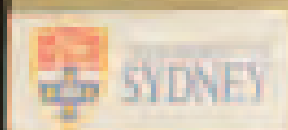


# HUMAN RIGHTS AND THE SECURITY SECTOR IN THE ASIA PACIFIC

15 – 17 September 2014

IN PARTNERSHIP WITH



## Conference Report

Human Rights and the  
Security Sector in the  
Asia Pacific



This document was authored in 2015 by Professor Danielle Celermajer, University of Sydney for the project Enhancing Human Rights Protections in the Security Sector in the Asia Pacific. This project was run in partnership with the Centre for the Study of Human Rights at the University of Colombo and the Kathmandu School of Law. It may not be produced, in whole or part, without the explicit permission of the author.

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# CONFERENCE REPORT: HUMAN RIGHTS AND THE SECURITY SECTOR IN THE ASIA PACIFIC

## 1. Introduction

The purpose of this report is to provide an overview and analysis of the Human Rights and the Security Sector in the Asia Pacific Conference (Conference). This Conference was held in Bangkok in September 2014 as the culmination of three years of action research, known as the Enhancing Human Rights Protections in the Security Sector in the Asia Pacific Project (EHRP). The Conference marked an ambitious attempt to bring together members of the security forces from across the Asia Pacific region with members of civil society (non-government organisations and academics) to discuss the problem of human rights violations in the security sector. Its particular focus was two-fold: to consider the problem of torture and other forms of cruel, inhuman and degrading treatment and punishment, and to consider approaches that might more effectively combat these violations in the context of the Asia Pacific region.

Traditionally, security sector (police and military) organisations and non-governmental organisations (NGOs) focusing on human rights have tended to occupy very different, if not polarised, positions with respect to human rights. Most often, their communications have taken the form of accusation, denunciation and defence through reports, public statements or the media. Rarely do these groups find themselves in spaces where there is an opportunity for constructive dialogue. As such, a conference seeking to commence and foster such a constructive dialogue went, in a number of senses, against the grain of tradition. And so, as might have been expected, planning the Conference and then bringing it to fruition meant facing a number of obstacles and challenges: the Conference found itself steeped in controversy before it even commenced.<sup>1</sup>

At the same time the presentations, conversations and interchanges at the Conference raised issues of critical importance for human rights protection and torture prevention in the region. They indicated that while dialogue remains difficult, there are opportunities for different stakeholders to cooperate in the work of strengthening human rights protection within security forces. There is clearly much work to be done in this area. As Professor Manfred Nowak, former United Nations Special Rapporteur on Torture said in his opening address, police and military are primarily the protectors of human rights in any society. At the same time, their monopoly on sanctioned (lawful) violence means that there is always a danger that they will exceed the lawful use of force or violence and violate human rights. The constant presence of this danger means that we need to install mechanisms and systems that will ensure careful oversight and monitoring as well as an internal commitment to human rights principles and a strong culture of human rights. It is with this goal – ensuring that security organisations in the Asia Pacific region both protect and themselves observe human rights principles and laws - that the conference was organised. It is hoped that the reflections set out in this report will contribute to this mission.

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<sup>1</sup> This controversy is discussed in detail in Section 6 and Appendix B of this report.

## **2. Background to the Conference**

### ***(i) The Enhancing Human Rights Protections in Security Sectors in the Asia Pacific Project***

The EHRP is a three-year project aimed at strengthening human rights in the security sector, with a specific emphasis on preventing torture and other forms of cruel, inhuman and degrading treatment and punishment within the security forces of Nepal and Sri Lanka.<sup>2</sup> The project has been a cooperative endeavour of the University of Sydney, the Centre for the Study of Human Rights at the University of Colombo (CSHR) and the Kathmandu School of Law (KSL). It has also involved cooperation from the Sri Lanka Police and Sri Lankan Armed Forces, and the Nepal Police and the Armed Police Force (APF) in Nepal. These organisations acted as Associates on the project, with key individuals taking on the role of Human Rights Protection Facilitators (HRPFs).

Since 2012 the project team, combining in-country researchers and a team of international experts, has been conducting extensive research on the root causes of torture. On the basis of this research, the project has developed and piloted strategies for addressing and preventing torture in the police and military. Torture prevention is evidently a broad field with many different approaches, including law reform, sanctioning perpetrators, naming and shaming, monitoring, and training amongst others. The distinctive and particular focus of the EHRP has been reform of security organisations themselves and the development of the capacities of officials within those organisations to bring about such reform. In our research, we have analysed the operation of security sector organisations to identify the practices, processes, structures and cultures that create risks for torture occurring. On the basis of this research we then sought to develop strategies to minimise those risk factors as well as to strengthen inhibiting factors. In order to ensure the penetration and sustainability of such reforms, the model adopted has involved working in cooperation with members of the security organisations themselves, with a view to their taking ownership for the long term reform of their own organisations. In other words, our model seeks to support organisational change from the inside of security organisations themselves with the support of external actors.

### ***(ii) The role of the Conference in the overall EHRP***

In our original EHRP project plan, we envisaged an international conference to take place in its third and final year. The aim was for the Conference to provide a forum for all of the people involved in the project to come together to critically reflect on their work and to examine how it might form the basis for future developments in the same field. Participants were to include members of the Nepali and Sri Lankan project team, international experts and members of the security forces who had been involved in the project. We originally planned for the Conference to include security sector representatives from five countries in the Asia Pacific region, as well as a small number of civil society organisations and academics.

The Conference was imagined to be a means for disseminating the project's research findings/results and the model for prevention developed from this research to other security sector organisations in the region and to civil society organisations working in the fields of human rights and the security sector. Our idea was that this would create a forum for gathering the reflections and analysis of others working in the field (from a variety of standpoints) to assist us in our own evaluation and future planning. We also hoped that it would provide an opportunity to explore how others might adapt the work that the EHRP had undertaken in their own strategies. As such, the Conference was not simply to be a site for dissemination of our project results, but also for its possible critique, adaption and expansion.

Two years after this initial planning, when we came to plan the Conference, we recognised that it presented an opportunity to go beyond our original objectives. Specifically, we saw it as an opportunity not simply to discuss the work of the EHRP, but to broadly discuss and critically analyse the work that a range of stakeholders are doing in the field of torture prevention, specifically security sector organisations, NGOs and academics. By doing so, the EHRP would form the starting point of a more far-ranging critical reflection on existing approaches and strategies and exploration how to productively move forward. We also recognised that we would be able to include a far broader range of organisations than had originally been envisaged. Specifically, we could involve security sector organisations from a larger range of countries.

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<sup>2</sup> Hereafter the report will refer only to torture, but this is intended to include the full range of acts including inhuman and degrading treatment and punishment.

### ***(iii) Objectives of the Conference***

The principal objectives of the Conference were to bring together the participating security personnel from Nepal and Sri Lanka to reflect on the approach that had been taken and to think through strategies for human rights protection and torture prevention in the forces in this region going forward. This would be facilitated through conversations with representatives of human rights organisations, academia, and - importantly - representatives of military and police from other Asia Pacific countries.

The key objectives of the conference were:

- To present the approach, results, research and experience of the EHRP and to disseminate this to other law enforcement and security organisations in the region; to relevant human rights organisations; to relevant government agencies and national human rights institutions; to scholars and to donors;
- To provide an opportunity for the people involved in the project to receive feedback from members of the above-mentioned groups and to critically reflect on the process. In particular, the Conference aimed to provide a space for the Human Rights Protection Facilitators to share and receive feedback on their experience. In this regard, we hoped that the conference discussions would strengthen the human rights and torture prevention work that HRPFs in Sri Lanka and Nepal could do with their organisations in the future and so enhance other key project objectives;
- To provide a platform for others working on the prevention of torture in the police and military in the region to share and critically reflect upon their experiences;
- To establish a network of actors from different sectors working on torture prevention in the context of law enforcement and security organisations in the Asia Pacific region; and
- To identify opportunities for future research and projects on the prevention of torture building on the work shared during the Conference.

### **3. Planning the Conference – involving diverse stakeholders**

As noted above, we recognised that the Conference represented an unprecedented opportunity to bring together a large and diverse number of (in some cases traditionally polarised) stakeholders to discuss human rights in the security sector in the Asia Pacific region. In particular, the project team wished to go beyond the originally envisaged five participating countries to try to include security sector representatives from as many countries as was possible in South Asia, South East Asia and also to have some representation from the Pacific. It was also decided that it would be beneficial to include civil society organisations working in the field of human rights at the international, regional and country level. Further, as our research had revealed that there were a number of scholars working on questions of security sector reform in ways that were complementary to the project's approach, it was felt that their participation too would be beneficial valuable in terms of reflection and future research.

As will be discussed in the analysis in Section 6 below, the process of involving this broad range of stakeholders (and more pointedly, bringing together security sector organisations and NGOs that have in the past been in antagonistic relationships), raised challenges and impediments that had not been fully anticipated by the project team. On the one hand, their participation was crucial to achieving our objectives. Critical reflection on the EHRP and existing approaches to torture prevention, and identification of opportunities for drawing on the research and the model in other contexts would most fully benefit from the presence of a large range of stakeholders. Similarly, there is no doubt of the value in bringing together traditionally polarised parties to explore how they might work together more constructively. This would not mean getting rid of their differences; it is of utmost importance that NGOs stand outside security sector organisations and raise concerns about their human rights compliance. Nevertheless, the challenge would be finding ways of handling those differences in a manner that would support more effective reform. On the other hand, as became evident, the severity of some of the differences in perspective and mutual distrust render this process extremely difficult. Nevertheless, where there are reasons for being interested in protecting human rights on all sides (albeit different ones), there may be incentives for building more constructive relationships.

For those seeking to create opportunities for developing such constructive multi-sectoral engagement in the future, it is worth explaining the process involved in gaining the participation of those that were invited to the Conference, in particular the security sector organisations. In the case of the EHRP and for most civil society organisations, the involvement of police and military in events concerning human rights and the security sector is not straightforward. It requires careful strategic thinking, particularly given the tendency for these two groups to sit in opposition to each other in relation to human rights. We faced the dilemma others might face of working out how to involve military and police with whom they have no existing relationships in human rights projects and events.

In our case, existing relationships with security sector organisations in Sri Lanka and Nepal provided the foundation for their participation; however we did not have existing contacts with police and military from other countries. We were approaching them for the first time. In this regard, the assistance provided by the Australian Government, (in particular the military attaches to Australian Embassies and High Commissions and in-country representatives of the Australian Federal Police) proved critical. These representatives became the conduits to military and police organisations in their respective countries. They provided them with information about the Conference and assisted them in the process of selecting suitable representatives. Without their assistance in making such links and their perseverance in facilitating attendance, we are extremely doubtful that representatives from military and police in countries where we had not been working (and had no track record) would have been willing to attend. Once contact is made with these groups, opportunities for further communication, for the exchange of information and for expanding links are then available.

The process of involving civil society stakeholders was a more straightforward one, as the project team had pre-existing relationships with human rights organisations at the international, regional and domestic level as well as extensive networks involving such organisations. In addition, it became apparent that a conference dedicated to torture prevention was of immediate interest to many such organisations, given their explicit mandate to promote human rights and to prevent torture, and their interest in security sector reform. It should be noted here that making funds available to pay for representatives from civil society organisations to attend an event such as the Conference would, almost always, be critical to their participation. This is especially the case for smaller civil society organisations that must prioritise funds for their urgent activities and interventions.

#### **4. Organisation of the Conference: Themes, questions and methodology**

##### **(i) Themes and questions**

Given the potential breadth of the topics relevant to this Conference, we decided to organise the sessions around some key themes and questions. Further, given that representatives of different types of organisations and from different countries were present, we saw the conference as an opportunity to bring together different perspectives on those themes and questions. Our hope here was to facilitate dialogue and provide a platform where differences would be evident but also open for constructive analysis. Again given the breadth of the field, the specific focus of the Conference was not the experience of victims of torture, although it was understood that the CSOs present would ensure that attention remained on the reality of the violations.

Sessions were therefore built around the following themes and questions:

- What are the main challenges and opportunities for preventing torture in the security sector in the Asia Pacific?
- What are the tensions between human rights and the work and objectives of the security sector and how can we negotiate or resolve them?
- How have different organisations approached trying to prevent torture and strengthen human rights protections in the military and police? What do we know about how well different approaches are working?
- What would be the value in working across sectors? Where are there possibilities for collaboration across sectors? What are the impediments?
- What do we know about the effectiveness of existing approaches to preventing torture?
- How do you change organisational practices, structures and cultures?
- What do professionals going in to do human rights and security sector reform work in the Global South need to understand/know?
- What do we know about the effects of training on preventing torture? What works and what doesn't?
- What types of innovations in torture prevention in the region or more generally can we see? What are the most creative approaches being tried out?

##### **(ii) Methodology**

Most of the sessions were held as plenaries, with speakers or panel discussions followed by a question and answer session. To the extent possible, we sought to ensure that our speakers were diverse in terms of sector, country, gender and perspectives. Further, in addition to the plenaries, we decided that it was important to create distinct spaces in which the representatives of the distinct sectors (NGOs/civil society, police and military) could have more unguarded conversations and share information, ideas and experiences amongst themselves. As such, on the afternoon of Day 1, three parallel 'closed sessions' were held (one for each group). These closed sessions gave participants the opportunity to discuss strategies, approaches and concerns specific to their sector. During these closed sessions, participants in each group were also invited to formulate collective questions that they wished to ask the other groups. These questions were then shared with the other groups. Time was given for each group to discuss and reflect on the questions being asked before they provided their responses to all groups during the plenary that followed. One of the lessons from this exercise was that there is significant distrust between NGOs on the one hand and police and military on the other. In addition, NGOs and police/military alike believe that their actual motives and values are poorly understood by the 'other side' and that they are seen in an overly critical light with little understanding of their actual aspirations, concerns or perspectives.

