

EIGHTH ANNUAL MEETING



THE ASIA PACIFIC FORUM OF NATIONAL HUMAN RIGHTS INSTITUTIONS

...a partnership for human rights in our region

REVIEW OF MEMBERSHIP NEW ZEALAND HUMAN RIGHTS COMMISSION

**16th – 18th February 2004
Kathmandu, Nepal**

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1. BACKGROUND

Rule 11 of the constitution of the Asia Pacific Forum of National Human Rights Institutions (APF) provides for a review of a full member's compliance with the United Nations Principles relating to the Status of National Institutions, commonly known as the Paris Principles (appendix 1). A review of compliance can be initiated by the Forum councillors or it can be initiated in response to a notification from a full member that there has been a change to its constitution and/or legislative base or administrative functioning which materially impacts upon its compliance with the Paris Principles.

The APF has received a 'self initiated' application for review from the New Zealand Human Rights Commission.

2. THE HUMAN RIGHTS COMMISSION OF NEW ZEALAND

The Human Rights Commission of New Zealand is a statutory body that administers the New Zealand Human Rights Act 1993.

On 1 January 2002, the Human Rights Act 1993 was significantly amended by the Human Rights Amendment Act 2001. As per rule 11 of the Forum's Constitution, the New Zealand Commission has notified the Forum Councillors of these legislative changes and is seeking a review of the Commission's compliance with the Paris Principles.

2.1 Analysis

Membership of the APF is premised on an institution's compliance with the *Paris Principles*.

In determining whether the New Zealand Commission remains in full compliance with the Paris Principles, the Commission has submitted the following information:

- An 'Application for Membership – Nomination Form'
- Accreditation checklist
- A copy of the amended Human Rights Act 1993
- Organisational Chart
- Budget summary
- A copy of the Annual Report of the Commission for 2002.
- Considerable supplementary information on the role of the Commission, its functions and powers and its compliance with the Paris Principles.

The New Zealand Commission's application forms are at appendix 2. Original copies of the information supplied by the New Zealand Commission are available on request from the Secretariat. This information will also be available for inspection by Forum members at the 8th Annual Meeting of the APF.

2.2 Changes to the Commission

The Human Rights Amendment Act 2001 introduced the following changes to the New Zealand Commission's functions and powers:

- Combined the Office of the Race Relations Conciliator with the Human Rights Commission.
- Added two new primary functions for the Commission:
 - i. to improve understanding and appreciation of the role of human rights in New Zealand society
 - ii. to encourage the maintenance and development of harmonious relations between the diverse groups in New Zealand society.
- Added three other new areas of work for the Commission:
 - i. to develop a National Plan of Action on human rights
 - ii. to promote better understanding of the human rights aspects of the Treaty of Waitangi
 - iii. the establishment of an Equal Employment Opportunities Commissioner.
- Incorporated the anti-discrimination standard of the New Zealand Bill of Rights Act 1990 (NZBORA) into the Human Rights Act 1993 (HRA) for all Government activity, except in employment and associated racial and sexual harassment, where activities of Government remain accountable under the existing human rights standard.
- Provided that all problems relating to both Government and non-Government human rights compliance be dealt with by the Commission through a publicly funded problem-solving/disputes resolution process.
- Replaced the Complaints Division with a less formal disputes resolution process, including mediation.
- Provided for the operational independence of the Office of Human Rights Proceedings.¹

¹ Human Rights Commission of New Zealand, Annual Report 2002, p8.

A review of this material by the APF Secretariat indicates that the legislative changes to the Human Rights Act 1993 do not materially impact on the compliance of the National Human Rights Commission of New Zealand with the *Paris Principles*.

2.3 Recommendation

It is the opinion of the APF Secretariat that the Human Rights Commission of New Zealand complies with the Paris Principles and is therefore eligible to retain its full membership of the Forum.

It is therefore recommended that the full member institutions at the 8th Annual Meeting of the APF:

- Confirm that the New Zealand Human Rights Commission is established in compliance with the Paris Principles and therefore can continue as a full member of the APF in accordance with the review process as set out in rule 11.4 of the Forum's constitution.

