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人权委员会

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人权机制的有效运作：国家机构和区域安排

促进和保护人权的国家机构

秘书长的报告 *

* 为遵守大会关于篇幅限制的规则，附件二至五以收到的语文分发，即仅分发英文、法文和西班牙文本。

内 容 提 要

本报告涉及 2004 年 1 月至 12 月这一时期，载有关于联合国人权事务高级专员办事处为建立和加强国家机构开展的活动，政府和国家机构在这方面采取的措施，以及国家机构和国际机制为促进和保护人权而进行的合作情况的资料。本报告还载有关于国家机构在具体主题问题方面开展的工作情况的资料。关于述及本报告提及的活动的文件，可查阅国家机构论坛网站(www.nhri.net)。关于相关活动和向国家机构提供的援助的补充资料，见人权委员会特别程序任务承担者编写的主题报告和国别报告，还可查阅秘书长关于人权领域的咨询服务和技术合作的报告(E/CN.4/2005/110)。关于加强国家机构对人权委员会及其附属机构工作的参与的途径和手段的资料，见秘书长的报告(E/CN.4/2005/107)。

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导 言

1. 本报告根据人权委员会第 2004/75 号决议第 20 段编写，在该决议中，委员会请秘书长向第六十一届会议报告该决议执行情况。

一、人权高专办和国家机构

A. 咨询服务

2. 秘书长在题为《加强联合国：进一步改革纲领》的报告中强调，联合国帮助各国建立强有力的人权机构的能力将得到加强。“从长远来说，在国家一级建设强有力的人权机构，可以确保以持续的方式保护和增进人权。因此，在各国设立或加强反映出国际人权规范的国家保护人权系统应该成为本组织的主要目标。在摆脱冲突的国家中，这些活动尤其重要”(A/57/387, 第 50 段)。

3. 2004 年，人权高专办(下称高专办)承诺通过设在人权高专办能力建设和实地业务处内的国家机构股的工作在全球和国家两级加强国家机构的作用，这项工作已经成为向国家人权促进和保护系统提供支持的一个组成部分。目前，应请求向越来越多的国家提供实际咨询意见，此种咨询意见涉及新的国家机构所涉恰当的宪法或立法框架，还涉及此种机构的性质、职能、权力和职责等。

4. 人权高专办优先重视在恰当考虑到相关国际标准(大会 1993 年通过的《巴黎原则》)的前提下设立并加强国家机构，设法改进整个联合国系统在国家机构工作方面的协调，并且支持国家机构更多地参与恰当的联合国人权论坛和其他国际论坛的活动。人权高专办鼓励国家机构交流最佳做法，并且便利国家机构获取相关信息，参加圆桌会议、研讨会、讲习班和培训活动以接受咨询意见和援助。人权高专办还为加强国家机构区域网络提供支持。

5. 国家机构股经请求，可为高专办同事、区域代表、联合国国家工作队、联合国机构、非政府组织以及其他高专办伙伴等提供《巴黎原则》、国家机构立法、比较分析、技术合作需求评估、项目拟订、评估工作团和培训活动等方面满足特定需要的咨询和支助。

6. 自 2004 年 1 月以来，高专办已经就可能有助于国家机构的一些活动和问题向下列国家提供咨询和信息，包括在宪法条款、授权立法、比较立法以及与国家机构有关的规则和条例等方面：阿富汗、阿尔巴尼亚、安哥拉、布隆迪、中国、哥伦比亚、科摩罗、刚果、科特迪瓦、塞浦路斯、刚果民主共和国、吉布提、埃及、希腊、伊拉克、日本、约旦、肯尼亚、莱索托、马尔代夫、尼泊尔、荷兰、尼日尔、挪威、巴基斯坦、卡塔尔、沙特阿拉伯、塞尔维亚和黑山、塞拉利昂、斯里兰卡、苏丹、前南斯拉夫的马其顿共和国、土耳其、乌兹别克斯坦。阿富汗、蒙古、尼泊尔、被占领的巴勒斯坦领土、卢旺达以及赞比亚的国家机构得益于国家机构股提供的支助方案。

B. 对国际行动的支持

1. 促进和保护人权的国家机构国际协调委员会

7. 国家机构股作为促进和保护人权的国家机构国际协调委员会(协调委员会)秘书处及该委员会的资格认证小组委员会，负责提供实质性支助，并且为在人权委员会第六十届会议期间于 2004 年 4 月 14 日至 16 日在日内瓦举行协调委员会第十四届会议提供便利。

8. 在协调委员会届会进行的关于人权和残疾问题的主题讨论过程中，与会者认识到了国家机构在促进和保护残疾人权利方面发挥着重要作用。国家机构参加拟订保护和促进残疾人权利和尊严的全面综合国际公约特设委员会的代表，以及高专办人权和残疾问题协调中心，应邀参加了这次讨论。

9. 在人权教育主题讨论过程中，参加讨论者重申了国家机构在推动人权教育方面发挥的重要作用。讨论小组成员包括人权委员会教育权问题特别报告员，以及斐济人权委员会、新西兰人权委员会和高专办人权教育问题协调中心的代表。

10. 高专办和国际人权服务社组织了一次非政府组织与国家机构的合作方面的最佳做法专题讨论。

11. 下列国家或地区的 37 个国家机构的代表出席了这届会议：阿富汗、阿尔及利亚、阿根廷、澳大利亚、加拿大、丹麦、斐济、法国、德国、加纳、希腊、洪都拉斯、印度、爱尔兰、马来西亚、毛里求斯、墨西哥、蒙古、摩洛哥、尼泊尔、新西

兰、尼日尔、北爱尔兰、挪威、巴勒斯坦、菲律宾、大韩民国、卢旺达、塞内加尔、西班牙、瑞典、瑞士、多哥、突尼斯、乌干达、乌克兰、委内瑞拉。

12. 迄今为止，协调委员会已经认证了 50 个据认为符合《巴黎原则》的国家机构，此种国家机构的数目在逐年递增(1999: 15; 2000: 26; 2001: 32; 2002: 40; 2003: 45)。国家机构股作为协调委员会的秘书处，与协调委员会密切协作，以加强委员会的认证程序。

13. 协调委员会第十五届会议在国家人权机构第七次国际会议举行之前，于 2004 年 9 月 14 日在汉城举行。这届会议处理的事项之一，是委员会成员通过了资格审查委员会会议事规则草案。会议初步讨论了一份关于预警机制的文件，该文件将提交协调委员会下届会议通过。

2. 国家人权机构第七次国际会议

14. 这次会议于 2004 年 9 月 14 日至 17 日在汉城举行，由韩国国家人权委员会主办，协调委员会和高专办协助举办，经费由亚太论坛和法语国家政府间机构提供。会议的总体主题是“在冲突期间和在反恐怖主义的同时维护人权”。在这次会议之前，首次举行了一个非政府组织论坛，23 个国际非政府组织和 16 个当地非政府组织自始至终作为观察员参加了会议。

15. 下列国家或地区的国家机构代表出席了这次会议：阿富汗、阿尔巴尼亚、阿根廷、澳大利亚、贝宁、玻利维亚、波斯尼亚和黑塞哥维那、布基纳法索、乍得、丹麦、埃及、斐济、法国、格鲁吉亚、德国、加纳、希腊、危地马拉、圭亚那、中国香港特别行政区、印度、肯尼亚、哈萨克斯坦、吉尔吉斯斯坦、卢森堡、马尔代夫、马拉维、毛里求斯、墨西哥、蒙古、摩洛哥、尼泊尔、新西兰、尼日尔、北爱尔兰、挪威、巴勒斯坦、秘鲁、菲律宾、大韩民国、俄罗斯联邦、卢旺达、塞内加尔、南非、西班牙、瑞典、泰国、前南斯拉夫的马其顿共和国、多哥、突尼斯、乌干达、乌克兰、坦桑尼亚联合共和国、委内瑞拉、赞比亚。

16. 国家机构和非政府组织代表参加了五个工作组的工作，这五个工作组的报告构成以协商一致方式通过的《汉城宣言》所列的主要议题(见附件一)：(1) 冲突和反恐怖主义：经济、社会、文化权利；(2) 冲突和反恐怖主义：公民权利和政治权利与法

治；(3) 国家机构在冲突局势中的作用；(4) 冲突和恐怖主义背景下的移徙问题；(5) 冲突背景下的妇女权利。《宣言》有一个内在的监测/执行机制。

3. 联合国机构

人权委员会

17. 国家机构股协助大约 36 个国家机构参加人权委员会第六十届会议，并首次发布了一个文档系列(E/CN.4/2004/NI/.....)，以使国家机构能够提交文件供委员会审议。

18. 在摩洛哥人权协商委员会和加拿大人权委员会(与澳大利亚和法国国家机构合作)提交的背景文件基础上，协调委员会上届会议决定设立一个工作组，以便就加强国家机构对人权委员会及其附属机构工作的参与问题起草一份文件供协调委员会审议。

19. 鉴于秘书长已经根据人权委员会第 2004/75 号决议，向人权委员会第六十一届会议提交关于设法加强国家机构对委员会及其附属机构工作的参与问题的报告(E/CN.4/2005/107)，秘书处向所有国家机构发送了一份说明，请后者发表看法。

增进和保护人权小组委员会

20. 小组委员会从第五十五届会议起决定，国家机构可以凭本身的资格特许参加小组委员会会议，并就小组委员会的任何实质性议程项目发言。

妇女地位委员会

21. 在协调委员会第十五届会议期间，澳大利亚人权和机会均等委员会代表亚太论坛，提交了一份关于确保国家机构在妇女地位委员会中的作用的文件。

4. 宣传和培训活动

22. 国家机构股在丹麦人权协会的支持下设有一个国家人权机构网站(www.nhri.net)，该网站于 2003 年推出。这一网站与所有现有国家机构网站以及高专办主页相连接，含有关于国家机构关注的国别问题和主题问题的信息。另外，2004

年，推出了一个国家机构申诉处理程序和方法比较分析数据库，还推出了一个新闻提醒系统，该系统以每两周向所有有关方面发送电子邮件的方式运行。

23. 目前正在与高专办合作伙伴协作，编制训练单元和材料。这些材料包括国家机构立法、宪法条款和年度报告汇编(编制在 CD-ROM 上)；国家机构训练单元(编制在 CD-ROM 上)；以及《第四号国家机构系列手册》修订本等。

24. 高专办正在以一个发送给所有国家机构征求意见的问题单为基础，与国际人权政策理事会合作，制定国家机构有效性及此种机构对《巴黎原则》的遵守情况的衡量指标。。

25. 考虑到协调委员会会议即将举行，国家机构股正在准备一份国家机构自 1993 年以来发表的声明汇编，并正在准备对已经采取的行动进行评估。

26. 在高专办和各国议会联盟 2004 年 3 月 15 日至 17 日在日内瓦举行的题为《加强议会这一维护人权的机构：议会人权机构的作用》的研讨会上，国家机构股作了发言。国家机构股还在一些讨论国家机构问题的论坛上发言。

