

**ASIA PACIFIC FORUM OF  
NATIONAL HUMAN RIGHTS INSTITUTIONS**



**“a partnership for human rights in our region”**

**REPORT OF THE SIXTH ANNUAL MEETING OF THE  
ASIA PACIFIC FORUM OF NATIONAL HUMAN RIGHTS INSTITUTIONS**

**COLOMBO, SRI LANKA**

**24-27 SEPTEMBER 2001**

The Asia Pacific Forum of National Human Rights Institutions gratefully acknowledges the support provided by donors including the United Nations Office of the High Commissioner for Human Rights and the Australian and New Zealand Governments

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## 1. SUMMARY

The Asia Pacific Forum was established in 1996 following the inaugural Regional Workshop of National Human Rights Institutions which was held in Darwin, Australia. The second Regional Workshop was held in New Delhi, India from 10 to 12 September 1997, the third annual meeting took place in Jakarta, Indonesia from 6 to 9 September 1998, the fourth annual meeting took place in Manila, the Philippines from 6 to 9 September 1999 and the fifth annual meeting took place in Rotorua, New Zealand from 7 to 9 August 2000.

The Sixth Annual Meeting of the Asia Pacific Forum of National Human Rights Institutions was held in Colombo from 24 to 27 September 2001. The Human Rights Commission of Sri Lanka hosted the Meeting. The Secretariat of the Asia Pacific Forum of National Human Rights Institutions provided organisational support. Financial assistance was provided by the Office of the United Nations High Commissioner for Human Rights, the Government of New Zealand through its Overseas Development Assistance program and the Government of Australia, through its international aid agency, AusAID.

The National Human Rights Commission of Mongolia was formally accepted into the Forum, increasing the Forum's membership to nine.

The Sixth Annual Meeting was held over four full days beginning with a two day private meeting of its member institutions and the United Nations Office of the High Commissioner for Human Rights which provided an opportunity for extended discussion of the Forum's management, its functioning and future needs.

The Chief Justice of Sri Lanka, the Hon Justice Sarath N. Silva opened the meeting. Participants included senior representatives of the nine national human rights commissions that comprise the Asia Pacific Forum and the Regional Representative of the United Nations High Commissioner for Human Rights. Observers at the Meeting included representatives of regional governments, relevant institutions, inter-governmental organisations and numerous representatives of non-governmental organisations from the region and beyond.

The special theme for the Meeting was *The Role of the Asia Pacific Forum in the Promotion and Protection of Human Rights*. The keynote speakers were the Hon Justice Sarath N. Silva, Chief Justice of Sri Lanka and Justice P N Bhagwati, Regional Representative of United Nations High Commissioner for Human Rights and Chairman of the United Nations Human Rights Committee.

The objectives of the Meeting were to consolidate and build on the program of practical, co-operative activities developed by the Forum to strengthen the functioning, and assist in the development of regional national human rights institutions.

The Sixth Annual Meeting also enabled Members to approve the adoption of a new Constitution as recommended by the Working Group for the legal incorporation of the Forum. The Working Group was established by Members at the Fourth Annual Meeting in 1999. Forum members also discussed its strategic direction and determined its mission and vision statements as well as key strategic priorities. Forum members agreed to develop evaluation and feedback mechanisms to ensure that the Forum's priorities are being achieved.

Under the new constitutional arrangements the Human Rights Commission of Sri Lanka was unanimously elected to the position of Chairperson of the Forum. The National Human Rights Commission of Nepal and the New Zealand Human Rights Commission were also elected to the two positions of Deputy Chairpersons.

The Meeting reviewed and endorsed the Forum's activities over the past twelve months and provided member commissions and participants with an opportunity to discuss a wide range of issues related to the protection and promotion of human rights in the Asia Pacific region.

Forum Members also addressed the work of the International Coordinating Committee of National Human Rights Institutions and the involvement of Asia Pacific national institutions in the international human rights system. Forum members elected the Australian Human Rights and Equal Opportunity Commission, the Fiji Human Rights Commission, the National Human Rights Commission of India and the Philippines Commission on Human Rights to be the four regional representatives to the International Coordinating Committee of National Human Rights Institutions.

Forum Members agreed on action on a number of important matters including: a commitment to developing a reference on trafficking for the Advisory Council of Jurists; a decision to hold a regional workshop in 2002 on trafficking with a focus on HIV/AIDS, internal displacement and the rights of women; and a commitment to seek funds for a regional workshop on the ratification of the Rome Statute.

A highlight of the meeting was the official launch of the Forum Video Documentary, featuring the work of the National Human Rights Commissions of India, Indonesia and Fiji.

The Meeting adopted a comprehensive Statement of Conclusions that reaffirmed the Forum's commitment to promoting the development of national human rights institutions in conformity with the Paris Principles.

The Forum accepted with gratitude the offer of Nepal to host the Seventh Annual Meeting in 2002.

## 2. BACKGROUND TO THE MEETING

The Asia Pacific Forum of National Human Rights Institutions (the Forum) was established in July 1996 following a Regional Workshop held in Darwin, Australia. That Workshop involved four of the five national human rights commissions that had been established in the Asia Pacific region at that time, as well as representatives of regional governments and non-governmental organisations. The four national human rights commissions were those of Australia, India, Indonesia and New Zealand.

The inaugural Workshop adopted the *Larrakia Declaration*, which set out some basic principles to guide the work of the Forum in promoting the development and strengthening of regional human rights commissions. Two key elements underpinning the Forum's activities are a commitment to the United Nations *Principles Relating to the Status of National Institutions* (the Paris Principles) and a commitment to the universality and indivisibility of human rights. The *Larrakia Declaration* also set out an agreed basis on which regional human rights commissions would co-operate to promote the observance of human rights within the Asia Pacific region.

The four inaugural member commissions of the Forum were subsequently joined by the Philippines Commission on Human Rights, the Human Rights Commission of Sri Lanka, the Fiji Human Rights Commission, the National Human Rights Commission of Nepal and the National Human Rights Commission of Mongolia. This group of nine currently comprises the membership of the Forum. The Australian Human Rights and Equal Opportunity Commission currently hosts the Secretariat of the Asia Pacific Forum.

The New Zealand Human Rights Commission hosted the Fifth Annual Meeting in Rotorua from 7 to 9 August 2001. That Meeting saw a number of important outcomes, notably: 'in principle' approval of resolutions recommended by the Working Group for the legal incorporation of the Forum; the admission of the National Human Rights Commission of Nepal as the Forum's eighth member; the development of a coordinated position in preparation for the World Conference Against Racism, Xenophobia and Related Intolerance; and the inaugural session of the Advisory Council of Jurists lead by its then President, Justice Silvia Cartwright, which saw the development of reports on the death penalty and child pornography on the Internet

The Sixth Annual Meeting took place over four full days, beginning with a two day closed business session of its member institutions which provided an opportunity for extended discussion of the Forum's management, its functioning and future needs. The Forum Secretariat produced a substantial number of background papers and other documentation designed to assist discussions during the Meeting and to propose concrete courses of action in a number of priority areas.

### **3. OBJECTIVES OF THE MEETING**

Annual Meetings of the Forum have become a key regional human rights initiative in bringing together national institutions, non-government organisations, United Nations agencies and governments.

The Meeting had two main objectives:

- to promote cooperation among, and strengthening of, national human rights institutions in the Asia Pacific region through (a) enabling discussion of issues (b) facilitating joint activity on issues and in areas of mutual interest and commitment, and (c) encouraging the development of joint projects, training programs and staff exchanges;
- to encourage and assist those States that are in the process of establishing national human rights institutions or have taken concrete steps to initiate this process through, *inter alia*, the provision of practical assistance and support.

In addition to meeting these objectives, the Sixth Annual Meeting provided an invaluable opportunity for the exchange of ideas and experiences among the diverse group of participants.

### **4. MEETING AGENDA**

The agenda for the open meeting provided for two full days of discussion in plenary sessions.

The key issues addressed by the Meeting were:

- The role of the Asia Pacific Forum of National Human Rights Institutions in the promotion and protection of human rights;
- The needs of newly established national human rights commissions – with individual contributions from the Fiji Human Rights Commission, the National Human Rights Commission of Nepal and the National Human Rights Commission of Mongolia;
- Non government organizations and national human rights institutions;
- HIV/AIDS and Human Rights – Issues for National Human Rights Institutions;
- Gender Issues for National Human Rights Institutions;
- Regional human rights issues including the activities of the High Commissioner for Human Rights and recent developments in regional States considering the establishment of national human rights institutions;

- Racism, Racial Discrimination, Xenophobia and Related Intolerance – report back on the outcomes of the World Conference in Durban, South Africa;
- Advisory Council of Jurists – a report back on the Inaugural Session Reports and Development of a Reference on Trafficking;
- Internal Displacement, the Guiding Principles and National Human Rights Institutions – a focus on the Sri Lankan experience;
- A review of the Forum’s operations over the past year focusing on its technical cooperation activities, information dissemination and administrative support to members and other institutions, regional activities, country based projects and participation in international meetings.

In addition, the host Commission provided participants with a briefing on the role, functions and activities of the Human Rights Commission of Sri Lanka. As in previous meetings, each agenda item was chaired by a different Forum member institution. The Forum Secretariat introduced each item before general discussion. A feature of the Meeting was the contribution of non-governmental organisations which co-ordinated their comments and presented joint statements to each plenary session.

The agenda for the Meeting is at Annex 1.

## **5. PARTICIPATION**

The Human Rights Commission of Sri Lanka hosted the Sixth Annual Meeting and was represented by its Chairman, Mr Faisz Musthapha P.C., fellow Commissioners and staff. Chief Commissioners and Commission Presidents as well as senior Commissioners and Directors represented the national human rights commissions of Australia, Fiji, India, Indonesia, Mongolia, Nepal, New Zealand and the Philippines. The Forum Secretariat was represented by its Director and staff.

The Hon Sarath Silva P.C., Chief Justice of Sri Lanka opened the meeting and also addressed the opening session of the meeting. Justice P N Bhagwati, Regional Representative of United Nations High Commissioner for Human Rights and Deputy Chairperson of the United Nations Human Rights Committee, represented Mrs Mary Robinson, United Nations High Commissioner for Human Rights. Other guest speakers included Justice Shiranie Thilakawardhana of the Sri Lankan Court of Appeal and Dr Iyanthi Abeywickrema, Director of the STD Program at the Sri Lankan Ministry of Health.

A large number of observers attended the Meeting. The following regional governments were represented: Australia, China, the Republic of Korea, Laos, New Zealand, Papua New Guinea, Samoa and Sri Lanka. The Forum heard statements from representatives of observer delegations from Australia, China, Korea, New Zealand, Papua New Guinea and

Samoa. It welcomed commitments by many to establish national human rights institutions in accordance with the Paris Principles and to strengthen existing institutions.

An observer representative also attended from the National Human Rights Commission of Malaysia.

Representatives of the United Nations High Commissioner for Refugees and the United Nations Development Program attended the meeting.

Non-governmental organisations (NGOs) were represented by international, regional and national organisations. International NGOs participating in the meeting were: Amnesty International, the International Commission of Jurists and the International Committee of the Red Cross. Regional NGOs at the meeting were: the Working Group for an ASEAN Human Rights Mechanism, the Asian Forum for Human Rights and Development, the Asian Human Rights Commission, the Canadian Human Rights Foundation, and the South Asia Human Rights Documentation Centre. National NGOs from Australia, Indonesia, Sri Lanka and Thailand also participated.

