



Submission No 26

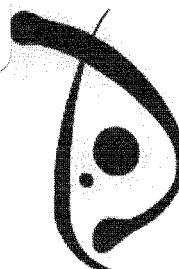
Inquiry into Human Rights and Good Governance Education in the Asia Pacific Region

Organisation: Australian Lawyers for Human Rights

Contact Person: Mr Simon Rice
President

Address: PO BOX A147
SYDNEY SOUTH NSW 1235

Submission: 26



AUSTRALIAN
LAWYERS
FOR
HUMAN RIGHTS

PO Box A147
Sydney South
NSW 1235
Australia

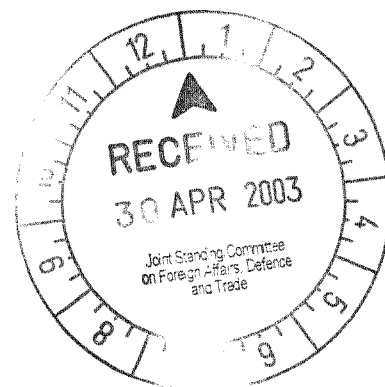
alhr@alhr.asn.au
www.alhr.asn.au

30 April 2003

Mr Adam Cunningham
Secretary
Human Rights Sub-Committee
Joint Standing Committee on Foreign Affairs, Defence and Trade
Parliament House
Canberra ACT 2600

By email

<Adam.Cunningham.Reps@aph.gov.au>



Dear Mr Cunningham

Inquiry into human rights and good governance education

We are pleased to provide the attached submission to the Inquiry.

The submission is based on the extensive experience of our members working in human rights law, education and training in Australia and the Asia Pacific region.

Please do not hesitate to contact us if the Sub-Committee would like us to elaborate on any aspect of this submission.

Yours sincerely,

Simon Rice OAM
President
Australian Lawyers for Human Rights



**AUSTRALIAN
LAWYERS
FOR
HUMAN RIGHTS**

Submission to

the Human Rights Sub-Committee

Joint Standing Committee on Foreign Affairs, Defence and Trade

Inquiry into Human Rights and Good Governance Education in the Asia Pacific Region

30 April 2003

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1. Australian Lawyers for Human Rights

Australian Lawyers for Human Rights Inc (ALHR) is a network of Australian lawyers active in practising and promoting furthering awareness of human rights in Australia.

ALHR was established in 1993, and incorporated as an association in NSW in 1998. The ALHR membership of over 500 is national, with active National, State and Territory committees.

Through training, information, submissions and networking, ALHR promotes the practice of human rights law in Australia, and works with Australian and international human rights organisations to increase awareness of human rights in Australia.

ALHR is a member of the Australian Forum of Human Rights Organisations. It is invited to attend the Commonwealth Attorney General's NGO Forum on Human Rights, and the Human Rights NGO Consultations of the Department of Foreign Affairs and Trade. In 1998 ALHR was the only Australian-based NGO to attend the Diplomatic Conference of Plenipotentiaries in Rome as part of the NGO Coalition for an International Criminal Court. In July 2000 ALHR joined with the New York-based Lawyers Committee for Human Rights in a submission to the UN Human Rights Committee's review of Australia's reports under the International Covenant on Civil and Political Rights.

A key goal of ALHR is to educate lawyers in the use of human rights through legal practice, on a daily basis. To help lawyers use human rights remedies in their daily legal work, ALHR runs seminars on human rights in practice, in areas such as family law, tenancy, anti-discrimination, crime, corporations, land and environment, and employment.

1. Introduction

ALHR welcomes the opportunity to comment on the important issue of human rights and good governance education in the Asia Pacific Region. As lawyers, our members operate in the practical arena of human rights and good governance on a daily basis. Several of our members are involved in the delivery of human rights and good governance work in the Asia Pacific region. Their experience provides an insight into strategies that succeed and fail, areas of need and valuable insights based on 'on the ground' work.

We are aware of the many well written submissions already received by the Joint Standing Committee on Foreign Affairs, Defence and Trade ("the Committee") for the purposes of this Inquiry. We feel that these submissions adequately address many areas of interest to ALHR and this submission will refer to submissions already made where relevant rather than reiterate things already said. As an overall response to the Inquiry, ALHR refers to and supports the submission of the Castan Centre for Human Rights Law at Monash University.