C. 对区域行动的支持

27. 国家机构股与高专办地区单位和高专办区域代表合作，向国家机构区域秘书处提供支持。这方面既包括对年度会议提供支持，也包括对一些实质性行动提供支持，这些行动有：在打击恐怖主义活动的同时尊重人权问题探讨——2004 年 2 月在加德满都讨论了这一问题；与亚太国家人权机构论坛一道为斯里兰卡人权委员会进行的调查方法培训；以及土著人民权利问题探讨——美洲网络 2004 年 3 月在墨西哥梅里达讨论了这一问题，另外，该网络在 2004 年 6 月与布宜诺斯艾利斯举行的防止酷刑研讨会上也讨论了这一问题。

1. 美洲和加勒比

28. 国家机构股向美洲国家机构网第三次大会提供资金和实质性支持，这次大会在与阿根廷的维护国家人民组织(Defensoria del Pueblo de la Nación)合作下于 2004 年 6 月 9 日至 11 日在布宜诺斯艾利斯举行。

29. 在上述大会举行之前，在与防止酷刑协会的合作下组织了一次防止酷刑问题研讨会。13 个网络成员(阿根廷、玻利维亚、加拿大、哥伦比亚、哥斯达黎加、厄瓜

多尔、危地马拉、洪都拉斯、墨西哥、巴拿马、巴拉圭、秘鲁、委内瑞拉)的代表、加勒比监察员协会的一名代表,以及一些非政府组织和其他组织代表出席了这次研讨会和大会。这次会议首次邀请了该区域尚未设立国家机构的国家(巴西、智利、乌拉圭)的政府和民间社会代表参加。

30. 美洲国家机构网协调委员会由阿根廷、加拿大、墨西哥和巴拿马的国家机构组成。墨西哥国家人权委员会当选为该网络的秘书长,因而该国人权委员会将充当该网络的秘书处。这次会议决定,美洲国家机构网下次年度会议将在人权委员会第六十一届会议举行之际在日内瓦举行。

31. 国家机构股向 2004 年 5 月 10 日至 14 日在牙买加举行的加勒比监察员协会第三次区域会议提供支持。高专办为加拿大人权委员会前任秘书长出席这次会议提供了支持,后者就《巴黎原则》和监察员机构有必要承担人权职责问题作了发言。

2. 非 洲

32. 高专办依然致力于向新设立的非洲国家人权机构协调委员会秘书处提供支持。非洲国家人权机构第五次区域会议的筹备工作目前正在进行,这次会议将在 2005 年由毛里求斯国家人权委员会主办。

33. 非洲联盟与高专办和非洲国家人权机构协调委员会合作,于 2004 年 10 月 18 日至 21 日在亚的斯亚贝巴组织了首次非洲联盟国家人权机构会议。这次会议的目的是:鼓励尚未设立国家机构的国家设立此种机构;让现有国家机构之间交流见解,并明确国家机构的工作可加以改进的领域;并作出建立落实现行非洲人权文书的机制的安排。与会者通过了一项最后公报(见 www.nhri.net)。

34. 国家机构股参加了一次非洲国家机构、冲突解决及和平缔造问题研讨会,这次研讨会由解决冲突中心人权与冲突管理方案于 2004 年 11 月 29 日至 12 月 3 日在南非开普敦举办。贝宁、布基纳法索、乍得、加纳、肯尼亚、马拉维、毛里塔尼亚、毛里求斯、尼日尔、尼日利亚、塞内加尔、塞拉利昂、南非、苏丹、多哥、乌干达、坦桑尼亚联合共和国、赞比亚等国机构的代表以及非洲联盟的代表出席了这次研讨会。

35. 2004 年,为非洲国家机构成功地举办了一次侵犯人权情况监测和调查试验性远程培训,这次培训在设在南非/联合王国的非政府组织 Fahamu 在与高专办合作下拟订的一个 CD-ROM 与教员相结合的培训方案基础上进行。2004 年 5 月 6 日至 8 日,

与肯尼亚国家人权委会在内罗毕联合举办了一次研讨会，这次研讨会使所有参加培训班的人员能够交流经验和最佳做法。加纳、肯尼亚、马拉维、毛里求斯、尼日利亚、卢旺达、乌干达、坦桑尼亚联合共和国、南非、赞比亚等国的人权机构派代表出席了这次研讨会。在这次研讨会之后举行了一次活动，从而使参与者有机会在其机构内采取实际行动，并通过实际运用巩固学到的知识。

36. 2004年7月，国家机构股与高专办南部非洲区域代表和开发署驻赞比亚办事处合作，为赞比亚国家人权委员会举办了一次讲习班。挑选了一名顾问，以便为专员们提供辅导，并使其对国家机构的作用形成共同的认识。

3. 亚洲和太平洋

37. 高专办为国家机构参加2004年3月1日至4日在多哈举行的促进和保护亚太地区人权区域合作第十二次讲习会提供了便利。讲习会最后确定的主要目标是：国家应当与与会国家机构合作，并继续应请求提供技术合作和咨询服务以支持建立并加强国家机构；国家应当继续支持亚太国家人权机构论坛的工作。讲习会鼓励向阿拉伯和太平洋区域包括国家机构在内的国家人权保护系统分区域讲习会提供支持。

38. 高专办国家机构股和亚太股为2004年2月16日至18日在加德满都举行的亚太论坛第八次年会提供了支持并参加了这次会议。这次会议通过了一份《结论声明》，该《声明》重申，亚太论坛致力于按照《巴黎原则》的规定推动国家机构的建立。这次会议的主题是“国家人权机构与法治在反恐行动中的优先位置”，亚太论坛法学家咨询委员会审议了这一主题。会议接纳巴勒斯坦公民权利独立委员会和阿富汗独立人权委员会为联系成员，从而使论坛成员数目达到14个国家机构。

39. 高专办为2004年9月13日在汉城举行的亚太论坛第九次年会提供了支持并参加了这次会议。会议接纳约旦国家人权中心为论坛联系成员。论坛理事会审议了关于在2005年举行两次国内流离失所者和贩运问题区域讲习会的提案。论坛理事们接受了蒙古国家人权委员会提出的主办定于2005年8月举行的第十次年会的建议。

40. 2004年7月，高专办和亚太论坛为旨在加强巴勒斯坦公民权利独立委员会的立法基础的一个联合特派团提供了支持。

41. 高专办还通过新西兰人权委员会，在处理申诉和人权教育方面为约旦国家人权中心提供培训。2004 年 2 月，国家机构股向联合国约旦国家工作队提供了《巴黎原则》初步培训课程。

4. 欧 洲

42. 国家机构股与欧洲委员会人权事务专员办事处建立了更为密切的联系，该办事处是欧洲委员会国家机构方面的工作的协调中心。国家机构股和欧洲委员会就欧洲境内的各个国家机构交流信息，并且与丹麦人权学会一道，对土耳其进行了首次联合访问。高专办与欧洲委员会之间的合作可望通过一年两次的磋商和联合开展的活动得到加强。

43. 国家机构股参加了由德国人权学会和欧洲委员会于 2004 年 11 月 25 日至 26 日在柏林主办的第三次国家机构圆桌会议。欧洲联盟、欧洲安全与合作组织、联合国、大赦国际、国际法学家委员会、德国妇援组织 **Medica Mondiale**、在欧洲委员会拥有参与地位的非政府组织的人权团体的观察员，以及政府代表和一些个人研究者等，参加了这次圆桌会议。《柏林宣言》(见 www.nhri.net)涉及这次圆桌会议的三个主要主题：完善欧洲委员会内的人权保护制度；打击恐怖主义斗争背景下的人权保护；保护贩运人口活动的受害者。

44. 欧洲国家机构第五次会议与第三次圆桌会议一道在柏林举行。这次会议由法国国家人权协商委员会(欧洲国家机构协调组主席)和德国人权学会联合举办。下次欧洲国家机构区域会议将由希腊国家人权委员会主办。丹麦、法国、希腊和爱尔兰的机构当选为参加协调委员会的区域代表。丹麦人权学会仍将担任协调委员会资格审查委员会的代表。国家人权协商委员会仍将担任欧洲协调组主席。这次会议的最后决议可查阅 www.nhri.net 网站。

二、人权条约机构、人权委员会特别机制 与国家机构之间的合作

45. 《巴黎原则》强调，国家机构有必要参与国际人权条约机构进程。因此，国家机构股一贯与条约机构及其成员密切合作，提供有关国家机构的专门分析。

46. 国家机构股和高专办条约和委员会处条约机构建议股分别于 2003 年 11 月、2004 年 5 月和 2004 年 11 月举办了“通过增强国家保护机制加强人权条约建议的执行”的讲习班。媒体、非政府组织的代表以及阿尔巴尼亚、阿根廷、阿塞拜疆、哥伦比亚、克罗地亚、萨尔瓦多、危地马拉、肯尼亚、拉脱维亚、巴拿马、俄罗斯联邦、卢旺达、斯里兰卡、多哥等国的国家机构的代表参加了这些讲习班，并参加了负责审查各自国家的报告的委员会会议。为各国拟订了行动计划。

47. 2004 年进行了会前和后续访问，计划在 2005 年初进行此种访问，以便使参加者为参加在日内瓦举办的讲习班作准备；就参加了先前的会议的国家而言，此种访问将评估培训对实地产生的影响。国家机构股设有一名专门负责处理条约机构和国家机构问题的工作人员。

48. 在人权条约机构主持人会议和第三次委员会间会议分别于 2004 年 6 月在日内瓦举行之后，将公布关于国家机构与条约机构相关的工作的总建议。国家机构股将为这项建议的编写提供支持。

49. 人权委员会特别程序任务承担者越来越多地征求国家机构代表的意见，并且已经成为鼓励遵守《巴黎原则》和向国家机构提供支持方面的一种重要机制。在特别程序任务承担者于 2004 年 6 月举行年度会议期间，国家机构股向其介绍有关情况，目的是为特别程序机制和国家机构之间在更大程度上的相互交流提供支持。现在定期向各个任务承担者提供关于国家机构的资料。国家机构在帮助确保贯彻落实任务承担者的建议方面发挥着重要作用。

三、高专办、联合国机构和方案以及 国际和区域组织之间的合作

50. 在国家机构能力建设和加强国家机构能力方面，高专办正在加强与开发署和联合国教育、科学及文化组织(教科文组织)的合作，并在同时确保关于国家机构的国际标准得到维持。

