shared cultural values around any markers of identity they want to privilege, new cultural meanings and practices without fear of punitive actions, including any form of violence. This means that women must be able to embrace or reject particular cultural practices and identities as well as to revise and (re)negotiate existing traditions, values or practices, regardless of their provenance. Active engagement in the cultural sphere ... helps to build central traits of democratic citizenship.<sup>18</sup>

36. In times of political transition when political life is highly volatile and polarized, women's equal and full participation in political and public life depends on the effective protection of their fundamental freedoms and human rights, particularly those mentioned above. National human rights institutions (NHRIs) and other independent monitoring bodies play a particularly crucial role for women during these times.

## 2. Integration of women in public and political institutions

37. The participation of women in public and political institutions is crucial for their equality in citizenship and for empowering them to have an impact on and integrate a gender perspective into policy and decision-making.

38. Special measures, including quotas for women and other temporary measures, as required under article 4, paragraph 1, of the Convention and general recommendations No. 23 (1997) and No. 25 (2004) of the Committee on the Elimination of Discrimination against Women, are necessary to achieve equality between men and women in political and public life, in order to contend with the underlying structural disadvantaging of women. The most significant increase in the numbers of women in national parliaments over the years has occurred in countries where special measures, such as gender quotas, have been effectively constructed and implemented. The use of quotas to advance women's political representation and participation has increased in the past three decades and produced significant results when properly adapted to specific electoral and political systems.

39. Many of the quota systems were adopted as part of the rebuilding of political systems and institutions after years of conflict and/or authoritarianism.<sup>19</sup> Quotas work best when accompanied by sanctions and closely monitored by gender-responsive independent bodies, including national electoral bodies and human rights institutions. Research has shown that, in general, women's chances of winning seats in parliamentary elections increase in proportional representation systems.<sup>20</sup>

40. Quotas introduced at the local level are rare but important for equality outcomes on the ground. In one country in South Asia, for example, a constitutional amendment mandated the representation of women, reserving one third of the seats within each council and women taking one third of the leadership positions as head.<sup>21</sup> Research has shown that after a decade of implementation, women are more likely to stand for, and win, elected

<sup>18</sup> A/67/287, para. 28.

<sup>19</sup> According to the Global Programme for Electoral Cycle Support, a United Nations Development Programme (UNDP) initiative, one third of the countries that have achieved percentages of 33 per cent or higher in women's representation in national parliaments are considered countries in transition (see DFID and IDRC, summary (footnote 9), p. 3).

<sup>20</sup> Leslie A. Schwindt-Bayer, "Making quotas work: the effect of gender quota laws on the election of women," *Legislative Studies Quarterly*, vol. 34, No. 1 (February 2009), p. 15.

<sup>21</sup> Lori Beaman et al., "Women as agents of change: evidence from the grassroots", presentation to the Working Group, 25 July 2012.

positions in councils.<sup>22</sup> The requirement of female leadership changes voter attitudes and improves perceptions of female leadership effectiveness.

41. Effective political participation of women requires not only admission to political institutions but also integration into their decision-making forums. Women's full participation requires concerted action to overcome the de facto segregation of women's political participation in sectors which are stereotypically associated with women's gender roles. It requires that women be integrated into positions with decision-making power across the spectrum of issues dealt with by the institutions to which they have been elected or appointed. During political transitions, the same applies to all transitional authorities and mechanisms.

42. The Working Group welcomes a general trend in recent years to extend special measures or positive action to other areas of public life beyond legislative bodies. Positive action encompasses actions to promote women's participation in public life by such tools as media campaigns and training opportunities, which are not legally binding quotas, and new generation transformative measures setting out an overriding objective of equal power of women and men to shape society and their own lives.<sup>23</sup>

43. The Inter-Parliamentary Union (IPU), in its 2013 Plan of Action for Gender-sensitive Parliaments, has drawn attention to the need for gender sensitivity in the composition, structures, operations, methods and work of parliaments. In the plan, it noted that "gender-sensitive parliaments remove the barriers to women's full participation and offer a positive example or model to society at large" (p. 8). The Working Group considers the IPU plan of action to be adaptable for other public and political institutions in which women's equal representation must be secured.

44. The election and appointment of women to public and political office is a necessary condition for equality in public and political life, but the number of women in office is insufficient for advancing gender equality in society. Evidence shows that women who are appointed or elected to public office do not necessarily promote gender-equality agendas. Policy outcomes that advance substantive equality between men and women involve larger processes of public debate, alliance-building across political divides, and activism by autonomous women's movements based on universal standards of equality, non-discrimination, human rights and inclusive democracy.

### 3. Women's agency and autonomous movements

45. The whole spectrum of women's engagement and activism in political and public life, through all State institutions, the wide range of organizations in civil society and the diversity of public discourse, is integral to democracy, development and peace.

46. Women's participation in political and public life remains dynamic, multifaceted, and resilient, including in gaining access to power through alternative structures, as recognized in the Beijing Declaration and Platform for Action. Even as the glass ceiling in formal political institutions stays mostly intact, women actively open new spaces for discourse, build networks across long-standing divides and create new communities of engagement. Through the autonomous movements they build at the local to global levels, women's political engagements develop across formal administrative boundaries and are transnational in reach based on the universality of women's right to equality, challenging

<sup>22</sup> Lori Beaman et al., "Powerful women: does exposure reduce bias?" *The Quarterly Journal of Economics*, vol. 124, No. 4 (2009), p. 1497.

<sup>23</sup> See, for example, the background report on Western European and North America prepared for the Working Group (2012), p. 43.

unequal power relations, demanding accountability, defending rights and achievements, and advocating for systemic and cultural change in societies, institutions and States. Women's autonomous civil society organizations are crucial to women's participation in public and political life.

47. Women's rights advocates engage actively in different normative regimes, including religious communities and indigenous or customary groups. They do so, among others, by initiating hermeneutic projects within their respective religions. In their cultural communities, women express their opinions on politics also through the arts, including writings, music and plays, and their works have been attacked, criminalized and condemned by State and non-State actors. In certain contexts, economically independent women playing leadership roles are stigmatized and attacked as witches.<sup>24</sup> Lesbian, bisexual and transgender women who defend their human rights are vulnerable to attacks on their civil rights and personhood<sup>25</sup> where there is a climate of intolerance arising from their perceived challenge to established norms of gender identity, gender roles and sexuality.<sup>26</sup>

48. The new space and opportunities created by revolutionary developments in ICTs have enabled women to initiate or enhance their participation in political and public life. Women who are confined in private homes have used ICTs as a means to break out of their isolation and take part in collective action. Women who live under threat of attack because of their sexual orientation have found safety in the anonymity of the Internet, which allows them to freely speak out, establish virtual communities and participate in public debates. During moments of political unrest, women have utilized SMS, micro-blogging and social networking to provide "bodyguard" protection to each other on the ground.<sup>27</sup>

49. In the negotiation of political settlements during political transitions or in law reform, the inclusion of women's civil society organizations and women leaders or spokespersons from sectoral or minority communities is crucial to ensure the equal benefit of reform to all citizens. As political transitions do not always lead to inclusive democracy, the empowerment of autonomous women's movements is of equal priority to the process of state-building and the reform of political institutions.

