



ASIA PACIFIC FORUM
ADVANCING HUMAN RIGHTS IN OUR REGION

Annual Conference

APF Activity Report

APF 12

The 12th Annual Meeting of the Asia Pacific
Forum of National Human Rights Institutions

Sydney, Australia, 24-27 September 2007

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APF ACTIVITY REPORT 2006 – 2007

1 Introduction

The work of the APF can be categorised under three broad areas:

- Strengthening the capacity of individual APF member institutions to enable them to more effectively undertake their national mandates;
- Assisting governments and non-governmental organisations ('**NGOs**') to establish national human rights institutions ('**NHRIs**') in compliance with the minimum international standards contained in the United Nations ('**UN**') endorsed 'Paris Principles'; and
- Promoting regional cooperation on human rights issues.

Throughout the period 1 July 2006 to 30 June 2007 the APF worked with our member NHRIs, local, regional and international NGOs, governments, and international organisations to bring about improvements in human rights.

In line with the Contract the annual report also highlights the implementation of activities, in line with the APF Strategic Plan, under the following seven headings:

- Annual Meetings
- General Advisory Services
- Advisory Council of Jurists
- Information and Promotion
- Regional and International Cooperation
- Capacity Building Projects, and
- Strategic Management

Details of these projects are set out below:

2 Annual Meeting of the APF

The APF was established in 1996 following the inaugural Regional Workshop of National Human Rights Institutions which was held in Darwin, Australia. The second Regional Workshop was held in New Delhi, India from 10 to 12 September 1997, the third annual meeting took place in Jakarta, Indonesia from 6 to 9 September 1998, the fourth annual meeting took place in Manila, the Philippines from 6 to 9 September 1999, the fifth annual meeting took place in Rotorua, New Zealand from 7 to 9 August 2000, the sixth annual meeting took place in Colombo, Sri Lanka from 24 to 27 September 2001, the seventh annual meeting took place in New Delhi, India from 11 to 13 November 2002, the eighth annual meeting took place in Kathmandu, Nepal from 16 to 18

February 2004, the ninth annual meeting took place in Seoul, Republic of Korea, on 13 September 2004, and the tenth annual meeting took place in Ulaanbaatar, Mongolia from 24 to 26 August 2005.¹

The annual meetings of the APF are the largest and most comprehensive regular human rights meetings in the Asia Pacific region. They are a mechanism for the practical advancement of human rights, particularly because they bring together NHRIs, the UN, governments and NGOs in a harmonious, practical and largely non-political setting.

The Eleventh Annual Meeting of the APF was held in Suva, Fiji from 31 July to 3 August 2006. The Fiji Human Rights Commission (**'FHRC'**) hosted the meeting. The APF was responsible for all aspects of the planning and management of the meeting. This included the development of policy papers, organisational logistics, the provision of personnel, fundraising and administration.

Participants included APF member institutions and representatives, as observers, from the institutions of the Maldives and Saudi Arabia, fifty seven international, regional and national non-governmental organizations, the representatives of the governments of Australia, Fiji, India, Indonesia, Malaysia, New Zealand, Pakistan, Philippines, South Africa, Tuvalu, United Kingdom, the representatives of the European Union, Pacific Islands Forum, and United Nations (**'UN'**) agencies such as the Office of the United Nations High Commissioner for Human Rights (**'OHCHR'**), the International Labor Organisation (**'ILO'**), the United Nations Development Programme (**'UNDP'**), the United Nations International Children's Endowment Fund (**'UNICEF'**), the United Nations Educational, Scientific and Cultural Organisation (**'UNESCO'**) and the World Health Organisation (**'WHO'**).

The (then) Vice President of Fiji, H.E. Ratu Joni Madraiwiwi, opened the annual meeting. The four-day meeting included a one-day closed session of the Forum Council and a three-day meeting which was open to observers from international organisations, governments, non-governmental organisations and other interested organisations and individuals.

The major theme of the meeting was the role of NHRIs in promoting and protecting the right to education. The Advisory Council of Jurists met separately to consider the Forum Council's reference on the right to education before joining the plenary session on Day Four of the meeting to present its interim report and recommendations. Other topics addressed during the meeting included 'human rights in the Pacific', 'national institutions, the ILO and international labour standards', and 'human rights defenders'.

The objectives of the annual meeting were to consolidate and build on the program of practical, co-operative activities developed by the APF to

¹ For further details see <http://www.asiapacificforum.net/about/annual-meetings>.

strengthen the functioning and assist in the development of regional national human rights institutions.

The major outcomes of the 11th Annual Meeting included:

Forum Council

- The Fiji Human Rights Commission was unanimously elected to the position of Chairperson of the Forum.
- The National Human Rights Commission of Mongolia and the Australian Human Rights and Equal Opportunity Commission were unanimously elected to the two positions of Deputy Chairpersons.

Membership applications

- The application from the National Society for Human Rights of Saudi Arabia was deferred pending the finalization of the ICC accreditation guidelines and the subsequent review of the Forum's own membership procedures. In doing so Forum Councillors requested that the secretariat offer technical cooperation and assistance to the National Society regarding its compliance with the Paris Principles.

Advisory Council of Jurists

- The Advisory Council of Jurists presented their interim report on the right to education.
- The Forum Council also agreed to develop a reference on the environment.

Administration

- The Forum Councillors reviewed and endorsed the APF's activities over the past twelve months and provided member commissions with an opportunity to discuss a wide range of issues relating to the administration and future directions of the APF.