51. 国家机构股一直在同红十字会与红新月会国际联合会谈判一项联合行动，这项行动的目的在于鼓励国家红十字会和红新月会与国家机构合作。预计这项行动可能在2005年开展。

52. 在报告所涉时期，高专办和开发署在蒙古和卢旺达联合执行了两个技术合作项目。这两个项目提供了不同的经验，需要对这些经验进行评估，以便确定今后合作的最佳模式。

53. 高专办正在编制一个国家机构培训单元，该单元将用来对联合国国家工作队和其他联合国合作伙伴进行国家机构方面的培训。

54. 国家机构股被请求为教科文组织于2004年5月16日至19日在法国南特举行的题为“在全球化时代推进人权”的世界人权论坛组织一次国家机构专题讨论会。这一专题讨论小组由来自丹麦、法国和北爱尔兰的国家机构的代表组成。这次专题讨论会使与会者有机会与国家专家共同探讨国家机构在反恐的同时促进和保护人权方面的作用问题，同时也为就这一问题交流做法和专门知识以及明确今后的挑战和战略提供了机会。高专办人权与恐怖主义问题项目协调员也参加了专题讨论小组。政府代表、人权活动分子和律师、非政府组织、联合国机构、学术机构人员；国家机构和媒体代表，以及负责人权维护者问题的秘书长特别代表等出席了这次专题讨论会。

四、国家机构圆桌会议和主题问题

A. 促进和保护经济、社会、文化权利

55. 高专办为国家机构编写了一本经济、社会、文化权利手册，即《专业培训丛书第 12 辑》，该手册将在 2005 年出版。

B. 种族主义和种族歧视

56. 国家机构股与高专办反歧视股密切合作，为国家机构旨在贯彻落实反对种族主义、种族歧视、仇外心理和相关不容忍现象世界会议精神的的活动制定了一项小额赠款计划。相关行动包括为斐济人权委员会成立一个种族关系股提供支持；将墨西哥的一些宣传教育资料译成土著语言；保护蒙古的少数民族 Tsaatan 人(“驯鹿人”)的权利；研究尼日尔马拉迪省和塔瓦省的奴役习俗；以及在委内瑞拉提供土著人民权利和国际人权文书培训等。

57. 此外，这两个股与新西兰人权委员会合作，组织了首次种族关系专员或协调中心会议，讨论共同关心的问题。15 个国家机构的代表在新西兰举行会议，参加得到高专办支持的一系列专题讨论，以期提出国家机构网络在处理种族歧视或其他歧视问题方面的一系列初步的成功指标。这次会议在结束之前确定了种族关系方面有待处理的一些关键问题(见附件二)。会议于 2004 年 2 月 2 日至 5 日在奥克兰举行。会议纪要已经发表。

C. 移徙

58. 由墨西哥国家人权委员会和国家机构股共同组织的“移徙现象的根源、影响及后果与人权保护问题”国家机构国际圆桌会议于 2004 年 10 月 14 日至 15 日在墨西哥萨卡特卡斯市举行，这次会议得到了萨卡特卡斯州人权委员会的协助。这次圆桌会议的目的是为将移徙者权利问题纳入国家机构工作交流经验和专门知识提供便利，讨论旨在促进和保护移徙者的人权的共同方法和战略，并讨论建立收集和分析与国家机构在这方面的工作相关的最佳做法的系统问题。来自阿尔巴尼亚、萨尔瓦多、危地马拉、洪都拉斯、印度、墨西哥、摩洛哥、新西兰、尼日利亚、巴拿马、巴拉圭、秘

鲁、菲律宾、西班牙、泰国、乌克兰、委内瑞拉等国的十七个国家机构的主席或其他高级官员出席了这次会议。与会者通过了《萨卡特卡斯宣言》(见附件三)。

59. 为设法提高人们对国家机构的认识,在保护所有移徙工人及其家庭成员权利委员会 2004 年 3 月的首届会议上,国家机构股向该委员会成员简要介绍了有关情况。

D. 性 别

60. 2004 年 11 月 15 日至 19 日,在摩洛哥瓦尔扎扎特举行了国家机构和提高妇女地位国家机构的国际圆桌会议。这次圆桌会议由高专办和联合国提高妇女地位司/经济和社会事务部组织,摩洛哥人权协商委员会主办。消除对妇女歧视委员会的两位专家也出席了这次会议。澳大利亚、玻利维亚、喀麦隆、哥斯达黎加、德国、爱尔兰、吉尔吉斯斯坦、立陶宛、摩洛哥、新西兰、巴拿马、巴拉圭、乌干达、赞比亚等国的国家机关和国家机构派代表出席了这次会议。这次圆桌会议旨在加强国家机关和国家机构通过建立机构联系和制定共同战略促进和保护妇女的人权的能力。全体与会者核可了《瓦尔扎扎特声明》(见附件四)。

E. 善 政

61. 国家机构股与斐济人权委员会合作,于 2004 年 12 月 13 日至 16 日在苏瓦组织了“国家机构促进和保护善政”国际圆桌会议。阿根廷、澳大利亚、斐济、洪都拉斯、马拉维、新西兰、斯里兰卡、北爱尔兰以及委内瑞拉的国家机构派代表出席了这次会议,肯尼亚国家人权委员会为会议提供了投入。驻斐济的联合国机构的代表及公民社会的代表作为观察员出席了这次会议。这次会议是紧接着同一年 9 月由高专办组织、在汉城举行的促进人权的善政做法研讨会举行的一次后续会议。与会者通过了《苏瓦宣言》(见附件五)。

F. 残疾人的权利

62. 国家机构与促进和保护残疾人权利和尊严的国际公约特设委员会以及该委员会负责起草公约的工作组建立了密切联系。国家机构股积极参与为举行为期一天的国

家机构会议提供支持，这一会议的目的是为国家机构参加特设委员会第三届会议作准备，这届会议于 2004 年 5 月 24 日至 6 月 4 日在纽约举行。

63. 在协调委员会第十五届会议上，委员会成员商定，由印度国家人权委员会接替南非人权委员会担任协商委员会新的代表。高专办国家机构方案为此种参与提供资金支持。

G. 土著人民

64. 2004 年 3 月 3 日至 5 日，国家机构股为美洲网络在墨西哥梅里达为国家机构开展的一次土著人民人权培训活动提供了支持。高专办的一位专家向参加培训者作了关于促进和保护土著人民人权的国际框架问题的演讲。在 2004 年 6 月举行的第三次年会上，美洲网络商定设立一个工作组，以便贯彻落实三月的讲习班提出的建议。

H. 少数群体

65. 遵照少数群体问题工作组第十届会议作出的决定，即请高专办向工作组提供关于国家机构在少数群体问题方面的相关指导方针和做法的资料(见 E/CN.4/Sub.2/2003/19)，国家机构股在 2004 年 3 月向工作组介绍了根据小组委员会第 2002/16 号决议起草一个关于国家机构与少数群体的小册子，以供列入《联合国少数群体指南》方面的情况。该小册子现已定稿并等待出版。工作组指出，今后它将邀请国家机构参与工作组的活动。

I. 艾滋病毒/艾滋病

66. 高专办(通过其国家机构股和研究与发展权处)和联合国艾滋病毒/艾滋病联合规划署(艾滋病规划署)商定编写一本关于国家机构在预防艾滋病毒/艾滋病和打击与艾滋病毒/艾滋病相关歧视方面的作用的手册。预计该手册将在 2005 年出版。

J. 预防冲突和防止酷刑

67. 高专办与非政府组织 Fahamu 和防止酷刑协会以及联合国系统职员学院合作，发起了一项为期三年的通过远程培训和区域培训加强国家机构能力的计划，该计划主题分别为防止酷刑和预防冲突。高专办区域股、特别程序任务承担者、委员会成

员、开发署及国家机构区域网络将密切参与这项计划。现计划为各区域(非洲、美洲、亚洲和太平洋、欧洲和中亚)提供培训单元,这些单元以 CD-ROM 远程学习、讲习班和后续辅导为基础。2004 年 11 月 11 日至 13 日,与乌干达人权委员会合作,在坎帕拉为非洲英语国家机构举办了首次防止酷刑和拘留状况监测培训讲习班。

K. 《巴黎原则》

68. 为纪念大会在 1993 年通过(第 48/134 号决议)《巴黎原则》,国家机构股在 2004 年以提供小额赠款的方式,开展了一些在国家一级倡导《巴黎原则》的活动。国家机构股在收到申请之后,向阿尔巴尼亚、加纳、海地、毛里求斯、摩洛哥、菲律宾、赞比亚等国的国家机构提供了赠款。

五、结 束 语

69. 在报告所涉期间，高专办设法通过大量活动，进一步支持秘书长设法在国家一级建立起强有力的国家机构。现已作出相当大的努力，加强高专办内的这项工作，从而使其工作被认为与每个工作人员的日常工作相关而且非常重要。

70. 此外，现在继续就包括立法、职能和任务、权力以及主题问题和实质性问题等在内的多个事项向政府、国家机构、公民社会和联合国伙伴提供专家咨询意见。国家机构股将继续开展扩展活动，联合高专办内外的合作伙伴。有公民社会和区域伙伴以及联合国系统内的伙伴参与的行动的数目在逐渐上升，这证明，这项战略正在起作用，而且，国家机构股现被视为联合国系统内的一个相关专门知识中心。

71. 2005 年间，高专办将继续提供国家机构能够据以进行实质性讨论，相互学习和交流最佳做法的空间。高专办将继续重申《巴黎原则》的有效性，并重申充分遵守这些原则至关重要。将更加注重为包括联合国国家工作队在内的联合国工作人员提供国家机构方面的培训，并更加注重加强国家机构股的能力。

附 件 一

促进和保护人权的国家机构第七次国际会议

2004 年 9 月 14 日至 17 日，大韩民国汉城

汉城宣言

促进和保护人权的国家机构第七次国际会议专门讨论了在冲突期间和在反恐怖主义的同时维护人权这一主题。这次会议由大韩民国国家人权委员会于 2004 年 9 月 14 日至 17 日举办，是在征求国家人权机构国际协调委员会(协调委员会)主席的意见之后，并在联合国人权事务高级专员办事处的支持和合作下安排举行的，亚太国家人权机构论坛和法语国家政府间机构向会议提供了资助。

国家人权机构感谢大韩民国国家人权委员会以出色的方式组织了这次会议，确认基调发言者作了令人振奋的演讲，而且会议进行了富有成果的讨论和审议。非政府组织的观察员在会前论坛上提供了重要投入，并且还积极参加了本次会议。大韩民国总统和联合国人权事务高级专员的与会使本次会议获益非浅。

