

**Seventh International Conference for National Institutions for the
Promotion and Protection of Human Rights
Seoul, Republic of Korea, 14 – 17 September 2004**

The Seoul Declaration

The Seventh International Conference for National Institutions for the Promotion and Protection of Human Rights was devoted to the theme of upholding human rights during conflict and while countering terrorism. The Conference was organized by the National Human Rights Commission of the Republic of Korea from 14 to 17 September 2004 and arranged in consultation with the Chairperson of the International Coordinating Committee (ICC) of National Human Rights Institutions (NHRIs) with the support of and in cooperation with the Office of the United Nations High Commissioner for Human Rights, and with financial contributions from the Asia Pacific Forum of NHRIs and Agence Intergouvernementale de la Francophonie.

NHRIs express their gratitude to the National Human Rights Commission of the Republic of Korea for its excellent organization of the conference and acknowledge the stimulating presentations by the keynote speakers as well as the fruitful discussions and deliberations. Observers from non-governmental organizations (NGO) made a valuable contribution at a pre-conference forum and by actively participating in the conference itself. The conference was further enriched by the participation of the President of the Republic of Korea and the United Nations High Commissioner for Human Rights.

The Seventh International Conference for NHRIs hereby adopts the following Declaration:

The Seventh International Conference for NHRIs,

Recalling the universal instruments agreed upon by States to safeguard human rights and fundamental freedoms, particularly the Universal Declaration of Human Rights, the International Covenant on Economic, Social, and Cultural Rights, the International Covenant on Civil and Political Rights, and the Rome Statute of the International Criminal Court, and underlining the contribution they can make to international peace and security, alongside the Charter of the United Nations, as well as the relevant regional instruments,

Recognizing that these instruments make provisions for and require States to undertake measures to protect the security of their populations, including from threats of an exceptional nature, but that this must be within the framework of respect for human rights, fundamental freedoms and the rule of law,

Reflecting on the severe and unprecedented human rights challenges posed to the international community and to individual States and their inhabitants by the threats of conflict, terrorism and counter-terrorism measures,

Recalling the United Nations International Convention for the Suppression of the Financing of Terrorism as well as the many relevant resolutions and declarations of United Nations organs relating to conflict and to the threat of terrorism, including, inter alia, the United Nations Millennium Declaration (General Assembly resolution 55/2), Security Council resolutions 1269

(1999), 1325 (2000), 1373 (2001) and 1456 (2003), General Assembly resolutions 49/60 containing the Declaration on Measures to Eliminate International Terrorism, 58/187 on the protection of human rights and fundamental freedoms while countering terrorism, and 58/174 on human rights and terrorism, and resolutions of the Commission on Human Rights as well as those of regional bodies,

Expressing solidarity with these bodies in calling upon States to ensure that any measure they take to combat terrorism fully complies with their obligations under international law, in particular international human rights law, refugee law, and humanitarian law,

Welcoming the guidance and jurisprudence on these issues provided by the human rights treaty bodies and special procedures, including the United Nations Human Rights Committee, especially its General Comment N° 29 (2001) on states of emergency, as well as the judgements and findings of regional organizations and mechanisms,

Stressing the particular role played by NHRIs as expressed in the Copenhagen Declaration adopted by the Sixth International Conference of NHRIs, regarding the provision of early warning of situations which risk escalating into genocide, ethnic cleansing or armed conflict,

Recognizing the unique role played by NHRIs in applying international human rights standards at the national level, thereby ensuring sustainability of human rights protection. Furthermore, the unique legislative foundation and pluralistic composition of NHRIs, in accordance with the Paris Principles, enable them to contribute to conflict resolution, including through dialogue between public authorities and civil society groups at national level,

Urging therefore the enhancement of the role and participation of NHRIs in the international human rights system,

Declares that:

1. Terrorism has a devastating impact on the full range of human rights, most directly the right to life and personal security. Respect for human rights and the rule of law are essential tools to combat terrorism. National security and the protection of the rights of the individual must be seen as interdependent and interrelated. Counter-terrorism measures adopted by States should therefore be in accordance with international human rights law, refugee law, and humanitarian law.
2. NHRIs have the mandate to protect and promote human rights in conflict situations as well as in countering terrorism. There is a need to strengthen the effective implementation of this mandate especially in light of the increased pressures against fundamental rights.
3. There is a need for increased cooperation and sharing of information and best practices, including the development of specific tools, among NHRIs at regional and international levels.

