



## Lesson Series 40

## Rule of law and human rights implementation

### Summary

This lesson discusses the important link between effective rule of law and the implementation of human rights in any society. In doing so, the lesson looks at what comprises effective rule of law as well as the current situation in many Asian countries, where there is both a collapse in the rule of law, and a deterioration in human rights protection.

This lesson is the first in a four-part lesson series; the following three lesson series will focus on the police, prosecution and judicial mechanisms that make up rule of law.



# THEME: Rule of law and human rights implementation

## THE ISSUE

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For any society to be governed by the rule of law requires that it recognize the supremacy of all law and that all individuals are held equal before the law. Not only does this mean that the law itself must conform to the highest principles of human rights, but also that state agencies and officials themselves must be held accountable to this law. Only then can human rights be legally protected and remedies made available for the redress of rights violations.

## THE LESSONS

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Lesson 1 gives an overview of the collapse of the rule of law throughout Asia and its implications for the realization of human rights.

Lesson 2 examines the factors that comprise and determine effective rule of law within a society.

Cover photograph of the Monument for the Disappeared, Seeduwa, Sri Lanka. Source: Sanjeewa Liyanage

## **Lesson 1**

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### **A. Un-rule of law**

In countries throughout Asia there is a lack of adherence to the law, both domestic and international. What results is that those in power—political or institutional—do as they please, with no one to account to. Ordinary people live in instability and fear, lacking basic security for a normal existence. The institutions responsible for protecting people's rights are malfunctioning, in many instances being themselves responsible for violating rights, as indicated in the cases below, all of which were issued as urgent appeals by the Asian Human Rights Commission (AHRC).

#### **Brutality of state officials**

Mr Abhijnan Basu was doused with diesel fuel and set on fire by officers of the Presidency Jail in Kolkata, West Bengal, India on 12 November 2004. The reason for this brutal act was that Abhijnan had allegedly complained about the quality and quantity of food the prisoners were being provided. Needless to say, the prison officials did not take kindly to such defiance from a prisoner. On the morning of November 12, Abhijnan was approached by the jailor and several prison wardens, who quickly overpowered him and doused him in diesel. They immediately set Abhijnan on fire, who fled the scene shouting in agony.

Abhijnan was taken to the MR Bangur Hospital before being transferred to the SSKM Hospital, where he remained in a critical condition for eight days, having suffered burn injuries to 90 per cent of his body. He succumbed to his injuries and died in hospital on November 19.

While an inquiry is in progress in relation to this case, it is being carried out by prison officials, and therefore its legitimacy is questionable. Before the inquiry being completed however, the Inquiring Officer has already provided a statement to the media that the jail authorities are not at fault.

According to the prison authorities, Abhijnan committed suicide and was not set on fire by others. Despite such a claim, the authorities could not explain how Abhijnan came to possess diesel and matches inside the jail premises. The authorities also referred to a psychological disorder that Abhijnan suffered from, but could provide no medical evidence of it [See further: AHRC UA-166-2004, 26 November 2004].

Such brutality exists not only in India. The police in Sri Lanka are well-known for their abusive behaviour, of which Mr Koraleliyanage Palitha Tissa Kumara was one victim of many. A prominent 31-year-old artisan, Tissa Kumara was brutally assaulted outside his house at 8:30am on 3 February 2004 by Sub-Inspector (SI)

Silva, before being put into a jeep and taken to the Welipenna police station, Kalutara District. En route, the police picked up Galathara Don Shantha and several other young persons.

After arriving at the police station, the police took Tissa Kumara to SI Silva's room, where he was told to sit on the floor, while the others were taken to the cells. A little later, Galathara was brought in and made to sit opposite him. Then SI Silva took a cricket post and started hitting Tissa Kumara repeatedly, telling Galathara, "Look—this is how the others will also be treated." Tissa Kumara's wife, P Rajitha recalls what her husband later told her had been done to him:

There were several others who had also been arrested along with my husband on suspicion of robbing a boutique nearby. However the others had confessed to their involvement, so they had not incurred the wrath of the police. Palitha refused to confess, as he was not involved. One Sarath had been apprehended on suspicion and had falsely implicated Palitha as revenge [thinking that Tissa Kumara was somehow to blame for his arrest].

My husband told me that SI Silva severely assaulted him, demanding information and shouting, "Give me the bombs, give me the weapons and tell about the robbery." He had been beaten all over his body, especially over the chest and heart. While hitting Palitha on the heart SI Silva had remarked, "I am going to kill you." After each beating, Palitha had also been dragged and soaked with cold water. He also said that SI Silva made Sarath, who was a co-suspect in the case for which Palitha was arrested, and who had been suffering from tuberculosis, spit into my husband's mouth, saying, "You too will be dead within two months from today due to TB."

After the spitting incident, another policeman had given Palitha some water with which to rinse his mouth. This same policeman had taken pity on him and given him a mattress to sleep on. However SI Silva had subsequently arrived and had taken the mattress away, thus forcing my husband to spend the night on the floor.

The beating went on for possibly two hours, and in that time Tissa Kumara recalls being hit about 80 times, on all parts of his body, soaking his clothes with blood. The blows were often so forceful and wild that the officer also hit and smashed an electric bulb on the ceiling. Throughout this time, Galathara was watching in terror. Tissa Kumara noticed that he had involuntarily urinated on seeing the manner in which he was beaten up. After this, even other officers became concerned at the relentless beating and savagery of the attack. Another came in and said to SI Silva, "Are you trying to kill this man? Stop this hitting." However, he did not stop. Then the officer left and came back with about eight other officers, and one of them literally had to pull the cricket post out of SI Silva's hands. It was after this that SI Silva brought Sarath and forced him to spit into Tissa Kumara's mouth.

Tissa Kumara was first kept in the cell for about three days. In that time he often vomited, and could not eat or drink. Each time he tried to stand up, severe pain in his right ear caused dizziness and disorientation. On the third day SI Silva came and told him to get up, raise his arms and bend down. He found it very difficult, and so the officer punched him in the chest about 13 times, and once in the face. While punching him he said, pointing, “This is where your heart is and I am hitting so that you will die in two months.” On another occasion SI Silva came and handcuffed Tissa Kumara to a bar of the cell door, and then pulled the door open and shut, injuring his wrist.

