

TORTURE

ASIAN AND GLOBAL PERSPECTIVES



interview

NORMAN SOLOMON

PAGE 11

opinion

SHOOTING FREEDOM

MALALA YOUSAFZA

PAGE 17

**NOTHING CAN JUSTIFY
TORTURE**

NOAM CHOMSKY

essay

**TORTURE, TERROR
& HUMAN RIGHTS**

PAGE 66

country story

**PHILIPPINES
ASSERTING RIGHTS
WHEN STATE & LAWS FAIL**

PAGE 78

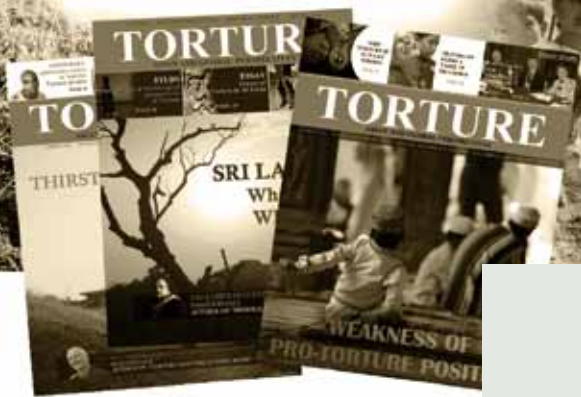
article

**SRI LANKA
TORTURE &
JVP STRUGGLES**

PAGE 24

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EDITORIAL

NEITHER TO HARM NOR TO BE HARMED Page 2

INTERVIEWS

NOTHING CAN JUSTIFY TORTURE Page 5



Noam Chomsky



Norman Solomon

Page 11

SRI LANKA



TORTURE AND JVP STRUGGLES IN THE SOUTH
Lionel Bopage Page 24

PAPER

TORTURE USING THE UN "ISTANBUL PROTOCOL"
Siroos Mirzaei, Peter Knoll, Gerhard Mostbeck, Thomas Wenzel Page 34

ESSAY

MIND CONTROL TARGETING: A NEW FORM OF HI-TECH TORTURE?
Cheryl Welsh Page 37



University Hospitals Birmingham NHS Foundation Trust

MALALA YOUSAFZAI THE BREAKER OF SILENCE

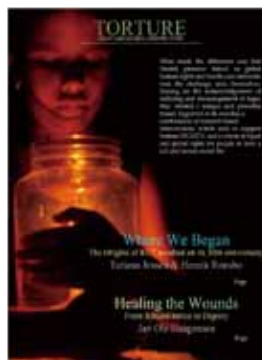
Malala's message to the people of the country and the world in general is simply that every child has the right to education regardless of whether they are male or female... Page 17

■ Shooting Freedom Page 22

SPECIAL

RCT TO DIGNITY Page 44

On October 30, 2012, the Rehabilitation and Research Center for Torture victims (RCT) in Copenhagen commemorated its 30th anniversary.



ARTICLES

TORTURE, TERROR, AND ANAMNESTIC SOLIDARITY
George Zachariah Page 66

CHRISTIAN REFLECTIONS ON TORTURE
Jack Clency Page 58

PHILIPPINES



THE STATE, INTERNATIONAL CONVENTION, AND RECORD OF TORTURE
Rizal G. Buendia Page 78

CURRENT STANDARDS OF FORENSIC MEDICINE
Erwin Erfe & Benito Molino Page 87

COLUMNS

MALABAR MASALA
Bijo Francis Page 95

REVIEWS

BOOK
THE TORTURE GARDEN
Laksiri Fernando Page 101

DOCUMENTARY
S21: THE KHMER ROUGE KILLING MACHINE
Jessica Fernando Page 107

CAMBODIA
EXTRA-JUDICIAL KILLINGS
Munty Khon Page 110

EDITORIAL BY NILANTHA LANGAMUWA



NEITHER TO HARM NOR TO BE HARMED

Nothing can justify torture under any circumstances. But torture is still an endemic issue for mankind, confirming that many countries are not keen to criminalize torture. Many state and non-state actors provide justifications in this regard, while thousands of people continue to become victims of this inhuman practice, which has its origin in the jungle age and system. Time is compelling us to engage, to recognize, and eliminate torture through the current political track rather than conducting a distant analysis of the past.

The “ruling politics” in most of countries has forced people to keep away from thinking about personal liberty, while their scarified present lives are taken as the way to be a disciplined amenable citizen. In other words, the present political game is carried out through popular political topics rather than digging deeper to find the facts and root causes of real crises. It is just aimed at minimizing the space for the origin of authentic dissent. Fear has become a norm of society, while “conspiracy theory” is a

tool for holding onto power and to spread fear among the people. In this situation basic rights are veiled by not only autocrats but democratically elected leaders. The bitter truth is that concepts such as ‘democracy’ don’t work just because the people of a country have universal suffrage. Today elections are often nothing but fraudulent agreements between many parties who are cynically manipulating and are being manipulated by power.

Noam Chomsky, the MIT Professor of linguistics, exclusively expressed his ideas on this in *Torture: Asian and Global Perspectives*, while presenting a rational critique on the National Defence Authorization of 2012 of the US: “Obama’s policies have been approximately the same as Bush’s,” Chomsky observed. He further analysed, “the practices hadn’t been significantly different. The one part that received public attention is what you mentioned, the part that permits the indefinite detention of American citizens, but why permit the indefinite detention of anybody? It’s a gross violation

of fundamental human rights and civil law, going all the way back to the Magna Carta in the 13th century, so it's a very severe attack on elementary civil rights, both under Bush and under Obama. It's bipartisan!"

At the same time, many other countries throughout the world have increased their attacks on elementary civil rights while demonstrating that freedom is non-existent, beyond political power. Popular politics has opened a tangible path for autocrats to destroy the social system to permit self-ruling order which always ignores the rule of law.

Our real loss over the last three decades is that the political elites have vandalized the structure of the institutions that were the pillars of the state. As a result, the judiciary, the police, and the legislature have become paralyzed institutions, occupied by political henchmen, while ordinary people lose their faith in the morality of the state. The unchanging norm is to subvert the real issues through party-based politics and corporate companies. What is left is only the superficial and unimportant positions that are fought over as if they actually matter. In this situation extremism is destined.

The attack on Malala Yousufzai, a 15 year old Pakistani girl, resulted in outcries against the Taliban (extremism) and a fresh threat against Hina Khan, who was raising her voice publicly against Taliban atrocities. These do not surprise us. It's another known example which the Media has highlighted while thousands of similar cases are yet to be revealed. These kinds of tragedies are a part of daily life in most of the archipelagic countries in the world. But the problem is that there is very little effort to understand the gravity of the crisis which is the same when gunmen attacked and killed several people in the Sikh temple in Wisconsin, US,

the Taliban attacked female activists who were fighting for education, armed gunmen attacked unarmed civilians in the Chittagong hill tracks in Bangladesh, and an armed gang hacked civilians to death in Sri Lanka. These events are delivering a message for the need to understand the depth of our social destruction and how much we wound others rather than facilitate healing a wounded subject.

The problem is that we pushed forward with minimal attempts to change the system, while many powerful nations have a policy of installing puppet governments in less powerful countries, whom they can cynically manipulate to suit their own personal agenda. These theories are not going to work for sustainable solutions, but rather give us nightmares. The present situation in Libya is a good example demonstrating this scenario, and the crisis across the Middle East is adding new pages to history. It has given way to tremendous opportunity to justify what some leaders, who consider themselves to be above the law, are implementing in the name of governance.

As Norman Solomon described in an interview with the magazine *Torture: Asian and Global Perspectives*, real causes of the problem always seem to be hidden while the Media in the US is largely policy driven by the State Department. What we have to realize is that our parameters of valuing human beings have divided into two forms when there are victims in action: worthy and unworthy. Norman Solomon further pointed "... In the US media, some victims are worthy. In which case for combination of ideological and nationalistic, and sometimes racial or ethnic reasons, their suffering is tremendously important and gets enormous empathetic media coverage. And, then there are other people who are victims. And, they don't count at all. They are unworthy, for a

lot of the reverse reasons.” Here, what we naturally recall is the saying of Miguel de Cervantes Saavedra¹, “man without honour is worse than death”.

In his explanation, Epicurus tried to answer many essential questions where he argued about elementary causes against torture, though he doesn’t use the term torture. “It is impossible to live a pleasant life without living wisely and well and justly (agreeing ‘neither to harm nor be harmed’), and it is impossible to live wisely and well and justly without living a pleasant life, he argued. “Wisely,” at least for Epicurus, would be avoidance of pain, danger, disease, etc.; “well” would be proper diet and exercise; “justly,” in the Golden Rule’s sense of not harming others because you do not want to be harmed. This is a basic rational argument provided by Epicurus, to improve dignity and solidarity among human beings.

However what most people are deliberately ignoring nowadays is the illegitimacy of the various justifications that are offered when cruel things occur. Torture has become an endemic issue and perpetrators are using new techniques to avoid blame and establish a rationale for the justification of their actions. That’s why understanding this subject poses greater difficulty. In his lengthy book, *Torture and Democracy*, Derris Rejali provided readers an opportunity to expand their imagination of this cruel practice.

As George Scott in his brilliant account on torture pointed out, ‘*justification on the ground of its efficiency which was so often attempted in relation to torture as a means of securing confessions of guilt from those charged with heresy and sorcery, is actually conditioned by the need for finding a victim upon which to wrack the vengeance of society, and, vicariously, the vengeance of God.*’² This is somehow still used

by most of the state and non-state actors prevailing in power by legal or illegal means to justify their autocratic rules using ordinary citizen as their medium.

Addressing this issue and making people understand why torture is wrong is one of most difficult challenges. We have a long way to go. “*The cause of the abolition of torture being a much more difficult affair than the average person realizes, involving matters which are outside the scope of ordinary vision and which have implications that are seldom fully recognized.*”³

It is absurd to think that we can change the attitudes of people just by forcing them to believe concepts evolved by another society. Perhaps most concepts and laws are embedded in historical circumstances that created the current unique context. However, solutions evolved in one society can provide useful guidelines to face difficult situations created by veiled tyrants who come to power by misleading the people to break down the basic structures upholding freedom. Practicing torture is one end of the spectrum of strategies such tyrants use as part of their basic political agenda. In response the people may have to empower another leader.

It is time to understand the importance of achieving a torture free society, and how a society that is free from torture sustains the foundations of freedom and personal liberty. The rudimentary notion in the prevention of torture is to neither cause harm to any nor allow any to be harmed.

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1. Miguel de Cervantes Saavedra (1547 –1616) was a Spanish novelist, poet, and playwright.
 2. The history of torture throughout the ages, by George Ryley Scott
 3. Ibid (Page 06)

EXCLUSIVE INTERVIEW

NOTHING CAN JUSTIFY TORTURE



File Photo: Professor Noam Chomsky

Professor Noam Chomsky is an Institute Professor and Professor (Emeritus) in the Department of Linguistics & Philosophy at Massachusetts Institute of Technology (MIT). He was educated at the University of Philadelphia and at Harvard University as a Harvard Junior Fellow. He earned his PhD in Linguistics from the University of Philadelphia in 1955. He has spent the 57 years since then teaching at MIT. In addition to his academic work in linguistics, Professor Chomsky has been a noted political activist and philosopher, gaining national recognition in 1967 over his opposition to the Vietnam War and since then has regularly spoken out against US foreign and domestic policies and mainstream American mass media. Between his academic career and his work as a political activist and dissident, he has published over 100 books. Here with Eric Bailey and on the eve of the 2012 US presidential election, he discusses America's human rights record under the administration of President Obama and the military intervention policies that have seen increased use during the Arab Spring. Prof. Chomsky recently communicated with Eric Bailey of Torture Magazine.

EB: The US presidential elections are almost upon us and the last four years have seen significant changes in American Federal policy in regards to human rights. One of the few examples of cooperation between the Democratic and Republican Parties over the last four years has been the passing of the National Defense Authorization Act (NDAA) of 2012. This bill has given the United States military the power to arrest American citizens, indefinitely, without charge, trial, or any other form of due process of law and the Obama Administration has and continues to fight a legal battle in Federal Court to prevent that law from being declared unconstitutional. Obama authorized the assassination of three American citizens, including Anwar al-Awlaki and his 16 year old son, admittedly all members of Al Qaeda, - all without judicial review. Additionally, the Guantanamo Bay prison remains open, the Patriot Act has been extended, and the TSA has expanded at breakneck speeds. What is your take on America's human rights record over the past four years and can you contrast Obama's policies with those of his predecessor, George W. Bush?

NC: Obama's policies have been approximately the same as Bush's, though there have been some slight differences, but that's not a great surprise. The Democrats supported Bush's policies. There were some objections on mostly partisan grounds, but for the most part, they supported his policies and it's not surprising that they have continued to do so. In some respects Obama has gone even beyond Bush. The NDAA, which you mentioned, was not initiated by Obama, (when it passed Congress, he said he didn't approve of it and wouldn't implement it) but he nevertheless did sign it into law and did not veto it. It was pushed through by hawks, including Joe Lieberman and others. In fact, there hasn't been that much of a change. The worst part of the NDAA is

that it codified - or put into law - what had already been a regular practice. The practices hadn't been significantly different. The one part that received public attention is what you mentioned, the part that permits the indefinite detention of American citizens, but why permit the indefinite detention of anybody? It's a gross violation of fundamental human rights and civil law, going all the way back to the Magna Carta in the 13th Century, so it's a very severe attack on elementary civil rights, both under Bush and under Obama. It's bipartisan!

As for the killings, Obama has sharply increased the global assassination campaign. While it was initiated by Bush, it has expanded under Obama and it has included American citizens, again with bipartisan support and very little criticism other than some minor criticism because it was an American. But then again, why should you have the right to assassinate anybody? For example, suppose Iran was assassinating members of Congress who were calling for an attack on Iran. Would we think that's fine? That would be much more justified, but of course we'd see that as an act of war. The real question is, why assassinate anyone?

The government has made it very clear that the assassinations are personally approved by Obama and the criteria for assassination are very weak. If a group of men are seen somewhere by a drone who are, say, loading something into a truck, and there is some suspicion that maybe they are militants, then it's fine to kill them and they are regarded as guilty unless, subsequently, they are shown to be innocent. That's the wording that the United States used and it is such a gross violation of fundamental human rights that you can hardly talk about it.

The question of due process actually did arise, since the US does have a constitution

and it says that no person shall be deprived of their rights without due process of law - again, this goes back to 13th Century England - so the question arose, "What about due process?" The Obama Justice Department's Attorney General, Eric Holder, explained that there was due process in these cases because they are discussed first at the Executive Branch. That's not even a bad joke! The British kings from the 13th Century would have applauded. "Sure, if we talk about it, that's due process." And that, again, passed without controversy.

In fact, we might ask the same question about the murder of Osama Bin Laden. Notice I use the term "murder". When heavily armed elite troops capture a suspect, unarmed and defenseless, accompanied by his wives, and then shoot him, kill him, and dump his body into the ocean without an autopsy, that's sheer assassination. Also notice that I said "suspect". The reason is because of another principle of law, that also goes back to the 13th Century - that a man is presumed innocent until proven guilty. Before that, he's a suspect. In the case of Osama Bin Laden, the United States had never formally charged him with 9/11 and part of the reason was that they didn't know that he was responsible. In fact, eight months after 9/11 and after the most intensive inquiry in history, the FBI explained that it suspected that the 9/11 plot was hatched in Afghanistan, (didn't mention Bin Laden) and was implemented in the United Arab Emirates, Germany, and of course the United States. That's eight months after the attack and there's nothing substantive that they've learned since then that does more than increase the suspicion.

My own assumption is that the suspicion is almost certainly correct, but there's a big difference between having a very confident belief and showing someone to be guilty. And even if he's guilty, he was supposed

to be apprehended and brought before a court. That's British and American law going back eight centuries. He's not supposed to be murdered and have his body dumped without an autopsy, but support for this is very nearly universal. Actually, I wrote one of the few critical articles on it and my article was bitterly condemned by commentators across the spectrum, including the Left, because the assassination was so obviously just, since we suspected him of committing a crime against us. And that tells you something about the significant, I would say, "moral degeneration" running throughout the whole intellectual class. And yes, Obama has continued this and in some respects extended it, but it hardly comes as a surprise. The rot is much deeper than that.

EB: It has been just over 10 years since the publication of the Bush Administration's "Torture Memos". These memos provided a legal justification for the torture of detainees held by the CIA in connection with the "War on Terror." The contents of the memos are chilling and have created new debate on torture internationally. Despite all of the promises given by President Obama to close those illegal detention centers, it seems that "black site" activities still occur. What are your views on these detention centers and CIA torture? Also, what do you think about Obama's promise of CIA reforms in 2008 and how has the reality of his presidency stacked up to those promises?

NC: There have been some presidential orders expressing disapproval of the most extreme forms of torture, but Bagram remains open and uninspected. That's probably the worst in Afghanistan. Guantanamo is still open, but it's unlikely that serious torture is going on at Guantanamo. There is just too much inspection. There are military lawyers present and evidence regularly coming out so I suspect that that's not a torture chamber

any more, but it still is an illegal detention chamber, and Bagram and who knows how many others are still functioning. Rendition doesn't seem to be continuing at the level that it did, but it has been until very recently. Rendition is just sending people abroad to be tortured. Actually, that's barred as well by the Magna Carta – the foundation of Anglo-American law. It's explicitly barred to send somebody across the seas to be punished and tortured. It's not just done by the United States, either. It's done all over Western Europe. Britain has participated in it. Sweden has participated. It's one of the reasons for a lot of the concerns about extraditing Julian Assange to Sweden. Canada has been implicated as was Ireland, but to Ireland's credit it was one of the few places where there was mass popular protests against allowing the Shannon Airport to be used for CIA rendition. In most countries there has been very little protest or not a word. I don't know of any recent cases so maybe that policy is no longer being implemented, but it wouldn't surprise me if it was still in effect.

EB: Moving beyond the US, the Middle East has always been rife with human rights abuses, but the turmoil of the Arab Spring has intensified such abuses in many countries. While the dictatorships in Tunisia and Egypt were toppled without resorting to civil war, countries like Libya, Syria, and Yemen have seen heavy fighting. For America and NATO's part, there has been yet another military intervention with the Libyan Civil War and only the stubbornness of Russia and China have prevented a similar intervention in Syria. In both cases, rebel forces have asked, even begged, for American and European help in their war efforts, but have proven to be absolutely uninterested in negotiated settlements with their dictatorial adversaries, even when outside help is not forthcoming. What is your take on military interventions, both the intervention that did occur in Libya

and the one that is being called for in Syria? Is it morally justifiable to send Texans and Louisianans into harm's way to fight in the internal conflicts of Libyans and Syrians? Conversely, can refusing to intervene be justified when entire cities, such as Misrata, Benghazi, Aleppo, and Homs were or are being threatened with utter destruction and tens of thousands of civilians are being killed?

NC: Well, let's start with Syria. The one thing I disagree with in what you said is that I doubt very much that Russia and China had anything to do with the lack of US or Western military intervention in Syria. In fact my strong suspicion is that the United States, Britain, and France welcomed the Russian veto because that gave them a pretext not to do anything. Now they can say, "How can we do anything? The Russians and the Chinese have vetoed it!" In fact, if they wanted to intervene, they wouldn't have cared one way or the other about a Russian or Chinese veto. That's perfectly obvious from history, but they didn't want to intervene and they don't want to intervene now. The military and intelligence strategic command centers are just strongly opposed to it. Some oppose it for technical, military, reasons and others because they don't see anyone they can support in their interests. They don't particularly like Assad, although he was more or less conformed to US and Israeli interests, but they don't like the opposition either, especially their Islamist elements, so they just prefer to stay on the side lines.

It's kind of interesting that Israel doesn't do anything. They wouldn't have to do much. Israel could easily mobilize forces in the Golan Heights (Syrian territory that Israel illegally annexed). They could mobilize forces there, which are only about 40 miles from Damascus, which would compel Assad to send military forces to the border,

drawing them away from areas where the rebels are operating. So that would be direct support for the rebels, but without firing a shot and without moving across the border. But there is no talk of it and I think what that indicates is that Israel, the United States, and their allies just don't want to take moves that will undermine the regime, just out of self interest. There is no humanitarian interest involved.

As far as Libya is concerned, we have to be a little cautious, because there were two interventions in Libya. The first one was under the auspices of the United Nations. That's UN Resolution 1973. That resolution called for a no-fly zone, a ceasefire, and the start of negotiations and diplomacy.

EB: That was the intervention for which the justification was claimed to be the prevention of the destruction of Benghazi?

NC: Well, we don't know if Benghazi was going to be destroyed, but it was called to prevent a possible attack on Benghazi. You can debate how likely the attack was, but personally, I felt that was legitimate - to try to stop a possible atrocity. However, that intervention lasted about five minutes. Almost immediately, the NATO powers (France and Britain in the lead and the United States following) violated the resolution, radically, and became the air force of the rebels. Nothing in the resolution justified that. It did call for "all necessary steps" to protect civilians, but there's a big difference between protecting civilians and being the air force for the rebels.

Maybe we should have been in favor of the rebelling forces. That's a separate question, but this was pretty clearly in violation of the resolution. It certainly wasn't done for a lack of alternative options. Gaddafi offered a

ceasefire. Whether he meant it or not, nobody knows, because it was at once rejected.

Incidentally, this pact was strongly opposed by most of the world. There was virtually no support for it. The African Union (Libya is, after all, an African country) strongly opposed it, right away, called for a ceasefire, and even suggested the introduction of African Union forces to try and reduce the conflict. The BRICS countries, the most important of the developing countries, (Brazil, Russia, India, China, and South Africa) happened to be having a conference at the time and they strongly opposed the NATO intervention and called for moves towards diplomacy, negotiations, and a ceasefire. Egypt, next door, didn't participate. Within NATO, Germany refused to participate. Italy refused too, in the beginning, though later they joined the intervention. Turkey held back. Later on they joined, but initially they opposed intervention. Generally speaking, it was almost unilateral. It was the traditional imperial powers (France, Britain, and the United States) which intervened.

In fact it did lead to a humanitarian catastrophe. Maybe it would have happened anyway, but it certainly led to that, especially in the end with the attacks on BaniWalid and Sirte, the last pro-Gaddafi holdouts. They are the main center of Libya's largest tribe, the Warfalla tribe. Libya is a highly divided tribal society, they are a major tribe, and this was their home center. Many of them were pretty bitter about that. Could it have been resolved through diplomacy and negotiations the way the African Union and BRICS countries suggested? We don't know.

It's also worthy of note that the International Crisis Group, which is the main, non-state element that deals with continuing conflicts and crises throughout the world, and is very

highly respected, opposed intervention too. They strongly supported negotiations and diplomacy. However, the African Union and others' positions were barely reported on in the West. Who cares what they say? In fact, if they were reported on at all, they were disparaged on the grounds that these countries had had close relations with Gaddafi. In fact, they did, but so did Britain and the United States, right to the end.

In any event, the intervention did take place and now one hopes for the best, but it's not a very pretty picture. You can read an account of it in the current issue of the London Review of Books by Hugh Roberts, who was, at the time, the North African Director of the International Crisis Group and a specialist on the region. He opposed the intervention and described the outcome as pretty hopeless chaos that is undercutting the hopes for an eventual rise of a sort of sensible, democratic, nationalism.

So that wasn't very pretty, but what about the other countries? Well, the countries that are most significant to the United States and the West, generally, are the oil dictatorships and they remain very stable. There were efforts to try and join the Arab Spring, but they were crushed, very harshly, with not a word from the Western powers. Sometimes it was quite violent, as in eastern Saudi Arabia and in Bahrain, which were Shiite areas, mostly, but it resulted in at most a tap on the wrist by the Western Powers. They clearly wanted the oil dictatorships to remain. That's the center of their power.

In Tunisia, which had mostly French influence, the French supported the dictatorship until the very end. In fact, they were still supporting it after demonstrations were sweeping the country. Finally, at the last second, they conceded that their favorite dictator had to go. In Egypt, where the United

States and Britain were the main influences, it was the same. Obama supported the dictator Mubarak until virtually the last minute – until the army turned against him. It became impossible to support him anymore so they urged him to leave and make a transition to a similar system.

All of that is quite routine. That's the standard operating procedure for dealing with a situation where your favorite dictator is getting into trouble. There is case after case like that. What you do in that case is support the dictator to the very end, regardless of how vicious and bloody the he is. Then when it becomes impossible, say because the army or the business classes have turned against him, then ease him out somewhere, (sometimes with half the government's treasury in his pocket) declare your love for democracy, and try to restore the old system. That's pretty much what's happening in Egypt.

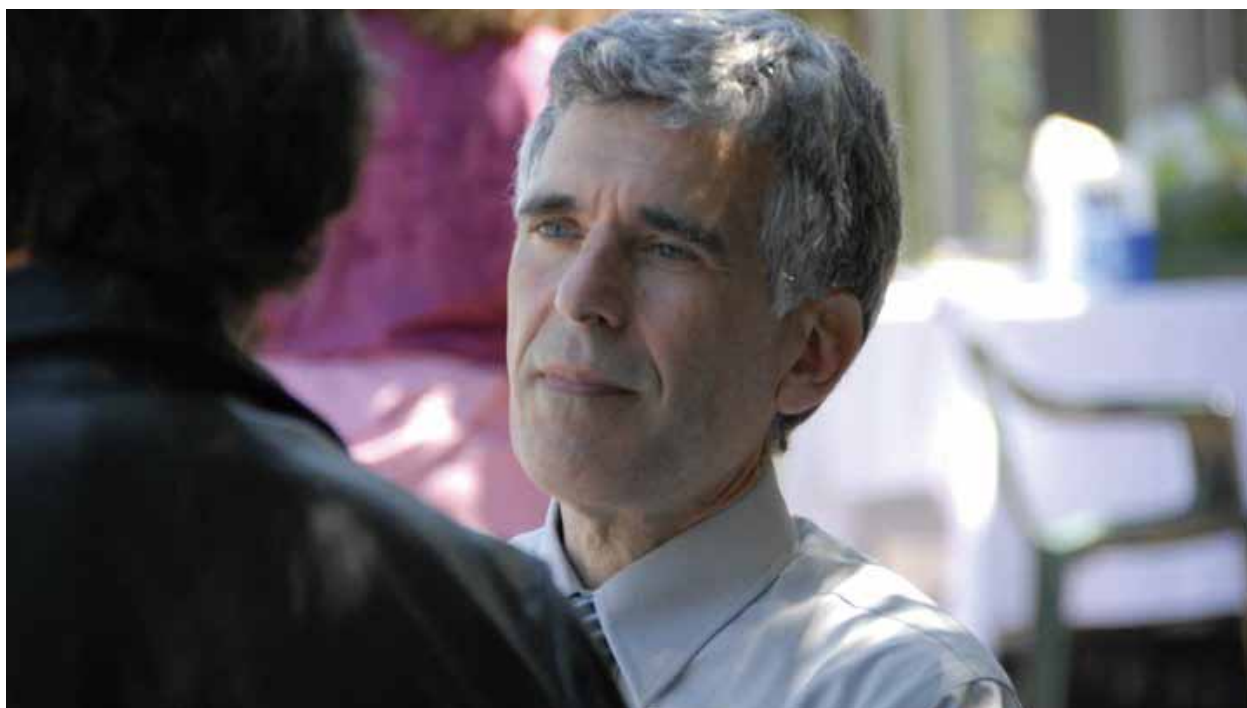
Torture enforces silence. Breaking this wall of enforced silence is pivotal in working against torture.

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TORTURE
 ASIAN AND GLOBAL PERSPECTIVES

EXCLUSIVE INTERVIEW

ABSTRACTION IN UNITED STATES, **ARE LIFE AND DEATH** ELSEWHERE IN THE WORLD



(File photo of Norman Solomon)

*One of the leading Progressive voices in the United States, **Norman Solomon** is a media critic, anti-war activist, journalist, and critically acclaimed author of numerous award winning books, which include 'The Trouble With Dilbert', 'Habits of a Highly Deceptive Media', 'Target Iraq: What the News Media Didn't Tell You', and 'War Made Easy War Made Easy: How Presidents and Pundits Keep Spinning Us to Death.' Mr. Solomon has been a long-time associate of the media watchdog group Fairness and Accuracy in Reporting (FAIR). He is also founder of the Institute for Public Accuracy.*

Shiv Singh caught up with Norman Solomon in late mid-October.

SS: Norman, you ran for office recently. You were a hope for Progressives. And, you had this phrase of 'grassroots vs. astro-turf.' Is there a reason grassroots did not work in this case?

