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of Human Rights: Responsibilities and Effective Remedies**

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promoting and protecting human rights*)

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INFORMATION NOTE

**THE ROLE OF THE UNCT IN ESTABLISHING OR
STRENGTHENING A NATIONAL HUMAN RIGHTS INSTITUTION**

**OFFICE OF THE UNITED NATIONS
HIGH COMMISSIONER FOR HUMAN RIGHTS**

APRIL 2007

This Information Note is to be developed into a module by OHCHR in the near future (Methodology, Education and Training Unit/RRDB)

I Introduction

National human rights institutions (NIs) play an ever-growing role in the setting up of strong national human rights protection systems at the country level, something which is at the heart of the implementation of the OHCHR Plan of Action and the SG's past reform programs. Indeed, NIs are key in connection with action on good governance, rule of law and human rights and central to effective implementation of programs in these areas, especially with respect to their sustainability.

The importance that the High Commissioner attaches to the development and strengthening of national human rights protection systems stems directly from the 2002 Secretary-General report "Strengthening of the United Nations: an agenda for further change". This report stated that the emplacement or enhancement of a national protection system in each country, reflecting international human rights norms, should be a principal objective of the United Nations.

Key defining elements of such national human rights protection systems are:

- an independent and effective judiciary;
- a functioning administration of justice,
- a representative national parliament with parliamentary human rights bodies;
- an independent, truly representative and effective national human rights institution in conformity with the Paris Principles;
- the development of a culture of human rights through programs of human rights education in the formal and non-formal sectors as well as a public information campaigns; and
- a strong and dynamic civil society.

United Nations Country Teams (UNCTs) are obviously key partners and the most obvious entry points at the national level for action on NIs. NIs that comply with the Paris Principles in turn can assist UNCTs implement successfully rule of law related projects and activities. OHCHR is making it a priority for 2007 to sensitize and open up UNCT support towards the establishment and strengthening of NIs. NIs are in turn encouraged to seek technical assistance and support from and through members of the UNCTs at the national level. An enhanced cooperation on NIs will have a strong multiplier effect, as they are a key link to Government, Members of Parliament, NGOs and civil society organizations for the protection and promotion of human rights, good governance and respect for the rule of law.

II What is a national human rights institution?

An NI is a State-sponsored and State-funded organisation, with a constitutional or legal basis, and with authority to promote and protect human rights at the national level, as an independent agency. It is one mechanism through which a State responds to its

international responsibility ‘to take all appropriate action’ to ensure that international human rights are implemented at the national level.

The creation of an NI may be a sign that a country takes its human rights obligations seriously; the strength of this commitment may be measured by the degree to which the NI is truly independent and has the powers and resources required for it to be effective.

III The Paris Principles

From 7 to 9 October 1991, the first International Workshop on National Institutions for the Promotion and Protection of Human Rights was held in Paris following a 1990 request from the Commission on Human Rights to organize a gathering of national and regional institutions involved in the promotion and protection of human rights. The conclusions of the workshop were endorsed by the General Assembly in resolution A/RES/48/134 adopted on 20 December 1993, and became known as “the Paris Principles”. The Paris Principles define the minimum conditions that an NI must meet if it is to be considered a legitimate NI. They are universal in their application and must be seen as a whole.

The six key criteria set out in the Paris Principles are the following:

1. Independence guaranteed by statute or constitution;
2. Autonomy from government;
3. Pluralism, including in membership;
4. A broad mandate based on universal human rights standards;
5. Adequate resources; and
6. Adequate powers of investigation.

Competence and responsibilities

The Paris Principles provide that NIs are to be vested with competence to promote and protect human rights through as broad a mandate as possible, clearly articulated in a constitutional or legislative text.

The Principles also specify the responsibilities of an NI. Firstly, NIs shall submit recommendations, proposals and reports to the Government, parliament and any other competent body. The subject matter can be any legislative or administrative provision relating to the protection of human rights; any situation of a human rights violation; or the preparation of reports on the national human rights situation or more specific matters.

Thirdly, NIs may promote conformity of national laws and practices with international human rights instruments, as well as encourage ratification of international human rights instruments and ensure their implementation. An NI may also contribute to the reporting process under international human rights instruments (with due respect for the independence of the NI).

More broadly, an NI may cooperate with the United Nations, regional institutions, and NIs of other countries, which are competent in the areas of the protection and promotion of human rights.

Finally, NIs may assist in developing and delivering human rights teaching and research programmes, and contribute to increasing public awareness of human rights through information and education.

Composition

Besides listing the above mentioned responsibilities, the Paris Principles also address the composition of an NI and its independence, emphasizing the importance of a pluralist representation of social forces involved in human rights promotion and protection. The Principles specifically mention NGOs, trade unions, professional organizations, trends in philosophical or religious thought, academia, parliament, and Government departments. On the participation of Government representatives, it foresees that they should only have advisory powers.

Furthermore, it must be stressed that, as a guarantee for their effective independence and functioning, NIs should have adequate funding, allocated by parliament, and have their own staff and premises.

Methods of operation

On the methods of operation, the Paris Principles provide that the NI shall freely consider any question falling within its competence, hear any person and obtain any information and document necessary for assessing situations falling within its competence. It shall also meet on a regular basis, establish working groups from among its members as necessary, set up local or regional sections, consult with other bodies responsible for the protection and promotion of human rights, develop relations with human rights NGOs, and address public opinion.

