

## Terms of Reference

### Consultancy to develop a monitoring and evaluation framework for AHRC/ALRC

#### 1 Background

- a Sida (Swedish International Development Cooperation Agency), a donor agency has requested the Asian Human Rights Commission and the Asian Legal Resource Centre (AHRC/ALRC) to submit shorter, result based plans and reports. The AHRC/ALRC is requested to submit a revised Results matrix (including indicators on output/outcome/impact level) covering the present phase 2010-2013. This was discussed when the Sida representative visited Hong Kong.
- b The management committee of the AHRC/ALRC studied and discussed this suggestion at length. It agreed that this could be a useful addition to the work of planning, monitoring and reporting that the organisation has been doing so far. The committee thought that developing a written guideline based on its existing practices and developing it further, would be useful for the organisation.
- c At the same time the management committee felt that given the nature of the work of protecting and promoting human rights in the particular context of South Asia and South East Asia, particularly in relation to serious problems relating to the rule of law, weak liberal democratic institutions of governance and sometimes even totalitarian tendencies in the region which requires considerations of a political, social, legal and cultural nature, this undertaking should be taken with due care so that the work of the organisation will benefit from this work. On that basis the committee has made some reflections which are contained in this document.
- d The development of monitoring and evaluation criterion relating to human rights work dealing with countries where there are extreme forms of repression can be a useful exercise, not only for our organisation but also for other human rights organisations working under similar conditions. Given the importance of the task the management committee is also of the view that the proper selection of expertise for the purpose and a highly consultative process ensuring active participation of all stake holders, particularly the staff of the organisation can contribute to a constructive process of evolving such an evaluation and monitoring tool. Developing a constructive criterion and avoiding counterproductive measures should remain a core concern throughout the carrying out of this task.

#### 1.1 The Asian Human Rights Commission, its purpose and mandate

The Asian Human Rights Commission is dedicated to the promotion and protection of human rights in the light of the promotion of international norms and standards based on the UN conventions. Its work is circumscribed within the context of countries where the systems of the rule of law have very serious problems. This requires the understanding and the capacity for spontaneous adaptation of its work to fit the needs of human rights issues in afore mentioned states.

- a. This work in terms of civil and political rights, economic, social and cultural rights, with emphasis on the interests of the poor and the more vulnerable

groups in society, such as women, children, minorities and particularly the problems of extreme poverty are spelled out in **the annexure 1 attached to this document. Kindly see also annexures 3, 4, 5 and 6 which are also basic documents explaining the organisation's policy, criterion of assessment and administration and budget and policy development relating to communication.**

- 1.2 Key Partners and Beneficiaries (Kindly see Annexure 2 attached herewith).
- 1.3 Donor requirements and compliance related to PME (Planning-Monitoring-Reporting).

The AHRC/ALRC has been highly aware that the continuing development of human rights work requires an ongoing reflection and evaluation of its performance and impact. In this respect, the AHRC/ALRC and Sida have been constantly exchanged ideas and views on how to further strengthen such kind of reflection and evaluation. In 2006, Sida initiated an evaluation on the activities of the AHRC/ALRC which findings affirmed the effectiveness and relevance of its work. The evaluation report provided a useful reference for the development of the work of AHRC/ALRC. With the support of Sida, the AHRC/ALRC assigns this consultancy to assist the organisation to develop a Result Based Management System for PME. The consultancy will also take into account of the requirements from other donors of the the AHRC/ALRC in relation to project plans, reports and evaluations.

## **2 Purpose and specific objective of the assignment**

- a The purpose of the consultancy is to assist the organization to develop a result based monitoring system and PME (Planning-Monitoring-Evaluation) framework.  
  
The specific objectives are to:
- b The AHRC/ALRC should be provided with a revised Result matrix for the period of 2010-2012 (including relevant and SMART indicators on output/outcome/impact level)
- c Support the AHRC/ALRC to develop a result based monitoring system and PME framework. To introduce the monitoring system and train the governance board, management and staff in their respective roles and functions in relation to the PME-system.
- d Create a tool for assessing within the organisation, partners and the donors of the result of the work in terms of its outputs, outcomes and impacts;
- e Enhance the capability of the staff and partners of the AHRC/ALRC in monitoring and evaluation of their work to improve performance and accountability.

The primary users of the monitoring and evaluation framework will be the staff and board members of the AHRC/ALRC, the implementing partners and the donors.

### **3 Approaches and Methodology:**

- a Interested consultants are requested to submit an inception report describing methodology, process, time frames and budget (covering total cost of the assignment).
- b In preparation the consultant should carry out a desk study going through key documents (Statutes, by-laws, Strategic Plan, Policy and Guidelines relevant to the task, as well as agreement and conditions related to major stakeholders), the annual work reports in the previous years, earlier evaluation reports and other basic documents relating to the organisation's work which are available in the archives of the websites of the organisation.
- c The consultant should use participatory methods facilitating a process with AHRC to strengthen PME-systems
- d The consultant should involve board, management and staff, as well as key stakeholders of the programmes, including rights holders and key Donors
- e The consultant should deliver a final product as following:
  - i. Revised Result Matrix for the period of 2010-2012
  - ii. Systems and tools for monitoring (including all AHRC program)
  - iii. Format for plans and reports
  - iv. PME handbook
  - v. Training sessions on using the systems and tools

### **4 Qualifications of consultant team:**

- a Extensive experience in development of Result based monitoring systems, PME and organization development. Academic or other relevant professional background in development management (PCM/PME/RBM) and organization development.
- b Extensive experience in the field of Human Rights and Rights based approaches, particularly regarding human rights problems relating to countries with serious limitations in the rule of law systems, liberal democratic institutions and traditions of ensuring fair trial; and empathetic attitudes to understanding serious problems such as forced disappearances and extrajudicial killings, endemic torture, acute problems of poverty and serious violations relating to gender and women's rights.
- c Experience from South East, East and South Asia.
- d Experience in working with Civil Society Actors
- e A capacity to appreciate the use of modern communication methodologies and information technologies for the promotion of human rights, rule of law and democratization. ( Kindly see annexure 6)
- f Capacities for interpersonal relationships particularly with an understanding of the cultural context in less developed counties, particularly living conditions of women in poorer societies.

## **Annexure 1**

### **AHRC's Working Model**

#### **The Asian Human Rights Commission – its purpose and its mandate**

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**AHRC's work for promotion of civil and political rights:** At the core of human rights work is the capacity to make complaints, process it and reach out to a targeted audience with an aim to secure remedy. Promotion and fulfilment of international norms and standards in civil and political rights requires the development of adequate systems of policing which the people can depend for their protection under the rule of law.

The capacity to make complaints of human rights violations and have them investigated and processed is a prerequisite to achieve redress envisaged by the international norms and standards. This capacity to a high degree is hampered due to fear of state institutions, mostly permeated by the use of force, in particular by the use of torture. Thus to work against torture is a conscious decision the organisation made to effectively address human rights issues in the region.

The extremely ineffective systems of policing in Asian states remain a basic obstacle for the realisation of human rights. Added to this problem are issues in the prosecution and the judicial systems. Politicisation of these systems often prevents proper framework of protection against human rights violations. Delay in the process of adjudication, lack of witness protection, the absence of competency in policing, prosecution and the judiciary and manifold forms of corruption hinders the administration of justice.

Thus, in the work of the protection and promotion of human rights, the organisation by its mandate is compelled to engage in the issues relating to the systems of policing, prosecutions and judiciary in the region, enabling the people to have adequate protection under the rule of law, for their rights be protected.

Illegal arrest, detention, torture, rape, the denial of the right to fair trial in manifold forms, the denial of freedom of expression and association and the freedom to choose a government of choice are some of the prominent violations of human rights found in the region. Extrajudicial executions, forced disappearances and other forms of the denial of the right to life with statutory impunity are frequent in many countries. Dealing with these problems is in the core work relating to civil and political rights.

While all people in the region are affected by the problems of justice institutions, in the milieu of inequality, discrimination and the culture of fear, working on civil and political rights that also involve women requires the organisation to be extremely sensitive to the concerns and the context of women in the region and their living conditions. The organisation is involved in a considerable number of interventions involving women victims. Such involvement with women victims has sharpened the organisations' gender sensitivity in work.

**The Asian Human Rights Commission is also engaged in the protection and promotion of economic, social and cultural rights.** These rights are often violated in extreme forms by enforced poverty, distress migration, corruption and discrimination. The denial of the right to food, water, education, equality of gender and race are part of daily reality in the region.

