

EIGHTH ANNUAL MEETING



THE ASIA PACIFIC FORUM OF NATIONAL HUMAN RIGHTS INSTITUTIONS

...a partnership for human rights in our region

REPORT ON APF ACTIVITIES

**16th – 18th February 2004
Kathmandu, Nepal**

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1. PURPOSE

The purpose of this paper is to outline the activities of the Asia Pacific Forum of National Human Rights Institutions (APF) over the period since its last annual meeting in November 2002 to December 2003.

2. APF ACTIVITIES

The work of the APF can be categorised under three broad areas:

- (i) Strengthening the capacity of individual APF member institutions to enable them to more effectively undertake their national mandates.
- (ii) Assisting governments and non-governmental organisations to establish national institutions in compliance with the minimum criteria contained in the Paris Principles.
- (iii) Promoting regional cooperation on human rights issues.

During the 2002-2003 reporting period the Secretariat's operations focused on the following eight main areas of activity – (i) Annual Meeting (ii) Advisory Council of Jurists (iii) General Advisory Services, (iv) Information and Promotion, (v) International Law Development, (vi) Thematic Regional Workshops (vii) Training and (viii) Staff Exchanges.

3.1 Annual Meeting

The Seventh Annual Meeting of the APF was held in New Delhi from 11 to 13 November 2002. The National Human Rights Commission of India hosted the meeting. The Secretariat of the APF provided organisational support. Financial assistance was provided by AusAID, the Office of the United Nations High Commissioner for Human Rights (OHCHR) and the Government of New Zealand through its Overseas Development Assistance program.

The Seventh Annual Meeting was held over three full days beginning with a one day private meeting of its member institutions and the OHCHR which provided an opportunity for extended discussion of the APF's management, its functioning and future needs. The three-day meeting was also preceded by an informal half-day meeting of the senior executive officers of member institutions.

The Hon. Shri Atal Bihari Vajpayee, Prime Minister of India opened the meeting. Participants included senior representatives of the twelve member institutions that comprise the APF and the Special Adviser on National Institutions of the OHCHR. Observers at the meeting included representatives of regional governments, relevant non-member institutions, inter-governmental organisations and numerous representatives of non-governmental organisations (NGOs) from the region and beyond.

Key outcomes of the meeting included:

- the National Human Rights Commissions of Malaysia, South Korea and Thailand were formally accepted into the APF, increasing the APF's membership to twelve institutions.
- agreement to regional cooperation and joint work on trafficking.
- the finalisation of the reference by the Advisory Council of Jurists and the adoption of the recommendations of the Council.
- a decision to formulate a new reference to the Advisory Council of Jurists on the issue of the primacy of the rule of law in countering terrorism world-wide while protecting human rights;
- a decision to participate in discussion regarding the proposed development of a new international convention on the rights of persons with disabilities.

The meeting adopted a comprehensive Statement of Conclusions detailing the above outcomes. A full copy of this statement, and all the associated meeting papers prepared for the meeting, are available at:

www.asiapacificforum.net/activities/annual_meetings/seventh/final.doc.

Significant preparations were also undertaken for the Eighth Annual Meeting of the APF during the reporting period prior to its postponement to 2004.

3.2 Advisory Council of Jurists

3.2.1 Trafficking

During 2002-03 the APF acted as the secretariat to the Advisory Council of Jurists. In particular this involved (i) the development of terms of reference on trafficking (ii) the development of a comprehensive background paper on trafficking (iii) liaison with the Jurists and member institutions (iv) liaison with the host institution and logistics for the meeting of the Council (v) finalising the conclusions of the Council (vi) liaising with member institutions concerning the adoption and implementation of the Council's recommendations and (vii) developing the terms of reference for a new reference.

For further details of the operation of the Advisory Council of Jurists and the full text of background papers and recommendations see

www.asiapacificforum.net/jurists/jurists.html.