A representative from the Asia Foundation also attended the meeting. The full list of participants is contained in Annex 3.

## **6. PRIVATE MEETING OF FORUM MEMBERS AND THE OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS**

The Sixth Annual Meeting began with a two-day business session of its member institutions and the Office of the High Commissioner for Human Rights, a practice initiated at the Fourth Annual Meeting in Manila.

### **General Business**

Issues of business addressed included: the consideration and acceptance of the Report of the Working Group on Legal and Governance Issues – including the Draft Constitution and Proposed Resolutions; the consideration and acceptance of the application for membership from the National Human Rights Commission of Mongolia; a report from the April 2001 meeting of the International Coordinating Committee of National Institutions; discussion regarding the process and timeframe for the drafting and developing of the Statement of Conclusions for this meeting; and the acceptance of the invitation of the National Human Rights Commission of Nepal to host the Seventh Annual Meeting in 2002.

### *Report of Forum Working Group on Legal and Governance Issues*

The report of the Working Group on Legal and Governance Options included four separate documents:

1. Business Plan 2001 to 2004
2. Draft Constitution
3. Explanatory Memorandum
4. Proposed Resolutions

Extensive discussions between Forum members resulted in members providing support for the report's recommendations, including:

**Resolution 1:** Adoption of the Constitution (amended as *That the members of the Forum adopt the constitution including the amendments proposed by India*)

Amendments proposed by the National Human Rights Commission of India were approved by Forum members. These amendments included:

Clause 3 should be renumbered as 3.1

3.2 Notwithstanding what is herein contained, the independence, authority and national status of each of the initial members and their powers, duties and functions shall in no way be affected by the establishment of this Forum and its incorporation, or its functioning.

13.7 (a) Decisions at general meetings should, as far as possible, be arrived at by consensus.

Present 13.7 (a) should be changed to 13.7 (a-1)

13.7 (a-1) Add at the beginning: "Where there is no consensus."

Add at the end: "However, when such a decision pertains to the policy or principles governing a human rights issue, any full member who disagrees wholly or partly with such a policy and/or principle may record its dissent/reservation specifying the area of dissent or reservation."

**Resolution 2:** Appointment of Forum Councilors

**Resolution 3:** Appointment of Agent and Incorporation

**Resolution 4:** Election of a Chairperson (amended as *That the members of the Forum council as per rule 14.10*)

**Resolution 5:** Election of Deputy Chairpersons

**Resolution 6:** Committee of Councilors – (resolved that the content of Resolution 6 be considered at the first meeting of the Forum Council)

**Resolution 7:** Advisory Committees – (resolved that the content of Resolution 6 be considered at the first meeting of the Forum Council)

**Resolution 8:** Appointment of Secretary

**Resolution 9:** Registered Address

Forum members resolved that those institutions that do not have the immediate authority to sign the Constitution, sign by 30 November 2001.

#### *Admission of New Members*

The National Human Rights Commission of Mongolia was admitted to the Forum subject to formalization by the Forum Council.

An application for membership had been received from the National Human Rights Commission of Thailand however Forum members resolved that decisions regarding Thailand's application be deferred in light of their absence from the meeting and the lack of supporting documentation.

#### *Election of representatives to the ICC and one regional representative to the ICC Accreditation Sub Committee*

Forum members elected the Australian Human Rights and Equal Opportunity Commission, the Fiji Human Rights Commission, the National Human Rights Commission of India and the Philippines Commission on Human Rights to be the four regional representatives to the International Coordinating Committee of National Institutions. Forum members agreed that these positions should rotate among all members of the Forum and requested that the Secretariat develop guidelines on the rotation process for the consideration of Forum members.

#### *Seventh Annual Meeting of the Forum*

Forum members accepted the invitation of the National Human Rights Commission of Nepal to host the Seventh Annual Meeting in 2002.

### **Strategic Planning and Directions: Business Plan 2001-2004**

The Business Plan prepared by the Secretariat, outlines the process by which the Forum implements its core and project operations and advances to its next level of development. In the course of discussions about the Business Plan the following suggestions and comments were made:

#### *Regional Staff Exchange Program*

- The Secretariat should write to all members asking for information on their skills base and also their skills requirements and information on staff exchange programs currently in place;
- The program should focus on issues of common concern between members;
- The Forum may wish to consider the involvement of the United Nations Volunteer program.

### *Trafficking*

- An emphasis on information collection and sharing between national human rights institutions is important;
- Recognition of the connection between trafficking and migrant workers;
- The OHCHR is establishing a special rapporteur on trafficking.

### *Human Rights Education*

- Greater use of the internet and the Forum's website to provide information about member institutions and recent judgments.

### *Other programs*

Forum members raised the possibility of the Forum doing work in other areas, including hepatitis (which is more prevalent in many areas than HIV/AIDS) and the development of a program on complaint handling.

### **Election of Office Holders**

Forum members discussed the process for the election of office holders once the Forum is incorporated. It was resolved unanimously that the position of Chairperson of the Council would be held by the institution hosting the Forum's annual meeting. The two positions of Deputy Chairperson would be held by the immediate past host of the annual meeting and the host of the forthcoming annual meeting. The Human Rights Commission of Sri Lanka was elected unanimously as the Chairperson of the Council. The New Zealand Human Rights Commission and the National Human Rights Commission of Nepal were both elected to the positions of Deputy Chairperson.

Forum members discussed and amended the Mission Statement, the Vision Statement and the Key Thrusts which were all unanimously adopted as follows:

#### Mission Statement

***The Forum is an independent non-profit organisation that supports, through regional co-operation, the establishment and development of national institutions in order to protect and promote the human rights of the peoples of the region.***

#### Vision Statement

***The Forum will be the pre-eminent human rights organisation of National Institutions in the Asia Pacific region by:***

- ***being representative of the area***

- *encouraging and widening its membership*
- *supporting the activities of its members through human rights capacity building*
- *encouraging co-operation within and outside the region*
- *securing sufficient funding for its activities*
- *being the best managed organisation in its class*

### *Logistics and Communications*

Forum members discussed how to facilitate effective communication between the Forum Council and made the following recommendations:

- The use of video conferencing;
- The use of regional workshops to bring together Forum Councilors;
- Forum councilors to nominate a contact person for their organization to receive official Forum papers; and
- The use of e-mail for immediate communication and airmail postal services for official correspondence.

The Forum members agreed to sign their in-principle assent to the Constitution at the Opening Ceremony on Day Two.

## **7. OPENING CEREMONY**

Delegates to the Sixth Annual Meeting were welcomed with a traditional ‘lighting of the lamp.’ The Chief Justice of Sri Lanka, the Hon Sarath Silva PC opened the Meeting and delivered the Keynote Address. The Regional Representative of the United Nations High Commissioner for Human Rights, Justice PN Bhagwati, and the Chairperson of the Human Rights Commission of Sri Lanka, Mr Faisz Musthapha PC delivered brief messages.

Chief Justice Sarath Silva’s address expressed support for the work of the Asia Pacific Forum and its focus on regional cooperation. The Chief Justice focused on the complementary relationship between the courts and national human rights institutions. He emphasized the importance of both the judicial process and the process of national human rights institutions in “preserving, upholding and ensuring due compliance with the Fundamental Rights of people.” The Chief Justice also addressed the issue of public education and the important role that national human rights institutions have in educating public officers about upholding minimum human rights standards.

Justice Bhagwati, speaking on behalf of the United Nations High Commissioner for Human Rights, Mrs Mary Robinson noted that the Forum is an institution to emulate in other regions of the world. Acknowledging the adoption of the new constitution by Forum members during their two day closed meeting, Justice Bhagwati noted that the Forum is at a very important stage in its development. He congratulated the Chairman of

the Human Rights Commission of Sri Lanka on his institution's appointment as Chair of the Forum and those of Nepal and New Zealand for their appointments as Deputy Chairpersons.

Justice Bhagwati encouraged national institutions to work with treaty bodies and United Nations special mechanisms to ensure state compliance with those commitments they have made. He noted that the challenges facing national human rights institutions in the region are demanding and that "it is crucial that the governments of the region...reach out and provide financial support, in whatever amount possible, to this unique regional instrument for the promotion and protection of human rights."

The Chairman of the host institution and the Chairperson of the Forum, Mr Faisz Musthapha PC noted the great diversity of social, economic and political development amongst countries in the Asia Pacific region. He emphasised the need for an integrated approach to human rights, "recognising the indivisibility of civil, political and cultural rights." Mr Musthapha welcomed the Sri Lankan Commission's new role as Chairperson of the Forum in its new form and status and called on fellow members for continued guidance and support.

## **8. OUTCOMES OF THE MEETING**

The Meeting addressed a diverse agenda of specific human rights issues and reviewed the Forum's activities over the past twelve months. The Meeting provided member commissions and participants with an opportunity to discuss, and exchange information on practical means for improving the protection and promotion of human rights in the Asia Pacific region.

During the Meeting Forum members also made decisions on specific actions which the Forum and member institutions will undertake in the coming year. The Meeting formalised its deliberations and decisions by adopting a comprehensive Statement of Conclusions. The full text of the Statement of Conclusions is at Annex 2.

In addition to the Statement of Conclusions, the Meeting produced a substantial collection of papers prepared by the Forum Secretariat. These provide valuable background information and analysis of the main agenda items and are available on the Forum web site at <http://www.apf.hreoc.gov.au>

The following information summarises the decisions made by the Forum at its Sixth Annual Meeting:

### *The Forum's operations*

#### The Forum

- *considered* the report of the working group appointed at the Fourth and Fifth Annual Meetings to examine issues associated with the legal and governance structure of the Forum;
- *agreed* to a new constitution;
- *elected* the Human Rights Commission of Sri Lanka (as the current host institution of the annual meeting) to the position of Chairperson of the Forum. The National Human Rights Commission of Nepal (as the host institution for the next annual meeting) and the New Zealand Human Rights Commission (as the immediate past Regional Coordinator) were also elected unanimously to the two positions of Deputy Chairpersons. The term of these positions will be until the next annual meeting of the Forum.
- *elected* the Australian Human Rights and Equal Opportunity Commission, the Fiji Human Rights Commission, the National Human Rights Commission of India and the Philippines Commission on Human Rights to be the four regional representatives to the International Coordinating Committee of National Institutions.
- *discussed* its strategic direction and determined its mission and vision statements as well as key strategic priorities
- *agreed* to develop evaluation and feedback mechanisms to ensure that the Forum's priorities are being achieved.

#### *New members*

- The National Human Rights Commission of Mongolia was formally accepted into the Forum, increasing the Forum's membership to nine.

### *The Needs of Newly Established Human Rights Commissions*

The Meeting heard from the Forum's newest members, Fiji, Nepal and Mongolia as well as from a representative from Amnesty International.

Fiji identified strategic and corporate planning and policy development as its areas of greatest need. Nepal highlighted concerns over its autonomy due to government control over the Commission's budget and levels of staffing. Nepal indicated that the Commission was developing a good relationship with civil society and acknowledged the need to distinguish its role from that of non-government organizations. Nepal pointed to

difficulties in cooperation with civil servants, particularly police in relation to disappearances and persons in detention. The Forum's newest member, Mongolia advised that it has recently finalized its internal structure and obtained its budget from the government. Mongolia highlighted its intention to develop close working relationships with NGOs particularly in the provinces which are difficult for the Commission to access due to staffing limitations. The Mongolian Commission reported that it has entered into a five year technical assistance program with the United Nations.

