

**A**  
*model*  
*for torture*  
*prevention*  
*in Asia*

Shyamali Puvimanasinghe



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A report published by the  
Asian Human Rights Commission (AHRC), Hong Kong  
Rehabilitation and Research Centre for Torture Victims (RCT), Denmark



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*This report is dedicated to Gerald  
Meroy Perera, torture victim and  
friend who was assassinated by the  
police on 24 November 2004, for  
courageously pursuing his complaint  
of torture*

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## Introduction

This paper is an attempt to introduce how one regional human rights organisation, the Asian Human Rights Commission (AHRC), has evolved to develop a local network of grassroots level organisations in Sri Lanka, to resist and overcome the repression faced by the people of that country.

The particular form of repression that evolved in Sri Lanka since the election of a new government in 1977 by an overwhelming majority, and which virtually displaced parliamentary opposition in the country, is well documented. The period beginning from that time and prevailing until about 1994 – when the political party that ruled the country for 17 years was defeated at a general election – is popularly known as the ‘period of terror’. The term applies mostly to the state-sponsored violence, systematically organised by the then-government with the use of emergency powers, to suppress all opposition to its political power as well as to its policies of creating conditions for attracting investments. The immediate pretext for the unleashing of the terror was the suppression of a political group known as the Janatha Vimuthi Peramuna (J.V.P.).

The subsequent government appointed three Commissions to inquire into the large-scale disappearances, which took place during this time. The three reports published by these Commissions record the extent of violence during this period.

There are also reports made by the UN Working Group on Forced Disappearances on events that occurred in the south of the country.

Meanwhile, this period also marked a serious conflict between the Sri Lanka Army and the Tamil militant groups that later came under the leadership of the LTTE. That conflict escalated into a state of virtual civil war in the North and the East. This was also a period of enormous violence affecting these two areas but also shaping mentalities in the rest of the country. This conflict often referred to as an 'ethnic conflict' is quite widely publicized throughout the world.

The purpose of this paper is not to revisit research into this period. This paper concentrates on the perception of one group of human rights activists on the impact of the violence that spread throughout the country during this period, on the legal system of the country and its impact on human rights. The AHRC's work in Sri Lanka has been based on the perception that there is an exceptional collapse of the rule of law in the country and that all attempts to improve human rights must be centred on addressing this issue. Beginning from this postulate, the organisation has evolved its prevention of torture programme as an attempt to expose the depth of the collapse of the rule of law, particularly manifested in the policing, prosecution and judicial systems. The organisation's express strategy has been to highlight this situation through the documentation of actual torture cases and to work towards the provision of services to torture victims. For instance, legal and medical assistance, essential financial support, and also by providing protection and security for such victims. The organisation's attempt has been to write the narrative of the collapse of the rule of law by documenting the legal struggles of its victims.

For the aforementioned purposes, it was essential for the regional organisation, which is based in Hong Kong, to have human rights groups based in different parts of Asia, to work as clinics in documenting, transmitting information, providing protection and engaging in assisting victims to search for legal remedies. Thus, a network of organisations have risen up around this project and they are themselves part of the narrative of this work.

Given the highly comprehensive nature of the repression it was also an assumption of the AHRC that international lobbying based on the use of email and electronic facilities should be an important component of the project. Thus,



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the cases of victims recorded by the local organisations are transmitted to a very large email network with a view to create awareness of the problem and also to increase intervention in these cases. Among the recipients of this information are also the UN agencies and international human rights groups.

A further component of this work is to develop generalizations based on the experience of these cases and to circulate the views thus arrived at widely both locally and internationally. For this extensive media ventures have been undertaken locally and the UN and other forums have been used to spread such views. All such materials are preserved in websites maintained by the organisation.

Thus, this paper will not attempt to engage in a fresh study of the history of the period, or even to give a comprehensive synopsis of such history. It is merely an attempt to study how civil society organisations such as human rights groups can evolve strategies to fight against conditions created by widespread and extensive repression lasting for several decades. The scope of the study is limited to giving some insights to such a process of action. This is also not an attempt to write a detailed description of the work of the AHRC or its network.

This paper belongs that to category of writing which tries to give some illumination into the difficult path of trying to rebuild space for freedom and human rights after a period of dark and harsh repression.

# 1. Sri Lankan Democracy:

## The beginning of the end

### 1.1 Political decadence

In 1948 Sri Lanka gained independence from Britain and a Westminster-style parliamentary democracy was established. Thereafter periodic elections were held and governments were replaced peacefully with the principle that a government was elected only for a fixed period of time. A new Constitution in 1972 did not

drastically alter the structure of Government, though it failed to recognise minority rights, entrenched in Article 29 of the 1948 Constitution. In 1977, a new Government was elected into power with a 5/6<sup>th</sup> majority in Parliament and the new regime used this overwhelming majority, to radically overhaul the political system of the country.<sup>1</sup>



Jean-Bedel Bokassa, The Central African Republic dictator who is generally compared with Idi Amin



J R Jayawardene, ex-president of Sri Lanka who created a Bokassan style constitution

With the promulgation of the 1978 Constitution, Parliament was pushed to a subordinate position and near-dictatorial powers were given to the all-powerful Executive President. This was, according to many, the beginning of the end of Sri Lankan democracy. That is, though the new Constitution maintained a liberal democratic façade, in reality the broadly Montesquiean approach of previous constitutions was abandoned in favour of a Bokassan political style dictatorship.<sup>2</sup> The separation of powers between the executive, legislative and judiciary though accepted, was superficial; the wielder of the real power was a single person – the Executive President. Given the ruling party's majority in Parliament, opposition to this political transformation was almost nonexistent. Alarming even legal experts of the time failed to recognise this ominous threat to democracy and jumped on the bandwagon to heap praise on the new Constitution.

Then in 1982, instead of holding elections, the Executive President sought to maintain his majority in Parliament via a referendum where the people were asked to extend the life of the Parliament without an election. A petition was filed before the Supreme Court against the proposed amendment to the Constitution, but in rejecting the petition, the apex court lost an invaluable opportunity to uphold democracy.<sup>3</sup> Amidst widespread resistance to this blatantly anti-democratic move, by coercion and intimidation, the Government extended its tenure by another 6 years.

## **1.2 Social unrest**

Violence was gradually seeping into Sri Lankan polity. Since the late 1960s there was considerable unrest among the younger generation in the face of rising levels of unemployment. Due to the free education policy, followed since the mid 20<sup>th</sup> century, a characteristic of the younger generation of the time was that many young people – including those from the poorer sections of society, particularly in rural areas – were better educated. Many were now armed with a university education that was formerly reserved for an elite few. However, despite changes in attitudes and higher expectations resulting from rising levels of education, there was no corresponding increase in employment opportunities; nor was there a transformation of society to encourage inclusive participation of the masses.

Instead the state enhanced the powers of the police and the military, to control the growing instability in the country.

By the early 1970's dissent among the young gave rise to a small political party known as Janatha Vimukthi Peramuna (JVP or People's Liberation Front), which advocated armed conflict as a solution to the problems of the young, especially from the rural areas. In retaliation to a scattered uprising by this group in 1971, the state coalition government led by the Sri Lanka Freedom Party (SLFP) sanctioned the use of violence by the armed forces and the police – including the use of illegal arrests, torture and extra-judicial killings – to suppress the JVP. What followed was the unleashing of uncontrolled violence that shocked the nation. The centres from which most of these activities were carried out were the local police stations that before long came to be fearfully perceived as 'torture chambers' – a notion that often prevails even to this day.

The overhaul of the political system by the 1978 Constitution as well as an attempt to introduce structural adjustments and other economic reforms within a short period of time further destabilised the country. While a minor percentage of the population reaped the benefits of a new laissez faire economy, once again it was the marginalized and oppressed in the rural sectors that found themselves frustratingly left behind. And amidst the growing frustration and unrest, the JVP began to raise its head again. The government of the time, the United National Party (UNP), also turned to the police and the armed forces to suppress popular uprisings against their political programme and economic reforms. This use of the law enforcement agencies for political purposes resulted in the further degeneration of the policing system.

### **1.3 Brutalisation of the police**

By the late 1980's the State's use of extraordinary forms of violence throughout the country to curtail dissent reached its climax. The JVP, which was by then a political party functioning within the democratic framework, was particularly targeted in this violence. After some time the JVP itself began to retaliate with horrendous forms of violence and killings against leading politicians

and state agents. The government in a desperate bid to regain normalcy gave the police and the security forces a virtual carte blanche to carry out killings, torture and 'disappearances' of a most ruthless nature, throughout the south. From 1988-92 between 30,000 (official figures) to 60,000 (independent estimate) men, women and children disappeared, making the number of disappearances in Sri Lanka one of the largest in any country in modern times.<sup>4</sup> Subsequent evidence shows that the target of this violence was not only the JVP but also those who were opponents or potential rivals of the ruling party.<sup>5</sup>

**"...the majority of the present police force resembled a sort of paramilitary unit instead of a professional police force per se..." – A former Inspector General of Police, Sri Lanka.**

Another contributory factor towards the brutalisation of the police was the two-decade long armed conflict between the government and the Liberation Tigers of Tamil Eelam (LTTE) in the North and East of the country. Faced with a formidable challenge from the LTTE, the police (as well as the armed forces) were compelled to step up recruitment in large numbers with little attention given to qualifications or suitability. New recruits were afforded a few months training mainly in the use of weapons before being posted to conflict zones. They received little or no training in criminal investigative methods. The use of torture was also encouraged by the Prevention of Terrorism Act (PTA) and the Emergency Regulations (ER), which made confessions (often extracted by the use of heinous forms of torture) admissible in courts of law. These laws also enabled anyone even remotely suspected of being a terrorist to be arrested, held incommunicado for extended periods of time, killed and their bodies disposed of sans inquests. The scale of brutality unleashed against the Tamil people of the North and East is still not fully known, but is suspected to be of unprecedented proportions.<sup>6</sup>

Anyway, the transformation of police stations from local centres for investigating normal crimes into insurgency or terrorist control centres also transformed the concept of policing in the country. Illegal detention centres and torture chambers sprang up across the country – both in the North and the South. The policemen who engaged in torture and extra-judicial killings were rarely reprimanded; instead they remained within the police force and even gained promotions. As police torture became legitimised and policemen gained expertise in the use of novel forms of inflicting pain, the art of rational criminal investigation was replaced by an art of investigation by torture. The types of torture that were initially used on alleged political offenders and terrorists were now being used on persons suspected of committing petty offences.<sup>7</sup> It seemed that the gradual brutalisation of the law enforcement agencies was complete; in fact it is stated that the majority of the present police force resembled a sort of paramilitary unit instead of a professional police force per se.<sup>8</sup>

Thus the capacity for violence and counter violence became imbibed into Sri Lankan society. Violence was also used to promote corruption – not the least of which was within the police where policing services were made available to the highest bidder. This trend continues even now and has led to public discontent and distrust in the policing system.<sup>9</sup>

#### **1.4 Exceptional collapse of rule of law**

Furthermore, the 1978 constitution that was designed to give the first president absolute power, made inevitable the diminishing in importance of the two major institutions essential for effective law enforcement viz. the Attorney General – the main prosecution institution of Sri Lanka – and the police. Their independence undermined, they were brought under the influence of the president. Institutional habits gradually adjusted to the new power relationships and the independence of the prosecution and police investigation functions gave way to the wishes and instructions of successive presidents. Taking advantage of this situation, powerful politicians too began to exercise their control over these institutions, either directly or through the president. Decisions on the investigation and prosecution of criminal cases were no longer left to a rational process based on

principles of due process; instead, doors were opened to extraneous political influence. The constitution did not explicitly change the legal powers of the prosecutor – it changed the prosecutor's actual power, and placed those powers in the hands of the president. But the executive president's hands were too small to hold the lot and there was no one left responsible to hold many of the powers. Therefore, a big black hole had been created in one of the fundamental institutions necessary for maintaining the rule of law.<sup>10</sup>

The policing system too was assimilated into directly supporting the political system, and the already strained controls, which existed within the state to limit the abuse of power, collapsed. The rhetoric of the old system such as the rule of law, the independence of the judiciary and the need for checks and balances became the 'wishful thinking' of idealistic liberals, with little relevance to the new political reality. The resulting chaos went beyond anyone's control – including the executive president. And due to their actual lack of power both the AG and police hierarchy were unable to address the more fundamental problems besetting the enforcement of law. Hence when the two most important institutions for law enforcement lost their leadership, the result to be expected was a lawlessness that penetrated all areas of life. Sri Lanka in other words, risked a complete collapse of the rule of law. Thus silenced by violence and paralysed by fear, a demoralised society was born.

