1. INTRODUCTION

National human rights institutions (NHRIs) are independent institutions established by law and in compliance with the United Nations (UN) endorsed ‘Paris Principles’.¹ NHRIs are mandated to protect and promote human rights at the national level in accordance with international human rights norms and standards.

The International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC) is the international association of NHRIs. Established in 1993, the ICC assists in establishing and strengthening independent and effective NHRIs that meet the requirements of the Paris Principles. The ICC also encourages joint activities and cooperation among NHRIs, organises international conferences, liaises with the UN and other international organisations, assists NHRIs under threat and, where requested, assists governments to establish NHRIs. Currently, the ICC has 69 ‘A’ status accredited members across all regions. ‘A’ status is accorded to those NHRIs assessed as fully compliant with the Paris Principles.

On 23 February 2012, the General Assembly (GA) adopted resolution 66/254, which requested the GA President to launch an open-ended intergovernmental process to strengthen and enhance the effective functioning of the human rights treaty body system. The resolution followed a two-year multi-stakeholder process led by the UN High Commissioner for Human Rights.

This position paper² addresses the treaty body strengthening process. It identifies the current contributions that NHRIs make to the treaty body system. It also sets out a series of proposals aimed at ensuring the most effective contribution of NHRIs to the GA’s open-ended intergovernmental process.

2. NHRI CONTRIBUTIONS TO THE WORK OF THE TREATY BODIES

NHRIs are key domestic partners to the human rights treaty bodies. NHRI contributions to the treaty body system include:

- promoting the ratification of international human rights treaties and advising on domestic implementation
- contributing information toward the consideration of States parties’ reports and treaty body communication procedures; and
- working on follow-up to and implementation of treaty body observations, recommendations and decisions.

² This position paper and related documentation, including the Marrakech Declaration (2010), will be made available at http://nhri.ohchr.org.
The important role of NHRIs in relation to the promotion and implementation of human rights treaties has been recognised in human rights treaties, in treaty body General Comments and Recommendations, and in GA and Human Rights Council resolutions. Further, a number of treaty bodies have developed formal guidelines on their working relationship with NHRIs. This includes the Committee on the Elimination of Discrimination against Women, the Committee on the Elimination of Racial Discrimination, the Committee on the Rights of the Child, and the Human Rights Committee. Since 2006, the ICC has also participated at the treaty bodies’ annual Inter-Committee Meeting.

Of relevance to the treaty body strengthening process, NHRIs, either individually or through the ICC and Regional Coordinating Committees of NHRIs, have also contributed to the development of a number of treaties. These include the Convention on the Rights of Persons with Disabilities and the Optional Protocol to the Convention Against Torture.

3. ICC PROPOSALS ON NHRI PARTICIPATION IN THE TREATY BODY STRENGTHENING PROCESS

The ICC welcomes the GA process on strengthening and enhancing the effective functioning of the treaty body system. It is an important opportunity to improve human rights situations on the ground. The ICC also welcomes the inclusive multi-stakeholder nature of the process to date, which has involved the active participation of and contributions from treaty body experts, States, NHRIs, civil society actors and UN entities. ICC and NHRI representatives have participated in a number of informal meetings and consultations on the strengthening of the treaty body system, including those held in Dublin and Seoul. In 2010, NHRIs and treaty body members drafted the Marrakech Declaration, which sets out concrete proposals for strengthening cooperation between NHRIs and the treaty bodies.

NHRIs have valuable contributions to make to the GA’s treaty body strengthening process. The following proposals are aimed at ensuring the most effective contribution of NHRIs to this process.

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3包括《关于残疾人权利的公约》和《关于酷刑的公约》的任择议定书。
4包括：经济、社会和文化权利委员会的第10、16和19号一般评论；经济、社会和文化权利委员会的第1、2、5、8、9和11号一般评论；儿童权利委员会的第31号一般评论；消除种族歧视委员会的第27和33号一般建议；以及消除对妇女一切形式歧视委员会第28号一般建议。
5HRC Res. 17/9 and GA Res. 66/L.49/Rev.1.
6CEDAW已发布了一项关于其与NHRIs关系的声明，明确指出了NHRIs在保护妇女权利中的作用，以及加强对妇女权利的意识。参见 <http://www2.ohchr.org/english/bodies/cedaw/docs/AnnexIIe.pdf>。
7CERD的工作方法允许授权的NHRIs向委员会提供信息，并且在被邀请参加非正式会议时可以参与。参见 <http://www2.ohchr.org/english/bodies/cerd/workingmethods.htm#B>。
8The CRC’s working methods encourage NHRIs to submit reports, documentation and other information to the Committee. The Committee can also invite NHRIs to participate in closed meetings of its pre-sessional working group. NHRIs may also request a private meeting with the Committee. 参见 <http://www2.ohchr.org/english/bodies/crc/workingmethods.htm#a8>。
9The CCPR has invited NHRIs to provide it with reports containing country-specific information on States parties. NHRIs may also make oral statements to the Committee during the first morning meeting of every plenary session. 参见 <http://www2.ohchr.org/english/bodies/hrc/workingmethods.htm#a8>。

1. **NHRI participation in the treaty body strengthening process should build on established UN practices and should ensure the most effective contribution of NHRIs**

NHRI participation in the treaty body strengthening process should build on established UN practices and should ensure the most effective contribution of NHRIs. Recent examples include the preparatory work for the Durban Review Conference and the Conference proper, the Human Rights Council’s institution-building process, and the Human Rights Council’s five-year review. The treaty body strengthening process should seek to build on these precedents, particularly the Human Rights Council review process.