Finally, the Paris Principles recognize that a number of NIs have competence to receive and act on individual complaints of human rights violations.

IV Human rights functions

Virtually all NIs are involved in the following activities:

Human rights promotion

Human rights promotion involves the dissemination of human rights information and knowledge both generally and to specific target groups. Human rights promotion seeks both to increase knowledge and understanding about human rights law and its underlying principles and to promote behaviour that is consistent with those laws and principles. Ultimately, human rights promotion is meant to create a culture of human rights so that

all individuals in a society share, and act in accordance with, the values that are reflected in the international and national human rights legal framework.

Investigating complaints

Investigation is a neutral, fact-finding process whose purpose is to prove or disprove an allegation of human rights abuse, and if so, who was responsible for the violation. When an NI determines that a violation likely has occurred, it will take steps to ensure a suitable remedy is provided to the victim. Most NIs only have the authority to make recommendations following an investigation. A few, those with quasi-judicial authority, may seek to have suitable remedies imposed if they determine that a violation has occurred. The investigation of individual complaints of discrimination is arguably the most important function of an NI.

Human rights monitoring

Monitoring refers to the activity of observing, collecting, cataloguing and analysing data and reporting on a situation (including monitoring the general human rights situation in the country, legislative and policy developments, particular events such as elections, or places of detention).

Advising the Government on human rights issues

Many NIs provide advice related to specific activities that do not necessarily relate directly to other program activities, such as; advice following the systematic or targeted review of proposed legislation, policy and practice; advice following the systematic or targeted examination of existing legislation, policy and practice; or advice and assistance relating to reporting on progress in implementing international treaties.

V Practical guidance on the human rights functions

The statutory base

Efforts could be made to ensure that proposed or existing NIs are given the necessary powers to carry out their programmes by:

- ensuring that Parliament and other appropriate officials are aware of the statutory powers that an NI requires to undertake effective programming;
- providing sample legislation on NIs to parliamentarians or other appropriate officials;
- organising seminars or workshops to discuss, with appropriate stakeholders, the statutory powers that an NI requires in order to undertake effective programming;
- organising visits by expert practitioners to discuss with parliamentarians and other appropriate officials the need for appropriate legislative powers; and
- arranging for experts, including practitioners, to 'audit' existing or proposed legislation.

The statutory base - Human rights promotion

The mandating legislation of an NI should:

- specifically recognise the authority of the NI to promote human rights;
- be broadly defined; and
- put responsibility on State institutions to provide all reasonable cooperation with an NI in the carrying out of its responsibility to promote human rights.

The statutory base - Investigation

The jurisdiction of an NI to investigate complaints should be clearly spelled out in the enabling legislation, which should;

- provide that an individual victim, his or her representative, third parties and NGOs, trade unions or other representative organisations can file a complaint;
- authorise the NI to initiate complaints;
- specify the powers of the NI in investigation, including:
 - o the power to compel the production of relevant information (either in the form of documents or by means of oral evidence);
 - o the freedom to conduct on-site investigations, if necessary;
 - o the power to call parties to a hearing;
 - o the power to grant immunity from prosecution to persons giving testimony or otherwise appearing as witnesses;
 - o the power to hear and question any individual (including experts and representatives of Government agencies and, if appropriate, private entities) who, in the opinion of the investigating body, has knowledge concerning the alleged violation or is otherwise in a position to assist the investigation;
 - o the power to summon witnesses and compel their appearance; to receive oral and written evidence under oath; and to compel the production of such documents or other material evidence from public agencies and authorities as the investigating body considers necessary for proper investigation of the complaint;
 - o the power to impose or seek sanctions when the NI is obstructed or interfered with in any way, as well as similar powers when there has been intimidation or reprisals made against a party or witness to a complaint; and
 - o the authority to order interim injunctions or interim relief during the course of an investigation.
- clearly spell out the NI's remedial powers: to make recommendations; to seek enforceable decisions through the courts or a specialised court or tribunal; and to make enforceable decisions (very rare); and
- define the types of remedy that may be applied or sought and make it clear that the NI can freely publish its findings and recommendations, without the need for prior approval.

The statutory base - Human rights monitoring

The enabling legislation of an NI should:

- clearly give it the responsibility to monitor and report on the human rights situation in the country;
- provide that the NI will have free access to public officials and information as deemed necessary to do this; and
- make it clear that the results of the monitoring activity can be freely publicised, without the need for prior approval.

If an NI is to monitor prisons and other places of detention, the enabling legislation should specifically provide for this, and give the NI the legal authority to; enter any place of detention without prior warning; see official records and take copies as required; see and take statements from prisoners alone and in unsupervised situations; and request that a certain detainee be presented.

The statutory base - Giving advice

The enabling legislation should specifically provide that the NI:

- can provide advice either at the request of the State or on its own initiative directly to the authority the NI considers the most appropriate, and without the prior consent by any higher authority;
- can publicise its advice without restriction or prior approval; and
- is entitled, within a reasonable delay, to a full response from the authorities indicating the actions they will take and by when.

The organisational structure

To help ensure that an NI's organisational structure is suited to its responsibilities, efforts could be made to:

- organise workshops on 'best practices' to promote appropriate organisational structures and relationships that allow for the effective delivery of programmes;
- organise organisational "audits" by expert practitioners; and
- ensure that relevant UN human rights material is made available to the NI so that it can be a focal point for human rights documentation and information.

