



Mid-Term Evaluation of Advocacy Forum's Prevention of Torture Project

Conducted by

Ben Schonveld

Consultant

February 2010

Disclaimer: The views expressed in this evaluation are those of the individual consultant and are not necessarily shared by Advocacy Forum or the European Commission.

Contents

Executive Summary	3
Introduction	3
Results.....	3
On project design	4
On objectively verifiable indicators.....	4
On leadership and management	4
On gender	5
Section One: the European Commission financing agreement.	7
Overall objective(s):.....	7
Specific objective(s):	7
Section Two: the evaluation: purpose, framework and methodology.....	8
Overall purpose.....	8
Objectives	8
Evaluative framework and methodology.....	8
Section Three: Background: Advocacy Forum	9
Section Four: overview of the project and its wider management.....	10
On project design	10
On objectively verifiable indicators.....	10
On leadership and management.....	10
On gender	11
Section Five: evaluation of the overall objective	12
Detailed examination of the overall objective	12
Section Six: evaluation of the detailed objectives.....	15
Activity 1: Detention Monitoring	15
Activity 2: Provide legal aid.....	15
Activity 3: Protect people better against torture by the CPN-Maoist and other non-state actors, including through documentation of cases of torture	16
Activity 4: Capacity-building in the medical profession.....	17
Activity 5: Assist victims' groups to advocate for truth and justice in relation to past human rights violations as well as ongoing torture.....	17
Activity 6: Promoting a forum for key stakeholders.....	18
Activity 7: Regular submissions to relevant UN bodies, including the Special Rapporteur on Torture	19
Activity 8: Research, review and writing of torture-related laws and policies to recommend for reforms	20
Section Seven: Recommendations	201

Executive Summary

Introduction

Advocacy Forum (AF) is widely recognised as Nepal's leading human rights NGO. It has developed a reputation for international standards of human rights documentation and advocacy. It has distinguished itself by high levels of professionalism and, importantly in the Nepalese context, high levels of political neutrality. These have both helped establish its national and international standing. There was a strong consensus amongst those interviewed, that AF's work, its influence and reach, set it apart from most other human rights organisations.

A Financing Agreement between Advocacy Forum-Nepal and the European Commission (EC) for the project entitled "**Prevention of Torture**" (DIDHR/2007/62) was signed on 30 November 2008. Implementation began on 1 December 2008 for a period of 36 months. The total cost of the project is EURO 697,671.03 and the EC shall provide EURO 558,136.82 or 80% of the project expenditure.

The overall objective of the project is to contribute to a substantial reduction of incidents of torture and ultimately prevent torture in Nepal. This will be achieved through an integrated intervention strategy focussed on preventive police detention monitoring in areas with a high risk of torture, documentation of cases and patterns of torture, the initiation of court cases to obtain redress, advocacy as well as awareness-raising among key stakeholders.

A midterm evaluation was foreseen. The general objective of the mission was to assess and evaluate the achievements made by the project in meeting its objectives or any deviations from the contractual requirements during the first half of the project and make appropriate recommendations to improve implementation, where and if appropriate. The mission was carried out in January 2011 by Ben Schonveld, a recognised expert in the field of torture prevention.

Results

Evaluations attempt to provide a rational assessment, but there are limits to the rationality that can be achieved. The information available in most human rights evaluations is often compatible with a range of somewhat different interpretations. In the case of AF's prevention of torture project that range of possible interpretations appears to be limited.

It is the view of this evaluation that there is compelling evidence to suggest the intervention is having a substantial and, most unusually, a measurable impact on reducing torture.

A measurable reduction in torture is an unusual result for any human rights project. It is highly significant result for a project of this moderate financial scale and in a context of poor public security and deteriorating human rights.

It is the view of the evaluation that this result must propel the project into the top tier of EC torture prevention results. It would appear to represent very high value for money.

On project design

AF's Project design is highly developed and fully grounded in the experience gained over several years. It reflects a nuanced understanding of project cycle management. The goals of the project are clear. The activities are clear. The link between activities and results are clear. The activities are interlinked and mutually supportive. AF demonstrates a very optimal use of available national and international human rights mechanisms.

On objectively verifiable indicators

Results/evaluative indicators are models of good practice. Measuring the performance or impact of any human rights work is notoriously difficult, given the often intangible nature of much of the work. Many NGOs will make a claim to impact but substantiating that claim and unravelling their part in a change that involves many stakeholders is often less than clear.

Advocacy Forum has developed a sophisticated database that provides data to evaluate the quality of its work. The information means that AF can be confident about what it is doing well, what is not working and why. Much of the programmes' success is underwritten by its ability to deliver high value information for results.

On leadership and management

Running large grants of this nature require significant management capacity. Human rights organisations as a sector do not have a history of prioritising management systems and processes.

There are good environmental reasons for this. The culture of human rights organisations, the political environment (often one of crisis), the substance, and the personalities that the sector attracts, have not traditionally drawn those from a management background.