#### 4. Democratic deficit

50. The democratic deficit undermines women's substantive participation in political and public life. Patronage politics, corruption, and undemocratic local government reduce women's effectiveness in the political arena, as they prevent transparency and accountability in decision-making and in the distribution of resources. Gender discriminatory policies and regulations have been applied by autonomous local governments even when national or federal laws mandate gender equality. Empowering women's participation in political and public life from the community level up helps build a culture of accountability, as it broadens the constituency for democratic decision-making, and is crucial to the effective application of good governance at all levels.

51. The delegation of political or public power to religious institutions or indigenous communities that are exempt from the requirement to include women in their leadership and decision-making bodies cancels women's right to participate in significant aspects of

<sup>24</sup> See Partners for Law in Development, *Targeting of Women as Witches: Trends, Prevalence and the Law in Northern, Western, Eastern and Northeastern Regions of India* (2013).

<sup>25</sup> See A/HRC/19/41.

<sup>26</sup> Women Human Rights Defenders International Coalition, *Global Report on the Situation of Women Human Rights Defenders* (2012), p. 89.

<sup>27</sup> Association for Progressive Communications (APC) submission to the Working Group, January 2012, second page.

public and political life; in such cases, the boundaries of women's rights are defined unilaterally by decision-makers of patriarchal social orders.

52. The democratic deficit also expresses itself in the lack of capacity by States to address perpetual insecurity in all its different dimensions, including militarism and the culture of violence, especially, but not only, in situations of conflict and transition, in which women are primary victims.

#### **D. Eliminating structural and societal discrimination against women in political and public life**

53. Guarantees of women's rights to education, decent employment and access to economic resources are preconditions for women's equal and effective participation in political and public life. A coherent set of gender-responsive social and economic policies is necessary to overcome the multifaceted structural barriers that women face.

54. Poverty and social exclusion, including women's high levels of illiteracy and poor health, lock women into a persistent state of dependence and deprivation and often make long-term participation in political and public life an unviable option. Programmes addressing poverty and social exclusion and containing strong empowerment components for marginalized women, including those who face multiple discrimination, enhance the opportunity and capacity for these particular women to participate meaningfully in political and public life.

55. Political will of States is the key element to ensure gender equality outcomes, combined with persistent support, pressure and scrutiny by women's movements, whose autonomy should be protected by the State

56. While women are situated in different locations, each with distinct vulnerabilities and assets, their participation in political and public life is commonly constrained by structural and societal discrimination in the family, in caregiving responsibilities, in violence against women, and marginalization by political parties and other non-State public institutions. The obligation of States to remove these barriers is clearly mandated in article 2 (f) of the Convention and has been repeatedly advocated by the Committee on the Elimination of Discrimination against Women.

##### **1. Discriminatory family status**

57. The institution of family is one of the foundations of whole political systems, and family law is core to women's citizenship and public life. Women's right to equality in the family shapes opportunities and constraints for women's agency and autonomy and also regulates access to land, income, education and health, including reproductive health, thereby determining a woman's capacity to fully engage in all aspects of life.<sup>28</sup> The right of women to equality in the family was established in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights and elaborated in articles 2 and 16 of the Convention.

58. Patriarchal and discriminatory family law or practice may limit women's freedom of occupation and freedom of movement in the public space. In some countries, men are still regarded by law as the head of household, barring women from representing their families in official decision-making processes on public affairs, including on development projects

<sup>28</sup> Mala Htun and Laurel Weldon, "Religion, the State, and women's rights: comparative analysis of sex equality in family law", University of New Mexico and Purdue University, May 2012, pp. 2-7.

and issues of good governance, which have an impact on women and their families. The system of heads of household has been abrogated in many countries' legal systems.<sup>29</sup>

59. Women belonging to minority groups are often victims of dual discrimination, as they must address discrimination against minorities and within their own communities. Providing special measures of education, leadership training and economic assistance for women and awareness-raising for men in patriarchal communities are some of the good practices by which States can address such multiple discrimination.

60. Many States have entered reservations to articles 2 and 16 of the Convention, on equality in the family, almost all in deference to religious family law, and in so doing perpetuate the structural impediment of inequality in the family to women's full and effective participation in political and public life.<sup>30</sup> The Working Group regards the elimination of discrimination in the family as central to women's capacity to participate in political and public life on equal terms with men and the withdrawal of these reservations as imperative.

61. Reform of family laws provides a firm basis to overcome structural and cultural impediments to women's equal and full participation in political and public life. Family laws have been the focus of reform throughout history, as part of whole movements of States and societies towards modernity. In most cases, religious hermeneutic projects, particularly when initiated as part of broader reforms during times of political transition, have been an integral part of making these changes possible, with a prominent role played by women's rights movements, as in the case of Morocco, which achieved significant reform on many fronts in the family code (Moudawana),<sup>31</sup> and by reform-minded religious institutions. The political will for these reforms, in State-sponsored modernization projects and social engineering agendas, has existed in diverse contexts of colonial power, the post-colonial State and communist regimes.<sup>32</sup>

## 2. Unequal caregiving responsibilities

62. Caregiving responsibilities in the family are disproportionately in the hands of women. Both the reality and the a priori belief that this is the way it should be put women at a structural disadvantage in entering and participating sustainably in political and public life. The long hours of work and heavy travel demands make it difficult for women with caregiving responsibilities to maintain consistent engagement in political and public life without adequate support for the caring responsibilities. At the same time, women who carry out full-time engagement in politics and public affairs are often harassed and stigmatized, as they are perceived to undermine traditional family values.

63. Good practice regarding the work-life balance for public and political participation includes both childcare support and institutional family-friendly scheduling. The highest performing countries in terms of proportion of women in public office have the most generous entitlements for maternal and parental leave. This reflects States' effectiveness in creating better options for women to reconcile the balance between work and family life, promoting a better balance of responsibilities between men and women in the home and

<sup>29</sup> See Soo Yeon Lee, "Political Transitions in the 1990s and its impact on legislation of gender equality laws: the South Korean case", paper submitted for the regional expert group meeting on political transitions and gender equality, Seoul, December 2012.

<sup>30</sup> See, inter alia, Musawah, *CEDAW and Muslim Family Laws: In Search of Common Ground* (Sisters in Islam, 2011).

<sup>31</sup> See A/HRC/20/28/Add.1.