I. General principles

4. NHRIs play a vital role in reviewing and commenting on the human rights aspects of security legislation and in emphasizing the importance of adopting long-term measures and policies to rectify inequity, injustice, inequality and insecurity, so as to reduce the potential for terrorism and violent conflict.
5. NHRIs should develop early warning mechanisms and related operational guidelines. This should be linked to encouraging States to put in place mechanisms for early warning and action to address intra-State and intra-community conflicts that could lead to grave violations of human rights.
6. NHRIs should examine violations of human rights committed by the State during violent conflict and advocate against the establishment of national ad hoc tribunals and decision-making bodies. They should also examine infringements of rights by non-State actors in the context of violent conflict and identify potential areas of conflict in a timely and accurate manner.
7. Subsequently, NHRIs should provide advice on human rights and humanitarian law to conflicting parties, or otherwise apply, facilitate and support the utilization of alternative as well as traditional methods of dispute resolution, including mediation.
8. NHRIs and States should integrate these conflict resolution tools into plans, strategies and mechanisms for the peaceful and negotiated resolution of conflict. These strategies should include elements of truth and reconciliation processes and define the role that NHRIs should play in this respect. Particular attention should be paid to the establishment of a victims fund and payment of appropriate compensation.
9. NHRIs should act in a proactive way by placing human rights concerns in a broader societal context so as to focus not only on the manifestations of violent conflict but also on their underlying causes.
10. In time of conflict and in countering terrorism, NHRIs play an important role in promoting a human rights culture, equal opportunities and diversity. NHRIs should reflect these principles by having a fair and equitable representation of women.

II. Economic, social and cultural rights

11. NHRIs should focus on inequities in society, including their socio-economic dimensions. The realization of economic, social and cultural rights can play a key role in preventing conflict and terrorism. There is a need to promote justiciability of these rights and to monitor discriminatory effects of counter-terrorism measures on the economic, social and cultural rights of vulnerable groups.
12. NHRIs should promote and protect economic, social and cultural rights as an indivisible part of the full spectrum of universal human rights, including a reinforced capacity to better guarantee the State's respect for its obligations under the International Covenant on Economic, Cultural and Social Rights.

13. NHRIs should call upon States to pay proper attention to issues of corruption endangering the enjoyment of human rights. NHRIs should encourage States to ensure basic needs, including food and shelter, thereby preventing the development of conditions that give rise to terrorism and conflicts.
14. NHRIs should call upon States to enforce the mechanism for fighting poverty according to United Nations General Assembly resolution (A/57/265) establishing the World Solidarity Fund.
15. NHRIs should call upon States to fulfil their obligations under the International Covenant on Economic, Social and Cultural Rights. NHRIs encourage states to ratify the Optional Protocol to the International Covenant on Economic, Cultural and Social Rights.

III. Civil and political rights and the rule of law

16. NHRIs underline that States have the responsibility, and the duty under international law, to protect their inhabitants from all forms of terrorism. In this relation, States should be encouraged to ratify the Optional Protocol to the International Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment. NHRIs urge States to ratify the Rome Statute of the International Criminal Court and to adopt domestic legislation in line with the Statute.
17. NHRIs play an important role in strengthening and promoting the efficient protection of civil and political rights before a conflict breaks out as well as during and after conflict.
18. NHRIs should pay special attention to signs of xenophobia and discrimination and disproportionate limitations of human rights so as to anticipate conflict.
19. During conflict and in countering terrorism, any measures that may have an impact on the enjoyment of civil and political rights must be both necessary and proportionate. It is important for NHRIs to monitor the limited and justifiable application of such measures. NHRIs should demand of the State that counter-terrorism legislation is neither enacted in haste nor without prior public scrutiny. Furthermore, NHRIs should take the necessary measures to prevent violations of derogable and especially non-derogable rights, such as the fundamental requirements of due process and fair trial, respect for human dignity, freedom from torture and ill-treatment, and arbitrary detention.
20. In post-conflict settlements, NHRIs play a key role in investigating violations and protecting against impunity, as well as preventing the retroactive application of criminal laws.
21. In order to avoid abuse by authorities, NHRIs underline the importance of the principle of legality and precise legal definitions of terrorism and terrorism-related crime. Furthermore, NHRIs stress the need for remedies and judicial review in cases of alleged infringement of human rights in counter-terrorism measures.
22. NHRIs should engage in preventive activities, leading public interventions and debate, and raising awareness about both the origins of terrorism and the most effective and