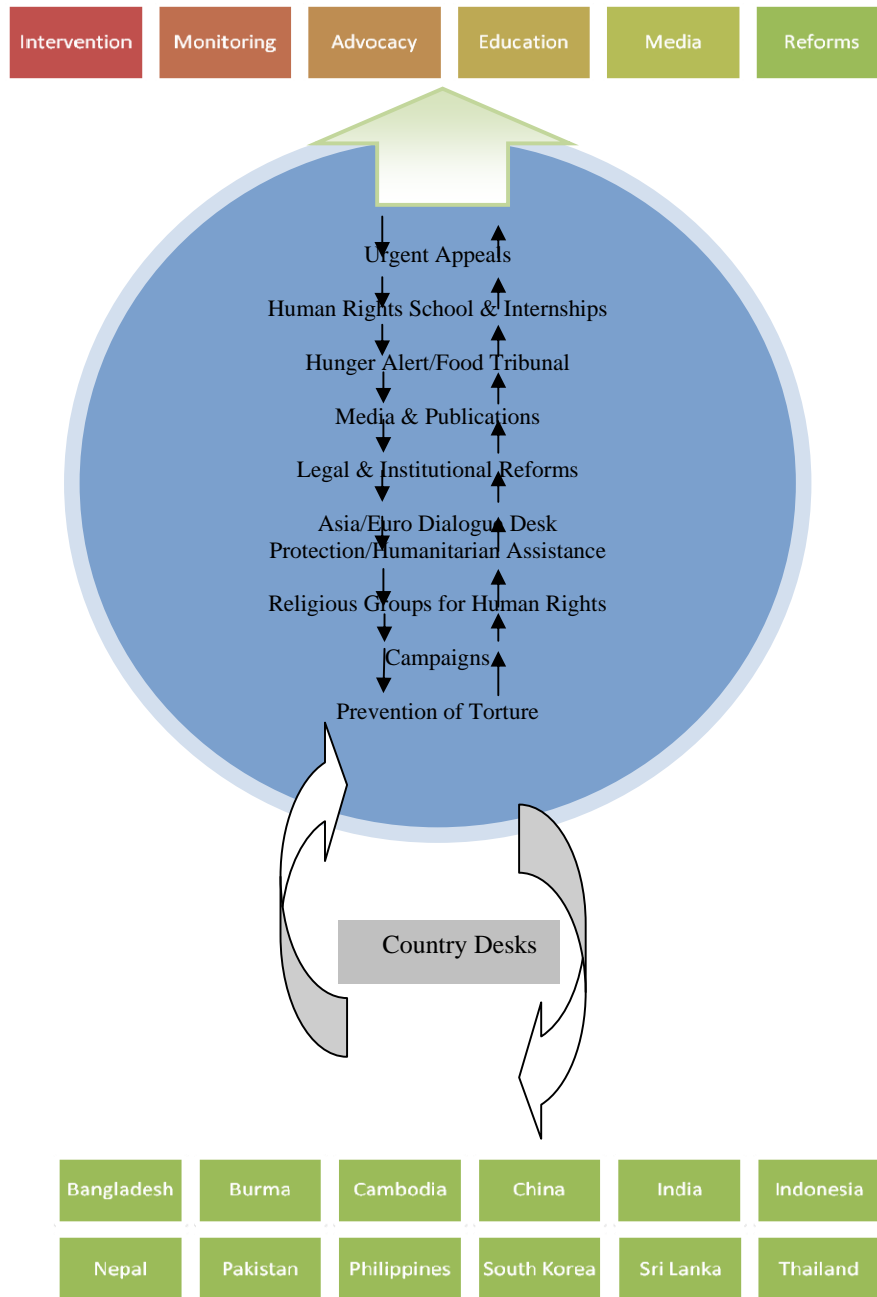
The concerns expressed above relating to the civil and political rights issues directly affect the economic, social and cultural rights. A state in which the normative standards of justice do not exist cannot cater the needs arising out of economic, social and cultural needs of its population.

The women, children – in particular the girl child – and minorities face the maximum brunt in this context. It is within the mandate of the organisation to find means to intervene with a view to empower the weaker sections and to promote reforms that could improve their living conditions. Constant engagement in advocacy of human rights issues and the use of modern technologies, particularly information technology, for advocacy and education to facilitate opportunities for seeking redress in economic, social and cultural rights is within the mandate of the organisation. This mandate is practically articulated, conceived and developed over the last 25 years and has led to the development of strategies, methodologies and means of interventions.

**The mandate of the AHRC is carried out through interventions, monitoring, media, advocacy, education and reforms related to human rights protection and promotion.** These functions are mentioned in the diagram of the AHRC's working model, which is attached to this document. The country deskwork forms the bedrock and the initiation point of the organisations' engagement.

The work generated from the countries are processed and packaged by the following desks to shape it into an effective, meaningful, and sustainable campaign. They are: the Urgent Appeals and Hunger Alert Desks; Human Rights School and Workshops; the Media and Publications; Legal and Institutional Reforms; the Asia Euro Dialogue Desk; Protection and Humanitarian Assistance; the Religious Groups for Human Rights; Campaigns; Prevention of Torture and IT and Communications.

Each desk has developed unique features in carrying out the organisation’s mandate. This aspect of our organisation is demonstrated by our organisation’s model



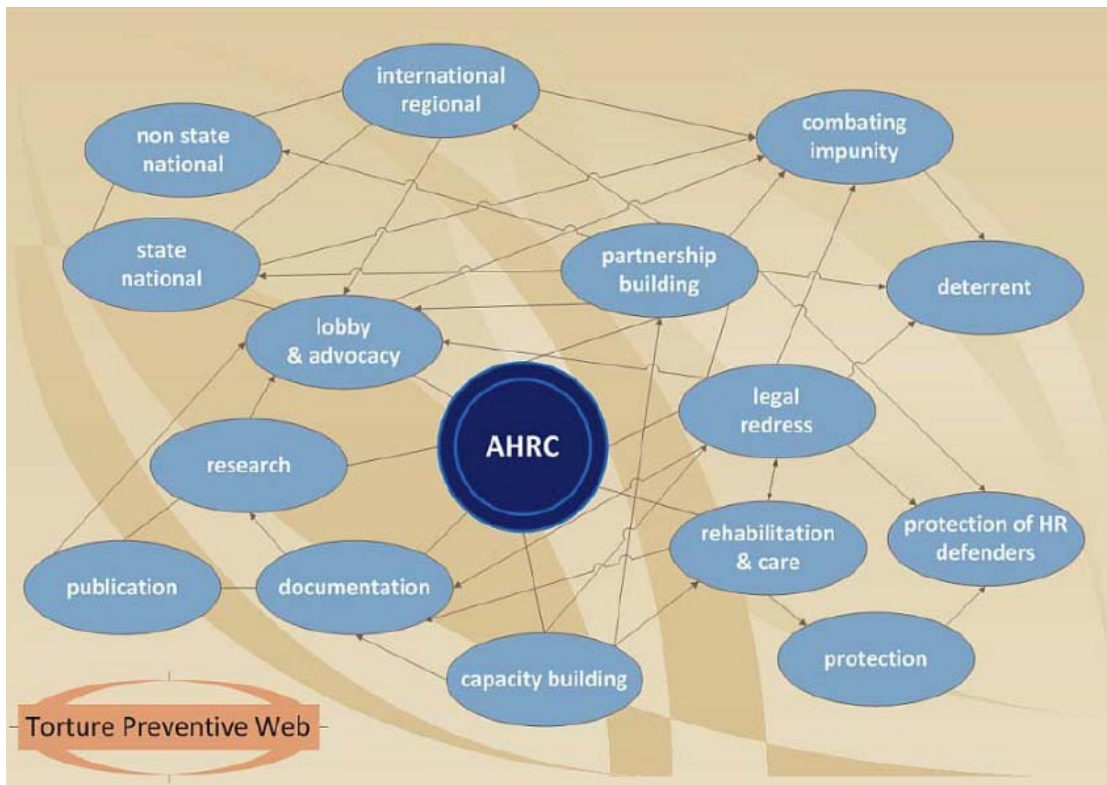
## Annexure 2

### **Key Partners and Beneficiaries:**

Given the mandate of the protection and promotion of human rights as exercised through the functions mentioned above and carried out through the specific desks, the organisation has developed a number of key partners and beneficiaries of support over the years.

The key partners are various groups in the human rights field with which the organisation has developed its links for the protection and promotion of human rights. As mentioned before, the work also engages the UN and its mandate holders. With these groups, the AHRC has a close partnership of actions based on day-to-day activities by way of both sharing of information as well as developing common advocacy work on various issues, which are executed throughout the year by various programmes. Thus, there is country based, regional and international partnerships with which the AHRC engages with in fulfilling its mandate.

