



**THE ASIA PACIFIC FORUM
OF NATIONAL HUMAN RIGHTS INSTITUTIONS**

...a partnership for human rights in our region

**REPORT ON THE INTERNATIONAL WORKSHOP FOR NATIONAL
HUMAN RIGHTS INSTITUTIONS FROM THE COMMONWEALTH AND
ASIA PACIFIC REGION ON**

***“Promoting the Rights of People with Disabilities: Towards a
New United Nations Convention”***

**The Workshop was organised by the National Human Rights Commission of
India, the British Council, the UN Office of the High Commissioner for Human
Rights and the Asia Pacific Forum of National Human Rights Institutions with
additional financial support provided by the United Kingdom Foreign and
Commonwealth Office**

**26 – 30 May 2003
New Delhi, India**

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1. Introduction

This is a report of an international workshop for national human rights institutions from the Commonwealth and the Asia Pacific region titled “*Promoting the Rights of People with Disabilities: Towards a New United Nations Convention*” which was held in New Delhi, India from the 26 to 30 May 2003.

The workshop was organised by the National Human Rights Commission of India, the British Council, the United Nations Office of the High Commissioner for Human Rights and the Asia Pacific Forum of National Human Rights Institutions. Additional financial support was provided by the United Kingdom Foreign and Commonwealth Office.

The report is organised as follows:

Part 2: contains relevant background information relating to (i) the decision of the United Nations to establish an Ad Hoc Committee to consider proposals for a new international convention on the rights of persons with disabilities and (ii) the consideration of this issue by the member institutions of the Asia Pacific Forum of National human Rights Institutions at their Seventh Annual Meeting.

Part 3: details workshop administrative and organisational issues undertaken by the project partners – the National Human Rights Commission of India, the United National Office of the High Commissioner for Human Rights, the British Council and the Asia Pacific Forum of National Human Rights Institutions.

Part 4: provides information on the workshop participants. A participants list is at Appendix 1.

Part 5: provides information on the goals and objectives of the workshop.

Part 6: provides information on the workshop program and an analysis of key discussions. A copy of the workshop program is at Appendix 2 and workshop papers are at Appendix 5.

Part 7: provides an overview of the workshop outcomes as measured against the goals and objectives of the workshop. A copy of the concluding statement and recommendations of the workshop are at Appendix 3 and media coverage of the workshop is at Appendix 4.

Part 8: provides an overview of the formal evaluation of the workshop.

Part 9: contains recommendations to the project partners about possible follow-on activities.

2. Background

2.1 Establishment of Ad Hoc Committee

In response to continued advocacy for a specific international human rights treaty dealing with the rights of persons with disabilities, in December 2001 the United Nations (UN) General Assembly passed a resolution establishing 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, based on the holistic approach in the work done in the field of social development, human rights and non-discrimination, taking into account the recommendations of the Commission of Human Rights and the Commission for Social Development.*¹

In this resolution the UN General Assembly recognised that governments, UN bodies and non-governmental organisations (NGOs) had not been successful in promoting the “*full and effective participation by and opportunities for persons with disabilities in economic, social, cultural and political life*”. Expressing deep concern “*about the disadvantaged and vulnerable situation faced by 600 million persons with disabilities around the world*” the General Assembly stated it was “*conscious of the need to advance in the elaboration of an international instrument*”.²

In April 2002 the UN High Commissioner for Human Rights stated that “*it will be of utmost importance that not only States but also National Human Rights Institutions and NGOs are able to contribute their experience to the elaboration of the new Convention*”.³

National human rights institutions (NHRIs) were not invited, in their own right, to participate in the first session of the Ad Hoc Committee which was held from 29 July to 7 August 2002. During that time the Committee heard general statements from representatives of a number of countries, two UN agencies – the International Labour Organisation (ILO) and the Office of the High Commissioner for Human Rights (OHCHR) – and a number of NGOs.⁴

Following the advocacy of the OHCHR, some States and NGOs, the Ad Hoc Committee decided at the conclusion of its first session “*to extend an invitation to regional commissions, United Nations bodies and mechanisms, experts, **national human rights institutions** and national disability institutions to participate in its future sessions*” (our emphasis).⁵

¹ United Nations General Assembly Resolution 56/168 adopted 19 December 2001

² id.

³ <http://www.nhri.net/ICC.htm>

⁴ A report outlining the views submitted by governments, intergovernmental organisations and UN bodies can be obtained at http://www.un.org/esa/socdev/enable/rights/a_ac265_w.htm

⁵ Note by the Secretary-General, General Assembly Doc A/57/357

2.2 *Seventh Annual Meeting of the Asia Pacific Forum*

Taking account of the specific invitation of the Ad Hoc Committee, the NHRIs of the Asia Pacific region, meeting at the Seventh Annual Meeting of the Asia Pacific Forum of National Human Rights Institutions (APF), which was held in New Delhi, India, in November 2002:

*... discussed a proposal to develop a new international convention on the rights of people with disabilities. Forum institutions agreed to respond positively to the invitation of the United Nations Ad Hoc Committee to participate independently in the development of the possible new convention. The Forum adopted the recommendations contained in the discussion paper presented to the meeting and welcomes the United Nations Office of the High Commissioner's support in their implementation ...*⁶

3. Organisation

At the Seventh Annual Meeting of the APF, the OHCHR indicated that it may be able to provide limited funding for a series of regional workshops to promote NHRI engagement in the Ad Hoc Committee process.

In addition, during the margins of a British Council (BC) workshop held in Northern Ireland from 8 to 12 October 2002, the BC met with the National Human Rights Commission of India's Special Rapporteur on Disability, Ms Anuradha Mohit. Following discussions it was proposed that the Indian Commission and the BC should co-host an international workshop for Commonwealth NHRIs on the proposed new UN Convention.

Following further discussions between the APF, OHCHR, BC and Indian Commission it was decided that a collaborative approach to this issue would be of benefit to all parties. It was therefore decided to hold one workshop for NHRIs from both the Commonwealth and the Asia Pacific region.

The Workshop was held from 26 to 29 May 2003 in New Delhi, India. An additional meeting of APF member institutions was also held on the 30th May 2003. The workshop was preceded by frequent consultation between the APF, OHCHR, BC and Indian Commission. A questionnaire and reading list was distributed to all participants prior to the commencement of the workshop. Fifteen responses to the questionnaire were received from the NHRIs from Australia, Fiji, Ghana, Hong Kong, Malawi, Malaysia, Mauritius, Mongolia, New Zealand, Nigeria, Northern Ireland, Philippines, Sri Lanka, Thailand and Uganda. A questionnaire was also received from the Sri Lankan government's Ministry of Welfare.⁷

⁶ Paragraph 13, Concluding Statement of the Seventh Annual Meeting of the APF, http://www.asiapacificforum.net/activities/annual_meetings/seventh/concluding.htm

⁷ See Appendix 7 for copies of the questionnaires.

A comprehensive background paper was also prepared for the workshop and distributed to all participants.⁸

4. Participation

The workshop organisers actively sought the participation of NHRI representatives from the Commonwealth and Asia Pacific region, non-governmental organisations (NGOs) working in the field of disability from India, governments and the OHCHR. Particular efforts were made to facilitate participation of people with disabilities themselves. There were 39 participants excluding the representatives of the National Human Rights Commission of India. NHRIs represented at the workshop included those from Afghanistan, Australia, Fiji, Ghana, Iran, Korea, Malawi, Malaysia, Mauritius, Mongolia, Nepal, New Zealand, Nigeria, Northern Ireland, Philippines, South Africa, Sri Lanka, Thailand and Uganda. The list of workshop participants is attached at Appendix 1.

The National Human Rights Commission of India, as the host institution of the workshop, was represented by their Chairperson, a number of Commissioners and senior members of staff. Representatives from the OHCHR, BC and APF were also in attendance. Finally, at both the opening and concluding sessions, a large number of representatives from the Indian government, foreign embassies, NGOs and the media were in attendance.

5. Workshop Goals and Objectives

Generally, the overall aim of the workshop was to provide support for the participation of NHRIs in the development of the proposed convention. It was hoped that participants at the workshop would exchange views, knowledge and experiences and gain an improved understanding of norms and standards related to disability. In particular it was hoped that participants would gain an understanding of the context and structure of the proposed convention.

On the basis of this exchange of information and increased knowledge, the aim of the workshop was to formulate policy options and build a consensus among NHRIs on the proposed convention. Finally it was the aim of the workshop to produce an agreed strategic framework for APF member institutions about how they wished to participate in the Ad Hoc Committee process.

5.1 Goal

The **goal** of the workshop was to promote a better understanding of:

- (i) the rights of persons with disabilities;

⁸ A copy of the background paper is at Appendix 5.

- (ii) the proposal to develop a new UN Convention on disability; and
- (iii) the potential role of NHRIs in this process.

5.2 Objectives

The specific **objectives** of the workshop were to:

- (i) promote more effective cooperation and collaboration between the NHRIs from the Commonwealth and the Asia Pacific region on issues relating to the rights of persons with disabilities;
- (ii) encourage steps by NHRIs to ensure improved recognition of the rights of persons with disabilities, through appropriate activities at both the domestic and international level;
- (iii) develop a consensus position on the proposed new UN Convention on the rights of persons with disabilities.

6. Workshop Program

6.1 Opening

Dr Morna Nance, Acting Director, British Council India, Mr Orest Nowosad, OHCHR, and Dr Justice A S Anand, Chair, NHRC India and Chair of the APF, opened the workshop. The speakers stressed the importance of protecting and promoting the rights of people with disabilities, highlighted the decision of the UN General Assembly to consider the development of a new UN Convention, and reinforced the opportunity presented to NHRIs to participate in and influence this process.

6.2 Session 1

The first plenary session examined the impact of legislation and administrative practice at the national level. Four States – Australia, India, Northern Ireland and South Africa – were used as examples. The session highlighted (i) the relatively diverse approach undertaken by States in this area; (ii) that a shift has occurred over time from viewing disability as **solely** a welfare issue and (iii) that a “rights based approach” requires a fundamental shift in both a States’ legislative and administrative practice.

6.3 Session 2

The second plenary session considered the role of NHRIs in the protection and promotion of the rights of persons with disabilities. This was followed by three working groups which focused on potential areas of NHRI activity, particularly (a) compliant handling (b) education and (c) monitoring. The discussion demonstrated that many NHRIs appreciate why there is a need to protect and promote the rights of persons with disabilities and the usefulness of adopting a clear ‘rights based’ approach to this task. An analysis of the fifteen questionnaires received from NHRIs prior to the commencement of the workshop reinforces this view. The questionnaires indicate that most NHRIs are well

informed about disability rights issues even if a minority of NHRIs are not yet undertaking substantive work in this area. A number of NHRIs have, however, a very clear disability rights focus and a long history of substantive work. Many NHRIs expressed a desire to increase their activity in this area.

6.4 Sessions 3 and 4

The third and fourth plenary sessions addressed the rights of persons with disabilities in an international context, with a particular focus on the experience of mainstreaming disability rights issues in existing UN (hard and soft) human rights instruments. Speakers emphasised that international human rights law has not always adequately acknowledged people with a disability. While international human rights standards require that people with disabilities should enjoy the same basic human rights as all other human beings, in many respects, people with disabilities throughout the world are subjected to widespread violations of their human rights. These violations include malnutrition, forced sterilisation, sexual exploitation, the denial of educational and vocational training opportunities, inaccessible public services, institutionalisation and the denial of voting rights. While the major UN conventions relate indirectly to the rights of persons with disabilities only the UN Convention on the Rights of the Child⁹ makes explicit reference to the issue of disability.¹⁰ In addition, again apart from the UN Convention on the Rights of the Child, international human rights instruments with explicit reference to people with disabilities are generally non-binding¹¹ such as, for example, the UN Declaration on the Rights of Disabled Persons¹² and the UN Standard Rules on Equalisation of Opportunities for Persons with Disabilities 1993 (“Standard Rules”).¹³

6.5 Session 5

The fifth plenary session examined the UN treaty international monitoring mechanisms and complaints procedures. This was followed by three working group sessions on the same subject providing participants with an opportunity of sharing experiences and formulating recommendations. The speakers stressed that UN human rights conventions have largely similar types of monitoring systems – a committee elected by the States party. While a convention on disability would not necessarily need to have such a committee, the speakers presumed that it would be likely. As such, the key concern was how to make the monitoring mechanism as effective as possible. Speakers stressed the

⁹ Adopted and opened for signature, ratification and accession by General Assembly resolution 44/25 of 20 November 1989. Entered into force on 2 September 1990 in accordance with article 49.

<http://www.unhchr.ch/html/menu2/6/crc/treaties/crc.htm>

¹⁰ Articles 2 and 23 provide, respectively, for the principle of non-discrimination irrespective of disability and for the rights of the disabled child.

¹¹ Though, on this point, note ILO Convention Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983, which has been ratified by 73 countries.

¹² Proclaimed by General Assembly resolution 3447 of 9 December 1975.

<http://www.unhchr.ch/html/menu3/b/72.htm>

¹³ The Standard Rules were adopted by the United Nations General Assembly, forty-eighth session, resolution 48/96, annex, of 20 December 1993. <http://www.un.org/esa/socdev/enable/dissre00.htm>

importance of ensuring that an expert committee established under the new convention be composed of persons with disabilities.

6.6 *Session 6*

The sixth plenary session considered the nature and key elements of the proposed new UN Convention of the rights of persons with disabilities from the viewpoint of NHRIs and NGOs. This session was again followed by group work discussion. Speakers stressed the need to ensure that the proposed convention achieved a paradigm shift away from a ‘welfare’ to a ‘rights based’ approach. If a human rights approach is adopted, a convention on the rights of persons with disabilities will be structured in a similar way to other human rights conventions. There will, however, be some significant differences because of the context of disability. Like all other international instruments it will draw on existing agreed language for many elements of the convention as a means of maintaining consistency with other human rights conventions and for expediting agreement. Specific provisions considered by participants included the definitions of disability and discrimination, the State Parties obligations and the monitoring mechanism.

6.7 *Session 7*

The seventh plenary session discussed partnership strategies for action in the lead up to the development of the proposed UN Convention on disability. Speakers and participants stressed the need for NHRIs to consult with NGOs in their respective countries in relation to the development of a convention; adopt reasonable efforts to facilitate the participation of persons with disabilities in the course of NGO consultations; to the extent possible, participate in the Ad Hoc Committee process; and work in cooperation with other NHRIs, both regionally and internationally, to develop and advocate proposals for the convention for the consideration of the Ad Hoc Committee.

6.8 *Sessions 8 and 9*

The eighth session saw the presentation of the workshop conclusions and recommendations. The organising partners and a select number of key speakers assisted in the development of the draft recommendations, which were then circulated to all participants for their consideration and comment. Following discussion, a consensus outcome was achieved.

Session 9 saw the formal adoption of the workshop conclusions and recommendations and a closing ceremony and valedictory. Speakers included Mr Mark Runacres, Acting British High Commissioner, Mr Orest Nowosad, OHCHR and Dr Justice AS Anand, Chair of the Indian Commission and APF. A message from Dr Jatiya, Minister for Social Justice and Empowerment, was also delivered to the workshop by Mrs Tuli, Chief Commissioner, Office of the Chief Commissioner of Disabilities for India.

Papers presented during the plenary sessions were made available to all participants and copies of these can be found on the website of the APF. The workshop program is at Appendix 2.

7. Workshop Outcomes

The major immediate outcome of the workshop was the Concluding Statement and Recommendations which is attached at Appendix 3.

7.1 *Assessed Against Workshop Goal*

The workshops' overall goal and objectives were met. The **goal** of the workshop was to promote:

- (i) *a better understanding about the rights of persons with disabilities.* This was achieved by the use of expert international and national speakers on the rights of persons with disabilities and the provision of supplementary background information.
- (ii) *the proposal to develop a new UN Convention on disability.* This was achieved through expert speakers, the provision of background information, the agreement of NHRIs for continued joint activity to promote the proposed UN Convention and wide-spread media coverage in the electronic and print media in India and abroad.
- (iii) *the potential role of NHRIs in this process.* This was achieved through the adoption of a joint NHRI statement containing recommendations for advocacy. In addition, APF member institutions had a further meeting to discuss and agree joint strategies for engagement in the process of developing the UN Convention on disability.

7.2 *Assessed Against Workshop Objectives*

The specific **objectives** of the workshop were to:

- (iv) *promote more effective cooperation and collaboration between the NHRIs from the Commonwealth and the Asia Pacific region on issues relating to the rights of persons with disabilities.* Achieved – participants at the workshop exchanged views, knowledge and experiences and gained an improved understanding of norms and standards related to disability. See the workshop conclusions and recommendations which detail cooperation and collaboration strategies, in particular points 1, 2 and 26 to 31.
- (v) *initiate steps by NHRIs to ensure improved recognition of the rights of persons with disabilities, through appropriate activities at both the domestic and international level.* Achieved – participants agreed to practical steps to protect and promote the rights of persons with disabilities at both the national and international level. See the workshop conclusions and recommendations, in particular points 26 to 31.

- (vi) *encourage the development of a joint policy position on the proposed new UN Convention on the rights of persons with disabilities and to encourage advocacy of this by NHRIs.* Achieved – participants gained an understanding of the context and structure of the proposed convention. See the workshop conclusions and recommendations, in particular points 7 to 25.

