



人权理事会  
第十三届会议  
议程项目 2  
联合国人权事务高级专员的年度报告及  
人权事务高级专员办事处和秘书长的报告

## 促进和保护人权的国家机构

### 秘书长关于促进和保护人权的国家机构的报告\* \*\*

#### 内容提要

本报告是根据人权理事会第 2/102 号决定提交的，其中理事会请联合国人权事务高级专员按照以前人权委员会通过的各项决定继续开展活动，并更新有关报告和研究报告。

本报告所涉及时期是 2009 年 1 月至 12 月，包含了联合国人权事务高级专员办事处为建立和加强国家人权机构开展的活动、各国政府和国家人权机构在这方面采取的措施以及国家人权机构和国际人权机制之间的合作等情况。

具体而言，本报告着重介绍了在国家一级在建立和加强国家人权机构方面所取得的主要成就、遇到的挑战和优先事项。<sup>1</sup> 本报告也阐述了国家人权机构开展的一些专题活动，如：和平与正义、人权维护者、移徙、商业与人权、残疾人的权利和气候变化。<sup>2</sup>

\* 迟交。

\*\* 由于本报告大大超过了有关大会决议所允许的字数限制，所以附件只以文件提交时所用语文分发。

<sup>1</sup> 关于向国家人权机构所提出倡议和提供援助的更多情况可见于秘书长提交大会的报告(A/64/320)。

<sup>2</sup> 有关文件公布在 [www.nhri.net](http://www.nhri.net)。

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## 一. 导言

1. 本报告概述了自秘书长上次向人权理事会提交报告(A/HRC/10/54)以来所取得进展情况。

## 二. 联合国人权事务高级专员办事处和国家人权机构

2. 联合国人权事务高级专员办事处(人权高专办)十分重视在适当考虑到大会(第48/134号决议,附件)通过的《关于国家机构的地位的原则》(《巴黎原则》)的情况下建立和加强国家人权机构。人权高专办也致力于改善整个联合国系统国家人权机构的协调,支持它们更多参加联合国和区域人权机制。人权高专办鼓励国家人权机构之间交流良好做法,支持强化其区域和国际网络,并为其与联合国国家工作队和其他有关合作伙伴的联系提供便利。

3. 在所报告时期,人权高专办继续支持建立强有力的国家人权机构和加强其区域协调机构的有效性。自2008年以来,国家人权机构研究金方案从澳大利亚、萨尔瓦多、大韩民国和多哥等A级国家人权机构接纳了工作人员。这一方案使研究员获得了有关联合国人权系统的知识和经验。在实际专门知识和加强与国家机构工作人员的联系方面,它也使人权高专办受益。人权高专办为2010年发出了新的候选人征召通知。通过这一方案,将从国家机构中最多选出四个工作人员在人权高专办的国家机构和区域机制科中工作,任期最长12个月。

4. 符合巴黎原则的国家人权机构对国家人权保护系统来说是必不可少的,是人权高专办的重要对口单位。它们在促进和监督在国家一级有效落实国际人权标准方面可发挥至关重要的作用,这也日益得到国际社会的承认。联合国人权事务高级专员在2009年6月于斯德哥尔摩举行的国际监察员机构第九次世界会议开幕式上强调了这一作用。高级专员指出,国家人权机构是强大的国家人权保护框架的核心要素,而这一框架又要具有独立的司法机关、有效的议会监督机制、公正的司法、活跃的民间社会以及自由和负责的媒体。

5. 自2003年以来,人权高专办一直保持着一个关于国家人权机构的网站([www.nhri.net](http://www.nhri.net))。2009年6月,在和丹麦的国家人权机构合作之后,人权高专办恢复了与印度国家人权机构的一项授权协议,根据协议,自2008年以来,该机构负责与人权高专办合作管理上述网站。目前正在努力重新塑造网站的形式以使其成为更便于用户使用的工具。网站目前可与人权高专办和一些国家人权机构的网页连接,载有关于联合国人权系统、各国和不同专题以及促进和保护人权国家机构国际协调委员会(国际协调委员会)的活动的资料。

6. 2009年7月,人权高专办公布了关于国家人权机构的调查结果,其中包括关于为了解这类机构的目前情况发出的调查问卷的结果的一个报告。对答复的分析表明,国家人权机构遇到诸多挑战并有不少弱点,缺少充足的经费,需要组织和

资源管理方面的技术援助，缺乏对国际人权系统的了解，需要与公共机构和民间社会建立关系，需要本国政府根据人权机构的建议采取行动。调查使人权高专办、联合国开发计划署(开发署)、捐助国和国家人权机构区域协调机构需要采取行动的差距和援助领域。

## A. 人权高专办提供的咨询服务

7. 人权高专办在国家、区域和国际各级加强国家人权机构的活动主要是通过国家机构和区域机制科开展的；该科则通过与人权高专办的其他部门，包括外地工作单位的协商进行工作。人权高专办通过其国家和区域办事处、人权顾问和联合国维持和平部队的人权部门，以及与其他联合国伙伴和国家人权机构区域协调机构的合作，不断提供咨询和援助。

8. 人权高专办通过其下列办事处执行旨在加强国家人权机构能力的技术合作方案和协议：中非、中亚、东非、拉美、中东、南部非洲、东南亚、太平洋和西非等区域办事处，以及尼泊尔和乌干达等国家办事处。合作包括监督、调查和人权报告培训。

9. 在有关建立国家人权机构的宪法或法律体制及其性质、职能、权力和责任等方面，提供恰当咨询。也进行比较分析、技术合作需要评估、项目制订和评估访问，目的是建立国家人权机构和提高其符合《巴黎原则》的程度。

10. 在所报告时期，人权高专办向下列国家人权机构提供了咨询：阿富汗、巴林、伯利兹、巴西、布隆迪、柬埔寨、喀麦隆、佛得角、中非共和国、智利、科摩罗、刚果、科特迪瓦、刚果民主共和国、吉布提、埃塞俄比亚、几内亚、几内亚比绍、印度尼西亚、伊拉克、意大利、约旦、吉尔吉斯斯坦、莱索托、利比里亚、立陶宛、马来西亚、马尔代夫、马里、毛里塔尼亚、毛里求斯、蒙古、瑙鲁、尼泊尔、荷兰、尼日尔、尼日利亚、巴布亚新几内亚、巴基斯坦、菲律宾、摩尔多瓦共和国、俄罗斯联邦、卢旺达、萨摩亚、塞拉利昂、斯里兰卡、苏丹(南苏丹)、塔吉克斯坦、东帝汶、多哥、突尼斯、土耳其、乌干达和津巴布韦。

### 1. 美洲和加勒比

11. 2008年，人权高专办收到海地政府发来的关于国家监察员办事处的立法草案。人权高专办和联合国海地稳定特派团(联海稳定团)对这一草案提出了意见。人权高专办向2009年10月6日任命的公民保护专员提供了技术援助。

12. 根据2009年5月在普遍定期审议期间向伯利兹和智利提出的建议，人权高专办为这两国按照《巴黎原则》建立国家人权机构提供了技术援助。

13. 国家机构和区域机制科及人权高专办南美区域办事处为制订关于成立国家人权机构的法律提供了法律咨询。2009年7月29日，下议院通过了该项法律。智利总统对该法律做了一些修订，人权高专办则为确保符合《巴黎原则》提出了

一些意见。该法律于 2009 年 11 月 24 日颁布，人权高专办为建立国家机构提供了技术援助。

14. 人权高专办为玻利维亚多民族国家、哥斯达黎加、萨尔瓦多、尼加拉瓜和秘鲁参加 2009 年 10 月在马德里举行的伊美监察员联合会第十四次代表会议和年度大会以及美洲促进和保护人权国家机构网络第八次大会提供了支援。下列国家的 A 级国家人权机构参加了会议：玻利维亚多民族国家、加拿大、哥伦比亚、哥斯达黎加、厄瓜多尔、萨尔瓦多、尼加拉瓜、巴拿马、秘鲁和委内瑞拉。

## 2. 非洲

15. 人权高专办与联合国布隆迪综合办事处(联布综办)合作，于 2009 年 1 月 29 日和 30 日召开了一次圆桌会议，鼓励议员们通过一项建立国家人权机构的法律草案。与会者包括 60 位议员、政府代表和民间社会代表以及肯尼亚、卢旺达、塞内加尔、多哥和乌干达的国家人权机构。联布综办和人权高专办对法律草案提出了意见，指出了一些缺点，如缺乏独立性保障。

16. 2009 年 2 月 3 日，根据人权高专办和联合国苏丹特派团(联苏特派团)提供的有关加强人权机构的法律咨询意见，南苏丹立法大会通过了《南苏丹人权委员会法》，该委员会被授予监督、调查、咨询和促进等职权。

17. 人权高专办向各国家人权机构提供关于国际协调委员会资格认证程序的咨询。2009 年 2 月和 4 月，致函佛得角、乍得、刚果、科特迪瓦、吉布提、埃塞俄比亚、马里、毛里塔尼亚、塞拉利昂、苏丹(南苏丹)和突尼斯的国家人权机构，请它们向国际协调委员会资格认证小组委员会递交申请。乍得、毛里塔尼亚和突尼斯作出了正面答复，小组委员会在 2009 年 11 月的会议上对其申请进行了审查。