International Coordinating Committee

- Human Rights Institutions and the involvement of Asia Pacific national institutions in the international human rights system. Forum members elected the national human rights institutions from Australia, India, New Zealand and the Republic of Korea to be the Forum's representatives to the ICC. The Fiji Human Rights Commission will, however, retain its position on the ICC accreditation sub-committee pending the finalization of the ICC reaccreditation guidelines.

12th Annual Meeting

- The Forum Council accepted the offer of the Australian Human Rights and Equal Opportunity Commission ('HREOC') to host the Twelfth Annual Meeting of the APF in 2007.

The Meeting adopted a comprehensive Statement of Conclusions² that reaffirmed the APF's commitment to promoting the development of NHRIs in conformity with the UN Principles Relating to the Status of NHRIs ('Paris Principles')³.

3 General Advisory Services

The APF provides a wide range of advisory services to its member NHRIs and other stakeholders including prospective members, governments and NGOs. This can range from advice on the nature and status of NHRIs to detailed legislative drafting and legal advice. Governments, for example, often provide a copy of draft legislation establishing a NHRI to the APF for comment prior to its introduction into their respective legislatures. This requires that the APF undertake a detailed analysis of the legislation to ensure that the specific provisions are reflective of the mandate, role and functions of NHRIs as set out in the *Paris Principles*. Detailed discussions with Government representatives from both the Foreign Ministry and the Ministry of Justice are then often required to go through specific drafting issues. Alternatively NGOs will also request briefings from the APF on specific issues concerning the appropriate composition of a NHRI to ensure that it complies with the *Paris Principles*. Member NHRIs also request advice on specific thematic or operational issues and the APF has developed specialist networks from amongst its membership to promote 'best practice' on these issues.

3.1 Advice to Members

The APF provided a wide range of advisory services to its member institutions. Advice included (i) the nature and status of NHRIs and compliance with the Paris Principles; (ii) specific issues of regional concern, including but not limited to, disability; anti-terrorism measures; trafficking; national action plans; torture prevention; the right to education; regional human rights mechanisms; internally displaced persons and follow up on previous recommendations of the ACJ; (iii) operational issues such as institutional strengthening, investigation techniques, strategic planning and national action plans; and (iv) the promotion

2 A full set of meeting papers is available at <http://www.asiapacificforum.net/about/annual-meetings/11th-fiji-islands-2006>.

3 *Paris Principles defined at the first International Workshop on National Institutions for the Promotion and Protection of Human Rights in Paris 7-9 October 1991, adopted by Human Rights Commission Resolution 1992/54, 1992 and General Assembly Resolution 48/134, 1993.

of 'best practice' models, particularly through the Senior Executive Officer network and its associated 'secure' section of the APF website.⁴

For example, in terms of the promotion of 'best practice' models, from 28 to 29 September 2006 the APF brought together senior conciliators from around the region to Sydney, Australia to discuss recent developments and case law in alternative dispute resolution techniques.

Sections 5 and 7 of this report also detail a range of advisory and capacity building projects developed to directly address common requests for advice received from APF members institutions.⁵

3.2 Advice to Stakeholders

The APF provided advice on the nature and status of NHRIs and compliance with the Paris Principles to the governments of Cambodia, China, Iraq, Maldives, Pakistan, Saudi Arabia, Timor-Leste and Yemen. For example, the APF provided detailed legislative drafting advice to the Government of Iraq on the 9th and 10th legislative drafts to establish an Iraq National Human Rights Commission as stipulated by the Constitution of Iraq. The APF also met with representatives from the Iraq Ministry of Human Rights concerning the respective drafts. With regard to the Maldives the APF provided advice to the already established Maldives Human Rights Commission concerning its compliance with the Paris Principles and met with the Attorney General of the Maldives to discuss possible legislative amendments to the Commission's establishing legislation to bring the Commission into full compliance with the Paris Principles.

The APF also provided advice concerning the possible establishment of a regional human rights mechanism to the Association of South East Asian Nations ('**ASEAN**') and the Pacific Islands Forum ('**PIF**'). For example, with regard to the ASEAN region, from 29 June to 1 July 2006, the APF participated and spoke at the 5th ASEAN Human Rights Mechanism Workshop in Malaysia and from 28 to 29 September 2006 the APF participated and spoke at a workshop held in Cambodia on the desirability of establishing a Cambodian NHRI and a regional human rights mechanism for ASEAN.

With regard to the Pacific region, from 19 to 26 October 2006, the APF participated and spoke at side events associated with the Pacific Islands Leaders Forum meeting in Fiji. These side events included a civil society meeting and a meeting of government officials on the desirability of establishing NHRIs in Pacific States and in the development of human rights expertise in the Pacific Islands Forum secretariat. From 10 to 12 December 2006 the APF also travelled to New Zealand for discussions on regional human

⁴ For further information see <http://www.asiapacificforum.net/services/networks>.

⁵ Further information can also be obtained at <http://www.asiapacificforum.net/issues>.

rights strategies for the Pacific and the publication of a discussion paper on the possible structure and role for NHRIs in Pacific Island States.