Based on this approach, we will not be making a full submission on each of the points set out in the Terms of Reference for this Inquiry. Instead, this submission is limited to areas in which ALHR has specialist experience or to present views that we feel have not been adequately canvassed in previous submissions.

We have not attempted to divide our comments under the four headings of the terms of reference as we felt that this was an artificial division of our views. The views put forward are strongly relevant to the first point of the terms of reference, but they also overlap with the areas presented by the other headings.

2. The relationship between Human Rights, Good Governance and Development

The relationship between human rights, good governance and development is expressed in several international instruments.

The *International Covenant on Civil and Political Rights* directly addresses the importance of good governance and requires States "to take all necessary steps ...to give effect to the rights" recognized in the Covenant including provision for effective remedies for violations of those rights.

The *International Covenant on Economic, Social and Cultural Rights* also requires relevant States to "take steps, individually and through international assistance and co-operation, especially economic and technical ...with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures."

The *Declaration on the Right to Development* reiterates this relationship between human rights, good governance and development by emphasizing the necessity for all individuals to have equal access to basic resources and thus an opportunity to participate in the development of their State.

Finally, the *Universal Declaration on Human Rights* affirms the importance of education in achieving these goals by stating that "education shall be directed to the full development of the human personality and to strengthening of respect for human rights and fundamental freedoms."

These international standards, among others, provide an essential starting point for the understanding that good governance, human rights and development are inextricably linked.

3. What is Good Governance?

ALHR **submits** that an understanding and practical implementation of good governance is an essential precursor to the realisation of human rights and the achievement of development. Without good governance, human rights are at risk of remaining a theoretical and idealistic concept, never to be realised at a practical level.

It is useful to encourage clarity on the definition of 'good governance', particularly amongst nations of the Asia Pacific and amongst different types of organisations involved in human rights education, human rights implementation and related areas.

ALHR encourages a discussion on what constitutes the necessary elements of good governance and the diversity of options available for their delivery. For example, the degree of government involvement in the development and implementation of good governance can vary. Different donor governments in the Asia Pacific may advocate differing viewpoints on this issue. As much as is possible, sustainable delivery requires a unified approach.

Below, we provide an outline of what ALHR considers to be important elements of good governance based on the direct experience of the work of our members.

ALHR **recommends** that these elements be used to guide the design of human rights education projects in which Australia is involved.

4.1 *Institutional Strengthening and Capacity Building*

If the realisation of human rights is to be sustainable, there must be strong institutions involved in their development, implementation and enforcement. The best human rights education will be wasted if its students return to their organisations merely to struggle with weak internal systems, inadequate core funding and inadequate skills with which to turn the learnt theory into reality.

Good governance helps to build strong institutions. However, good governance education by itself will not necessarily achieve a strong institution. Good management, good internal systems and strong core funding are required to achieve strong institutions.

Nearly all development aid programs (including education), whether funded by governments, non-government funding agencies or UN bodies, focus on the delivery of projects or programs rather than core institutional strengthening. AusAID is one of the few donor bodies in the Asia Pacific region to fund institutional strengthening programs. ALHR commends AusAID for this initiative and recommends that such programs be expanded. However, AusAID funded programs generally do not include options for organisational core funding when it is required.

Human rights and good governance education cannot be implemented if the appropriate organisation cannot pay its staff a living wage, or if the roof of its building leaks, or if it has computers that barely operate. Likewise, the organisation will sink into ineffectiveness if it does not have a proper system of decision making, staff management or financial accountability. These basic issues of capacity must be addressed as part of any human rights education program if the goals of the program are to be realisable and sustainable.

ALHR **submits** that a sustainable human rights education program in the Asia Pacific can only occur if the following elements operate in conjunction with this program:

- practical good governance training that includes internal management systems and support with the implementation of these systems, and
- an element of core funding to pay for fundamental institutional requirements such as salary support, accommodation and IT infrastructure.