It was also felt that participants would benefit from taking part in smaller and more interactive workshops on specific topics of interest. Given the enormous expertise present at the Conference among participants, we felt that it would be beneficial to draw on shared knowledge and experience in a more interactive setting. As such, four parallel workshops were held on Day 3. These workshops were structure around the following themes:

1. Preventing violations through organisational change;
2. Human rights training for security forces;
3. Monitoring and the Optional Protocol to the Convention Against Torture; and
4. Tactical mapping and strategic intervention design.

Details of these workshops are discussed in Section 5.

## 5. Summary reports of the Conference sessions

Below are summaries of key points made during conference sessions.

### Day 1

#### Welcome Session

##### **Opening speaker: Professor Chaiwat Satha-Anand (Thammasat University)**

**Professor Chaiwat** opened the conference by speaking about the themes of 'reality', 'experience', 'tensions', 'story' and 'choice'. He first spoke about the reality of Thai society at this point after the 2014 coup, explaining that chaos and violence were interrupted by the establishment of a new political order. Under the theme 'Experience' he spoke about the national strategy for non-violence that had been developed and asserted that this provided the most appropriate means for achieving national security. This national strategy is based on the principles that non-violence is the only just way to address conflict that will support sustainable peace and that non-violence must be based on the reduction of hatred towards people who are different.

When it came to tensions, Professor Chawat spoke more directly to the Conference themes.

*"Those who choose to work as engaged academics have.... cannot avoid the fact that they have painted themselves into a highly contested terrain between two tribes much of the time with competing languages, rationales and experiences." (Professor Chaiwat Satha-Anand)*

Under the theme 'story' Professor Chaiwat then recounted a massacre in Liberia, where villages told the story of the good but Unknown Soldier who entered their collective memory of goodness in the midst of killing time. He called for us to connect such acts of kindness, even amongst those labelled enemies, to a broader project of post conflict reconciliation.

Finally, for choice, Professor Chaiwat recalled the distinction drawn between two types of tragedies by writer Amos Oz:

*"Tragedies can be resolved in one of two ways. There is the Shakespearian resolution and there is the Chekovian one. At the end of the Shakespearean tragedy the stage is strewn with dead bodies and maybe there is some justice hovering high above. A Chekov tragedy on the other hand ends with everyone disillusioned and embittered, heart broken disappointed and absolutely shattered, but still alive. And I want a Chekovian resolution and not a Shakespearian one... I must say to you by way of opening this conference that Oz has made up his mind. Now perhaps its time for all of us to make a choice as well." (Professor Chaiwat Satha-Anand)*

#### **Plenary Session 1: Facing the challenge of human rights protection in security sectors in the Asia Pacific**

##### **Chair: Professor Danielle Celermajer (University of Sydney)**

**Professor Celermajer** opened the session by acknowledging the conflict that had arisen during the organisation of the Conference concerning two Sri Lankan NGOs. She invited participants to take the necessary time during any sessions to discuss this matter. Professor Celermajer explained that this Conference formed part of a three-year project on the prevention of torture and the improper use of force and set out its principal objective and approach. In particular, she explained that one of the main motivations of the project had been a recognition that existing approaches do not sufficiently attend to the 'systemic factors' that underpin torture. She defined systemic factors as the background conditions that normalise, legitimate or permit a violation, or that create opportunities or incentives for individuals to commit that violation. Those background conditions may be found in the way security sector organisations operate – their structures, procedures or cultures. But they are also found in the broader conditions of the society, the culture, the criminal justice system and the political system. Professor Celermajer explained that research carried out as part of the project sought to identify the systemic factors that cause and sustain the improper use of force and torture as a basis for working out where prevention strategies needed to place their focus. She spoke briefly about the different levels at which such factors operate and then explained that, in particular, the EHRP focused on organisational factors. As such it was primarily concerned with transformations within the military and police.



Professor Celermajer then set out the Conference's objectives. She said that it specifically aimed to enable sharing of the project experience and critical reflection upon it, sharing of information and drawing of lessons from a range of strategies for torture prevention, to form networks and relationships. Its final aim was for participants to devise ideas for the future of prevention work in the region.

**Professor Sharya Scharenguivel (University of Colombo)** noted that the EHRP project required us to think afresh and to go beyond the traditional training model. It thus opened new possibilities for addressing human rights violations in security organisations. She introduced the next speaker, Brigadier Ruwan Wanigasooriya.

**Brigadier Ruwan Wanigasooriya (Sri Lankan Ministry of Defence)** commenced by speaking about the 30-year war in Sri Lanka and the experience of emerging from this period to one where Sri Lanka was engaging with humanitarian law and human rights. He referred to the general constitutional and legal protections and specific human rights frameworks in security organisations.

With respect to the EHRP project, the Brigadier noted that it had involved the Human Rights Protection Facilitators (HRPFs) as a way to critically examine the existing system of human rights protections in the Sri Lankan security forces. He said that the findings of their examination of the existing system would help the security institutions to formulate new strategies and 'out of the box solutions' that they could then develop to enhance the protection of human rights in the forces. He specifically addressed the issue concerning the two Sri Lankan NGOs by saying that the Sri Lankan authorities understood the Conference to be an academic engagement, and that the presence of some organisations would have made it difficult for this engagement to take place. He also said that the specific reason that the Sri Lankan Ministry of Defence had objected to the two Sri Lankan NGOs concerned their refusal to attend a meeting in Sri Lanka called by the Ministry to engage with NGOs.

**Professor Geeta Sangroula (Kathmandu School of Law, KSL)** introduced **Mr Rameshwor Dangal (Joint Secretary of the Ministry of Home Affairs, Nepal)**.

Mr Dangal opened by speaking about the importance of confidence in the security forces as part of the path to democracy and development stating that it is a primary responsibility of governments to provide security and protect human rights. He spoke about the Government of Nepal's commitment to a 'zero tolerance' policy towards human rights violations.

Mr Dangal outlined Nepal's international commitment and domestic legal regime with respect to the prevention of torture, and recognised the cooperation between the Home Ministry and KSL as a sign of this commitment. He then outlined some of the steps that the Ministry of Home Affairs had taken to support the project, including nominating and supporting the involvement of the HRPFs and providing access for research. He expressed the belief that the project will have a 'multiplier effect' as the HRPFs transfer their knowledge and skills across the organisation.

**Professor Manfred Nowak (University of Vienna)** opened by referring to his experience as UN Special Rapporteur on Torture. In this role Professor Nowak had carried out official fact-finding missions to about 20 countries in all regions including eight missions in the Asia Pacific. In all but one country (including fairly well functioning democracies) he found evidence of torture and other forms of ill treatment and in most countries he found appalling conditions of detention.

Professor Nowak challenged the widely held belief that torture is only practiced against political prisoners or other so called 'high value detainees' by pointing out that most of those he had interviewed were ordinary citizens who often belong to the poorest and most marginalised sectors of society. Most instances of torture occurred where a crime had been committed and pressure was put onto poorly resourced police personnel to identify a culprit. Police would then identify someone who 'looked suspicious' and if they did not immediately confess, beat them to get a confession. This confession is often used as evidence in court.

Professor Nowak explained that torture is part of a widespread police culture and indeed many who perform torture do not think that they have done anything wrong. He suggested that as long as this culture of "sometimes a little bit of torture helps" persists, complaints around torture will not be investigated, perpetrators will be protected by peers and superiors rather than being exposed and brought to justice and torture will continue as the so-called 'lesser evil'. What is needed, he said, is to convince every officer that torture is not a reliable method; that it is nothing less than an attack on the very core of human dignity; and that it actively contributes to the very atmosphere of violence that security forces aim to combat. He linked this concept with the aims of the EHRP project.

Professor Nowak then spoke of the importance of breaking down antagonistic attitudes, whereby police and military on the one hand, and human rights defenders on other, see each other in purely negative terms. He reminded the audience that, although the abuse of their monopoly on the legitimate use of force is always a danger, security forces have been established not to violate our human rights, but to protect them. Professor Nowak expressed the view that because of broader political and legal changes across the region, this Conference's discussion of human rights in the security forces may in fact lead to positive changes from within the security forces. He wished participants fruitful and frank discussions where we can learn from each other and perhaps even change some of our common prejudices and stereotypes.

*"Human rights defenders and members of the change agents within the security forces need to see each other as and see each other as partners. In too many countries including my own the security forces are only perceived by the media and civil society as those who violate human rights. At the same time human rights defenders and critical journalists are seen by the security forces as those who wrongly accuse them of crimes and undermine their reputation and professional standing. This antagonistic attitude tends to overlook that the security forces first and foremost are protectors of human rights. By preventing murder, robberies and other forms of violence, the police perform an important function of protecting our human rights to life, health, to property personal integrity liberty and security. In fact the legitimacy of the modern constitutional state rests upon its ability to protect the human rights to security of its people against those external and internal threats. In order to live up to this challenge the security forces are equipped with the monopoly of the legitimate use of force. Of course this monopoly can easily be abused if the necessary internal and external control mechanisms are missing. These control mechanisms - above all the internal ones - are the subject of our discussions in the coming three days. But we should not lose sight of the fact that security forces have been established not to violate our human rights but to protect them against violations and abuses by others." (Professor Manfred Nowak)*

#### Questions/comments from the Plenary Session 1

These included:

- A question to the Sri Lankan Brigadier about Sri Lankan authorities' insistence that two NGOs did not attend the Conference;
- A question about the role of transitional justice in the promotion of human rights in Sri Lanka and Nepal;
- A comment about the practice of NGOs in Nepal engaging in a 'yes-but' manner with the security forces and the importance of ensuring NGOs are included (with reference to the Sri Lankan NGOs);
- A question about the role and effectiveness of oversight mechanisms with the power to investigate and sanction institutions for violations;
- A call for there to be more comparative research including on public opinion; and
- A call for us to focus not only on rights but also on responsibilities.

*"In Nepal we engage with security sector and we engage with the government. We don't boycott. We don't say no. We have an alternative – 'yes but'. So engagement is there. And we are still hopeful that government will correct itself. That is the reason that we are in a lively discussion with the security sector also though we have been demanding for strong action against some of them." (Mr Subodh Raj Pyakurel (INSEC))*

#### **Plenary Session 2: Challenges and opportunities for human rights in security sectors**

**Chair: Mr V T Thamilmaran (University of Colombo)**

**Dr Kiran Bedi (Navjyoti and India Vision Foundation)** opened by speaking about the traditional perceptions of human rights and policing highlighting the views that human rights are threatening for policing, that they represent a constraint and need to be defended against. She noted that there is a generational shift in policing towards more interest in human rights.

She expressed the view that we are facing significant challenges such as global terrorism but we need to balance this with respect for rights. This requires balancing rights and responsibilities and a mighty heart.

To deal with the conflict between security and human rights Dr Bedi said it is important to open up communication about problems such as torture and corruption and to ensure responsiveness to such

complaints; in other words, to ensure transparency and accountability. She referred to her own experience as the head of a large prison, emphasising the importance of strong leadership (with zero tolerance towards violations), and understanding and attending to the root causes including the need to ensure that the dignity of prison officers is also respected.

Dr Bedi called for systems that would create measurable parameters for how well different countries observe human rights. She suggested these parameters should include assessing the culture of society, its political systems, its media freedom, its social networking, independence and speed of judiciary, the effectiveness and independence of human rights systems and the independence of selection of public officials.

*“Sometimes we are very short of odds and yet we deliver in a very humane way. It’s basically not doing anybody a service. It’s doing the right thing to yourself. That is what you owe yourself – to do it the right way when in uniform.” (Dr Kiran Bedi)*

**Mr Todd Wassel (The Asia Foundation)** focused his comments on the experience of developing human rights respecting policing in Timor Leste, a fragile post-conflict society. He sees no *necessary* tension between human rights and the work of security forces but recognises that, in reality, there often is one. In Timor Leste the main tension emerges because of a perception that the security forces are there to keep control of society, a legacy of colonial policing. The issue now is how to keep this control where you have a low police/citizen ratio, a slow justice system and few resources.

Mr Wassel described how the police are beginning to reflect on how they build community trust and confidence, and to draw on community justice resources to achieve their goals. Part of the difficulty here is that Timor Leste is a traumatised society where violence including police violence is broadly accepted. Nevertheless, improvements in trust and cooperation are showing fruit, in terms of reductions of abuse. Finally Mr Wassel spoke about the importance of recognising the fragility and newness of the policing system and the need to act sensitively to this context.

**AIG (retired) Rishav Dev Bhattarai (Armed Police Force Nepal)** opened by speaking about Nepal’s traditional status as a peaceful society and the crisis wrought by internal conflict. He emphasised that there is a significant difference in perspectives of security personnel and human rights defenders, particularly during times of conflict, outlining a number of reasons why during the conflict, human rights were not a strong component of the way in which police operated. This included that the personnel were not adequately trained to deal with people in a respectful way. He expressed the view that although there were many violations against the security forces themselves, human rights defenders did not raise concerns. This then created a negative view towards human rights.

AIG Bhattarai said that since the end of the Nepali conflict there has been more emphasis on human rights training and development of police personnel. This, he explained, has reduced the tension between security forces and activists, particularly when they work together. He particularly emphasised the importance of commanders knowing about human rights. He also spoke about the importance of human rights defenders understanding the real situation of policing.