**Our partnership network is shown in this diagram:**



The organisation consciously attempts to develop partnerships with the national institutions wherever possible. By national institutions, we mean those state institutions that have specific functions for investigations into human rights abuses, which is done through the policing institutions and other state institutions designed for it as well as the prosecuting and other judicial institutions.

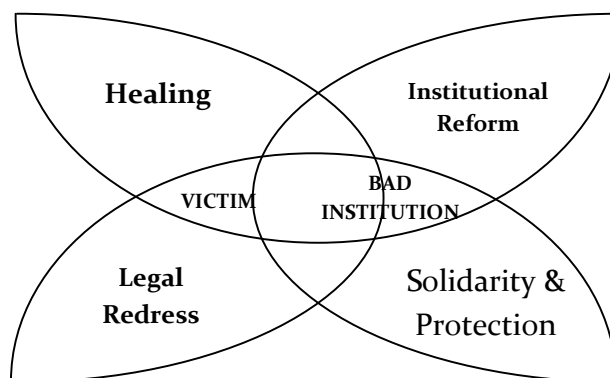
In the area of the protection and promotion of human rights, these basic institutions are the most important partners of the organisation. We engage with them through direct intervention, and constant interaction and by way of appeals to these organisations; in the form of support in legal actions to be undertaken to support the victims of human rights violations; and also by submission of reports and making serious critiques of their policies and practices both in the local as well as in the international sphere with a view to maintain a constant dialogue with these institutions.

The next most important partnership is with the victims. With these groups and persons, the organisation relates itself by providing avenues for helping them to enable to make complaints to the relevant state institutions, advocating changes of laws, taking care of their physical and emotional welfare by such means as trauma counselling and by other forms of assistance such as physical and psychological rehabilitation. For this the organisation has developed solidarity groups that also help in generating awareness and education of the victims.

The AHRC constantly engages in generating public opinion both locally and internationally. Media forms an integral part of this exercise.

The other beneficiaries of the organisations' work are the human rights community in general; the local rights groups in particular. The organisation support these groups by helping them to establish a constant chain of communication and education, providing opportunities to expand their work, creating opportunities for capacity building, and in particular to develop a system of protection for human rights defenders. All of this is done with a hindsight that in times of danger necessary assistance is provided for the security of the people.

**AHRC's approach to deal with assistance to victims is described in the following model:**



Besides this the internship programme provide for local human rights defenders to visit the organisation and to work together with the staff so that they are able to acquire skills and the learning of principles relating to human rights by engaging in joint activities with the staff.

The AHRC tries to provide for the local human rights victims and defenders opportunities of advocacy at the UN through the Asia Euro Dialogue Desk by participating in the activities of the Human Rights Council and other UN and other international agencies. This is done with a view to build a solidarity base for protection and advocacy work internationally.



Above all, the primary beneficiaries and support groups of the AHRC is the poor in countries where we work. Whatever be the form, the ultimate target of all human rights violations is the poor. Extrajudicial executions, torture and forms of severe restrictions on civil liberties are overwhelmingly directed to deny the poor their right to participate in democratic life. This denies the poor a life with dignity. In order to achieve its mandate of providing protection to the rights of the poor the organisation constantly tires to develop its capacity of creating linkages that will help the poor to have quick access to a complaint making process thereby ensuring their security while seeking possible redress.

In order to reach these beneficiaries and support groups, the organisation works on a **three-tier model of advocacy**. This involves advocacy at the grass root levels where those who are the most needy could be reached, combining it with advocacy at a regional level reaching as many organisations as possible who would support victims and at an international level where work is done in close association with the agencies of the UN and other international agencies.

This three-tier model is facilitated by a deliberate and conscious use of modern technology and constant contact with both the grass root levels as well as international audiences. The model is shown below:



### Annexure 3

#### **ASIA: Protection of human rights in non-rule of law countries – institutional reforms in the administration of justice must be given primacy of place**

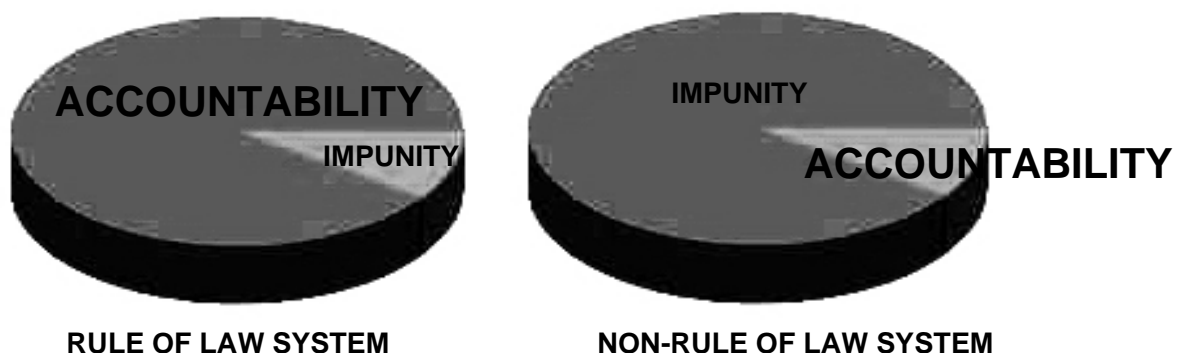
The celebration of the 60<sup>th</sup> Anniversary of the UDHR is a grim reminder that even after 60 years of the adoption of this great declaration the gap between what is declared and what is actually achieved by way of the improvement of the protection of the rights of the people is enormous. Both in the field of civil and political rights as well as economic, social and cultural rights people in Asia, and in fact, the people who live outside developed democracies have so little to celebrate. Instead of wasting this celebration in a self congratulatory fashion it is far more sober to critically examine the real situation faced by the people and to improve the understanding and the resolve to solve the problems depriving people of the rights that have been declared as theirs.

If there is to be a meaningful discourse on the future of the work towards realising the rights declared in the Universal Declaration on Human Rights sharp distinctions must be made about the problems faced in countries outside developed democracies and the way to resolve these. There are grave impediments to the realisation of the UDHR in these countries and they need to be articulated, agreed upon and global efforts must be made to resolve these.

The major impediment to the realisation of the rights declared in the UDHR in Asia is the serious defects in the systems of the administration of justice in the countries of the region. These serious defects of the administration of justice may be related to political and other reasons. However, without dealing with these defective systems the protection of human rights in the region will remain pie in the sky.

As a prelude to a discussion on dealing with this problem the Asian Human Rights Commission thinks it necessary to state this problem more clearly by setting out the distinction between the administration of justice system in countries where the rule of law exists as against those found in most Asian countries.

#### **A comparison between the administration of justice system in a rule of law country and those found in non-rule of law countries**



This diagram shows that in a developed rule of law system there can still be many defects. For example contemporary experiences about Guantanamo Bay detention centre, introduction of laws even in almost all countries of Europe and the Unites States on restriction to bail conditions for

alleged terrorist suspects, many modes of surveillance introduced to foreigners as well as local people in such laws as the Patriot Act of the US and similar laws in other instances and even some disturbing incidents in the failure of the courts themselves to strongly defend the individual freedoms all are indicators of such defects.

However, to compare the situation of the administration of justice systems in many Asian countries (and perhaps all countries in the world outside developed democracies) with the model of the developed country legal system would be misleading and would prevent a proper analysis of the types of problems faced in these jurisdictions.

The diagram demonstrates that within a rule of law system, while there can be many serious defects, these defects can be dealt with within the framework of a well established system of policing, prosecutions and judiciary supported also by a very viable form of expression of public opinion and protest.

As compared to this, what exists in the other model, the non-rule of law model, is an overwhelming situation of lawlessness with some institutions which may be able to maintain a semblance of rule of law, though in fact, the entire system is defective. In these countries there is still legislation enacted in the past, some traditions which have also risen in the course of a long history of attempts to implement such laws, some professions such as the legal profession, the judiciary and the local policing. All these factors have to operate within a much larger framework where rule of law is not considered important at all. Limited developments in the past towards rule of law is very much modified by political systems that have tended to considered these as obstacles to the executive to achieve whatever they want in the manner the executive thinks fit. Various developments of power models either by way of military interventions or by way of strengthening the hands of the executive and particularly the chief of the executive has conflicted with the limited developments of the rule of law.

