

GLOBAL ALLIANCE OF NATIONAL HUMAN RIGHTS INSTITUTIONS (GANHRI)

Report and Recommendations of the Session of the Sub-Committee on Accreditation (SCA)

Online, 13 - 17 February 2023

Geneva, 20 - 24 March 2023

SUMMARY OF RECOMMENDATIONS

<u>1. Accreditation (Art. 10 of the GANHRI Statute)</u>
<u>1.1 Belgium: The Federal Institute for the Promotion and Protection of Human Rights (FIHR)</u> Recommendation: The SCA recommends that the FIHR be accredited with “B” status.
<u>2. Re-Accreditation (Art. 15 of the GANHRI Statute)</u>
<u>2.1 Canada: The Canadian Human Rights Commission (CHRC)</u> Recommendation: The SCA recommends that the CHRC be re-accredited with “A” status.
<u>2.2 Morocco : Conseil National des Droits de l’Homme (CNDH)</u> Recommendation: The SCA recommends that the CNDH be re-accredited with “A” status.
<u>2.3 The Philippines: The Commission on Human Rights (CHRP)</u> Recommendation: The SCA recommends that the CHRP be re-accredited with “A” status.
<u>2.4 Poland: The Commissioner for Human Rights (CHRP)</u> Recommendation: The SCA recommends that the CHRP be re-accredited with “A” status.
<u>2.5 Tanzania: The Commission for Human Rights and Good Governance (CHRAGG)</u> Recommendation: The SCA recommends that the CHRAGG be re-accredited with “A” status.
<u>2.6 Zimbabwe: The Zimbabwe Human Rights Commission (ZHRC)</u> Recommendation: The SCA recommends that the ZHRC be re-accredited with “A” status.
<u>3. Decision (Art. 14.1 of the GANHRI Statute)</u>
<u>3.1 Decision:</u> The SCA decides to defer the review of the <u>Defensoria de los Habitantes of Costa Rica (DHCR)</u> for 12 months (or two sessions).
<u>3.2 Decision:</u> The SCA decides to defer the review of the <u>National Human Rights Commission of India (NHRC)</u> for 12 months (or two sessions).
<u>3.3 Decision:</u> The SCA decides to defer the review of <u>the Northern Ireland Human Rights Commission (NIHRC)</u> for 6 months (or at its next session).
<u>4. Review (Art. 16.2 of the GANHRI Statute)</u>
<u>4.1 Jordan: The National Center for Human Rights (JNCHR)</u> Recommendation: The SCA recommends that the accreditation status of the JNCHR be maintained.
<u>4.2 Decision:</u> The SCA decides to initiate a Special Review of the <u>Myanmar National Human Rights Commission (MNCHR)</u> at its second session of 2023.
<u>4.3 Decision:</u> The SCA decides to initiate a Special Review of the <u>Commissioner for Human Rights in the Russian Federation (OCHR)</u> at its second session of 2023.

**Report, Recommendations, and Decision of the Session of the SCA,
13-17 February; 20-24 March 2023**

1. BACKGROUND

1.1 In accordance with the Statute (Annex I) of the Global Alliance of National Human Rights Institutions (GANHRI), the SCA has the mandate to consider and review applications for accreditation, reaccreditation and special or other reviews received by the National Institutions and Regional Mechanisms Section (NIRMS) of the Office of the United Nations High Commissioner for Human Rights (OHCHR) in its capacity as the GANHRI Secretariat, and to make recommendations to the GANHRI Bureau with regard to the compliance of applicant institutions with the Paris Principles (Annex II). The SCA assesses compliance with the Paris Principles in law and in practice.

At its June/July 2020 session, the GANHRI Bureau adopted amendments to the SCA Rules of Procedure (RoP) and the General Observations.

On 15 March 2023, the GANHRI General Assembly adopted amendments to the GANHRI Statute.

1.2 In accordance with the RoP, the SCA is composed of one NHRI representative from each region. The current SCA members are Palestine for Asia-Pacific (Chair), South Africa for Africa, Great Britain for Europe, and Honduras for the Americas.

1.3 The SCA, at its October 2022 retreat, decided to introduce an online segment in its sessions to provide for sufficient time in its deliberation, with a pilot during its 2023 sessions. The SCA, therefore, convened from 13-17 February 2023 for the online segment and from 20-24 March 2023, for the in-person segment. OHCHR participated as a permanent observer in its capacity as GANHRI Secretariat. In accordance with RoP, regional networks of NHRIs were invited to attend as observers. The SCA welcomed the participation of representatives from the Secretariats of the Asia-Pacific Forum (APF), European Network of National Human Rights Institutions (ENNHRI), Network of African National Human Rights Institutions (NANHRI) and La Red de Instituciones Nacionales de Derechos Humanos (RINDHCA). In accordance with the RoP, the SCA also welcomed the participation of the GANHRI Head Office.

1.4 Pursuant to article 10 of the Statute, the SCA considered application for accreditation from one of the NHRIs of Belgium.

1.5 Pursuant to article 14.1 of the Statute, the SCA took a decision regarding the re-accreditation of the NHRIs of Costa Rica, India, and Northern Ireland.

1.6 Pursuant to article 15 of the Statute, the SCA considered applications for re-accreditation from the NHRIs of Canada, Costa Rica, India, Morocco, Northern Ireland, the Philippines, Poland, Tanzania, and Zimbabwe.

1.7 Pursuant to article 16.2 of the Statute, the SCA reviewed certain issues regarding the NHRI of Jordan.

- 1.8** Pursuant to article 16.2 of the Statute, the SCA decided to initiate a special review of the NHRIs of Russia and Myanmar.
- 1.9** In accordance with the Paris Principles and the SCA RoP, the classifications for accreditation used by the SCA are:
- A:** Fully compliant with the Paris Principles;
 - B:** Partially compliant with the Paris Principles.
- 1.10** In the interest of clarity and as a good practice, where the SCA has recommended that an NHRI be accredited with other than A status, it has divided its recommendations between those that it “notes with concern” and those that it “notes”. The issues that have been noted “with concern” constitute the primary reasons for which the NHRI has not been accredited with A status.
- 1.11** The General Observations, as interpretative tools of the Paris Principles, may be used to:
- a) Instruct institutions when they are developing their own processes and mechanisms, to ensure Paris Principles compliance;
 - b) Persuade domestic governments to address or remedy issues relating to an institution’s compliance with the standards articulated in the General Observations;
 - c) Guide the SCA in its determination of new accreditation applications, re-accreditation applications or other review:
 - i) If an institution falls substantially short of the standards articulated in the General Observations, it will be open for the SCA to find that it was not Paris Principles compliant.
 - ii) If the SCA has noted concern about an institution’s compliance with any of the General Observations, it may consider what steps, if any, have been taken by the institution to address those concerns in future applications. If the SCA is not provided with proof of efforts to address the General Observations previously made, nor is offered no reasonable explanation why no efforts had been made, it would be open to the SCA to interpret such lack of progress as non-compliance with the Paris Principles.
- 1.12** The SCA notes that when specific issues are raised in its report in relation to accreditation, re-accreditation, or special reviews, NHRIs are required to address these issues in any subsequent application or other review.
- 1.13** The SCA wishes to highlight its expectations that all NHRIs will take the necessary steps to pursue continuous efforts at improvement and to enhance effectiveness and independence, in line with the Paris Principles and the recommendations made by the SCA. Failure to do so may result in a finding that a NHRI is no longer operating in compliance with the Paris Principles.
- 1.14** Pursuant to Article 12.1 of the Statute, where the SCA comes to an accreditation recommendation, it shall be deemed accepted by the GANHRI Bureau unless it is successfully challenged by the applicant NHRI in accordance with the following process:
- i) The recommendation of the SCA shall, as soon as practicable, be forwarded to the applicant NHRI;

- ii) The applicant NHRI can challenge a recommendation of the SCA by submitting a letter addressed to the GANHRI Chairperson and copied to the GANHRI Secretariat within twenty-eight (28) days of the date of communication of the recommendation;
- iii) At the end of this twenty-eight (28) day period, the GANHRI Secretariat will forward to Bureau members, as soon as practicable, the recommendations of the SCA. If the applicant NHRI has not challenged the recommendation, it shall be deemed accepted by the Bureau;
- iv) If an applicant NHRI submits a challenge within these twenty-eight (28) days, the GANHRI Secretariat will forward to the Bureau, as soon as practicable, all relevant materials related to the challenge. GANHRI Bureau members will be provided with twenty (20) days in which to determine whether or not to support this challenge;
- v) Any member of the GANHRI Bureau that supports the challenge of the applicant NHRI shall, within twenty (20) days, notify the Chair of the SCA and the GANHRI Secretariat of this support. If the challenge does not receive the support of at least one (1) Bureau member within twenty (20) days, the recommendation of the SCA will be deemed accepted by the Bureau;
- vi) If at least one (1) member of the GANHRI Bureau supports the challenge of the applicant NHRI within these twenty (20) days, the GANHRI Secretariat will notify members of the Bureau as soon as practicable of this support and will provide any additional relevant information;
- vii) Once provided with this notification and any additional relevant material, any member of the GANHRI Bureau that supports the challenge of the applicant NHRI shall, within twenty (20) days, notify the GANHRI Chairperson and GANHRI Secretariat of this support. If the challenge does not receive the support of at least four (4) Bureau members in total coming from not less than two (2) regions within the twenty (20) days, the recommendation of the SCA will be deemed accepted by the Bureau;
- viii) If the challenge receives the support of at least four (4) Bureau members in total coming from not less than two (2) regions, the recommendation of the SCA shall be referred to the following GANHRI Bureau meeting for a decision.

1.15 At each session the SCA conducts a teleconference with every NHRI. It may also consult with and seek further information from NHRIs where necessary.

1.16 Pursuant to Article 18.2 of the Statute, any decision that would serve to downgrade or remove accreditation status from an NHRI can only be taken after the NHRI is informed of this intention and is given the opportunity to provide in writing, within one (1) year of receipt of such notice, the written evidence deemed necessary to establish its continued conformity to the Paris Principles. Upon failure of the NHRI to do so, its status will be downgraded or removed, where applicable.