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- <sup>1</sup> Basil Fernando. 'Sri Lanka: Lone voices Yearn for Justice in Constitutional Insanity' in Human Rights Solidarity (2004). See also the magazine Article 2 (Feb. 2002) at pp. 10-14.
  - <sup>2</sup> Dr. Colvin R de Silva. 'Sri Lanka: 1978 Constitutional Model and 1983 Black July' in Jana Sammathaya (Jun. 2003); also available at <http://www.ahrchk.net/js/mainfile.php/0226/303/> (visited on 4/12/2004).
  - <sup>3</sup> Bandaranaike vs. Attorney-General, Sri Lanka Law Reports [SLR (1982) vol. 2, p786].
  - <sup>4</sup> Basil Fernando. 'Return to liberal democracy: a precondition for ending Sri Lanka's civil war' in Article 2 (Feb.2002), p.12.
  - <sup>5</sup> 'Exceptional collapse of the rule of law: Told through stories by families of the disappeared in Sri Lanka', AHRC and ALRC, 2004. Also see Human Rights Solidarity (Nov. 2003-Jan. 2004).
  - <sup>6</sup> This problem is not detailed in this paper as its antecedent causes and consequences warrant a separate volume. But for the horrendous psychological impact of the N&E conflict see 'Scarred Minds' by Professor Daya Somasundaram, 1996.
  - <sup>7</sup> ALRC & OMCT (September 30, 2003). 'State-sponsored violence in Sri Lanka: An Alternate Report to the UN Human Rights Committee'. For an excerpt of the report see Article 2 (Feb. 2004) at pp. 5-25.
  - <sup>8</sup> Remarks made by the former Inspector General of Police published in the Sunday Leader newspaper dated 04.07.2004 at p.12.
  - <sup>9</sup> Research conducted by the Marga Institute and published under the heading 'A system under siege: An inquiry into the judicial system of Sri Lanka' (2002) found that of the 1654 research participants less than 5% had a high level of trust in the police.
  - <sup>10</sup> Basil Fernando, 'Behold the Throne of Anarchy' in Article 2 (Feb. 2002), at pp. 15-18.



## 2. Demoralisation of a society

The demoralisation of a society arises when communication within a society is blocked – when a considerable segment of the population is excluded from active social participation with their voices either ignored or suppressed.<sup>1</sup> Hope in those circumstances cannot arise from mere words such as the articulation of democratic ideologies, rather, it arises only from social practices that are inclusive and pave the way towards social equality.

Hope is the positive spirit or enthusiasm prevalent among members of a society as they strive towards realising their social aspirations. And the most basic component of a positive spirit is an inner sense of cooperation and trust people within a society feel among themselves towards each other as well as towards their government.<sup>2</sup> This does not mean that a particular society is devoid of differences nor does it mean that these differences have been successfully ironed out; because diversity will always exist be it differences in power, wealth, class, ethnicity or gender. Instead it means the prevalence of a sense of cooperation and trust despite the differences.

According to the 18<sup>th</sup> century Danish philosopher, N.F.S. Grundtvig (1783-1872) and also B.R. Ambedkar of India, the vitality of a society depends upon the level of internal communication and cross-fertilisation among different groups within that society.<sup>3</sup> It was, a balance that existed between two things that remained different but fertilised each other in their differentness. Here, people not only acknowledged their diversities, but entered into an active dialogue to learn from each other for the enrichment of all. Grundtvig also believed that the authenticity

and the strength of communication and cross-fertilisation depended to the extent in which ordinary people participated in the process and if internal communication is obstructed in any way, society became demoralised and crisis spread within. And if this crisis prevailed long enough, it internally divided and polarised society making social democracy an illusion.

With the gradual collapse of the rule of law, massive violence, and violations of human rights perpetrated upon the people, by the 1990s, Sri Lanka had become a demoralised society where hope was almost lost and common humanity all but vanquished. People's voices crying out for justice, for peace and for the end to the violence went unheard while active dissent continued to be brutally silenced. Law enforcement officers and the military who had been given almost unfettered power to carry out the violence of the era were rarely brought to book and continued to commit human rights violations with a sense of immunity. With the collapse of the balance between the state and its people, mass consciousness gradually lost its sense of inner cooperation and trust. Also significant was the demoralising effect of all this violence and destruction on the justice system media and human rights activists who all fell into an apathetic stupor. The fear psychosis had spread with deadly earnest throughout society and a barrier of silence had been erected. The result was a deeply divided society and a mass psychological breakdown.<sup>4</sup>

To rekindle the internal communication and cross-fertilisation in Danish society, Grundtvig initiated the concept of the *folk school* where ordinary people discovered their own voice and were afforded an opportunity to participate creatively in the debates of their society. This was based on the realisation that democratic process, as it stood at that time, (and even today) merely created the appearance of debate and discussion while in reality political parties and media construct the debate and people had no real exchange of views. Thus a living dialogue among the people was envisaged, which would determine the content of social and political discourses that take place in a society among political, religious and other groups.

It was into this psychological setting prevalent in Sri Lanka in the early 1990s, that the AHRC decided to step in: to revive the debate, and the dialogue among the people along the lines of the *folk school concept* and thereby pave the

way towards a more participative and inclusive society. People needed hope, they needed a defence and most importantly they needed to be convinced that there is always something that can be done. So, beginning around 1995, the AHRC began to explore ways and means of 'what can be done when (seemingly) nothing could be done'.<sup>5</sup>

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<sup>1</sup> W. J. Basil Fernando (2000) 'Demoralisation and Hope: A comparative Study of the Ideas of N.F.S. Grundtvig of Denmark and B.R. Ambedkar of India' at p. 5.

<sup>2</sup> Interview with Basil Fernando on October 3-8, 2004.

<sup>3</sup> W. J. Basil Fernando (2000) 'Demoralisation and Hope' at p. 7.

<sup>4</sup> Interview with Basil Fernando on October 3-8, 2004.

<sup>5</sup> *ibid.*

### **3. AHRC & ALRC – in the beginning...**

#### **3.1 Inception of an idea**

The idea of setting up the AHRC and its sister organisation, the Asian Legal Resource Centre (ALRC) was conceived at the 'Asian Lawyers for Justice and Human Rights' consultation held in October 1983. The consultation was organised by the International Affairs desk of the Christian Conference of Asia and was attended by about 40 participants from 12 Asian countries including judges, lawyers, law academics, human rights activists and church leaders. At the consultation participants raised serious concerns about the consistent and systematic violations of human rights in the Asian region, especially against the poor and other socially marginalized groups in society. Specifically it was observed that in most Asian countries (as in Sri Lanka), repression had become an integral part of state policy and basic human rights were being denied on the pretext of national security or development. However abject poverty remained the lot of the vast majority of the people. There was also a rapid militarization of Asian societies due to increased social tension and internal armed conflicts. This erosion of the rule of law had resulted in the denial of avenues of redress.

However, since governments of the region had repeatedly rejected initiatives to establish any form of regional inter-governmental human rights mechanisms,

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there was a compelling need to address the worsening situation in Asia and for various groups of jurists and human rights advocates to become involved in the regional struggle for the protection and promotion of human rights. Accordingly it was envisaged that the setting up of the AHRC was particularly valuable in 3 ways as follows:<sup>1</sup>

- ◆ To provide a regional human rights mechanism within Asia,
- ◆ To give the initiative for Asian people to take responsibility for dealing with their own problems rather than solely relying on international and western bodies,
- ◆ As a means of counteracting the argument presented by certain governments that investigations into human rights violations carried out by western organisations were not credible as they failed to understand the Asian perspective.

The Commission, by fulfilling these functions, was seen to add an important new dimension to the struggle for human rights within Asia.

Preparatory work for setting up the AHRC and the ALRC was undertaken by the Christian Conference - Asia International Affairs desk and thereafter, in December 1984 the Executive Committee of the two organizations met in Tokyo for the inauguration. The Executive Committee was composed of prominent jurists and advocates in the region, such as Senator Jose W. Diokno from the Philippines and Justice P.N. Bhagwati from India. Then in April 1986, AHRC and ALRC registered and established a joint secretariat in Hong Kong.

During 1987 and 1988 the AHRC conducted several fact-finding missions to investigate the nature of human rights violations in the region such as the mission to Singapore, subsequent to the arrest and detention of a group of social activists in 1987. Two consultations were held by ALRC, one on emergency regulations in Asia, another on the plight of Asian fishermen. In the following few years, AHRC and ALRC encountered several teething problems due to a lack of resources but at the end of 1990 work was reactivated under limited staff and

resources. Between 1991-1994 the Commission published booklets and newsletters to raise awareness on human rights issues in the region as well as conducting fact-finding missions in countries such as Cambodia and Burma. Also, in 1993 together with local NGOs, the AHRC initiated the draft Asian Human Rights Charter to reflect the desire and aspirations of Asian people for human rights. Since the second half of 1994, the work of the AHRC and the ALRC was further revived, with the recruitment of Basil Fernando as the Executive Director, together with a limited but efficient and dedicated staff.

From its inception and based on several assumptions of the human rights situation in Asia, the AHRC had also decided upon several principles and objectives to guide future AHRC programmes. These are set out in Annex One.

### **3.2 Initial interest in the collapse of the rule of law in Asia**

From 1994 to 1998 AHRC / ALRC worked on three main projects:

(a) Promoting the Asian Charter on Human Rights – a people's charter – because of the recognition that Asia was the only region that did not have its own human rights mechanism.<sup>2</sup>

(b) Advocating legal reforms in the region. In pursuance of this project, several workshops were held in India and Sri Lanka and the workshop reports were published and circulated. From about 1995, there was an attempt to concentrate on areas relating to the rule of law. That is, to see how the legal system itself could accommodate human rights related legal reforms, the deficiencies that existed within legal systems as well as suggestions to resolve those deficiencies.

(c) There was also an early interest in the phenomenon of disappearances, which mainly arose from the personal experiences of several AHRC staff members pertaining to the mass disappearances in the late 1980s in the south of Sri Lanka. At the time, Executive Director, Basil Fernando and staff member, Sanjeewa Liyanage had conducted protest campaigns including a postcard campaign against

the disappearances, in Sri Lanka. Then in 1998, together with the Christian Workers Fellowship, a small seminar on disappearances was organised in Colombo to coincide with the sessions of the Presidential Commissions appointed to inquire into the disappearances. Invited to participate at the seminar/discussion were several prominent personalities including HR activists and writers. At this time an attempt was also made to recreate a debate on the causes and consequences of disappearances, both within Sri Lanka and internationally with the objective of preventing its recurrence. Several interested Sri Lankan groups were subsequently identified as potential partners (e.g. the organisations 'Right to Life' and 'Families of the Disappeared'), with whom the AHRC could work together with to draw international attention to this important issue.<sup>3</sup>

### **3.3 Taking matters before the UN**

In 1998 ALRC obtained UN consultative status and since 1999, the Centre has been represented at UN forums, especially during sessions of the Human Rights Commission in Geneva. At the time the AHRC realised that UN meetings were mainly between state parties; NGOs were only present as observers and therefore their formal participation was limited to a few minutes, which was quite insufficient to raise important issues affecting the region. Therefore with the intention of impacting upon the UN meetings in a significant manner, the AHRC decided to prepare extensive documentation including publications, maps and brochures on topics such as disappearances, the policing crisis and caste discrimination, and distributed them as widely as possible among the governmental and NGO delegations visiting Geneva.

Sanjeeva Liyanage explains one such initial effort as follows:

"When I first attended the Human Rights Commission sessions in 1999, the reports of the three Presidential Commissions appointed to inquire into southern disappearances in Sri Lanka had been released. In preparation for the sessions, we had printed a small booklet titled *'Disappearances and the Collapse of the Police System'* which I distributed among the participants at this international forum. I noticed that the publication caused a great deal of discomfort to the Sri Lankan government mission in Geneva mainly because the facts, figures and

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arguments presented in the booklet were based on the recommendations of the Presidential Commissions themselves. Therefore the State could not brush them off as fabrications, nor could they challenge the veracity of the facts. The government intimated to me that though the contents of the documents presented by our organisation may be correct, nonetheless I was ill advised to draw international attention to them as such publicity could have a detrimental effect to the good-name of our country and be used as propaganda against the State by the LTTE.<sup>4</sup>

Ironically, according to Mr. Liyanage, it was not only the government that was unhappy with the publication. The LTTE representative too objected to it on the basis that the publication failed to include disappearances in the Northern and Eastern provinces. But the AHRC maintained its position that disappearances in Sri Lanka was not a problem confronted only by the Tamil people in the North and East, but was a evil faced by the entire citizenry of Sri Lanka. In fact, the phenomenon of disappearances was a result of a fundamental problem of the absence of the rule of law and democracy in the country. Therefore, the focus on disappearances was essentially a focus on the failure of the entire system and the collapse of the rule of law in the country – nothing more, nothing less.

Anyway, from 1999 onwards, the ALRC continuously issued written statements to the UN. The advantage of written statements over oral comments at UN sessions was that, written statements enabled the organisation to compile all its work and arguments on a particular issue and have them on record at the UN. At this juncture it warrants emphasis, that of the 61 sessions of the UN thus far, the ALRC has been among the NGOs to submit the highest number of written statements in the history of the Human Rights Commission.<sup>5</sup>

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<sup>1</sup> AHRC (2003) in the magazine, 'Protection and Participation', at p. 68.

<sup>2</sup> The Asian Human Rights Charter can be found at <http://www.ahrchk.net/charter/> (visited on 4/12/04).

<sup>3</sup> Interview with Sanjeewa Liyanage on October 8, 2004.

<sup>4</sup> Interview with Sanjeewa Liyanage on October 8, 2004.

<sup>5</sup> For a complete list of statements see <http://www.alrc.net/mainfile.php/60written/> (visited on 5/12/2004). Also see Annex Two.



