National Human Rights Commission of Korea

The 25th ICC Annual Meeting

Re: The NHRCK's Achievements regarding the Implementation of
the Convention on the Rights of Persons with Disabilities

[Thank you, Mr./Madam Chair]

Thank you for the opportunity to report to you on the work of NHRCK regarding the Implementation of the Convention on the Rights of Persons with Disabilities. The National Human Rights Commission of Korea (hereinafter "NHRCK") was established on November 2001 in accordance with the "Paris Principles". Thus, the NHRCK has a mandate to monitor the implementation of the Convention on the Rights of Persons with Disabilities (hereinafter "CRPD") and to promote and protect the rights of persons with disabilities pursuant to Article 33, paragraph 2 of the CRPD.

Now, please, allow me to share with you the achievement on the NHRCK's activities to promote the rights of person with disabilities.

First, with the aim to fulfill obligations of the State party of the CRPD, in particular, to ensure "non-discrimination before law and effective legal remedies" stipulated in Article 5, the NHRCK conducts on-site investigations on human rights violations and discriminatory acts against persons with disabilities to provide remedies on the basis of Article 30 of the National Human
Rights Commission Act (hereinafter “Act”) and Article 38 of the Anti-Discrimination against and Remedies for Persons with Disabilities Act. The number of individual complaints of discrimination against persons with disabilities submitted before the NHRCK is 3,306 as of February 27 2012, among which 2,684 cases were accepted and taken care of. The NHRCK either issued a recommendation on or made an accusation against 260 cases of severe discriminatory acts. In addition, pursuant to Article 30 of the Act, the NHRCK initiated ex officio investigations on care facilities if it deemed that there existed reasonable cause to believe that violations of human rights or discriminatory acts had been committed systematically and repeatedly. Subsequently, the NHRCK recommended shutting down problematic facilities or imposing a penalty against an offender, and substantial part thereof were implemented.

Second, the NHRCK regularly monitors the promotion and protection of the rights of persons with disabilities by managing monitoring groups consisting of persons with disabilities, relevant organizations as well as persons without disability. For instance, the monitoring groups examined polling stations at a local election, cultural facilities and workplace of persons with disabilities in 2010. Moreover, they inspected bus stops, public institutions and banking facilities and the NHRCK required the related organizations to supplement inadequate equipment as well as government bodies to amend policies in 2011. In this regard, institutions concerned accepted or are currently under review of the amendment of policies regarding the right to access to banking organizations or the right to execution of suffrage. Those recommendations were intended to promote the implementation of the CRPD, in particular, Article 9 Accessibility, Article 20 Personal mobility, Article 21 Freedom of expression and opinion, and access to information and Article 29 Participation in political and public life.

Third, the NHRCK advises to amend national laws which obstruct full and effective participation of persons with disabilities in the society so that their rights enshrined in the CRPD can be practically guaranteed. For instance, the NHRCK is working on the realization of social
interaction and integration of persons with disabilities as well as general principles of the Universal Design by proposing to undertake a revision of the building code, the Broadcast Act and the Act on Promotion of Convenience for the Disabled, Senior Citizens, and Pregnant Women. Furthermore, the NHRCK reviewed the Convention Progress Report of the Government and provided our views in 2011.

Lastly, to enhance public awareness through the international cooperation and the exchange of opinions on the CRPD at the international level, the NHRCK hosted international conferences with participation of key figures from the U.S., Europe and Japan. Specifically, the NHRCK held the Korea-Japan Symposium on the “Effective Implementation of the Convention on the Rights of Persons with Disabilities” in 2009, “International Symposium on the Establishment of the Court for the Rights of Persons with Disabilities” in 2010, and “International Conference on the Promotion of Implementation of the Right to Access to Information of Persons with Disabilities” with the special guest, Ronald McCallum, Chair of the Committee on the Rights of Persons with Disabilities in 2011.

Despite all the efforts of the Government and the NHRCK, many of persons with disabilities still experience discrimination in employment and education and receive insufficient services due to a shortage of financial and human resource. In this regard, for the purpose of achieving goals to guarantee basic living standards of persons with disabilities and to meet emerging demands in the field of human rights, the NHRCK is now formulating the “Mid-term Action Plan for the Promotion of the Rights of Persons with Disabilities and the Rectification of Discrimination”, “Independent Living Report” and “Guidelines on the Prohibition of Insurance Discrimination against Persons with Disabilities”. Also, the NHRCK will pay special attention to the particularly vulnerable groups including persons with developmental disabilities. With regard to our future projects, the NHRCK will be greatly welcoming broad support from the international community. Thank you.
Strengthening NHRIs: The Paris Principles and the ICC accreditation system

By Kristin Høgda, Director National Institution Unit, Norwegian Centre for Human Rights
Side event 21 March@ICC 25, Geneva 20-22 March 2012

Brief intro:
Norway a strong proponent of human rights – international forerunner!

The Norwegian plan of action on human rights 2000-2004, included also national implementation. The government proposed to establish a National Institution at the Norwegian Centre for Human Rights (NCHR), University of Oslo (UiO). Established by Royal Decree (executive order) in 2001 with a broad mandate to promote and protect human rights through a research based approach.