The police later filed two fabricated cases against Tissa Kumara, for possession of a grenade and for robbery, causing him to be remanded at Kalutatra Remand Prison, where he received no treatment for his injuries. Throughout this time his wife visited him regularly, and describes his condition then as follows:

He was treated as some kind of a ‘special’ remand detainee, segregated from the rest. During his period of remand, he had been taken to the Colombo National Hospital for an X-ray and several medical tests. He had also been operated on for a boil on his buttocks, at the prison hospital. This boil was a result of his assault at the Welipenna police station. I continued to give him Panadol and Siddhalepa [popular local ointment for aches and pains] for his ailments every time I visited the remand prison. I also did this while he was at the police station.

When I visited him on about April 24 he complained of chest pain and of coughing up blood. He also gave me a prescription for certain medicines. He had received the prescription from the prison hospital. The prison hospital had also told Palitha that he might be suffering from tuberculosis when he reported to them that he had been coughing up blood.

I purchased these medicines from a private clinic and sent them to my husband on April 27. On April 29, I met Palitha after he had been taken to the Nagoda hospital, where again he had been treated. He told me that two blood samples and his phlegm had also been taken to be tested at the Nagoda hospital. I visited him again on May 3 but his condition had not changed. I have not yet been able to know the results of these tests.

My husband also told me that he had been warded at the prison hospital ever since he started coughing blood with his saliva and complained of chest pains. Since then, he has been confined to a secluded room [formerly reserved for chickenpox patients] and for all intents and purposes, kept in isolation. Even his food is passed to him from under the door.

The test at Nagoda General Hospital confirmed that Tissa Kumara has in fact contracted tuberculosis.

The preliminary hearing of the fundamental rights petition in Tissa Kumara’s case submitted to the Supreme Court was heard on May 10. On May 24, the state counsel, appearing for the Attorney General, said that he is satisfied that the allegation of torture is true, and that the Special Investigation Unit (SIU) is conducting an

inquiry to prosecute the perpetrator under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) Act, No. 22 of 1994.

Tissa Kumara has also been alternately bribed and threatened to drop the formal complaints he has made against SI Silva. On June 16, he had a visit from a 'socially important person' who carried a message from the police that he would receive 500,000 rupees if the cases filed on the basis of his complaints were withdrawn. Meanwhile, in a separate incident, he received a message through a third party that his wife and child would be crushed to death by a vehicle if the complaints were not withdrawn.

The Matugama Magistrate's Court finally released Tissa Kumara on bail on June 28, some five months after he was originally taken into custody [See further: AHRC UA-18-2004, 13 February 2004; UP-21-2004, 30 April 2004; UP-22-2004, 3 May 2004; UP-28-2004, 24 June 2004 and also 'Urgent Appeals File: Tissa Kumara', *article 2*, vol. 3, no. 3, June 2004, pp. 41-48].

Violence against women and children is also common in a large number of Asian countries. Janaki and Chinki Chaudhary, two 16 and 14-year-old girls of Mahadev village, Belawa-5, Bardiya District, Nepal were working as day labourers in the building construction site of the Armed Police Force in Rajhena, Banke District. On the night of 27 September 2003, both of the victims and one male worker named Sarju were sleeping in a dormitory room at the construction site when seven Armed Policemen came to the room, switched off the light, threatened the male worker and forced the girls to go outside with them.

The policemen took the girls to a nearby garden and gang-raped them. Three different policemen raped each of the two girls and one policeman raped both of them. While they were raping the girls, the policemen threatened to kill them if they shouted or made any noise. After the rape, the policemen told the victims to go back to the dormitory and remain quiet and work as normal.

Although the perpetrators were remanded in custody on October 25 after inquiries were made into the complaints lodged against them by the girls, some police officers of the District Police Precinct suggested the victims to settle the case. The perpetrators offered 5000 rupees to each girl to withdraw the complaint, and threatened that they would have difficulties if they challenged the police.

Furthermore, the Superintendent of Police, Shri Bahadur Ghale, said that he thought the policemen had consensual sex with the girls, even though the perpetrators had at first admitted to the crime. They only denied it later, insisting that the contractor was using the two girls to make false accusations against them because of previous bad relations [See further: AHRC UA-66-2003, 27 October 2003 and 'Missing and maimed: Case studies of forced disappearances and torture committed by the Nepalese security forces', *article 2*, vol. 3, no. 6, December 2004, pp. 35-6].

### **Judicial incompetence and partiality**

Not only must victims suffer such abuse and brutality from state officials, but they are further denied their rights when they attempt to seek redress. When Ko Khin Zaw and U Ohn Myint filed a complaint for forced labour in the Henzada Township Court, Ayeyawaddy Division in July 2004 after being jailed for failing to do sentry duty at a village monastery for instance, their complaint was summarily thrown out of the court. Furthermore, the same judge then entertained a complaint of criminal defamation against them by the vengeful local administrative officials. The two villagers were found guilty, and were offered a fine or six-months' imprisonment. In an act of defiance, the two men chose jail.

Although the widespread practice of obligating citizens to do manual work in Burma was recently prohibited under an agreement with the International Labour Organisation (ILO), the practice still occurs routinely. The agreement with the ILO envisaged that the means for complaints and investigation of forced labour allegations could be established. In practice though, when villagers attempt to make complaints, they are consistently rejected. Complainants then face counter-allegations of defaming public officials or refusing to carry out their instructions, for which they are sentenced to jail terms as a warning to others [See further: AHRC UA-112-2004, 3 September 2004].

In Nepal, even prior to the February 2005 coup by King Gyanendra, there existed little rule of law in the country, to the extent that Supreme Court orders were routinely ignored by the police and military. A Supreme Court order to release Jivan Shrestha on 16 November 2004 from the Central Jail in Kathmandu saw Jivan released but immediately rearrested on the same day, outside the prison compound by police from Bhaktapur. He was not given an opportunity to talk with his wife or lawyer, both present at the time, and was put straight into a police van.

Jivan, a 38-year-old permanent resident of Wana-1, Sankhuwasavha District, was initially arrested at his Kathmandu shop on 15 September 2004 by Royal Nepalese Army personnel deployed from Singhanath Barracks, Suryabinayak, Bhaktapur. Bhola Limbu, who was staying with Jivan, was also arrested. After searching the premises, the soldiers also took Jivan's mobile phone and 8000 rupees.

After the arrest, both Jivan and Bhola were kept at the Singhanath Barracks for six days. Jivan was then produced before the Chief District Officer, Bhaktapur on September 22, who ordered him detained under the Terrorist and Disruptive Activities (Punishment and Control) Act. He was subsequently sent to the Central Jail, Kathmandu.