**Mr Thushara Upuldeniya (Sri Lanka Prisons)** opened by speaking about the core tasks of prison officers and the human rights of prisoners. In particular, he emphasised that prisoners lose their freedom of movement and liberty, but that all other human rights should in no way be compromised. Treating prisoners with dignity and respect is part of the role of a prison professional. He gave two examples of how Sri Lanka’s prisons have tried to mediate tensions between prison officer responsibilities regarding keeping people in custody and human rights. One concerned the inclusion of medical ethics in all treatment of prisoners. The second concerned the establishment of a fairer system for dealing with alleged violations that prisoners commit while in prison. Mr Upuldeniya concluded by described his experience when studying in the Masters of Human Rights and Democratisation (Asia Pacific) program, where he met a human rights activist who filed multiple complaints from within prison and the importance of this type of advocacy.

*“Basic human rights apply as much to a prisoner as to any other member of society. The only difference is that prisoners cannot enjoy their right to freedom for a set period of time. Punishment does not mean that all prisoners’ rights are taken away.” (Thushara Upuldeniya, Sri Lanka Prisons)*

## Questions/comments from the Plenary Session 2

These included:

- A question about the link between corruption and torture and about what one does when community based traditional practices do not respect human rights;
- A question about whether there is research on general acceptance of violence in Timor Leste and how civil society engagement is being supported; and
- A comment that ‘trouble makers’ are not held accountable by human rights defenders and also that human rights defenders are always believed and security organisations are not believed.

There was an interesting discussion on the importance of preventative policing and building trust through non-violent policing practices.

*“The key is to engage with civil society at the grass roots level through good policing. Engage with civil society at the common cold level not at the typhoid level. Work with them when there is a sneeze around rather than waiting for influenza to spread” (Dr Kiran Bedi).*

### **Breakout Sessions for Police, Military and Civil Society: Your experience: Human rights and the security sector (Part 1 & 2)**

These sessions were closed and under Chatham house rules<sup>3</sup> so will not be reported. Note in these sessions each group had several speakers share their experience in preventing torture and the improper use of force and had an open discussion on their different approaches, what works and the challenges that remain. They were also asked to come up with questions for the other groups that were then passed on and each group was asked to answer questions put to them by the other groups.

### **Plenary Session 3: Your experience: Human rights and the security sector (Part 3)**

#### **Chair: Mr Patrick Barron (The Asia Foundation)**

The Chair asked representatives of each group to report back on their discussions and specifically on the answers to questions that other groups had put to them.

**Brigadier Michael Griffin (Australia)** established that the military group would speak about their strengths in protecting human rights, the challenges they face in doing so and also refer to some of the solutions to problems they saw.

**Brigadier Ruwan Wanigasooriya (Sri Lanka)** listed strengths including training, a justice system in the military, a basic objective of protecting human rights, accountability, chain of command allowing command and control.

**Brigadier Shams (Bangladesh)** listed challenges including a sense that “no matter what we do NGOs are critical and their voices seem to be the same as those we are fighting against”; the attitudes of some personnel; lack of basic education of junior personnel and people in remote areas; hybrid warfare; the military feeling that they are a lower class because they are subject to laws of the land and laws of the military; and language skills across diverse populations.

**Brigadier General Mohd Zakaria bin Hj Yadi (Malaysia)** noted that the first question put to them was “What type of accountability mechanism would you accept and who would you include in such mechanisms?” Their answer was that they would like to have a domestic mechanism to solve internal problems but if it involves international issues they would allow the UN or regional supervisory bodies. In response to the second question – “What more than training do you do to protect human rights?” – they noted a range of processes and rules of engagement that have been developed to ensure that military operations are appropriately targeted. He also noted that they study the cultures of the people in areas where they are operating, that they adhere to domestic and international law, and that they take pride in what they do and feel disgraced if there are human rights violations.

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<sup>3</sup> When a meeting, or part thereof, is held under the Chatham House Rule, participants are free to use the information received, but neither the identity nor the affiliation of the speaker(s), nor that of any other participant, may be revealed. (Source: <http://www.chathamhouse.org/about/chatham-house-rule>)

**Mr Peter Dein (Australia)** representing the police group noted that human rights are seen as the *raison d'être* for police and that the use of force should be the last resort. Some commonalities across different forces that were apparent included: accountability for actions; recognition of vulnerable groups; command responsibility for the actions of staff; the presence of oversight from formal and informal agencies to investigate police; the influence of human rights in the frameworks put in place by various agencies, record keeping on breaches of human rights and the value of working across sectors. Mr Dein referred to the sense amongst police that they are sometimes unfairly treated.

**Dr Kiran Bedi** addressed the question about accountability mechanisms. She said that National Human Rights Institutions should be the oversight mechanism, albeit in a strengthened form. In addition, there should be an internal mechanism, which involves civil society at an early stage. In response to the question about "What more than training?" Dr Bedi referred to: the greater and better use of technology (e.g. video cameras); co-opting more women in police leadership; encouraging more research on policing; declaring zero tolerance as a policy; internal mechanisms; rewarding people for crime prevention; awareness generation as a national agenda; and an idea of a parliamentary committee on human rights.

**Professor Darius Rejali (Reed College)** spoke for the civil society group but opened by acknowledging the diversity of views within the group. The first question put to them was, "How can the civilian sector ensure that their conclusions about the security sector activities are correct and not unduly influenced by inappropriate perceptions?" Professor Rejali said that everyone agreed that misinformation is not a good thing. The best way to ensure that information is accurate is to have a national preventative mechanism to ensure a good and unified methodology. It is important to develop a good relationship between police/military and civil society, as this will provide the basis for trust and accurate information. For example, when NGOs approach police and military and do not get the information they are seeking, the process breaks down.

The second question was, "Can the civilian sector consider an appropriate mix of human rights for the aggrieved person and also for victims of crimes and for the security sector itself?" Professor Rejali noted agreement with the notion that all human rights are equal and that the military and police are human rights defenders. Civil society does understand that there are huge issues in the police but it is not the role of NGOs to attend to their workplace issues. Nevertheless civil society recognises the right of police to have a good workplace. It is not the job of NGOs to make the life of the military and police difficult but to ensure that the security forces use their monopoly on the legitimate use of force lawfully and appropriately.

#### **Plenary Session 4: The Enhancing Human Rights Protections in Security Sectors in the Asia Pacific Project**

**Chair: Dr Govind Prasad Kusum (Kathmandu School of Law)**

**Professor Darius Rejali** set out the basic framework of the EHRP project starting with our question, "What are the types of measures that can be put in place to reduce the use of torture?" He gave a historical outline of the elements that have gone into preventing human rights abuses, going right back to the International Committee of the Red Cross (ICRC) establishment of monitoring mechanisms and the Nuremburg Trials. Important markers Professor Rejali mentioned included the development of human rights monitoring reports, the establishment of international law and mechanisms on torture and truth commissions. Generally, he said, that the human rights community has been 'reshuffling' this pack of cards.

Professor Rejali classified these approaches into generations. The first generation pushed for human rights treaties at the international level. The second generation was somewhat worried about the limits of this international legal approach as well as non-accusatory monitoring and advocated for a more positive approach that developed civil society capacities, training and accusatory monitoring ('naming and shaming').

*"My job as a Professor is always to give bad news first... The bad news is that we are reaching the limits of these strategies. For a variety of reasons that social scientists have documented, these strategies are showing less and less effectiveness over time. Also...there has not been a new idea in human rights work since the 1980s on the scale that we are talking about. We do reorganise these and we do think about training in a somewhat different way. But the point is that the major elements that constitute the human rights regime were all developed - we are reaching a point where it is time for looking for new ways of doing things." (Professor Darius Rejali).*

He then asked, “What will the third generation look like?” Here Professor Rejali noted that one of the project’s findings was that there is an enormous amount of local knowledge that has not been integrated into large-scale international projects. He also spoke about the significant body of scholarly knowledge and research that has not been integrated into human rights practice.

Some useful conclusions about what works and what does not, included the following:

- Signing conventions does not in itself lead to improvements and may even lead to deterioration of human rights.
- The rules for prevention of impunity are well established. In the absence of clear rules, clear authority, remand before judicial authorities and punishment for violations within seven years, improper violence will happen.
- Democracy in itself may not prevent torture.
- ‘Naming and shaming’ has been the major tool adopted to try to affect the demand for torture and the supply side of torture. In assessing this work we can say that NGOs are excellent at providing and circulating information about human rights violations. The problem is that social scientists disagree about whether this work is effective in actually changing practice. Some find that there is an effect and others find that there is no positive effect.
- The effectiveness of training depends on what the causes of torture are – there must be a match between cause, training aim and method. If the problem is a matter of unit performance, then the training has to introduce attitudinal and behavioural changes. The social sciences indicate that knowledge alone does not alter attitude and behaviour because situations trump dispositions including knowledge.

With this in mind, as Professor Rejali explained, the project asked, “What would it mean to take all of this research into account and build training that draws on this – to think outside of the box?” Simply telling people to obey the law and be good will not be sufficient when people find themselves in difficult situations. We need more socially scientifically informed training and this will require more cooperation than we have seen.

**Mr Pradeep Pathak (KSL)** commenced by describing the project’s research process and findings. He noted the central finding was that torture is the outcome of the interplay of a range of factors at different levels (organisational, legal, cultural, political etc.). Adequate legal protection is not sufficient to prevent violations. The project had the aim of building respectful and resilient organisations.

Further, Mr Pathak noted that in developing countries, security forces were often of the view that human rights approaches did not take into account their practical realities. So the project sought to work with personnel in the organisation who understood the local needs and what could be implemented within the local environments. The project team worked with each HRPF to conduct a situational analysis to work out an appropriate intervention for their particular context. This involved, in part, building trusting relationships so that the team could really find out what was going on in the HRPF’s context, what the problems were and so on.

Mr Pathak outlined the process that the project undertook to move from the needs analysis to identify the types of interventions or projects that the HRPFs would develop. Projects reflected the particular experience and interests of the HRPFs and some of them displayed a real willingness to challenge the status quo in the organisation and to give a message of cultural change.

Some of the challenges faced included the heavy existing workloads of the HRPFs, the extensive demands that made it difficult to focus on this project and transfer of personnel. There was also a lack of opportunity for more extensive sharing of ideas and intervention strategies between HRPFs in and across countries. Nevertheless, the HRPFs showed real innovation and ownership over their initiatives. These qualities were critical in their designing and implementing projects that could bring about feasible changes.

**Brigadier Michael Griffin (Australia)** opened by speaking about his experience internationally and across the law and military and police. He then explained that he joined the EHRP project because in his forty years experience he saw it as the first project that really excited him for its capacity to bring about change. In his view, the traditional training approach (for example, an expert giving a lecture about human rights) has had considerable success but violations continue to occur. He referred to an inquiry where he asked soldiers why, when they knew the laws of war very well, they violated those rules.

*“What we have had...has essentially been driven by the legal method. That is people like me standing up in front of a room of at least in the military environment soldiers or sailors or air men and women and telling them what the law is and then telling them to follow the law. Now that has had considerable success.... but if we look at the violations history.... violations continue to happen. Let me tell you an experience I had in an inquiry a couple of years ago. A serious issue arose in a military environment. I conducted the inquiry. I spoke with the soldiers. I said to the soldiers: you had your rules of engagement; you had your orders for opening fire; you had received a briefing from your legal officer. Yet this incident still happened. Why?*

*Answer; Sir, it is like when you get into the aircraft and the crew say to you, put on the life jacket, do up the life belt. It goes in this ear and it goes straight out the other.” (Brigadier Michael Griffin, Australia)*

Brigadier Griffin described a study on violations by the Israeli forces that showed that military personnel, like all people, are distributed across a normal curve in terms of their predispositions for violence and unethical behaviour. At the extremes are those who are sadistic or irreproachable, but the ‘followers’ in the middle of the group can get pulled towards the violating behavior. What is required is ethical leadership. Leaders can map and plan for situational factors so as to develop strategies to prevent the dynamic of violation developing.

Brigadier Griffin then linked this back with the project’s theory of change that provided that leaders, if properly resourced and trained, can address the situational factors that create risks of torture. “So leadership drives situational change.” He then outlined some of the characteristics that the project team looked for in choosing people who would be able to take on this leadership role. Finally he discussed some of the actual work that the project did with the HRPFs to assist them to develop projects that would address the causes of torture in their own workplaces. To convey this, he translated the ‘instructions’ for their work into the language of military operations, including an analysis of a ‘situation’, a ‘mission’, ‘execution’, ‘administration and logistics’ and detailed what was entailed in each of these.

**Colonel Rathnasinghe (Sri Lanka)** spoke about his experience as an HRPF in the project. He spoke his involvement in the workshops and the process of developing a project that would address issues in his workplace as a trainer responsible for developing the training for the 45,000 members of the Civil Security Department (CSD) for whom there was no human rights training. He also provided some background on what the CSD does and who is part of it. He described the training that he developed and implemented with a number of trainers to improve their pedagogic skills so that they could focus on attitudinal and behavioral change in relation to human rights amongst their trainees. He also described the work of some of the other HRPFs in Sri Lanka, who he explained were primarily in training institutes and so who had focused on developing training that was more responsive to the realities of trainees and more focused on giving them practical skills and bringing about attitudinal change and not just transmitting knowledge.

#### Questions/comments from Plenary Session 4

These included:

- A comment about the persistent use of torture in the Nepal Police, tolerance for such practices and the need for there to be positive and practical sanctions whereby perpetrators are held to account; and
- A question about how junior personnel learn and the relationship between ‘old timers’ and ‘newcomers’.