A-status approved in 2006 (with doubt) after four years of seeking accreditation, receiving and (in part) adapting to ICC-SCA requirements:
- Pluralistic representation (+)
- Earmarked funding (+)
- Legislation (-)

NI asked MFA to undertake an external review prior to ICC-SCA reaccreditation in 2011. Need to provide solid information basis for international reaccreditation. Used the occasion of reaccreditation to a) examine necessary improvements and b) assess possible need for re-organization.

Based on the findings/recommendation of the external review and internal discussions, the University has decided that the role as National institution should be separated from the UiO. Main reason is conflict of mandates and subsequent inadequate allocation of resources as seen from NI perspective.

Second round of ICC-SCA reaccreditation review has warned us of down-grading to B-status October 2012 and given recommendations for the process of reestablishing NI outside the University.

Best practice and Lessons Learned:

1. International requirements are necessary and relevant:

The Paris Principles provide an international framework which help to establish and strengthen NHRIs in different national contexts – also in developed/resourceful countries such as Norway. Irrespective of the organizational model of an NHR, the Principles guide the overall set-up, defines the mandate and core functions and safeguards of independence. Thus, the Principles serve as indicators by which NHRIs are assessed, by which shortcomings are identified and recommendations for improvements are formulated. Effects of previous SCA requirements in the present situation:

a. Requirement of pluralistic representation (Advisory Committee) - provided basis for today’s broader consultation, coordination and mobilization with different civil society actors and other relevant institutions such as ombudsman offices, special monitoring mechanisms (OPCAT NPM), institutions of minorities and indigenous groups

b. Earmarked funding provided the basis for present changes in resource priorities both in terms of activities and staffing. The allocation of funds is slowly being redirected towards core needs as independently defined by the NHRI. Financial independence
has two different dimensions; not only independence from external political interference, but also from other, potentially competing, internal mandates or functions that an NHRI may have

- The lack of legislation and the necessary status defined by parliament has had negative consequences for Norway’s NHRI. We have limited political standing, ownership and public profile. This reduces the effectiveness of our advisory and advocacy work on concrete issues, legislative proposals, etc.

**Lesson 1:** International requirements must be consistently applied by ICC-SCA and NRHIs must support a strict application – and be patient! We have a long term interest in achieving the necessary powers to have an impact and must use the requirements as leverage vis-à-vis our own government.

2. **National review prior to reaccreditation is useful:**

Three advantages of a review: Firstly, it provides the ICC with useful information when assessing the NI. Secondly, it requires broad consultation, thus raising awareness of NI. Thirdly, it provides an opportunity for highlighting shortcomings that exist and may have emerged over time, and creates a momentum for political initiatives to rectify these shortcomings. If political action is not forthcoming, the recommendations from the ICC-SCA can put added pressure on the government to act – provided they see the value of A-status accreditation.

Prerequisite: To protect NI independence, such a review must be truly independent of political interference and be conducted in close consultation with the NI.

**Lesson 2:** National review prior to international reaccreditation can increase awareness of NI needs and facilitate necessary changes to strengthen compliance with the Paris Principles. A review should be undertaken in close consultation with the NHRI and be independent of political interference.

3. **The benefits of A-status should be clear:**

There must be an incentive to seek A-status. The ongoing work of the ICC to enhance the standing and access of NIs in the UN treaty body system and the HR Council, as well as with other IGOs, is very valuable in this regard. Privileged access also creates incentives for cooperation with other independent monitoring bodies at the national level such as ombudsman institutions and equality bodies, thus enhancing national cooperation and coordination.

**Lesson 3:** The NHRI network should aim to obtain privileged access to international human rights mechanisms – AND must deliver once given access.
Challenges identified and other Lessons learned:

4. **Clearer understanding of the core idea of a National institution**: The Paris Principles concentrate on formal requirements, but does not provide an easily accessible formulation of the core idea of a National institution. My best effort so far to present “NI in a nutshell” is:

   *An inter-governmental mechanism at the national level, vested with an official mandate to protect and promote human rights in an independent and responsible manner.*

‘A national inter-governmental mechanism’ marks NIs primary loyalty to agreement among states, ‘official mandate’ makes NI a public entity, ‘independent’ distinguishes NI from the government, ‘responsible’ distinguishes it somewhat from NGOs which can and often should be more single minded in their campaigning/activism.

This core idea must be given content at the operative level through the further development of authoritative interpretation through the ICC General observations.

**Lesson 4:** Authorities and NHRIs in the making, need help to understand what the Paris Principles expect from an NI – even if they do not seek such advice and may not (initially) want to comply.

5. **Clarity as to results and working methods is needed**: It would be helpful if the ICC General observations could address this more clearly.

A broad human rights mandate is not enough; achieving results is crucial. The Norwegian Centre for Human Rights has a broad mandate, but limited itself to the working method of research, documentation and education, and avoided certain types of activities such as formulation of institutional positions, recommendations, and engagement in advocacy work.

**Lesson 5:** The approach and inherent working methods (research based) set out in the Norwegian Royal Decree could have been criticized from the outset if the ICC General observations had been clearer as to the range of working methods expected of NIs to employ in order to achieve expected results.