4 Advisory Council of Jurists

The APF established the Advisory Council of Jurists ('**ACJ**') in 1998. The Council advises the APF and its member NHRIs on the interpretation and application of international human rights standards. The ACJ provides a strategic framework within which to further advance the application of international human rights standards.⁶

4.1 Right to Education

The fifth meeting of the Advisory Council of Jurists of the APF was held in Suva, Fiji, from Monday 31 July to Thursday 3 August 2006. The meeting was held over four days, which is one day longer than previous meetings. This was in line with the recommendations of the jurists at their last session in Mongolia to have more time to complete their work.

At the APF's 10th Annual Meeting in Mongolia in August 2005, Forum Councillors agreed to the development of a reference on the general issue of the implementation of economic, social and cultural rights and requested that the secretariat refine this issue and circulate draft terms of reference to Forum Councillors for their consideration and approval.

In the interests of narrowing the scope of the reference and in the light of substantive work already conducted by the OHCHR on the general issue of economic, social and cultural rights, the secretariat recommended that the terms of reference focus specifically on the right to education. The Forum Council subsequently approved terms of reference on the legal obligations of States for the implementation of economic, social and cultural rights, with respect to the right to education. The secretariat then distributed a questionnaire to all APF members requesting information about the particular laws, practices, policies and activities undertaken in their country in relation to the right to education. Questionnaires were also sent to select NGO's and international organisations with expertise in this field.

The responses to the questionnaires were compiled and formed the second half of a comprehensive background paper prepared by the secretariat to assist the jurists in their consideration of the issue. The ACJ considered the terms of reference and the associated background paper at their session held in association with the APF's 11th Annual Meeting in Fiji in August 2006. At the

⁶ The terms of reference of the ACJ are available at <http://www.asiapacificforum.net/acj> and the current membership of the ACJ can be obtained at <http://www.asiapacificforum.net/acj/members>.

conclusion of this meeting the Council presented their interim report to APF member institutions. The Council's final report was subsequently issued to all members for their consideration and adoption.⁷

4.2 Right to Environment

During the reporting period the APF also prepared for the upcoming ACJ reference on the right to environment. This included research on the topic, the development and approval of terms of reference on the topic, the development of a questionnaire to solicit information from member institutions and the drafting of a background paper for the jurists.⁸

4.3 Support to ACJ Jurists

Practical projects to support APF member institutions in carrying out previous ACJ recommendations were developed and implemented. Further details of these projects are provided in section 2.7 of this report.

Finally the APF provided support services to the jurists inter-sessionally. For example, a 'secure' section of the APF website was created for the distribution of draft materials and to facilitate discussion and debate amongst the jurists.⁹ The APF also liaised with the (then) President of the ACJ, Acting Chief Justice Anthony Gates, and the President-elect, concerning the need for then President to withdraw from this position given the resignation of the Fiji Human Rights Commission. Further details concerning the resignation of the Fiji Commission are provided in section 2.8 of this report.

5 Information and Promotion

5.1 General

The APF undertook a range of information and promotional activities on the role and functions of NHRIs and the activities of the APF. These educational activities are designed to (i) improve awareness among political and administrative decision-makers and the wider community of the value and importance of NHRIs; (ii) improve awareness among relevant regional governments and agencies of the appropriate functions, powers, structures

⁷ Full copies of all these associated papers are available at <http://www.asiapacificforum.net/acj/references/right-to-education>

⁸ For further details see <http://www.asiapacificforum.net/acj/references/right-to-environment>.

⁹ <http://www.asiapacificforum.net/acj/acj-upload-area>.

and legislation for NHRIs established in accordance with the *Paris Principles*; (iii) improve awareness among NHRIs of the legislation, casework, techniques, procedures and outcomes of other institutions both within and outside the region; and (iv) provide information about APF activities to members institutions, governments (inside and outside the region), UN agencies, NGOs and the general community.

5.2 Forum Bulletin

The APF published regular issues of a newsletter, titled the *Forum Bulletin*, to keep APF members, governments and NGOs informed of important policy, legal, administrative and training developments in the region.¹⁰ Regular news articles were also placed on the APF website and sent out via email message to APF member institutions.¹¹

5.3 Website

The APF undertook a review and completed updated its website. The new website can be accessed at www.asiapacificforum.net. The new website's structure has been re-designed to provide an 'easier' and more logical format for accessing information. In addition, information resources on the website have been greatly expanded and new 'secure' sections that are password protected have been created to enable our members to have greater interaction on more sensitive or private matters.

5.4 Study Tours and Speaking Engagements

The APF encourages the participation of governments and human rights NGOs in the APF's annual meetings, workshops and training programs. APF members believe that this is an important awareness raising and partnership exercise about the role and functions of NHRIs. For example, at an APF sub-regional workshop held in Jordan on the role of NHRIs and international human rights mechanisms, participants included governments representatives from Jordan, Palestine and Yemen.

In addition the APF received a number of visits from regional government and civil society representatives and engages in bilateral discussions concerning mechanisms for the promotion and protection of human rights. During the reporting period the APF received visits from representatives of the governments of Cambodia and Iraq and from regional and international civil society organisations.

¹⁰ Copies of the Forum Bulletin can be obtained at <http://www.asiapacificforum.net/news/forumbulletin/index.htm>.

¹¹ For example see <http://www.asiapacificforum.net/news>.

The elected APF office holders and staff also participated in significant regional and international speaking engagements. For example, a representative of the Chairperson of the APF spoke at a meeting on ‘democracy and human rights’ organised by the Canadian organisation ‘Rights and Democracy’ which was held in Morocco in March 2007, the Deputy Director of the APF participated and spoke at a meeting of Commonwealth NHRIs held in London at the Commonwealth Secretariat from 23 to 28 February 2007 and the Director of the APF participated and spoke at a conference on NHRIs at the Harvard University Law School from 31 May to 4 June 2007.

