



# **STATEMENT**

**ON**

**BEHALF OF THE**

**NATIONAL HUMAN RIGHTS COMMISSION  
OF INDIA**

**AT**

**THE PLENARY OF THE HUMAN RIGHTS COUNCIL  
TO ADOPT FINAL OUTCOME RELATING TO INDIA  
UNDER UNIVERSAL PERIODIC REVIEW**

**ON**

**10<sup>TH</sup> JUNE, 2008**

**BY**

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National Human Rights Commission  
INDIA**

The National Human Rights Commission of India, in partnership with others, advocated for the effective participation of NHRIs in the Human Rights Council which resulted in the Human Rights Council Resolution 5/1 on "Institution - Building". In pursuance, the Commission has taken a very pro-active role at every stage relating to preparation of papers for UPR and in holding consultations with stakeholders. In its independent paper for UPR, the Commission flagged important human rights challenges relating to right to education, right to food, right to health, rights of women, children and persons with disability and corruption and Human Rights. While reviewing international human rights commitments, the Commission stressed the need to ratify the 1951 UN Convention relating to the Status of Refugees and the Torture Convention. The Commission's Statement has been placed on our own website as well as the website of the OHCHR.

While the Universal Periodic Review held great promise and generated a great sense of excitement among various stakeholders, the Commission is of the view that the process adopted under the UPR could be improved. Though paragraph 18 (C) of the UN Human Rights Council Resolution 5/1 stated that 'other stakeholders may attend the review in the working group', they have not been given any speaking rights. This raises several questions.

1. National Human Rights Commissions are key entities at the National level to protect and promote human rights and translate universal human rights into action at the national level. Having recognized their pivotal role and having provided for their participation in various activities of the Human Rights Council, it is a matter of concern as to why they have been relegated to the role of 'passive observers' when the review was held in the Working Group.

2. In addition, the Commission also wishes to point out certain inherent contradictions in clubbing statements of statutory National Human Rights Commissions with NGOs while preparing a ten page Summary by OHCHR under paragraph 15 (C) of UN Human Rights Council Resolution 5/1. Our experience has been that while synthesizing the views of NHRC and NGOs, many inaccuracies, both factual and legal, have crept in. The Commission not only pointed them out but also placed correct facts on our own website for public information. The Commission is of the strong view that the Statements of NHRC and NGOs should be reflected as submitted by an A status NHRI, if within the 5 page limits.

3. NHRIs should not be confused with courts and other quasi-judicial institutions or other governmental bodies. The purpose of establishing

NHRIs is to ensure that they remain vigilant over those who hold and exercise power so that their conduct conform to national and international human right standards. The work of NHRIs therefore, must constantly evolve and should focus on all those activities that result in the violation of human dignity.

4. Law enforcement seen in various areas of Government as a mechanism of “cooperative control” as opposed to the “coercive control”. Cooperative control is facilitative and proactive, using advice and persuasion, wherein the actors confer and dialogue to try to obtain the desired result and change behaviour. In contrast, coercive control is reactive, and control is imposed by unilateral decision. Therefore, most National Human Rights Institutions can be considered to be forms of cooperative control. The level of accountability provided by National Human Rights Institutions interfaces with building good governance in a state and protecting human rights.

The UPR process holds great potential for the protection and promotion of human rights but certain lacunae in the present modalities require to be removed. The National Human Rights Commission of India

wishes to assure the Human Rights Council of its full cooperation and would like to see further strengthening of process and modalities of UPR.

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