Moreover, human rights work challenges power in a more explicit and direct manner than the wider development sector. The substance of human rights work involves the direct challenge to the power and authority of unaccountable states. It also involves the criminal prosecution of members of powerful elites, often from the security forces. As a result, the organisations, at least the effective organisations, find themselves the subject of regular external threat.

Under such circumstances of external political crisis and threat, institutional development theory would suggest a number of outcomes. Firstly, a 'big man' culture (a culture of a dominant charismatic leader and often founder of the organisation) is enabled. In management theory, a 'big man' culture is normally regarded as an understandable part of institutional development, but it is ultimately undesirable, as the institution can be held hostage to the ego of the charismatic leader, often at the expense of institutional need.

The theory goes on to conclude that as the NGO develops so the hierarchy should be increasingly flattened. There is also an accompanying discourse that logically argues that NGOs should represent the ideal rather than reflect the culture that they seek to change.

However this desirable outcome is modelled in circumstances of relative political and institutional stability, a functioning rule of law, high levels of public security, and security forces under civilian control and a prevailing level of accountability in governance.

Under more uncertain environments, and particularly those prevailing in Nepal, a strong figurehead may not be wholly undesirable. It may, in fact, be a necessary condition for institutional and individual survival. The strong leader can call in influence to end harassment, threat and violation of its staff and institution.

Similarly while high levels of internal democracy in institutions may be desirable, there is a trade off in terms of speed at which decision making can take place. Management systems and leadership necessarily reflect the needs of the external environment. Levels of internal democracy must reflect the speed of reaction required by an external environment of crisis.

It is also worth noting that institutional change, more generally, is likely to be slower when there are substantial external threats. As the preeminent human rights organisation in Nepal, Advocacy Forum is the clearest target for external pressure, mainly emerging in the context of its work relating to impunity and filing cases against specific suspects. Moreover, the departure of UNMIN and the weakening of OHCHR influence in Nepal are likely to lead to a increase in threat levels.

AF is to be commended on its management. AF's management systems would appear to compare favourably not just with the domestic sector but equally many prominent international human rights organisations. An example is demonstrative. Advocacy Forum provides psycho-social counselling to its staff. There is no such training available to any international human rights organisations.

The consultant found an organisation with a highly motivated staff with a high level of commitment and understanding of the vision of the organisation, at least at the national level. The interviews with staff members, particularly those in groups, were unusual in the Nepalese context, for the level of inclusion at the team level. The participants appeared to offer opinions with far less deference to their senior management than comparative organisations.

Furthermore, it should be noted that at the time of its establishment in 2001 AF was a very small organisation. In 2011 its staff number over one hundred. Managing the transition on that scale and at the same time extending its reach and influence is testament to the management within AF.

Similarly while the Director is clearly a strong figurehead for the organisation, it is clear that the organisation is slowly planning for her eventual replacement and for decision making to be pushed down to lower levels of the hierarchy. This work appears to be advanced, comparative to the sector. But it should be recognised that the organisation operates within a social context and there will be trade-offs in terms of influence and protection that will limit that rate of change.

On gender

Finally, given the emphasis on gender within the EIDHR programme, the role of Advocacy Forum in advancing the role of women within the sector should be recognised. When Advocacy Forum was founded, the human rights sector was heavily male dominated. Advocacy Forum has not only had to challenge the external environment but had to overcome significant sectoral challenges as a result of embedded sexism. Gender balance in the organisation is positive, with women occupying senior positions within the institution and while not representing 50% of the overall staff number, nonetheless well in advance of the sector.

There are a limited number of recommendations in this report. It reflects the quality of the implementation and management of the project:

- Advocacy Forum has developed a model intervention. They expressed frustration that external stakeholders often failed to understand the model they had developed. It is recommended that AF commit resources to explaining its activities and strategy to external stakeholders bearing in mind that many stakeholders are not experts in international human rights mechanisms (and that these stakeholders make efforts to raise concerns with relevant authorities).
- Advocacy Forum expends extraordinary resources on responding to the reporting needs of donors. Where possible donors should consider joint funding and reporting arrangements.
- Advocacy Forum has extraordinary results indicators. It should optimise use of these in funding proposals.
- Donors considering support to the security sector might usefully consider how AF access and monitoring data could serve as results-based indicators in wider reform interventions.
- The failure of the police to register Maoist criminal cases has created a perception of AF bias in favour of the Maoists. AF needs to consider how this is addressed in its public communications.

Section One: The European Commission financing agreement

A Financing Agreement between Advocacy Forum-Nepal and the European Commission (EC) for the project entitled “**Prevention of Torture**” (DIDHR/2007/62) was signed on 30 November 2008. Implementation began on 1 December 2008 for a period of 36 months. The total cost of the project is EURO 697,671.03 and the EC shall provide EURO 558,136.82 or 80% of the project expenditure.

Overall objective(s):

The overall objective of the project is to contribute to a substantial reduction of incidents of torture and ultimately prevent torture in Nepal. This will be achieved through an integrated intervention strategy focussed on preventive police detention monitoring in areas with a high risk of torture, documentation of cases and patterns of torture, the initiation of court cases to obtain redress, advocacy as well as awareness-raising among key stakeholders.