NS: Well, you know there are so many layers. I mean, our race had its own particularities. We were running an insurgent campaign, and, given the new primary system in California, as it turned out, you have probably seen, we lost by 0.1% in terms of getting through the primary. So that's the way the cookie crumbled, as the saying goes. I mean it's always multi-factors involved. We had the usual hills to climb. But, money was not the major one. We did well at fundraising. A lot of it was the way the field was fractionated that eight of the candidates were Democrat, and it tended to fractionate the Democratic vote, compared to two Republicans, one of whom did not run. Some of that were the particularities. But, that said, to be more generic about it, I think in the United States, for candidates who run for office, it's a real challenge when they are on the Left and are unabashedly progressive. And, in most of the districts, in the vast majority of districts, there is a disadvantage in the sense that the establishment, to be broad brush about it, is not supportive and is usually directly oppositional to – just to give a few examples – a challenge to so-called free trade, a challenge to the fundamentals of US foreign policy, not only the tactical wisdom of intervening in one country or another, but the prerogative under international law to even have the right to intervene; the launching of drones into different countries, the suppression of habeas corpus in the United States; the rendition processes that, now, the last two administrations, Bush and Obama, have been part of, tacitly or overtly; the alliances with repressive regimes, which are, among the Democratic Party politicians, subject to some criticism when there is a

Republican in the White House, but are rarely criticized if there is a Democrat in the White House. Just to take an example, we correctly should and do condemn the Iranian regime for its repression, but the Bahranian regime gets very little mention.

SS: Yes.

NS: Likewise, well, think of another example, there was an article on Common Dreams that I just saw, originating from Mother Jones today, the use of solitary confinement for very long periods of time – used in Iran, but also used in Pelican Bay in Northern California, in the maximum security prison in Del Norte County. These are examples of ways in which, as is true, I think, in so many societies, to go beyond the safe conventional wisdom means it's more of a challenge. I think there are a lot of similarities there between the efforts of people running for political office, such as Congress in the United States, and those engaged in journalism in the US as well. The difference being that there are the alternative venues for independent journalism, particularly with the web, that make for a bit less centralized configurations of power avenues, compared to running for office, where either you get into Congress or you don't.

SS: There is an organization called Commission on Presidential Debates, related to a contract between the two big parties, to ensure the debates are not confrontational, or don't focus on certain issues, and it is something people outside the US perhaps don't know. It seems another way for important issues within the 2 parties to be suppressed.

NS: I think one reason it may not be very apparent to people elsewhere in the world is because the United States, on a spectrum, is very concentrated in terms of two political

parties. And just as in the United States, it's hard for many people to understand or picture how, elsewhere in the world, you might have several political parties in a parliamentary system that is truly a multi-party system, and then coalitions are built, and so forth; whereas, in the United States, there are only two political parties exercising any political power: the Republican and Democratic parties. So, in line with that, both reflecting and reinforcing it, is the so-called debates that are basically arranged and codified by those two parties and all other parties are excluded, and so it is a very big factor. And I'll mention another dynamic, which is that when there are issues that both political parties in the United States basically are in agreement on, or do not have fundamental differences on, then that is reinforced and reflected by the corporate media, and, vice versa when the corporate media do not raise fundamental questions that reinforces that neither of the two major parties are inclined to question them either. So, an example would be again the prerogatives of the United States to intervene militarily; the use of drones - this is a non issue between the two major parties; the US war in Afghanistan - it's basically been a non-issue for more than ten years now, for instance.

SS: Sticking to drones, you fought on a Democratic ticket...

NS: Yes...

SS: But the head of your government, Obama, has pursued a hit list policy, where he approves of lists of people to be killed with drone strikes and I think 300 or so have been undertaken. How do you criticize that within the Democratic Party?

NS: Well, it can be done. The Member of Congress who campaigned for me, alongside me, in the last days of my campaign in June

was Dennis Kucinich. And, of course, Dennis Kucinich is a Democrat who has been in the Congress for sixteen years. He just lost for re-election, but he is someone who has, as a Democrat, been willing to challenge some of those fundamental policies. I see this as historical in two ways. We have always had all too few but some dissenters within the Congress who are Democrats against war, including when a president is a Democrat engaging in war. And, the other is that we have always had in this country, in our lifetime, an enthrallment with technology, especially since the atomic bombings of Hiroshima and Nagasaki. This went on during the Vietnam War - the affection for the B-52 Bombers. It's something that I chronicle in my book *War Made Easy*. And, we talk about it in my film *War Made Easy*, based on my book that I collaborated with others on, and, it is online if you...

SS: I haven't seen the film, though...

NS: Yeah, there is some great stuff there. The producers found a lot of footage about the idolatry of technology. So, rather than drones being an anomaly or a particularly new development in terms of psychology, it is I think a further advancement, or a further degradation one might say, of the sensibilities manifested politically and in the media in the United States. Let's remember, and I talk about this in the book as I recall, as President Nixon withdrew half a million US troops between 1969 and 1972 in Vietnam, the tonnage of bombs dropped on Vietnam by the United States actually increased during those 3 years, rather than decreased. And, the received wisdom was that the US was winding down and ending the War in the United States even while that was taking place. Well, it's a technological affection. If you were to put in, I think, it may be on YouTube, it is certainly in the full film, we have footage in the *War Made Easy*

film of Walter Cronkite on a jet bomber in Vietnam. And he steps off the jet and says this is a wonderful way to go to war. I mean this is a guy supposed to be, you know, a great journalist. And this is true today. The US news media love the drones. And the politicians in Washington and the Congress, with a few exceptions, love the drones. And there are many reasons because Americans aren't dying, there are other people dying but not Americans, which has always been very popular amongst mainstream war-makers in the United States.

SS: And, also the killings are happening in places really off maps...

NS: Yes

SS: They are tribal areas. They are in poorer Islamic countries...

NS: Indeed

SS: Or, in areas where there is already a war going on so not much media coverage can happen there.

NS: Yes, I can recommend, as you mentioned, if you go to the website warmadeeasythemovie.org and you click on I think, Press Kit, there is a full transcript of the entire film and in there so you will see Walter Cronkite's words but also there is a part where I say that we have been acculturated to the idea that if someone straps a suicide belt to their waist and kills somebody that is barbaric, but if you kill somebody from a high-tech US aircraft from thousands of feet in the air that's considered wonderful. And, this is a fundamental issue we are dealing with all the time.

SS: Well said, Norman, but now I'd like to address another issue. In the human rights field, very few activists consider the anomaly

of corporate personhood or corporate rights directly outweighing human rights. And, you find it enforced all the time. Human Rights activists, say, in Asia, have not got around to addressing this. They are fighting their state and the inhumanity of the state itself, although many of the corruptions of the justice system are happening because of corporations pushing for contracts and land. What are the ways in which, from your perspective, one can begin combating corporate personhood and the power it has taken over human rights?

NS: Well part of it is certainly analytical and in terms of public discourse so that we can organize with clarity and reframe issues and confront in the media and political sphere what is at stake in terms of true human rights. When I was first observing coverage of world events and US foreign policy in the mid to late 1960's what was happening? The US sent the Marines to the Dominican Republic in 1965. There was, of course, the escalating conflict in Vietnam, and bombing campaigns throughout South-East Asia. There were interventions in Grenada and Panama and frequent missile strikes in various parts of the world including Libya and Afghanistan, Africa through the 90's. These were military interventions, often with US troops for long or short periods of time. And, so, that was the motif. And, yet, now while that is certainly happening and the so-called counter-terrorism that I think Biden is supporting is going increasing whole-sway with the technological intervention - with fewer troops on the ground; the intervention is now in the likes of economic corporate entities. So, to over-simplify, you would not send the US marines; you would send Citicorp, and McDonalds, and hundreds of other corporations, often in direct cooperation and partnership with the landed gentry and economic elites in different countries. And, that's the kind of intervention we are seeing.

Of course, the IMF and the World Bank have been part of that sort of intervention. And, Latin America was ravaged, Argentina being an example, in the 1980's and 1990's, by the neoliberal model and IMF, and I think that goes to the question of corporate personhood, because the kind of model that was, say, implemented by Pinochet in Chile is the favorite model and is austerity by any other name. The user fees for schools and so forth, which had such detrimental effects, is all based on the corporate personhood model. We have so many examples where the US media and politics insisted on so-called reforms, which are austerity with a vengeance, that are a tax on the public sector. And, that is where we are seeing enormous parallels between the United States, which now is undergoing a tax on the public sector under the name of austerity or budget balancing, and certainly the models that are being encouraged for countries around the world.

SS: It's again picked up recently in my country with Washington and New York getting angry at our Prime Minister for not pursuing our so-called reforms fast enough. But, it's also happening directly in Sri Lanka, which as far as South Asia goes, always had a markedly better public education system, but IMF directives call for maintaining a reduced education spending, even though the war is over, and many teachers and students are on the streets in protest.

NS: Hmmmm...

SS: Now, going to your book Target Iraq - What the News Media Didn't Tell You, you essentially predicted, foreshadowed, what was going to happen by going to Iraq and narrated the reality of life there under sanctions and what people could expect if there was going to be war. What was it like, the pain of actually having to go through

that, and then did things happen differently from what you expected?

NS: It came out into the stores 2 months before the invasion, so people were reading that book beginning January 2003 in the United States. And, unfortunately we were accurate, we were foreshadowing what was about to come. For me, the whole experience was very upsetting. It was seeing a train wreck before it happened - seeing the last months and weeks and hours before the wreck. The difference of being in the United States and being in Baghdad was just so extreme. I think the book narrates going in September 2002 and December 2002. But, I also went after the book came out in January of 2003, with Dennis Halliday, the former Assistant Secretary General to the UN. Every time I went, there was more a sense of despair and less of a genuine hope that the war could be averted. To me it was, and is, a clear and horrendous example of how abstractions in the United States are life and death elsewhere the world when it comes to US military interventions.

SS: I would like to address another recent incident, concerning Malala Yousufzai, who is still apparently battling for her life, after a heinous attack against her. I am interested, in perceptions here. One is how this will play out in Pakistan, given the comprehensive radicalization that has taken over that society. The other is how a case becomes an international media event, and how it is used. Is a human interest story again hiding what is happening? How do you see this?

NS: There are 2 threads that come up. One is the great US journalist I.F. Stone, somebody I quoted in War Made Easy, where he is talking about the period in which President Nixon announces so-called 'Vietnamization.' Stone says it's really a formula, as he puts it, and

I am paraphrasing here but pretty closely, to train Asians to kill Asians. He said, that is not going to work, but that's the formula. In fact, I brought it up in the book in the context of, again, 'Iraqization.' It is the same idea. And, even now with Afghanistan. We are going to train them so they are going to do the killing more directly. And, of course that is not working out too well from the US standpoint. But, that's sort of a model. So that does come to mind. More fundamentally, is a phenomenon you are alluding to, because this is a media-political dynamic in the United States. Something that Noam Chomsky and Edward Herman in their joint writing together, it is probably in Manufacturing Consent. They call it worthy and unworthy victims. I think it is very much what you are referring to here. In the US media, some victims are worthy. In which case, for a combination of ideological and nationalistic, and sometimes racial or ethnic reasons, their suffering is tremendously important and gets enormous empathetic media coverage. And, then there are other people who are victims. And, they don't count at all. They are unworthy, for a lot of the reverse reasons. Almost by definition, if someone is to be a worthy victim they must be killed by an enemy of the United States. They rarely can be killed by the United States. And, the unworthy victims are usually killed by the US government or its allies. Again, to go to the Bahrain example, that contrast between people who are being treated horribly, often tortured, in Iran, they are worthy victims, but in Bahrain they barely get a second mention in the US.

SS: Syria and Bahrain, you can see what is happening in the international news. You do not hear about Bahrain, but you hear about Syria all the time.

NS: The US news media, is not 100% with the program, but it largely is policy driven out of the State department.

SS: One last question - and it has to do with the Nobel Peace Prize, now going to the EU. Is it logical? We have seen all sorts of strange individuals get the Peace Prize, from Kissinger, to Obama, to E.U. How do you see it?

NS: There is that great statement by the satirist singer Tom Lair. Satire became impossible when Henry Kissinger won the Nobel Peace prize. And, so I think it is sort of in that tradition. It is somewhere near preposterous that the E.U would get the Nobel Peace Prize, but maybe the Nobel Committee could not work out any other consensus.

SS: Lots of people were shocked when Obama won it too, but I think that happens every time.

NS: Same here, take care.



PAKISTAN MALALA YOUSUFZAI



**Not the broker
But the
Breaker of Silence**

by Baseer Naveed

*(Photograph provided us by the University Hospitals Birmingham
NHS Foundation Trust, where Malala is being treated)*

When I was leaving Pakistan for Hong Kong, after a long trip to different countries, I received some shocking news at Karachi International Airport. Mr. Solangi, the Director General of Radio Pakistan informed me about the news that Malala Yousufzai had been attacked by the Taliban and was in critical condition. The doctors were trying their best to save her. Mr. Solangi was busy with his Blackberry cell phone, talking to me and receiving updates and sending messages through Facebook and Twitter all at the same time. Despite his position as the Director General of one of the country's biggest broadcasting houses, he was the first to trigger a vigorous debate on the attack.

Answering one of my questions he told me that since the attack became known he had received a continuous string of messages via e-mail, Facebook and Twitter on the issue. At the offices of Radio Pakistan he had stopped all of the routine programmes as the reaction of the masses came in. Between his frenetic attempts to remain in touch with the world and the country he told me that in every message people condemned the incident and were praying for Malala's immediate recovery. Almost the entire country was lashing out at the Taliban and Muslim extremists.

I asked Mr. Solangi how he felt as a government employee and whether he expected any backlash. He replied that he was not concerned. When a young girl led the way in the fight against extremism it is the duty of all to come out and show solidarity with her. He went on to say that this was the right time to come out against religious extremism and said that if they kill us then so be it. He had no doubt that thousands of Malalas would continue the battle. He added, "This battle is also for my own children."

His determination shook me personally, as I had become a person very dejected by the silence of Pakistani society. I boarded the airplane with the determination that there were changes coming in Pakistan and that a new generation was taking the lead in what we, the present generation, and those before us, failed to do.

After listening to the news, my mind flashed back to 2009 when I first issued an article about Malala's educational achievements. In 2011, as is well known now, she was nominated among five children from all over the world for the 'Children's Nobel Prize' and came second. That year, Michaela Mycroft (17) from South Africa was awarded with the Children's Peace Prize.

Malala was quick to praise the winner, a disabled child to whom Malala gave full credit. When asked what her reaction was when learning that she had come second she said, "I am happy for Michaela [Mycroft] for winning the prize as she is a special child and is already working for the disabled children," adding, in fact, "I couldn't even stop my tears while seeing Michaela receiving the prize as it was hard for her to hold the prize due to her being a disabled child".

The International Children's Peace Prize is presented annually to a child who's courageous or otherwise remarkable acts have made a difference in countering problems which affect children around the world.

Malala was one of the five nominees chosen out of 98 children that were put forward by organizations and individuals from 42 different countries. The prize is an initiative of the Dutch organization 'Kids Rights' and was launched during the 2005 Nobel Peace Laureates' Summit chaired by Mikhail Gorbachev.

Even at her tender age she had adamantly stated, "To me education is the only tool that makes a man civilized, a good citizen and helps to develop the Pashtun society."

When I heard the news of the Taliban's attack on Malala's life, to punish her for campaigning for the education of young girls, I felt that the reaction through emails, Facebook, and Twitter would dwindle after a few days and new issues would pop up. And, when that happened, who would care about Malala?

The so-called independent media, which is more tilted towards the right wing and military establishment, would ultimately give more coverage to the Taliban as they usually do and come out with some appeasing comments such as the attack was the result of Drone attacks or a military operation. After all Taliban are Pakistani and the attack was carried out by someone else in order to discredit the Taliban.

However, the reaction to the attack did not lose force, but continues even till today. The media and the journalists, besides the teachers and professors, the parents and other sections of society did more than could be expected of ordinary persons, despite the overshadowing threat of religious extremism.

An attempt to kill a 14 year old girl from a remote area of Pakistan radically altered the thinking of an entire society and the silence that prevailed in that society since the 1980s was broken. The silence had remained since the army with the nexus of fundamentalist forces coerced the whole country into crushing the freedom of expression under the name of national security and in the greater interest of the country.

The establishment of Pakistan, which mostly consists of the armed forces, the judiciary, bureaucrats and officials from the foreign ministry, has consciously prompted religious groups to form a "religious power center" to crush the freedom of expression in the country. The other purpose of the religious power center has been to make such a force where the democratic institutions like Parliament and elected bodies lose their bargaining power to confront the military establishment for its role in sordid politics.

The freedom of expression, which is said to be the mother of all human rights, was the first to be eroded through the religious power center, so that society be made to remain silent and people's actions against corruption and misuse of power would be minimized. At the same time, the importance of education was also minimised. Also, the urge of the masses for a democratic society was strangled. In the span of just a few years, thousands of Madressas (Islamic seminaries) were built with black money and funding from Saudi Arabia. Hundreds of thousands of students were produced through the Madressas, which have swelled the ranks of the militants to crush independent thinking and free choice of judgment in the masses. The blasphemy laws were the best tool in the hands of the bigots to declare who is infidel and who is pious. Even the student's examinations papers were checked by applying blasphemy laws.

There is no doubt that Malala must be given the credit for breaking the silence imposed by fear, coercion, and terrorism through her brave and untiring courage to speak out. After the attempt to kill her shook the society out of its indifference against the religious militancy and the religious power center, the school children throughout the country came out in her support. The country's youth came onto the streets and every person

participated. All this was thanks to Malala, the first person to break the silence - the silence that the elected representatives and intellectuals failed to break, even after over 40,000 people have died in Taliban instigated violence. All of us (including me) have proved to be the 'silent brokers' - as this was the best way for opportunism to deal with vested interests that ensure the system based on strangulating society, using one excuse or the other, remains intact, and we may continue claiming to be champions of civil liberties, freedom, and rights.

It is sad, but interesting, that this silence resounded even after the assassinations, in broad daylight, of the Governor of Punjab and the Federal Minister of Human Rights. No one came onto the streets in protest. Instead, the killer of the Governor was feted by lawyers, religious parties, and the people themselves. A retired High Court judge went so far as to offer his legal services to the assassin, as the assassin was immediately symbolized as a hero for Islam. And, most shamefully, the government remained a silent spectator and left everything in the hands of the religious bigots, and this, even after the governor's son was abducted from his house by the Taliban. Two years hence his whereabouts still remain unknown, and the government does not want to rock the boat.

This appalling silence was in stark contrast to the reaction of the people to the attack on this brave young girl, who, at the age of 11, started writing a weekly diary to the BBC. Her campaign for the right to education started long before the military operation in the Swat Valley in 2009. When the Taliban moved into the valley, over 2000 schools were destroyed by bombings and suicide attacks. The women were flogged in open places, barber shops were stormed, and anyone found with

a hair cut was beaten. All this was done in the name of Shariah. At the age of only 11, it was Malala that said enough is enough and had the courage to speak out. She did this in her limited capacity, but it was enough to frighten the Taliban into taking action. The lava building up inside minds of 180 million people finally erupted after the attack.

The world has seen so many conquerors in its thousands of years of history, but it was the pen of a humble 14-year-old girl that conquered not only the minds and hearts of the people of Pakistan, but those of freedom-minded people all over the world. It is only now that the people are demanding that the terrorists are crushed. The government, military, and all other stakeholders, however, are adding to the confusion by saying that the attack was in retaliation to the drone attacks, military operation, and the policy of the United States towards the Taliban. The state of mind prevalent in Pakistan for the last 66 years still allows for conspiracy theories in favour of the Taliban - that Malala is funded by the US.

In one of her earlier comments, she said that she respected Obama and they are now using this as 'evidence' of their accusations. This was emphasised by the fact that when the Chief of Army Staff visited Malala, after the pressure of public opinion became too strong in her favour, he condemned the attack but made no condemnation of the Taliban. This lapse was obviously done in the spirit of appeasement, despite the fact that the Taliban boasted about their responsibility for the attack. They have publically stated that they will continue their murderous attempts if she recovers from her injuries and will not rest until she is dead. Since the attack, they have continued their assault on the local schools in Swat Valley. And, to-date two more schools have been destroyed.

What the Taliban and the Pakistani establishment have failed to see is that the one person unaffected by the conspiracy theories is Malala herself. Her message to the people of the country and the world in general is simply: every child has the right to education, regardless of whether they are male or female. She has presented this message bravely, willing to sacrifice her life and in doing so has completed the job started by numerous NGOs and INGOs with enormous budgets and the backing of the international community. She has become a symbol for students all over the world.

A protest event that was organized prior to the attack on Malala was that of the students of Hong Kong, who forced their government

to back down on a curriculum that favoured mainland China. More such protests can be expected thanks to the courage of students, exemplified by Malala. She has proved herself in the war against bigotry, sexual discrimination, extremism and illiteracy.

I salute Malala and her two friends who were injured alongside her, as do the youth of the world who will continue to fight for their right to education and freedom of expression.

Malala was not the broker of silence but the breaker of silence.

(Baseer Naweed is a Senior Researcher)



From left to right: Toorpekai Yousufzai (mother), Malala Yousufzai, Khushal Khan (brother), Ziauddin Yousufzai (father) and Apal Khan (brother). Photograph provided us by the University Hospitals Birmingham NHS Foundation Trust, where Malala is being treated)

PAKISTAN MALALA YOUSUFZAI

Shooting Freedom

by Xavier P William

In 2009, it was Malala Yousafzai, a girl of 11, who voiced her protest against the orders of the Punjabi Taliban in Swat to close all the Girl Schools forever. She was perturbed to know that the girls of Swat would be deprived of going to school. The Taliban banned girls from going to school in Swat and destroyed over 400 schools for girls. But, Malala was determined to attend her classes.

For the next two years, she raised her voice through her diary, appealing to the world to save her from the injustices done to the girls and children. It was the real Jihad that she launched against the oppressors. Her message reached from one corner to the other. Her voice became more powerful than even that of Anne Frank, whose diary created a ripple in Western Europe.

She wrote about the atrocities of the Taliban regime and the military operation and her passion for education. She was not afraid to make an initiative for peace and education for women. She went to school and encouraged others to go with her. For her efforts, she was awarded the National Youth Peace prize. She said on that day, "I don't mind if I have to sit on the floor at school, all I want is education. I am afraid of no one."

The Taliban chalked out a plan to eliminate her. The most fearful Taliban commandos were arrayed on one side, while a 14 year old girl in grade 9 stood alone like a rock on the other side.

The attack on Malala stirred the whole nation. It was the first time that the divided nation stood firmly, and looked united, against the atrocities inflicted upon them for centuries. Malala is, in fact, the symbol of unity and liberty. The nation has just seen in her a ray of hope. People are looking for a Messiah who can relieve them from the clutches of the oppressors.

But, the reactionary forces are also active, not to miss an opportunity. They have started their old tactics, making a hotchpotch of all the events taking place in Pakistan through their propaganda machinery in order to undermine the sense of unity among people. They like to keep people in a state of confusion and constant stress of insecurity. It provides them with opportunities to interfere in poor men's life with false promises of security and prosperity.

Yet, Malala has got the wheel rolling, and it will keep rolling, slowly but steadily, people hope so.

It must be noted, however, that Malala's incident has become a tool of external entities to tarnish the image of Pakistan clandestinely. In this context, former Prime Minister Gordon Brown, UN Special Envoy for Global Education, declared November 10 as international day for Malala to show that we all are Malala. The day can boost the status of female education worldwide.

“It is time to choose sides. Will we allow the Pakistani society to live in fear or will we stand against extremism.”

Pakistan's Interior Minister Rehman Malik said on October 31, 2012, that the key suspect, Ataullah, along with others involved in shooting the child activist, have been arrested. Malik said that Ataullah was arrested along with his fiancée.

According to a report, Khan had crossed over from Afghanistan into Pakistan, before making his way to Swat. There, he tracked down his target, intercepting Malala's school van on October 9, 2012. He fled shortly after the assassination attempt. Khan, a former Swat resident, was last week identified by police officials as the main suspect in the shooting incident. Police said that Khan had been a studying for a master's degree in chemistry prior to opting for militancy, and had studied for his Bachelor of Science degree in physics at Jahanzeb College in Swat.

The Interior Minister said that the Tehreek-e-Taliban Pakistan had adopted a new strategy of carrying out attacks and were now teaming up with proclaimed offenders.

Ever since the inexplicably cruel attack on Malala Yousafzai, many stories have

emerged. These stories, not to mention conspiracy theories, are complicating the facts – now wrapped in many layers. Social media have also played a part in exposing some layers of these yarns.

As Malala is being treated at Queen Elizabeth Hospital in Birmingham, UK people from all faiths are praying for her recovery. Recently, her Father thanked everyone for standing by them and said, “Malala will rise again to pursue her dreams after hospital treatment. She told me on the phone, please bring me my books of Class 9 and I will attempt my examination.”

It is time to choose sides. Will we allow the Pakistani society to live in fear or will we stand against extremism? A 14 year old took the initiative – she fought being deprived of her right to education. Will we allow girls to be victimized, or will we be on GulMakai's side? (Malala used the name GulMakai to write her dairy, GulMakai means corn flower.) Malala means “grief stricken”, but in becoming GulMakai, she became a symbol of resistance to extremism at the tender age of 14.

Will we become a part of this change and back up her stand or will we allow the darkness to prevail?



Xavier P William is a journalist based in Islamabad and the president for the human rights organizations Life for All Pakistan and Masihi Foundation Pakistan.

ESSAY HISTORY OF TORTURE

Torture and JVP struggles in the South of Sri Lanka



The bodies of two JVP suspects left on the roadside in Tangalle, 1989 - they were reportedly victims of plainclothes forces (Photograph provided by the Author)

by **Lionel Bopage**

Successive post-independent regimes in Sri Lanka have continued to condone and practice torture as a systemic weapon in safeguarding their economic and political interests. Security forces, para-military groups, and their agents have subjected thousands of individuals to torture. Many thousands have ended up being killed or

subjected to physical and psychological trauma for the rest of their lives. Despite being party to international conventions against torture like the Declaration on the Protection of All Persons from Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Declaration against Torture, the governments have been

condoning, using and/or tolerating the use of torture and ill-treatment of individuals. In this sense, violence and torture have been a central issue of politics in the modern history of Sri Lanka.

Disappearances and extrajudicial executions in particular were reported with increased frequency since mid-1983. For four years, these abuses were concentrated in the northeast of the island, where Tamil militants have been engaged in an armed struggle since the late 1970s to establish a separate state. Between mid-1987 and early 1990, following the escalation of armed opposition in the south of Sri Lanka, there was a dramatic increase in reports of disappearances and extrajudicial executions.

There has been a bureaucracy established in the island since the 1960s for protecting human rights. Despite its efforts, this bureaucracy has failed in upholding human rights or even protecting those who try to defend those rights. Despite establishing numerous human rights mechanisms, the gap between the law and practice has grown wider. Even working for an independent human rights organisation today could be seen as a death warrant. Discussions regarding what occur in Sri Lanka need to be carried out in this light.

During the separatist armed opposition since the late 1970s, the government of Sri Lanka provided extraordinary powers to the security forces that led to grave human rights violations. The security forces increasingly appear to believe that they can commit abuse with impunity. The Prevention of Terrorism Act (PTA) has been in force almost the entire period since July 1979. Apart from nearly six months between January and June 1989, there had been a nationwide state of emergency. Recently the government did

not extend the declaration and allowed the Emergency Regulations to lapse. However, the government reintroduced and incorporated a range of new provisions to the country's legislation through an Order made under section 12 of the Public Security Ordinance, calling out all the members of the Armed Forces for the maintenance of public order in all 25 Districts.

The purpose of this essay is to discuss the politically organised and highly structured violence and torture, particularly related to the periods of the JVP¹ led insurrections in the south of the country during the early 1970s and the late 1980s.² In a general sense, the use of violence and torture is considered illegitimate and illegal. Nonetheless, one has to accept the fact that despite the highly unethical nature of the use of violence and torture by the state, the view that such violence and torture is legal and legitimate prevails in society.³

The Pre - 1971 Period

Allegations have been made that the JVP, since its very beginning, had tilted towards violence. In responding to such allegations, a question needs to be raised: whether the establishment offered any peaceful means and opportunities for the youth to bring about fundamental changes needed to

1 The Janatha Vimukthi Peramuna (the JVP) - the People's Liberation Front, a revolutionary Marxist party.

2 This discussion does not cover the violence and torture that occurred in relation to the Tamil non-militant and militant struggles that took place during the last six decades.