In prison, Jivan told lawyers from Advocacy Forum, a human rights organization, that he had been tortured while in the army barracks and forced to confess to being a Maoist and being involved in extortion. A habeas corpus writ was filed on his behalf on October 7, in response to which the Supreme Court ordered that he be

released on November 16.

After having been rearrested, Jivan was found the following day at the District Police Office in Bhaktapur. Police inspectors at the office said that he was arrested by order of the Royal Nepalese Army, and that they did not know what the army wanted to do with him next. He was subsequently transferred back to the Singhanath Barracks.

Another writ of habeas corpus was filed in the Supreme Court on November 18, and Jivan was at last released on November 24, but only on condition that he report back to the barracks on December 15. He dutifully went with his wife and another relative on the appointed date, and was taken inside while the others were told to wait. Incredibly, after some time his wife was told that her husband would be detained again. In a desperate state, his wife went back to the barracks the following day, but was told that she could not meet her husband. Again she went on the third day, pleading for his release. At this point the soldiers told her that if she appeared before the barracks again, she too would be put inside. They also blamed her for filing habeas corpus writs in court and for telling human rights groups about what had happened to her husband. Finally, Jivan was again released, but only on the condition that he again report to the barracks, this time with written proof that the writs issued against the security forces have been withdrawn [See further: AHRC UA-159-2004, 22 November 2004; AHRC UP-84-2004, 24 December 2004 and 'Missing and maimed: Case studies of forced disappearances and torture committed by the Nepalese security forces', *article 2*, vol. 3, no. 6, December 2004, pp. 31-2].

## **B. The justice system and human rights**

A society's justice system is what determines the effect of its rule of law. This system is comprised by the police, prosecution and judicial mechanisms. The functioning of these mechanisms will affect the response of the justice system to the needs of society. When the system is able to respond adequately, the rule of law in that society will be effective.

The perversion of laws and the malfunctioning of institutions the cases above portray are only too common throughout the region. Amazingly, the collapse of effective rule of law in the region and its bleak human rights situation are rarely looked at as two sides of the same coin. In fact, the obstacle of ineffective rule of law is disconnected from that of human rights. As soon as such a disconnection is made however, human rights become a meaningless subject to the ordinary citizen.

For the ordinary people, particularly those who have been victims of human rights abuses, the system that violates their rights is the same one that denies them access to justice and effective remedies for their violations; for them, there is an indivisible link between rule of law and human rights. In the case of Ko Khin Zaw and U

Ohn Myint, not only were their rights violated when they were forced to do labour, but they were further denied their right to seek redress. Abijnan was killed for making a complaint to the prison authorities, clearly pointing to the lack of effective complaint mechanisms. In Jivan Shrestha's case, even a Supreme Court order did not deter the police and military from detaining him.

In all these cases not only were laws being violated—thus leading to human rights abuse—but the persons committing the violations are themselves responsible for the safeguarding and enforcement of the law. In such circumstances, there can be no remedies for human rights violations. Thus, only effective rule of law can hold the perpetrators of abuse accountable for their actions and give redress to the victims. The absence of such rule of law will perpetuate violence, corruption and fear in society, with the perpetrators at large and the victims denied justice.

The exposure of the link between the rule of law and human rights together with the active engagement to establish the rule of law—and the corresponding justice mechanisms—are thus essential preconditions for the realization of human rights. Today, the struggle for one cannot be separated from the other. It is for this reason that the Asian Human Rights Commission (AHRC) highlighted UN Secretary General Kofi Annan's statement of 21 September 2004 regarding the centrality of the rule of law, in which he observed that

“We must start from the principle that no one is above the law and no one should be denied its protection. Every nation that proclaims the rule of law at home must respect it abroad and every nation that insists on it abroad must enforce it at home. Yes, the rule of law starts at home. But in too many places it remains elusive. Hatred, corruption, violence and exclusion go without redress. The vulnerable lack effective recourse, and the powerful manipulate laws to retain power and accumulate wealth. At times even the necessary fight against terrorism is allowed to encroach unnecessarily on civil liberties. “

This statement is of utmost importance for Asia... [where] the collapse of the rule of law is most visible in the poor quality of basic state services provided through the policing, prosecution and judicial arms of government. These arms suffer from insufficient budgetary allocations, the absence of responsible leadership, and oftentimes deliberate efforts to precipitate institutional breakdown [AHRC AS-35-2004, 22 September 2004].

This April, Kofi Annan further emphasized the need for implementation within the human rights movement.

The address to the United Nations Commission on Human Rights by the U.N. Secretary General Kofi Annan this April 7 is a wake-up call to the global human rights movement. This speech marks a moment in the development of global human rights standards of far greater importance than the Vienna Conference of 1993.

For the reasons identified by the Secretary General, the global human rights movement has ossified. Instead of fighting for

meaningful change, it has grown cynical and withdrawn from many of the critical issues facing our time. Among his remarks on the need for bold and comprehensive changes to the U.N. approach to dealing with human rights, the Secretary General at last laid emphasis firmly on implementation. He stated that

“The cause of human rights has entered a new era. For much of the past 60 years, our focus has been on articulating, codifying and enshrining rights. That effort produced a remarkable framework of laws, standards and mechanisms—the Universal Declaration, the international covenants, and much else. Such work needs to continue in some areas. But the era of declaration is now giving way, as it should, to an era of implementation” [ALRC AL-02-2005, 8 April 2005].

Without an emphasis on implementation there can be no improvement in the human rights situation of millions of people throughout the region. This implementation requires the establishment of effective rule of law and functioning police, prosecution and judicial mechanisms. It is the justice system—comprising of these institutions—that must defend and protect human rights. If the system is malfunctioning, nothing but abuse can be expected.

These issues have been detailed by the ALRC in an open letter to the human rights community in 2002, reproduced below.

**Open letter to the global human rights community: Let us rise to article 2 of the ICCPR**

-Editorial board, *article 2*, vol. 1, no. 1, February 2002

The inauguration of *article 2* is an occasion to address the global human rights community on a matter of primary importance: the need to deal with problems of human rights implementation, rather than confining our work merely to the propagating of ideals.