An Amnesty International report, *Recommendations for Standards for Human Rights Institutions* was circulated to all participants at the meeting. Amnesty International highlighted the need for the national human rights institutions to obtain results and to develop practical expertise and solutions.

#### The Forum

- *agreed* on the need to provide further support to its member institutions, particularly newly established institutions;
- *requested* that the Secretariat write to all member institutions seeking information on any practical assistance they may wish to seek from the Forum and, in turn, indicating the expertise and skills that they could provide to the Forum.
- *called for* the exchange of staff amongst member institutions and requests the Secretariat to seek the necessary funds for this to occur;
- *agreed* to explore the possibility of bringing together the senior executive officers of the member institutions to discuss areas of mutual concern for the effective and efficient functioning of national institutions.

#### *NGOs and National Human Rights Institutions*

The annual meeting in Sri Lanka provided an opportunity for the Forum to re-commit itself to the outcomes of the 1999 Kandy Workshop on NGOs and national human rights institutions. A representative of the Asia Pacific Human Rights Network called on national institutions to consult with NGOs in the development of their business plans and outlined seven key areas around which national human rights institutions could take strategic action. Responding formally on behalf of the Forum, the New Zealand Human Rights Commission underlined the importance of maintaining a two-way relationship with NGOs and the importance of NGOs monitoring the performance of national human rights institutions.

#### The Forum

- *agreed* that relations between non-governmental organisations (NGOs) and national human rights institutions were of great importance in the work to protect and promote human rights;

## The Forum and NGOs

- *re-affirmed* their commitment to continue to develop close and collaborative working relationships based on mutual benefit and respect and as detailed in the Forum's 1999 Kandy Program of Action.

### *HIV/AIDS and Human Rights – Issues for National Human Rights Institutions*

The meeting was provided with an overview of the HIV/AIDS situation in Sri Lanka and the Asia Pacific by Dr Iyanthi Abeywickrema, Director of the STD program at the Sri Lankan Ministry of Health. The Indian Commission made a formal presentation to the meeting and underlined the importance of bringing the legal community into the HIV/AIDS debate to encourage a jurisprudence that does not discriminate on the basis of HIV/AIDS. In a formal presentation, NGOs at the meeting recommended the Forum and its members take action in the areas of public inquiries, codes of professional conduct, national plans of action, support services, community participation, international cooperation and standard setting, reform of custodial systems and information dissemination.

## The Forum

- *agreed* that HIV/AIDS should not be viewed as solely a health issue but as a human rights issue because of its serious economic, social and cultural implications;
- *committed* itself to combat discrimination and human rights violations on the basis of HIV/AIDS and called upon the assistance of the United Nations, governments and NGOs in the performance of this task;
- *welcomed* the initiative to hold a regional workshop on the issue of 'HIV/AIDS and Human Rights' from 7<sup>th</sup> to 8<sup>th</sup> October 2001 in Melbourne, Australia, and looked forward to the conclusions of the workshop;
- *requested* the Secretariat to develop and seek funding for the implementation of practical projects to assist Forum members to undertake work in this area.

### *Gender Issues for National Human Rights Institutions*

The meeting was addressed by Justice Shiranie Thilakawardhana of the Sri Lankan Court of Appeal. The National Human Rights Commission of Nepal also made a formal presentation to the meeting. The NGO presentation made a series of recommendations to the Forum and its members in relation to gender and related issues and trafficking of human beings.

## The Forum

- *continued* its specific commitment to the promotion and protection of the human rights of women by focusing on discrimination on the basis of gender and the exploitation of women;
- *endorsed* the proposal to hold a regional workshop on the issue of trafficking in 2002;
- *welcomed* the idea that practical projects should be developed to combat trans-border trafficking and requested the Secretariat to seek funds for this purpose.

## *Video Documentary*

### The Forum

- *welcomed* the production of the video documentary on the role of national institutions in the Asia Pacific region;
- *agreed* to consider the use of the documentary through domestic media networks and as part of educational activities;
- requested that the Secretariat and the United Nations work together to use the video to inform governments and NGOs about the work of national institutions.

## *Asia Pacific Regional Cooperation*

The meeting heard from the Regional Advisor in the Asia Pacific to the United Nations High Commissioner for Human Rights, Justice P.N. Bhagwati on the framework of cooperation between the Office of the High Commissioner for Human Rights and the Forum. The meeting also heard statements from representatives of observer delegations from Australia, China, Korea, New Zealand, Papua New Guinea and Samoa. The NGO presentation made a series of recommendations to the Forum and its members in relation to regional arrangements, national plans of action, the Special Procedures System, cooperation with treaty bodies, and arbitrary and indiscriminate attacks against civilians.

### The Forum

- *endorsed* the collaborative partnership and the proposal to establish an overall institutional strengthening project with the Office of the High Commissioner for Human Rights;
- *stressed* the need for the international treaty bodies and the United Nations special mechanisms to work closely with national institutions and requested that the Secretariat and the Office of the High Commissioner consider ways in which this may implemented.

- *considered* the difficulties faced by national institutions operating in both domestic and international conflict situations and stressed that it was vital that the pursuit and prosecution of perpetrators of human rights violations and crimes against humanity is in accordance with the rule of law;
- *requested* that the Secretariat seek funds to hold a regional workshop on the ratification of the Statute of Rome and its entry into force;

#### *World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance*

The Office of the High Commissioner for Human Rights noted the important role played by national human rights institutions at the World Conference and indicated that the High Commissioner would be looking forward to details of practical projects to implement the conference outcomes. The NGO presentation underlined the substantial mandate for national institutions to confront racial discrimination as a result of the Durban Program of Action.

#### The Forum

- *welcomed* the outcomes of the conference and congratulated the High Commissioner for Human Rights for her positive role;
- *endorsed* the Statement of National Institutions (A/CONF.189/Misc.1) and agreed to follow up on its recommendations;
- *emphasized* the importance of focusing on practical initiatives in implementing the outcomes contained in the final Declaration and Program of Action of the World Conference.

#### *Advisory Council of Jurists*

The meeting discussed follow-up activity by Forum members with regards to the reports of the Advisory Council of Jurists on the death penalty and child pornography. The meeting also discussed a proposed reference on trafficking.

#### The Forum

- *noted* that both Forum members and NGOs had used the conclusions of the Advisory Council of Jurists in their work;
- *agreed* that this topic should remain on the agenda of the Forum's annual meetings to enable Forum members to report back on actions they have taken and any developments that have occurred;

- *decided* in principle to formulate a reference to the Advisory Council of Jurists on the issue of trafficking.

#### *Internal Displacement, the Guiding Principles and National Human Rights Institutions*

A panel discussion highlighting the Sri Lankan experience with regards to internal displacement included a representative of the Sri Lankan Commission, the Consortium of Humanitarian Agencies, the Centre for Policy Alternatives and the Law and Society Trust.

#### The Forum

- *highlighted* the role of national institutions in ensuring that the State meets its obligations and that the human rights of internally displaced persons are protected;
- *welcomed* the opportunity to share their experiences on this issue and requested the Secretariat seek funds for national institutions that request assistance with this issue.

## **9. NEXT MEETING**

The Forum accepted with gratitude the offer of the National Human Rights Commission of Nepal to host the next Meeting of the Asia Pacific Forum of National Human Rights Institutions in 2002.

## **ANNEX 1 – Meeting Agenda**

**SIXTH ANNUAL MEETING OF THE ASIA PACIFIC FORUM  
OF NATIONAL HUMAN RIGHTS INSTITUTIONS**

**24 – 27 SEPTEMBER 2001**

**COLOMBO, SRI LANKA**

**FINAL AGENDA**

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*SESSION 1: Closed Session - Forum Members and OHCHR*

**DAY 1**

**MONDAY 24 SEPTEMBER 2001**

9:30am – 1:00pm

**Forum Members Meeting – General Business**  
*Crystal Room (Upper)*

Chair: Human Rights Commission of Sri Lanka

1. Report of Forum Activities (Secretariat)
2. Report of Forum Working Group on Legal and Governance Issues (Regional Coordinator, Mr Chris Lawrence)
  - Draft Constitution
  - Proposed Resolutions
3. Admission of New Members (Secretariat)
  - Mongolia
  - Thailand
4. Discussion re Sixth Annual Meeting (Secretariat)
  - Agenda
  - Concluding Statement
  - Draft references to the Advisory Council of Jurists
5. Election of four regional representatives to the ICC and one regional representative to the ICC accreditation sub-committee
6. Seventh Annual Meeting of the Forum (Secretariat)
7. General Business

1:00 – 2:30pm

**Lunch**  
*Longdon Room*

2:30 – 6:00pm

**Forum Members Meeting – Strategic Planning and Directions** (closed session)

Chair: National Human Rights Commission of India

6:30pm

**Dinner / Free Evening**

**DAY 2**

**TUESDAY 25 SEPTEMBER 2001**

9:00am – 1:00pm

**Forum Members Meeting – Strategic Planning and Directions**  
(closed session)  
*Crystal Room (Upper)*

Chair: Fiji Human Rights Commission

1:00 – 2:30pm

**Lunch**  
*Longdon Room*

2:30 – 5.30pm

**Forum Members Meeting – Strategic Planning and Directions**  
**(continued)**  
*Crystal Room (Upper)*

Chair: National Human Rights Commission of Nepal

3:00pm

**Registration** (for non-APF members)  
**Gregory Room**

5:30pm

**Free Evening**

## **SESSION 2: Open Session – Forum Members and Registered Observers**

### **DAY 3**

**Wednesday 26 September 2001**

9:30 – 10:30am

#### **OPENING CEREMONY – REGIONAL COOPERATION: THE ROLE OF THE ASIA PACIFIC FORUM IN THE PROTECTION AND PROMOTION OF HUMAN RIGHTS**

*Crystal Room (Upper)*

Welcome and Introduction:

**Mr Faisz Musthapha PC**  
Chairman, Human Rights Commission of Sri Lanka, and  
Chairperson  
Asia Pacific Forum of National Human Rights Institutions

#### **KEYNOTE SPEAKER**

**THE HON SARATH N. SILVA PC**  
CHIEF JUSTICE OF SRI LANKA

**Justice P.N. Bhagwati**  
Chairman UN Human Rights Committee & Regional Advisor to the High  
Commissioner for Human Rights in the Asia Pacific