**Written statements on Sri Lanka made by the Asian Legal  
Resource Centre (ALRC) to the 61st Session of the  
UN Commission on Human Rights  
(March-April, 2005, Geneva)**

**Economic, Social and Cultural Rights**

- Forcible takeover of land in Sri Lanka (E/CN.4/2005/NGO/110)

**Civil and Political Rights**

- Threats to lives of torture victim in Sri Lanka and the lack of witness protection E/CN.4/2005/NGO/63)
- Enforced or involuntary disappearance in Sri Lanka E/CN.4/2005/NGO/36)
- Damage to the courts and denial of the right to a fair trial in Sri Lanka E/CN.4/2005/NGO/38)
- Threats and intimidation to those who seek justice in Sri Lanka E/CN.4/2005/NGO/108)
- The independence of the judiciary in Sri Lanka E/CN.4/2005/NGO/42)
- Declaration of emergency in Sri Lanka E/CN.4/2005/NGO/109)

**Integration of Human Rights of the Women and the Gender  
Perspective: Violence against Women**

- Rape and the failure to provide justice in Sri Lanka (E/CN.4/2005/NGO/116)

**Promotion and Protection of Human Rights: Status of International  
Covenants on Human Rights**

- Implementation of the First Optional Protocol of the ICCPR in Sri Lanka (E/CN.4/2005/NGO/53)

**Effective Functioning of Human Rights Mechanisms: National  
Institutions and Regional Arrangements**

- Poor quality staff undermining work of Human Rights Commission of Sri Lanka (E/CN.4/2005/NGO/54)

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From 2003 onwards the AHRC together with OMCT filed and facilitated the appearance before the UN Human Rights Committee in two cases viz. that of Tony Fernando and Lalith Rajapakse. The decisions of the Committee in both cases in March 2005 are heralded as massive victories in the AHRC's campaign against torture in Sri Lanka. (See inbox for details).

### **Going before the UN Human Rights Committee**

#### **The Case of Lalith Rajapakse (CCPR/C/83/D/1250/2004)**



On January 28, 2003, Sundara Aratchchige Lalith Rajapakse, a Sri Lankan citizen complained to the Human Rights Committee of (a) torture by the police, (b) that his arrest was not according to law, and (c) that the State party failed to take adequate action to ensure his protection from the threats of his perpetrators. He also claimed that the State had failed to investigate his allegations of torture promptly and impartially and thus violated his right to an effective remedy under article 2 (3) of the ICCPR.

The victim noted that though he had sought to obtain redress via criminal procedures and a fundamental rights application before the Supreme Court, the authorities lack of diligence, the pending criminal and civil cases and the general effectiveness of available remedies in Sri Lanka cannot be considered as an effective remedy for the alleged violations.

The State party submitted that the entire communication was inadmissible for failure to exhaust domestic remedies. That is, the Criminal Investigation Department (CID) investigation had resulted in a police sub inspector being indicted under the Torture Act and if convicted he will be sentenced to a mandatory jail terms of not less than 7 years. Also his FR application was pending before court.

The facts of the case were briefly as follows:

The victim was arrested by the Kandana police on April 18, 2002 from a friend's house, was beaten, taken to the police station and detained. During his detention he was accused of two counts of robbery and tortured for the

purposes of obtaining a confession. His torture included; being forced to lie on a bench and beaten with a pole, held under water for prolonged periods, beaten on the soles of his feet with blunt instruments and books placed on his head that were beaten with blunt instruments. Two days later his grandfather found him lying unconscious, on the floor of a police cell. Later he was informed that Lalith had been taken to hospital where he remained unconscious for 15 days. He remained in hospital for treatment till June 2002.

On May 20 he went to the Supreme Court of Sri Lanka. On June 13 leave to proceed was granted in his case, but thereafter the case was postponed on several occasions. On July 24 the Attorney General initiated investigations into the allegations of torture and then filed a criminal action under the Torture Act (No 22 of 1994) in the Negombo High Court. This case remained pending with no date fixed for the trial.

The perpetrators were neither taken into custody nor suspended from their duties. As a result the author as well as his family members were subjected to severe pressure and threats to withdraw the complaints. Consequently he underwent severely psychological stress, which also prevented him from working and supporting his family. The family has made several complaints about these threats to the Human Right Commission, Sri Lanka.

On September 29 2003 Lalith was acquitted of the two charges of robbery filed against him as it transpired that the alleged victims had not made a complaint against him.

Deciding on the admissibility of the application before it, the Human Right Committee noted:

- The cases before the High Court and Supreme Court continue to remain pending despite nearly 3 years of the alleged torture.
- The State has not provided any reasons why either case could not have been considered more expeditiously nor has it claimed the existence of any elements of the case preventing its determination for nearly 3 years.

Therefore the Committee found that the delay in the disposal of the Supreme Court case and the criminal case amounted to an unreasonable prolonged delay within the meaning of article 5 (2) (b) of the Optional Protocol and thereby found the communication admissible re As. 7 and 10 of the ICCPR.

**(1) The Case of Tony Fernando  
(CCPR/C/83/D/1189/2003)**



On February 5 2003, Anthony Michael Fernando was summarily convicted of contempt of court by Sri Lanka's Supreme Court and sentenced to one year's rigorous imprisonment – apparently for having made several applications before court without basis and for having 'raised his voice' once in court.

He was imprisoned on the same day and while in prison, was severely assaulted several times by prison guards. During this time he was also visited by the UN Special Rapporteur on Independence of Judges and Lawyers, who expressed concern about the case. Tony Fernando was finally released in October 2003.

Thereafter the victim and his family were under constant threat to withdraw his complaints and in the following month there was even an attempt to kidnap him. And in reply to a request for interim relief, the HRC requested the State party to adopt all necessary measures to protect the life, safety and personal integrity of the victim and his family.

In March 2003 the victim filed a fundamental rights petition to the Supreme Court, which application remains pending before court. He also submitted an appeal against his conviction for contempt on the grounds that no charge was read out to him before conviction, that the sentence was disproportionate, and that the matter should not be heard by the same judges, since they were biased. Nonetheless the same 3 judges who convicted him heard the appeal, and his appeal was dismissed. On June

10, 2003, the victim came before the HRC claiming violations of his rights under several clauses of the ICCPR including article 14 (right to fair trial) article 9 (denial of fair trial, arbitrary detention), and article 19 (freedom of expression).

In its decision, the Committee found that there had been a violation of the victim's right to liberty (A. 9(1)). It also noted that courts in common law jurisdictions have traditionally enjoyed authority to maintain order and dignity in court debates by the exercise of a summary power to impose penalties for 'contempt of court'. But the only disruption indicated by the State party in this case is the repetitious filing of motions by the victim. For this, an imposition of financial penalties would have evidently been sufficient. It went on to state that A. 9 (1) of ICCPR forbids any 'arbitrary deprivation of liberty'. The imposition of a draconian penalty without adequate explanation and without independent procedural safeguards falls within that prohibition. The fact that an act constituting a violation of A. 9 (1) is committed by the judicial branch of government, does not absolve the State of responsibility as a whole.

Therefore, the Human Rights Committee was of the view that the State party was under obligation to provide the victim with an adequate remedy including compensation and to make such legislative changes as are necessary to avoid similar violations in the future.

The Committee also required from the State party within 90 days, information about the measures taken to give effect to its views.

## 4. International lobbying

### 4.1 Importance of outside publicity

So *what can be done, when nothing (seemingly) can be done* in Sri Lanka? The AHRC and ALRC decided that when everything seemed impossible – the rule of law had collapsed and people seemed defenceless – one of the primary defences that could be resorted to was generating publicity to the widest possible audience with the intention of reviving the debate on human rights within the country. Such publicity may be generated either inside or outside a country. And if publicity could be generated within a country and a discussion initiated internally, there is no immediate need to raise publicity internationally.

In the Sri Lankan context, generating publicity within the country was not conducive for two reasons: (a) there was a psychological taboo of speaking out – any internal dialogue that might have existed between the people having completely broken down and (b) there was a justifiable fear among the people that speaking out led to retribution by the state and its agents. However human rights groups situated outside the country were not subject to local pressures. It was also hypothesised that when a nation was weak internally one of its primary strengths was to relate to other peoples and cultures where human rights were respected and violations were punished. This would help dissipate the apathy that existed within society towards human rights violations.<sup>21</sup>

Accordingly, the discussion on human rights violations in Sri Lanka – specifically regarding police torture – was initiated in Hong Kong and circulated

internationally via the AHRC Urgent Appeals Programme, e-activism<sup>22</sup> as well as through its numerous publications.<sup>23</sup> With adequate repetition, these discussions gradually began to pierce the local barriers of silence. Local media picked up a few stories and published them, intellectual circles began to discuss them, and gradually people began to perceive the possibility of reopening a dialogue. Soon anonymous victims began to tell their stories, which were posted on the Internet as well as published. And as people began to feel empowered – more and more came forward to reveal the injustice perpetrated against them. Suddenly people were no longer afraid to reveal their identities together with their stories. And every person who broke the silence created the opportunity for many others to break their silence.<sup>24</sup>

#### **4.2 Missed opportunity**

There was another main reason why the AHRC decided to – initially at least – generate international publicity for Sri Lanka's internal human rights problem. This was the negative response of local human rights organisations in specific and civil society in general. That is, it was obvious at the time that the local NGO movement did not have casual links with the international community and as a result they had failed to develop any in-depth capability for lobbying outside the country. It seemed that either the local groups were not aware of the value of international lobbying or else, they simply did not care. In other words, they seldom identified the global dimension in their work. However even when local

**...faced with the social apathy of the elite classes and the helplessness of the rest of society, AHRC decided to take the debate within the country, to the international forum. ... The ultimate goal was to rekindle the positive spirit of the victims, to enable them to express themselves and to fight because ultimately it is those who suffer who will have most courage and will to see justice done...**

**— Executive Director of AHRC**

activists attended international gatherings on human rights, they failed to highlight human rights violations within the country. There were three possible reasons for this apathy: (a) These NGOs did not want to bring shame upon the country either due to a fear of being criticised by the State or through a misguided sense of patriotism, (b) they wanted to maintain a good image for themselves personally or (c) they too partly shared the ideology of the State that compromising on human rights were a necessary evil for the greater good of society.<sup>25</sup>

It was not that these activists – comprising mostly of elites – were unaware of the reign of terror in Sri Lanka. Burning bodies by the wayside and floating bodies in rivers were every citizen's common knowledge. Rather it was a strange unwillingness to understand; a mentality that said — 'it is not us' that resulted from a deep social chasm between those involved in human rights work and victims of human rights violations. Says the AHRC Executive Director, Basil Fernando, "If only the elite class took a stronger stand against human rights violations in the country, the situation would not have come to such a standstill, and it would have been near-impossible for the State to ignore such a significant outcry from such an important section of society". But faced with the social apathy of the elite classes and the helplessness of the rest of society, the AHRC decided to take the debate within the country, to the international forum. This was the background in which the AHRC began its large-scale campaign from outside Sri Lanka. The ultimate goal was to rekindle the positive spirit of the victims, to enable them to express themselves and to fight because ultimately it is those who suffer who will have most courage and will to see justice done.<sup>26</sup>

### **4.3 Would international pressure persuade local institutions to reform?**

Regarding the effectiveness of international pressure in redressing domestic human rights violations, an apparent contradiction is seen in the attitudes of many Asian States. These States often maintain an external facade of indifference and expressed disregard for international opinion. Contrastingly however, State representatives are often irritated by such adverse publicity to the happenings within their country and even accuse those responsible for 'damaging the country's



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good name'. Consequently they go to great lengths to suppress international opinion by rebutting criticisms and justifying their human rights record.

However, whether outside pressure actually impacts upon local institutions requires empirical study. It may be hypothesised of course that if local institutions viz. the police and the judiciary have significantly collapsed; international pressure in itself may be incapable of bringing about a revival of these domestic institutions. If not however, creating embarrassment, constantly monitoring institutional practices and pressurising them towards taking corrective action may lead to tangible results. In these situations outside pressure may be intensified until these domestic bodies begin to reform.

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<sup>21</sup> Interview with Basil Fernando on October 3-8, 2004.

<sup>22</sup> See **Annex Three** for a list of online petitions, e-postcards, e-newsletters, and e-journals.

<sup>23</sup> See **Annex Four** for AHRC publications.

<sup>24</sup> Interview with Basil Fernando on October 3-8, 2004.

<sup>25</sup> Interview with Basil Fernando on October 3-8, 2004

<sup>26</sup> *ibid.*

## 5. The Urgent Appeal Programme

### 5.1 The importance of quick intervention

A human rights victim's psychological makeup is that of reluctance, apathy and fear. He or she comes forward because there is little other alternative. Initially at least, the victim lacks the enthusiasm of the civil litigant endeavouring to recover a Rs500, 000 debt or the earnestness of the criminal litigant who is fighting for freedom from incarceration. But a torture victim comes forward because misfortune has beset him or her, the victim desires justice, and most other avenues of redress have failed. Activists often say that these persons are easily discouraged by perceived inaction and undue delay and are likely to be discouraged if some sort of result is not forthcoming fairly quickly.<sup>27</sup>

Therefore one of the early discoveries of the AHRC was the importance of quick and regular intervention as opposed to periodic or laidback intervention. Through experience it was observed that once a victim builds trust in an HR activist and believes that the activist is not merely interested in obtaining information, but that the information will actually be acted upon to bring forth some relief, the victim is often motivated not only to come forward, but even to persevere for years and amidst seemingly insurmountable obstacles to seek justice. And most often the best intervention to a problem is to communicate the problem to as many as possible and as often as possible. Someone to whom the problem is

communicated to may actually communicate the solution back or be nudged into taking appropriate action to address the problem. This strategy has been facilitated by the AHRC's Urgent Appeals (UA) Programme and its use of advanced communication technologies.