Since the adoption of the Universal Declaration of Human Rights in 1948, the human rights movement has worked hard to spread its gospel. The development of the International Covenant on Civil and Political Rights and International Covenant on Economic, Social and Cultural Rights was a major milestone. Numerous other conventions and declarations have further improved and enhanced the body of human rights principles, and articulated them to the global community. United Nations mechanisms have provided a base for monitoring the observance of rights, not least of all through the establishment of the High Commissioner on Human Rights.

All over the world extensive programmes are now taking place to educate people on human rights. States engage in this work to varying degrees, United Nations agencies facilitate them, and academic institutions participate. The most important education work is done by human rights organisations, predominantly voluntary bodies. As a result, today there exists a vast network of persons and organisations firmly committed to human rights: more than at any other time in the history of humankind.

Yet the actual situation is that human rights continue to be monstrously violated all over the world. The most visible abuses take place where the majority of the world's population lives: the so-called 'Third World', or 'Underdeveloped World'.

It is time for the global human rights movement to examine why it may not yet be achieving real improvement in the global human rights situation. One factor hindering honest examination is the belief that improvement of knowledge about human rights will by itself end human rights violations. This is a myth based on the corresponding belief that education is itself capable of improving things. In reality human rights can only be implemented through a system of justice. If this system is fundamentally flawed, no amount of knowledge - no amount of repetition of human rights concepts - will by itself correct the defects. Rather, they need to be studied and corrected by practical actions. Hence research and intimate knowledge of micro-level issues must become an integral part of human rights education and related work. This is the key issue in promoting and protecting human rights.

The work of human rights monitoring mechanisms is mainly focused on the correction of individual violations. This approach is inadequate when dealing with systemic breaches. For example, a country may be condemned for acts of torture, mass murder, crimes against humanity and other violations, and a monitoring body may make some recommendations to correct these. However, monitoring bodies have neither the mandate nor capacity to engage in studies on the actual functioning of components within the justice system - the police, prosecutors and judiciary - through which such recommendations have to be achieved. Thus, even if one person or another is punished, the actual system allowing violations remains, and may even get worse.

Another wrongly held belief is that enacting legislation on human rights will by itself result in improvements of rights. Legislation can work only through the mechanisms for administration of justice in each country. If those mechanisms are fundamentally flawed then legislation will remain simply in the books and will be used merely to confuse monitoring bodies into believing that actions have been taken to improve conditions. For example, a constitution may provide for fair trial, however the criminal investigation, prosecution and judicial systems may not have reached a credible standard. Such legislation then only mocks the victims and cynically manipulates monitoring bodies and the international community.

*article 2* is being inaugurated to draw global attention to article 2 of the International Covenant on Civil and Political Rights (ICCPR), and make it a key concern of all partners in the global human rights community. This integral article deals with provision of adequate remedies for human rights violations by legislative, administrative and judicial means. Sadly, article 2 has become the forgotten component of the ICCPR. There is a dearth of relevant international jurisprudence, and hardly any mention of it in the enormous volumes of annual literature

on human rights.

There is a reason for this neglect of article 2. In the 'Developed World', the existence of basically functioning judicial systems is taken for granted. This does not mean that these systems are perfect; in some instances there may be important challenges to them. However, to assume that these systems exist even minimally in other parts of the world is to ignore reality. A person coming from a 'developed' country may have many problems understanding this. We human beings are often prisoners of our own histories: conditions outside our upbringing and experience may be incomprehensible. Even an open-minded person may not have the means to abandon her or his framework for understanding society.

Other difficulties also arise. One is the fear to meddle in the 'internal affairs' of other countries. State parties especially can create many obstacles for those trying to go deep down to the roots of problems. Thus, inadequate knowledge of actual situations may be guaranteed by the nature of interactions in the monitoring system itself. A further and quite recent disturbing factor is the portrayal of national human rights institutions and their equivalents as surrogate agencies for dealing with issues related to article 2. Some state parties may agree to new national human rights institutions taking on this role because they know that by doing so they may avoid criticisms of a more fundamental nature.

To overcome these difficulties, human rights movements in different parts of the world should cooperate closely in analysing and solving their respective problems. Cooperation can bring much needed in-depth knowledge of systemic obstacles to human rights implementation. Without cooperation it will not be possible to address some of the key questions facing the global human rights movement today.

After many years of study and work on these issues, the Asian Legal Resource Centre has decided that it is time to ring the alarm bells. We hope that the global human rights community will respond positively to this publication by looking into its own limitations and by trying to improve the human rights situation in different parts of the world. In the meantime, *article 2* will lead the call to arms.

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### Questions For Discussion

1. Would you describe your society as one governed by the rule of law? Give examples.
2. Are you aware of human rights violations perpetuated by law enforcement agencies in your own country? In such instances, how can victims obtain redress?
3. Discuss the link between rule of law and human rights protection.

## Lesson 2

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Effective rule of law in any society is comprised of numerous factors, discussed below.

### A. Political

Political will and power have a significant effect on the rule of law in any society. Governments in Asia tend to be authoritarian, with close links to the military and police. Those in power are much more interested in consolidating and retaining their power than in promoting democracy. For this reason, effective rule of law is not a priority for them; in fact, they are more interested in attempts to subvert the law to ensure their own interests. They are interested in promulgating laws and practices that will help them do this, even if these are contrary to rule of law principles: societies throughout Asia live under various forms of internal security laws, as well as strict legislation regarding contempt of court and criminal defamation.

Governments can also make use of state institutions to further their aims, a common characteristic in many Asian countries. In India for instance, politicization and communalism affect all state institutions, particularly the police. This means that rather than following the rule of law, the institutions follow the rule of the politicians. This can be seen in the periodic communal riots and massacres in which the police play a complicit role. The greatest affected groups are inevitably the marginalized and minority groups, as AHRC pointed out in its human rights day statement of 2004.

The persons who come off worst are those belonging to the lowest castes and other most marginalised social groups. As the rule of law has ebbed away, a tide of communal violence and intolerance has swept India. Invariably, such violence are attempts against those persons who have been structurally excluded from most parts of society, notably the 300 million or so Dalits, when they try to assert their rights and rise above their socially-prescribed status. Similarly, religious intolerance has been directed particularly towards Muslim communities. This violence is often manifested in state actions ostensibly undertaken with legal backing. It includes forced eviction and denial of access to state facilities and resources. It is also evidenced in the lack of efforts to alleviate extreme poverty, which is itself often brought about directly by the actions of government agents. Despite the fact that India has consistently declared a food surplus over the last few years, thousands from Dalit and tribal communities are starving to death, and millions suffer from malnutrition.