The implication of these two models is that the problems faced by ways of limitations on individual freedoms cannot be compared in any meaningful way within the two systems described above. Let us take the case of Guantanamo Bay. Guantanamo Bay detention center was developed in order to deprive the prisoners taken by agencies of the US the rights that are available within the US system of the administration of justice. This means that a very strong and comprehensive justice system does exist in the US but by deliberate attempts some people are being denied the rights that are available within that system. The people who want to fight against such denial have many alternatives. The foremost of them is to call for the abolition of the Guantanamo Bay detention centre and of bringing all persons arrested and detained by US agencies under the law of the US. In order to achieve this change the reformers can resort to various forms of avenues available for freedom of expression, and also have recourse to the US courts themselves to deal with this problem. The most powerful element available for reforms is the electoral system itself, where abolition of such detention centres outside the law can be agitated for. We have seen that in the recent US elections both presidential candidates promised to abolish the Guantanamo Bay detention centre. The president elect, Barack Obama, has indicated that this issue will be a priority to be dealt with on an urgent basis.

Now, let us compare the avenues available for any person working within a non-rule of law system to deal with a similar problem. Many places, instead of keeping arrested persons even in an illegal prison, the method resorted to is to cause forced disappearances and other forms of extrajudicial killings. The existing legal system has not been proved competent in order to avoid such type of arbitrary executions. There are hardly any possibilities within the local system of administration to get the assistance of courts in order to deal with this problem. Even remedies

such as habeas corpus and other modes of urgent applications to courts where these exist are defeated by many problems that exist within the judicial process such as delays in adjudication, big spaces available for witness intimidation and also enormous possibilities of erasing evidence. To put it briefly, the system of administration does not have avenues within which the problem of illegal arrest and detention can be resolved when such acts are done for politically sensitive reasons. Furthermore, the space available for the making of public opinion is also limited. The newspapers and electronic media are themselves subjected to severe restrictions, limitations of the legal system, combined with limitations of avenues of public expression allows the state to also develop enormous propaganda justifying the actions and even to name all dissenters as traitors. As for the electoral process, to make a change of government, again, the avenues available are limited. In most countries now, the electoral process is so manipulated that those who pursue authoritarian policies can ensure for themselves the electoral victories. When all these factors get combined, the result is the loss of confidence in the administration of justice.

There is complete consensus that this is the type of situation prevalent in non-rule of law countries and therefore, any meaningful discourse to resolve these problems should be grounded on a solid understanding of the ground situation within which people live. The attempts merely to compare a superior model and to restate that such a model should be adapted are certainly a laudable aim, but in real terms, it is only a pious hope. To take that approach is to be intellectually evasive and morally timid in that everyone who has some knowledge of these situations of justice administration know that mere restatement of ideas of which a developed system is rooted does not have the capacity to alter the existing situation. In fact, to think and act in that way is to behave like the patients with the phantom limb syndrome. Many amputees of some part of their bodies keep on believing that these parts still exist. To live in a non-rule of law system and to work as if it is a rule of law system amounts to the same form of delusion.

We need to state our problem accurately if we want to find solutions to the problem. Much of our time is spent trying to accurately articulate the existing situation regarding the police, prosecution, judiciary and also the political system and the systems of the public expression within Asian countries. Shocking details about a policing system that cannot in any way be compared to a system that is needed to maintain rule of law, prosecution systems which are so deeply politicized in favor of the existing regimes, judicial systems which are so much subject to corruption as well as to executive control, political systems where the capacity for strong opposition is dealt with by extreme forms of violence and the public opinion making opportunities where terrorizing of journalists and media institutions is the normal experience, is the background of most Asian countries.

Thus the starting point of any discussion on justice administration reforms for the purpose of protecting human rights must begin with understanding, and dealing with this problem.

### **The requirement for the primacy of place needs to be given to institutional reform for the protection of human rights**

Given the defects in the administration of justice mechanisms in the countries of the region the primacy of place in human rights work for the protection and promotion of human rights should be given to institutional reforms, meaning reforms in the policing system, prosecution system and also in the judiciary.

It has been recognised that in that past the human rights related work has concentrated more on human rights education and the search for redress for individuals rather than institutional reforms. Such education redress for individuals may make sense in the context of countries which have

developed viable rule of law systems as mentioned above. However, it does not have that impact in countries where the institutional flaws defeat the possibilities for individual redress and does not provide opportunities for education and training to be put to use.

In the state initiatives on human rights often, the donors have been requested to provide technical assistance, meaning various forms of training, particularly for the police but also sometimes, for the prosecution and judicial branches. Sometimes donors have invested their resources in this area. However, when the institutional defects are such as to make the learning and the training of some individuals irrelevant to the normal functioning (or dysfunction) of the institution, such investments in training do not produce the expected results. Let us take the example of the police who may be given training in forensic science and human rights. If the system is so defective that it has not developed the operations on the basis of equality before law, many offenders of the law will have effective impunity and their crimes will not be investigated at all. Thus, there being able persons to investigate such crimes is of no use when as a matter of institutional practice such crimes are not investigated and such offenders are in some way treated above the law. No amount of forensic training can alter that institutional practice. The change of that practice depends on the development of policies and procedures that do not leave any persons or any types of crimes outside the normal operation of the law. This same can be said about the human rights training of the state officers. However much human rights education may be imparted the practical use that such learning could be put into effect depends on the nature of the system itself. If the system is so politicised that it does not want to involve itself on the prevention of violations of rights of certain categories of persons, such learning on human rights will be of little practical value. Actual experiences from many countries demonstrate the wastage of financial and other resources invested in such reforms which are not capable of producing the desired result.

This same can be said of the national institutions which in the region are known as national human rights commissions. When there are fundamental flaws in the systems of policing, prosecutions and the judiciary there is very little that these human rights commissions can do to protect human rights. National institutions cannot take the place of the police, prosecution and judicial branches. The concept of the ombudsman that was developed in Europe after the basic system of the administration of justice were well developed, cannot be applied to institutions in countries where the basic institutions of the administration of justice are fundamentally flawed. In recent decades the donors have invested considerable amounts of resources in national institutions. However, the efforts were doomed to failure due to the lack of appreciation of the fundamental institutional defects which need to be addressed before a proper ombudsman system could effectively achieve the aims for which these are instituted. Here again we come to the problem of the phantom limb syndrome. So-called national human rights commissions in a non-rule of law country can be nothing but a phantom institution.

When considering all these aspects it becomes clear that the human rights work in the region should concentrate on improving the basic institutions of policing, prosecution and the judiciary. The improvements of these systems require an understanding of political, social, cultural and legal aspects that have created the obstacles for the proper operation of the system of the administration of justice. Work towards the improvement of administration of justice systems requires that those who engage in human rights work should above all concentrate on making public opinion to support the changes in the administration of justice. It is only powerful debates within society that can achieve such changes. In creating such debates the human rights groups should expose what is wrong with the existing systems. Such exposures can be done by documentation of what is actually being done in the name of policing, prosecutions and the exercise of judicial power. Both the wrongdoings and the omissions of the system need to be thoroughly documented and be made available to the public. The human rights groups should

evolve sophisticated communications mechanisms so that the exposures they make of the system could be made known to large audiences in particular countries as well as globally. As it is natural for the government to deny violations of rights the human rights community must be able to expose such denials as contrary to facts. To do that the human rights community needs to have access to actual details of such violations, the institutional causes of such violations as well as suggestions for improvements.

### **The preeminent position the police have achieved within the system of the administration of justice has eroded the systems and seriously damaged them**

A well functioning administration of justice system creates a healthy balance in investigations into crime, prosecution of crimes and the criminal trials where judicial function is exercised. In the legal text of many of the countries of the region such a system has been envisaged. Most of such texts have been introduced during the colonial times or under the influence of colonial powers. In this way some of the developments of the administration of justice achieved within systems of democracy and rule of law have been introduced into these countries. Therefore it can be said that in most instances as far as legal texts are concerned there are legal safeguards against the police gaining a preeminent position within this system and virtually diminishing the effectiveness of the prosecution and judicial branches.

However, in many countries of the region there is a vast gap between the legal text and how it is operated in actual practice. Over long periods of neglect the police have acquired a preeminent position within the system to the detriment of the other branches of the administration of justice.

In fact, the extent to which the police dominate the administration of justice system in many places is scandalous and leaves very little room for the possibility of proper implementation of law or the achieving of the ends of justice. The abuse of police power provides enormous opportunities for the police to be corrupt and for unscrupulous political and powerful elements of their societies to exploit the police system to their benefit. Often the criminal elements in society themselves build close links with the policing system and thus create a serious threat to the security of the people.

The police investigating capacity can be subverted in the following ways: by undermining the complaint receiving mechanism and by subverting criminal investigations. The receipt of complaints is the beginning of any inquiry into crimes. Unless the complaints are received promptly and efficiently by a user friendly mechanism much of the information and evidence needed to prove a crime can be lost. The police can subvert the receipt of complaints by creating various hardships for making complaints. These may vary from the direct use of the complaint receiving system for extortion purposes to various types of omissions for the protection of alleged offenders, particularly if the offenders happen to be state officers themselves. The narration of various methodologies used for make complaint making difficult or impossible is very common in discussions on human rights in the region.