8. Evaluation

An evaluation questionnaire was developed by the British Council and the APF and distributed to all participants at the workshop. The questionnaire requested feedback on each individual workshop session and on aspects of the administration of the workshop. Participants were asked to ‘grade’ the quality and usefulness of the workshop using a five point scale ranging from “Extremely” useful to “Very Poor” quality. Fifteen completed questionnaires were returned to the secretariat and these rated the ‘content’ and ‘administration’ of the workshop very highly. Most respondents rated the workshop as being either ‘extremely’ or ‘very’ helpful to them. Respondents stated:

This was my first UN workshop. It was a wonderful experience. I wish we could attend more of its kind so that we can give our inputs and suggestions ...

A very successful and productive workshop. The fact that most of the speakers had first-hand experience of the subject made it very interesting ...

The workshop was very well organised and planned ...

A job well done ...

I thoroughly enjoyed the workshop and have now developed links with other participants and will use the list of contact details to continue to keep in touch ...

When asked how the workshop could have been improved, respondents stated:

It would have been helpful if we had the background paper sent well ahead of the workshop

Better if more time was allowed for discussion / working groups

Following the conclusion of the workshop, a number of participants also e-mailed the project organisers and other participants thanking them for the usefulness of the workshop.

9. Recommendations for Follow-On Activities

The principal recommendation for follow-on activity were contained in the concluding statement and recommendations of the workshop. These included:

9.1 *National Human Rights Institutions*

1. NHRIs should inform their governments about the importance of developing a comprehensive and integral Convention and recommend that they actively support its development.
2. NHRIs should raise awareness within their respective societies about the importance of developing the proposed Convention while, at the same time, ensuring the implementation of existing international human rights standards relating to the rights of persons with disabilities.
3. NHRIs should consult with persons with disabilities and relevant non-governmental organisations about the development of the proposed Convention.
4. NHRIs should continue to participate actively in the development of the proposed Convention.
5. NHRIs should establish and strengthen a disability rights component in their work, including their complaint handling procedures.
6. NHRIs should take the necessary measures to ensure the participation of persons with disabilities in their activities.

9.2 *UN Office of the High Commissioner for Human Rights*

7. The United Nations Office of the High Commissioner for Human Rights is encouraged to continue to support to the extent possible within available resources, including through technical cooperation and advocacy, the effective participation of NHRIs and their regional associations in the development of the proposed Convention.
8. The United Nations Office of the High Commissioner for Human Rights is encouraged to support the work of NHRIs in the protection and promotion of the rights of persons of disabilities at the national level.
9. The United Nations Office of the High Commissioner for Human Rights is encouraged to assist in the establishment of a disability ‘focal points’ network amongst NHRIs and to facilitate the establishment of a comprehensive and accessible website on issues relating to disability.
10. The United Nations Office of the High Commissioner for Human Rights is encouraged to continue to work with other partners, as exemplified by this workshop, in the promotion and protection of the rights of persons with disabilities.

9.3 *Asia Pacific Forum of National Human Rights Institutions*

11. The Asia Pacific Forum of National Human Rights Institutions should continue to provide support, as requested, for the activities of its member institutions in the development of the proposed Convention.
12. The Asia Pacific Forum of National Human Rights Institutions should, on request, support the work of its member institutions in the protection and promotion of the rights of persons of disabilities at the national level.
13. The Asia Pacific Forum of National Human Rights Institutions should continue to implement the decisions of its members relating to the rights of persons with disabilities reached at its Seventh Annual Meeting.
14. The Asia Pacific Forum of National Human Rights Institutions should, in consultation with the United Nations Office of the High Commissioner for Human Rights, seek to arrange for the circulation of the paper prepared for the New Delhi workshop entitled “Promoting the Rights of People with Disabilities: Towards a new UN Convention” as a conference paper of the Ad Hoc Committee.

9.4 *British Council*

15. The British Council should continue to support the effective participation of NHRIs in the development of the proposed United Nations Convention.
16. The British Council is encouraged to continue to work with other partners as exemplified by this workshop in the promotion and protection of the rights of persons with disabilities.

10.APPENDIX 1 – PARTICIPANTS LIST

List of participants

No	Country	Name/Designation
1	Afghanistan	Mr Najibullah Babrakzai Officer of the Child Rights Unit Afghan Independent Human Rights Commission
2	Afghanistan	Ms Surreya Daqiqi Assistant Officer, Women Rights Development Section Afghan Independent Human Rights Commission
3	Australia	Dr Sev Ozdowski Disability Discrimination Commissioner Australian Human Rights and Equal Opportunities Commission
4	Fiji	Ms Swasti Subha Chand Complaints, Investigation and Resolutions Officer Fiji Human Rights Commission
5	Ghana	Ms Anna Bossman Deputy Commissioner (Legal and Investigations) Commission of Human Rights and Administrative Justice
6	Iran	Mr Seyed Mohsen Banihashemi Member IHRC Working group on disability rights Advisory Council Islamic Human Rights Commission (IHRC)
7	Korea	Mr Han Hee Won Director of Legal Affairs Division National Human Rights Commission Republic of Korea
8	Malawi	Ms Tinkhani Khonje Desk Officer for persons with Disabilities Rights Thematic Committee of the Malawi Human Rights Commission
9	Malaysia	Dr (Ms) Raj Abdul Karim Regional Director, International Planned Parenthood Federation – East and South East Asia & Oceania Region (IPPF – ESEAOR) and Commissioner , Human Rights Commission of Malaysia [Suruhanjaya Hak Asasi Manusia Malaysia (SUHAKAM)]
10	Malaysia	Ms Seh Lih Long Legal Officer SUHAKAM
11	Mauritius	Mr D Seetulsingh Chairman Mauritius National Human Rights Commission
12	Mongolia	Mr Dalaijamts Guushir Commissioner Mongolian Human Rights Commission
13	Mongolia	Ms Zoljargal Gantamur Officer Mongolian Human Rights Commission
14	Nepal	Dr Shankar Gauri Lal Das Member National Human Rights Commission of Nepal

15	New Zealand	Ms Robyn Hunt Commissioner New Zealand Human Rights Commission
16	New Zealand	Mr David Peirse Solicitor/Policy Analyst New Zealand Human Rights Commission
17	Nigeria	Mrs Mausi Enitan Segun Principal Legal Investigation Officer, Legal Investigation National Human Rights Commission, Nigeria
18	Nigeria	Mr Mohammed Datti Ahammed Assistant Director Kano Zonal Office National Human Rights Commission, Nigeria
19	Northern Ireland	Mr Kevin McLaughlin Commissioner Northern Ireland Human Rights Commission (NIHRC)
20	Philippines	Mr Dominador N Calamba II Commissioner Philippines Commission on Human Rights
21	South Africa	Ms Charlotte Mc Clain Commissioner South African Human Rights Commission
22	Sri Lanka	Dr Mohamed Ameer Zainudeen Commissioner National Human Rights Commission of Sri Lanka
23	Sri Lanka	Mrs Malani Samarasinghe Director National Secretariat for Persons with Disabilities
24	Thailand	Prof Pradit Chareonthaitawee Commissioner National Human Rights Commission of Thailand
25	Uganda	Mrs F Mariam Wangadya Commissioner Legal & Tribunals Department Uganda Human Rights Commission
26	United Kingdom	Mr Simon Williams Consultant Governance British Council
27	OHCHR	Mr Orest Nowosad Team Leader, National Institutions Team UN Office of the High Commissioner of Human Rights
28	APF	Mr Kieren Fitzpatrick Director Asia-Pacific Forum of National Human Rights Institutions
29	APF	Ms Thuy Doan-Smith Projects Assistant Asia-Pacific Forum of National Human Rights Institutions
30	India	Mr R V Pillai Member Convention for the Elimination of all forms of Racial Discrimination (CERD)
31	India	Ms Surrendar Saini President All India Federation of the Deaf
32	India	Ms Shyamala Executive Director

		Action for Ability Development and Inclusion (AADI) (formerly The Spastics Society of Northern India)
33	India	Ms Clare Doube Project Officer Commonwealth Human Rights Initiative
34	India	Mrs Ranoo Banerjee General Secretary Parivar
35	India	Ms Nithya Vankatraman Research Assistant South Asia Human Rights Documentation Centre
36	India	Mr S K Rungta Secretary General National Federation of the Blind
37	India	Mr Mukesh Kacker CEO National Trust for the welfare of people with Autism, Cerebral Palsy and Mental Retardation
38	India	Dr Uma Tuli Chief Commissioner Chief Commissioner of Disabilities
39	India	Ms Amita Dhanda Registrar NALSAR

11.APPENDIX 2 – WORKSHOP PROGRAM

Venue: Taj Mahal Hotel, 1 Mansingh Road, New Delhi

Day 1

Monday, 26 May 2003

1900 Reception for Delegates of the Workshop
Venue: The LongChamp, Hotel Taj Mahal, New Delhi

Welcome address by:

- Dr Morna Nance, Acting Director, British Council India
- Mr Orest Nowosad, OHCHR NI Team Leader
- Dr Justice A S Anand, Chair, NHRC India (and Chair, APF)

Introduction of Workshop Directors and Participants

Dinner provided at reception

Day 2

Tuesday, 27 May 2003

0900 Delegates arrive in the LongChamp

0915 Housekeeping / Rules of Procedure

0930 **Session 1**
Presentation of Country Papers and Discussion on Impact of National Legislation and Administrative Practice

Chair: Mr Kieren Fitzpatrick, Director, APF / Mr Simon Williams, British Council

- Presentations from India, Australia, South Africa and Northern Ireland
10 minutes each followed by discussion

1115 Break for tea / coffee

1145 **Session 2**
Role for National Human Rights Institutions in Promoting the Rights of People With Disabilities

Chair: Mr Virendra Dayal, Member, NHRC India

Speakers:

1. Dr Sev Ozdowski, Disability Discrimination Commissioner, Australia Human Rights and Equal Opportunities Commission
2. Mr Kevin McLaughlin, Commissioner, Northern Ireland Human Rights Commission (NIHRC)

15 minutes each followed by discussion

1315 Break for Lunch

1415 **Session 2.1**
Group work on potential areas of NHRI intervention

1500 **Session 2.2**
Group reports to plenary

Chair: Ms Tinkhani Khonje

Desk Officer for persons with Disabilities Rights

Thematic Committee of the Malawi Human Rights Commission

1545 Break for tea / coffee

1615 Optional visits to Disability NGOs

1930 Groups return to hotel and share learning/experiences of visits informally over dinner

Day 3

Wednesday, 28 May 2003

0900 Reconvene / key points arising from previous day / housekeeping revisited

0930 **Session 3**
'Mainstreaming Disability': Experiences of UN Conventions (Hard Instruments)

Chair: Justice Sujata V Manohar, Member, NHRC India

Speakers:

1. CEDAW: Ms Charlotte McClain Commissioner, South Africa Human Rights Commission (SAHRC)
 2. CRC: Mr Gerry Pinto, UNICEF India
 3. CERD: Mr Vasu Pillai, Member, CERD Committee
- 15 minutes each followed by discussion

1100 Break for tea / coffee

1130 **Session 4**
Presentation on Existing (Soft) UN Instruments relevant to Disability

Chair: Ms Charlotte McClain, Commissioner, SAHRC

Speakers:

1. Mr D Seetulsingh, Commissioner, Mauritius National Human Rights Commission on UN Standard Rules of Equalisation of Opportunities for People with Disabilities
 2. Dr (Ms) Datuk Raj Karim, Malaysia Human Rights Commission on World Programme of Action
 3. Ms Amita Dhanda, Registrar NALSAR (India) on Mental Health Declaration on the Rights of People with Disabilities
- 15 minutes each followed by discussion

1300 Break for lunch

1400 **Session 5**
International Monitoring Mechanisms and Complaints Procedures

Chair: Ms Robyn Hunt, Commissioner, Human Rights Commission, New Zealand

Speakers:

1. Ms Anuradha Mohit: OHP Presentation on Existing Monitoring Mechanisms: Key Decisions of various Committees
 2. Mr Vasu Pillai, Member, CERD Committee on Monitoring Mechanisms in the New Convention
- 15 minutes each followed by discussion

1530 Break for tea / coffee

1600 **Session 5.1:**
Inter-Country Group work to recommend Monitoring Mechanisms / Complaints Procedures for New Convention (Groups as for Session 2)

1715

Session 5.2
Plenary to present group work on Monitoring Mechanisms

Chair: Mr D Seetulsingh, Chair, Mauritius National Human Rights Commission

1750

Discussion

1800

Proceedings end for the day

1830

Shopping trip (transport provided)

2100

Return to hotel (transport provided)

Evening

Participants free to make own arrangements for dinner

Day 4

Thursday, 29 May 2003

0900

Reconvene / key points arising from previous day /
housekeeping revisited

0930

Session 6
Nature and Key Elements of the New UN Convention on Disability: Perceptions of Human Rights Institutions and NGOs

Chair: Dr Justice A S Anand, Chair, NHRC India

Speakers:

1. Ms Robyn Hunt, Commissioner, Human Rights Commission, New Zealand
 2. Mr Kieren Fitzpatrick, APF
 3. Mr S K Rungta, Secretary General, National Federation of the Blind
- 10 minutes each followed by discussion

1030

Session 6.1
Nature and Elements of the New Convention: Group Work

1100

Break for tea / coffee

1130

**Session 6.2:
Plenary Presentations on Group Work**

Chair: Dr Ameer Zainudeen, Commissioner, National Human Rights Commission, Sri Lanka

- Maximum 7 minutes each presentation, for submission to the drafting committee

1230

Break for Lunch

1330

**Session 7
Partnership strategies for action in the lead-up to the new UN Convention on Disability**

Chair: Ms Anna Bossman
Deputy Commissioner (Legal and Investigations)
Commission of Human Rights and Administrative Justice
Speakers:

1. Mr Orest Nowosad, OHCHR NI Team Leader
 2. Ms Clare Doube, Commonwealth Human Rights Initiative
- 15 minutes each followed by discussion

1430

**Session 8
Presentation of Draft Recommendations and Discussion**

Chair: Mr. Virendra Dayal, Member, NHRC India
• Presentation by the Drafting Committee members
Followed by discussion

Break

1630

**Session 9
Closing Ceremony / Adoption of Recommendation and Valedictory**

Programme:

1. Opening remarks by Mr Mark Runacres, Acting British High Commissioner to India (5 minutes)
2. Presentation of Statement / Recommendations from the Workshop by Mr Kieren Fitzpatrick / Ms Charlotte McClain (on power point) (15 minutes)
3. Remarks by Mr Orest Nowosad, OHCHR
4. Message by Dr Satya Narayan Jatiya, Minister for Social Justice and Empowerment read out by Mrs Uma Tuli, Chief Commissioner, Office of the Chief Commissioner of Disabilities (15minutes)
5. Presidential Remarks by Dr Justice A S Anand, Chair, NHRC India / Chair, APF (10 minutes)

6. Closing Remarks / Vote of Thanks by Dr Morna Nance, Acting Director,
British Council India (5 minutes)

Followed by Tea

Day 5

Friday, 30th May 2003

Programme for the APF Meeting

Purpose: How best can our institutions participate at the Second Ad Hoc Meeting?

1130 – 1230 Strategies for effective participation by the NHRIs in the 2nd
meeting of the Ad Hoc Committee

Chair: Justice A S Anand, NHRC, India

1230 Lunch

12.APPENDIX 3 – CONCLUDING STATEMENT & RECOMMENDATIONS

PROMOTING THE RIGHTS OF PEOPLE WITH DISABILITIES: TOWARDS A NEW UN CONVENTION

An International Workshop for National Human Rights Institutions from the Commonwealth and Asia Pacific Region

New Delhi, India, 26 to 29 May 2003

Introduction

1. National Human Rights Institutions (NHRIs) from the Commonwealth and Asia Pacific region, consisting of NHRIs from Afghanistan, Australia, Fiji, Ghana, India, Iran, Republic of Korea, Malawi, Malaysia, Mauritius, Mongolia, Nepal, New Zealand, Nigeria, Northern Ireland, Philippines, South Africa, Sri Lanka, Thailand and Uganda, met in New Delhi, India from 26th to 29th May 2003 to discuss a proposal to develop a comprehensive and integral United Nations Convention to promote and protect the rights of persons with disabilities.
2. The workshop participants expressed their gratitude to the National Human Rights Commission of India for hosting and organising the workshop in partnership with the Asia Pacific Forum of National Human Rights Institutions, the British Council and the United Nations Office of the High Commissioner for Human Rights and to the United Kingdom Foreign and Commonwealth Office and the United Nations Office of the High Commissioner for Human Rights for their financial support.
3. Participation also included representatives from governments, non-governmental organisations, international agencies and experts working in the field of human rights and disability.
4. Dr Justice A.S. Anand, Chairperson of the National Human Rights Commission of India and the Chairperson of the Asia Pacific Forum of National Human Rights Institutions, Dr Morna Nance, Acting Director, British Council India and Mr Orest Nowosad, United Nations Office of the High Commissioner for Human Rights, spoke at the inaugural session. In their statements the distinguished speakers highlighted the important role of national human rights institutions in protecting and promoting the human rights and dignity of persons with disabilities and in the possible development of a proposed new United Nations Convention in this respect.