ALHR understands the argument that such funding should properly come from domestic sources, within the country of assistance, but respectfully **submits** that this argument is not realistic in

countries being supported. Generally, an organisation needs to be strong before it will win the support of its domestic funding sources.

Moreover, ALHR **submits** that strong institutions working in human rights are the most effective element in creating change. Creating strong institutions should therefore be the primary goal of a human rights and good governance education program and the provision of core, non-program funding, is fundamental to this goal.

4.2 Corruption

ALHR **supports** the submission from the Committee from Transparency International Australia.¹ Corruption is a major obstacle to good governance and human rights. Therefore, tools for eliminating corruption such as systems for transparency and accountability, investigation and enforcement mechanisms and empowerment strategies for anti-corruption bodies are an essential element of good governance.

ALHR **recommends** that particular attention be given to these areas in any education program for human rights and good governance.

4.3 English Language and IT systems

In the experience of ALHR, two of the most effective tools for accessing information on human rights and good governance are the ability to speak English and the ability to access the internet. These tools have single-handedly revolutionised the world of human rights advocacy and enforcement over the past decade. Yet, they remain tools that are particularly difficult to access by those who most need them.

The extent of English language skills have a considerable impact on the ability of individuals in the Asia Pacific region to participate in a human rights and good governance education program provided by Australia. These language skills, and information technology skills, will then impact on the ability of individuals to follow up the training with further research, continue ongoing relationships with Australian organisations and, in some cases, effectively implement what they have been taught.

ALHR therefore **recommends** that the following areas accompany any program of human rights and good governance education developed for the Asia Pacific:

- Ongoing English language training, especially in the home country of the individual. This may consist of several types of programs but should include casual weekly meetings dedicated to learning and practicing English for individuals who belong to organisations that are supported by AusAID. This will have the dual benefit of relationship building between AusAID and the partner organisation.
- Skills development training in information technology including basic computer function, internet use, website design and maintenance, database development and maintenance, developing local area networks and the use of email for effective communication.
- A one-off grant for the purchase of computer equipment.

¹ Submission number 24 dated 31 March 2003.

4.4 The Rights of Women

Despite a requirement that AusAID funded programs contain gender elements, ALHR considers that all too often, human rights and good governance education programs have gender as an 'add on' and not as an integral part of the program.

Women are by far the poorest, most disadvantaged and most disempowered people of the Asia Pacific. Any program that does not fundamentally consider women's is failing to address the rights of over half of the population, including the poorest of that population and should therefore be regarded as unsustainable and ineffective.

What does this mean in practice? ALHR **recommends** consideration of several options:

- A minimum proportion of students in any program should be women.
- Women's rights must form an essential aspect of all human rights training programs. Action plans of students must include gender considerations.
- Women's rights must form an essential aspect of all good governance training. For example, good systems of internal management should include codes of practice on sexual harassment, pregnancy discrimination and sex discrimination generally. Women must be accorded equal opportunities for training and advancement.
- If the training is provided by a group of educators (especially Australian educators), as much as possible a gender balance should be achieved amongst the trainers as a symbol of leadership on this issue, and to ensure a diversity of perspectives in the training.

5. The role of education

ALHR **submits** that effective education contains a number of elements:

5.1. Educate at all levels of society

Education on the value of human rights and good governance are long term strategies. It is crucial to raise awareness of these issues at all levels, particularly the regional and local levels through the use of practical training programs with supplementary follow up or support for implementation.

Long term awareness raising over basic rights has a trickle down effect from officials to the general populace. Over time, the training converts into local practical examples of how human rights are applicable in that society. To achieve maximum effect, the education must occur at all levels of society.

5.2 Tailor the education

ALHR **supports** the comment made by AusAID in its submission to the Committee:

"A continuing challenge ... particularly in our region, is the need to tailor practical implementation of governance and human rights education activities to individual country circumstances."²

ALHR **recommends** a three-stage approach to all human rights and good governance training programs:

1. *Pre-training consultation* to identify the needs of the individuals or organisation. This consultation process may also be used to identify or select appropriate individuals for the training program. In the experience of ALHR, the selection process for training is susceptible to inappropriate selection of candidates, resulting

² Submission from the Australian Agency for International Development and the Department of Foreign Affairs and Trade, dated November 2002.

in elements such as candidates from unsuitable levels, lack of diversity or individuals soon to retire or leave an organization. Stricter selection processes are very important.