One example that illustrates how hunger is manifest through the negative actions of state authorities directed against marginalised groups, beginning in 2003 and continuing to the present, is in the 7000 persons evicted from an area of land under the control of the municipal authorities known as Bellilious Park, in greater Kolkata. The eviction occurred in February 2003, and was tacitly sanctioned by the courts. During the eviction the affected persons were physically assaulted and had

all their meagre possessions either destroyed or looted by the police and other government agents. Since then, at least six persons are known to have died of starvation or related illnesses. Large numbers of the survivors are now living in subhuman conditions near a municipal dumping ground and a train line, while most of the land from which they were vacated stands idle. The authorities sheer denial of their humanity stems primarily from the fact that they are all Dalits. Despite strong efforts locally and from abroad to have some kind of commitment towards their rehabilitation and compensation for losses suffered, nothing has been forthcoming from government agencies at any level. Even humanitarian organisations such as the Indian Red Cross Society have not deigned to lift a finger in support. Under the current circumstances, the inaction of these agencies is tantamount to a death sentence for more persons in the community who will die of illness associated with a lack of nutritious food, clean water and health care, all brought on by callous and arbitrary actions of local authorities [See further: AHRC AS-60-2004, 8 December 2004].

The military is another institution used by governments to keep order and stability, as well as ensure that the ruling elite's aims are met, without regard to the rule of law. These governments further make use of the military in civil conflict, as seen in Nepal, Indonesia and even Thailand. In these situations, governments suspend normal laws by way of security regulations and grant the military significant powers to control people. The military are almost never held accountable for violations committed.

The governments, in fact, even attempt to cover up such military abuse, further demonstrating its lack of commitment to the law. In Nepal for instance,

The government has gone so far as to help the security forces to conceal grave human rights violations, particularly disappearances. Even the highest court of the country and the National Human Rights Commission have been directed not to discuss violations committed by the military, thereby denying any possibility of relief for the victims...

With the expiry of the Terrorist and Disruptive Activities (Punishment and Control) Act – 2058 last October 12, the government of Nepal has introduced a more severe version of the same law in its stead: the Terrorist and Disruptive Activities (Control and Punishment) Ordinance – 2061. This legislation clearly signals that the government has surrendered its authority to the military, and given it a green light to continue with arbitrary detentions, torture, disappearances, and extrajudicial and summary executions [See further: AHRC AS-60-2004, 8 December 2004].

In Thailand as well, the three generals identified as being primarily responsible for the killing of at least 85 persons in Narathiwat province on 25 October 2005 have been exonerated simply because 'there is no disciplinary penalty for those holding the rank of general'. That the government allowed a military investigation instead of independent inquires and that no further proceedings have been initiated is indicative of the impunity granted to the perpetrators of violations.

Regardless of practice, most civilian governments will at least give lip service to the rule of law. This is missing from military governments though, for whom law holds little importance, as in Pakistan.

The continued dominance of the military over all public institutions in Pakistan in 2004 has done nothing to improve the human rights situation there. Apart from the president's refusal to step out of uniform, the increasing number of serving and retired military officers being brought into the civil service is sabotaging efforts at participation by the civilian public. The hand of the military is seen increasingly in the work of the police, prosecution and judiciary. Recent incidents in Okara, where people were brutally assaulted and tortured into signing agreements to hand over land for a military farm speak to the extent of control the army now feels free to exercise over the country.

Pakistan still lacks a legitimate constitution. Since its foundation, opportunists and power-mongering groups seeking personal advantage in the name of the greater good and law and order have manipulated the constitution. Consequently, generations have grown up knowing only the law of the jungle. They relate to gangs, personality-oriented political parties, sects and clans to attain their sense of security and identity. The concept of a civilised society is all but absent. Principles of the rule of law and a social ownership of public institutions—necessary for the protection and promotion of human rights—are non-existent.

Where the leadership of society has been taken over by the groups and individuals who use religion, sect, clan, class and other partisan bases to mobilise others for their personal political and social benefits, even the discussion of human rights become a challenge. The most common belief pushing disappointed youth is that given the anarchy, injustice and disrespect of human integrity prevalent in Pakistan, the only purpose in life is to die for a greater good. Economic deprivation and low literacy are certainly elements in the mixture, but more importantly, without remedies for human suffering, disillusioned and frustrated individuals look for recognition of their existence by making themselves available for use in violence and criminality. This trend is only exacerbated by the militarization of society, which encourages violence as a means to addressing problems...

It has been observed that ordinary people in rural areas of Pakistan know very little of the institutional changes that are being trumpeted as successful from offices in the capital. To the ordinary person in Pakistan, what matters most is that should he require a response from the police he can get it without having to ask his local member of parliament or feudal lord. He also wants that should police officers commit a crime or abuse against him, he or relatives can seek redress without fear that political heavyweights will get involved. And he requires that if he ends up in police custody, he will be treated as innocent until proven guilty and not summarily killed because a local feudal lord wants it to be so. The ordinary citizen want that should she enter a police station, she will not be intimidated, tortured, and kept in arbitrary custody. As a woman, she wants special provisions to protect her from harassment. Minorities are also particularly concerned that they will not become the easy targets of fabricated and falsified cases to boost records of police efficiency. These are the concerns of most people in Pakistan, which persist despite the grand blueprints for change drawn up by government bureaucrats and their international partners [AHRC AS-60-2004, 8 December 2004].

Such militarization and political influence have a negative effect on the institutions responsible for maintaining rule of law, as well as on the development of legal principles. Throughout Asia the rule of law is being threatened by the destruction of its institutions; existing institutions are being displaced, while there is a refusal to build new institutions, or rebuild old ones. Once these institutions are rendered dysfunctional, those in power are free to act without controls. They make arbitrary decisions that affect the daily lives of millions, who have no place to go to complain or seek redress. Those who dare complain are told to go to the legal authorities, which have been incapacitated.

## **B. Legal**

### **Jurisprudence**

In order for there to be the establishment of effective rule of law in society, there must exist laws that serve the public and defend human rights principles. The purpose of all law must be to protect and defend the lives and liberties of people, not the repression of them. In recent years however, many fundamental principles to the rule of law are being slowly eroded. These relate in particular to fair trial and judicial independence. Internationally, there have been calls to abolish the Geneva Conventions on war crimes. Domestically, there have been numerous proposals to reform legal systems in a manner that would seriously undermine the rule of law.