The organisational structure - Human rights promotion

The NI's organisational structure should demonstrate that promotion is a separate and distinct programme. Where resources permit, the NI should consider the creation of a Documentation Centre where human rights material can be both maintained and made available to members and staff of the NI, as well students, scholars and human rights workers from outside the NI.

The organisational structure - Investigation

An NI should have a separate and distinct unit with the sole responsibility to undertake investigation. Some NIs divide a unit into two, one section responsible for investigating economic, social and cultural rights, the other section responsible for other rights. When

an NI undertakes conciliation and/or mediation, it often has a separate unit or sub-unit for this purpose.

The organisational structure - Human rights monitoring

The organisation structure should make clear which unit carries the responsibility. An NI that is mandated to monitor places of detention should have a separate unit or, depending on the resource commitment, sub-unit, created for this purpose.

The organisational structure - Giving advice

Where an NI routinely reviews existing legislation, either as required by mandate or practice, it is advised that the NI assigns this responsibility to specific unit.

Knowledge and skills of staff

To ensure that NIs have the necessary skills and abilities to perform their functions, efforts could be made to:

- ensure that training on the relevant international human rights standards is provided;
- ensure that skills-based training, as required, in specific programme activities or approaches is provided (such as investigation and monitoring);
- ensure that publications and information on the relevant standards are made available to the NI; and
- sponsor or organise study tours or other similar exchanges with more experienced NIs in the area, possibly through the International or relevant Regional or Sub-regional Network.

VI Support for the establishment of an effective NI

Establishing an effective NI involves three distinct phases:

1. developing a national consensus for the creation of an NI;
2. embarking on a process for the creation of the NI; and
3. ensuring that the newly created NI can function effectively.

Phase 1: Developing National Consensus

Typically, the movement towards the creation of an NI involves engaging national actors in a discussion on NIs, the roles that an NI can play and how these might benefit the country situation. To build national consensus, it is necessary to identify the partners that should have a voice in the discussion (such as Government officials, politicians, human rights NGO's, academics, lawyers, groups representing marginalized groups, international organisations, etc), and to establish a mechanism and framework for that discussion.

In order to encourage and promote such a dialogue, the following efforts may be undertaken:

- identifying potential key stakeholders and ‘seeding’ the idea of NIs, perhaps by inviting practitioners and/or experts to foster exchanges;
- sponsoring seminars or workshops on NIs looking at the successes that NIs in conformity to the Paris Principles have had; and
- obtaining or developing material providing basic information about the nature and functions of NIs, and perhaps some concrete examples of how they may assist in protecting and promoting human rights, to provide to local stakeholders.

Phase 2: Establishing a national process

Ultimately, national authorities must take ownership for creating an NI and set out on a process to do so. Two factors are critical for this to happen: (1) the Government must be serious in its intention to create a legitimate NI, and (2) the process in place to do so should be as transparent and participatory as possible.

Efforts could be made in order to encourage and support national ownership for creating an NI, for example by recommending to the Government that a process be set in motion involving an appropriate Ministry (one with a supportive Minister and senior staff) or a Parliamentary Committee to determine the details of what kind of NI should be created, as well as its roles and powers.

In order to ensure that the process continues to be transparent and inclusive, the creation of one or more working groups could be encouraged, that would consist of representatives of every important social sector and which would examine and recommend on the features of a new NI.

Key issues to resolve

Several key issues must be examined closely and decided upon in the process of creating an NI. The Government must ultimately decide what the nature and mandate of an NI will be, as well as the powers that it will possess. When these questions are resolved, the Government must develop appropriate enabling legislation to codify these decisions and others, and ensure that the NI has a strong basis for carrying out its responsibilities.

Issue 1: the general model of the NI

Three considerations will influence which model is the most appropriate: (1) the importance of plurality; (2) the importance of having the capacity to investigate individual complaints; and (3) the importance of having the authority to make a determination and, where necessary, seek to enforce this.

Issue 2: defining the responsibilities of the NI

As a general principle, of course, an NI should have the broadest possible mandate, consistent with the work that an independent human rights body should carry out, although the mandate; (1) should match resources, both financial and human; (2) should not result in unnecessary duplication; (3) should match needs; and (4) will depend on the political space available, as well as the strength of political will.

Issue 3: drafting enabling legislation

Once decisions on the nature and mandate of the NI are reached, it is important that these decisions, and other issues such as the powers that the NI is to have, be defined in legislation. The drafting process will be the responsibility of Government, but the process should allow for appropriate, meaningful consultation with important stakeholders. There are a number of potential models for the legislation. In principle, however, the legislation should; (1) establish the separate legal identity of the NI; (2) define the scope of the NI's responsibilities; (3) define the legal authorities that the NI can exercise in the implementation of its responsibilities; (4) where appropriate, set out the complaint process and the remedies available; (5) define the membership, membership criteria, membership selection and dismissal process, duration of term and privileges and immunities of members; (6) authorise the establishment of the NI and the right to employ staff; and (7) describe reporting procedures, preferably to Parliament.

Efforts to support this process could include the provision of appropriate draft legislation and/or experts to provide technical advice on suitable draft enabling legislation. A workshop can also be held to review draft legislation to ensure that there is wide and appropriate consultation with major stakeholders.

Phase 3: Support to ensure effective functioning

Determining the organisational structure

The organisational structure for an NI should be established by the Members and senior staff component of the NI itself and will reflect the general mandate and responsibilities of the NI. The organisational structure should reflect good management principles and be conducive to operational efficiency. Many newly created NIs will also have to consider the issue of whether to open local offices, allowing the NI to operate in outlying areas.