comprehensive responses by including human rights education for the judiciary, the public administration and security forces. Furthermore, NHRIs should stress the media's right to freedom of expression.

23. NHRIs must monitor violations of human rights in the implementation of counter-terrorism measures through periodic review, including their impact on minority communities and human rights defenders.

IV. Migration in the context of conflict and terrorism

24. Terrorism and situations of conflict have affected efforts to ensure protection of migrant workers and other persons who are outside their country of origin as well as those displaced within the borders of their country of origin.
25. International standards exist on the protection of migrant workers. Nevertheless, a majority of migrant workers are received in States that have not ratified the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families.
26. NHRIs should promote and ensure the national implementation of international standards on migrant workers, refugees, asylum-seekers, internally displaced persons (IDPs) and victims of trafficking.
27. NHRIs should advocate the ratification of the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, in particular among receiving countries, and engage more actively in the monitoring process by the treaty bodies when they consider issues relating to migrant workers and the particular issues facing migrant women and children. NHRIs encourage States to ratify the additional protocol to the International Convention of the Rights of the Child on children in armed conflict.
28. It is recommended that NHRIs from sending, transit and receiving countries should establish bilateral and regional cooperation among themselves to better address the issues of irregular migrants.
29. NHRIs should actively monitor the economic, social and political rights of refugees, asylum seekers, migrant workers and IDPs, including fair procedures, treatment by police and immigration authorities, conditions of detention, access to services, employment conditions and family reunification, in cooperation with the Office of the United Nations High Commissioner for Refugees and other United Nations and regional bodies, and NGOs.
30. NHRIs should promote programmes of human rights awareness for migrant workers, refugees, asylum-seekers, IDPs and victims of trafficking, and programmes of integration and reintegration, where applicable, especially for returning women migrants.

V. Women's rights in the context of conflict

31. NHRIs should play an important role in highlighting invisible and unacknowledged violence against women in the context of conflict. This violence is closely linked to violence against

women in everyday life, such as domestic and sexual violence. NHRIs should facilitate counselling for women suffering violence.

32. NHRIs should provide education and raise awareness on women's rights to further their economic self-sufficiency and independence.
33. NHRIs should have an important role in collecting data, investigating allegations and receiving complaints of violence against women during conflict.
34. There is a special need for NHRIs to protect and promote the rights of women refugees and internally displaced women. This should include providing a complaint mechanism, inspection of refugee and IDP camps and monitoring complaints from women in detention centres of other States waiting to receive refugee status, and from forcibly repatriation of women. NHRIs should take measures to protect women refugees and IDPs from being trafficked. NHRIs should contribute to the formulation and implementation of reconstruction and rehabilitation programmes with the participation of women.
35. Any commission of inquiry, truth or reconciliation commission set up as part of a peace process should address past widespread and systematic violence against women, and should have a fair representation of women.
36. During the negotiations for a political settlement of a conflict, States should enact constitutional provisions providing for equality and affirmative action.

VI. The Seoul commitment

37. In order to implement this declaration, NHRIs hereby agree:
 - (a) To take all necessary action at the national level as prescribed by the declaration;
 - (b) To promote, where relevant, regional cooperation among NHRIs;
 - (c) To encourage their States to support the establishment of an effective mechanism to monitor the compliance of counter-terrorism measures with human rights standards in the United Nations;
 - (d) To report to the annual meeting of the ICC in April 2005 on national and regional actions taken;
 - (e) To request the ICC to identify ways in which it can further the implementation of this declaration.