#### **Forum member signing ceremony**

10:30 – 11:00am

**Morning tea**

11:00am – 12:00noon

#### **THE NEEDS OF NEWLY ESTABLISHED HUMAN RIGHTS COMMISSIONS**

Chair: Philippines Commission on Human Rights

**Dr Shaista Shameem**, Executive Director  
Fiji Human Rights Commission

**Mr Jogendra Ghimire**, Secretary  
National Human Rights Commission of Nepal

**Mr Suren Tserendorj**, Chief Commissioner  
National Human Rights Commission of Mongolia

**Mr Gerry Fox**  
Amnesty International

12:00noon – 1:00pm

#### **NGOs AND NATIONAL HUMAN RIGHTS INSTITUTIONS**

**Mr Ravi Nair**  
South Asia Human Rights Documentation Centre

**Ms Rosslyn Noonan**, Chief Commissioner  
New Zealand Human Rights Commission

1:00 – 2:30pm	<b>Lunch</b> <b>Longdon Room</b>
2:30 – 3:30pm	<b>HIV/AIDS AND HUMAN RIGHTS – ISSUES FOR NATIONAL HUMAN RIGHTS INSTITUTIONS</b>  <u>Chair:</u> Australian Human Rights and Equal Opportunity Commission  <b>Dr Iyanthi Abeywickrema</b> Director, STD Program Ministry of Health, Sri Lanka  <b>Mr Virendra Dayal</b> , Member National Human Rights Commission of India  <b>Ms Joan Staples</b> Australian Council for Overseas Aid / Diplomacy Training Program
3:30 – 4:00pm	<b>Afternoon tea</b>
4:00 – 5:00pm	<b>GENDER ISSUES FOR NATIONAL HUMAN RIGHTS INSTITUTIONS</b>  <b>Justice Shiranie Thilakawardhana</b> Sri Lankan Court of Appeal  <b>Professor Kapil Shrestha</b> , Member National Human Rights Commission of Nepal  <b>Ms Anchalee Ama</b> Coordinating Committee of Human Rights Organisations in Thailand
5:00pm	<b>VIDEO PRESENTATION: The Asia Pacific Forum of National Human Rights Institutions</b>  Introductory Remarks - Kieren Fitzpatrick
6.00pm	<b>End of Day 3 Working Session</b>
7:30pm	<b>OFFICIAL DINNER AND CULTURAL EVENING</b> Taj Samudra Ball Room  The Official Dinner and Cultural Evening will be open to all Forum members, registered delegates and special guests
9:30pm	<b>Free Evening</b>

**DAY 4**

**THURSDAY 27 SEPTEMBER 2001**

9:00 – 11:00am

**ASIA PACIFIC REGIONAL COOPERATION**

*Crystal Room (Upper)*

Chair: National Human Rights Commission of Nepal

**Justice P.N. Bhagwati**

Chairman UN Human Rights Committee & Regional Adviser in the Asia Pacific to the UN High Commissioner for Human Rights

**Mr Orest Nowosad**

Office of the High Commissioner for Human Rights

**Mr Kieren Fitzpatrick**

Director - Secretariat

Asia Pacific Forum of National Human Rights Institutions

Regional Governments – **(dialogue with government representatives)**

**Mr Nick McNally**

International Commission of Jurists

11:00 – 11:30am

**Morning tea**

11:30am – 12:30pm

**RACISM, RACIAL DISCRIMINATION, XENOPHOBIA AND RELATED INTOLERANCE: Report on the Outcomes from the World Conference**

Chair: Indonesian National Commission on Human Rights

**Mr Orest Nowosad**

Office of the High Commissioner for Human Rights

**Dr Bill Jonas**

Australian Human Rights and Equal Opportunity Commission

**Representative**

Non-government organisations

12:30 – 2:00pm

**Lunch  
Longdon Room**

2:00 – 3:00pm

**ADVISORY COUNCIL OF JURISTS: Report Back on Inaugural Session Reports and Development of New Reference**

Chair: New Zealand Human Rights Commission

1. Report from Forum members and Forum Secretariat
2. Discussion regarding new reference for the Advisory Council

**Mr Nick McNally**

International Commission of Jurists

3:00 - 4:00pm **INTERNAL DISPLACEMENT, THE *GUIDING PRINCIPLES* AND NATIONAL HUMAN RIGHTS INSTITUTIONS: Panel Discussion**

**Mr Godfrey Gunatilleke**  
Human Rights Commission of Sri Lanka

**Mr Jeevan Thiagarajah**  
Consortium of Humanitarian Agencies

**Ms Pabudini Wickramaratne**  
Law and Society Trust

**Ms Renuka Senayake**  
Centre for Policy Alternatives

4:00 – 4:30pm **Afternoon tea**

4:00 – 5:30pm **CLOSED SESSION** (Forum Members)  
Gregory Room  
Final Drafting of the Concluding Statement

4:30 – 5:30pm **THE WORK OF THE HUMAN RIGHTS COMMISSION OF SRI LANKA**  
*Crystal Room (Upper)*  
**Mr N. Selvakkumaran**  
**Commissioner**

5:30 – 6:30pm **CONFERENCE STATEMENT and CLOSING CEREMONY**  
Adoption of Statement of Conclusions and Recommendations  
*Crystal Room (Upper)*

Chair: Human Rights Commission of Sri Lanka

6.30pm End of Sixth Annual Meeting

## **ANNEX 2 – Concluding Statement**

# **SIXTH ANNUAL MEETING OF THE ASIA PACIFIC FORUM OF NATIONAL HUMAN RIGHTS INSTITUTIONS**

**24<sup>th</sup> – 27<sup>th</sup> September 2001, Colombo, Sri Lanka**

## **CONCLUDING STATEMENT**

### Introduction

1. The Sixth Annual Meeting of the Asia Pacific Forum of National Human Rights Institutions, consisting of the National Human Rights Commissions of Sri Lanka, Australia, Fiji, India, Indonesia, Mongolia, Nepal, New Zealand and the Philippines, met in Colombo, Sri Lanka from 24<sup>th</sup> to 27<sup>th</sup> September 2001.
2. The Forum expressed its gratitude to the Human Rights Commission of Sri Lanka for hosting the meeting, to the United Nations Office of the High Commissioner for Human Rights for its co-sponsorship and to the governments of Australia and New Zealand for their financial support. The Forum expressed its particular appreciation for the efforts of the Commissioners and staff of the Human Rights Commission of Sri Lanka and the Secretariat of the Forum for their work in the organisation of the meeting.
3. The Forum welcomed the participation of over 100 representatives as observers from regional governments, other relevant institutions and international, regional and national non-governmental organisations. Participants included government representatives from Australia, China, the Republic of Korea, Laos, New Zealand, Papua New Guinea, Samoa and Sri Lanka. They also included representatives from 36 non-governmental organisations.
4. The Chief Justice of Sri Lanka, the Hon. Sarath Silva, the Regional Advisor in the Asia Pacific to the United Nations High Commissioner for Human Rights and the Chairman of the United Nations Human Rights Committee, Justice P N Bhagwati and the Chairman of the Human Rights Commission of Sri Lanka and the Chairperson of the Asia Pacific Forum of National Human Rights Institutions, Mr Faisz Musthapha PC, opened the meeting. In the opening statements the distinguished speakers welcomed the role of the Forum as a unique regional organisation for the promotion and protection of human rights and called on the United Nations, governments and private foundations to provide strong financial and material support for the activities of the Forum.

### Conclusions

5. Forum members considered the report of the working group appointed at the Fourth and Fifth Annual Meetings to examine issues associated with the legal and governance structure of the Forum. Forum members agreed to a new constitution. Forum members also discussed its strategic direction and determined its mission and

vision statements as well as key strategic priorities. Forum members agreed to develop evaluation and feedback mechanisms to ensure that the Forum's priorities are being achieved.

6. The Forum affirmed that the status and responsibilities of national institutions should be consistent with the Principles Relating to the Status of National Institutions adopted by the United Nations General Assembly (Resolution 48/134) commonly referred to as the 'Paris Principles'. On this basis it admitted the National Human Rights Commission of Mongolia as a member increasing the Forum's membership to nine institutions.
7. Forum members unanimously elected the Human Rights Commission of Sri Lanka (as the current host institution of the annual meeting) to the position of Chairperson of the Forum. The National Human Rights Commission of Nepal (as the host institution for the next annual meeting) and the New Zealand Human Rights Commission (as the immediate past Regional Coordinator) were also elected unanimously to the two positions of Deputy Chairpersons. The term of these positions will be until the next annual meeting of the Forum. Further, Forum members elected the Australian Human Rights and Equal Opportunity Commission, the Fiji Human Rights Commission, the National Human Rights Commission of India and the Philippines Commission on Human Rights to be the four regional representatives to the International Coordinating Committee of National Institutions. Forum members agreed that these positions should rotate among all members of the Forum and requested that the Secretariat develop guidelines on the rotation process for the consideration of Forum members.
8. The Forum agreed on the need to provide further support to its member institutions, particularly newly established institutions. The Forum requested that the Secretariat write to all member institutions seeking information on any practical assistance they may wish to seek from the Forum and, in turn, indicating the expertise and skills that they could provide to the Forum. The Forum calls for the exchange of staff amongst member institutions and requests the Secretariat to seek the necessary funds for this to occur. The Forum also agreed to explore the possibility of bringing together the senior executive officers of the member institutions to discuss areas of mutual concern for the effective and efficient functioning of national institutions.
9. The Forum agreed that relations between non-governmental organisations (NGOs) and national human rights institutions were of great importance in the work to protect and promote human rights. Forum members and human rights NGOs re-affirmed their commitment to continue to develop close and collaborative working relationships based on mutual benefit and respect and as detailed in the Forum's 1999 Kandy Program of Action.
10. Forum members agreed that HIV/AIDS should not be viewed as solely a health issue but as a human rights issue because of its serious economic, social and cultural implications. Forum members, therefore, committed themselves to combat

discrimination and human rights violations on the basis of HIV/AIDS and called upon the assistance of the United Nations, governments and NGOs in the performance of this task. The Forum welcomed the initiative to hold a regional workshop on the issue of 'HIV/AIDS and Human Rights' from 7<sup>th</sup> to 8<sup>th</sup> October 2001 in Melbourne, Australia, and looked forward to the conclusions of the workshop. The Forum also requested the Secretariat to develop and seek funding for the implementation of practical projects to assist Forum members to undertake work in this area.

11. The Forum continued its specific commitment to the promotion and protection of the human rights of women by focusing on discrimination on the basis of gender and the exploitation of women. The Forum endorsed the proposal to hold a regional workshop on the issue of trafficking in 2002. Forum members also welcomed the idea that practical projects should be developed to combat trans-border trafficking and requested the Secretariat to seek funds for this purpose.
12. The Forum welcomed the production of the video documentary on the role of national institutions in the Asia Pacific region. Forum members agreed to consider the use of the documentary through their domestic media networks and as part of their educational activities. The Forum requested that the Secretariat and the United Nations work together to use the video to inform governments and NGOs about the work of national institutions.
13. The Regional Advisor in the Asia Pacific to the United Nations High Commissioner for Human Rights emphasized the strong commitment the High Commissioner had shown, and continues to show, for the work of the Forum. The Director of the Forum Secretariat emphasized the necessity of continuing the close and collaborative relationship between the United Nations and the Forum in the implementation of projects to promote regional cooperation. Forum members strongly endorsed this collaborative partnership and the proposal to establish an overall institutional strengthening project with the Office of the High Commissioner for Human Rights for the activities of the Forum. Forum members also stressed the need for the international treaty bodies and the United Nations special mechanisms to work closely with national institutions and requested that the Secretariat and the Office of the High Commissioner consider ways in which this may be implemented.
14. The Forum considered the difficulties faced by national institutions operating in both domestic and international conflict situations and stressed that it was vital that the pursuit and prosecution of perpetrators of human rights violations and crimes against humanity is in accordance with the rule of law. Forum members stressed that all measures to apprehend and prosecute the perpetrators should be undertaken in a manner that is consistent with human rights and humanitarian law. Forum members further stressed that in conflict situations it was all the more important that the independence of national institutions be maintained and respected. National institutions will also act to protect human rights defenders.