- 1.17** At any time, the SCA may receive information that raises concern that the circumstances of a NHRI have changed in a way that affects its compliance with the Paris Principles, and the SCA may then initiate a special review of that NHRI's accreditation status.
- 1.18** Pursuant to Article 16.4 of the Statute, any review of the accreditation classification of a NHRI must be finalized within 18 months.
- 1.19** The SCA acknowledges the high degree of support and professionalism of the GANHRI Secretariat (OHCHR-NIRMS).
- 1.20** The SCA shared the summaries prepared by the Secretariat with the concerned NHRIs before the consideration of their applications and gave one (1) week to provide any comments on them. The summaries are only prepared in English, due to financial constraints.
- 1.21** Once the recommendations of the SCA are adopted by the GANHRI Bureau, the report of the SCA is placed on the SCA website (<https://www.ohchr.org/EN/Countries/NHRI/Pages/SCA-Reports.aspx>).
- 1.22** The SCA considered information received from civil society. The SCA shared that information with the concerned NHRIs and considered their responses.
- 1.23** The GANHRI Statute, the Paris Principles, the General Observations and the Practice Notes referred to above can be downloaded in Arabic, English, French and Spanish from the SCA website at <https://www.ohchr.org/EN/Countries/NHRI/Pages/SCA-Rules-of-Procedures.aspx>

SPECIFIC RECOMMENDATIONS

1. ACCREDITATION (Art. 10 of the GANHRI Statute)

1.1. Belgium: The Federal Institute for the Promotion and Protection of Human Rights of Belgium (FIHR)

Recommendation: The SCA recommends that the FIHR be accredited with **B** status.

The SCA welcomes the establishment of the FIHR and the efforts it has made to promote and protect human rights.

The FIHR is encouraged to actively engage with OHCHR, GANHRI, ENNHRI, other NHRIs, as well as other relevant stakeholders at international, regional, and national levels, in order to continue to strengthen its institutional framework and working methods.

The SCA notes with concern:

1. Mandate

According to Article 4 (1) of the enabling Law, the mandate of the FIHR is limited to those questions relating to fundamental rights under federal competence and is additionally restricted to matters which no other sectoral body for the promotion and protection of human rights is responsible for.

The FIHR noted that it, de facto, works on a wide variety of human rights issues throughout the country, both at its own initiative and in cooperation with other bodies as prescribed under articles 3 and 7 of the enabling Law. The FIHR informed the SCA about its cooperation on different human rights issues with various public bodies.

The SCA is of the view that the mandate as it is currently enshrined in the enabling Law is not sufficiently broad. The SCA emphasizes that a national institution should possess as broad a mandate as possible, which is to be clearly set forth in a constitutional or legislative text, specifying its sphere of competence.

An NHRI's mandate should be interpreted in a broad and purposive manner to promote a progressive definition of human rights which includes all rights set out in international, regional, and domestic instruments, including economic, social, and cultural rights. Specifically, the mandate should authorize the full investigation into all alleged human rights violations, including the military, police, and security officers.

The SCA recommends that the FIHR advocates for amendments to its enabling Law, or for the enactment of other legal instruments, to expand and strengthen its mandate beyond the residual-federal level.

The SCA understands that the enabling Law envisages an inter-federalisation agreement which, when enacted, would allow among others for a legal basis for the operation of the Consultative Council. The SCA encourages the NHRI to continue to advocate for the adoption of such an inter-federalization agreement, and for the full implementation of its enabling Law.

In addition, according to Article 6 (2)(2) of the enabling Law, the FIHR may hear any person, obtain any information and any document necessary for the assessment of situations falling within its

jurisdiction. The enabling Law is, however, silent on the FIHR's ability to access public premises, including places of deprivation of liberty.

The SCA is of the view that the mandate of an NHRI should authorize unannounced and free access to inspect and examine any public premises, documents, equipment, and assets without prior written notice.

The SCA recommends that the FIHR advocates for amendments to its enabling Law to provide it with unannounced and free access to inspect and examine any public premises, such as places of deprivation of liberty, as well as any documents, equipment, and assets without prior notice.

The SCA refers to Paris Principles A.1, A.2, and A.3 and to its General Observation 1.2 'Human rights mandate'.

The SCA further notes:

2. Annual report

Article 19 of the Law provides that the FIHR publishes an annual report on its activities and the use of the budget made available to it, and that the report is to be transmitted to the public authorities. The law is silent on whether annual and special reports are to be discussed in the Parliament.

The SCA considers it important that the enabling Law of an NHRI establishes a process whereby its reports are required to be discussed and considered by the legislature, to ensure that relevant public authorities properly consider its recommendations.

The SCA recommends that the FIHR advocates for the appropriate amendment to its enabling Law to ensure that the Parliament discusses and considers its annual, special, and thematic reports.

While noting that the FIHR publishes an annual report on its activities and the use of the budget made available to it, the SCA stresses the importance for an NHRI to prepare, publicize and widely distribute an annual report on the national situation with regard to human rights in general and on more specific matters. Annual, special, and thematic reports serve to highlight key developments in the human rights situation in a country and provide a public account, and therefore public scrutiny, of the effectiveness of an NHRI. The reports also provide a means by which an NHRI can make recommendations to government and monitor respect for human rights by government.

The SCA recommends that the FIHR ensures that its annual report highlights key developments in the human rights situation in the country and provides a public account, and therefore public scrutiny, of its effectiveness as an NHRI.

The SCA refers to Paris Principle A.3 and to its General Observation 1.11 on 'Annual reports of NHRIs'.

3. Pluralism

Article 11 of the enabling Law provides for pluralism among the Executive Board of the FIHR in terms of gender, language, and professional background. The law is, however, silent on pluralism in terms of other aspects of the Belgian society.

The SCA recommends that the FIHR advocates for the formalization of processes that ensure that the principles of pluralism and diversity are reflected in its composition and/or work. The SCA further recommends that the FIHR take steps to ensure that these principles are implemented in practice.

The SCA emphasizes that pluralism refers to broader representation of national society. Consideration must also be given to ensuring pluralism in the context of ethnicity, minority status, and persons with disability. This facilitates its appreciation of, and capacity to engage on, all human rights issues affecting the society in which it operates. In addition, it promotes the accessibility of the NHRI.

The SCA refers to Paris Principle B.1 and to its General Observation 1.7 on 'Ensuring pluralism of the NHRI'.

4. Selection and appointment

While Article 11 of the enabling Law provides that a third of the members of the Executive Board of the FIHR shall come from civil society/social partners, the enabling Law is silent on the formal involvement of civil society organizations in the selection process.

The SCA considers it important that the selection process be characterized by openness and transparency and should involve open and fair consultation with civil society organizations. Not only is this a means of developing a good relationship with these bodies, but consideration of the expertise and experience of civil society organizations is likely to result in an NHRI with greater public legitimacy.

The SCA recommends that the FIHR advocates for the formalization and application of a process that includes the requirement to promote broad consultation and/ or participation, including of civil society organizations, in the application, screening, selection and appointment process.

The SCA refers to Paris Principle B.1 and to its General Observation 1.8 on 'Selection and appointment of the decision-making body of NHRIs.'

5. Adequate funding

The FIHR informed that it has been entrusted with additional mandates, such as to provide support to individual whistle-blowers, through the Laws of 28 November 2022 (for the private sector) and 8 December 2022 (for the public sector), and that the FIHR has been formally appointed as the Belgian focal point on the fight against SLAPP (strategic litigation against public participation).

The SCA notes that, to function effectively, an NHRI must be provided with an appropriate level of funding in order to guarantee its independence and its ability to freely determine its priorities and activities. Provision of adequate funding by the State should include the allocation of a sufficient amount of resources for mandated activities. Where the National Institution is designated with additional responsibilities by the State, additional financial resources should be provided to enable it to assume the responsibilities of discharging these functions.

The SCA recommends that the FIHR advocates for the funding necessary to ensure it can effectively carry out its mandate.

The SCA refers to Paris Principle B.2 and to its General Observation 1.10 on 'Adequate funding of NHRIs'.

2. REACCREDITATION (Art. 15 of the GANHRI Statute)

2.1 Canada: Canadian Human Rights Commission (CHRC)

Recommendation: The SCA recommends that CHRC be re-accredited with **A** status.

The SCA highlights that NHRIs that have been accredited A status should take reasonable steps to enhance their effectiveness and independence, in line with the Paris Principles and the recommendations made by the SCA during this review.

The SCA encourages the CHRC to continue to actively engage with the OHCHR, GANHRI, RINDHCA, other NHRIs, as well as relevant stakeholders at international, regional, and national levels, in order to continue strengthening its institutional framework and working methods.

The SCA notes:

1. Mandate

The SCA notes that the investigation mandate of the CHRC mainly focuses on discriminatory practices in the provision of services. It also notes that the CHRC interprets its mandate broadly and reports that, in practice, its investigation mandate allows it to work on a wide range of rights.

However, the SCA is of the view that the Canadian Human Rights Act (the Act) should enumerate its human rights mandate and functions in a more explicit manner.

An NHRI should be legislatively mandated with specific functions to both promote and protect human rights. Promotion activities are understood to include those functions which seek to create a society where human rights are more broadly understood and respected. Such functions may include education, training, advising, public outreach and advocacy. Protection functions may be understood as those that address and seek to prevent actual human rights violations. Such functions include monitoring, inquiring, investigating, and reporting on human rights violations, and may include individual complaint handling.

The SCA reiterates its recommendation from 2011 and 2016 and recommends that the CHRC advocates for amendments to its Act in order to clearly establish a broad mandate to promote and protect all human rights set out in international, regional and domestic instruments.

The SCA refers to Paris Principle A.3 and to its General Observation 1.2 on 'Human Rights mandate.'

2. Encouraging ratification or accession to international human rights instruments

The SCA notes that the CHRC is not explicitly mandated to encourage ratification of, and accession to, regional and international human rights instruments.

The SCA also notes that encouraging ratification of, or accession to international human rights instruments, and the effective implementation of international human rights instruments to which the State is a party, is a key function of an NHRI. The SCA considers it important that these duties form an integral part of the enabling legislation of an NHRI.

The SCA recommends that the CHRC advocates for appropriate amendments to its enabling legislation to include an explicit mandate to encourage ratification of and accession to international human rights instruments.

The SCA refers to Paris Principle A.3(c) and to its General Observation 1.3 on ‘Encouraging ratification of, or accession to international human rights instruments’.

3. Selection and appointment

The SCA notes that the term of office of the former Chief Commissioner ended on November 29, 2022, and that the Deputy Chief Commissioner assumed interim functions on November 30, 2022. The CHRC reports that the interim status of the acting Chief Commissioner has not affected its ability to discharge its mandate.

The SCA recommends that the CHRC advocates for a timely selection and appointment that ensures continuity in the leadership in line with the minimum standards of independence, effectiveness and continuity of an NHRI. Such selection and appointment process should include a clear, transparent, and participatory process that promotes merit-based selection and ensures pluralism. The SCA is of the view that there is a need to maintain the permanency and institutional independence of an NHRI.

The SCA refers to Paris Principle B.1 and to its General Observation 1.8 on ‘Selection and appointment of the decision-making body of NHRIs’.

