



# General Assembly

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## Human Rights Council

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Agenda item 2

**Annual report of the United Nations High Commissioner  
for Human Rights and reports of the Office of the  
High Commissioner and the Secretary-General**

### **Written statement\* submitted by Asian Legal Resource Centre, a non-governmental organization in general consultative status**

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[20 May 2022]

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\* Issued as received, in the language of submission only. The views expressed in the present document do not necessarily reflect the views of the United Nations or its officials.



## **World: International Conversations Needed for Removing Gaps Between the United Nations Experts' Recommendations and Monitoring of Actual Implementation for Protecting Human Rights**

The Asian Legal Resource Centre (ALRC) has for over 40 years carefully studied, documented and reflected upon the actual possibilities for protection of human rights in many countries of Asia, in particular South Asia and South East Asia. It is our observation that while the knowledge about human rights and some extent the improvement of ratification of the UN conventions and also in cooperation of provisions for protection of human rights in domestic legislations have improved in many of the countries at a practical level, the possibilities of realization of human rights as not improved in any visible manner but in fact there are many instances when the situation of human rights has degenerated. Extreme forms of violations of human rights both in the civil and the political rights sphere, the economic social and cultural rights as well as the sectorial rights like the rights of women, of children, rights relating to the protection of environment and the like has not seen the expected improvements.

At the United Nations (UN) Human Rights bodies such as Treaty Bodies, the work of UN Special Procedures and the like have contributed a great deal to report on violations and to suggest recommendations. However, it is our observation that most of the recommendations bade over many years have not been much respected in the developing countries including those parts of Asia that were mentioned earlier. The reasons for this great gap between improvement of knowledge, large body of recommendations that have been given to the different countries on the one hand and deterioration of the human rights situation need to be examined carefully.

While there can be many complex reasons for non-implementation of recommendations by UN human rights bodies and experts, there may also be some difficulties in the very method of making recommendations of a more general nature without really addressing some of the problems that exist in developing countries in relation to the implementation mechanisms that are essential for ensuring protection of human rights. Specifically, the nature of the policing systems that exist including the criminal investigation capacities that exist in these countries and also the nature of prosecutorial and judicial institutions that act as obstacles to the performance of obligations of these institutions for protection of people may not have been addressed adequately in making these recommendations. For example, a policing system that is underfunded do not have the capacities that exist in more developed countries to conduct law enforcement functions and also the duties relating to investigations into violations. It becomes even worse in the policing system of directly politically controlled. The same thing can be said of the prosecutorial systems which due to various factors do not have adequate independence or competence to deal with the prosecutions in efficient and fair manner. The result would be large numbers of serious violations of human rights that go uninvestigated. Worse is that even when lot of information is available of possible serious attacks on human rights that may lead to deaths and destruction of property, the law enforcement agencies may not have the will or capacity to do their functions of prevention of such crimes that lead to serious violations.

Worse still is the limitations placed on the judicial function, judicial role and judicial independence. There are situations in some counties where virtually there is no independent judiciary at all except on more private disputes between individuals. When it comes to public issues, the courts may not have any role at all or whatever they may have had in the past may have reduced either through legislation or by various pressures that have worked over a long period of time.

Thus, making of effective recommendations to achieve significant changes to improve human rights requires a knowledge about the actual ground realities about the manner in which legal systems in a country particularly the criminal justice system and the public law system functions. Such knowledge is possible only through cooperation with local individuals of organizations which have engaged in these issues as a part of their life experience and therefore possess and in-depth knowledge about the capacities or lack of

capacities of protection of human rights in their countries. Thus, mere reporting of violations is inadequate. There should be a deeper understanding of the causes that have created the possibilities for such violations.

This matter may not become very clear to those whose experience is mostly confined to the more developed jurisdictions. Over centuries of work in these developed countries, institutions have been developed which to a great extent are able to protect the rights of individuals and to ensure the stability of society to function in the normal manner.

Thus, we recommend that a review take place about the very process of recommendation making in the UN bodies and developing ways to make these recommendations more effective particularly in terms of more developed countries. As the level for violence that has developed in many countries is intense and also the result of such violence on disturbing the very political systems, even the economic systems in these countries are extremely grave and this matter needs urgent attention.

There needs to be international conversations among all concerned persons including independent human rights experts, other knowledgeable persons that could include those from the developing countries itself in order to have greater insight about the failures relating to achieving a more effective system of interventions for a purpose of contributing to greater protection for the people living in these countries.

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