3 For example, Jayatilleka's defence of the Lankan government's alleged executions, targeting of non-combatants, and physical torture, particularly, during the last phases of the war; and theorising of a morally justifiable violence.

satisfy their aspirations? Significant shifts in the national and international political arena that occurred in the 1960s heavily influenced the JVP views. Known at the time as the 'movement', the JVP assessed the cold war situation between the US led imperialist camp and the Soviet camp, and the split that later occurred within the international Communist movement into Soviet and Chinese camps. Locally, the then Finance Minister of the UNP regime, Mr J R Jayewardene advocated for winding up the electoral map of Sri Lanka for the next twenty years. Due to the Central Intelligence Agency (CIA) led campaigns in many countries, a well-founded fear prevailed that the UNP regime would continue to remain in power using force. In addition, the entry of the traditional left parties into an alliance with the SLFP in 1964 also influenced the JVP's future.

The US led western powers had taken a series of violent counter-revolutionary measures in several countries annihilating the progressive forces, at that time, the most notable was the eradication of the Communist Party of Indonesia (*Partai Komunis Indonesia PKI*), led by CIA through a local military coup. This coup annihilated all leaders of the PKI and millions of its members, sympathisers and civilians. The influence of the victorious Cuban revolution against the pro-US Batista regime, successful struggles in Indo-China against their colonizers, and the resilient progressive socialist social forces had overarching and encouraging influences on the left.⁴

In the year 1970, Rohana Wijeweera, the founder of the JVP and several political activists were arrested and remanded in

custody. The first JVP public rally was held in Hyde Park in August 1970 and the newspapers of the day carried a statement issued by the secretaries of the SLFP, the CP and the LSSP 'urging' the people to fight 'the right-wing reactionary force'. The Secretary of the Ministry of Defence declared that the JVP was public enemy No. 1 and that it had to be totally eradicated. Following this denunciation, the police began arresting scores of suspected adherents of the movement in various parts of the country. Nevertheless, none of the persons so arrested and remanded for several weeks was actually charged by the police before any court of law, with having committed any offence against the state.

According to a Daily News report:

*The Daily News reliably understands that this security alert was sounded because of substantial information that disruptive elements were planning to create public disturbances at some point during the current election campaign. These plans envisaged attacks on police stations and other government offices, causing a situation of widespread chaos in the country.*⁵

The 1971 Insurrection and Torture

In 1971, the armed youth insurrection in the south led by the JVP, against the coalition government under Prime Minister Sirimavo Bandaranaike, was quickly suppressed. The group was widely thought to have emerged because of the frustration felt by educated youth owing to the lack of job opportunities. Thousands of young suspects were killed during the insurrection, and its leaders, as well as thousands of supporters, were imprisoned.

⁴ Lines. 2003. Q&A with Lionel Bopage. At http://issues.lines-magazine.org/Art_May03/bopage.htm

⁵ Ceylon Daily News. 11th April 1970.



The bodies of 24 young men, blindfolded and with their hands tied behind their backs, were found near Kandy town in October 1989. They were reportedly killed by a "death squad" in retaliation for the killing by the JVP two days earlier of the family of a police officer. © Popperfoto/Reuter (Photograph provided by the author)

By early 1971, the government of the SLFP, the LSSP and the CP saw the JVP as an imminent threat and designed plans to eliminate it. The army and police commenced setting up the 'Counter-Insurgency Units' to co-ordinate anti-JVP work, of which Peter Keneuman, a leader of the CP, played a major role. The JVP's intelligence indicated that the Attorney General was drafting special legislation to achieve that end. The law enforcement agencies in the name of protecting 'law and order' were violating the democratic rights of the movement to conduct their political discussions and their other democratic political activities. As a result, holding public meetings, selling party newspapers and engaging in political propaganda work were continuously disrupted.

On 6 March 1971, the Mao Youth Front stabbed a police officer to death during a demonstration conducted outside the US Embassy. The JVP immediately declared that it had nothing to do with this incident. By then, the JVP had come to know the close political links the leaders of the demonstration had with the UF government. The leadership of the UF government used the US Embassy killing as a pretext to declare

State of Emergency. In early March 1971, the government proscribed the JVP. The JVP leader, Rohana Wijeweera was detained. On 16 March, the UF government declared that they had discovered a JVP 'plot' to overthrow the government, imposed a dusk-to dawn curfew, and provided the security forces with full powers of arbitrary arrest. In March 1971, the government carried out the first act of war by implementing the third part of the emergency regulations empowering the security forces to dispose of dead bodies without conducting post-mortem examinations or informing the relatives of the deceased. By the end of March, thousands of JVP cadres were already in custody. This created the explosive situation of April 1971.

During the insurrection, the CP and the LSSP set up home guards to protect police stations and to implement a strategy of searching and destroying JVPers. The UF government introduced repressive labour laws banning the distribution of handbills and posters within workplaces without employer permission and arresting all those who did not report to work. While carrying out a systematic purge of workplaces, the government decreed that in forming the National Service Regiment, anyone under the age of 35 years should be totally excluded. Hundreds of JVP cadres sacrificed their lives in mostly non-combat situations. Security personnel trained and motivated in cold war political ideology arrested and destroyed thousands of people. Some were buried or burnt alive after capture. Some of those who surrendered following the call of the then Prime Minister Mrs Bandaranaike, were also killed.

I cite the following statements that vividly summarise the political ideology of the regime and the armed forces. A statement by the Minister of Communications, Mr

Leslie Goonewardene stated that the State of Emergency had been declared *'with the whole-hearted Support of the Cabinet'*, and that *'necessary powers'* had been given to the armed forces, *'to wipe out disruptive elements and to maintain law and order'*.⁶

Sandhurst trained Lt. Col. Cyril Ranatunga, military coordinator of Kegalle district during the insurgency and later appointed diplomat, had been quoted as saying:

*We have learnt too many lessons from Vietnam and Malaysia. We must destroy them completely.*⁷

Another officer had been quoted to say:

Once we are convinced prisoners are insurgents we take them to cemetery and dispose of them.

Despite subsequent denials of killings, hundreds of bodies of young men and women were seen floating down the Kelaniriver near Colombo, where these bodies were collected and burnt by soldiers. Many were found to have been shot in the back.⁸

Le Monde correspondent Decornoy reported the reality behind Ranatunga's words:

At Galle in the south, we saw three 'terrorists' who had just been arrested and whom the police were taking away. A local inhabitant remarked: 'They will be killed tonight, and their bodies will be thrown into the river.' The police, traditionally hated and today used without reserve by the 'progressive government', are openly compared to Duvalier's 'tontonsmacoutes' and their crimes have shocked the population. Here are some examples, which it would be wrong to see as isolated incidents. At Kataragama, a village in the south, a girl was stripped and killed on the

*spot. At Akuressa, two young people were shot in front of the inhabitants and left to die, but only did so later when their bodies were burnt. At Kosgoda, corpses were left hanging in public for several days. At Kandy, a lecturer in geography was so savagely beaten that he died in hospital; a history student was tortured for two days. At Bandaragama a young man was beaten up and the sole of his foot was cut open and covered with pepper. Another young man, while on the road outside was arrested, tortured and left to the red ants. What is the point of going on?*⁹

Torture

The torture of prisoners by members of the security forces has been widely reported in the south. Sometimes torture has resulted in prisoners' deaths. The methods used reportedly included beatings on various parts of the body, including the feet and genitals; assaulting detainees while they are suspended; electric shocks and burning; pulling out hair; and forcing chilli powder into the anus, penis and mouth.

Several former detainees have described a form of torture known as dharma chakra (wheel of Buddha's teaching) in which they were stripped naked and tied in a squatting position. A pole was then passed under their knees from which they were suspended upside down. They were then rotated, causing injuries to their arms and legs, and beaten. Men and women prisoners have reportedly been raped and male prisoners have said that they were forced to sexually abuse women prisoners.

For example, after the arrest of comrade Wimale, the JVP organiser for Baddegama by the Baddegama Police, he had been sawn into

⁶ Ceylon Daily News. 19 March 1971.

⁷ *International Herald Tribune*, 20 April 1971.

⁸ Halliday, F. 1971. *The 1971 Ceylonese Insurrection*. Blackburn, R. (ed), *Explosion in a Sub-Continent*, Hamondsworth.

⁹ *Le Monde*: 16 June 1971. In Blackburn, op.cit., 201 and 202.

pieces with a manual saw. This was notified at the defence evidence stage at the Criminal Justice Commission (CJC), as evidence of the brutality with which the security forces in the LSSP electorates behaved towards those who had been arrested.

As in other conflicts, during the period of insurrection, many women from the marginalised and most vulnerable sectors of society had been subjected to torture, rape and death. In the name of counter-insurgency operations, the security forces had raped many dozens of women during the period of the 1971 insurrection. Usually, armed opposition groups adopt the terror methodologies used by the state forces as a retaliatory measure; however, it is significant to note that no such allegations have been raised against the JVPers who fought against the state in 1971.

Comrade Premawathie Manamperi (1949–1971) had been crowned the beauty queen of Kataragama, at that year's New Year Festival. During the 1971 insurrection, Kataragama had become a hot spot and it had been named Karunasiripura., in commemoration of comrades killed during that period. After 11 days, the Army were able to establish a base at Karunasiripura. Several girls including comrade Manamperi had been arrested during a lull in the fighting. Manamperi had been tortured throughout the night allegedly to extract information about her activities.

The mother of comrade Manamperi only saw the dead body of the deceased on the 24th May, 1971 when it was exhumed from a land near the bus stand in Kataragama. She had continuously denied that the deceased daughter had been an insurgent responsible for the attacks on the police station, and that she fed groups of insurgents at her house. It had been established that a lieutenant made Premawathi take off her clothes and walk

across the town nude, while been beaten by him and another officer. Finally stopping near a post office, the officers opened fire on the girl. They returned on two separate occasions to finish her off. Ultimately, she was shot dead from a bullet fired through the head with a rifle by an unidentified soldier. She was buried in a pit in a vacant plot of land. Regarding the murders carried out during the period of 1971 insurrection, this is the only known prosecuted case against the security personnel.

1983 and afterwards

In July 1983, the UNP government hatched a conspiracy, and proscribed the JVP, thus driving it underground. The real reason for proscription was that the JVP had grown to become a strong national political force that posed a political threat to the UNP government. Despite the mounting evidence that the JVP had no involvement whatsoever in the 1983 communal riots, the government did not move to lift the proscription of the JVP. In December 1983, the JVP leadership rejected my request to come to the open pledging that, if required, I would arrange a group of eminent persons to accompany comrade Rohana Wijeweera. In 1985, the JVP allegedly decided to build an underground organisation and use the national problem opportunistically to its advantage.

The JVP and chauvinist forces used the signing of Indo-Sri Lanka Accord in July

1987 to make rural Sinhala youth indignant by arousing anti-Indian sentiments. In 1987, the JVP had begun assassinating those who supported the intervention of the Indian Peace Keeping Forces (IPKF), and those who stood for the February 1989 elections. The JVP started assassinating not only the UNPers, but also the SLFPers and the supporters of the United Socialist Alliance, including its



A victim of the JVP in Tissamaharama on the day of the parliamentary elections, February 1989

(Photograph provided by the author)

leader VijayaKumaranatuga, were killed in early 1988. Many government politicians maintained torture chambers island-wide with the assistance and involvement of the top brass of the security forces. Thousands had been taken to these chambers, tortured, maimed, and killed. By 1988, the massacre of Sinhala civilians by the LTTE became advantageous to the opportunistic campaign by the JVP. By late 1988, people in the south were under the dual power of the UNP government and the JVP mini-government. Rate of daily killings by both sides had reached a figure of one hundred, the highest at the time in the globe.

The bodies of many victims were openly displayed as a warning to others: some had posters displayed beside them carrying the name of the JVP or its "armed wing", the *DeshapremiJanathaViyaparaya* (DJV); others were mutilated, sometimes with severed limbs or slashed sexual organs. In August 1989, the JVP announced that it would kill relatives of security forces personnel who did not resign their posts. In response, posters appeared threatening that the army would

kill numerous relatives of JVP supporters for each of their own killed. A widespread cycle of murder and reprisal killings followed. "The number of "disappearances" and extrajudicial executions reported after August rose dramatically. Then the JVP increasingly began to mount attacks on state property.

In late 1985, instead of relying on people power, they had again based their hopes on armed strength. At the end of 1986, the JVP assassinated DayaPatirana, a leader of the Colombo University independent student union movement. The security forces, its paramilitary units, and vigilante groups such as green tigers, PRAA, Black cats, Yellow cats and Ukussa (Eagle) had commenced assassinating the suspected JVPers. Many JVPers and civilians disappeared after arrest. In 1987, the JVP had established its military wing 'DeshapremiJanathaVyaparaya' (DJV) and carried out attacks on selected security targets. The UNP and the JVP vowed to destroy each other. The JVP campaign of terror in earnest appeared to have begun in 1987, with the DJV decision to declare

curfew and kill civilians who did not abide by its orders.

President R Premadasa, after winning the 1988 Presidential election, lifted the emergency, freed detainees and asked the JVP to engage in mainstream politics. It was too late. The state repression, police death threats and fear psychology would have prevented the JVP from coming to the open. They drew immense popular support in rural areas, and in July 1989 raised its slogans of driving the Indians out. However, the JVP activities, such as curfews, transport strikes, and lack of opportunities to get health care, food and children's education started affecting the ordinary working people rather than the affluent. People were forced to take strike action under death threats.

The government retaliation against the JVP was ruthless. Many hundreds suspected of sympathising with the JVP were killed by uniformed members of the security forces and by the 'death squads' believed to be associated with them. Many of the relatives of missing were too frightened to pursue official enquiries. Subjected to unmentionable torture, captured JVPers had provided information on the whereabouts of the JVP leadership. Rohana had been taken into custody in November 1989 and assassinated the same evening. The UNP gained military victory by killing about 80,000 people¹⁰. The capitalist class was able to drown those who opposed the system in rivers of blood.

The government security forces and many vigilante groups apparently working on their behalf were responsible for a mounting toll of extrajudicial executions and disappearances



A poster signed by the People's Red Revolutionary Army (PRRA) threatens: "The punishment for boycotting the elections is death' ". The JVP called for several elections to be boycotted and threatened to kill those who participated in them.

that took place in the second half of 1989. This period also saw a rising number of attacks and killings by the JVP, to which the government attributed a total of 6,517 killings between 1987 and mid-March 1990. Following the re-imposition of the state of emergency in June 1989, government security forces made little attempt to conceal their resort to widespread murder. Piles of bodies were dumped openly by roadsides, in fields and in cemeteries; and others were thrown into rivers. Many bodies were mutilated or burned beyond recognition. Towards the end of the year, mutilated bodies of JVP suspects, many of them apparently captives at the time of their killing, were reported to have been left hanging in central points in Kandy town, and in the surrounding villages severed limbs were seen hanging from trees.

The government persistently denied that it sanctioned illegal killings by its security forces, claiming that the security

¹⁰ Refer Amnesty International reports on this carnage; e.g. Amnesty International (1989). SRI LANKA Briefing. AI Index: ASA 37/20/90. London.

forces personnel only killed in combat. The government promised to inquire into specific instances of alleged extrajudicial executions by security forces personnel. However, most of these inquiries failed to produce any results. Even when the security forces and government officials had committed gross abuses, passing of the Indemnity (Amendment) Act was passed in December 1988, days before a presidential election was to take place, underlined condoning of such abuses. This provided retrospective immunity from prosecution to all members of the security forces, members of the government and government servants involved in enforcing law and order between 1 August 1977 and 16 December 1988, providing that their actions were carried out in good faith and in the public interest.

Impunity

Human rights need to be universal and universally applied. However, governments pursuing nationalist or 'anti-imperialist' causes propagate that the western nations are trying to impose universal standards of human rights on developing countries such as Sri Lanka. Successive governments in Sri Lanka have continued to ignore gross human rights violations, including torture, killings, disappearances and arbitrary detention. Amnesty legislation that prevent investigations, prosecutions and trials undermine the search for truth and justice. When a government responsible for human rights violations anticipating their loss of power, pre-empts investigation by proclaiming amnesties, the next government become subject to tremendous pressure to uphold such amnesties, or to concede that such rights violations did not occur.

Human rights are widely recognised as a global concern. Those who are struggling

for human rights in countries like Sri Lanka, need the active support of the international community. Linking maintenance of human rights standards to foreign aid came up during this time. It was said that this was a controversial issue as the outcome of such a measure was not certain. One could argue that it is unfortunate that the countries that really need development assistance may have to follow the conditions the donors impose. However, the counter argument poses the question that if such conditions of linkage lead to preventing excessive and illegal acts of human rights violations being committed, by governments, against their own population, (such as torture, extrajudicial executions and disappearances) then, on balance, it can be considered a positive outcome.

An interview with an elderly village woman published in Article 19 Sri Lanka Appeal¹¹ says it all:

Near the river, these young women were first raped, and then bottles of arrack were shoved in their genitals, then killed and thrown into the river. And then these dead girls float down the river. People don't use the water from the river now, they don't bathe or drink the water.

They put tyres around them, tie their legs and hands and then they burn them. You see these things are not done by anyone but the police. The government is responsible for these acts I have seen this with my own eyes. I was taken to the campus by some friends. There, you know, that lovely pond? That lovely pond with flowers around it there were 18 heads around it ...

They surround the young men and take them away, then they bring with them a person covered fully except for his eyes. There are two holes for the eyes. This is the bogey man. He is one of the

¹¹ The International Centre on Censorship (August 1990). Article 19 Sri Lanka Appeal. London.

boys they have taken and beaten up and tortured. He is brought as an informer, and taken into houses. He is asked to point out suspects, when he nods his head at anyone they are taken into the forest. There they pound them and maul them till the blood flows down they are beaten. Then they are murdered and burned. Over there, beside that tree, there were eight burnt bodies, then a schoolboy was tied up with his own shirt and vest, shot and then burnt. Who does these things, sir, is it you? is it me?

Conclusion

Ruling regimes in many countries of the world, irrespective of their ideologies, have been keeping many thousands of people behind bars, because of their beliefs. Many are held without charge or trial. Torture and executions are widespread. Thousands of men, women and children have been made to disappear, after being taken into custody. Many others have been killed by the regimes in power and their henchmen, without any pretence of legality.

The protection of human rights requires action, not words. Allowing people to commit human rights abuses without consequences for themselves, however clearly prohibited those abuses are by law, perpetuates their crimes. Ensuring that those responsible for torture and disappearances are brought to justice, and held accountable for human rights violations, will convey the clear message, that such rights violations will not be permitted to continue.

Protection of human rights is a universal responsibility, which transcends the national, racial and ideological boundaries. Human rights violations need a broad response both local and international. The people under the control of brutal repressive



Nandana Marasinghe, shot dead by the IVP in Anuradhapura in November 1987

regimes need to become aware that no one else has a right to impose the will and opinion of these regimes. The people need to make a choice, and take a stand for what they believe in.



Lionel Bopage was a former General Secretary of the JVP and was involved with the party since 1968 until his resignation in 1984.

Medical report on torture using the UN “Istanbul protocol”

by Siroos Mirzaei, Peter Knoll, Gerhard Mostbeck and, Thomas Wenzel

The complex interdisciplinary “Istanbul protocol” (IP) has been developed by an international expert group on the initiative coordinated by the Human Rights Foundation of Turkey and Physicians for Human Rights USA and was consequently submitted to the United Nations High Commissioner for Human Rights in 1999 and adopted by the General Assembly and the Commission on Human Rights in 2000 (2). It consists of six parts covering a range of subjects, from the general prohibition of torture and legal instruments to concrete and often very detailed legal and medical steps in the investigation, addressing especially prison and detention settings.

In this case report, we demonstrate the use of the IP in an effort for correct documentation and reporting of a patient who during asylum procedures alleged to have been tortured in an Iranian prison. The middle age male was sent to us by his lawyer for evaluation of possible aftereffects of torture which allegedly had been carried out three years prior to the examination.

Taking the History

Taking an adequate history is the first important step. The history was taken in the mother language of the patient. He was informed why the examination and the detailed questions regarding his torture allegations were important for the medical report. Care was taken to be aware of

possible memory related anxiety and create a “safe” and calm environment, and elicit the narrative in a way preventing undue stress. The reason why he was arrested was not explored as it was only related to the legal report performed by his lawyer. However, circumstances of arrest were explored. He was pushed down from nearly 2 meters height with the consequence of fracture of his both legs which were treated with a cast on both lower extremities for three weeks. Shortly he explained the conditions of the arrest building, as far as he was able to discern, and also the hygiene and food condition. He was asked to explain in which rooms the interrogations had taken place and how many people were attending.

He was not held in an official prison, but in a private building – a 2x3 m room with only one door, and no windows. He was exposed to mistreatments in this room, as well as in another room, where he was mistreated with other instruments. He was made to lie down on his side and his ankles were elevated gradually until his body weight was carried by his neck on the floor. The special instrument used was called “Jim-Jack”.

He was also exposed to sexual torture. Unknown objects were inserted in the anal canal. Additionally a further object, probably a cable, was inserted into his anus. And, a generator was used to subject incremental electrical stimuli.



Figure 1: Circular scars from burning with cigarettes

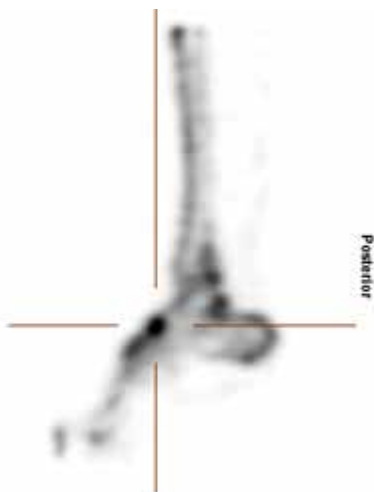


Figure 2: Bone scintigraphy: sagittal image of the left foot demonstrates focal intense osteoblastic activity in the (III^d) metatarsal bone

Also, Cigarettes were used to burn the skin of the upper extremities in several locations. The most severe physical consequences reported are an anal-sphincter insufficiency which could be mainly due to mechanical injuries explained by the patient, and moderate pain in the feet during walking. Medical Investigations:

Visual anal examination revealed an irregular sphincter edge with small fissures. A rectoscopy had been discussed with and proposed to the patient. The examination will

be performed after the asylum process which is at the time of manuscript preparation still ongoing. Photographs of the area have not been included herein.

Photographs of the scars from burning injuries with cigarettes have been taken for documentation (Fig. 1).

Because of the reported higher sensitivity of bone scintigraphy, compared to conventional radiographs in long term evaluation of possible skeletal injuries (3-5), we performed a bone scintigraphy after obtaining written consent of the patient. Three hours after injection of 740 MBq 99m - Tc MDP, bone scintigraphy was performed on a double head SPECT-CT gamma camera (Symbia T6, Siemens, Erlangen). Additional SPECT-CT images of the feet were performed.

The scintigraphic images demonstrate a pathological osteoblastic activity in middle foot of both sides, in osnaviculare of the right side, and also on the external board of the calcaneus on both sides (Fig. 2).

According to the known low specificity of bone scan, an additional MRI of the left foot was performed. MRI demonstrated bone marrow oedema of the basis of the III metatarsal bone with an impression fracture and further multiple synovial inflammatory reaction (Fig. 3).

These functional and morphological findings are in line with posttraumatic skeletal manifestations which correspond to the explanation of the patient.

Finally, a medical report was sent to the patient as requested by Istanbul protocol with detailed explanation of the performed examinations and emphasizing the limitations of the report as described in this manuscript and in Istanbul protocol.

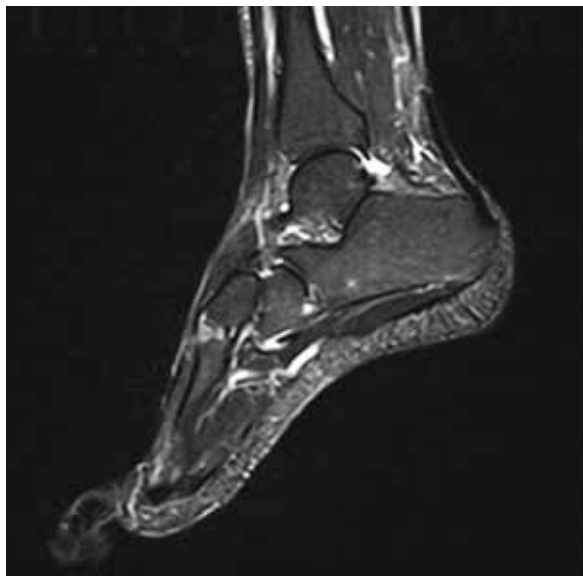


Figure 3: MRI image of the left foot revealed bone marrow oedema of the basis of the III metatarsal bone with an impression fracture and further multiple synovial inflammatory reaction

Limitations of the Examination and Medical Report

The psychological investigation of the patient by a mental health expert, as requested in the IP, could not yet be performed because of the long distance between the lodging place of the patient and the hospital of the expert. His situation is further complicated – a common but frequently neglected problem – by the situation of his family members. Wife and son have also been arrested in the home country of the patient. None of them has been seen by our team so far, and none of them has communicated to the patient about possible mistreatments during their arrest. However, the young son (on reasons of confidentiality, the age and further social histories of the involved individuals are withheld) has changed his behavior since imprisonment, and has inflicted several self injuries after release from prison.

Conclusion:

Medical examinations and reporting in asylum cases in detention cases are frequently hampered by logistical difficulties, as described in this case report. Physicians, however, are requested to investigate the cases in a proper, careful way, as recommended by Istanbul protocol, which is supported by both the UN and the World Medical Association. A triage to identify the most relevant examinations should be considered in order to achieve the most reliable comprehensive medical report possible. The limitation of the medical investigation must be included in the final report.

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ESSAY MODERN DAY TORTURE

Mind control targeting

Science fiction or a new form of hi-tech torture?

by Cheryl Welsh

Beginning in the 1950s, thousands of victims, mainly from the U.S. and Russia have claimed targeting with some type of secret remote mind control weapons. Most victims state that they are observed and attacked 24 hours a day for years on end via remote communication technologies interacting with their brains. They state that the physical and psychological methods used are destructive and debilitating. The desperate pleas sound like science fiction torture and they are dismissed as conspiracy theory or mental illness. The allegations are growing in numbers, including more recent claims from the Middle East, India, Japan, China and Taiwan.

Now, two prominent figures have alleged political oppression via mind control weapons, raising serious new concerns about



TekNath Rizal, an internationally recognized activist, exposed corruption in Bhutan and the King sent him to prison in 1988. (File Photo)

the persistent allegations. TekNath Rizal, an internationally recognized activist, exposed corruption in Bhutan and the King sent him to prison in 1988. Rizal claimed that he was tortured in prison with electromagnetic radiation (EMR) mind control technologies in a very brutal medieval fashion. The U.S. Department of State and Amnesty International pressed for his release and after ten years in prison, Rizal received a government pardon. In 2011, Rizal wrote the book *Torture, Killing Me Softly* and eloquently described his horrific experience. Another case was recently reported in Asian newspapers. Ruey Lin, the running mate of Taiwan opposition presidential candidate James Soong, claimed he had come under attack from “electromagnetic waves” launched by a local intelligence unit.¹

The allegations sound like descriptions of future weapons. For nearly sixty years, major countries have funded secret programs for developing advanced mind control weapons. The U.S. conducted mind control research to counter the threat of communist brainwashing and the classified research has continued to the present day.² Not one

1 Jens Kastner, Taiwanese Election Looms, Asia Sentinel, December 15, 2011. Available at http://www.asiasentinel.com/index.php?option=com_content&task=view&id=4048&Itemid=386.

2 Bill Richards, Book Disputes CIA Chief on Mind-Control Efforts: Work went on into 1970s, author says, *Washington Post*, January 29 1979, A2.

weapon has ever been revealed. Government documents describe weapons that will neutralize the enemy without killing, for counterinsurgency warfare and for psychological and intelligence operations. Weapons based on EMR, also called directed energy, would be deployed surreptitiously and leave no trace evidence, thus allowing governments to deny their existence. For example, the U.S. Air Force is funding the development of “directed energy and other revolutionary technologies, with the ability to instantaneously project very precise amounts of various types of energy anywhere in the world.”³

Mind control weapons target the brain and nervous system and are now known as neuroweapons. Experts agree that advanced weapons with mind reading and remote targeting capabilities are scientifically feasible but are decades into the future. This essay challenges the consensus that neuroweapons and allegations are science fiction. The first section presents the basic science of advanced neuroweapons. The next two sections present evidence suggesting that U.S. government secrecy methods are designed to keep the science of neuroweapons off limits to all but the government. A brief conclusion and recommendation are given.