5. The workshop held nine working sessions relating to various aspects of the rights of persons with disabilities. It considered, inter alia, country papers on the impact of national legislation and administrative practice; the role of NHRIs in promoting the rights of persons with disabilities; “mainstreaming disability” – experiences of UN Conventions (hard instruments); existing (soft) UN instruments relevant to disability; international monitoring mechanisms and complaints procedures; the nature and key elements of the proposed new Convention on disability – perceptions of NHRIs and NGOs; and partnership strategies for action in the lead up to the new UN Convention.
6. Following detailed discussions on each of the above matters, the workshop adopts the following preliminary conclusions and recommendations to the Ad Hoc Committee. These are without prejudice to the more detailed positions that NHRIs may adopt, individually or jointly, as work on the new Convention proceeds.

Conclusions and Recommendations to the Ad Hoc Committee adopted by the New Delhi Workshop

The NHRIs present at the workshop from the Commonwealth and Asia Pacific region:

7. Welcome the decision of the United Nations General Assembly to establish 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 (the Convention).
8. Welcome the decision of the Ad Hoc Committee to specifically invite NHRIs to participate in their work and agree to respond positively to the invitation and to make available suggestions and proposals to be considered in the development of the proposed Convention.
9. Request the United Nations and the Ad Hoc Committee to take the necessary measures to ensure the participation of persons with disabilities in their activities and ensure the widest possible participation of organisations of persons with disabilities.
10. Strongly affirm the need for the development of a comprehensive and integral Convention.
11. Stress that the Convention should be a ‘rights based’ instrument built on international human rights norms and standards and social justice. It should be informed by the overarching principle that all persons with disabilities, without exception, are entitled to the full benefit and enjoyment of all fundamental human rights and freedoms on the basis of equality, dignity and without discrimination.

12. Stress that the situation of all disability groups and the diverse conditions related to gender, race, colour, age, ethnicity and other considerations must be taken into account when elaborating the Convention.
13. Propose that the following elements should be included in the proposed Convention.

Preamble

14. The Preamble to the Convention should:

- stress the need for the Convention;
- recognise the value and applicability of existing international human rights instruments (both hard and soft) to disability;
- recognise the impact of dual disadvantage and multiple discrimination faced by individuals such as, women, children or indigenous people with disabilities, or other status, and
- stress the Convention's links to these instruments and the need for a comprehensive rights based treaty.

Objectives

15. The objectives of the Convention should:

- recognise that persons with disabilities are entitled to the full range of civil, political, economic, social and cultural rights;
- recognise the progressive realisation of certain rights;
- ensure that the principles of non-discrimination and equal opportunity apply to persons with disabilities;
- acknowledge that the lack of provision of reasonable accommodation and/or positive actions to eliminate barriers to full participation is a form of discrimination; and
- promote international cooperation to support national efforts.

Definitions

16. With regard to the definition of 'disability' the Convention should:

- stress that disability is not an individual pathology. It has a range of implications for social identity and behaviour, and largely depends upon the context and is a consequence of discrimination, prejudice and exclusion.
- not be restrictive. For example it should cover physical, sensory, intellectual, psychiatric and multiple disabilities. Disability can be permanent, temporary, episodic and perceived.

17. With regard to the definition of 'discrimination' the Convention should:

- address all forms of discrimination including direct, indirect, hidden and systemic discrimination;
- recognise that equality of opportunity requires that any relevant restrictions or limitations caused directly or indirectly by a disability should be remedied by appropriate modifications, adjustments or assistance;
- require affirmative action, reasonable accommodation or ‘special measures’ to provide barrier free access in all spheres for full participation and to provide enabling environments, where necessary, in order to achieve equality of opportunity and treatment. Such action or measures should not be regarded as discrimination.

Scope

18. The Convention shall apply both to public and private institutions and spheres.

State Party Obligations

19. The Convention should place a positive obligation on State Parties to take legislative, programmatic and policy actions to achieve the Convention’s objectives.

20. The Convention should recognise the responsibility of State Parties to ensure an enabling environment and a barrier free society.

Specific Articles

21. The full range of civil, political, economic, social and cultural rights contained in existing international human rights instruments should be incorporated in the Convention.

22. In addition to the application of existing international human rights law, the Convention should contain specific articles dealing with specialised areas and issues relating to civil, political, economic, social and cultural rights that, by the very nature of the context of disability, require codification, with due respect being paid to the principles of natural justice.

Monitoring

23. The Convention should have an effective monitoring mechanism which includes the possibility of conducting inquiries into systemic violations.

24. Any expert committee established under the Convention should include persons with disabilities.

25. The Convention should include national institutional frameworks to monitor and promote compliance with the Convention, in which national human rights institutions can play a constructive role.

Appendix – Additional Conclusions and Recommendations

The workshop also made the following conclusions and recommendations to other bodies.

Recommendations to National Human Rights Institutions

26. NHRIs should inform their governments about the importance of developing a comprehensive and integral Convention and recommend that they actively support its development.
27. NHRIs should raise awareness within their respective societies about the importance of developing the proposed Convention while, at the same time, ensuring the implementation of existing international human rights standards relating to the rights of persons with disabilities.
28. NHRIs should consult with persons with disabilities and relevant non-governmental organisations about the development of the proposed Convention.
29. NHRIs should continue to participate actively in the development of the proposed Convention.
30. NHRIs should establish and strengthen a disability rights component in their work, including their complaint handling procedures.
31. NHRIs should take the necessary measures to ensure the participation of persons with disabilities in their activities.

Recommendations to the United Nations Office of the High Commissioner for Human Rights

32. The United Nations Office of the High Commissioner for Human Rights is encouraged to continue to support to the extent possible within available resources, including through technical cooperation and advocacy, the effective participation of NHRIs and their regional associations in the development of the proposed Convention.
33. The United Nations Office of the High Commissioner for Human Rights is encouraged to support the work of NHRIs in the protection and promotion of the rights of persons of disabilities at the national level.
34. The United Nations Office of the High Commissioner for Human Rights is encouraged to assist in the establishment of a disability ‘focal points’ network amongst NHRIs and to facilitate the establishment of a comprehensive and accessible website on issues relating to disability.

35. The United Nations Office of the High Commissioner for Human Rights is encouraged to continue to work with other partners, as exemplified by this workshop, in the promotion and protection of the rights of persons with disabilities.

Recommendations to the Asia Pacific Forum of National Human Rights Institutions

36. The Asia Pacific Forum of National Human Rights Institutions should continue to provide support, as requested, for the activities of its member institutions in the development of the proposed Convention.
37. The Asia Pacific Forum of National Human Rights Institutions should, on request, support the work of its member institutions in the protection and promotion of the rights of persons of disabilities at the national level.
38. The Asia Pacific Forum of National Human Rights Institutions should continue to implement the decisions of its members relating to the rights of persons with disabilities reached at its Seventh Annual Meeting.
39. The Asia Pacific Forum of National Human Rights Institutions should, in consultation with the United Nations Office of the High Commissioner for Human Rights, seek to arrange for the circulation of the paper prepared for the New Delhi workshop entitled “Promoting the Rights of People with Disabilities: Towards a new UN Convention” as a conference paper of the Ad Hoc Committee.

Recommendations to the British Council

40. The British Council should continue to support the effective participation of NHRIs in the development of the proposed United Nations Convention.
41. The British Council is encouraged to continue to work with other partners as exemplified by this workshop in the promotion and protection of the rights of persons with disabilities.

A full report of this workshop will be available at the website of the Asia Pacific Forum

www.asiapacificforum.net
and the National Institutions website
www.nhri.net

13.APPENDIX 4 – MEDIA COVERAGE

14.APPENDIX 5 – WORKSHOP PAPERS & STATEMENTS

PROMOTING THE RIGHTS OF PEOPLE WITH DISABILITIES: TOWARDS A NEW UNITED NATIONS CONVENTION

Questionnaire

Disability questionnaire for national institutions

Responses for Australian Human Rights and Equal Opportunity Commission

Overall comment: Please note that all disability activity of this institution is published on our website: see the disability section of the site

www.humanrights.gov.au/disability_rights

Level of Disability Awareness

1. *Is your institution aware (or as aware as it would like to be) of the human rights perspective on disability?*

Yes.

2. *Is your institution aware (or as aware as it would like to be) of the various UN developments in the field of human rights and disability?*

Yes, but see comment on question 3.

3. *Where are the main knowledge gaps as you see them?*

Use of the Internet could be improved to make it easier to access all relevant international and comparative national experience on disability. For example the resources on the UN Social Development Commission's disability page <http://www.un.org/esa/socdev/enable/> are very far from comprehensive even for resources within the UN system, providing no apparent reference to International Labor Organisation activity in this area or to consideration of disability activity by the treaty based human rights committees. Linkages to national institutions with significant disability roles (both on human rights and discrimination in general as in our own case, and on specific accessibility issues in relation to communications or physical access for example) could also be expanded. Our own site presents a selection of such links.

Is disability on your agenda?

4. *Does disability rank as a priority with your institution? If so since when and why?*

Yes, from inception of the institution in 1986 (and similarly for our predecessor body from 1981).

Our institution's functions are defined by reference to a number of international instruments listed in legislation (principally the Human Rights and Equal Opportunity

Commission Act)and these include the Declaration on the Rights of Disabled Persons and the Declaration on the Rights of Mentally Retarded Persons. We have also from the outset interpreted the non-discrimination provisions of the International Covenant on Civil and Political Rights (which is also scheduled to the legislation) as meaning what they say when referring to ensuring the rights recognised therein to “all persons” without discrimination and hence as including people with disabilities, notwithstanding the failure of ICCPR Article 2 to refer explicitly to disability. More recently the Convention on the Rights of the Child was added to the instruments listed in our legislation and this Convention does recognise disability explicitly both in the non-discrimination provision and in several specific provisions.

In 1992 Australia passed a Disability Discrimination Act, for the administration of which our institution has the lead role. The Commission played a leading role in development of this legislation, on the basis of our own research and pre-existing human rights responsibilities and in response to consultation with disability organisations nationally.

5. *Does your institution make operational distinctions between physical and mental disability or between the various kinds of disability? If so, why?*

No. The definition of disability in our legislation was intended to focus attention as far as possible on whether people are being discriminated against rather than on which specific type of disability they should be categorised as having: to avoid over-medicalisation of approach to disability in a human rights context; to avoid previous problems in achieving broad representation of disability community views because of the community being divided on diagnostic lines for service provision purposes (more justifiable in that context than in ours); as well as avoiding problems with some previous legislation where people (for example with epilepsy) may fall between categories of mental and physical disability. Priorities for strategic activity by our institution are set principally by reference to consideration of where there are options for effective action rather than by some sort of quota for each category of disability. Obviously, however, some issues and projects are more relevant to some disability categories than others .

6. *Does your institution place any emphasis on gender and disability or on multiple forms of discrimination base don disability or overlapping with disability?*

Yes. Principal emphasis is on ensuring that these multiple dimensions to a person’s identity do not exclude them from effective access to our participation in our activities – so, for example, ensuring that sex discrimination complaint processes and information are accessible to women with disabilities – rather than seeing people with disabilities as presenting only disability issues. Within disability work, the issue of unlawful or unjustified sterilisation of women and girls with intellectual disabilities has been identified as a priority by women’s and disability organisations alike and has been the subject of extensive work by our institution.

7. *Do you set aside a person or body of persons on your institution to deal with the rights of persons with disabilities? Please specify?*

Yes. The Disability Discrimination Act establishes a position of Disability Discrimination Commissioner. From 1992 to 1997 there was a full time Commissioner. Since then the Government has not been willing to appoint a Commissioner specifically for this position and other members of the Commission (presently the Human Rights Commissioner, previously the Sex Discrimination Commissioner) have acted in this position in addition to their principal duties. Internal funding has been found for a Deputy Disability Discrimination Commissioner position. There is also a team of three disability rights policy officers and a specific section for disability complaints within the Commission's complaint handling section.

Your institution's disability record

8. *Do you get many complaints from persons with disabilities or their representative NGOs? What kinds of complaints figure most prominently?*

Note that figures for complaints are contained in the Commission's annual reports which may be found in the publications section of our website www.humanrights.gov.au. Figures for 2000-01 will be available shortly.

Disability discrimination complaints in most years since the commencement of the Disability Discrimination Act have been the most numerous within our jurisdiction, constituting around one third of complaints and complaints in any one of the areas of sex discrimination, race discrimination or other human rights complaints. Complaints from individuals have been more common than from NGOs. The most common area of complaint is employment (generally over 40%); followed by access to goods and services (over 25%) and education (around 10%).

Public inquiries and reports

9. *Has your institution held any general or public inquiries into the status of persons with disabilities (or specific groups of persons with disabilities) or their treatment within your jurisdiction? If so please specify.*

Yes. A major public inquiry on the human rights of people with a mental illness was commenced in 1990 and reported in 1993. Details of this inquiry may be found at www.humanrights.gov.au/human_rights/mental_illness/index.html. We have also conducted a public inquiry on accessibility of electronic commerce and new service and information technologies to people with disabilities and older people. Details of this inquiry may be found at www.humanrights.gov.au/disability_rights_inquiries/ecom/ecom.html. Other public inquiries have been conducted into selected complaints presenting broad systemic issues: in particular, inquiries into cinema captioning and television captioning for deaf and hearing impaired people; accessibility of mobile phones to people with hearing impairments; accessibility of electoral processes; and accessibility of railway stations to

people using wheelchairs. For details of inquiries please see www.humanrights.gov.au/disability_rights/inquiries/inquiries.html

10. Does your institution contribute to enquiries held by other public authorities into the status of persons with disabilities or their treatment within your jurisdiction?

Yes where relevant and to the extent that resources permit: for example currently contributing to inquiry by Australian Law Reform Commission on genetic discrimination.

11. Does your institution have an agreement (formal or informal) with other disability public bodies (e.g. National Disability Commissions or Authorities) on how to work best together on disability matters? If so please specify.

No. We consult extensively with other government and non-government bodies relevant to disability but do not work by way of agreements with these bodies.

Litigation

12. Has your institution assisted persons with disabilities (individually or as groups) with litigation (ie provide funds to enable litigation to take place, provide direct legal advice or ensure that it is made available? What factors led you to support the litigation? What was the subject matter of the litigation? What were the outcomes?

No. We do not have sufficient resources to operate a grants program for litigation or other purposes. Until 2000 we have had the function of operating the tribunal for disability discrimination complaints and this role has not been consistent with providing legal advice to one side in proceedings being conducted before ourselves. With the transfer of this tribunal function to the courts possible roles for our institution's legal staff are currently being re-assessed.

13. Has your institution supplied amicus briefs in litigation involving persons with disabilities? If so, please specify.

Yes. Intervention in a number of cases where courts have considered approval of sterilisation of girls and young women for people with disabilities.

14. Has your institution instituted legal proceedings in its own name on behalf of persons with disabilities?

No. This role is not within our current statutory functions.

Education and capacity building

15. Do you include disability rights awareness as part of your overall education programme?

Yes. There is a particular disability focus in our education work for schools and in the promotion of our complaint processes. Part of the function of the office of Commissioner in particular is to provide a public focus for disability and human rights issues.

16. Do you help NGOs (whether traditional human rights NGOs or disability NGOs) to raise their capacity to participate in the democratic process in order to achieve the rights of persons with disabilities? If so please specify.

Yes. Introduction of disability discrimination legislation was accompanied by production of a manual for advocates on using the legislation. We have conducted a public inquiry on accessibility of electoral processes and are continuing to negotiate with electoral authorities following that inquiry. A major purpose in dealing with this issue in a public manner was to enable the participation of disability NGOs rather than treating it as an individual matter of concern only to an individual complainant.

Disability and the law reform process

17. Does your institution make comments on draft legislation that affects persons with disabilities? Has that legislation been changed as a result of your comments/observations? If so please specify?

Limited resources have limited our activity in reviewing legislation. Most activity in this area has been confined to assisting in improving disability discrimination legislation in the Australian States (i.e. the regional/provincial level of government).

18. Has your institution produced any general reports to your government on disability matters? If so what changes if any came about as a result?

Not subsequent to Mental Illness Inquiry report in 1993. A major part of the purpose of the passage of the Disability Discrimination Act in 1993 as we saw it was to provide people with disabilities with enforceable rights to deal with discrimination, assisted by a national human rights commission, rather than that commission being only able to issue reports which might or might not ever be implemented.

Acknowledgement

This questionnaire has been taken from “**National human rights institutions – catalysts for change**” (Chapter 11, pg 169) in *Human Rights and Disability, the current use and future potential of United Nations human rights instruments in the context of disability* – Gerard Quinn and Theresia Degener with Anna Bruce, Christine Burke, Dr Joshua Castellino, Padraic Kenna, Dr Ursula Kilkelly, Shivaun Quinlivan.

**PROMOTING THE RIGHTS OF PEOPLE WITH DISABILITIES: TOWARDS A
NEW UNITED NATIONS CONVENTION**

Questionnaire

Disability questionnaire for national institutions

Responses for the Fiji Human Rights Commission

Question 1: Is your institution aware (or as aware as it would like to be) of the human rights perspective on disability?

Yes.

Question 2: Is your institution aware (or as aware as it would like to be) of the various United Nations developments in the field of human rights and disability?

Yes.

Question 3: Where are the main knowledge gaps as you see them?

Public education/ dissemination of information.

Question 4: Does disability rank as a priority with your institution? If so, when and why?

Yes, in the provisions of the 1997 Constitution, (the supreme law of the land), the Bill of Rights section 38 clearly states that disability should not be a ground for discrimination. The Human Rights Commission Act of 10/99 also clearly states that. The National Plan of Action for persons who are living with Disabilities.

Question 5: Does your institution make any operational distinction between physical and mental disability or between the various kinds of disability? If so, why?