18. 2009 年 3 月，人权高专办和联合国塞拉利昂建设和平综合办事处帮助塞拉利昂人权委员会拟订了能力发展项目筹资提案，目的是执行该委员会的三年行动计划。

19. 在人权高专办南部非洲区域办事处于 2009 年 3 月 23 日至 25 日举办的关于从人权角度考虑问题的培训时讨论了科摩罗成立国家人权机构的问题。人权高专办对关于成立国家人权机构的法律草案提出了意见，并与开发署一起关注关于通过该项立法的讨论。

20. 2009 年 4 月 21 日，苏丹国民议会通过了关于设立国家人权机构的立法。人权高专办和联苏特派团提供了有关法律草案和任命程序的咨询意见和援助。

21. 2009 年 4 月 21 日至 23 日，人权高专办与法语国家国家人权委员会共同进行了一次联合评估访问，以协助马里政府落实普遍定期审查提出的关于加强马里国家人权机构的建议。人权高专办为 2009 年 10 月 16 日和 17 日在巴马科举行的专题讨论会提供了帮助，该讨论会的目的是向议员们简要说明在立法过程中如何贯彻《巴黎原则》。议会于 2009 年 11 月通过了该项法律。

22. 2009年4月在科纳克里与几内亚当局和民间社会讨论了设立国家人权机构的问题。人权高专办提供了比较性资料。

23. 2009年6月22日至25日在坦桑尼亚联合共和国，人权高专办为29名人权委员会委员举办了一次培训班。

24. 在利比里亚，人权高专办和联合国利比里亚特派团继续鼓励该国政府设立国家人权机构，并提供了与2005年3月11日颁布的相关法律有关的咨询。2009年8月17日，总统任命了人权专员。

25. 在尼日利亚，人权高专办继续向国家人权机构提供支援，同时鼓励该国政府修订法律，以使其符合《巴黎原则》。

26. 在乌干达，为国家人权机构提供了关于人权监督和调查的培训。人权高专办与国家人权机构对特别是与艾滋病毒/艾滋病有关的活动和歧视联合进行了研究，并在按照国际人权文书履行报告义务方面向该国政府提供了支援。

27. 在吉布提于2008年设立国家人权机构之后，人权高专办东非区域办事处(东非办)与国家人权机构共同举办了关于向联合国人权机制报告的培训班，重点是普遍定期审查和《消除对妇女一切形式歧视公约》。东非办、开发署、联合国儿童基金(儿童基金)和联合国人口基金(人口基金)与该国的政府和机构一起制定了一项两年技术合作方案，目的是增加该国各利益相关方的与人权有关的知识，提高他们向条约机构和普遍定期审查报告的能力。

28. 在埃塞俄比亚，向国家人权机构的工作人员提供了培训，并建立了一个网站。东非办协助该机构开展了人权宣传活动并提高该国政府向条约机构报告的能力。

### 3. 亚洲和太平洋

29. 在巴基斯坦，人权高专办和亚洲太平洋国家人权机构论坛继续努力按照《巴黎原则》建立国家人权机构。2008年12月18日和19日，亚洲太平洋论坛和人权高专办的代表访问了巴基斯坦，在那里参加了与民间社会和议员就建立国家机构的立法草案进行的协商。协商之后，人权高专办对立法草案提出了意见。

30. 2009年1月12日至20日，人权高专办和开发署对东帝汶人权与司法监察员办公室的能力建设项目(2007-009年)进行了一次中期评估。通过评估得出结论认为，该机构取得了重大进展，项目开始阶段对该机构起了重要的支持作用。评估后提出的建议已反映在项目中。2009年10月，该监察员办公室、人权高专办和开发署开始制订新的技术援助项目。

31. 2009年2月，人权高专办与尼泊尔国家人权机构签署了合作指导方针。人权高专办向该机构和其他利益相关者提供了关于建立可靠过渡性司法机制的援助。2009年7月，人权高专办和该机构一起制定了关于被拘留者权利的活动项目。

32. 2009年2月，人权高专办与印度尼西亚国家人权机构和妇女暴力问题国家委员会一起，组织了一次关于《禁止酷刑和其他残忍、不人道或有辱人格的待遇或处罚公约任择议定书》的全国对话，目的是监督印度尼西亚境内的拘留中心。

33. 2009年3月，在对马来西亚人权委员会的能力需要进行了一次评估之后，人权高专办、开发署和亚太论坛发表了一个能力需要报告，包括一项战略和一些建议。报告得到马来西亚人权委员会的赞同。

34. 2009年8月21日至26日，人权高专办和亚太论坛向巴布亚新几内亚当局提供了关于如何为设立国家人权机构起草法律的咨询。

35. 2009年10月，人权高专办、开发署、亚太论坛和马来西亚人权委员会帮助马尔代夫进行了一次能力需要评估。

36. 2009年11月20日至30日，人权高专办、亚太论坛和澳大利亚人权委员会一起对瑙鲁进行了访问，目的是就按照《巴黎原则》建立国家人权机构的选择向该国政府提供咨询。

37. 2009年12月1日和2日，在雅加达，人权高专办和联合国人口基金帮助对妇女暴力问题国家委员会与本区域其他国家专门委员会以及一些国家人权机构举行了一次协商会议，目的是探索在促进和维护妇女权利方面的合作方式。

#### 4. 欧洲

38. 2009年1月，人权高专办提供了关于修订与格鲁吉亚人权维护者办公室有关的法律的技术咨询，目的是使其在履行国家预防机制的职能方面更加符合《巴黎原则》和《禁止酷刑公约任择议定书》的要求。

39. 2009年4月，人权高专办就加强有关设立摩尔多瓦人权中心的法律和通过国际协调委员会认证程序确保该机构符合《巴黎原则》的问题提供了咨询。

40. 在2008年对吉尔吉斯进行评估之后，人权高专办于2009年7月24日至26日召开了一次《禁止酷刑公约任择议定书》所规定国家预防机制问题专题讨论会。它帮助该机构制订了战略规划，并在其重组阶段提供了一名顾问。2009年11月10日至14日，“行动2”全球方案和开发署为该国家机构安排了一次关于申诉程序的专题讨论会。为提高该机构的能力，联合国和监察员制订了一个技术合作项目(2009-2011年)。

41. 在塔吉克斯坦，人权高专办向监察员提供了支援，帮助他建立了国家人权机构，包括制订战略计划和内部规章制度。

42. 人权高专办一直在密切关注目前在芬兰、意大利、荷兰和土耳其等欧洲国家为按照《巴黎原则》建立国家人权机构进行的努力。

43. 人权高专办与科索沃监察员共同召开了一次会议，以提供关于工作人员能力建设和重新起草有关法律的法律的咨询，同时了解国际协调委员会的认证要求。

## 5. 中东和北非

44. 2008年12月，伊拉克议会通过了关于设立伊拉克人权高级委员会的法律。这是开始于2006年的一项工作的结果。人权高专办与联合国伊拉克援助团合作，共同协助建立该机构，包括协助选择委员会成员。

## B. 人权高专办对区域行动的支持

### 1. 美洲和加勒比

45. 2008年10月，委内瑞拉国家人权机构被选定为美洲促进和保护人权国家机构网的新秘书处。人权高专办一直在和该秘书处密切合作，目的是提高其能力，加强它在该区域和国际人权系统中的作用。

46. 人权高专办与美洲国家人权机构网和“权利与民主”一起，于2009年3月26日至27日为美洲一些国家人权机构举行了一次关于普遍定期审查和国际人权系统的专题讨论会。下列国家的人权机构代表参加了讨论会：加拿大、哥斯达黎加、厄瓜多尔、萨尔瓦多、危地马拉、墨西哥、尼加拉瓜和秘鲁。讨论会的目的是交流国家人权机构与国际人权系统互动的最佳做法，也使各国家人权机构有机会更多了解它们如何参与普遍定期审查程序和各条约机构的活动，如何与特别程序任务执行机构合作。

47. 人权高专办为2009年10月29日在马德里举行的美洲促进和保护人权国家机构网第八次大会提供了技术和经费支持。会议使12个国家人权机构的主席聚集一堂。会议讨论了以经济、社会和文化权利以及流离失所者问题为重点的机构网2008-2010年工作方案。会议也强调了与人权高专办的合作。

### 2. 非洲

48. 人权高专办西非区域办事处参加了2009年1月19日至20日在洛美举行的中非和西非专题讨论会。专题讨论会强调了两个分区域多数国家人权机构共同的法律和体制弱点，讨论了如何加强这些机构使其符合《巴黎原则》的问题，包括通过人权高专办的援助。

49. 人权高专办西非区域办事处参与了建立分区域国家人权机构网的工作。虽然该机构网早在2006年就在冈比亚的班珠尔成立了，但至今未开始运作。2009年2月12日至14日，人权高专办参加了西非经济共同体在贝宁的科托努举行的一次会议，帮助起草了国家机构网章程。该章程于2009年10月在班珠尔通过，根据章程建立了国家机构网，指定了主管机关。

50. 2009年9月，人权高专办参加了由Raoul Wallenberg研究所在内罗毕为埃塞俄比亚、肯尼亚、卢旺达、乌干达和坦桑尼亚联合共和国等东非国家的新人权专员举办的培训。培训的重点是符合《巴黎原则》和国际人权制度的国家人权机构的主要职能和任务。