Perhaps beyond the methods of direct omissions and commissions which obstruct proper complaint making there is the indirect method which is sometimes more effective in creating and maintaining a climate of fear. Once the people begin to realise that through making complaints they may face greater reprisals or that making complaints does not lead to any positive results many people often refuse to make complaints. They themselves prefer or are advised that it is better to remain silent and bear the loss than to complain and suffer greater problems.

In the investigation area the police can obstruct the possibility of achieving justice either by incompetent investigations or by deliberate actions to subvert the investigation. Often large numbers of policemen are used for purposes other than investigations such as providing security to VIPs and often these same persons are given responsibilities for conducting investigations. The development of competence within the system is disrupted often due to political reasons. Good investigators often face punishment transfers or other forms of reprisals. Some even face death. Thus the absence of competence within a policing system is often not a result of the absence of capable and trained personnel, it is often a result of deliberate internal policies which counteract in such a manner to denigrate the appreciation of competence and often plays other aspects such as political loyalties and the capacity for compromise at a higher scale in the system of principles and values within the system.

There is however, another area where investigations are deliberately prevented for political reasons or for reasons of corruption and by the intervention of the hierarchy within the police, acting in cooperation with powerful politicians or other powerful sectors of society. Wherever the state itself encourages the police and military to engage in large scale abuse of rights by actions such as causing forced disappearances, extrajudicial killings, torture and other related activities, the state will also create enormous obstacles for investigations into these matters. In these circumstances the state directly or indirectly approves impunity. This often happens when emergency regulations and anti terrorism laws are allowed to be used. In many countries of the region such laws have been allowed to be used for long periods and often the population has begun to treat this as a normal situation. However, the prevention of investigations can also take place under the influence of corruption where powerful interests mitigate against the proper administration of justice.

A direct cause for the subversion of complaint making and investigation functions of the police is the loss of command responsibility within the policing system as required for its proper functioning. The police hierarchy often makes themselves subordinate to politicians and thereby become an obstacle for the operation of the rule of law. Such subordination may be a result of exigencies of circumstances which the police hierarchy considers beyond their control, or it may be that the police hierarchy themselves try to acquire greater powers for personal advantage through such changes. When command responsibility is damaged the subordinates also develop their own methods of gaining personal advantage from the system. The result is that various forms of gaining personal advantages take prominent place over public interest that the institution of the police is made to serve.

The single most important factor obstructing the proper administration of justice within the region is the predominant place the police have acquired within the system and without addressing this issue it is not possible to achieve any improvement in the protection of rights of individuals

### **The lack of the allocation of funds for the administration of justice**

When budgetary allocations on the administration of justice are compared to other items of the budget it clearly appears that the administration of justice is very much a neglected item. The funds allocated for proper policing, prosecution and the judiciary is so inadequate that the failures of these institutions are predetermined by such absence of financial support.

Often military budgets far exceed the budgets allocated for the administration of justice. This has a doubly adverse impact on justice. With vast allocation of funds for military purposes the military acquires national importance which in turn diminishes the police and the institutions of the administration of justice. The public image of the military grows taller like the image of Alice

in Wonderland and as a consequence all other institutions, such as the institutions of justice, education, health and the like grow smaller. On the other hand the legal climate necessary for the military to gain the upper hand often implies the acceptance of impunity relating to the military operations. This in turn reduces the influence of the administration of justice which functions properly only on the basis that no one, including the military itself, is above the law.

What is even more alarming is the policy that is often pursued to the effect that the independence of the institutions of the administration of justice should be crushed in favour of winning the war on terrorism. A former Sri Lankan junior minister of defence put this position succinctly in parliament by stating that “these (meaning counter terrorism) cannot be done through the law.” The whole mentality and philosophy behind anti terrorism in the region is that judicial independence is an obstacle to the defeat of terrorism. The view that Great Britain took during the Second World War that victory could be assured only if the courts were independent and functioning is not a doctrine that is accepted in terms of military actions against terrorism in many countries.

Added to this is also the ideology that for development the rule of law and the independence of the judiciary are not essential components. This helps the executive to postpone the considerations about the improvement of the administration of justice as an issue of lesser importance.

Taking all these factors into consideration the human rights movement should make it a priority to agitate for adequate budgetary allocations for the administration of justice. Local and international advocacy should be directed towards achieving this goal. If this goal cannot be achieved much of the discussions and work on human rights will prove incapable of achieving practical results.

### **The problems of the prosecution systems**

A proper system of prosecution requires the following conditions:

- A credible system of receiving complaints
- A credible system of the investigation of complaints
- A credible system of prosecution
- A credible system of defence for the accused
- A credible system of witness protection, and
- A credible system of judicial independence.

The absence of many of these factors affects the prosecution systems in the countries of the region. Often these systems are not created for the purpose of dealing with the prosecution of state officers who violate human rights. Most of these systems were created purely to deal with criminals who mostly come from lower income groups in these societies.

Equality before law has not yet been realised and as such the powerful sectors of society remain above the law. The prosecution systems do not have the will to deal with these issues relating to higher income groups and powerful persons. Most legal systems do not have adequate mechanisms to deal with bribery and corruption. The more prominent beneficiaries of bribery and corruption are higher officers of the state. Powerful business interests also benefit from this because they can take advantage of avoiding legal procedures such as those regarding tenders, contracts and the like. Thus, the prosecution systems only deal with cases competently when the



matters are related only to less powerful groups in society. Recent forms of politicisation where the executive tries to control the prosecution systems also act to deteriorate these systems.

Often the prosecutor's failure to take effective action is justified by misinterpretation of some legal doctrines. For example prosecutors often claim to be neutral. By this they mean that if the police do not investigate a crime or violation of a right the prosecutor will wash his hands by stating that since the police investigators have not provided them with the dossier there is nothing they can do about the alleged violation. This allows the prosecutors to remain passive and even abdicate their responsibilities. However, what is worse is that this allows the prosecutors to use their discretion selectively. In some instances they may interact with the investigators to ensure a proper investigation while in some instances they will claim that their neutrality prevents them from looking into the alleged violations.

There need to be studies exposing the type of legal doctrines and other excuses used by the prosecutors to abdicate their responsibilities.

### **The absence of effective forms of witness protection**

In most countries of the region there are no effective modes of witness protection. Perhaps given the enormity of the problem such as the predominant place the police have acquired to the detriment of the justice system it may not even be possible to provide for a credible witness protection system.

The witness protection systems require a policing system which is credible. When the policing system can be used to kill and harass witnesses there is hardly any way to protect witnesses. The interested persons may harm witnesses knowing that the police will not pursue them. Or as it has happened in many instances the police themselves will carry out the crimes.

Thus, the whole issue of witness protection requires far greater attention from the human rights community and working towards the creation of an effective system of witness protection needs to be a part of the human rights agenda of all countries.

### **Attacks on lawyers**

The predominance achieved by the police within the justice system has a direct result of diminishing the place of lawyers.

The lawyers who want to be successful in the field of criminal law need to become collaborators with the police. In many instances lawyers have to act as intermediaries to carry bribes to the police and to others. As a consequence they have to compromise on the rights of their clients. The worst is for those who refuse to play such a role as intermediaries. Such lawyers can be blackmailed and otherwise harmed in a way that the clients may feel that a search for justice has to be sacrificed for achieving compromises which may be the only relief they can find within the system.

This is worse for those lawyers who undertake cases against the authorities. They become direct targets for attack by the police or by others who may feel threatened by legal actions assisted by these lawyers.

### **The all-pervading bribery and corruption**

The following incident demonstrates the overwhelming problem of corruption affecting the administration of justice in the Asian region. A law student attended a lecture regarding the prevention of corruption given by a senior lawyer. The senior lawyer mentions many ways of avoiding corruption. The junior lawyer asked the question at the end of the lecture. "Sir", he asked, "when I join a chamber to practice law soon as I expect, if I am given some money by my senior lawyers to carry to the judge, what do I do?"

Perhaps this question sums up the awareness felt everywhere that corruption is all pervasive within their systems. Often dealing with crime becomes a business that benefits many parties, the police, lawyers and their touts and even sometimes judges.

When issues relating to human rights violations come up this corruption becomes even worse. A policemen accused of torture, for example may develop a relationship with a judge directly or indirectly, providing various benefits, even more than what ordinary clients can provide. Thus, while the case proceeds new relationships develop which will be benefiting some individuals and having extremely negative impacts on the entire system.