4. Term of office

The Act is silent on the number of times the members of the decision-making body can be re-appointed, which leaves open the possibility of unlimited tenure. The SCA acknowledges information from the CHRC that in practice the CHRC members have never been re-appointed.

An appropriate minimum term of appointment is crucial in promoting the independence of the membership of the NHRI, and to ensure the continuity of its programs and services. An appointment period of three (3) years is considered to be the minimum that would be sufficient to achieve these aims. As a proven practice, the SCA encourages that a term of between three (3) and seven (7) years with an option to renew once be provided for in the NHRI’s enabling legislation.

The SCA recommends that the CHRC advocates for amendments to its Act to provide for term limits for the members of the CHRC decision-making body.

The SCA refers to Paris Principle B.3 and to its General Observation 2.2 on ‘Full-time members of an NHRI’.

5. Monitoring places of deprivation of liberty

The SCA notes that the Act is silent on the power to visit places of deprivation of liberty.

The SCA is of the view that an NHRI’s mandate should be interpreted in a broad and purposive manner to promote a progressive definition of human rights which includes all rights set out in international, regional and domestic instruments, including economic, social and cultural rights. Specifically, the mandate should authorize unannounced and free access to inspect and examine any public premises, documents, equipment, and assets without prior written notice.

The SCA recommends that the CHRC advocates for the explicit mandate to conduct unannounced visits to places of deprivation of liberty.

In the interim, the SCA recommends that the CHRC access all places of deprivation of liberty to effectively monitor, investigate and report on the human rights situation in a timely manner. It further recommends that the CHRC undertake systematic follow-up activities and advocate for the

consideration and implementation of its findings and recommendations in order to ensure the protection of all persons deprived of their liberty.

The SCA refers to Paris Principles A.2, A.3, and D.d, and to its General Observations 1.2 on 'Human rights mandate' and 1.6 on 'Recommendations by NHRIs'.

6. Access to complaints mechanism

Section 40(1) of the Act empowers the CHRC to receive and process complaints related to discrimination. However, the SCA notes that no complaint in relation to discriminatory practices may be dealt with by the CHRC unless the act or omission that constitutes the practice occurred in Canada and the victim of the practice was at the time of the act or omission either lawfully present in Canada or, if temporarily absent from Canada, entitled to return to Canada.

The CHRC has noted that this restriction is inconsistent both with the principle that all human rights laws are universal and with the Canadian Charter of Rights and Freedoms which applies to anyone present in Canada, regardless of the legality of that presence.

The SCA reiterates its previous recommendation from 2016 and recommends that the CHRC advocates for changes to the Act to permit all individuals, regardless of their legal status, to access its complaint process.

The SCA refers to Paris Principle D(c) and to its General Observation 2.9 on 'The quasi- judicial competence.'

2.2 Morocco : Conseil National des Droits de l'Homme (CNDH)

Recommendation: The SCA recommends that the CNDH be re-accredited with **A** status.

The SCA commends the efforts made by the CNDH to promote and protect human rights in Morocco.

The SCA acknowledges the adoption by Parliament of Law 76.15 in February 2018 which has entrusted the CNDH with three mechanisms provided for by international human rights standards: the National Preventive Mechanism against Torture (NPM), under Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT); the National Child Redress Mechanisms (NCRM), under the Convention of the Rights of the Child (CRC); and the National Monitoring Mechanisms for Persons with Disabilities (NMM), under the Convention on the Rights of Persons with Disability (CRPD). The SCA notes that the increase of the CNDH mandate has been accompanied with an increase of its budget in order to fulfil it.

The SCA highlights that NHRIs that have been accredited A status should take reasonable steps to enhance their effectiveness and independence, in line with the Paris Principles and the recommendations made by the SCA during this review.

The CNDH is encouraged to continue to actively engage with the OHCHR, GANHRI, NANHRI, other NHRIs, as well as relevant stakeholders at international, regional, and national levels, in particular, in order to continue strengthening their institutional framework and working methods.

The SCA notes:

1. Selection and appointment

In accordance with article 37 of the Law, CNDH members are appointed in such a way as to ensure different aspects of diversity and pluralism. The SCA notes that, in practice, vacancies of the eight members nominated by the Parliament are publicly advertised in the Parliament's Official Gazette and on its website.

However, the SCA is of the view that the process currently enshrined in the law is not sufficiently broad and transparent and does not formalise the participation of civil society. In particular, it does not:

- require the advertisement of vacancies;
- establish clear and uniform criteria upon which all parties assess the merit of eligible applicants; and
- promote broad consultation and / or participation in the application, screening, selection and appointment process.

According to article 36 of the Law, the composition of the CNDH consists of a President; a Secretary General; Presidents of the regional human rights commissions; and twenty-seven members, of which nine are appointed by His Majesty the King; two members nominated by the Superior Council of Ouléma, eight members appointed by the Head of Government; eight members appointed by the Speakers of both Houses of Parliament; and two members representing the Mediating Institution and the Moroccan Community Council abroad.

The SCA is of the view that providing for the different entities to select members according to their respective rules of procedure may result in each designating entity using different selection processes.

The SCA recommends that the CNDH advocates for the formalization of a consistent, transparent, merit based and broadly consultative selection process for all relevant entities.

The SCA refers to Paris Principle B.1 and to its General Observation 1.8 on 'Selection and appointment of the decision-making body of NHRIs'.

2.3 The Philippines: The Commission on Human Rights (CHRP)

Recommendation: The SCA recommends that the CHRP be re-accredited with **A** status.

The SCA commends the CHRP for its continuing efforts to promote and protect human rights. The SCA acknowledges the efforts of the CHRP in advocating for a stronger legislative framework through the proposed Commission on Human Rights (CHR) Charter. The SCA recommends that the CHRP continue advocating for the passage of the proposed CHR Charter.

The SCA highlights that NHRIs that have been accredited A status should take reasonable steps to enhance their effectiveness and independence, in line with the Paris Principles and the recommendations made by the SCA during this review.

The CHRP is encouraged to continue to actively engage with the OHCHR, GANHRI, APF, other NHRIs, as well as relevant stakeholders at international, regional, and national levels, in order to continue strengthening its institutional framework and working methods.

The SCA notes:

1. Mandate

In accordance with Article XIII Section 18(1) of the Constitution and Section 3(i) of Executive Order (EO) 163, the CHRP is mandated to investigate all forms of human rights violations involving civil and political rights. The SCA acknowledges that although the CHRP does not have an explicit mandate with respect to economic, social, and cultural rights, the CHRP interprets its mandate in a broad manner and conducts activities in this regard.

In March 2017, the SCA encouraged the CHRP to continue its advocacy for an expanded protection mandate through the CHR Charter and to encourage ratification or accession to international human rights instruments.

The SCA notes that Section 15 of the proposed CHR Charter explicitly mandates the CHRP to promote and protect all human rights, including economic, social, and cultural rights and Section 22(d) mandates the CHRP to recommend ratification of, or accession to, international human rights instruments and ensure their implementation. The SCA is of the view that these provisions, if passed in their present form, would address the SCA's previously stated concerns. The SCA therefore recommends that the CHRP continues to advocate for the passage of the CHR Charter.

The SCA refers to Paris Principles A.1, A.2 and A.3 and to its General Observations 1.2 on 'Human rights mandate' and 1.3 on 'Encouraging ratification or accession to international human rights instruments.'

2. Selection and appointment

The SCA notes that according to Section 2(iii) of EO 163, the Chairperson and members of the CHRP are appointed by the President and that currently the CHRP has three of its five members in post. The CHRP reports that, despite this limitation, the Commission is able to exercise its decision-making power and has been effectively exercising its mandate. The SCA acknowledges that Section 8 of the proposed CHR Charter provides for the Chairperson and 4 members of the CHRP to be appointed by the President for a term of seven years without re-appointment.

Section 9 of the proposed CHR Charter provides that the process for appointment shall be led by a selection committee comprising of the Chief Justice of the Supreme Court, as Chair of the Selection Committee, with the other members being Chair of the Senate Committee on Justice and Human Rights, Chair of the House Committee on Human Rights, former Chairperson or Commissioner of the Commission on Human Rights, duly nominated by the incumbent Members of the Commission, three members of civil society groups belonging to organizations working mainly on the different aspects of human rights in the country, and a representative from the legal profession and duly nominated by the Integrated Bar of the Philippines.

The proposed CHR Charter also provides for requirements to publicize vacancies broadly and ensure that nominees for appointment to the vacant position/s represent diverse groups. The proposed CHR Charter states the Selection Committee shall convene immediately, upon due notice from the CHRP that vacancy exists or that the term of the current Commission Members ends within five (5) months.

The SCA is of the view that the provisions of the proposed CHR Charter on the selection and appointment process, if passed in their present form, would address the SCA's previously stated concerns. However, the SCA is concerned that the CHRP is currently operating without its full complement of commissioners and is of the view that there is a need to maintain the permanency and institutional independence of the NHRI.

The SCA urges the CHRP to continue to advocate for the passage of the proposed CHR Charter and recommends further that the CHRP advocate for the timely selection and appointment of the remaining two commissioners to ensure full leadership in line with the minimum standards of independence, effectiveness, and continuity of an NHRI, and to ensure pluralism in the composition of its leadership body.

The SCA refers to Paris Principle B.1 and to its General Observation 1.8 on ‘Selection and appointment of the decision-making body of NHRIs’.

3. Adequate funding

The CHRP reports that, despite the inconsistent budget allocation, it has been able to perform in accordance with its mandate and has utilized between 95%-100% of the annual budget allocated. The CHRP also reports that, for 2023, it has received more than 1 billion pesos and continues to advocate for budgetary increases.

The CHRP reports that it has also made efforts to advocate for stronger financial autonomy in the proposed CHR Charter and for an increase of its budget, to further expand its work in new areas such as strategic litigation.

The SCA emphasizes that, to function effectively, an NHRI must be provided with an appropriate level of funding in order to guarantee its ability to freely determine its priorities and activities. In particular, adequate funding should, to a reasonable degree, ensure the gradual and progressive realization of improvement in the NHRI’s operations and the fulfilment of its mandate.

Provision of adequate funding by the State should, at a minimum, include the following:

- a) the allocation of funds for premises which are accessible to the wider community, including for persons with disabilities. In certain circumstances, in order to promote independence and accessibility, this may require that offices are not co-located with other government agencies. Where possible, accessibility should be further enhanced by establishing a permanent regional presence;
- b) salaries and benefits awarded to its staff comparable to those of civil servants performing similar tasks in other independent institutions of the State;
- c) remuneration of members of its decision-making body (where appropriate);
- d) the establishment of a well-functioning communications system including telephone and internet; and
- e) the allocation of a sufficient amount of resources for mandated activities. Where the NHRI has been designated with additional responsibilities by the State, additional financial resources should be provided to enable it to assume the responsibilities of discharging these functions.