51. 2009年11月3日至5日在拉巴特举行了非洲国家人权机构第七次会议，会议的主题是“和平与正义：国家人权机构的作用”。这次会议是由下列机构共同安排的：人权高专办、摩洛哥人权咨询委员会、非洲国家人权机构网和法语国家国际组织。会议通过了《拉巴特宣言》；其中，与会者表示承认国家人权机构对促进正义与和平的作用，除其他外，决心：(a) 促进和平与正义的相互依存关系；(b) 提高对关于过渡时期司法的国际文书的认识；(c) 促进为建立过渡时期司法机制进行全国协商；(d) 确保这种机制符合国际人权标准和做法；(e) 收集有关侵犯人权现象的资料；(f) 促进对受害者和证人的援助(见附件一)。在人权高专办和安大略监察员的协助下，各国家人权机构还接受了关于调查技巧的培训。

52. 在拉巴特会议期间，还举行了非洲国家人权机构网大会及其指导委员会的会议。摩洛哥国家人权机构当选为国家机构网主席，南非国家人权机构当选为副主席。人权高专办将继续向国家机构网秘书处提供技术和经费支援。会议将于2011年在南非举行。

53. 2009年11月9日至11日，人权高专办马里巴马科召开了一次关于编写向条约机构提交的报告和关于国家人权机构在西非移民问题方面的作用的会议。来自各国政府、国家人权机构和非政府组织的共50位代表参加了会议。会议的重点是《Santa Cruz 宣言》<sup>3</sup> 承诺的后续行动和通过一个促进和保护移民人权的路线图。11月13日，各国家人权机构和民间社会代表讨论了西非国家人权机构网的规则和程序以及2010年至2012年工作计划的起草问题。

### 3. 亚洲和太平洋

54. 2009年3月2日至3日，人权高专办参加了由开发署曼谷区域中心和亚太国家人权机构论坛安排的关于支持亚太国家人权机构能力发展的协商会议。协商会议讨论了从国家人权机构能力需要试验评估吸取的教训，并探索了支持其他国家人权机构所使用的能力发展办法。在与马尔代夫国家人权机构进行了第二次能力需要评估之后，2009年12月，亚太论坛、人权高专办和开发署举行了一次协商会议，会议讨论了从迄今进行的能力评估吸取的教训和最佳做法，并进一步制订了国家人权机构能力需要评估的方法。

55. 在萨摩亚政府和太平洋岛屿论坛支持下，人权高专办与亚太论坛合作，(2009年4月27日至29日，萨摩亚，Apia)安排举行了一次关于“在太平洋地区设立国家人权机制”的专题讨论会，以加强太平洋国家根据《巴黎原则》设立国家机制的能力。来自马绍尔群岛、瑙鲁、纽埃、帕劳、萨摩亚、所罗门群岛和瓦努阿图的代表参加了该讲习班并通过了萨摩亚宣言。他们在该宣言中表示认识到采取必要措施建立符合《巴黎原则》的国家人权机构的重要性。在讨论会上还详

<sup>3</sup> 2006年10月24日至26日在玻利维亚多民族国家 Santa Cruz 举行的美洲促进和保护人权国家机构第八次会议通过。

细编写了一个题为“落实”的文件，其中阐述了建立适合太平洋岛屿国家需要的国家人权机构的实际步骤。

56. 亚太国家人权机构论坛第十四次年度会议于 2009 年 8 月 3 日至 6 日在安曼举行，是约旦国家人权中心在人权高专办的技术和财政支援下主办的。会议的主题是：腐败对实现人权和宗教信仰的影响。亚太论坛理事们还讨论了在亚太论坛吸收成员时暂停使用亚太论坛认证程序、改用国际协调委员会认证决定以证明符合《巴黎原则》的问题。

#### 4. 欧洲

57. 人权高专办参加了 2009 年 6 月 29 日在维也纳举行的欧洲联盟基本权利机构及欧洲促进和保护人权国家机构集团第二次会议。会议的重点是该机构年度工作方案、欧洲集团 2009-2010 年战略计划、该机构的国家人权机构研究和针对基于性倾向和同性恋的歧视以及该机构关于欧洲联盟内国家人权机构的能力和权力的研究报告采取的后续行动。

58. 人权高专办参加了 2009 年 6 月 30 日在维也纳举行的欧洲集团协调委员会会议。该会议侧重讨论国际协调委员会的发展、德班审查会议的后续行动以及国家人权机构参与欧盟基本权利机构活动和欧洲安全与合作组织(欧安组织)民主制度和人权办公室的情况。

59. 人权高专办和开发署布拉迪斯拉发区域中心 2009 年 11 月 24 日至 26 日在日内瓦召开了关于国家人权机构的作用以及与联合国人权机制的合作的专题讨论会；目的是独联体国家和克罗地亚国家人权机构与国际人权机制的互动能力，也就是，根据普遍定期审查、条约机构和特别程序的建议采取后续行动的能力。人权高专办和开发署布拉迪斯拉发区域中心将继续共同努力通过分区域专题讨论会加强国家人权机构的能力。

#### 5. 中东和北非

60. 人权高专办协助安排了 2009 年 3 月 8 日至 9 日在安曼举行的第五次阿拉伯国家人权机构会议，主题是“阿拉伯世界的选举及其对人权的影响”。共有 80 人参加了会议，包括阿尔及利亚、埃及、约旦、摩洛哥、卡塔尔、沙特阿拉伯和突尼斯的国家人权机构以及被占领巴勒斯坦领土的代表。非政府组织、国际组织和联合国机构也参加了会议，并通过了一个关于帮助国家人权机构从人权角度出发参与选举的文件。

61. 卡塔尔联合国西南亚和阿拉伯区域人权培训与文献中心于 2009 年 5 月 27 日和 28 日在多哈举行了一次关于国际人权系统的创始专题讨论会。共有 60 人参加了会议，包括阿富汗、阿尔及利亚、伊朗伊斯兰共和国、约旦、毛里塔尼亚、摩洛哥、卡塔尔、沙特阿拉伯、突尼斯的国家人权机构和被占领巴勒斯坦领土的代表。

62. 2009年11月11日，巴林颁布了关于设立国家人权机构国王令。2008年，人权高专办曾向该国政府提供技术援助，目前正在关注这方面的进展情况。人权高专办时刻准备帮助确保按照国际标准建立该国家人权机构。人权高专办也在关注黎巴嫩和阿曼建立国家人权机构的情况。

63. 人权高专办在协助摩洛哥和约旦的国家人权机构分别有效履行非洲和亚洲协调小组主席的职务。

64. 在约旦，人权高专办正在与开发署合作，共同共同规划支持该国人权中心的合作活动。另外还探索了确保与中东新成立的一些国家人权机构，即沙特阿拉伯和阿拉伯利比亚民众国的国家人权机构进一步合作的办法。

## C. 人权高专办对国际行动的支持

### 1. 促进和保护人权国家机构国际协调委员会

#### (a) 第二十二届会议

65. 作为国际协调委员会的秘书处，人权高专办为2009年3月23日至27日在日内瓦举行的该委员会第二十二届会议提供了实际支援和便利。四个区域的国家人权机构报告了它们的活动和遇到的主要挑战。为监督筹资情况和财务管理，成立了一个财务委员会。与会者被告知，开设了一个银行帐户，委员会成员已开始缴纳年度会费。协调委员会驻日内瓦代表向人权理事会报告了国家人权机构的最新参与情况。国际协调委员会德班审查会议工作组告诉各国家人权机构如何在会议期间策略性地发挥影响。

66. 人权高专办向与会者通报了它的优先事项，包括：增加国家人权机构对新的联合国人权条约及任择议定书的了解；鼓励各机构在促进批准新条约方面发挥更大作用；加强条约机构与国家人权机构的互动程序；汇编国家人权机构与联合国人权机制互动良好做法的实例；宣传条约机构的结论性意见和普遍定期审查产生的建议；公开对协调委员会驻日内瓦代表的使用；鼓励国家人权机构更多参与起草条约机构的一般性意见；支持国家人权机构参与处理申诉以及条约机构系统利用案例法。

#### (b) 主席团会议

67. 人权高专办为2009年11月1日和2日在拉巴特举行的国际协调委员会主席团会议提供了支援。主席团讨论了订于2010年3月举行的国际协调委员会下次会议可能安排的项目，将下列项目放在了优先地位：德班审查会议的后续行动、《联合国人权教育和培训宣言》草案、国家人权机构与国际人权机制的关系。关于为使国际协调委员会能够运行国家人权机构缴纳年度会费的重要性，会议一致认为，应当使国家人权机构有机会在下次委员会会议之前缴纳会费。会议考虑了将阿拉伯语作为一种工作语文的可能性。会议还讨论了为促进各区域之间

的互动加强国家人权机构区域秘书处的必要性。与会者举行了一次战略规划会议，一致同意先拟订具体的区域优先计划，然后合并为一个国际协调委员会的计划。

### (c) 并行活动

68. 2009 年 3 月，国际协调委员会成立了一个九成员商业和人权工作组，由每个区域两个国家人权机构和国际协调委员会主席的代表组成。工作组的任务包括战略规划、能力建设、交流资料、制定议程和对外联络。

69. 2009 年 6 月，在国际协调委员会和人权高专办的安排下，来自国家人权机构、非政府组织和各国政府的约 30 位代表作为人权理事会第十一届会议的并行活动举行了一次会议。会议讨论了国家人权机构在商业和人权领域的作用，重点是人权和跨国公司及其他商业企业问题秘书长特别代表提出的问题。订于 2010 年在大不列颠及北爱尔兰联合王国爱丁堡举行的国际协调委员会下次国际会议的重点将是人权与商业：国家人权机构的作用。人权高专办正在与苏格兰人权委员会共同筹备这次会议。