APPENDIX 1 – CONSTITUTION OF THE ASIA PACIFIC FORUM

11.4 Review of compliance by full members with the Paris Principles

(a) Occasion for review

- (i) The Forum councillors may, on their own motion and at any time, decide to review the compliance of a full member with the Paris Principles.
- (ii) A full member must notify the Forum if there has been any change to the constitutional and/or legislative base or administration of the institution which materially impacts upon its compliance with, or ability to comply with, the Paris Principles.

(b) Review

- (i) Following a decision to review under rule 11.4(a)(1) or receipt of a notification under rule 11.4(a)(2), the Forum councillors must meet to consider whether the institution complies with the Paris Principles.
- (ii) If the Forum councillors decide that the institution does not so comply, they may, by resolution, expel a member under rule 12.2.

**APPENDIX 2 – NEW ZEALAND HUMAN RIGHTS COMMISSION
APPLICATION**

28 July, 2003

Kieren Fitzpatrick
Director, Secretariat
Asia Pacific Forum of National Human Rights Institutions
GPO Box 5218
Sydney NSW 1042
AUSTRALIA

Dear Kieren

**Application for Confirmation of Membership of the Asia Pacific
Forum of National Human Rights Institutions**

I am writing to advise you that on the 1st of January 2002, the Human Rights Act 1993, which has oversight of the New Zealand Human Rights Commission, was significantly amended. Therefore, in accordance with Rule 11.4 of the constitution of the Asia Pacific Forum of National Human Rights Institutions, a new application for confirmation of membership accompanies this letter.

I have also enclosed a completed nomination form and a range of supporting documentation for your reference.

Please do not hesitate to contact me if you have any questions or require further information.

Yours sincerely



Rosslyn Noonan
CHIEF COMMISSIONER
Kaikomihana Matua

[Encl.]



Human Rights
COMMISSION
Te Kāhui Tika Tangata

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Tower Centre,
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Incorporating
Race Relations

Aotearoa New Zealand

APPLICATION FOR MEMBERSHIP



Nomination Form

THE ASIA PACIFICFORUM
OF NATIONAL HUMAN RIGHTS INSTITUTIONS

APPLICANT		
Organisation Name	New Zealand Human Rights Commission	
Organisation Address	PO Box 6751, Wellesley Street, Auckland, NEW ZEALAND	
Name:	Rosslyn Noonan	Date
Title:	Chief Human Rights Commissioner	25 / 07 / 03
Signature:		
PROPOSER		
Organisation Name		
Organisation Address		
Name:	Date
Title:	-- / -- / --
Signature:	
SECONDER		
Organisation Name		
Organisation Address		
Name:	Date
Title:	-- / -- / --
Signature:	