国家人权机构第七次国际会议特此通过宣言如下：

国家人权机构第七次国际会议，

回顾各国商定的旨在维护人权和基本自由的普遍文书，特别是《世界人权宣言》、《经济、社会、文化权利国际公约》、《公民权利和政治权利国际公约》以及《国际刑事法院罗马规约》，并且强调这些文书与《联合国宪章》及其他相关区域文书一起能够对国际和平与安全作出的贡献，

认识到这些文书规定并要求各国采取措施保障人民的安全，包括使其免遭异常的威胁，但此种行动必须在尊重人权、基本自由和法治的框架内采取。

考虑到冲突和恐怖主义威胁及反恐措施在人权方面对国际社会和单个国家及其居民构成的严重的前所未有的挑战，

回顾《制止向恐怖主义提供资助的联合国国际公约》，以及联合国机构与冲突和恐怖主义威胁问题有关的许多相关决议和宣言，尤其包括《联合国千年宣言》(大会第 55/2 号决议)、安全理事会第 1269(1999)、1325(2000)、1373(2001)及 1456(2003)号决议；大会载有《消灭国际恐怖主义措施宣言》的第 49/60 号决议、关于在打击恐怖主义的同时保护人权和基本自由的第 58/187 号决议、关于人权与恐怖主义问题的第 58/174 号决议，人权委员会的决议以及区域机构的决议，

表示与上述机构团结一致，呼吁各国确保为打击恐怖主义而采取的任何措施完全符合其在国际法尤其是国际人权法、难民法和人道主义法之下的义务，

欢迎人权条约机构和特别程序就这些问题提供的指导意见和判例，包括联合国人权事务委员会提供的指导意见，尤其是该委员会提出的关于紧急状态问题的第 29 号一般性意见(2001 年)，并欢迎区域组织和机构作出的裁决和裁定，

强调如国家人权机构第六次国际会议通过的《哥本哈根宣言》所述，国家人权机构在就有可能演变成种族灭绝、种族清洗或武装冲突的局势预警方面发挥着特殊作用，

认识到就在国家一级适用国际人权标准而言，国家人权机构发挥着独特作用，从而能够确保人权持续受到保护。此外，由于国家人权机构具有与《巴黎原则》相一致的独特的立法基础和多元构成特点，它们能够在解决冲突方面发挥作用，解决冲突的办法包括安排政府机构与公民社会团体在国家一级进行对话，

因此敦促加强国家人权机构在国际人权体系中的作用和参与，

宣布：

1. 恐怖主义对所有人权都有着破坏性影响，对生命权和人身安全有着最为直接的影响。尊重人权和法治是打击恐怖主义的基本手段。必须将国家安全和维护个人权利这两者视为相互依存和相互关联。因此，国家采取的反恐措施应当与国际人权法、难民法和人道主义法相一致。

2. 国家人权机构肩负着在冲突局势中以及在反恐过程中保护和促进人权的任务。需要加强这项任务的有效落实，在基本权利面临更大压力的情况下尤其需要这样做。

3. 国家人权机构需要在区域和国际两级加强合作，交流信息和最佳做法，包括制定具体手段。

一、总 则

4. 国家人权机构在审查治安立法所涉人权方面并对这些方面发表评论过程中，以及在强调有必要采取长期措施和政策纠正不公平、不公正、不平等和不安全现象，从而降低发生恐怖主义行为和暴力冲突的可能性方面，发挥着至关重要的作用。

5. 国家人权机构应当建立预警机制并制定相关的行动指导方针。这应当涉及鼓励国家建立处理可能导致发生严重侵犯人权情况的国内和社区内冲突的预警和行动机制。

6. 国家人权机构应当审查国家在暴力冲突期间犯下的侵犯人权行为，并主张不设立国家特别法庭和决策机构。国家人权机构还应当审查非国家行为者在暴力冲突过程中犯下的侵犯权利行为，并及时、准确地找出可能发生冲突的方面。

7. 此外，国家人权机构应当向冲突各方提供人权和人道主义法咨询，或者以其他方式采用、便利采用和支持采用替代性和传统冲突解决方法，包括调解。

8. 国家人权机构和各国应当将这些冲突解决办法纳入旨在和平和谈判解决冲突的计划、战略及机制。这些战略应当包括查明真相与和解进程要素，并且应当确定国家人权机构在这方面应发挥的作用。应当尤为重视设立受害者基金和支付恰当赔偿金问题。

9. 国家人权机构应当采取主动行动，将对人权的关切置于广泛的社会背景之下，从而不仅注重暴力冲突的表现，而且也注重其根源。

10. 在发生冲突之时和在反恐过程中，国家人权机构在提倡建立人权文化及提倡机会均等和多样性方面发挥着重要作用。国家人权机构应当让妇女在机构中进行公平、平等参与，从而体现这些原则。

二、经济、社会、文化权利

11. 国家人权机构应当侧重社会中的不平等现象，包括这些现象涉及的社会经济方面。经济、社会、文化权利的落实能够在防止冲突和恐怖主义方面发挥关键作用。有必要提倡由法院来管辖这些权利，并监测反恐措施对脆弱群体的经济、社会、文化权利产生的歧视性影响。

12. 国家人权机构应当将经济、社会、文化权利作为所有普遍人权的一个不可分割的部分加以促进和保护，还应当加强能力，以便更好地确保国家遵守其在《经济、社会、文化权利国际公约》之下的义务。

13. 国家人权机构应当呼吁国家恰当关注损害着人权的享受的腐败问题。国家人权机构应当鼓励国家满足包括食物和住房在内的基本需求，从而防止导致恐怖主义和冲突情形的形成。

14. 国家人权机构应当呼吁国家依照联合国大会关于设立世界团结基金的决议(A/57/265)，落实脱贫机制。

15. 国家人权机构应当呼吁国家履行其在《经济、社会、文化权利国际公约》之下的义务。国家人权机构鼓励国家批准《经济、社会、文化权利国际公约任择议定书》。

三、公民权利和政治权利与法治

16. 国家人权机构强调，国家在国际法之下有责任和义务保护其居民，使其免遭各种恐怖主义行为的伤害。在这方面，应当鼓励国家批准《禁止酷刑和其他残忍、不人道或有辱人格的待遇或处罚国际公约任择议定书》。国家人权机构敦促国家批准《国际刑事法院罗马规约》并通过与《规约》相一致的国内立法。

17. 在加强和促进在冲突爆发之前以及冲突期间和之后有效保护公民权利和政治权利方面，国家人权机构发挥着重要作用。

18. 国家人权机构应当特别关注仇外和歧视迹象以及对人权的过分限制现象，以便预见冲突发生的可能性。

19. 在冲突期间和反恐过程中，任何可能影响到公民权利和政治权利的享受的措施都必须是必要的、相称的。国家人权机构有必要对此种措施的有限及合理适用进行监督。国家人权机构应当要求国家做到以稳妥的方式并在公众事先彻查的前提下颁布反恐立法。此外，国家人权机构应当采取必要措施，防止可加以克减的权利遭受侵犯，特别是防止不得加以克减的权利遭受侵犯，此种权利有正当程序和公正审判的基本要求、尊重人的尊严、免遭酷刑和虐待以及免遭任意拘留等。

20. 在冲突后的清理工作中，国家人权机构在调查违法行为和防止法不治罪现象以及防止追溯适用刑法方面发挥着重要作用。

21. 为了防止主管机构滥用职权，国家人权机构强调，合法性原则以及在法律上确切界定恐怖主义行为和与恐怖主义相关的犯罪非常重要。此外，国家人权机构强调，有必要针对声称在反恐措施落实过程中人权遭受侵犯的案件采用补救办法并进行司法审查。

22. 国家人权机构应当开展预防活动，在公众介入和辩论方面起带头作用，并通过司法机关、行政管理机构和保安部队进行人权教育，提高人们对恐怖主义行为的起源和最为有效、全面的应对手段的认识。此外，国家人权机构应当强调媒体的言论自由权利。

23. 国家人权机构必须通过定期审查监测反恐措施落实过程中的侵犯人权情况，包括监测此种措施对少数群体和人权维护者的影响。

四、冲突和恐怖主义背景下的移徙问题

24. 恐怖主义和冲突局势影响到了旨在确保对移徙工人和离开原籍国的其他人员以及在原籍国境内流离失所的人实行保护的必要努力。

25. 在保护移徙工人方面订有一些国际标准。但是，目前多数移徙工人被尚未批准《保护所有移徙工人及其家庭成员权利国际公约》的国家所接收。

26. 国家人权机构应当促进并确保关于移徙工人、难民、寻求庇护者、国内流离失所者和贩运活动受害者的国际标准在国家一级得到落实。

27. 国家人权机构应当提倡批准《保护所有移徙工人及其家庭成员权利国际公约》，特别是提倡接收国批准这项公约，并且更加积极地参与条约机构的监测工作，尤其是参与条约机构审议与移徙工人相关问题以及移徙妇女和儿童面临的特殊问题的的工作。国家人权机构鼓励国家批准《儿童权利公约关于儿童卷入武装冲突问题的任择议定书》。

28. 建议始发国、中转国和接收国的国家人权机构相互建立双边和区域合作关系，以便更好地处理非正规移徙者问题。

29. 国家人权机构应当与联合国难民事务高级专员办事处以及其他联合国机构和区域机构及非政府组织合作，积极监测难民、寻求庇护者、移徙工人及国内流离失所者的经济、社会、政治权利状况，包括监测公正程序、警方和移民管理机构提供的待遇、拘留条件、服务的利用、就业条件及家庭团聚等方面情况。

30. 国家人权机构应当为移徙工人、难民、寻求庇护者、国内流离失所者和贩运活动受害者推行人权意识宣传计划，并酌情为这几类人员执行融入和重新融入计划，特别是为回归的女性移徙者执行重新融入计划。

五、冲突背景下的妇女权利

31. 国家人权机构应当在突出妇女在冲突背景下遭受的难以察觉、未被承认的暴力问题方面发挥重要作用。此种暴力与妇女在日常生活中遭受的暴力密切相关，如家庭暴力和性暴力等。国家人权机构应当便利向遭受暴力的妇女提供咨询。

32. 国家人权机构应当开展妇女权利宣传教育活动，以便促进妇女的经济自立和独立。

33. 国家人权机构应当在收集有关冲突期间对妇女的暴力的数据资料，调查相关的指称以及受理相关的申诉方面发挥重要作用。

34. 国家人权机构特别有必要保护和促进难民妇女和国内流离失所妇女的权利。这方面的工作应当包括提供一种投诉机制，察看难民营和国内流离失所者收容站，受理别国拘留所收容的等待取得难民地位的妇女提出的申诉，以及受理遭到强行遣返的妇女提出的申诉等。国家人权机构应当采取措施保护难民妇女和国内流离失所者，以防其成为贩运活动受害者。国家人权机构应当为制定和执行有妇女参与的重建和康复计划作出贡献。