2. *Tailored training* to meet the needs identified in the pre-training consultation.
3. *Follow up strategies* to assist with implementation or ongoing communication with the educational institution; they may include subsequent reviews of action plan implementation, and placement of a consultant.

As discussed above, the most effective education will be accompanied by other strategies to build the general capacity of the recipient organisation.

5.3 Practical focus

The most effective education will contain a significant practical element including strategies for implementation and direct experience. The idea of using 'experience' as an educational tool is an important one for the areas of human rights and good governance. The generally already experienced candidates for human rights and good governance programs are likely to obtain their most valuable learning experiences through observing their counterparts in Australia at work, or by working with them directly.

To this end, ALHR **submits** that internships, study tours and 'shadowing' programs are important educational tools.

In addition, human rights and good governance training will benefit from the inclusion of the following areas:

- Lobbying and advocacy skills
- Tools and skills for influencing government policy, both from within government departments and from outside
- Leadership skills including management
- Project management training including planning and budgeting
- 'Train the trainer' skills including development of training materials

In ALHR's experience, these areas are needed for effective human rights and good governance implementation, but difficult to obtain from domestic sources. Australian experts are well placed to pass these skills on to key organisations or individuals in the Asia Pacific region. These skills will greatly enhance the success of the program.

The *Human Rights Review*, which is set out in attachment one, provides a practical tool which demonstrates how good governance and human rights can be integrated into an education system provided by the Australian government.

The Australian government might consider incorporation of the *Human Rights Review* into an education program.

6. Summary

The relationship between human rights, good governance and development is recognised in international law, and in the relevant human rights treaties to which Australia is a party. in several international instruments.

In ALHR's experience, effective implementation of human rights standards in society is substantially dependent on the existence of good governance practices within the society.

To support human rights, key elements of good governance that require particular attention in the Asia Pacific Region in the foreseeable future are:

- institutional strengthening and capacity building
- addressing corruption
- enhancing English language and IT systems, and
- promoting the rights of women.

Education strategies designed to achieve these elements of good governance need to:

- take place at all levels of society
- be tailored to participant's needs during and after training, and
- focus on the participants' achieving practical and measurable outcomes for their society.

Australian Lawyers for Human Rights

Attachment One

The Human Rights Review³

The Human Rights Review is a tool that can be incorporated into Australia's education programs to teach individuals and organisations how to collect and verify information on good governance, human rights and development within their organisation and communities within the Asia-Pacific. The object of the Review is to enable Students and organisations to:

1. Identify good governance, human rights or development related issues within their organisation and or the community within which they operate ("Issues")
2. Collect sufficient information on 'Issue related incidents'⁴, by way of planning, preparing and implementing their own Review; and
3. Verify and evaluate information to monitor the progressive realisation of the good governance, human rights or development related Issues within their organisation and the communities within which they operate.

The Review

1. Identifying the Issue

The first phase of the Review is 'Identifying the Issue'. In this phase the Student would learn how to identify relevant good governance, human rights or development Issues within their organisation, or the community within which they operate.

2. Collecting sufficient information on the Issue

The second phase of the Review is 'collecting sufficient information on the Issue', in particular Issue related incidents, to monitor the progressive realisation of the relevant Issue within their organisation or the community within which they operate.⁵

Accordingly, once the Issue has been identified, the Student would learn how to plan, prepare and implement a periodic Review to collect sufficient veritable information to monitor the Issue.

2.1 Planning the Review

The first step, in the second phase, is for the Student to learn how to assemble, manage and co-ordinate the Review team. The Review team would be responsible for implementing a periodic Review within the organisation or the community within which it operates to collect veritable information on Issue related incidents.

The Review team would consist of the Student,⁶ a senior Health Safety Environment and Community (HSEC) officer from the organisation and a Community Relations Representative⁷.

³ © Sophie McMurray. The Rights Review is a system developed by Sophie McMurray, an ALHR member, while working in South Africa, Swaziland and Kenya between 2000 and 2002, collecting and verifying information on human rights abuse, for human rights related claims against English corporations in the UK.