Under these circumstances the struggle against bribery and corruption should be part of the core agenda of the human rights movement. It is impossible to diminish the predominant position achieved by the police without developing anti corruption agencies which are outside the policing system. The Independent Commission against Corruption of Hong Kong (ICAC) is looked into with enthusiasm in many parts of the world as a credible model that needs to be assimilated into local legal systems.

### **The linkage between the promotion of economic, social and cultural rights and resolving the fundamental problems of the administration of justice**

The mode by which the majority of populations, who in the Asian context belong to lower income groups, are kept in a powerless position by the denial of the possibility of seeking justice within a functioning legal system also ensures that they have no capacity to assert their economic, social and cultural rights.

The question of entitlements in terms of economic, social and cultural rights can be meaningful only when the justice systems provide the capacity for those who are deprived of these rights to express their grievances and to find avenues through which they can bring pressure upon the state to improve these rights. To have a non-rule of law system with regard to civil rights also implies that the legal milieu that is needed to protect these rights is also absent.

By maintaining a defective system of the administration of justice semi slavery-like conditions can be maintained. The people who are deprived of their right to work need to find ways to highlight their condition and bring the attention of the authorities to resolve them. People who are deprived of rights to education and health need to have avenues through which they could influence public opinion and obtain the necessary measures recognised by the state to respect, protect and fulfill their rights. If the system of the administration of justice is so defective, various forms of reprisals will be allowed to exist in order to suppress people who demand bread, medicine, schools and basic protections for their young.

Without functioning systems of the administration of justice attempts to improve human rights protection can appear to be nothing but loud noise. Unfortunately in the countries of the region the ordinary folk react to the human rights discourse without much enthusiasm due to their

realisation that the systems of oppression that exist which are defective administration of justice systems will not allow them to enjoy these rights.

We therefore urge that the global human rights community seriously considers this issue in this season of celebration of the UDHR and arrive at conclusions which supports a human rights strategy which give a primary place for the institutional development for the achievement of human rights.

## Annexure 4

### **Criterion for the assessment of impact**

To judge the impact of advocacy on human rights in a particular context there are several aspects that need to be looked into and then to interrelate these different aspects.

These aspects are:

- a. The success of attempts at individual redress.
- b. Upholding values, principles and perspectives of human rights as against negative values of inequality, cruelty and inhumanity.
- c. The success in knowledge generation and knowledge dissemination.
- d. The success in generating public opinion of measures to improve various aspects of human rights.
- e. The success in influencing policies.
- f. The success in promoting legislation.
- g. The success in monitoring the implementation of legislation regarding human rights.

Let us take each of these aspects and analyse what each one involves:

#### **a. The success of attempts at individual redress**

The assessment of success in individual cases is not difficult. However, the degree of success often depends on particular circumstances.

An illustration: a person may suffer from a particular type of violation of his human rights. It may be a case of illegal arrest or detention, torture, denial of fair trial, the denial of the freedom of expression and assembly etc. Or it may be the denial of the right to food, water, health or education and the like.

When an individual case is taken by way of advocacy, either by urgent appeals or by interventions with the government or the UN we can soon measure whether there has been some impact. For example was the person, if arrested, produced before court or released. If tortured has the person been given medical treatment, have judicial medical officers examined him and made reports to be used in courts, has an inquiry into the matter started, has there been any prosecution, has there been any compensation, has there been any witness protection and has there been any final judgement from a court? If the judgement is unjust has it been appealed.

Like this for each violation of rights several questions can be asked and a review can be made through the contact persons who are relating to the victim and act as liaisons to the AHRC to find out such results.

It is also possible to ask, negatively, what more could have been achieved in relation to that individual case? What may have been the other means for achieving that and what else could have been done?

It is also possible to measure the advocacy methods used and the outreach to see whether such methods were used well. For example, urgent appeals, publication in the press, letters to governments and UN Rapporteurs, meetings, press releases and the like.

## **b. The success in knowledge generation and knowledge dissemination**

Why this is important. To achieve any change it is necessary to demonstrate the extent of the problem relating to any particular human rights issue. Very often only a vague idea of a particular problem exists in the public mind. For example, in a particular country people may say that forced disappearances are taking place. However, if one were to develop effective advocacy locally and internationally, it would be necessary to collect as much knowledge as possible about the extent of the problem, how forced disappearances are done and by whom, what limitations of law allows such things to happen, what are the are absences in the institutional framework that make it difficult to activate the institutions in order to deal with such problems and the like. It is also necessary to generate knowledge about the victim's details, the impact on their families, what the victims, their families and others are doing in order to get redress, what is the evidence regarding each individual forced disappearance, what is the treatment that the victims received when they tried to make complaints and a whole lot of such matters which are important if one is to work to change this situation.

It is not only about the violations that more knowledge is required but also about the political situation, the nature of the legal system, various agencies that can play a useful role in changing the situation and the like.

Without such knowledge advocacy is quite empty. Therefore in order to develop good materials that can play a useful role in generating public opinion, counteracting propaganda which denies such violations and also to get assistance from agencies such as the UN enormous amounts of knowledge needs to be created constantly.

How to judge the success of such attempts? The following are some ways of measuring this success.

- a. The quantity of information. If we know only five instances of torture or forced disappearances the same impact cannot be achieved as when we know about a hundred, two hundred or more instances of such violations. With more information on the numbers of cases the argument on the existence of the problem becomes stronger. It becomes difficult to deny the problem. Once the problem cannot be denied in an authentic manner there is more space for a more reasonable discussion to try to deal with the actual problem and to pursue measures to stop it. Thus, it is possible to measure success quantitatively in this way. While statistics can be useful it is more effective to have detailed records of as many violations as possible. Thus it is easy to measure whether progress has been made in this way.
- b. Qualitative measurements. Qualitative measurements of the knowledge that has been generated can be measured in many ways. Some methods are as follows:
  - i. If the available knowledge is published will it come under attack as inadequate, not credit worthy or as false. By constantly testing the information that one has by various forms of publications opportunities can be created for those who oppose such knowledge to challenge it and those who support the effort to provide more information which they may possess. If more public positions are taken on the basis of knowledge it is more likely that the knowledge will be tested and the quality can be measured. If the quality of the information reaches certain standards one has to assume that such knowledge will have its impact in many different ways in the short run as well as the long run.

- c. It is much easier to measure the information dissemination. The questions to be asked are:
  - i. How many people receive the publications of that knowledge?
  - ii. How often do the same people receive updates on the same issues?
  - iii. What are the authorities, local and international who receive such information?
  - iv. How is the information stored in a way that collected information is not lost.
  - v. How is the access to information to as many people as possible guaranteed?

All this can easily be measured in terms of the actual numbers of distribution, the distribution methods, particularly in terms of information technology, and where it is done through print media what is the extent of distribution. In modern times the potential for distribution with the least amount of cost exists. It is just a matter of measuring whether such possibilities are being used.

**c. Upholding values, principles and perspectives of human rights as against negative values of inequality, cruelty and inhumanity**

Human rights work involves a constant battle for the values on which the whole basis of human rights development rests. These values are equality, respect for the human dignity of all, justice, fair play and love for humanity.

The achievement of this has been part of the human struggle and therefore sharing these experiences in the context of the countries in which we work is part of the primary objective of our work. As some of the changes which have taken place in the west, like the democratic revolutions represented by the French, British and American democratic revolutions and changes which have become part of the culture of the west have not yet become part of the culture in our context. In most countries while there has been adjustment to modernisation the influence of the feudal cultures is very deep. These feudal cultures defer in different countries. For example in the context of south Asia the feudal culture was based on the caste system. The caste system regards inequality as an ideal and a basis for 'harmony'. Hierarchical values are preferred against equality. The idea of common humanity did not exist in the feudal culture in this context. People were divided into grades. This has been termed as graded humanity. Within that context the idea of rights does not exist. In the same way in cultures which are influenced more by Confucian values also hierarchy is a very strong element. However, as compared to caste based social values there is greater room for the acceptance of common humanity. However, equality and human rights still remain difficult areas. In each of these countries there is a need for constant engagement of the debate in order to keep the preference for values on which democracy and human rights are based.

Human rights education and publications are the main instruments of participating in these debates. The extent of such educational sessions and their quality and the extent of publications and their quality can be measured.

**d. The success in generating public opinion of measures to improve various aspects of human rights**

Factual knowledge on human rights alone is not adequate. The available knowledge needs to be analysed and various forms of materials need to be developed in order to influence public opinion, nationally and internationally. Thus, much work is needed at a communication level in order to prepare material for public debate. There are also many avenues for publication in order to participate in this public debate.

This is primarily a task of developing the capacities of communicators.