15. The Forum requested that the Secretariat seek funds to hold a regional workshop on the ratification of the Statute of Rome and its entry into force.
16. Forum members discussed the statement adopted by national institutions at the World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance and the final Declaration and Program of Action of the conference. Forum members welcomed the outcomes of the conference and congratulated the High Commissioner for Human Rights for her positive role. Note was taken with appreciation of the important role played by national institutions at the World Conference. The Forum endorsed the Statement of National Institutions (A/CONF.189/Misc.1) and agreed to follow up on its recommendations. Forum members emphasized the importance of focusing on practical initiatives in implementing the outcomes contained in the final Declaration and Program of Action of the World Conference.
17. Forum members reported on their consideration of the recommendations of the Advisory Council of Jurists' reports on the death penalty and child pornography on the internet. It was noted that both Forum members and NGOs had used the conclusions of the Advisory Council of Jurists in their work. It was agreed that this topic should remain on the agenda of the Forum's annual meetings to enable Forum members to report back on actions they have taken and any developments that have occurred. Forum members also decided in principle to formulate a reference to the Advisory Council of Jurists on the issue of trafficking.
18. Forum members discussed the United Nations Guiding Principles on Internal Displacement. While the responsibility for the protection of internally displaced persons rests first and foremost with national governments and local authorities, the role of national institutions in ensuring that the State meets its obligations and that the human rights of internally displaced persons are protected was highlighted. Forum members welcomed the opportunity to share their experiences on this issue and requested the Secretariat seek funds for national institutions that request assistance with this issue.
19. Forum members expressed their appreciation for the consistent support extended by the Office of the High Commissioner and the Australian and New Zealand governments towards the work of the Forum. Forum members also warmly thanked the Australian Human Rights and Equal Opportunity Commission for the special support it has given to the Forum during its formation and establishment.
20. The Forum gratefully accepted the kind offer of the National Human Rights Commission of Nepal to host the Seventh Annual Meeting of the Asia Pacific Forum of National Human Rights Institutions in approximately twelve months time.

A report on the meeting will soon be available on the Forum website.

[www.apf.hreoc.gov.au](http://www.apf.hreoc.gov.au)

## **ANNEX 3 – List of Participants**

## ASIA PACIFIC FORUM OF NATIONAL HUMAN RIGHTS INSTITUTIONS

### Sixth Annual Meeting

24-27 September 2001 – Colombo, Sri Lanka

#### MEMBERS OF THE ASIA PACIFIC FORUM OF NATIONAL HUMAN RIGHTS INSTITUTIONS

INSTITUTION	DELEGATE NAME	EMAIL	PHONE	FAX
AUSTRALIAN HUMAN RIGHTS AND EQUAL OPPORTUNITY COMMISSION  Website: <a href="http://www.humanrights.gov.au">http://www.humanrights.gov.au</a>	Dr Bill JONAS Aboriginal and Torres Strait Islander Social Justice Commissioner and Acting Race Discrimination Commissioner	<a href="mailto:WilliamJonas@humanrights.gov.au">WilliamJonas@humanrights.gov.au</a>	+61 2 9284 9603	+61 2 9284 9611
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FIJI HUMAN RIGHTS COMMISSION	Dr Shaista SHAMEEM Director	<a href="mailto:sshameem@humanrights.org">sshameem@humanrights.org</a>	+679 308 577	+679 308 661
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<p>NATIONAL HUMAN RIGHTS COMMISSION OF INDIA</p> <p>Website: <a href="http://www.nhrc.nic.in">http://www.nhrc.nic.in</a></p>	<p>Mr Virendra DAYAL Member</p>	<p><a href="mailto:nhrc3@alpha.nic.in">nhrc3@alpha.nic.in</a></p>	<p>+91 11 334 7064</p>	<p>+91 11 334 0016</p>
<p>INDONESIAN NATIONAL HUMAN RIGHTS COMMISSION</p> <p>Website: <a href="http://www.komnas.go.id">http://www.komnas.go.id</a></p>	<p>Dr Saafroedon BAHAR Vice Chair, Sub Commission on Research</p> <p>Professor Soetandyo WIGNJOSOE BROTO Member, Sub Commission on Education and Public Awareness</p>	<p><a href="mailto:Info@komnas.go.id">Info@komnas.go.id</a></p> <p><a href="mailto:Info@komnas.go.id">Info@komnas.go.id</a></p>	<p>+62 21 392 5230</p> <p>+62 21 392 5230</p>	<p>+62 21 392 5227</p> <p>+62 21 392 5227</p>
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	Mr S. WIJEGOONEWARDENA Consultant and former Secretary General	<a href="mailto:Sechrc@sltnet.lk">Sechrc@sltnet.lk</a>	+94 1 694 925	+94 1 694 924

**UNITED NATIONS – CO SPONSOR**

INSTITUTION	DELEGATE NAME	EMAIL	PHONE	FAX
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Website: <a href="http://www.unhchr.ch">http://www.unhchr.ch</a>	Mr Orest NOWOSAD National Institutions Team	<a href="mailto:onowosad.hchr@unog.ch">onowosad.hchr@unog.ch</a>	+41 22 917 9223	+41 22 917 9021

GUEST SPEAKERS

NAME	EMAIL	PHONE	FAX
The Hon Sarath SILVA Chief Justice of Sri Lanka	-	-	-
Justice Shiranie THILAKAWARDHANA Sri Lankan Court of Appeal			
Dr Iyanthi ABEYWICKREMA Director, STD Program Ministry of Health Government of Sri Lanka		+94 1 696 433 +94 1 573 080	+94 1 075 338 6873

RELEVANT INSTITUTIONS

COUNTRY	DELEGATE NAME	EMAIL	PHONE	FAX
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PALESTINIAN INDEPENDENT COMMISSION FOR CITIZEN'S RIGHTS  Website: <a href="http://www.piccr.org">http://www.piccr.org</a>	Ms Faten SHAIKHOMAR Law Reform Project Coordinator	<a href="mailto:Tanger1@caramail.com">Tanger1@caramail.com</a> <a href="mailto:piccr@piccr.org">piccr@piccr.org</a>	+972 2 298 7536 +972 2 298 6958	+972 2 298 7211

## GOVERNMENTS

COUNTRY	DELEGATE NAME	EMAIL	PHONE	FAX
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REPUBLIC OF KOREA  Task Force on Establishment of National Human Rights Institution	Dr Young-Sun CHUNG Staff  Ms Soonyoung LIM Staff  Ms Jeong Eun LEE Lecturer, Seoul National University of Technology	<a href="mailto:Chungys1999@yahoo.co.kr">Chungys1999@yahoo.co.kr</a>  <a href="mailto:Sylim9@hotmail.com">Sylim9@hotmail.com</a>  <a href="mailto:manimje@hanmail.net">manimje@hanmail.net</a>	+82 2 3703 3214  +82 2 3703 3214  +82 2 877 4541	+82 2 3703 3169  +82 2 3703 3169

LAO PEOPLE'S DEMOCRATIC REPUBLIC				
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NEW ZEALAND				
Ministry of Foreign Affairs and Trade	Ms Heather WARD Senior Policy Officer Human Rights Division	<a href="mailto:Heather.ward@mfat.govt.nz">Heather.ward@mfat.govt.nz</a>	+64 4 494 8232	+64 4 494 8517
PAPUA NEW GUINEA				
Department of Justice and Attorney General	The Hon Puri RUIING MP Minister for Justice	<a href="mailto:justice@daltron.com.pg">justice@daltron.com.pg</a>	+675 323 0675	+675 323 0241
	Mr Fred TOMO Deputy Attorney General	<a href="mailto:justice@daltron.com.pg">justice@daltron.com.pg</a>	+675 323 138	+675 323 0241
SAMOA				
Attorney General's Office	Ms Leilani VA'A State Solicitor	<a href="mailto:Vel_lani@yahoo.com">Vel_lani@yahoo.com</a>	+685 20295 +685 26945	+685 22118
SRI LANKA				
Ministry of Foreign Affairs	Mr Sudatha GANEGAMARACHCHI Director – Human Rights		+94 1 323 228	

## UNITED NATIONS AGENCIES

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UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES	Mr Michael LINDBERG Senior Program Officer			
UNITED NATIONS DEVELOPMENT PROGRAMME	Mr Shanaka JAYASEKARA Programme Support Coordinator	<a href="mailto:Shanka.jayasekara@undp.org">Shanka.jayasekara@undp.org</a>	+94 1 580 691	+94 1 581 116

## NON-GOVERNMENT ORGANISATIONS INTERNATIONAL

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Website <a href="http://www.amnesty.org">http://www.amnesty.org</a>	Ms Ingrid MASSAGE Researcher, Sri Lanka, Nepal and Bhutan	<a href="mailto:imassage@amnesty.org">imassage@amnesty.org</a>	+44 207 413 5650	+44 207 956 1157
INTERNATIONAL COMMISSION OF JURISTS	Mr Nick MCNALLY Secretary to the Council, Australian Section	<a href="mailto:Nick_mcnally@bipond.com">Nick_mcnally@bipond.com</a>	+61 2 9264 6644 +61 (0) 419 855 002 (m)	+61 2 9264 6622

INTERNATIONAL COMMITTEE OF THE RED CROSS (Delegation in Sri Lanka)	Mr Channa HEWAWICKRAMA Senior Dissemination Officer	<a href="mailto:Channa_h@hotmail.com">Channa_h@hotmail.com</a> <a href="mailto:Infodiss.col@icrc.org">Infodiss.col@icrc.org</a>	+94 1 503 346	+94 1 503 348
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**NON-GOVERNMENT ORGANISATIONS  
REGIONAL**

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## ANNEX 4 – NGO Statements

### **Sixth Annual Meeting on The Role of the Asia Pacific Forum in the Protection and Promotion of Human Rights**

*Colombo, Sri Lanka, 24-27 September 2001*

Opening Statement of the Pre Forum NGO Consultation<sup>1</sup>

On behalf of the Pre Forum NGO Consultation, we thank the Asia Pacific Forum (APF) and the host, the Human Rights Commission of Sri Lanka for giving us the opportunity to address the distinguished members of National Human Rights Institutions (NHRIs).

The Pre Forum NGO Consultation was facilitated by the Asia Pacific Human Rights Network (APHRN). The Consultation was attended by three international organisations, one in an observer capacity, two regional organisations, five national organisations from other parts of the Asia Pacific region, and six Sri Lankan organisations.

We consider this an opportunity to build on the Kandy Declaration on NHRI-NGO cooperation. In keeping with the spirit of the Kandy Framework, our discussions mirrored the discussions you are to have over the next two days. We as a collective, will be making joint statements on the themes you have chosen: HIV/AIDS and Human Rights; Gender Issues; Racism, Racial Discrimination, Xenophobia and Related Intolerance; Internally Displaced Peoples; Regional Cooperation and the Judicial Advisory Council.

In addition to these issues, we had a substantive and exhaustive discussion on the problems associated with enforcement and compliance with the determination of NHRIs, in their respective national jurisdictions.

NGOs are concerned that National Governments and their subsidiary functionaries frequently flout with impunity, but more often just ignore the determinations of NHRIs. It is evident that this does not contribute to the credibility and efficacy of NHRIs to create consensual instrumentalities to address human rights violations.

We have outlined 6 key areas, around which the NHRIs need to take strategic action.

