

Speaking Notes for

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for a panel discussion on

**The Role of National Human Rights Institutions in  
Promoting and Protecting the Rights of Persons  
with Disabilities**

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National Human Rights Institutions

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Ladies and gentlemen:

Good morning.

I acknowledge the traditional owners of the land on which we meet today.

The invisibility of disability in international law ended on March 30, 2007. On that day I sat in the imposing hall of the United Nations General Assembly in New York representing the International Coordinating Committee of National Human Rights Institutions. I had the honour of witnessing the signing of the United Nations Convention on the Rights of Persons with Disabilities and delivering comments from the ICC on that auspicious occasion.

What a momentous day for the 600 million people of the world with disabilities. It was also an important day for National Institutions. For the first time NHRIs, acting independently, participated in the drafting of a human rights convention. My presence there, representing the ICC, was a tangible acknowledgment of that role.

My being at the signing ceremony was only possible because of the prodigious work of the NHRIs at the eight meetings, held over five years, of the United Nations Ad Hoc Committee mandated by the General Assembly to draft the Convention. National Institutions can be proud of their significant contribution to the successful outcome of the negotiations. Equally important, the institutions showed how their vast collective knowledge of human rights issues around the world could influence advancement at the UN.

Members of the Asia Pacific Forum played an important role in drafting the Convention. Our chair, Commissioner Innes, attended most of the Ad Hoc meetings. Commissioner Innes is universally respected for his wise and calm counsel which helped the Ad Hoc Committee overcome many difficult issues.

Anuradha Mohit, then of the Indian Commission, led the work of the NHRIs during the most crucial period. She too, through her negotiation skills and calming demeanour, played a key role in seeing the Convention to its completion.

Of course March 30 was only the start. The real work, the work of implementing the Convention, must still be done.

So now what? What role can NIs play in ensuring the effective implementation?

Of course our first objective must be to encourage those states that have not yet signed to do so, and to urge those that have signed to ratify.

A little more than half of the states that have NIs in the APF have signed the convention. None have yet ratified it. This is about the same proportion of all UN states that have signed or ratified.

As of today 102 of the 192 member states of the UN have signed the Convention and five have ratified. By UN standards this is very rapid progress.

But we cannot afford to let the momentum wane. We must convince states to make the Convention a priority. National Institutions must do what they can to inform their governments and citizens of how the Convention can make societies just, equal and accessible for all.

Next year, on December 10, 2008, we will mark the 60<sup>th</sup> anniversary of the Universal Declaration of Human Rights. What better way could we mark Human Rights day than by securing the minimum 20 ratifications necessary to implement the Convention. Hopefully we will have many more than twenty.

In its work on the Convention the ICC was particularly concerned with ensuring that it include sound mechanisms for monitoring implementation.

Article 33 of the Convention deals with national implementation and monitoring. The Disability Issues Paper prepared by the APF Secretariat for this meeting, provides an excellent analysis of the implications of Article 33 for NHRIs and some very insightful suggestions on how NHRIs could effectively participate in implementation. This paper will be of great help to NHRIs around the world and I thank APF for preparing it.

Paragraph 1 of Article 33 sets out the obligations of state parties to set up or designate institutional arrangements to facilitate domestic implementation.

Paragraph 2 deals more particularly with the domestic monitoring. It provides that state parties will establish a framework to promote, protect and monitor implementation of the Convention. Of particular note to NHRIs, paragraph 2 also specifies that these accountability frameworks must include one or more independent mechanisms designed so as to take account of the *“the Principles relating to the status and functioning of national institutions for protection and promotion of human rights.”*

The reference to “Principles” of course refers to the Paris Principles. In effect this makes explicit what is already implicit in international law – namely that NHRIs should have a key role to play in holding Governments accountable for their international legal obligations in the field of human rights. In this way NHRIs

can further break down the barriers that often separate international law from domestic law and policy. NHRIs are set to become important conduits for translating general provisions of international law into the domestic policy arena in the disability context.