## **5.2 The working of the UA programme**

The UA Programme is an important advocacy programme of the AHRC. It is primarily an e-mailing programme (supplemented by fax and post) with the objective of disseminating timely and accurate information about individual incidents of human rights violations to as wide an audience as possible, thereby building international as well as local awareness and pressure towards their resolution. For this purpose the programme operates through a vast international email network of around 200,000 recipients including UN bodies and international human rights organisations such as the Organisation against Torture (OMCT), Human Right Watch and Amnesty International (AI). Through these communiqués, the UA programme has also highlighted issues such as: (i) prosecution of the perpetrators of violence, (ii) importance of witness protection, (iii) redress for human rights violations, (iv) providing genuine education on human rights problems in Asia, (v) ensuring due process and rule of law, as well as (vi) repealing unjust laws and dismantling unjust systems.

Beginning around 1997, the AHRC believes it has now developed one of the most effective and efficient urgent appeals programme in the region. The AHRC's biggest advantage over similar programmes is its close relationship with local groups and human rights activists working at grassroots level on one hand and its ability to intervene with governments and other local authorities on the other. Many are the instances in which the AHRC's appeals have become the source of first information on human rights violations to international organisations, such as international NGOs and UN human rights bodies as well as government departments. The programme's main concern is to address the endemic problem of torture in Asia and to this end the AHRC has done extensive work in Sri Lanka in 2002 and 2003. This work has now been expanded to other Asian countries such as India, Bangladesh and Nepal. From 2004 the UA

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Programme also included others types of human rights violations such as issues of food shortages, landlessness, caste discrimination and medical negligence.

Though initially dealing with a small number of reports from a few countries, by 2003 there was a significant increase in the scope of the UA Programme. An analysis of the programme in 2003 shows 178 appeals from 24 countries – a 23% increase over the previous year (which itself had doubled in the previous two years). Information contained in UAs had also increased by about 50% illustrating the strengthening of networks within countries.<sup>28</sup>

In 2003, the programme included 3 categories of appeals viz. (i) Urgent Appeals, (ii) Updated Appeals, when further information is sent on an initial appeal, and (iii) Forwarded Appeals which are appeals forwarded by other organisations, and reflect the growing capacity of local groups to develop urgent appeals themselves, which they then forward to the AHRC. Since 2004 there have been 6 types of UAs. They are (i) Urgent Appeals, (ii) Updated Appeals, (iii) Forwarded Appeals, as well as (iv) Hunger Alert, highlighting incidents of food shortage or starvation, (v) Hunger Alert Updated and (vi) Urgent Appeals general. The AHRC has expanded its regional network since 2004, as a result of which, it is receiving more cases from countries such as Pakistan, Philippines, Thailand and Burma. While the majority of cases continue to be received from Sri Lanka, India and Nepal, a few incidents have been reported from Korea, Bangladesh, and Indonesia. In total there have been 272 Urgent Appeals issued during the year 2004 (180 Urgent Appeals (UA), 84 Updated Appeals(UDA), 8 Hunger Alerts (HA)] and 160 from January to May 2005 (UA = 81;UPA = 61; FDA = 14; HA = 4).<sup>29</sup>

As mentioned earlier, a primary objective of an Urgent Appeal (UA) is to afford speedy intervention into incidents of human rights violations. To fulfil this objective there is a requirement for information to be dispatched to the network of recipients as soon as possible. For instance, a UA may contain information of a person is being tortured and quick dissemination of this information might generate requisite pressure on the relevant authorities to stop the torture and may even save the victim's life.<sup>30</sup> Quick action is also important because it lends credibility

to the AHRC as well as the local partners who maintain close contact with the victim and his/her family. Says the AHRC staff member in charge of the UA desk, Kim Soo A, "Victims of torture trust our local partners to help them, and that is why they tell their stories. But their psychological makeup is such that they are easily demoralised. So if nothing happens for a while they lose hope and do not return. Many human rights organisations complain that victims lack perseverance. However we at the AHRC always believe that for victims to have faith in us, we must show them some result."<sup>31</sup>

### **5.3 Building partnerships**

When the UA Programme was first conceptualised, the AHRC decided to develop partnerships with reputed local organisations for the purpose of gathering first information on human rights violations in their respective countries. However it was soon observed that these organisations lacked the capacity, time and patience to personally meet with victims, win their confidence and obtain information. Therefore the AHRC gradually began to built networks of close collaboration with smaller grassroots level local organisation or even individual activists, who – it was envisaged – were more willing and able to maintain direct and continuous contact with the victims.

Initially when a potential local partner organisation (or activist) was identified, the AHRC invited representatives of the said organisation to one of their Local Programmes. Once initial contact was made and sufficient interest was generated between the parties towards working together, the potential partner was invited to the AHRC headquarters in Hong Kong to follow one of the internship programmes. Here parties discuss and learn each other's interests, working habits and methodologies. The local partners were then afforded basic training in the use of modern communication technologies, efficient methods of gathering, preparing and sending first information of rights violations as well as the minimum requirements of an Urgent Appeal. The importance of speedy dissemination of information and intervention was also emphasised. Towards enhanced working relationships with local grassroots groups, to date the AHRC has accommodated several interns and volunteers from Asian countries like Indonesia, Nepal, Sri

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Lanka, Korea and China. But developing more permanent contacts at grassroots levels to supply information to the UA desk remains one of the AHRC's ongoing challenges, which also involves providing some financial support as well as technological training and infrastructure.

**Excerpts from a Communication  
From the UN Rapporteur Against Torture to the  
Executive Director of AHRC**

...Over the years I have been impressed by the work of the Asian Human Rights Commission, its quality, the vigour and persistence of its actions and its attachment to international human rights standards. You are often challenged by authorities but this proves that your actions are effective and well focussed. I wish you and your colleagues all the best in the continuation of your important work for human rights...

Theo van Boven

The AHRC pays a lot of attention to the accuracy and authenticity of the information it receives and towards this end has placed the following safeguards in its UA Programme:

- Firstly, through careful selection and training as well as building close collaboration with its local partners veracity of information is, to a large extent, enhanced.
- The UA Programme does not rely on secondary sources of information such as academic articles or media reports; instead it relies only on firsthand information given by the victims (or their families) and as relayed by the local groups. Besides the added advantage is that the local group also verifies information from medical reports, witness accounts or ancillary information obtained from police stations or other institutions before information is relayed to the AHRC.
- Sometimes groups or persons outside the AHRC regional network also send information pertaining to a rights violation. If this information is considered relevant, the AHRC refers the incident to the nearest local partner to inquire into and gather information. Or else, the informant is requested to contact the local partner directly.<sup>32</sup>

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The UA programme is also a means of protecting local activists working with the victims and their families. In many countries these activists face the wrath of irate local authorities for reporting internal human rights violations. They are thus reluctant to reveal their identities for fear of endangering themselves. The UA is a mechanism that enables information of violations to be internationally disseminated without revealing the source of information and thus provides the necessary security for local organisations to continue their invaluable work.

In the long run, information obtained in the appeals is used to compile reports, statements, press releases and magazine articles to highlight a overarching problem as well as to pressurise governments and institutions to take action and amend their human rights situation. Topics include Police officers habitually torturing and threatening complainants, endangering the security of Sri Lankan citizens. (Sri Lanka, 26.01.2005), Foreign Minister's condemnation of torture needs to be backed by action (Sri Lanka 03.05.2005), Gerald Perera's murder trial may not begin for another 5-7 years (Sri Lanka, 08.03.2005).<sup>33</sup>

The United Urgent Appeals Desk by D. V. A. Gombala, *Appeals* 3.

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<sup>27</sup> Comments made by Chitral Perera, Secretary, Janasansadaya -- a leading grassroots level HR organisation in Panadura, Sri Lanka.

<sup>28</sup> AHRC and ALRC Narrative Report (2003) at p. 120

<sup>29</sup> The list of AHRC statements for 2004 is found at <http://www.ahrchk.net/statements/mainfile.php/2004statements/>

<sup>30</sup> An e.g. is the case of Saman Priyankara, a Sri Lankan, who was tortured by the Matala police by having boiling water poured on his leg, thereby severely burning him. His complaints probably irritated his perpetrators, who rearrested and re-tortured him. He was released only after several appeals were made both locally and internationally, on his behalf by the AHRC. See <http://www.ahrchk.net/ua/mainfile.php/2004/732/> (visited on 4/12/2004).

<sup>31</sup> Interview with Kim Soo A, AHRC staff member in charge of the Urgent Appeals desk, on October 5, 2004.

<sup>32</sup> Interview with Kim Soo A, AHRC staff member in charge of the Urgent Appeals desk, on October 5, 2004.

<sup>33</sup> The list of AHRC statements for 2005 is found at <http://www.ahrchk.net/statements/mainfile.php/2005statements/>

## 6. Benefiting from the Communication Revolution

### 6.1 The philosophy behind

According to Basil Fernando, Executive Director of the AHRC, any form of action to change society must use the communication technologies available during that particular period of time; and the communication technology existing in a country at the time may either limit or enhance the capacity to make that desired change. In the 1970s and 1980s – before the revolution in communications – information was disseminated via the post or publication of magazines. Preparing and sending letters was cumbersome, expensive, and time consuming. Printing and publishing a magazine was a costly business, financial affordable to those not really interested in social issues. Then came the revolution in information technology in the 1990s and the advent of the Internet enabled people to share information globally with millions of others, and to generate social changes without incurring unbearable costs.

A main objective of the AHRC was to develop a speedy communication system using modern communication techniques to enhance the efficiency of actions to protect human rights, redress wrongs and prevent violations in future.<sup>34</sup> Initial inspiration to utilise available technology in the Commissions work was brought about by the frustrations some staff members had experienced in their previous work whilst trying to bring about social change. Social changes they



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initiated had failed, it was observed, because, though many non-governmental organisations (NGOs) spent large amounts of effort and money conducting endless discussions or circulating their published material among a limited and often similar minded audiences, these initiations failed to make the desired impact. But outside their circle of acquaintances, they were unable to generate an interest or discussion based on the material they produced. When results were not forthcoming many blamed the system and gave up in frustration.<sup>35</sup>

Another drawback within the HR community, according to Basil Fernando, was that changes in the mind (attitudes) came much slower than technological innovations, as a result there was a certain reluctance of many in the human rights community to step in and reap the benefits of the communication revolution. There was also a kind of irrational psychological fear of sharing information with a large audience that further prevented many in the human rights movement to utilise IT innovations in their work. Hence even when a rapid change in information communication technology (ICT) was taking place between 1999-2000, unlike private enterprises such as banks, many NGOs were slow to benefit from the revolution. But with computers becoming more affordable, together with mobile communication, e-mail and Internet access being made more available, NGOs were compelled to join in or risk being left behind. Earlier, taking advantage of ICT advances may have been a choice for NGOs. It is no longer a choice, it is now an essential way of life.<sup>36</sup>

So again to the question *what can be done, when nothing can be done?* In answer, from around 1995 onwards, there arose a conscious decision within the AHRC to reach a large and diverse audience as quickly as possible in order to protect, redress and prevent human rights violations in Asia.<sup>37</sup> Towards this end, a deliberate attempt was made to modify work habits and benefit from the global IT revolution.

Advent into the age of information technology was made easy by the interest and deep faith in ICT displayed by the executive director, says AHRC IT specialist, Sanjeewa Liyanage, "From the 1970s Basil was in the constant habit of learning about and using whatever technology that was available at the time and since joining the AHRC one of his major concerns was how to combine new technologies

with HR work. Thus, psychologically he was geared for the communications revolution and I supplied the practical knowledge.” At the time, Sanjeeva Liyanage too had completed his degree in IT and a course in freelance desktop publishing. Therefore the practical knowledge of one person and the conviction of another were combined to create the impact required. Another reason for utilising available IT for their work according to Mr. Liyanage, was that Basil Fernando disliked delay and constantly came up with ideas he wanted to implement quickly. But in 1994, there were only 2 staff members working in a small office that included one computer, one typewriter, a few bookracks and no photocopy machine. One method to overcome the problem of limited staff and resources but still make an impact by reaching out to a wider audience was to use the advances in communication techniques.