⁴ For example, the Issue might be human rights. An Issue related incident would be sexual discrimination, such as sexual harassment being caused to a member of the organisation, or a member of the community within which the organisation is operating.

⁵ Issue related incidence with respect to a Good Governance Issue, might be fraud, bribery or corruption. The Review process would enable a Student to collect sufficient information on allegations of fraud, bribery and corruption

⁶ Depending upon the size and nature of the organisation, the Review should be managed and co-ordinated by the Student, who might be the General Manager, the Executive General Manager, and or the Health Safety Environment and Community (HSEC) Officer. If the Student is the Health Safety Environment and Community Officer, the above described HSEC officer, should be the HSEC officer's assistant.

⁷ The Community Representative could be an NGO leader, a Union member, or a 'leader' of the community, but most importantly someone who is trusted by the community.

After learning how to assemble a Review team, the Student would learn how to write a Review plan and open and manage a Review file. The Review file is an information Repository, within which information is collated during the implementation and verification of the Review.

The Review plan would include a list of objectives, the budget and projected time for preparing and implementing the Review. The objectives should include a list of sample individual and third party records, which can be collected and verified to monitor the progressive realisation of good governance, human rights and or development within the organisation or the communities within which they operate.

The following is a sample of individual and third party records, which the Student would learn how to collect and verify:

1. Individual records:

- Short form questionnaires
- Detailed questionnaires
- Authority (with relevant privacy clauses)
- Supporting documents, including:
 - Expert's Examination sheet
 - Expert's Medical Report
 - Third party records

2. Third party records:

- Local doctor's record of diagnosis and treatment
- Police record of allegation
- Community Leader's statement / records of allegation
- Union records of allegation
- NGO's records of allegation
- Journalist's statement relating to any possible investigation
- Local lawyer's statement relating to investigation
- Local politician / government official's statement relating to investigation

The following is an example of a short form questionnaire:

The Rights Review Short Form Questionnaire

- The Issue(s)
- First name
- Surname
- Name of next of kin (if claimant is the relative of the deceased / disappeared)
- ID number person / next of kin
- Year of birth
- Sex
- Postal address

- Residential address
- Nature of allegation
- Said cause of allegation
- Date of alleged incident
- Place of alleged incident
- Names of witnesses
- Contact details of witness
- Accounting or Financial Reports
- Medical reports
- Police reports
- Other supporting documents
- Signed privacy statement

The following is an example privacy statement:

The Rights Review Privacy Statement

From 21 December 2001, we will be bound by new sections of the Commonwealth Privacy Act 1988, which set out a number of principles concerning the protection of your personal information.

This statement, called "Your Privacy and the Rights Review" sets out important information about privacy protections, which we extend to your personal information. It relates to personal information that you provide to us through our Rights Review.

How we collect your information

How we use your information

Personal Information collected during the Rights Review

Other Information

When we disclosure your information

Help us ensure we hold accurate information

You can access your personal information

Security of your information

Minors privacy

What else you should know about your privacy

For more detail on the Organisations approach to privacy generally, please refer to the Organisation's Privacy Policy

I accept to be bound by the Organisation's Privacy Policy and the Rights' Review

..... Dated:

Signed (thumb printed) claimant

2.2: Preparing the Review

The second stage in the second phase, is preparing the Review. During the training program the Student would learn how to make the necessary preliminary preparations within their organisation and or community, to implement a Review. Fostering trust, through education and training programs is a necessary aspect of the Review. To do so, the Student would learn how to draft and despatch letters to other members of the organisation, community representatives and relevant third parties, explaining the purpose of the Review and how they might assist in providing records that relate to the Issue.⁸

- Short Form Questionnaires

The Student would also learn how to complete short form questionnaires.

⁸ This is a matter of courtesy and will foster greater trust and transparency in the Review, particularly in dealing with government sources. Every effort should also be made with regular updates and courtesy calls.