<sup>32</sup> See Mala Htun and Laurel Weldon, "Sex equality in family law: historical legacies, feminist activism and religious power in 70 countries" (2011).

encouraging a higher percentage of fathers to take parental leave. This demonstrates a significant cultural change in society's views of gender roles, which is itself a culmination of decades of responsive social policies.<sup>33</sup> Good practices regarding gender-sensitive parliaments are found in some Western European and other States that have changed the scheduling of parliamentary session to allow a work-life balance for Members of Parliament who have parental responsibilities.

### 3. Violence against women

64. Violence against women in all its forms, whether in the private or the public space, undermines women's capacity to effectively engage in political and public life.

65. Stigmatization, harassment and outright attacks have been used to silence and discredit women who are outspoken as leaders, community workers, human rights defenders and politicians. Sexual harassment against female political candidates has been reported as a tactic to discourage women from exercising their right to vote and run for elections.<sup>34</sup> Women defenders are often the target of gender-specific violence, such as verbal abuse based on their sex, sexual abuse or rape; they may experience intimidation, attacks, death threats and even murder by community members. Violence against women defenders is sometimes condoned or perpetrated by State actors, including through police harassment of female demonstrators.<sup>35</sup>

66. The Internet has become a site of diverse forms of violence against women, in the form of pornography, sexist games and breaches of privacy. For women who engage in public debate through the Internet, the risk of harassment is experienced online, for example, an anonymous negative campaign calling for the gang rape of a woman human rights defender, with racist abuse posted in her Wikipedia profile.<sup>36</sup> Female ICT users have publicly protested about sexist attacks.<sup>37</sup>

67. Domestic violence is public as well as private in its debilitating impact on women. It can also be used directly as a form of punishment by resentful husbands or other family members against wives or female relatives who become leaders in their community.

68. In 2012, recognizing the importance of eliminating violence against women in public and political life, the General Assembly, in its resolution 66/130, called for an environment of zero tolerance for violence against women elected officials and candidates for public office. In the Latin American and Caribbean region, the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women explicitly recognizes the right of women to be free from violence in both the public and the private spheres and the impact that violence can have on civil, political and economic, social and cultural rights.<sup>38</sup> In this region, there are examples of legislation prohibiting gender-based harassment and violence against a woman candidate as well as pressure on a female candidate's family.<sup>39</sup> In the African region, the African Commission on Human and

<sup>33</sup> See the background report on Western Europe and North America (footnote 23).

<sup>34</sup> IACHR, *Road to Substantive Democracy* (footnote 6), paras. 110-111, 125.

<sup>35</sup> See A/HRC/16/44.

<sup>36</sup> APC submission (footnote 27), seventh page.

<sup>37</sup> See, among others, Vanessa Thorpe and Richard Rogers, "Women bloggers call for a stop to 'hateful' trolling by misogynist men", *The Observer*, 6 November 2011. Available from [www.guardian.co.uk/world/2011/nov/05/women-bloggers-hateful-trolling](http://www.guardian.co.uk/world/2011/nov/05/women-bloggers-hateful-trolling).

<sup>38</sup> Elizabeth Abi-Mershed, "What does the [IACHR] system have to offer as a whole?", presentation to the Working Group.

<sup>39</sup> Elizabeth Salguero Carrillo, "Political violence against women", *The World of Parliaments Quarterly Review*, No. 36 (2009).

Peoples' Rights recently issued a decision on the failure of States in protecting women during acts of political protest, including in a case concerning violence against women journalists.<sup>40</sup> In an environment where sexual violence continues to go unpunished, this decision makes a valuable contribution towards ensuring that States are held to account when they fail to protect women from violence.

#### 4. Stereotypes

69. Stereotypes<sup>41</sup> of women's capacities and roles that negatively affect women's effective participation in political and public life persist around the world. Despite evidence of women's important contributions in other fields of life, including in the labour market, stereotypes of female inadequacy in politics continue to be used as a basis for their marginalization and segregation in decision-making positions, with care and distributive tasks such as health and social welfare allocated to women, while men are assigned to economic and defence affairs, distorting the power structure and resource allocation.<sup>42</sup>

70. Women who belong to vulnerable groups, based on race, class, ethnicity, religion or belief, health, status, age, class, caste and sexual orientation and gender identity, are effectively barred from political and public life based on multiple stereotyping. In its concluding observations, the Committee on the Elimination of Discrimination against Women has expressed concern about stereotyped media portrayals of women's roles within the family and society.

71. The Working Group notes that negotiation by international, regional and State agencies with sectoral or minority groups is negatively influenced by gender stereotyping when conducted solely with the male community leadership, thereby making women's leadership effectively invisible and further marginalizing women.

72. Particularly during times of political transitions, in highly polarized discourse regarding national identity, gender stereotypes can be magnified and undermine progress in eliminating discrimination against women.

#### 5. Marginalization by political parties

73. Political parties are key determinants of women's political empowerment and women's participation in politics, as political parties recruit and select candidates for elections.<sup>43</sup>

74. Political parties, which function as gatekeepers in political decision-making, tend to be exclusionary towards women. Women also frequently lack access to political party funding and financial resources for their election bids and campaigns. Some political parties exclude women on religious ideological grounds. Both a national court and the European Court of Human Rights found that a confessional political party's exclusion of women from its parliamentary candidate list, because "differences in nature, talents and place in society means that, although women are not inferior to men as human beings, they should not be

<sup>40</sup> Communication No. 323/2006, *Egyptian Initiative for Personal Rights and Interights v. Egypt*. Available from [http://eipr.org/sites/default/files/pressreleases/pdf/text\\_of\\_the\\_afriocan\\_commission\\_decision-english.pdf](http://eipr.org/sites/default/files/pressreleases/pdf/text_of_the_afriocan_commission_decision-english.pdf).

<sup>41</sup> See Rebecca J. Cook and Simone Cusack, *Gender Stereotyping: Transnational Legal Perspectives* (2010); and Cusack, *Stereotyping and Law*, available from <http://stereotypingandlaw.wordpress.com/>.

<sup>42</sup> Committee on Women's Rights and Gender Equality, report (footnote 5), p. 7.

<sup>43</sup> See UNDP and National Democratic Institute for International Affairs (NDI), *Empowering Women for Stronger Political Parties: A Good Practices Guide to Promote Women's Political Participation* (2011).

eligible for public office”, was in violation of the State’s Constitution and article 7 of the Convention.<sup>44</sup>

75. The most effective strategies for women’s political empowerment involve reforms to incorporate rules that guarantee women’s representation within political parties.<sup>45</sup> Some 50 countries have adopted legislation on electoral quotas in order to ensure that a certain proportion of candidates for political office are women. Hundreds of political parties in another 20 countries have voluntarily adopted their own gender quotas.<sup>46</sup> In some countries the quota system is established by the constitution. One constitution in the Latin American and Caribbean region includes the principle of parity in all policymaking mechanisms, including elections, ministries, the justice system and political parties, and stipulates that political parties’ “organization, structure and functioning shall be democratic and shall guarantee the rotation of power, accountability, and parity membership between women and men on their governing boards”.<sup>47</sup> In the Maghreb, one new constitution mandates the establishment of a mechanism for parity (see A/HRC/20/28/Add.1). Women’s movements were intensely involved in these constitutional processes, illustrating the importance of activism to exert pressure for the creation of a constitutional framework that supports women’s right to representation.