6 Regional and International Cooperation

6.1 United Nations Human Rights Council

The UN has on many occasions recognised the important role that NHRIs can play in promoting and protecting human rights at the national level. General Assembly resolution 60/251 recognised that the Human Rights Council will work in close collaboration with NHRIs.¹² It also provided that the participation of NHRIs shall be based on the arrangements and practices observed by the Commission on Human Rights.¹³ These practices allowed individual NHRIs that are fully compliant with the Principles Relating to the Status of NHRIs (the Paris Principles)¹⁴, the International Coordination Committee of NHRIs (**ICC**) and the APF and other regional coordinating bodies to make oral statements and submit documentation during the meetings of the Council.¹⁵

In its resolution establishing the Human Rights Council (GA Res 60/251 of 15 March 2006), the General Assembly explicitly addressed the question of the relationship between the Council and NHRIs (as well as other entities which are not member States). Operative paragraph 5 of the resolutions provided that:

“The Council shall, inter alia . . .

- (g) work in close cooperation in the field of human rights with Governments, regional organizations, *national human rights institutions* and civil society”.

Paragraph 11 provided that the Council should apply the rules of procedure of the General Assembly, to the extent applicable and unless otherwise decided by the Assembly or the Council, and also that:

¹² GA res 60/251, OP 5(g).

¹³ GA res 60/251, OP 11.

¹⁴ *Paris Principles defined at the first International Workshop on National Institutions for the Promotion and Protection of Human Rights in Paris 7-9 October 1991, adopted by Human Rights Commission Resolution 1992/54, 1992 and General Assembly Resolution 48/134, 1993.

¹⁵ See CHR res 2005/74.

“the participation of and consultation with observers, including States that are not members of the Council, the specialized agencies, other intergovernmental organizations and *national human rights institutions*, as well as non-governmental organizations, shall be based on arrangements, including Economic and Social Council resolution 1996/31 of 25 July 1996, and practices observed by the Commission on Human Rights, while ensuring the most effective contribution of those entities.”

In accordance with the resolution, throughout the reporting period the APF, through the development of member approved APF position papers, advocated that arrangements for NHRI participation in the Human Rights Council and its subsidiary bodies should be based on the existing arrangements observed by the Commission on Human Rights as reflected in its resolution 2005/74, namely that:

- **NHRIs** fully accredited by the ICC (i.e. with “A” status) and coordinating committees of such (i.e. the ICC, APF and other regional coordinating bodies) **are permitted to speak under all items of the Council’s agenda;**
- **NHRIs are allocated dedicated seating** in the Council;
- The Council supports **NHRI engagement with the subsidiary bodies** of the Council;
- NHRIs are permitted to **issue documents** as official UN documents under their own symbol numbers;
- The Secretary-General continues to provide, from within existing resources, the necessary **assistance for holding meetings of the ICC** during the sessions of the Council, under the auspices of, and in cooperation with, the Office of the High Commissioner; and
- The Secretary-General continues to provide, from within existing resources and from the UN Voluntary Fund for Technical Cooperation in the Field of Human Rights, the necessary **assistance for international and regional meetings of NHRIs.**

The APF and its member institutions contributed to the institution-building of the Human Rights Council stressing our practical, constructive and consultative approach to human rights promotion and protection. During the reporting period the APF sent representatives to advocate in Geneva from 19 November to 1 December 2006; from 10 to 16 February 2007 and from 16 to 25 March 2007.

The APF also provided the services of its Deputy Director from 21 May to 4 June 2007 to advocate on behalf of the ICC in Geneva at the Council. On the 18 June 2007, the Human Rights Council approved new rules of procedure in which NHRIs were fully accorded the role that they were seeking in the Council and its subsidiary mechanisms.

6.2 UN Regional Meeting of Member States

The UN holds an annual 'framework' meeting in the Asia Pacific for Member States and other stakeholders. NHRIs that are members and registered observers of the APF are specifically invited to attend these annual meetings. During the reporting period the UN postponed its annual meeting. Full details of the rescheduled meeting will be provided in the next annual report.

6.3 UN Convention on Disability

The UN General Assembly established an Ad Hoc Committee to consider proposals for a comprehensive and integral international convention to promote and protect the rights and dignity of persons with disabilities.¹⁶

The APF developed coordinated policy positions on behalf of all its members on this issue.¹⁷ From 14 to 25 August 2006 the APF participated in the 8th and final meeting of the Ad Hoc Committee to finalise the Convention. The delegation comprised Ms Anuradha Mohit, Special Rapporteur on Disability of the National Human Rights Commission of India, advised and assisted by the Director of the APF during the first week and Professor Andrew Byrnes during the second week of the two week meeting.

On behalf of the APF Ms Mohit advocated a strong role for NHRIs in the 'monitoring' aspects of the convention. Largely as a result of the contributions of NHRIs, together with representatives of people with disability, the following provision was included in the drafting of the convention:

Article 33 - National implementation and monitoring

1. States Parties, in accordance with their system of organization, shall designate one or more focal points within government for matters relating to the implementation of the present Convention, and shall give due consideration to the establishment or designation of a coordination mechanism within government to facilitate related action in different sectors and at different levels.
2. States Parties shall, in accordance with their legal and administrative systems, maintain, strengthen, designate or establish within the State Party, a framework, including one or more independent mechanisms, as appropriate, to promote, protect and monitor implementation of the present Convention. When designating or establishing such a mechanism, States Parties shall take into account the principles relating to the status and functioning of national institutions for protection and promotion of human rights.
3. Civil society, in particular persons with disabilities and their representative organizations, shall be involved and participate fully in the monitoring process.