The consensus on advanced neuroweapons science and technology

Developing advanced neuroweapons and solving how the brain works require the same basic science and technology. It is notable that for the last sixty years, the basic science and technology requirements have remained the same. Since the mid-twentieth

³ William Baker, et. al., *Controlled Effects: Scientists explore the future of controlled Effects*, in *Air Force Air Power Theory and Doctrine*, (Wright Patterson Air Force Base, 2001)

century, neuroscientists have known that brain cells, called neurons, communicate with electrochemical signals and this communication process translates into human activities such as dreams, thoughts, emotions, actions, hearing, seeing and more. Neuroscientists agree that the key to solving how the brain works is to decipher the language of the electrochemical signals.⁴

The brain is an electrochemical system with chemical, electrical and electromagnetic properties. Brain activity is based on biochemistry and principles of physics. For example, electric currents, including brain currents produce electromagnetic and magnetic fields and the brain can therefore be influenced by external electricity and electromagnetic and magnetic fields. Additionally, science research has firmly established that external electromagnetic, magnetic and electrical signals can disrupt, mimic or interact with the signals of the brain to affect behavior, brain and body functions.⁵ Therefore, a review of research progress in the three essential areas of research--the chemical, electrical and electromagnetic properties of the brain--would help determine if neuroweapons are science fiction.

First, the science of biochemistry has dominated medical research and most neuroscientists have focused on the biochemical aspect of the study of the brain.⁶ However, experts now agree that

⁴ John Horgan, *The Myth of Mind Control: Will anyone ever decode the human brain?*, *Discover Magazine*, October 29 2004. Available at <http://discovermagazine.com/2004/oct/cover>.

⁵ Douglas Pasternak, *Wonder Weapons: The Pentagon's Quest for Nonlethal Arms is Amazing. But is it Smart?* *US News and World Report* July 7, 1997, p.38.

⁶ Alan McComas, *Galvani's Spark: The story of the nerve impulse*, (Oxford University Press, 2011), p.327.

the biochemical approach alone is not enough to solve how the brain works. Neuroscientists have conducted research on the electrical and electromagnetic aspects of the electrochemical brain although to a much lesser extent than on the brain's biochemical properties. A major obstacle is that the brain is difficult to access and new technological tools are needed. Neuroscientists agree that to solve how the brain works requires observing and communicating with the 100 billion neurons in the living brain all at the same time.⁷ Today's brain scanning technologies such as the MRIs, (magnetic resonance imaging) only observe groups of neurons and are too imprecise for mind reading or mind control. Likewise, brain implants are only capable of simple electrical communication with individual neurons or groups of neurons. Progress on research involving the electrical nature of the brain has remained slow.⁸

The electromagnetic properties of the brain are difficult to measure and weapons research in this area has been classified since the 1950s. As a result, progress in this area continues to languish. Most people know how a microwave oven works; the electromagnetic radiation (EMR) called microwaves produce a thermal effect and heat or cook food. By contrast, few people are aware of the science research showing that EMR has significant nonthermalbioeffects on the human body, including the brain-effects other than just heating. Beginning in the 1960s, some

research on the electromagnetic aspect of brain function produced solid scientific results. A handful of pioneer researchers established the field of bioelectromagnetic medicine, "the study of the electromagnetic forces generated by living organisms, and the effects of external electromagnetic forces and fields upon living organisms."⁹ By the 1980s, scientific experiments supported that externally applied electromagnetic fields had a scientifically measurable effect on electromagnetic processes of transformation, transfer, coding, and storage of information in living systems, including in the brain.¹⁰ Subsequent research has extended this promising line of brain communication research, however, it remains unproven, at least in the unclassified research. A 1991 London Guardian article explains:

To accept that our biology and brain function is affected by electromagnetic radiation requires us to change our notion of how the body functions. Even though the body is basically an electrochemical system, modern science has almost exclusively been concerned with the chemical aspect.¹¹

Experts say that information age science will be required to fill the gaps in neuroscience research. Today's information age had its beginnings in the 1940s with the discovery of semiconductors and the invention of transistors and integrated circuits. Information age science of quantum physics, electrical engineering and solid state physics

7 Larry Squire, ed., *Fundamental Neuroscience*, (Elsevier, 2008), p.1234.

8 Committee on Military and Intelligence Methodology for Emergent Neurophysiological and Cognitive/Neural Science Research in the Next Two Decades, *Emerging Cognitive Neuroscience and Related Technologies*, National Research Council, (National Academies Press, 2008), 2-3. Available at http://www.nap.edu/openbook.php?record_id=12177&page=12.

9 Robert Becker, *Electromagnetism and Life*, in *Modern Bioelectricity*, Andrew Marino, ed (M. Dekker, 1988), p.1.

10 Samuel Koslov, *Bridging the Gap*, in Ross Adey, Albert Lawrence ed., *International Conference on Nonlinear Electrodynamics in Biological Systems*, (Plenum Press, 1984), p.586.

11 Simon North, *War in the Desert, Electronic weapons*, London Guardian, February 2 1991.

led to the atomic bomb, microwave radar, the computer, brain implants and brain scanning technologies, the moon landing and more. The following two examples illustrate how information age technologies would likely be applied to the development of advanced neuroweapons. In his 2008 *New York Times*-reviewed book, physicist Michio Kaku explained: "Radio waves can be beamed directly into the human brain to excite areas of the brain known to control certain functions. This line of research began in the 1950s . . . But research in this direction is only at the earliest stages."¹² In 2010, the prominent physicist Freeman Dyson predicted that to observe and control the brain, the "neurological equivalent of integrated-circuit technology" must be developed. According to Dyson, this required "microwave signals and two tools; first microscopic radio transmitters and receivers; and second, a tool to convert neural signals into radio signals and vice versa."¹³

Generally speaking, since the 1950s, the consensus on the essential requirements for solving how the brain works and for developing advanced neuroweapons are; first, deciphering the language of electrochemical brain signals with a research focus on the electrical and electromagnetic aspects of the electrochemical brain; and second, new technologies based on information age science for observation of and communication with the 100 billion neurons in the brain all at the same time.

12 Michio Kaku, *Physics of the Impossible, A Scientific Exploration into the World of Phasers, Force Fields, Teleportation, and Time Travel*, (Doubleday, 2008), p.85.

13 Freeman Dyson, Radiotelemetry: Direct Communication from Brain to Brain, in *This Will Change Everything: Ideas that will shape the future*, John Brockman, ed., (Harper Perennial, 2010), p.146.

A U.S. government deception exposed

The consensus is that advanced neuroweapons are not scientifically possible because of the current rudimentary level of neuroscience development. An underlying assumption of the consensus is that the past sixty years of classified research advanced at a similar pace as the unclassified neuroscience. So it becomes relevant that for nearly sixty years, the U.S. government has maintained a monopoly over EMR bioeffects research. For example, the official U.S. Air Force science policy on EMR bioeffects research has remained the same for decades:

The official U.S. Air Force position is that there are no non-thermal effects of microwaves. Yet Dennis Bushnell, chief scientist at NASA's Langley Research Center, tagged microwave attacks against the human brain as part of future warfare in a 2001 presentation to the National Defense Industrial Association about "Future Strategic Issues."¹⁴

Recently the science journal *Nature* admonished the U.S. Air Force about classifying EMR bioeffects research and stated that only weapons not science should be classified.¹⁵ Distorting science for national security purposes is not new. For decades, government officials controlled atomic bomb science and routinely suppressed any information about the serious health effects of radiation because it might hinder research.¹⁶

14 Sharon Weinberger, Thought Wars, *Washington Post Magazine*, January 14, 2007, p.W22.

15 Editorial, Secret Weapons, *Nature*, Vol. 489, September 13, 2012, p.177-178. Available at www.nature.com/nature/journal/v489i77b.html.

16 Eileen Welsome, *The Plutonium Files: America's Secret Medical Experiments in the Cold War*, (Dial Press, 1999), p.484-485.

Likewise, it can be argued that U.S. officials have manipulated the science of EMR bioeffects for national security purposes. Several bioelectromagnetic researchers have written about deceptive U.S. government practices including loss of government funding, threatening and discrediting researchers, classifying promising research, spreading propaganda, and promoting a government policy that distorts valid EMR bioeffects research. Robert Becker, a two time Nobel Prize nominee for his work in bioelectromagnetism, felt that the U.S. government leaked disinformation “to make the whole question of mind control seem absolutely unbelievable.”¹⁷

The U.S. government monopoly over EMR bioeffects research has been highly effective. For example, in 2001, a group of experts wrote that new rat implant technologies capable of transmitting signals remotely had “nothing to do with the fantasies of mind control by electromagnetic fields, long a staple of science fiction and lately of conspiracy theory Web sites.”¹⁸ It can be argued that the consensus is missing key information; first, in neuroscience, the focus remains on a biochemical approach; second, the lack of technologies to access the brain overshadowed research progress on the electrical properties of the brain; and third, the U.S. government monopoly over EMR bioeffects research severely stunted its development. It can be argued that the monopoly allowed the U.S. government to suppress research demonstrating the significant importance of EMR bioeffects research for solving how the brain works.

17 V. N. Binhi, *Electromagnetic Mind Control Fact or Fiction? A Scientific View*, (Nova Science, 2010), p.xi. See also Welsh, Cold War Experiments, *Essex Human Rights Review*, p.22-32. Available at: <http://projects.essex.ac.uk/ehrr/V9N1/WELSH.pdf>

18 Kenneth Foster, et. al., Bioethics and the Brain, *IEEE Spectrum*, June 2003, p.34.

As mentioned above, this research remains promising but unproven.

It would seem that the monopoly allowed the U.S. government an advantage of at least sixty years of classified weapons research while at the same time, unclassified neuroscience was missing essential research for solving how the brain works. It can be argued that the U.S. government was able to maintain the deception that unclassified and classified research are too rudimentary for advanced neuroweapons. At the same time, the government advantage could have led to major progress or the successful development of advanced neuroweapons. A strong case can be made that the underlying assumption of the consensus was wrong; the past sixty years of classified research almost surely would not have advanced at a similar pace as the unclassified neuroscience.

A Manhattan Project for neuroweapons?

Solving how the brain works has been described as a scientific endeavor more difficult than landing on the moon. The Manhattan Project was successful in building the atomic bomb, likewise, could a Manhattan Project for neuroweapons have already taken place? General Leslie Groves, director of the Manhattan Project testified at a 1945 congressional hearing;

The big secret was really something that we could not keep quiet, and that was the fact that the thing [atomic bomb] went off. . . . It was something that we did not know until we had spend almost \$2,000,000,000 and had worked about three years. We did not know whether it would go off or not.¹⁹

19 U.S. Congress, House of Representatives, Committee on Military Affairs, Atomic Energy, Hearings on H.R. 4280, An Act for the Development and Control of Atomic Energy, October 9 and 18, 1945, 79th Congress, 1st Sess., 1945, p.12.

Atomic physicist H. C. Urey also testified at the congressional hearing;

When the [atomic] bomb exploded, the most important fact was known. From that point on, any foreign country could move with confidence, and this is a great advantage; whereas we had to feel our way along on this problem, set up many alternative methods for doing this work, follow many lines of research, many of which were discarded.²⁰

Similarly, a case can be made that the consensus can only make educated guesses about whether a Manhattan Project for neuroweapons could succeed. It seems fair to conclude that there is much less certainty than the consensus has admitted too and much more certainty than the allegations have been given credit for. A closer examination of U.S. science and secrecy methods suggests that the probability has tipped: advanced neuroweapons are likely to have been secretly developed and the decades of allegations of government neuroweapons targeting are likely to be true. An investigation is long overdue. The hope is that human rights experts may now have enough evidence to recognize a critical new human rights issue.



Cheryl Welsh is director of a small non-profit human rights group located in Davis, California, U.S. She authored Cold War Experiments: The Threat of Neuroweapons and the Danger it will happen again, Essex Human Rights Review, June 2012. Available at: <http://projects.essex.ac.uk/ehrr/V9N1/WELSH.pdf>

²⁰ Ibid.

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Where We Began

The Origins of RCT recalled on its 30th anniversary
Tatiana Jessen & Henrik Ronsbo

Page 44

Healing the Wounds

From Rehabilitation to Dignity
Jan Ole Haagenzen

Page 55

SPECIAL FROM RCT TO DIGNITY

The Origins of the RCT

recalled on its 30th anniversary

by Tatiana Jessen & Henrik Ronsbo

On October 30, 2012, the Rehabilitation and Research Center for Torture victims (RCT) in Copenhagen commemorated its 30th anniversary. Historically, the RCT's emergence rested on an increased globalized concern condemning torture combined with a profound attention to human dignity. With respect to the pioneers, the story we unfold reveals the strong personal drive of Dr. Med. Inge Genefke, co-founder of the RCT, her indefatigable work and her strong professional dedication to alleviate suffering both in Denmark and worldwide.

This article is based on Dr. Med. Genefke's personal account about the origins of the RCT, its pioneers, the principles that guided it and the reasons why Copenhagen turned out to host the RCT.

Amnesty and the early years

During the 1970's advocates for victims and denouncement of torture, were mostly lawyers and doctors passionately engaged in Amnesty International's work against torture. As Dr. Med. Genefke remembers:

"While I was a member of Amnesty International, it became clear to us, that judicial courts interpreted legal proofs in ways that often blamed torture victims of self-inflicting injuries, thus denying that a third

party actually was involved in inflicting pain and injuries. We realized that medical evidence to back up the victim's testimony was missing. It was our contention, that the consequences



Dr. Med. Inge Genefke ((RCT))

of torture on victims' bodies and general health should be medically examined so that its results could be accepted as evidence in courts." (Genefke I. K., My personal account in relation to RCT's 30th anniversary, 2012)

According to Dr. Med. Genefke the military coup in Chile made these insights stand with painful clarity and in Denmark the arrival of the first group of refugees, who had been tortured, accelerated efforts to find solutions.

The Latin American Awakening

In Chile, a military coup on September 11, 1973 ousted the democratically elected president Salvador Allende and the new military junta became notorious for its violations of human rights. The dictatorship organized death squads, trained torture teams and licensed the use of torture and

assassinations. Between 1973 and 1989, 40,000 Chileans were tortured and 3,700 either disappeared from detention sites or were extra-judicially executed. Foreigners, who had sought refuge in Chile due to military coups in other Latin American countries were targeted too and caught in the diaspora. Like Chileans, refugees from other Latin America countries headed north to Europe and some of them were granted asylum in Denmark.

Torture was unfortunately wide spread during the 60's - 70's not only in Latin America, but also in southern Europe, (Greece, Portugal, and Spain) Northern Ireland, Eastern-Europe, as well in African and South-East Asian countries. Moreover, there were torture experts, as well as schools of torture, training armed units of different countries.¹

Quite troubling for conscientious health-care activists in Amnesty International was to learn that fellow doctors, acting against shared ethical codes, played active parts in torture:

“Where doctors are known to have participated in torture, either by suggesting the means of torture or by evaluating the extent of torture that the victim can tolerate, colleagues abroad can intervene in a preventive way by condemning the doctor’s collaboration in torture. Such an initiative is being taken by Amnesty International’s Danish Medical Group.” (Riis, 1977)

1 The School of the Americas (SOA) was born when the U.S. Army first opened its precursor in the Panama Canal Zone in 1946. In 1963, it adopted the name School of the Americas, and in 1984 it moved to Fort Benning, Georgia. In the 1990s, as investigators released lists of its infamous alumni—Panama’s Manuel Noriega, El Salvador’s Atlacatl Battalion, and many of Chilean torturers were among them. (McPherson, 2005)

Even though it may be difficult to understand today, neither the scope of torture in global terms nor its devastating consequences for torture, survivors, their families, and communities had caught the attention of the international community.

Amnesty International’s Danish Medical Group

To counteract spreading and the damage torture was causing, Dr. Med. Genefke took the initiative to create a Danish expert team in charge of collecting data, investigating the medical consequences of torture and the ways torture imprints its devastating effects for torture survivors, their families and their children.

Amnesty International’s initiative to raise awareness about the scope and effects of torture can be traced back to its first worldwide campaign for the “Abolition of Torture”? Launched in 1972. (Wagner, 1983) Adding to this globalized response, the UN General Assembly adopted, in September 1973 the first resolution (Resolution 3059) denouncing torture.

“The use of torture is a violation of all principles of human freedom and of the life and dignity of a human person, and as such must be identified as a crime against humanity.” (Aceves, 2007)

In commemoration of the 25th anniversary of the Declaration of Human Rights, in December 1973, Amnesty International hosted in Paris the first International Medical Seminar on Torture, as Dr. Med. Peter Moltke informed in an article published in the Danish Medical Association’s journal. One of the recommendations of the Seminar was to gather a team of doctors who were willing to travel abroad for Amnesty International to assess prisoners, who had been tortured. (Moltke, 1974)

Relying on this window of opportunity, Dr. Med. Genefke appealed to members of the Danish Medical Association to join in an expert group devoted to building up medical expertise. (Genefke I. K., April 1974) The team's purpose was straightforward: to gather scientific evidence in Denmark and abroad about exposure to torture and its consequences.

Only three responses came back. Nevertheless, the Danish Medical Group was formed under the wings of Amnesty International. The following Danish pioneers: Dr. Med. Inge Genefke, neurologist and researcher, Dr. Med. Ole Vedel Rasmussen, urologist and, Dr. Med. Peter Moltke and Dr. Med. Helmuth Stadler, both general practitioners.

Soon enough other doctors joined in as Dr. Med. Genefke remembers: "Among them were psychiatrist Inge Lund, neurologist Gudrun Boysen, GP JørgenKjelstrup and M. D. Erik Karup Pedersen and many others".



Dr. Med. Ole Vedel Rasmussen (RCT)



Dr. Med. Helmuth Stadler(RCT)



Dr. Med. Peter Moltke(RCT)

Fortunately, the Danish Medical Group bolstered with different medical specialties and their members' commitment to the struggle against torture and their interest in research became crucial for generating new knowledge.

The Danish Medical Group grew to include 14 members, who organized themselves in sub-groups: the travelling group, the research group, and the psychiatric group. In order to investigate where detainees had died, allegedly because of torture, a forensic sub-group was subsequently constituted. In this setup, the travelling group acted as coordinator of all the other groups.

“The mandate of the medical teams sent abroad was to examine victims, confirm torture allegations, as well as to collect material for further research.” (Genefke I. K., *Medical work against torture*, 1981)

In the following years members of the travelling group engaged in fact-finding missions to South Korea (1975), Spain (1977), Northern Ireland (1977), and Greece (1975). In France, they interviewed and examined torture victims from Uruguay, who were tortured in Argentina. (Riis Kjaersgaard, 1977)

In 1978 these doctors founded the medical society by the name of Anti-Torture Research.

The research sub-group covered several areas: endocrinological and neurological effects of torture, psychiatric effects of drugs used under torture, as well as the effects of confinement and isolation on detainees.

Another group of doctors – Inge Lund, Lis Danielsen and Erik Karup Pedersen - were interested in examining dermatological effects after alleged torture. Since 1975, they collected samples of skin tissue from burn scars, which torture victims explained were caused by electric rods directly applied to their flesh during torture. Close examination of biopsies from scar samples showed that application of electricity inflicted by torture produced distinguishable type of scars. (Dyhre-Poulsen, 1977) (Danielsen, 2006)

Anatomist Frede Bro Rasmussen together with Ole Vedel Rasmussen investigated the effects of “phalanga” – repeated beatings on feet soles – and found that besides the enduring pain it caused, the most damaging effect of “phalanga” was gangrene of toes, denominated Compartment Syndrome. (Bro-Rasmussen, 1978)

Dr. Med. Genefke reflects: “The Danish Medical Group was the first team in the world backed by an international organization, such as Amnesty International.” (Genefke I. K., *My personal account in relation to RCT’s 30th anniversary*, 2012)

To consolidate the Danish Medical Group’s initial work and continue to identify key medical evidence of torture and assess its consequences, it was imperative to carry out more sustained research studies. For this purpose, the Danish Medical Group decided to launch a pilot project with a group of torture victims, newly arrived in Denmark.

Pilot Project in Denmark and Greece

The pilot project was designed to include 15 torture victims from Chile, who were granted asylum in Denmark. It was based on a structured socio-medical interview (anamnese) and a detailed medical examination. The results of the pilot investigation showed medical evidence of torture, especially related to injured shoulders and feet soles, which were expected. Nevertheless the Danish Medical Group was shaken by aggravating psychological sequela the victims were informing them about: sleeplessness and nightmares, anxiety and depression, personality changes, emotional instability, bereavement and avoidance of social contact, even with their own family. Were these effects related to torture or to exile, being a refugee in an alien country?

To be able to isolate the consequences of torture from exile, the Danish Medical Group decided to replicate the pilot project in a context, where the victims had stayed in their countries after they were tortured. For this purpose, the Danish Medical Group went to Greece on a fact-finding mission to report on the violations of the former repressive military regime, which among others had used torture methods. Greece was in a stage of building up democratic institutions and became interested in the project.

Following the same procedures and methods, the same pilot project was carried out with Greek torture victims. The results corroborated the Danish Medical Group's previous findings. It clearly demonstrated after-effects from torture in both physical and psychological domains. (Rasmussen & Mouritzen, *Torture: A Study of Chilean and Greek Victims*, 1977)

The Danish Medical Group understood that to counteract torture it was imperative to strengthen its efforts to build up an international network with contacts to medical and human rights organizations in many countries. This network acted as a platform to denounce the use of torture and to advocate for the victims.

International Network

Within Amnesty International, the Danish Medical Group organized an international network of socio-medical and human rights professionals. Beginning in 1974 and using Denmark as its base, it succeeded to engage around 4,000 medical doctors from 34 countries, for ex.: Chile, Greece, England, France, Netherland, Sweden, Philippines,

South Africa, and other countries.² This international network became the foundation of health-based responses to the problem of torture. In addition to documenting cases of torture to use in prospective legal proceedings, these doctors also began identifying adequate rehabilitation methods. (IRCT)

The International Network hosted seminars in Denmark to medical and human rights' staff from other countries and the Danish pioneers were invited to training seminars abroad. Dr. Med. Genefke reminds us of the political settings during the Cold-War:

“Because denouncement of torture was and still is understood as a threat for some regimes, the movement had to struggle against powerful misinformation both directed to torture victims and to the general public.” (Genefke I. K., *My personal account in relation to RCT's 30th anniversary*, 2012)

On the one hand, some of the network's activists received threats, which media platforms were not interested in reporting. On the other hand, torture survivors were reluctant to seek medical services about their physical as well as psychological ailments.

Besides, torture victims were caught in a dilemma: if they cooperated with the Danish Medical Group to expose their bodily harm and psychological damage due to torture, would their families and friends at home become also victims of terror? Torture survivors were afraid their testimonies about torture might result in reprisals against their family, relatives and friends at home.

² In response to a growing need for global support in the rehabilitation of torture victims, the International Rehabilitation Council for Torture Victims was founded in 1985, initially as the international arm of the RCT, and, from 1997, as an independent international membership organisation. (IRCT)

By 1978 the Danish Medical Group had gathered data in Denmark and abroad about one hundred torture survivors, analyzed the data and published their findings. (Ganes, Genefke, Marcussen, & Schulsinger, 1983) Additionally extensive studies about torture methods and the systematic examination of more than 800 torture victims were carried out. Preliminary findings showed that the psychiatric and psychological after-effects of torture appeared to be more damaging to the victim than the physical effects of the original attack. (Rasmussen, *The Medical Struggle against Torture*; , 1980)

Based on these results the Danish Medical Group realized that the next step was to take care of and provide rehabilitation for the victims. Based on the growing international support against torture, Dr. Med. Genefke contacted the Danish Ministry of Foreign Affairs to raise awareness at ministerial level, of the need to fund treatment for torture victims in Denmark. Meanwhile Argentinian refugees in collaboration with Amnesty International organized an awareness raising campaign during this year's World Cup in football organized in Argentina by the military dictatorship.



((RCT))

Rehabilitation of torture victims

Acknowledging that torture victims could not wait to be treated while political deliberations about funding took place, Dr. Med. Genefke turned to Professor Dr. Med. Erik Skinhøj at her workplace in Rigshospitalet (The University Hospital in Copenhagen). Dr. Med. Erik Skinhøj agreed to usher her petition to the Administrative Director of Rigshospitalet Kjeld Glerup, who subsequently supported her initiative.

In fact, Rigshospitalet granted two beds free of charge in the neurological ward where Dr. Med. Genefke was working. Previously she had approached torture survivors, who needed prompt treatment. She recalls: "In the ward 2084 of Rigshospitalet two torture survivors were hospitalized to be examined and treated, assisted by two competent nurses Inger Olsen and Maj-Britt Johannesen." (Genefke I. K., *My personal account in relation to RCT's 30th anniversary*, 2012)

An advantage of Rigshospitalet was that it counted with different specialties that were essential for assessment and treatment of torture survivors: neurology, psychiatry, urology, anatomy, dermatology, etc. Many doctors and medical personnel cooperated with Dr. Med. Genefke in the first exploratory attempts to find adequate assessment and treatment procedures. As Dr. Med. Genefke fondly recalls:

"I had many supporters at Rigshospitalet and I was able to rely on trusted colleagues." (Genefke I. K., *My personal account in relation to RCT's 30th anniversary*, 2012)

Following hospitalization, thorough medical examinations showed that torture survivors had severe sequels from torture. They suffered from diminished eyesight

and hearing difficulties, severe body pains, liver and spleen damage, sexual disturbances such as reduced libido and erectile dysfunction were observed in 29 % of the sample. Yet there was no conclusive medical confirmation about the relationship between sexual disturbances, previous cranial and/or genital traumas and severity of torture, or length of imprisonment. The cause of sexual dysfunction in torture victims remained to be established. (Lunde, Rasmussen, & Wagner, 1981)

Other torture survivors were examined and treated as ambulant patients. Even though problems were multiple, the field of rehabilitation of torture survivors was just in its initial phase. At the hospital, security measures were taken around these patients and their testimonies rendered anonymous. Data collecting became more systematic and torture survivor's complaints registered into a somatic and a psychological record. From these records grew medical and psychological knowledge about the effects of torture.

Dr. Med. Ole Vedel Rasmussen built up a systematic register of the medical findings from assessments of torture survivors (Rasmussen & Mouritzen, *Torture: A Study of Chilean and Greek Victims*, 1977) adding data gathered by fact-finding missions in Spain. (Jess, Kosteljanetz, Marstrand, Rasmussen, & Severin, 1980) Moreover, he continued during the following years to gather data about torture survivors for his Doctoral dissertation "Medical Aspects of Torture" submitted in 1990.

It came to the doctors' attention that children to torture survivors also had to be assessed. Pediatrician Jørgen Cohn and co-workers undertook medical examinations of the children. The first studies in 1976 reflected that children and juveniles had

been subjected to maltreatment and torture methods.³ Readings from data analysis, informed that the methods of torture used on children were similar to those on adults. Yet the consequences of torture and maltreatment for children and juveniles had far reaching consequences. Many of them suffered from post-traumatic stress syndrome, were disillusioned and mistrustful about other human beings, had negative life expectancies, and a high rate of suicides. (pubmed, 2012)

At Rigshospitalet the doctors, who were cooperating with Dr. Med. Genefke held conference meetings about those torture survivors they were examining and treating. Their work about emerging principles and methods for assessment and treatment were disseminated in a publication "Evidence of Torture". (Genefke & Rasmussen, 1977)

Gradually the team of doctors at the Rigshospitalet began to understand that hospital settings for rehabilitation of torture survivors actually could act in detriment of the team's objectives to alleviate suffering. The influence of institutionalized care, language difficulties to communicate with the staff, bed confinement and medical examinations like for ex. EEG with electrodes touching the skin, easily could trigger horrendous memories of torture and imprisonment. From deliberations of the team rose the conviction of creating safe settings for assessment and treatment of torture survivors. Clarity gave way to various negotiations guided by the notion of creating a specialized Research and Rehabilitation Center for Torture Victims in Copenhagen.

3 A working group denominated "Children and torture" was established in Copenhagen, Denmark in 1976 by Jørgen Cohn, M.D. pediatrician and his coworkers.

Rehabilitation and Research Center for Torture Victims

Amnesty International's seminar in 1978 in Athens, Greece (March 10 and 11, 1978) was attended by 130 physicians, dentists, nurses, medical social workers and lawyers. The agenda covered reports about the following topics: fact-finding missions, medical and psychological examinations of torture victims, and research about the effects of refined torture technics such as electric shock. Special notice was taken to the work of human rights activists in writing letters to authorities in countries where workers in the health professions disappeared, presumably into state prisons. (Gellhorn, 1978 August) The assembly recommended strengthening medical and legal work in relation to rehabilitation of torture victims.