For the purposes of implementing the Review, short form questionnaires should be completed at a pre-Review meeting held within the organisation or the community, at least six weeks before the Review is implemented. The Student would be taught how to identify and make appropriate announcements regarding the time and place for a pre-Review meeting. For example, if the object of the Review is to collect veritable information on the progressive realisation of human rights and development within their community, a public meeting would be required, and therefore appropriate announcements might be by way of radio, newspaper and word of mouth. If the object of the Review is to collect veritable information on attaining good governance, internal meetings should be convened within the organisation.

If there is some semblance of trust within the Organisation or the community, people will attend and participate. If, however there is a sense of fear and distrust people will not. A sense of fear could be revealed through third party records, and remedied through the Review process. In this situation, the preparation phase should be extended to hold smaller meetings where the Student, the HSEC Officer and the Community Relations Representative can explain how the Review is intended to foster good governance, reduce or prevent human rights abuse and achieve development.

Indeed, it is important that the program 'trains the trainer' to harness the exponential effect of the Student 'teaching to teach' the Review process within his or her organisation and or the community within which it operates. Accordingly the Student could use the meeting to:

- Explain the purpose and timing of the Review;
 - Train and educate the community about good governance, human rights, development and the Review, and
 - Obtain individual and third party input about the Review, in particular any problems, such as fear and distrust that will affect how effectively the Review is implemented
- Third party records

The Student should also be taught how to collect third party records at the pre-Review meeting and during the Review process. The importance of third party records cannot be over-emphasised, particularly to ascertain the time and place of an incident because individual records might often be inconsistent with such details, that are culturally insignificant. Medical records or tests, such as x-rays, could also be arranged with local hospitals to coincide with the meeting.

- Database

An Access database is needed, with fields corresponding to the questionnaires, reiterating the importance of providing IT Systems through Institutional Strengthening and Capacity Building. Dropdown lists should be used wherever possible to minimise errors. Accordingly, the Student should be taught how to create, update and manage an electronic database with access to the Internet.

- Working files for the Review

The Student would also learn how to enter information from individual and third party records into the database, and how to collate individual working files for each individual to be interviewed or examined, before implementing the Review. The files would contain the following documents, which can be created by merging word documents with merge fields from the Access database:

1. Schedules of individual details
2. Expert's examination sheet
3. Detailed questionnaire

4. Tracking schedule⁹

- Timetable

The Student would then draft a timetable for the practical implementation of the Review. This should reflect the number of individual complainants (that is, the number of short form questionnaires completed at the meeting or in the interim) and the number and whereabouts of third parties that might have information relating to the Issue.

2.3 Implementing the Review

In the third stage, of the second phase, the Student would learn how to implement a Review within their organisation or their respective community in order to collect veritable information on the progressive realisation of good governance, human rights and development. The Student's first Review should be conducted through shadowing an Australian trainer within the Students' community or respective organisation.

Not less than four people can implement a Review of up to 100 people within an organisation or the local community. It is important that the team consists of an independent Expert, to help substantiate and verify allegations; a community representative, the Community Relations Representative; and two members from the Organisation, the Student and the HSEC Officer. A balanced group of representatives will help to foster the necessary trust for implementing the Review. The Student would therefore be taught how to co-ordinate the following roles, in order to implement the Review within their organisation or local community:

1. The Expert: To conduct the interviews or examinations, and advise on how to prevent the nature of the incident.
2. The local Community Relations Representative: To co-ordinate individuals to be examined or interviewed, by lining them up, checking their ID numbers and distributing expert examination sheets, before moving individuals from (1) The Expert to (3) the Student.
3. The Student: To complete working files, by explaining privacy clauses, obtaining further personal details, completing detailed questionnaires and taking photos. Also to ensure Issues identified by the Review are remedied through consultation with the HSEC Officer following the Review.
4. The local HSEC Officer: To meet with third parties during the Review, and following the Review, communicate findings to the Board and to take appropriate measures to implement preventative measures through consultation with the Student, the local Community Relations Representative and the Expert

Following Implementation, all information collected during the Review needs to be verified, according to (3) The Verification and Evaluation Strategy.

3. The Verification and Evaluation Strategy

The third phase of the Review is evaluating information on the Issue, in order to monitor and verify the progressive realisation of good governance, human rights and development within the Student's organisation, and, or the community within which it operates.

