



ASIA PACIFIC FORUM
ADVANCING HUMAN RIGHTS IN OUR REGION

Working Group on Migration Proposal

APF 15

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Forum of National Human Rights Institutions

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PROPOSAL

APF Working Group on Migration

1 Background

From 10 to 12 November 2008, the **National Human Rights Commission of Korea** organised an international conference on the human rights of migrants. Representatives from the NHRIs of **Indonesia, Malaysia, Maldives, Mexico, Mongolia, Nepal, Philippines** and **Thailand**, together with representatives from the International Coordinating Committee of National Institutions ('**ICC**'), the Asia Pacific Forum of National Institutions ('**APF**') secretariat and other international and national civil society organisations participated in the conference. The conference concluded with the adoption of the 'Seoul Guidelines on the Cooperation of NHRIs for the Promotion and Protection of Human Rights of Migrants in Asia' (the Seoul Guidelines).

Amongst other recommendations, paragraph 57 of the Seoul Guidelines states:

“A proposal shall be made to the APF Councillors for the creation of a Working Group on Migration, as decided at the 8th International Conference of National Institutions for the Promotion and Protection of Human Rights (Santa Cruz, Bolivia, 24-26 October 2006).”

At the 14th Annual Meeting of the APF, held in Amman, Jordan in August 2009, the representatives of the Korean Commission tabled a proposal to establish an 'APF Working Group on Migration'. In considering this issue the APF Forum Councillors “approved in principle the establishment of an APF Working Group on Migration, and requested the Korean Commission and the secretariat to work with interested national institutions to refine the terms of reference of the Working Group.”

2 Comment

The APF secretariat is of the view that in formalising the terms of reference of an APF Working Group on Migration, careful consideration should be given to the respective roles and strengths of the ICC and APF.

As indicated in the Seoul Guidelines, the 8th International Conference of NHRIs was held in Santa Cruz, Bolivia, from 24 to 26 October 2006. The theme of the conference was devoted to the role of NHRIs and migration. The NHRIs attending the 8th International Conference adopted the 'Santa Cruz Declaration' which sets out a wide range of operational and policy guidelines for the work of NHRIs in the area of migration. In order to implement the Santa

Cruz Declaration, NHRIs agreed to undertake five specific actions (as set out in paragraphs 19 to 23 of the Declaration). These included:

1. To establish a Working Group through the ICC to define a concrete plan of action to implement this Declaration;
2. To develop and implement within NHRIs strategies to address human rights migration issues;
3. To develop plans of action among NHRIs of relevant sending, transit and receiving States in cooperation with partners including civil society;
4. To request OHCHR to prepare a study which could also include NHRI best practice in relation to migration; and
5. To encourage their States to support the Migrant Worker's Committee and the Special Rapporteur on the human rights of migrants and call for the ratification, and its implementation, of the International Convention on the Protection of Rights of All Migrant Workers and members of their Families and report back to the next session of the ICC on concrete measures taken in this regard.

The Santa Cruz Declaration's main focus is on (i) the activities individual NHRIs could take in the area of migration and (ii) collective action through the ICC. The Declaration makes limited reference to regional networks of NHRIs (such as the APF), and where it does so, it requests that the networks support the activities of the ICC (see paragraph 19). To date the decision to establish a Working Group through the ICC to define a concrete plan of action to implement the Declaration has not occurred. This responsibility rests with the ICC. APF member institutions may therefore wish to recommend to the ICC that the proposal to establish a working group, as set out in the Santa Cruz Declaration, be implemented.

The secretariat is of the view that the existing scope of issues under the term 'migration' included in the Santa Cruz Declaration is too broad to enable a working group to be operationally effective within the APF framework. The term migration in the Santa Cruz Declaration encompasses a wide range of different situations within the migratory phenomenon and relates to a broad category of persons, including refugees, regular and irregular migrant workers, victims of trafficking, victims of human smuggling, stateless persons, etc, all of who come under different protection regimes and frameworks under international law.

As APF member institutions would be aware, the APF already undertakes training and joint activities on issues relating to the human rights of migrant workers.

Given the above issues the secretariat makes the following recommendations.

3 Recommendations

Consider whether to recommend the establishment of an ICC Working Group on Migration

The secretariat recommends that Forum Councillors consider whether or not to recommend to the ICC the establishment of an ICC Working Group on Migration, as set out in the Santa Cruz Declaration.

Consider the establishment of ‘focal points’ within interested APF member institutions on Migrant Workers’ rights

The secretariat proposes that Forum Councillors interested in the issue consider the identification of a focal point within their individual institutions. The focal point could be a senior NHRI staff member working on the promotion and protection of migrant workers rights who would report back to the Senior Executive Officer of the institution. The proposal is to confine the scope of this issue to ‘migrant workers’ following existing APF activity in this area and the expressed interest of Forum Councillors to increase cooperation amongst APF members on this issue.

The secretariat proposes to liaise with the identified focal points to achieve the following outcomes:

- To assist in the identification of ‘best practices’ amongst APF member institutions on this issue;
- To assist in the development of an APF training manual on migrant workers rights;
- To facilitate the creation of a pool of potential trainers from amongst NHRI staff to carry out training on the rights of migrant workers.

The main activities of the focal points would be to:

- Assist in the identification and collation of NHRI best practices regarding the promotion and protect of rights of migrant workers by NHRIs in the Asia Pacific region.
- Provide input into the development of an APF training manual on migrant workers rights.

- Facilitate the identification of NHRI staff members with expertise in providing training on migrant workers rights.

The main working methods of liaising with the focal points would be via email. Where relevant / necessary, the APF secretariat will organise multi-party conference calls for the focal points. It is anticipated that the total number of hours required for each focal point to achieve the outcomes listed above would be approximately 20 hours.