#### ***Evening session: Keynote speaker***

Keynote speaker **Dr Kiran Bedi** spoke about her experience in leading security organisations to change their cultures and practices. Using a rich set of images and telling stories from her life, she spoke about her work as a leader in the police service, in prisons and in the NGO world. For example, she told a story of being a police officer in charge of parking in Delhi and insisting that a ticket be placed on the car of the Prime Minister and not removed as to do so would send the message that some people are above the law. She spoke about spending hours riding her bike around the areas she was in charge of so that she had a real sense of what was happening on the ground and so that the people felt she was close at hand.

She also spoke about introducing meditation into the prison where she was the Governor and meditating along with all of the prison staff to show that this was something she was committed to. Similarly, she told stories about how she ensured that she was personally accessible to prisoners and staff so that they could speak openly about their grievances and what was getting in the way of their behaving ethically and decently. Her stories covered different parts of her career, but many of them portrayed the importance of a leader who ‘walks the walk’ and demonstrates the type of egalitarian and respectful behavior she wishes to impart.

## Day 2

### Plenary Session 5: The importance of and strategies for organisational change (Part 1)

**Chair: Mrs Noor Mizly Nizar (Family Rehabilitation Centre)**

**AIGP (retired) Nawaraj Dhakal (Nepal Police)** indicated that he would focus on the challenges of cultural and organisational change and the role of leaders. He noted that organisations are part of a larger environment and they are also dynamic. They consist of four dimensions – cultures, structures, processes and people (who are ultimately the instrument of driving or inhibiting change).

AIG Dhakal explained that transforming an organisation means changing a system and not only individuals, although change only occurs if individuals are willing. It can be experienced as an opportunity or a threat and so the leader must be the one who initiates and assumes the responsibility for change. Change in police organisations is influenced by external and internal factors but police leaders can only affect the latter. Structures and processes are relatively easy to change – it is culture and people that are hard to change. People resist change of fear of the unknown, of losing something of value, or that things will get worse. Processes can also be barriers especially in 'old school' organisations.

*“When we talk about challenges of organisational change...mostly people who talk about change. It is very easy to talk about change - but they play with the structures and processes. That is the very easy part to deal with. But the toughest parts are culture and people.” (AIGP (retired) Nawaraj Dhakal, Nepal Police)*

AIG Dhakal emphasised that leadership is critical for bringing about change but sometimes it is leaders who lack the vision or the commitment or who are not prepared to change themselves. He closed by outlining some of the qualities of leaders that are most important in effectively bringing about change.

**Professor Jack Saul (Columbia University)** addressed the importance of change 'from the inside', placing this within a 'resilience framework'. He noted his background interest in how to motivate communities and organisations to draw on their resources to develop change and resilience. He defined resilience and set out that a resilience model as one that involves identifying an individual's or organisation's strengths, and then supporting them to foster positive change. A resilience approach is collaborative, so that outsiders do not bring about change, but support the people on the inside of the organisation who have the expertise and understanding of the local culture in a way that allows them to bring about change that is feasible and sustainable.

*“If we are working as outsiders working with an organisation we need to develop this kind of collaborative process and recognise that we have some expertise that we can bring from the outside... but the real experts on the organisation are on the people within the organisation. They know the local culture. They know how to effect change better than anyone. We as outsiders can provide structure and support for those within the organisation but the action and initiative must come from within the organisation itself...” (Professor Jack Saul, Columbia University)*

The project used a public health model to define its objective as (1) reducing problematic, unhealthy or harmful behaviour: in this case the use of torture and improper force and (2) strengthening protective factors – those conditions that help people mitigate or eliminate risk. Professor Saul explained that the project also drew on the public health idea of primary, secondary and tertiary prevention – “We were doing primary prevention, which entails addressing the preconditions that underpin the problematic behaviour. We also employed a systems or ecological approach that means you need to understand the historical context and the broader systems in which they are embedded.” He described some of the project findings about causes at different levels.

Professor Saul reiterated the importance of situational factors – that these can override individual level factors and make it more likely that people will use torture. He particularly emphasised some of the organisational factors that were relevant to the project, for example failure of ethical leadership within the security sectors, inadequate internal processes, peer pressure etc. He then set out the project's theory of change.



**Ms Anna Noonan (Project Manager, University of Sydney)** discussed how, in a practical sense, the project moved from the research phase to develop a theory of change and an actual intervention. Ms Noonan referenced Professor Saul's point that the approach involved developing the strengths and capacities of personnel within the organisation to address and combat torture. She then said that our question as a project then was: "What does doing that look like?" Knowing what types of capacities change agents needed is like having the ingredients of a cake but no instructions.

Ms Noonan went through the various practical steps of the project including:

- Choosing the internal change agents;
- Sharing the approach and research on the systematic factors that cause torture with them;
- Developing the tools for them to conduct a needs analysis of their workplace and identify the risk factor they would target (SWOT and problem tree);
- Conducting a situational analysis and identifying the area to be targeted;
- Designing a project with goals linked to risk factors for torture and a set of actions that would contribute to achieving those goals; and
- Supporting the change agents to carry out the projects.

#### Questions/comments from Plenary Session 5

These included:

- A request for a clearer distinction between 'the improper use of force' and 'torture' and a comment that these are not the same and a comment that all forms of force against people in detention are improper.
- A question about how the projects were evaluated and whether baseline data was collected.
- A question about how the project team thought about holding governments to account to deliver on the recommendations or outcomes.

There was an important discussion about the use of language and in particular the implications of using the word torture and how this might narrow people's thinking about the types of actions one is targeting. The discussion also raised issues of the commonality of causes across the spectrum of torture and the improper use of force. At the same time, it is important to name torture for what it is.

#### ***Plenary Session 6: The importance of and strategies for organisational change (Part 2)***

**Chair: Mrs Noor Mizly Nizar**

**Group Captain P L J Kodippily (Sri Lanka Air Force)** described his project (jointly done with Air Commodore D L Sumangala Dias) as establishing a better institutional framework for human rights protection in the air force. They started by looking at the institutional structure that was there already and to this conducted a survey amongst about one hundred officers to find out about their views on the existing system. They concluded that human rights education is important and should be made compulsory across the air force; that existing resources/understanding of human rights could be more effectively organised and used; and that the elevation of a human rights office would have no negative impact. The proposed structure involves an elevation, consolidation and improvement of the institutional structure that is responsible for the protection of human rights and International Humanitarian Law.

**Lieutenant Commander P A Wickramasinghe (Sri Lanka Coast Guard/Sri Lanka Navy)** is also a Deputy Principal of a school in Sri Lanka and as such it was at his school that he focused his project. The starting point of his project was recognition that there is a link between general societal attitudes to the use of violence and the use of force in the security forces. In particular, he saw a link between the use of corporal punishment in schools and the acceptance of violence and the improper use of force in the security sector. His project sought to reduce the acceptance and use of violence in the school environment. It involved rebuilding relationships between teachers and students, improving students' sense of ownership over their environment, conducting mediation programs, building opportunities for active involvement and conducting workshops for teachers and students on non-violent forms of discipline and problem solving. He discussed some of the challenges he faced including resistance to institutional change, negative outside influence and negative attitudes to human rights.

**DSP Rabindra Regmi (Nepal Police)** opened by speaking about the difficulty of bringing about change, as it involves displacing existing views. He asked the participants to reflect on what their perception of drug users was, and then went on to describe how his project had involved seeking to alter the perception that police have of drug users so as to reduce the use of violence against them. In Nepal there is a general view that drug users

are immoral people and so have to be corrected with violence. He asserted that as a result of this project, he now believes that the HRPFs are the change agents responsible for bringing about change in the police and that they can bring about this change. He described what he did including preparing educational material on drug abusers and running workshops and demonstrations for police on how to behave with drug users. He also developed community education processes with more than 300 members of the local community to discuss the nature of drug abuse and the need to understand it as a health and social problem. DSP Regimi also discussed the media coverage that the project received and its impact on how police interact with drug abusers.

**DSP Sudam Kumer Sijapati (Nepal Police)** opened by talking about his experience in the project workshops that, for him, enabled an exploration of how the use of violence and torture came to be normalised in the police in Nepal. The goal of his project was to bring about cultural change in the workplace and reduce the police use of violence. It focused in particular on the lack of transparency that results in police personnel themselves not feeling respected and responsible and so not taking responsibility for upholding human rights standards. DSP Sijapati's project also sought to provide better ways of police dealing with stress so that they would not take frustration out on detainees. It did so by changing the reporting process, allowing personnel to clearly see and engage with assessment of their work, a complaints process and stress reduction workshops. He spoke about the sustainability of the project and the importance of a commitment to expand this work.

#### Questions/comments from Plenary Session 6

- A question about whether colleagues were receptive or resistant and how the HRPFs dealt with this?

#### ***Plenary Session 7: The importance of context in security sector reform***

##### **Chair: Professor Darius Rejali (Reed University)**

Professor Rejali introduced the session as taking a more conversational style that would enable the speakers to explore the importance of the situation that people confront, whether that be from the perspective of police or NGOs and their understanding of local ways of dealing with conflict.

**Ms Anneke Osse (Police/SSR and Human Rights consultant)** discussed her move from working in the police to working in a major human rights organisation where she realised that there were stereotypes on both sides. Police think that human rights defenders are unrealistic and are naïve dreamers; 'human rights people' think that police like power, force and violence. So she tried to connect the two different worlds by explaining policing to human rights people. More recently she has been working in Kenya. In her experience, change never starts from within the police but is catalysed by a crisis and with the support of human rights organisations. In Kenya a crisis around police involvement in election violence catalysed the introduction of a range of legal and institutional reforms.

**Dr Kiran Grewal (Project Research Director)** discussed some important ideas that influenced how we designed and implemented the research. The first was that we needed to be responsive to the particular organisational and broader cultural context and not come in with set ideas about what needed to happen. Second, we needed to take into account the distinctive histories of police institutions in post-colonial contexts (while recognising the commonalities across all police institutions). Going in and seeking to understand what was going on in the organisations involved building trust and so moving beyond a narrow view of research as fact-finding, which has been dominant in the human rights world. There is a fear amongst forces that researchers are coming in to get 'dirty information' to use to name and shame them. As the human rights framework did not provide many models of alternative research, Dr Grewal looked to more ethnographic methods. She also noted that when security personnel responded to this less prescriptive approach by seeking our ideas, we needed to be able to offer examples of change in contexts that were in similar to their own, and not simply from a developed world context.

**Mr Andrew Jefferson (DIGNITY: Danish Institute Against Torture)** asked, "What can social science offer the human rights field and torture prevention work?" He found that there has been little deep research beyond reports that made moral judgments from afar on prisons in the developing world. He started to ask, "How do we change things that we don't really understand?" His methodological response was to immerse himself as a researcher in the actual lived reality. He wanted to know why human rights training did not change behaviour.

*“[Speaking about what we know about prison conditions in Africa] All I could really find were critical human rights reports that documented overcrowding that documented ill treatment, that documented poor health facilities and so on. These reports didn’t really tell us very much that we did not already know. They were basically moral judgments that were based on externally derived criteria. They did not seem to take the prisons, the places of detention very seriously. So I started to ask myself the very simple question, to the NGOs writing such report, ‘How do we change things that we don’t really know much about?... I wanted to understand why human rights training in the classroom didn’t actually seem to change very much in terms of the every days practices of prison officers. It didn’t bring about much institutional change. And the answer that I finally came up with is basically because practice trumps knowledge or situations trump dispositions. So it’s not bad apples that we should be looking for but what we need to analyse is what one researcher has called poisoned orchards.” (Dr Andrew Jefferson, Dignity).*

He mentioned a recent project comparing reform processes and the encounter between human rights NGOs and prisons in three countries. This project concluded that the nature of the relationship between the NGOs and the prisons had a strong influence on the type of intervention they developed. The process led them to turn the question on its head and instead of asking, “How do NGOs effect prisons?” to ask, “How do prisons effect NGOs?” In other words they started to see the two systems and inter-dependent.

### **Dr Tomas Martin (Danish Institute for Human Rights)**

Dr Martin described his inquiry into what happens when human rights have been embraced by the institutions they are meant to regulate. He noted that the word context comes from the Latin, ‘to weave’. Context is not something out there that you find, but something that you do – it concerns a set of connections or disconnections that are involved in making meaning. The core task of anthropologists has been to establish ‘rationality in context’ – i.e. to show that when understood in context, actions that might seem strange are in fact rational. He recalled an encounter in Tihar prison fifteen years ago where he asked a prison officer what human rights meant to him. The officer responded by saying that human rights people “Let the snake out of the basket” where the snake was the prisoner. Dr Martin wanted to come to understand what the rationality behind this was. He also recalled his experience in Nigeria, where prison officers expressed the view that human rights made life easier for them, but at the same time, they retained the view that ‘a little bit of torture’ was effective.

What Dr Martin thinks that what researchers can most usefully bring to the table is a close understanding of every day life. We must consider what is actually going on in the institutions that we populate. This includes not only the laws or the cultural norms but also an understanding of the rules about how rules are broken – practical norms of governance. Through that knowledge we can begin to think about how to develop new norms.

### Questions and Comments from Plenary Session 7

- If every context is different, then what can be shared across contexts?

The panel expressed different views. Dr Grewal spoke about starting with contexts that are not usually the starting point and generalising from here (instead of say the USA). She also noted that what constitutes doing a good job is not just a matter of what the police think but also what the community thinks. So the context may be quite distinctive in different places, and even within one place.