3.2.2 Terrorism

In 2004, in conjunction with the Eighth Annual Meeting of the APF, the Council will consider a reference on the Rule of Law and Countering Terrorism. During the 2002-2003 reporting period the APF undertook research and drafting on the terms of reference and background paper for this reference. A full report on this activity will be provided in the next reporting period. The terms of reference for this topic and the full text of the

background paper for this meeting are available at www.asiapacificforum.net/jurists/terrorism/intro.htm.

3.3 General Advisory Services

The APF provided a wide range of advisory services to member institutions, prospective members, governments and NGOs during the 2002-2003 reporting period.

3.3.1 Advice to Members

Advice was provided to national human rights institutions on the following issues – (i) disability; (ii) the International Criminal Court, (iii) the Optional Protocol Against Torture; (iv) anti-terrorism measures; (v) the Bangalore Principles; (vi) trafficking; (vii) investigation techniques; (viii) national action plans; (ix) strategic planning; (x) reporting under treaty bodies and (xi) discrimination. Specific assistance was also provided, on request, to the individual member institutions from Fiji,¹ Indonesia,² Malaysia,³ South Korea,⁴ Sri Lanka⁵ and Thailand.⁶ Advice was also provided to the prospective member institutions from Hong Kong,⁷ Iran⁸ and Palestine.⁹

3.3.2 APF visit to Indonesia

On 13 June 2003, Ms Pip Dargan, Deputy Director of the APF met with Abdul Hakim Garuda Nusantara, Chairperson and Mr Gembong Prijono, Secretary-General, of Komnas Ham. Discussions were extremely useful and focused on the current activities of Komnas HAM, including its establishment of an ad hoc investigation team to monitor human rights in Aceh and the institutional strengthening activities of the Commission.

3.3.3 APF visit to the Republic of Korea

Mr Kieren Fitzpatrick, Director, and Ms Pip Dargan, Deputy Director, APF Secretariat visited the National Human Rights Commission of Korea from 6 to 8 August 2003. The purpose of the visit was to further develop mutual understanding and cooperation between the APF Secretariat and the Korean Commission.

The Secretariat met with the President Kim Chang-kuk, Senior Commissioners, Ms Rhyu See-chun and Mr Yoo hyun, Secretary-General, Ms Choi Young-Ae along with other senior staff at the Commission. Discussions between the Commission and the Secretariat ranged from the human rights situation in the Republic of Korea, the activities of the

¹ Issues included human rights education and international law

² Study tour with the Secretary-General of the Indonesian Commission.

³ Organisational structure; international treaties.

⁴ Organisational structure; complaint handling; domestic remedies.

⁵ Investigations.

⁶ Independence under the Paris Principles.

⁷ Independence under the Paris Principles.

⁸ Compliance with the Paris Principles.

⁹ Compliance with the Paris Principles.

Commission, APF activities and future programs of cooperation. The Commission confirmed that it would host the 10th Annual Meeting of the Asia Pacific Forum of National Human Rights Institutions. It also discussed with the Secretariat its program of staff placements for 2003 and sought assistance from the Secretariat in the placement of staff.

Mr Fitzpatrick, Ms Dargan and Ms Choi Young-Ran, Assistant Director of the Commission, also met with the Korean Ministry of Gender Equality regarding the issue of trafficking of women and children. The Ministry provided information on the latest trends relating to trafficking and its commitment to increasing awareness and international cooperation on this issue. The Ministry advised that each year for the next three years it will co-organise with the Ministry of Justice an Asia Pacific regional conference on trafficking focusing on prevention, protection and prosecution issues. The first of these conferences “Prevention of International Trafficking and Public Awareness Campaign” will be held 22-23 September 2003. Finally the APF Secretariat also visited the Yeosu Correctional Institution.

3.3.4 APF visit to Mongolia

After receiving an invitation extended by Chief Commissioner of the Mongolian Human Rights Commission, Mr S. Tserendorj, with the purpose to enhance effective working relations with the Secretariat including negotiations on preparatory aspects for the 9th Annual Meeting, Mr. Kieren Fitzpatrick, Director, and Ms. Pip Dargan, Deputy Director of the APF Secretariat visited the National Human Rights Commission of Mongolia from 11-13 August, 2003.