76. The Working Group notes that good practices of States include a legislative, and preferably constitutional, requirement that political parties place women in realistic positions for election, apply quotas, guarantee the rotation of power, accountability and parity membership between women and men on their governing boards and condition the funding of political parties on their integration of women in realistic positions on their candidate lists.

## **E. Eliminating discrimination in law**

77. The obligation of States to advance women’s equality and empower women in public and political life requires legal measures at all levels: constitutional, legislative and judicial.

### **1. Constitutional guarantees**

78. National constitutions define the framework for eliminating discrimination against women in law and practice and articulate the principles and ways by which historical power asymmetries are redressed.<sup>48</sup> Constitutions provide important clarity on the relationship between distinct normative regimes which are adhered to and practiced de facto by different sections of society. A constitutional guarantee of equality for women, in line with international standards, most especially the Convention on the Elimination of All Forms of Discrimination against Women, and regional standards, is essential in order to establish a universal imperative of equality for women on which the entire chain of justice within the State will rest. Increasingly, in different regions, women’s rights and non-discrimination clauses have been incorporated into new constitutions or are part of constitutional reform

<sup>44</sup> See European Court of Human Rights, *SGP v. Netherlands*, Application No. 58369/10, decision of 10 July 2012.

<sup>45</sup> See UNDP and NDI, *Empowering*.

<sup>46</sup> *Ibid.*, p. 22.

<sup>47</sup> Constitution of Ecuador (2008), art. 8. See also articles 65, 116, 176, and 434 of the Constitution, as cited in the background paper on Latin America and the Caribbean prepared for the Working Group.

<sup>48</sup> See Helen Irving, “Where have all the women gone? Gender and the literature on constitutional design”, Sidney Law School Legal Studies Research Paper No. 10/50, May 2010.

efforts.<sup>49</sup> This transnational constitutional pattern can be attributed to ratification of the Convention on the Elimination of All Forms of Discrimination against Women and the concluding observations of the Committee, together with campaigning by women's activists.

79. In order to ensure effective access to justice for women, the constitutional requirements for gender equality should be specific.<sup>50</sup> Research on constitutional provisions that specifically grant or protect the rights of women has shown that while women's protection clauses cannot be shown to be the exclusive cause of improved legal protection of women, they are associated with gains in women's rights.

80. Model examples of constitutional design can be found in recent constitutions in different regions. Since 1981, in many countries in the Western region, constitutions have been amended to include provisions permitting the use of temporary special measures to promote the participation of women in political and public life. One recently established constitution in the Maghreb confers systematically, throughout its provisions, constitutional rights expressly on women as well as men, and seeks to ensure parity between them; in Latin America and the Caribbean there is a constitution which contains approximately 34 references to the rights of women, including the right to political participation.<sup>51</sup>

81. The inclusion of any clause in the constitution that derogates from the guarantee of gender equality, by deferring to contradictory precepts in other orders of justice such as traditional and religious principles, undermines the equality standards of international human rights law. Similarly, constitutions that have an override clause, which excludes plural legal systems, religious or customary courts or alternative dispute settlement procedures from the obligation to respect the gender equality guarantee, violate the equality standards of the Convention. Many of the countries that have derogation or exclusion clauses in their constitutions have entered reservations to the human rights treaties, and these reservations have been addressed within the concluding observations of the treaty bodies, which have required their removal.

82. Effective constitutions for gender equality and non-discrimination provide clarity in a hierarchy of competing laws, legal provisions which establish compliance with universal standards of human rights, and coherence throughout national legal frameworks. There are good practices to be found in different regions, where recognition of the autonomy of customary or indigenous communities is nevertheless subject to the requirement that they respect women's human rights. For instance, in the sub-Saharan region, one constitutional provision mandates that "laws, cultures, customs and traditions which are against the dignity, welfare or interest of women or any other marginalised group ... or which undermine their status, are prohibited by this Constitution", and in Latin America and the Caribbean one constitution provides far-reaching recognition of both gender equality and indigenous rights, guaranteeing women's participation and decision-making in indigenous governance and justice systems.<sup>52</sup>

<sup>49</sup> Martha Morgan, "How constitution-making, interpretation, and implementation can contribute to protecting and promoting women's rights", remarks to the Working Group, October 2012.

<sup>50</sup> See Laura E. Lucas, "Does gender specificity in constitutions matter?" *Duke Journal of Comparative & International Law*, vol. 20 (2009).

<sup>51</sup> See the keynote address of the Vice-Chairperson of the Working Group at the Committee on the Elimination of Discrimination against Women general discussion on access to justice, held on 18 February 2013 in Geneva. Available from [www.ohchr.org/EN/Issues/Women/WGWomen/Pages/OthersActivities.aspx](http://www.ohchr.org/EN/Issues/Women/WGWomen/Pages/OthersActivities.aspx).

<sup>52</sup> Ibid.

83. Constitutional guarantees of gender equality will be operative only if there is provision for effective judicial review of legislative and governmental action and women are empowered to process their claim for equality through the courts. Beyond State courts, the possibility of recourse to international and regional mechanisms opens access to interpretation of the constitutional provisions in line with the international and regional State obligation to respect, protect and fulfil women's right to equality.

## 2. Nationality laws

84. Elimination of discrimination against women in political and public life necessitates reform of nationality laws. Women's capacity to participate in political and public life is defined by their citizenship and nationality, but nationality laws often discriminate against women, particularly when they require a single nationality in a family and the wife's nationality is treated as dependent on her husband's. In effect, women lose their nationality upon marriage with a foreign husband, particularly if both countries of the spouses follow the principle of dependent nationality. If the country of the husband does not follow this principle, then the wife is at risk of becoming stateless, denying her the right to legitimately participate in the political and public life of any country.<sup>53</sup> Laws which require women to seek permission from their husbands, or other family members traditionally defined as their guardians, in acquiring passports and other identity documents also potentially undermine women's capacity to equal participation in political and public life, including through limited freedom of movement.

85. In recent years, many countries have repealed or amended discriminatory nationality provisions to allow women to transfer nationality to their children, and, albeit to a lesser extent, to foreign husbands, or to reduce the occurrence of statelessness. Some countries have lifted their reservations to article 9 of the Convention, mostly in relation to women passing on nationality to children (art. 9, para. 2). Nationality laws which discriminate against women have been challenged in the courts of many countries and in international human rights mechanisms, resulting in a number of positive court decisions.<sup>54</sup>

86. Women and girls belonging to minority communities, rural and indigenous women, migrant women, refugee women and those seeking asylum, and poor women face discriminatory practices in the implementation of laws on nationality and citizenship. They face prejudicial attitudes as well as structural obstacles which limit access to formal registration of births, marriage, residence and other citizenship documents as well as to relevant information on their rights as citizens. Women who are de facto heads of households, including those who have been abandoned by their husbands, whose divorce is not legally registered, or whose husbands have been forcibly disappeared and do not have death certificates for their husbands<sup>55</sup>, are denied recognition of their status in official documents. Without such access, women from these communities become disproportionately vulnerable in exercising their full and equal rights as citizens.