Hiring and training of staff

NIs should have the authority to hire its own staff. New NIs often experience difficulty in finding experienced and suitable candidates, especially for positions that may be unique to NIs such as human rights investigators, mediators and conciliators and, to a lesser extent, human rights monitors. There is a high probability, therefore, that the NI will need substantive skills and knowledge training to new staff, very early on in its mandate.

Developing administrative and operational policies

Administrative and operational policies and procedures should be in place at an early date as possible following the establishment of the NI, such as with regard to complaint-handling and its process. It is also important that work-tools be developed to support the work of the NI, for example, a complaint registration form and a form to record the results of prison monitoring.

Efforts to support this could include the provision of sample standing instructions and work-tools to newly created NIs, possibly through the auspices of the international or appropriate regional network, or the sponsoring of practitioners or experts in NIs to assist a new NI develop these instructions and tools.

Strategic planning

New NIs need to develop and cost a workable plan that will allow it to focus time, energy and financial resources on efforts that are both effective and coordinated. This will require identifying the key challenges and opportunities that the NI is likely to face over the next few years; assessing the capacity of the NI to respond to these challenges; identifying partners to work with; developing a realistic program of action to meet these challenges / overcome constraints; and costing (financial and personnel) the program.

Linking with other NIs

NIs can share and learn from their respective experiences; this may be especially important for newly created NIs. NIs, supported throughout by OHCHR, have developed associations at the international, regional and sub-regional levels precisely to facilitate inter-institutional dialogue and promote the sharing of best practices. Some of the methods that have been used to encourage and facilitate this interchange, beyond regular meetings, have been staff exchanges, study tours to other NIs, seminars and workshops between NIs, and human rights training on areas of common concern.

Efforts to support the linking of an NI with other NIs could include active liaising with regional networks of NIs, supporting and promoting their efforts to develop information exchanges and other mechanisms for strengthening NIs in their region. Databases on best practices or approaches may also be developed and maintained so that NIs can benefit from the experience of others. This might be done, for example, by supporting a Regional Network's effort to do this.

Chapter VII NIs in conflict situations

Unique functions of NIs in times of conflict

An NI operating during situations of conflict may focus on:

- efforts to promote dialogue between combatants;
- efforts to promote the establishment and growth of peace-building mechanisms among representative communities; and

- efforts to encourage acceptable and necessary accommodations to deal with underlying human rights issues that may be at the root of the conflict.

Challenges to regular functions during times of conflict

NIs face particular challenges to their regular functions in times of conflict, such as:

- *Training, education and public awareness*; the NI may wish to redouble efforts in community-based training in human rights especially with regard to the need to respect the rights of minorities. Where large numbers of persons are displaced by the conflict, human rights education may also be required for host populations;
- *Investigation*; NIs should be aware of particular human rights problems that may occur in situations of conflict, such as the use of child soldiers or the use of sexual assault as an instrument of war. Another important issue is confidentiality and protection of witness/victim identity;
- *Monitoring Human Rights*; in many situations the NI may be required to monitor events rather than investigate them since full-scale investigation may not be either desirable or possible. This will require the monitors to fully understand the human rights and humanitarian law norms that apply, and
- *Advice to the Government*; NIs will likely face criticism when it holds Government to account during times of conflict. Certain human rights are not subject to derogation, and an NI must remind the Government of this fact when necessary. Also, certain international rights norms apply to all combatants including insurgent groups.

Efforts to support NIs in these circumstances may include:

- provision of training in and materials on humanitarian law, the rights of displaced persons and refugees, the particular situations involving child soldiers, sexual assault, etc.;
- facilitation of the exchange of information on approaches and best practices that other NIs, or UNCTs, may have gathered through their own experiences;
- participation in joint programming, community outreach, monitoring and providing advice to the Government; and
- publicly supporting the NI so that it is not isolated.

Chapter VIII NIs in post-conflict situations

Unique functions of an NI in post-conflict situations

In post-conflict situations, NIs face a range of tasks which will assist the country emerging from conflict in regaining its balance and building a sustainable peaceful future. These unique functions include; (1) defining the balance between reconciliation and justice; (2) documenting past abuses; (3) supporting reintegration of demobilised forces, displaced persons and returning refugees into society; and (4) supporting special initiatives for child soldiers and child abductees (dealing with trauma, special education, alternative care programs for orphans, and reintegration initiatives).

Efforts to support NIs in this may include;

- provision of training in and materials on issues of restorative justice, documenting past abuses, dealing with the reintegration of rebels, refugees and displaced persons and the particular difficulties in this faced by child soldiers and child abductees;
- facilitation of the exchange of information on approaches, experiences and best practices that other NIs, or UNCTs, have gathered through their own experiences; and
- if an NI is being created in a post-conflict situation, Parliament and other appropriate officials may be encouraged to give the NI a key role to play in carrying out consultations and making recommendations on the balance that should be drawn between justice and reconciliation for abuses that will likely have occurred during the conflict.