70. 2009 年 8 月，国际协调委员会和人权高专办安排进行了一个与人权理事会咨询委员会第三届会议并行的活动，题为“人权教育和培训宣言草案：国家人权机构的经验和贡献”。这个活动为讨论和交流国家人权机构在人权教育和培训领域的经验和最佳做法提供了一个讲坛。

## 2. 资格认证小组委员会

71. 人权高专办为 2009 年 4 月和 11 月举行的资格认证小组委员会会议提供了秘书处服务。秘书长的一个报告(A/HRC/13/45)提供了关于这些会议的更多情况。

## 3. 伊美监察员联合会

72. 人权高专办参加了伊美监察员联合会 2009 年 10 月 28 日和 29 日在马德里举行的第十四次代表会议和年度大会。会议由西班牙 Defensor del Pueblo 主持，约 150 位国家人权机构的代表参加了会议。

## 4. 英联邦国家人权机构论坛

73. 人权高专办参加了英联邦国家人权机构论坛 2009 年 11 月 23 日和 24 日在西班牙港举行的会议。论坛讨论的重点是国家人权机构在气候变化和人权方面的作用。2010 年，人权高专办将与加拿大国家人权机构和论坛主席一起安排举行一次专题讨论会，目的是促进在加勒比国家建立符合《巴黎原则》的国家人权机构。

### 三. 联合国人权机制与国家人权机构之间的合作

#### A. 人权理事会

74. 根据人权委员会第 2005/74 号决议，人权高专办一直在支持国家人权机构与人权理事会建立关系。人权理事会第 5/1 号决议为国家人权机构及其区域协调机制参加人权理事会的活动以及与其各种机制建立关系提供了机会。被国际协调委员会认证为 A 级的机构、该委员会本身和代表被认证为 A 级的机构发言的区域协调机构可参加理事会的会议并就所有议程项目发言。它们也可以提交书面发言、分发文件(带有联合国文件编号)、在理事会会议上拥有单独的座位安排。

75. 关于理事会各机制，第 5/1 号决议为国家人权机构规定了一个明确而重要的角色，例如，在普遍定期审查方面，它们的投入被列入利益攸关者报告。人权高专办正在协助落实普遍定期审查的关于建立或加强国家人权机构的建议，包括支持国家人权机构申请国际协调委员会资格认证。

76. 2009 年，在普遍定期审查之下审查了 48 个国家。其中 22 个国家有国家人权机构，11 个机构为利益攸关者报告提交了资料。这 11 个机构中有 9 个拥有 A 级地位，2 个拥有 B 级地位。美洲促进和保护人权国家机构网提交了两个关于智利和乌拉圭普遍定期审查的资料。

77. 2009 年，人权理事会每届会议平均有 20 个国家人权机构参加。它们在会前和会后都非常活跃，发言、提交书面文件、参加一般性辩论以及与特别报告员互动。

#### B. 条约机构

78. 2009 年，条约机构所审查的国家中有 69 个有国家人权机构。在这些机构中，有 37 个参加了条约机构程序，包括通过提交备选报告或参加会议。作为一项经常性活动，人权高专办有计划地参与了条约机构的活动，提供了关于国家人权机构及其活动的专家分析报告。它还经常更新所有条约机构涉及国家人权机构的结论性意见汇编([www.nhri.net](http://www.nhri.net))，并将结论性意见发送给有关国家机构。

79. 2009 年 10 月 26 日，国际协调委员会与国际残疾人联盟和人权高专办一起，举办了一次关于国家人权机构与残疾人组织在监督落实《残疾人权利公约》方面的合作的并行活动。它是在人权高专办关于该公约所规定国家机构的协商会议之外进行的。

80. 禁止酷刑委员会和儿童权利委员会提交大会的报告承认了国家人权机构对各自工作的重要作用。人权事务委员会有一个这种机构的专门联络点。2009 年，禁止酷刑委员会秘书处为国家人权机构建立了一个网站，其中提供了关于如何与其互动的信息。

### C. 特别程序

81. 在所报告时期，很多国家人权机构与特别程序任务执行者进行了互动，向人权理事会提交了书面资料以补充特别程序任务执行者的国家访问报告。

82. 2009年6月30日，作为其第16次会议的一部分，特别程序任务执行者与一些国家人权机构和非政府组织一起，进行了互动对话。国际协调委员会驻日内瓦代表作了关于作为一些特别程序任务执行者发展的后续行动机制的一部分加强国家人权机构与这类任务执行者之间的合作的发言。

83. 人权高专办经常向特别程序任务执行者提供关于国家人权机构在准备他们的国家访问方面所做工作的资料。为确保其建议在国家一级得到落实，这类任务执行者越来越多地向国家人权机构寻求帮助。这是国家人权机构工作的一个重要方面，应当进一步鼓励它们做好这方面的工作。

### D. 德班审查会议

84. 人权高专办支持国家人权机构积极参加德班审查会议，包括通过下列手段：向 A 级机构提供经费援助(将最不发达国家的这类机构放在优先地位)，在官方会议网站中开辟一个国家人权机构网页，在德班会议工作方面与国际协调委员会合作。来自各区域 39 个国家人权机构的代表参加了会议。在人权高专办和国际协调委员会为交流最佳做法和应对重大挑战共同安排的一次并行活动中，参加者为加强对本国、区域和国际上的种族主义及相关的不容忍的斗争，确定了 14 个优先事项。

85. 国家人权机构还确定了一些相关的后续活动：在机构内部建立联络点，建立由联络点组成的联络网，在 [www.nhri.net](http://www.nhri.net) 网站上交流良好做法。人权高专办为一些具体的后续活动分配了资金，包括支持南非人权委员会。

## 四. 人权高专办、联合国机构和方案及国际和区域组织之间在国家人权机构问题上的合作

### 联合国开发计划署(开发署)

86. 在建立国家人权机构方面，人权高专办和开发署加强了合作，扩大了活动范围，包括关于联合国人权政策网(人权谈论)的网络讨论、联合技术合作项目、关于建立国家人权机构的联合宣传、普遍定期审查后续行动及审查的加强、小组委员会关于建立机构的建议、能力需要联合评估和评估访问。2009年，继续开展了这些活动(见本报告的所有参考资料)。

87. 和开发署以及丹麦、印度、南非和乌干达的国家人权机构一起，人权高专办为联合国国家工作队制定了关于如何支持建立和加强国家人权机构的一套工

具。2009年5月在约翰内斯堡，约40个开发署区域和国家办事处的代表对这套工具进行了验证。预期2010年高级专员和开发署署长将正式宣布这套工具。

88. 开发署和人权高专办继续采取了联合行动，如支持亚洲和太平洋地区的国家人权机构能力建设、为帮助阿拉伯地区的国家人权机构从人权角度出发参与选举支持通过一个文件、加强独立国家联合体和克罗地亚国家人权机构与国际人权系统互动的能力。

#### **联合国教育、科学及文化组织(教科文组织)**

89. 人权高专办参加了2009年5月25日和26日在巴黎举行的民主和人权问题阿拉伯—非洲对话常设论坛指导委员会的会议。该会议是由教科文组织和埃及国家人权机构共同安排的，来自各国政府、国家人权机构、非政府组织、区域和国际组织的24位代表参加了会议。

#### **国际监察员协会**

90. 人权高专办参加了2009年6月9日至12日在斯德哥尔摩举行的国际监察员协会第九次世界会议。高级专员在会上发言时，着重阐述了当前在保护和促进人权方面所面临的挑战，他强调国家人权机构和监察员机构在国家、区域和国际各级别促进和保护人权方面的重要作用，并鼓励区域和国际监察员协会与国家人权机构以及这些机构与整个联合国系统在巴黎原则方面进行更多合作。

#### **联合国儿童基金会(儿童基金)**

91. 2009年6月22日和23日，人权高专办参加了关于为促进和保护儿童权利建立独立的人权机构的区域研讨会：适合非洲法语国家的有效办法，研讨会是由儿童基金西非和中非区域办事处、依诺森蒂研究中心和法语国家国际组织在巴马科联合召开的。人权高专办强调了国家人权机构具有广阔任务范围以及专门机构符合国际标准的重要性。

#### **地中海监察员协会**

92. 人权高专办参加了2009年11月4日在摩洛哥丹吉尔举行的地中海监察员协会总部成立大会。会议的重点是监察员协会和网络在建立这种机构方面的作用。人权高专办还参加了该协会于2009年12月14日和15日在雅典举行的第3次会议，其主题是：透明度和公共服务：监察员应起什么作用？

#### **欧洲理事会**

93. 2009年11月16日和17日在法国斯特拉斯堡举行了人权高专办和欧洲理事会的第3次协调会议。人权高专办与欧洲理事会的工作人员举行了关于国际协调委员会资格认证程序的双边工作会议。

## 非政府组织

94. 人权高专办继续与“权利与民主”合作，为国家人权机构举行关于普遍定期审查和国际人权系统的专题讨论会。人权高专办还坚持与预防酷刑协会和大赦国际合作，并经常号召非政府组织与国家人权机构开展更多互动。