Ms Osse asserted that all countries have police and there are similarities across all of them. She criticised context being used to justify violations and insisted that across the world police need to be fair and effective. She also spoke about a way of classifying NGOs as more confrontational or more engaged and working more actively with police or standing back in an observational capacity. You need all sorts but they need to come together to create an overall strategy.

Dr Jefferson suggested that working across different contexts is possible if we do not compare conditions but rather relationships – how police relate to citizens in different contexts.

Professor Nowak commented that in making comparisons he asks himself, “In which country would I least like to be imprisoned?”

- *Is war not a totally different context all together?*

Dr Grewal argued that one of the problems with focusing on torture is you then cut this extreme form of violence off from the whole continuum of attitudes and behaviours with which it is linked. In war, the more a particular minority is the object of discrimination, the more likely that they will be the recipients of the worst violations. So we did not want to focus on the 'pointy end' of the violations spectrum, but on the continuum that it is part of.

- *How do we bring police and the human rights community closer and how can human rights communities better understand policing so they can help integrating human rights into policing?*

Ms Osse suggested that one of the reasons for the distance is that often the members of the two groups have no direct contact with each other. She also noted that while there is always talk about police being resistant to change, human rights people and in fact all people are resistant to change.

Professor Rejali used the metaphor of the different spheres having different types of dances. We can think of the Conference as an encounter where we learn to dance with each other.

Dr Grewal commented that different cultures exist within organisations so it is better not to speak in such dichotomous terms, because there are spaces within organisations that are more or less conducive.

### **Plenary Session 8: New methods in education and training**

**Chair: Mr John-Erik Jensen (ICRC)**

**Mr Jensen** opened the session by commenting that training has its place in the development and maintenance of knowledge, skills and attitudes, but it has to be complemented by other structural and practical aspects of an organisation. He said speakers would address one of the key questions, which concerns how training is actually conducted.

*"The element of training is often seen as a multifunctional tool to fix all problems. It is true that training can be the answer to some problems. But it cannot and should not be used as a substitute for all other necessary steps and activities, processes and mechanisms. Training cannot be the fig leaf that covers for legal and structural shortcomings."* (John-Erik Jensen, ICRC)

**Mr Jaime Arroyo (lawyer and human rights trainer, the Philippines)**, explained that he has the perspective of someone who was a human rights trainer from civilian government, rather than from a civil society organisation (CSO) or a security agency. He explained the background context where the security sector in the Philippines had been responsible for rampant human rights violations from 1972 and 1986. After this, there had been a vigorous reform process. He suggested that one factor that has allowed success was a real emphasis on reform and not so much on castigation and shaming. Commitment to human rights in the security forces has been key to change, combined with a reciprocal attitude of openness and the possibility of change from trainers.

Mr Arroyo noted that important factors of successful training include:

- Emphasising the universality of human rights including the rights of the members of the security forces. This assists in building empathy;
- Clearly indicating recognition of the need for police and military to carry out their legitimate law enforcement and security duties and drawing a distinction between this role and the illegitimate means that may be adopted; and
- Taking a holistic approach so that civilian agencies and security sector personnel are trained side by side. In training they work together to come up with collaborative solutions.

He said the indicators that they look for as 'marks of success' include an increase in engagement by security agencies with CSOs and a decrease in reported human rights violations.

*"What have been the reasons for a lot of the inroads we have made, for the successes small and big that we have experienced in human rights education? The first thing that has really worked in our favour is that we as trainers have very well defined objectives. We are aggressively geared towards reformation... it is all about education, reform and not so much about castigation or shaming....The approach 'back then' was for the trainer to walk into the room, point a finger at all of the policemen and women gathered there and to say you are all human rights violators, which of course had the natural effect of turning off everybody to the lecture that followed. That is not the approach that we have been employing lately."* (Mr Jaime Arroyo, the Philippines)

**Mr Calin Rus (Intercultural Institute Timisoara, Romania)** described a project that he has been leading that is introducing prison reform in Libya. He described the parallels between post-revolution Romania and contemporary Libya, in particular the early stages of denial of all human rights violations to a gradual openness and willingness to bring about reform.

Some of the challenges involved in working in Libya include: unfamiliarity with the concepts of human rights or the rule of law; a history of corruption and weak institutions; resistance to human rights interventions, which is exacerbated by international agencies that come in and 'tell people what to do'; the presence of old staff with little training; and a difficult cultural context.

Mr Rus discussed the difficulty of creating a relationship of cooperation when the expectation from authorities was that monitors were there to find out what the personnel were doing wrong. It was important to develop trust and cooperation with monitoring agencies rather than their being suspicion and fear. Also that training was not purely on human rights, but integrating human rights into their practice more generally. The training sought to get prison officers to make a real connection between international standards and their actual realities and practice.

In terms of results, he noted that the project was short and it is early to see results, but that they could see some new developments, such as prison authorities taking up reforms on their own initiative and the development of relationships with CSOs.

**Imesh Pokharel (Office for the High Commissioner for Human Rights, OHCHR)** made reference to the training packages that the OHCHR has developed for police and also for prisons. Their engagement with security agencies across the world has indicated that it is important to understand the key challenges and the environment in which the security organisations are operating. This includes an analysis of the legal situation, their standard operating procedures and the institutional culture of the agency. He also referred to the importance of political will and will of the high level leadership of the organisation.

Methodologically, they have found the following useful: peer to peer training; integrating human rights training across the general curriculum; mentoring – so training is linked with a longer term engagement; a mix of pedagogic techniques, including theater and simulations.

OHCHR has shown that engagement with CSOs is an important part of a well-functioning security sector. In this regard, he expressed concern about the exclusion of two NGOs from the Conference and pressure from certain governments concerning this exclusion.

**SP Durga Prasad Bhattarai (Armed Police Force Nepal, APF)** described how he had introduced new methods of human rights education to his organisation. He discussed the existing training method, which results in a great deal of passivity and is not very effective in altering trainees' understanding, attitudes or actions. It is particularly problematic for low ranked personnel with little formal educational background. He discussed the introduction of new pedagogic techniques including simulation and active learning techniques. Here they were particularly concerned about increasing interaction and active engagement in the classroom. The results of the project included a better understanding of core issues and the expansion of interactive techniques. Finally he spoke about future developments, including expansion of these new pedagogies and their uptake in other areas of the APF.

**Major E M W Bandara RWP (Sri Lanka Army)** discussed his background as a human rights trainer for eleven years and the importance he saw in training being crafted so that it actually helps people to put into practice what they have learned theoretically (in education). He critiqued traditional approaches to human rights training that are theoretical/legal/historical and focus on knowledge about the law. Trainees in this model do not know how to apply the in the field and they may feel that it is a law that is trying to corner them.

Major Bandara argued that the critical starting point must be changing attitudes so that people think twice about human rights violations and noted that while attitudes can be changed, it only happens gradually. He then explained how he approached the objective of attitudinal change through a pedagogic approach that focused on cultural diversity and emphasised dialogue. This then formed the basis for a more explicit conversation about human rights. The second part of his project involved developing and testing a simulation of a roadblock where trainees took different roles in a typical roadblock scenario in the conflict area to explore how human rights violations can be resisted and prevented.

Major Bandara concluded with some reflections on the lessons learned, in particular on how language and cultural diversity training can be used as a basis for human rights training and also how practical exercises can provide the opportunity for soldiers to think about alternative forms of behaviour and so prevent human rights violations.

### ***Plenary Session 9: Working across sectors and regional innovations***

**Chair: Professor Jack Saul**

**Mr Knut Asplund (Norwegian Centre for Human Rights)** explained that he would focus on the involvement of his organisation over the last years in promoting human rights in the Indonesian Military (TNI). His organisation's specific focus is the Special Forces and operational troops and on areas where they have had armed conflicts or heavy disturbances. Their approach is anthropological in the sense that they work from a rich understanding of the organisation and its culture. They also have a 'phenomenological approach'. He defined this as an approach that requires that researchers understand the perspective of the people themselves rather than simply observing them from the outside. They also work with real and recognisable scenarios. His main point is that law needs to be taught in the context of kinetics – on what they actually do.

The training only very quickly looks at what international law is and some principles of international law and they then mix this with some of the operational principles – i.e. to convey how legal and operational demands come together. On some occasions they have also had Norwegian Special Forces teach Indonesian counterparts and this is very effective. They also try to use internal capacities – to have TNI personnel teaching. A key part of how they work is also not to shun the bad guys – you have to include the people who really know how bad things are.

**Mr Nelson Belo (Fundasaun Mahein) and Dr Gordon Peake (ANU)** both spoke about the work of Fundasaun Mahein in Timor Leste. Mr Belo commenced by referring to his experience as a child soldier who was tortured by the Indonesian military, which informed his choice to work in this area. Returning to Timor Leste in the midst of the difficulties in 2006, he started a human rights NGO with the view of ensuring observance of human rights in this new country but wanted this to be an NGO that would engage with military and police, not criticise from a distance. The objective of the organisation is to increase the legitimacy and capacity of security organisations through citizen participation in the development of legislation and institutional frameworks. They work across three dimensions – research, policy and advocacy. In doing this work they can be critical of the military and police but they seek to work collaboratively to fix the problems that they observe. In particular their reports provide an impetus for public debate at a local level and policy change.

**Dr Gordon Peake (Australian National University, ANU)** stressed the importance of trying to do something differently and referenced Professor Rejali's comments from the day before, that we have had no new ideas or approaches in the human rights field since the 1980s. Dr Peake said he sees trying something innovative, even if it does not work immediately, as critical to finding a way forward. The advantage of Fundasaun Mahein is that they are entangled and embedded and they have moral authority in the local context and so they can criticise in a very straightforward manner. The reports for example laud and criticise in equal measure and are broadly taken seriously.

He noted some of the lessons that we can take beyond Timor Leste:

1. What fits is ultimately most likely to be more sustainable than so-called best practice.
2. Their approach is pleasantly confrontational and this can only take place in a political system that is not oppressive and not authoritarian.
3. When a strong local vision exists, then more humble, modest and facilitative approaches from international organisations work best. When you do something innovative and interesting, it pays off more than standard imported approaches.
4. For the development of the field it is important to take a risk even though, as we know from the prelude to this conference, this can be lonely.

He also noted that it would be worth looking beyond the actions of states and CSOs to examine what international private corporations working in the developing world (especially resource extractions companies) are doing in the field of human rights, even if they are undertaking initiatives for mercantile (share price) reasons.

*“What I find interesting about some of the innovative projects we have heard.... is about the importance of innovation, the importance of trying to do something differently. You are not going to get it right all of the time. But at least try to do something differently... I remember Albert Einstein said that the definition of madness was is to do the same thing again and again and again and expect a different result.” (Gordon Peake, ANU)*

**Mr Ernesto A. Anasarias (Balay Rehabilitation Center)** spoke about the work of Balay, an NGO that was primarily established for the rehabilitation and treatment of torture survivors but had expanded its work into torture prevention. Also referring to the recent history of heavy repression in the Philippines, he also asked how so many developments could have taken place. A general answer is the institution of democratic government and the political embrace of peaceful solutions to social conflicts. However for this context the most relevant answer concerns the change in the way that civil society engages with the security sector and government.

Mr Anasarias' core view was that the security sector has the capacity to change and so an appropriate way to work is 'transformative engagement'. Another key factor was that various individuals who had been leaders in the democracy movement ended up taking up official positions in politics and administration. International engagement, for example the reports of the Special Rapporteur, has also been helpful in catalysing change and institutional reforms. He referred to some of the work that they do such as mounting public demonstrations, in some instances with the involvement not only of survivors but also of the police.

Nevertheless, torture continues to take place against activists and others accused of involvement of terrorism. Several cases have been filed against the perpetrators including against high-level officials. Mr Anasarias described a number of challenges in moving forward including: the fact that people do not always wish to file complaints; reporting of secret places of detention is not always done; inadequate access for monitoring mechanisms to places of detention; changing general attitudes; sustaining transformative engagement; and addressing contexts that legitimise violence and torture.

*“Another change is also in the way that civil society regard the whole dynamic of engagement with authorities – the police and the government in general. Our organisation calls this transformative engagement. It is a view that stems from the belief that security sector just like NGOs has the potential to change. There are things that we can jointly agree on, that we can jointly work together. And that provided the space for a different kind of engagement and also ways of working between civil society organisations and the security sector.” (Mr Ernesto A. Anasarias, Balay Rehabilitation Center)*

**Mr Gisle Kvanvid (Norwegian Centre for Human Rights)** spoke about work that the NCHR is doing in Vietnam (through the Ministry of Public Security) on torture prevention through developing the capacities of police officers to interview without the use of force. The trainings are conducted in tandem between scholars at the University of Oslo (primarily psychologists) and Norwegian police. He described the emergence of investigative interviewing as a technique that respects human rights and is likely to decrease false confessions, noting that historically the use of force or trickery and deceit has been prevalent in policing throughout the world.

Mr Kvanvid noted that early on in the process there was a general denial that there was any problem, but that over the period of working together the openness has increased with open admission of wrongful convictions. In terms of future directions, they are now moving to train Vietnamese trainers so that the project can be embedded in Vietnam without external intervention. Importantly, all parties recognise the challenge of actually altering practice.

#### Questions/comments from Plenary Session 9

These included:

- A request for more discussion on the role of private security forces;
- A question about the methodology used to choose the colleagues who do the peer-to peer training and about the training methodology; and
- A question about the use interpreters in the training.