The SCA notes further that Section 36 of the proposed CHR Charter would strengthen the CHRP’s fiscal autonomy. The SCA is of the view that this proposal, if passed in its present form, would address the SCA’s previously stated concerns. The SCA therefore recommends that the CHRP continues to advocate for the passage of the above provisions in the proposed CHR Charter.

The SCA also recommends that the CHRP continue to advocate for an appropriate level of funding to effectively fulfil its mandate.

The SCA refers to Paris Principle B.2 and to its General Observation 1.10 on ‘Adequate funding.’

4. Annual Report

The Constitution and EO 163 are silent on the requirement for the CHRP to produce annual and other reports, and on the method of tabling and publicizing such reports. In practice, the CHRP prepares annual reports on the situation of human rights and distributes these reports to regional offices for public dissemination, and to government offices, as well as the Congress, and the department of budget and management.

The SCA considers it is important that the enabling law of an NHRI establish a process whereby the Institution's reports are required to be widely circulated, discussed, and considered by the legislature. It would be preferable if the National Institution has an explicit power to table reports directly in the legislature, rather than through the Executive, and in doing so to promote action on them.

The SCA further notes that Section 33 of the proposed CHR Charter would allow the CHRP to directly submit its annual report to the Office of the President, and the House of Representatives and the Senate. Section 33 notes further that the relevant Committees in both Houses of Congress shall review and consider the recommendations in these reports in a public meeting.

The SCA is of the view that this proposal, if passed in its present form, would address its previously stated concerns. The SCA therefore recommends that the CHRP continues to advocate for the passage of the above provisions in the proposed CHR Act.

The SCA refers to Paris Principle A.3 and to its General Observation 1.11 on 'Annual reports of National Human Rights Institutions'.

5. Functional immunity

The CHRP's current legal mandate is silent on whether and how members and staff enjoy functional immunity for actions taken in their official capacity in good faith.

The SCA emphasizes that national law should include provisions to protect members of an NHRI from legal liability for acts undertaken in good faith in their official capacity. Such provisions promote:

- security of tenure;
- the NHRI's ability to engage in critical analysis and commentary on human rights issues free from interference;
- the independence of senior leadership; and
- public confidence in the NHRI.

The SCA acknowledges that no office holder should be beyond the reach of the law and, thus, in certain exceptional circumstances, it may be necessary to lift immunity. However, the decision to do so should not be exercised by an individual, but rather by an appropriately constituted body such as a superior court or by a special majority of parliament. It is recommended that national law provides for well-defined circumstances in which the functional immunity of the decision-making body may be lifted in accordance with fair and transparent procedures.

The SCA notes that Section 32 of the proposed CHR Charter provides for the functional immunity of the members and staff of the CHRP. The SCA is of the view that the provisions of the proposed charter on functional immunity, if passed in their present form, would address the previously stated concerns. Therefore, it recommends that the CHRP continues to advocate for the passage of the above provisions in the proposed CHR Charter.

The SCA refers to Paris Principle B.3 and to its General Observation 2.3 on 'Protection from criminal and civil liability for official actions and decisions undertaken in good faith.'

2.4 Poland: The Commissioner for Human Rights (CHRP)

Recommendation: The SCA recommends that the CHRP be reaccredited with **A** status.

The SCA acknowledges the efforts of the CHRP in discharging its mandate effectively, despite the challenging context in which it operates.

The SCA wishes to highlight its expectation that A status NHRIs will take the necessary steps to pursue continuous efforts to improve and enhance their effectiveness and independence, in line with the Paris Principles and the recommendations made by the SCA during the review.

The CHRP is encouraged to continue to actively engage the OHCHR, GANHRI, ENNHRI, and other NHRIs, as well as relevant stakeholders at international, regional, and national levels, in order to continue strengthening its institutional framework and working methods.

The SCA notes:

1. Mandate

The mandate provided to the CHRP as per the Constitution and the Act of 15 July 1987 on the Commissioner for Human Rights (enabling Law) does not explicitly set out the full range of functions that an NHRI should undertake in exercising its promotional mandate.

The SCA notes the information provided by the CHRP that, following the broad formulation of the CHRP's mandate, in Article 208 para. 1 of the Constitution, the CHRP has in practice engaged in a range of activities to promote human rights, including through the establishment of the Center of Societal Projects, which seeks to promote human rights and freedoms.

The SCA is of the view that all NHRIs should be legislatively mandated with specific functions to both promote and protect human rights. The SCA understands 'promotion' to include those functions which seek to create a society where human rights are more broadly understood and respected. Such functions may include education, training, advising, public outreach and advocacy.

The SCA reiterates its 2017 recommendation for the CHRP to continue interpreting its mandate in a broad manner and to advocate for amendments to its enabling legislation to give it a more comprehensive mandate to promote human rights.

The SCA refers to Paris Principles A.1, A.2 and A.3 and to its General Observations 1.2 on 'Human rights mandate'.

2. Recommendations by NHRIs

The CHRP reported some challenges in its engagement with parts of the Government in relation to recommendations and other communications from the CHRP on certain human rights issues.

NHRIs, as part of their mandate to promote and protect human rights, should undertake follow up action on recommendations and should publicize detailed information on the measures taken, or not taken, by public authorities in implementing specific recommendations or decisions.

In fulfilling its protection mandate, an NHRI must not only monitor, investigate and report on the human rights situation in the country, it should also undertake rigorous and systematic follow up activities to

promote and advocate for the implementation of its recommendations and findings, and the protection of those whose rights were found to have been violated.

Public authorities are encouraged to respond to recommendations from NHRIs in a timely manner, and to provide detailed information on practical and systematic follow-up action, as appropriate, to the NHRI's recommendations.

The SCA recommends that the CHRP continues its efforts to conduct follow-up activities to ensure that the State responds to its recommendations and upholds its protection obligations.

The SCA refers to Paris Principles A.3(a), C(c), and D(d) and to its General Observation 1.6 on 'Recommendations by NHRIs'.

3. Selection and appointment

The SCA notes that Article 3 (6) of the Act, according to which the Commissioner shall hold the position until it is taken over by a newly appointed Commissioner, ceased to be effective on 16 July 2021, pursuant to the Polish Constitutional Tribunal judgment of 15th April 2021 (case K 20/20) which found that the Commissioner cannot exercise his/her functions after the expiry of the five-year term.

The SCA notes that it is necessary that the constitutional or legislative text is set out the NHRI's mandate, as well as the composition of its leadership body. This requires, but is not limited to, the inclusion of complete provisions on the NHRI's appointment mechanisms, terms and conditions of office, mandate, and powers. The SCA considers this provision to be of central importance in guaranteeing both the permanency and independence of the Institution.

The SCA recommends that the CHRP advocates for changes to its enabling law to ensure that the position of the Commissioner for Human Rights does not remain vacant after the mandate of a Commissioner expires and that the selection and appointment process is launched in a timely manner.

The CHRP also informed the SCA that in the context of the selection process of a new Commissioner, there is wide media coverage about potential candidates, and that, in practice, civil society and NGOs actively participate in the debates related to the appointment procedures.

However, the Act does not require the advertisement of vacancies, nor does it specify a process to maximize the number of potential candidates from a wide range of societal groups to ensure pluralist representation. Also, the Act, does not describe how applicants are assessed on the basis of pre-determined, objective and publicly available criteria. Finally, the Law does not formalize civil society participation/consultation in the selection process.

The SCA is of the view that it is critically important to ensure the formalization of a clear, transparent, and participatory selection and appointment process of the NHRI's decision-making body in relevant legislation, regulations or binding administrative guidelines, as appropriate. A process that promotes merit-based selection and ensures pluralism is necessary to ensure the independence of, and public confidence in, the senior leadership of an NHRI.

The SCA recommends that the CHRP advocates for the formalization of the selection process for the Commissioner in relevant legislation, regulations or binding administrative guidelines, and for its subsequent application in practice. This should include requirements to:

- a) Publicize vacancies broadly;
- b) Maximize the number of potential candidates from a wide range of societal groups;

- c) Promote broad consultation and / or participation, including of civil society, in the application, screening, selection and appointment process; and
- d) Assess applicants on the basis of pre-determined, objective and publicly available criteria.

The SCA refers to Paris Principle B.1 and to its General Observation 1.8 on ‘Selection and appointment of the decision-making body of NHRIs’.

4. Pluralism

The CHRP informed the SCA of the gender balance among its staff, and of the presence of more than six per cent of persons with disabilities in its staff composition in line with the relevant national legislation. The CHRP notes that it is prohibited by law to process sensitive personal data such as ethnic background.

The CHRP administrative regulations do not require a pluralistic composition of the CHRP staff, including representation of ethnic or minority groups and women.

The SCA emphasizes that a diverse decision-making and staff body facilitates an NHRI’s appreciation of, and capacity to engage on, all human rights issues affecting the society in which it operates and promotes the accessibility of the NHRI for all citizens.

The SCA recommends that the CHRP takes further steps to ensure pluralism in its staff composition. The SCA further notes that ensuring pluralism through staff that are representative of the diverse segments of society is particularly relevant for single member NHRIs, such as Ombuds institutions.

The SCA refers to Paris Principles B.1 and to its General Observation 1.7 on ‘Ensuring pluralism of the NHRI’.

5. Adequate funding

The SCA has noted the information provided by the CHRP that its budget is insufficient to effectively carry out the full breadth of its mandate, including as the National Preventive Mechanism under the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.

The SCA emphasizes that, to function effectively, an NHRI must be provided with an appropriate level of funding in order to guarantee its independence and its ability to freely determine its priorities and activities. It must also have the power to allocate funding according to these priorities. In particular, adequate funding should, to a reasonable degree, ensure the gradual and progressive realization of the improvement of the NHRI’s operation and the fulfillment of its mandate.

Provision of adequate funding by the State should, at a minimum, include the allocation of a sufficient amount of resources for mandated activities. Where an NHRI has been designated with additional responsibilities by the State, additional financial resources should be provided to enable it to assume the responsibilities of discharging these functions.

The SCA recommends that the CHRP advocates for the funding necessary to ensure that it can effectively carry out its mandate.

The SCA refers to Paris Principle B.2 and to its General Observation 1.10 on ‘Adequate funding of NHRIs.’

2.5 Tanzania: The Commission for Human Rights and Good Governance (CHRAGG)

Recommendation: The SCA recommends that the CHRAGG be re-accredited with **A** status.