35. 凡是作为和平进程的一部分设立的调查、查明真相委员会或和解委员会，都应当处理妇女在以往遭受的广泛、有系统的暴力这一问题，而且妇女应当以公平方式参与此种委员会。

36. 在谈判政治解决冲突过程中，国家应当颁布规定男女平等和采取偏向扶持行动的宪法条款。

六、汉城承诺

37. 为执行本宣言，国家人权机构特此商定：

- (a) 在国家一级采取本宣言规定的一切必要行动；
- (b) 酌情推动国家人权机构之间的区域合作；

- (c) 鼓励国家支持建立一种有效的机制，以便监测反恐措施遵守联合国人权标准的情况；
- (d) 向定于 2005 年 4 月举行的协调委员会年度会议报告所采取的国家 and 区域行动情况；
- (e) 请协调委员会确定它据以能够推动本宣言的执行的方式。

Annex II

INTERNATIONAL RACE RELATIONS ROUND TABLE

AUCKLAND, NEW ZEALAND, 2-5 FEBRUARY 2004

Introduction

1. Representatives of fifteen national human rights institutions and specialized agencies dealing with race (NI) met in Auckland, New Zealand, from 2 to 5 February 2004. The meeting was part of a series of focused discussions supported by the Office of the United Nations High Commissioner for Human Rights (OHCHR) with representatives of NI. It was informal, inclusive and participatory. All present emphasized the importance of the Principles relating to the status of National institutions for the promotion and protection of human rights (the Paris Principles) adopted by the United Nations General Assembly on 20 December 1993.
2. This was the first time since 2001 that race relations focal points had met as a specific group, and they were able to exchange best practices and discuss substantive issues including:
 - (a) The general mandates of such institutions and common points of reference;
 - (b) Key challenges for each country;
 - (c) The impact on race relations of legal and security issues (such as immigration policies and policies relating to refugee and asylum-seekers);
 - (d) Impacts of global events on religious tolerance and race relations;
 - (e) Specific actions to combat racism and other intolerance, particularly through effective relationships with government, political parties and government agencies, with the media and communications sector and with the business sector, and dealing with remedies;
 - (f) The development of outcome indicators/measures;
 - (g) Regional perspectives on programmes to achieve equality; and
 - (h) Recent international developments.
3. Specific objectives of the Round-table included:
 - (a) To provide a forum for NI to meet and exchange best practices;
 - (b) To contribute, as appropriate, to the related discussions at the international level;
 - (c) To provide an initial list of indicators of success of NI networks in the area of racial and other discrimination;

- (d) To establish an informal network of NI dealing with racism and racial discrimination.

4. Participants found the Round Table valuable as a means of discussing common experiences and challenges.

I. KEY CHALLENGES FOR NATIONAL INSTITUTIONS IN COMBATING RACIAL DISCRIMINATION IN THE TWENTY FIRST CENTURY

5. The following issues emerged as key challenges:

- (a) There is widespread denial of racism, racial discrimination, xenophobia and other forms of discrimination, while at the same time there is a continuation of systemic social, economic and cultural patterns of racial inequality, as revealed in persistent social disparities and poverty (including in the areas of health, education and labour);
- (b) The observance of fundamental human rights and freedoms is the real basis for the advancement of racial equality;
- (c) A wide variety of human rights violations relating to racial inequality continue to occur. New and different forms of racism are a cause of grave concern, even as peaceful solutions to conflicts are reached. Of particular concern are the impact of civil strife and conflict, the different forms of racial discrimination experienced by women and girls, and the impact of new technologies;
- (d) Despite important efforts by Governments and civil society, gaps between legislative or policy directives and reality persist for a variety of reasons, including:
 - (i) Failure to improve access to education and resources;
 - (ii) Entrenched attitudes;
 - (iii) Intersectional causes and effects such as gender and race discrimination.

6. Participants highlighted the need for special efforts with regard to:

- (a) The wide variety of causes of religious intolerance and religious ignorance. There are strong links between religious intolerance and racism grounded in specific historical contexts and deeply affected by aspects of more recent international and national events;
- (b) Specific incidents of religious intolerance towards Muslims that have occurred within national boundaries and in the context of movement across borders; these include harassment, discrimination, assaults, and other forms of serious and extreme violence;

- (c) Economic disadvantage that individuals and groups face because of discrimination and other violations of human rights;
- (d) A range of contextual matters and challenges which affect the advancement of race relations, including the movement of peoples within and across national boundaries, and the lack of implementation of international human rights standards at the national, local and territorial levels, including those relating to indigenous peoples, and in particular, land and language;
- (e) The often severe effect on indigenous peoples and minority¹ groups in times of conflict;
- (f) Mechanisms for the participation of indigenous peoples and minority groups in policy and consultative processes due to the existence of specific issues concerning indigenous peoples and territorial and land rights;
- (g) The balancing of the rights of individuals while ensuring the maintenance of law, order and the security of the State in the light of the events of 11 September;
- (h) Persons suffering forms of multiple discrimination, for example, indigenous and migrant women.

The capacity of national institutions to respond to the key challenges

7. There is a need for administrative and financial support for institutions, local and regional links and mechanisms, as well as adequate resourcing, to ensure meaningful access to NI by rights-holders.
8. NI should be pluralist and inclusive in their composition, policy-setting and other work.
9. NI are encouraged to have race relations units or focal points and to develop substantive policy capacity so as to effectively engage on race issues, including through a rights-based approach.
10. Participants noted the various legal and policy functions through which NI could affect race relations, including:
 - (a) Being aware of, and advising on, legal instruments and human rights norms to prevent race-based discrimination, including regional mechanisms, and the need for effective policy development and implementation;
 - (b) Contributing to a clear definition of discrimination and developing mechanisms for the protection of religious rights and freedoms, including national bills of rights;

¹ Discussions concerning minority groups included the particular concerns of Afro-descendants, the Roma and the Dalits.

- (c) Monitoring activities and developing guidelines for use by government agencies;
- (d) Advising on the range and efficacy of temporary special measures, inter alia, quotas, specific laws, regional mechanisms and affirmative action, and encouraging a deeper understanding of the efficacy of such measures in advancing the realization of human rights;
- (e) Developing new and innovative strategies, including community dialogue and ways of gathering information beyond traditional forms of complaints-handling processes;
- (f) Ensuring that they have adequate powers and competency to undertake investigations;
- (g) Enhancing cooperation between NI in other countries to facilitate the handling of specific complaints and the sharing of experience;
- (h) Using the range of reporting strategies and mechanisms, including annual, parliamentary and extraordinary reports;
- (i) Using judicial processes to combat racism, including by taking appropriate cases to the courts and exploring different ways of censuring discrimination;
- (j) Using the complaints-handling functions of NI to provide effective redress for those who have suffered racial discrimination;
- (k) Developing indicators, measures and benchmarks of racial inequality, such as data collection and the use of ethnic descriptors, as well as gathering accurate statistics for effective public policy development;
- (l) Working with their respective governments to develop national action plans, including those addressing racism, and monitoring their implementation;
- (m) Developing their own race relations strategies which take into account the need for dialogue frameworks, including specific forums for religious and other leaders to engage with communities affected by religious and racial intolerance, and specific mechanisms to reinforce the importance of building tolerance and respect for religious freedom;
- (n) Developing a capacity to engage with the media and be able to communicate information effectively;
- (o) Encouraging and actively supporting human rights education by a variety of means for rights-holders and public authorities, including the judiciary, and for the wider civil society;
- (p) Undertaking research on racial and religious intolerance;
- (q) Publicizing human rights standards and violations.

II. WAYS AND MEANS OF ACHIEVING CHANGE THROUGH PARTNERSHIP

A. Government, political parties and State agencies

11. States have an obligation to promote and protect human rights and to develop action plans to combat racism. NI have an important role in monitoring State compliance. In working with government, political parties and State agencies to achieve the realization of human rights, NI need to ensure their independence and integrity. Participants highlighted:

- (a) The need to encourage the building of cooperative relationships across the political and social spectrum and with other cognate bodies to secure broad-based support for human rights standards and the roles and functions of NI;
- (b) The importance of engaging all political parties as well as government and responsible political leadership and offering assistance where appropriate;
- (c) The role of NI in articulating major human rights violations across all political lines and the importance of establishing multilateral relationships with parliamentary committees;
- (d) The importance of achieving the right to education for all, bearing in mind links between poverty and social development and the need to ensure the full enjoyment by everyone of all rights, whether civil, political, economic, social or cultural;
- (e) The importance of the participation of indigenous peoples and minority and marginalized groups in local, territorial and national elections;
- (f) The need to respect and promote diversity;
- (g) The need to address issues arising from different State policies on race relations, including integration and multiculturalism, and to combat forced assimilation;
- (h) The importance of Governments taking more positive measures such as the inclusion of human rights compliance as a requirement in government procurement policies and the issuance of licences.

B. The business sector

12. Participants highlighted the need:

- (a) To address both the legal and structural impediments in the key issues of equal working conditions, safety from harassment in the workplace, and equal access to employment;
- (b) To address discrimination in the private as well as the public sector;
- (c) To engage constructively with transnational corporations;

- (d) To reach out to development banks to encourage them to combat discrimination through their respective constituencies and, in particular, the private sector;
- (e) To encourage the United Nations to give active life to the Global Compact and to monitor compliance by the businesses that have signed the compact and for NI to monitor such commitments in their own countries;
- (f) To reinforce the idea that holistic programmes are required for States and civil society in order to achieve human rights, including legal, political, social, economic, cultural and environmental programmes, and that the business sector, including both employer and employee organizations, need to be engaged in this process;
- (g) To break down barriers in order to improve or ensure compliance with human rights standards in employment, including by fostering understanding of cultural practices, for example, in relation to indigenous peoples, and of the changing face of the workforce due to migration, and eliminating persisting occupational stereotypes concerning minorities;
- (h) To promote with business the benefits of compliance with human rights, including enhanced public perception of its commitment to social responsibility, benefiting from the advantages of diversity, satisfying consumer demands, and avoiding law-suits and public disapproval;
- (i) To encourage and assist in the development of good employer practices through training and education, and the provision of educational resources for businesses;
- (j) To encourage the involvement in the decision-making processes of those affected by business practices, particularly in such areas as resource use and tourism;
- (k) To recognize that the State has special responsibilities, as it may have a role as both an operator of State business and as the regulator of the business sector.

C. The media

13. Participants highlighted the importance of:

- (a) Managing tensions that may arise from journalistic practices and standards, and offering assistance in the development of guidelines or materials to assist journalists;
- (b) Enhancing the ways indigenous peoples and minorities are represented in the media and monitoring media coverage in this respect;
- (c) Promoting media ownership by indigenous peoples and minorities;

- (d) Bearing in mind the powerful intergenerational dynamic that can affect towards attitudes to race relations and the different ways that younger people receive information, devising strategies to deal with the ways in which racism can and does appear in the media, including on the Internet;
- (e) Considering some form of joint international media monitoring.