## 3. Preventing violence against women

87. For all women to have the capacity to exercise their right to equal and full participation in political and public life, States must provide a comprehensive legal framework to eliminate all forms of violence against women, including domestic violence, gender-based violence in conflict situations and under current or past dictatorships, and

<sup>53</sup> See A/HRC/23/23, paras. 19–20.

<sup>54</sup> Ibid.

<sup>55</sup> See, for example, Association of Parents of Disappeared Persons, *Half Widow, Half Wife? Responding to Gendered Violence in Kashmir* (2011).

violence directed at women who speak out and play leadership roles during times of war and peace. As articulated in the agreed conclusions of the fifty-seventh session of the Commission for the Status of Women, these laws must provide for multidisciplinary and gender-sensitive preventive and protective measures, such as emergency barring orders and protection orders; the investigation, submission for prosecution and appropriate punishment of perpetrators to end impunity; and support services that empower victims and survivors, as well as access to appropriate civil remedies and redress.

88. Transitional justice mechanisms should provide accountability for gross violations of human rights affecting women, a comprehensive analysis of gender-based violence and abuse by past regimes, the means for transformative reparations for women victims, and the foundation for a gender-responsive reform of the political and legal institutions as part of the guarantee of non-recurrence.

#### **4. Implementation and enforcement of law**

89. Effective elimination of discrimination against women in political and public life relies on the capacity to implement legal guarantees of equality between men and women in this field. National women's machineries set up within the executive bodies of States have been consistently underresourced and are therefore disadvantaged in carrying out their functions. Autonomous women's movements which promote universal standards of equality and non-discrimination are key players, both for maintaining the continued existence of these national machineries as well as for promoting their effectiveness. The equal participation of women from minority, indigenous and other marginalized communities in decision-making positions is the measure of a full implementation of legal guarantees and measures.

90. NHRIs play a crucial role in providing human rights protection and access to redress for politically active women at risk. Given the complex obstacles deeply rooted in structural inequalities and multiple intersections of social-cultural exclusion, women's effective participation in political and public life can be achieved only when they have equal and full access to all mechanisms of independent human rights monitoring and redress, particularly in contexts where the risks are high. Gender responsiveness and gender balance in NHRIs and other human rights institutions at the regional and international levels are imperative.

91. However, there are no international standards for NHRIs to integrate gender and women's rights into their work, resulting in the uneven responsiveness of NHRIs to the specific protection needs of women in political and public life, including women human rights defenders and female politicians at the local level. Specialized NHRIs on women's human rights exist in some countries, but no mechanism guarantees coordination between specialized and the main national human rights bodies, resulting in serious gaps and the risk of fragmented national human rights systems.

92. Making justice systems work for women, whether by catalysing legal reform, or supporting legal aid, one-stop shops and training for judges, is key to the sustainability of women's political participation. This area requires investment. Recognizing the importance of strengthening the rule of law, Governments spend a significant amount on legal and judicial development and human rights. However, targeted funding for gender equality remains low, and gender budgeting initiatives are primarily focused on providing financial resources within State institutions.

93. Civil society organizations have supported ground-breaking cases on women's rights generally and as they relate to participation in public and political life. This underlines the importance of securing the capacity of civil society organizations to sustainably fund their critical work, including in the areas of litigation for violations of women's rights.

## IV. Conclusions and recommendations

94. For women's participation in political and public life to be meaningful it must be on equal footing with that of men, covering all aspects of political and public life, and effective in achieving substantive outcomes on equality between men and women in all fields of life. Women's economic independence and the economic viability of their enterprises and collective actions are crucial, and the conditions necessary for this to be achievable is distinct for differently located women, defined by the unique intersections of multiple forms of discrimination experienced by them. Political transitions do not always lead to inclusive democracy and long-lasting peace, and require the effectiveness of autonomous women's movements to ground universal standards of human rights in political and public life.

95. Women's capacity for equal participation in all aspects of political and public life depends on a coherent set of social and economic policies directed at the family, workplace and marketplace. It also requires their capacity to engage in complex issues such as peace and security, state-building, and extreme poverty and all forms of social exclusion. Positive action is needed to empower women to produce knowledge and engage actively and creatively in these fields. As women act collectively to overcome the structural barriers they face, sustainable access of these groups or communities to adequate resources, including financial, is critical.

96. The right mix of special measures, both temporary and permanent, is required to address reported stagnation in the rise in women's participation in public office. Partial and selective application of gender quotas and other temporary special measures must be replaced by a comprehensive system-wide approach, in permanent as well as ad hoc institutions of governance, peace, development and human rights, at the local, national and global levels. The emerging framework for global governance of information and communications technologies (ICTs) is particularly important, considering the crucial role that ICTs are playing in the political and public life of women.

97. The Working Group recommends that States:

(a) Take concrete steps towards achieving parity in political decision-making and leadership at all levels through a multifaceted approach that is responsive to the different obstacles faced by women, including in dealing with multiple discrimination. States should:

(i) Strengthen the legislative foundation towards parity, including through constitutional provisions and other legislative measures for positive action, such as quotas, to overcome structural barriers to women's political participation;

(ii) Provide effective policy measures to increase women's electability for public office and in key institutions of political and public life, including political parties;

(iii) Address any indication of stagnation and segregation in the progress towards parity by designing and implementing innovative strategies to overcome specific barriers;

(iv) Develop strategies to support capacity development for women in public office, including through national and international cooperation among peers;

(v) Enhance the capacity to consistently and regularly monitor progress at all levels of decision-making across the whole spectrum of institutions of public and political life;

- (b) Create the enabling conditions for public recognition and acceptance for women in positions of leadership and decision-making through public campaigns and educational programmes which are responsive to multicultural settings, including by:

  - (i) Giving recognition to the diversity of women’s engagements in political and public life;
  - (ii) Providing a positive image of diverse women, including minority women, indigenous women, women with disabilities, and other historically marginalized women, in leadership and decision-making positions;
  - (iii) Providing youth and children with a wide range of relevant role models and career paths for women, including through mentoring programmes for young women’s participation in political and public life;
- (c) Develop a bottom-up approach to building democratic and accountable relations between State and society, including in local governance and governance in the sectoral fields, with the active participation of institutions and organizations in which women’s leadership is located and growing;
- (d) Support and ensure women’s equal participation in and benefit from all areas of political decision-making during times of political transition. States should:

  - (i) Apply special measures to ensure the equal and full participation of women in all transitional authorities and mechanisms;
  - (ii) Ensure, including through constitutional provisions, a coherent system-wide framework for equality between men and women in all fields of life;
  - (iii) Engage women in meaningful and sustainable ways in the development and implementation of policies to achieve lasting peace and security, including by promoting a culture of peace through formal and informal education in a multicultural setting;
  - (iv) Ensure women’s effective participation in all initiatives to secure accountability for past abuses, including transitional justice processes, and ensure that the guarantee for non-recurrence incorporates overcoming the root causes of gender-based violations in everyday life and institutions;
- (e) Create a coherent institutional architecture for women’s human rights and gender equality, including by:

  - (i) Securing the gender balance and gender-responsive capacity of national human rights institutions (NHRIs) and other independent monitoring bodies;
  - (ii) Institutionalizing gender responsiveness as part of the international standards for effective NHRIs;
  - (iii) Establishing well-resourced specialized national mechanisms for women’s rights and gender equality;
- (f) Support the sustainability and growth of autonomous women’s movements in their multifaceted efforts to ground universal standards of equality and human rights in diverse contexts, including by providing non-binding funding at the national and international levels and by supporting the development of independent women’s funds;
- (g) Overcome the knowledge gap regarding women’s participation in political and public life, at the national and global levels, by generating robust sex-disaggregated statistics and multidisciplinary research reflecting the whole spectrum

---

of women's engagements, including through innovative documentation produced by the women themselves;

(h) Support women's equal participation in political and public life through ICTs, including by:

(i) Increasing women's digital literacy, particularly among marginalized women;

(ii) Ensuring gender-responsiveness in the promotion and protection of human rights on the Internet;

(iii) Improving women's access to the global governance of ICTs;

(i) Accelerate efforts to eliminate all forms of violence against women, including through a comprehensive legal framework to combat impunity, in order to fulfil women's human rights and to improve the enabling conditions for women's participation in political and public life;

(j) Guarantee women's equal access to decision-making positions and processes in all institutions of global governance, including the United Nations.

---

## ● 발표자 약력

### 제2차 APF 격년 컨퍼런스 발표자 약력

[주제1] 발표자 1 : 아말 알 만나이, 카타르 인권위 위원·사회발전센터 사무국장

아말 알 만나이는 카타르에서의 가족과 사회 역량 개발을 주 목적으로 하는 비영리 사회 개발 조직인 사회 개발 센터(SDC)의 센터장입니다.

SDC는 카타르 교육, 과학 및 사회 개발 재단의 일원이다.

SDC는 1996년 카타르 재단의 회장인 세이카 모자 빈트 나세르 알미스네드 국왕비의 후원 하에 설립되었다.

알 만나이는 중소기업을 위한 AFIF 기금의 부의장이며 국가인권위원회의 위원이며 카타르 시민 사회의 대표이다. 그리고 그녀는 카타르의 개발 과정에서의 자극 역할과 효율적인 사회를 건설하기 위한 개체 간의 통합 및 조정 인도주의 활동과 노력을 목적으로 하는 가족부 최고 변호사에서 나온 카타르에 있는 협회, 비정부기구 및 기관 사이의 조정 위원회의 운영 위원회 멤버 중 한 명이다.

또한, 그녀는 카타르 셸의 진주 GTL 지속 가능한 개발 자문 위원회 운영위원회의 구성원 중 한 명이다. 알 만나이는 카타르의 지속 가능한 개발에 기여하는 셸의 노력의 다른 측면들에서도 사회적 측면을 나타낸다.

그녀는 또한 카타르 청소년 분야의 중소기업을 지원하고 촉진하는 것을 목표로 하는 카타르 Intilaaqah 프로그램의 부의장 위치를 차지하고 있다. 이 프로그램은 사회 개발 센터와 카타르 셸 간의 협력과 효과적인 파트너십의 결과이다.

여성과 아동의 권리 옹호자 및 사회 운동가로서, 알 만나이는 사회 성 위원회, 카타르 국가 전략 여성 발전 위원회와 국가 전략 유년기 프로젝트 위원회(SCFA)의 회원이다. 그녀는 다양한 정부 및 민간 부문의 프로젝트에서 전문적인 능력에 자문을 하고 있다.

알 만나이의 사회적 지속 가능한 도메인에서의 광범위한 경험은 그녀가 주요 발제자 및 명예 손님으로서 효율적으로 참여하거나 지속 가능한 개발 과정에서 파트너로서 카타르의 비정부단체의 역할을 논의하는 측면에서 지역적 및 국제적으로 각종 회의, 워크숍, 포럼 및 행사에 참석할 수 있게 한다.

알 만나이는 베이루트 아메리칸 대학(AUB)의 경영 대학에서 MBA 학위를 보유하고 있다. 그녀는 또한 카타르 대학에서 경제학 학사, 런던 대학에서 공공 정책 및 관리의 석사를 보유하고 있다.

## **아말 알 만나이**

사무국장

사회 개발 센터

카타르 재단

전화 : +974 4454 2361

팩스 : +974 4454 2450

우편번호 : 3509 카타르 도하

웹 사이트 : [www.socialdevelopmentcenter.org.qa](http://www.socialdevelopmentcenter.org.qa)

이메일 : [amannai@qf.org.qa](mailto:amannai@qf.org.qa)

### **[주제1] 발표자 2 : 니달 줄디, OHCHR 중동지역사무소 인권담당**

#### **Nidal Nabil Jurdi 박사**

- 아일랜드 코크 대학에서 국제 범죄 법과 인권 박사 학위 2008년 9월에 취득
- 베이루트 아메리칸 대학교 국제 관계 석사 학위 2002년 취득
- 네덜란드 헤이그 사회 과학 연구소 인권법 석사 학위 2003년 취득
- 베이루트 아메리칸 대학교 국제 관계 및 중동학 학사 학위 1998년 취득
- 레버니즈 대학교 법학과 학사학위 취득

#### **경력**

- OHCHR 중동 지역 사무소 인권 담당관(2007년 9월- 현재). 국제 및 이행기 정의(Transitional Justice), 국가 인권 기구에 초점
- 캐나다 몬트리올 맥길 대학 법학과 교환 연구원 2014년
- 미국 베이루트 대학교 국제 법 및 기구 강사(2008년-현재)
- 유엔 국제 독립 조사 위원회(UNIIC) 법률 고문 (2006년 9월-2007년 2월)
- 아일랜드 코크대학교 법학부, 인권, 국제 인도법과 국제 형사법 강사 (2006년 1월-9월)
- 국제 형사 재판소 소추부 법률 연구원

### **[주제1] 발표자 3 : 윈 므라, 미얀마 인권위원장**

#### **학력**

- 학사 학위

## 경력

- 1967년 외무부

1969-1992 사이에 주 방콕, 태국, 프놈펜, 프랑스 미얀마 대사관과 뉴욕과 제네바의 UN 주재 미얀마 상주 대표부에서 다양한 역량을 제공했다.