The SCA highlights that NHRIs that have been accredited with A status should take reasonable steps to enhance their effectiveness and independence, in line with the Paris Principles and the recommendations made by the SCA.

The CHRAGG is encouraged to continue to actively engage with the OHCHR, GANHRI, NANHRI, other NHRIs, as well as relevant stakeholders at international, regional and national levels, in particular, in the reform of its enabling law, in order to continue strengthening its institutional framework and working methods.

The SCA notes:

1. Independence

In November 2017, the SCA reiterated its 2011 and 2016 concerns with respect to Article 130 (3) of the Constitution which relates to the ability of the President to direct CHRAGG in respect of any matter, if public interest so requires, and Article 130 (4) of the Constitution and Section 16 of the Act, which relate to the ability of the President of Tanzania to direct the CHRAGG to conduct or to not conduct certain inquiries or investigations.

The CHRAGG reports that these provisions have never been invoked. It also indicates that the process to amend the Constitution has been revitalized and if the proposed Constitutional amendment is enacted into law, it would substantially address the SCA concerns.

The SCA continues to emphasize its concerns that these provisions may impact on the perceived and actual independence of the CHRAGG.

The SCA is of the view that an NHRI's mandate should authorize the full investigation of all alleged human rights violations, including those involving the military, police, and security officers. While limitations on the mandate of an NHRI relating to national security are not inherently contrary to the Paris Principles, it should not be unreasonably or arbitrarily applied and should only be exercised under due process.

The SCA recommends that the CHRAGG continues to advocate for the removal of Articles 130(3) & (4) of the Constitution as well as Section 16 of the CHRAGG Act.

The SCA refers to Paris Principles A.1, A.2, A.3 and B.2, and to its General Observations 2.6 on 'Limitation of power of National Human Rights Institutions due to national security' and 1.2 on 'Human rights mandate'.

2. Interaction with International Human Rights System

Section 6 (1) (m) of the CHRAGG Act provides that the Commission's interaction with international bodies in the areas of protection and promotion of human rights and administrative justice shall be "under the auspices of the government".

The CHRAGG reports that it has not been required to seek prior government approval before engaging with international human rights bodies.

The Paris Principles recognize that monitoring and engaging with the international human rights system, and in particular with the Human Rights Council and its mechanisms, can be an effective tool

for NHRIs in the promotion and protection of human rights domestically. While it is appropriate for governments to consult with NHRIs in the preparation of a state's reports to human rights mechanisms, NHRIs should neither prepare the country report nor should they report on behalf of the government.

NHRIs must maintain their independence and, where they have the capacity to provide information to human rights mechanisms, do so in their own right. NHRIs should not participate as part of a government delegation during the Universal Periodic Review, reviews before the Treaty Bodies, or in other international mechanisms where independent participation rights for NHRIs exist. Where independent participation rights for NHRIs do not exist in a particular fora and an NHRI chooses to participate as part of a State delegation, the manner of their participation must clearly distinguish them as an independent NHRI.

The SCA emphasizes its previous recommendation that the CHRAGG advocates for the amendment of Section 6 (1) (m) of the CHRAGG Act to remove the clause "under the auspices of government".

The SCA refers to Paris Principles A.3 (d) and (e) and to its General Observation 1.4 on 'Interaction with the international human rights system'.

3. Annual reports

In accordance with Article 131 (3) of the Constitution and Section 33 of the CHRAGG Act, CHRAGG submits annual reports to the responsible Minister, who is obliged to table it before the Parliament.

The CHRAGG informs the SCA that, for reasons beyond its control, its annual reports since the 2010/2011 financial year are not publicly available and have not been tabled before Parliament. The CHRAGG indicated that its current reports have also not been tabled before Parliament by the Minister of Justice and Constitutional Affairs and, consequently, have not been made public.

The SCA emphasizes the importance for a NHRI to prepare, publicize and widely distribute an annual report on its national situation with regard to human rights in general, and on more specific matters. This report should include an account of the activities undertaken by the NHRI to further its mandate during that year and should state its opinions, recommendations, and proposals to address any human rights issues of concern. The SCA considers it important that the enabling laws of an NHRI establish a process whereby the Institution's reports are required to be widely circulated, discussed, and considered by the legislature.

Where an NHRI has made an application for accreditation or, re-accreditation, it will be required to submit a current annual report, that is, one from the preceding year's reporting period. The SCA finds it difficult to assess the effectiveness of a National Institution and its compliance with the Paris Principles in the absence of a current annual report.

The SCA acknowledges that the CHRAGG has engaged with the Minister of Justice and Constitutional Affairs to resolve the issue and has received a commitment that all overdue reports will be tabled before Parliament in May 2023.

The SCA recommends that the CHRAGG ensures its annual reports are tabled in Parliament, made public as soon as possible, and in doing so to promote action on them.

The SCA also recommends that the CHRAGG advocates for amendments to Article 131 (3) of the Constitution and Section 33 of the CHRAGG Act, to provide the CHRAGG with the power to directly table its reports with Parliament.

The SCA refers to Paris Principle A.3 and to its General Observation 1.11 on ‘Annual reports of NHRIs’.

4. Staffing

In accordance with Section 11 (1) of the CHRAGG Act, the Executive Secretary of the Commission shall be appointed by the President, after consultation with the Commission, from among persons holding or who have held senior position in the service of Government. The SCA is of the view that the appointment process is not sufficiently open and transparent.

Additionally, the SCA notes the CHRAGG reports that its staff recruitment process is conducted by the Public Service Recruitment Secretariat in collaboration with the CHRAGG, and that it must submit its requirements to this body in order to recruit staff.

The use of government-wide recruitment process for public servants is not inherently problematic so long as the process is transparent and objective and ensures merit-based selection.

The SCA notes that the CHRAGG has reported that it initiates the recruitment process and determines its personnel requirements and the qualifications for the positions it undertakes to fill. It further reports that senior members of the CHRAGG participate as members of the interview panel for quality assessment. The SCA is of the view, however, that it would be preferable for the CHRAGG to have the power to undertake its own recruitment. The SCA notes that the CHRAGG reports that it is currently seeking ways to directly recruit its own staff.

NHRIs should be legislatively empowered to determine the staffing structure, the skills required to fulfil the institution’s mandate, to set other appropriate criteria (such as diversity), and to select their staff in accordance with national law. Staff should be recruited according to an open, transparent, and merit-based selection process that ensures pluralism. Such a process promotes the independence and effectiveness of, and public confidence in, the NHRI.

The SCA recommends that the CHRAGG advocates for amendments to Section 11 (1) CHRAGG Act to ensure that the selection process of the Executive Secretary is open and transparent. The SCA also recommends that the CHRAGG advocate for the power to directly recruit its own staff.

The SCA refers to Paris Principle B.2 and to its General Observation 2.4 on ‘Recruitment and retention of NHRI staff’.

5. Addressing human rights violations

The SCA acknowledges that the CHRAGG reports it has undertaken various activities to address human rights concerns around civil and political rights as well as economic, social, and cultural rights.

The SCA recommends that the CHRAGG strengthens its efforts to address all human rights violations including violence and discrimination against sexual minorities, and sexual and reproductive rights.

NHRIs are required to promote and ensure respect for all human rights, democratic principles, and the strengthening of the rule of law in all circumstances, and without exception. Where serious violations of human rights are imminent, NHRIs are expected to conduct themselves with vigilance and independence. In fulfilling its protection mandate, an NHRI must not only monitor, investigate, and report on the human rights situation in the country, it should also undertake rigorous and systematic follow-up activities to promote and advocate for the implementation of its recommendations and findings, and the protection of those whose rights were found to be violated.

The SCA refers to Paris Principles A.1, A.2, A.3 and D(d) and to its General Observation 1.6 on 'Recommendations by NHRIs.'

2.6 Zimbabwe: The Zimbabwe Human Rights Commission (ZHRC)

Recommendation: The SCA recommends the ZHRC be re-accredited with **A** status.

The SCA commends the ZHRC for its continuing efforts to promote and protect human rights.

The SCA highlights that NHRIs that have been accredited A status should take reasonable steps to enhance their effectiveness and independence, in line with the Paris Principles and the recommendations made by the SCA during this review.

The ZHRC is encouraged to continue to actively engage with the OHCHR, GANHRI, NANHRI, other NHRIs, as well as relevant stakeholders at international, regional, and national levels, in particular, in the reform of its enabling law, in order to continue strengthening its institutional framework and working methods.

The SCA notes that the ZHRC is in the process of amending its enabling law to address previous SCA recommendations. The SCA recommends that the ZHRC strengthens its legislative framework by continuing to advocate for amendments to the law to address the recommendations outlined below.

The SCA notes:

1. Adequate funding

The ZHRC informed the SCA that its budget has increased since the last review and that this has enabled the ZHRC to recruit additional staff. The SCA also notes that the ZHRC plans to open additional regional offices to improve its geographical coverage and enhance accessibility to its services.

The SCA emphasizes that, to function effectively, an NHRI must be provided with an appropriate level of funding in order to guarantee its independence and its ability to freely determine its priorities and activities. Provision of adequate funding by the State should, as a minimum, include the following:

- a) the allocation of funds for premises which are accessible to the wider community, including for persons with disabilities. In certain circumstances, in order to promote independence and accessibility, this may require that offices are not co-located with other government agencies. Where possible, accessibility should be further enhanced by establishing a permanent regional presence;
- b) salaries and benefits awarded to its staff comparable to those of civil servants performing similar tasks in other independent Institutions of the State;
- c) remuneration of members of its decision-making body (where appropriate);
- d) the establishment of well-functioning communications systems including telephone and internet; and
- e) the allocation of a sufficient amount of resources for mandated activities. Where the National Institution has been designated with additional responsibilities by the State, additional financial resources should be provided to enable it to assume the responsibilities of discharging these functions.

The SCA recommends that the ZHRC continue to advocate for an appropriate level of funding to carry out its mandate, including plans to enhance its field presence.

The SCA refers to Paris Principle B.2 and to its General Observation 1.10 on ‘Adequate funding of NHRIs’.

2. Financial Autonomy

Section 17(1)(c) of the Act requires the ZHRC to obtain approval from the Minister responsible for Justice and Legal Affairs prior to receiving external funding. The SCA notes that the proposed amendments to its enabling law will remove the requirement to seek prior approval from the Minister of Finance. The SCA emphasises that NHRIs should not be required to obtain approval from the State for external sources of funding, which may otherwise detract from its independence.

The SCA recommends that the ZHRC continues to advocate for the amendment of Section 17(1)(c) of the Act to be able to receive donor funding without prior government approval.

The SCA refers to Paris Principle B.2 and to its General Observation 1.10 on ‘Adequate funding of NHRIs’.