As the proof of the pudding is in the eating the measurement of the quality of publications for advocacy purposes the proof is by those who consume, that is those who read the material. In reputed publications articles and other writings which do not measure up to the required quality will not be published. One test therefore is to whether the publication of a human rights organisation is picked up by the media. The other test can be by the peers who are also fellow human rights promoters. They can compare as to whether particular articles, statements and reports compare with the better publications within the same field. For example in the human rights field if the publications meet the standards similar to those of Amnesty International, Human Rights Watch and the like that is an indication that the material has met the necessary standards.

If public opinion begins to appreciate the attitudes of a human rights organisation this will be a measurement of success. For example at one time there may be no public debate at all on torture or all references may amount to denying the existence of torture or justifying it on some grounds. If after a human rights organisation works on that issue for some time and in the public debates the issue of torture surfaces then that indicates the impact of the work of the organisation. If after some time the subject of torture becomes frequent in the public debate then that is an indication that the impact is significant. If at a later stage the measures for stopping torture begins to be part of the public debate then the impact has been much greater. If the public education makes the prevention of torture assimilated into its educational system then the impact is even greater. Like this it is not difficult to measure the impact on public opinion on any given aspect on human rights. The case of torture was used here only as an example.

#### **e. The success in influencing policies**

The more difficult areas of human rights work in the countries where rule of law is in crisis is in the area of transforming public opinion into public policy.

Let us take some examples.

1. In the Philippines there some degree of agreement that torture must be made a legally recognised crime. However, to develop a policy line agreed by the government to bring about a law to achieve this end has not yet succeeded.
2. In Pakistan, India, Nepal, Sri Lanka, Philippines and several other countries there is public opinion against forced disappearances. However, to get a policy line accepted to ratify the UN convention against forced disappearances or to bring about a local law to make causing forced disappearances a crime has proved elusive.
3. In many countries there is public opinion that corruption should be eliminated. However, to develop a policy line accepted by the government that proper legal measures and institutional measures should be developed in order to eliminate corruption is a very difficult policy line to get approved. Like this in every aspect of human rights there needs to be agreement at policy level by the government and the opposition if certain important issues can be raised to the level of national policy for implementation.

An advocacy group can advocate such policies. The advocacy level itself can be measurable. However, the success of implementation can be measured only by the extent to which there is a discussion at the policy making bodies on these issues. This too is measurable.

**f. The success in promoting legislation**

At any given time a number of instances where a particular form of legislation in favour of the protection of a rights is limited. Therefore it is not difficult to measure what are the laws that a particular organisation has done advocacy for and how far such advocacy has been able to succeed. At this level it is essential to realise that this kind of work takes a long time in the particular context of countries where successes can be achieved. One could measure however as to whether there has been an improvement of attitudes favouring such legislation or not.

**g. The success in monitoring the implementation of legislation regarding human rights**

This is the area in which human rights organisation can play a greater role and their work can be measured. In fact, this monitoring work is related to what is stated about under The success of attempts at individual redress.

By monitoring individual cases and analysing the extent of redress that has been achieved it is possible to measure how much attempt has been made to implement the legal measures relating to the implementation of legislation on human rights.

It is also possible to measure this by studies. Each legislation can be taken and studied to see how far it is implemented.



## Annexure 5

### **On Administration of Funds, Budgets and Programmes**

#### **Introduction**

The AHRC/ALRC are *donor dependent* organisations – meaning that the entire expenditure is derived from donors. We do not have any other income sources. However, we are not *donor driven* organisations

What is the distinction between *donor dependent* as against *donor driven* and that are the implications.

A donor driven organisation carries out a task decided by the donor. The AHRC/ALRC are not organisations where the tasks are decided by the donor. The tasks are decided by the organisation and they are written into work programmes. The work programmes are entirely a product of the organisations. What the organisation wants to do and how it wants to do it are things that are decided by the organisation.

However the programme costs are given by donors

At the stage of entering into agreements with the donors the AHRC/ALRC submit the work proposals and the donor organisation go through the proposal and agreements are thus reached to support the programme we have submitted. Thus, there are the following elements of importance:

- a. Programme development by the AHRC and ALRC.
- b. Submission of these programmes to funding agencies
- c. Arriving at agreements which are then developed into contracts
- d. Implementation of the contracts by the AHRC/ALRC
- e. Submission of reports on implementation together with detailed accounts to the donor/s
- f. The donors right to examine and decide whether the work and the funds are spent in the manner that was agreed on

#### ***When do the AHRC and ALRC write their work programmes and budgets?***

The AHRC/ALRC write their work programmes every three years and sometimes at the requests of some donors every four years. At that stage the basic programmes for the coming period (3-4 years) are written and calculations are made on the prospect of costs.

#### ***How are work programmes written?***

In recent years work programmes have been written in consultation with all the programme and desk officers. They are asked to submit what they suggest to do during the period. These different proposals are brought together into one document and the administration calculates the expenses for the proposals and develops the programmed budget.

Usually the programmes for the coming three years are developed on the basis of the programmes of the earlier three years. If there are new developments and if there are needs for adjustments these adjustments are made on the basis of the previous year's experiences.

If there are new items of work they should be added at the new development of the three year programmes

### ***Can we change programmes?***

Once we enter into agreements we cannot unilaterally change any programme or a budget. If there are serious reasons to change anything we have to get back to our donors and get their consent for any change. While for some minor matters this may be possible any significant change in the programme is a difficult task for many reasons. It involves the reconsideration of the whole programme by all the authorities of the donor organisation and then serious reasons need to be given as to why the programme was initially thought as important and now what is the reason for the change. Thus we agree with a programme we have contractual obligations which are legally and morally binding.

### ***How to add new programmes which are outside the general 3 or 4 year programme?***

This can be done only if new donors are found to support the new project. For example there are two projects which we do which are outside our previous three year programme which are related to a UN funded programme in which we are partners with some other organisations. These new programmes do not carry any burdens to our donors in our regular three or four year programmes.

Another way of adding programmes is at the time of preparing the 3- 4 year programmes and taking the matter to the donors on the new items. If they agree to fund these programmes these can be added.

### ***Can we change budgets?***

We cannot change any of the approved budgets except with the express consent of the donors. Therefore we do not have discretion of utilising funds as we would wish in different times. We have to stick to our budget lines as given to our donors.

### ***What is the usual mode of donor approval of funding proposals?***

- a. Desk officers in charge of matters relating to our organisation accept and evaluate our programmes and make their proposals to the authorities of the donor organisation
- b. Authorities of the donor organisation have their own ways of evaluating the proposals and thereafter they express their willingness or otherwise to support the proposals.
- c. Finally all proposals need the approval for the highest authorities of the donor organisation meaning the governing body of the board.

### ***Managing funds***

In managing funds the AHRC/ALRC has the following obligations:

- a. Maintain with the organisation a credible book keeping system
- b. That an independent auditor audits all our accounts and submits an independent report about income and expenditure.

### ***Bookkeeping***

The bookkeeping function in the organisation is done by the administration which maintains:

- a. A record of all incomes and expenditures.
- b. That they maintain and preserve all the vouchers receipts and other documents relating to the expenditures.
- c. ***Authorisation: That they take authorisation for any of the expenditure and the monitoring of transactions. This authorisation can be given only by the board of the AHRC/ALRC and it has been delegated to the executive director to approve the expenditure. Then two persons authorised by the board which includes one director of the board signs all cheques. The administration cannot grant authorisation themselves that is the reason why the admin directs the staff to contact the Executive Director for approval. This is not a matter of hierarchy it is a matter of a legal obligation.***
- d. Our administrative division has done their job of bookkeeping and keeping of accounts excellently and in a recent evaluation by the Centre for the rehabilitation of torture victims there is the following comments:  
***"The Financial Management System of the project account in Hong Kong is well maintained and no problems were detected at AHRC. The AHRC staff maintaining the system is all well qualified;" (RCT Report Oct.2008)***

### ***Contributions to core funds or specified funds***

The donors at the time of entering into agreements indicate whether the funds they approve can be used for the core fund or specified funds. The core fund means the budget for all the important activities of the organisation. The donors consent that their donation can be used for the entire project. As one single donor cannot cover the whole cost of the project many donors contribute to the core fund so that the entire project can be run on that basis. The obligation of the AHRC/ALRC is to show in our audited reports the expenditure for the whole project and the contributors to the project.

A specified fund is one where the donor states that the money should be used for a specified purpose. For example the donor might say that the money should be used for torture elimination or one specified country. In these instances the expenditure of such donations should be confined only to the specified purpose and the accounts should show how the money is spent for that specified purpose.