Mr. Fitzpatrick and Ms. Dargan had several sessions with Commissioners and staff to discuss recent developments, exchange views on present human rights concerns in the region and elaborate on opportunities for future cooperation.

The Commission arranged a series of meetings with government officials and representatives of international development agencies to inform them of the upcoming annual meeting and to facilitate understanding and further cooperation in the field of promoting human rights. In particular the Secretariat had meetings with officials from the Ministry of Foreign Affairs and the Legal Standing Committee of the Great State Khural (Parliament) of Mongolia. After an exchange of views, Mr. Ts. Sharavdorj, Chair of the Committee, agreed in principle to convene a parliamentary hearing in October on the Commission’s Annual 2003 Status Report on Human Rights and Freedoms. This event was intended to gain broader response and reaction on part of the lawmakers to contemporary human rights issues raised in the status report submitted earlier in April by the Commission. The visit was also used to launch a media campaign to raise awareness of the Paris Principles, the work of the APF Secretariat and Commission and the forthcoming 9th Annual Meeting in 2004.

The visit also provided an opportunity for the Secretariat to engage in active fact-finding in the field. Discussions were held with representatives of human rights NGOs and

academia with emphasis on the human rights dimensions in state anti-terrorism activities and trafficking. Ms. Dargan also met with Mr. Dashdorj, Complaints Officer, and Ms. Delgermaa, National Consultant, who provided a briefing on the training needs assessment exercise conducted for the legal profession in April 2003 by the Commission as part of a follow-up to the APF's Human Rights Investigation Training course. At the wrap-up session of the three-day visit, possibilities for the creation of a regional human rights training and information centre in Ulaanbaatar were explored among other issues for future cooperation.

3.3.5 Advice to Governments

Advice on the nature and status of national human rights institutions and compliance with the Paris Principles was also provided to governments of Afghanistan, Japan, Mongolia, South Korea, Solomon Islands, Taiwan, Timor-Leste and the Pacific Islands Forum.

3.3.6 APF Mission to Japan

An APF delegation including Commissioner Sushil Pyakurel (Nepal), Commissioner Joy Liddicoat (New Zealand) and Mr Kieren Fitzpatrick (APF Secretariat) met with parliamentary, government and non-government representatives during a three-day visit to Japan from 8 to 10 December 2003. The visit was coordinated by the International Movement against All Forms of Discrimination and Racism.

The delegation participated in the *Asia Pacific Regional Seminar on National Human Rights Institutions* and a number of other meetings. The visit was an opportunity to learn about progress towards the establishment of a national human rights institution in Japan and to provide information about the work of the APF and its member institutions. Efforts to establish a national human rights commission in Japan have been a drawn out affair and are now subject to further delay. The Human Rights Protection Bill, first approved at a cabinet meeting and referred to the Diet in March 2002, was discarded on 10 October 2003 when the House of Representatives was dissolved during the 157th Extraordinary Diet Session. The Bill was criticised by Japanese non-government organisations (NGOs), with concerns raised about the proposed institution's lack of independence from the Government.

The APF delegation believes that further efforts should be undertaken to promote the establishment of a national institution fully in compliance with the Paris Principles. The APF should, therefore, devote the necessary human and financial resources to encourage the government and non-government representatives to work in partnership towards this objective. This future work is included in the APF Business Plan for the 2004 to 2006 period.

3.4 Information and Promotion

Throughout the 2002-2003 reporting period the APF undertook a range of information and promotional activities on the role and functions of NHRIs and the activities of the

APF. These educational activities aim to (i) improve awareness among political and administrative decision-makers and the wider community of the value and importance of national human rights institutions ; (ii) improve awareness among relevant regional governments and agencies of the appropriate functions, powers, structures and legislation for national institutions established in accordance with the *Paris Principles*; (iii) improve awareness among national institutions of the legislation, casework, techniques, procedures and outcomes of other institutions both within and outside the region; and (iv) provide information about APF activities to members institutions, governments (inside and outside the region), UN agencies, NGOs and the general community. The following specific activities were undertaken:

3.4.1 Forum Bulletin

The APF published three issues of a regular newsletter, titled the *Forum Bulletin*, to keep APF members, governments and NGOs informed of important policy, legal, administrative and training developments in the region.