1. The Paris Principles should be used as minimal guidelines to measure human rights activities. These guidelines are deficient in several respects. They impose responsibilities rather than duties and they also do not clarify the right of institutions to demand access to relevant information.
2. NHRIs should go beyond the Paris Principles where possible. Initiatives amongst the European and Commonwealth NHRIs may be worth examining in this respect. In particular, NHRIs should have the power to intervene in court cases to make judges aware of international human rights standards.
3. NHRIs should see themselves as players on the international scene. They should ensure that they submit shadow reports to relevant UN monitoring bodies such as CAT, CERD, CEDAW and Human Rights Committee, paying particular attention to concluding observations made on previous State Periodic Reports by the monitoring bodies. Merely “contributing” to State periodic reports as required by the Paris Principles is not sufficient. NHRIs should also, where possible, attend the meetings of UN monitoring bodies to raise questions about claims made in State Periodic Reports. Once the UN monitoring body has issued its report, the NHRI should assist in publicising the findings and ask the State for annual updates on compliance with these findings. NHRIs should also take full advantage of the right to speak at the UN

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<sup>1</sup> Facilitated by: Asia Pacific Human Rights Network (APHRN). Secretariat: South Asia Human Rights Documentation Centre (SAHRDC), B-6/6, Safdarjung Enclave Extension, New Delhi - 110029, India. Phone: +91-11-619 2717, 619 2706, 619 1120. Fax:+91-11-6191120. Email: [hrdc\\_online@hotmail.com](mailto:hrdc_online@hotmail.com). Home page: <http://www.hrdc.net/sahrdc>

Commission of Human Rights each April, not in order to explain what the NHRI has done in the past year, but rather to comment on what the State in question has not done to protect human rights. NHRIs should also consistently press their State parties to adhere to international treaties on human rights and to adopt the various soft law standards such as the Code of Conduct for Law Enforcement Officials.

4. NHRIs should publish all their recommendations. Annual reports should be produced and published promptly and research reports, investigation reports and press statements should be widely distributed, preferably on the internet as well as in hard copy.
5. In order to provide essential grassroots knowledge on human rights issues NHRIs should meet regularly with groups from civil society including local community groups, lawyers, and elected representatives.
6. NHRIs should apply their mandate creatively. Thus, for example, whether expressly empowered to do so or not, they should visit places of detention, facilitate the visit of UN bodies and special mechanisms to the country, jointly publish information, cooperate with other NHRIs to share and develop best practices, seek out appropriate court cases on which to intervene and regularly produce a newsletter.
7. In keeping with the spirit of the Kandy Declaration on NHRI-NGO cooperation, the Asia Pacific Forum should include a regular agenda item in future Annual meetings to discuss NHRI-NGO relations. To optimise NGO participation in APF meetings, the Forum Secretariat should ensure facilitation of attendance of NGOs by providing travel grants and assistance in obtaining visas.

Within the context of the seven points outlined above, there is a recognition that NHRIs need to operate strategically in accordance with an annual business plan. NGOs should be consulted on the content of all such plans.

The credibility of NHRIs depends on their capacity to improve the human rights situation in their country. We believe that the above points assist in providing a framework to enable them to realise this capacity.

I thank you for your attention.

**Sixth Annual Meeting on The Role of the Asia Pacific Forum in the  
Protection and Promotion of Human Rights**  
*Colombo, Sri Lanka, 24-27 September 2001*

**Oral Intervention of the Pre Forum NGO Consultation on Regional Cooperation<sup>2</sup>**

The Teheran Workshop on Regional Arrangement for the Protection and Promotion of Human Rights adopted the plan proposed by the United Nations Office of the High Commissioner for Human Rights for “Strengthening of National Capacities for the Protection and Promotion of Human Rights in the Asia-Pacific region towards the establishment of regional arrangements”.

The Pre Forum NGO Consultation makes the following recommendations in relation to regional cooperation:

**(1) Regional Arrangement for the Protection and Promotion of Human Rights**

Any regional charter must be based on international standards of human rights. We call on the Asia Pacific Forum and its members to urge States to ratify key international instruments as a precursor to the development of a regional charter.<sup>3</sup> The ratification of these key international instruments within the region will provide a solid base upon which to build a regional mechanism and reduce the risk of a regional charter which undermines international standards.

**(2) Cooperation in the development of National Plans of Action**

Many governments in the region have adopted National Plans of Action for the Protection and Promotion of Human Rights. This is an important initiative. The role of the National Human Rights Institutions (NHRIs) in formulation and implementation of such National Plans of Action is paramount.

NHRIs should press their own governments to develop National Plans of Action and encourage governments to include NHRIs and civil society in the development of these plans. The NHRIs should take up the development of National Plans of Action as a matter of priority. Sharing of experiences with the NHRIs in the Asia Pacific region, where the Governments have developed National Plans of Action, can be one of the ways to move forward.

In the implementation of National Plans of Action, NHRIs should encourage governments to take advantage of international technical assistance, advice and support on a range of thematic issues.

**(3) Cooperation with the Special Procedures System**

Many victims, relatives and NGOs approach the Special Procedures system of the United Nations Commission on Human Rights such as Special Rapporteurs, Working Groups and Special Representatives of the Secretary General on thematic issues. The NHRIs need to develop working mechanisms with the Special Procedures system of the Commission on Human Rights. Such a relationship, among other things, could help facilitate visits of Special Rapporteurs and highlight cases of widespread violations to the Special Procedures system.

**(4) Cooperation with the Treaty Bodies**

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<sup>2</sup>Facilitated by: Asia Pacific Human Rights Network (APHRN). Secretariat: South Asia Human Rights Documentation Centre (SAHRDC), B-6/6, Safdarjung Enclave Extension, New Delhi - 110029, India. Phone: +91-11-619 2717, 619 2706, 619 1120. Fax: +91-11-6191120, Email: hrdc\_online@hotmail.com, Home Page: <http://www.hrdc.net/sahrdc>

<sup>3</sup> These instruments include the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and the Convention on the Elimination of All Forms of Discrimination against Women.

Under the Paris Principles, NHRIs are obliged to encourage ratification of international human rights instruments to which the State is a party, or accession to those instruments, and to ensure their implementation. NHRI should work to ensure that their respective governments ratify international human rights treaties without reservations contrary to the object and purpose of the treaty, remove those existing reservations and fully implement international human rights treaties.

The NHRIs should also urge government compliance with periodic reporting requirements and prepare shadow reports for Treaty Body consideration.

*(5) Regional Role Of APF And NHRIs In Relation To Arbitrary And Indiscriminate Attacks Against Civilians*

The Pre Forum NGO Consultation believes that the Asia Pacific Forum and its members can play a key regional role in regard to arbitrary and indiscriminate attacks against civilians.

The Pre Forum NGO Consultation condemns arbitrary and indiscriminate attacks against civilians and urges the international community to bring the perpetrators to justice through the application of the rule of law, due judicial process and the observance of human rights standards. To this end, we note the Security Council resolution 1267 (1999) that identifies possible processes for applying judicial procedure following such attacks. These procedures include a trial by a national court in a third country or a trial by a specially arranged tribunal as in the Lockerbie case.

We are deeply concerned that the threat of military intervention following the 11 September attack in the USA has triggered massive refugee movements and a growing humanitarian crisis in the region with over 1 million Afghan refugees facing starvation. We believe that the development of international judicial mechanisms rather than military intervention is key to preventing future cycles of violence and urge the Asia Pacific Forum and its members to call on governments in the region to ratify the Rome Statute for the International Criminal Court as part of an international framework to help protect the world from future aggression.<sup>4</sup> Furthermore, we urge NHRIs to monitor closely and oppose any moves by their governments to tighten or introduce security legislation that could undermine human rights, civil liberties and the rights of asylum seekers and other vulnerable groups.

I thank you for your kind attention.

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<sup>4</sup> Should military action take place, the Pre Forum NGO Consultation urges all parties to take all necessary measures to ensure that operations are conducted in such a way as to uphold at all times the highest standards of human rights and humanitarian law. This includes taking all precautions to spare civilians, and in particular avoiding direct attacks on civilian or civilian objects, indiscriminate attacks and attacks on military targets that have a disproportionate impact on civilians.

**Sixth Annual Meeting on The Role of the Asia Pacific Forum  
in the Protection and Promotion of Human Rights  
Colombo, Sri Lanka, 24-27 September 2001**

Oral Intervention of the Pre Forum Consultation on  
HIV/AIDS and National Institutions<sup>5</sup>

Historically, the fields of public health and human rights have remained largely distinct. The AIDS pandemic however has reversed this. HIV/AIDS has emerged as a public health emergency, having acquired disastrous dimensions. It is well-established in the countries of the Asia Pacific and is continuing to spread at an alarming rate. The shroud of secrecy, stigma, discrimination and denial around HIV/AIDS has made the linkage between health and human rights even more discernible.

The Pre Forum NGO meeting, recognizing the inadequate of many governments in the region in upholding human rights in relation to HIV/AIDS, believes that the National Human Rights Institutions of the region have a key role to play in addressing HIV/AIDS human rights discrimination. We therefore welcome the Forum initiative in holding a regional workshop on the Role of National Institutions in relation to human rights and HIV/AIDS. We encourage the Forum and its Members to engage with the experienced NGO community and the appropriate international and regional experts in this area before, during and after the workshop to take advantage of this expertise in developing their responses.

The Pre Forum NGO Consultation will be looking for a programme of action from the workshop and looks forward to regular progress reports on this matter at the next and future Forum meetings.

The Pre Forum NGO Consultation notes the recommendations of the International Guidelines on HIV/AIDS and Human Rights published by the Office of the United Nations High Commissioner for Human Rights and the recommendations of the Joint United Nations Programme on HIV/AIDS (UNAIDS). Both recognise the key role of National Institutions. However, we also acknowledge that the relationship between public health and HIV/AIDS is a rapidly evolving issue and hence we strongly encourage the Forum and its Members to keep themselves informed and up to date on best international practices in this area.

The Pre Forum Consultation offers the following recommendations for the assistance of the Forum and its Members.

**1. Public Inquiries**

National Human Rights Institutions (NHRIs) should use the existent complaints mechanism and mechanisms of public inquiry to highlight human rights issues related to HIV/AIDS and discrimination and to develop recommendations to governments and relevant institutions.

**2. Codes of Professional Conduct**

National Institutions should use their expertise in human rights to assist governments in drawing up guidelines/codes of conduct to combat discrimination on the basis of actual, perceived or suspected HIV status in the areas of employment, schools, travel, public services and health care. These codes should translate human rights principles into codes of professional responsibility and practice, with accompanying mechanisms to implement and enforce these codes.

**3. National Plans of Action**

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<sup>5</sup> Facilitated by: Asia Pacific Human Rights Network (APHRN). Secretariat: South Asia Human Rights Documentation Centre (SAHRDC), B-6/6, Safdarjung Enclave Extension, New Delhi - 110029, India. Phone: +91-11-619 2717, 619 2706, 619 1120. Fax : +91-11-6191120, Email: [hrdc\\_online@hotmail.com](mailto:hrdc_online@hotmail.com), Home page: <http://www.hrdc.net/sahrdc>

National Institutions should encourage and assist governments to develop National Plans of Action to combat HIV/AIDS, which incorporate international human rights standards. These plans should be participatory and transparent.

#### **4. Support Services**

National Institutions should demonstrate their commitment to combat the epidemic by creating legal support systems within their jurisdictions for the victims of discrimination, including providing information on HIV/AIDS and free legal aid. NHRIs should also conduct and facilitate training programmes on human rights issues related to HIV/AIDS.

#### **5. Community Participation**

National Institutions should recognise the need for community participation and particularly the need to consult and involve people living with HIV/AIDS, and their families and others with expertise in the area in policy formulation, programme planning, implementation and evaluation. This informed participation in prevention, care and support initiatives is essential to ensure the effectiveness of any programme.