14. Specific initiatives with respect to the media could include:

- (a) Maintaining effective links with the media to promote positive stories, including regular meetings with senior editors and other leaders of the media to discuss NI concerns;
- (b) Ensuring equitable access by minorities to programming of media outlets;
- (c) Establishing media awards for good reporting;
- (d) Promoting diversity, noting that journalists who are members of indigenous peoples and minority groups are often best placed to report news concerning their own communities;
- (e) Developing media strategies on the basis of robust research;
- (f) Engaging the media to provide assistance in campaigns to promote racial equality and harmony;
- (g) Producing jointly with the media spots focusing on indigenous and minority groups and issues;
- (h) Promoting alternative media such as community programming;
- (i) Promoting the importance of indigenous peoples and minorities as media consumers.

III. INTERNATIONAL DIMENSIONS

15. Participants highlighted the importance of:

- (a) Ratification by Governments of the International Convention on the Elimination of All Forms of Racial Discrimination and the removal of existing reservations;
- (b) Recognition by States parties to the Convention of the competence of the Committee on the Elimination of Racial Discrimination, in accordance with article 14 of the Convention;
- (c) NI participation in the human rights treaty reporting process, including monitoring of the implementation of the concluding observations adopted by treaty bodies;

- (d) NI participation in international forums dealing with race relations;
- (e) Participation by Government and civil society, including political parties, in meetings of regional human rights mechanisms;
- (f) Greater coordination amongst international actors with respect to race relations and racial discrimination;
- (g) Breaking the deadlock blocking the adoption of a declaration on the rights of the world's indigenous peoples;
- (h) Continuing to strengthen the relationship between NI and the Anti-Discrimination Units in the Office of the United Nations High Commissioner for Human Rights, and the exchange of information between NI.

Expression of Appreciation

Participants expressed their appreciation to the New Zealand Human Rights Commission and the Office of the United Nations High Commissioner for Human Rights for convening and organizing the Round Table.

Adopted at Auckland, New Zealand

5 February 2004

Annex III**ZACATECAS DECLARATION
Adopted in Zacatecas, Mexico, 15 October 2004****International Workshop of National Institutions for the Promotion and
Protection of Human Rights: Causes, Effects and Consequences of the
Migratory Phenomenon and Human Rights Protection**

The International Workshop of National Institutions for the Promotion and Protection of Human Rights: Causes, Effects and Consequences of the Migratory Phenomenon and Human Rights Protection, organized by the National Human Rights Commission of Mexico and the Office of the United Nations High Commissioner for Human Rights with the support of the Human Rights Commission of Zacatecas, was held in Zacatecas, Mexico, on 14 and 15 October 2004.

The Workshop was opened by the Governor of Zacatecas, Ms. Amalia García, and attended by representatives of the Mexican Senate, the government of Zacatecas, and 25 state human rights commissions of Mexico. Seventeen national institutions from Albania, El Salvador, Guatemala, Honduras, India, Mexico, Morocco, New Zealand, Nigeria, Panama, Paraguay, Peru, the Philippines, Spain, Thailand, Ukraine and Venezuela were represented by their Chairs or other senior officials.

The participants in the International Workshop of National Institutions for the Promotion and Protection of Human Rights: Causes, Effects and Consequences of the Migratory Phenomenon and Human Rights Protection.

Hereby adopt the following Declaration:

Recalling the universal instruments agreed upon by States to safeguard the human rights and fundamental freedoms of all individuals, including migrants, including the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights, and underlining the contribution they can make to international peace and security, alongside the Charter of the United Nations, as well as the relevant regional instruments,

Reaffirming the universality, indivisibility and interdependence of all rights, civil, political, economic, social and cultural,

Welcoming the entry into force of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and recognizing the important work that its Committee to Protect the Rights of all Migrant Workers and Members of Their Families is mandated to undertake,

Recognizing that the International Convention provides an important baseline for assessing respect for migrant workers' rights,

Recognizing also the unique role played by national institutions in applying international human rights standards at the national level, including as provided for in the Principles relating

to the status of national institutions for the promotion and protection of human rights (General Assembly resolution 48/134 of 20 December 1993, annex), regarding the ratification of international human rights instruments, thereby ensuring sustainability of human rights protection,

Noting that the situation of migrant workers and their families has become a critical contemporary human rights issue worldwide, particularly in relation to exploitation by traffickers, people smugglers, recruitment agents and corrupt officials; deaths and injury in transit; discrimination, exploitation, vulnerability and sexual abuse in countries of destination; and treatment in cases of detention, arrest and repatriation,

Recognizing that it is impossible to suppress the desire to migrate by legal means and enforcement, in particular where it results from conflict, unemployment, poverty or oppression,

Noting that migration can also be seen as a positive force and that migrants can make a valuable contribution to economic development, diversity and better relations among peoples,

Noting also the importance of inter- and intra-regional relationships among national institutions, given the nature of migration and their capacity to share information and support each other when dealing with migrants and specific migration issues,

Recognizing the importance of appropriate, complete and current information concerning the status of the rights of migrants, taking note that a number of national institutions have prepared reports containing such information,

Noting the urgent need for a strong global and regional framework for migration that addresses:

- (a) The push factors in countries of origin, including lack of good governance, poverty, civil conflict, unemployment and lack of development;
- (b) Fair and efficient processes to facilitate meeting labour needs in receiving countries;
- (c) Investment in infrastructure, training of personnel and coordination of policy structures to manage migration flows and protect migrant workers; and
- (d) Protecting all the human rights and the dignity of migrants in all circumstances,

Stressing that in order to fulfil their mandates, national institutions require adequate resources and that it is a responsibility of the State to ensure this,

Declare they will:

1. Treat the protection and promotion of migrants' rights as a priority and for that purpose/to that end identify focal points for this area within their institution;
2. Intensify efforts to ensure awareness of the rights of migrants, including through human rights education and awareness-raising campaigns;

3. Undertake measures, together with their Governments, to protect the economic rights of migrant workers, in particular, to promote the establishment of fair tariffs for transferring money earned by migrants from their countries of stay to their home countries;
4. Continue to urge their Governments, particularly those of receiving States, to ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families;
5. Continue to urge their Governments to ratify the United Nations Convention against Transnational Organized Crime and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, and the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the Convention;
6. Take a more active role in the United Nations treaty body reporting process and request the respective treaty bodies to take into account issues relating to migrants in considering States parties' reports and to engage directly with national institutions on this subject;
7. Engage in legislative advocacy to facilitate the review of domestic legislation regarding the rights of migrants in order to ensure its conformity with international standards and obligations with respect to the protection of human rights, especially in relation to non-discrimination;
8. Make representations to Governments on legislative proposals, in particular to ensure that the human rights of migrants are not breached by counter-terrorism legislation;
9. Encourage the preparation of status reports concerning the rights of migrants and alleged violations of their rights and include in their annual reports particular reference to the rights of migrants and actions undertaken by the national institution and the Government to ensure the promotion and protection of those rights;
10. Encourage States to ensure appropriate broad-based dialogue at the national level among Government, national and state institutions and civil society based on assessments regarding the rights of migrants inter alia through seminars, workshops and media programmes;
11. Encourage the creation of mechanisms for communication and coordination between human rights institutions in order to exchange information on specific cases or general problems relating to violations of the fundamental rights of undocumented migrants as well as migrant workers, which will enhance cooperation and facilitate possible intervention by these institutions, in accordance with their mandates;
12. Encourage, where relevant, the establishment of regional information databases of countries of origin, routes and points of crossing and places of detention of migrants, with a view to reinforcing the work of institutions responsible for migration and consular offices;

13. Work, where possible, with consular services to ensure that migrants, both regular and irregular, are treated according to human rights principles and standards;
14. Promote programmes and information campaigns on human rights awareness for migrant workers, both prior to departure and after arrival, which can also assist in the reintegration of returning migrants, especially women and children migrants who often face stigmatization upon their return;
15. Identify the most cost-effective mechanisms for providing the best possible assistance to migrants in places of detention and share best practices that can strengthen the overall protection of migrants;
16. Establish regional cooperation between national institutions of the countries with major migratory flows, including joint task forces, the establishment of special modes of communication and advocacy for migrant workers abroad, including for the recognition and protection of their cultural rights;
17. Share research findings regarding migrant workers at home and abroad and call for the assistance of the Office of the United Nations High Commissioner for Human Rights in this regard;
18. Provide training to the administrative, judicial, immigration and security sectors to ensure respect for all the human rights of migrants;
19. Provide support, including legal aid, to migrants, who often have difficulty accessing systems of justice;
20. Ensure that States respect their international human rights obligations, particularly in regard to the non-derogable rights of all migrants;
21. Call for support from the Office of the United Nations High Commissioner for Human Rights in relation to its role in combating the trafficking of persons, in particular women and children, including in addressing the causes thereof as well as the provision of adequate remedies;
22. Address the vulnerability of migrants and their families to HIV/AIDS;
23. Promote the adoption of national plans of action and ensure that they take into account the rights of migrant workers, and call upon Governments to ensure that national institutions take their rightful place in the policy-making process in relation to migration;
24. Strengthen links with civil society, including migrants' organizations, in ensuring that all rights of migrants are respected domestically, regionally and internationally;
25. Engage with the International Labour Organization, which has a critical role to play in the protection and promotion of the rights of migrant workers, and call on the Office of the United Nations High Commissioner for Human Rights to facilitate this process;

26. Agree to return to the conclusions of their discussions, preferably no later than at the meeting of the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC) in April 2005.

The participants express their gratitude to the National Human Rights Commission of Mexico and the Office of the United Nations High Commissioner for Human Rights for the organization of the Workshop and to the Human Rights Commission of Zacatecas for its support. They extend particular appreciation to the Governor of the State of Zacatecas and other state authorities for their warm hospitality. They note the important contribution of the Mexican Federation of Public Organizations for the Protection of Human Rights and non-governmental organizations.