Challenges to the functions of NIs in post conflict situations

Also in situations of post-conflict, NIs may face particular challenges to their functions, such as:

- *Training, Education And Public Awareness*; because of the absence or weakening of a human rights culture, NIs will likely consider the need for general human rights awareness training a priority;
- *Investigation*; an NI would likely consider the investigation of issues related to the root causes of past violations as a priority. In addition, certain issues might assume more importance to an NI since they are directly related to peace building efforts, such as land claim and land distribution issues;
- *Monitoring Human Rights*; the NI would likely want to monitor provisions of a peace agreement. NIs will also likely wish to put a priority on monitoring the reintegration of combatants, refugees and displaced persons into the community; and
- *Advice to the Government*; to the extent that human rights issues were the cause or proximate cause of past violence, an NI will concentrate on providing advice to the Government on how to deal with those issues in a way that will prevent them from re-occurring.

Efforts to support NIs in this may include; facilitating the exchange of information on approaches, experiences and best practices that other NIs, have gathered through their own experiences operating in similar circumstances; and participating in and reinforcing, to the extent possible, the NI's priority programme initiatives in education, monitoring and advice giving.

Annex I

Checklist of steps in case of absence of an NI

<u>Before setting out on activities geared to the establishment of an NI, the following questions should be answered</u>	
Human rights presence	<p>Questions to ask:</p> <ul style="list-style-type: none"> - is there an OHCHR stand-alone Field Office in the country? - is there an OHCHR Regional/Sub-Regional Office? - is there an OHCHR Human rights advisor present? - is a human rights component attached to a UN peace mission? <p>For more information, please consult www.ohchr.org</p>
Contact points at OHCHR Geneva	<p>Contact points at OHCHR Geneva include:</p> <ul style="list-style-type: none"> - National Institutions Unit (gmagazzeni@ohchr.org) : regardless of other contacts, this Unit should be contacted as a standard procedure. The Unit stands ready to assist UNCTs with technical advice on the establishment or strengthening of NIs - Rule of Law and Democracy Unit (mrishmawi@ohchr.org) - Methodology, Education and Training Unit (fmarotta@ohchr.org) - Geographic desks (Africa Unit: scampbell@ohchr.org; Arab region Unit: aabdelmoula@ohchr.org (from May 2007) ; Asia Pacific Unit: rmungoven@ohchr.org (from end May 2007); Europe, North America and Central Asia Unit: mnicholson@ohchr.org; Latin America and Caribbean Unit: etamburi@ohchr.org)
<u>Once the human rights presence or contact point has been identified and a working relationship has been established, the following issues should be considered, in close cooperation with OHCHR</u>	
Developing a national consensus	<p>Organize in cooperation with OHCHR a sensibilisation meeting involving all key stakeholders (Government officials, Members of Parliament, NGOs, research centres, experts from Paris Principles-complying NIs in the region), in order to:</p> <ul style="list-style-type: none"> - 'seed' the idea of NIs and gather national support; - identify key elements of the Paris Principles; - look at the successes that existing NIs in conformity with the Paris Principles have had <p>obtain or develop material providing basic information about the nature and function of NIs, and perhaps some concrete examples of how they may assist in protecting and promoting human rights, to provide to local stakeholders</p>
Establishing a national process	<p>encourage and support national ownership for creating an NI, for example by recommending to the Government that a process be set in motion involving an appropriate Ministry (one with a supportive Minister and senior staff) or a Parliamentary Committee to determine the details of what kind of NI should be created, as well as its roles and powers</p>

	encourage the creation of one or more working groups that would consist of representatives of every important social sector and which would examine and recommend on the features of a new NI
Statutory base / Enabling legislation	ensure that Parliament and other appropriate officials are aware of the statutory powers that an NI requires to undertake effective programming (<u>see section III on the Paris Principles, as well as section V on the human rights functions</u>)
	ensure that Parliament and other appropriate officials are aware of the main considerations when choosing a model of NI
	ensure that Parliament and other appropriate officials are aware that the enabling legislation should; (1) establish the separate legal identity of the NI; (2) define the scope of the NI's responsibilities; (3) define the legal authorities that the NI can exercise in the implementation of its responsibilities; (4) where appropriate, set out the complaint process and the remedies available; (5) define the membership, membership criteria, membership selection and dismissal process, duration of term and privileges and immunities of members; (6) authorise the establishment of the NI and the right to employ staff; and (7) describe reporting procedures, preferably to Parliament
	provide sample legislation on NIs to parliamentarians or other appropriate officials
	organise seminars or workshops to discuss, with appropriate stakeholders, the statutory powers that an NI requires in order to undertake effective programming
	organise visits by expert practitioners to discuss with parliamentarians and other appropriate officials the need for appropriate legislative powers
Organisational structure	organise workshops on 'best practices' to promote appropriate organisational structures and relationships that allow for the effective delivery of programmes (see pp.7-8)

Checklist to Assess Compliance of an existing NI with the Paris Principles

The following checklist may be helpful in assessing an existing NI's conformity with the Paris Principles. The checklist identifies the elements that are enunciated in the Paris Principles and the minimum requirements that must be met to satisfy those Principles. Where the Principle or requirement, or any part thereof, is not directly citable in the text of the Paris Principles, they are set out in italics.

It is impossible to signify by a simple 'yes' or 'no' response whether certain Principles are being met, for example, the Principle requiring NIs to have "a broad mandate". The Checklist attempts to develop a hierarchy of possibilities in such cases so that an assessment can be made of the degree an NI meets the standard. This is not to suggest, however, that an NI with a relative low degree of compliance is in non-conformity with the Principles. Also, this checklist is not a definitive method for assessing the capacity or strength of an NI. That would require a more focused examination both on what the NI has actually done with the mandate it received and how stakeholders perceive it.