### **The implications of all the above consideration on the AHRC/ALRC**

- a. It means first that we are not in any way a profit making organisation.

- b. That we are not also a corporate body as the work programmes and ethics of a corporate body is based on profit making.
- c. Our organisations consist of activists who out of their own choice wish to engage in activities related to the protection and promotion of human rights and the donors support these activists in order to achieve their choices by providing the funds which enable them to engage in that work. On both ends that is from the point of view of the activists and the donors the relationship is one of a voluntary nature. What brings the activists and the donors together is the agreement between both that the objectives pursued by the association and the activities are of such value that it is worth spending their efforts and their contribution for those goals.

## **Initiatives**

The gap between creativity and funds

Since 1995 we have developed by the use of our creative energies an enormous amount of work on limited funds. Over the years the funds have increased and so also have the activities. The activities have also brought new staff and there has also been an expansion of the staff. Thus, the expansion has not been accidental and happened on the basis of programme development and execution with continuous and increased support from donors.

However, between our creative energies and the extent of funds we can raise there will also be a huge gap. In the past this gap was resolved by the staff performing multiple functions. A staff member may be paid for one particular job but does many jobs for which the funds cannot be found. If we waited to find funds for all our activities as they would do in the corporate sector many of the activities would never happen. ***Thus, the idea of staff engaging in multiple functions has been at the very core of our organisational struggle.***

Multiple functioning means that the same person may be doing several jobs. For example one person may be a desk officer and at the same time working also for a particular country. One person may have to do the functions of administration, planning, advocacy, monitoring, working on a particular country and many other things. In an earlier note on the organisation structure we showed a number of functions done by many of the staff members.

## Annexure 6

### AHRC Policy development relating to communications

In November 1994 when we started the new orientation in the AHRC it was discussed by the only two persons who were working for the organisation at the time, myself and Sanjeewa Liyanage, that one of the most important pillars of the new orientation will be the importance given to the communications relating to the protection and promotion of human rights.

This policy was based on the following considerations. The type of human rights problems that exist in the countries in which we were working and continue to work were little known to the rest of the world, even to the UN circles involved in human rights, the international human rights organisations like Amnesty International, Asia Watch and the like and therefore enjoyed very little discussion. **What takes place often are generalised discussions on human rights based on principles rather than concrete knowledge about actual incidents take place and the causes for such violations. Later we termed this kind of analysis as the micro approach as against the macro approach.** The countries in which we were working at that time were Sri Lanka and Cambodia. At that time Sri Lanka had experience over 30,000 forced disappearances and in Cambodia there was a situation where during the Pol Pot period the entire institutional structure was destroyed. We were deeply aware of the situation of these countries and felt that in the global discussions the actual realities of these countries were unknown to the outside world. The question for us was how to bring these aspects to the human rights debate and discussion.

**There were no financial resources available to the organisation at that time. There were also very little resources in terms of manpower. How the two of us were going to deal with this vast task of bringing this kind of information to others so that they might recognise these problems of human rights issues. There was only one way possible and that was to get into extensive writing and to distribute this writing to as many people as possible.**

At the time this was not possible on the basis of financial resources. The only possibility was to develop the new technology that was developing that was cost effective. Personal computers were becoming more widely used and email was in its infancy and websites were not commonly utilised. We decided that all our communications should be done through email networking and for this purpose we organised our setup in such a way that we could have email networks with whom we could share out information. At the same time it was necessary for us to create our own information constantly so that the actual situations that we came to know of could be disseminated so as to improve the discussion on human rights on the basis of concrete realities. We then set out to put this policy into effect immediately.

This was the strongest point of an organisation that was hardly active at this time to regain its activism and to build linkages and communicate the message that we were going to play an active role in human rights work in the region.

In doing this we were aware of the enormous potential that could be opened up in the communication world for civil society organisations due to the new technologies. We knew that for civil society organisations the mainstream media was not a real option for promoting human rights work. The question about media in human rights work was common among civil society organisations. Some organisations were trying to gain a greater capacity to gain access to the mainstream media and were very often disappointed. **At the AHRC we analysed this issue and were of the view that we would never succeed in getting large scale space in the mainstream media for human rights work.**

The news in the mainstream media was very different. This idea is based on various considerations and is driven by commercial interests. For commercial interests issues relating to human rights are of little importance. Now and then some aspects of human rights might receive attention like an article appearing now and then in the South China Morning Post, for example about Sri Lanka or Cambodia. But these were not a regular form of information sharing on the issues concerned. In short the main interest of the mainstream media and those trained to use the mainstream media are different to those who are involved in human rights work or civil society work in general. **Therefore, if we are to be communication effective then we should communication capacities of our own which cannot be achieved to a significant degree in the mainstream media.**

Many organisations had small networks where they would distribute their newsletters or books that were published periodically. These newsletters were reaching a few hundred people and were only printed occasionally. Day to day publication was not possible with the print media due to the costs involved.

Though print media was difficult to achieve for a small organisation from the point of view of costs and the work entailed it was possible to achieve regular publications through the internet. **What were required were a new type of mental orientation, skill development and the development of communication capacities. We engaged ourselves in acquiring all those skills so that we would be able to publish on a day-to-day basis issues of concern to us without depending on mainstream or print media. This was a major concern of the organisation at the time which was not only thought about but which was put into practice.**

In doing this work we realised very much that at that early stage that it was not just a lack of concrete information on the countries that was missing in the human rights discussion but also the analytical approach. Human rights work at the time consisted more of propagating the principles of the UN conventions and analysing as to why the principles were not being practiced in various countries. We understand that problems relating to the development of institutions and the ways of dealing with these problems should become a central part of the human rights discussion if we are to achieve our goal of trying to develop human rights work relevant and useful to our part of the world. **This kind of analysis of the relationship between the human rights principles and institutions was not permanent at all during the time. For example people would talk about the need to eliminate torture but would not discuss in detail why it was taking place in certain countries. Therefore we also needed constant analysis on these issues and we shared this analysis so that the debate on human rights would be intensified in the process of the sharing of information.**

Related to this issue was the idea of analysis of what it meant by created awareness of human rights. At the time in everyone's jargon there was the words 'creating awareness of human rights and creating the empowerment of the people'. However, what did all this mean? We found that very often there wasn't much content in such words. **For us we developed the awareness of the problems as to why these rights are denied to the people and awareness by way that such obstacles to human rights could be overcome and how the people themselves could improve their knowledge of these problems so that they could deal with them on their own. Empowerment for us meant that the people themselves had a poor knowledge about their problems because they had not thought of these problems enough. We tried to encourage the thinking of the people on these problems so that a new consciousness could arise and begin to dominate the discussions on human rights.**

It was on that basis that we tried to find other ways of doing this. This was the folk school concept in Denmark under **the N.F.S. Gruntvik school of thought**. We made extraordinary effort to understand this movement and brought this consciousness into our work. Our early work on human rights education was called Folk School Education. This folk school education was incorporated and a book was written under the title of **Demoralisation and Hope** with the idea to bring this area of thought to our work. Therefore we made a deliberate attempt to bring this approach to communications based on historical work of civil society organisations of the past. Thus the idea of awareness building of consciousness was the awareness of the people themselves discussing their own concrete problems and coming to terms with why certain things were happening to their lives and countries and thereby developing strategies to deal with them.

We also realised at that very early stage that in order to do this we would have to develop more contact with people in other countries outside Sri Lanka and Cambodia where we were working at that time. **We also realised that we needed to create a new type of human rights activist. Human rights activists of the time were not prepared to undertake the type of tedious work of the documentation of the causation of human rights violations.** We decided that through our training programmes and by other means to get in touch with other people and gradually train the people from these countries to play a key role in developing this in their work. **This was the process through which the country work developed in the AHRC. It took considerable time to develop local human rights activists from these countries to come closer to us so that we could impart our methodologies to them so that they could do this type of work relating to studies of causation of human rights violations.**

In all this work, in order that our work would not be lost sight of or once again suppressed by the macro approach which is the dominant approach of the developed countries we had to remain vocal all the time. **It is extremely difficult to bring a new approach to human rights work or any work in particular when there are more dominant modes at work in that field. We had to demonstrate to people that their system had certain defects and that we were able to bring a new approach, which if properly understood they could also support and that we could gradually begin to change the global approach to doing human rights work.** This has been partly achieved in recent times.

The fact that we approach our work differently from other organisations is well known in the human rights field. We have made a significant contribution to the overall human rights field and **the basis on which we did this was an overall approach to understanding that the only real tool available to us in order to be affective is the modern communication technology alone and that we should utilise this actively. Therefore it is a unique feature of the AHRC work that we gave so much importance to advocacy based on communications. This is not an approach usually followed by any other organisation.**