APF MEMBERSHIP APPLICATION GRID

CRITERIA	COMPLIANCE	SUPPORTING DOCUMENTS
<p>GENERAL INFORMATION</p> <ul style="list-style-type: none"> • Type of institution: Commission..... Ombudsman..... Other(specify) • Jurisdiction: Domestic Public sector..... Private sector..... • International..... • Scope of jurisdiction: General..... Thematic (specify) 	<p><input checked="" type="checkbox"/> The New Zealand Human Rights Commission is an independent national human rights institution with a broad human rights mandate.</p> <p><input type="checkbox"/></p> <p><input type="checkbox"/></p> <p><input checked="" type="checkbox"/> The Commission has jurisdiction with respect to both public and private sector activity. This is subject to some limitations: <input checked="" type="checkbox"/> • Section 149D of the Immigration Act provides that no complaint may be made, or proceedings taken, under the Human Rights Act with respect to the content or application of the Immigration Act, Immigration Regulations, or any policy under the Act. <input checked="" type="checkbox"/> • Section 79 of the Human Rights Act provides that the Commission cannot take action in relation to a complaint relating to the judgement of a Court or the conduct of any proceedings before a Court.</p> <p>The Commission engages in a range of international activity within its general human rights mandate. However, the Commission's extra-territorial jurisdiction in relation to complaints of discrimination is very limited.</p> <p><input checked="" type="checkbox"/> The Race Relations Commissioner and EEO Commissioner have thematic mandates specifically defined in the Human Rights Act. <input type="checkbox"/> • Section 16 of Act provides that the Race Relations Commissioner's functions include advice and leadership on matters of race relations. <input type="checkbox"/> • Section 17 of the Act provides that EEO Commissioner's role includes providing advice and leadership, and to undertake specific activities relating to Equal Employment Opportunities. Section 15(1)(c) of the Act provides that the Chief Human Rights Commissioner has responsibility for allocating spheres of responsibility among Commissioners.</p>	<p>Document 1: "Welcome Factsheet".</p> <p>Document 2: "Discrimination by the Private Sector" Factsheet.</p> <p>Document 3: "Discrimination by the Public Sector" Factsheet.</p> <p>Document 4: Commissioner mandates and spheres of responsibility.</p>
<p>MANDATE AND STRUCTURE</p> <p>Is the institution established by</p> <ul style="list-style-type: none"> • Constitution..... • Legislation..... • Decree..... 	<p><input type="checkbox"/></p> <p><input checked="" type="checkbox"/> The New Zealand Human Rights Commission was established by the Human Rights Commission Act 1977. The purpose of the Act, referred in its long title is to promote the advancement of human rights in New Zealand in general accordance with United Nations</p> <p><input type="checkbox"/></p>	<p>Document 5: Human Rights Act 1993.</p>

<ul style="list-style-type: none"> • Other..... 		<p>Conventions on human rights. In 1993, the Human Rights Act was passed to replace the 1977 Act and extended the Commission's jurisdiction. More recently, the Human Rights Amendment Act 2001 was passed which made further changes to the Commission's jurisdiction</p>	
<p>ACCOUNTABILITY</p> <p>What is the nature of the institution's accountability?</p> <ul style="list-style-type: none"> • Executive (Prime Minister/Head of State/King, etc.....) • Legislative..... • Other..... 	<input type="checkbox"/> <input checked="" type="checkbox"/> <input type="checkbox"/>	<p>The Commission is accountable under s.141 of the Human Rights Act:</p> <p>(a) to provide the Minister of Justice with a report on the exercise of its functions at the end of each financial year; and</p> <p>(b) the Minister is required to put a copy of the report before Parliament in accordance with the Public Finance Act.</p> <p>Section 41 of the Public Finance Act 1989 requires that the Commission prepare annual financial statements that are audited by the Auditor General. Section 44 provides that financial statements must be included in the annual report of the Commission.</p>	<p>Refer to section 141 of the Human Rights Act in document 5.</p> <p>Document 6: Sections 41 and 44 of the Public Finance Act 1989.</p>
<p>PROTECTION AND PROMOTION FUNCTIONS</p> <ul style="list-style-type: none"> • Are these functions of protection & promotion specifically defined in law?..... 	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<p>The Commission's primary functions described in section 5(1) include: "to advocate and promote respect for, and an understanding and appreciation of, human rights in New Zealand society". A range of specific functions are described in section 5(2) which support this primary function.</p>	<p>Refer to section 5 of the Human Rights Act in document 5.</p>
<p>RESPONSIBILITY</p> <p>Does the institution have responsibility to</p> <ul style="list-style-type: none"> • submit opinions, reports & recommendations to government/parliament on any matter concerning protection/promotion of human rights and without prior authorization? • promote consistency between domestic legislation and international human rights instruments? 	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<p>Section 5(2)(k) of the Human Rights Act provides that the Commission may report to the Prime Minister on any matter affecting human rights.</p> <p>Section 5(2)(k) provides that the Commission may report to the Prime Minister on the desirability of New Zealand becoming bound by any international human rights instrument.</p> <p>Section 5(2)(d) provides that the Commission's functions include promoting by research, education and discussion, a better understanding of the human rights dimensions of the Treaty of Waitangi and their relationship with domestic and international human rights law.</p> <p>The Commission also promotes consistency between domestic legislation and international human rights standards in submissions to Parliamentary select committees and discussion papers according to its general mandate in s.5 of the Human Rights Act.</p>	<p>Refer to section 5(2)(k) of the Human Rights Act in document 5.</p> <p>Refer to sections 5(2)(k) and 5(2)(d) of the Human Rights Act in document 5.</p> <p>Document 7: "Human Rights Commission Statement of Intent 2003 to 2005" Goal 2</p>