Principles Applying to all NIs			
Principle	Requirements	Y	N

COMPETENCE (mandate)	Mandate is set out in constitution or legislation		
	Mandate gives authority to promote and protect human rights		
COMPETENCE (<i>general jurisdiction</i>)	Competence is defined in legislation		
COMPETENCE (<i>subject-matter jurisdiction</i>)	Competence is as broad as possible (<i>from most to least broad</i>)		
	▪ <i>Includes both CP and ESC Rights</i>		
	▪ <i>Includes most CP and ESC Rights</i>		
	▪ <i>Includes only CP Rights</i>		
	▪ <i>Is limited to single rights issue (e.g., Race or Discrimination)</i>		
COMPETENCE (<i>object matter jurisdiction</i>)	Competence is as broad as possible (<i>from most to least broad</i>)		
	▪ <i>Over State and Private Sector (with public function), without restriction¹</i>		
	▪ <i>Over State, without restriction</i>		
	▪ <i>Partial² restriction with regard to sensitive State Organs³</i>		
	▪ <i>Total restrictions with regard to sensitive State Organs</i>		
COMPETENCE (<i>time jurisdiction</i>)	Competence is as broad as possible (<i>from most to least broad</i>)		
	▪ <i>Can examine matter even if it predates the NI</i>		
	▪ <i>No limits providing matter occurred since set up of the NI</i>		
	▪ <i>Discretionary power to limit examination of 'old' cases</i>		
	▪ <i>Limits on capacity to examine matters that are 'old' set in law</i>		
RESPONSIBILITY (TO PROVIDE ADVICE)	Can provide advice on own initiative		
	▪ <i>On legislative or administrative provisions</i>		
	▪ <i>On any violation the NI takes up</i>		
	▪ <i>On the national situation generally or in specific</i>		
	▪ <i>On situations of violations and government reactions to it</i>		
	Can provide advice directly without referral		
	Can publicise the advice without referral		
RESPONSIBILITIES (OTHER)	To encourage the harmonisation of national legislation and practices with international human rights instruments, as well as their effective implementation, <i>including by</i>		
	▪ <i>Participating in reviews of legislation and policy at time of ratification</i>		
	▪ <i>Regularly reviewing and providing formal comments on draft legislation and policy</i>		
	▪ <i>Regularly reviewing and formally commenting on the human rights situation generally or with respect to key issues</i>		
	To encourage the ratification of international human rights instruments		
	To contribute to country human rights reports (<i>from most to least broad</i>)		

¹ “Without restriction” in this context means no restriction except as regard the courts and Parliament.

² “Partial” in this context means either that the restriction does not apply to all sensitive State Organs or that the restriction is not absolute.

³ ‘Sensitive State organ’ in this context means, the Army, the Police, Security Forces and the equivalent.

	<ul style="list-style-type: none"> ▪ <i>Directly participates in drafting of complete report</i> ▪ <i>Drafts section(s) on work of NI and reviews report</i> ▪ <i>Drafts section(s) on work of NI</i> ▪ <i>Reviews report in whole or in part</i> 		
	To cooperate with international and regional human rights organs and other NIs		
	To elaborate and take part in education and research programs in human rights, <i>including by:</i>		
	<ul style="list-style-type: none"> ▪ <i>Assisting in developing/reviewing curricula for schools</i> ▪ <i>Assisting in training of Prison Guards, Police, Army and Security Forces</i> 		
	To sensitise people on human rights through publicity, education, information and the use of press organs, <i>including by</i>		
	<ul style="list-style-type: none"> ▪ <i>Publishing an Annual Report</i> ▪ <i>Regularly reporting on important cases through the media</i> ▪ <i>Developing basic brochures on the NI</i> 		
COMPOSITION (GENERAL PLURALISM)	Member Composition demonstrates pluralism (<i>High to Lower</i>)		
	<ul style="list-style-type: none"> ▪ Includes representatives of most social forces including NGOs, trade unions or professional associations ▪ <i>Includes representatives of most vulnerable groups (ethnic, religious minorities, persons with disabilities, etc.)</i> ▪ <i>Single member</i> 		
	<i>Member Composition demonstrates gender balance</i>		
	<i>Staff composition is broadly representative and gender balanced</i>		
COMPOSITION (APPOINTMENT PROCESS)	Appointment effected by official act		
	Appointment is for a specific duration		
	Appointment is renewable		
	Appointment process supports pluralism and independence		
	<ul style="list-style-type: none"> ▪ <i>Nominations include input from civil society</i> ▪ <i>Selection process involves Parliament</i> ▪ <i>Criteria for selection includes demonstrated experience in human rights</i> 		
COMPOSITION (<i>Dismissal Process</i>)	<i>Conditions for which a member may be dismissed are set out in Legislation</i>		
	<i>Conditions relate to serious misconduct, inappropriate conduct, conflict of interest or incapacity only</i>		
	<i>Decision to dismiss requires Parliamentary approval</i>		
INDEPENDENCE	If Government Officials in membership, they have advisory capacity only		
	NI reports directly to Parliament		
	Members have immunity for official acts		
	State funding is sufficient to allow for independent staff and separate premises		
	<i>State funding is sufficient to allow for core programming in protection and promotion</i>		
	Funding not subject to financial control which might affect independence		
	<i>Budget drawn up by the NI</i>		
	Budget separate from any Department's budget		
	<i>NI has authority to defend budget requests directly before Parliament</i>		