Specific objective(s):

The project has eight objectives:

- Achieve a significant reduction in the prevalence of torture in custody and prevent torture from taking place through regular visits to detention centres by lawyers and documentation of torture
- Secure the human rights of torture victims through legal intervention at police stations
- Protect people better against torture by non-state actors, including through documentation of cases of torture by armed groups in the unstable Terai region as well as Maoist groups
- Ensure legal aid to victims of torture and initiate action in court to obtain redress
- Capacity-building in the medical profession to allow them to better document torture and add weight to cases before the courts
- Organize victims' groups to do advocacy for truth and justice in relation to past human rights violations as well as ongoing torture
- Organize a forum for key stakeholders to exchange views on reform of the criminal justice system and the introduction of effective legislative, administrative and other measures needed to prevent torture and hold those responsible to account
- Research, review and writing of torture-related laws and policies to recommend for reforms that would allow Nepal to comply with its treaty obligations and allow victims to more effectively seek justice through the courts.
- Regular submissions to UN special mechanisms, including the Special Rapporteur on Torture and counter-report to CAT to create sustained pressure on the Government to stop torture and address systemic problems

Section Two: the evaluation: purpose, framework and methodology

Overall purpose

The general objective of the mission was to assess and evaluate the achievements made by the project in meeting its objectives or any deviations from the contractual requirements during the first half of the project and make appropriate recommendations to improve implementation, where and if appropriate.

Objectives

The ToRs required that the consultant review the project objectives. This would be based on

- review of existing documentation
- discussions with the project staff of AF, external stakeholders and the international coordinator

Through this methodology the consultant was charged with:

- Identifying changes in the performances of people trained by the project;
- Conducting a quantitative and qualitative assessment of reports submitted to the authorities/other forums (assessing not only the numbers of reports but also the content);
- Assessing the impact as a result of the project.

Evaluative framework and methodology

The consultant adopted the following methodology to develop an evaluative framework. Following a review of documentation the ToRs were discussed and refined between AF team members and the consultant.

On arrival in Nepal a planning meeting was held between senior AF staff and the consultant. They discussed the evaluative framework and the qualitative and quantitative indicators that would guide the evaluation. The plan was then shared and discussed with relevant AF teams.

The consultant met a wide range of rights-holders and stakeholders at the national level including a range of donors. Both individual and group interviews with AF staff and stakeholders were held.

An AF training meeting was held in Dhulikhel and provided an opportunity for the consultant to meet and consult with stakeholders from the local level. The report was then drafted. The draft was reviewed by AF staff and the final evaluation report agreed. Ben Schonveld, the designated evaluator, visited Nepal from 4 to 14 January 2010.

Section Three: Background: Advocacy Forum

Advocacy Forum (AF) is widely recognised as Nepal's leading human rights NGO. It has developed a reputation for international standards of human rights documentation and advocacy. It has distinguished itself by high levels of professionalism and, importantly in the Nepalese context, high levels of political neutrality. These have both helped establish its national and international standing. There was a strong consensus amongst those interviewed, that AF's work, its influence and reach, set it apart from most other human rights organisations.

AF's contribution to human rights advocacy in Nepal has been recognized by Human Rights Watch (HRW), awarding AF's Director with the Human Rights Defender of the Year award in 2007 and characterising AF as "one of Asia's most respected and effective human Rights Organization". AF is a recipient of a number of awards including "Women In Leadership Award" (awarded within the project funded by the Swiss Agency for Development and Cooperation).

The main activities of the organisation can be summarised as:

- Documentation and Monitoring of Human Rights: visits to detention centres, fact-finding trips, documenting cases of human rights violations; monitoring the functioning police and administrative bodies, and critical review of laws and policies that contradict with international laws.
- Emblematic cases: taking up emblematic cases help to bring concerted, coordinated and sustained pressures in these cases both nationally and internationally.
- Focused Policy Advocacy: research-based advocacy aiming at reform of policies and laws to comply with international standards and practices; enhancing access to justice for the poor and marginalized, including transitional justice for conflict victims; fighting the culture of impunity; reform of the criminal justice system; and promotion of a fair juvenile justice system in line with international standards.
- Capacity Building of Local Organizations: capacity building measures (skills training, workshops, exchanges and so on) to enhance the organizational and leadership capacity of the relevant stakeholders
- Legal Aid: legal aid involves legal advice and counseling, legal representation, bringing cases on behalf of victims of human rights violations both at nationally and internationally.

Section Four: Overview of the project and its wider management

This evaluation was not charged with examining the management of Advocacy Forum. It was to examine project implementation. However the evaluation has made a number of comments on management that give context to the results.

On project design

AF's Project design is highly developed and fully grounded in the experience gained over several years. It reflects a nuanced understanding of project cycle management. The goals of the project are clear. The activities are clear. The link between activities and results are clear. The activities are interlinked and mutually supportive. AF demonstrates a very optimal use of available national and international human rights mechanisms.