## **6.2 Evolving technologically**

Around 1996/97, with the introduction of the Urgent Appeals programme, for the first time e-mail was used to send UAs to the limited network that existed at the time. Then in 1998, the AHRC joined with several other Asian human rights NGOs to bring together a large number of e-mail communication networks in Asia and the world, into one single network. The AHRC as well as other NGOs such as OMCT, AI & HR Watch now use this network. This is a very large network — a network of networks — that contains about 200 subscribers, 10-20 different networks and an outreach of about 200,000 recipients. For instance almost 30% of the UAs forwarded by one subscriber OMCT — whose e-mail list reaches about 90,000 recipients — originated from the AHRC. In fact only a rough estimation of the total outreach is possible because information is passed on from network to network until it reaches an almost limitless number of recipients. Explains Sanjeeva Liyanage, “Sometimes a UA is picked up by someone far down the network, who utilises the information contained therein to create their own story. They then circulate the story among their network of contacts and this is sometimes relayed back to us. Then we are happy that someone else has used our UA to create their own story”. Thus today, the e-mail network has expanded tremendously since its inception in the late 1990s.

Currently the AHRC has also created mailing lists for each regional country. For instance the mailing list of Sri Lanka includes about 500 e-mail addresses of media personnel, interested individuals and HR organisations. UAs pertaining to a particular issue in one country are disseminated via the mailing list of that country. The intention of creating country based mailing lists was to (a) disseminate information widely both locally and internationally, (b) for recipients to share the information with their network of contacts (c) to provide information to the local media who can use the material provided to create and publish their own stories. This way, internal governments and other institutions can also be pressurised via local media intervention.

### **6.3 Finally, a website!**

In 1996 the AHRC also established its first website and at the time, it was probably the first regional NGO to do so. The website was of basic design but an attempt was made to include most of AHRC documentation on the website. Subsequently, three more websites were created viz. the disappearance website, the cyberspace graveyard and the HR school website. All these sites started on a very small scale and then gradually expanded to include country-based websites, and several e-newsletters. One of the first e-newsletter was on religious perspective on human rights and was an attempt to generate interest among religious groups to work on HR issues. The second e-newsletter was Janasammathaya (People's Consensus), which focused on HR issues in Sri Lanka. Now there are several country based and theme based e-newsletters. An important feature of these newsletters was its regular publication (as opposed to periodic publication) based on the belief that regular intervention indicated a seriousness to address an issue. This motto of regularity as opposed to periodic intervention had been consistently adhered to with all AHRC publications. In future the number of e-newsletters is expected to increase along different themes and different country focuses.

Today the AHRC and ALRC run 26 websites (general, thematic, country and individual based), 7 weekly and fortnightly e-newsletters and a number of e-mailing lists.<sup>38</sup> These websites mostly contain firsthand information and has become a valuable source for human rights research. The volume of information

contained therein is increasing rapidly. Many activists and human rights groups today rely on AHRC information sources on the Internet.<sup>39</sup>

Earlier due to inadequate computer and IT infrastructure, the AHRC had to depend on an outside provider for website facilities. But in 2004, a substantial sum was spent to obtain internal servers and a computer network. The AHRC website has been given a new layout now to increase accessibility and user-friendliness. Also, since 1999 a full time IT specialist was employed to take care of the technical aspects of IT at the AHRC while Sanjeeva Liyanage continues to handle the structure of the website and the layouts. Furthermore, the AHRC websites are all database driven websites, which automatically documents all materials included on the site. It also allows users to conduct advance searches based on issues or countries. Thus by including all materials produced by the organisation into their websites the AHRC maintains its transparency as well as being a valuable source of information. This way, AHRC publications are available to interested governments, intelligence agencies, and other HR organisations as well as to the public at large.

And according to Mr. Liyanage, "All our work is geared towards cooperation with the HR community at large and disseminating information as far and wide as possible to generate an output and make a substantial impact. I think this is what NGOs should be doing. They should maximise their resources and use the best technologies available. They should work persistently and consistently on issues and use every opportunity to further the HR movement."<sup>40</sup>

Today the system that has evolved is technically uncomplicated and user-friendly. The advantages of this system are that anyone with even a basic knowledge of computers and the Internet is able to use the system – most operations do not need sophisticated website knowledge. Also the user-friendly system enables the staff and local partners to upload information on to the website from anywhere in the world, and without the need for special software. This feature of the website was demonstrated at a training programme conducted for school principals and teachers in Bangalore, India, much to the participants' amazement.<sup>41</sup> Free software available on the Internet is used with AHRC staff and local partners trained to use this software.

The AHRC has also conducted several internship programmes on the use of Information Technology in HR work. Participants from several countries including Cambodia, Thailand and Sri Lanka have benefited from these programmes. The objective behind these internship programmes was to encourage interns to return to their countries and operate their own country-based websites. But now such programmes are becoming redundant because the technological expertise in website creation, designs and maintenance are available locally. And though it is often thought that many Asian countries are too technologically backward to benefit from the current global revolution in communications, there are many local activists who are eagerly using the technological know how provided by the AHRC.

Currently to improve accessibility by local HR activists and the public who might not be familiar with English, the AHRC is in the process of developing websites in several local languages. In Sri Lanka the website is in the Sinhala language and concentrates mainly on the issue of disappearances, once completed it will be conducted by Kalape Api [We, in the (Free-Trade) Zone] or the Right to Life Centre (local grassroots groups).

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<sup>34</sup> AHRC (2003), *Protection and Participation* at p. 71.

<sup>35</sup> Interview with Sanjeeva Liyanage on October 8, 2004.

<sup>36</sup> Interview conducted on October 3-8, 2004.

<sup>37</sup> *ibid*

<sup>38</sup> See Annex Three for a list of online petitions, online poster, e-postcards, e-newsletters, and e-journals.

<sup>39</sup> AHRC and ALRC Narrative Report 2003, at p. 128.

<sup>40</sup> Interview with Sanjeeva Liyanage on October 8, 2004.

<sup>41</sup> Interview with Sanjeeva Liyanage on October 8, 2004

## **7. The Local Network in Sri Lanka**

A principle of the AHRC is to humanize its campaign against human rights violations in Asia by maintaining constant contact with the victims of abuse, providing them with actual and physical solidarity and meeting their needs.<sup>42</sup> Towards this end the AHRC's best experience is in Sri Lanka, where it has successfully created a model network of HR activist organizations, called *People Against Torture (PAT)*. Established under the leadership of Fr. Reid Shelton Fernando in 2002, the network consists about 15 grassroots level organizations (together with their sub-offices) working independently in different parts of the Island. These groups meet about once a month to share their experiences, support each other and decide on future action. They are also in constant communication with the AHRC. While each member group directly links up with torture victims and their families they also engage in additional activities to carry the campaign forward. Discussed below are some of the experiences and initiatives of 3 organizations viz. Janasansadaya in Panadura and SETIK (Centre for Human Rights & Development) and the Media Centre in Kandy.

### **7.1 Beginning of an idea: Janasansadaya's campaign against torture**

*Janasansadaya* (People's Forum) has been a local partner of the AHRC since 2002 and is in the active forefront in the Commission's campaign against torture

## COMMENTS FROM DENMARK

*Excerpts from a report mission to Sri Lanka*

**November 11 -17 2004**

By Agnieszka Al Fatlawi, Ole Espersen and Erik Wendt

### 3.9 Special visit report by Prof. Ole Espersen

#### ....1. Cooperation partners

I was very much impressed indeed by the leadership of AHRC (Asian Human Rights Commission based in Hong Kong). The leader, Basil Fernando is an impressive personality. He is an excellent lawyer, outspoken but still able to establish contacts within all walks of society, it seems. The meetings with the Attorney General and the Inspector General of the Police reflected this very well.

Mr. Fernando seems to be very exact in his work and well founded in his accusations against authorities.

There was general agreement as to his ability to react in case of violations, speedily and comprehensively.

The NGO's in Sri Lanka, which we visited, seemed to be seriously and intelligently working under very difficult conditions. We got the feeling that skills and courage were shown under conditions characterized by breakdown of the rule of law.

My general impression is, therefore, that I am quite confident as to a future cooperation with those partners we met in Sri Lanka. Especially I wish to underline the synergy effect of close cooperation between a "local institution" based in "the area" such as the Asian Human Rights Commission and ourselves. It did, to my experience, make access to important interlocutors easy and informal. We were not seen as people coming from a foreign culture, but rather as people with good and influential connections in the area.

in Sri Lanka. The Secretary and founding member of the organisation, Chitral Perera was introduced into the field of human rights when he was recruited to head a training programme at a Colombo based NGO. One of the objectives of this programme titled "The Law & Us" was to raise public-awareness on various aspects of law, especially among the rural communities. But several months into the programme he noticed that though people faced diverse legal problems, their main consternation was the constant harassment by law enforcement agencies. Therefore, he decided to focus on educating people about the fundamental rights guaranteed by the Constitution of Sri Lanka i.e. freedom from torture or other degrading treatment, the freedom from arbitrary arrest, and the right not to be detained in police custody beyond 24 hours. But he found that many people were still critical of his approach and insisted that the realities they faced at police stations and in law courts were very different from what was being theorised. Instead they demanded practical solutions to their problems. According to Mr. Perera, "This is when I realised that this strategy was not successful and that we were not achieving our objectives. This is also when I learned that working in a traditional-style NGO, there was not much I could contribute towards promoting and safeguarding human rights of our people".<sup>43</sup>

Therefore around 1992 he decided to set up his own organisation, Janasansadaya to give a more meaningful and practical approach to human rights. The educational and awareness raising programmes on human rights issues among the public as well as schoolchildren were continued together with seminars and discussions between the different players in the human rights field –human rights activists, lawyers and as well as victims of police brutality. Victims were encouraged to tell their stories, and lawyers and activists discussed possible ways of addressing and redressing the violations. Also the Sri Lankan State had ratified the UN Convention Against Torture and Other Cruel, Inhuman and Degrading Treatment/Punishment in 1994 and consequently adopted enabling domestic legislation (viz. the Convention Against Torture Act No. 22 of 1994) which made torture an offence triable before the High Court, with a mandatory sentence of 7 years rigorous imprisonment upon conviction. Hence the discussions now began to centre on the importance of actively promoting the 'Torture Act' as a means of preventing the escalation of State-sponsored violence.



## *A model for torture prevention in Asia*

Yet, according to Chitral Perera, many human rights based NGOs did not appreciate such activism as they opined it was the duty of the Attorney General to prosecute, and there was little anyone could do if the AG failed in his/her duty. But he says, he was opposed to the idea of human rights work being limited to expressions of frustration, and instead wanted to bring about change by mobilising the ordinary people of the country – those whose rights were most often infringed. And according to him, two subsequent events in the history of Janasansadaya facilitated this ambition.

Firstly, during one such awareness-raising programme, the existence of a 'torture chamber' inside the headquarters of a high-ranking police officer was brought to his attention. Soon thereafter he met with a person who had actually been tortured within this house of horrors. During this time the Committee Against Torture from Geneva was visiting Sri Lanka. Hence after verifying his story, the torture victim was taken to meet with the Committee members. According to Mr. Perera, until this and similar cases were brought to the notice of the Committee, most CAT reports had inferred that torture and other violence by State agents were mainly directed against the people of the North and East, and was a by-product of the 2 decade long civil conflict. Many local HR promoters too were under this common misconception and the State often used this as an excuse to ignore the violence perpetrated by State agents on innocent civilians in the rest of the country. Since however, Committee reports on Sri Lanka have been depicting State sponsored violence, not as an exclusively problem of the N&E, but as a collective national problem.

The second leap forward came when the leader of Janasansadaya met with the executive director of the AHRC to discuss the possibility of forging a future partnership. At the time, the AHRC had already realised the enormous benefits of using modern communication technology in their work, but Janasansadaya did not even own a computer; and neither were the staff computer literate. Thus a computer was purchased and members were trained to use computers as well as email and Internet. The staff was also taught how to meticulously obtain and send information about rights violations to the AHRC UA desk. All the while discussions continued between the AHRC and Janasansadaya on identifying the

## *A model for torture prevention in Asia*

most pressing problems faced by people in the country as well as ways and means by which the two organisations could work towards protecting and promoting human rights in Sri Lanka.

**Assumptions** – Based on the continuous dialogue with the ordinary folk of the country, Janasansadaya arrived at the following assumptions:

- Human rights violations by law enforcement officials were widespread in society – but they were especially prevalent among the poor and the marginalized;
- Perpetrators were afforded blatant impunity for their acts – they were rarely reprimanded or brought to book for their crimes against humanity;
- Victims opted to suffer in silence — most were fearful to complain or even talk about the injustices perpetrated upon them lest they be subjected to brutal retaliation by irate policemen;
- The prevailing HR culture was that ‘the poor man’s problem was considered trivial enough to be compromised – Therefore at the first obstacle confronted, even HR activists ‘give in’ and the victims were forced to ‘give up’ their struggle for justice;
- Nonetheless, given the opportunity and encouragement, victims and their families were willing to persevere for years and even amidst seemingly insurmountable obstacles, to seek justice.

**Objectives** – Accordingly, the organisation adopted the following objectives in their future work:

- To take a firm stand against police brutality. Their motto of ‘no compromises under any circumstance’ was seen as a fundamental criteria of their work;
- To never attach any importance to the identity or status of the perpetrators in seeking justice.
- Instead, they were only interested in the veracity of the victim’s story and once this was confirmed all necessary action within their capacity would be taken;
- Empowering the people – they envisaged that when the people witnessed

the HR activist's uncompromising resolve, that someone stood by them, championed their cause, did not betray them and assisted them in obtaining redress – more people would seek their help and the culture of silence would gradually be penetrated.