Copies of the Forum Bulletin can be obtained at www.asiapacificforum.net/forumbulletin.htm.

3.4.2 Website

The APF did a complete overhaul of its website to make it more accessible. The website was updated throughout the reporting period. The website includes details on the role and functions of national institutions, the APF, individual member institution activities and the Advisory Council of Jurists. The APF also published a quarterly update for supporters of the APF, titled *Donor Update* and undertook regular electronic communication with members, governments and NGOs on an issue by issue basis.

The website can be viewed at www.asiapacificforum.net.

3.4.3 Participation in APF Activities

The APF encouraged the participation of governments and human rights NGOs in the APF's annual meetings, workshops and training programs as an important awareness raising and partnership exercise about the role and functions of national institutions.

For details on the range of governmental, NGO and expert participants in the APF's activities, please view the participant lists associated with each activity at www.asiapacificforum.net/activities/activities.html.

3.4.4 Study Visits

The APF received visits by member institutions, government officials and NGOs from Afghanistan, Indonesia, Japan, Malaysia, New Zealand, Solomon Islands, United Kingdom, Taiwan and Timor-Leste.

3.4.5 Speaking Engagements

In 2002-2003 the APF undertook speaking engagements where they demonstrably assisted the APF to meet its mission, goals and objectives. For example, from 9 to 13 November 2002 Mr Stephen Clark of the APF participated and gave an address to the Asian Civil Society Forum (ACSF) which was organised by CONGO (Conference of Non Governmental Organisations in consultative status with the United Nations). The ACSF 2002 meeting was held in Bangkok, Thailand at the United Nations Conference Centre located within the headquarters of the UN Economic and Social Council for Asia and the Pacific (ESCAP). The main strategic objectives and goals of ACSF 2002 included:

- promotion of cooperation and solidarity among NGOs in Asia engaged in advocacy activities in the United Nations;
- facilitation of proactive dialogue and debate among NGOs on issues concerning UN/NGO partnerships for democratic governance;
- providing NGOs with practical training about advocacy in the UN;
- assessing the impact and implementation of UN global summits and conferences in Asia;
- developing strategies to ensure that government commitments made at the UN conferences are fully implemented;
- preparing NGOs in Asia for forthcoming UN meetings;
- developing input from NGOs in Asia into the ongoing process of UN democratisation and reform; and
- developing possible regional mechanisms for more systematic and effective cooperation between UN and NGOs in Asia.

In addition to the above, Ms Pip Dargan of the APF, along with representatives from the national human rights commissions of Australia, India and Malaysia, participated in a two-day conference on the trafficking of women for prostitution, in Melbourne, Australia, from 23-24 October 2003. The conference, *Stop the Traffic 2*, featured a presentation from the APF – see www.asiapacificforum.net/human/issues/apfstoptraffic.htm. Finally, from 19 to 21 December 2003, Mr Stephen Clark of the APF participated in the *Net the World: Taiwan NGOs International Exchange and Cooperation Exhibition*. For further information see www.icdf.org.tw/english/e_index_press_contact.asp?id=706.

3.5 International Law Development

During the 2002-2003 reporting period the APF took an active role in the development of international law and in participating in major international activities.

3.5.1 Workshop on Internally Displaced Persons

In December 2002, the APF participated and gave a presentation to an international conference on Internally Displaced Persons which was held in Vienna, Austria. Further

information on this issue is available at www.asiapacificforum.net/human/issues/internally_displaced.htm.

3.5.2 11th UN Workshop on Regional Cooperation

From 25 to 27 February 2003 the APF was invited to participate and make a key-note presentation to the UN Eleventh Workshop on Regional Co-operation for the Promotion and Protection of Human Rights in the Asia-Pacific Region, which was held in Islamabad, Pakistan. Over thirty representatives of Governments of the Asia-Pacific region participated, together with representatives of national institutions and NGOs. The APF was successful in securing the agreement of the regional Governments to a variety of APF activities. The full text of the Concluding Statement and Programme of Action can be found at www.asiapacificforum.net/activities/international/un_asia/eleventh.htm.