3. Annual reports

In accordance with Section 8(1) of the Act, the Commission submits an annual report to the Minister, who is obliged to table it before the Parliament. The ZHRC informed the SCA that there are proposed amendments to the Act seeking to provide it with the power to directly table reports with Parliament.

The SCA considers it important that the enabling law of an NHRI establish a process whereby its reports are required to be widely circulated, discussed, and considered by the legislature. It is preferable for the NHRI to have an explicit power to table reports directly in the legislature rather than through the Executive and, in so doing, to promote action on them. The SCA recommends that the ZHRC continues to advocate for these changes to its enabling law.

The SCA refers to Paris Principle A.3 and to its General Observation 1.11 on ‘Annual reports of NHRIs’.

4. Limitations on mandate

Section 9(4)(a) of the Act prevents the ZHRC from investigating complaints related to an action or omission that occurred prior to 13 February 2009. The SCA notes reports from the ZHRC that it has signed a memorandum of understanding and collaborates with the National Peace and Reconciliation Commission (NPRC) which is constitutionally mandated to investigate such complaints. The SCA also notes reports from the ZHRC that there is a “sunset clause” in the enabling law of the NPRC which mandates it to complete its work after 10 years since its establishment.

The SCA is of the view that an NHRI’s mandate should authorize the full investigation of all alleged human rights violations and should not be unreasonably limited.

The SCA refers to Paris Principles A.1, A.2 and A.3 and to its General Observation 1.2 on ‘Human rights mandate’.

5. Selection and appointment

In accordance with Article 242(1) of the Constitution, the Chairperson of the ZHRC is appointed by the President after consultation with the Judicial Service Commission and the Committee on Standing Rules and Orders. The SCA acknowledges that the ZHRC has presented proposals requiring the advertisement of vacancies.

However, the SCA is of the view that the process as currently enshrined in the Law is not sufficiently broad and transparent. In particular, it does not:

- require the advertisement of vacancies; or
- promote broad consultation and / or participation in the application, screening, selection, and appointment process.

It is critically important to ensure the formalization of a clear, transparent, and participatory selection and appointment process for an NHRI's decision-making body in relevant legislation, regulations or binding administrative guidelines, as appropriate. A process that promotes merit-based selection and ensures pluralism is necessary to ensure the independence of, and public confidence in, the senior leadership of an NHRI.

The SCA recommends that the NIHRC advocates for the formalization and application of a process that includes requirements to:

- a) Publicize vacancies broadly;
- b) Maximize the number of potential candidates from a wide range of societal groups and educational qualifications;
- c) promote broad consultation and / or participation in the application, screening, selection and appointment process;
- d) Assess applicants on the basis of pre-determined, objective and publicly available criteria; and
- e) Select members to serve in their individual capacity rather than on behalf of the organization they represent.

The SCA refers to Paris Principle B.1 and to its General Observation 1.8 on 'Selection and appointment of the decision-making body of NHRIs'.

3. DECISION (Art 14.1 of the GANHRI Statute)

3.1 Costa Rica : Defensoria de los Habitantes (DHCR)

Decision: The SCA decided that further consideration of the re-accreditation application of the DHCR will be **deferred** for 12 months (or two sessions).

The SCA welcomes the appointment of the current Ombudsperson, who assumed functions in March 2023. The SCA encourages the DHCR to continue its efforts to promote and protect all human rights and to continue to strengthen its institutional framework and effectiveness in line with the recommendations below.

The DHCR is encouraged to actively engage the OHCHR, GANHRI, RINDHCA, and other NHRIs, as well as relevant stakeholders at international, regional, and national levels, in order to continue strengthening its institutional framework and working methods.

The SCA decided to defer the consideration of the DHCR on the following grounds. The SCA encourages the DHCR to take the actions necessary to address these issues and to provide further information and evidence, as required:

1. Human rights mandate

The Law of the DHCR (enabling Law) provides for a limited promotional mandate and does not include acts and omissions by private entities.

The SCA is of the view that an NHRI should be legislatively mandated with specific functions to both promote and protect human rights. It understands 'promotion' to include those functions which seek to create a society where human rights are more broadly understood and respected. Such functions may include education, training, advising, public outreach and advocacy.

An NHRI's mandate should be interpreted in a broad and purposeful manner to promote a progressive definition of human rights which includes all rights set out in international, regional, and domestic instruments, including economic social and cultural rights. Specifically, the mandate should:

- extend to the acts or omissions of both public and private actors;
- vest the NHRI with the competence to freely address public opinion;
- raise public awareness on human rights issues;
- carry out education and training programs;
- provide the authority to address recommendations to public authorities to analyze human rights situations in the country and to obtain statements or documents in order to assess situations raising human rights issues;
- authorize unannounced and free access to inspect and examine any public premises, documents, equipment, and assets without prior written notice; and
- authorize the full investigation into alleged human rights violations, including the military, police, and security officers.

The SCA reiterates its recommendation from 2016 and recommends that the DHCR advocate for appropriate amendments to its enabling law to make its promotional mandate explicit. The SCA also recommends that the DHCR advocate for appropriate amendments to its enabling law to include the ability to address human rights violations resulting from the acts and omissions of private individuals and entities.

The SCA refers to Paris Principle A.3 and to its General Observation 1.2 on 'Human rights mandate.'

2. Adequate funding

The DHCR reports that its budget decreased in 2022 and that it would require additional funding in order to carry out its functions.

To function effectively, a NHRI must be provided with an appropriate level of funding in order to guarantee its independence and its ability to freely determine its priorities and activities. It must also have the power to allocate funding according to its priorities. In particular, adequate funding should, to a reasonable degree, ensure the gradual and progressive realization of the improvement of the Institution's operations and the fulfilment of its mandate.

Provision of adequate funding by the State should, as a minimum, include the following:

- a) the allocation of funds for premises which are accessible to the wider community, including for persons with disabilities. In certain circumstances, in order to promote independence and accessibility, this may require that offices are not co-located with other government agencies.

- Where possible, accessibility should be further enhanced by establishing a permanent regional presence;
- b) salaries and benefits awarded to its staff comparable to those of civil servants performing similar tasks in other independent Institutions of the State;
 - c) remuneration of members of its decision-making body (where appropriate);
 - d) the establishment of well-functioning communications systems, including telephone and internet;
 - e) the allocation of a sufficient amount of resources for mandated activities. Where the National Institution has been designated with additional responsibilities by the State, additional financial resources should be provided to enable it to assume the responsibilities of discharging these functions.

The SCA recommends that the DHCR advocates for the necessary financial resources to enable it to properly fulfil its obligations, including carrying out its NPM and NMM mandates.

The SCA refers to Paris Principle B.2 and to its General Observations 1.10 on 'Adequate funding of NHRIs' and 2.8 on 'Assessing National Human Rights Institutions as National Preventive and National Monitoring Mechanisms'.

3. Protection from criminal and civil liability

The enabling Law is silent on whether and how members are protected from criminal and civil liability for official actions and decisions taken in their official capacity in good faith. The SCA acknowledges that the DHCR has proposed legislative amendments to its Law to include a provision for protection from criminal and civil liability for its members and staff.

External parties may seek to influence the independent operation of an NHRI by initiating, or by indicating an intention to initiate, legal proceedings against a member. For this reason, NHRI legislation should include provisions to protect members from legal liability for acts undertaken in their official capacity. Such a provision promotes:

- security of tenure;
- the NHRI's ability to engage in critical analysis and commentary on human rights issues free from interference;
- the independence of senior leadership; and
- public confidence in the NHRI.

It is acknowledged that no office holder should be beyond the reach of the law and, thus, in certain exceptional circumstances, it may be necessary to lift immunity. However, the decision to do so should not be exercised by an individual, but rather by an appropriately constituted body such as the superior court or by a special majority of parliament. It is recommended that national law provides for well-defined circumstances in which the functional immunity of the decision-making body may be lifted in accordance with fair and transparent procedures.

The SCA recommends that the DHCR advocates for the passage of this amendment to provide for protection from criminal and civil liability for official actions and decisions undertaken in good faith of its members and staff.

The SCA refers to Paris Principle B.3 and to its General Observation 2.3 on 'Guarantee of functional immunity.'

4. Interaction with the international human rights system

The SCA notes that the enabling Law does not explicitly mandate the DHCR to interact with international and regional human rights systems nor encourage the ratification of, or accession to, international human rights instruments.

The SCA emphasizes that monitoring and engaging with regional and international human rights systems, in particular the Human Rights Council and its mechanisms (Special Procedures and Universal Periodic Review) and the United Nations Human Rights Treaty Bodies, can be an effective tool for NHRIs in the promotion and protection of human rights domestically.

The SCA highlights that, depending on existing domestic priorities and resources, effective engagement with regional and international human rights systems may include:

- submitting alternative reports to the Universal Periodic Review and Treaty Bodies;
- making statements during debates before review bodies and the Human Rights Council;
- supporting, facilitating, and contributing to country visits by United Nations experts, including special procedures mandate holders, treaty bodies, fact finding missions and commissions of inquiry; and
- monitoring and promoting the implementation of recommendations originating from regional and international human rights systems.

The SCA builds on its recommendation from 2016 and recommends that the DHCR strengthens its interaction with the international and regional human rights systems, and advocates for amendments to its enabling Law to include explicit responsibility for these functions.

The SCA refers to Paris Principles A.3 (b) - (e) and to its General Observation 1.4 on 'Interaction with the international human rights system'.

5. Pluralism

The enabling Law does not require that the membership and staff be representative of diverse segments of society. The SCA notes that DHCR has indicated that, in the staff recruitment process, pluralism and diversity are taken into consideration and that efforts are being made to ensure that LGBT, Afro-descendants, indigenous peoples and other minority groups are represented within DHCR's staff.

The SCA emphasizes that diversity in the membership and staff of an NHRI facilitates its appreciation of, and capacity to engage on, all human rights issues affecting the society in which it operates. In addition, it promotes the accessibility of the NHRI for all citizens.

A diverse decision-making and staff body facilitates the NHRI's appreciation of, and capacity to engage on, all human rights issues affecting the society in which it operates and promotes the accessibility of the NHRI for all citizens.

Pluralism refers to broader representation of national society. Consideration must be given to ensuring pluralism in the context of gender, ethnicity, or minority status. This includes, for example, ensuring the equitable participation of women in the NHRI.

The SCA notes there are diverse models for ensuring the requirement of pluralism in the composition of the NHRI as set out in the Paris Principles. For example:

- a) Pluralism through procedures enabling effective cooperation with diverse societal groups, for example advisory committees, networks, consultations or public forums; or
- b) Pluralism through staff that are representative of the diverse segments of society. This is particularly relevant for single member Institutions, such as an Ombudsperson.