<ul style="list-style-type: none"> • encourage ratification of such instruments in co-operation with the UN and regional & national institutions? 	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<p>The Commission assumes this responsibility within its general mandate under s.5(1) to advocate and promote respect for, and an understanding and appreciation of, human rights in New Zealand society.</p>	<p>Document 7: "Human Rights Commission Statement of Intent 2003 to 2005" Goal 5.</p>
<ul style="list-style-type: none"> • contribute independently of government to UN reporting? 	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<p>This is not specifically referred to in the empowering legislation. However it does fall within the Commission's general mandate in s.5.</p>	<p>Document 8: "Human Rights Commission International Strategy". Selected extract.</p>
<ul style="list-style-type: none"> • conduct research & education programs on human rights? 	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<p>Section 5(2) of the Human Rights Act provides that the Commission has the following functions which support research and education activities:</p> <ul style="list-style-type: none"> • To be an advocate for human rights and to promote and protect, by education and publicity, respect for, and observance of, human rights. • To promote by research, education, and discussion a better understanding of the human rights dimensions of the Treaty of Waitangi and their relationship with domestic and international human rights law. • To prepare and publish as the Commission considers appropriate, guidelines and voluntary codes of practice for the avoidance of practices that may be inconsistent with, or contrary to the Human Rights Act. <p>The Equal Employment Opportunities Commissioner has responsibility for:</p> <ul style="list-style-type: none"> • Evaluating through the use of benchmarks developed by the Commissioner, the role that legislation, guidelines and voluntary codes of practice play in facilitating and promoting best practice in equal employment opportunities • Leading the development of guidelines and voluntary codes of practice to facilitate and promote best practice in equal employment opportunities (including codes that identify related rights and obligations in legislation) in accordance with s.5(2)(e). • Monitoring and analysing progress in improving equal employment opportunities in New Zealand and to report to the Minister on the results of that monitoring and analysis. 	<p>Refer to sections 5 and 17 of the Human Rights Act in document 5.</p>
<ul style="list-style-type: none"> • increase public awareness of human rights issues? 	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<p>Section 5(2) of the Human Rights Act provides that the Commission has the following functions which support public awareness activities:</p> <ul style="list-style-type: none"> • To encourage and co-ordinate programmes and activities in the field of human rights. • To make public statements in relation to any matter affecting human rights, including statements promoting an understanding of, and compliance with, the Act or the New Zealand Bill of Rights Act (for example, statements promoting understanding of measures to ensure equality, of indirect discrimination, or of institutions and procedures under the Act for dealing with complaints of unlawful discrimination). • To promote by research, education, and discussion a better understanding of the human rights dimensions of the Treaty of 	<p>Refer to section 5(2) of the Human Rights Act in document 5.</p>

