

## **Durban Review Conference 2009**

### **Role of NHRIs**

#### **Background**

In the run-up to the 2001 Durban World Conference, the International Coordinating Committee of NHRIs requested that the South African Human Rights Commission in April 2000 serve as the liaison body for national human rights institutions (NHRIs), to provide information and assist the participation of NHRIs. The SAHRC undertook several activities, including;

- establishment of a liaison office in Durban to provide information, assistance as well as planning the parallel program for NHRIs before and during the WCAR;
- organizing a pre-conference planning and strategy meeting;
- The SAHRC also planned, during the WCAR itself, the hearings and testimonies from victims of racism.

National human rights institutions (NHRIs) participated actively in the preparation of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance.

NHRI's adopted a statement to the WCAR and afterwards developed an NHRI forum on the website [www.nhri.net](http://www.nhri.net). Additionally, under a grant from the Rockefeller Foundation, OHCHR provided grants of between USD 20,000 to 25,000 to 14 NHRI to conduct activities in the lead up to the WCAR (Brazil, Ecuador, Mexico, Peru, Nigeria, South Africa, Uganda, Zambia, Australia, Fiji, India, Indonesia, Nepal and Philippines).

The role of NHRIs in combating racism was highlighted in several paragraphs of the Durban Declaration, including paragraphs 112 and 113;

112. We recognize the importance of independent national human rights institutions conforming to the Principles relating to the status of national institutions for the promotion and protection of human rights, annexed to General Assembly resolution 48/134 of 20 December 1993, and other relevant specialized institutions created by law for the promotion and protection of human rights, including ombudsman institutions, in the struggle against racism, racial discrimination, xenophobia and related intolerance, as well as for the promotion of democratic values and the rule of law. We encourage States, as appropriate, to establish such institutions and call upon the authorities and society in general in those countries where they are performing their tasks of promotion, protection and prevention to cooperate to the maximum extent possible with these institutions, while respecting their independence;

113. We recognize the important role relevant regional bodies, including regional associations of national human rights institutions, can play in combating racism, racial discrimination, xenophobia and related intolerance, and the key role they can play in monitoring and raising awareness about intolerance and discrimination at the regional level, and reaffirm support for such bodies where they exist and encourage their establishment;

and paragraphs 90, 91, 135, 165, 187, and 191 of the Programme of Action,

90. Urges States, as appropriate, to establish, strengthen, review and reinforce the effectiveness of independent national human rights institutions, particularly on issues of racism, racial discrimination, xenophobia and related intolerance, in conformity with the Principles relating to the status of national institutions for the promotion and protection of human rights, annexed to General Assembly resolution 48/134 of 20 December 1993, and to provide them with adequate financial resources, competence and capacity for investigation, research, education and public awareness activities to combat these phenomena;

91. Also urges States:

- (a) To foster cooperation between these institutions and other national institutions;
- (b) To take steps to ensure that those individuals or groups of individuals who are victims of racism, racial discrimination, xenophobia and related intolerance can participate fully in these institutions;
- (c) To support these institutions and similar bodies, inter alia through the publication and circulation of existing national laws and jurisprudence, and cooperation with institutions in other countries, so that knowledge can be gained of the manifestations, functions and mechanisms of these practices and the strategies designed to prevent, combat and eradicate them;

135. Requests States, wherever appropriate through cooperation with international organizations, national institutions, non-governmental organizations and the private sector, to organize and facilitate training activities, including courses or seminars, on international norms prohibiting racial discrimination and their applicability in domestic law, as well as on their international human rights obligations, for prosecutors, members of the judiciary and other public officials;

165. Urges States to reinforce protection against racism, racial discrimination, xenophobia and related intolerance by ensuring that all persons have access to effective and adequate remedies and enjoy the right to seek from competent national tribunals and other national institutions just and adequate reparation and satisfaction for any damage as a result of such discrimination. It further underlines the importance of access to the law and to the courts for complainants of racism and racial discrimination and draws attention to the need for judicial and other remedies to be made widely known, easily accessible, expeditious and not unduly complicated;

