

**Sixth Annual Meeting on the Role of the Asia Pacific Forum  
in the Protection and Promotion of Human Rights  
Colombo, Sri Lanka, 24-27 September 2001**

**Oral Intervention of the Pre Forum NGO Consultation  
on Racism, Racial Discrimination, Xenophobia and Related Intolerance: Report on  
the Outcomes from the World Conference<sup>1</sup>**

The Durban Program of Action urges States to “establish, strengthen, review and reinforce the effectiveness of independent National Human Rights Institutions, particularly on issues of Racism, Racial Discrimination, Xenophobia and Related Intolerance.” One of the strongest voices to emerge from the World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance (WCAR) in Durban was that of National Human Rights Institutions (NHRIs). Stressing the importance of these and other specialized institutions in combating racism, racial discrimination, xenophobia and related intolerance, the National Institutions’ Statement to the WCAR outlined a framework of action based on and consistent with the Paris Principles. It called for, among other things, the setting up of NHRIs in States where there were none, for the inclusion of the struggle against racism in the mandates of National Institutions, and for adequate human and financial resources for the institutions.

The run-up to the WCAR had also seen a number of positive signals on various issues from National Institutions in Asia. The National Human Rights Commission of India (NHRC) for example, commendably defied the Indian Government’s stand on the inclusion of ‘caste’ in the agenda for Durban. In its statement to the WCAR, the NHRC noted that it was “convinced that discrimination on any of the grounds contained in the Constitution of India, and these include race, caste and descent, constitute an unacceptable assault on the dignity and worth of the human persons and an egregious violation of human rights.” In addition, the NHRC, the Australian Commission on Human Rights and Equal Opportunity needs to be commended for its wide consultation with the civil society prior to the WCAR.

These statements and signals have to be followed up with more forceful language on implementation of international standards by States. Under the Paris Principles, NHRIs are obliged to encourage ratification of international human rights instruments to which the State is a party, or accession to those instruments, and to ensure their implementation. This was reinforced by the NHRIs’ statement to the WCAR which pledges that they will “work to ensure that their respective governments ratify international human rights treaties without reservations contrary to the object and purpose of the treaty, remove

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those existing reservations and fully implement international human rights treaties, in particular treaties relating to racism, racial discrimination, xenophobia and related intolerance.”

Institutions in the Asia-Pacific region still have some work to do in this regard. Some have to lobby for ratification, others for the lifting of reservations, others for the deposition of declarations in support of Article 14 of the UN Convention for the Elimination of Racial Discrimination (CERD) that allows for individual communications to be heard by the CERD Committee.

According to the National Institutions’ statement, NHRIs must also “act as a channel between action at the international level – through International Treaty Bodies, particularly the CERD, the special procedures, human rights resolutions and other mechanisms – and action at the national level to combat racism.” With many UN member States, including those in the Asia-Pacific, consistently delaying the submission of reports to international treaty bodies, national institutions need to urgently step up the monitoring of their governments’ reporting performance, and insist on compliance. We also recommend that NHRIs encourage governments to invite relevant Special Rapporteurs to visit their countries. In this context, we note with concern the threat by the Australian Government to withdraw from the Treaty Bodies’ process and to cease cooperation with all special mechanisms of the UN following criticism by the CERD.

The NHRIs should make recommendations to their governments for the review of relevant legislation and the creation of appropriate institutions in order to incorporate relevant international standards, including CERD and the decisions incorporated into the Official Declaration and Program of Action in Durban.

NHRIs should also make recommendations to introduce legislation to ensure that national law prohibits all forms of discrimination in the private sector and provide effective protection against all forms of discrimination. As part of their mandate to look into issues of racism and racial discrimination, national institutions must also lay particular emphasis on problems faced by groups most vulnerable to discrimination. NHRIs could also encourage their governments to explore the UN Trust Fund for Victims of Racism as a mechanism for the provision of redress and compensation to victims.

NHRIs should partake in or encourage human rights awareness and human rights education regarding racism and racial discrimination in cooperation with civil society and academic institutions.

A significant requirement of NHRIs as laid down in the Paris Principles is that of pluralism in the composition of the institutions. In the context of the struggle against racial discrimination, National Institutions must ensure that their membership and staff composition reflects that diversity within their respective States. They should also introduce non-discriminatory recruitment policies and practices that aim to reflect the diversity of their societies at all organizational levels and allow effective response to victims’ needs.

The NHRIs should take appropriate steps to ensure full participation of other sectoral human rights bodies such as anti-discrimination, equal opportunities and women's commissions and other bodies such as child protection authorities in their work.

The Durban Program of Action provides an opportunity for NHRIs to demand a wider, more substantial mandate with regard to the issue of racism, racial discrimination and related intolerance and the resources and capacities necessary to confront discrimination in their respective states. The Durban Program also provides an opportunity for NHRIs to reiterate earlier calls for State compliance with international instruments such as CERD. Governments must not be allowed to turn away from the problems in their own backyards.

I thank you for your kind attention.