In fact, this recommendation became the first stone as Dr. Med. Genefke expresses it: "The idea of building up a rehabilitation center was born." (Genefke I. K., My personal account in relation to RCT's 30th anniversary, 2012)

A year later in Copenhagen, Amnesty International held a medical seminar on "Sequels and Rehabilitation of concentration camp victims" sailors from World War 2, hostages and torture victims. This time the assembly's recommendation became even clearer: (a) create a rehabilitation center for torture victims and, (b) send a petition to the united nations about creating a special fund for torture survivors.

Since then, significant events happened very quickly, as Dr. Med. Genefkere calls: "In March 1981 Amnesty International declared that the objectives of a rehabilitation center lied outside their statutes. Therefore, it was imperative to search elsewhere for donors and partners to accomplish our goal."

(Genefke I. K., My personal account in relation to RCT's 30th anniversary, 2012)

In December 1981 the United Nations authorized the creation of United Nations Voluntary Fund for Victims of Torture (UNVFT). This new fund was thought to provide the economic grounds to create a research and rehabilitation center for torture victims in Copenhagen. To fulfill the requirements of Danish co-funding stipulated by the United Nations Voluntary Fund for Victims of Torture, the ongoing negotiations with ministerial authorities in Copenhagen succeeded. The Danish Ministry of Education and the Ministry of Foreign Affairs agreed to support the project.

As a result of the negotiations, a Preparation Committee was established in December 1981 constituted by Erik Karup Petersen, Inge Lunde, Poul Ris and Inge Genefke. The purpose of the Preparation Committee was to search for facilities and qualified personnel to lead the first Research and Rehabilitation Center for Torture Victims.

The Preparation Committee met the 30th of October 1982, actually to found the Rehabilitation and Research Center for Torture Victims (RCT). Tasks were accomplished involving the formulation of the Center's statutes, a job description



Julianne Maries Vej 28 -34. ((RCT))

for the coming Director and the legal grounds were agreed, assisted by Amnesty International's legal advisor Claus Arup. The last task was to find facilities for the Center. Through ministerial contacts, the Center was offered facilities administered by Rigshospitalet, and their first address was Julianne Maries Vej 28 -34.

In December, 1982 the newly hired Administrative Director of the RCT Lis Ehmer Olsen together with Annette Hart Hansen, Gunhild Nielsen and Dr. Med. Genefke held an opening reception, which was covered by European and Danish media. In her speech Dr. Med. Genefke summarized it: "It was a valuable work to engage medical expertise against torture and it took us eight years to accomplish." (Genefke I. K., My personal account in relation to RCT's 30th anniversary, 2012)



Newspaper Clips ((RCT))

Novel rehabilitation methods were tried and followed up. To create a trustworthy base for rehabilitation, the notion of an interdisciplinary approach to assessment and treatment for torture survivors began to take form. Spouses to torture victims were

observed by nurses to be overburdened and were encouraged to organize themselves in self-care groups. Children were invited to participate in artistic workshops, led by Nestor Guerrero, an artist from Uruguay, who was a torture survivor too.

Besides research and rehabilitation, the RCT soon became engaged in teaching and consultant activities. Among them, arranging international seminars and conferences abroad became the milestones to usher in many countries the creation of new research and rehabilitation centers for torture survivors. (Lunde Nielsen, et al., 1985)

Because the RCT needed to seek support for its domestic and international work against torture, an International Committee was formed with the participation of European and Danish celebrities. The domestic side, counted with a committee denominated RCT's Friends, constituted by supporters, friends, torture survivors and their families. Besides, in 1984 a Board of Trustees led by Professor, Dr. Med. Bent Sørensen was established.



Dr. Med. Bent Sørensen ((RCT))

The RCT Brand

Looking back, we can say that the RCT emerged out of the intersection of global

events and networks. On the one hand, at the international level Amnesty International's campaign for the Abolition of Torture created a network of medical practitioners fighting against torture. On the other hand, the arrival in Denmark of torture survivors from Latin America demanded quick decisions for the provision of adequate rehabilitation services, which at the time were not available.

What made the difference was that Danish pioneers linked to global human rights and health-care networks took the challenge unto themselves. Resting on the acknowledgement of suffering and encouragement of hope, they created a unique and powerful brand. Engraved in its core lies a combination of research based interventions, which seek to support human DIGNITY, and a vision of equal and global rights for people to have a full and secure social life.

The RCT was founded to meet these challenges and it has undergone numerous changes and will continue to do so. Surely, the pioneers succeeded in creating the foundations of a prestigious and highly specialized institution against torture which 30 years later still seeks to uphold torture survivors' DIGNITY.

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SPECIAL FROM RCT TO DIGNITY

From Rehabilitation to DIGNITY

by Jan Ole Haagensen

On October 30, 2012, the Rehabilitation and Research Centre for Torture Victims (RCT) in Denmark can celebrate its 30 year anniversary. What started with Amnesty International's (AI) first medical group has now organizationally become a swan that can fly.

During their efforts in documenting torture, Danish medical doctors from the AI medical group found that many survivors did need specialized care, which the national public health system at the time was not capable of providing. So, some of these doctors began developing a special treatment programme for these persons. The AI found that the treatment could not take place inside the organization, which led Dr. Med. Inge Genefke and other members of the group to create their own outfit. This new group was generously given space at the Royal National Hospital in Copenhagen. With a lot of entrepreneurship, hard work, commitment, and stubbornness, they succeeded in developing a specialised rehabilitation programme. And the programme has shown that it is sustainable; the RCT is still rehabilitating survivors of torture. Now, the rehabilitation is, in fact, integrated into the national health system and a lot of the RCT's ideas are now integrated into practice in many places. As a spin-off, other organisations working with the rehabilitation of survivors have also come

into existence, for instance, the rehabilitation centres of Oasis and the RCT Jutland in Denmark.

Furthermore, the RCT has become a model that numerous organisations in the world, in the field, relate to in one way or another. Finally, the work of the RCT has broadened its mandate to involve organised violence and it is now conducting research, as well as co-operating with partners, all over the world¹.

From a few social entrepreneurs

Thirty years down the line, the RCT is organizationally as strong as ever. It consists of 100 professional staff, competent in health, legal, and development aspects. They are clinicians, practitioners, and researchers. Rehabilitation of torture survivors is now integrated into the national health system, due to, among other factors, the work of the RCT. The RCT is forming coalitions and alliances with many different organisations in Denmark and all over the world. Today, we have development activities in 19 countries besides Denmark. Here we are working with strong committed partners in many of these countries. Among these is the Asian Human Rights Commission, based in Hong Kong.

1 Torture in this article also includes the concept of organised violence.

International work

From the beginning, the RCT has had an international outlook. The torture survivors getting rehabilitation at the RCT came from other countries; initially, it was primarily South America, and presently, it is primarily from the Middle East that survivors hail from. Furthermore, the focus on medical and psychological documentation of torture has remained a constant right from the AI days. The RCT should not only treat but also look into how the information gained could be used for documentation and thus prevention of torture.

Most of the international activities were, from 1985, branded as work under the International Rehabilitation Council for Torture Victims (IRCT), which was an integrated part of the RCT until 1997, where it became a separate organization with members (the RCT is one of these). International work remained, however, central for the RCT throughout, with the bulk of it supported by the Danish Government.

Organisationally, the RCT has done well, but there is still a lot to do. The majority of countries still experience torture regularly. With the focus that has been given to torture in the last 30 years, we have found out that torture is much more widespread than first anticipated. In some countries, it is standard operating procedure for the police in the criminal investigation process. As the problem of torture is so huge, the RCT is compelled to become even better in using the limited resources to get a better impact in relation to the elimination of torture.

A Partnership Approach

Over the years, the nature of international work has changed, with the embracing of the partnership approach. Instead of

making rehabilitation centres like the one in Denmark, the RCT has formed partnerships with strong organisations sharing the RCT's views in the field of torture. The co-operation took the point of departure in the local contexts with unique histories of torture, specific needs, and locally available resources. Using documentation from treatment of torture survivors has been the stepping stone in increasingly working with the prevention of torture. Today, most of the RCTs international work relates to the prevention of torture from a health, legal, as well as a broader societal or developmental perspective. This is because torture is considered an interdisciplinary problem, and has to be solved that way. Torture is also seen as a political problem. Therefore, it will have to be dealt with in this way as well.

Since the Convention Against Torture was adopted in 1984 by the UN, it has constituted a central reference for the RCT's work and is being used explicitly in the fight against torture. This political struggle is global! Therefore, while the partners abroad are doing advocacy in their respective countries, the RCT is also undertaking advocacy in Denmark. We are aware that working in this field can, in many countries, be dangerous, where staff of partner organisations from time to time experience threat, harassment, beatings, and are even killed or made to disappear.

Torture is an indication of system failure. It is very seldom due to a few bad apples. Here, the ultimate goal is to change the systems that permit it taking place, and not leave the values that constitute the foundation of these systems. We see that the problem is contextually situated and that it relates to the overall situation of these societies. We also know that in societies with larger inequalities, torture is more common than in countries with less. Furthermore, we see that

poor and otherwise marginalised groups experience higher risk for being tortured than their richer co-citizens.

The foundation of the work

With the solid backing from the Danish parliament and the Danish public, the RCT has for 30 years been a central international actor in the fight against torture and for the rehabilitation of survivors from torture. The research, and our experiences, often with and from the partners, is now being used in international fora and in our close co-operation with, for instance, the UN Committee Against Torture, the UN Subcommittee to the Prevention of Torture, and the UN Special Rapporteur on Torture. The RCT is also member of several international networks. Worth mentioning here is that we are one of the 50 global members of the WHO's Violence Prevention Alliance.

The future

The RCT has achieved a lot the last 30 years and we have experienced a lot of successes, but regrettably also failures. Just as we cannot always be credited for all the steps forward in this field we cannot be accredited for the failures. But our work is being praised and the RCT is considered a central global actor in the struggle for the prevention of torture and for the rehabilitation for survivors of torture. To remain as such, we must continue to be at the forefront of the development anti-torture efforts. It is still about taking care of those who are in need after being tortured, ensuring that violations are documented, and the perpetrators taken to court. In addition, it is about ensuring the international conventions are ratified; the national legislation is consistent with conventions supporting implementation and monitoring. Regrettably, this is not something which takes place automatically in societies.

Therefore, civil society organizations do, and will continue to, play a central role in the local and global work for a world without torture.

So, we will continue to develop the organization in order to better address present day challenges. We need to get more popular support behind the fight against torture. We need better treatment. We need to reach more people and organizations interested in working against torture. We shall support these groups better and we shall do better at showing our results. As a consequence, we have started rebranding the organization and reorienting it, based on feedback from stake holders including our partners, our staff, and not the least, its board. By doing this, we will get a stronger organization, which can do more for torture survivors in the world and be better at preventing torture and thereby being prepared for the future. Central to this is changing its name to a name that better covers what the organization does today. So, from our anniversary date of October 30th, our new name for the organization will be **DIGNITY** – Danish Institute Against Torture. This is to indicate that torture is one of the worst infringements that can be committed against a person's dignity. So, we are working to restore people's dignity if they have been affected by torture and we are working to prevent torture from happening.



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ARTICLE RELIGION AND TORTURE

Christian Reflections on Torture

by Jack Clancey

In light of the fact that so many persons are being tortured daily, in a systemic manner, by police officers, military personnel, and intelligence operatives, why have Christian churches and followers of Jesus been so silent? What should be the response of Christians to the widespread use of torture in so many countries?

The following are a few thoughts in regard to these two questions.

Let's start with some observations made about the Catholic Church by the late Cardinal Carlo Maria Martini of Milan in an interview shortly before he died. "Our culture has aged, our churches are big and empty, the church bureaucracy rises up, our rituals and cassocks are pompous." Martini first noted, "The church is 200 years out of date." Then he asked: "Why don't we rouse ourselves? Are we afraid?"¹

With some modifications, the same criticism could be made of many Christian churches, as well as of other religions, and the same questions can be addressed to the followers of those religions.

Secular leaders in some parts of the world are addressing key issues in relevant ways, while churches either ignore these issues or take positions that are out of date.

Article 5 of the Universal Declaration of Human Rights, promulgated on 12 December 1948, states: "no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment."

And, Article 1 of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment ("the Convention") is categorical: "... the term "torture" means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purpose as: (1) obtaining from him or a third person information or a confession, (2) punishing him for an act he or a third person has committed or is suspected of having committed, or (3) intimidating or coercing him or a third person, or (4) for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity" [*Numbers added*].

1 Reuters; September 1, 2011

Although officials, not infrequently, seek to justify the use of torture, Article 2 (2) of the Convention clearly states, “No exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political stability or any public emergency, may be invoked as a justification of torture” [Emphasis mine]. The point emphasized by the drafters and by all those who signed the Convention, is that there is absolutely no reason or justification for using torture. This point is further emphasized by Article 2(3) of the Convention: “An order from a superior officer or a public authority may not be invoked as a justification of torture.”

Hence, the position of secular authority is clear: the torture of any person, for whatever reason, is always wrong. However, skimming through the table of contents and indices of a number of books on moral theology and books on Christian ethics reveals that there is no discussion of this blatant abuse of human beings.

As we are aware, torture is not a topic that is unfamiliar to Christians. The history of Christian churches documents periods when torture was, not only not condemned, but, used by, and on behalf of, church leaders, most notably during the period that is labeled the “Inquisition.” Although few would challenge what has been done by some of the followers of Jesus, who expressed the hope that his followers should be known by their love for others and who urged his followers to forgive others 7 times 77 times, torture was used systemically by some church authorities.

Prior to the formal initiation of the Inquisition, one group that was targeted was the Templars, whose suppression has provided grist for conspiracy theories and material for novelists. The reality was that torture was employed in the suppression of

the Templars. “...the Templars’ destruction was contrived out of confessions extracted under torture on charges of blasphemy and sexual deviance, apparently trumped up by Philip ‘the Fair’, a particularly unscrupulous French king. The dissolution of the order was carried out, not merely in France, with a degree of ruthless cruelty which can only inspire pity for both the humiliated survivors and those who were tortured and burned as heretics, from the Master downwards”²

In Spain, where Christians, Muslims and Jews had lived in harmony for centuries, in an attempt to create political unity, a Catholic monarch began to torture and burn alive those labeled ‘Judaizers.’ The king lobbied church authorities, seeking approval of his policy. “Pope Sixtus finally yielded to royal pressure in 1483 and appointed the Dominican friar Tomas de Torquemada as Inquisitor-General of all Fernando and Isabella’s peninsular dominions.”³

The Dominicans were experienced in using torture, as they strongly opposed and fought against the Order of Apostles, established by Gerardo Segarelli. Established in the 1260s, by 1290, the members of the Order of the Apostles were condemned by the Pope and they were subjected to torture, including burning at the stake. “In 1300 Segarelli was burned as a heretic by a Dominican inquisitor.”⁴

What was the crime of Gerardo Segarelli and the Order of Apostles? Apparently they were competition for groups, which had been established earlier, that had a similar message. The historian DiarmaidMacCulloch comments, “Through the filter of viciously

2 A History of Christianity, DiarmaidMacCulloch, Penguin Books, 2010, pp. 386-387.

3 MacCulloch; p. 586.

4 MacCulloch; p. 410.

biased later accounts of his movement, we glimpse a man who was strikingly like Francis, who gained support from several Italian bishops, and who had no traceable heretical associations. The problem was that he came late in the day to the foundation of orders of friars. Dominicans and Franciscans treated him as unwelcome competition; a major council of the Church at Lyons in 1274 decided to suppress 'all forms of religious life and the mendicant orders' founded after the fourth Lateran Council of 1215."⁵

Cardinal Carafa, who not only "detested Ignatius Loyola", the founder of the Jesuits, but also strongly opposed attempts initiated by another cardinal, Contarini, to reach a conciliation with the Protestants was able to "...persuade the Pope to set up a Roman Inquisition, modeled on the Spanish Inquisition, founded seventy years before, with Carafa himself as one of the Inquisitors General."⁶

In the English colonies of North America, groups that had fled England because of persecution were not beyond using beatings and other means to enforce their rules. Church leaders in Massachusetts "... were responsible in 1651 for whipping a Baptist who had organized a private worship and worse was to come ... Quakers were publicly flogged and had their ears cropped; then between 1659 and 1661, four were hanged for missionary activities - one of the victims was a woman, Mary Dyer, who had deliberately returned from banishment to see her previous sentence fulfilled."⁷

Thus in searching for the motivation to stop all torture, Christians should probably not pay too much attention to what some earlier

Christians have done, but instead we should return to the message of Jesus and that of the earliest communities of Christians.

In the 25th chapter of Matthew's Gospel, Jesus describes the criteria that will be used for determining who will be received into eternal life and who will be sent away to eternal punishment. "For when I was hungry, you gave me food; when thirsty, you gave me drink; when I was a stranger you took me into your home; when naked you clothed me; when I was ill you came to my help; when in prison you visited me. Then the righteous will reply, 'Lord, when was it that we saw you hungry and fed you, or thirsty and gave you drink, a stranger and took you home, or naked and clothed you? When did we see you ill or in prison, and come to visit you? And the king will answer, 'I tell you this: anything you did for one of my brothers here, however humble, you did for me.'"⁸

My list is not exhaustive, but illustrative. If any person is in need and we respond to those needs, then we are serving Jesus, who identifies with those in need. Most persons, who are tortured, are tortured in places of detention, such as prisons. Thus, to the list we can easily add: "when I was being tortured, you came to my aid; when I was being subjected to cruel and inhuman treatment, you spoke out and demanded that such treatment be stopped; when officials used degrading punishment against me, you protested and demanded that all such punishment be prohibited."

The second half of the final judgment scene is addressed to those who did not take any action to provide assistance to those in need. "The curse is upon you; go from my sight to the eternal fire that is ready for the devil and

5 MacCulloch; p. 410.

6 MacCulloch; pp. 662-663.

7 MacCulloch; p. 723.

8 The New English Bible; Matthew 25: 35-40.

his angels. For when I was hungry you gave me nothing to eat, when thirsty nothing to drink; when I was a stranger you gave me no home, when naked you did not clothe me; when I was ill and in prison you did not come to my help. And they too will reply, 'Lord, when was it that we saw you hungry or thirsty or a stranger or naked or ill or in prison, and did nothing for you?' And he will answer, 'I tell you this: anything you did not do for one of these, however, humble, you did not do it for me.'"⁹

There should be no need for deep theological analysis. If we really accept what Matthew wrote in his Gospel, the message for believers is clear:

- 1) When someone is being tortured, we need to speak up and tell the torturers to stop;
- 2) When we learn of someone being tortured in a place of detention – prisons, detention centers, police stations, or interrogation centers - we should arrange for a lawyer or other person to make an official visit and demand that the torture be stopped;
- 3) When persons who have been tortured have been released, we should provide them with all the assistance they may need, such as counseling, a place at which they can recover or, if necessary, hide, etc.
- 4) If governments have not yet passed laws banning torture, we need to urge the passage of laws that reflect the strict norms set out in the Convention;
- 5) If laws preventing torture are being ignored, we need to pressure governments to establish the necessary machinery to ensure that the laws are implemented and offenders are punished.

Religious groups in a number of countries have already taken actions to demand that torture be stopped. They have also provided places of refuge for torture victims who have volunteered to be witnesses in criminal proceedings against those who tortured them.

The fact that torture is still being used on a regular basis in so many places indicates that many officials believe that the use of torture is correct and necessary. This is because there are *jerks* [according to the Random House Dictionary, a jerk is “a naïve, fatuous, or foolish person”] who try to defend the indefensible. These *jerks* usually wind up holding positions in government and think that with power, they can ignore the rule of law and establish and play by their own rules. As we have seen above, although the Convention clearly states that no exceptional circumstances whatsoever may be invoked as a justification of torture, the *jerks* of the world constantly refer to circumstances that justify their use of torture.

One outstanding *jerk* is George W. Bush, former president of the U.S.A.

Philippe Sands, a law professor at University College London, in a column published in the Dec. 9, 2005, edition of *The Financial Times*, stated “Waterboarding – strapping a detainee to a board and dunking him under water so he believes that he might drown – plainly constitutes torture under international law, even if it may not do so under U.S. law...”

“When the U.S. joined the 1984 convention it entered an ‘understanding’ on the definition of torture, to the effect that the international definition was to be read as being consistent with the U.S. definition. The administration relies on the ‘understanding.’”

⁹ The New English Bible: Matthew 25: 41-45.

“So, when Ms. Rice [*as President Bush’s Secretary of State*] says the U.S. does not do torture or render people to countries that practice torture, she does not rely on the international definition. That is wrong: the convention does not allow each country to adopt its own definition, otherwise the convention’s obligations would become meaningless. That is why other governments believe the U.S. ‘understanding’ cannot affect U.S. obligations under the convention.”¹⁰

However, President George W. Bush vetoed legislation banning waterboarding and other forms of inhuman and degrading treatment. “On March 8, 2008, President Bush vetoed congressional legislation that called for a specific ban on waterboarding and other abusive interrogation techniques, including stripping prisoners naked, subjecting them to extreme cold and staging mock executions. “This is no time for Congress to abandon practices that have a proven track record of keeping America safe,” the President said in a radio address explaining his veto. “We created alternative procedures to question the most dangerous al-Qaeda operatives, particularly those who might have knowledge of attacks planned on our homeland.” Bush said.”¹¹

Another eminent *jerk*, Dick Cheney, formerly vice-president of the U.S.A., sought to justify waterboarding on the premise that it produced useful information. In response to Cheney, Eliza Manningham-Buller, the former head of Britain’s domestic intelligence service, MI5, stated that waterboarding was torture and that it was illegal. She expressed the view that as waterboarding was illegal, it should not be used even if valuable intelligence was obtained. “It is a sadness and worse that the previous government of

our great ally, the United States, chose to waterboard some detainees. The argument that life-saving intelligence was thereby obtained, and I accept that it was, still does not justify it,” she said. “Torture should be utterly rejected even when it may offer the prospect of saving lives.”¹²

However, some question whether any useful information was obtained through torture. I suggest that the belief that it is possible to arrive at truth by use of torture is ridiculous. This basic principle was recognized by Cesare Beccaria, who noted that it was just a question of how much force was necessary to make a person confess to a crime: “*The force of the muscles, and the sensibilities of the nerves of an innocent person being given, it is required to find the degree of pain necessary to make him confess himself guilty of the crime.*”¹³ In other words, if you use the right amount of physical force, any person will confess to any crime.

The involvement of Christians today, in the work to end all torture, is not unlike the work of earlier groups of Christians to end slavery. Until relatively recently most Christians found support for slavery in Paul’s letter to Philomen. Paul not only did not recommend that slaves should be freed by Christian masters; he encouraged the practice of slavery and held that slaves should be obedient to their masters. However, gradually Christians began to realize the horror of slavery and as they became aware they spoke against it and took actions to work to end slavery.

An early attack on the practice of slavery began with Italian missionaries working in the African Congo. “In 1686 they [*Italian Capuchin Franciscans*] secured from the

10 The Public Record; April 15, 2008.

11 The Public Record; April 15, 2008.

12 The Guardian; September 9, 2011.

13 An essay on Crimes and Punishments, 1764, Chapter 16.

Roman Inquisition an unprecedented general condemnation of the slave trade, long predating any such Protestant official action or statement."¹⁴

Baptism, to an extent, offered salvation and freedom for slaves. Concerned about the ideas that slaves might get about this aspect of baptism, in 1667, the Virginia Assembly informed slaves, "the conferring of baptisme doth not alter the condition of the person to his bondage or Freedom."¹⁵

In the 1770's, a South African pastor "... added to the baptism service a requirement that slaves being baptized should repeat an oath 'that you do not ask for the holy baptism out of any design to free yourself from the Duty and Obedience you owe to your Master while you live.'"¹⁶

In British society, the struggle against slavery benefitted from an unlikely alliance between conservative evangelicals and those radicals who favored the new values of the French revolutionaries. As MacCulloch notes, "The long struggle to abolish slavery remained throughout a curious collaboration of fervent Evangelicals, who were mostly otherwise extremely politically conservative, with radical children of the Enlightenment, many of whom had no great love of Christianity, though some were enthusiastic Unitarians ..."¹⁷

There is no reason why Christians today should not form alliances with all those who are speaking out against torture and work with others to eliminate the use of torture, particularly the systemic everyday use of torture by the police and military.

Motivated Christians can work with others to eliminate this outdated and cruel means of social control.

Can an individual make a difference?

Indeed, though Christians have the added advantage of being able to take stands, speak out and act as a community. Christian groups can also encourage those members of their community involved in prophetic work such as those working for the elimination of torture.

Who should get involved in the movement to end all torture?

The answer is everyone. The spirit of God calls us to respect each person and to serve each person. Each person has that vocation or calling. After Moses had assembled seventy elders, God "took back part of the same spirit which he had conferred on Moses and conferred it on the seventy elders; as the spirit alighted on them, they fell into prophetic ecstasy..."¹⁸

Later the spirit of God alighted on two other men. This upset Joshua, son of Nun - who later became the successor to Moses, and who as both military commander and political leader was told by the people, "Whoever rebels against your authority, and fails to carry out all your orders, shall be put to death."¹⁹

Joshua demanded: "My lord Moses, stop them."

However, the reply of Moses to Joshua was, "I wish that all the Lord's people were prophets and that the Lord would confer his

14 MacCulloch, page 711.

15 MacCulloch; pp. 727-728.

16 MacCulloch; p. 728.

17 MacCulloch; p. 870.

18 The New English Bible; Numbers 11:25.

19 The New English Bible; The Book of Joshua 1:18.

spirit on all of them.”²⁰

When the Universal Declaration of Human Rights was approved by the United Nations, Hernan Santa Cruz, the member of the drafting sub-committee from Chile, commented, “In the Great Hall ...there was an atmosphere of genuine solidarity and brotherhood among men and women from all latitudes, the like of which I have not seen again in an international setting.”

Could groups of Christians from all denominations gather together in various parts of the world to come up with a statement and plan of action to work to eliminate torture and thus show their solidarity as members of the one body of Christ? Cannot groups of Christians from all denominations work with members of civil society, including members of other religions, to voice their concern for those being tortured and commitment to ensuring that the dignity of each person will not be violated by the use of torture by anyone for any reason and thus show the solidarity of members of the one human family? Would not these actions express the genuine solidarity that should – and can – exist among all those who believe in Jesus’s message of love and service and the solidarity of all people?

As reflected in the Convention, secular society has condemned torture. Can Christians regularly issue statements to condemn torture? Can we offer support to victims of torture? Can we demand justice and compensation for victims of torture? I believe the answer to all those questions is that we can.

How do we get more Christians to give the same reply?
I believe that just as systemic slavery was

stopped, the systemic use of torture will also, someday, be eliminated. The only unknown is how long the process will take. There are a number of factors which constitute obstacles along the way.

Above we referred to the jerks in society. We know that somehow a lot of jerks take up key positions in government bureaucracies. These jerks use their power to try to intimidate and frighten people. We also know that as a result of fear, there are a lot of silent people: silent because they are afraid of what the jerks threaten to do. People are also silent because they have a feeling that they are powerless.

Our faith in the message of Jesus can help people overcome their fear and push aside their feelings of powerlessness. Jesus told those who believe in his message to love others and to help those in need. “If God thus loved us, dear friends, we in turn are bound to love one another ...God himself dwells in us if we love one another.”²¹

In the first Epistle of John we also read: “We for our part have crossed over from death to life; this we know, because we love our brothers. The man who does not love is still in the realm of death ...It is this that we know what love is: that Christ laid down his life for us. And we in turn are bound to lay down our lives for our brothers. But, if a man has enough to live on, and yet, when he sees his brother in need, shuts up his heart against him, how can it be said that the divine love dwells in him?”²²

In the same spirit we can ask – if a person has a good life and learns of others who are being tortured and shuts his or her heart against those being tortured, in the sense that

²⁰ The New English Bible; Numbers 11:29.

²¹ The New English Bible: 1 John 4:11-12.

²² The New English Bible: 1 John 3:15-17.

the person does not act to stop the torture, how can it be said that divine love dwells in that person?

In regard to fear, the early followers of Jesus heard: "There is no room for fear in love; perfect love banishes fear."²³

Thus, to the degree that people love others, they can overcome their fear. Love enables us to become aware of the problems and needs of others, including those who face torture. Love also enables us to overcome our fear and reach out to assist others, including those who are being tortured.