		<p>Waitangi and their relationship with domestic and international human rights law.</p> <ul style="list-style-type: none"> To consult and co-operate with other persons or bodies concerned with the protection of human rights To make public statements in relation to any group of persons in, or who may be coming to, New Zealand who are or may be subject to hostility, or who have been or may be brought into contempt, on the basis that the group consists of persons against whom discrimination may be unlawful under the Act. To develop a national plan of action, in consultation with interested parties, for the promotion and protection of human rights in New Zealand. 	
<p>INDEPENDENCE</p> <p>Is the independence of the institution guaranteed by</p> <ul style="list-style-type: none"> pluralist composition?..... 	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<p>Section 11 of the Human Rights Act establishes the criteria for the appointment of Commissioners. In recommending persons for appointment, the Minister must have regard to the need for Commissioners to have among them:</p> <p>a) knowledge of, or experience in,—</p> <p>(i) different aspects of matters likely to come before the Commission:</p> <p>(ii) New Zealand law, or the law of another country, or international law, on human rights:</p> <p>(iii) the Treaty of Waitangi and rights of indigenous peoples:</p> <p>(iv) current economic, employment, or social issues:</p> <p>(v) cultural issues and the needs and aspirations (including life experiences) of different communities of interest and population groups in New Zealand society:</p> <p>(b) skills in, or experience in,—</p> <p>(i) advocacy or public education:</p> <p>(ii) business, commerce, economics, industry, or financial or personnel management:</p> <p>(iii) community affairs:</p> <p>(iv) public administration, or the law relating to public administration.</p> <p>In addition, sections 12 to 14 provide additional criteria for the appointment of the Chief Human Rights Commissioner, Race Relations Commissioner and the Equal Employment Opportunities Commissioner</p>	<p>Refer to sections 11 to 14 of the Human Rights Act in document 5.</p>
<ul style="list-style-type: none"> appointment & dismissal process established by law with fixed term & renewable?..... 	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<p>Section 8(2) of the Human Rights Act provides that Commissioners are appointed by the Governor General on the advice of the Minister. Section 20F provides that Commissioners hold office for a term of 5 years. The term can be extended by the Governor General on the advice of the Minister</p> <p>Section 20G specifies the circumstances in which Commissioners cease to hold office. This includes resignation, insolvency, incapacity if it affects the performance of duties, neglect of duty, or misconduct.</p>	<p>Refer to sections 8(2), 20F and 20G of the Human Rights Act in document 5.</p>
<ul style="list-style-type: none"> financial autonomy derived from stable, adequate 			

<p>funding?.....</p> <ul style="list-style-type: none"> • legal & operational autonomy through separate legislation, infrastructure, staff & resources?..... 	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p>	<p>Section 142 provides that all fees, salaries, allowances and other expenditure payable or incurred under the administration of the Act shall be payable out of money appropriated by Parliament. Government appropriations are made for the current and subsequent three years in order to allow for a level of stability and term planning.</p> <p>The Commission is constituted under separate legislation and has legal autonomy guaranteed by:</p> <ul style="list-style-type: none"> • Section 4 of the Act, which provides that it is a body corporate capable of acquiring, holding and disposing of real and personal property, and of suing and being sued. <p>The Commission's operational autonomy is guaranteed by:</p> <ul style="list-style-type: none"> • Section 19 of the Act which provides that members of the Commission must act independently in the exercise or performance of functions of the Commission. • Schedules 1 and 2 provide that the Commission and Office of the Director of Human Rights proceedings are responsible for the appointment of staff necessary for the efficient discharge of functions, powers and duties of the Commission under the Act. • Various provisions in s.5 of the Act which enable the Commission can make public statements on any human rights matter and inquire generally into any human rights matter. 	<p>Refer to section 142 of the Human Rights Act in document 5.</p> <p>Document 9: "Human Rights Commission Annual Report" – Financial Statements on pages 57 to 75.</p> <p>Refer to Schedules 1 and 2, and sections 4, 19, and 5 of the Human Rights Act in document 5.</p>
<p>METHOD OF OPERATION</p> <p>Is the institution free to:</p> <ul style="list-style-type: none"> • meet regularly & as required? • review any matter within own jurisdiction on referral from government, by individual complaint or suo moto? • hear any person & obtain any information related to a matter within jurisdiction?..... 	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>	<p>Section 10 of the Human Rights Act provides that meetings of the Commission are held at such times and places as the Commission or the Chief Commissioner may appoint.</p> <p>Section 5(2)(f) provides that the Commission may receive and invite representations from members of the public on any matter affecting human rights</p> <p>Section 5(2)(h) of the Human Rights Act provides that the Commission may inquire generally into any matter, including any enactment of law, or any practice or procedure, whether governmental or non-governmental, if it appears to the Commission that the matter involves or may involve, the infringement of human rights.</p> <p>The Commission has limited powers to obtain information.</p> <ol style="list-style-type: none"> 1. The Commission has the power to gather information in the context of providing dispute resolution services relating to complaints of unlawful discrimination. However, it has no power to <i>require</i> the production of evidence. 2. In circumstances where the Commission is conducting an inquiry, it can seek an order from the District Court to require a person to produce information or give evidence. 	<p>Refer to s.10 of the Human Rights Act in document 5 and document 10: Minutes of the June 2003 Commission meeting.</p> <p>Refer to s.5(2)(f) and 5(2)(h) in document 5.</p> <p>Refer to s.76(2)(b) and 82 of the Human Rights Act in document 5.</p>