¹⁶ GA resolution 56/168, of 19 December, 2001.

¹⁷ A copy of the agreed APF position and associated discussion papers can be obtained at www.asiapacificforum.net/annual_meetings/seventh/disability.doc.

This is much more specific than the general “obligations” clauses contained in previous human rights instruments, which require States to use “all appropriate means, including particularly the adoption of legislative measures” or to “to adopt such legislative or other measures as may be necessary to give effect to the rights recognized in the present Covenant”.

The existence of NHRIs indicates an acceptance, in those States where NHRIs exist, of the importance of national monitoring mechanisms as a part of the implementation of human rights obligations entered into by those States, rather than the combination of domestic legislative measures and international monitoring being regarded as sufficient.

The express incorporation of this insight into a major human rights instrument is both a necessary response to the specific issues raised by disability, and a welcome precedent for the development and implementation of human rights law more generally.

The Convention on the Rights of Persons with Disabilities was opened for signature on 30 March 2007 and has already been signed by over 100 States.

6.4 International Coordinating Committee of National Institutions

The ICC held its bi-annual international conference in Bolivia from 22 to 31 October 2006. During the course of the international conference the APF successfully advocated rule changes to the ICC to limit the term of office of the Chairperson and Deputy Chairperson and to rotate these positions from around the four designated regions of the ICC.

In association with the March 2007 session of the Human Rights Council, the APF participated in the annual meeting of the ICC and various ‘side events’ on relevant topics. At this meeting the ICC endorsed a proposal from the APF for the development of a database on disability rights matters for NHRIs. The APF proposed that, as this is a new area of human rights promotion, much work still needs to be done to develop awareness and build capacity within the international system, governments, NGOs and NHRIs to promote and protect the rights of people with disability. In particular, to date, very little information is available regarding the disability rights decisions of NHRIs. Given the significant role already undertaken in the region by NHRIs and the APF to protect and promote the rights of people with disabilities, Disability Rights Promotion International (DRPI) and the APF agreed to collaborate to create and field test a tool for the collection and categorisation of disability rights cases decided by NHRIs.¹⁸

¹⁸ Further information on DRPI can be obtained from www.yorku.ca/drpi.

This APF proposal was submitted to the ICC for consideration and endorsement. The ICC subsequently endorsed the proposal and agreed that the following institutions, as representatives of their regions, would join with the APF and become members of the steering group for the project – the South African Human Rights Commission on behalf of the African region, the Mexican Human Rights Commission on behalf of the American region, and the Irish Human Rights Commission on behalf of the European region.

7 Capacity Building Projects

The APF provides a range of training capacity building projects to APF member institutions and invited government and NGO stakeholders. During the reporting period this included the following:

7.1 National Inquiry Training

The APF developed training materials and an accompanying training DVD on the use of ‘national inquires’ as mechanism to promote and protect human rights on a systemic basis. The implementation and evaluation of the first ‘pilot’ training course will occur on a sub-regional basis for the NHRIs of South Asia. It will be hosted by the National Human Rights Commission of India in November 2007.

7.2 Investigations Training

The APF implemented its ‘in-country’ training program on investigation techniques with the National Human Rights Commission of Malaysia. A preparatory visit to assess the functions of the complaints and investigations division of the Commission occurred from 12 to 16 September 2006 and the training was implemented from 15 to 17 November 2006.

The training course provides foundation knowledge and skills in the investigation of alleged infringements of human rights. In particular the program provides participants with (i) an overview of various models of investigation and an opportunity to clarify the appropriate model(s) of investigation within the specific national context, (ii) the purpose of investigations and the role of the investigation officer; (iii) an understanding of international human rights instruments as relevant to the legislative national context and associated legal definitions and concepts; (iv) information on approaches to the assessment of complaints with particular reference to variables that influence determination of priority handling, preliminary or formal investigation and early resolution; (v) an understanding of key legal principles that guide the conduct of investigations into alleged infringements of human rights; (vi) a model to plan investigations to ensure they are efficient and effective; (vii) knowledge and skills to enable the efficient and effective

gathering of evidence relevant to an investigation; (viii) knowledge and skills to enable the efficient and effective analysis of evidence that has been gathered; and (ix) knowledge and skills to enable appropriate handling of evidence, efficient and effective documentation of an investigation and appropriate file and caseload management.¹⁹

7.3 People's Republic of China

In association with the Raoul Wallenberg Institute ('**RWI**') and the China University of Political Science and Law, the APF participated in a seminar on the role and functions of NHRIs which was held in Beijing, People's Republic of China from 4 to 7 October 2006. The seminar brought together representatives from various universities throughout China, governmental agencies, the Supreme People's Court and the National People's Congress.

From 7 to 11 May 2007 the APF facilitated a study visit by a delegation from the People's Republic of China to the National Human Rights Commission of the Republic of Korea to examine the issue of "independence" and how this might operate in the current Chinese context. In addition to a program of meetings with the Korean Commission, the delegation met with Korean government, parliamentary and civil society representatives.