On objectively verifiable indicators

Results/evaluative indicators are models of good practice. Measuring the performance or impact of any human rights work is notoriously difficult, given the often intangible nature of much of the work. Many NGOs will make a claim to impact but substantiating that claim and unravelling their part in a change that involves many stakeholders is often less than clear.

Advocacy Forum has developed a sophisticated database that provides data to evaluate the quality of its work. The information means that AF can be confident about what it is doing well, what is not working and why. Much of the programmes' success is underwritten by its ability to deliver high value information for results.

On leadership and management

Running large grants of this nature require significant management capacity. Human rights organisations as a sector do not have a history of prioritising management systems and processes.

There are good environmental reasons for this. The culture of human rights organisations, the political environment (often one of crisis), the substance, and the personalities that the sector attracts, have not traditionally drawn those from a management background.

Moreover, human rights work challenges power in a more explicit and direct manner than the wider development sector. The substance of human rights work involves the direct challenge to the power and authority of unaccountable states. It also involves the criminal prosecution of members of powerful elites, often from the security forces. As a result, the organisations, at least the effective organisations, find themselves the subject of regular external threat.

Under such circumstances of external political crisis and threat, institutional development theory would suggest a number of outcomes. Firstly, a 'big man' culture (a culture of a dominant charismatic leader and often founder of the organisation) is enabled. In management theory, a 'big man' culture is normally regarded as an understandable part of institutional development, but it is ultimately undesirable, as the institution can be held hostage to the ego of the charismatic leader, often at the expense of institutional need.

The theory goes on to conclude that as the NGO develops so the hierarchy should be increasingly flattened. There is also an accompanying discourse that logically argues that NGOs should represent the ideal rather than reflect the culture that they seek to change.

However this desirable outcome is modelled in circumstances of relative political and institutional stability, a functioning rule of law, high levels of public security, and security forces under civilian control and a prevailing level of accountability in governance.

Under more uncertain environments, and particularly those prevailing in Nepal, a strong figurehead may not be wholly undesirable. It may, in fact, be a necessary condition for institutional and individual survival. The strong leader can call in influence to end harassment, threat and violation of its staff and institution.

Similarly while high levels of internal democracy in institutions may be desirable, there is a trade off in terms of speed at which decision making can take place. Management systems and leadership necessarily reflect the needs of the external environment. Levels of internal democracy must reflect the speed of reaction required by an external environment of crisis.

It is also worth noting that institutional change, more generally, is likely to be slower when there are substantial external threats. As the preeminent human rights organisation in Nepal, Advocacy Forum is the clearest target for external pressure, mainly emerging in the context of its work relating to impunity and filing cases against specific suspects. Moreover, the departure of UNMIN and the weakening of OHCHR influence in Nepal are likely to lead to a increase in threat levels.

AF is to be commended on its management. AF's management systems would appear to compare favourably not just with the domestic sector but equally many prominent international human rights organisations. An example is demonstrative. Advocacy Forum provides psycho-social counselling to its staff. There is no such training available to any international human rights organisations.

The consultant found an organisation with a highly motivated staff with a high level of commitment and understanding of the vision of the organisation, at least at the national level. The interviews with staff members, particularly those in groups, were unusual in the Nepalese context, for the level of inclusion at the team level. The participants appeared to offer opinions with far less deference to their senior management than comparative organisations.

Furthermore, it should be noted that at the time of its establishment in 2001 AF was a very small organisation. In 2011 its staff number over one hundred. Managing the transition on that scale and at the same time extending its reach and influence is testament to the management within AF.

Similarly while the Director is clearly a strong figurehead for the organisation, it is clear that the organisation is slowly planning for her eventual replacement and for decision making to be pushed down to lower levels of the hierarchy. This work appears to be advanced, comparative to the sector. But it should be recognised that the organisation operates within a social context and there will be trade-offs in terms of influence and protection that will limit that rate of change.

On gender

Finally, given the emphasis on gender within the EIDHR programme, the role of Advocacy Forum in advancing the role of women within the sector should be recognised. When Advocacy Forum was founded, the human rights sector was heavily male dominated. Advocacy Forum has not only had to challenge the external environment but had to overcome significant sectoral challenges as a result of

embedded sexism. Gender balance in the organisation is positive, with women occupying senior positions within the institution and while not representing 50% of the overall staff number, nonetheless well in advance of the sector.

Section Five: Evaluation of the overall objective

Overall objective(s): The overall objective of the project is to contribute to a substantial reduction of incidents of torture and ultimately prevent torture from taking place in Nepal. This will be achieved through an integrated intervention strategy focussed on preventive police detention monitoring in areas with high risk of torture, documentation of cases and patterns of torture, the initiation of court cases to obtain redress, advocacy as well as awareness-raising among key stakeholders.

Result: Evaluations attempt to provide a rational assessment, but there are limits to the rationality that can be achieved. The information available in most human rights evaluations is often compatible with a range of somewhat different interpretations. In the case of AF's prevention of torture project that range of possible interpretations appears to be limited.