3.5.3 58th Session of the UN Commission on Human Rights

The APF attended the 59th Session of the UN Commission on Human Rights in April 2003 and participated in the discussions surrounding the annual resolution on national institutions that is adopted in the UN Commission. The APF made a formal statement to the UN Commission on Human Rights. A copy of the statement can be found at www.asiapacificforum.net/activities/international/un_commission/chr59.htm.

3.5.4 New International Instrument on Disability

The APF developed a coordinated policy position for all its members on the proposal to create a new international human rights instrument dealing with the rights of people with disabilities. A copy of the agreed APF position and associated discussion papers can be obtained at www.asiapacificforum.net/activities/annual_meetings/seventh/Disability.doc. A separate paper providing an overview of this issue has been prepared for this meeting.

The APF also organised, participated or assisted its members in a number of activities to implement this policy. These included an ESCAP meeting held in Bangkok, Thailand in October 2003 (see www.un.org/esa/socdev/enable/rights/bangkokdraft.htm) and the first session of the UN working group established to assist in the development of the text of the proposed Convention which was held in New York, USA in January 2004 (see www.un.org/esa/socdev/enable/rights/ahcwg.htm).

3.6 Thematic Regional Workshops

The APF's thematic regional workshops address specific human rights issues with the objective of producing concrete and practical proposals for implementation.

3.6.1 Promoting the Rights of People with Disabilities

The APF, in cooperation with the National Human Rights Commission of India, the British Council and the OHCHR, held a workshop on the role of national human rights

institutions in the development and negotiation of a proposed new international convention on the rights of persons with disabilities. The workshop was held in New Delhi, India from 26 to 30 May 2003. For further details see the separate report on this issue and www.asiapacificforum.net/activities/thematic/disability/disability.htm.

3.7 Training

3.7.1 Regional Investigations Pilot Project

The APF implemented a three week regional training pilot project on human rights investigations techniques. The pilot training program was conducted in Canberra, Australia, from 11 to 29 November 2002. The Australian Federal Police were the main training provider, supplemented by human rights experts. The project was designed to assist the national institutions of Fiji, India, Indonesia, Mongolia, Nepal, Philippines, Republic of Korea, Sri Lanka and Thailand to secure sustained and effective improvements in the promotion and protection of human rights. This was done by strengthening the capacity of the staff of national institutions to effectively investigate serious violations of human rights. An important element of the project was a train-the-trainer component, which promoted sustainability beyond the time frame of the project itself. The National Human Rights Commission of India provided a senior staff member to act as the mentor for the training program. For a full report on the implementation of this program see www.asiapacificforum.net/activities/investigations.htm.

3.7.2 Sri Lankan Investigations Training

From the 8 to 12 November 2003, the APF ran a specially tailored ‘in-country’ training program on investigation techniques for the Human Rights Commission of Sri Lanka (HRCSL). The training program was part of the APF’s Professional Development Program. The five-day training program provided foundation knowledge and skills in the investigation of alleged infringements of human rights. In particular the program provided participants with (i) an overview of various models of investigation and an opportunity to clarify the appropriate model(s) of investigation within the HRCSL context, (ii) the purpose of HRCSL investigations and the role of the HRCSL investigation officer; (iii) an understanding of international human rights instruments as relevant to the legislative context of the HRCSL and associated legal definitions and concepts; (iv) information on approaches to the assessment of complaints with particular reference to variables that influence determination of priority handling, preliminary or formal investigation and early resolution; (v) an understanding of key legal principles that guide the conduct of investigations into alleged infringements of human rights; (vi) a model to plan investigations to ensure they are efficient and effective; (vii) knowledge and skills to enable the efficient and effective gathering of evidence relevant to an investigation; (viii) knowledge and skills to enable the efficient and effective analysis of evidence that has been gathered; and (ix) knowledge and skills to enable appropriate handling of evidence, efficient and effective documentation of an investigation and appropriate file and caseload management.

The program also assisted in identifying areas for further training and development in accordance with the learning needs of staff of the Sri Lankan Commission. For further information on this program see

www.asiapacificforum.net/activities/investigations_srilanka.htm.