그는 뉴욕 유엔 주재 미얀마 상주 대표부로 옮기기 전에 이스라엘 대사로 임명되어 9개월을 역임했다.

1994년부터 2001년까지 뉴욕 유엔 주재 미얀마 상주 대표부 대표로 재직. 동 시기에 또한 쿠바와 멕시코 대사 역임.

In 2001 appointed DG of International Organizations and Economic in August 2007.

2011년 9월 미얀마 국가 인권 위원회 위원장으로 임명.

### [주제1] 발표자 4 : 수실 파큐렐, 사회적 대화를 위한 연합(Alliance for Social Dialogue) 의장

생년월일 : 1952년 8월 15일

결혼 여부 : 기혼 (자녀 2)

주소 : 카트만두 칼란키

전화 : +977 1 4272267

모바일 : + 977 9851068081

이메일 : sushil.pyakurel @ gmail.com

수실 파큐렐은 국가인권위원회(NHRC), 네팔과 네팔 인권 조직 INSEC의 설립자, 포럼 아시아와 인권을 위한 동남 아시아 포럼(SAFHIR)의 전(前) 위원이다(2000-2005)

파큐렐은 네팔 국가 인권 위원회의 설립을 위한 운동의 선두 역할을 했다.

그는 항상 책임을 설정하는 불처벌의 문화에 대한 투쟁의 최전선에 있다.

현재 수실 파큐렐은 책임을 위한 시민 사회의 공동 이니셔티브, 사회적 대화(ASD)와 책임 감시 위원회(AWC) 동맹의 의장이다.

### [주제2] 발표자 2 : 로레타 로살레스, 필리핀 인권위원장

현직 :

필리핀 국가 인권 위원회 위원장

동남아시아 국가 인권 기구 포럼(SEANF)

**전직 :**

- 지역 및 국제적 AKBAYAN 시민행동당 명예의장
- 국제형사재판소에 대한 필리핀 연합 공동 의장
- 정치와 선거 개혁을 위한 연구소(IPER) 의장
- Claimants 1081 의장
- First Quarter Storm Foundation 의장
- TEACHERS, Inc. 명예 의장
- Freedom from Debt Coalition (FDC) 부회장
- 필리핀 워킹 그룹, ASEAN 인권 메커니즘, 위원,
- The Asian Federation Against Involuntary Disappearances (AFAD) 협의회 회원
- ASEAN Inter-Parliamentarians Myanmar Caucus (AIPMC) 현 수석 고문

**의회에서의 전직**

- AKBAYAN 시민 행동당 (비례대표제) 정당 명부 대표(Party List Representative)
- 11 - 13대 의회 (1998-2007)

**기능:** 12대와 13대 의회

- 인권 위원회 의장
- 선거권과 선거 개혁 위원회 부위원장
- 정당 명부 및 지역 부문 대표 분과위원회 위원장
- 부 소수 지도자(Deputy Minority Leader) - 13대 의회

**학력 :**

- 1) 필리핀 대학 외교관계 학사 학위
- 2) 필리핀 대학 아시아학 석사 학위

**전문 경력 :**

- 필리핀 사회 과학, 역사 및 필리핀 헌법 대학 강사

### 정치적 배경 및 전 국제 활동 :

- 페르디난도 E. 마르코스 정권 동안 정치 운동가
- 두 번 투옥됨; 고문 피해자
- Concerned Teachers-Philippines 연합 창립 의장
- 글로벌 액션을 위한 의회(PGA), 집행 위원회 전 위원
- 국제 의원 연맹(IPU) 전 멤버
- 평화와 민주주의를 위한 아시아 의원 협회 전 회원

### [주제3] 발표자 1 : 모우사 부라이자트, 요르단 인권센터 인권위원

모우사 부라이자트(박사) 요르단 인권 국립센터(JNCHR)의 위원장은 최근 요르단 총리가 위원장으로 있는 왕립 위원회의 위원으로 임명되었으며 국가의 국민 통합 시스템 초안 작성의 임무를 받았다. 그는 또한 2011년에 아랍의 봄과 국가 내에서의 대중의 불안에 따라 설립된 국가 대화 위원회의 회원이며 보고관이었으며 선거와 정치에 대한 두 개의 법률을 입안하는 작업을 맡았다. 전직 외교관으로서 부라이자트는 주 터키 대사(1997-2002), 유엔 제네바 본부(2002-2008)에서 다양한 외교적 역량을 펼쳤다. 부라이자트 박사는 1988년에서 1989년 사이에 하버드 대학에서, 1993년에서 1994년 사이에 브루킹스 연구소에서 선임 연구원으로 각각 2년을 보냈다. 그는 외교와 인권에 대한 몇 가지 출판물의 저자이다. 그의 제네바에서의 복무 기간 동안, 그는 2006년에서 2007년 사이에 인권 이사회(ICES)의 첫 번째 세션의 부의장 및 보고관을 역임했다. 그는 또한 특별 절차, 1503에 관련된 상황에 대한 워킹 그룹 및 사회 포럼의 의장으로 재임하였으며 2006년부터 2007년 사이에 인권이사회(HRC)의 자문위원회 설립을 위한 조력자였다.

### [주제3] 발표자 3 : 무헤이든 토크, 전문가

무헤이든 토크 박사는 1944년 암반에서 태어나 미국의 필듀대학교에서 교육 심리학 박사 학위를 취득했다.

그는 1982년에 정교수로 승진했다. 그는 자신의 경력의 4분기를 요르단, 미국, 아랍 에미리트 연방 및 UN 시스템에서 요르단 사립 대학의 학장을 역임했던 것을 포함해서 교수, 연구원 관리자로서 교육과 심리학 분야에서 일하는데 보냈다.

토크 박사는 전문 경력의 지난 15년을 정치, 외교 및 거버넌스 문제에 헌신했다.

그는 비엔나 유엔 기구의 요르단 대표였다.

그는 여러 유럽 국가, UN 기구 및 여러 국제 기구의 공사/장관(Minister) 2번, 대사 2번 역임했다.

토크 박사는 2001-2003년 사이에 부패에 대한 UN 협약의 협상을 위한 특별 위원회의 의장직을

역임했으며, 국내적, 지역적 및 국제적 협약의 비준 및 증진을 위한 UN의 노력을 주도했다.

토크 박사는 또한 2012년에 “세계은행과 유엔의 도난 자산 회수 이니셔티브(Stolen Asset Recovery Initiative)”의 의장, 그리고 호주의 국제 반 부패 아카데미의 설립을 위한 운영 위원회의 일원이었다. 그는 또한 부패에 대한 UN 협약의 입법 가이드뿐만 아니라 협약 당사국 회의를 위한 규칙과 절차를 포함, 개발한 국제 위원회의 의장이었다.