It is the view of this evaluation that there is compelling evidence to suggest the intervention is having a substantial and measurable impact on reducing torture.

A measurable reduction in torture is an unusual result for any human rights project. It is highly significant result for a project of this moderate financial scale and in a context of poor public security and deteriorating human rights.

It is the view of the evaluation that this result must propel the project into the top tier of EC torture prevention results. It would appear to represent very high value for money.

Detailed examination of the overall objective

AF posits that torture is being reduced in the detention centres monitored by its lawyers. They argue that the reduction is a direct result of the activities of the programme, rather than any other external influence. There appear to be four activities that directly influence outcomes. The most obvious is the monitoring itself. The second influence would appear to be the dialogue that takes place between justice sector stakeholders, on the specific issues documented during the monitoring visits (activity six). The third influence would appear to be the legal aid work (activity three) to support legal cases against the police who have tortured or abused detainees. Finally, where domestic remedies are exhausted, international advocacy plays a key role (activity seven). The roles and influence of these individual activities on the reduction on torture are discussed below.

Measuring the performance or impact of any human rights work is notoriously difficult. Much of the work is highly intangible. Many NGOs will make a claim to impact, but substantiating that claim and, unravelling their part in a result that involve so many influences, is often less than clear.

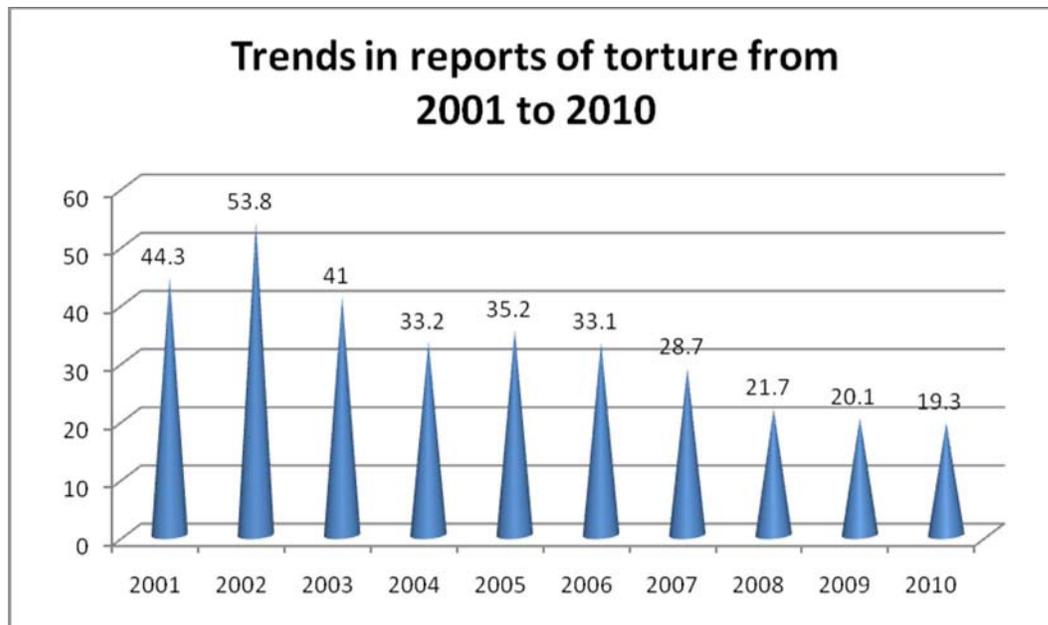
Anecdotally all interviewees, *unequivocally and without exception*, suggested that AF's torture prevention project is of high value. The evaluator interviewed a wide range of stakeholders. This included interviews with respected international human rights experts and members of the police. The words 'flagship' and 'model' were used repeatedly by a wide cross section of respondents.

There was a strong consensus view that AF had developed a model intervention on both torture prevention and the wider issue of impunity.

However, there is substantial evidence in support of impact beyond anecdotal. AF's detention centre monitoring involves the collection of a consistent set of data, drawn from interviews with detainees. AF has developed a standard interview format with a standard set of questions. The number of detainees interviewed by AF provides a very significant sample, for example, during the period December 2008 – November 2009 AF interviewed 3976 detainees. The data is then entered into a sophisticated statistical package. Data has been collected for the last ten years.

The database allows AF to produce sophisticated comparative data over time. The results are compelling. **AF's database recorded a 1.8% fall in the use of torture in detention centres monitored by AF in the first year of the project.**

This fall is consistent with long-term AF data which shows a steady and consistent fall over a ten year period in detention centres where AF has carried out monitoring.



The evaluator was unable to identify evidence of other external influences on this result. Interviewees offered no alternative explanation for this improving treatment of detainees. Moreover, the wider environment of deteriorating human rights would suggest that *ceteris paribus* that the incidence of torture should be rising.