#### **6. International Co-operation and Standards**

International human rights norms provide a coherent, normative framework for analysis of the HIV/AIDS issue. The Forum and Member Institutions should co-operate through all relevant programmes and agencies of the UN system and share knowledge and experience concerning HIV/AIDS related human rights issues. In particular, National Institutions in the region should work with the Joint UN Program on AIDS (UNAIDS) and the OHCHR to strengthen their capacity to respond appropriately and effectively in the national and regional context. The Pre Forum NGO Consultation believes that the upholding of civil, political, economic, social and cultural rights in relation to HIV/AIDS can be a positive step in improving international and regional economic development and social and political stability.

#### **7. Reforms on Custodial Systems**

National Institutions should pay particular attention to the situation of HIV/AIDS in all custodial institutions. Institutions should encourage and assist governments to review and reform criminal laws and correctional and other custodial systems to ensure that they are consistent with international human rights obligations and are not misused in the context of public health safety. Rights involved include the right to health, security of person, freedom from inhuman and degrading treatment, freedom from arbitrary arrest and detention and equality before the law.

#### **8. Information Dissemination**

National Institutions should be more proactive in the dissemination of information for the prevention of discrimination. This important educational role can include working with HIV/AIDS NGOs and others with expertise in the area and should include high-quality, creative and professional information dissemination on topics like testing and confidentiality.

#### **Summary**

The seriousness of the issue for the economic and social development of the region, the important role of human rights in the effective prevention, control and reduction of the epidemic and the failure of many governments in the region to provide the required leadership and expertise place important responsibility on NHRIs in Asia and the Pacific.

The Pre Forum NGO Consultation calls on NHRIs to provide this critical leadership role in our communities.

I thank you for your kind attention.

**Sixth Annual Meeting on The Role of the Asia Pacific Forum  
in the Protection and Promotion of Human Rights**

**Colombo, Sri Lanka, 24 – 27 September 2001**

Oral Intervention of the Pre Forum NGO Consultation on  
Gender Issues for National Human Rights Institutions<sup>6</sup>

Discrimination on the basis of gender and the exploitation of women is a serious problem facing the Asia Pacific region which requires affirmative and comprehensive attention by all State parties. National Human Rights Institutions (NHRIs) have an essential role to play in the development of strategies to eliminate discrimination and exploitation of women.

It is acknowledged that Asia Pacific Forum (APF) held a special seminar on gender in Fiji in May 2000, and that from it came a number of recommendations and initiatives which have the support of the NGO community. It is also noted that the APF proposes to hold a workshop combating trafficking of women and girl-children in 2002, and that UNICEF and ECPAT plan to hold a forum on the matter in Yokohama, Japan in December of this year.

We have focused our intervention on interstate trafficking of human beings because the vast majority of victims of trafficking are women and girl-children. Further, the cross-border dimensions of the APF are ideal to address this issue which involves a number of cross-jurisdictional considerations. It should be noted that there is also a significant gender issue surrounding the trafficking for sexual exploitation of boy-children.

At its core, the international trafficking in women and girl-children is about exploitation, violence, forced prostitution, abduction and fraudulent coercion of the most reprehensible kind. Despite numerous useful international efforts to combat trafficking, significant gaps remain such as inadequate law enforcement mechanisms and a lack of cross-border co-operation. Anti-trafficking initiatives have not adequately prioritized the apprehension and prosecution of traffickers.

The lack of clarity of the immigration status of victims of trafficking actively impedes law enforcement and prosecutorial capabilities. Victims are often treated as criminals being either arrested or deported, which effectively removes these key prosecution witnesses from the process. Furthermore mandatory deportation of trafficking victims based on their immigration status has the potential to expose them to further persecution and exploitation in their original State. The fraud and other criminal conduct of traffickers must be distinguished from the actions of victims who are often driven to enter into arrangements with traffickers through necessity, systemic disadvantage, poverty, and fraudulent misrepresentation.

The Asia Pacific Seminar of Experts in Preparation for the World Conference Against Racism, held in September 2000 in Bangkok, Thailand recognised the proliferation of trafficking in the region as posing a serious challenge to law enforcement agencies. It is in this context that the regional NHRIs should recognise the need for an aggressive and comprehensive enforcement strategy.

The Pre Forum NGO Consultation offers the following recommendations that could serve as guidelines for NHRIs in their strategies to address Gender and Related Issues:

1. Under the Paris Principles NHRIs are obliged to encourage ratification of key international instruments or accession to those instruments by their respective States, and to ensure their implementation. Many such instruments provide critical protections for victims of trafficking. We recommend that in the context of gender issues, particular attention be given to the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), the Convention of the Rights of the Child (CRC), the International Convention on the Protection of

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<sup>6</sup> Facilitated by: Asia Pacific Human Rights Network (APHRN). Secretariat: South Asia Human Rights Documentation Centre (SAHRDC). B-6/6, Safdarjung Enclave Extension, New Delhi – 110029. Phone: +91 11 6192717; 6192706. Fax: +91 11 6191120. Email: [hrdc\\_online@hotmail.com](mailto:hrdc_online@hotmail.com). Home Page: <http://www.hrdc.net/sahrdc>

the Rights of All Migrant Workers and Members of Their Families, the International Convention on the Elimination of all Forms of Racial Discrimination (CERD), the International Convention on Economic Social and Cultural Rights (ICESCR) and their respective Optional Protocols where they exist.

2. NHRIs must facilitate visits to the State by United Nations special mechanisms, particularly the Special Rapporteur on Violence Against Women.
3. The criminal justice system may be exploited to further victimise women and girls who are, for example, parties to hostile family disputes, victims of rape or trafficking, or who are subjected to prejudicial and arbitrary immigration policies. NHRIs should implement systems to monitor the operation of the judicial system with a view to avoid manipulation of the judicial system for underhanded purposes.
4. NHRIs must integrate gender and related issues into their mandates and organisational structures. Where necessary, NHRIs should set up a special section under their national plan of action to deal with gender-based violations of human rights and work closely with existing organisations specializing in human rights and related fields. NHRIs must ensure that their National Plan of Action for Human Rights includes gender related initiatives.

The Pre-Forum NGO Consultation further offers the following recommendations to specifically address Trafficking of Human Beings:

5. NHRIs should review existing legislative or administrative provisions and assess their humanitarian impact when implemented in relation to victims of trafficking, and make recommendations where appropriate in order to ensure that these provisions conform with the fundamental principles of human rights both in their direct and indirect application.
6. NHRIs should develop systems of regional co-operation by encouraging States to enter into extradition, cross-jurisdictional and other collaborative arrangements geared towards the effective prosecution of perpetrators of human rights abuses against trafficked people.
7. NHRIs should develop and conduct awareness programmes with agencies that deal with victims of trafficking premised on an approach that takes into account the human rights as well as the law enforcement issues involved, and which identify communities that are particularly vulnerable to being trafficked.
8. NHRIs should review the responses of governmental agencies to human rights abuses perpetrated against victims of trafficking and should encourage governments to develop inter-agency strategies to ensure a co-ordinated and effective approach by the various agencies involved.
9. NHRIs should also monitor and encourage protection of defenders of the trafficked in conformity with the UN Declaration on the Protection of Human Rights Defenders.
10. NHRIs should help develop a Code of Conduct that include:
  - places for trafficked women to stay pending deportation with adequate access to services such as legal aid, counseling, medical and other essential services;
  - ensuring that trafficked women have access to their country's diplomatic representation in compliance with the Vienna Convention on Consular Access;
  - an avoidance of mandatory deportation in circumstances where a return to the original State may expose victims of trafficking to further exploitation and persecution, and where premature expulsion from the host State may jeopardize victims' access to civil redress for loss of income and other entitlements owed to them in return for their labour;
  - provisions for the granting of asylum and access to authorities concerned including the opportunity to contact a representative of the UNHCR. Provision should also be made for

asylum visas for victims who provide information to police or who testify in criminal prosecutions.

11. NHRI should encourage governments to establish special procedures within the judicial system to ensure that prompt prosecutions of traffickers are heard without any adjournment, except in the most exceptional of circumstances.
12. NHRI should develop comprehensive strategies which would address the protection, rehabilitation and humanitarian treatment of victims of trafficking by State agencies in host and transit countries, in situations of detention and imprisonment and in the context of repatriation. NHRI should also outline strategies for children recognising their special needs and rights.
13. The APF and its members should promote effective regional and bilateral reciprocal arrangements and mechanisms to harmonize laws and practices in the region. These should rest on existing frameworks such as the Association of South-East Asian Nations (ASEAN), the Bangkok Accord and Plan of Action to Combat Trafficking in Women (1998) and the Asian Regional Initiative Against Trafficking in Women and Children (Manila Declaration 2000).
14. NHRI should urge state parties to create a specified Task Force which brings together all appropriate and relevant Ministries and departments to address the issues surrounding trafficking.
15. The APF should commission two of its member institutions (one from a source State and the other from the host State) to undertake a pilot project to work together on the issue of trafficking and to use the results of the project to develop a broad framework for regional co-operation.

I thank you for your kind attention.

**Sixth Annual Meeting on the Role of the Asia Pacific Forum  
in the Protection and Promotion of Human Rights  
Colombo, Sri Lanka, 24-27 September 2001**

**Oral Intervention of the Pre Forum NGO Consultation  
on Racism, Racial Discrimination, Xenophobia and Related Intolerance: Report on the Outcomes  
from the World Conference<sup>7</sup>**

The Durban Program of Action urges States to “establish, strengthen, review and reinforce the effectiveness of independent National Human Rights Institutions, particularly on issues of Racism, Racial Discrimination, Xenophobia and Related Intolerance.” One of the strongest voices to emerge from the World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance (WCAR) in Durban

was that of National Human Rights Institutions (NHRIs). Stressing the importance of these and other specialized institutions in combating racism, racial discrimination, xenophobia and related intolerance, the National Institutions’ Statement to the WCAR outlined a framework of action based on and consistent with the Paris Principles. It called

for, among other things, the setting up of NHRIs in States where there were none, for the inclusion of the struggle against racism in the mandates of National Institutions, and for adequate human and financial resources for the institutions.

The run-up to the WCAR had also seen a number of positive signals on various issues from National Institutions in Asia. The National Human Rights Commission of India (NHRC) for example, commendably defied the Indian Government’s stand on the inclusion of ‘caste’ in the agenda for Durban. In its statement to the WCAR, the NHRC noted that it was “convinced that discrimination on any of the grounds contained in the Constitution of India, and these include race, caste and descent, constitute an unacceptable assault on the dignity and worth of the human persons and an egregious violation of human rights.” In addition, the NHRC, the Australian Commission on Human Rights and Equal Opportunity needs to be commended for its wide consultation with the civil society prior to the WCAR.

These statements and signals have to be followed up with more forceful language on implementation of international standards by States. Under the Paris Principles, NHRIs are obliged to encourage ratification of international human rights instruments to which the State is a party, or accession to those instruments, and to ensure their implementation. This was reinforced by the NHRIs’ statement to the WCAR which pledges that they will “work to ensure that their respective governments ratify international human rights treaties without reservations contrary to the object and purpose of the treaty, remove those existing reservations and fully implement international human rights treaties, in particular treaties relating to racism, racial discrimination, xenophobia and related intolerance.”

Institutions in the Asia-Pacific region still have some work to do in this regard. Some have to lobby for ratification, others for the lifting of reservations, others for the deposition of declarations in support of Article 14 of the UN Convention for the Elimination of Racial Discrimination (CERD) that allows for individual communications to be heard by the CERD Committee.