No.

Question 6: Does your institution place any emphasis on gender and disability or on multiple forms of discrimination based on disability or overlapping with disability?

Both the gender are treated equally with respect.

Question 7: Do you set aside a person or body of persons in your institution to deal with the rights of persons with disabilities. Please specify.

Yes, the Complaints/Investigations and Resolutions Officer for (Unfair Discrimination) specifically looks into the issues faced by persons who are living with disabilities.

Question 8: Do you get many complaints from persons with disabilities or their representative NGOs? What kinds of complaints figure most prominently?

We get complaints from NGO reps as well as from persons who are living with disabilities. Complaints are of discrimination in the workforce mostly.

Question 9: Has your institution held any general or public inquiries into the status of persons with disabilities (or specified groups of persons with disabilities) or their treatment within your jurisdiction? If so, please specify.

Yes, on the December 10, 2002, the Commission conducted a public Inquiry into difficulties faced by persons living with Disabilities’.

Question 10: Does your institution contribute to the inquiries held by other public authorities into the status of persons with disabilities or their treatment within your jurisdiction?

Yes it assists by way of investigations.

Question 11: Does your institution have an agreement (formal or informal) With other disability public bodies (e.g. national disability Commissions or authorities) on how to work best together on Disability matters? If so, please specify.

The Fiji Human Rights commission had developed a National Plan of Action for persons who are living with Disabilities.

Question 12: Has your institution assisted persons with disabilities (individually or as groups) with litigation. What factors led you to support the litigation? What was the subject matter of the litigation? What were the outcomes?

Recently the Commission dealt with a complainant who was discriminated on the grounds of his disability by a lending institution. The Commission discovered that pursuant to section 38(2) (a) of the Constitution and section 17(3) (g) of the Human Rights Commission act 1999, the Complainant was indeed discriminated by being denied loan application and access to other products. The commission successfully conciliated between the two parties and arrived at a resolution.

Question 13: Has your institution supplied amicus briefs in litigation involving persons with disabilities? If so, please specify.

Yes, currently, the Commission is in the process of taking an employer to Court for terminating an employee on the grounds of disability.

Question 14: Has your institution instituted legal proceedings in its own name or on behalf of persons with disabilities?

Yes, in the process.

Question 15: Do you include disability rights awareness as part of your overall education programme?

Yes.

Question 16: Do you help NGOs (whether traditional human rights NGOs or disability NGOs) to raise their capacity to participate in the democratic process in order to achieve the rights of persons with disabilities? If so, please specify.

Yes, the Commission has conducted training for a workshop participants on the rights of persons living with disabilities. It was organized by the Fiji Disabled person association- an NGO).

Question 17: Does your institution make comments on draft legislation that affects persons with disabilities? Has that legislation been changed as a result of your comments/observations? If so, please specify.

No.

Question 18: Has your institution produced any general reports to your Government on disability matters? If so, what changes came about as a result?

Yes, The National Plan of Action for Persons Living with Disabilities has been submitted to the Prime Minister for Governments commitment. The Commission awaits a reply.

PROMOTING THE RIGHTS OF PEOPLE WITH DISABILITIES:
TOWARDS A NEW UNITED NATIONS CONVENTION

GHANA: THE COMMISSION ON HUMAN RIGHTS AND
ADMINISTRATIVE JUSTICE. (CHRAJ)

ANSWERS TO QUESTIONNAIRE

1) Is your institution aware (or as aware as it would like to be) of the human rights perspective on disability?

Ans : The Commission on Human Rights and Administrative Justice (CHRAJ) has a very high level of awareness of the human rights perspective on disability. The Commission is aware that over the past two decades the traditional perspective on disability as a condition that is to be pitied has given way to the more positive perspective that calls for the treatment of disabled persons equally and without discrimination just as other normal persons.

As part of its mandate the Commission exists to ensure that the disabled in Ghanaian society realize the full enjoyment of all human rights and fundamental freedoms as any other sections of society.

Article 29 of Ghana's 1992 Constitution protects the disabled from discrimination and guarantees working and living conditions as close as possible to those of the normal life of a person of his age. Specifically, **Article 29** of the Constitution provides as follows:

29 (1) Disabled persons have the right to live with their families or with foster parents and to participate in social, creative or recreational activities.

(2) A disabled person shall not be subjected to differential treatment in respect of his residence other than that required by his condition or by the improvement, which he may derive from the treatment.

(3) If the stay of a disabled person in a specialized establishment is indispensable, the environment and living condition there shall be as close as possible to those of the normal life of a person of his age.

(4) Disabled persons shall be protected against all exploitation, all regulations and all treatment of a discriminatory, abusive or degrading nature.

(5) In any judicial proceedings in which a disabled person is a party the legal procedure applied shall take his physical and mental condition into account.

(6) As far as practicable, every place to which the public have access shall have appropriate facilities for disabled persons.

(7) Special incentives shall be given to disabled persons engaged in business and also to business organizations that employ disabled persons in significant numbers.

(8) Parliament shall enact such laws as are necessary to ensure the enforcement of the provisions of this article.

2) Is your institution aware (or as aware as it would like to be) of the various United Nations developments in the field of human rights and disability?

Ans : The CHRAJ is generally aware of the fact that there is an increasing recognition that disability is a human rights issue which has received the full consideration of the United Nations human rights system.

The CHRAJ is also aware of the United Nations' Standard Rules on Equalization of Opportunities for Persons with Disabilities.

The CHRAJ is also aware that the Committee on Economic, Social and Cultural Rights has produced a useful General Comment on Disability. The other treaty monitoring bodies are being encouraged to focus attention on the human rights of persons with disabilities. There is also the Special Rapporteur on Disability. However, staff of the Commission are not as aware as the Commission would like them to be of all the various UN developments in the field of human rights and disability. Knowledge of the rights of persons with disability and the scope of legislative protection for the disabled is concentrated at the top levels of the Commission. The Commission intends to provide for the staff more training on disability issues.

3) Where are the main knowledge gaps as you see them?

Ans: The main knowledge gaps include the following:

- a) Inadequate access to, or appreciation of, development within the UN system on the rights of the disabled;
- b) Lack of easy/ready access to developments in international jurisprudence on disability rights; and
- c) Lack of sound empirical evidence of the type and scale of disabilities in Ghana, as well as a comprehensive awareness of available opportunities for addressing disability rights violation on different levels.

The UN does not adequately involve national institutions in planning and implementation of major events. Information and reports on events do not flow freely to these institutions. Even though education on Radio/TV the rights of the disabled, are usually carried out, other intervention using national institutions will increase awareness in this area. There is the need for a sustained national program to educate society on human rights of the disabled.

4) Does disability rank as a priority with your institution? If so, when and why?

Ans: The 1992 Constitution of Ghana prioritized the rights of the disabled under Article 29. Since the establishment of the CHRAJ in October 1993, the Commission on its part has prioritized the rights of the disabled and has processed a number of petitions that have come before it. It is in this connection that the Commission has collaborated with institutions like the Ghana Society of the Disabled and the Center for Social Policy Studies (CSPS) in promoting the rights of the disabled. The Head of the Public Education Department of the Commission presented a paper titled “enhancing Disability Rights in Africa: The Ghanaian. Experience “at a monthly seminar organized by the Center for Social Policy Studies CSPS, faculty of Social Studies, University of Ghana, Legon in July 2000. In July 1999, the Commission trained its investigators, legal officers and Regional Directors on principles for investigating complaints based on disability, and on the rights of the disabled generally. The training was aimed at heightening the awareness of the staff of the Legal and Investigative Department of the Commission and also prepares them adequately to handle complaints filed by disabled persons. The Commission believes that the rights of persons with disability are central to the protection of the vulnerable in society.

5) Does your institution make any operational distinction between Physical and mental disability or between the various kinds of disability? If so, why?

Ans: The promotion of human rights contributes to the building of a humane society. The disabled are among the most vulnerable in Ghanaian society. CHRAJ has a responsibility to ensure that the rights of all persons with disabilities are protected, and that they are not discriminated against. In undertaking measures to ensure that the rights of disabled persons contained in the Constitution are realized, the Commission does not make any distinction between the physically and mentally disabled or between the various kinds of disability.

6) Does your institution place any emphasis on gender and disability or on multiple forms of discrimination based on disability or overlapping with disability?

Ans: The Commission places emphasis on multiple forms of discrimination based on disability or overlapping with disability. In addition the Commission has in place a Women and Children’s desk to address complaints filed by them. The inspection of gender and disability presents enormous challenges for such persons and society. Women with disabilities are particularly vulnerable, and the Commission places emphasis in its educational activities on the rights of such women. In addition, women with physical and/or mental disabilities are especially vulnerable to sexual exploitation, including rape, and hence to HIV/AIDS infection. The Commission targets such women for special attention and protection.

7) Do you set aside a person or body of persons in your institution to deal with the rights of persons with disabilities? Please specify.

Ans: No.

8) Do you get many complaints from persons with disabilities or their representative NGOs? What kind of complaints figure most prominently?

Ans: We have received complaints from disabled persons but in the majority of cases, the complaints are not related to their condition. Some of the complainants have , however commented on the lack of facilities or services for the disabled such as the failure to provide ramps , provide elevators or parking spaces for the disabled. They have not lodged complaints based on the denial of or lack of access to facilities for the disabled. However, one complaint related to the withdrawal offered transportation facility for the disabled on state owned public transportation. Another related to the refusal of the national sports authorities to pay compensation to a volleyball coach for a physical disability, which required amputation of both limbs. The disability occurred in the course of his employment.

9) Has your institution held any general or public inquiries into the status of persons with disabilities (or specified groups of persons with disabilities) or their treatment within your jurisdiction? If so, please specify.

Ans: No.

10) Does your institution contribute to the inquiries held by other public authorities into the status of persons with disabilities or their treatment within your jurisdiction?

Ans: The CHRAJ is yet to make such a contribution.

11) Does your institution have an agreement (formal or informal) with other disability public bodies (e.g. national disability Commissions or authorities) on how to work best together on Disability matters? If so, specify.

Ans: Society of the Physically Disabled is a member and serves as chair. The Commission cooperates and collaborates with like-minded organizations in the promotion and protection of the rights of the physically challenged.

12) Has your institution assisted persons with disabilities (individually or as groups) with litigation...what factors led you to support the litigation? What was the subject matter of the litigation? What were the outcomes?

Ans: No.

13) Has your institution supplied amicus briefs in litigation involving persons with Disabilities? If so, please specify.

Ans: Not yet.

14) Has your institution instituted legal proceedings in its own name or on behalf of persons with disabilities?

Ans: Not yet.

15) Do you include disability rights awareness as part of your overall education programme?

Ans: Yes. The Commission provides training for its own staff to make them more aware of disability rights. It also cooperates with other NGOs especially disability NGOs.

16) Do you help NGOs (whether traditional rights NGOs or disability NGOs) to raise their capacity to participate in the democratic process in order to achieve the rights of persons with disabilities? If so, specify.

Ans: Yes, the Commission organized zonal workshops for human rights NGOs across the country. The Ghana Society of the Physically Disabled and Action on Disability and Development and other disability NGOs benefited from the workshops which sought to enhance the capacity of these NGO's to participate more effectively in the democratic process. The workshop for the Middle Belt was held in Sunyani, Brong Ahafo region from November 27-28 2000. The Southern Ghana Zonal workshop took place in Accra from February 22-23 2000, whilst the workshop for the Northern Zone was held in Tamale on April 18-19 2001

17) Does your institution make comments on draft legislation that affects persons with disabilities? Has that legislation been changed as a result of your comments as a result of your comments/observations? If so, please specify.

Ans: The Commission made an input into a bill before Parliament titled "Persons with Disabilities Bill". The Commission has called for the adoption of bold and innovative national policies, including employment equity legislation, to address the problem of unemployment and under-employment faced by the disabled in our society.

18) Has your institution produced any general reports to your Government on disability matters? If so, what changes came about as a result?

Ans: No.

**Response from Hong Kong Equal Opportunities Commission
to Asian Pacific Forum questionnaire on
Promoting the Rights of People with Disabilities: Towards a New United
Nations Convention**

This paper sets out the response of the Hong Kong Equal Opportunities Commission (EOC) to the Asia Pacific Forum on National Human Rights Institutions (APF) questionnaire on the captioned questionnaire on promoting the rights of people with disabilities (PWD).

Question 1: Is your institution aware (or as aware as it would like to be) of the human rights perspective on disability?

Yes, we are. Although the EOC is not a human rights organization, we are a statutory body formed under the law to work towards the elimination of discrimination, disability harassment, vilification and other unlawful acts done in respect of PWD. We are also entrusted to promote equality of opportunities for PWD. The other two pieces of legislation the EOC is administering are the Sex Discrimination Ordinance (SDO) and the Family Status Discrimination Ordinance (FSDO).

Question 2: Is your institution aware (or as aware as it would like to be) of the various United Nations developments in the field of human rights and disability?

In terms of dialogue, the EOC has submitted NGO alternative reports and made presentation to the UN Committees on Economic, Social and Cultural Rights and that on Civil and Political Rights regarding the implementation of those rights in Hong Kong with special reference to PWD.

In terms of participation, representatives of the EOC have attended a number of activities and conferences organized by UN, UNDEP and OHCHR on the rights of PWD. They include the conference on “Towards a United Nations Convention on the Human Rights of Persons with Disabilities—The Voice of Civil Society”, the 45th UN Meeting on the Status of Women in which women with disability was an topic of discussion, UN General Assembly Special Session on HIV/AIDS, various workshops on Regional Cooperation for the Promotion and Protection of Human Rights in the Asia-Pacific Region, etc.

In terms of cooperation, we co-organised Asia Pacific Forum on National Human Rights Institutions (APF) in 1999 the Inter-regional Seminar and Symposium on International Norms and Standards relating to Disability. This was funded by EOC, UN, APF and others.

In terms of published materials, efforts are made to keep abreast of the UN developments in the field of human rights and disability through reading of relevant UN articles, surfing of the UN sites, and contact with UN officials and other NGO in those aspects.

We also have regular communication with APF and its member institutions as well as equivalent bodies in Canada, USA, UK and Northern Ireland.

Questions 3: Where are the main knowledge gaps as you see them?

We feel that knowledge gaps still exist in respect of timeliness of information, lack of full knowledge of the latest development in trend, best practices, standards and different capacity building programmes. On some occasions we also observe gaps that relate to the complexity of the UN structure and how information flows from or back to it. We would like to be able to participate more frequently and in some cases share our experiences with participants.

Questions4: Does disability rank as a priority with your institution? If so, when and why?

Disability issues have been ranked with the top priority of our work since the inception of the EOC in May 1996. As mentioned earlier, EOC is entrusted to administer the DDO which came into full effect on 20 December 1996. The DDO prohibits discrimination against a person on ground of his/her disabilities in respect of employment and non-employment related activities. Under the law, disability harassment, vilification and victimizations are also unlawful. The legal protection also extends to the associates of PWD.

Question 5: Does your institution make any operational distinction between physical and mental disability or between various kinds of disability? If so, why?

In terms of enforcement of law, we do not make operational distinction between various kinds of disability. The DDO defines disability broadly covering present, past or future loss of physical, mental, cognitive and developmental functions. It also covers disability that is imputed to a person. DDO protects PWD and their associates against discrimination and harassment. Of course, persons with different kinds of disability have different needs. Individual characteristics will be taken into consideration when we administer the law.

Equal status is awarded to persons with different disabilities in our law enforcement and promotional works. Of course, the characteristics of different disability types are and will be taken into consideration when we design our strategies in enforcement and advocacy functions. Currently we are focusing on mental illness and children with learning disabilities. In view of the SARS outbreak we are, also, dealing specifically with the discrimination arising from that and advising parties to adopt measures which are regarded as reasonable essential and proportional to the situation at hand.

Question 6: Does your institution place any emphasis on gender and disability or on multiple forms of discrimination based on disability or overlapping with disability?

As EOC works to eliminate sex, disability and family status discrimination, we are particularly concerned with the overlapping effects of these attributes on a person. Discrimination against women with disabilities are a cause for concern as little is known of the status of this double disadvantaged group. In Hong Kong, they remain largely invisible and their voices seldom heard. This is not altogether surprising in that the profile of women with disabilities is generally lacking in many countries worldwide. Incorporating a gendered perspective in the policy-development process on disability would help to remedy the problem.

Questions 7: Do you set aside a person or body of persons in your institution to deal with the rights of PWD? Please specify.

Until very recent, we have specialization in our complaint handling section to deal with discrimination complaints lodged for different attributes, i.e. sex, disability and family status. However, with the development over the years and job rotation between teams, all staff performing investigation and conciliation work are experienced with issues and concern surrounding all target groups within our jurisdiction. Specialization is now by functions of complaint handling, legal, training, research and promotional work and not by grounds of discrimination. This arrangement enables both sharing of knowledge and flexibility in coping to fluctuations in work volume. For example, a quick response team was created with officers deployed and drawn from a wider spectrum of staff to handle the surge of enquiries/ complaints in relation to SARS. Staff can competently deal with different aspects surrounding issues and complaints, such as those related to women with disability.

Question 8: Do you get many complaints from PWD or their representative NGOs? What kinds of complaints figure most prominently?