Police reform would appear to have little impact, as reforms have halted because of the lack of progress of security sector reform in the peace process. Other actions from NGOs can be ruled out as no other NGO has a programme of regular detention monitoring (The International Legal Foundation visit detainees in the context of providing legal aid, but do not do regular monitoring as such. The interventions by ILF have often been perceived by police as more antagonistic and have led to ILF staff being refused access to detainees). Improvement in police behaviour might otherwise be explained by an improving rule of law, but again this and public security appears to be weakening. A general improvement in the human rights situation might also explain the result but once again the wider context appears to be characterised by deteriorating human rights.

Furthermore, what is perhaps most surprising is that senior police officers interviewed by the consultant agreed that AF work was impacting on police behaviour. *All police interviewees underlined that the work of AF had led to improved behaviour of serving officers.* It is perhaps unsurprising that the police would readily agree that human rights had improved within the police. It is less clear why the police would ascribe this positive change to AF, not least when police interviews revealed a very high level of contempt for other NGOs.

One explanation for this fall may be that the presence of the lawyers prevents the torture from taking place. But equally it does seem probable that if the incidence of torture is falling in those detention centres monitored by AF, it would tend to support the assertion of another possible second impact: behavioural change in the police as a result of the intervention.

The monitoring allows a relationship to develop between the AF lawyers and the police at the local level. The relationship, based on daily contact, provides opportunities for dialogue, mutual understanding and learning within the very real context of detention centres and individual detainees' cases. It should be noted that AF's approach is markedly different from the often theoretical and one-off seminar format for awareness training that is the norm in human rights work in Nepal and the region.

The police shared this view. Police respondents were visibly enthusiastic about the longer term impact on serving officers, in terms of how rights are applied in their day to day work. The relationship between the police and AF is underlined by the provision of separate interview rooms that are set aside *specifically* for AF and other lawyers.¹

Once again the data appears to support this finding, for example there appears to be a rise in the rate of detainees accessing a medical record when first detained.

	December 2008 to February 2009	April to June 2010
Provided Health Check up	83.3%	93.1%

¹ This scheme is being introduced in 8 districts, with AF, ICRC and local authorities each covering 33% of costs.

Section Six: Evaluation of the detailed objectives

Activity 1: Detention Monitoring

Activity target: In the 36 month project period Advocacy Forum aims to expand their existing program of detention centre visits from 15 to 19 districts. The expansion would take place in the course of year one.

Activity outcome: AF is on course to fulfil the objective on time and on budget. In fact, the target has been surpassed within budget. AF has expanded its program of regular visits to places of detention from 15 to 20 districts in accordance with the timeframe stipulated in the Financing Agreement. The physical implementation of this expansion has been documented by other donor evaluations.²

Practical implementation challenges: Cases of torture, identified by detention monitoring, are referred to legal aid support and wider advocacy work. There is a strong strategic logic to the activities. Monitoring separated from the legal assistance and advocacy would have no 'teeth' and its prevention impact would be reduced.

Nevertheless, both legal assistance and wider advocacy, often involving referring individual cases to the international community, creates friction between the police and the AF monitoring.

Put simplistically, AF's relationship with the police is positive where AF's interventions remain informal and advisory. But when AF moves to bring formal charges against a police officer or register a complaint (First Information Reports or complaints under the Torture Compensation Act) the relationship deteriorates. Denial of access is the usual outcome.

AF has developed a graded set of responses. In some cases access can be restored at a local level. AF will contact and discuss and resolve the issue with the local police directly. If access is not restored, AF communicates higher up the police hierarchy. But if the access issues continue, AF will then request the national level police human rights cell to intervene. And in many cases the access is restored. If these domestic remedies fail then international mechanisms and diplomatic pressure are then deployed.

But this fragile and often tense relationship appears to be desirable and has real value. Testing, losing and regaining access to police detention should be viewed as part of the process of gradually shifting attitudes within the police.

Activity 2: Provide legal aid

Activity target: In the 36 month project period, Advocacy Forum is expected to provide legal assistance and paralegal services to at least 1,000 detainees over the three years of the project. Around 100 cases seeking compensation for torture under the CRT Act will be filed during the project period. Similarly, a total of 50 victims will receive compensation and at least 300 detainees will be released from illegal detention. Furthermore, for the most egregious cases, submissions will

² Danida Hugou/Advocacy Forum Joint Internal Review, September 2010, internal document.

be made to the UN Special Rapporteur on Torture and relevant INGOs will be provided with full documentation to ensure international pressure is kept up to supplement the action taken in the courts.

Project outcome: The legal aid component appears to be well run in the Nepal context. It appears to be realising its objectives, within a difficult operating context. It is expected to realise the targets on time and within budget. Legal aid was provided to 454 detainees in the period December 2008 to November 2009.

31 cases of torture were filed at courts under Torture Compensation Act of Nepal between December 2008 and November 2010 (2 years). None of the cases have been decided by courts yet. Out of these cases filed at court, 2 cases were withdrawn by the victims. 130 people were released from illegal detention as a result of AF intervention.

Once again all respondents of the evaluation suggested that the legal aid was of high value and the activity was held in very high regard. AF appears to provide a valuable service in the absence of adequate government provision. The legal aid work clearly adds 'teeth' to the monitoring. It informs the national and international advocacy activities.