<ul style="list-style-type: none"> inform the complainant of their rights & remedies and ensure the process is accessible?..... 	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<p>Sections 75 and 76 of the Human Rights Act describe the objectives and functions of the dispute resolution process. Section 76(1) describes the primary functions of the dispute resolution function as follows:</p> <ul style="list-style-type: none"> a) to provide information to members of the public who have questions about discrimination; and b) facilitate the resolution of disputes about compliance with Part 1A or Part II, by the parties concerned, in the most efficient, informal and cost effective manner possible. <p>Section 77 provides that dispute resolution services include:</p> <ul style="list-style-type: none"> • the provision of general information about discrimination and the legal obligations in relation to discrimination. • the provision of information about what services are available for persons who have disputes about compliance with Part 1A or Part II. • Other services (of a type that can address a variety of circumstances) that assist persons to resolve, promptly and effectively, their disputes about compliance with Part 1A and Part II. 	<p>Refer to sections 75, 76 and 77 of the Human Rights Act in document 5. Document 11: "What is the Process for Resolving Disputes?" fact sheet.</p>
<ul style="list-style-type: none"> potentially make recommendations to competent authorities, make enforceable decisions or refer to specialised tribunal?..... 	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<p>Section 92B of the Human Rights Act establishes a specialist tribunal, the Human Rights Review Tribunal, to hear proceedings relating to breaches of Part 1A or Part II of the Act or a breach of a settlement agreement.</p> <p>Under section 90, a party to a complaint that is unable to be resolved by mediation, is entitled to apply to the Director of Human Rights Proceeding for representation in the Tribunal.</p> <p>Under section 92E, the Commission is entitled to take proceedings in the Human Rights Review Tribunal, where an inquiry conducted by the Commission discloses a breach of Part 1A or Part II of Act. Decisions of the Human Rights Review Tribunal can be appealed to the High Court and the Court of Appeal.</p>	<p>Refer to sections 92B and 92E of the Human Rights Act in document 5.</p>

APPENDIX 3 – PARIS PRINCIPLES

Principles Relating to the Status of National Institutions

Competence and Responsibilities

1. A national institution shall be vested with competence to promote and protect human rights.
2. A national institution shall be given as broad a mandate as possible, which shall be clearly set forth in a constitutional or legislative text, specifying its composition and its sphere of competence.
3. A national institution shall, inter alia, have the following responsibilities:
 - (a) To submit to the Government, Parliament and any other competent body, on an advisory basis either at the request of the authorities concerned or through the exercise of its power to hear a matter without higher referral, opinions, recommendations, proposals and reports on any matters concerning the promotion and protection of human rights; the national institution may decide to publicize them; these opinions, recommendations, proposals and reports, as well as any prerogative of the national institution, shall relate to the following areas:
 - (i) Any legislative or administrative provisions, as well as provisions relating to judicial organizations, intended to preserve and extend the protection of human rights; in that connection, the national institution shall examine the legislation and administrative provisions in force, as well as bills and proposals, and shall make such recommendations as it deems appropriate in order to ensure that these provisions conform to the fundamental principles of human rights; it shall, if necessary, recommend the adoption of new legislation, the amendment of legislation in force and the adoption or amendment of administrative measures;
 - (ii) Any situation of violation of human rights which it decides to take up;
 - (iii) The preparation of reports on the national situation with regard to human rights in general, and on more specific matters;
 - (iv) Drawing the attention of the Government to situations in any part of the country where human rights are violated and making proposals to it for initiatives to put an end to such situations and, where necessary, expressing an opinion on the positions and reactions of the Government;