	Budget are secure		
	<ul style="list-style-type: none"> ▪ <i>Not subject to reduction in year for which it is approved</i> ▪ <i>Not subject to arbitrary reduction from one year to the next</i> 		
METHODS OF OPERATION (<i>Examination of Issues</i>)	The NI can consider any issue within its competence on its own initiative on the proposal of its member or any petitioner		
	The NI can hear any person or obtain and information or document necessary to carry out its work		
	<i>The right to hear any person and obtain any document is enforceable in law</i>		
	<i>The right to enter any premises to further an investigation set out in law</i>		
	<i>Obstruction in obtaining, or denial of, access to a person, document or premises is punishable in law</i>		
	<i>The NI has the legal authority to enter and monitor any place of detention</i>		
	<i>The NI can enter the place of detention without notice</i>		
METHODS OF OPERATION (<i>Meetings</i>)	The NI can let the public know of opinions or recommendations, including through the media, without higher approval		
	The NI meets regularly and in plenary		
	Special meetings can be convened as necessary		
	All members are officially convened for meetings		
METHODS OF OPERATION (<i>Organisational Structure</i>)	The NI can set up working groups		
	The NI can set up regional or local offices		
METHODS OF OPERATION (<i>Consultation</i>)	The NI consults with other bodies responsible for promoting and protecting human rights		
	The NI consults with NGOs working in human rights or related fields		
	<i>The NI carries out joint programming with NGOs working in human rights or related fields especially in awareness raising and education</i>		
Principles Applying to Quasi-Judicial NIs			
COMPETENCE TO INVESTIGATE	NI can receive individual complaints		
	<ul style="list-style-type: none"> ▪ Complaints may be filed by the individual affected ▪ Complaints may be filed by representatives of the individual ▪ Complaints may be filed by third parties ▪ Complaints may be filed by representatives organisations, such as NGOs 		
	NI informs parties of their rights and how to access them		
	NI transmits complaints to other authorities to the extent allowed in law		
	NI uses conciliation to resolve issues		
RESPONSIBILITIES IN INVESTIGATION	NI makes binding decisions to the extent allowed in law		
	NI makes recommendations on reforming law, regulations or practices when finding shows these at fault		

Annex II

CHART OF THE STATUS OF NATIONAL INSTITUTIONS

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ACCREDITED BY THE INTERNATIONAL COORDINATING COMMITTEE OF NATIONAL INSTITUTIONS FOR THE PROMOTION AND PROTECTION OF HUMAN RIGHTS

In accordance with the Paris Principles and the ICC Sub-Committee Rules of Procedure, the following classifications for accreditation are used by the ICC:

- A:** Compliance with the Paris Principles;
- A(R):** Accreditation with reserve – granted where insufficient documentation is submitted to confer A status;
- B:** Observer Status - Not fully in compliance with the Paris Principles or insufficient information provided to make a determination;
- C:** Non-compliant with the Paris Principles.

A STATUS INSTITUTIONS

National Institution	Status	Year reviewed
<i>Asia and the Pacific</i>		
Australia: Australian Human Rights and Equal Opportunity Commission	A	1999 Oct 2006
Fiji: Fiji Human Rights Commission	A (suspended) Note: Fiji resigned from the ICC on 2 April 2007	2000 Accreditation suspended in March 2007 for review in October 2007 Commission resigned from the ICC 2 April 2007
India: National Human Rights Commission of India	A	1999 Oct 2006
Indonesia: National Human Rights Commission of Indonesia	A	2000 March 2007
Malaysia: Human Rights Commission of Malaysia (SUHAKAM)	A	2002
Mongolia: National Human Rights Commission of Mongolia	A	2002 – A(R) 2003
Nepal: National Human Rights Commission of Nepal	A	2001 – A(R) 2002 - A A status placed under review April 2006; Still under review March 2007, will be reviewed October 2007
New Zealand: New Zealand Human	A	1999

National Institution	Status	Year reviewed
Rights Commission		Oct 2006
The Philippines: Philippines Commission on Human Rights	A	1999
Republic of Korea: National Human Rights Commission of the Republic of Korea	A	2004
Sri Lanka: Human Rights Commission of Sri Lanka	A	2000 A status placed under review March 2007, will be reviewed in October 2007
Thailand: Office of the National Human Rights Commission of Thailand	A	2004
Africa		
Algeria: Commission Nationale des Droits de l'homme	A	2000 – A(R) 2002 – A(R) 2003
Egypt: National Council for Human Rights	A	Apr 2006 - B Oct 2006
Ghana: Commission on Human Rights and Administrative Justice	A	2001
Kenya: Kenya National Commission on Human Rights	A	2005
Malawi: Malawi Human Rights Commission	A	2000 March 2007
Mauritius: Commission Nationale des Droits de L'homme	A	2002
Morocco: Conseil Consultatif des Droits de L'homme du Maroc	A	1999 – A(R) 2001
Namibia: Office of the Ombudsman	A	2003 (A (R)) April 2006
Niger: Niger Commission Nationale des Droits de L'homme et des Libertés Fondamentales	A	2001 – A(R) 2002 - A Apr 2006 (reviewed)
Nigeria: Nigerian Human Rights Commission	A	1999 – A(R) 2000 - A October 2006 (special review) Placed under review March 2007, will be reviewed October 2007
Rwanda: National Commission for Human Rights	A	2001
Senegal: Comité Sénégalais des Droits de L'homme	A	2000
South Africa: South African Human Rights Commission	A	1999 – A(R) 2000
Tanzania: National Human Rights Commission	A	2003 – A(R) 2005 - A(R) October 2006
Togo: National Commission for	A	1999 – A(R)