The process of bringing torture compensation cases to the court will take three years for the courts to rule. There are multiple implementation challenges. However the process of bringing each individual case to court is again documented in detail and entered into the database. The long term data on the failings of the system can be documented with a high degree of credibility and inform the legislative reform and advocacy activities.

In addition to the challenges discussed in monitoring, the primary challenge facing this activity is the lack of legislation to enable criminal investigations to be initiated. The existing law provides for assault and battery but to use this would strengthen the government's case to not enact torture legislation and weaken advocacy.

The Torture Compensation Act (1996) provides district court judges with the powers to compensate and order disciplinary action. However, police disciplinary action is normally inconsequential and includes transfer, reprimand or block of promotion. This can in no sense be considered appropriate punishment for a grave crime.

Other challenges include the attempts by the police to obstruct justice whether in civil cases for compensation or in criminal cases. Civil cases are filed but are regularly withdrawn, as the victims are subjected to a range of threats. The police regularly refuse to register complaints in criminal cases. A total of 45 first information reports on torture cases have been taken to police stations for criminal investigation. However, only a single case has been registered. In most of the cases, the police officer stated there is no legislation for the criminal investigation of cases of torture. Finally, in civil cases, medical evidence is weak and often leads to dismissal of the case (discussed in the medical training section).

Activity 3: Protect people better against torture by the CPN-Maoist and other non-state actors, including through documentation of cases of torture

Project target: Advocacy Forum is expected to document an estimated 100 cases of torture by Maoist, Madeshi and other non-state armed groups during the project period. Legal actions will be initiated and perpetrators will be made accountable. In at least 30 cases, over the three years,

victims will file cases seeking criminal charges against the perpetrators. This is intended to have a deterrent effect and torture by non-state groups will decrease.

Project outcome: AF will surpass the target in terms of documentation work. AF documents 40-50 cases of violations of non state actors a month. The filing of criminal cases however appears unlikely to reach the projected target as a result of the increasingly difficult public security environment. During December 2008 to November 2010 only 7 complaints related to human rights abuses by non state actors (Maoists) were filed with the police seeking criminal investigation. Of these, only one torture case by Maoists was registered as attempted murder.

Implementation challenges: the police have refused to register cases against the Maoists, for fear of retribution. Moreover as public security has deteriorated and armed groups proliferated, it has become increasingly difficult to distinguish human rights abuses from criminal acts and hence which legal framework to apply.

The undesirable impact of this has been exploited by those opposed to the peace settlements who have attempted to create the impression that AFs work is biased in favour of the Maoists.

Activity 4: Capacity-building in the medical profession

Activity target: by the end of year 3, Advocacy Forum is expected to train at least 100 doctors around the country and increase awareness and professionalism in this target group. This in turn will result in stronger evidence being produced to the courts and increase the likelihood of justice being done for the beneficiaries.

Activity result: in terms of providing training, it would appear that the activity is progressing well and will be completed on time and within the funding period. Nepal's most senior forensic doctor reported that medical reporting is improving as a result of the training.

Implementation challenges: There has been a substantial addition to the training. Firstly it was realised that the training for doctors was actually quite limited. Secondly, the high value of local stakeholder meetings (see activity six) suggested that national justice sector meetings, informed by local stakeholder meetings would add further value. The meetings have been extended to the wider sector. There are no budgetary implications foreseen.

While the quality of the medical reports appears to be improving there are clear limits on the rate of change given the negative operating environment that includes threats against the medical profession and the poor resourcing of the health sector.

Activity 5: Assist victims' groups to advocate for truth and justice in relation to past human rights violations as well as ongoing torture

Target objective: over the 36 month project period Advocacy Forum is expected to assist establishing torture victims' groups and the development of the groups' advocacy programs for truth and justice, including the organization of regular events.

Target outcome: The recipient is on target to fulfil the contractual obligations of the EC under this activity heading. A total of 25 victims group have been formed from December 2008 to November

2010. These victims groups comprise victims of torture, family members of the disappeared and killed.

The formation of victims' groups is a process. The results in terms of advocacy are likely to show only in the longer term. Globally, victims' groups have played a significant role in keeping the issues of lack of accountability for human rights violations on the political agenda and it is hoped that they can play this role in the medium to long term.

AF noted anecdotally that their experience suggests that taking part in these groups appears to have an empowering role for people as part of their healing. AF pointed to a number of examples of victims whose work with the groups had led to measured increase in mental health. Of similar note was the increasingly assertive role played by women victims within the groups.

Implementation challenges: the primary challenges facing the project have been the ongoing tensions between Maoist and Army victims of human rights violations. There are victims groups that are clearly affiliated to the Maoists (this is understandable in the context).

In addition the original plan was to form groups composed only of victims of torture rather than wider violations. This has not been possible. Victims argued forcefully that to do so would be to invite division between groups, and this would be exploited by opponents of justice. Therefore, torture victims have joined the wider victims' groups. Some of them have taken leading roles.