Under the law, aggrieved persons or their representatives can lodge complaints with the EOC for disability discrimination. EOC can take the initiative to investigate into incidents reported or observed discrimination. Since we came into operation in September 1996, we had dealt with a total of 2081 complaints under the DDO. Among them, 1752 are complaints for investigation and conciliation, i.e. cases formally lodged by the aggrieved persons against the respondents. In respect of the other 329 cases, follow up actions have taken with the aggrieved persons not wanting to make formal complaints. About 65% of total complaints we have dealt with are employment-related. The remaining are on non-employment field, mainly concerns with education and accessibility issues.

Besides individual complaints, we see it more effective to redress systemic disability issues at the policy level. Examples include transportation, physical accessibility, information technology and communication accessibility, issues enhancing independent living of PWD, accommodation in education for students with learning difficulty, sensitivity of law enforcement officers towards PWD, etc. These are addressed through policy papers and guidelines we have issued, training (including web-based training for the Education Department), seminars and task forces that we have organized and regular

liaison we have established with government and NGOs. Our strategic litigation function has been successfully employed to remove systemic employment restrictions in government.

Question 9: Has your institution held any general or public inquiries into the status of persons with disabilities (or specified groups of persons with disabilities) or their treatment within your jurisdiction? If so, please specify.

The DDO empowers the EOC to conduct formal investigation for any purpose connected with the carrying out of any of its functions under the DDO. Regarding the conduct of the formal investigation, the EOC has the power to obtain information, make recommendation and issue enforcement notice requiring parties to comply with the recommendations made.

No formal investigation has been conducted under the DDO, although such investigation has been conducted in respect of the SDO. However, we have conducted less formal investigation studies on harassment of health care workers and HIV / AIDS patients by a group of residents in a community, on the procedures and training needs of the immigration department in relation to DDO as the result of a missing boy with autism at the immigration check points, and surveys of the peoples with mental illness. These have been successful as educational and preventive tools and have resulted in improvements being made.

Question 10: Does your institution contribute to the inquiries held by other public authorities into the status of persons with disabilities or their treatment within your jurisdiction?

The EOC has made presentations at various special panels of the Legislative Council on subjects related to rights, status and issues of PWD. Examples of topics include transportation; digital divide; stigmatization and harassment; education; social, economic, cultural, civil and political rights of PWD. We also provide information and views to government.

Question 11: Does your institution have an agreement (formal or informal) with other disability public bodies (e.g. national disability commissions or authorities) on how to work best together on disability matters? If so, please specify.

Hong Kong has no national coordinating committee or national disability commission for PWD. The body that shares some of the features of such bodies is the Rehabilitation Advisory Committee (RAC) of the Government's Health and Welfare Bureau. It is an advisory body to the Government on disability-related matters. The RAC does not have an executive committee and has limited advisory powers and functions. The Government published a White Paper on Rehabilitation that laid down the direction and objective of the policy of rehabilitation services some years ago. Many changes have since occurred in the rehabilitation sector and the macro-socio-political and economic environment, but no reviews have been conducted on the contents and the appropriateness of the White

Paper. Rehabilitation policies and services are mainly developed and implemented by relevant government bureaux and departments, and government funded NGOs.

The law defines the parameters and the main direction of the work of the EOC. Although there is no formal agreement between EOC and RAC in relation to the area raised in the question, we work closely with all agencies in disability matters.

Question 12: Has your institution assisted persons with disabilities (individually or as groups) with litigation. What factors led your to support the litigation? What was the subject matter of the litigation? What were the outcomes?

Under the DDO, a person who alleges discrimination on the ground of disability may lodge a complaint with the EOC or institute civil proceedings at district court. Upon receipt of a complaint, the EOC has a responsibility to investigate and to endeavour to effect a settlement by conciliation.

In cases where conciliation fails, the EOC may consider granting assistance to complainant who wishes to further pursue their cases. As at 30 April, 2003, a cumulative total of 115 applicants for other assistance (including legal assistance) have been received in respect of DDO complaints and assistance was granted to 40 of them.

As EOC is not a legal aid agency, our litigation is strategically directed towards public interest cases and those areas with strong educational and deterrent value. In respect of litigation, we were successful in a number of mental illness and physical disability cases.

In the mental illness cases, the court found in favour of three plaintiffs, who were variously dismissed or refused employment by two discipline services on the ground that their family members have had a history of mental illness. These cases set important precedents for Hong Kong as well as highlighted the seriousness of systemic discrimination and prejudice against mental illness. The court also granted EOC's request for an order requiring non-disclosure of the personal particulars of the plaintiffs other than the surnames because of associated stigmatization.

The physical disability case was on disability harassment of the plaintiff, a paraplegic, by a taxi driver when the former used the taxi service. The ruling was in favour of the plaintiff and the taxi driver was order to pay monetary damage.

Legal assistance was also granted to five care providers in a community health center which including the treatment of HIV / AIDS. In that case three defendants, residents of a nearby housing estate, interfered with the care providers as they went to or left work, and refused to let them pass through the housing estate in the same way as other members of the public. The case was settled before court action.

Questions 13: Has your institution supplied amicus briefs in litigation involving persons with disabilities? If so please specify.

Although amicus briefs have been supplied in sex discrimination litigation, the EOC has not yet supplied in respect of PWD. We are always prepared to supply either amicus briefs or intervened where warranted.

Question 14: Has your institution instituted legal proceedings in its own name or on behalf of persons with disabilities?

In the cases where legal assistance was granted, litigation actions were taken under the names of the PWD. The EOC has in its own name sought judicial review of the secondary school places allocation system. The EOC saw a need to take out legal proceedings in its own name particularly in case where the aggrieved persons are not willing to be made known or in actions involving a class of people. EOC has proposed legislative amendment to the Government. The Government has agreed in principle to amend the law to give power to the EOC to commence action in its own name seeking declaratory, and in some cases injunctive, relief where either complainants or respondents (as the case may be) cannot be found. The EOC intends only to use this power where public interest requires it. The early intervention by the EOC in these situations would help to forestall a deterioration of the community relationship. In due course, we believe class actions are necessary but the law does not provide for this currently.

Questions 15: Do you include disability rights awareness as part of your overall education program?

Not only do we put disability rights awareness as an important component in our overall education program, efforts are also made to encourage and promote best practices in protecting such rights.

The EOC organized a community road show and seminars on news reporting and mental illness to develop best practices for the media in their portrayal of those with mental illness. Information on overseas media guidelines has also been provided to local media to encourage balanced and responsible reporting of mental illness.

The EOC has commissioned a number of baseline and opinion surveys to gauge public attitude towards PWD. On the basis of the findings, promotional initiatives are mapped out to promote better understanding of PWD and their rights. Our promotional and publicity activities include TV and radio programs, training courses, seminars, poster campaigns, competitions, etc. We also fund communities for their programs and initiatives that help raise awareness of PWD rights and nurture positive attitude towards PWD.

Tailor-made and scheduled training programs on equal opportunities are organized for employers, NGOs and interested parties..

The Code of Practice in Employment under the DDO is published to assist employers and employees in understanding their legal rights and obligations under the law. The Code of Practice on Education under the DDO is also issued to assist school administrators

and teachers to understand their obligations in their particular field. Other printed matters include the series of “ DDO and I” booklets and “Information leaflets on Education”, etc. These were produced to assist stakeholders and interested parties to understand the applicability of DDO in various aspects.

Questions 16: Do you help NGOs (whether traditional human rights NGOs or disability NGOs) to raise their capacity to participate in the democratic process in order to achieve the rights of persons with disabilities? If so please specify.

The EOC recommended to government to amend the DDO to provide for the specific prohibition of discrimination in eligibility to vote for, or to be elected, or appointed, to advisory bodies of the Government.

Question 17: Does your institution make comments on draft legislation that affects persons with disabilities? Has that legislation been changed as a result of your comments/ observations? If so, please specify

The DDO empowers the EOC to review the law and to make amendment proposals to the government. A number of proposals have been made regarding the improvement of the DDO, voting rights, etc. The Government has agreed in principle to amend the law to give power to the EOC to commence action in its own name seeking declaratory, and in some cases injunctive relief. The EOC intends only to use this power where public interest requires it. The early intervention by the EOC in these situations would help to forestall a deterioration of the community relationship.

As an alternative to litigation, EOC has asked for the power to secure from third parties voluntary binding undertaking which will be enforceable in court. Such undertakings may be entered into by entities whose policies and practices are discriminatory, but which may require time to eliminate the discriminatory elements. The Government has also in principle agreed to the proposal.

Question 18: has your institution produced any general reports to your government on disability matters? If so, what changes come about as a result?

The EOC reports to the government and legislature about its work through its regular and annual reports. We present our views to government and legislators on the systemic discrimination against PWD, government’s compliance of the social, economic, cultural, civil and political rights of PWD, empowerment and development of PWD.

Equal Opportunities Commission
May 2003

**PROMOTING THE RIGHTS OF PEOPLE WITH DISABILITIES:
TOWARDS A NEW UNITED NATIONS CONVENTION**

MALAWI HUMAN RIGHTS COMMISSION

ANSWERS TO QUESTIONNAIRE

Question 1: Is your institution aware (or as aware as it would like to be) of the human rights perspective on disability?

Answer: Yes, it is partly aware.

Question 2: Is your institution aware (or as aware as it would like to be) of the various United Nations developments in the field of human rights and disability?

Answer: Yes, it is partly aware.

Question 3: Where are the main knowledge gaps as you see them?

Answer: The Commission is not fully aware of the various United Nations provisions and developments on disability issues.

Question 4: Does disability rank as a priority with your institution? If so, when and why?

Answer: Yes it does. The Malawi Human Rights Commission is mandated to promote and protect all rights of people in Malawi, including rights of vulnerable groups to which persons with disabilities belong.

Question 5: Does your institution make any operational distinction between Physical and mental disability or between the various kinds of disability? If so, why?

Answer: No, it does not.

Question 6: Does your institution place any emphasis on gender and disability or on multiple forms of discrimination based on disability or overlapping with disability?

Answer: Yes it does.

Question 7: Do you set aside a person or body of persons in your institution to deal with the rights of persons with disabilities. Please specify.

Answer: Yes, there is a Desk Officer for disability matters.

Question 8: Do you get many complaints from persons with disabilities or their representative NGOs? What kinds of complaints figure most prominently?

Answer: No, we do not.

Question 9: Has your institution held any general or public inquiries into the status of persons with disabilities (or specified groups of persons with disabilities) or their treatment within your jurisdiction? If so, please specify.

Answer: No, it has not.

Question 10: Does your institution contribute to the inquiries held by other public authorities into the status of persons with disabilities or their treatment within your jurisdiction?

Answer: No it hasn't as none has been done so far.

Question 11: Does your institution have an agreement (formal or informal) With other disability public bodies (e.g. national disability Commissions or authorities) on how to work best together on Disability matters? If so, please specify.

Answer: Yes it does. The Commission works with the Ministry responsible for persons with disabilities on government side and also works with various NGOs for persons with disabilities.

Question 12: Has your institution assisted persons with disabilities (individually or as groups) with litigation...What factors led you to support the litigation? What was the subject matter of the litigation? What were the outcomes?

Answer: No.

Question 13: Has your institution supplied amicus briefs in litigation involving persons with disabilities? If so, please specify.

Answer: No.

Question 14: Has your institution instituted legal proceedings in its own name or on behalf of persons with disabilities?

Answer: No.

Question 15: Do you include disability rights awareness as part of your overall education programme?

Answer: Yes, we do.

Question 16: Do you help NGOs (whether traditional human rights NGOs or disability NGOs) to raise their capacity to participate in the democratic process in order to achieve the rights of persons with disabilities? If so, please specify.

Answer: Yes, we give Civic Education mainly to Youth Clubs

Question 17: Does your institution make comments on draft legislation that affects persons with disabilities? Has that legislation been changed as a result of your comments/observations? If so, please specify.

Answer: Yes it does. The Commission formed part of the taskforce Looking at the reviewing of the Current Handicapped Persons Act that is being used and the drafting of a National Disability Policy. Currently, both the Act and the Policy are in draft form Awaiting Parliament Approval.

Question 18: Has your institution produced any general reports to your Government on disability matters? If so, what changes came about as a result?

Answer: No.

PROMOTING THE RIGHTS OF PEOPLE WITH DISABILITIES:
TOWARDS A NEW UNITED NATIONS CONVENTION

MALAYSIAN HUMAN RIGHTS COMMISSION

Question 1: Is your institution aware (or as aware as it would like to be) of the human rights perspective on disability?

Yes, SUHAKAM is aware of the human rights perspective on disability. It lends a right discourse towards the disabled and confers upon persons with disabilities all human rights because of the very basal fact that they are human beings.

Question 2: Is your institution aware (or as aware as it would like to be) of the various United Nations developments in the field of human rights and disability?

Yes, SUHAKAM is aware that the major international human rights instruments such as the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), Convention Against Torture (CAT), Convention on the Rights of the Child (CRC), Convention on the Elimination of all forms of Discrimination Against Women (CEDAW) and the International Convention on the Elimination of all forms of Racial Discrimination (ICERD), all address the rights of persons with disabilities.

Apart from the aforementioned instruments, there are other non-binding instruments such as the Declaration on the Rights of Mentally Retarded Persons, the Principles for the protection of persons with mental illness and the improvement of mental health care, Declaration on the Rights of Disabled Persons, ILO C.159 on Vocational Rehabilitation and Employment (Disabled Persons) Convention 1983 and ILO R.168 on Vocational Rehabilitation and Employment (Disabled Persons) Recommendation 1983.

Question 3: Where are the main knowledge gaps as you see them?

Information on rights of persons with disabilities is limited.
Resources on rights of persons with disabilities are underdeveloped.
The lack of papers/writings on how to utilise existing international human rights instruments as instruments of rights for persons with disabilities.

Question 4: Does disability rank as a priority with your institution? If so, when and why?

SUHAKAM's Human Rights Day 2001 theme involved the rights of the disadvantaged where the rights of persons with disabilities were examined at one of the workshops. As a follow-up, the Education Working Group of SUHAKAM has planned a few dialogues with persons with disabilities groups for the year 2003. To date, two dialogues have been carried out, the first in Kota Kinabalu on 9 February 2003 and the second in Kuala

Lumpur on 22 February 2003. Further, the issue of education for children with disabilities was examined at SUHAKAM's Human Rights Day 2002.

Question 5: Does your institution make any operational distinction between physical and mental disability or between the various kinds of disability? If so, why?

No.

Question 6: Does your institution place any emphasis on gender and disability or on multiple forms of discrimination based on disability or overlapping with disability?

No.

Question 7: Do you set aside a person or body of persons in your institution to deal with the rights of persons with disabilities. Please specify.

SUHAKAM has not at this point in time, set aside a person or body of person to deal with rights of persons with disabilities, although SUHAKAM may do so in the future.

Question 8: Do you get many complaints from persons with disabilities or their representative NGOs? What kinds of complaints figure most prominently?

SUHAKAM received one memorandum from the Malaysian Bar Council on the rights of persons with disabilities in September 2002. The said memorandum dealt with the issue of education with proposals for amendments to the Federal Constitution of Malaysia and the Education Act.

Question 9: Has your institution held any general or public inquiries into the status of persons with disabilities (or specified groups of persons with disabilities) or their treatment within your jurisdiction? If so, please specify.

SUHAKAM has had dialogue sessions with various groups on the rights of persons with disabilities. The objectives of these dialogues are to introduce SUHAKAM's role in promoting rights of persons with disabilities and to gather information on problems faced by persons with disabilities.

Question 10: Does your institution contribute to the inquiries held by other public authorities into the status of persons with disabilities or their treatment within your jurisdiction?

No.

Question 11: Does your institution have an agreement (formal or informal) With other disability public bodies (e.g. national disability Commissions or authorities) on how to work best together on Disability matters? If so, please specify.

No.

Question 12: Has your institution assisted persons with disabilities (individually or as groups) with litigation. What factors led you to support the litigation? What was the subject matter of the litigation? What were the outcomes?

No.

Question 13: Has your institution supplied amicus briefs in litigation involving persons with disabilities? If so, please specify.

No, SUHAKAM do not have the function of amicus curiae.

Question 14: Has your institution instituted legal proceedings in its own name or on behalf of persons with disabilities?

No.

Question 15: Do you include disability rights awareness as part of your overall education programme?

As stated in answer to question 4, SUHAKAM has carried out two dialogues with persons with disabilities groups and have had workshops during the SUHAKAM Human Rights Day 2001.

Question 16: Do you help NGOs (whether traditional human rights NGOs or disability NGOs) to raise their capacity to participate in the democratic process in order to achieve the rights of persons with disabilities? If so, please specify.

No, SUHAKAM does not have capacity building exercises.

Question 17: Does your institution make comments on draft legislation that affects persons with disabilities? Has that legislation been changed as a result of your comments/observations? If so, please specify.

SUHAKAM have not commented on the draft legislation but there are plans to study the draft legislation.

Question 18: Has your institution produced any general reports to your Government on disability matters? If so, what changes came about as a result?

No, but rights of persons with disabilities are included as part of SUHAKAM's Annual Report 2001 and 2002.

PROMOTING THE RIGHTS OF PEOPLE WITH DISABILITIES:
TOWARDS A NEW UNITED NATIONS CONVENTION

HUMAN RIGHTS COMMISSION OF MAURITIUS

Question 1: Is your institution aware (or as aware as it would like to be) of the human rights perspective on disability?

Yes

Question 2: Is your institution aware (or as aware as it would like to be) of the various United Nations developments in the field of human rights and disability?

Yes, Through The Internet And Relevant Documentation

Question 3: Where are the main knowledge gaps as you see them?