토크 박사는 국내적, 지역적 및 국제적 인간의 권리와 자유의 보호와 증진을 위해 노력, 3년 동안 요르단 인권 위원회 위원장으로 재직했다. 이 기간 동안, 토크 박사는 2년 동안 APF의 위원장으로 재직했으며, 국가인권기구 국제조정위원회(ICC)의 위원이었다.

그는 또한 교육 교과 과정에 인권, 가버넌스 및 진실성/무결성 원칙을 포함시키기 위해 혼신의 노력을 쏟았다. 토크 박사는 현재 아랍 세계의 교육의 현대화 및 발전의 분야에서 일하는 민간 기업의 사무총장을 맡고 있다.

#### **[주제4] 발표자 1 : 길리안 트리그, 호주 인권위원장**

길리안 트리그 명예 교수는 인권위원회의 위원장으로 2012년에 임명되었다. 그녀는 2007-2012년에 시드니 대학에서 법학과 학장과 국제법 Challis Professor, 그리고 2005-2007년에는 영국 국제 비교 법 연구소 소장이었다. 그녀는 Seven Wentworth Chambers 전(前) 변호사이며, 법과 대학의 운영위원(governor)이다. 트리그 교수는 국제 상업 법률 관행에 학문적 경력을 결합하여 해외 보험사, 세계 무역기구 법률과 인권에 대한 정부 및 국제기구와 협력하고 있다. 위원회에서 그녀는 호주가 당사자며 인권 실천 방법에 대한 아시아 태평양 지역의 국가들과 협력하기 위해 인권 조약의 호주 법의 구현에 초점을 맞추고 있다. 트리그 교수의 법률 교육에 대한 오랜 헌신은 호주 국민, 특히 아동에게 그들의 기본적 인권에 대해 알리기 위한 위원회의 노력을 기반으로 한다.

#### **[주제4] 발표자 2 : 시마 사마르, 아프가니스탄 인권위원장**

##### **시마 사마르 박사**

인간과 여성의 권리의 유명한 옹호자인 사마르 바시는 2002년 6월에 아프가니스탄 독립 인권 위원회(AIHRC)의 창립 위원장으로 임명되었다. 아프가니스탄 독립 인권 위원회의 위원장으로 임명되기 앞서, 그녀는 비상/긴급 로야 지르가(Loya Jirga)의 부의장으로 선출되었고 또한 포스트 탈레반 아프가니스탄 IAA(과도/임시 정부)의 여성부 부의장 및 장관을 역임하였다. 그녀는 또한 2005-2009년 사이 수단인 인권 상황에 대한 UN 특별 보고관을 역임했다. 사마르 박사는 인권, 민주주의 및 이행기 정의에 관한 많은 국제 포럼에 참가했다. 이와 같은 그녀의 공헌은 널리 인정되고 있으며 그녀는 여러 권위 있는 상을 받았다.

#### [주제4] 발표자 3 : 아메드 토랄, 몰디브 인권위원회 부위원장

tholal@hrcm.org.mv

아메드 토랄은 문화 유산 관리를 전문으로 하고 문예 창작을 전공으로 응용 과학 학부 과정을 호주 캔버라 대학에서 마쳤다. 호주와 몰디브의 문화 분야에서의 그의 이전 작업은 사람의 권리를 증진하기 위한 문화적 패러다임의 중요성을 이해하는 중요한 경험이다. 그는 또한 미디어 분야에서 거의 5년 동안 일했으며 인권에 대한 올바른 인식과 존중을 만드는 가장 중요한 요소로 사람에게 관심을 가지고 이해하는 법을 고려하고 있다.

#### [주제5] 발표자 1 : 사미라 알-투와이지리, UN여성, 아랍국가 지역과장

알 투와이지리 박사는 2012년 7월에 UN Women에 이집트 카이로에 위치한 아랍 국가 지역 센터의 지역 책임자로 합류했다. 알 투와즈리 박사는 자국의 선도 병원의 자격을 갖춘 의사이자 병원의 이사로서의 이전의 경험뿐만 아니라 국제 개발 10년 이상의 경험을 가지고 있다. 2010년 이후, 알 투와즈리 박사는 워싱턴에 있는 세계 은행의 보건 정책, 인구 및 영양을 위한 lead 건강 전문가이다. 세계 은행(World Bank)에 그녀의 글을 게시하기 전에, 그녀는 2007년부터 2010년까지 제네바에 있는 국제 노동기구(ILO)의 산업 안전 보건 국장이었다. 그녀는 2004년부터 2007년 요르단의 아랍국가를 위한 보건 정책에 UNFPA의 지역 고문을 역임했다. 그녀는 조지 워싱턴 대학에서 건강/보건 서비스 관리 학과에서 석사 학위를, 하버드 대학에서 공중 보건/위생학 석사 학위를 취득하였고 존스 홉킨스 대학에서 건강 시스템에서 박사 학위를 취득하고 박사 후 과정을 밟았다.

#### [주제5] 발표자 2 : 나다 다와제, OHCHR 중동지역사무소 인권담당/젠더 고문

Nada Darwazeh는 인권 최고 대표 사무소(OHCHR)의 중동 지역 성 평등 자문관이다. 그녀는 요르단 대학에서 심리학 학사 학위, 써섹스 대학에서 성과 개발 연구 석사 학위, 에섹스 대학에서 인권 석사 학위를 취득했다. 90년대 중반 이후 나다는 여성의 권리와 성 평등에 관한 문제에 대한 국내 및 국제 기구와 협력하고 있다. OHCHR의 성 평등 자문관으로서, 그녀는 특히, CEDAW(여성 철폐 협약), 인권 이사회의 메커니즘 및 특별 절차, 여성의 정치적 참여와 성 주류화의 국제 인권 프레임 워크에서 정부 관계자, 시민 사회, 국내 여성 기관 및 국가 인권 위원회를 위한 기술 자문 및 교육 프로그램을 제공한다. 그녀는 또한 인권 침해, 이행기 정의, 인권 옹호자 및 포스트 2015 의제의 문서화를 포함하여, 성 평등에 초점을 맞춘 다양한 문제에 대한 OHCHR의 활동에 기여한다.

---

## 제18차 APF 연례회의 및 제2차 격년 컨퍼런스 참가보고서

---

| 인 쇄 | 2014년 1월

| 발 행 | 2014년 1월

| 발행인 | **현 병 철** (국가인권위원회 위원장)

| 발행처 | **국가인권위원회 정책교육국 인권정책과**

| 주 소 | (100-842) 서울특별시 중구 무교로 6  
금세기B/D 11층 (을지로1가 16번지)

| 전 화 | (02) 2125-9827 | F A X | (02) 2125-0918

| Homepage | [www.humanrights.go.kr](http://www.humanrights.go.kr)

| 인쇄처 | 도서출판 **한학문화**

| 전 화 | (02) 313-7593 | F A X | (02) 393-3016

---

발간등록번호 11-1620000-000504-01

사전승인 없이 본 내용의 무단복제를 금함