## 学术机构

95. 2009 年，人权高专办加强了与布里斯托大学《禁止酷刑公约任择议定书》研究方案小组的伙伴关系。人权高专办参加了该大学于 2009 年 5 月举行的关于上述《任择议定书》和《残疾人权利公约》的两次圆桌会议。2009 年 9 月，人权高专办参加了一次关于落实条约机构决定的专题讨论会，并在会议作了关于国家人权机构在落实决定方面的作用的发言。

## 促进和保护人权的区域机制

96. 为加强促进和保护人权的区域和国际机制之间的合作，人权高专办召开了几次区域协商会议。这些会议是：2009 年 11 月和 12 月与非洲联盟合作在非洲(亚的斯亚贝巴)召开的协商会议、与美洲国家组织合作在美洲(华盛顿)召开的协商会议、与欧洲理事会合作在欧洲(斯特拉斯堡)召开的协商会议。召开这些会议的目的是就如何加强联合国与区域人权安排之间的合作进行协商。一些国家人权机构的代表参加了这些会议，会议讨论了国家机构和区域安排之间合作的模式。

97. 2009 年 6 月 4 日，美洲国家组织大会通过了第 AG/RES.2448 (XXXIX-O/09) 号决议，其中提到国际协调委员会在按照《巴黎原则》认证国家人权机构方面的作用，决定利用被该委员会认定为 A 级的国家人权机构名单作为标准，允许一些国家机构参加美洲国家组织负责处理与人权有关问题的政治机构。它规定了国家人权机构的参加模式，包括分配专门席位、按照其自己的分类分发机构文件，以及提供口头发言机会。

## 五. 专题圆桌会议

### 过渡时期的司法

98. 2009 年 1 月，人权高专办发布了与专家和国家机构协商编写的一个关于国家人权机构和过渡时期的司法的指导性文件，其目的是帮助国家人权机构参与过渡时期的司法问题，说明挑战与机会，突出说明适用的国际标准，并提出建议。

### 经济、社会和文化权利

99. 国际协调委员会第二十二届会议的一个并行活动的重点就是国家人权机构和《经济、社会和文化权利国际公约任择议定书》。小组成员讨论了经济、社会和文化权利的合理性以及国家人权机构在落实《任择议定书》方面的作用。



## 拘留问题

100. 一些国家人权机构参加了 2009 年 3 月在国际协调委员会第二十二届会议期间举行的一个并行活动，目的是交流有关拘留监督的经验和行动，并为哈瓦纳大学和人权高专办的一个联合刊物直接作出贡献。讨论的重点是与拘留监督有关的结构和政策问题。

## 预防酷刑和《禁止酷刑和其他残忍、不人道或有辱人格的待遇或处罚公约任择议定书》

101. 一些国家人权机构参加了在国际协调委员会第二十二届会议期间举行的一个并行活动，目的是交流落实《禁止酷刑和其他残忍、不人道或有辱人格的待遇或处罚公约任择议定书》的经验。讨论情况表明，虽然没有创立国家预防机制的固定模式，但国家人权机构在落实《任择议定书》方面可发挥重要作用，它既可本身作为国家预防机制，也可协调这种机制的工作，也可与指定的机制互动。会议也注意到国家人权机构在国际上的作用(如预防问题小组委员会互动)。

102. 人权高专办目前正在与预防酷刑协会和亚太论坛合作，最后完成一个关于预防酷刑的国家人权机构手册，手册将可提供指导，包括介绍作为国家预防机制的国家人权机构的最佳做法。

## 人权调查

103. 2008 年，英国平等和人权委员会进行了一次人权调查，目的是评估该国提高人权文化意识的进展情况。人权高专办和该机构在 2009 年 9 月 23 日人权理事会第十二届会议期间，共同举办了一次并行活动，交流了进行这种调查的经验。

## 监察员、调解员和国家人权机构在联合国促进和保护人权系统中的作用

104. 在各自的常驻日内瓦代表团和人权高专办的协助下，摩洛哥和瑞典的监察员在 2009 年 9 月人权理事会第十二届会议期间举行了一次并行活动，活动按照大会第 63/169 和 63/172 决议提出的范围讨论了监察员、调解员和国家人权机构在联合国促进和保护人权系统中的作用。

## 商业与人权

105. 2009 年 10 月 6 日，在人权与跨国公司和其他商业企业问题秘书长特别代表召开的人权高专办协商会议期间，来自国家人权机构、非政府组织和一些会员国的 30 位代表参加了一次并行活动。这次活动是国际协调委员会与人权高专办合作举办的，目的是确保在公司和商业领域对国际人权标准的遵守。

## 作为人权维护者的国家人权机构

106. 2009 年 11 月 6 日和 7 日，人权高专办与摩洛哥国家人权机构和非洲国家人权机构网合作，召开了一次专题讨论会，目的是加强国家人权机构作为人权维

护者和保护者的作用，并增加与会者有关保护人权维护者的国际人权标准的知识和加强他们对这类标准的理解。专题讨论会是在拉巴特举行的，参加会议的有非洲国家人权机构的代表和人权维护者问题特别报告员。各国家人权机构交流了最佳做法，强调了在执行任务时面临的挑战，包括死亡威胁、不充分的证人保护制度以及需要更多调查技巧和监督培训。

### 艾滋病毒/艾滋病

107. 人权高专办与联合国艾滋病毒/艾滋病联合规划署以及丹麦和乌干达国家人权机构合作，为区域艾滋病毒/艾滋病专题讨论会提供了支援。为国家人权机构安排的区域专题讨论会是在塞内加尔(2009年10月)和秘鲁(2009年12月)召开的。国家人权机构被鼓励确保更多参与对艾滋病毒/艾滋病问题的国家反应，《国家人权机构艾滋病毒和人权问题手册》被用作一个工具。

## 六. 结论

108. 符合《巴黎原则》的国家人权机构是强大而有效的国家人权保护系统的关键组成部分。这种机构可有助于确保国家法律和实践符合国际人权标准，帮助政府确保其落实，在国家一级监督和处理主要人权问题，如酷刑、任意拘留、贩卖人口和移民的人权，支持人权维护者的工作，促进消除一切形式的歧视。

109. 秘书长鼓励国家人权机构在与有罪不罚现象的斗争中充当强大支柱，确保司法系统有效发挥作用。国家人权机构在司法方面可发挥重大作用，包括对拘留场所的监督和与执法人员共同促进法制。国家人权机构应争取成为侵犯人权受害者的全国第一有效依靠。

110. 秘书长欢迎第七次非洲国家人权机构会议通过《拉巴特宣言》。《宣言》案文证明了国家人权机构在过渡时期司法方面总的的作用，在促进和支持过渡时期司法机制和程序方面的具体作用，可为确保可靠性、伸张正义以及实现和解与和平作出的贡献。鼓励国家人权机构对《宣言》中关于监督和建立过渡时期司法机制的实用建议给予应有的重视。

111. 秘书长赞赏地注意到国家人权机构区域网的连续工作，鼓励各区域网与人权事务高级专员办事处更密切地合作。他还呼吁国家人权机构与非洲联盟、美洲系统和欧洲人权机制等组织的机构合作，制定区域人权标准和案例法。他再次呼吁各区域人权委员会、法院和国家人权机构在促进和保护人权方面建立现代化关系。

112. 秘书长鼓励国家人权机构继续与联合国人权系统互动和合作，积极促进批准和切实执行各项国际人权法律文书。由于一些新的国际人权法律文书，如《禁止酷刑公约任择议定书》和《残疾人权利公约》，都期待国家人权机构发挥监督和执行作用，秘书长鼓励缔约国加强国家人权机构的任务和能力，以使它们能切实发挥作用。

113. 秘书长强调了监察员、调解员和其他国家人权机构的自主性和独立性。秘书长重申了人权事务高级专员的呼吁，即：在改善国家人权系统方面，国家人权机构和监察员机构要更密切地合作。他还鼓励监察员机构遵循《巴黎原则》，加强其独立性，加强作为国家保护机制的能力。

114. 秘书长注意到国家人权机构积极参加了德班审查会议，欢迎国家人权机构承诺继续支持落实《德班宣言和行动纲领》。秘书长呼吁缔约国继续支持国家人权机构和国内其他利益相关方落实德班审查会议的结果文件和行动计划，包括进行全国性法律改革。

115. 秘书长重申，国家人权机构的财务独立和自主对其有效发挥作用非常重要，特别是在金融危机时期。

## Annexes

### Annex I

#### **Seventh Conference of African National Human Rights Institutions**

Rabat, 3-5 November 2009

#### **Rabat Declaration**

*Participants at the Seventh Conference of African National Human Rights Institutions, convening in Rabat, Morocco, from 3 to 5 November 2009 under the theme: “Peace and Justice: Role of National Human Rights Institutions”, under the auspices of the Advisory Council for Human Rights of Morocco in cooperation with the Network of African National Human Rights Institutions and with the support of the Office of the United Nations High Commissioner for Human Rights (OHCHR), the Organisation Internationale de la Francophonie (OIF), and the Commonwealth Secretariat,*

*Acknowledging with appreciation the welcome and hospitality of the Government and people of Morocco in the hosting of the Seventh Conference,*

*Expressing their warm gratitude to the Advisory Council for Human Rights of Morocco for its notable organization and hosting of the Conference,*

*Expressing their appreciation for the presence at the Conference of the Registrar of the International Criminal Tribunal for Rwanda, the representative of the Office of the High Commissioner for Human Rights (OHCHR), and the Chair of the International Coordinating Committee of National Human Rights Institutions,*