National Human Rights Institutions are, of course, already actively involved in 'promoting, protecting and monitoring' human rights and can expand this work to cover the specific provisions of the Convention. NHRIs:

- 'promote' through education, awareness-raising, and encouraging further and better implementation of human rights standards and statutes;
- 'protect' through the provision of complaints mechanisms, mediation services, prevention programs, engaging in strategic litigation, and representing complainants before courts and tribunals; and
- 'monitor' by pointing to gaps in domestic law that need to be made good by reference to international law.

Paragraph 3 of Article 33 is also noteworthy. It requires that civil society, in particular persons with disabilities, should be involved and participate in monitoring. The role of disability rights NGOs was indispensable in the drafting of the Convention. It can be equally important in its implementation.

Many NHRIs of course already have a long and distinguished record on disability and human rights. We have a lot to learn from one another. That is why at its annual meeting last March (2007) in Geneva the ICC endorsed a proposal for a data collection project developed by the APF. On behalf of all NHRIs I want to express our gratitude to the APF for initiating this important project.

The project entails a database to support the future work of National Institutions on the Convention. The data developed will help promote social change. NHRIs governments, intergovernmental bodies and society as a whole will know more about human rights violations experienced by persons with disabilities.

Knowing more about the patterns and trends in disability complaints will be of assistance in determining legislative, program and expenditure priorities.

Data on the effectiveness of government and NIs in responding to disability rights issues will help to identify priorities for capacity building.

It will also be possible to use the data to identify and document better practices in complaint handling, promotion and protection.

Your inestimable Kieren Firzpatrick, together with Professor Gerard Quinn, the NHRI focal point for disability, have taken on the task of creating an ad-hoc steering committee of regional NHRI representatives to manage the data base project. The first task of the committee will be to market the project to potential donors.

For NHRIs to effectively monitor and promote implementation and adherence to the Convention it will take careful deliberation by our individual institutions and collectively. That is why I am pleased that the Forum decided to devote a significant part of its agenda today to this issue. I am pleased to report that similar discussions are starting in other regions.

The European Group plans to convene a meeting with the European Disability Forum and possibly the European Parliament in February next year. I understand the European NHRIs are also initiating discussions with civil society on the Convention.

In October the Mexican Commission will convene a meeting of the American NHRIs to discuss roles and responsibilities under the Convention.

And as I speak, a conference on the Convention is taking place in Iceland with several NIs present.

The NGO community is also beginning to turn their minds towards implementation. Several weeks ago Disabled Persons International held its world assembly in South Korea. A Town Hall meeting at the Assembly brought together members of the APF and disabled persons organizations to discuss implementation of the Convention.

In the academic world Harvard Law School is playing a leadership role with a particular focus on the Asia Pacific region. Professor Michael Stein leads the Harvard Project on Disability (HPOD), established in 2004.

Since its inception the Harvard Project has been involved in China in conducting research and helping to draft disability rights legislation.

The Harvard Project will also be advising governments and NGOs in the region over the next few years on transposing the Convention into domestic law. So far, HPOD has committed to work in Bangladesh, Korea, Japan, Laos, and the Philippines.

Most importantly for NHRIs, the Harvard Law School hosted two meetings of NHRIs in Boston in December 2005 and February 2007. At these meetings the NHRIs began to discuss the issue of monitoring. A further such meeting is contemplated for 2008.

I would also like to acknowledge the ongoing work of the Office of the High Commissioner for Human Rights. The OHCHR ably assisted NHRIs throughout the Convention drafting process and is continuing to do so as we move towards implementation. OHCHR is planning to write a manual and guidelines on national implementation and monitoring mechanisms.

So while we are still at the beginning of the process, I think the NHRIs are well on the road to playing the same kind of constructive role in implementation that we played in the drafting of the Convention. This whole process has marked a coming of age of NIs.

No doubt there will be bumps and unexpected curves. But working together I am confident that we will persevere and thereby help to ensure that all people with disabilities are able to lead lives of dignity and respect in full enjoyment of their human rights.

Thank you.

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