As a community, followers of Jesus can support one another to overcome fear and reach out in love by speaking out against torture and demanding that torture be stopped. The jerks in society attempt to claim that matters of torture are within the domain of politicians and those responsible for "national security." But an issue such as the use of torture is also the concern of civil society and followers of Jesus. As members of civil society, Christians have both the right and the responsibility to speak out against torture, and to demand that torture never be used against anyone, for any reason.

Silence implies support. To remain silent in the face of widespread torture implies that people do not believe torture is wrong. If followers of Jesus really believe torture is wrong, we should speak out loudly, whenever we learn of a person being tortured.

In Asia - while most countries have ratified the Convention against Torture - only three places, Hong Kong, the Philippines, and Thailand have passed laws against torture. Yet, even after passage of such laws, systems

need to be established to ensure the laws are implemented and violators don't have impunity. Should not followers of Jesus, as members of civil society, also be active in demanding that their governments pass laws making torture illegal and insist that those laws be strictly implemented?

Persons are being tortured every day. "When I was hungry; when I was thirsty; when I was being tortured..."

Do we hear?
Do we see?
Are we afraid?
Do we believe?
Will we act?"

Jack Clancy is the chairman of the Asian Human Rights Commission and Asian Legal Resource Centre

²³ The New English Bible: 1 John 4:18.

ESSAY RELIGION AND TORTURE

TORTURE, TERROR, &

Anamnestic Solidarity

Theological Musings from the Tortured Bodies

by George Zachariah

The world stood silent, while we urged for help. The world turned their heads, while we were being slaughtered. The world turned deaf to our screams for help. They laughed with joy to the screams of pain, and sipped on their liquor while amusing themselves listening to the screams of the raped ones. They were more amused to learn what pain can make one do. The world watched our falling bodies and watched us bleed. We knew then that we were all alone. Do you know what it is like to see your father being beaten to death? Do you know what it is like seeing your mother being raped? Do you know what it is like seeing your unborn child forced out of your wife's tummy with a knife? Do you know what it is like when you hold your child in pieces? Do you know what it is like watching your life being shattered and being raped of your dreams? Do you know what it is like being oppressed and being deprived of your freedom? I am sure you don't because if you did, you would have never called me a terrorist.

Are we terrorists because we said "NO MORE? Are we terrorists because we refused to be sub-human? Are we terrorists because we retaliated? Are we terrorists because we interrupted your joy of watching us bleed? Or are we terrorists because our love for Palestine is simply so deep? Did I hurt your feelings? Did I make you cry? Did I turn your stomach with disgust? Or should I just let you watch me bleed?"¹

Even as we reflect upon the theme, "Torture, Terrorism and Human Rights," this translated poem from Palestine reminds us that we are engaged in a political and spiritual exercise, informed by the tortured and humiliated bodies and their shattered hopes and dreams,

¹ Poem titled 'Word of a Palestinian Man'; Unknown Author; <http://forums.canadiancontent.net/philosophy-discussion/78381-poetry-4-palestine.html>

to become an axis of hope to create just peace, and a world for all. So my attempt in this paper is not to present an objective “view from nowhere;” rather, to problematize our mainstream diagnosis of the problem of torture and terrorism with a preferential political commitment to communities who are forced to be “terrorists,” and to reflect theologically on their lives, pains, struggles, and hopes, and their implications for our public witness today.

Problematizing the Problem

Defining terrorism is a complex and problematic issue. A violent political action can be perceived differently depending on our social location. For Indians, Bhagat Singh was a great freedom fighter; but for the British, he was a hardcore terrorist. Further, terrorism blurs the lines between violence and non-violence. Many of us consider Gandhian way of non-violence as an alternative to terrorism. But there are people who consider Gandhi’s satyagraha against the Pune Pact as a cleverly orchestrated “terrorist” attack on dalits to perpetuate the supremacy and hegemony of the dominant caste in Indian polity and society. Keeping this complex nature of terrorism alive, we may define terrorism and war on terror as acts of violence (which includes the weapons of moral coercion as well) causing intense fear and anxiety, committed by groups to intimidate a population or government into granting their demands for recognition.

According to Cheryl Kirk-Duggan, terrorism is an “anxiety-inspiring technique of repeated violent action” used by individuals, groups or state for political, idiosyncratic, or criminal reasons. She identifies a distinction between terrorism and assassination, as the direct targets of terrorism are not the main targets. The immediate victims are chosen arbitrarily or selectively, and the violence is primarily meant to send messages. Using the “Violence and Sacred theory” of Rene

Girard, Cheryl Kirk-Duggan further exposes the way terrorism uses scapegoating. According to Girard, mimetic rivalry is the cause for the ritualized conflicts of our times where two or more people desire the same place, thing, or status. The ritual sacrifice of the scapegoat—the annihilation of the culprit (the victim)—provides the perpetrators a feeling of catharsis, and it creates social solidarity among them. For Rene Girard, “extensive or collective persecutions of scapegoats are an ordinary kind of violence that can be ‘legalized,’ particularly when motivated or supported by public opinion.” Scapegoating helps the perpetrators to identify a vulnerable community as the “Other.” In the post-September 11 world, Muslims have become the scapegoats. Even in our own communities, xenophobia manifests on a daily basis, whereby we scapegoat Muslims, LGBT communities, and other minorities and unleash a regime of terror on them. “Someone who looks, acts, or thinks differently, and is vulnerable, often ends up being the focus of a group’s consolidated effort to define themselves and those deemed other by turning their own pursuit of power against those who cannot react.”²

The poem from Palestine is hence an outburst from the scapegoats born out of the agony of the tortured and humiliated bodies. For Mark Lewis Taylor, emancipatory politics is the agonistic political of the communities that are forced to bear the weight of the world. Agonism, and agonistic politics (agon means struggle), according to Taylor, stand for the “struggle that entail human pain and suffering (agony), and includes, the antagonisms and contradictions in social being that often generate such struggle and

2 Cheryl A. Kirk-Duggan, “Civil War, Civil Rights, World Trade Center,” in *Strike Terror No More: Theology, Ethics and the New War*, ed., John L. Berquist, St. Louis: Chalice Press, 2002, 35-36.

agony.”³ So a deeper engagement with the agonistic political of the scapegoats who are tortured is the locus from which we need to discern the challenges of Christian public witnessing in the context of terrorism. As we begin to journey with the agonistic political of the tortured and the “terrorists,” Arundhati Roy provides us a disturbing perspective: “When victims refuse to be victims, they are called terrorists and are dealt with as such. POTA (Prevention of Terrorism Act) is the broad-spectrum of antibiotic for the disease of dissent. There are other, more specific steps that are being taken—court judgments that in effect curtail free speech, the right to strike, the right to life and livelihood.”⁴

Azadi: Voices from the Silenced Valley

“We shall meet again, in Srinagar by the gates of the Villa of Peace, our hands blossoming into fists till the soldiers return the keys and disappear. Again we’ll enter our last world, the first that vanished in our absence from the broken city.” This is the hope that we find in Agha Shahid Ali, the Kashmiri poet. But this is not the Kashmir that we are familiar with. The patriotic films inform us that Kashmir is a land infested with Islamic terrorists. Kashmir, for our film makers, is all about the Dal lake, the Mughal gardens, the mountains and springs. Along with the picturesque beauty of the land, they present the stereotypical picture of the unpatriotic Kashmiri Islamic militants who betray Indian nation by supporting cross-border terrorism. Insurgency and patriotism have become marketable commodities in the box office. There is absolutely no attempt to listen to the silenced voices. The hero—who is always a Hindu—spoils the designs of Pakistan and

other Islamic terrorists, and finally takes the Muslim bride. This is the Kashmir that we know.

Kashmir has been the site of tensions and violence ever since independence. 1989 marked the first uprising against Indian rule, and Kashmir is soaked in blood since. The very presence of 600,000 Indian soldiers—an armed soldier for every ten to fifteen people—has literally converted Kashmir into a militarized society. Interestingly, today Kashmir Valley has the highest concentration of soldiers in the world—more than Afghanistan and Iraq. They are not deployed to tame the militia; rather, the military presence is meant to tame the Kashmiri people. Whether we call the militarism in Kashmir terrorism or counter-terrorism, 70,000 Kashmiris have been killed since 1989, and 8,000 have gone ‘missing.’⁵ The genocide unleashed by the protectors of law and order is supported by various draconian laws and acts, and the Armed Forces Special Powers Act (AFSPA) is one among such acts. According to this act, any military officers—including non-commissioned officers—can use force (and even kill) any person on suspicion of disturbing public order or carrying a weapon. *The Hindu* newspaper published an editorial on 29th October, 2011, titled “Kashmir: Why AFSPA Must Go,” appealing the government to withdraw the controversial act. “For Kashmiris, the insurgency, and the counter-insurgency that was unleashed to flatten it, ended up shredding the everyday fabric of life.” So today, the Kashmiri youth would categorically affirm: *Hum kyachahte?* What do we want? *Azadi!* Freedom. And that means, Go India, Go Back.⁶

3 Mark Lewis Taylor, *The Theological and the Political: On the Weight of the World*, Minneapolis: Fortress Press, 2011, xii.

4 Arundhati Roy, *Listening to the Grasshoppers: Field Notes on Democracy*, New Delhi: Hamish Hamilton, 2009, 36.

5 Sanjay Kak, “The Fire is at My Heart: An Introduction,” in *Until My Freedom has Come: The New Intifada in Kashmir*, ed., Sanjay Kak, New Delhi: Penguin Books, 2011, x.

6 *Ibid.*, x, xii.

Curfewed in Kashmir⁷ is a collaborative writing project of Voices from the Valley in which the Kashmiri youths articulated their interpretation of the life in Kashmir. Let us listen to their voices. The death toll is, of course, the most spectacular example of ongoing sufferings. But, there are other sufferings as well. As of 28 July, 2010, approximately 1,400 people, mostly teenage boys, have been detained and charged with crimes ranging from rioting to attempted murder. Approximately 70 youth have been booked under the Public Safety Act of 1978 (PSA) under which a person can be jailed without trial for two years to ‘maintain public order.’ The restrictions on media include blocking SMS services and jamming cellular services. Curfew is a perennial ritual that means: no milk, no bread, no vegetables, no infant food, no doctors, and no medicines.

But what are the images that the mainstream Indian media bring to our living rooms? Kashmiri youths engaging in terrorist attacks on the state and the innocent people: A gang of youth setting fire to a government vehicle; stone-pelters destroying public property; angry youth beating up policemen. As a result, the media, as per the instructions of the state, has conveniently shifted the “burden of acting responsibly” to the protestors. No media is concerned about the reluctance and failure of the Indian government to bring about long-lasting political solution to the problem. In contrast, the real images from the valley narrate a different story: “a father kneeling in the street and mourning over his dead son’s body; crowds carrying corpses through the narrow lanes of the old city in massive funeral processions; a mother wailing on hearing that her son has been killed by the forces; an agitated woman hurling a brick at a group of policemen in full

riot gear.” As Mehran Khan rightly puts it, “They can’t feel or represent our sentiments. They blame us for protesting against India’s brutal and inhuman acts, rather than blaming them for killing our youth and opening fire at their funerals.”⁸ Frustrated with these representations – as either victims or perpetrators – Kashmiri youth have taken representation into their own hands. The new media thus became their new battlefield. No ammunition or draconic laws can stop them in this battlefield. As someone observed, a stone and a computer’s mouse, both are equally dangerous weapons in the hands of the Kashmiri youth.

Kashmir, according to Arundhati Roy, “is the rabbit that the governments of both India and Pakistan pull out of their hats whenever they’re in trouble. They don’t want to resolve the conflict. For them, Kashmir is not a problem; it’s a solution.”⁹ Demonizing communities that protest against the violation of their inalienable human rights enshrined in the constitution, and calling them terrorists and unleashing a regime of terror and torture on them in the name of national interest is governance in Kashmir today. Such manifestations of fascist terror blur the lines between self-determination and *azadi*, and the entire region is facing its consequences. Fareed Zakaria, in an article published in *Newsweek*¹⁰ titled “Why they hate us: The roots of Islamic rage and what we do about it,” problematizes the issue of terrorism. The standard US response to the question, “Why they hate us” has been, “we stand for freedom and they hate it. We are rich and they envy us. We are strong and they resent this.” But in his response Zakaria observes that, “the Muslim countries do not

7 Aaliya Anjum and Saiba Varma, “Curfewed in Kashmir: Voices from the Valley,” in *Until My Freedom has Come*, 50-63.

8 “Curfewed in Kashmir,” 59.

9 Arundhati Roy, *The Shape of the Beast: Conversations with Arundhati Roy*, New Delhi: Penguin, 2008, 86-87.

10 *Newsweek*, October 15, 2011, 22.

hate us (US) for our freedom, our wealth, and our strength; they hate us for the role we have played in depriving millions of freedom, wealth, and strength. Our freedoms, wealth, and strength have been achieved on the backs of others." "Terrorism is a response, and unless and until we can find a way to understand the forces that have been set in motion by our own actions, we will be perpetually at war."¹¹

Zindabad: Voices from the Dangerous Forests

In 2009, addressing the Indian Parliament, Prime Minister Manmohan Singh said: "If left-wing extremism continues to flourish in parts which have natural resources of minerals, the climate for investment would certainly be affected." It was a declaration of war: a war to protect the corporations that loot India's natural resources; A war against the "ecological ethnicities" – the protectors and custodians of India's bio-diversity, and forests, and the commons such as *jal*, *jungle*, and *jamin*. It is interesting to juxtapose the utterances of Dr. Singh with a statement by Bhagat Singh, a fellow Sikh: "Let us declare that the state of war does exist and shall exist so long as India's toiling masses and the natural resources are being exploited by a handful of parasites. They may be purely British Capitalist or mixed British and Indian or even purely Indian... All these things make no difference." How we discern the signs of the times in our context would be determined by, in which Singh's side we are.

Arundhati Roy's insightful essays "Walking with the Comrades,"¹² and "The Trickle-down Revolution"¹³ are helpful resources for us

to reflect upon the issue of terrorism from the vantage point of the "terrorists" in the Dandakaranya forests. The insurrection in India, particularly in the tribal hamlets, poses foundational questions on what constitutes progress, development and national interest. It also questions the ethics and the effectiveness of different strategies of resistance. Subaltern social movements such as the Chhattisgarh MuktiMorcha, and the Narmada BachaoAndolan, have been asking these questions for the last three decades. However, the Government of India's only answer has been "repression, deviousness and the kind of opacity that can only come from a pathological disrespect for ordinary people." And it led to the acceleration of the process of displacement and dispossession to a point where people's anger has built up in ways that cannot be controlled. As a result, the poorest people in the world have managed to stop some of the richest corporations in their tracks.

For Roy, terrorism is "the logical extension of the business of the free market."¹⁴ Economic terrorism, unleashed by neo-liberalism, devastates the lives of millions, depriving them of water, food, livelihood, and the very right to live. "A government's victims are not only those whom it kills and imprisons. Those who are displaced and dispossessed and sentenced to a lifetime of starvation and deprivation must count among them too... In the era of corporate globalization poverty is a crime. Protesting against further impoverishment is terrorism."¹⁵ This is the "terrorism" that we witness in the Dandakaranya forests.

In the era of globalization, forest, the traditional abode of millions of adivasis, is being perceived as a storage place of precious

11 Susan Brooks Thistlethwaite, "New Wars, Old Wineskins," in *Strike Terror No More: Theology, Ethics and the New War*, 271.

12 www.outlookindia.com/article.aspx?264738

13 www.outlookindia.com/article.aspx?267040

14 *The Shape of the Beast*, 91.

15 Arundhati Roy, *An Ordinary Person's Guide to Empire*, Cambridge: South End Press, 2004, 86.

minerals to be auctioned to the highest bidder in the global market. When the governments discovered that the value of the bauxite deposits of Orissa alone would be 2.27 trillion dollars, which is more than twice India's GDP, in the name of progress and growth, Niyamgiri hill, the sacred space and habitat of the DongriaKondh was sold out to Vedanta, a European mining corporation. To destroy the determination of the people who affirm fearlessly that *Jaandenge par jameennahindenge* (We'll give away our lives, but never our land), the government has declared a war on them. Each time it needs to displace a large population—for dams, irrigation projects, mines—the government talks of “bringing adivasis into the mainstream” or of giving them “the fruits of modern development.” As Roy rightly observes, “when the government begins to talk of tribal welfare, it's time to worry.”

When the democratically elected government changed its job description from being the welfare state of the people to be the *chowkidar* (security guards) of trans-national capital, in order to execute its job diligently, the government declared the Dandakaranya region as a “Maoist-infested” area. For Roy, “these are not careless words. ‘Infest/infestation’ implies disease/pests. Diseases must be cured. Pests must be exterminated. Maoists must be wiped out. In these creeping, innocuous ways, the language of genocide has entered our vocabulary.”

In April, 2005, the Chhattisgarh government signed Memorandums of Understanding (MoU) with Essar Steel and Tata Steel to set up integrated steel plants in the state. That same month, Prime Minister Manmohan Singh made his famous statement about the Maoists being the “Gravest Internal Security Threat” to India. And in June 2005, the SalwaJudum (the Purification Hunt), a private army was formed to exterminate the Maosit terrorists from the Dandakaranya region.

The SalwaJudum was a ground-clearing operation, meant to move people out of their villages into roadside camps, where they could be policed and controlled. Villagers who do not move into the camps would be considered Maoists, the government announced. To put it differently, staying at one's own home in the jungle could be equivalent of indulging in dangerous terrorist activity. Between June and December 2005, the SalwaJudum burned, killed, raped and looted its way through hundreds of villages of south Dantewada. Hundreds of people were killed in the most brutal ways. About 60,000 people moved into camps, some voluntarily, others out of terror. Of these, about 3,000 were appointed Special Police Officers on a salary of Rs 1,500. According to government reports, the SalwaJudum was financed by Essar Steel and Tata Steel. The recent Supreme Court verdict banning the SalwaJudum exposed the violation of human rights by the state.

Vandana Shiva's reflection on 9/11, where she uses the analogy of terrorism as cannibalism, is relevant here. In the factory farms where freedom is limited to the walls of cages, even the peaceful animals and birds show tendencies of “cannibalism.” The pigs and the chickens “attack” each other. The factory administration is not concerned about the question of why those non-cannibal creatures become violent. Instead they solve the violence by debeaking and sterilization. The problem, Shiva concludes, is “the factory cage—not the teeth and tails of pigs, the beaks of chicken, the horns of cattle. It is the cage that needs removing, not the tail, or beak or horn. When animals are denied their basic freedoms to function as a species, when they are held captive and confined, they turn to cannibalism.” Shiva then raises the pertinent question: “Could the ‘war against terrorism’ be equivalent to the detoothering, debeaking, dehorning of pigs, chickens and cattle by the agribusiness

industry because they are turning violent when kept under violent conditions?The cages that humans are feeling trapped in are the new enclosures which are robbing communities of their cultural spaces and identities, and their ecological and economic spaces for survival. Globalization is the overarching name for this enclosure."¹⁶

Unlike the rule of the SalwaJudum and the Operation Green Hunt, the "terrorists" today "rule" the Dandakaranya region by an elaborate structure of *Janatana Sarkars* (people's governments). Each *Janatana Sarkar* is elected by a cluster of villages whose combined population can range from 500 to 5,000. It has nine departments: agriculture, trade and industry, economic, justice, defense, health, public relations, education and culture, and forest. There is a new department called the Save the Forest department, and even the government has accepted that forest has regenerated in the Naxal areas. They have also built elaborate structures of water-harvesting and irrigation ponds. They honestly feel that the state wants to crush them, "not only because of the minerals, but because we are offering the world an alternative model."

Reflecting on her walking with the comrades in the Dandakaranya forest, this is what Arundhari Roy tells us: "It's not an alternative yet, this idea of *Gram Swaraj* with a Gun. There's too much hunger, too much sickness here. But it has certainly created the possibilities for an alternative. Not for the whole world, not for Alaska, or New Delhi, nor even perhaps for the whole of Chhattisgarh, but for itself: For Dandakaranya. It's the world's best-kept secret. It has laid the foundations for an alternative to its own annihilation. It has defied history. Against the greatest odds it has forged a blueprint for its own survival. It

16 www.outlookindia.com/article.aspx?214418

needs help and imagination. It needs doctors, teachers, farmers. It does not need war. But if war is all it gets, it will fight back."

The God Talk of Terrorism

In the dominant discourses on terrorism we tend to demonize certain religious communities as inherently violent, and hence we consider the followers of a particular religious tradition as potential terrorists. In the violent conflicts that we encounter in our everyday life, religion is always there; either as an ideological apparatus that indoctrinates its adherents to perpetrate hatred and violence or as a healing presence that offers compassionate care to the victims to bring about peace and reconciliation. Christianity is not an exception to this. When the dominant manufacture and distribute with authority the definition of terrorism, the terror of the dominant is always justified as civilizing mission. Noam Chomsky exposes this semantic terrorism: "Terrorism is considered a weapon of the weak because the strong control the systems of indoctrination, and their terror does not count as terror."¹⁷ Civilian casualty in the war on terror, hence, is not murder; it is 'collateral damage.' As Jon Sobrino rightly observes, "it does not belong to the *substance* of the war, but to its *accidents*. *A priori*, it cannot be understood as terrorism."¹⁸

The terror that religion unleashes is mostly in subtle forms of theological legitimization of structures of injustice and exclusion, which supports the hegemony and supremacy of the dominant. We see the ugly face of "Christian" terrorism in colonialism, and the trans-Atlantic slave trade and the white

17 Noam Chomsky, "Infinite Injustice," An address given at the MIT on October 18, 2001.

18 Jon Sobrino, *Where is God? Earthquake, Terrorism, Barbarity, and Hope*, Maryknoll, New York: Orbis Books, 2004, 116.

supremacy in the United States. The very perception of God as the God of a chosen race who empowers the chosen people to have dominion over the “other” is a license to ethnocide and genocide, and we see the violent consequences of such Christian Zionism in our world. Evangelization and humanitarian interventions have been used by many as a cover up for conquest and colonization. Through purity maps, religions reinforce the prevailing practices and systems of untouchability and exclusion based on caste, race, gender, ethnicity, and sexual orientation. Religious doctrines and theologies sanctify imposed and unjust sufferings and torture, and implore the victims to passively accept them.

Atonement theology is central to the Christian faith, and Sunday after Sunday we celebrate the memory of the atoning sacrifice of our Lord. Rita Nakashima Brock and Rebecca Ann Parker in their book *Proverbs of Ashes: Violence, Redemptive Suffering and the Search for What Saves us*, raise the question; “What happens when violent realities are transubstantiated into spiritual teachings?” According to them, “atonement theology takes an act of state violence and redefines it as intimate violence, a private spiritual transaction between God the Father and God the Son. Atonement theology then says that this intimate violence saves life. This redefinition replaces state violence with intimate violence and makes intimate violence holy and salvific.”¹⁹ Atonement theology, hence, is lethal as it legitimizes terror and torture in the name of God.

Meditations on cross, informed by the atonement theology, reiterates that imposed suffering and torture is redemptive. Such a

faith affirmation compels women to accept passively unjust wounds, hurts, and abuses inflicted on them by their husbands, fathers, lovers, and others. As Joanne Carlson Brown and Rebecca Parker rightly observe, “Christianity has been a primary—in many women’s lives *the* primary—force in shaping our acceptance of abuse. The central image of Christ on the cross as the savior of the world communicates the message that suffering is redemptive. ...Divine child abuse is paraded as salvific and the child who suffers ‘without even raising a voice’ is lauded as the hope of the world. Those whose lives have been deeply shaped by the Christian tradition feel that self-sacrifice and obedience are not only virtues but the definition of a faithful identity.”²⁰ Women who undergo violence of abuse in their homes come to the sanctuary in search of solace, comfort, courage, and empowerment. But they are indoctrinated by the Church to endure the violence as our Lord has done on the cross.

Lucia was one among those women who genuinely tried to follow what the Church exhorted her to do. But after twenty years, she is talking back: “I went to my pastor twenty years ago. I’ve been trying to follow his advice. The priest said, I should rejoice in my suffering because they bring me closer to Jesus. He said, ‘Jesus suffered because he loved us.’ He said ‘If you love Jesus, accept the beatings and bear them gladly, as Jesus bore the cross.’ I’ve tried, but I’m not sure anymore. My husband is turning on the kids now. Tell me, is what the priest told me true?”²¹ Aruna Gnanadason shares a similar experience: “Go back to him... Learn how to adjust to his moods...don’t do anything that would provoke his anger...Christ suffered

19 Rita Nakashima Brock and Rebecca Ann Parker, *Proverbs of Ashes: Violence, Redemptive Suffering, and the Search for What Saves us*, Boston: Beacon Press, 2001.

20 Joanne Carlson Brown and Rebecca Parker: “For God So Loved the World?” in *Violence against Women and Children: A Christian Theological Source Book*, ed., Carol J. Adams and Marie M. Fortune, New York: Continuum, 1998, 37.

21 *Proverbs of Ashes*, 21.

and died for you on the Cross...Can't you bear some suffering too? This is the voice of the church—the words of a priest counseling a woman who was being battered by her husband every single day of her married life. She went to the church for refuge and for moral and spiritual support. What she received instead was advice to learn submissiveness and obedience in a distorted relationship and abusive marriage."²²

How do we theologically and pastorally engage with these sisters and mothers who have been brutally abused within the intimate Christian institution of family, and treacherously betrayed by the church? Can our theology and pastoral care provide them healing and wholeness? How could we promise them healing when our central message is the glorification and valorization of self sacrifice and imposed torture? "Christian theology presents Jesus as the model of self-sacrificing love and persuades us to believe that sexism is divinely sanctioned. We are tied to the virtue of self-sacrifice, often by hidden social threats of punishment. We keep silent about rape, we deny when we are being abused, and we allow our lives to be consumed by the trivial and by our preoccupation with others. We never claim our lives as our own. We live as though we were not present in our bodies."²³

Theological Re-imaginings from the Tortured Bodies

How do we reconstruct our theological reflections informed by the tortured and mutilated bodies of the victims of terror whom we meet at the Kashmir valley and the Dandakaranya forest? What is the theological significance of the memories of the tortured

ones in re-imagining our public witness in the midst of torture and terror? Dangerous memories, according to Johann Baptist Metz, are "memories which make demands on us. These are memories in which earlier experiences break through to the centre-point of our lives and reveal new and dangerous insights for the present."²⁴ Dangerous memories are subversive memories. So our remembrance of the tortured is a political, spiritual, and subversive practice, inviting and inspiring us to witness the God of life in the public sphere through our active resistance against all forces and systems of torture, terror and domination.

Mark Lewis Taylor's concept of "anamnestic solidarity" of the victims of torture and state terror is instructive here. Anamnestic solidarity, "as a remembrance of the dead constitutes an effect of the dead in the present that re-members, re-constitutes, living communities."²⁵ For Taylor, this solidarity with the dead and the tortured affirms that they are co-present in our contemporary struggles for survival and dignity. Secondly their co-presence strengthens those who experience torture today and fight against it. Sister Diana Ortiz, an American Catholic missionary in Guatemala who was tortured by the state and incarcerated for years, reflects on this experience of anamnestic solidarity in her autobiographical book *The Blindfold's Eyes: My Story from Torture to Truth*: "We believe the spirits of our tortured sisters and brothers who have gone before us dwell within us, giving us the strength to hold firm to our convictions of justice for all people and to bear witness to the heinous atrocities committed by oppressive

22 ArunaGnanadason, *No Longer a Secret: The Church and Violence against Women*, Geneva: WCC Publications, 1993, 1.

23 *Proverbs of Ashes*, 36.

24 Johann Baptist Metz, *Faith in History and Society: Toward a Practical Fundamental Theology*, New York: A Crossroad Book, 1980, 109.

25 *The Theological and the Political*, 203.

governments.”²⁶ We see this spirit in the funerals in Kashmir and the martyrs’ day celebrations in Dandakaranya forests where communities who undergo torture and death gather strength from the dangerous memories of the slain for survival and living for action toward justice.

Eucharist is such an anamnestic celebration of solidarity which we practice in remembrance of the tortured One. Remembrance of the dangerous memories is a celebration for all who undergo torture and terror because “every rebellion against suffering is fed by the subversive power of remembered suffering.”²⁷ “The meaning of our history does not depend only on the survivors, the successful and those who make it. Meaning is not a category that is only reserved for the conquerors!”²⁸ Rather, the meaning of history lies in the remembrance of the subalterns whose heads have been crushed by the dominant. Remembrance of their dangerous memories “anticipates the future as a future of those who are oppressed, without hope and doomed to fail. It is therefore a dangerous and at the same time liberating memory that questions the present,”²⁹ and empowers all who are destined to live under regimes of torture and terror to be the midwives of a new utopia of hope in a violent world.