- Engage in a two-pronged attack against torture – to immediately forward complaints to as many local (and international) authorities as possible, while also informing the media. Highlighting cases in the media, it was hoped, would provide the necessary impetus for reluctant officials to act.

## **7.2 Working with torture victims – three steps of 'first aid':**

According to Chitral Perera, though Janasansadaya's (JS) HR intervention is typically case specific, nonetheless, it may be categorised as (1) Immediate, (2) secondary and (3) continuing intervention.

### **• Immediate action**

Immediate action is resorted to when a wife or mother (or indeed a father or brother) rushes into the office crying out that her loved one has been illegally detained and tortured in custody. In these situations JS staff members immediately report the incident via the 'emergency hotline' to the Human Rights Commission. They may also notify the incident, via fax or telephone, to the National Police Commission (NPC), the Inspector General of Police (IGP) or the Senior Police Officer in charge of the police station in question. . They then get on to the task of recording all the information relevant to the incident and as known by the family members. These details are then forwarded to the Urgent Appeals desk of the AHRC, for immediate dissemination worldwide. Staff members also assist the aggrieved family members to prepare affidavits and forward their complaints to the relevant authorities such as the Human Rights Commission of Sri Lanka (HRCSL), NPC, IGP, and others. Accordingly, such immediate intervention is seen as essential in preventing ongoing torture and as well as saving lives.<sup>44</sup>

### **• Secondary intervention**

This is resorted to when; subsequent to being tortured a victim is produced before the Magistrate's Court by the police and remanded into custody. At this

juncture it is vital to ascertain whether the victim has sustained physical injuries and if so, the gravity of those injuries. Most often, family members feel desperate and rush to the activists' office without even having visited the victim in remand custody. If so, JS staff members direct them to first visit the victim and obtain all possible details e.g. the nature of their injuries, detailed accounts of the torture inflicted as well as the identities of the perpetrators. Thereafter if the victims have complained of severe pain or wounds and no medical treatment has been afforded to them, JS informs the prison authorities to afford medical treatment to the victim. Simultaneously the HRCSL, NPC, the Prison Commissioner and the Commissioner General of Prisons are also kept informed.

Another problem that arises is that often when victims are produced before a magistrate – and even if lawyers represented them – the torture is not brought to the attention of court. Understandably many victims are apprehensive to make complaints in the presence of their perpetrators, who may have threatened them into keeping silent. And Magistrate's Court lawyers are often reluctant to highlight instances of police brutality for fear of antagonising the police with whom they have to maintain close associations in the course of their work. Therefore JS urges the family members to instruct their legal representatives to bring the torture to the attention of the Magistrate at least at subsequent hearings and seek an order for essential medical treatment for the victim. But many lawyers still fail to oblige. Hence from the latter part of 2004, JS have identified several young lawyers who are willing to fearlessly and efficiently do their professional duty to their clients. All the while, the Urgent Appeals desk in Hong Kong is kept informed of the developments in the cases for purposes of Urgent Appeals, Updated Appeals and General Appeals.

Finally, JS staff members accompany victims to the HRCSL office in Colombo to forward complaints in person as well as for HRCSL investigations and inquiries. This was necessitated says Chitral Perera because, theoretically any aggrieved party is entitled to complain and appear before the HRCSL, experience has shown that the bureaucratic machinery was often unaccustomed to address the common man's problem'. For instance he recalls: "At first we did send victims unaccompanied to the HRCSL. But once when the accused was the police chief's

son, the HRCSL refused to accept the complaint and chased the victim away. So now we take them ourselves and insist they be heard”.

- **Continued intervention**

Continuous contact and intervention is considered by far the most important segment in the campaign against torture. For a victim of state sponsored violence, seeking justice is a long drawn out process. There are many obstacles to overcome, be they about their physical security, medical treatment, legal representation, financial support or psychological trauma. And unless human rights activists maintain continuous contact with the victims and their family, they soon lose their will to persevere. For example a complaint made to the HRC may not be acted upon for years; the victims may be threatened by the perpetrators who more often than not are still holding their posts; they may have medical complication brought about by the torture or need affordable legal advise. Therefore together with the help of the AHRC as well as other members of the local network against torture, JS has taken on these challenges. And in recognition of the important of maintaining continued contact with the aggrieved families, regardless of the stage of intervention JS visits their homes, inquires into their health and well being, and provides financial assistance as well as legal assistance when required. And together with the victims, JS seeks to identify and solve the practical problems victims of HR violations face – every step of the way.

### **7.3 Aiding survival: The holistic approach to witness protection**

Do victims of violence need witness protection? HR activists are often aware that though there are many victims of injustice, only a fraction of them complain of the injustices perpetrated on them. The main reason being that victims often belong to the marginalized or rural sections of society and their oppressors are those in positions of authority. Thus the victims and their family members may be easily coerced into silence by perceived or real threat or actual physical harm. Sometimes these threats or acts of vengeance are so serious that continuing life in their villages becomes impossible.<sup>45</sup> And in light of the fact that most perpetrators continue serving in the same posts and in the absence of any

sort of protection afforded to them by the criminal justice system in the country, they fear to come forward lest they be further victimized.<sup>46</sup>

In these circumstances victims and their families desire to leave their homes and their villages, at least temporarily, until the conditions become more conducive for their return. They have to be found suitable alternate accommodation and their incomes supplemented; children have to be found new schools, to ensure that their education is not disrupted; they need medical and legal assistance and even transport facilities to travel back and forth to police stations, courts, ID parades and hospitals. Sometimes victims of violence are psychologically traumatised and require support to deal with their sense of shame or stigma. Last but not least, they need to be motivated and morally supported in their long march seeking justice. Hence unless holistic support in the aforementioned dimensions is provided victims did not come forward; and even if they did, they would soon be discouraged. This was the invaluable lesson learned by the AHRC and its local network of activists in their fight against human rights violations.

• **Rita's' case**

Fr. Nandana Manatunga, Director of SETIK and the Media Centre in Kandy first learned about witness protection when he was called upon to assist a 16-year-old girl, 'Rita' who was abducted and raped in August 2001. At the time, he admits he had little experience of what to do. The girl's family complained that the accused constantly harassed and even threatened them with physical harm, if they did not withdraw their police complaint. They refused to succumb to the pressure but wished to relocate, in fear of their lives. Therefore, providing the teenage girl and her family with an alternate and safe home was a priority. But the children (Rita had 3 younger siblings) also needed to continue with their education and Rita required legal assistance, and medical treatment as well as psychological counselling. At this point he approached several human rights activists of the area including members of the clergy he had met during AHRC workshops, and urged their support for this destitute family.

## **BETRAYED BY A BULLET**

- **The story of torture victim and hero – Gerald Mervyn Perera**

On June 3 2002 Gerald Mervyn Perera was arrested by the officers of the Wattala police station on mistaken identity (i.e. that he was a person involved in a triple murder in the area). He was arrested in the presence of his wife, Padma, taken to the Wattala police station and brutally assaulted by 8 policemen including the officer in charge (OIC) of the police station.

During his ordeal, his hands had been tied behind the back, his eyes were blindfolded and he was hung on a beam and assaulted all over his body. Next day the OIC of the station admitted his mistake and released Gerald Perera to his brother.

As the victim complained of severe pain, his family took him to an Ayurvedic (local medicine) hospital, and then to a hospital in Colombo. There his condition turned critical: he suffered from renal failure, was warded in the intensive care unit and was unconscious for almost 2 weeks. In fact his condition was so critical, the doctors advised the family that he may not survive.

After miraculously being saved, Gerald Perera filed a fundamental rights petition in the Supreme Court of Sri Lanka, seeking compensation for the grievous injustice caused to him. On April 4, 2003 the Apex Court awarded him an thereto unprecedented amount of compensation – Rs. 800,000 – of which Rs. 650,000 was payable by the state and Rs. 150,000 by the police officers in question. He was also awarded additional Rs. 854,871.13 as medical expenses.

The Attorney General subsequently filed an indictment under the Torture Act (No 22 Of 1994) against the alleged perpetrators, including the OIC of the police station. If convicted they would be liable for a prison sentence of not

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less than 7 years. Hence pressure was constantly wielded on the victim by numerous people including policemen and politicians, to withdraw his complaints and agree to an out of court settlement. However Mr. Perera bravely resisted all such attempts on grounds that a human rights organisation (viz. the Asian Human Rights Commission) had already taken up his cause.

However just one week before the date of the trial at which he was to testify against his perpetrators, Gerald Perera was murdered on his way to work. And though Gerald was rushed to hospital, his struggle against an oppressive system was over. He died at the hospital on November 24.

Thereafter AHRC together with its local network organisations launched a massive campaign to urge the authorities to investigate and arrest the perpetrators. For the first time the police came under enormous pressure from a huge lobby (including several governments) and within less than 3 months, the accused were apprehended and brought to court. This was also a massive breakthrough against impunity of errant policemen that existed within the system.

At present the non-summary inquiry into the Gerald Perera's murder is under process at the Wattala Magistrate's Court (Case bearing no. NSB1781/04). Among the seven police officers who are accused of torturing Gerald Perera in 2002, three suspects made statements to the Wattala Magistrate's Court admitting their involvement in the killing of Gerald because they said they feared going to jail.

Finally, several policemen who were indicted under the Torture Act (No 22 of 1994) for having tortured Gerald, (viz. S.I. Suresh Gunasena, Police Constable 38237, Nalin Jayasinghe and Police Constable 9197), were transferred out of the station in which they were serving. Sena Suraweera, the Officer in Charge (O.I.C.) of the Wattala Police Station was also removed from his post and transferred to another police station as a supernumerary officer

Gerald Perera left behind his wife and 3 children aged 8, 6 and 1 ½.



According to Fr. Manatunga, 'Rita's' court case revealed major defects in the country's legal system that was neither gender nor child-sensitive.<sup>47</sup> Firstly, though 'Rita' was from the Tamil speaking plantation community, she was compelled to make her police complaint in Sinhala, to a Sinhala speaking policeman and attest to a statement written in Sinhala. Then she was required to attend court more than 20 times, which disrupted her schooling, exposed her to public humiliation and was hugely costly (her mother had to forego her work on court dates). Also, court proceedings were in Sinhala, with little or no translations provided. And as the last straw, the police misplaced some vital evidence in the case. Undeterred in the face of such difficulties, the HR activists organised a protest march in which about 300-400 people including the Buddhist and Christian clergy participated to champion the cause of 'Rita'. The success of such activism was that it gained the attention of the authorities and prompted the President of the country to order a fresh police investigation into the case.

To Fr. Manatunga, the most important factor arising from the case was that a new culture of witness solidarity was created in which a group of 25-30 activists came together to accompany Rita to courts on every single day of her court hearing and to stand by her during her ordeal for over a year. Finally the Magistrate's Court case completed, the case was sent before the High Court. By the end of it all, a clear message had begun to spread among the people of the area: that there were people who were willing to stand by victims of injustice and human rights violations. And soon similar cases began to pour into the organisation. By 2002, Fr. Nandana and his group were assisting about 10 child victims by building a strong protective wall around them via their holistic approach to victim protection.

- **The clergy comes forward:**

As stated before, SETIK together with a staff member of the AHRC had been conducting several workshops on human rights for the Catholic clergy. Initially these workshops were intended to raise awareness among the clergy on the importance of human rights issues and related activities and it was envisaged that religious communities would then disseminate the information to a wider audience such as school children, their parishioners and others. Later however, these

workshops became useful in generating interest towards the concept of providing security and shelter for victims. In achieving this objective it was pointed out that the clergy had several advantages over other activists in that the clergy lived in separate communities and could accommodate victims for either short or long periods without unduly endangering themselves or their wards. Groups of nuns and priests also volunteered to accompany victims to court. Furthermore, when victims were girls, nuns came forward to offer moral support, listen to their stories, counsel them and spend endless hours in court. When the victims were boys, priests came forward to offer them shelter and solace. And through a continuous workshop programme, the clergy were provided with advice and training towards fulfilling their tasks successfully. Thus, slowly but surely, victim support became a small-scale movement in Kandy. Soon activists from many parts of the country were sending those who were in need of protection to Kandy where nuns and priests volunteered to safeguard them.<sup>48</sup>

Explains Fr. Nandana, "Providing for victims of abuse is no easy task as most often they need much more than shelter. They are vulnerable, mentally traumatised and low in self-esteem and in constant need of love, care and individual attention. And it is through experience of caring for these people that the clergy have now begun to understand and meet their special needs."

#### **7.4 Promoting human rights through the media, exhibitions and drama**

**Poster campaign** — Publicity is an important component of human rights work. While the AHRC generated publicity internationally, via its publications, website, e-newsletter, press releases and statements local organisations have also been encouraged to generate publicity on a national, or village level. Meeting this objective, Janasansadaya conducted several poster campaigns where posters on various aspects of human rights were pasted in public places such as bus stands, buses and three-wheelers – the common man's mode of transport. They have also printed and distributed leaflets on various human rights issues in villages and towns.

