

1.2 Australian Human Rights Commission (AHRC)

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

The SCA acknowledges the advocacy of the AHRC for changes to its selection and appointment process to strengthen compliance with the Paris Principles. The SCA recognises that the Federal Parliament has passed the Australian Human Rights Commission Legislation Amendment (Selection and Appointment) Act 2022, which amends the AHRC's enabling legislation, to provide that all appointments for commissioners and the President must be publicly advertised and merit-based. The SCA welcomes the supplementary Policy and Guidelines on Appointments to the AHRC which further strengthens the selection process. The SCA notes that these instruments collectively address its previous concerns on the selection and appointment process.

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 AHRC 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. Human Rights Mandate

The SCA notes that the recent amendments to the Australian Human Rights Commission Act (AHRC Act) did not address its recommendation to provide for an explicit reference to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) or the International Covenant on Economic, Social, and Cultural Rights (ICESCR) in the mandate of the AHRC.

The SCA notes that despite the lack of explicit reference, the AHRC considers that some rights contained in CAT and ICESCR are covered in the other human rights instruments scheduled to the AHRC Act. The SCA also acknowledges that the AHRC continues to broadly interpret its mandate to encompass all human rights and conducts work directly in relation to instruments that are not scheduled to its legislation.

The SCA notes that the AHRC has conducted research and advocacy on Australia's ratification of OPCAT, conducts immigration detention inspections, handles complaints under the AHRC Act that relate to torture, cruel, inhumane and degrading treatment and reports to Parliament on these matters.

Further, that the AHRC handles discrimination complaints and has conducted advocacy related to economic, social and cultural rights, which has included submissions to the Federal Parliament on welfare reforms, social support for children and Indigenous peoples, exploitation of peoples with disabilities, domestic and sexual violence, and mental health.

The SCA encourages the AHRC to advocate for the CAT, ICESCR and United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) to be scheduled to the AHRC Act to ensure all core international human rights instruments and standards are provided for in the

AHRC's mandate. In this context the SCA acknowledges the AHRC's recent advocacy for a national Human Rights Act.

The SCA also encourages the AHRC to continue to advocate for the Federal Government to implement the recommendations of the Commission's Free and Equal project to modernise federal discrimination laws and introduce new human rights protections. Such implementation will further strengthen the Commission's mandate to promote and protect human rights.

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

2. Adequate funding

The AHRC received an additional A\$38 million (USD 24.08 million) of Federal Government funding in October 2022 over the next 4 years, including A\$16 million (USD 10.14 million) for two new responsibilities, A\$18 million (USD 11.41 million) for core appropriation, and a one-off increase of A\$3.6 million (USD 2.28 million), to address a backlog in complaints. This is in addition to a A\$16.050 million (USD 10.17million) equity injection from Government in 2022 to restore the Commission's financial stability.

While acknowledging the additional funding the Federal Government has provided to the AHRC to address its financial situation, the SCA notes that, to function effectively, an NHRI must be provided with an appropriate level of ongoing funding in order to guarantee its independence and its ability to freely determine its priorities and activities.

The SCA recommends that the AHRC continue to advocate for an appropriate level of funding to carry out the full breadth of its mandate. Such appropriate level of funding shall ensure sufficient ongoing resources to:

- enable statutory commissioners to fulfil their mandates;
- ensure the timely handling of complaints and inquiries;
- undertake its human rights education and awareness raising functions;
- engage with communities nationally, including in regional and remote areas, and with marginalised groups and communities; and
- ensure sufficient corporate support resources, including for updated ICT infrastructure, to support these functions and outreach.

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