Anamnestic solidarity further affirms the epistemological privilege and agency of the tortured body in constructing liberating theological discourses. Reflecting upon the poems written by the prisoners of Guantanamo, Judith Butler observes that, “the poems communicate another sense of solidarity, of interconnected lives that carry

on each others’ words, suffer each others’ tears, and form networks that pose an incendiary risk not only to national security, but to the form of global sovereignty championed by the US.”³⁰ I Protest, is an agonistic expression of prodigious art coming from Kashmir valley, written by MC Kash, a twenty-year-old Kashmiri rap artist.

They say when you run from darkness all you seek is light...But when the blood spills over, you’ll stand an’ fight. My paradise is burnin’ with troops left loose with ammo, who murder an’ rape then hide behind a political shadow. Like a casino, human life is thrown like a dice. I’ll summarize atrocities till the resurrection of Christ! Can you hear the screams, now see the revolution! The bullets, our stones, don’t talk restitution. Cuz’ the only solution is the resolution of freedom. No more injustice, we won’t go down when we bleed. Alive in the struggle even the graves will speak!

I’ll tell you some stuff that you obviously neva heard! A whole village gang-raped, A cry still lingers. These are the tales from the dark side of a murderous regime, an endless occupation of our land an’ our dreams. Democratic politics will cut our throats befo’ we speak. How they talk about peace when thea’s blood in our streets? When freedom of speech is subjected to strangulation, flames of revolution engulf the population. They rise through suppression an’ march to be free; face covered in a rag, labeled a revolutionary. Through this fight fo’ survival, I want the world to see, a murderous oppression written down in police brutality, stones in my hand—its time you pay the price, fo’ plunderin an’ rapin’ a beautiful paradise!

I Protest, against the things you done! I Protest, fo’ a mother who lost her son! I

26 Diana Ortiz with Patricia Davis, *The Blindfold’s Eyes: My Journey from Torture to Truth*, Mayrknoll, New York: Orbis books, 2007, 191.

27 *Faith in History and Society*, 110.

28 *Ibid.*, 114.

29 *Ibid.*, 90.

30 Judith Butler, *Frames of War: When Is Life Grievable?* New York: Verso, 2009, 61-62.

Protst, I will throw stones an' neva run! I Protest, fo' my brother who's dead! I Protest. against the bullet in his head! I Protest, until my freedom has come!³¹

When war against terror is justified in the name of Just War theories, terror is explained as the legitimate use of violence to enforce justice because it is an "inevitable moral imperative" to save our nations from "the enemies of freedom, democracy, and development." So creative artistic expressions, emerging from the tortured bodies are considered as subversive and unpatriotic. This is the context in which we need to affirm that authentic theological happens in our engagement with the agonistic political of such art forms coming from the tortured bodies of the victims. For this we need to have more theological clarity on the notion of violence. Even as we reflect upon whether violence can be ethically justified or not in the coziness and safety of our comfort zones, for communities at the margins violence is an everyday reality. Gustavo Gutierrez invites us to make a distinction between "the unjust violence of the oppressors (who maintain this despicable system) with the just violence of the oppressed (who feel obligated to use it to achieve their liberation)"³² He further nuances it: "we cannot say that the violence is all right when the oppressor uses it to maintain or preserve 'order,' but wrong when the oppressed use it to overthrow this same 'order.'"³³ When our lifeworld is filled with violence, perpetuated by the powerful, the ethical question is not whether we should support violence; rather whether the victims have the moral right to defend themselves from the

already existing violence. "If the oppression of the marginalized is maintained through institutionalized violence, that is, through social structures designed to privilege the few at the expense of the many, then any hope of finding salvation or liberation from the status quo will inevitably confront those same social structures.... Violence, when employed by the marginalized to overcome their own oppression, is in reality self-defense and can never be confused with the continuing violence employed by those in power."³⁴

"Where is God and what is God doing in the tragedies" is the question that Jon Sobrino encourages us to ask in the context of torture and terror. For Sobrino we are committing the sin of taking God's name in vain, and converting God into an idol that presides over our dominant interests. Instead, he challenges us to re-imagine the fundamental thesis of Christian faith as "the decentering of God in favor of the poor, weak, and victimized."³⁵ Torture, in essence, "is a story or a discourse in which the victim is being taught the futility of acting like a subject, of aspiring to anything beyond abject victimhood and objectification."³⁶ When we re-imagine Christian faith as decentering of God in favor of the tortured, it invites us to engage in the praxis of enabling the moral agency of the tortured to embrace resistance and rebellion as "practices of negation that yet expresses, embodies, and gives rise to practices of affirmation and celebration,"³⁷ even at the

31 MC Kash, "I Protest," in *Until My Freedom has Come*, 110-111.

32 Gustavo Gutierrez, *The Theology of Liberation*, Maryknoll, New York: Orbis Books, 1988, 64.

33 Gustavo Gutierrez, *The Power of the Poor in History*, Maryknoll, New York: Orbis Books, 1984, 28.

34 Miguel De La Torre, *Doing Christian Ethics from the Margins*, Maryknoll, New York: Orbis Books, 2004, 113.

35 *Where is God?* 134.

36 John Perry, *Torture: Religious Ethics and National Security*, Maryknoll, New York: Orbis Books, 2005, 158.

37 Mark Lewis Taylor, *The Executed God: The Way of the Cross in Lockdown America*, Minneapolis: Fortress Press, 2001, 155.

cost of being accused as “terrorists.” That is the challenge of Christian public witnessing in our times.



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COVER STORY: PHILIPPINES*AHRC file photo*

Torture in Philippines Asserting Rights When State & Laws Fail

by Rizal G. Buendia

The Philippines' democratic rule of 26 years, under five presidents, after 14 years of dictatorial rule under Marcos, did not weed out the practice of torture and rampant transgressions of universally declared protection of human rights. Contrary to the notion that democracy would promote human rights, facts show that there were

more violations of human rights and a greater execution of torture under the "rule of the people." The character of the state has nothing to do with the promotion of peoples' welfare and protection of their basic rights; national and international laws and covenants against torture are limited and powerless to safeguard the principles they

advocate, being unable to hold both the state and non-state actors and groups accountable for acts of torture committed to individuals.

Given the insufficiency and powerlessness of laws, states, and international bodies – to address the condition of torture victims – the remaining alternative is for the torture victims to organize and empower themselves to advance their interests and rights against torture. Whether this option will bring about a lasting solution against torture remains to be seen. But, there is no other recourse except bringing back power to the hands of the people, if laws and state, and even international sanctions fail to represent the fundamental welfare and rights of people. After all, authority, power, and sovereignty are peoples' irrevocable privilege, instrumental for re-claiming honor, dignity, and self-respect.

State, International Convention, & Record of Torture

Ditching the 1973 Marcos Constitution, and promulgating the more democratic 1987 Philippine Constitution, did not prevent the occurrence of torture in the Philippines. In spite of what is provided in Art. 3, Sec. 2 (2) of the 1987 Constitution – that “no torture, force, violence, threat, intimidation, or any other means which vitiate the free will shall be used against him” – torture, committed primarily by state agents, is rampant. A position paper released by the Presidential Commission on Human Rights (PCHR)¹ in 2008, declares:

Violations of torture are real. Data show that the use of torture is still employed in

the Philippines: from 1988 to 1998, 15,556 complaints of violations of human rights have been brought before the Presidential Committee on Human Rights (PCHR), mostly cases of torture (PCHR 2008, p. 3).

Not even after becoming signatory to the UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT) in 1986 (less than two years after the UN General Assembly adopted the Convention), was the Philippines able to address the problem of torture. Apparently, the country failed to comply with the provision of the Convention even though it was then under the presidency of Corazon Aquino, whose husband was murdered by Marcos' agents when he returned to the Philippines in 1983. Under Aquino's administration (1986-1992), the Task Force Detainees of the Philippines (TFDP) documented 102 cases of torture among political dissenters. Her successor, President Ramos (1992-1998) was likewise unsuccessful in resolving the issue of torture with 179 cases recorded. In a short period of three (3) years, President Estrada (1998-2001) had 53 cases of documented torture. In almost the same length of period (2001-2004), TFDP documented 63 cases of torture affecting 146 victims, 141 males and 5 females, under President Arroyo. All these cases of torture were against suspected political dissenters and alleged Muslim terrorists (PCHR 2008).

Although it was under Arroyo's presidency, when an enabling law that puts the necessary structure, substance, and specific guidelines and penalties to Article 2 of UNCAT² and Art. 3, Sec. 2 of the 1987 Constitution was enacted, the occurrence of torture was

1 The Presidential Commission on Human Rights (PCHR) was created under Executive Order No. 163 on May 5, 1987 as provided in the 1987 Constitution.

2 The UNCAT's Article 2, paragraph 1 declares that “Each State Party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction.”

neither mitigated nor prevented. In fact cases of torture increased. By the time Arroyo stepped down from power in June 2010, the documented cases of torture in the country had reached 1,099 (Palatino 2012). Considering that it took 23 years from the time the country signed the UNCAT (1986) to craft the anti-torture law (2009), otherwise known as Republic Act 9745, or An Act Penalizing Torture and other Cruel, Inhuman and Degrading Treatment or Punishment, signifies that peoples' right against torture and state's defense of human rights have not been taken seriously.

The horrendous picture of human rights violations and the practice of torture has not improved even under the current administration of President Benigno Aquino III, the son of martyred Benigno Jr. and Corazon Aquino. The Karapatan (Right), a human rights non-governmental organization (NGO), accounted 67 cases of torture from the time Aquino assumed the presidency in 2010 until mid-2012, and in less than three (3) months after the enactment of the anti-torture law, 43 health workers suspected of being members of the communist New People's Army (NPA) were apprehended by the Philippine Army (PA) in suburban town east of Manila, and reportedly subjected to physical and mental torture by their captors (Palatino 2012).

In mid-2012, the CHR received more than 360 cases of human rights abuses involving the military and police from the poorest regions of the country where local communist insurgency and the Muslim separatist movement are strongest. Philippine legislator Mong Palatino, in a speech delivered in Hong Kong in July 2012, revealed that the chairperson of the Commission on Human Rights (CHR) complained that not a single human rights violator has been sent to jail during the term of President Aquino, i.e.

until September 2012, despite provisions for criminal prosecution for torture having been drafted into the 2009 Anti-Torture Law (Amnesty International [AI] 2012)³.

In May 2009, the UNCAT expressed its concern about "the numerous, ongoing, credible and consistent allegations, corroborated by a number of Filipino and international sources, of routine and widespread use of torture and ill-treatment of suspects in police custody" (p. 3) despite the enactment of the Law on the Rights of Persons Arrested, Detained or under Custodial Investigation (RA 7438 on April 27, 1992). It contended that there are inadequate legal safeguards for detainees, including:

(a) Failure to bring detainees promptly before a judge, thus keeping them in prolonged police custody; (b) Absence of systematic registration of all detainees, including minors, and failure to keep records of all periods of pre-trial detention; and (c) Restricted access to lawyers and independent doctors and failure to notify detainees of their rights at the time of detention, including their rights to contact family members (p. 3).

Moreover, CAT observed that the Philippines has very limited number of investigations, prosecutions, and convictions in torture cases, and criticized the rampant use of arrests without warrant and lengthy pretrial detentions (CAT 2009, p. 5). It was reported that cruel, inhuman, and degrading conditions persist in Philippine jails and

3 In September 2012, the first criminal case was filed by prosecutors under the Anti-Torture Law of 2009. Criminal charges were recommended by the Department of Justice to be filed against a senior police inspector and six other police officers for an act of torture committed in August 2010. A mobile video shot showed a robbery suspect squirming in pain after police officers yanked his penis with a cord.

detention centers, with problems including overcrowding; poor food, sanitation, and health care; high rates of sexual violence; and the detention of children with adults (International Committee of the Red Cross [ICRC] 2010; AI 2009). The International Prison Chaplains' Association has rated the Philippines' jail system as one of the world's worst ("RP Prison System One of the World's Worst, 2008).

The Redress Trust, an international NGO based in London seeking reparation for torture survivors, presented in its September 2012 Shadow Report that the "Philippines has repeatedly failed to comply with its obligation to provide an effective remedy to those the [UN Human Rights] Committee has recognized as victims of violations" (Redress 2012 p. 1). As signatory to the UNCAT and the Optional Protocol to the UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT)⁴, the country is mandated to use whatever means that lie within its power to carry out measures that help prevent torture and other forms of ill-treatment to detainees. Unfortunately, the government, as assessed by Redress, has been unsuccessful in having installed "clear mechanisms" that ensure that practice of torture is either mitigated or completely halted. And, it has failed to ensure that victims of torture are justly compensated and proper reparations are made. The Shadow report further states that "where action to investigate and prosecute

serious human rights violations has been required of the state, no action has been taken" (p. 1). It concludes in its summary of findings that:

[The government's] failure to provide a remedy to those who the Committee has recognized as victims of violations of the Covenant is a systemic issue, and should be addressed at a policy level by the introduction of legislation designating clear responsibilities and mechanisms for the implementation of views adopted by UNbodies (p. 1).

Likewise, the AI's 2012 report gave the Philippines a not so pleasant assessment in terms of human rights record, specifically on unresolved disappearances. It says that the average number of enforced disappearances per year had "barely changed since the overthrow of Ferdinand Marcos in 1986. There were 875 documented cases during his 21-year rule, compared with 945" in the 25 years after the 1986 peaceful revolt (AI 2012, p. 272). While the Philippine Senate has passed a landmark bill to criminalize enforced disappearances in July 2012, the House of Representatives' (HOR) version of the bill has remained dormant since it was first filed in 1995. In as much as 2013 is a mid-term election in the Philippines, it would be unlikely that the Senate and HOR version of the bill would be consolidated and finalized in a bicameral conference committee⁵ as legislators would be more interested to ensure their victory in the 2013 elections.

4 Former President Gloria Arroyo signs the Optional Protocol to the UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment's (OPCAT) "instrument of ratification" on April 22, 2008 and formally ratified on April 17, 2012. The OPCAT obligates a signatory-state to institute better and more effective mechanisms to comply with Article 2 of the UNCAT, "take effective measures to prevent acts of torture in any territory under their jurisdiction."

5 A Bicameral Conference Committee is constituted and is composed of the members from the Senate and House of the Representatives to settle, reconcile or thresh out differences or disagreements on any provision of the bill and come up with a consolidated and coherent bill before it is submitted to the President for his/her signature before it becomes a law.

Non-state actors and groups

In the Philippines, acts of torture are not only committed by agents of the state but also by non-state actors and groups (NSAGs), especially by armed political groups or parties which operate outside of state's legal framework, and advance a political agenda beyond the scope of national and international laws. The nature and character of these organizations make them neither accountable to national laws nor international conventions for acts of torture; neither can they be subjected to any state's guidelines and penalties, nor to international sanctions in spite of some arguments that NSAGs have to be responsible and answerable to acts of torture committed either to their own member or agents of the state, who they consider as "enemies of the movement." Nonetheless, regardless of organization or entity, ideology or political inclination, torture is an affront to human rights and the individual's dignity and self-respect.

The Redress Trust documented, as cited by Garcia and Soliman ("The Anti-Torture Law: a good advance but misses out on non-state torture" 2012), that several NSAGs in the Philippines have been responsible for torture. This includes revolutionary and secessionist groups like the Communist Party of the Philippines-New People's Army-National Democratic Front (CPP-NPA-NDF) and the Moro Islamic Liberation Front (MILF); former secessionist group that has been integrated in the Autonomous Region of Muslim Mindanao (ARMM), the Moro National Liberation Front (MNLF); and extremist Muslim armed groups labeled as "terrorist," namely, the Abu Sayyaf Group (ASG) and the Rajah Solaiman Movement (RSM). Among these NSAGs, the CPP-NPA-NDF has well-documented cases of torture that were committed as early as the 1980s, when Marcos was then widely accused of

allowing state agents to torture political dissenters.

R. Garcia's *To Suffer thy Comrades* (2001) published by Anvil Publishing provides a riveting account of the harrowing experiences as to how the CPP-NPA-NDF tortured and executed its own comrades throughout the 1980s for mere suspicion of being "deep penetration agents" or undercover military agents. Known as *Kampanyang Ahas* (anti-infiltration) campaign, the CPP-NPA-NDF launched its process of "purification" by arresting, detaining, torturing, and killing hundreds of communist cadres suspected of being military spies. In Luzon's (largest island of the Philippines) Sierra Madre mountain range, known to be the CPP-NPA-NDF stronghold, 121 cadres were reported to have been tortured and killed; in Mindanao, around 600 to 900 were killed. Garcia, himself a CPP-NPA-NDF member, narrated that he was arrested and tortured by his own comrades in 1988. The pattern in this campaign was said to be frightening starting with suspicion, arrest, interrogation, forced confession, detention, and execution.

On the main, Garcia and Soliman (2012) view that the revolutionary cleansing operation produced a "bloody domino effect that had bodies writhing, rolling, and dying *en masse*." For a decade, the Communist Party killed hundreds of its own cadres in a wave of paranoia that swept the rebel movement. Against this backdrop, it appears that Marcos's record on human rights violations may have been better compared to the revolutionary movement, given that Marcos's agents tortured and killed those perceived as "enemies of the state," while the CPP-NPA-NDF tortured and killed their *own* comrades for mere suspicion as enemies of its own movement. Moreover, while the state is legally bound by its own law and international conventions to prosecute those

who commit torture and violate human rights, revolutionary movements cannot be penalized and punished for torturing and executing individuals who are accused, rightly or wrongly, for transgressing their self-defined ideology.

By way of Conclusion

Clearly, torture is committed by both the agents of the state and non-state actors and groups. But unlike the former, the latter, in practice, are not subject to, or cannot be subjected to, comply with the provisions or penalized for violating either national laws or international laws and covenants against torture. Laws, regardless of scope (national and international), are state centric. They are made by states; addressed to states; and implementation mechanisms are particularly state-centered. A national or international forum is non-existent in which the individual victim, the injured state, an international intergovernmental or nongovernmental organization, or a third state, could invoke the responsibility of a non-state actor or group and obtain relief.

While the Art. 1 (2) of the UNCAT provides a “wider application” on its definition of torture that includes NSAG apart from states, there is absence of any mechanism how NSAGs could be held liable for their acts of torture. Similarly, the accord signed between the CPP-NPA-NDF and the Philippine Government on the recognition and respect of the Comprehensive Agreement on Respect for Human Rights and International Humanitarian Law (CARHRIHL) in 1998 on the prohibitions against “physical or mental torture,” and “other inhuman, cruel or degrading treatment, detention and punishment” does not contain any clear supervisory mechanism for monitoring the behavior of armed opposition group (see CARHRIHL 2008). Not even the signing

of the Rome Statue of the International Criminal Court of 2002 by the Philippines in 2011 that legally binds the state and rebel groups to respect human rights will make any difference as the Statute is vague on *how* crimes committed by NSAGs against human rights could be examined and how they could be prosecuted in the manner that mechanisms of monitoring and prosecution are institutionalized in the structures of the state.

Given the limitation of laws and international covenants to protect the interest of torture victims, empower them to reclaim justice, and prosecute those who committed torture and violate human rights with impunity, regardless whether executed by state or non-state actors, two groups of human rights advocates and victims of human rights abuses were formed in the Philippines. One is engaged in advancing reforms in torture laws, call themselves as the Committee on Accountability of Non-State Armed Groups (CALASAG), and another is composed of victims and survivors of the CPP-NPA internal purges of the 1980s, as well as their relatives, friends and supporters, known as the Peace Advocates for Truth, Healing and Justice (PATH). In both organizations, the interests and rights of torture victims are being campaigned.

The wounds of torture victims may take time to heal, but only through concerted effort of victims themselves is it possible to end torture, as neither the state nor NSAGs would safeguard their rights against torture, and against other human rights violations, except those who have suffered and been victimized by the state and armed opposition groups.

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COUNTRY STORY NARRATIVES

“Beaten and placed in a drumfull of water”

In this interview, Fatima Pedro, wife of torture victim Hamsa Pedro, talks about how she struggled in searching for her husband from one police station to another for 15 days. Hamsa was forcibly taken by police officers wearing balaclavas from a crowded public market. Hamsa’s son and the people at the public market saw how the victim was forcibly abducted; however, for fear, none of them dared to intervene. For 15 days, he was kept in police custody in a private hotel where he was tortured. The police deliberately concealed Hamsa’s whereabouts from his family. Fatima learned that Hamsa was alive and discovered his whereabouts after a person known to her told her that he had seen her husband taken to court. She went to court where he was taken, asked the judge; however, the name in the criminal charges was not that of her husband’s. The judge at the court could not tell whether the name of the person taken to his court was the same person as her husband. She again looked for him at the headquarters of the police where she found him.

(Note: Below is the English version of her interview originally conducted in Filipino by the Philippines Desk, Asian Human Rights Commission)

I am Fatima Pedro, wife of Hamsa Pedro. He was arrested in June 18, 2005 at the market for unknown reasons. We don’t know the perpetrators. He was taken in a white van without plate number. He was brought to the barracks (General Santos City Police Office). For 15 days I have not seen him. I saw him in court. He was threatened and incarcerated.

He was beaten and placed in a drum full of water. He was asked to admit a crime he did not commit. We don’t know the reason why he was arrested. He was brought to a barracks and beaten; he had many bruises on his face.



Hamsa Pedro

AHRC: What is your husband’s occupation, how does he earn a living?

FP: He is a labourer at the market (in General Santos City). He was arrested last June 18 at 4pm at Silangan Bakery. He was carried in a van.

AHRC: No one witnessed the incident?

FP: My son. He saw the men who arrested my husband. He said they are wearing face mask.

AHRC: *How many were they?*

FP: Many of them are in the van.

AHRC: *Were they armed men?*

FP: Yes, they were armed. My husband was carried into the van abruptly.

AHRC: *For 15 days you said that you did not have any communication with your husband, what did you do?*

FP: I was looking for him at different police precincts. A man told me that he saw my husband at the court. I went to the court and looked for Judge Salidran. The judge told me that he doesn't know what I am asking. I just told him. I am just asking because a man told me that he saw my husband.

AHRC: *According to the man, where did the perpetrators take your husband? Lagaopo?*

FP: In Lagao Regional Trial Court.

AHRC: *What is the charge filed against him?*

FP: It was about bombing at the market (in December 2004). He will not do that because we are poor. How could he do such a crime? I went to the barracks (General Santos City Police Office) after several days of looking for him.

AHRC: *What did he tell you when you speak to him?*

FP: He didn't tell me apart from he was placed in a drum. Eight men pressed and held him inside the drum to force him to admit the crime he didn't commit.

Q: *Did he admit the crime?*

FP: He didn't admit anything.

AHRC: *For how many days was he beaten?*

FP: Everyday they beat him up.

AHRC: *For 15 days?*

FP: Yes. They did it to make him admit to the crime.

AHRC: *Apart from the bombing, is there any charges filed against him?*

FP: None.

AHRC: *What are your plans now, since there is a crime filed against him? Do you have any case filed at the Commission on Human Rights (CHR) or Office of the Ombudsman?*

FP: There are other cases filed at the Regional Trial Court, Branches 22, 35 and 37 and then he would be transferred to Manila.

AHRC: *How do you feel about him being transferred to Manila?*

FP: We will not agree to it because it is difficult (if he would be detained) in Manila. We are here in General Santos. I can't visit him regularly because I don't have money. I sell citrus fruit to earn a living. My children could not eat sometimes. I can't bear it anymore.

AHRC: *How many are your children?*

FP: Eight children.

AHRC: *Who is your counsel that handles the case? Is it from Public Attorney's Office?*

FP: It is Atty. Caroline Anne Tajon. I can't afford to get a private counsel. I don't have money to pay. It requires a big amount of money.

COUNTRY STORY MEDICO-LEGAL ASPECTS OF TORTURE

FORENSICS CAN PROVIDE THE CHECK AND BALANCE



(File Photo: Dr. Erwin Erfe with his assistant)

*Dr. Erwin Erfe serves as Forensic Consultant and Director, Forensic Laboratory, in Quezon City, Philippines. An Attorney at Law, Philippine Bar, Mr. Erfe is a certified Forensic Physician, American College of Forensic Examiners, and a Diplomate, both with the American Board of Forensic Medicine (ABFM) and the American Board of Forensic Examiners (ABFE). Mr. Erfe recently spoke with *Torture Magazine*.*

TM: What are the current standards of forensic medicine services in Philippines?

EE: I am optimistic about the state of forensics in my country. Slowly, trained and qualified forensic practitioners are coming

in. Although only a handful, these qualified practitioners are changing the landscape of forensic practice, raising its standards. One of the flaws of our local forensic system is that forensic medicine practitioners in the Philippines are largely confined within the law enforcement agencies. The outcome of forensic investigations is usually suspect or doubtful as it is usually perceived to be influenced by the law enforcers/ investigators. The skeptic citizenry goes to the private forensic practitioners to verify these findings. Being a private forensic practitioner with engagements in government agencies at the same time, I can see the stark difference between those forensic practitioners in the private sector and in government.

There are only 3 forensic labs in the Philippines - at the Philippine National Police, the National Bureau of Investigation, and most recently, the newly established Public Attorney's Office Forensic Laboratory. The latter was established for the benefit of the poor litigants - those who cannot pay for the services of private forensic experts. It aims to level the playing field in the criminal justice system. The prosecution has all the power and resources of the government on its side to prosecute. Poor defendants/ accused have only the public attorneys to defend them. The PAO Forensic Lab provides free forensic services to the poor who would otherwise not be able to afford to hire an expert or lab. I can only speak for our forensic lab, besides having sophisticated equipments in forensic osteology, forensic archaeology, bloodstain pattern analysis, alternative light sources, evidence microscopy, we continue to develop/ train our personnel on the different aspects of our forensic capability.

TM: How has the criminal justice system in Philippines developed and what is the role of forensic physicians and forensic

pathologists in the current criminal justice system?

EE: Our criminal justice system is beset with long standing issues - corruption, incompetence, and inaccessibility to the poor. Corruption can be addressed by stiffer penalties, incompetence by training and inaccessibility by strengthening the Public Attorney's Office and liberalizing the rules of procedure in courts and administrative bodies. In all these, forensics can provide the check and balance and plays an overarching role. A strong and independent forensic investigation system could deter corruption, incompetence and abuse in the judiciary, prosecution, and law enforcement agencies. It could also solve the problem of congestion in the jail system.

TM: What significance is given to the death investigation system? Are forensic pathologists allowed to conduct autopsies impartially?

EE: There is no single system of death investigation in the Philippines. Each law enforcement agency follows its own protocol. What is common is that the forensic investigators are under the command of law enforcement officials. In that sense, forensic investigators are not impartial. Most of the procedures and systems are similar in both systems. The main difference is that in an independent forensic investigation system (forensic investigators independent from law enforcement agencies) the forensic investigators are not within the influence, control or supervision of criminal investigators. We prefer this system of independent forensic investigators, unfortunately, this may not be forthcoming.

TM: What is the role of forensic practitioners in human rights violations

in Philippines? What are the major kinds of human rights violations currently experienced in Philippines?

EE: Forensic practitioners play a crucial role in human rights violations. A careful examination, recording and interpretation of physical evidence in human rights violations cases can deter impunity and assist in the prosecution of violators. Major human rights violations in the Philippines are committed by the military, police, communist and muslim separatists. What escape our attention are the human rights violations being committed daily in our jails and prisons. Detainees and prisoners live a subhuman existence.

I think the Istanbul Protocol only systematized and organized the method being used internationally by forensic investigators in the recording of torture injuries. I do not see any difficulty in using and applying it in actual cases.

TM: What are the common methods of Torture in Philippines? What kind of facilities and services are available throughout the country to manage the consequences of torture in victims?

EE: The Public Attorney's Office Forensic Laboratory, being newly established (inaugurated in year 2010) has had very few actual torture cases. So, our experience is limited in this area. However, we expect this to change in the coming months. With the enactment of Republic Act 9745, the Anti-Torture Law, and the designation of the Public Attorney's Office (PAO) as one of the lead agencies in the investigation of torture, the PAO had organized the "Victims Assistance Unit" (PAO VAU) composed of public

attorneys with the PAO Forensic Laboratory as its forensic arm in investigating, among others, torture cases, case build-up and assist in filing of cases against the perpetrators.