**Exhibition on torture** — One of their unique strategies of generating

## FROM THE PRESS

*Excerpts from the Rajpal Abeynayake Column in the  
Sunday Times of February 20, 2005*

### NOTCHING UP ONE VICTORY IN THE CAUSE OF JUSTICE

...In the main, (Ikram) Mohammed (Former President of the Bar Association) was blind to the fact that his game was up. There was evidence piling up day after day that the independence of the Judiciary and Rule of Law in this country was under threat from decisions such as Wellawaya (by the JSC), by cases such as the murder of Gerald Perera, a totally innocent man who was tortured by police in a case of mistaken identity, (and eventually assassinated when he won a fundamental rights case on this score) and that of (Michael Anthony) Emmanuel Fernando who was given a harsh sentence for alleged contempt when he came before court to argue his own case. *All of these cases were taken up internationally by organisations such as the Asian Human Rights Commission — the AHRC definitely deserving special mention here for its brilliantly tenacious role in championing the cause of wronged litigants in this country in which the country's own Bar Association was conniving with the perpetrators.* (Italics added)

publicity on the issue of police torture was to conduct an exhibition in which colourful and informative posters including torture victims' stories with their photographs, were exhibited. School children, police personnel, other government officials and the general public attended the initial exhibition held in the town of Panadura. Subsequently Janasansadaya received several requests to hold their exhibition in other parts of the country. Other groups in the network such as SETIK have also held such exhibitions with the use of material produced by Janasansadaya.

Advertising campaign — More recently Janasansadaya began an advertising

campaign, which included advertising in both the print and electronic media highlighting various topics on human rights issues. While the target of the poster campaign was ordinary people, the advertisement campaign was geared more towards initiating a discussion on human rights among the middle classes. This strategy was based on the understanding that though the more affluent classes were not necessarily the most frequent victims of injustice, nonetheless they are the ones whose voices were most heard. However Chitral Perera believes that more than seminars, workshops or leaflets, advertisements in accepted media channels, go a long way to impact upon people's psyches and ease their fear. While earlier many believed that talking about a problem would lead them to trouble, now many stand up against the injustices perpetrated on them. "We must continue to talk; break down the barriers and make people understand," says, Chitral. (also see Annex Five)

**Audiovisuals & drama** — As director of the Media Centre in Kandy, Fr. Nandana Manatunga too promotes human rights concepts via the media and drama. Accordingly, through the years he has been successful in conducting the following programmes:

- Audio and audiovisual recordings of torture victims' testimonies have been made available. These recordings have sometimes proved useful in police investigations e.g. when witnesses are reluctant to come forward.
- Two workshops conducted by an Indian psychiatrist specialising in trauma counselling have been video taped and distributed.
- A 15-episode, teledrama on religious harmony and peace was produced and filmed on national television. Currently permission has been obtained to produce a short story on a rape-survivor's story.
- The centre produces 3 weekly radio programmes on provincial radio. These programmes are mainly on a religious theme but always include a message on human rights.

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The Centre conducts programmes on alternate media viz. street drama and accordingly a 4-month drama workshop is offered to students who have completely their Ordinary Level examination. Course offered include IT, drama, and script writing. HR concepts are included into each programme by inducing participants to write scripts for radio, drama and street drama based on a human rights theme e.g. child abuse, sexual harassment, police torture. These are then performed on the streets to raise awareness through drama.

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<sup>1</sup> AHRC (2003), Protection and Participation, at p. 13.

<sup>2</sup> Interview with Chitral Perera on October 20, 2004.

<sup>3</sup> See note 36.

<sup>4</sup> For examples of relevant cases see A Draft Monitoring Report to the UN Human Rights Committee by the Legal Research and Advocacy Unit of the Law and Society Trust Colombo published in the LST Review, April 2005.

<sup>5</sup> See the case of Gerald Perera who was brutally gunned down because he dared to stand up to his perpetrators at <http://www.srilankahr.net/> (also see inbox)

<sup>6</sup> Human Rights SOLIDARITY, (Nov 2002 - Jan 2003), at p. 30

<sup>7</sup> Interview with Fr. Nandana Manatunga on October 23, 2004.

## 8. Conclusion

Broadly speaking, the following may be considered as the outcome of the campaign against torture carried out by the AHRC and its local network in Sri Lanka.

- The AHRC's effort to combat torture and other abuses by the law enforcement agents in Sri Lanka has been one of its largest campaigns. And these efforts are now beginning to pay off with the government finally acknowledging that yes; torture is a serious problem in the country. These efforts have led to government acknowledgement of the seriousness of the problem, as for example, stated by Lakshman Kadirgamar, the Minister of Foreign Affairs, when he addressed the 61<sup>st</sup> session of the Commission on Human Rights in Geneva recently.
- Also, since the campaign, the departments of police and the Attorney General have paid greater attention to the problem of torture than at any time in the past. For instance, the number of cases inquired into by the police, Special Investigations Unit (SIU) that is usually entrusted with torture investigations as well as the number of indictments filed by the AG under the Torture Act, have increased. It is noteworthy that a substantial percentage of the original complaints leading to these investigations and indictments have been forwarded by the AHRC local partners.
- The number of cases taken up by the UN Rapporteur Against Torture with the Sri Lankan government has increased as per reports to the UN Commission on Human Rights. The original complaint of a sizable percentage of

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these cases too was forwarded by the local network assisted by the AHRC.

- A large audience throughout the world has received Urgent Appeals made by the AHRC and as a result many interventions have been made on behalf of the victims of these cases.
- Media interventions by the AHRC and its local partners including advertisements in the local newspapers and the electronic media have reached a large audience regularly. Victims have been encouraged to meet with journalist via public hearings and this exposure has had a tremendously sensitizing effect on the public at large. Apart from this, numerous statements have been published by the AHRC mainly on the need for legal reforms to eradicate torture and improve human rights. These too have been picked up and published by the local media, which has also lead to enhanced public awareness of the issues. For example issues such as the urgent need of witness protection, delays in adjudication are the key to preventing redress and the need for solidarity among civil society if the prevalent fear syndrome is to be broken.

As a result there exists a great possibility for the elimination of police torture in Sri Lanka, especially since the initial breakthrough has been made i.e. acknowledgement of the problem by the government and civil society. However there is still a long way to go and only persistent and consistent work will get us where we want to go.

So what are the challenges faced by the AHRC in its campaign against torture?

- Politicisation and militarisation of the law enforcement agency has resulted in these forces being used to suppress rival political parties and for purposes of 'insurgency control' through large-scale extra judicial killings and torture. Entrenched habits are hard to shed – and remain a major challenge faced by all Sri Lankans.
- It is commonly accepted that the main and most effective criminal investigation method in the country is the use of torture.
- And though the lack of forensic facilities, proper training and political pres-

## *A model for torture prevention in Asia*

sures are used as excuses and maybe factually correct, in reality the belief in the necessity for torture, goes much deeper than mere lack of facilities.

- This is because, there is a psychological acceptance of not only the police and the armed forces, but also many people, that torture is normal and the only remedy for combating crime. Mental changes come much slower than the physical. Therefore the issue that torture is totally abnormal and gross and must be eliminated at all costs, must be raised over and over again, until it begins to sink into the national psyche.
- The absence of a State witness protection programme creates threats to the lives of many victims who complain about torture. Fear of retaliation may still be a deterrent for at least some victims to come forward to complain
- There are many reports that victims of torture suffer from psychological trauma, which may even prevent them from continuing with their actions. However facilities for trauma counselling are still very limited in the country.

### **Overview — The way forward:**

- As mentioned above, the lack of a witness protection scheme is probably the single most serious problem that prevents victims from complaining, seeking redress or pursuing their complaints in the long run. Already the local organization together with the assistance of the AHRC, are protecting witness to the best of their ability, but much more needs to be done. This is because it is only when victims feel safe that they come forward to complain, and otherwise pursue to see justice done. Hence this is essential in breaking the historical chain that keeps torture as a practice in the system.
- In the same vein, the protection of human rights defenders of the network also needs to be improved.
- Finally the future envisages greater research and analysis related to the actual grass root work, gaining knowledge of the systems history and the development of strategies based on deeper studies as well as introducing the current model to larger group of people and organizations in the country and continuing the ongoing international campaign via e-mail and the Internet.



## ANNEXES

### ANNEX ONE

#### Assumptions, Principles and Objectives of the Asian Human Rights Commission

##### Assumptions

- ASEAN had developed as a separate economic and political block and its conception of development left little room for the concerns of the poor.
- Its political ideology was based on national security laws, which meant suspension of democratic governance and limiting of the rule of law.
- In the light of the repressive nature of most states, it was essential for human rights groups to find ways for solidarity with other groups in Asia in order to defend basic rights.
- The situation was even worse in South Asian countries, where dire poverty and authoritarian government existed side-by-side often resulting in large-scale extra-judicial killings and armed conflicts. Here too the local human rights groups were so repressed and there was a urgent need for a regional group to take over many functions of support to local groups.

##### Principles

- A victims-directed approach to be combined with structural reforms needed to prevent human rights abuse and to promote rights;
- Protest work to be combined with a community-based approach. In this, building of a support base among religious groups will be given priority;
- An UN-directed approach to be combined with regional and country-based human rights promotional activities;
- Human rights promotion to be combined with promotion of democracy and the rule of law;
- Poverty eradication, gender equality, caste, indigenous peoples' and minorities' rights to be included in all programmes.

## *A model for torture prevention in Asia*

### **Objectives**

- To protect and promote human rights by monitoring, investigation, advocacy, and solidarity actions;
- To work towards social equality, with particular emphasis on social groups who have suffered discrimination in the past, such as women and children and minorities, including Dalits;
- To develop a speedy communication system using modern communication techniques to encourage quicker actions to protect human rights, redress wrongs and prevent violations in future;
- To develop appropriate modes of human rights education and especially promote the folk school approach;
- To promote appropriate legal and administrative reforms, particularly judicial and police reforms;
- To develop close links with the victims of human rights violations to promote solidarity with victims, to preserve the memory of the victims and to organise significant commemorations linking large sections of people for the purpose of eliminating human rights violations;
- To participate in peace making, reconciliation, conflict resolution, truth commissions and international tribunals;
- To develop cultural and religious programmes for the promotion of human rights;
- Encourage ratification of UN instruments and development of local legislation, law enforcement and judicial practices in keeping with such instruments, and assist the formation and functioning of national human rights commissions;
- Promote the United Nations, particularly its human rights agencies, and assist organisations and persons in Asia to utilize these agencies for better promotion and protection of human rights in Asia;
- Work towards the development of regional human rights mechanisms and encourage people's participation in this process by promoting the Asian Human Rights Charter.

ANNEX TWO

AHRC statements for 2005

SRI LANKA: Asian Tribune joins the smear campaign against the victim of negligent amputation and the Asian Human Rights Commission - 2005-05-18

THAILAND: A missing-persons centre, missing police and missing debate in Thailand - 2005-05-18

NEPAL: Comprehensive monitoring of human rights in Nepal - 2005-05-17

SRI LANKA: Death threats and escalation of violence in Sri Lanka - 2005-05-17

SRI LANKA: Landmark U.N. Human Rights Committee decision finds that Sri Lankan state violated the rights of Tony Fernando - 2005-05-13

SRI LANKA: Medical negligence undermines the right to health in Sri Lanka - 2005-05-11

SRI LANKA: Lack of police discipline a threat to Sri Lanka's national development - 2005-05-04

SRI LANKA: Murder of Sri Lankan journalist exposes government inability to address assassinations aimed at causing instability - 2005-05-03

INDIA: U.N. Secretary General's visit to India should produce results on human rights - 2005-04-27

PHILIPPINES: Philippines Commission on Human Rights ignores its mandate in eviction of families in Davao - 2005-04-26

SRI LANKA: Another innocent man is killed by police torture? who will be the next victim? - 2005-04-20

BANGLADESH: A nation terrified by extra judicial killings and the widespread use of torture by police - 2005-04-20

PHILIPPINES: Philippines government must expose emerging army and police links to activists' killings - 2005-04-18

INDIA: The role of a human rights commission is not to demoralise human rights defenders - 2005-04-15

PHILIPPINES: Unrestrained killings of activists in Philippines demand immediate government action - 2005-04-13

THAILAND: So where are Thailand's judicial bodies? - 2005-04-11

THAILAND: To uphold the Constitution of Thailand, axe criminal libel - 2005-04-09