At the same time, harsh laws are being enforced, whose purpose is the domination and repression of society. These laws are increasingly being passed as national security or anti-terrorism measures, but in fact are widely used to suppress dissent and deviation. Arbitrary detention is a continuing problem in many countries including Malaysia, where around 100 persons are being detained under the Internal Security Act over the last three years. This law, which has been the subject of widespread condemnation both within and without the country over numerous years, permits unlimited successive two-year periods of detention without trial. Detainees are in many cases subjected to ill treatment and torture, including beatings, sexual humiliation and psychological abuse. Many of the victims have died. This is a direct result of the impunity that perpetrators of violations continue to enjoy; the few investigations of abuses that occur, fail to result in criminal prosecutions, with deaths explained as having occurred due to failed escape attempts.

Moreover, such internal security laws result in the suspension of many other laws that protect people from illegal arrest, detention, privacy, the protection of their living quarters, and other matters.

Another harsh law used to repress public opposition is Thailand's obsolete criminal defamation law, which is being increasingly deployed to silence public criticism of government policies. With the exception of one television channel, owned by the prime minister's corporation, the state holds a monopoly on electronic

broadcasting in Thailand. Attempts to address this imbalance in accordance with provisions under the 1997 Constitution have been vigorously attacked by vested commercial and political interests. One case of particular concern relates to criminal defamation charges pending against a media reform campaigner, Supinya Klangnarong, whose research has demonstrated that the profits earned by the companies managed by the family of the prime minister have increased inordinately since he took office. Her case is going to court in 2005, and will be of historic importance for people in Thailand at a time that their right to express themselves freely on matters of public concern is very much under threat.

In other situations, laws do not exist to protect basic human rights, as in the case of torture and disappearances. When they do exist, they are not enforced properly, allowing them to be violated. Thailand for instance, has no specific legal provision penalising torture as it has yet to ratify the UN Convention against Torture. While Sri Lanka has ratified the Convention and has adequate domestic legislation, to date there have been few prosecutions under this, with only two convictions, even though the country faces serious police torture.

Basil Fernando sums up the situation of law and justice throughout the region thus:

There is often resistance to development of the law. For example, in Cambodia even more than seven years after the UN-sponsored elections the country has no penal code or criminal procedure code. The reasons for this deficiency are more political than technical. Development of the law is seen as disruptive to the type of social order maintained in the country. Many activities carried out by the newly rich would become impossible if there were an expansion of the law and law-enforcement.

In the second case, in some countries, development of the law is confined to some areas, such as commerce, and restricted in regard to personal liberties. Malaysia and Singapore are good examples of this: economic and commercial development has not brought the people in those countries civil and political rights. In fact, in Malaysia the detention of political opponents to the current regime under the draconian Internal Security Act indicates how deteriorated the situation is there.

A third category is where very basic laws are suspended on the pretext that such laws are detrimental to order. In Sri Lanka, even laws relating to the reporting of deaths to the courts were suspended to allow the police to engage in acts of large-scale murder and the disposal of bodies [Basil Fernando, 'The police, judiciary and rule of law in Asia', *article 2*, vol. 2, no. 5, October 2003, p. 28].

### **Institutions**

When principles are undermined, this will inevitably affect the related institutions. When it comes to effective rule of law, the three institutions that are responsible are the police, prosecution and judiciary. These three institutions form the institutional framework of any society's justice system and are responsible for ensuring that the law is upheld and people's rights protected.

A clear pointer that these institutions are malfunctioning however, is their failure to ensure effective remedies to human rights violations, which is described in a written statement to the 58<sup>th</sup> session of the UN Commission on Human Rights made by the ALRC, reproduced below.

**Implementing article 2 of the ICCPR to ensure effective remedies for human rights violations in Asia (E/CN.4/2002/NGO/65)**

1. Failure to ensure effective remedies for violations of human rights is itself a basic violation of rights guaranteed under the International Covenant on Civil and Political Rights (ICCPR). Most neglected in this Covenant is article 2. In fact no agency or mechanism has consistently monitored the implementation of article 2. Nor is there a specific item on the agenda of the Commission for its discussion.

2. The neglect of article 2 may be related to the differences between remedies available in countries called 'developed democracies' and those falling outside this category. In a developed democracy, once ratification of a convention takes place its implementation can be ensured through the existing mechanisms of law enforcement. However, this is not the case in countries where the law enforcement mechanism itself is defective.

3. Most law enforcement mechanisms in Asia impede the implementation of effective remedies under article 2 of the ICCPR. In many countries criminal investigation systems are so fundamentally flawed that there are constant public complaints and the absence of faith in these institutions, such as in Pakistan, Nepal, Bangladesh, Cambodia and Indonesia. Sri Lanka is an extreme example of a totally collapsed system. Malaysia and Singapore are examples of countries that deny remedies by operation of "internal security acts" In Myanmar criminal investigations and prosecutions are totally controlled by the military regime. Even India, which in the past had a developed law enforcement system, has suffered greatly due to the operation of various anti-terrorism and internal security laws.

4. In ensuring effective remedies for violations of rights and thus the proper implementation of article 2, the prosecutor's function is very important. The absence of an independent prosecuting agency is a feature in several Asian countries. In China, Vietnam and Laos, despite many attempts to carry out legal reforms, the role of the independent prosecutor has not yet been recognized. In countries such as Pakistan, Nepal, Bangladesh, Cambodia and Sri Lanka, the independence of the prosecutor has been greatly undermined by higher political authorities. Concerning political issues, the prosecution systems in Malaysia and Singapore are also defective.

5. While there are many rhetorical condemnations of impunity, it is not often realised that without independent criminal investigation and prosecuting authorities it is not possible to overcome impunity. Impunity can safeguard itself through defective mechanisms even when there are laws against it. Typically what occurs is that after a violation takes place the criminal investigation authorities either do not pursue the matter at all, or do so unsatisfactorily. The prosecutor then claims that there is little or no evidence to act against the perpetrators. Even

if under pressure the prosecutor takes the case to court, with insufficient evidence the perpetrators are released. In some instances the perpetrators then claim that their own human rights have been violated. Thus the absence of adequate criminal investigation and prosecution mechanisms creates a vicious circle in which the work of human rights organisations is defeated by the very legal mechanisms upon which they rely.

