

## **Report to Plenary: parallel session on NHRIs and detention monitoring – Harvard Law School**

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Thank you Madam Chair and thank you for this opportunity to report back to the ICC plenary,

I am pleased to be able to address you as the NHRI Fellow at Harvard Law School's Human Rights Program. In collaboration with the Office of the High Commissioner and Harvard University Press, we are currently undertaking a project to enhance knowledge on the important work of NHRIs in the area of detention monitoring. The publication is intended to spotlight the importance of particular experiences that NHRIs have had in this domain, as well as act as a reference tool for other stakeholders, including governments and international donor agencies.

We wish to particularly thank Gianni Magazzenni and the National Institutions Unit for their continued support in this collaborative venture and assistance in organizing the workshop on Monday, where we received significant material documentation during and after the meeting. The discussion also underlined the importance of this subject, not just in terms of preventing torture, which is very well covered by other organizations, but also issues such as arbitrary detention, discrimination and access to medical care.

The session was chaired by Professor Ryan Goodman, Director at Harvard Human Rights Program, and following a brief outline of the project so far, we were fortunate to have four substantial and thought-provoking presentations from the Croatian People's Ombudsman, the Guatemalan Ombudsman, the Kenyan National Commission, and the Korean National Commission. It is beyond the scope of this brief report to do full justice to the discussion, but I will highlight some of the key issues that arose.

The Croatian People's Ombudsman highlighted a strong proactive element in its mandate to monitor detention centers. Despite the advances made, the office also acknowledged that additional capacity is needed to balance the competing demands of complaints handling and visitation. Notably, a recent successful action before the Constitutional Court on the grounds of prolonged detention resulted in the release of the detainee in question and an important step forward in Croatian jurisprudence.

The Kenyan Commission noted the need to also address the rights of detention officials who often work in sub-standard conditions. In terms of access to information, the commission has instituted a 'scorecard system' to verify what they have received from facilities. The commission has also addressed a range of group-based concerns, including the inadequate provision of anti-retroviral drugs to persons with HIV/AIDs, the needs of terminally-ill patients, access for prisoners with disabilities, visiting juvenile corrective centers and recently pursuing an amicus brief on behalf of a transsexual detainee.

The Guatemalan Ombudsman emphasized the institution's mandate to access all facilities without judicial authorization whenever human rights violations are alleged. Despite initial resistance by prison officials, the office has sought and successfully secured access to all prison

facilities. More challenging is monitoring the precarious situation of those detained in remote areas under the jurisdiction of the National Civilian Police.

The Korean Commission presented a number of innovations in handling complaints and demonstrated their extraordinary strength in collecting and analyzing data. The commission highlighted the many complaints received concerning access to medical care and contact with the outside world for the purpose of rehabilitation. The commission further elaborated on its important work in training detention officials and proposing national legislation to implement regulations.

Interventions from the floor provided further insights. Georgia spoke of the expansion of monitoring activities to psychiatric facilities and orphanages as well as reporting all impediments to access directly to the Prosecutor's office. Innovations such as the pocket book on rights devised by the commission in Sierra Leone, a checklist to standardize monitoring activities in Uganda, the APF's role as a conduit between NHRIs and other organizations, such as national community visitor schemes, and further suggestions by other participants, made for a rich and very rewarding discussion.

To end, we look forward to continuing this discussion with NHRIs, the ICC, the OHCHR and other relevant stakeholders. We would encourage all offices to consider submitting related documentation on detention monitoring to Harvard Human Rights Program. A checklist when the NHRI goes in to monitor, a pocket book on rights, innovative ways of collecting and processing data, or an amicus brief would all be extraordinarily useful to us, and to ensure this important work is brought to the attention of a wider audience.

Thank you for your attention.