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Question 4: Does disability rank as a priority with your institution? If so, when and why?

Disability is not a priority. The National Human Rights Commission of Mauritius is more concerned with the fundamental civil and political rights set out in the constitution (which is based on the European Convention on Human Rights and Fundamental Freedoms). But the NHRC after two years of existence realises that it should take into consideration the rights of disabled persons who do suffer from inhuman treatment.

Question 5: Does your institution make any operational distinction between Physical and mental disability or between the various kinds of disability? If so, why?

No

Question 6: Does your institution place any emphasis on gender and disability or on multiple forms of discrimination based on disability or overlapping with disability?

No, but a Sex Discrimination Division has been created within the NHRC in April 2003. This division would be better equipped to deal with gender and disability

Question 7: Do you set aside a person or body of persons in your institution

to deal with the rights of persons with disabilities. Please specify.

Not yet. This will be provided for in the near future.

Question 8: Do you get many complaints from persons with disabilities or their representative NGOs? What kinds of complaints figure most prominently?

Not many complaints as yet. Most complaints relate to the fact that employers do not comply with the provisions of the Training and Employment of Disabled Persons Act (Act No. 9 of 1996) which requires an employer who employs more than 35 persons to reserve three per cent of jobs to disabled persons

Question 9: Has your institution held any general or public inquiries into the status of persons with disabilities (or specified groups of persons with disabilities) or their treatment within your jurisdiction? If so, please specify.

No

Question 10: Does your institution contribute to the inquiries held by other public authorities into the status of persons with disabilities or their treatment within your jurisdiction?

No. But the NHRC would be prepared to contribute to such enquiries.

Question 11: Does your institution have an agreement (formal or informal) With other disability public bodies (e.g. national disability Commissions or authorities) on how to work best together on Disability matters? If so, please specify.

No

Question 12: Has your institution assisted persons with disabilities (individually or as groups) with litigation... What factors led you to support the litigation? What was the subject matter of the litigation? What were the outcomes?

No

Question 13: Has your institution supplied amicus briefs in litigation involving persons with disabilities? If so, please specify.

No

Question 14: Has your institution instituted legal proceedings in its own name or on behalf of persons with disabilities?

No

Question 15: Do you include disability rights awareness as part of your overall education programme?

Yes

Question 16: Do you help NGOs (whether traditional human rights NGOs or disability NGOs) to raise their capacity to participate in the democratic process in order to achieve the rights of persons with disabilities? If so, please specify.

Not Yet

Question 17: Does your institution make comments on draft legislation that affects persons with disabilities? Has that legislation been changed as a result of your comments/observations? If so, please specify.

The NHRC has the power to make comments on draft legislation. No such occasion has arisen yet

Question 18: Has your institution produced any general reports to your Government on disability matters? If so, what changes came about as a result?

No

PROMOTING THE RIGHTS OF PEOPLE WITH DISABILITIES: TOWARDS A NEW UNITED NATIONS CONVENTION

HUMAN RIGHTS COMMISSION OF MONGOLIA

Answer 1. Research and studies demonstrate that disability necessarily relates to human rights. Persons with disabilities are likely to be less capacitated for the protection of their rights compared to normal persons. There is a clear need for our institution to establish a comprehensive approach to disability as human rights issue.

Answer 2. There are Declarations on the Rights of Disabled Persons, on the Rights of Mentally Retarded Persons and Principles for the Protection of Persons with Mental Disabilities. In addition, equal opportunities and participation of persons with disabilities in social, political and economic life are reinforced in the framework of the international human rights bill. We are aware that there is an ongoing discussion for the elaboration of international treaty for the protection of rights of persons with disabilities. We are interested in finding out more on this process and the draft convention.

Answer 3. An advanced approach in line with the international developments needs to be elaborated for national institutions on their policies for the protection and promotion of rights and equal opportunity of persons with disabilities especially in the presence of high level of poverty and unemployment as the case in Mongolia.

Answer 4. There is a clear need to approach to disability as a priority issue for the NHRC Mongolia connected to the fact that persons with disabilities who constitute 4.8% of the population /115.000/ are hugely affected by poverty and unemployment and become less aware and less able to protect their rights and entitlements.

Due to financial and infrastructure constraints, the Commission is not in a position to fully monitor the implementation of the rights of persons with disabilities in remote areas who also lack accessibility to the Commission. There is an essential need to raise awareness among persons with disabilities on their rights.

Answer 5. At present, the Commission has not developed any distinct approach concerning physical and mental disabilities or other kinds of disability. However, the practice shows that there is a need to urge the Government to develop disability type-specific policies to increase ability of persons with disabilities to participate in social and economic life.

Answer 6. There are no legislative and social grounds for discrimination based on gender in Mongolia. If there are, such discriminative attitudes and acts may only be seen against personal views of individuals.

Despite legislative prohibition of discrimination based on disability, social mentality is not as supportive as it could be towards persons with disabilities. For instance, employers are very reluctant to employ persons with disabilities. Therefore, the NHRC Mongolia

considers that it should have a comprehensive approach to disability and explore any possible multiple forms of discrimination concerning persons with disabilities.

Answer 7. Given a small staff of nine persons excluding the three Commissioners, it is not fully possible for the NHRC Mongolia to set aside a person or body of persons to deal with the rights of persons with disabilities. However, one of the Commissioners, Mr. Dalaijamts, is responsible for the rights of the vulnerable including persons with disabilities. In addition, disability is attached to the tasks of one of the officers.

Answer 8. Since January this year, the Commission has received over 20 complaints from persons with disabilities mainly concerning violation of their right to work, social and health protection with focus on the following issues:

- Failure to receive medical services due to poor livelihood
- Lack of housing
- Disability benefits do not cover basic needs
- Employers do not provide assistance and benefits they are due under law
- Lack of employment and employers are reluctant to employ persons with disabilities
- Dismissal based on disability.

In addition to this, non-governmental organizations of persons with disabilities including the Association of Mongolian Disabled Women and the Free Trade Union of Disabled and Lilliputian Employees addressed the NHRC Mongolia with proposals and suggestions to eradicate violations of rights of persons with disabilities.

Answer 9. The NHRC Mongolia conducted a general study on the rights of persons with disabilities. Moreover, an inquiry into the status of the right of individuals to health protection covered persons with disabilities. The findings of the studies show that despite legislative and organizational actions in the framework of the Law on Social Protection of the Disabled, the Law on Social Safety and the National Plan of Action for Improving the Livelihood of Persons with Disabilities, unfavorable economic conditions impede the implementation of rights of persons with disabilities including their right to work, education, medical services and social safety.

Amount of social benefits for persons with disabilities does not meet their basic needs. In addition, social benefits are not totally accessible due to the lack of proper monitoring over the spending of the social safety funds and services. Medical services do not meet the needs of persons with disabilities being unspecific and not rehabilitation-oriented. It is far more difficult for those who reside in rural areas because they have to bear double burden for coming to cities and urban areas for diagnosis and treatment.

Children with disabilities have less chance to education. There is a huge lack of special education facilities for children with disabilities in the country. For the whole nation there are only five special schools – one for physically disabled children other four for mentally disabled children – all being located in the capital city. Therefore, children with

disabilities in the countryside do not have access to education at all unless their parents can afford costs in the city and unless the schools can place the children. Just for general information, out of 1415 drop-outs in eighteen provinces and five districts studied, 1029 or 72.9% reside in the countryside.

Answer 10. The relevant state authorities have not done survey and studies on the rights of persons with disabilities and their social protection over the last two years since the establishment of the NHRC Mongolia. The Commission has expressed to some state agencies its interests to conduct joint inquiries in the area.

Answer 11. The NHRC Mongolia has been developing initial cooperation with the Ministry of Social Welfare of Mongolia such as discussions and workshops concerning disability. The Commission is planning to undertake actions in cooperation with relevant state authorities following the findings of the above-mentioned study on the rights of persons with disabilities.

Answer 12. The NHRC Mongolia is not aware of and has not been asked to assist in any litigation by persons with disabilities. However, if necessary the Commission is lawfully authorized to submit a claim to the court, to participate in person or through a representative in judicial proceedings with regard to violations of human rights and freedoms.

The Commission received a complaint from a group of persons with disabilities about a failure to receive benefits for occupational diseases. The Commission advised the group to lodge a complaint to the court and it is observing the development of the case.

Answer 13. The NHRC Mongolia has not had any occasion to supply amicus briefs in litigation involving persons with disabilities.

Answer 14. The NHRC Mongolia made a claim to the court concerning a resolution of the Metropolitan Citizens' Representatives' Meeting that established high fees for rural-urban migrants among whom there are persons with disabilities. The migration occurs mainly due to the consecutive natural disasters that radically affected livelihood of rural population. The first-instance court annulled the resolution of the Metropolitan Citizens' Representatives' Meeting.

Answer 15. Human rights education strategy of the NHRC Mongolia addresses different target groups including persons with disabilities. In addition to its separate plans, the Commission endeavors to organize education and promotion activities for the persons with disabilities in cooperation with governmental and non-governmental agents.

Answer 16. The Commission has been collaborating with the National Association of Organizations of Persons with Disabilities, the Association of Mongolian Disabled Women and the Free Trade Union of Disabled and Lilliputian Employees in the area of research and studies during which the Commission tries to provide professional and

methodological assistance to these organizations. The Commission also supports suggestions and proposals of these organizations to the Government.

Answer 17. Based on the findings of the study on the rights and social protection of persons with disabilities, the NHRC Mongolia has developed certain proposals concerning provisions in relevant legislation and submitted to the Parliament for change and improvement.

Answer 18. The Human Rights Status Report of 2003 has a specific charter covering the rights of persons with disabilities. The report was presented to the Parliament and a copy was sent to the Government of Mongolia. The Commission is trying to have its recommendations reflected in a government master plan for improvement of the rights of persons with disabilities.

**PROMOTING THE RIGHTS OF PEOPLE WITH DISABILITIES:
TOWARDS A NEW UNITED NATIONS CONVENTION**

NEW ZEALAND HUMAN RIGHTS COMMISSION

Question 1: Is your institution aware (or as aware as it would like to be) of the human rights perspective on disability?

A: Disability has been a prohibited ground of discrimination in the New Zealand Human Rights Act/New Zealand Bill of Rights Act since 1994.

Question 2: Is your institution aware (or as aware as it would like to be) of the various United Nations developments in the field of human rights and disability?

A: The Commission keeps in touch with UN developments in this area primarily through its links with APF and the UNHCHR, there is also monitoring of developments with the ILO, UNHCR, and ESCAP. The Commission's NGO networks are another source of information.

Question 3: Where are the main knowledge gaps as you see them?

A: This is interpreted to mean "where are the main (institutional) knowledge gaps in relation to questions 1 and 2".

Although Commission teams' areas of expertise and responsibility differ, there is a training programme to ensure all staff have some knowledge of disability issues, and of the role of the UN.

Question 4: Does disability rank as a priority with your institution? If so, when and why?

A: The 2002 Annual Report states that "For some years now, disability complaints have represented the single largest category of complaints to the Commission". The Commission has a range of education and training resources for people with disabilities including a "Train the Trainers" resource and support system ("Tu Tikanga") that enables people with disabilities to deliver human rights training to other people with disabilities. The Commission has also commented on disability issues in relation to proposed legislation and policies (see below).

Question 5: Does your institution make any operational distinction between Physical and mental disability or between the various kinds of disability? If so, why?

A: No (other than developing education resources targeted to people with different types of disability).

Question 6: Does your institution place any emphasis on gender and disability or on multiple forms of discrimination based on disability or overlapping with disability?

A: The term “intersectionality” is used to describe overlapping or multiple grounds of discrimination. Also relevant is the concept of “within ground discrimination” which covers situations where some disabilities are treated less favourably than other disabilities. The legal situation with respect to “within ground” discrimination is complex.

Question 7: Do you set aside a person or body of persons in your institution to deal with the rights of persons with disabilities. Please specify.

A: Disability issues arise in the disputes context, the litigation context, and in relation to policy and education work. Hence disability rights may be dealt with by the Disputes Resolution team, the Human Rights team, the legal team, the Office of Human Rights Proceedings, the National Plan of Action team, and the EEO unit. Also, Commissioners have particular expertise and interest in this area.

Question 8: Do you get many complaints from persons with disabilities or their representative NGOs? What kinds of complaints figure most prominently?

A: See question 4. Categories of complaints include (1) access to services/public places/vehicles/facilities issues for people with mobility disabilities and for people with sensory disabilities (e.g in relation to telecommunications, insurance, public transport) (2) access to education for children with special needs (3) discrimination in employment (4) access to accommodation (5) parenting rights of people with disabilities.

Question 9: Has your institution held any general or public inquiries into the status of persons with disabilities (or specified groups of persons with disabilities) or their treatment within your jurisdiction? If so, please specify.

A: In 1995 the Commission enquired into the income and asset testing of elderly people requiring permanent residential disability care (this raised discrimination issues in relation to disability, age, marital status and family status).

In 2003 the Commission is planning to carry out an inquiry into accessible public land transport for people with disabilities.

Question 10: Does your institution contribute to the inquiries held by other public authorities into the status of persons with disabilities or their treatment within your jurisdiction?

A: Yes, for example the Commission has contributed to the work of the Mental Health Commission and is planning to work more closely with the Health & Disability Commissioner.

Question 11: Does your institution have an agreement (formal or informal) With other disability public bodies (e.g. national disability Commissions or authorities) on how to work best together on Disability matters? If so, please specify.

A: See question 10. There is an agreement with the Commissioner for Children concerning the Commission's National Plan of Action. The Commission consults with relevant NGO groups and parts of the government sector concerned with/responsible for disability matters as required.

Question 12: Has your institution assisted persons with disabilities (individually or as groups) with litigation... What factors led you to support the litigation? What was the subject matter of the litigation? What were the outcomes?

A: Since 1 January 2002 the Director of Human Rights Proceedings has had the power to provide representation in proceedings for complainants. Previously the Proceedings Commissioner litigated matters in person. Since 2002 there has been no litigation concerning disability issues although it is understood that a case concerning an air carrier's reasonable accommodation of passengers requiring oxygen is pending.

Question 13: Has your institution supplied amicus briefs in litigation involving persons with disabilities? If so, please specify.

A: In 2002 the Commission was given leave by the Court of Appeal to intervene in the "Daniels" case concerning the disestablishment of special education facilities for children with special needs, as it wished to make submissions on disability discrimination. The Commission disagreed with the trial judge's finding that no discrimination had occurred. However, the Court of Appeal did not address the discrimination issue.

Question 14: Has your institution instituted legal proceedings in its own name or on behalf of persons with disabilities?

A: In relation to a complaint, in 1995 the Proceedings Commissioner instituted legal proceedings in his own name seeking an injunction restraining Wellington City Transport t/a Stagecoach from taking delivery of the balance of its order of buses that were not accessible to people in wheelchairs. The Complaints Review Tribunal ordered the balance of the order (some 26 buses) to be wheelchair accessible pending a substantive hearing of the issues. From 2002 the Director of Proceedings provides representation only (see q.12).

Question 15: Do you include disability rights awareness as part of your overall education programme?

A: Yes. See q4 above.

Question 16: Do you help NGOs (whether traditional human rights NGOs or disability NGOs) to raise their capacity to participate in the democratic process in order to achieve the rights of persons with disabilities? If so, please specify.

A: The Commission is presently helping to co-ordinate NGO responses to proposals for a new disability convention.

Question 17: Does your institution make comments on draft legislation that affects persons with disabilities? Has that legislation been changed as a result of your comments/observations? If so, please specify.

A: In 1995 the Commission made comments on income and asset testing of elderly people requiring permanent residential disability care. The relevant legislation was subsequently repealed in part.

The Commission made comments on draft telecommunications legislation in 2001 as this potentially affected deaf, hearing-impaired and speech-impaired people. See q18.

Question 18: Has your institution produced any general reports to your Government on disability matters? If so, what changes came about as a result?

A: The Commission's 1998 'Consistency 2000' Report on compliance by government statutes and regulations with the Human Rights Act

- contributed to changes in vocational services to disabled people
- raised the need for removal provisions for statutory appointees (ie., as provided for in many statutes) to be couched in terms of the incapacity of the appointee to perform the duties of the role. This suggestion was adopted in schedule 2 of the Human Rights Amendment Act 2001.

In 2001 the Commission reported to the Prime Minister on the need for a telecommunications relay service for deaf, hearing-impaired and speech-impaired people in 2001. Following the Commission's report and its comments on the draft legislation the government announced that there would be a telecommunications relay service for deaf, hearing-impaired and speech-impaired people.

The Commission has also provided submissions with further human rights implications on the Intellectual Disability (Compulsory Care) Bill (2000) Review of Special Education

2000 and the New Zealand Disability Strategy Discussion Document (2001), Access to supported housing for people with or recovering from, mental illness (2002).

**PROMOTING THE RIGHTS OF PEOPLE WITH DISABILITIES:
TOWARDS A NEW UNITED NATIONS CONVENTION**

NIGERIA HUMAN RIGHTS COMMISSION

Question 1: Is your institution aware (or as aware as it would like to be) of the human rights perspective on disability?

YES

Question 2: Is your institution aware (or as aware as it would like to be) of the various United Nations developments in the field of human rights and disability?

YES

Question 3: Where are the main knowledge gaps as you see them?

IMPLEMENTATION

Question 4: Does disability rank as a priority with your institution? If so, when and why?