6. In recent times many Asian governments-under heavy pressure from the international community-have appointed governmental commissions or committees to look into violations of human rights. These are mostly bodies performing mere public relations exercises. Without addressing the basic defects of the criminal investigations and prosecutions mechanisms the work of these agencies does not produce any positive results in ensuring the implementation of article 2. Unfortunately the same observation is valid regarding most national human rights institutions in Asia.

7. Accordingly, the Asian Legal Resource Centre urges the international community to pay greater attention to problems relating to the implementation of article 2 of the ICCPR. It should facilitate studies and develop recommendations on this issue. Special financial and non-material support must be provided to countries to reform and develop their criminal investigation and prosecution mechanisms, to ensure proper implementation of article 2. The Asian Legal Resource Centre also urges all UN human rights mechanisms to pay special attention to article 2, particularly by ensuring proper criminal investigations and prosecutions. Those of particular relevance are the Special Rapporteur of the Commission on Human Rights on the question of torture, Special Rapporteur of the Commission on Human Rights on extrajudicial, summary or arbitrary executions, the Working Group on Arbitrary Detention, the Working Group on Enforced or Involuntary Disappearances, the Special Representative of the Secretary-General on the situation of human rights defenders, the Special Rapporteur of the Commission on Human Rights on the independence of judges and lawyers and the Special Rapporteur of the Commission on Human Rights on violence against women, its causes and consequences. This issue is also very relevant to all groups working on economic, social and cultural rights, and the Independent expert of the Commission on Human Rights on the right to development. Finally, we urge all civil society organisations, international human rights groups and bodies involved in the promotion and protection of human rights to take special note of issues relating to the implementation of the article 2. Without it, much of the work they do will produce little or no result in altering the patterns of human rights violations, particularly in countries not falling within the category of developed democracies.

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It is not only their lack of effective remedies to human rights violations that render the police, prosecution and judicial mechanisms throughout Asia dysfunctional; rather, it is the very fact that in many cases it is these mechanisms themselves which commit human rights violations as indicated by the cases in Lesson 1.

The police for instance, are seen as criminals in most Asian countries rather than law enforcers. They are largely associated with intimidation, political influence, violence and impunity, which encourages crime and corruption in society and destroys people's faith in legal redress.

The prosecution system is also defective in most countries. A prosecutor's duty is to uphold the principles of due process by acting on their basis alone. Applying criminal principles defined by law, the prosecutor must examine evidence and charge those where there is sufficient evidence of the commission of a crime. To do this, the prosecutor must have legal and actual power. In many Asian countries however, this is not the case.

Furthermore, in many instances prosecutors are also known to collaborate with the police or act in accordance with the executive. In India for instance, the trials proceeding with the Gujarat pogrom of 2002 have been a complete mockery of justice. In its written statement to the 60<sup>th</sup> session of the UN Commission on Human Rights, the ALRC pointed out that this is precisely due to the institutional links between the prosecution, police and ruling elite.

3. ... In Gujarat, the same police force responsible for the atrocities has been charged with investigating the cases going to trial, and the government responsible for what occurred has been appointing the prosecutors. Although the National Human Rights Commission explicitly recommended that the Government of India permit independent agencies to investigate the cases, hear the trials in other states and provide witness protection, these recommendations were unheeded. Only in September 2003 did the Supreme Court state that it has 'no faith left' in the Gujarat government's handling of the cases arising out of Gujarat. It appointed a former solicitor general to sit as special advisor to the court in the Gujarat trials, and in November 2003, the Court stalled the proceedings in ten cases, including some of those mentioned above, while considering whether they should in fact be heard outside the state [ALRC, 'India: Genocide in Gujarat', E/CN.4/2004/NGO/40].

The judiciary in Asia is largely seen to have compromised its independence. Judges, particularly those in lower courts, collaborate with the police and give no justice to victims. Corruption within the judiciary is widespread. In Indonesia, a former Supreme Court judge has himself recognised that the main obstacle to the effective functioning of the judiciary is the widespread corruption among its ranks. In Burma for instance,

it is well recognised that most judges are appointed on the basis of their relationship to persons in the armed forces and administration, rather than training, and relatively few have proper legal qualifications. Even in the Supreme Court, earlier provisions stipulating professional requirements for judges were long-since removed in order that socialist party cadres of the earlier regime and persons close to the state leadership could take over the bench. Similar practices have continued today: in November, two Supreme Court judges and numerous other senior legal officials were sacked after the removal from power of the former prime minister, who was also the head of military intelligence. The judges were said to have either had connections with the former intelligence chief or had refused to give legal advice to convict him and his colleagues on

corruption charges [AHRC AS-60-2004, 8 December 2004].

This being the situation of the police, prosecution and judicial mechanisms in Asia, it is obvious that the obligation undertaken by way of article 2 of the ICCPR to establish functioning judicial, legislative and administrative mechanisms and provide remedies has not been honoured.

## C. Social

### Social and cultural practices

There are many cultural factors that affect the establishment and implementation of rule of law in Asia. In many societies legal reforms were brought in from the outside, and have thus remained at a superficial level, without affecting the daily lives of people. For instance, while equality is the principle upon which rule of law is based, in many societies inequality is rife, with certain sectors of society living lives of great oppression and poverty, such as women and Dalits.

India is home to several million Dalits, or untouchables, the lowest strata of the caste system. This system dictates that inequality is inherent in the life of individuals. The system segregates people into certain 'castes', which are determined for life; these castes determine a person's occupation, education, social status and so on. For the majority of those who are seen as 'untouchable' by this harsh system, legal provisions within the country exist only to perpetuate injustice as well as serve as a façade for India's international obligations. The extent of caste prejudice pervading in social and governmental attitudes was made alarmingly clear in the wake of the December 2004 tsunami relief operations, as mentioned by the ALRC in a written statement made to the 61<sup>st</sup> session of the UN Commission on Human Rights.

2. Places such as Kadapakuppam and Pattipulam of the Kachipuram district in Tamil Nadu have received no relief whatsoever. This is despite 175 families in Kadapakuppam and 280 families in Pattipulam having felt the brunt of the disaster. Despite complaints by villagers in these two places, at the time of writing no government officials or aid agencies have gone to the assistance of these people. Likewise, in Pannanthittu village of Tamil Nadu's Chidambaram Thaluka, all 150 families affected by the tsunami have been denied aid and. Villagers in MGR Thattu, meanwhile, protest that they are being discriminated against, as little relief has been provided to them.

