

## **SIXTH ANNUAL MEETING**



## **Asia Pacific Forum of National Human Rights Institutions**

**"A Partnership For Human Rights In Our Region"**

## **CLOSED SESSION REPORT**

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

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## **BACKGROUND**

Since the Third Annual Meeting of the Forum held in Jakarta in September 1998, Forum members have met to discuss specific and general business issues at a 'closed session'. For the Sixth Annual Meeting this practice has been continued. In addition, however, an additional day has been programmed to enable Forum members to undertake strategic planning and to discuss fundraising strategies for the Forum.

## **DRAFT AGENDA**

As per our tradition, the host institution – the Human Rights Commission of Sri Lanka – will assume the chair for the discussion of business items at the closed session. The session has been scheduled to run from 9:30am to 1:00pm. However, if further time is required to complete discussion on business items then the session will recommence following lunch.

The following business items have been suggested by Forum members for the agenda of the closed session.

1. Report of Forum Activities (Secretariat)
2. Report of the Forum Working Group on Legal and Governance Issues (APF Regional Coordinator, Commissioner Chris Lawrence)
  - Business Plan
  - Draft Constitution
  - Proposed Resolutions
3. Admission of New Members (Secretariat)
  - Mongolia
  - Thailand
4. Forum Structure (Working Group)
5. Discussion re: Sixth Annual Meeting (Secretariat)
  - Agenda
  - Concluding Statement
  - Draft references to the Advisory Council of Jurists
6. Report on the April 2001 Meeting of the International Coordinating Committee of National Institutions (ICC) and the election of four regional representatives to the ICC and one regional representative to the ICC accreditation sub-committee (Secretariat)
7. Seventh Meeting of the Forum (Secretariat)
8. General business

Forum members may wish to add to the above list on the day of the meeting.

## **REPORT OF FORUM ACTIVITIES**

See separate report.

## **REPORT OF FORUM WORKING GROUP**

See the following separate papers:

- Business Plan 2001 to 2004
- Draft Constitution
- Explanatory Memorandum
- Proposed Resolutions

## **ADMISSION OF NEW MEMBERS**

See separate papers on eth applications for membership from the Human Rights Commissions from Mongolia and Thailand.

## **DISCUSSION RE: SIXTH ANNUAL MEETING**

### *Agenda*

The agenda for the meeting has been included with your papers. It will be necessary for Forum members to review the agenda and clarify specific roles.

### *Concluding Statement*

The Secretariat will take the responsibility for the preparation of a draft concluding statement for the consideration of Forum members. The Secretariat will prepare a draft statement and distribute it to all Forum members on Wednesday evening. Given that the Annual Meeting will, at that stage, be only at the halfway mark, the draft statement will of necessity be an incomplete document. It will be important for all Forum members to provide the Secretariat with any comments they may have on the draft statement at the start of business on Thursday morning. These comments will then be incorporated into the draft along with any additional decisions made by the Forum during the course of business on Thursday. A second draft will then be distributed to all Forum members for their consideration at 4:00pm on Thursday. A separate room (the 'Gregory' room) will be made available for members to discuss the draft statement in private. Please note that the agenda of the meeting has allowed Forum members one and a half hours to conclude discussion and adopt a final statement for the meeting. This statement will then be distributed to all participants.

### *Draft References to the Advisory Council of Jurists*

Forum members will need to determine one new reference to the Forum's Advisory Council of Jurists. The Secretariat has prepared a series of draft references of the following issues for the consideration of Forum members:

- Child Soldiers
- Internally Displaced Persons
- Migrant Workers
- Trafficking.

These draft references are attached as an annex to this report.

**REPORT OF THE ACCREDITATION SUB-COMMITTEE OF THE INTERNATIONAL COORDINATING COMMITTEE OF NATIONAL INSTITUTIONS (ICC) AND THE ELECTION OF FOUR REGIONAL REPRESENTATIVES TO THE ICC AND ONE REGIONAL REPRESENTATIVE TO THE ICC ACCREDITATION SUB-COMMITTEE**

*Report of the ICC Accreditation Sub-Committee*

A separate report on this meeting has been prepared by the accreditation sub-committee of the ICC.

*Election of four representatives to the ICC*

Note that in accordance with the rules of procedure of the ICC, the ICC is comprised of 16 representatives – four representatives each from the four regions of Europe, Americas, Africa and the Asia Pacific. Election as a regional representative basically entails: (i) attending the ICC meeting held in conjunction with the annual meetings of United Nations Commission on Human Rights (CHR) in Geneva (note - the ICC meeting is scheduled to occur at the same time as the CHR addresses the agenda item on National Institutions) and (ii) being the overall management steering group for the bi-annual international meeting of national institutions.

In addition to electing the four regional representatives, Forum members must also select one of these four representatives to represent the region on the ICC's accreditation sub-committee. It is the responsibility of this sub-committee to review applications for ICC membership from national institutions and to determine whether these institutions comply with the Paris Principles. This is a significant role in that the acceptance by the ICC of an institution's compliance with the Paris Principles will eventually (we hope) determine whether that institution will be formally recognized by the United Nations as a 'national institution' that has the capacity to address the UN CHR and other UN fora.