7.4 Torture Prevention Training

In April 2006, the APF and the Association for the Prevention of Torture ('**APT**') concluded a joint partnership agreement with the objective to assist APF member NHRIs to follow up on the country-specific recommendations included in the 2005 Advisory Council of Jurists reference on torture.

The first of these training programs was run from 14 to 17 November 2006 with the National Human Rights Commission of the Republic of Korea in Seoul, South Korea. Over 30 participants attended all four days of the seminar, the overwhelming majority of them staff of the Commission. Additional stakeholders were invited to participate from the Corrections Department of the Ministry of Justice, a delegate from the National Police Service, as well as NGO representatives.

The objectives of the training were (i) to enhance the capacity of the Korean Commission to monitor places of detention and (ii) to assess to what extent the Commission complies with the requirements set forth by the UN Optional Protocol under the convention Against Torture for a "National Preventive Mechanism". In addition to the provision of background information and practical skills training, a visit was organised to a prison facility in Korea.

¹⁹ For further information on this program see www.asiapacificforum.net/training/investigations/index.htm.

Following an evaluation of the Korean 'pilot' program, the joint APF-APT training course was made available to all APF member institutions. From 22 to 28 April 2007 the program was run with the National Human Rights Commission of the Maldives and from 25 to 29 June 2007 with the National Human Rights Commission of Thailand.

7.5 Training on the Prevention of Torture

From 14 to 17 November, the OHCHR conducted a training program for the staff of NHRIs in Asia Pacific region on their role in monitoring and combating torture in Jakarta, Indonesia in November 2005. The training hosted by the Komnas HAM was part of long distance training by CD ROM. The participants were trained on skills on the prevention of torture and detention monitoring and discussed their experiences of them. Mr Sung-Yong Hwang, Projects Manager of the APF, acted as a resource person for the training.

7.6 APF-RWI Introductory Training

From 23 November to 1 December 2006, the APF in collaboration with the RWI, conducted a two week regional introductory training program for staff representatives of all of the APF member NHRIs. This was the third in a series of training courses run in partnership with the RWI under a joint memorandum of understanding. The training program was on general human rights law and theory with a specific emphasis on the role and functions of NHRIs. The training was held in Bangkok, Thailand.

7.7 NHRIs and the International Human Rights System

From 10 to 14 December 2006, the APF, in collaboration with the International Service for Human Rights ('ISHR') implemented a sub-regional training program for APF members in the West Asia sub-region. The training course was held in Amman, Jordan and was hosted by Jordan's National Centre for Human Rights.

Plans to develop and present this training course stemmed from APF research into the training needs of its members. The APF training needs analysis identified, *inter alia*, training in sub-regional groups on the role of NHRIs and their interaction with the international human rights system. The APF and ISHR collaboratively developed a pilot training program that reflected these needs. The training course in Amman was attended by 26 people from 5 member institutions – from Jordan, Afghanistan, Australia, Palestine, Qatar – plus two representatives from the Government of Yemen.

A key aspect of this pilot program was the development of training materials for use in future sub-regional training courses on this topic.

7.8 NHRIs and Human Rights Defenders

From 19 to 23 February 2007 the APF, in collaboration with the ISHR implemented a sub-regional training program for APF members in the South East Asia sub-region. The training course was held in Bangkok, Thailand and was hosted by National Human Rights Commission of Thailand.

Plans to develop and present this training course stemmed from APF research into the training needs of its members. The APF training needs analysis identified, *inter alia*, training in sub-regional groups on the role of NHRIs as both human rights defenders themselves and as protectors of other human rights defenders. The APF and ISHR collaboratively developed a pilot training program that reflected these needs. The training course in Bangkok was attended by 28 people from 5 member institutions – from Indonesia, Malaysia, Philippines, Thailand and Timor-Leste.

A key aspect of this plot program was the development of training materials for use in future sub-regional training courses on this topic.

7.9 Internally Displaced Persons

Since 2004, the Brookings Institution-Bern Project on Internal Displacement (Brookings-Bern Project) and the APF have worked in partnership to undertake capacity-building activities with APF member institutions in an effort to integrate the issue of internal displacement into their work.

In 2007, with the continued support of the APF/Brookings program, the APF member institutions of India, Sri Lanka, Nepal, Timor-Leste and Thailand undertook the following activities.

The National Human Rights Commission of India, in cooperation with the Calcutta Research Group organised a series of training programs throughout India including Bangalore, Bhuvanewar and Kolkata on displacement. The Sri Lankan Human Rights Commission continued to monitor the rights of those persons displaced by the Indian Ocean Tsunami of 2005. The National Human Rights Commission of Nepal monitored the rights of internally displaced persons (IDP's) displaced by a decade of internal conflict and also undertook surveys of IDPs to collect important data. It is also reviewing the Nepalese Government's policy on internal displacement. The Provedor for Human Rights and Justice of Timor-Leste focused on promotional and educational activities regarding the rights of Timorese displaced by the political and security crisis in Timor-Leste of April 2006. This crisis had caused the displacement of over 150,000 people from their homes. Further, and in a separate arrangement with the APF, the National Human Rights Commission of Thailand received additional support to continue its educational and training services to villagers displaced by development projects in Thailand.

Reports on all these activities are available, on request, from the APF secretariat.