The SCA reiterates its recommendation from 2016 that the DHCR advocates for the inclusion in its enabling Law of provisions requiring pluralism, including in its staff.

The SCA refers to Paris Principles B.1 and to its General Observation 1.7 on 'Ensuring pluralism of the NHRI'.

6. Cooperation with civil society

The SCA notes that the enabling Law does not explicitly mandate the DHCR to establish working relationships with civil society. It further notes that DHCR cooperation with civil society has weakened since its last review.

The SCA highlights that regular and constructive engagement with all relevant stakeholders is essential for NHRIs to fulfil their mandates effectively.

The SCA reiterates its previous recommendation from 2016 and recommends that the DHCR develops, formalizes, and maintains working relationships, as appropriate, with other domestic institutions established for the promotion and protection of human rights, including civil society organizations.

The SCA refers to Paris Principles C (f) and (g) and to its General Observation 1.5 on 'Cooperation with other human rights bodies.

3.2 National Human Rights Commission of India (NHRC)

Decision: The SCA decides that further consideration of the re-accreditation application of the NHRC will be **deferred** for 12 months (or two sessions).

The SCA welcomes the amendment of the Protection of Human Rights Act of 1993 ('PHRA') to include the requirement under Section 3(2)(d) that three members of the NHRC have knowledge of or practical experience in human rights, at least of one of whom must be a woman, as a means of addressing its previous concerns around pluralism. However, the SCA notes that these amendments do not adequately address its recommendations from the November 2017 accreditation review.

The NHRC is encouraged to continue to actively engage with the OHCHR, GANHRI, APF, other NHRIs, as well as relevant stakeholders at international, regional, and national levels to continue strengthening its institutional framework and working methods.

The SCA decided to defer consideration of the NHRC on the following grounds. The SCA encourages the NHRC to take the actions necessary to address these issues and to provide further information and evidence, as required:

1. Involvement of police officers in investigations

Section 11 of the PHRA requires that the Central Government makes available to the NHRC a police officer of the rank of Director General of the Police or above, and other such officers as necessary, for the efficient performance of the Commission. The NHRC reports that police officers covering its investigative activities are needed for its effective operation.

The SCA reiterates that a fundamental requirement of the Paris Principles is that an NHRI is, and is perceived to be, able to operate independent of government interference. Where an NHRI's members are seconded from the public service, and in particular where this includes those at the highest level in the NHRI, it raises questions about its capacity to fully function independently. The SCA notes that this concern was raised with the NHRC at its last review in November 2017 and has not been addressed.

The SCA acknowledges the position of the NHRC that these individuals help in the strengthening of its investigation mechanism.

However, the SCA reemphasizes that there may be a real or perceived conflict of interest in having police officers engaged in the investigation of human rights violations, particularly those committed by the police, and this may impact on their ability to conduct impartial investigations as well as the ability of victims to access human rights justice.

The SCA recommends that the NHRC advocate for amendments to the PHRA and amend its investigative structure to remove the capacity for government to second police officers to act as investigative staff, ensuring that the NHRC can independently appoint suitably qualified staff to such positions.

The SCA refers to Paris Principles B1, B.2 and B.3 and to its General Observation 2.4 on 'Recruitment and retention of NHRI staff'.

2. Composition and pluralism

Article 3 of the PHRA states that the NHRC shall consist of the Chairperson who shall be a former Chief Justice or Judge of the Supreme Court, a Commissioner who shall be a current or a former Judge of the Supreme Court, a Commissioner who shall be a current or former Chief Justice of a high Court, three Commissioners who shall have knowledge of or practical experience in human rights (of whom one shall be a woman) and the Chairpersons of seven National Commissions. The NHRC informed the SCA that the members of these seven Commissions are not full members but 'deemed members' who complement the NHRC work in the execution of their individual functions.

The SCA notes that the current composition of the NHRC is incomplete, with three of the six positions vacant. Moreover, these three positions are those members required to have knowledge of or practical experience in human rights, including the only designated position that must be occupied by a woman. There is currently no woman in the leadership body of the NHRC.

The SCA acknowledges with appreciation the steps that the NHRC has taken to advocate for amendments to the PHRA to address its previous concerns regarding gender balance in the NHRC's membership and staff. However, the SCA does not consider these amendments to be sufficient to meet the pluralism requirements of the Paris Principles. In this respect, the SCA recalls its previous assessment of the prospective amendment to the PHRA proposed by the NHRC during its previous review in November 2017, that 'only having one member who is a woman does not represent appropriate gender balance'. The SCA further notes that, of the 393 staff positions listed by the NHRC as its staff component, only 95 are held by women.

The SCA is of the view that a diverse decision-making and staff body facilitates the NHRI's appreciation of, and capacity to engage on, all human rights issues affecting the society in which it operates and promotes the accessibility of the NHRI to all citizens.

The SCA recommends that the NHRC advocates for the completion of the appointment process to fill remaining vacancies in its leadership body, and for further amendments to the PHRA, to ensure a pluralistic balance in its composition and staff, in particular by ensuring that diversity of Indian society is represented including, but not limited to religious or ethnic minorities.

The SCA refers to Paris Principle B.1 and to its General Observation 1.7 on 'Ensuring pluralism of the NHRI'.

3. Selection and appointment

In accordance with section 4 of the Act, the Chairperson and other members of the NHRC are appointed by the President of India based on the recommendation of a committee consisting of the Prime Minister, the Speaker of the House of the People, the Minister in-charge of the Ministry of Human Affairs in the government of India, the Leader of the Opposition in the House of the People, the Leader of the Opposition in the Council of States, and the Deputy Chairperson of the Council of States. The SCA acknowledges the position of the NHRC, that the members of the selection committee are elected officials accountable to the people of India and include voices from diverse political perspectives. However, the SCA does not consider this to sufficiently promote broad consultation or participation in the selection process, nor maximize the number of candidates from a wide range of groups.

The SCA notes that the selection committee does not provide for the formal involvement of civil society organizations in the process.

The SCA reiterates the concern raised in its November 2017 review of the NHRC that the selection process currently enshrined in the PHRA is not sufficiently broad and transparent. In particular, it does not:

- require the advertisement of vacancies, nor
- specify the process for achieving broad consultation and/or participation in the application, screening, selection, and appointment process.

It is critically important to ensure the formalization of a clear, transparent, and participatory selection and appointment process for an NHRI's decision-making body in relevant legislation, regulations, or binding administrative guidelines, as appropriate. A process that promotes merit-based selection and ensures pluralism is necessary to ensure the independence of, and public confidence in, the senior leadership of an NHRI.

The SCA recommends that the NHRC advocates for the formalization and application of a process that includes requirements to:

- a) Publicize vacancies broadly;
- b) Maximize the number of potential candidates from a wide range of societal groups and educational qualifications;
- c) Promote broad consultation and / or participation in the application, screening, selection and appointment process;
- d) Assess applicants on the basis of pre-determined, objective and publicly available criteria.

The SCA refers to Paris Principle B.1 and to its General Observation 1.8 on ‘Selection and appointment of the decision-making body of NHRIs’.

4. The appointment of the Secretary General

Section 11 of the PHRA requires that the Central Government makes available to the NHRI a civil servant with the rank of Secretary to the Government to take the role of Secretary General of the Commission.

In its previous review of the NHRC in November 2017, the SCA emphasized that ‘a fundamental requirement of the Paris Principles is that an NHRI is, and is perceived to be, able to operate independent of government interference. Where an NHRI’s members are seconded from the public service, and in particular where this includes those at the highest level in the NHRI, it raises question about its capacity to function fully independently’.

The SCA acknowledges the NHRC position that this arrangement ensures the necessary expertise for the role of the Secretary General. The SCA further acknowledges the report of the NHRC that it selects the Secretary General from a list of names identified by the Government and when selected, works under the NHRC full control.

The SCA continues to be of the view that, notwithstanding the justifications provided, these practices have a real impact on the perceived independence of the NHRI. Accordingly, the SCA recommends that the NHRC advocates for amendments to the PHRA to remove the capacity for the Government to make a senior civil servant available for the position of Secretary General, to empower the NHRC to independently recruit candidates for the position.

The SCA refers to Paris Principle B.2 and to its General Observation 2.4 on ‘Recruitment and retention of NHRI staff’.

5. Cooperation with other human rights bodies

The SCA received a third-party submission indicating that the relationship between the NHRC and civil society is not effective or constructive, particularly with respect to collaboration through its core group on non-government organisations (‘NGOs’) and human rights defenders (‘HRDs’).

The SCA acknowledges the response of the NHRC that it collaborates with civil society including conducting open hearings along with HRDs and NGOs. The NHRC reports that it has now reconstituted its Core Group of NGOs and HRDs.

The SCA reiterates that regular and constructive engagement with all relevant stakeholders is essential for NHRIs to effectively fulfil their mandates. The SCA recommends that the NHRC takes additional steps to ensure constructive engagement and cooperation with civil society and HRDs, and that this should include regular modes of collaboration outside of the Core/Expert Groups.

The SCA refers to Paris Principle C(g) and to its General Observation 1.5 on ‘Cooperation with other human rights bodies’.

6. Addressing human rights issues

The SCA received a third-party submission raising concerns about the failure of the NHRC to exercise its mandate in relation to reviewing laws regarding civil liberties and fundamental rights. This includes on the Foreign Contribution (Regulation) Act 2010, Citizenship (Amendment) Act 2019, Unlawful Activities (Prevention) Act 1967

The third-party submission expressed further concerns that the NHRC has not taken sufficient action in protecting the rights of marginalized groups including religious minorities. The submission also expresses concerns about the high number of complaints apparently dismissed by the NHRC at the very first stage.

The SCA acknowledges that NHRC reports that it has considered all cases of human rights violations, including cases on HRDs. However, the SCA notes that the NHRC did not provide sufficient information with regards to how it implements its full mandate to monitor, promote, and protect the rights of everyone including religious minorities and HRDs.

The SCA recommends that the NHRC addresses all violations of human rights and to ensure effective follow-up so that the State makes the necessary changes to ensure that human rights are clearly protected. The SCA further recommends that the NHRC ensures that its positions on these issues are made publicly available, as this will contribute to the strengthening of the credibility and accessibility of the institution for all people in India.

An NHRI's mandate should be interpreted in a broad and purposive manner to promote a progressive definition of human rights, which includes all rights set out in international, regional, and domestic instruments. NHRIs are expected to promote and ensure respect for all human rights, democratic principles, and the strengthening of the rule of law in all circumstances, and without exception. Where serious violations of human rights are imminent, NHRIs are expected to conduct themselves with vigilance and independence.