In its resolution 12/1, entitled ‘Open-ended intergovernmental working group on the review of the work and functioning of the Human Rights Council’, the Human Rights Council charged the then Council President with chairing the open-ended working group on the review process and, importantly, requested the President (at OP4) to:

> undertake transparent and all-inclusive consultations prior to working group sessions on the modalities of the review, and to keep the Council informed thereof.

This provision, which included determining the modalities for NHRI contribution to the process, is not dissimilar to OP6 of GA resolution 66/254. OP6 requires the GA President to:

> work out separate informal arrangements, after consultation with Member States, that would allow the open-ended inter-governmental process to benefit from the inputs and expertise of ... national human rights institutions ...

In determining the modalities for the Human Rights Council review process, the Council President determined that Paris Principles-compliant NHRI could participate at formal meetings of the open-ended working group on the Council review, could make oral statements at meetings, enjoyed allocated seating, and were invited to prepare written submissions. Essentially, it mirrored the Human Rights Council’s established practices for NHRI participation. Importantly, the President also allowed for ‘A’ status NHRI participation at informal meetings, including the Ambassadorial Retreat on the Council review process, held in Bangkok in December 2010.

The Council review process offers a valuable and persuasive precedent to the GA given the similarities between the Council review and treaty body strengthening processes. Further, and of importance, it would be entirely in keeping with the GA’s endorsement of the Human Rights Council’s approach to NHRI participation (per GA res 66/169) if the GA President were to adopt the same modalities for NHRI participation employed in the Council review.

Accordingly, the ICC submits that NHRI should be able to contribute to all stages of the GA’s treaty body strengthening processes by attending meetings and consultations and presenting oral and written interventions. Building on recent steps taken by the Human Rights Council and the treaty bodies, the process should also allow for NHRI to contribute to meetings via video statement.

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10 Refer to report A/62/375, which contains the Conference rules of procedures and those of the Preparatory Committee.

11 Of 12 October 2009.

12 At its 19th regular session in March 2012, the Human Rights Council unanimously adopted the report of the Task Force on the Use of Information Technology, enabling Paris Principles-compliant NHRI to contribute to Human Rights Council sessions via video conferencing and video messaging.
2. NHRI participation in the treaty body strengthening process should be restricted to Paris Principles-compliant (‘A’ status) NHRI

Restricting NHRI participation in the treaty body strengthening process to Paris Principles-compliant institutions would be wholly consistent with the Human Rights Council’s practices. Human Rights Council resolution 17/9\(^\text{13}\) - the Council’s first NHRI-specific resolution - at OP8:

> Recognizes the important role played by national institutions for the promotion and protection of human rights in the Human Rights Council, including its universal periodic review mechanism, in both preparation and follow-up, and the special procedures, as well as in the human rights treaty bodies, in accordance with General Assembly resolution 60/251 of 15 March 2006, Human Rights Council resolutions 5/1 and 5/2 of 18 June 2007 and Commission on Human Rights resolution 2005/74 of 20 April 2005 (emphasis added).

GA resolution 60/251 and Human Rights Council resolutions 5/1 and 5/2 provide that NHRI participation at the Council is to be based on the practices observed by the Commission on Human Rights. The Commission on Human Rights adopted the practice of restricting NHRI participation at its sessions (making oral statements, submitting written statements, enjoying allocated seating) to ‘A’ status NHRI. Further, the Human Rights Council review outcome document (Council resolution 16/21) clearly states that the new contribution opportunities granted to NHRI via the process are limited to Paris Principles-compliant NHRI. The GA, in its 2011 resolution on NHRI (66/169),\(^\text{14}\) is even more explicit. At OP10 it:

> Welcomes the strengthening of opportunities to contribute to the work of the Human Rights Council for national human rights institutions compliant with the Paris Principles, as stipulated in the Council review outcome document adopted by the General Assembly by its resolution 65/281 of 17 June 2011, and encourages national human rights institutions to make use of these participatory opportunities (emphasis added).

This is an important statement in that it is a clear recognition by the GA that contribution at the Human Rights Council is the privilege of Paris Principles-compliant NHRI. Given that the resolution was adopted by consensus, the GA has arguably endorsed the general principle that NHRI contribution to UN processes – including the present treaty body strengthening process – is the privilege of ‘A’ status NHRI.

3. The treaty body strengthening process should be open, transparent and inclusive

In resolution 66/254, the GA provides that the treaty body strengthening process will be ‘open, transparent and inclusive’\(^\text{15}\). Accordingly, the process should ensure meaningful exchanges between all stakeholders, stimulate reflection and promote collective thinking. Formats could include panel discussions and roundtable events. Stakeholder contributions should be formally documented and made publically available in a timely and accessible manner, and documentation developed in earlier stages of the treaty body strengthening process, such as the Marrakech Declaration, should inform continuing consultations. Finally, the ICC sees great value in the establishment of a formal channel of communication between the Office of the GA President and the ICC; this could comprise the appointment of a NHRI focal point within the President’s Office.

\(^{13}\) At OP1.

\(^{14}\) At OP1.