

Asia: Sixtieth anniversary of the Universal Declaration of Human Rights

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(Hong Kong, December 8, 2008) “There is no getting away from the fact that 60 years after the Universal Declaration of Human Rights (UDHR), the actual enjoyment of human rights in most countries of Asia is even less than what it was 60 years before,” said Basil Fernando, director of the Asian Human Rights Commission (AHRC).

On the occasion of the 60th anniversary of the adoption of the UDHR, Fernando noted that while there is now more talk about human rights in Asia, the region’s systems are mostly non rule of law systems. “The primary focus in human rights work should therefore be institutional reform,” he said.

According to the Hong Kong-based rights group, the primary obstacles to human rights protection are the defects in justice administration systems. Such defects exist because of the lack of political will to devote adequate funds to the administration of justice, as well as deliberate attempts to subvert justice institutions, so as to place the executive above the law and outside accountability.

In its statement marking the 60th anniversary of the UDHR, the AHRC distinguishes rule of law countries from non rule of law countries. While there are many limitations on human rights even in countries where rule of law systems are well established, in countries where the systems are fundamentally flawed, even the possibility of rights protection does not exist. Recent times have seen rule of law countries such as the United States face serious problems manifested in issues such as the Guantanamo Bay detention centre, and the PATRIOT Act. Similar laws suspending civil liberties as well as anti-terrorism laws can also be found in many European countries. Adverse practices affecting the rights of women, migrants and minorities also persist in these countries. Most alarming has been the attempt by the United States to reduce the absolute prohibition against torture, in effect challenging one of the most well-established human rights principles. The human rights community in these countries, as well as the international community, must utilize the political and legal space available to fight against these serious inroads into the realization of human rights.

What is faced in non rule of law countries is far worse; the mere possibility of fighting for human rights is prevented either by the absence of institutions, or by the fundamental flaws in the institutions that do exist. The most prominent flaw is the predominant place acquired by the police, thereby crippling other justice institutions. Few countries in Asia can boast of policing according to the rule of law. In fact, the police themselves become the main violators of rights, with arrest, detention and torture as the means of extortion and undue enrichment. Criminals often find their closest allies within the policing system; organized crime is a combination of mafia and local police personnel.

The police engage in arbitrary deprivation of life under many pretexts. Encounter and self-defence killings are euphemisms for the brutal killing of arrested persons. The police also a play role in causing disappearances, kidnappings and attacks on journalists, human rights activists and political opponents of the ruling regime. Many of Asia’s authoritarian regimes have politically manipulated the police through various arrangements. Under these, the proper receiving and investigation of complaints cannot take place. As a result, people suffering the gravest of abuses do not come forward to make complaints and a fear psychosis prevails in the society.

Prosecutors can hardly do anything when the policing system itself engages in rights violations. Often, the prosecution mechanism—such as the attorney general’s department—comes under executive control. The judiciary is also subjected to executive control, as well as suffering from corruption. In many places, the

legal profession is not allowed to play a significant role in protecting peoples' rights. Some lawyers merely become mediators, carrying bribes to the police or others. Very large sectors of the legal profession are demoralized and frustrated.

“What we have pointed to is a very serious problem,” said Fernando. “After 60 years of the UDHR, we cannot claim that the human rights situation in the region has improved. In many countries, both in civil and political rights, as well as in economic, social and cultural rights, there is a very significant deterioration. We may talk about human rights more than before. The people may be demanding human rights more than before. In actual fact however, violations of human rights have become far greater,” he stressed.

The work of the AHRC reveals that various forms of arbitrary deprivation of rights, torture and denial of fair trial are widespread in many places. There is more unemployment, and despite greater education, particularly among women, the actual enjoyment of rights has not become any easier for large sections of the population, who remain poor. Domestic violence against women is common, as is the deprivation of their personal liberties. Anti-terrorism is increasingly used as a pretext to suspend the rights of entire populations. Life for many remains a nightmare.

These grim realities need to be reflected on the occasion of the 60th anniversary of the UDHR. More importantly, both governments and citizens have to address such serious deprivation of rights. In order to improve human rights protection, local and international communities need to develop creative strategies to fight for the improvement of justice institutions.

The full statement by the AHRC may be found at: <http://material.ahrchk.net/hrreport/2008/AHRC-ART-042-2008.pdf>