The ICC rules of procedure do not set any term of office or any specific rules/criteria for representation beyond each institution having to comply with the Paris Principles. The ICC has raised the question of sub-regional representation but has decided to leave this to each regional group to decide.

The current four regional representatives to the ICC are the institutions from:

- Australia (+ accreditation sub-committee member)
- India (and former chair of the ICC)
- New Zealand
- Philippines.

At the Fifth Annual Meeting of the Forum it was agreed that guidelines should be developed for the selection of the four regional representatives to the ICC. In the interim it was further agreed that the current four representatives from Australia, India, New Zealand and the Philippines should continue in this role.

In the discussion between members at the Fifth Annual Meeting it was generally agreed that the four regional ICC representatives should:

- reflect the cultural diversity and geographic spread of Asia Pacific region
- be rotated amongst the membership of the Forum with two out of the four representatives being replaced at any one time so as to balance continuity with new input.

**Recommendation:** That Forum members agree that:

- (i) the four positions be rotated amongst the membership of the Forum
- (ii) two of the four current regional representatives remain for a further period of one year
- (iii) that two additional representatives be elected for a period of two years.

## **SEVENTH MEETING OF THE FORUM**

At the Fifth Annual Meeting initial expressions of interest to host the Seventh Annual Meeting were received from the Human Rights Commission of Nepal and the government representative from Thailand.

At the Fourth and Fifth Annual Meetings of the Forum, members discussed the desirability of making every second annual meeting a smaller scale affair to cut down upon the Forum's financial and administrative burden. It was agreed that this proposal could potentially be initiated at the Seventh annual meeting.

## **STRATEGIC PLANNING AND FUNDRAISING**

The remainder of the first closed day and the full second closed day has been allocated towards a strategic planning and fundraising session for Forum members.

Mr Wayne Hussey, Canadian President of DVA Navion, an international fundraising consultancy company, will facilitate this session.

A separate draft strategic fundraising plan has been made available to all members.

ANNEX  
ADVISORY COUNCIL OF JURISTS  
DRAFT REFERENCES

## Draft Reference on Child Soldiers

The Asia Pacific Forum of National Human Rights Institutions refers to the Advisory Council of Jurists for advice and recommendation on the question of whether the use of child soldiers is consistent with the norms of international human rights law.

In particular, the Council is to consider:

- (i) the minimum age permitted by international human rights law for military recruitment and participation in armed conflict, both on the part of governments and armed groups;
- (ii) what international laws exist to protect children from forced participation in armed conflict;
- (iii) what additional legal measures are needed to protect children from induction into armed conflict;
- (iv) how a child soldier's human rights are violated;
- (v) what penalties can be imposed on the use of child soldiers;
- (vi) how countries' laws regarding the use of persons under 18 in armed conflict should be changed;
- (vii) what legal measures exist to punish persons for forced enlistment of a child into armed conflict;
- (viii) what legal measures should exist to punish persons for forced enlistment of a child into armed conflict;
- (ix) what international instruments address child soldiers; and
- (x) what legal obligations states have towards children who have served in armed conflict.

The Council may comment on:

- (i.) the socio-economic, political, military and legal environments in Forum Member States
- (ii.) the roles to be served by a criminal justice system; and
- (iii.) the international legal obligations of each member state.

International human rights law includes, but is not limited to the:

- Convention on the Rights of the Child (1989)
- Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict
- Declaration on the Protection of Women and Children in Emergency and Armed Conflict
- International Labour Organization (ILO) Worst Forms of Child Labour Convention 182
- Statute of the International Criminal Court (ICC)
- UN Security Council Resolution 1261, August 1999
- UN Security Council Resolution 1314, August 2000
- UN General Assembly Resolution Adopting the Optional Protocol, May 2000

## **Draft Reference on Internally Displaced Persons**

The Asia Pacific Forum of National Human Rights Institution refers to the Advisory Council of Jurists for advice and recommendation as to how countries must respond to the problem of internal displacement to be consistent with the norms of international human rights law.

In particular the Council is to consider:

- (i) the types of persons classified by international human rights law as internally displaced;
- (ii) the range of obligations imposed by international human rights law that a country has toward the internally displaced;
- (iii) the nature and scope of the procedural guarantees and other safeguards possessed by internally displaced persons in international human rights law ;
- (iv) whether the UN Guiding Principles on Internal Displacement may be consistent with the rights and guarantees afforded by state constitutions;
- (v) whether the status of internally displaced persons should be assimilated with aliens, as is often done in the case of refugees;
- (vi) how to promote greater consistency between the rights granted to the internally displaced by international human rights law and the rights conferred to internally displaced persons by state constitutions, and
- (vii) what legal recourse is available to internally displaced persons in the event that the state is not fulfilling its protection responsibilities.

The Council may comment on:

- (i) the socio-economic, political, military, and legal environments in Forum Member States;
- (ii) the roles to be served by the military and police, and
- (iii) the international legal obligations of each Member State.