- (b) To promote and ensure the harmonization of national legislation regulations and practices with the international human rights instruments to which the State is a party, and their effective implementation;
- (c) To encourage ratification of the above-mentioned instruments or accession to those instruments, and to ensure their implementation;
- (d) To contribute to the reports which States are required to submit to United Nations bodies and committees, and to regional institutions, pursuant to their treaty obligations and, where necessary, to express an opinion on the subject, with due respect for their independence;
- (e) To cooperate with the United Nations and any other organization in the United Nations system, the regional institutions and the national institutions of other countries that are competent in the areas of the promotion and protection of human rights;
- (f) To assist in the formulation of programmes for the teaching of, and research into, human rights and to take part in their execution in schools, universities and professional circles;
- (g) To publicize human rights and efforts to combat all forms of discrimination, in particular racial discrimination, by increasing public awareness, especially through information and education and by making use of all press organs.

Composition and guarantees of independence and pluralism

4. The composition of the national institution and the appointment of its members, whether by means of an election or otherwise, shall be established in accordance with a procedure which affords all necessary guarantees to ensure the pluralist representation of the social forces (of civilian society) involved in the promotion and protection of human rights, particularly by powers which will enable effective cooperation to be established with, or through the presence of, representatives of:
 - (a) Non-governmental organizations responsible for human rights and efforts to combat racial discrimination, trade unions, concerned social and professional organizations, for example, associations of lawyers, doctors, journalists and eminent scientists;
 - (b) Trends in philosophical or religious thought;
 - (c) Universities and qualified experts;
 - (d) Parliament;

- (e) Government departments (if these are included, their representatives should participate in the deliberations only in an advisory capacity).
5. The national institution shall have an infrastructure which is suited to the smooth conduct of its activities, in particular adequate funding. The purpose of this funding should be to enable it to have its own staff and premises, in order to be independent of the Government and not be subject to financial control which might affect its independence.
 6. In order to ensure a stable mandate for the members of the national institution, without which there can be no real independence, their appointment shall be effected by an official act which shall establish the specific duration of the mandate. This mandate may be renewable, provided that the pluralism of the institution's membership is ensured.

Methods of operation

Within the framework of its operation, the national institution shall:

- (a) Freely consider any questions falling within its competence, whether they are submitted by the Government or taken up by it without referral to a higher authority, on the proposal of its members or of any petitioner;
- (b) Hear any person and obtain any information and any documents necessary for assessing situations falling within its competence;
- (c) Address public opinion directly or through any press organ, particularly in order to publicize its opinions and recommendations;
- (d) Meet on a regular basis and whenever necessary in the presence of all its members after they have been duly convened;
- (e) Establish working groups from among its members as necessary, and set up local or regional sections to assist it in discharging its functions;
- (f) Maintain consultation with the other bodies, whether jurisdictional or otherwise, responsible for the promotion and protection of human rights (in particular ombudsmen, mediators and similar institutions);
- (g) In view of the fundamental role played by the non-governmental organizations in expanding the work of the national institutions, develop relations with the non-governmental organizations devoted to promoting and protecting human rights, to economic and social development, to combatting racism, to protecting particularly vulnerable groups (especially children, migrant workers, refugees, physically and mentally disabled persons) or to specialized areas.

Additional principles concerning the status of commissions with quasi-judicial competence

A national institution may be authorized to hear and consider complaints and petitions concerning individual situations. Cases may be brought before it by individuals, their representatives, third parties, non-governmental organizations, associations of trade unions or any other representative organizations. In such circumstances, and without prejudice to the principles stated above concerning the other powers of the commissions, the functions entrusted to them may be based on the following principles:

- (a) Seeking an amicable settlement through conciliation or, within the limits prescribed by the law, through binding decisions or, where necessary, on the basis of confidentiality;
- (b) Informing the party who filed the petition of his rights, in particular the remedies available to him, and promoting his access to them;
- (c) Hearing any complaints or petitions or transmitting them to any other competent authority within the limits prescribed by the law;
- (d) Making recommendations to the competent authorities, especially by proposing amendments or reforms of the laws, regulations and administrative practices, especially if they have created the difficulties encountered by the persons filing the petitions in order to assert their rights.