7.10 Pacific Island States

Following on from the four major activities reported on in detail in the APF's previous annual reports, the APF worked with the Fiji Human Rights Commission ('**FHRC**'), the New Zealand Human Rights Commission, the OHCHR and PIF on a research project to examine the possible forms and functions of national human rights institutions for small Pacific States.

The purpose of the research project was to stimulate and inform discussion about the establishment of practical human rights mechanisms in the Pacific region given some States limited institutional capacity.

Consultations were held in Samoa, Tuvalu and Niue. A draft research paper was prepared and distributed for comments and submissions were received in response. The final paper titled "National Human Rights Institutions – Pathways for Pacific States" was released in June 2007.

7.11 Staff Placements & Exchanges

From 3 to 17 October 2006, two senior members of the National Human Rights Commission of India were placed within various sections of HREOC. In return, from 29 January to 10 February 2007, two senior staff of HREOC were placed within various sections of the Indian Commission. The staff exchanges enabled both Commissions to reflect on how they perform their respective mandates for the promotion and protection of human rights.

During the reporting period the APF also entered into an agreement with (i) the National Human Rights Commission of Indonesia for the placement of at least five of their staff members in other APF member institutions in the region and (ii) the New Zealand Human Rights Commission and PIF for the placement of government and civil society representatives from Pacific Island States in NHRIs in the region.

8 Strategic Management

During the reporting period the APF was responsible for the strategic management of the organisation and its operations.

8.1 Implementation of APF Strategic Plan

With the exception of the activities outlined in section 8.2, all activities identified and approved by Forum Councillors in the APF's approved Strategic Plan were successfully completed. In addition, the strategic management of the APF included:

- servicing the APF Chairperson, meetings of the full Forum Council and any sub-committees established by the Council;
- identifying international issues and pursuing activities that support the APF's mission and vision for the region;
- identifying and pursuing opportunities to increase regional participation and representation across the breadth of its activities including the involvement, wherever possible, of non-member institutions, governments and civil society;
- completing all monitoring, evaluation and reporting requirements;
- identifying and implementing risk management strategies for all project activities and the overall operation of the APF;
- implementing a long-term fund development strategy to achieve financial stability and support for a growing organisation;
- the effective, efficient and equitable management of APF financial and human resources; and
- strengthening the APF's governance and organisational structure through the development of board and operational policies.

8.2 Planned Activities Not Implemented

During the reporting period the APF did not undertake the following three activities projected in its 2006-07 Annual Plan.

Firstly, the APF had hoped to continue to provide detailed legislative drafting advice to the Government of the Solomon Islands on the establishment of a NHRI following the high level APF delegation to the Solomon Islands in 2005 and the resultant commitment of the (then) Government to establish a NHRI. However a change in the elected government and a resultant change in policy priorities concerning the establishment of a NHRI meant that this was not possible.

Secondly, the APF had planned to hold a thematic regional training workshop on "Human Trafficking" in association with the Malaysian Human Rights Commission. Due to a decision to by the Malaysian Commission to focus this activity on a 'national' rather than 'regional' basis, this activity was not implemented.

Thirdly, the APF had planned to hold a sub-regional workshop in the Pacific on the establishment of NHRIs. This workshop was due to be held in association with the publication of the paper as outlined in section 7.10 above. However, a military coup in Fiji and the subsequent investigation into the activities of the FHRC and its resignation from the APF meant that this project was postponed.

8.3 Fiji Human Rights Commission

Following the overthrow of the democratically elected Government of Fiji on 5 December 2006, the Chairperson of the ICC initiated a review of the Fiji

Commission's compliance with the Paris Principles. The review was undertaken by the ICC Sub-Committee on Accreditation and it paid particular attention to the appointment by the military of a new Acting Chairperson to the Fiji Commission and the actions of the Commission since the coup which called into question its independence. On 22 March 2007 the ICC adopted a recommendation from the ICC Sub-Committee and resolved that the Fiji Commission's "A" status be suspended until the Fiji Commission could provide information to demonstrate that it was still compliant with the Paris Principles. In summary this decision was based on the following:

- (a) As a principle, the ICC expects that, in a situation of a coup d'état or a state of emergency, a NHRI will conduct itself with a heightened level of vigilance and independence in the exercise of its mandate;
- (b) The appointment of the Acting Chairperson of the Fiji Commission did not appear to follow the requirements of the Fiji Constitution and therefore the Fiji Commission's obligations under the Paris Principles;
- (c) After considering the evidence before it, including the Fiji Commission's report of 4 January 2007, it was the view of the ICC that the report of the Fiji Commission validates the military government to the extent that the ICC considers that the ability of the Fiji Commission to implement its human rights mandate in an independent manner has been compromised.

The ICC requested that the Fiji Commission provide information as to why the institution still complied with the Paris Principles and why the suspension should be lifted before the ICC sub-committee next met in October 2007. In response to this decision the Fiji Commission resigned from the ICC.

In tandem with the actions of the ICC, following the appointment of a new Acting Chairperson to the Fiji Commission, the APF determined to undertake a review of the Fiji Commission to determine its compliance with the Paris Principles. The Fiji Commission initially accepted the APF review. However as deadlines passed for the submission of information by the Fiji Commission, the Fiji Commission became hostile to the review.