National Institution	Status	Year reviewed
Human Rights		2000
Uganda: Uganda Human Rights Commission	A	2000 – A(R) 2001
Zambia: Zambian Human Rights Commission	A	2003 A (R) Oct 2006
<i>The Americas</i>		
Argentina: Defensoría del Pueblo de la Nación Argentina	A	1999 Oct 2006
Bolivia: Defensor del Pueblo	A	1999 - B 2000 March 2007
Canada: Canadian Human Rights Commission	A	1999 Oct 2006
Colombia: Defensoría del Pueblo	A	2001
Costa Rica: Defensoría de los Habitantes	A	1999 Oct 2006
Ecuador: Defensor del Pueblo	A	1999 – A(R) 2002
El Salvador : Procuraduría para la Defensa de los Derechos Humanos	A	April 2006
Guatemala: Procuraduría de los Derechos Humanos de Guatemala	A	1999 - B 2000 - A(R) 2002
Honduras: Comisionado Nacional de los Derechos Humanos de Honduras	A	2000
Mexico: Comisión Nacional de los Derechos Humanos	A	1999 Oct 2006
Nicaragua: Procuraduría para la Defensa de los Derechos Humanos	A	April 2006
Panama : Defensoría del Pueblo de la República de Panamá	A	1999 Oct 2006
Paraguay: Defensoría del Pueblo de la República del Paraguay	A	2003
Peru: Defensoría del Pueblo	A	1999 March 2007
Venezuela: Defensoría del Pueblo	A	2002
<i>Europe</i>		
Albania: Republic of Albania People's Advocate	A	2003 – A (R) 2004
Armenia: Human Rights Defender of Armenia	A	Apr 2006 – A(R) Oct 2006
Azerbaijan: Human Rights Commissioner (Ombudsman)	A	Oct 2006
Bosnia and Herzegovina: Human Rights Ombudsman of Bosnia and Herzegovina	A	2001 - A(R) 2002 - A (R) 2003 - A (R) 2004
Denmark: Danish Institute for Human	A	1999 – B

National Institution	Status	Year reviewed
Rights		2001
France: Commission Nationale Consultative des Droits de L'homme	A	1999 Oct 2006 review deferred to Oct 2007
Germany: Deutsches Institut für Menschenrechte	A	2001 – A(R) 2002 – A(R) 2003
Greece: National Commission for Human Rights	A	2000 – A(R) 2001
Ireland: Human Rights Commission of Ireland	A	2002 - A (R) 2003 - A (R) 2004
Luxembourg: Commission Consultative des Droits de L'homme du Grand-Duché de Luxembourg	A	2001 – A(R) 2002
Norway : Center for Human Rights	A	2003 A(R) 2004 A(R) 2005 A(R) April 2006
Northern Ireland (UK): Northern Ireland Human Rights Commission	A	2001 - B April 2006 - B Oct 2006
Poland: Commissioner for Civil Rights Protection	A	1999
Portugal: Provedor de Justiça	A	1999
Spain: El Defensor del Pueblo	A	2000
Sweden: Ombudsman Against Ethnic Discrimination	A	1999

A RESERVE STATUS INSTITUTIONS

Asia and the Pacific		
Palestine : The Palestinian Independent Commission for Citizen's Rights	A(R)	2005
Africa		
Chad: Commission Nationale des Droits de L'homme	A (R)	2000 – A(R) 2001 – A(R) 2003 – A(R)
Democratic Republic of Congo: Observatoire National des Droits de l'Homme	A(R)	2005

B STATUS INSTITUTIONS

Asia and the Pacific		
Qatar: national Human Rights Committee of Qatar	B	Oct 2006

Jordan: National Centre for Human Rights	B	April 2006 March 2007
Africa		
Cameroon : National Commission on Human Rights and Freedoms	B	1999 - A Oct 2006
Burkina Faso: Commission Nationale des Droits de L'homme	B	2002 - A(R) 2003 – A(R) 2005 (B) April 2006, March 2007
Europe		
Austria: The Austrian Ombudsman Board	B	2000
Belgium: Mediateur Federal de Belgique	B	1999
The Netherlands: Equal Treatment Commission of The Netherlands	B	1999 - B 2004
Slovenia: Republic of Slovenia Human Rights Ombudsman	B	2000
Russia: Commissioner on Human Rights in the Russian Federation	B	2000 2001

C STATUS INSTITUTIONS

Africa		
Benin: Commission Béninoise des Droits de L'homme	C	2002
Madagascar: Commission Nationale des Droits de l'Homme de Madagascar	C	2000 – A(R) 2002 – A(R) 2003 – A(R) Apr 2006 – status withdrawn Oct 2006
Americas		
Antigua and Barbuda: Office of the Ombudsman	C	2001
Barbados: Office of the Ombudsman	C	2001
Puerto Rico: Oficina del Procurador del Ciudadano del Estado Libre Asociado de Puerto Rico	C	March 2007
Asia and the Pacific		
Hong Kong: Hong Kong Equal Opportunities Commission	C	2000
Iran: Commission Islamique des Droits de L'homme	C	2000
Europe		
Romania: Romanian Institute for Human Rights	C	March 2007
Slovakia: Slovakia Commissioner for Human Rights	C	2002