The Student would learn how to evaluate and verify individual and third party records. The Student could thereafter (1) quantify, (2) qualify and (3) verify information in accordance with the following three-stage process:

⁹ This is an index of documents to be completed or signed, (or thumb printed, in which case a stamp pad will be required)

3.1 Quantifying Information

3.1.1 The Number of Identified Issues

- Identifying phase

The number of additional Issues, identified during the (2.1) planning, (2.2) preparation and (2.3) implementation phases, that were not identified in the first phase, will indicate flaws or omissions in the Identification phase.

A high number of unidentified Issues will undermine the completeness of the first phase, but not the entire Review. If the Student can identify additional Issues at some stage of the Review, the Review will have been a success in ascertaining the Organisation's human rights' risks, development deficiencies or good governance goals; according to the total number of Issue related incidents or lack thereof.

- Planning phase

The number of Issues not identified until after the planning phase, will also indicate how effective the Student used the meeting to ascertain Issue related incidents being caused by or in connection with the Organisation.

3.1.2 The number of individual and third party records

A small number, or lack of individual records, might indicate that the organisation has experienced few Issue related incidents. Accordingly, the Student should make a file note to show that there are no reasonably foreseeable incidents being caused by or in connection with the organisation. In the event that a subsequent claim is brought as a result of an alleged incident, a due diligence defence might be used as a result of the Review. However, a lack of reported (and identified) incidents might be a result of fear or intimidation. This could be verified by an appropriate third party assessment.

- Preparation phase

The number of complete working files will indicate the effectiveness of the preparation and implementation phases. The number of short form questionnaires, without expert examination sheets or detailed questionnaires might be indicative of inadequate preparation. The Student would look at whether the time and place of the examination was properly announced or communicated at the meeting; and or whether poor transport arrangements contributed to a shortfall in attendance.

- Implementation

A shortfall in expert examination sheets or detailed questionnaires, would also suggest a problem with implementing stages 1 (seeing the Expert) or 3 (seeing the Student); or (2) the local Community Relations Representative, failing to direct individuals between (1) the Expert and (3) the Student.

The Student would also learn to identify the number of third parties with whom meetings were scheduled, and subsequently attended by the HSEC officer during the implementation phase. This number should be compared with the number of third parties identified in the planning and preparation phases. The difference in number can be used to evaluate how effective the planning, preparation and implementation phases of the Review were.

3.1.3 The number of inconsistencies between individual and third party records

The Student would also learn how to record the number of inconsistencies between dates on different statements. A simple formula can be written into the date field in the database, which would throw up inconsistent numbers. However the number of inconsistencies might be circumstantial. Accordingly inconsistent information needs to be measured against the Qualitative, relevance and reliability ratings.

3.1.4 Time needed to obtain information veritable information from the Review

The Student should also learn to measure the time needed to complete the Review and obtain the given number of individual and third party reports against the previous year's Review. The Reviews should certainly become more efficient, once the communication lines have been opened within the organisation and, or the community. Greater trust will foster the production of more reliable information. Better education will produce more relevant information. This will be reflected in the number of third parties willing and able to make information available, the time spent arranging the implementation and the quality of information as determined by the following qualitative measures.

3.2 Qualitative Measures

3.2.1 Relevance Ratings

The most useful information will be that information which is most relevant for determining whether an Issue related incident is being caused by or in connection with the organisation. That is, the Student would learn how to evaluate the relevance of the information, according to whether the information shows that;

- (i) the alleged incident could have caused a breach of an Issue, and
- (ii) an incident was caused by or in connection with the actions or policies of the organisation

The Student would learn how to evaluate that information according to the Reliability ratings discussed below.

3.2.2 Reliability Ratings

- Individual records

The quality of individual records can be ascertained by assessing the level of detail provided in answers to questionnaires. The most useful and reliable type of detailed questionnaire is one with distinctive features that are peculiar to that person and the circumstances of their Issue related incident.

The most unreliable type of detailed questionnaire is one in which coached answers are provided. This will become apparent when a number of individuals provide the same answers, describing exactly the same incident, particularly when the answer is not realistic.¹⁰

Accordingly, the Student should learn to measure the 'reliability' of the information in a record. To do so, the following Detailed Rating could be used. The higher ratings indicate the information is more reliable.