Annex IV

ROUND TABLE OF NATIONAL HUMAN RIGHTS INSTITUTIONS AND NATIONAL MACHINERIES FOR THE ADVANCEMENT OF WOMEN

OUARZAZATE, MOROCCO, 15-19 NOVEMBER 2004

Statement

1. Representatives of national machineries for the advancement of women (NMs) and of national human rights institutions (NIs) from Australia, Bolivia, Cameroon, Costa Rica, Germany, Ireland, Kyrgyz Republic, Lithuania, Morocco, New Zealand, Panama, Paraguay, Uganda and Zambia held a round table in Ouarzazate, Morocco, from 15 to 19 November 2004. The round table aimed to strengthen the capacity of NMs and NIs to promote and protect the human rights of women through the development of institutional links and joint strategies. The round table was organized by the Office of the United Nations High Commissioner for Human Rights (OHCHR) and the United Nations Division for the Advancement of Women/Department of Economic and Social Affairs (DAW/DESA) and hosted by the Conseil consultatif des droits de l'homme du Maroc (CCDH). Two experts of the Committee on the Elimination of Discrimination against Women also participated.
2. The participants noted that this was the first time that representatives of the two sets of institutions had met to discuss ways and means for the promotion of gender equality and full implementation of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the Beijing Declaration and Platform for Action. The participants in the round table examined how NMs and NIs can better work together on the following issues:
 - The role of human rights education in promoting and protecting women's human rights;
 - Enhancing enjoyment of human rights by disadvantaged groups of women;
 - Institutional dimensions;
 - The role of national institutions in the implementation of the Convention on the Elimination of All Forms of Discrimination against Women; and
 - Developing national action plans.
3. Participants welcomed the fact that 179 States are party to the Convention, and 68 to its Optional Protocol. They further noted that the Beijing Declaration and Platform for Action devotes one of its critical areas of concern to institutional mechanisms for the advancement of women, defining a national machinery as the central policy-coordinating unit inside Government. They also noted that NMs have been set up in some 170 States. 50 NIs have been accredited by the International Coordinating Committee of NIs, in accordance with the Paris Principles, and approximately 50 additional institutions are moving towards becoming NIs.
4. Participants noted that significant progress has been made in many countries in legislative developments and preparations of national action plans, strategies and policies for gender

equality. Awareness has increased about women's human rights and there is growing public discussion around gender equality issues. An increasing number of entities within Government and outside, especially non-governmental organizations (NGOs) and civil society organizations now work on the realization of equality of women and men. Many countries have developed national action plans on human rights. NIs are also taking a more systematic approach to gender equality and are mainstreaming a gender perspective in their work.

I. CHALLENGES

5. Participants identified a number of challenges that NMs and NIs are facing to promote and protect the human rights of women through the development of institutional links and joint strategies. In particular, participants made the following observations:

1. Challenges common to NIs and NMs

6. Political will and commitment, which are crucial for the implementation of effective gender equality policies and for ensuring effective and adequately resourced NMs and NIs, remain limited in many countries.

7. NMs and NIs often continue to work in isolation from each other without seeking strategic alliances. In addition, both institutions sometimes lack the necessary cooperative links with civil society, including NGOs that work on gender equality and human rights issues.

8. Gender equality acts and other legislation, even when in compliance with a State's commitments under international human rights treaties, are frequently not fully implemented in practice.

9. The lack of a clear and comprehensive policy on gender equality with strategic goals and a coordinating mechanism to ensure implementation and monitoring reduces the impact of important individual initiatives on gender equality.

10. Lack of knowledge about the Convention on the Elimination of All Forms of Discrimination against Women among politicians and public officials at all levels and in all branches of Government hinders progress in its implementation.

11. The lack of knowledge among public officials, especially Government policy-makers, about gender mainstreaming in all policies, programmes and sectors hinders the promotion of gender equality.

12. Strong institutional resistance to apply a human rights approach and engage in gender equality issues persists.

13. Continuous effort and investment are required to build, maintain and enhance skills and knowledge among officials, especially civil servants, on gender equality and human rights issues, because of turnover and mobility of such persons.

14. Access to legal redress for violations of women's human rights is obstructed by financial barriers and inaccessibility of the system.

15. Vulnerable groups of women, including indigenous women, elderly women, migrant women, women from minority groups, women with disabilities, women in conflict situations and women in rural areas continue to experience multiple forms of discrimination.
16. In a number of countries, a backlash against women's rights has been noted. In some, so-called men's rights campaigns have emerged, challenging the equality gains made by women, whereas in others, conservative movements have gained strength and are seeking to limit equality policies.
17. Discriminatory traditional and cultural practices and stereotypes persist, challenging human rights values and the equal rights between women and men. The media in many instances reinforce stereotypes and discriminatory portrayals of women.
18. Women's participation in public life and decision-making remains limited, despite some progress. Gender balance in public and elected office is far from being achieved.
19. Temporary special measures to accelerate achievement of de facto equality between women and men as provided for in article 4, paragraph 1, of the Convention on the Elimination of All Forms of Discrimination against Women are challenged on grounds that they are 'discriminatory'.
20. The collection of data disaggregated by sex necessary for effective and targeted gender equality policies remains inadequate.
21. The absence of a public policy analysis that directly links women's human rights to other objectives of national interest, such as security and economic development, hinders the capacity of NIs and NMs to influence Government policy in these areas.

2. Challenges specific to NMs

22. In some instances, NMs continue to lack the mandate, power, visibility, resources and central location within Government to enable them to effectively become the central coordinating unit within the Government and a catalyst in regard to gender equality policies.
23. Almost ten years after the Fourth World Conference on Women, a number of countries do not yet have national action plans on gender equality called for in paragraph 297 of the Beijing Platform for Action.
24. In some countries, government policies on gender equality, as well as policies and programmes of NMs continue to be unevenly implemented between urban and rural areas, to the disadvantage of rural areas.

3. Challenges specific to NIs

25. Under the Paris Principles a NI is expected to be adequately funded and "not be subject to financial control which might affect its independence". However, lack of guarantee of funding by Governments significantly limits the capacity of NIs.

26. While many NIs have comprehensive and ambitious mandates, they cannot fulfil these expectations because they lack resources and capacity. NIs face the challenge of raised expectations: “justice delayed is justice denied”.

27. NIs continue to lack capacity in the area of gender analysis, in particular in undertaking gender analysis of legislative proposals. Gender balance in many NIs remains to be achieved.

II. RECOMMENDATIONS

28. In light of the above challenges, presentations made and discussions held, the meeting issued the following recommendations:

Recommendations addressed to NIs and NMs

- Continue to use a dual approach in the promotion of gender equality, namely mainstreaming of a gender perspective into all policies and programmes and specific interventions to benefit women;
- Support the development, adoption or regular updating of national action plans or strategies for the advancement of women that use a rights-based approach. Support the development, adoption or regular updating of national action plans on human rights that integrate a strong gender perspective. Ensure that the respective plans are informed by, and consistent with, a comprehensive strategy for gender equality;
- Institutionalize a permanent consultative mechanism between NIs and NMs that would address such issues as: development and/or updating of national action plans; legislative review and reform processes; human rights education and legal literacy strategies; cooperation with the legislature. Also undertake sensitization on the Convention on the Elimination of All Forms of Discrimination against Women and the centrality of the human rights of women to the promotion and protection of human rights;
- NIs and NMs should set dates and benchmarks for initiating and/or expanding collaborative links. Collaborative activities should be widely publicized;
- Create a structure for regular interaction and consultations among NIs, NMs, civil society and NGOs, in particular women’s associations including those focused on minority, migrant, youth and disability issues. Also reach out to other stakeholders, including academic institutions and the media. Ensure that the roles and mandates of all stakeholders are clearly defined and understood. Also ensure that the objectives and purpose of partnerships are clearly spelled out so as to enhance the effectiveness of collaboration and partnerships;
- Use the reporting processes under the Convention on the Elimination of All Forms of Discrimination against Women and other human rights treaties as strategic opportunities for building partnerships and collaborative links among NIs, NMs, civil society and NGOs;
- Consistently ensure that the protection and promotion of women’s rights are an integral and consistent part of the work of NIs and NMs, and use the Convention on the Elimination of All Forms of Discrimination against Women as a framework for that work;

- Develop collaborative links with political leadership and with all parliamentary committees, including gender equality and human rights committees, so that greater attention is paid to the Convention on the Elimination of All Forms of Discrimination against Women and to gender perspectives in the legislative process;
- Use legislative review processes to incorporate gender perspectives and use legislative changes to advocate the withdrawal of reservations to the Convention on the Elimination of All Forms of Discrimination against Women. Also advocate the speedy ratification of or accession to the Optional Protocol to the Convention;
- Counteract confrontational arguments that pitch women's interests against men's by engaging in a positive and forward-looking public debate about the status of women and gender equality;
- Include gender equality aspects and specifically target women to enhance their knowledge about their rights in the implementation of human rights education and legal literacy programmes;
- Enhance cooperative relationships with State or provincial (in federal States), municipal and local level entities and with regional and international organizations to pursue gender equality goals;
- Develop new opportunities for engaging with the media in human rights education programmes to combat gender stereotypes and negative portrayal of women. Also undertake sensitization efforts for the media about the Convention on the Elimination of All Forms of Discrimination against Women;
- Emphasize in public discussion that many women face multiple forms of discrimination that have to be addressed through legislation and public policies. Such discrimination may be based on women's age, marital status, disability, ethnic origin, their status as migrants, immigrants, minorities and other characteristics;
- Advocate for and propose measures to increase the participation of women in public and political life and in decision-making positions with a view to achieving 50-50 gender balance. In this regard, call for the use of temporary special measures in accordance with article 4, paragraph 1, of the Convention on the Elimination of All Forms of Discrimination against Women and the Committee's general recommendation No. 25 (2004), which may include timetables, benchmarks, incentives, targets, quotas, and other measures;
- Develop and strengthen collaborative international research opportunities by using existing international and regional mechanisms such as the NIs Forum web site and regional web sites;
- Support the inclusion of a strong gender perspective in the development of a United Nations convention on the rights of persons with disabilities;
- Collaborate to promote the collection of data disaggregated by sex to properly inform the development and implementation of legislation, policy and practice;

- Develop evidence-based national interest analysis, in areas such as security and economic development, which links directly to the promotion of women's human rights.

Recommendations for NMs

- Insist on the presence of national machinery for the advancement of women with a mandate, power, visibility, human and financial resources and central location within Government to enable it to implement effectively coordination and catalytic work necessary for the promotion of gender equality. The desirability of such a machinery at the ministerial level is underlined;
- Further develop, in cooperation with academic and research institutions, methodological and practical tools for mainstreaming a gender perspective in all policy areas.

Recommendations for NIs

- Advocate the entrenchment and guarantee, from year to year, of an adequate level of funding for NIs. Donor and other voluntary funding, which should not replace core Government funding, is useful to support implementation of additional and supplementary activities above and beyond the regular programmes of work of NIs;
- Implement capacity-building measures on the Convention for all members of NIs and also aim to achieve, within a specified time frame, gender balance in the composition of NIs;
- Place women's human rights at the centre of the work of NIs;
- Advocate the establishment of an independent status for NIs in the Commission on the Status of Women. In particular, NIs should seek support from their Governments for a United Nations resolution to provide this status as soon as possible, in view of the importance of the review and appraisal of the Beijing Platform for Action, which will take place in 2005;
- NIs should seek opportunities to participate in the sessions of the Committee on the Elimination of Discrimination against Women when reports of their countries are being considered.