3. Caste-based discrimination has also been evident in relief operations elsewhere. When burying the dead, Dalits have been brought in to handle the bodies, as 'traditionally' they have been obligated to do. Community kitchens, established to distribute food to victims, were divided into two: one for caste Indians and one for Dalits, as upper castes would not consume food prepared by Dalits. It is a sad reality that even in times of extreme necessity caste prejudices dominate social

exchanges [ALRC, 'Caste-based discrimination in India', E/CN.4/2005/NGO/56].

Women throughout Asia are faced with violence and gender discrimination, inherent in the patriarchal societies they live in. For them as well, rule of law has no meaning beyond legal restrictions regarding their travel, education or employment. They associate police and other government officials with harassment and sexual abuse. Honour killings in Pakistan is a particularly brutal form of violence against women, while also being a practice that underlines how the absence of the rule of law has led to the perpetuation of jirgas.

4. The lives of millions of women in Pakistan are circumscribed by traditions that enforce extreme seclusion and submission to men, many of whom impose their control over women with violence. For the most part, women bear the traditional male control over every aspect of their bodies, speech and behaviour with stoicism, as part of their fate. In cases where a woman is believed to have 'dishonoured' her family by having a male friend, marrying a man of her choice or seeking a divorce, tribal councils—in some parts of the country known as jirgas—have decided that all those responsible be killed or otherwise punished. With the expansion of the notion of 'honour' and of what undermines it, not only alleged sexual misconduct of a woman but every act of perceived disobedience may amount to her 'shaming' her family and lead to action to restore 'honour'.

5. Many Pakistanis connect honour killings, tradition and religion, but in fact the jirga tradition has no relationship to religion, and many so-called traditions, particularly "Islamic laws," are not based on religion or tradition. Jirga law is rooted in tribal customs and in the power of elders. Many tribal leaders themselves are parliamentarians or members of the civil administration, or have family links to the administration. In their official capacity they talk about human rights for all, yet in their constituencies they participate in tribal courts. On the one hand they are talking about 'good governance' and 'real democracy', on the other they are handing down their punishments in violation of basic human rights principles, and running private prisons.

6. Although illegal, influenced by powerful clans and biased against women and the poor, the jirga is an institution in Pakistan's informal justice system that is condoned by corrupt police. The Government of Pakistan does not generally take action when jirga decisions lead to murder, rape or other abuses. State officials have also used tribal leaders to solve criminal cases that are pending in court. The state, willing to exchange some of its powers for social stability, has let these men take responsibility for many 'private' matters. This means, in practice, giving a small and relatively homogenous segment of the population absolute power over others, particularly women. The state permits the practice because the official justice system is seen to be ineffective and expensive. A high percentage of the rural population is illiterate and does not know how to approach the official justice system. Corruption in both police ranks and the judiciary also seriously compromises the official system. Presently Pakistan operates under a medley of common law, shariah law and jirga law, among others, but all seem to be ineffective when addressing violence against women and honour killings [ALRC written statement to the 59<sup>th</sup> session of the UN Commission on Human Rights, 'Honour killing' in Pakistan', E/CN.4/2003/NGO/95].

### **Public opinion and attitude**

While social norms and practices will affect how a particular society views the rule of law and its principles, the malfunctioning of the justice system or the absence of effective rule of law will also have a significant effect on society's views. In Sri Lanka for instance, society has come to a point where it believes law is no longer able to provide it with the security and stability necessary. For this reason,

to extrajudicially do away with those who are hard-core criminals is an article of faith. Police officers claiming to have shot such a criminal are thus considered heroes. Leading monks appear in the press accusing persons in opposition to such acts to be collaborators of the criminals or persons lacking in patriotism.

This call for the liberty to kill criminals is a clear manifestation of the loss of faith in the justice system. It is a common phenomenon in societies that have reached a high level of demoralization for tacit approval of extrajudicial killings as the solution to crime to develop. Any discussion on the rule of the law must take into consideration this mindset, which considers the law as a hindrance to personal security. The development of such a mental framework allows society to overlook that which a stable society would consider gruesome, inhuman and uncivilized. Sri Lanka has reached that point...

The term 'law and order' is no longer a valid term in Sri Lanka. Rather, 'order' with or without law is the prevailing philosophy. In this case, if the law becomes an obstacle in achieving 'order', then the law must be discarded. This is not just a theoretical premise, but how practical policies are developed and pursued in the establishments that are supposed to uphold the law. It is common knowledge for instance, that there is a tacit agreement to ignore the law regarding corruption. As for torture, the prevalent premise is that the police are unable to carry out criminal investigations without the use of torture. The Convention Against Torture Act No. 22 of 1994 then becomes a hindrance to criminal investigations. 'Legal experts' thus argue against the enforcement of the Torture Act on two grounds: the police cannot function without the use of torture and that the people want the police to function, even if torture is to be used. Similar arguments legitimize extrajudicial killings of alleged criminals.

In such circumstances, can Sri Lanka be called a society governed by the rule of law? While abstract answers may claim that it can, in reality what can be done under the pretext of law is now left to the executive and supporting institutions. What is perceived to be the wish of the people is now more important than the creation and enforcement of legitimate laws. This being the case, senior police or prosecution officials now have the right to decide what is 'the wish of the people' and then carry out such wishes, regardless of the law. They also have the power to authorize the commission of crimes such as murder, torture and kidnapping...

If demoralization and disappointment has created 'a wish' to allow law enforcement agencies to ignore or violate the law, then the real arena for the fight of the reestablishment of the rule of law is public opinion itself. All efforts to re-establish the

rule of law must convince the public that the critical examination of the problem is serious enough to allow for an effective remedy [AHRC AS-14-2005, 7 February 2005].

This situation is unfortunately not the case only in Sri Lanka, but in many other societies, whether articulated from the top or through the masses. Apart from a visible deterioration of the institutions meant to be protecting them, people will also lose faith in the system when there is a lack of protection for victims and witnesses of abuse. When complainants cannot find an effective remedy for the violation suffered, and when they are harassed or even threatened for attempting to seek redress, they will inevitably lose faith in the rule of law.

### Questions For Discussion

1. Discuss the effectiveness of the police, prosecution and judiciary in your own country. What is their relationship to the rule of law?
2. Are human rights in your country protected legally as well as in practice? How may victims of rights abuse seek redress?
3. Compare your answers to the first two questions and discuss the links.