Activity 6: Promoting a forum for key stakeholders

Target Objective: During the course of the three year programme AF plans to hold 30 justice sector stakeholder consultations. The outcomes of the activity are designed to increase awareness of the use of torture and examine practical local solutions to decrease torture. The outcomes from these meetings will feed into the advocacy for changes to laws and policies at the national level and will have direct benefits for the targets and the beneficiaries at the district level by increasing awareness among targets and influence day-to-day practices in police stations, local hospitals and courts.

Target outcome: the recipient is on target to fulfil the contractual obligations of the EC under this activity heading. The outcomes of this activity should be seen as a complementary activity to the monitoring actions and has contributed to the overall decrease in torture. The monitoring actions provide the individual situations and individual cases that are discussed at these meetings. 35 doctors were trained. Similarly, 64 other stake holders – police, public prosecutors, judges, defence lawyers – were also trained between December 2008 and November 2010. There will be two more trainings in year 3 of the project which will fulfil the target.

By focussing on real situations the training programs avoid the usual abstract discussion of international law. The meetings provide a forum where informal pressure can be applied to the various arms of the justice sector on specific issues and individual cases.

AF gave numerous examples where common understanding was built and contributed to progress on individual cases and indeed behavioural change in the sector. Based on the statistics produced by the AF Database, this anecdotal evidence can be substantiated.

	December 2008 to February 2009	April to June 2010
Provided Health Check up	83.3%	93.1%
Did judge ask about torture at the time of remand?	7.6 % (Yes)	16.8% (Yes)

The primary implementation issue is the bureaucratic resistance of line Ministries to release the attendees to the meetings. AF reported that additional resources and manpower had to be expended in gaining permission, but it has proved worthwhile.

Activity 7: Regular submissions to relevant UN bodies, including the Special Rapporteur on Torture

Target objective: Over the 36 months, Advocacy Forum will prepare 18 briefings (an average of 6 per year), three annual reports and 50 individual submissions to various UN mechanisms with the assistance of the international coordinator.

Target outcome: The recipient is on target to fulfil the contractual obligations of the EC under this activity heading. In terms of the outputs it is realising the objectives. The use of the international system for the realisation of justice remains an EC priority, and its use by Advocacy Forum conforms to the same logic.

Between December 2008 and November 2010, four new cases were submitted to the UN Human Rights Committee under the Optional Protocol to the International Covenant on Civil and Political Rights. Several follow-up submissions on pending cases were also made, including in relation to the case of Surya Prasad Sharma, in whose case the Committee had adopted its first ever View on Nepal in October 2008 and where it continues to engage the government to ensure full implementation. In addition, thematic submissions were made to the Committee against Torture (review of implementation of recommendations as well as a substantial Article 20 submission) and the Special Rapporteur on Torture (two reviews of implementation of recommendations). Finally, 20 individual cases of torture have been communicated to the Special Rapporteur on Torture, including 16 cases of torture of juveniles. A total of 7 quarterly briefings on torture were also prepared and disseminated during this time.

Advocacy Forum's work is used as primary source material by the various special and urgent mechanisms based in Geneva. The discourse between the UN system and the Nepal government has developed. Reading the submissions of the government of Nepal in response to international concern is suggestive of an improvement although unquantifiable. As Advocacy Forum documentation sits behind the international interventions, it is clear that there is impact albeit again unquantifiable.

Finally the international system provides a useful mechanism of last resort with regard to ongoing access issues under the monitoring activity. Where domestic remedies have been exhausted, international intervention has been helpful in regaining access.

Activity 8: Research, review and writing of torture-related laws and policies to recommend for reforms

With the help of its partner in this project, the REDRESS Trust, Advocacy Forum is expected to review relevant existing legislation and on the basis of these reviews and considering Nepal's international obligations, make recommendations for amendments and new laws to be introduced. Those recommendations will be shared to diplomatic community, donors and governments. Advocacy Forum will also use this to lobby parliamentarians to amend the legislations.

The work under this activity is ongoing. REDRESS are clearly experts in torture related legislation and add significant value to the work. Results will depend on political progress outside the influence of AF.

Section Seven: Recommendations

There are a limited number of recommendations in this report. It reflects the quality of the implementation and management of the project:

- Advocacy Forum has developed a model intervention. They expressed frustration that external stakeholders often failed to understand the model they had developed. It is recommended that AF commit resources to explaining its activities and strategy to external stakeholders bearing in mind that many stakeholders are not experts in international human rights mechanisms (and that these stakeholders make a efforts to raise concerns with relevant authorities).
- Advocacy Forum expends extraordinary resources on responding to the reporting needs of donors. Where possible donors should consider joint funding and reporting arrangements.
- Advocacy Forum has extraordinary results indicators. It should optimise use of these in funding proposals.
- Donors considering support to the security sector might usefully consider how AF access and monitoring data could serve as results-based indicators in wider reform interventions.
- The failure of the police to register Maoist criminal cases has created a perception of AF bias in favour of the Maoists. AF needs to consider how this is addressed in its public communications.