*Noting with gratitude the continued support of the Office of the United Nations High Commissioner for Human Rights (OHCHR) towards the strengthening of the Permanent Secretariat of the Network, and welcoming the assistance given by the Kenya National Commission on Human Rights in hosting it,*

*Reaffirming their commitment to the Kigali Declaration of 10 October 2007 and its attachment to the values enshrined in the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the African Charter on Human and Peoples’ Rights, the United Nations Declaration on the Right of Peoples to Peace (1984), the African Charter on Democracy, Elections and Governance (2007), and various other international instruments concerning human rights to which their States have subscribed and ratified,*

*Recalling the need for all the African national human rights institutions to function independently and in full conformity with the Paris Principles as adopted by the United Nations General Assembly in its resolution 48/134 of 20 December 1993,*

*Recalling also that the effective promotion of and respect for human rights and fundamental freedoms require that States ratify United Nations instruments concerning human rights, reinforce them and forward periodically, in conformity with these instruments, reports to the respective monitoring committees,*

*Noting* that the Nairobi Declaration on the role of NHRIs in the Administration of Justice adopted by NHRIs in 2008 underlined the crucial role of NHRIs in relation to access to justice, the judiciary, law enforcement and correctional and detention facilities as part of their contribution to a peaceful and human rights respectful society,

*Convinced* that justice, peace and democracy are mutually reinforcing imperatives and that accountability is an important aspect for preventing future violations,

*Concerned* by the recurrence of armed conflict in many African countries, and the crackdowns on democracy resulting from the lack of accountability and existence of impunity which further represent threats against peace,

*Recognizing* the need for a comprehensive approach when addressing the legacy of large-scale abuses, comprising of investigations and prosecutions, truth-seeking processes, reparations programmes, and vetting processes; and that any such combination must be in conformity with international legal standards and obligations, and take into account national context,

*Recognizing* the important role NHRIs, especially those in line with the Paris Principles, have been playing in transitional justice processes, in order to ensure accountability, serve justice and achieve reconciliation, and considering that this role could be further strengthened,

*Recognizing* the need to address the root-causes of conflict, and to ensure the protection and fulfilment of all rights, including economic, social and cultural rights,

*Recognizing* the need to promote political and economic good governance as the basis of a peaceful democratic society,

*Aware* of all the above issues concerning human rights,

1. Resolved:

- (a) To promote the interdependency of peace and justice,
- (b) To promote and disseminate relevant international and regional human rights instruments and standards, including the Universal Declaration on Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, and the African Charter on Democracy, Elections and Governance; and to promote their wide implementation,
- (c) To raise awareness about international instruments and standards as well as best practices relating to transitional justice and combating impunity,
- (d) To raise awareness of transitional justice mechanisms and lessons learned, to engage relevant stakeholders, including civil society and institutional actors in transitional justice discourse, and to mobilize the society's action in this area,
- (e) To facilitate the national consultations for the establishment of transitional justice mechanisms in close cooperation with other national and international stakeholders, and ensure participation of victims, and other vulnerable or marginalized groups, and make appropriate recommendations to ensure an open and transparent process,
- (f) To engage in information gathering and documenting of human rights abuses, and cooperate with transitional justice mechanisms in investigation of human rights violations,
- (g) To ensure preservation and protection of information on human rights abuses, including through appropriate archiving,

(h) To interact with and reinforce the justice mechanisms and ensure that cases of human rights violations are submitted to the justice system and adequately addressed,

(i) To cooperate in the design and, as appropriate, in implementation of transitional justice mechanisms, and to ensure the centrality of victims in such processes,

(j) To ensure that the establishment and operation of any transitional justice mechanism is in compliance with international human rights standards and practices,

(k) To ensure that the rights of those facing transitional justice mechanisms, including alleged perpetrators and victims, are respected,

(l) To promote provision of assistance to victims and witnesses participating in transitional justice processes, so they are informed of their rights and responsibilities and have access to medical and psychosocial care; and to promote provision of victims and witness protection,

(m) To monitor and report on the implementation of the recommendation of transitional justice mechanisms,

(n) To recommend to the relevant authorities legislative and administrative reforms to ensure their compliance with international standards, and to prevent recurrence of human rights abuses and to restore respect for the rule of law and trust in government institutions,

(o) To engage and interact with international and regional human rights mechanisms, including by submitting reports, and making statements, and following up of recommendations related to transitional justice and human rights in general,

(p) To participate in the development and revision of education programmes to include aspects on culture of peace, conflicts prevention, tolerance and fight against discrimination and human rights.

### **Participants at the Conference**

2. *Call* for direct contributions from African NHRIs and continued assistance, substantive and financial, by international and regional intergovernmental organizations, including OHCHR and OIF, UNDP and other partners to the Permanent Secretariat of NHRIs in Nairobi, Kenya,

3. *Note* that a number of national human rights institutions in Africa have affiliate status with the African Commission on Human and Peoples' Rights and call on others that have not attained such status to do so, and urges the African Commission to expedite the establishment of the Unit on NHRIs as recommended in its meeting in May 2009,

4. *Reaffirm* their commitment to cooperate with the African Commission on Human and Peoples' Rights in the area of the promotion, protection and enforcement of human rights,

5. *Resolve* to work with international and regional organizations, including the African Union through the Peace and Security Council, in the promotion, protection and enforcement of democracy, rule of law and human rights,

Agree to hold their next biannual conference in South Africa in 2011.

**Adopted in Rabat, 5 November 2009.**

## Annex II

### **Fourteenth Annual Meeting of the Asia-Pacific Forum of National Human Rights Institutions**

3 to 6 August 2009, Amman, Jordan

#### **APF Conference concluding statement**

##### **Introduction**

1. The Asia-Pacific Forum of National Human Rights Institutions (the APF), consisting of the national human rights institutions (NHRIs) of Afghanistan, Australia, India, Indonesia, Jordan, Malaysia, Maldives, Mongolia, Nepal, New Zealand, the Occupied Palestinian Territory, Philippines, Qatar, Republic of Korea, Sri Lanka, Thailand and Timor-Leste, held its Fourteenth Annual Meeting in Amman, Jordan, from 3 to 6 August 2009 under the patronage of His Majesty King Abdullah II ibn Al Hussein.
2. The Forum Councillors expressed their deep gratitude and appreciation to His Majesty King Abdullah II ibn Al Hussein for giving his patronage to the Conference and to the Jordan National Centre for Human Rights for hosting the meeting, to the United Nations Office of the High Commissioner for Human Rights (OHCHR) for its co-sponsorship and to all the APF's donors for their financial support. They acknowledged the significant contribution of H.R.H. Prince Hassan bin Talal as the keynote speaker on Human Rights and Religious Belief.
3. H.E. Mr. Nader Al-Dahabi, Prime Minister of Jordan, officiated at the opening ceremony of the meeting. Dr. Adnan Badran, Chairperson of the Board of Trustees of the Jordan National Centre for Human Rights and Chairperson of the APF, and Tan Sri Abu Talib Othman, Chairperson of the Human Rights Commission of Malaysia and Deputy Chairperson of the APF delivered speeches at the opening ceremony. The speakers stressed the importance of human rights and the role of NHRIs and the APF in the promotion and protection of human rights throughout the Asia-Pacific region.
4. Forum Councillors also warmly thanked H.E. Mr. Abdulhadi Al Majaly, Speaker of the Lower House of Parliament, for hosting a conference function. They acknowledged the expert contributions of Dr. Bassam Al-Omoush, Mr. Robert Archer and Mr. Demosthenes Chryssikos, and warmly welcomed the participation and statements of the Chairperson of the International Coordinating Committee of National Institutions (ICC), Ms. Jennifer Lynch QC, and the representatives of the OHCHR, Mr. Homayoun Alizadeh and Ms. Francesca Albanese.
5. The Forum Councillors encouraged and welcomed the participation and statements of approximately 43 international, regional and national non-governmental organizations (NGOs) and the representatives of the parliaments and/or Governments of Australia, Indonesia, Jordan, Malaysia, Nauru, New Zealand, Philippines, Sri Lanka, Samoa and Thailand and the intergovernmental organization of the Commonwealth Secretariat.
6. Finally the Forum Councillors expressed their appreciation for the excellent efforts and hospitality of the Chairperson, Commissioner General Dr. Muhyieddeen Touq, and staff of the Jordan National Centre for Human Rights and the APF secretariat in the organization of the annual meeting and conference.

## Conclusions

*The Forum, during its open plenary sessions:*

7. Expressed appreciation to the OHCHR for its support in connection with NHRIs and their protection mandates; for the establishment and strengthening of NHRIs; and to the ICC and its accreditation process. The APF reaffirmed the success of its partnership with the OHCHR and looked forward to enhancing their mutual cooperation and support including through the development of a comprehensive multi-year partnership and the implementation of recommendations emanating from the international human rights system.

8. Expressed appreciation to the Chairperson of the ICC, Ms. Jennifer Lynch, for her active participation in the Forum Councillors meeting and APF Conference. Forum Councillors offered their continued support to ensure that the ICC and regional coordinating committees remain important entities in the international human rights system. They recorded their sincere appreciation to Ms. Lynch for her excellent Chairpersonship of the ICC and her untiring support for the work of NHRIs domestically, regionally and internationally.