Professor Nowak reinforced the importance of looking at the private security sector, particularly in a country like PNG where there are many more people working on security with private security forces than with police. He sees it as a very dangerous development and recommended that this trend needs to be reversed.

Gordon Peake emphasised that as you move into the Pacific, the State becomes less and less present with the OECD claiming that something like 80% of conflicts are resolved by actors other than those that come under the state.

## **Day 2 Evening Session: HRPF Presentations**

At a special informal evening session, several of the HRPFs spoke about their involvement in the EHRP and the projects that they had undertaken.

**Major M P U C Marambawela** of the Sri Lanka Navy discussed how he had brought together stress management and human rights training as a way of addressing some of the factors he found created risks for human rights violations. He discussed the positive response from participants and how this approach opened up the space for a more engaged form of human rights training.

**Major H U Chandratilleke** of the Sri Lanka Civil Security Department discussed his project involving developing the training capacities and skills of trainers responsible for the 45,000 members of the Civil Security Department. Prior to this there had been no human rights training in the CSD.

**SP Dhiraj Pratap Singh** described how he developed a project to address the use of violence in crowd control situations by police. He explained how he worked with personnel at every level to develop rank specific guidelines and then developed participatory practical workshops to train personnel.

**DySP Shiva Kumar Shrestha** discussed his project focusing on ensuring that torture was not used as a way to get information in criminal investigations. His objective was to ensure that officers were confident and skilled in using the PEACE method of interviewing and that there was infrastructure to support this.



### Day 3

**Ms Anna Noonan** spoke at the start of the day to provide some supplementary information to clarify the link between the processes described so far and the HRPF projects. She described how the SWOT and the problem tree sat as part of a larger process of operationalising a theory of change and then evaluating if that operationalisation was effective.

Ms Noonan explained that project did not seek to achieve activity-oriented change (where you change the activities you do) but rather *goal*-oriented change – i.e. work out what your goal is and then work out what activities will bring about that goal. In this case, this overall goal was to reduce or prevent the use of torture by reducing the risk factors or strengthen the protective factors. She described how the various stages of the project allowed us to establish specific goals by identifying root causes of the factors that created risks of torture and then work out what types of actions would achieve those goals. She noted that for an outsider coming to the project, the link between the particular goal of an HRPF project and the larger goal of preventing torture may seem obscure. However what was critical was that the HRPFs themselves identified what they saw as the risk and protective factors. Ms Noonan briefly discussed how the project team undertook the project-planning phase and established monitoring and evaluation plans.

#### ***Plenary Session 10: New ways forward in human rights protection and cooperation in the region***

**Chair: Professor Purwo Santoso (Universitas Gadjah Mada)**

**Professor Sharya Scharenguivel (University of Colombo, Sri Lanka)** sought to trace the transformation and paradigm shift in the way that the Centre for the Study of Human Rights at the University of Colombo has come to work as a result of this project. She commenced by describing their earlier mode of operation, which involved researching human rights and also developing a human rights curriculum and then moved to more engagement with other sectors like schools and the security sector.

The redesigning took place largely through the EHRP where they had a significant shift in the way we thought about their work. This involved a shift towards research methods oriented to specific practical objectives that would ground an actual intervention. It also introduced the idea of working in partnership with different sorts of agencies, including as research partners.

**Atty Homero Rusiana (National Human Rights Commission, the Philippines)** described some of the principal ways in which NHRIs contribute to torture prevention. He outlined that basic functions of the Philippines Commission (the Commission) and discussed how it works within a broader international, regional and domestic framework of standards and institutions. In particular he noted that the Commission works in partnership with various stakeholders including the security sector. Atty Rusiana then spoke about some of the ways in which they work with the security sector to protect human rights, which include: informal sharing information and data about cases of violations and other issues; human rights advocate officers in the police and military provide a coordination role; community based dialogues where human rights concerns are threshed out.

**Chief Superintendent Antonio Bello Viernes (Chief, Human Rights Affairs Office, Philippines Police)** linked particular initiatives with developments at a regional level, specifically linking security sector reform with ASPAC (the Asian and Pacific Council) human rights development goals. Some of the regional strategies include capacity building and education, sharing best practice, the development of regional mechanisms and the development of human rights based joint security sector activities and cooperation. Importantly reform needs to focus on the whole range of institutions in which the police and military are embedded – i.e. the broader justice system.

Challenges include the perceived difficulty in achieving regional integration due to the lack of cultural homogeneity and differences in level of development across the region and the complexity and difficulty in institution building and norm consensus.

#### Questions/comments from Plenary Session 10

A question was asked about how external actors work with security personnel when they are part of a very strict chain of command. CS Viernes answered that it is the task for the leadership to make human rights a way of life and so to ensure that they affirm any external demand for accountability. Atty Rusiana indicated that the commission is empowered to issue subpoenas for alleged violations and this does not go through the chain of command.

## **Final closing session**

**Chair: Professor Danielle Celermajer**

Three speakers were asked to provide summary reflections on the Conference.

**Mr Sanat Basnet (former AIG APF, Nepal and member of the External Advisory Board)** noted the importance of security organisations themselves being committed to reform processes that would put in place structures and processes to protect human rights. He noted that while publicly almost all governments oppose torture, it remains a widespread practice, partly because it takes place in secret, away from public scrutiny. If robust measures are not adopted, perpetrators think that they can get away with it, and so a high degree of political will, persistence and vigilance are needed to prevent torture and to bring perpetrators to justice.

Mr Basnet reflected that the Conference had been particularly useful in fostering a cooperative network between the different sectors involved in the prevention of torture. However determining which method to pursue to build strong inter-institutional relationships is far from straightforward. He reflected that the Conference had provided an important opportunity for different stakeholders to share their ideas and approaches and to learn from experts. He also spoke about the value of the insights and tools that had been shared that will be useful for participants in going back to their own contexts and seeking to strengthen their approaches to torture prevention.

**Professor Darius Rejali** reflected upon what drew him to this project. He spoke in particular about a line between those who write from their positions in universities and those who are willing to test their words in the light of politics and see if their ideas succeed or fail. The critical reality of academic thought lies in the connection it can make with the organisations represented at this conference – CSOs, the military and police. He suggested that within this group of engaged academics, there are ‘two tribes’: those who hate hypocrisy more than anything in the world and those who hate cruelty the most and want to diminish cruelty. This leads to tension because the former group sees the latter as acting in ways that compromise principles. He placed himself in the camp that is most concerned with cruelty.

Professor Rejali recalled an incident when he was in a closed door session with an NGO where he told them that he deeply admired and was inspired by their work, but noticed that they ended all of their reports by saying, obey the law and be good. He asked why, given that the group knew that social science and social psychology tell us that this is not going to change anything, they continue to do this. He asked, when are we going to have social scientifically informed training studies?

The Professor spoke of the personal dangers to those who live to eliminate hypocrisy or cruelty (anger in the former case, misanthropy in the latter) and of the need to cultivate ways of being that would protect us from this. In particular, he counselled laughter and wonder. He closed by wondering what we would be saying as we looked back in 2022 to the fifty years of work on preventing torture since an important conference in Paris 1972. Will we be able to say that we diminished cruelty a little? Or will we say well stood up against hypocrisy but that is the way it was.

*“As we approach the 50th anniversary [of the famous 1972 conference on torture], what would it mean to look back as we will take stock of 50 years of torture prevention... What will we learn? Will we be able to say that we diminished cruelty a little? Or will we say ‘Well, we stood up against hypocrisy, but that is the way it was’? .... I want to say on that day: ‘I was a penguin. I was foolish. I dared to do stupid things. I was a good penguin. Let me go in peace. And I wish the same to you.’”*  
(Professor Darius Rejali).

**Professor Manfred Nowak** acknowledged that he came to the Conference as an outsider. He found himself fascinated by the philosophy of the project insofar as it sought to bring together three or four main type of stakeholders in the human rights field – the military and the police, civil society and academics – with a view to seeing all parties learn from others who might have had quite different experiences. He noted that achieving this requires establishing good working cooperation, and this requires respecting and listening to each other even if they agree to disagree on certain substantive issues. He emphasised that if civil society and the security forces are to work together then human rights defenders must understand that the security forces are primarily human rights protectors and partners in protecting human rights. But the security forces must also understand that human rights defenders are not their enemies, and that in working to protect human rights they must investigate and denounce human rights violations.

Professor Nowak noted that in this context it was unfortunate that the Ministry of Defense of Sri Lanka had acted as it had in relation to the participation of Sri Lankan NGOs. Here he described how, in official capacities, he had issued frank but carefully researched reports on forced disappearances and torture in Sri Lanka but that he had always maintained a respectful and professional relationship with the government the military and the police. He suggested that had Brigadier Wangiasoriya been aware of the damage that his decision would do, he would not have taken it. He also suggested that the NGOs that reacted as strongly as they did would not have done so had they anticipated the storm and media reaction it would cause. He recognised the importance of their principled stances but also suggested that had they engaged in a more informed decision-making process they may not have called for a civil society boycott of the Conference.

Professor Nowak acknowledged the unique nature of the project and Conference, in particular the unprecedented gathering of security forces from 15 different countries in the Asia Pacific region, the civil society and academics in order to try to change a certain culture that allows for torture and other forms of ill treatment from within. He acknowledged the interdisciplinary discussions and discussions among all the different stakeholders and the high level of commitment from the HRPFs.

He closed saying that he thought that we are at the right time in the Asia Pacific region for this type of change management and change from within with selected change actors. He particularly acknowledged the project team for their work on the Conference.

#### Questions/comments from Final Closing Session

These included:

- A question about the plans for sharing information and in particular the experience of the HRPFs and their projects and how that can help people to think outside the box; and
- A comment about the importance of there being more attention paid to the current human rights situation in Thailand and the need for improvement in the Thai security sector.

*“Knowledge is generated between the research and the research field and change is generated at the intersection between people when they meet and that requires trust. But trust does not just appear by itself. Sometimes we have to do trust – and that sometimes means trusting in the absence of reasons for trust. And I think that is precisely what you have done in the project and here. I want to thank you for taking the risk and trusting.” (Andrew Jefferson, Dignity)*

*“Sitting here as a police officer I have been thinking that it is like riding in a limousine and talking about the rights of pedestrians. But sitting here and being part of these conversations I can assure you that as a police officer I am at least willing to get off my limousine, stand or walk with them or let them come into the limo and we will ride the journey together.” (DIG Ahmed Zaheer Khan, Pakistan Police)*

*“The provocation for this project was a stark juxtaposition between the gravity and persistence of the problem – there is a chasm between them. We had a sense that we needed to be creative and innovative and think capaciously and at the interface between disciplines. Like the art of permaculture, where the greatest fertility is found in the space between different environments, we have been looking to see what new prevention plants can grow when different types of organisations come together. When you do that inevitably you have successes and failures and that is the nature of seeking innovation and improvement.” (Professor Danielle Celermajer)*

## 6. Conflict and controversy

This report would not be complete if it did not include a frank discussion of the controversy that arose concerning the involvement of the Sri Lankan Military and Sri Lankan NGOs.<sup>4</sup> Here in the body of the report we provide a brief overview with a more extensive discussion provided in **Appendix B**.

The aim in the discussion is not to draw a definitive conclusion about the ethics of what occurred. Rather it is to allow those who were present at the Conference and those who were not physically present to have the opportunity to be fully informed about the events that happened in the lead up and during our Conference. It is also to provide an opportunity for readers to reflect upon the complex and often fraught politics involved when civil society organisations seek to work on human rights protections in cooperation with security sector organisations, as was exposed in September 2014.

The controversy centred around a last minute stipulation by the Sri Lankan Ministry of Defence to the Sri Lanka-based project team in relation to the invitation of a small number of Sri Lanka-based NGOs to the Conference. The Ministry advised that it would not allow the participation of its security sector representatives if Sri Lankan NGOs attended the Conference. While our discussions led to the Ministry agreeing to allow participation from certain NGOs, it remained unwilling to send its representatives so long as two specific NGOs attended.

The dilemma this presented was the following. As one of the principal participant groups of the EHRP project, the presence of the HRPFs (themselves representatives of the Sri Lankan armed forces and police) was key to the purpose and objectives of our Conference. One of the main aims of the Conference was to bring representatives of the forces that had been involved in the project into contact with others working in the field of human rights. At the same time, the Conference Organisers recognised the importance of having NGOs working in the field, particularly Sri Lankan and Nepali NGOs present. It also recognised that it was ethically problematic for security forces to have control over who and who cannot participate in a conference, particularly given the broader context of suppression of free speech in Sri Lanka.

After consultation with partners, experts and advisors, the project team, made a decision to ask those two NGOs not to attend. This was not a decision taken lightly but rather regretfully and with full cognisance of the ethical costs. Given the dilemma, it was decided that it was more important to have representation from both the Sri Lankan forces and *some* NGOs than to have *all* NGOs present but *no* representatives of the Sri Lanka forces. Our aim was to create space for NGOs and security sector representatives to interact and this could not occur if the forces were absent.

Five days before the commencement of the Conference, an NGO not attending the conference demanded the conference organisers reverse this decision and, when this did not occur, issued an open letter to all participants requesting they boycott the conference or, if attending, that they protest against the organisers' decision and the 'the narrative that the Sri Lankan Government will doubtless present'. As a result, six NGOs withdrew their participation at the Conference and a further four participating NGOs also issued letters objecting to the decision.