According to the National Institutions’ statement, NHRIs must also “act as a channel between action at the international level – through International Treaty Bodies, particularly the CERD, the special procedures, human rights resolutions and other mechanisms – and action at the national level to combat racism.” With many UN member States, including those in the Asia-Pacific, consistently delaying the submission of reports to international treaty bodies, national institutions need to urgently step up the monitoring of their governments’ reporting performance, and insist on compliance. We also recommend that NHRIs encourage governments to invite relevant Special Rapporteurs to visit their

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countries. In this context, we note with concern the threat by the Australian Government to withdraw from the Treaty Bodies' process and to cease cooperation with all special mechanisms of the UN following criticism by the CERD.

The NHRIs should make recommendations to their governments for the review of relevant legislation and the creation of appropriate institutions in order to incorporate relevant international standards, including CERD and the decisions incorporated into the Official Declaration and Program of Action in Durban.

NHRIs should also make recommendations to introduce legislation to ensure that national law prohibits all forms of discrimination in the private sector and provide effective protection against all forms of discrimination. As part of their mandate to look into issues of racism and racial discrimination, national institutions must also lay particular emphasis on problems faced by groups most vulnerable to discrimination. NHRIs could also encourage their governments to explore the UN Trust Fund for Victims of Racism as a mechanism for the provision of redress and compensation to victims.

NHRIs should partake in or encourage human rights awareness and human rights education regarding racism and racial discrimination in cooperation with civil society and academic institutions.

A significant requirement of NHRIs as laid down in the Paris Principles is that of pluralism in the composition of the institutions. In the context of the struggle against racial discrimination, National Institutions must ensure that their membership and staff composition reflects that diversity within their respective States. They should also introduce non-discriminatory recruitment policies and practices that aim to reflect the diversity of their societies at all organizational levels and allow effective response to victims' needs.

The NHRIs should take appropriate steps to ensure full participation of other sectoral human rights bodies such as anti-discrimination, equal opportunities and women's commissions and other bodies such as child protection authorities in their work.

The Durban Program of Action provides an opportunity for NHRIs to demand a wider, more substantial mandate with regard to the issue of racism, racial discrimination and related intolerance and the resources and capacities necessary to confront discrimination in their respective states. The Durban Program also provides an opportunity for NHRIs to reiterate earlier calls for State compliance with international instruments such as CERD. Governments must not be allowed to turn away from the problems in their own backyards.

I thank you for your kind attention.

**Sixth Annual Meeting On The Role of the Asia Pacific Forum  
In the Protection and Promotion of Human Rights  
Colombo, Sri Lanka, 24 – 27 September 2001**

Oral Intervention of the Pre Forum NGO Consultation on the Advisory Council of Jurists reference on  
Trafficking Of Human Beings<sup>8</sup>

The Pre Forum NGO Consultation suggests that the following legal and related questions surrounding the Trafficking of Human Beings, and in particular, of women and girl-children, be referred to the Advisory Council of Jurists (ACJ) for advice and recommendations.

The cross-border nature of the issues involved present a challenging inter-jurisdictional problem for regional lawmakers. At its core, the international trade in women and girl-children is about exploitation, violence, forced prostitution, abduction and fraudulent coercion of the most reprehensible kind. Immigration policies such as mandatory detention, serve to further exploit and to re-victimize the trafficked, whereas the real offenders are able to continue to operate with impunity. Presently, inadequate law enforcement mechanisms and a lack of cross-border co-operation mean that anti-trafficking initiatives have not given proper priority to the apprehension and prosecution of traffickers. Specifically, we recommend that the ACJ:

1. Examine existing regional legislative and administrative provisions in known source and host States, assess their practical application in so far as they affect the victims of trafficking both directly and indirectly, and make recommendations on law reform and related issues that would ensure that such provisions and their application conform with fundamental principles of humanitarian and international law.
2. Regional justice systems may be exploited to further victimize women and girl-children who are, for example, parties to hostile family disputes, victims of rape or trafficking, or who are subjected to prejudicial and arbitrary immigration policies. We suggest that in relation to victims of trafficking, the ACJ provide recommendations on law reform, rules of evidence, and Courts administration that would serve to minimize such manipulation and abuse of national judicial systems in the region and their processes.
3. Advise on methods through which States may enter into extradition, cross-jurisdictional and other collaborative arrangements geared towards the effective and prompt prosecution of perpetrators of human rights abuses against trafficked people.
4. Explore the creation of new asylum-like immigration categories and procedures dealing with victims of trafficking so that they are not treated as the wrongdoers in the situation. The fraud and other criminal conduct of traffickers must be distinguished from the actions of victims who are often driven to enter into arrangements with traffickers through necessity, systemic disadvantages, poverty, and fraudulent misrepresentation.
5. Examine the handling of victims of trafficking by regional immigration and law enforcement agencies and in particular, the detention and deportation of victims. The ACJ should further consider methods that would ensure that prompt prosecutions of traffickers are heard without adjournment except in the most exceptional of circumstances, and measures that would ensure that victim of trafficking are not removed by way of deportation from the jurisdiction of the prosecutorial Courts before the conclusion of criminal proceedings against traffickers.
6. Examine methods through which victims of trafficking may gain effective access to civil redress for loss of income and other benefits owed to them in return for their labour, and measures that would ensure that victim of trafficking are not removed by way of deportation from the jurisdiction of the relevant civil Courts before the conclusion of such proceedings.

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**Sixth Annual Meeting on the Role of the Asia Pacific Forum  
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**Oral Intervention of the Pre-Forum NGO Consultation  
on Internally Displaced Persons<sup>9</sup>**

The Pre Forum NGO consultation welcomes the discussion on Internally Displaced Persons (IDPs) at this Annual Meeting of the Asia Pacific Forum of National Human Rights Institutions<sup>10</sup>.

Persons displaced by conflict are vulnerable to a wide range of human rights abuses, including violations of their economic, social, cultural, civil and political rights. International agencies that work with IDPs such as the International Commission of Red Cross (ICRC), consider the “problems resulting from internal displacement [to be] first and foremost the responsibility of national authorities, who bear the main obligation to ensure that the protection and assistance needs of internally displaced persons are being met”. Given the human rights vulnerabilities of IDPs, and the responsibilities placed upon national authorities, National Human Rights Institutions (NHRIs) have a great responsibility to monitor the situation of IDPs in their countries and ensure that the rights of IDPs are protected and respected.<sup>11</sup>

It is particularly appropriate that the members of the Asia Pacific Forum address themselves to protecting the rights of IDPs, as internally displaced populations are present in a significant number of Asian countries, and as internal displacement impacts on the lives of millions of men, women and particularly children in Asia. For example, significant numbers of internally displaced peoples are found in Afghanistan, Bangladesh, Nepal, India, Indonesia, the Philippines and Sri Lanka.

Displacement affects the lives of people in many significant ways. It jeopardizes their physical security and impacts negatively on their quality of life and potential for physical and emotional growth. Family and community life may be damaged or destroyed, opportunities for cultural activity may be restricted, and their identity as a people may be put at risk. Displaced persons suffer loss of privacy, limitations on their capacity or ability to work, and restrictions on their access to basic health and education services. They often do not enjoy full civil and political rights, including the right to participate fully and equally in public life, and may be particularly vulnerable to gross human rights violations, including torture, disappearances, extrajudicial killings and gender based violence. IDPs are also vulnerable to forced recruitment by parties to the conflict in contravention of international humanitarian law.

In undertaking to ensure that the rights of IDPs are fully protected and respected, the Pre-Forum NGO consultation recommends that NHRIs specifically address the following issues:

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<sup>10</sup>This oral intervention draws on a paper entitled “Internally Displaced Persons: A Case For the NHRIs” prepared by the Asia Pacific Human Rights Network, which provides the basis for a dialogue between NHRIs and NGOs on the formulation of programs of action to address and alleviate the suffering of IDPs.

<sup>11</sup>Francis M. Deng, Special Representative of the UN Secretary General on Internally Displaced Persons prepared and presented the Guiding Principles to the UN Commission on Human Rights in 1998. The Principles outline the rights of IDPs and the obligations of governments and insurgent forces in all phases of displacement, and define the minimum standards of protection to which IDPs are entitled, including protection against arbitrary displacement, during situations of displacement, and with regard to post-conflict return and reintegration. The Deng Principles reflect and are consistent with international human rights and humanitarian law. They are not, however, a binding instrument.

1. IDPs who are citizens of the country in which they are displaced are entitled to full civil, political, economic, social and cultural rights; any abridgement of their rights as citizens, which is based solely on their IDP status is therefore discriminatory.
2. All IDPs as a consequence of their displacement confront particular problems in the fulfillment of their basic needs for food, safe drinking water, shelter, health services, education and safety. Mitigation of the consequences of displacement, including provision of basic needs during periods of displacement and resettlement, is a state responsibility.
3. IDPs have the right to settle voluntarily in the location of their choice; this includes the right to return to their original place of residence, to resettle temporarily until such time as they are able to exercise their right to return, or to resettle permanently, should they so prefer.

Specific measures that should be taken by NHRIs in order to protect the rights of IDPs include:

1. Establish a permanent presence close to internally displaced populations, and provide an adequate number of appropriately trained staff to monitor the situation of IDPs, in order to ensure their rights are respected, and facilitate and encourage IDP access to NHRI complaint procedures and mechanisms for seeking redress and compensation.
2. Report to the concerned authorities on the situation of IDPs in order to prevent possible human rights violations and make proposals to put an end to such violations, where they occur. Ensure that government assistance is given to all IDPs uniformly and without discrimination, and that resettlement where it occurs is voluntary and directed towards appropriate, suitable and safe locations, with the provision of appropriate resources and infrastructure.
3. Examine legislation and administrative provisions impacting on IDPs to ensure provisions conform to fundamental human rights principles, and are in harmony with the Deng Guiding Principles on Internal Displacement, and where necessary, recommend the adoption of new legislation or amendment of existing legislation or administrative measures, and ensure their full implementation.
4. Undertake and facilitate others in undertaking education campaigns to inform the general public and IDPs about the rights of the internally displaced as fellow citizens, their situation as IDPs and the responsibilities of local and national authorities, including law enforcement agencies to protect the rights of IDPs. Particular attention should be paid to the existence of tensions between IDPs and the surrounding host communities and to encouraging governmental and non-governmental efforts to facilitate dialogue, social and cultural exchanges and trust building between IDPs and host communities.
5. Where this is not already the case, encourage governments to consider enlisting the aid and expertise of international organizations such as the ICRC, UNHCR and other nongovernmental organizations to assist in upgrading government services to IDPs. Such organizations have extensive experience in addressing the needs of IDPs and a well-development commitment to promoting and protecting the human rights of internally displaced populations. NHRIs should also ensure that IDPs are able to effectively access the services provided by local and international relief agencies.
6. NHRIs should encourage national governments to ratify Protocols I and II of the Geneva Conventions and monitor and ensure effective compliance. NHRIs should also ensure compliance with the provisions of international humanitarian law in situations where IDPs may be subject to threat of recruitment or forced labor by State and non-State actor parties to an internal conflict.

International and domestic law is generally deficient in addressing the specific needs and conditions of internally displaced populations. The Pre Forum NGO consultation recognizes the work of the National Human Rights Institutions of Indonesia, Nepal, and India in addressing the problems of IDPs within their jurisdictions. NHRIs in the Asia Pacific region, by ensuring that national authorities set appropriate policies and respect fundamental human rights principles in their treatment of IDPs, can help promote international standards and best practices to improve the living conditions of millions of conflict-induced internally displaced persons around the world.