187. Calls upon States, to promote, as appropriate, exchanges at the regional and international levels among independent national institutions and, as applicable, other relevant independent bodies with a view to enhancing cooperation to combat racism, racial discrimination, xenophobia and related intolerance;

191. (a) Calls upon States to elaborate action plans in consultation with national human rights institutions, other institutions created by law to combat racism, and civil society and to provide the United Nations High Commissioner for Human Rights with such action plans and other relevant materials on the measures undertaken in order to implement provisions of the present Declaration and the Programme of Action;

### **Mandate for the Review Conference**

In its resolution 61/149, the UN General Assembly decided to convene a review conference on the implementation of the Durban Declaration and Program of Action to be held in April 2009.

The Human Rights Council has been entrusted with the preparation of the event, acting as the Preparatory Committee (Prep Com) for the Durban Review Conference. The Council decided that the Durban Review Conference would concentrate on implementation, including further actions, initiatives and practical solutions for combating racism. Specifically, the objectives of the Review Conference are to:

- Review progress and implementation of the Durban Declaration and Program of Action at national, regional and international levels with their own independent voice and perspective;
- Assess the effectiveness of the existing Durban follow-up mechanisms and other relevant United Nations mechanisms, for instance with the CERD;
- Promote the universal ratification and implementation of the International Convention on the Elimination of All Forms of Racial Discrimination; and
- Identify and share good practices.

### **NHRI contributions**

NHRIs have a broad mandate with often far-ranging powers. Many of them have the fight against racism and discrimination as a core mandate, and are well placed to make a substantive contribution to the objectives of the Durban Review Conference.

Participation of NHRIs:

- in the drafting process of the outcome document, which is undertaken by the Preparatory Committee and its subordinate intergovernmental Working Group, in particular through the submission of written documentation;
- in the regional meetings that took place from June and August 2008;
- participation in or input to the Second Substantive session of the Prep Com, to that took place in 6 to 17 October 2008; and
- Participation in the Durban Review Conference itself, for example through interventions in the plenary, informal exchanges with delegations and organizing of parallel events.

### **Participation of NHRIs in the Durban Review Conference in 2009**

The following paragraphs from the Provisional rules of procedure for the Durban Review Conference are instructive on NHRI involvement during the Conference:

#### Rule 59

*Representatives designated by organizations, intergovernmental organizations and other entities that have received a standing invitation from the General Assembly to participate in the sessions and work of all international Review Conferences within the framework of the General Assembly have the right to participate as observers, without the right to vote, in the deliberations of the Review Conference, its Committees and any other committee or working group.*

[...]

## Rule 65

1. *Participation of national human rights institutions in the Review Conference shall be based on arrangements and practices agreed upon by the Commission on Human Rights, including Commission resolution 2005/74 of 20 April 2005, while ensuring the most effective contribution of these institutions. Representatives designated by national institutions for the protection and promotion of human rights may participate as observers in the deliberations of the Review Conference, any Committee and any other committee or working group on questions within the scope of their activities.*

2. *In the situation where a country does not have a national institution for the promotion and protection of human rights, representatives designated by ombudspersons or by specialized independent national bodies for the promotion and protection of racial equality may participate as observers in the deliberations of the Review Conference, any Committee and any other committee or working group on questions within the scope of their activities.*

The role of “A status” NHRIs, their regional coordinating bodies and the ICC in the Review Conference is therefore the same as for Human Rights Council sessions, and includes:

- a. making oral statements under all agenda items;
- b. submitting documents, issued with their own symbol number; and
- c. taking separate seating in all sessions.

### **Recent NHRI developments:**

#### Participation of NHRIs in the regional preparatory conferences

Regional meetings in preparation for the Durban Review Conference took place in June and August 2008. Reports from these meetings were submitted to the second substantive session of the Preparatory Committee, held on 6 to 17 October 2008.