The SCA refers to Paris Principles A.1, A.2, and A.3, and to its General Observation 1.2 'Human rights mandate'.

3.3 Northern Ireland: Human Rights Commission (NIHRC)

Decision: The SCA decides that further consideration of the re-accreditation application of the NIHRC will be **deferred** to its second session of 2023.

During its second session in October 2021, the SCA recommended that further consideration of the re-accreditation application of the NIHRC be deferred to its second session of 2022. At its second session in 2022, the SCA was informed of an independent review of the NIHRC and deferred the consideration of re-accreditation again, this time to its first session of 2023.

During the March 2023 review, the SCA was informed that the NIHRC had very recently received a letter from the Northern Ireland Office (NIO) stating that they have been working with Government departments and the Chief Executive of the Commission to examine the recommendations made by the independent review, which considered issues raised by the SCA in its October 2021 and October 2022 sessions.

The SCA has given the NIHRC the opportunity to provide further information regarding the adoption and implementation by the Government of the independent review's recommendations and its impact on the ability of the NIHRC to implement its mandate in an independent and effective manner.

The SCA wishes to draw the attention of the NIHRC that, in accordance with Article 14.1 of the GANHRI Statute, the deferral decision shall be limited to a period of two years. As such, this is the last possible deferral of the review of the NIHRC and the SCA will reach a recommendation in relation to the re-accreditation of the NIHRC in the SCA's second session of 2023.

The NIHRC is encouraged to continue to actively engage with the OHCHR, GANHRI, ENNHRI, other NHRIs, as well as relevant stakeholders at international, regional, and national levels to continue strengthening its institutional framework and working methods.

In particular, the SCA encourages the NIHRC to provide information on the acceptance and implementation by the Government of the recommendations made by the independent review in relation to the following issues of concern for which the SCA decided to defer the consideration of the NIHRC:

The SCA decided to defer consideration of the NIHRC reaccreditation on the following grounds:

1. Adequate funding

The SCA reiterates its acknowledgement of the challenging financial situation in which the NIHRC operates, and the efforts made to continue working to fulfil the breadth of its mandate. The SCA notes that the NIHRC has been informed by the NIO that the Government will allocate funds for the NIHRC to discharge its functions in the short term. Furthermore, the NIHRC informed the SCA that it received information that the NIO will discuss with the Chief Secretary to the Treasury (CST) to arrange for a Comprehensive Budget Review of the NIHRC so that it can fulfil its mandate in the long-term. The NIHRC noted that this is in line with the recommendations made in the independent review.

The SCA reiterates that, to function effectively, an NHRI must be provided with an appropriate level of funding in order to guarantee its ability to freely determine its priorities and activities. In particular, adequate funding should, to a reasonable degree, ensure the gradual and progressive realization of improvement in the NIHRC's operation and the fulfilment of its mandate.

Provisions of an adequate funding by the State should, at a minimum, include the following:

- a) The allocation of funds for premises that are accessible to the wider community, including for persons with disabilities. In certain circumstances, in order to promote independence and accessibility, this may require that offices are not co-located with other government agencies. Where possible, accessibility should be further enhanced by establishing a permanent regional presence;
- b) Salaries and benefits awarded to staff comparable to those of civil servants performing similar tasks in other independent institutions of the State;
- c) Remuneration of members of its decision-making body (where appropriate);
- d) The establishment of a well-functioning communications system including telephone and internet; and
- e) The allocation of a sufficient amount of resources for mandated activities.

The SCA recommends that the NIHRC continues to advocate for the implementation of the recommendations made in the independent review in order to ensure an appropriate and adequate level of funding to effectively carry out the breadth of its mandate. The SCA recommends the open engagement between the NIHRC and the State to ensure all budgetary issues are resolved quickly, appropriately, and in a sustainable manner.

The SCA refers to Paris Principle B.2 and to its General Observation 1.10 on 'Adequate funding of NHRI's'.

2. Financial autonomy

The SCA reiterates its previous concern that the budget allocation to the NIHRC is subject to the United Kingdom Government expenditure priorities, and that this has the potential to impact the NIHRC's effectiveness and functional independence.

In accordance with Schedule 7(6) of the Northern Ireland Act (the Act), the Secretary of State may make grants to the NIHRC from the budget provided by the United Kingdom Parliament.

The SCA further notes that the classification of an NHRI as an independent State agency has important implications for the regulation of certain practices, including reporting, recruitment, funding and accounting. Where a State has developed uniform rules of regulations to ensure State agencies are properly accountable for the use of public funds, the application of such rules or regulations on an NHRI is not considered inappropriate, provided they do not compromise the NHRI's ability to perform its role independently and effectively.

The SCA therefore reiterates its previous recommendation that the NIHRC advocates for appropriate modifications to applicable administrative procedures to ensure that its functional independence and financial autonomy are guaranteed.

The SCA refers to Paris Principle B.2 and to its General Observations 1.10 on 'Adequate funding of NHRIs' and 2.7 on 'Administrative regulation of NHRIs'.

The SCA notes the following additional issues, which were not grounds for deferral, but were considered relevant to accreditation.

3. Diversity and pluralism

The NIHRC informed the SCA that in practice their staff has a diverse representation in terms of gender balance, sexual orientation, ethnicity, and religious belief. The SCA notes that the NIHRC is taking steps towards improving the representation of persons with disabilities in its staff.

The SCA reiterates that pluralism and diversity in the membership and staff of an NHRI facilitates its appreciation of, and capacity to engage on, all human rights issues affecting the society in which it operates. In addition, it promotes the accessibility of the NHRI.

The SCA recommends that the NIHRC continue taking steps to ensure a pluralistic staff and advocating for pluralism, including minority representation, in its composition.

The SCA refers to Paris Principle B.1 and to its General Observation 1.7 on 'Ensuring pluralism of the NHRI'.

4. Visiting places of deprivation of liberty

The NIHRC informed that their legal framework does not specify a provision on unannounced visits to places of detention. However, in practice there are practical arrangements with public bodies that allow the NIHRC to carry out announced, and potentially unannounced visits. The NIHRC informed the SCA that, in the last 12 months, it has conducted 3 visits to places of deprivation of liberty, including places of detention of women and youth.

The SCA recommends that the NIHRC continues to access all places of deprivation of liberty, including without prior notice. It further recommends the NIHRC to effectively monitor, investigate, and report on the human rights situation in a timely manner, and to undertake systematic follow-up activities and advocate for the consideration and implementation of its findings and recommendations in order to ensure the protection of those deprived of their liberty.

The SCA refers to Paris Principles A.3 and D(d) and to its General Observation 1.6 on ‘Recommendations by NHRIs’.

4. REVIEW (Art. 16.2 of the GANHRI Statute)

4.1 Jordan: The National Center for Human Rights (JNCHR)

Recommendation: Following the Special Review initiated in accordance with Article 16.2 of the Statute, the SCA recommends that the accreditation status of the JNCHR be maintained as **A** status.

In its March 2023 session, the SCA decided to undertake a special review of the JNCHR based on publicly available information regarding its ability to effectively address human rights violations in view of the suspension and referral of staff for prosecution. The JNCHR was also required to provide an update on the selection and appointment process for the position of the Chairperson of the board of trustees in view of the SCA recommendation in March 2022

In light of the information provided by the JNCHR, the SCA considers that no further review of the Institution is required at this time. Furthermore, the SCA encourages the JNCHR to continue to discharge its mandate in full independence.

4.2. Myanmar: National Human Rights Commission (MNHRC)

Decision: The SCA decides to initiate a Special Review of the Myanmar National Human Rights Commission (MNHRC) at its second session of 2023.

The SCA has become aware of the report of the United Nations High Commissioner for Human Rights to the Human Rights Council, 2 March 2023, (A/HRC/52/21), on the situation of human rights in Myanmar which states that “The military authorities have also targeted the country’s legal and institutional systems by unilaterally adopting laws, imposing amendments to existing provisions and using laws and institutions to target opponents and suppress dissent. The judiciary of Myanmar and the National Human Rights Commission have effectively been subsumed under military control, thus eliminating any element of independence and credibility”.

The SCA also notes publicly available information that the Chairman, Vice Chairman, and Members of the National Human Rights Commission were appointed on 1 February 2021 via Order No 4/2021 issued by the Senior General and Commander-in-Chief of Defence Services.

On 7 January 2023, the Myanmar National Human Rights Commission (MNHRC) released a press statement describing the pardoning of 7012 prisoners as an expression of good will and humanitarianism by the Chairman of the State Administration Council. These prisoners were charged under various laws including the Unlawful Associations Act and the Counter-Terrorism Law. The High Commissioner’s report also highlights that “[i]n 2021, amendments to the Counter-Terrorism Law introduced higher penalties as well as vague formulations that are open to arbitrary application.” The High Commissioner further stated that “[o]n 28 October, the military unilaterally amended the 2014

Association Registration Law, which now further restricts the operations of civil society. The amendments introduce compulsory registration and criminal penalties...for lack of compliance.”

The SCA is also aware of publicly available information from civil society organisations, claiming the failure of the MNHRC to discharge its promotion and protection mandate in an independent and effective manner.

The SCA is, therefore, of the view that this information raises concerns with respect to the continued partial compliance of the MNHRC with the Paris Principles. Consequently, the SCA has decided to initiate a Special Review, in accordance with Article 16.2 of the GANHRI Statute.

4.3. The Russian Federation: Commissioner for Human Rights in the Russian Federation (OCHR)

Decision: The SCA decides to initiate a **Special Review** of the Office of the Commissioner for Human Rights in the Russian Federation (OCHR) at its second session of 2023.

On 16 March 2023, the SCA Chairperson received correspondence from the GANHRI Secretariat, on behalf of the GANHRI Chairperson, requesting the Sub-Committee on Accreditation to initiate a Special Review of the OCHR, pursuant to Article 16.2.

In addition, on 19 January 2023, the SCA received a third-party submission requesting the Special Review of the A-status accreditation of the OCHR, based among others on the claim that the OCHR is neither independent in practice nor willing to address pressing human rights issues. The submission claims that the OCHR implicitly or directly supports the Russian government in policies and acts that contravene international human rights law, including but not exclusively in relation to acts following the armed conflict between Russia and Ukraine. The SCA acknowledges that it has received a response from the OCHR regarding these allegations.

The SCA is of the view that the response provided does not address all of the concerns raised. In view of the information before it and the request to initiate a Special Review received pursuant to Article 18.4¹ of the GANHRI Statute, the SCA decides to initiate a Special Review in accordance with Article 16.2 of the GANHRI Statute in order to determine the OCHR’s ongoing compliance with the Paris Principles.

¹ Text of the GANHRI Statute as adopted in March 2023