International human rights law includes but is not limited to the:

- Geneva Conventions
- Additional Protocols
- UN Charter
- Universal Declaration of Human Rights
- International Covenant on Civil and Political Rights
- Optional Protocol to the International Covenant on Civil and Political Rights
- Second Optional Protocol to the International Covenant on Civil and Political Rights
- Declaration on the Elimination of Violence against Women
- International Covenant on Economic, Social and Cultural Rights
- International Convention on the Elimination of All Forms of Racial Discrimination

## Draft Reference on Migrant Workers

The Asia Pacific Forum of National Human Rights Institutions refers to the Advisory Council of Jurists for advice and recommendation the question of whether the policies of Member States regarding migrant workers are consistent with norms of international human rights law.

In particular the Council is to consider:

- (i) the rights which States must grant migrant workers and their families under international human rights law;
- (ii) the nature and scope of protections available under international human rights law for migrant workers;
- (iii) the requirements of international human rights law regarding notification of diplomatic authorities of the State of origin in the event of arrest or detention of a migrant worker;
- (iv) any circumstances in which international human rights law permits restrictions on the rights of migrants to take part in activities of trade unions and any other associations established in accordance with the law;
- (v) any circumstances in which international human rights law permits a State of employment to restrict the access of migrant workers to certain categories of employment, functions, services, or activities;
- (vi) the adequacy of legal measures to sanction persons who deliberately encourage the clandestine movement of workers;
- (vii) whether there are any permissible distinctions that can be made under international human rights law among categories of migrant workers (e.g. project-tied workers, specified-employment workers, etc.) with regards to the rights granted by the State of employer ;
- (viii) the rights of children born to migrant workers in the State of employment under international human rights law; and
- (ix) the rights of family members of migrants in the State of employment in the event of the death of a migrant worker or dissolution of marriage.

The Council may comment on:

- (i) the socio-economic, political, and legal environments in Forum Member States;
- (ii) the religious and cultural traditions in Forum Member States
- (iii) the roles to be served by the justice system
- (iv) the international legal obligations of each Member State.

International human rights law includes, but is not limited to the:

- Universal Declaration of Human Rights
- International Covenant on Economic, Social and Cultural Rights
- International Covenant on Civil and Political Rights
- International Convention on the Elimination of All Forms of Racial Discrimination
- Convention on the Elimination of All Forms of Discrimination against Women
- Convention on the Rights of the Child
- Convention concerning Migrations in Abusive Conditions and the Promotion of Equality of Opportunity and Treatment of Migrant Workers (No. 143)
- Recommendation concerning Migration for Employment (No. 86)
- Recommendation concerning Migrant Workers (No. 151)
- Convention concerning Abolition of Forced Labour (No. 105),

- Code of Conduct for Law Enforcement Officials
- Slavery Conventions
- International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
- Migration for Employment Convention (Revised) (No. 97)
- Convention on the Rights of the Child,
- ILO Forced Labour Convention (No. 29)
- ILO Freedom of Association and Protection of the Right to Organize Convention (No. 87)
- ILO Equal Remuneration Convention (No. 100)
- ILO Discrimination (Employment and Occupation) Convention (No. 111)
- ILO Minimum Age Convention (No. 38).

## Draft Reference on Trafficking

The Asia Pacific Forum of National Human Rights Institutions refers to the Advisory Council of Jurists for advice and recommendation the question of whether the trafficking of women is consistent with the norms of international human rights law.

In particular, the Council is to consider:

- (i.) the range of activities which would fall under the scope of “trafficking” according to international human rights law;
- (ii.) why trafficking of women is a human rights violation;
- (iii.) whether existing international laws against trafficking of women are adequate;
- (iv.) what legal loopholes exist to facilitate sex trafficking of women despite anti-trafficking laws;
- (v.) how countries’ existing anti-trafficking laws should be strengthened;
- (vi.) what legal measures exist to punish persons for trafficking women;
- (vii.) what legal measures should exist to punish persons for trafficking women
- (viii.) what international instruments address trafficking in women;
- (ix.) what limits their effectiveness in addressing the issues they cover; and
- (x.) do existing laws penalize women who have been trafficked.

The Council may comment on:

- (iv.) the socio-economic, political and legal environments in Forum Member States
- (v.) the roles to be served by a criminal justice system; and
- (vi.) the international legal obligations of each member state.

International human rights law includes, but is not limited to the:

- Convention on the Suppression of Trafficking in Persons and the Prostitution of Others
- Supplementary Convention on the Abolition of Slavery, Slave Trade and Institutions and Practices Similar to Slavery
- Convention on the Elimination of All Forms of Discrimination Against Women
- Vienna Declaration on Human Rights
- Recommendation No. 19 of the Committee on the Elimination of All Forms of Discrimination Against Women
- Declaration on the Elimination of Violence Against Women
- International Conference on Population and Development Declaration
- Beijing Platform of Action
- Commission on the Status of Women and General Assembly resolutions on Traffic in Women and Girls initiated by the government of the Philippines.