OHCHR funded NHRIs from least developed countries (LDCs) with “A status” ICC accreditation as well as the NHRI acting as the regional coordinators of the network of NHRIs.

#### *The Americas*

The regional meeting for Latin America and the Caribbean (17-19 June 2008) was the first of all regional meetings called for under decision PC.1/11 adopted by the Prepcom in its Organizational session in August 2007. 25 Member States from the region attended the meeting. The meeting was also attended by 114 NGOs, a number of NHRIs (the Network of the Americas and the Defensoría del Ecuador) and UN Agencies and programs. NHRI representatives introduced two paragraphs in the final documents that were adopted by the drafting committee and incorporated in the final document (in particular paragraphs 12 and 109).

## *Africa*

The regional meeting for Africa to take place in Abuja, Nigeria, on 24 to 26 August 2008. OHCHR funded the participation of the regional coordinator for the African network of NHRIs (the NHRI of Rwanda) as well as NHRIs from LDCs ( Malawi, Niger, Rwanda, Senegal, Tanzania, Togo, Uganda, Zambia).

### Funding for NHRIs:

OHCHR, in its role as the Secretariat of the Review Conference is encouraging NHRIs to participate actively in the Review Conference and its participatory process. OHCHR will only purchase economy class air tickets to Geneva for a limited number of NHRIs to enable them to take part in the Review Conference (20-24 April 2009). NHRIs with A status, from LDCs will be given priority and then NHRIs who otherwise would not be able to fund their travel. The deadline for the application of funding is the 15 February 2008.

### ICC Working Group on the Durban Review Conference

A Working Group (WG) on the Durban Review Conference and its preparatory process was established at the 21st meeting of the ICC in Nairobi in October 2008. The WG is co-chaired by the National Human Rights Commission of Korea (NHRCK) and the South African Human Rights Commission (SAHRC). The WG has been discussing strategies for NHRI engagement with the process and developed a concept paper on the DRC. The WG has also been engaging with the National Institutions Unit, OHCHR in the preparations for an NHRI side event. ). Members of the WG include : Mr. Anselmo Lee, National Human Rights Commission of Korea (Chair); Mr. Tseliso Thipanyane, South African Human Rights Commission (Co Chair); Sylvie Kayitesi, National Human Rights Commission of Rwanda; Mr. Hans Otto Sano, Danish Institute for Human Rights; Mr. Heiner Bielefeldt, German Institute for Human Rights; Mr. Alexis Asatashvili, Mexican National Human Rights Commission; Mr. Daniel Soley Guitierrez, Defensoria de los Habitantes Costa Rica; Ms Hesti Armiwulan, National Human Rights Commission of Indonesia (Komnas Ham).

### NHRI side Event: the role of NHRIs in implementing the DDPA

OHCHR (NIU), in close cooperation with the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC) will hold a 3 hour plenary discussion on the *Role of NHRIs in Implementing the DDPA* on the 20 April 2009 at Palais de Nations, UN Office at Geneva. This side event will enable NHRIs to share experiences in, and identify key challenges to, the implementation of the DDPA. Contextual plenary discussions will be held with the objective of consolidating NHRI efforts on the implementation and coordination of activities relating to the DDPA at the national, regional and international levels. The expected outcomes of the event include concrete proposals for stronger monitoring and implementation mechanisms on discrimination, xenophobia and related

intolerance - possibly through the setting up of national and regional observatories and the strengthening of NHRI race relations strategies.

Statement of the ICC at the Intersessional Intergovernmental Working Group on the Durban Review Conference

A representative from the South African Human Rights Commission on behalf of the ICC, made a statement at the above-mentioned meeting on the 21 January 2009 reiterating NHRI support and commitment to the Durban Review Process and highlighting some of the achievements of NHRIs.