The Forum Councillors of the APF met on 20 March 2007 and made a unanimous decision to continue with the review of the Fiji Commission's compliance with the Paris Principles under rules 11.4(a)(1) and 11.4(a)(2) of the APF Constitution. The APF further determined to send a mission to Fiji to be comprised of three representatives from APF member institutions to hold face to face discussions with the Commission and other stakeholders. Finally the Forum Councillors removed the Fiji Commission from the position of APF Chairperson for the period of the review and elected the South Korean Commission to this position. This decision was communicated to the Acting Chairperson of the Fiji Commission on 28 March 2007. On Monday 2 April 2007 the APF was advised by the Fiji Commission "that the Fiji Human Rights Commission is agreeable to a review by the APF and looks forward to discussing with the secretariat the terms of reference, timing, as well as the selection of the person or persons to undertake the review." On 3 April 2007 the Fiji Commission tendered their letter of resignation from the APF.

Under the APF Constitution, rule 12.1 ('resignation') states that "An institution immediately ceases to be a member if the institution ... resigns as a member by giving written notice to the Forum." Given this development, the proposed visit to Fiji by an APF delegation to conduct a review of the Commission's compliance with the Paris Principles did not proceed.

The resignation of the Fiji Commission reduced the membership of the APF from 17 to 16 member institutions.

8.4 Staffing, Placements and Interns

During the reporting period the following staffing changes occurred;

- Ms Yoojin Oh was placed with the APF secretariat from the National Human Rights Commission of the Republic of Korea from 14 August 2006 to 9 February 2007;
- Ms Sorcha O'Carrol commenced as a intern on behalf of 'Rights and Democracy' from 18 September 2006 to 16 March 2007;
- Ms Swalaha Swalaha finalised her employment with the APF on 28th September 2006;
- Ms Thuy Doan-Smith commenced maternity leave on 29th September 2006;
- Ms Suraina Pasha commenced employment with the APF on 7 November 2006;
- Mr Stephen Clark finalised his employment with the APF on 13 April 2007; and
- Mr Greg Heesom commenced his employment with the APF on 1 May 2007.

8.5 Strategic Plan 2007 - 2009

A new three year strategic plan for the period 2007 to 2009 was developed and approved by Forum Councillors.

The APF's strategic plan for the period 2004 to 2006 detailed the activities necessary for the APF to successfully build upon its organisational transformation to become a fully fledged regional organisation. The key strategic goals of this plan were successfully implemented.

The APF's strategic plan for the period 2007 to 2009 is designed to consolidate and build on these achievements. It outlines the key strategic objectives and goals necessary for the APF to further strengthen its operations and to meet its mission and vision statements. The plan also outlines an operations plan to provide effective support to its members. Finally the plan details project outcomes and associated performance indicators.

8.6 Rules of Procedure

During the reporting period the APF secretariat developed draft rules of procedure to assist in the efficient and effective conduct of APF annual meetings. The draft rules of procedure reflect the fact that the Annual Meetings of the APF are comprised of the following three distinct types of meetings:

- (i) The Meeting of Forum Councillors: The Forum Councillors, who for the purpose of the *Corporations Act 2001* (Cth) (the Corporations Act) are the directors of the APF, must meet prior to the Annual General Meeting of APF member institutions, to finalise the annual reports of the APF. Meetings of Forum Councillors may consider any matter relating to the membership, activities, policy and strategic direction of the APF.
- (ii) The Annual General Meeting of APF Member Institutions (AGM): As required by the Corporations Act, the purpose of the AGM is for Full member institutions to receive from Forum Councillors the APF annual financial report, directors' report and auditor's report.
- (iii) The APF Conference: The APF Conference is held in open plenary session and brings together APF members and other national human rights institutions, United Nations agencies, governments, non-government organisations and other stakeholders in a cooperative setting to discuss and share expertise on human rights issues in the region.

Given these three distinct meetings, the APF secretariat drafted, for the consideration of Forum Councillors, three separate rules of procedures for (i) meetings of Forum Councillors, (ii) the Annual General Meeting and (iii) the APF Conference. These will be considered at the 12th Annual Meeting of the APF. If further time is required for discussion, the issue will also be placed upon the agenda for the meeting of Forum Councillors to be held in Geneva in the first quarter of 2008.

9 Finances

Financial support from a growing number of bilateral and multilateral donors facilitated a growth in APF projects and programs throughout the region. The increased range of donors demonstrates the APF's value and well-established expertise as a trusted partner in the promotion and protection of human rights in the region and has made the APF one of the most diversified regional organisations in the Asia Pacific.

Supporters of the APF have included the APF's member institutions through membership fees and other financial and 'in kind' donations, the Governments of Australia, India, New Zealand, Republic of Korea, Sweden, Thailand, United Kingdom and the United States, philanthropic organisations such as the British

Council, Brookings Institution, MacArthur Foundation, National Endowment for Democracy, Norwegian Refugee Council and the Raoul Wallenberg Institute, philanthropic individuals and inter-governmental organisations such as the Commonwealth Secretariat, UNESCO, UNICEF, OHCHR and UNDP.

9.1 Contingency Fund

As per the discussion of Forum Councillors at the 11th Annual Meeting, the APF secretariat has managed the APF finances in order to generate a surplus of funds. This strategy is to ensure that the APF could continue to service its members and implement projects even in a situation where one of its major donors withdrew sponsorship. The aim was to establish a contingency fund which contained approximately one year's operational expenditure to enable the APF a sufficient period of time to raise alternate funding from other donor sources. As at 2007 the operational expenditure of the APF is budgeted at \$1.7 million for the year.

The APF's independently audited financial statements for the period are contained in the auditor's report which is tabled as part of the AGM papers.