9. Informed the Conference of the outcomes of the meeting of Forum Councillors held on 3 and 4 August 2009. The following decisions were highlighted:

- The unanimous election of the Jordan National Centre for Human Rights to the position of Chairperson of the APF, the National Human Rights Commission of Thailand and the Human Rights Commission of Malaysia to the two positions of Deputy Chairpersons.
- The approval of a proposal to use ICC accreditation decisions in determining membership status for the APF. As a result of this decision and in line with ICC accreditation decisions the human rights institutions from the Occupied Palestinian Territory and Qatar became full member institutions of the APF and the Sri Lankan Commission became an associate member of the APF. The APF reiterated that it would provide assistance to the Sri Lankan Commission in seeking to regain its full membership of the ICC and APF and recommended that the Sri Lankan Government appoint the Chairperson and Commissioners in accordance with the Sri Lankan Constitution. The APF also noted the importance of the recommendations of the ICC Sub-Committee on Accreditation to the institutions of Qatar and the Occupied Palestinian Territory and the APF offered its support to ensure compliance with the Paris Principles.
- The approval of a proposal to: (i) separate the annual Forum Councillor and business meetings of the APF from the APF Conference; (ii) convene the APF 15th Annual Meeting in 2010 in a central regional location; and (iii) convene the combined APF 16 Annual Meeting and Conference in 2011.
- The nomination of India, Jordan, Malaysia and New Zealand to the ICC Bureau. The Republic of Korea was elected to the ICC Sub-Committee on Accreditation.
- The nomination of the Chief Commissioner of the New Zealand Human Rights Commission as the region's candidate for the position of ICC Chairperson. If the New Zealand Chief Commissioner cannot, for whatever reason, serve the full three-year term as ICC Chairperson then the APF would recommend to the ICC that the remainder of the term be filled by the Jordan National Centre for Human Rights.



- Welcomed the establishment of a Working Group on Migration and the election of a steering committee composed of Jordan, Nepal, Malaysia, Indonesia and the Republic of Korea.
  - The decision to accept with appreciation the offer of the National Human Rights Commission of Thailand to host the Sixteenth Annual Meeting and Conference in 2011.
10. Welcomed the efforts of the Senior Executive Officers to contribute to the effective and efficient functioning of national institutions as well as to their close cooperation and coordination on issues of mutual interest and concern.
11. Welcomed the reports of APF members on their operations over the preceding year and commended them for their work. In particular welcomed the emphasis on subregional cooperation between NHRIs on thematic issues and capacity-building.
12. Welcomed the reports of the Governments of Australia, Nauru, New Zealand and Samoa and the intergovernmental organization of the Commonwealth Secretariat on the activities undertaken to protect and promote human rights including support for NHRIs. In particular they welcomed the commitments made by the Governments of Nauru and Samoa to actively explore the establishment of NHRIs and offered these Governments the support of the APF.
13. Welcomed the reports of NGOs/CSOs. Forum Councillors expressed their appreciation for the constructive and coordinated contribution of NGOs/CSOs, thanked NGOs/CSOs for their submissions, collective participation and advocacy at the meeting and stressed their commitment to meaningful dialogue and practical cooperation. Forum Councillors agreed to further consider:
- Providing a session for NGO/CSO input into the APF annual meeting in 2010
  - The NGO/CSO recommendations to strengthen institutional protection of human rights in the areas of the establishment and enhancement of NHRIs; the establishment and enhancement of regional mechanisms; the integration of human rights mechanisms with the work of NHRIs; NGO/CSO engagement with the APF Conference and Meeting and the protection of human rights defenders
  - The NGO/CSO recommendations on the role of NHRIs in combating corruption and the need for institutional transparency and in promoting freedom of religion and belief and the promotion of religious tolerance and coexistence
  - The NGO/CSO recommendations on human rights defenders
14. Was informed of serious human rights violations in a number of States throughout the region, especially Myanmar, the Islamic Republic of Iran and the Occupied Palestinian Territory as a result of occupation, and the corresponding difficult situation faced by human rights defenders. NHRIs pledged to take all available steps to protect human rights defenders.
15. Considered the issue of Human Rights and Corruption and committed to undertake practical measures to combat corruption using a human rights-based approach and to promote awareness of the close linkages between corruption and human rights and the harmful effects of corruption on the enjoyment of civil, political, economic, social and cultural rights.
16. Considered the issue of Human Rights, Religion and Belief and the need for inter and intra-faith dialogue nationally, regionally and internationally to promote mutual

understanding and the protection and promotion of human rights and the value of using a human rights approach to balance potentially competing rights.

17. Acknowledged the service and contribution made by Professor Ahn Kyung-Whan, former Chairperson of the National Human Rights Commission of the Republic of Korea and Vice-Chairperson of the ICC.

## Annex III

### **Draft notes on the Fifth Conference of the Arab National Human Rights Institutions on “Elections in the Arab World and their Impact on Human Rights”, Amman, Jordan, 8–9 March 2009**

#### **Background**

Under the patronage of H.E. Nader al-Dahabi, the Prime Minister of Jordan, a two-day conference on the impact of elections on human rights in the Arab world was organized by the **National Center for Human Rights of Jordan (NCHRJ)** in cooperation with the **Office of the United Nations High Commissioner for Human Rights (OHCHR)** in Amman, Jordan, from 8 to 9 March 2009. The Conference marked the fifth annual meeting of national human rights institutions (NHRIs) from the Arab Region. Between 70 and 80 participants attended the sessions on both days, amongst whom were representatives of national human rights institutions (NHRIs) from Algeria, Egypt, Jordan, Morocco, the Occupied Palestinian Territory, Qatar, Saudi Arabia and Tunisia;<sup>4</sup> representatives of the countries which do not have NHRIs, such as Iraq and the United Arab Emirates, non-governmental organizations from Jordan, Iraq and Bahrain, United Nations agencies such as OHCHR, UNESCO and UNDP, as well as international organizations such as the National Democratic Institute (NDI), amongst many others.

The Conference was opened with remarks from **His Excellency Dr. Adnan Badran**, President of the Board of Trustees of the NCHRJ, **Mr. Gianni Magazzeni**, OHCHR Coordinator of the National Institutions Unit, and **His Excellency Dr. Boutros Boutros Ghali**, President of the National Council for Human Rights in Egypt. The opening session was attended by the **Jordanian Prime Minister, H.E. Nader al-Dahabi**.

#### **Working sessions and discussion**

The Conference was organized into seven working sessions, including a post-Conference event on Israeli violations of human rights in Gaza presented by the Independent Commission for Human Rights of the Occupied Palestinian Territory.

Each session was dedicated to a particular topic related to the protection of human rights at times of elections. While the first day explored a wide range of themes on elections and human rights including international standards pertaining to the organization and conduct of free and fair elections, the second day focused more specifically on the role of NHRIs in promoting free and fair elections. Each session began with presentations of one to three speakers on the given topic.

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<sup>4</sup> These institutions have both varying records of cooperation with United Nations human rights machinery and different levels of compliance with the international standards relating to national human rights institutions (“the Paris Principles”).

Sufficient time was allocated at the end of the presentations for general discussion, questions and comments. The speakers included members of NHRIs, independent researchers, and international electoral experts.

During the first session dedicated to the culture of elections and human rights in the Arab world, **Dr. Waleed Abdul Haai**, of NCHRJ, spoke of the effects of culture on the conduct of elections and protection of human rights during elections. He mentioned nationality laws and laws regulating the representation and voting rights of women as issues of concern that influence elections in the Arab world. The second presenter, **Mr. Michel Paternotre** of the Democracy Reporting International (DRI), reminded the participants of the international and regional standards, underlying in particular the importance of, inter alia, the 1966 International Covenant on Civil and Political Rights (ICCPR) and the African Charter on Human and Peoples' Rights, as well as a number of so-called soft law documents, such as various statements and the 1948 Universal Declaration of Human Rights (UDHR), which jointly prescribe in some detail the requirements necessary for the establishment of fair, free, transparent and democratic elections.

The ensuing debate revolved around the issue of culture as one of the determinants that shape the law, politics and consequently elections in the Arab-speaking world.

The second and the third sessions were dedicated to the fairness, transparency, and integrity of elections as a requirement for good governance and respect of human rights.

Following **Dr. Ali al-Sawi's** presentation on legal guarantees for the protection of human rights during elections, **Mr. Mohammad Ojar**, of the Human Rights Advisory Council in Morocco, and **H.E. Ms. Asma Khader** of the NCHRJ, reflected on the linkages between elections and good governance, while noting the importance of the equality of inclusion and participation of women in the process of elections. **Ms. Khader** reiterated that democracy cannot exist without the participation and inclusion of women who, in some countries, constitute over 50 per cent of the overall population. In her presentation, she underlined the low percentages of women's participation in high government positions in the Arab world.

The last session of the first day was dedicated to the review of standards for monitoring and evaluating elections, and the two speakers, **Mr. Michel Paternotre** of DRI and **Mr. Jonathan Stonestreet** of the Organization for Security and Cooperation in Europe (OSCE) shared their experiences in international elections monitoring the purpose of which is to assist the countries to identify gaps and areas in need of improvement.

The second day was entirely devoted to the work of NHRIs and their roles in times of elections, exploring, in particular, the necessity for establishing partnerships with the civil society organizations and the strengthening of democratic culture before, during and after the elections.

The second day thus commenced with discussion on ways to strengthen relationships and partnerships with non-governmental sector. The speakers, **Dr. Hussam Badrawi** of the National Council for Human Rights in Egypt and **Mr. Oraiab al-Rantawi** of Al-Quds Research Center.