SINCE 2000, DUE TO THE LACK OF ANY PROGRAMME BY GOVERNMENT ON DISABILITY.

Question 5: Does your institution make any operational distinction between Physical and mental disability or between the various kinds of disability? If so, why?

NONE

Question 6: Does your institution place any emphasis on gender and disability or on multiple forms of discrimination based on disability or overlapping with disability?

NONE

Question 7: Do you set aside a person or body of persons in your institution to deal with the rights of persons with disabilities. Please specify.

THE COMMISSION IS ABOUT TO APPOINT A SPECIAL RAPPORTEUR ON DISABILITY

Question 8: Do you get many complaints from persons with disabilities or their representative NGOs? What kinds of complaints figure

most prominently?

YES, NEGLECT AND LACK OF PROGRESS TO ALLEVIATE
CONDITIONS

Question 9: Has your institution held any general or public inquiries into the status of persons with disabilities (or specified groups of persons with disabilities) or their treatment within your jurisdiction? If so, please specify.

NOT YET

Question 10: Does your institution contribute to the inquiries held by other public authorities into the status of persons with disabilities or their treatment within your jurisdiction?

NO

Question 11: Does your institution have an agreement (formal or informal) With other disability public bodies (e.g. national disability Commissions or authorities) on how to work best together on Disability matters? If so, please specify.

NO

Question 12: Has your institution assisted persons with disabilities (individually or as groups) with litigation...What factors led you to support the litigation? What was the subject matter of the litigation? What were the outcomes?

NO

Question 13: Has your institution supplied amicus briefs in litigation involving persons with disabilities? If so, please specify.

NO

Question 14: Has your institution instituted legal proceedings in its own name or on behalf of persons with disabilities?

NOT YET

Question 15: Do you include disability rights awareness as part of your overall education programme?

YES

Question 16: Do you help NGOs (whether traditional human rights NGOs or disability NGOs) to raise their capacity to participate in the democratic process in order to achieve the rights of persons with disabilities? If so, please specify.

YES, THE ASSOCIATION OF DEAF AND DUMB IN NIGERIA / NO

Question 17: Does your institution make comments on draft legislation that affects persons with disabilities? Has that legislation been changed as a result of your comments/observations? If so, please specify.

NO SUCH LEGISLATION YET / THE LEGISLATION IS IN THE PROCESS OF BEING PASSED INTO LAW

Question 18: Has your institution produced any general reports to your Government on disability matters? If so, what changes came about as a result?

NOT YET

**PROMOTING THE RIGHTS OF PEOPLE WITH DISABILITIES:
TOWARDS A NEW UNITED NATIONS CONVENTION**

NORTHERN IRELAND HUMAN RIGHTS COMMISSION

Question 1: Is your institution aware (or as aware as it would like to be) of the human rights perspective on disability?

Answer 1: *The NIHRC is aware of the human rights perspective on disability but recognises the need to conduct further training with staff and Commissioners to increase this understanding.*

Question 2: Is your institution aware (or as aware as it would like to be) of the various United Nations developments in the field of human rights and disability?

Answer 2: *NIHRC is aware of UN developments through the attendance of the Chief Commissioner at the launch of the report by Gerard Quinn in Geneva and at other events around rights of disabled people.*

The Irish Human Rights Commission has agreed to co-ordinate a European response to the UN convention and NIHRC will be part of this process.

Question 3: Where are the main knowledge gaps as you see them?

Answer 3: *There is a lack of understanding on the Social Model of Disability among Commissioners and staff, but this is prevalent throughout Northern Ireland as the Disability Movement is not as advanced as other areas of the UK. There is some knowledge of the Disability Discrimination Act 1995, particularly in relation to the employment provisions, but training needs to be carried out on Part III, Goods and Services. Similarly training needs to be arranged on the EU Directive.*

Question 4: Does disability rank as a priority with your institution? If so, when and why?

Answer 4: *The overall priority for the NIHRC is the Bill of Rights and disability is included in this work. The Strategic Plan for 2003/2006 focuses on Articles 2, 3, 6, 14 of the ECHR and on Article 2 of Protocol 1. Part of the reason why disability is not a main priority is because of the nature of the work of the Equality Commission for Northern Ireland which has a separate disability unit set in place.*

Question 5: Does your institution make any operational distinction between Physical and mental disability or between the various kinds of disability? If so, why?

Answer 5: *The NIHRC does not make any operational distinction between physical or mental disability. Instead it focuses on the societal barriers that exist and which prevent the inclusion of disabled people and advocates a rights based approach.*

Question 6: Does your institution place any emphasis on gender and disability or on multiple forms of discrimination based on disability or overlapping with disability?

Answer 6: *In the context of the Bill of Rights gender and disability plus multiple forms of discrimination are addressed in the consultation document, particularly through the anti-discrimination clause. The NIHRC is part of the Joint Equality and Human Rights Forum and has prepared a report on youth, and gay, bi-sexual and lesbian rights. The JEHRF is a forum of statutory equality and human rights bodies in the UK and Ireland. Another arm of the JEHRF is working on issues affecting people who, as well as having a disability, are at risk of gender or race discrimination.*

Question 7: Do you set aside a person or body of persons in your institution to deal with the rights of persons with disabilities. Please specify.

Answer 7: *Within the NIHRC there are a number of staff and Commissioners with knowledge of disability issues, and, depending on the area to be covered, these people will deal with the issues based on who has that particular expertise.*

One of the key values of the NIHRC is equality and there is a commitment to the inclusion of disabled people in all of its work.

Question 8: Do you get many complaints from persons with disabilities or their representative NGOs? What kinds of complaints figure most prominently?

Answer 8: *Because of the remit of the Disability Unit within the equality Commission very few complaints are raised with the NIHRC from disabled people or their representative NGOs.*

However, one case did present itself where a young disabled girl attending an Irish Language school was refused a classroom assistant as the school was funded privately and not directly by the State. The NIHRC wrote to the relevant Education Authority with the result that a classroom assistant has now been provided.

Question 9: Has your institution held any general or public inquiries into the status of persons with disabilities (or specified groups of persons with disabilities) or their treatment within your jurisdiction? If so, please specify.

Answer 9: *The NIHRC has not held any specific inquiry into the status of disabled people or their treatment. But during the work on the Bill of rights there has been a number of meetings with individuals and groups of disabled people to ascertain the areas where they have been discriminated against, and which they feel need protected under a Bill of Rights.*

Question 10: Does your institution contribute to the inquiries held by other public authorities into the status of persons with disabilities or their treatment within your jurisdiction?

Answer 10: *There have been no inquiries into the status of disabled people as such but the NIHRC participate on a regular, but informal basis at meetings throughout Northern Ireland where issues relating to the inclusion of disabled people are being discussed.*

Question 11: Does your institution have an agreement (formal or informal) With other disability public bodies (e.g. national disability Commissions or authorities) on how to work best together on Disability matters? If so, please specify.

Answer 11: *The NIHRC has a Memorandum of Understanding with the Equality Commission of Northern Ireland as to how best to work together. As part of the Joint Equality and Human Rights Forum the NIHRC works in conjunction with the Disability Rights Commission on the promotion of rights for disabled people.*

The NIHRC is also part of the steering group set up in Northern Ireland to promote the European Year of People with Disabilities.

One of the Commissioners currently chairs a sub-group within the Mental Health Review Team, a government-sponsored body set up by the Department of Health, Social Services and Public Safety in Northern Ireland.

Question 12: Has your institution assisted persons with disabilities (individually or as groups) with litigation... What factors led you to support the litigation? What was the subject matter of the litigation? What were the outcomes?

Answer 12: *As previously referred to in Question 8 the NIHRC provided assistance to a young girl to access the support of a classroom assistant. This was resolved by a letter and required no litigation.*

Question 13: Has your institution supplied amicus briefs in litigation involving persons with disabilities? If so, please specify.

Answer 13: *The NIHRC has not supplied amicus briefs in litigation involving disabled people. Although one issue which the NIHRC is currently pursuing relates to the suicidal*

death in prison of a young woman with mental health problems. A judicial review is being arranged to gain access to the papers relating to her death.

Question 14: Has your institution instituted legal proceedings in its own name or on behalf of persons with disabilities?

Answer 14: *The NIHRC has not instituted legal proceedings in its own name or on behalf of a disabled person.*

Question 15: Do you include disability rights awareness as part of your overall education programme?

Answer 15: *Within the Human Rights training sessions provided by the NIHRC the rights of disabled people is covered as part of the overall training. Training has been provide to Commissioners and staff on the employment Provisions of the Disability Discrimination Act 1995 with further sessions planned in 2003 to cover Disability Equality Training and Part III of the DDA.*

Question 16: Do you help NGOs (whether traditional human rights NGOs or disability NGOs) to raise their capacity to participate in the democratic process in order to achieve the rights of persons with disabilities? If so, please specify.

Answer 16: *As part of the Bill of Rights process disabled people were trained as Facilitators by the NIHRC to ensure the views of disabled individuals and groups would be included. From this a pan-alliance has been formed in Northern Ireland among the disability sector to put together a report which has been submitted, not only to the NIHRC, but also to local politicians calling for the rights of disabled people to be implemented.*

Phase III of the Bill of Rights is currently being held and capacity building sessions are being organised with marginalised and excluded groups to enable them to participate in this stage of development.

A round table discussion was also facilitated by the NIHRC to ensure the response to the Special Education Needs and Disability Bill met with the approval of disabled individuals and groups.

Question 17: Does your institution make comments on draft legislation that affects persons with disabilities? Has that legislation been changed as a result of your comments/observations? If so, please specify.

Answer 17: *The NIHRC makes comments on draft legislation that affects disabled people and has recently submitted a response on the proposed Special Education Needs*

and Disability Bill.. It has also responded to the Burns Review on the 11 plus examination process held in Northern Ireland.

It will respond to the plans by the Government later this year to issue new proposals on developing a new Disability Bill.

Because of the suspension of the Northern Ireland Assembly there have been delays in the implementation of the Burns Review so, at present, the NIHRC are unable to say what sort of impact their response has had.

The NIHRC has made a detailed submission on proposals for changing the law and practice regarding consent to medical treatment (for everyone, not just disabled people).

As well, the Commission has visited Muckamore Abbey, a long-term care facility for people with learning difficulties, to discuss the regime with patient representatives. The NIHRC expressed concerns raised over the allegations that patients/residents were, as a result of inappropriate behaviour, sometimes made to walk around the outside courtyard wearing no overcoat.

Proposed plans to visit other mental health institutions were suspended as a result of focussing on other areas of work. (Note: A Mental Health Commission operates in Northern Ireland and NIHRC have links with this organisation).

Question 18: Has your institution produced any general reports to your Government on disability matters? If so, what changes came about as a result?

Answer 18: *The NIHRC have produced a number of reports which, not disability specific, do have a bearing on disability issues, for example Victims Report, Mental Health Review, Plastic Baton Rounds, Police Training on Human Rights. Under Section 75 of the Northern Ireland Act 1998 the NIHRC also ensures their policies are in adherence with equality schemes.*

Republic of the Philippines
COMMISSION ON HUMAN RIGHTS

**R E: ANSWERS TO QUESTIONNAIRE ON THE RIGHTS OF
PERSONS WITH DISABILITIES**

Question 1: Is your institution aware (or as aware as it would like to be) of the human rights perspective on disability?

Yes. The Commission on Human Rights of the Philippines (CHRP) is aware that the Universal Declaration of Human Rights affirms the right of all people, without distinction of any kind, to marriage; property ownership; equal access to public services; social security; and the realization of economic, social and cultural rights.

The **Declaration on Social Progress and Development** proclaims the necessity of protecting the rights of physically and mentally disadvantaged persons and assuring their welfare and rehabilitation. It guarantees everyone the right to and opportunity for useful and productive labor.

Question 2: Is your institution aware (or as aware as it would like to be) of the various United Nations developments in the field of human rights and disability?

Yes. From its early days, the United Nations has sought to advance the status of disabled persons and to improve their lives. The concern of the United Nations for the well-being and rights of disabled persons is rooted in its founding principles, which are based on human rights, fundamental freedoms and equality of all human beings. As affirmed by the United Nations Charter, the Universal Declaration of Human Rights, International Covenants on Human rights and related human rights instruments, persons with disabilities are entitled to exercise their civil, political, social and cultural rights on an equal basis with non-disabled persons.

The contributions of United Nations specialized agencies to advance the situation of disabled persons is noteworthy: the United Nations Educational, Scientific and Cultural Organization (UNESCO) by providing special education; the World Health Organization (WHO) by providing technical assistance in health and prevention; the United Nations International Children's Fund (UNICEF) by supporting childhood disability programmes and providing technical assistance in collaboration with Rehabilitation International (an NGO); the International Labor Organization (ILO) by improving access to the labor market and increasing economic integration through international labor standards and technical cooperation activities.

In the 1940's and 1950's the United Nations was active in promoting the well-being and rights of persons with physical disabilities through a range of social welfare approaches. The United Nations provided assistance to Governments in disability prevention and

rehabilitation of disabled persons through advisory missions, workshops for the training of technical personnel and the setting up of rehabilitation centers. Seminars and the study groups were means of exchanging information and experience among experts in disability.

Fellowships and scholarships were awarded for trainers. As a result of initiative from within the community of disabled persons, the 1960 saw a fundamental reevaluation of policy and established the foundation for the full participation by disabled persons in society.

In the 1970's, United Nations initiatives embraced the growing international concept of human rights of persons with disabilities and equalization of opportunities for them. In 1971, the General Assembly adopted the “**Declaration on the Rights of Mentally Retarded Persons.**” This Declaration stipulates that mentally retarded persons are accorded the same rights as other human beings, as well as specific rights corresponding to their needs in the medical, educational and social fields. Emphasis was put on the need to protect disabled persons from exploitation and provide them with proper legal procedures. In 1975, the General Assembly adopted the “**Declaration on the Rights of Disabled Persons**”, which proclaims the equal civil and political rights of disabled persons. This Declaration sets the standard for equal treatment and access to services which help to develop capabilities of persons with disabilities and accelerate their social integration.

In 1976, the General Assembly proclaimed 1981 as the **International Year of Disabled Persons (IYDP)**. It called for a plan of action at the national, regional and international levels, with an emphasis on the equalization of opportunities, rehabilitation and prevention of disabilities.

A major outcome of the International Year of Disabled Persons was the formulation of the **World Programme of Action** concerning Disabled Persons, adopted by the General Assembly in December 1982. In order to provide a time frame during which Governments and organizations could implement the activities recommended in the World Programme of Action, the General Assembly proclaimed 1983-1992 the **United Nations Decade of Disabled Persons**. Marking the end of the Decade of Disabled Persons, the General Assembly proclaimed December 3 as the **International Day of Disabled Persons**. Among the major outcomes of the Decade of the Disabled Persons was the adoption by the General Assembly of the Standard Rules on the Equalization of Opportunities for Persons with Disabilities in 1993. The rules serve as an instrument for policy-making and as a basis for technical and economic cooperation.

Recent United Nations World Conferences reflect the growing awareness that persons with disabilities have both special concerns and needs that require serious consideration of the international community. All of the recent conferences – United Nations Conference on the Environment, the World Conference on Human Rights, the International Conference on Population and Development, the World Summit for Social Development, the Fourth World Conference on Women, and Habitat II – have addressed

the situation of people with disabilities and made recommendations to rectify past discriminatory practices as well as to protect and promote their rights to participate fully in all aspects of the society as citizens of their countries.

The United Nations and the specialized agencies continue their efforts to assist Member States in attaining the equality of all people, including persons with disabilities, in social life and development. The work of the United Nations concentrates on improving the situation of disabled persons by promotion and monitoring the implementation of the Standard Rules and the World Programme of Action. The United Nations continues to provide on request technical and financial support for national and international projects. It develops statistical concepts and indicators, gathering relevant country information and preparing technical manuals and publications on disability statistics. The work of the United Nations will increasingly focus on equalization of opportunities for persons with disabilities.

Question 3: Where are the main knowledge gaps as you see them?

The main gap is on the implementation of the measures for the equalization of opportunities for persons with disabilities. People with disabilities continue to be deprived of an adequate education, equal opportunities in employment, equal access to public accommodations, architectural barriers limiting their integration and stereotypical and negative perceptions of disability which contribute to their being discriminated and segregated. Of important concerns is the lack of accessibility to new technologies, in particular information and communications technologies as well as the physical environment.

Question 4: Does disability rank as a priority with your institution? If so, when and why?

Disability is one of the concerns being addressed under the Philippine Human Rights Plan (PHRP). It is one of the vulnerable sectors of society which the CHRP is monitoring for compliance of the international standards and which the CHRP has provided technical support and assistance.

Question 5: Does your institution make any operational distinction between physical and mental disability or between the various kinds of disability? If so, why?

No

Question 6: Does your institution place any emphasis on gender and disability or on multiple forms of discrimination based on disability or overlapping with disability?

Both. Women's needs require special attention. The consequences of disablement are particularly serious for women, because disabled women are discriminated against on double grounds: gender and disability. Therefore, they have less access to essential services such as health care, education and vocational rehabilitation.

Disabled people such as the mentally ill and the mentally retarded, the visually, hearing and speech impaired and those with restricted mobility or with so-called “medical disabilities” all encounter different barriers, of different kinds, which have to be overcome and addressed in different ways.

Question 7: Do you set aside a person or body of persons in your institution to deal with the rights of persons with disabilities. Please specify.