3.7.3 Thailand Investigations Training

During the reporting period the APF held discussions with the National Human Rights Commission of Thailand regarding the possible implementation of a specifically tailored 'in-country' training program on investigation skills during 2004.

3.7.4 Women's Rights

Ms Pip Dargan, Deputy Director, APF Secretariat, participated as a trainer in three workshops on the human rights of women in Indonesia. The first workshop on women's rights was held in Palu, Central Sulawesi, from 26 -30 May 2003, the second held in Palembang, South Sumatra, from 16-20 June 2003 and the third in Samarinda, East Kalimantan, from 28 July to 1 August 2003. The workshops were each attended by 30 participants and included religious leaders, official and governmental organisations, including judges, prosecutors and police or prison officials, academics, women's non-government organisations, provincial and local authorities.

3.8 Staff Exchanges

3.8.1 New Zealand – Fiji

The New Zealand Human Rights Commission provided the services of its former Proceedings Commissioner, Chris Lawrence, to work under the direction of the Director of the Fiji Human Rights Commission. The purpose of the placement was to assist with the Commission's legal advocacy and policy activities. The placement was for the period August 2002 to February 2003.

3.8.2 Australia – Malaysia

The Australian Human Rights and Equal Opportunity Commission (HREOC) and the Malaysian Human Rights Commission (SUHAKAM) exchanged senior legal officers for a six week period. Ms Christine Fougere, Senior Legal Officer at the Australian Human Rights and Equal Opportunity Commission (HREOC) worked in the Legal section of the Malaysian Human Rights Commission (SUHAKAM). Ms Azwa Petra, Head of the Legal Division of SUHAKAM was placed with HREOC's Legal Section and the Sex Discrimination Unit.

3.8.3 Mongolia – APF

Mrs Batchuluun Khishigsaikan, Director and Mr Munkbat Nyamaa, National Project Manager, from the National Human Rights Commission of Mongolia worked in the APF

Secretariat for two weeks from in September 2003. The purpose of the placement was to provide the Mongolian Commission with the necessary experience to assist with preparations for the 9th Annual Meeting in Mongolia in 2004.

3.8.4 Mongolia – New Zealand

Ms Oyunaa Purev, Complaints Officer at the National Human Rights Commission of Mongolia, worked in the New Zealand Human Rights Commission for one month where she focussed on the New Zealand Commission's dispute resolution process. Before starting her placement Ms Purev attended a five week English language course to allow her to fully benefit from her placement. Ms Purev's particular area of interest was the application of the New Zealand Commission's jurisdiction to race and gender issues.

3.8.5 South Korea – APF; Australia; Fiji; Malaysia; New Zealand; Philippines

A number of staff from the Korean Human Rights Commission completed an exchange placement in the APF Secretariat and various APF member institutions in November and December 2003:

- Mr Young-sun Chung, Deputy Director of the Policy Development and Coordination Division worked in the APF Secretariat for two weeks. The purpose of the placement was to study the development and implementation of National Action Plans;
- Ms Ji-Young Song, of the Legislation and Policy Monitoring Division, and Mrs Eun-Suk Chei of the Violation Investigation Division I worked in the Legal and Complaints sections respectively of the Australian Human Rights and Equal Opportunity Commission (HREOC);
- Ms Han-Woo Park of the Human Rights Education Division, and Mr Jun-Seok Choe of the Violation Investigation Division I worked in the Fiji Human Rights Commission;
- Mr Seung Ryul Cha of the Civil Society Cooperation Division and Mr Hong-Gu Kang of the Investigation Planning Division worked in the Human Rights Commission of Malaysia.
- Ms Kyung-Hye Nam and Ms Cho-Ah Song of Discrimination Investigation Divisions I and II completed placements in the New Zealand Human Rights Commission; and
- Ms Eun-Mi Kim, of the Human Rights Education Division, and Mr Yang-Hwan Oh of the General Affairs Division worked in the Philippines Human Rights Commission.

See www.asiapacificforum.net/activities/staff.htm for further information.