Jordan, discussed the role of NHRIs as an intermediary and link between the civil society and the government and their ability to support the advancement of the civil society sector by promoting human rights culture, raising awareness on the necessity for elections monitoring and engaging in education and training activities on elections monitoring for civil society organizations. **Mr. al-Rantawi** noted that the role of NHRIs starts with the law on elections and the need to ensure that electoral laws conform to international standards.

During the sixth session dedicated to the role of NHRIs prior, during and after elections, the representatives of NHRIs of Morocco, the Occupied Palestinian Territory and Jordan shared their experiences pertaining to the engagement of their respective NHRIs in elections advocacy, monitoring and follow-up. **Mr. Abderrazak Rouwane** of Morocco described in some detail the organization and engagement of the Human Rights Advisory Council in Moroccan elections monitoring. **Mrs. Randa Al-Siniora** of the Occupied Palestinian Territory described the immense difficulties faced by the Palestinian elections observers during parliamentary and presidential elections in the occupied territories due to the severe limitation in access and movement across numerous checkpoints. **Dr. Ali al-Dabbas** of Jordan spoke of the engagement in advocacy (during and after the passing of the Jordanian electoral law) by the National Center for Human Rights and described the difficulties faced by the NCHRJ observers in terms of obtaining licenses and approval to access polling sites by Jordanian authorities.

OHCHR Regional Representative, **Mr. Fateh Azzam**, facilitated the last working session entitled “Next Steps for NHRIs: Identification of Challenges, Opportunities and the required Support: A Road-Map for the Future”. During the session, the speakers, His Excellency **Dr. Muhyieddeen Touq**, Commissioner General of the National Center for Human Rights of Jordan, and **Mr. Habib Sleem** of the Higher Committee on Human Rights and Fundamental Freedoms of Tunisia (*Le Comité supérieur des droits de l’homme et des libertés fondamentales*) summarized the discussions and findings of the past two days, reiterating the need for closer partnerships with the civil society organizations, advocacy for clear legislations, importance of having NHRIs not shy away from complicated and sensitive issues and the need for the NHRIs to complement the good work of the civil society. Following their presentations, representatives of other NHRIs presented their proposals for future action and follow-up, adopting, towards the end of the session, a series of recommendations, as well as a concept of a letter on the recommendations to be shared with the participants, Arab States and Arab regional organizations. The Conference was closed by brief remarks by **His Excellency Dr. Muhyieddeen Touq** and **Mr. Gianni Magazzeni** of OHCHR.

## Recommendations and final points

The following points related to the role of NHRIs in connection with elections were agreed upon:

1. To officially distribute the report and recommendations resulting from the Conference to the participants, States and regional Arab organizations;
2. To engage the ICC of NHRIs and regional coordinating bodies and other civil society organizations in connection with NHRI role in elections; i.e. developing election laws and election procedures;
3. Develop a database of NHRIs best practices and lessons learned in connection with elections;
4. To ensure relevant international standards for the holding of free and fair elections are reflected in domestic laws and practices and ensure that governments are provided with the necessary assistance concerning the conditions for holding free and fair elections;
5. To assist with the creation and development of independent electoral commissions;
6. To monitor the human rights aspects of election before and during the elections in cooperation with independent national and international observers;

7. To ensure follow-up action by the government and other State entities in connection with recommendations related to electorate laws and election procedures as well as those resulting from electoral observers missions;

8. To take a public stand on the conduct of elections and their results and publicize these stands in different fora;

9. To advocate the application of the principle of democratic change of government in conditions which respect the constitution;

10. To ensure that adequate training of relevant international standards is provided to national actors and civil society organizations.

The Conference has also adopted a letter which contains a set of recommendations regarding elections and democratic life, to be sent to the 21st Arab summit meeting which was due to be held in Doha, Qatar on 30 March 2009. Additionally, the Conference agreed to include a fixed agenda item under the title “review of implementations of previous recommendations” in the agenda of each conference. Consequently the NHRIs are requested to present a review of their implementation of the Amman conference in the next meeting in Morocco.

At the suggestion of the Moroccan representative, it was decided that the next, VI Conference of Arab NHRIs will be held in Morocco in 2010 on the theme of the role of NHRIs in strengthening the rule of law in the Arab region. The next Conference will also discuss the establishment of a so-called “troika”, i.e., a secretariat composed of three members that would assist with organization of future NHRIs conferences.

## Annex IV

### Survey on national human rights institutions

#### Summary of the recommendations of a questionnaire addressed to national human rights institutions worldwide

**Recommendation:** OHCHR, UNDP, RCCs of NHRIs, and interested donors, should support NHRIs to prioritize advocacy with their government for the revision and strengthening of the legal framework of those NHRIs established by an executive instrument. Recommendations from United Nations treaty bodies, the SPMHs, and the UPR in the Human Rights Council, as well as the ICC Sub-Committee on Accreditation may all support the expansion of the mandate of NHRIs.

**Recommendation:** OHCHR, UNDP, RCCs of NHRIs, and interested donors, should support activities that explore and gather best practice on the types of legal provisions (e.g. membership criteria, appointment processes) ensure the governing body is effective and diverse in practice. Data on other mechanisms of ensuring pluralism within an institution, beyond the composition of its governing body, would also be useful.

**Recommendation:** OHCHR, UNDP, RCCs of NHRIs, interested donors, should support NHRIs to prioritize advocacy with governments for the revision and strengthening of procedural requirements for the selection and appointment of members.

**Recommendation:** as the ICC's General Observations state that dismissal or forced resignation of a member may result in a review of the institution's accreditation, strengthening legal requirements for dismissal (building on the best practice examples provided by respondents) should be a priority. OHCHR, UNDP, RCCs of NHRIs, and interested donors should support NHRIs in securing such legal requirements.

**Recommendation:** OHCHR, UNDP, RCCs of NHRIs, and interested donors, should prioritize activities to develop the capacity of NHRIs to effectively manage the relationship with their relevant government department, including in budget allocation. In addition, they could also prioritize continued advocacy with member States to ensure they meet their obligation to provide adequate resources.

**Recommendation:** OHCHR, UNDP, RCCs of NHRIs, and interested donors, should prioritize further training and capacity development for NHRI staff across all levels. They should also prioritize support for institutions to develop human resource plans to increase staff effectiveness, career development and diversity.

**Recommendation:** OHCHR, UNDP, RCCs of NHRIs, and interested donors should prioritize support to institutions to improve their accessibility, with a particular focus on reaching out to vulnerable groups.

**Recommendation:** OHCHR, UNDP, RCCs of NHRIs, and interested donors should prioritize work with NHRIs, in the framework of the Nairobi Declaration, to effectively implement their core protection functions, particularly in detention monitoring. Follow-up research with NHRIs to collect best practice on collaboration and coordination with other visiting bodies is also important to explore, to address any potential protection gaps.

**Recommendation:** OHCHR, UNDP, RCCs of NHRIs, and interested donors, should prioritize further guidance to NHRIs in relation to their activities for human rights defenders, including by systematically collecting and disseminating examples of best

practice. Capacity-building activities for NHRIs, particularly in Africa, to support human rights defenders (generally and in cases threat) should also be prioritized.

**Recommendation:** OHCHR, UNDP, RCCs of NHRIs, and interested donors should prioritize support to institutions to develop strategies for follow-up where they do not exist and strengthen them where they do. Advocacy for strengthened legal frameworks that require the State to formally respond to institutions' recommendations is also another important medium- and long-term priority.

**Recommendation:** OHCHR, UNDP, RCCs of NHRIs, and interested donors should consider providing support to NHRIs in this area, as well as developing mechanisms to encourage institutions to pool educational and research material.

**Recommendation:** OHCHR, UNDP, RCCs of NHRIs, and interested donors should facilitate increased awareness raising for both NHRIs and NGOs on each others respective roles, for example through joint activities. Support for the strengthening of legal provisions that require NHRIs to establish formal relationships with civil society is also another important medium- and long-term priority (only 45 per cent of respondents indicated that their founding law contains such a provision).

**Recommendation:** OHCHR, UNDP, RCCs of NHRIs, and interested donors should facilitate and assist NHRIs direct engagement with these organizations, thus also increasing the level of awareness about the work of NHRIs.

**Recommendation:** OHCHR, UNDP, RCCs of NHRIs, and interested donors should consider extending support to institutions to overcome budgetary constraints to improve participation rates in ICC events. Respondents also made a number of valuable suggestions on how to enhance the benefits of ICC meetings, which OHCHR should work with the ICC and the RCCs to implement.

**Recommendation:** OHCHR, UNDP, RCCs of NHRIs, and interested donors should facilitate capacity-building missions, encourage increased cooperation and provide opportunities for working experiences with regional networks. Comments from respondents particularly noted the educational value in these types of activities. To facilitate this, such bodies may consider supporting the establishment and strengthening of regional and subregional networks of NHRIs.

**Recommendation:** OHCHR should further consult with NHRIs on their experiences of working with the United Nations at the country level, as respondents did not generally comment on this in their responses. Collecting examples of best practice in relation to coordination and collaboration between NHRIs and field presences would also be valuable.

**Recommendation:** OHCHR, UNDP, RCCs of NHRIs, and interested donors should prioritize continued training to NHRIs on the international human rights system. However, they should explore methods of doing so that are less resource-intensive for NHRIs and reach the broadest number of staff. This could include "train the trainers" workshops for identified focal points on international engagement and developing online or distance training materials.

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