During the Conference, the Project Director spoke about the events in her opening remarks and invited anyone present to raise concerns or questions that they had at any point during the Conference. During this first session one participant responded by asking the representative of the MoD (Sri Lanka) why they had taken the decision that they did. The explanation provided was that these two NGO had recently been invited to a meeting between Sri Lankan NGOs and the MoD in Sri Lanka and had refused to attend. As such the MoD expressed the view that he did not see it as appropriate or feasible to meet with them during an international forum.

The Chair of the NGO/civil society group and the Project Director agreed that the first part of the NGO/civil society group only session on the afternoon of Day 1 should be set aside for participants to raise their concerns and discuss them with the project team. There was a fruitful discussion during this session, where both the Project Director and the senior representative of the Sri Lankan partner (the CSHR) spoke about what had occurred. Professor Manfred Nowak also explicitly addressed the issue during the closing remarks to the Conference (see **Appendix A**).

The full summary of events, further reasons for the decisions taken, responses to this decision and comments about the controversy are set out in detail in **Appendix B**.

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<sup>4</sup> We note in this regard that in discussion with NGOs over the events described here, a commitment was made to a frank discussion of the controversy in the conference report.

## 7. Lessons from the Conference

With a Conference of this type, the main objectives are to share experiences, provide the space and resources for reflection, gain feedback on work undertaken, stimulate and support commitment to human rights work and enhance collaborative relationships. Therefore the outcomes we can anticipate are neither immediate nor likely to be clearly apparent in the short run.

With respect to lessons or learning from the experience of the Conference, there were, in this case lessons both from the 'successes' and from the problems that arose. From the point of view of the project team, we consider the following our most important lessons:

- i. There is significant value in bringing together representatives from different sectors, in particular NGOs, military, police and scholars to discuss and reflect on human rights issues and strategies for addressing violations. At the same time, such meetings are likely to throw up conflict, the sometimes-stark differences in perspectives and values and disagreement about approaches. A considerable amount of work remains to be done in working out the most constructive way in which to bring such groups together.
- ii. Large public forums have both their advantages and drawbacks. The advantages include the possibility of broad exposure across spheres, countries and approaches. One drawback is that it is difficult to get past presenting publicly palatable 'official' positions to the place where people can be frank about difficulties, challenges and real differences.
- iii. The program was too full, thereby not allowing sufficient time for discussion and reflection. Small group breakouts may also have fostered more interaction than occurred in the plenary sessions.
- iv. We witnessed the significant amount of distrust and mutual misunderstanding that exists between NGOs on the one hand and military and police on the other. When these different sectors had the opportunity to speak among themselves, their discussions were far more frank than when they were all together. It was particularly useful to have each group ask questions of the others and to see, from those questions, the degree to which the different groups experience themselves as occupying different and opposing 'sides' with each feeling misunderstood and that their perspectives are not recognised as legitimate. It will be important, in the future, to think through how best to facilitate constructive relationships in light of this division and the realities of their differences.
- v. The prevention of torture remains a challenge across the region and organisations. Many participants spoke about the limitations of human rights training and of legal sanctions, but there were few new ideas beyond such approaches.
- vi. More work is required both within our own project and across the field in evaluating and disseminating the outcome of prevention strategies.
- vii. It was evident from feedback received that for some participants there were parts of the project approach that were not clear; it was difficult for them to grasp the logic of the approach in its entirety. It is important to think this through in terms of methodology; how best to present a large and complex project to a diverse audience. In addition, we learned that it is difficult and risky to publicly discuss an experimental approach to human rights work. Innovation requires experimentation and no doubt making mistakes. Being open about the learning process in a public forum can provoke unanticipated reactions and difficulties.
- viii. We learned that taking an approach to protecting human rights that involves building working relationships with military and police in countries with a history of human rights violations is contentious and difficult and is likely to provoke controversy and criticism. To some extent such controversy may be unavoidable but it is important to build strong relationships with other human rights organisations where possible. This will enable a strong understanding of the philosophy and reasoning of the approach so that when crises occur there is a foundation of communication and trust. Differences may remain of course, but the way in which they are dealt with may be improved.
- ix. In the future, it would be useful to have smaller more focused gatherings for specific groups, including scholars and NGOs, who would benefit from different types of reflective spaces.
- x. Even where a human rights or prevention project is principally working with the security sector, it is critical to engage other civil society organisations in the project from any early stage. Doing so will not necessarily mean that all parties agree on the approach but it will create a forum for constructively working out differences.

Given the diversity of the participants, the lessons and outcomes of the Conference are likely to have differed for different types of participants. To get a sense of what people thought to lessons were we sought feedback from a cross section of participants. Below is a range of responses to the question we asked about what people thought the lessons of the Conference were.

*“The main lesson learned in the conference is the continuing need for and positive potential of further developing the cooperative mechanisms that exist between and among the Security Sector, the Academe, Human Rights NGOs, and Civil Society. Together, these sectors can exchange new ideas, better ways of doing things, and innovative strategies and perspectives in addressing torture and other human rights issues in the region. It is also important for security sector agencies in the region to maintain close ties and exchange best practices on improving the human rights record of their respective police and military organisations.”*

*“Engagement with and navigating the structures and politics of police and security forces in any country is highly challenging. Mixing different cultures, norms and language of idea expression adds barriers as well. It was especially unfortunate that the controversy over participants only accentuated the barriers. However, the one-on-one interactions provided opportunities to overcome those barriers and yielded an opportunity for exchange that hopefully provided the participants with a concrete experience of interacting with others outside of their normal circle/sector.”*

*“This could widen my way of thinking about the human rights.”*

*“I think it showed the real risks of doing something different and the profound personal/professional costs of taking risks. We often blithely say that ‘innovation’ is important in human rights work but the media blowback, offended human right participants (to say nothing of those who pulled out) and lukewarm words from the Sri Lankan military must have made the organisers wonder why they embarked on the project. I very much believe that this project was a risk worth taking but it shows that not all risks will pay automatic dividends.”*

*“Some of the salient issues highlighted during the conference were the need for generating will of the security forces from inside to address torture and to institutionalise human rights, as well as for an inclusive and multidisciplinary approach to torture prevention. We believe that it is equally important to engage victims of torture in this effort, to ensure that future initiatives take into consideration proper safeguards and appropriate remedies for victims. The participants were of the opinion that the level of accountability and transparency of the authorities, the existence of public policies regarding crime prevention and the effectiveness of complaints mechanisms are factors that can reduce the risk of torture, along with effective independent external actors, such as National Human Rights Institutions and civil society organisations.”*

*“The controversy over the non-inclusion of the Sri Lankan NGOs was some cause for reflection for me, and raised issues of what it means to work in the field of prevention of human rights abuses – in particular, who should have a seat at the table, what sort of context should the engagement take place, and on whose terms? I feel that not everyone needs to be at the table if your overall goal is effective prevention, there may be other forums that are much more conducive to productive discussion about prevention with armed forces – in particular closed door or more restricted meetings. In this case it was an international conference and in such a forum, public perception and the way different parties seek to instrumentalise or control messages is a really important issue that is thrown into the mix. It introduces new challenges – like governments seeking to use international fora to pursue their own agenda or to give themselves a cloak of legitimacy and NGOs boycotting to bring public attention to issues.”*

*“That sometimes, difficult decisions have to be made though others may not agree or support. But the decision is made in order to keep the project and conference on track. I really appreciated the fact that the Conference organisers had a conference that in many ways was a ‘warts and all’ and not just success stories as such.”*

*“There was a need for cultural change, which unfortunately does not seem to be grasped by all sectors, e.g. some military / law enforcement agencies. I picked up there was a sense of pride, about what has been achieved thus far, possessed by sector representatives. This pride may be preventing some of them from doing more. They may be thinking they have done enough or are doing enough. After four decades of policing, I see one way to achieve short term change from entrenched culture is to impose some strong arm tactics, for example the establishment of an oversight agency with legislated power to hold an organisation to account and impose sanctions to the detriment of its individuals. Most people, when faced with adverse consequences, or when influenced by others’ good behaviour, will quickly adapt to the preferred way of doing things – Brigadier Michael Griffin’s presentation helped to show that was the case. Once the initial behavioural change is achieved, then long-term change can be perpetuated through good leadership involving a maintenance program.”*

*“Personally for me, there were so many lessons learnt. The project itself, the way the research was carried out and the way in-country field research was conducted gave me a new perspective of torture prevention methods and research.”*

*“The Conference was organised as a unique forum where the Enhancing Human Rights in the Security Sector project was illuminated by its research findings and opportunity provided to reflect on the regional practices used, and the participants and other experts views and experiences were shared and discussed to bring to light more effective strategies for torture prevention or for the protection and promotion of human rights in the security sector. Thus there was great approval and consensus about the effectiveness of the approach used in the project.”*

*“The main lesson for me is that the system of torture/improper use of force and its prevention is a complex system that includes a interactional dynamic between the security sector and human rights community that gets polarised – leading to a loss of common ground which after all is the fact that both are concerned with the protection of the public’s safety and human rights. We saw this dynamic played out in the controversy before the conference and it was in fact an important lesson for members of the conference how this was handled and resolved in order to return to the common ground. Of course the relationship among the different groups is rife with mistrust, suspiciousness, memories of past disappointments. However as the Conference demonstrated, it is important to put these on the table and not avoid them. The confrontation between the former rapporteur on torture and the Brigadier from Sri Lanka was an important moment in the conference as well in that it raised the issue again and perhaps paved the way for better handling of such issues in the future.”*

*“Change may be slow but there is no other option but to engage with those who need to change, go beyond denial and empower internal change agents.”*

*“Be brave.  
Take risks.  
Prepare to be hurt by your so-called allies.”*

*“Actually making our work penetrate the last mile into change of practice is really difficult, and can we substantiate for certain that we are making any difference in the real world...? If we do not know what we achieve should we put forward other types of goals and measurements of target realisations?”*

*“For me it was the issues of stress factors that contribute to torture and how to mitigate these. I’m trying to apply these ideas to our police development work in [X] to ensure the police we work with are placed in situations that could lead them to inappropriate use of force.”*

*“It confirmed that sensitive discussion requires that the parties have been able to build confidence and trust. It also confirmed that the ongoing important – but limited real dialogue needs development and that one of the factors probably are related to lack of maturity and a notch of pragmatism... that will allow for a certain distance to the often horrific realities. An overly activist approach and direct language will (unfortunately) in most cases not lead to the desired results.”*

*“I re-learned that time spent in preparation and rehearsal is never wasted. I re-learned that risk assessment and risk management before starting an event is essential. I re-learned that consultation between key players is essential before starting an event. I learned that the camaraderie of the profession of arms is a great enabler for cooperation and confidence building between nations when meeting to discuss matters of mutual interest in the human rights area. I learned that NGOs, academics and the security forces from many nations can work well together. I re-learned the enormous importance of principled leadership in the resolution of human concerns. I think everyone who participated in the conference learned that it is possible to make a positive difference through consultation and respectful dialogue.”*

*“When working with the security sector, the concept of naming and shaming does not bring the desired result. We as NGOs need to work to enhance the capacity of this sector so that they can conduct their criminal investigations without resorting to torture. To do this we should understand the inner working mechanisms of these sectors and find practical durable solutions.”*

*“Torture is most likely to occur during criminal investigation or state security processes. It is likely to be perpetrated by those who have the power to detain or who have access to people who have been detained: prison officers, the police, the military or paramilitary, state-controlled counter-insurgency forces or even doctors or other health professionals. It is a serious crime and a human rights violation which must be investigated, prosecuted and punished. Evidence suggests that the main reason why torturers engage in the practice is because they believe it will achieve a purpose, for example, to intimidate, punish or to extract information or a confession. They may also think they can get away with it. But torture does not work as an interrogation technique. Information obtained under torture is notoriously unreliable, as an individual being tortured will often say anything to put a stop to the torture. Information derived in this way is inadmissible in court.”*



## **Appendix A: Closing remarks by Professor Manfred Novak**

We had two insiders, Mr Sanat Basnet of the External Advisory Board and Professor Darius Rejali was involved in the design of the project from the very beginning. I am not. I am an outsider. I was just invited to this conference. And I had from the background documents some kind of idea what this conference and this project was all about but not more. So I was very open coming here. And I must say I am fascinated by the philosophy of the project to bring together three or four main type of stakeholders in the human rights field in the broadest sense and the anti-torture field in the more narrow sense – the security forces and the two most important the military and the police, civil society and academics.

To do that means that we have to establish a good working cooperation in the field within each country but also and that is even more important here, also bringing together these type of stakeholders from 15 different countries in the Asia Pacific region so not only learning from each other from the different groups within the country but also learning from our peers in other countries who might have had different experiences. But many of those going through or having gone through very difficult times including armed conflicts. Now this is only possible if the respective stakeholders respect each other, listen to each other, understand each other and sometimes, if they agree to disagree on certain substantive issues but in the spirit of mutual respect.

And as I said at the outset on Monday morning, the security forces are first and foremost human rights protectors. Because of their monopoly on force they might also be human rights violators. But if we want to approach or if those two different groups in particular, civil society and the security forces, wish to work together and that's the basic philosophy of this project, then human rights defenders must understand that the security forces are primarily human rights protectors and they are partners in protecting human rights. But on the other hand also the security forces must also understand that human rights defenders are not their enemies. They do their job. They are also working for the same noble goal – to protect human rights - and in order to protect human rights you also must investigate human rights situations, investigate and denounce human rights violations. But it is for the same common goal. And that is why I was looking forward very much to this encounter here of those different stakeholders. But unfortunately the preparation already was overshadowed by a very unfortunate decision, I should say, of the Minister of Defense of Sri Lanka.