The Right's Review Detailed Rating

¹⁰ This is called, the Blue Indicator. This emerged when we examined thousands of 'blue' asbestos workers in South Africa in a case against an English multinational, Cape plc. The 'blue' asbestos being mined is in fact, white. But, when asked the colour of the miner's sputum, a number of miners would answer blue. Such an answer was clearly unreliable and casts doubt on an individual's credibility. In Swaziland too, there were also a disconcerting number of miners with alleged asbestos related disease who 'coughed on windy days'.

- (i) Very detailed, descriptive answers: provides detailed answers to the questions
- (ii) Descriptive answers: answers the question
- (iii) Simple: one or two word answers
- (iv) Coached: standard answer
- (v) Blanks: no answer

Coached answers are however, often the result of a lack of education or various other circumstances. It is therefore very important that this information is not declared wholly unreliable, but also assessed according to (3.3) Subjective Assessments, while bearing in mind social, economic and cultural issues that can be ascertained from third party records.

- Third party records

The Student should also learn how to rank third party records, to determine the most reliable source of information for monitoring the progressive realisation of good governance, human rights and development. The rank is also useful in determining which third parties are suitable for verifying information, by way of subjective assessment.

The extent to which one source of information is more reliable will depend upon what the information is being used to ascertain, such as;

- (iii) the cause and effect of an incident, or
- (iv) the time and place of an incident.

The Student would learn to rank third party records, by scoring answers to the following two questions:

1. What is the third party's level of education; to be able to determine the cause and effect of an incident?

- Specialised qualifications: 5 points
- Tertiary education: 4 points
- Secondary education: 3 points
- Basic education: reading and writing: 2 points
- Uneducated: illiterate: 1 point

2. What is / was the third party's proximity to the incident; to be able to determine the time and place of the incident?

- The third party's report was recorded at the time of the accident, with the first person: (5 points)
- The third party's report was recorded some time after the incident, with the first person, with another primary record: (4 points)
- The third party's report was recorded some time after the incident, with the first person, but without a primary record: (3 points)
- The third party's report was recorded some time after the incident, by a fourth person, with a primary record: (2 points)
- The third party's report was recorded after the incident by a fourth party, without a primary record: (1 point)

Sample reliability / relevance rating

The following is an examination of how the reliability rating for third party records might be applied to rank various third persons.

Type of third party record	Level of education / qualification to make the assessment	Third party's proximity	Total
External Expert's report	5	4	9
Local Expert's record	4	5	9
Police record	3	5	8
Community Leader (Chief's) statement / records	3	5	8
Local NGO's records	3	3	6
Journalist's statement	4	2	6
Local lawyer's statement	4	2	6
Local politician / Govt official's statement	3	2	5

The table also enables the Student to discern which third person will be more relevant or reliable, to then verify lower-ranked records according to the following Subjective Assessment rating.

3.3 Subjective Assessments

The Student would finally learn how to verify individual and third party records, according to the higher or ideally the highest ranked third party's subjective assessment. Third parties can also help to explain circumstantial influences, which would otherwise affect how reliable the record might appear.

The information can then be verified or corroborated by using the reliability rating to ascertain which third party is most qualified or proximate to substantiate the allegation. For example, a particular third party might be in a better position to corroborate the time and place of an incident, such as the police, whereas a doctor might be more qualified to corroborate the injuries as having been sustained by the alleged incident.

However, extraneous economic, social, cultural and political factors are likely to affect the rank of a third party, making the party unsuitable for verification. For example, police might be considered suitable to give reliable testimony, being relatively educated and proximate to the incident, but actual or perceived corruption would make the police unsuitable to verify records. And conversely

NGOs might rank lower than police or local medics, being less 'qualified' to provide forensic or diagnostic assessments.

NGOs are however, the pivotal players for implementing the Review and will tend to rank higher in subjective assessments. Indeed it is NGOs who should be trained and educated in the Review process, to collect veritable information on the progressive realisation of good governance, human rights and development in the Asia-Pacific.