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- SRI LANKA: Sri Lankan President's intervention might save the lives of three migrant workers in Saudi Arabia - 2005-04-08
- SRI LANKA: Sri Lankan President's intervention might save the lives of three migrant workers in Saudi Arabia - 2005-04-08
- [ALRC Statement] U.N. Secretary General's statement on radical human rights reforms a wake-up call to the global human rights community - 2005-04-08
- SRI LANKA: The Government of Sri Lanka must take a more proactive stance to save the lives of three Sri Lankans on death row in Saudi Arabia - 2005-04-04
- ASIA: Three countries in human rights limbo: Nepal, Burma/Myanmar and Cambodia - 2005-03-31
- SRI LANKA: Death sentences passed against three Sri Lankans — Rights of the family and the public - 2005-03-24
- THAILAND: Anticipating Thailand's missing-persons centre - 2005-03-23
- SRI LANKA: Foreign Minister's condemnation of torture needs to be backed by action in Sri Lanka - 2005-03-23
- SRI LANKA: Death sentence requires the intervention of the Government of Sri Lanka - 2005-03-22 - 2005-03-18
- SRI LANKA: Fear syndrome continues to grip the Sri Lankan nation - 2005-03-17
- Open letter to the global human rights community: Let us rise to meaningful dialogue - 2005-03-17
- SRI LANKA: An awakening to the delays in Sri Lanka's adjudication process - 2005-03-15
- SRI LANKA: Torture complainant fears threats to his life plotted by ASP Ranmal Kodithuwaaku - 2005-03-11
- NEPAL: Time to act: State-sponsored mob violence unleashed in Nepal - 2005-03-09
- THAILAND: No penalties for generals and no rule of law in Thailand - 2005-03-09
- NEPAL: escalating violence and the need for international intervention - 2005-03-08
- SRI LANKA: Gerald Perera's murder trial may not begin for another 5-7 years - 2005-03-08
- SRI LANKA: AHRC supports Deputy Solicitor General's call for top priority to be given to the improvement of forensic facilities in Sri Lanka - 2005-03-03
- MALAYSIA: Rights of migrants in Malaysia gravely endangered; present crackdown must immediately stop - 2005-03-01

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- NEPAL: The aftermath of the coup: Nepal may lose its middle class - 2005-03-01
- SRI LANKA: Lalith Rajapakse acquitted; the Sri Lankan government must file charges against the police for fabrication of cases - 2005-02-21
- NEPAL: Time to act — New guidelines instruct Nepalese media to tell lies - 2005-02-21
- SRI LANKA: New president to the Bar Association of Sri Lanka brings a time for reflection and reform - 2005-02-17
- NEPAL: Time to act - Recall of ambassadors from Nepal must be followed by decisive international action to defeat absolute monarch - 2005-02-15
- NEPAL: International Community needs a strategy: Coup wiping out Nepali democracy is consolidating itself; life and liberty of many is at risk - 2005-02-10
- NEPAL: February will be a chilling month for democrats, human rights workers and media in Nepal - 2005-02-07
- SRI LANKA: Reestablishment of the rule of law in Sri Lanka: True or fake? - 2005-02-07
- CAMBODIA: The silencing of the Cambodian parliamentary opposition should be stopped - 2005-02-04
- SRI LANKA: Independence Day: An opportunity for fundamental change in Sri Lanka - 2005-02-03
- NEPAL: Nepal's return to absolute monarchy threatens the life and liberty of many - 2005-02-03
- MALAYSIA: Malaysia should be more humane on migrants and the crackdown must be stopped - 2005-02-01
- NEPAL: Immediate intervention needed to save human lives in Nepal - 2005-02-01
- THAILAND: When the purpose of an inquiry is to achieve nothing - 2005-01-31
- SRI LANKA: Is deception raising its head in the tsunami relief efforts? - 2005-01-27
- SRI LANKA: Police officers habitually torture and threaten complainants, endangering the security of Sri Lankan citizens - 2005-01-26
- ASIA: Moral obligation to get the children in tsunami affected areas back to school - 2005-01-10
- INDIA: India, stop discriminatory relief operations to victims - 2005-01-10
- SRI LANKA: The Challenge after the Tsunami: Getting the Children back to School in Sri Lanka - 2005-01-05
- INDONESIA: Speedy and better coordination of relief work by the Indonesian Government could help Aceh recover - 2005-01-04

**ANNEX THREE**

**E-directory of AHRC and ALRC:**

**Web sites, E-newsletters and online petitions**

**Websites**

AHRC Website: <http://www.ahrchk.net>

ALRC Website: <http://www.alrc.net>

Cyberspace Graveyard for Disappeared: <http://www.disappearances.org>

Human Rights Correspondence School: <http://www.hrschool.org>

Religious Groups for Human Rights: <http://www.rghr.net>

Kashmir Human Rights Site: <http://www.kashmir-hr.net>

Cambodia Human Rights Site: <http://cambodia.ahrchk.net>

Massacres in Asia Web Site: <http://massacres.ahrchk.net>

People's Tribunal on Food Scarcity and Militarization in Burma:

<http://www.hrschool.org/tribunal>

Asia Folk School Online Site: <http://afs.ahrchk.net>

Asia Child Rights Site: <http://acr.hrschool.org>

WCAR Site: <http://wcar.alrc.net>

Fr. J.J. Pallath Solidarity Site: <http://jjpallath.ahrchk.net>

Douglass Scott Solidarity Site: <http://ahrchk.net/douglasscott>

Prof. Salai Tun Than Solidarity Site: <http://www.ahrchk.net/tunthan>

**New Additions on Website**

The Permanent People's Tribunal on the Right to Food and the Rule of Law in Asia: <http://www.foodjustice.net>

NO TORTURE: <http://notorture.ahrchk.net>

**New Country Web Sites**

MALAYSIA: <http://malaysia.ahrchk.net>

KOREA: <http://korea.ahrchk.net>

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KOREA – English: <http://korea.ahrchk.net/english/index.php>

SRI LANKA: <http://srilanka.ahrchk.net/index.php>

SRI LANKA - Sinhala: <http://srilanka.ahrchk.net/sin/index.php>

SRI LANKA: Sri Lanka Legal Reforms and Human Rights:

[http://srilanka.ahrchk.net/legal\\_reform/index.php](http://srilanka.ahrchk.net/legal_reform/index.php)

INDIA: Gujarat Massacre 2002: <http://massacres.ahrchk.net/gujarat/index.php>

THAILAND: Mae Lamao Massacre: <http://massacres.ahrchk.net/maelamao/index.php>

MALAYSIA: Malaysian Activist Convicted for Exposing Deaths in Detention and other Human Rights Violations: <http://www.ahrchk.net/irenefernandez>

### **List of E-newsletters**

*Religious Perspectives on Human Rights* | Archive: <http://www.rghr.net>

*Asia Child Rights (ACR)* | Archive: <http://acr.hrschool.org>

*Jana Sammathaya – Folk Consensus (on Sri Lanka folk issues)* | Archive:

<http://www.ahrchk.net/js>

*Sada-E-Aman - Voice of Peace (on Kashmir human rights issues)* | Archive:

<http://www.kashmir-hr.net/mainfile.php/sea/>

*Qaumi Yak Jabti – Folk Consensus (on Pakistani folk issues)* | Archive:

<http://www.ahrchk.net/qaumi/index.php>

*Manav Astitva* | Archive: <http://www.ahrchk.net/ma/>

### **List of 2003 Online Petitions**

**INDIA:** *Protests Against The Proposals to Destroy The Foundations of Indian Criminal Justice System - 23 MAY 2003:* [http://www.abrchk.net/na/india\\_cjs](http://www.abrchk.net/na/india_cjs)

**INDONESIA:** *Inquiry into 1965 massacre must continue - 15 MAY 2003:* <http://www.abrchk.net/na/indonesia1965/>

**SRI LANKA:** *The Petition Relating to Micheal Anthony Fernando (Tony) - 21 MAR 2003:* <http://www.abrchk.net/na/srilanka/> [Closed]

ANNEX FOUR

Examples of publications by the AHRC

AHRC & ALRC Annual Report 2000
Asian HRs Charter (Bahasa)
Asian HRs Charter (Chinese)
Asian HRs Charter (Sinhala)
Asian HRs Charter (Thailand)
Asian HRs Charter (Urdu)
Asian HRs Charter 2nd Print (English)
Buddhism, Human Rights and Social Renewal
Close Contact With Victims makes Human Rights Work Meaningful and Effective
Decline of Fair Trial in Asia
Demoralization and Hope
Eradication of Poverty is a Basic Human Rights Issue
Human Rights and Spirituality (1st Edition)
Human Rights and Spirituality (2nd Edition)
Human Rights Issues Prior to 1997
Minutes of the Executive Committee Meeting, 1987
Monitoring The Right for an Effective Remedy for Human Rights Violations
Monograph No.1 - Comments on the Constitution of the Kingdom of Cambodia



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Not to Hurt the Womb That Gave Birth	
Paper No. 2: Three Critiques on Flaws in the Cambodian Legal System	
Penyiksaan: Kejahatan Terhadap Kemanusiaan	
Power vs. Conscience	
Problems Facing The Cambodian Legal System	
Protection and Participation	
Report of the Fact-Finding Mission to Cambodia	
Sri Lanka: Disappearances & The Collapse of The Police System	
Suggestions for Police Reforms in Sri Lanka	
Three In One:	Dialogue of Religions on Human Rights Power vs. Conscience Not To Hurt the Womb That Gave Birth
TORTURE: A Crime Against Humanity	
TORTURE: Mother of All Human Rights Violations	
TORTURE: Still Endemic in Asia	
Voice of the Hungry Nation	

### **Magazines/Newsletters:**

- Human Rights SOLIDARITY (online)
- Article 2
- Protection and Participation
- Newsletter for MPs

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## ANNEX FIVE

Examples of the media campaign in promotion of the campaign against torture in Sri Lanka vigorously pursued by the AHRC and its local activists

Advertisements in local newspapers — English, Sinhala and Tamil

**DISCIPLINARY CONTROL OF THE POLICE**  
BY A FURTHER OF THE NATIONAL POLICE COMMISSION  
WE MUST IMPLEMENT  
ARTICLE 12(1) OF THE 13th C.S.  
ARTICLE 12(1) OF THE 13th C.S. OF THE POLICE  
THEY CAN BE IN DISCIPLINARY CONTROL.

**STOP TORTURE**  
CONSTITUTIONAL DUTIES regarding RIGHTS OF VICTIMS  
STOP TORTURE



**DISCIPLINARY CONTROL OF ALL POLICE OFFICERS**  
OF ALL POLICE OFFICERS  
OF ALL POLICE OFFICERS

The Island, Thursday 14th September, 1984

**AN APPEAL THREAT TO LIFE**  
Mr. A.K.G. Dingiri Banda of No. 89, Track 02, Dabandipantalawa, Bakamuna, complains of threats to his life due to three cases in which he is the complainant against perpetrators who caused him serious bodily injury. He fears that in order to prevent him from pursuing his cases some persons have been hired to harm him. He requests the public to make representations to the government to provide him protection and investigate the possible plot against him.

The Island, Thursday 14th September, 1984

**Stop Torture**  
විධිමත් කරන නව පනත  
අනුමත කර ඇත.  
අනුමත කර ඇත.  
අනුමත කර ඇත.

**GERALD PERERA**  
SYMBOL OF TORTURE VICTIMS FIGHTING FOR THEIR RIGHTS  
අපේ අයිතියක් ලෙස අපේ අයිතියක් ලෙස අපේ අයිතියක් ලෙස



**මහලුරි ජනතාව**  
මෙම මහලුරි ජනතාව මෙම මහලුරි ජනතාව මෙම මහලුරි ජනතාව

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- මෙම මහලුරි ජනතාව මෙම මහලුරි ජනතාව මෙම මහලුරි ජනතාව
- මෙම මහලුරි ජනතාව මෙම මහලුරි ජනතාව මෙම මහලුරි ජනතාව
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**மனித உரிமைகளை பாதுகாத்திடுவோம்**  
மனித உரிமைகளை பாதுகாத்திடுவோம்  
மனித உரிமைகளை பாதுகாத்திடுவோம்  
மனித உரிமைகளை பாதுகாத்திடுவோம்

**අපේ අයිතියක් ලෙස අපේ අයිතියක් ලෙස**  
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**මහලුරි ජනතාව**  
මෙම මහලුරි ජනතාව මෙම මහලුරි ජනතාව මෙම මහලුරි ජනතාව



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"I had the privilege of addressing about 100 Inspectors on "Investigation techniques to minimize violation of human rights" at a police training programme conducted by the United Nations Development Programme (UNDP) in early July this year.

When I asked these officers their opinion of human rights, especially the aspect of torture, their observations were that they had to resort to use of force to solve cases due to the following reasons:

- Sense of shame and loss of face if they fail to solve the case by recovering the weapon of the offence or the fruits of the crime, where there were several eyewitnesses testifying against the suspect;
- Lack of resources - personnel/vehicles, equipment etc. to pursue investigations;
- The period of custody of 24 hours being insufficient;
- Pressure from superiors to solve cases, with the implication that the consequences of non-compliance or failure to successfully complete investigations within the time limit would result in unfavourable reports to their personnel file or other strictures, which would adversely affect their career prospects.

After listening to their response, I posed the question whether they had ever carried out acts that could be classified as torture, or whether they had heard of torture being perpetrated on members of the privileged classes such as politicians, the rich and persons of high standing in society, notwithstanding accusations or evidence to believe that such persons had been concerned in murder, sometimes multiple murders, fraud involving millions of rupees, rape and other such serious crime; whether force had been used on such persons to extort information or evidence relevant to the crime committed; whether force, or physical intimidation had been used to obtain information on the weapons used for the murders or to trace the stolen/defrauded loot. The answer was negative.

When I asked them whether I was incorrect in saying that in almost all the instances of torture in police custody, the victims were the poor, the destitute and the defenseless, they sheepishly admitted it was so.

The irony of the situation is that torture had been directed against the weakest sections of society - the sections that needed the highest protection from the state."

- D.I.G. J. Thangavelu -  
The Sunday Times, August 7, 2005

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