And I have had long good relations with the Government of Sri Lanka. I was twice on a fact finding mission, in the late 1990s when together with the military and the government, we actually managed, I was at that at the time a member of the UN working group on enforced disappearances, and after this fact finding mission we actually managed to clarify 4,000 cases of enforced disappearances. People who had disappeared in the late 1980s, 1989, 1990, by a cooperative approach. And even when I came later, 2008, as the UN Special Rapporteur on Torture, which was a very very difficult situation in Sri Lanka and I was certainly not uncritical. I found widespread torture, practice of torture in the country by all different kind of actors. But we always respected each other, we always had a professional relationship with the government, with the military, with the police and when I presented my report to the Human Rights Council in Geneva the government was represented, I think by five ministers, and of course they were not happy with some of my findings, but in principle they congratulated me for my report. And I say that in the spirit of cooperation, if you do, and I did my best at objective fact finding, you may still keep a very good relationship with the government and including the military.

And I am sure Brigadier Wanigasooriya I'm sure, if you would have realized at the time you would have taken this decision how much damage you have done to this conference but in particular to the organisers of the conference and above all Dany Celermajer and the University of Sydney. And the non government organisations in general who reacted very very strongly on the fact that two of Sri Lankan NGOs were disinvited from this conference. It created a storm. It was in the international media. It created so much of an uproar in the international community. If you would have anticipated that I am sure you wouldn't have done it.

And I think that is one of my lessons also from this conference. If we engage in such a conference, in such an undertaking where we need mutual trust and where we need to talk to each other I think we also have to, as you also said, we have to be a little pragmatic. There are high level principles, I understand your principle. I also do understand the principled decisions of organisations like Amnesty International, which I have the highest respect of. But again I could imagine if some of the NGOs would also have thought twice and really engaged beforehand in a more, kind of, informed decision before they take this principled decision - we withdraw our delegates and we appeal on all the others from civil society to boycott the conference - and it could have happened. What would we have done in this conference if all of the NGOs would have moved out?

So the point that I am making is that what you endeavored with your project and with your conference is something very unique. I have been teaching military, I've been teaching police officers in many countries but I have never seen a gathering where these security forces from 15 different countries in the region coming together with the civil society and academics in order to try to change certain things, to change human rights attitudes, also to change a certain culture that allows for torture and other forms of ill treatment from within. I was fascinated by so many of the discussions that we have had here – really interdisciplinary discussions but also discussions among all the different stakeholders. I was yesterday evening listening to some of the Human Rights Protection Facilitators, what they have done in practice. That they are committed very much in their respective organisations to bring about change and I think that is the big, and in my opinion, amazingly beautiful approach of this conference.

So what would like to say I totally enjoyed all those discussions. I learned a lot from many of you, in particular again, also from members of the security forces. It is very, very important to always again put yourself in the situation of the other in order to better understand them and to work against the stereotypes and prejudices that we all have. I worked so much together with military and police officers in United Nations field operations etc. where you work really on the same side and many of you. I was very, kind of impressed, when we heard the introductions. I think the majority probably of the security forces representatives here served in United Nations or other peace operations, peace-keeping, peace-building operations. So having experience in working together for peace but also for human rights all the modern second, third, fourth generation of peace operations have an integrative approach. It is not just anymore as in the old times the military peace-keeping, it is a comprehensive approach, where human rights and democratization are as important as the military and police contributions.

So in that sense I leave the conference highly enriched and I hope that I will be able in the future to play the one or the other role still of advising you, or participating in the future endeavors you will do and I wish the project in particular very much success. I think we are at the right time in the Asia Pacific region. That this type of change management and change from within with selected change actors will be successful I am deeply convinced that it will and I wish you much success for this. And I do thank Dany Celermajer and her beautiful team who organized this conference and all of them suffered a lot in the week before because of troubleshooting and all of that and also during the conference there were also other problems also with the Ministry of Interior in Nepal etc. I think you did a marvelous job in the most very difficult of circumstances to organise this in the most beautiful way. Everything to my mind, worked perfectly from the settings, from the organization, from the dinners to the lunches I think it was perfectly organized and many many thanks to you. Thank you all and I hope to see you again.

## **Appendix B: Full summary and comments on Conference conflict and controversy**

### ***(i) Summary of Events***

We begin with a summary of events. Ten days before the commencement of the Conference, the Sri Lankan Military contacted our partner in Sri Lanka, the Centre for the Study of Human Rights at the University of Colombo (CSHR), and indicated that it would not allow its people to attend the Conference if four specific Sri Lankan NGOs were also attending. CSHR, in consultation with the Project Director and broader team, communicated with the representative of the Ministry of Defence (MoD) that this decision would have negative consequences for the Conference, that the purpose of the Conference was to bring organisations from different sectors together for a constructive conversation and urged them to reverse their decision. The final decision communicated by the MoD representative was that they would attend if two of the invited Sri Lankan NGOs, the Family Rehabilitation Centre and Janasansadaya attended, but not if the two others, Rights Now and Right to Life attended. International NGOs and NGOs from other countries also remained on the participant list. It was also communicated that they understood this Conference to be an educational endeavour aimed at looking at the experience of the project and effective prevention, and that were there to be an overt attack on the human rights record of the Sri Lankan Military they would not remain at the Conference.

The project team, after consultation with experts and advisors, made a decision to ask those two NGOs (Right to Life and Rights Now) not to attend. All agreed that it was important to try to get the Sri Lankan authorities to change their mind but that if they did not, the priority was to keep the Sri Lankan forces at the Conference even if this required asking the two NGOs not to attend. This request was made initially verbally and then in a follow up letter. The Project Director wrote to the representatives of six of the NGOs that were attending, advising them of what had happened, discussing the risk of a walk out by the Sri Lankan forces and asking that in making their interventions during the Conference, they be mindful of the objective of keeping everyone in the room.

Several days later, the Project Director received a letter (via email) from the Sri Lanka Campaign for Peace and Justice expressing strong concern about the decision and urging the project team to re-invite the two NGOs. The letter stated that if the invitations were not reissued, the Sri Lanka Campaign would write to all Conference participants urging them to boycott the conference. The Project Director wrote to the Sri Lanka Campaign explaining the basis for the decision, indicating that it was made with significant regret and a recognition that asking NGOs not to attend a human rights conference was far from desirable. The letter explained that it was felt that, on balance, it was more important to have the Sri Lankan forces present at the Conference along with a significant number of NGOs that were scheduled to attend (including those who had in the past been very overt in their criticisms of the human rights record of the Sri Lankan state) than to have only NGOs present and not to have the Sri Lankan forces there at all to be part of the Conference and the discussions that could take place. The Sri Lanka Campaign responded that as the two NGOs were not reinvited, an open letter would be circulated to all participants. The open letter expressed concern about the decision and urged other NGOs not to attend the conference. It also asked that those who did attend to protest both the organisers' decision and 'the narrative that the Sri Lankan Government will doubtless present'.<sup>5</sup>

The following NGOs withdrew their representatives from the Conference: Janasansadaya, Amnesty International, the Asian Human Rights Commission, the Commonwealth Human Rights Initiative, the Justice for Peace Foundation and the Open Society Justice Initiative. Letters objecting to the two NGOs having been disinvited were also received from the Asian Federation Against Involuntary Disappearances (AFAD), the Association for the Prevention of Torture (APT), Forum Asia and the Sri Lanka Human Rights Project (Centre for Peace and Conflict Studies).

During the Conference, the Project Director spoke about the events in her opening remarks and invited anyone present to raise concerns or questions that they had at any point they saw as appropriate during the Conference. During this first session one participant responded by asking the representative of the MoD (Sri Lanka) why they had taken the decision that they did. The explanation provided was that these two NGOs had recently been invited to a meeting between Sri Lankan NGOs and the MoD in Sri Lanka and had refused to attend. As such the MoD expressed the view that he did not see it as appropriate or feasible to meet with them during an international forum.

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<sup>5</sup> Copies of the letter from the Sri Lanka Campaign for Peace and Justice and the Project Director's response are available upon request.

The Chair of the NGO/civil society group and the Project Director agreed that the first part of the NGO/civil society group only session on the afternoon of Day 1 should be set aside for participants to raise their concerns and discuss them with the project team. There was a fruitful discussion during this session, where both the Project Director and the senior representative of the Sri Lankan partner (the CSHR) spoke about what had occurred. Professor Manfred Nowak also explicitly addressed the issue during the closing remarks to the Conference (see **Appendix A**).

The events and controversy received coverage both in the Australian and the Sri Lankan press.

### ***(ii) Reasons for the Decision and Response***

In being presented with the communication from the Sri Lanka MoD, the project team faced a difficult dilemma. The entire EHRP project had been based on developing and then working on the basis of a cooperative relationship with the Sri Lanka and Nepali security organisations. In addition, while the role of NGOs at the Conference was one that we saw as very important, as the project itself had not, to date, been one that involved other NGOs. As such, the involvement of the Sri Lankan forces in a Conference that was, to a large extent, the capstone event of the project, was of critical importance, both to the Conference and to our objectives of strengthening the commitment that the forces have to human rights protection. Without them, it would have been impossible to achieve many of the key objectives of the Conference. Further, without their presence at an international event focused on how security organisations should and can protect human rights, we were of the view that some of our work with them would be undermined. Moreover, the project partners, CSHR in particular, have a commitment to ongoing work on strengthening human rights in the security forces that requires the latter's active engagement. As such, retaining their presence at the Conference and protecting the possibility of building a relationship that would be sufficiently strong to conduct robust human rights work was very important.

At the same time, under the current circumstances where Sri Lankan NGOs' work in advocating on human rights has been made very difficult, and where the space for their advocacy has been significantly narrowed, the team recognised the importance of standing in solidarity with them. As such, asking two Sri Lankan NGOs not to attend was not a decision that was taken lightly. On the contrary, in taking this decision, we were aware of its negative consequences.

Given these two competing sets of consequences of our response to the circumstances, the project team was aware that a decision either way would have negative consequences. It was, in our view, a 'tragic choice' in which any course of action has deleterious consequences but that such consequences cannot be avoided. In this case, the choice was between keeping the Sri Lankan authorities engaged and asking two of a list of approximately thirty-five civil society organisations not to attend. Choosing to ask the two NGOs not to attend would have the deleterious impact noted above, but would still mean that there was significant NGO representation at the Conference, including some of the NGOs that had been the strongest advocates for the protection of human rights in Sri Lanka. It was this balance that the project team decided to strike.

In response to the public criticisms, as noted above, the Project Director wrote an Op-Ed article that appeared in The Guardian Australia newspaper on September 16<sup>th</sup> 2014. Several members of the Expert Advisory Group, the Steering Committee and the External Advisory Committee also wrote a long letter for circulation addressing the achievements of the Conference and stating that the decision had been approved by a broader team and not only the Project Director. Formal letters of response to all NGOs that withdrew and/or sent letters were prepared and co-signed by the Project Director, the Director of the CSHR and the Dean of the Faculty of Law and the University of Colombo. These were sent along with the experts' letter and a transcript of Professor Nowak's remarks. Letters were specifically written to the Sri Lankan NGO that had been disinvited offering to meet with them to discuss what had occurred.

### **(iii) Comments**

The controversy raises a number of questions worthy of critical reflection. The project team has been examining what occurred, what it tells us about the project and what we can learn.

It is evident that the project is working in a heavily politicised and contested space. In particular, it is clear that seeking to bring about change from 'the inside' when working with states and security forces that face strong opposition on the basis of their human rights violations, is contentious work and may place projects in difficult circumstances. The situation in which the project found itself, being asked to choose between engagement with security forces on the one hand and solidarity with NGOs on the other, is indicative of the extreme difficulty of working with states that are hostile to civil society and that do not respect basic principles concerning freedom of speech and association. This raises questions of the politics and ethics of working with such actors.

One reason given for objecting to the decision was that it was felt that in disinviting the two NGOs, the project had allowed itself to be 'dictated to' by a state seeking to suppress human rights advocacy and freedom of speech and as such had implicitly condoned this behaviour. This objection raises issues about the conditions for working with states and organisations that do not fully respect human rights principles or codes of conduct those human rights organisations consider necessary for constructive or fair engagement (such as freedom of speech and allowing a range of views to be expressed). One might reflect on the question: If a state or other party will only engage under conditions that do not meet standards that would under normal circumstances be required, should the engagement be curtailed? Are the circumstances under which it is better to compromise in order to continue to build the engagement? If so, how does one assess what an acceptable compromise is?

In this regard, the distinction that Professor Rejali drew during the Conference between first, second and third generation approaches to torture prevention is illuminating. Professor Rejali suggested that whereas first and second generation approaches emphasised legal regulation and naming and shaming as the principal tools for preventing torture, it may be that a third generation, involving different forms of engagement, is beginning to emerge. Indeed, during the Conference, as detailed below, a number of speakers discussed how they are working in a very engaged way with security sector personnel. This is not to say that all forms of engagement are automatically useful from the point of view of preventing torture or that there should not be normative principles we bring to such engagements. It may rather be that as we develop this third generation, we will experiment with new approaches, working out what is effective and what the boundaries and principles of appropriate and effective engagement are.

A further ground for objection raised by some was that given the human rights record of the Sri Lankan Military, the only legitimate response from a human rights organisation can be confrontation. As stated in the letter from the Sri Lanka Human Rights Project, "The only value your Conference could have had would be to confront the Sri Lankan with their atrocities". Again, this raises questions about which types of approaches to human rights protection are considered acceptable or effective. One of the most important questions that the project asked as part of its research has been, which approaches to the prevention of torture have been most effective and under what circumstances?