29. Participants agreed to take these recommendations back to their respective institutions for appropriate follow-up. They also agreed that this statement should be widely circulated among NMs, NIs, and relevant intergovernmental and treaty bodies.

30. Participants expressed their satisfaction with this first ever meeting between NIs and NMs. They considered it a worthwhile experience and recommended that opportunities be sought for similar events in the future. Participants also strongly recommended that in order to enhance the impact of future meetings of this type, representatives from both NIs and NMs from all invited countries should attend to maximize the benefits and potential for collaboration and partnerships.

Annex V

INTERNATIONAL ROUND TABLE ON NATIONAL INSTITUTIONS AND GOOD GOVERNANCE

SUVA, FIJI, 13-15 DECEMBER 2004

Concluding Statement and Recommendations

The following are the essential conclusions of the discussions held by Chairs, Members and representatives of national human rights institutions (NIs) from Argentina, Australia, Fiji, Honduras, Malawi, New Zealand, Sri Lanka, the United Kingdom (Northern Ireland) and Venezuela regarding NIs and good governance. Those present welcomed the input provided by the Kenya National Commission on Human Rights. Observers included representatives of the United Nations community in Fiji and civil society. The International Round Table was co-organised by the Fiji Human Rights Commission and the Office of the United Nations High Commissioner for Human Rights.

This was the first time that NIs met specifically to discuss their place in ensuring good governance and assessing their fundamental contribution in this area. The meeting was a direct follow-up to the seminar on good governance practices for the promotion of human rights held in Seoul, Republic of Korea, on 15 and 16 September 2004. The International Round Table drew on the resources and expertise of the participants rather than on external speakers. Its purpose was to share experiences in relation to the major common issues and challenges facing NIs and to identify practical actions that can be taken in the respective NIs and countries on the basis of those experiences.

The issues of the host institution, the Fiji Human Rights Commission, formed a backdrop to the conference, given its central role in strongly supporting the Constitution with its entrenched Bill of Rights, one of the most important tenets of an effective system of governance.

Topics discussed included the role of NIs in promoting good governance, and the interrelationship between full respect for all human rights – civil, political, economic, social and cultural – and good governance. Specifically, institutions discussed Governments' response to NIs' role in governance; societal change and its impacts on governance; corruption, cronyism, nepotism and impunity; working with parliaments, Governments, political parties and financial institutions; and combating inequity. NIs also discussed the importance of ensuring effective governance within their institutions, as a good example. The discussions will be reflected in a paper containing the proceedings.

The participants in the International Round Table on National Institutions and Good Governance

Appreciative of the joint efforts of the Office of the High Commissioner for Human Rights and the Fiji Human Rights Commission in hosting the International Round Table,

Guided by the Universal Declaration of Human Rights as the common standard of achievement of all peoples and all nations applying to every individual and every organ of society, and also the Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights, which affirmed that all human rights are universal, indivisible, interdependent and interrelated,

Recalling resolution of 2004/70 of the Commission on Human Rights of 21 April 2004, and all previous relevant resolutions on the role of good governance in the promotion of human rights, as well as the United Nations Millennium Declaration,

Recognizing that transparent, responsible, accountable, accessible and participatory government, responsive to the needs, aspirations and human rights of the people, is the foundation on which good governance rests,

Noting that good governance practices necessarily vary according to the particular circumstances and needs of different societies, and that the responsibility for determining and implementing such practices, based on transparency and accountability, and for creating and maintaining an enabling environment conducive to the enjoyment of all human rights at the national level rests with the State concerned,

Recalling the Pacific Islands Human Rights Consultation co-organised by the Asia Pacific Forum of National Human Rights Institutions and the Office of the High Commissioner for Human Rights from 1 to 3 June 2004 and the observations in relation to good governance generally made at that Consultation,

Welcoming and building upon the statement by the Chair of the seminar on good governance practices for the promotion of human rights convened in Seoul, Republic of Korea, from 15 to 16 September 2004,

Reaffirming the importance of international and regional cooperation by national institutions in order to facilitate the implementation of good governance practices at all levels,

Adopted the following conclusions and recommendations:

Definitional elements

1. Good governance cannot exist without respect for human rights. Good governance relates to all people, and human rights are central to it. It is a State's obligation to ensure good governance and the protection of human rights. NIs have a responsibility to ensure that human rights are central to understandings of, and approaches to, good governance;
2. Essential elements of good governance include:
 - safeguarding the rule of law, including due process;
 - verifying elections to ensure a representative and responsible government;
 - respect by public officials for the rule of law;

- fostering investment and respect for property rights;
- promoting accountable administration to ensure that public money is well spent;
- equitable economic and social development (social justice and affirmative action);
- transparent and accountable management of human, natural, economic and financial resources for the purpose of equitable and sustainable development;
- the right to development;
- striving for equitable economic and social outcomes for the people irrespective of their personal circumstances or characteristics, including political affiliation;
- participation in government and public life;
- fairness in decision making;
- representative and responsible government structures;
- an independent judiciary.

It is clear from this list that the elements of good governance are inseparable from international human rights standards;

3. Creating a culture of human rights and fostering the necessary political will are central to establishing an enabling environment for good governance. NIs have a critical role in fostering such an environment. Integrating human rights into school curricula is an example of a good practice by NIs;

Rule of law

4. NIs should promote initiatives that enhance the human rights elements of the legal framework, including the Constitution, as well as the reform and better implementation of existing legal frameworks in conformity with international human rights standards. This should include the ratification of international human rights instruments and the withdrawal of existing reservations and advising on the adoption of measures to ensure implementation of their provisions at the national level;
5. NIs should assist in ensuring that various sectors of society are consulted when States parties are preparing reports to the respective human rights treaty bodies;
6. NIs need to pay appropriate attention to strengthening the legal framework to ensure free, fair, transparent and democratic electoral processes as a cornerstone of good governance;
7. NIs should encourage ratification of the United Nations Convention against Corruption and the United Nations Convention against Transnational Organized Crime;

8. The provision of independent expert advice to the court by an NI contributes to good governance by ensuring that relevant human rights standards are taken into consideration in judicial decisions. The participation of the NI in the judicial process should not be determined by any body other than the court itself;
9. NIs need to work to enhance, in particular, the legal protection of the human rights of the poor, marginalized groups and other vulnerable people, including by strengthening the effectiveness and independence of the judiciary and enhancing access to courts or quasi-judicial mechanisms;
10. Particular attention needs to be paid to the protection and promotion of human rights and the rule of law in the context of counter-terrorism measures;

Participatory processes

11. NIs need to foster a culture of human rights among public officials and at the same time the development of strategies for consultation and involving the public;
12. NIs should facilitate consultation with local communities and take local conditions into account. They are encouraged to reflect with Governments, parliaments, business and civil society on governance and human rights at their respective national levels;
13. NIs play an important role in the development of a human rights framework for their countries. This could include facilitating the development of National Plans of Action as well as Bills of Rights;
14. The participatory development of National Plans of Action can be an effective tool in enhancing systems of governance with a human rights-based approach. National Plans of Action can help prioritise the main issues and ensure that the rights of vulnerable groups are included. Government commitment, with adequate resourcing for implementation of the Plan, is critical to its success;
15. NIs need to work at ensuring appropriate access to all sectors of the population to governance practices. This could be done through empowerment practices and possibly decentralisation of decision-making processes. Good practices include working with local committees and bodies in ensuring that they make decisions within a human rights framework;
16. NIs need to encourage, and advise on, appropriate programmes to ensure gender balance in governance structures;

Accountability

17. NIs, in combating corruption, may encourage the establishment of a professional and adequately paid civil service; the promotion of ethical conduct in the public sector; penalizing corruption with adequate penalties accompanied by effective enforcement and compensation; the adoption of monitoring procedures for awarding contracts; the establishment of appropriate oversight bodies and performance appraisal systems; appropriate punishment of

fiscal fraud, including declaring certain contracts null and void, such as those that promote illicit enrichment; the promotion of measures against transnational forms of corruption; the establishment of transparency measures; and media monitoring and awareness raising;

18. NIs may examine the causes and consequences of corruption in their respective countries, in order to determine which practices are best suited to the circumstances in question;

Equity and inclusiveness

19. NIs should encourage the adoption of legislation and other measures to eliminate *de facto* and *de jure* discrimination;
20. NIs should combat discrimination and inequity in government structures by addressing lack of understanding of cultural diversity and gender equality. Through the use of education and media, NIs must pursue the promotion of values of inclusiveness and participation of all stakeholders in the democratic process, and the development of public awareness of efforts to combat all forms of discrimination;
21. NIs should advise on the range and efficacy of temporary special measures, *inter alia*, quotas, specific laws, regional mechanisms and affirmative action, and encourage a deeper understanding of the efficacy of such measures in advancing the realization of human rights and good governance;
22. NIs should be active participants in this process by seeking to integrate the human rights agenda into their country's poverty reduction strategy, development and governance programming;

Human rights and governance in situations of conflict

23. NIs should promote harmonious relations between peoples within the society and work against sectarianism;
24. There may be a need to look at truth and reconciliation and transitional justice processes to ensure effective good governance and that there is no impunity in relation to past violations, including involuntary disappearances;

NIs as models

25. In order to promote good governance NIs must have broad-based mandates based on the Paris Principles with no zones of exclusion. It is critical that they have a mandate to work with all institutions, including security forces, in the promotion of human rights as a key to good governance;
26. NIs must be models of good governance. They need to ensure that their internal management structures demonstrate good governance including through the development of internal codes of conduct or ethics. This requires strategies for continuing development;
27. The use of NI resources should be based on efficient and effective management and in consonance with the human rights mandate of the institution;

28. It is essential for NIs to comprise persons of integrity, quality and with conviction to be able to bring about positive change and effectively influence decision makers. Open, inclusive and transparent appointment procedures are critical;
29. NIs need to have a pluralist dimension to their structure and work;
30. NIs' capacity to strengthen governance is enhanced where their powers are clearly entrenched in law. Specific powers include procedures for complaints, the provision of remedies, advocacy, education, monitoring, investigation, and public inquiries;
31. It is critical for an NI to be empowered to manage its own finances. Supporting the institution is the primary obligation of the State. Financial support should be directly provided to the NI and not subject to any interference;
32. NIs, particularly in situations of conflict, require specific knowledge and expertise, including on the prevention of torture, the ability to visit to places of detention, and mediation and investigation techniques.

Adopted in Suva, Fiji

15 December 2004

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