In order to effectively deal with the rights of persons with disabilities, the CHRP has designated a Commissioner-In-Charge, Director-In-Charge, Attorney-In-Charge and Sectoral Coordinator for persons with disabilities.

Question 8: Do you get many complaints from persons with disabilities or their representative NGOs? What kind of complaints figure most prominently?

Not that many. Complaints with regard to discrimination on public transportation, employment, education and non implementation of the major provisions of RA 7277 otherwise known as Magna Carta for Disabled Persons and BP 344 – the Accessibility Law.

Question 11: Does your institution have an agreement (formal or informal) with other disability public bodies (e.g. national disability commission or authorities) on how to work best together on disability matters? If so, please specify.

Yes. A Memorandum of Agreement for the creation of an Inter-agency Task force for the effective implementation of the provisions of law that prohibit discrimination of public utilities against persons with disabilities in transportation was signed on August 23, 2000 at the Tahanang Walang Hagdanan between and among the CHRP, Department of Transportation and Communication, Department of Interior and Local Government, Department of Justice, and the National Council for the Welfare of the Disabled Persons.

Question 12: Has your institution assisted persons with disabilities (individually or as groups) with litigation? What factors led you to support the litigation? What was the subject matter of the litigation? What were the outcomes?

Yes, but the case did not prosper. The complainant was no longer interested in pursuing the case. The subject matter was discrimination of public utility in transportation.

Question 13: Has your institution supplied amicus briefs in litigation involving persons with disabilities? If so, please specify.

No.

Question 14: Has your institution instituted legal proceedings in its own name or on behalf of persons with disabilities?

No.

Question 15: Do you include disability rights awareness as part of your overall education programme?

Yes, particularly now that the Commission has adopted the rights-based approach in its education and information campaigns.

Question 16: Do you help NGOs (whether traditional human rights NGOs or disability NGOs) to raise their capacity to participate in the democratic process in order to achieve the rights of persons with disabilities? If so, please specify.

Yes. The CHRP has initiated meetings and dialogues with GOs and NGOs to address the issues and concerns of persons with disabilities, their full participation and integration into the mainstream of our society.

Question 17: Does your institution make comments on draft legislation that affect persons with disabilities? Has that legislation been changed as a result of your comments/observations? If so, please specify.

The Commission, together with concerned NGOs, has advocated for the amendment of the Philippines Magna Carta for Disabled Persons specifically its employment provisions. But to date, the same has not been favorably acted upon.

Question 18: Has your institution produced any general reports to your Government on disability matters? If so, what changes came about as a result?

No, the Commission has not come up with a report on disability matters but the same is in the priority agenda of the Commission.

PROMOTING THE RIGHTS OF PEOPLE WITH DISABILITIES:
TOWARDS A NEW UNITED NATIONS CONVENTION

HUMAN RIGHTS COMMISSION OF SRI LANKA

Question 1: Is your institution aware (or as aware as it would like to be) of the human rights perspective on disability?

Answer : *Yes; though this issue has not drawn the attention of the Commission in a critical way as there are many other human rights violations which have attracted the Commission's attention.*

Question 2: Is your institution aware (or as aware as it would like to be) of the various United Nations developments in the field of human rights and disability?

Answer : *Yes; to a fair extent.*

Question 3: Where are the main knowledge gaps as you see them?

Answer : *In the area of proactive measures which have been recommended by the UN and followed by other countries.*

Question 4: Does disability rank as a priority with your institution? If so, when and why?

Answer : *In the near future it should rank as a priority because there are many hundreds of persons who have become disabled (both physically and mentally) due to the civil war that raged the country for over two decades; governmental and non-governmental institutions are not sufficiently aware of the rights of these persons and that they should not be discriminated on ground of their disability.*

Question 5: Does your institution make any operational distinction between Physical and mental disability or between the various kinds of disability? If so, why?

Answer : *No. However, as stated earlier that this issue has not so far attracted the main attention of the Commission.*

Question 6: Does your institution place any emphasis on gender and disability or on multiple forms of discrimination based on disability or overlapping with disability?

Answer : *The Commission does not place any emphasis on gender and disability; but deals with it as one of the multiple forms of discrimination.*

Question 7: Do you set aside a person or body of persons in your institution to deal with the rights of persons with disabilities. Please specify.

Answer : *No.*

Question 8: Do you get many complaints from persons with disabilities or their representative NGOs? What kinds of complaints figure most prominently?

Answer : *No; very negligible. However we anticipate with awareness and educative programmes, complaints will increase in the years ahead.*

Question 9: Has your institution held any general or public inquiries into the status of persons with disabilities (or specified groups of persons with disabilities) or their treatment within your jurisdiction? If so, please specify.

Answer : *No.*

Question 10: Does your institution contribute to the inquiries held by other public authorities into the status of persons with disabilities or their treatment within your jurisdiction?

Answer : *No, as no such occasion has arisen yet.*

Question 11: Does your institution have an agreement (formal or informal) With other disability public bodies (e.g. national disability Commissions or authorities) on how to work best together on Disability matters? If so, please specify.

Answer : *No.*

Question 12: Has your institution assisted persons with disabilities (individually or as groups) with litigation... What factors led you to support the litigation? What was the subject matter of the litigation? What were the outcomes?

Answer : *No.*

Question 13: Has your institution supplied amicus briefs in litigation involving persons with disabilities? If so, please specify.

Answer : *Yes. In a case or two, the Commission intervened to make representation in the case filed against a public institution.*

Question 14: Has your institution instituted legal proceedings in its own name or on behalf of persons with disabilities?

Answer : *No. We have not instituted legal proceedings in our own name. However, we have intervened on behalf of persons with disabilities in a case or two filed by others to mandate Public bodies to respect the rights of disabled persons.*

Question 15: Do you include disability rights awareness as part of your overall education programme?

Answer : *Yes.*

Question 16: Do you help NGOs (whether traditional human rights NGOs or disability NGOs) to raise their capacity to participate in the democratic process in order to achieve the rights of persons with disabilities? If so, please specify.

Answer : *No.*

Question 17: Does your institution make comments on draft legislation that affects persons with disabilities? Has that legislation been changed as a result of your comments/observations? If so, please specify.

Answer : *No.*

Question 18: Has your institution produced any general reports to your Government on disability matters? If so, what changes came about as a result?

Answer : *No.*

PROMOTING THE RIGHTS OF PEOPLE WITH DISABILITIES:
TOWARDS A NEW UNITED NATIONS CONVENTION

HUMAN RIGHTS COMMISSION OF THAILAND

**Promoting the Rights of People with Disabilities: Towards a New United Nations
Convention
Answers to the Questionnaire
Thailand**

Q1. Is your institution aware (or as aware as it would like to be) of the human rights perspective on disability?

Ans1. Yes, we are. I myself have been working very closely with the International Handicaps, especially about the improper management on the usage and the recovering techniques of the landmines which, million of them, are still left beneath the ground. So far, many countries have not ratified "Ottawa Agreement" such as United States of America, People's Republic of China, Singapore, Cambodia, Laos etc. This problem (i.e. the cause of unnecessary disability and avoidable cause of disability) should be emphasized in the Covention which I am willing to make a short explanation.

Q2. Is your institution aware (or as aware as it would like to be) of the various United Nations Developments in the field of human rights and disability?

Ans2. Yes, we are and we would also like to assure the accountability of Disabilities and Human Rights.

Q3. Where are the main knowledge gaps as you see them?

Ans3. The main knowledge gaps is the elaboration of an International Convention on the rights of persons with disabilities.

Q4. Does disability rank as a priority with your institution? If so, when and why?

Ans4. Disability, including the children suffered from "Orthistics", has been ranked as a priority since the beginning of the Thai National Human Rights Commission.

Q5. Does your institution make any operational distinction between Phisical and mental disability or between the various kinds of disability? If so, why?

Ans5. No.

Q6. Does your institution place any emphasis on gender and disability or on multiple forms of discrimination based on disability or overlapping with disability?

Ans6. No.

Q7. Do you set aside a person or body of persons in your institution to deal with the rights of persons with disabilities. Please specify.

Ans7. Yes, we do. Her name is Ms. Saranpat of the Institute of Promotion and Protection of the Rights and Dignity of Persons with Disabilities.

Q8. Do you get many complaints from persons with disabilities or their representative NGOs? What kinds of complaints figure most prominently?

Ans8. Yes, we do. The complaints on Blindness, Deafness, Mental Disabilities (about 5,000-6,000 cases per year) are received by various organizations, including from Cambodian and Burmese people.

Q9. Has your institution held any general or public inquiries into the status of persons with disabilities (or specified groups of persons with disabilities) or their treatment within your jurisdiction? If so, please specify.

Ans9. Yes, we have done it under the patronage of Her Royal Highness Princess Mother's Center for Artificial Limbs.

Q10. Does your institution contribute to the inquiries held by other public authorities into the status of persons with disabilities or their treatment within your jurisdiction?

Ans10. Yes.

Q11. Does your institution have an agreement (formal or informal) with other disability public bodies (e.g. national disability Commissions or authorities) on how to best together on Disability matters? If so, please specify.

Ans11. No.

Q12. Has your institution assisted persons with disabilities (individually or as groups) with litigation... What factors led you to support the litigation? What was the subject matter of the litigation? What are the outcomes?

Ans12. –

Q13. Has your institution supplied amicus briefs in litigation involving persons with disabilities? If so, please specify.

Ans13. –

Q14. Has your institution instituted legal proceedings in its own name or on behalf of persons with disabilities?

Ans14. –

Q15. Do you include disability rights awareness as part of your overall education programme?

Ans15. -

Q16. Do you help NGOs (whether traditional human rights NGOs or disability NGOs) to raise their capacity to participate in the democracy process in order to achieve the rights of persons with disabilities? If so, please specify.

Ans16. Yes, we work quite closely.

Q17. Does your institution make comments on draft legislation that affects persons with disabilities? Has that legislation been changed as a result of your comments/observations? If so, please specify.

Ans. Yes. It is under drafting process.

Q18. Has your institution produced any general reports to your Government on disability matters? If so, what changes came about as a result?

Ans18. Rarely.

**PROMOTING THE RIGHTS OF PEOPLE WITH DISABILITIES:
TOWARDS A NEW UNITED NATIONS CONVENTION**

UGANDA HUMAN RIGHTS COMMISSION

Question 1: Is your institution aware (or as aware as it would to be) of the human rights perspective on disability?

The Uganda Human Rights Commission is aware of the human rights perspective on disability e.g. discrimination against PwDs; affirmative action for PwDs to increase their participation in public and political life; special consideration for educational needs of Children with Disabilities and establishing special needs for PwDs in social, economic and political areas.

Question 2: Is your institution aware (aware as it would like to be) of the various United Nations developments in the field of human rights and disability?

The Commission is aware of the UN developments in human rights and disability.

Question 3: Where are the main knowledge gaps as you see them?

There is need to put in place a binding instrument by the UN.

Question 4: Does disability rank as a priority within your institution? If so, when and why?

Disability is a priority area for the Commission because disability is a human rights issue. Since 1997 when the Commission was established, rights of persons with disability have been tackled through complaints lodged by such victims. However, in 1999 the Commission embarked on its first public hearing on persons with disability. This was intended to bring on public record the areas of concern for PwDs; and see the focus areas the Commission could lobby for change in law, policy and practice that violated the rights of PwDs. Having considered rights of PwDs for its first public hearing is indicative of the area as a high priority concern.

Question 5: Does your institution make any operational distinction between physical and mental disability or between various kinds of disability? If so, why?

Yes. The Commission is aware that mental disability needs special attention because the person with mental disability is more disadvantaged in the sense that the very part that defines a human being - the brain is affected in mental disability.

The Commission recognises PwDs as a group for purposes of identity, consistency or coherency. It is also helpful in have a more concerted effort and impact to work with

PwDs as one group. In any case, there are cross cutting issues among the various PwDs despite the type of disability.

However, the Commission make cognisance to the different kinds of disability. The problems faced by each category of disability groups may vary. The only way to effectively protect victims of abuse on grounds of disability is to create conditions that favour each group and provisions of law the prevent specific practices that amount to their abuse.

Question 6: Does your institution place any emphasis on gender and disability or on multiple forms of discrimination based on disability or overlapping with disability?

The Commission recognises the need to emphasize on gender and disability because we are aware that there are gender related problems that ought to be addressed. Similarly, the Commission is aware that there are various forms of discrimination based on disability.

Question 7: Do you set aside a person or body of persons in you institution to deal with the rights of persons with disabilities? Please specify.

The Commission does not have a person or body of persons specifically to deal with the rights of PwDs. Nevertheless, the rights of PwDs are handled or addressed through the functional departments of the Commission as any other human rights that must be promoted and protected. However, where a person with disability brings a complaint to the Commission, special and due regard is made to the disability to ensure that they are served appropriately.

Question 8: Do you get many complaints from persons with disabilities or their representative NGOs? What kinds of complaints figure most prominently?

The Commission does not receive many complaints from individual persons with disability or representative NGOs. However, the Commission is aware that there are many forms of abuse against PwDs.

The few complaints lodged at the Commission involve cruel, inhuman and degrading treatment against persons with disabilities by law enforcement officials and discrimination as a result of disability.

Question 9: Has your institution held any general or public inquiries into the status of persons with disabilities (or specified groups of persons with disabilities) or their treatment within your jurisdiction? If so, please specify.

In 2000, the Commission has conducted one (1) public inquiry into the status and treatment of persons with disability.

Question 10: Does your institution contribute to the inquiries held by other public authorities into the status of persons with disabilities or their treatment within your jurisdiction?

The Commission has not contributed to any inquiries held by other public authorities into the status or jurisdiction of persons with disabilities because there has been none. However, if another institution were to hold such an inquiry, the Commission as a specialised body on human rights issues, would ably contribute a human rights viewpoint to problems of PwDs and how best their rights could be promoted and protected.

Question 11: Does your institution have an agreement (formal or informal) with other disability public bodies (e.g. national disability Commissions or authorities) on how to work best together on disability matters. If so, specify.

There is no formal agreement between the Commission and other national disability Commissions or authorities. The Commission however exchanges views, documents and strategies with other such bodies on human rights issues including issues of disability. To that extent, there is an informal collaboration with other national disability Commissions or authorities.

Question 12: Has your institution assisted persons with disabilities (individually or as groups) with litigation? What factors led you to support the litigation? What was the subject matter of the litigation? What were the outcomes?

The Commission is an administrative body with quasi-judicial powers. Therefore it is another forum for dispute resolution of complaints involving human rights violations. The Commission has received and through formal hearings adjudicated complaints involving PwDs.

The complaint involved the arrest and detention of PwDs by Police and municipal law enforcement officials on the ground that they were idle and disorderly. During the arrest, the PwDs claimed that were mishandled and because of the arrest, they lost their property. The PwDs were detained in a home guarded by armed men against their will. The questioned the conditions under which they were detained, which included inadequate feeding, bedding, shelter and medicine. They challenged the actions of the arresting and detaining officers as cruel, inhuman and degrading treatment and deprivation of their property. They sought compensation in general damages for the violations. The complaint is now for decision by the Commission, which will consider all the evidence adduced by all parties to the complaint.

Question 13: Has you institution supplied amicus briefs in litigation involving persons with disabilities? If so, please specify.

The Commission has not supplied amicus briefs in litigation involving persons with disabilities.

Question 14: Has your institution instituted legal proceedings in its own name or on behalf of person with disabilities?

The Commission has not instituted legal proceedings in its own name or on behalf of person with disabilities because it does not have the power to do so. The Commission has only handled and disposed complaints filed by PwDs.

Question 15: Do you include disability rights awareness as part of your overall education programme?

The Commission has included rights of PwDs in its education programmes conducted through radio, television and seminars/workshops. The rights of PwDs are addressed as a topic. The target audience has included, district leaders, the youth.

The commission publishes monthly magazine called *Your Rights* and the rights of PwDs has been highlighted e.g.

- **Disability: Change of Attitudes August, 1999**
- **From the House's Mouth: UHRC Launches Public Hearing in Disability, November 2000**
- **Also disability issues come up in Annual Reports to Parliament.**

Question 16: Do you help NGOs (whether traditional human rights NGOs or disability NGOs) to raise their capacity to participate in the democratic process in order to achieve the rights of persons with disabilities? If so, please specify.

The Commission contributes towards enhancement of capacities of NGOs handling rights of persons with Disability by sensitising and educating different organisations and collaborating with them e.g. during the public hearing they were advisory personnel.

Question 17: Does your institution make comments of draft legislation that affects persons with disabilities? Has that legislation been changed as a result of your comments/observations? If so, please specify.

The Commission makes comments on draft legislation with a view of ensuring that they comply with human rights standards. There has not been any draft legislation on PwDs specifically. However, from the draft legislation commented on by the Commission, no recommendation has been made on any clauses that have negatively affected PwDs. If the clauses of the draft legislation affected PwDs, an appropriate comment and recommendation would have been made. We have been pressurising government to make a law to operationalise Article 35 of the Constitution.

Question 18: Has your institution produced any general reports to your government on disability matters? If so, what changes came about as a result?

The Commission compiles reports annually to Parliament. Copies of the report are distributed to the Executive, Judiciary and other government departments and public institutions, among others. In its Annual Reports, the Commission has continually noted that the Constitution of the Republic of Uganda provides in general terms the rights of PwDs. The Constitution further requires Parliament to enact an enabling legislation to effectively promote and protect the rights of PwDs. The Commission therefore urges that this law must be enacted.