I believe the PAO Forensic Laboratory has the most advanced forensic equipment in the Philippines in detecting and documenting injuries from torture. We have sensitive forensic photography equipments, forensic ultraviolet and infrared alternate light sources to detect old injuries and injuries that have faded or disappeared. Given the limited experience of our forensic laboratory on torture, I would not be in the position to elaborate on this issue, although we expect this to change with the creation of the Public Attorney's Office Victims Assistance Unit (PAO VAU). The PAO Forensic Laboratory provides critical support to this unit through evidence gathering and case build-up.

TM: What is the current practice of examining and documenting findings of torture victims in Philippines?

EE: Current practice is through physical examination and documenting injuries in an anatomical chart. The PAO Forensic Laboratory intends to change this practice by using the most advanced forensic equipments to detect and document torture injuries. The widely used system is physical examination and sketching of injuries. Some agencies or forensic practitioners with equipment for photography would take images of injuries. We intend to change all these in our forensic laboratory by using not only visible light photography in documenting injuries but also ultraviolet (UV) and infrared (IR) light photography, as well as, UV/IR microscopy and macrophotography. These equipment would ensure proper interpretation of injuries and reconstruction of the crime scene or events.

TM: Is Istanbul Protocol practically adopted in Philippines by forensic doctors and lawyers?

EE: I am not aware if government forensic practitioners are using the Istanbul protocol. I believe they have their own protocol. But we have adopted it for our use at the PAO Forensic Laboratory and in my private forensic practice.

TM: What are the difficulties of applying Istanbul Protocol in documenting examination findings of torture victims?

EE: I think the Istanbul Protocol only systematized and organized the method being used internationally by forensic investigators in the recording of torture injuries. I do not see any difficulty in using and applying it in actual cases. I did not experience any difficulty in using it but I can cite several improvements that may be necessary to facilitate easier and more fluid use of the protocol.

TM: What is the public opinion/reaction about the availability and application of forensic services in Philippines?

EE: There is a clamor for a more competent, effective and wider use of forensics in investigations and administration of justice and for us forensic practitioners – clamor for the use of internationally accepted forensic methods. My advocacy is to drive the practice of forensics in the Philippines to become evidence-based and to stir it away from the current experience and opinion-based practice.

INTERVIEW

HAVE TO HAVE AN INDEPENDENT & IMPARTIAL FORENSICS BODY



File Photo: Dr. Benito Molino

Dr. Benito Molino, M.D. is a peace, health and human rights advocate whose passion is to defend the rights of the oppressed and the exploited through documentation of cases of human rights violations; working for the enhancement of forensic capability in the Philippines; building of sustainable primary care community health programs for the poor; advocating for affordable and effective public health services; and fighting for a sustainable green and people centered development. *Torture Magazine* caught up with Dr. Ben recently.

TM: How do human rights associate with the practice of forensic medicine in the Asian context?

BM: When the practice of forensics is under the control of the government, violators of human rights will most likely continue to enjoy their liberty.

We all have human rights and we do not want our human rights to be violated, however, in Asia, human rights are not just violated, impunity reigns, i.e., the very government obligated to protect, promote and fulfill the rights of its people not only commits violations of human rights, it allows the violators - the police, military and other agents of the state - go unpunished. After all, the forensic investigators are under the control of the very government that violates the rights of its people. It is either under the police or under the justice agency.

In this situation, there is no guarantee that justice to victims of human rights violations will be served. If the police themselves will investigate the violations of their own kind, can you expect them to be impartial and that if the case is filed in the court, can you expect the judges to act in favor of the victims?

You may think of the national commission on human rights as the fallback, but these commissions are toothless and if ever they have forensic body like in the Philippines, their capability and commitment to protect the rights of the victims are doubtful.

Thus, for us to enjoy our human rights, we have to have an independent and impartial forensic body that is not under the nose of the police or other investigative agencies of the government and that is committed to ferret out the truth and will present the truth in the bar of justice.

TM: What is the role of forensic physicians and forensic pathologists in the current criminal justice system of Philippines?

BM: Forensic physicians and forensic pathologists are expected to conduct thorough and impartial investigations of death and or injuries, physical or psychological, which are potentially criminal in nature. Their findings when truthfully presented in the bar of justice will help in carrying out justice. They also have the obligation to explain to the relatives their findings and write a comprehensive report with analysis, conclusion and recommendation that is understandable to the lay persons, lawyers and media. In case of torture, if the victim is alive, the report before it is submitted to the court should be reviewed by the victim. Information/s that the victim do/does not want to be included in the report like details that may endanger his/her security or his/her family's security should be respected.

TM: What are the major kinds of human rights violations currently experienced in Philippines?

BM: Human rights violations come in many forms in the Philippines. Civil and political rights violations are always taking the limelight. But, in reality, there are more cases of violations of economic, social and cultural rights.

Millions of the labor force are jobless, while many of the employed are underpaid and exploited, they do not have security of tenure as this is violated by the existing contractualization law, their contracts end every four or five months. Thus, millions of people either go hungry, do not have shelter over their heads, or do not have a healthy and safe community to live. Their children are not attending school, are malnourished

and are forced to work as child labor, worse instead of growing up and playing as children should, they commit crimes. In the field of civil and political rights: torture; extra-judicial killings, and enforced disappearances are the most common. In the Philippines, more than 50% of the population approves of torture. The police routinely use it, thus it is now viewed as normal. This is a very alarming situation, arrested people who are subjected to torture no longer complain and if this view of normalcy on torture will continue, there will be more violence to come. Violence begets violence.

Extra-judicial killings continue. Casualties are: people advocating for the common good today, and for the future, like protection of the environment, especially those in the fight against mining.

Enforced disappearance, which was a common violation during the Marcos dictatorship, remains. Again, targets of this violation are people advocating for the people's interests, but are suspected of involvement with underground movements fighting the government. More than a thousand victims are yet to surface dead or alive.

TM: What is the role of forensic practitioners in human rights violations in Philippines?

BM: Forensic practitioners, especially medical doctors are tasked to conduct detailed and impartial investigation of crimes, particularly individuals who were injured or killed, including cases of human rights violations, and to present their findings truthfully in the bar of justice in order to help resolve legal questions. However, there are occasions when medical forensic practitioners themselves are involved in human rights violations, either

commission or omission. They provide: (1) medical information to perpetrators of human rights violations, especially during the process of torture; (2) medical support to victims in order for torture to continue; (3) medications to mentally weaken the victim; (4) they falsify medical findings and medical certificates; (5) they do not document the injuries; and others. Thus, they themselves are accessories in the commission of human rights violations. This is also a violation of medical ethics.

TM: What kind of role is played by the Christian church regarding human rights violations in Philippines?

BM: The Christian churches, since the dictatorial regime of Mr. Marcos, played a vital role in protecting and defending the rights of the people, civil, political, as well economic, social, and cultural rights. It has been critical to all human rights violations since the time of Mr. Marcos. It is also critical to human rights abuses by non-state actors. The Catholic Church put up the Association of Major Religious Superiors in the Philippines (AMRSP) and the Task Force Detainees of the Philippines (TFDP) primarily to advocate for human rights and provide assistance to victims of human rights violations. To date, these organizations are still in the forefront of the struggle for human rights.

TM: How would you narrate the history of torture in Philippines?

BM: The UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1985) defines torture as: (a) any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person (b) for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person

has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering (c) is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions. The UN declaration against torture dates back to 1975.

If we are going to apply this definition of torture in the earlier Philippine period, torture must have started during the Spanish colonization. Peoples of this country who were apprehended by the Guardia civil were most likely tortured. Rizal himself was definitely tortured. When the Americans took over from the Spaniards, they continued the practice of torture and it went on during the Japanese occupation, but the struggle against torture became popular during the Marcos dictatorship. This was the time when the UN already had the declaration against torture in 1975 and the Convention in 1985.

In 1986, the Philippines became signatory to the convention, but the enabling law came 23 years after. To date, five (5) complaints against torture were filed in court, of the five, two were dismissed for insufficient evidence; two prospered, but the perpetrator in one of the cases is yet to be apprehended. The Armed Forces deny that the uniformed perpetrator belongs to their group, and, in the other case, litigation is going on. The last case is still in the stage of preliminary investigation.

TM: What are the common methods of Torture in Philippines? What kind of facilities and services are available throughout the country to manage the consequences of torture?

BM: Blunt trauma, dry and wet submarine, electrocution, burning, threat, isolation, chili in private parts, sexual offenses (primarily rape) and difficult positions, are the most common. These are done usually in combination. The sequelae are almost always more difficult than the acute physical and psychological effects.

In the absence of government services, in the early to the mid 80s, two non-government organizations (NGOs) took up the cudgel of providing medical and psychological support to the victims and their families. These NGOs: Balay Rehabilitation Center (BALAY) and the Medical Action Group, Inc (MAG) were established to attend to the health needs, acute and sequelae, of torture victims of the Marcos regime. But since torture did not end with Marcos, the two NGOs continued their work until today. The two NGOs coordinate their assistance to the victims. The MAG attends primarily to the physical sequelae and the physical well being of the victims while the BALAY attends primarily to the psychological sequelae of torture and the social needs of the victims and their families. These services are supposed to be the function of the government.

In 2009, the Philippine law against torture, RA 9745, obligated the government to provide rehabilitation services to victims of torture as well as to perpetrators. This should be in effect a year after the law was enacted, but more than two years after, the program remains in the drawing board.

TM: What is the current practice of examining and documenting findings of torture victims in Philippines?

BM: Independent forensic doctors continue to take the lead in medical investigation of alleged cases of torture. I handled most of these cases. The Istanbul

Protocol is being used as the guideline in the medical investigation and reporting, but many doctors, especially those in the government investigative agencies, refuse to use the protocol. The Medical Action Group, in recognition of the limited number of doctors doing investigation of alleged cases of torture started training of doctors nationwide on the use of the Istanbul Protocol since the turn of the century. The MAG continues to do this. I lecture on the role of medical practitioners and forensic investigation using the Istanbul Protocol.

In the new law against torture, the victim has the right to choose his/her own physician to conduct medical examination and that physicians should be allowed unrestricted process of investigation and documentation. Privacy and photo documentation should be allowed. These are stated in the enabling law. However, until now, not all law enforcers including jail wardens are aware of this.

TM: Is Istanbul Protocol practically adopted in Philippines by forensic doctors and lawyers?

BM: In the Implementing Rules and Regulations (IRR) of the Philippine's Anti-Torture Law, we were able to incorporate the Protocol's process of medical examination. Thus, all medical doctors who will be chosen by the victim to conduct the investigation and documentation of alleged case of torture have to follow the process stipulated in the IRR of the anti-torture law. Training, however, on the use of the protocol should be done. The reach of the training conducted by the MAG since 2002 is not enough. The government should train or provide financial assistance to NGOs like the MAG that has been training medical practitioners on the use of Istanbul Protocol. The human rights lawyers, especially those with the Free

Legal Assistance Group or FLAG, I believe are using the same.

TM: What are the difficulties of applying Istanbul Protocol in documenting examination findings of torture victims?

BM: Foremost difficulty is the non-cooperation of jailers. In many jails, cameras and other documentation equipment are not allowed and there is no space for private investigation. Lack of time is another and if examination is allowed, laboratory tests may not be conducted right away, especially if the case was already filed in court, a court order has to be secured. Financial resources are another problem. Although the law stated that expenses will be shouldered by the government, it is not clear what government agency will provide. The lack of understanding and commitment to human rights by the medical doctors is another.

TM: What is the public opinion/reaction about the availability and application of forensic services in Philippines?

BM: The backward and inadequate forensic services in the country have placed the public, especially the impoverished and the victims of human rights violations at the losing end for decades, if not for centuries. The public is clamoring not only availability of forensic services, the public wants thorough, state of the art, impartial and credible forensic services, and incorruptible forensic investigators whose truthful findings will remain regardless of the price, monetary or otherwise.

COLUMN MALABAR MASALA

Disgusting people of a dignified nation

I write from a self-imposed exile. My current job demands me to be away from the village I belong; from the dirt, dust, ponds, rivers, great food, and friends, relatives and strangers in Kerala, that I call family.

In Hong Kong, my home away from home, there is however a considerable number of Indians, of which a negligible number are persons from Kerala. Some of them I meet every week and they help fill the Kerala vacuum in Hong Kong. Though my work demands a considerable extent of travel, most of it outside the territory, my travel within Hong Kong is limited to commuting between home and office. However, during these short daily commute, I sometimes bump into new Desiacquaintances.

One such encounter occurred a few days ago. The fellow Desi, a successful and proud banker, after the usual *hello ... what do you do in Hong Kong? ... how long have you been here ... and ... is your family here?* ...soon ventured into a monologue about the country's



Bijo Francis

'image' portrayed outside India. My new friend complained, that as opposed to the 'impressive' image of the US in the news broadcasts covering the super typhoon *Sandy*, the media broadcast about cyclone Nilam portrayed a poor picture of India.

My new acquaintance was concerned that "*these TV fellows, whenever they show India, get their cameras focused upon unclean, dark-skinned people, wearing unattractive dress and upon streets perforated with*

potholes filled with mud and water with street sides piled up with rotting garbage."

My friend questioned the way these events are named and said, "*why can't we also name our cyclone a typhoon?*" Somehow, to my new friend, cyclone is a derogatory way of referring to a typhoon. The whining ended with the remark "*... and they even have a super typhoon whereas we have just an old, disgusting cyclone.*"

I was not amazed with my new acquaintance's complaints. These are some of the complaints,

many *Desis* often entertain, of how India is portrayed globally. So much so, some *Desis* take great pain to avoid from being identified as Indians. They struggle trying to speak in a 'western' accent. Most of them do not realise that in fact their newly acquired accent is weird to listen to. Some *Desis* teach their children everything else other than their mother tongue, in their desperate attempt to 'save' their children from the humiliation of having to associate closely with their Indian identity.

I once had the misfortune to suffer the company of a 'Canadian' *Desi*, who was more Canadian than the 'real' Canadians.

There is hardly anything that could be done to change people's obsession about skin colour. There is practically no reason why a cyclone should be renamed a typhoon. However, there is a lot to gain for Indians, from good roads and proper garbage management system.

In Kerala, garbage management in cities (in fact most of Kerala has now become one large city) has literally stopped. All that was there was collecting garbage within the city limits and dumping it in a ground in the outskirts of the city, which has now stopped since the people living near these rubbish dumps have started militantly protesting against the injustice they have to put up with.

The state government of Kerala, just as it is in other states of India, does not have a clue as to what to do. The intellectual capacity of our policy makers and bureaucrats are stuck in the 1950s, that they only know, that garbage disposal means somehow collecting it and dumping garbage at some other place. Environment friendly waste management, if there is such a thing, is rocket science to us.

But potholes in roads are not that complicated I guess. They are one of the most direct reflections of corruption in governance in India. When a road construction contractor has to bribe from the pillar to the minister in the public works department, from getting a tender approved to the completion bills approved, one has to expect that the roadwork would be of low a standard.

L. K. Advani, our permanent prime minister in waiting, in an election rally organised in Himachal Pradesh state a few days before, alleged that the image of India is at an all time low. Indeed Advani knew the cause and has remedy for it.

Cause: the present Congress-led government that Advani's BJP opposes, is corrupt. The remedy: folks, bring the BJP back into power.

That said, one should not question Advani, about the BJP's own national president and the allegations of corruption against him. Mr. Nitin Gadkari, BJP's national president is alleged to be the brain behind a tax evasion and suspected money laundering racket, one of the worst so far reported from India, with a seemingly endless network of companies, in which one fictitious company sponsors another fictitious company.

It is on record that Gadkari's maze of companies have his driver, sweeper and street-side vegetable vendors of his hometown listed as holding hundreds of thousands rupees worth shares. Indeed, none of them are aware of their riches, though when challenged by the media, Gadkari offered the excuse that these poor people managed to buy shares and properties worth a million times more than their known source of income after securing loans.

In short our opposition and ruling benches are one and the same when it comes to corruption. Evil, all of them, in all possible colours, shapes and forms. We belong today to an India that is a great country held at ransom by a bunch of disgustingly corrupt politicians supported by an equally worse bureaucracy.

Indeed, as it is the case concerning allegations of corruption against some of the cabinet ministers in the incumbent government, as Desis we do not expect any credible investigation in these cases. Most of us have learned to live with these humiliations, just like my new friend who is forced to accept that we Desis have a silly cyclone whereas the privileged Americans have the luxury of a super typhoon.

***Tailpiece:** So what is this name, Malabar Masala? Malabar is the place that the rest of the world longed to reach, to trade in its famous Masala. Soon we had to shout at some of those who came to trade with us 'quit India' since we, by then, had lost our freedom. Today the same slogan is alive in India, 'quit India', since freedom and dignity is still a mirage in India. I promise to tell you more about it later, as I progress with this column and improve my writing.*

COLUMN GERMINAL

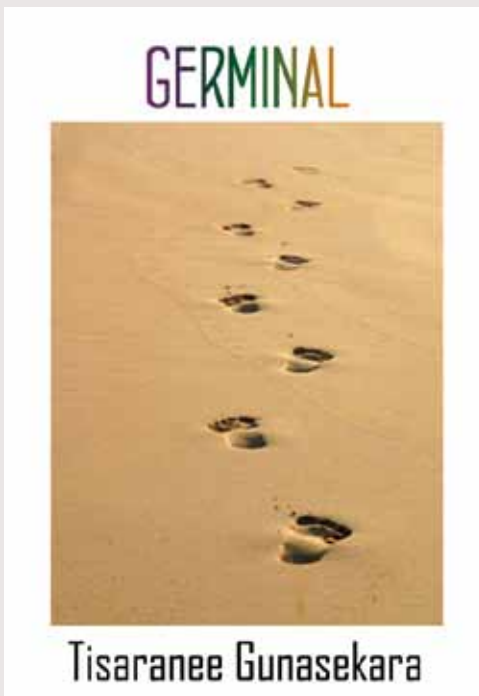
The World and the Home

Stone walling in Geneva; Impeachment in Colombo

Sri Lanka will not ratify the Optional Protocol to the Convention Against Torture; Sri Lanka will not ratify the Convention on Domestic Workers; Sri Lanka will not ratify Articles 76 and 77 of the International Convention on the Protection of the Rights of All Migrant Workers; Sri Lanka will not ratify the International Convention for the Protection of All Persons from Enforced Disappearance... These are some of the international recommendations the Rajapaksa administration steadfastly rejected at the recently concluded UPR process in Geneva.

Revealingly, none of these recommendations has anything to do with the politically and emotionally combusive issue of war crimes. They do not even deal with minority rights specifically or the rights of those who belong to the political opposition. They address basic rights and protections considered axiomatic in any democracy, such as the right not to be subjected to torture or cruel and inhumane punishments. Their aim is to protect and

safeguard vulnerable individuals/groups by restraining power-abuses. And yet, the Rajapaksa administration rejected these democratic and humane recommendations, without even an explanation.



The Rajapaksa administration also categorically, and *sans* explanations, rejected requests by several countries to cease interference in the judiciary and to ensure judicial independence.

In the run up to the UPR, the Sri Lankan Government introduced a Code of Criminal Procedure (Special Provisions Act) which will enable the police to detain suspects of certain crimes for 48 hours, without producing them before a magistrate. While the UPR was in progress, the administration set in motion an attempt to impeach the Chief Justice (who had earned the regime's ire by refusing to provide a free passage to a power-concentrating bill introduced by presidential sibling and Economic Development Minister Basil Rajapaksa).

There is a clear link between the regime's actions in Geneva and its actions in Colombo. Both indicate a government which is as indifferent to the rights of its own people as it is inimical to any democratic or legal constraint on its own power. Both indicate a government which regards a semi-independent judiciary with the same hostility it displays towards any international or national law which impedes its right to rule as it sees fit.

Penchant for Absolutism

During most of its history, humankind knew nothing of democracy, just as it regarded torture and the absence of basic rights as part of the natural order. In absolutist systems of governance, any attempt at demanding political freedom or exercising judicial independence would be coterminous with treachery. The Rajapaksa worldview is rather similar, even though it is dressed up in slightly less antediluvian attire.

President Mahinda Rajapaksa may be unfamiliar with France's Louis XIV, but he will not see anything alien in the remark attributed to that absolutist monarch: 'I am the state'. Defence Secretary and Presidential Sibling Gotabhaya Rajapaksa may have never heard of the Peace of Westphalia, but he will be in complete concord with its politico-ideological basis - *Cuius region, eius religio* - the people of a state must accept the beliefs of the ruler.

The Rajapaksa regime wants absolute power and a totally free hand in exercising that power. Even a partially independent judiciary is as much of an impediment to this goal as the Optional Protocol to the Covenant Against Torture (OPCAT - which seeks to minimise incidences of torture via

visits by national and international entities to places of detention). Both would reduce, however marginally, the administration's capacity to use/abuse its power with impunity; neither has a place or a role in the future the Rajapaksas have planned for Sri Lanka.

If the Code of Criminal Procedure (Special Provisions Act) becomes the law, the police will be able to hold certain suspects for 48 hours, without producing them before a magistrate. This subversion of habeas corpus will provide the police with a larger window of opportunity to torture or visit other maltreatments on the suspects. So long as Sri Lanka refuses to ratify OPCAT, the police will be able to act as they wish without bothering about visits of inspection by outside entities. If the impeachment succeeds, the judiciary will become an appendage of the executive and a victim of torture will be deprived of any recourse to justice, however miniscule. And if the judiciary is subservient to the executive, the Code of Criminal Procedure (Special Provisions Act) will be a *fait accompli*.

An anti-democratic, tyrannical vicious circle will thus be created, imprisoning within it all Lankans who are not Rajapaksa kith or kin.

The Rajapaksas' patrimonial oligarchic project is equally incompatible with national and international checks and balances. The administration's antipathy to international restraints on its power is thus inextricably linked to its antipathy to national restraints on its power. The stonewalling in Geneva and the witch-hunt against the judiciary stem from the same anti-democratic wellspring, which is poisoning the Lankan polity and disempowering the Lankan people.

COLUMN MAKING DIGNITY AN ENFORCEABLE ENTITLEMENT

The former RCT's adoption of the new title DIGNITY is quite a welcome move. By way of celebrating this occasion I think it is appropriate to reflect on what DIGNITY would mean in countries which are usually included under "less developed countries".

The distinction between developed countries and less developed countries is not merely a one of economic character. What is more important is how this distinction affects the structure of governance. It is from that point of view that the word DIGNITY becomes politically significant.

DIGNITY, from the point of view of governance, implies the state commitment to the realization of the DIGNITY of each individual. This it does by respecting the LIBERTY of each individual. DIGNITY and LIBERTY are therefore inseparable concepts. What happens within a governance structure of a less developed country is that it fails to provide structural guarantees for ensuring LIBERTY. When LIBERTY is structurally denied, then there can be no guarantee for respecting the DIGNITY of human persons.

DIGNITY is not just a sentimental word. It carries enormous meaning politically. When DIGNITY is not protected politically, any number of statements, or even declarations signed expressing agreements to respect DIGNITY, do not mean anything other than mere sentimental expressions. Particularly in the international forums, the countries which ratify UN human rights declarations but who in their countries create political conditions that deny the DIGNITY of the individual, is one of the problems that are so manifest today

MAKING DIGNITY AN ENFORCEABLE ENTITLEMENT



Basil Fernando

and if this is not rectified, the credibility of international forums, including that of the United Nations, would be publicly perceived as hypocritical.

Today, lives within less developed countries are an affront to DIGNITY. Thus, the organizations that commit themselves to promote DIGNITY must necessarily come to grips with these enormous contradictions. If not, they too would suffer from the same credibility gap that the international forums are sufferings from in our times.

A serious commitment to DIGNITY necessarily brings the issue of working towards ENFORCABLE ENTITLEMENTS. An individual who is unable to have his entitlements enforced is a powerless person. Therefore, enforceability of entitlement and DIGNITY are inseparable, as powerlessness is the very opposite of dignity.

Enforceability implies much more than the making of declarations on rights and entitlements. It implies that a functioning legal mechanism is available for ensuring realization of rights and entitlements. The test of DIGNITY therefore is the availability of an enforcing mechanisms for entitlements.

Many countries declare that its citizens have the right to be free from torture and ill treatment. However, many of these countries do not provide for a legal mechanism for enforcement of this entitlement. When the violations occur, the individual is helpless.

If commitment for ensuring DIGNITY is true and not fake, then the test is whether there are mechanisms for enforcement.

Therefore, we hope that this occasion of celebrating DIGNITY is one in which all who are concerned will contemplate the issue of enforceable entitlements, particularly as regards torture and ill treatment.

A world where DIGNITY is not a mere declaration but a realizable aim by a way of enforceable entitlements will surely be happier place to live in.

BOOK REVIEW

“The Torture Garden” (*Le Jardin des Supplices*) is a controversial novel, nevertheless depicting some of the vexed issues of torture, written by Octave Mirbeau in 1899, which was recently republished by Bookkake (London) in 2008. It is now available online under Google books with an excellent introduction by Tom McCarthy. It was translated from the French by Alvah Bessie in 1929.



Reviewed by
Laksiri Fernando

A peculiar work of fiction, one of the unique features of this novel is its ability to give the reader some of the horrible effects of torture, what McCarthy describes as “sending jolts outwards from the spine to the remotest nerve-ends, tightening the throat and burning the ears.” Torture is undoubtedly horrendous, during Mirbeau’s time and today. There are some, though, who unfortunately relish in it. This is why ‘freedom from torture’ is considered one of the most important non-derogable rights under international human rights law. There should be no limitations on this freedom and right, no conditions placed, and no derogation whatsoever.

The narrator (or the author) of the novel, a young Frenchman, however does not seem to completely share the present day understanding of torture. There is a sadistic tint to the whole novel. He goes largely along the orthodox view that torture is part and parcel of human life and mostly unavoidable. Like Sigmund Freud who believed that humans have two main instincts, ‘life and death,’ Mirbeau seems to believe the human life is governed by the ‘instinct of love’ and

the ‘instinct of murder.’ Torture is part and parcel of murder.

There are many instances however where the author naturally despise torture by depicting its dehumanizing and inhuman nature. In addition, he maintains the view that torture is a problem across cultures, irrespective of West or East, and mostly related to politics of power. Although more subtle and sophisticated, the Western

civilization is the same as in China, where ‘torture is practised as an art form.’ That is a message he passes through the novel.

“The Garden of Torture” is one of the so-called ‘realistic’ novels of the late nineteenth century, in contrast to the idealistic ones with romance. In this sense, it is not tender but crude. There are other merits or values of the novel however. Written during the scandalous Dreyfus Affair, where an Army Captain was framed for ‘conviction of treason’ while the real culprit was another, the novel reveals the corrupt practices in French politics at that time which might be common to many countries in the developing world today. The novel is also of immense interests to those who are keen to read sea voyages and descriptions of travel. Those are excellent narratives. Among the countries which are described, Sri Lanka (then Ceylon) stands prominent.

However, this review is restricted to the matters of torture except where the story has to be told and the context related as a review of the novel.

Philosophy and Reality

The story is prefaced by a not-so-inspiring 'philosophical' discussion on murder and love or the 'law of murder.' This chapter is called "The Manuscript" for some reason. "One evening some friends were gathered at the home of one of our celebrated writers. Having dined sumptuously, they were discussing murder – apropos of what, I no longer remember – probably apropos of nothing." That is how the story begins.

A member of the Academy of Moral and Political Sciences (France) says:

"Really – I honestly believe that murder is the greatest human preoccupation and that all our acts stem from it..."

"Absolutely!" says a Darwinian scientist, "and, my friend, you are voicing one of those eternal truths...murder is the very bedrock of our social institutions, and consequently the most imperious necessity of civilized life."

There is a (first person singular) narrator to this whole story, whom I might introduce later in this review. Suffice it to say here that he (gender is clear) is the same person who relates this philosophical discussion as a preface. He comments that the 'political science man' said that murder is the greatest human preoccupation, "with calmness of spirit as perfect as though he were expressing an opinion upon the merits of the cigar he was smoking!"

While the "The Garden of Torture" is in China, according to the story, the novel is an exposure of what is going on in the so-called civilized world, the West and in France. A particular exposure is made of colonial atrocities by the French in Algeria and the British in Ceylon and India. Although these revelations come

later in the story, it is appropriate to relate some here to relax the reader from rather a boring 'philosophical discussion' for a while. This revelation comes from the English woman, Clara.

"I'm sure you think that the Chinese crueller than we. No...not at all! We English? Ah, don't mention it! And you French? In your Algeria, in the confines of desert, I saw this."

"One day some soldiers captured some Arabs; poor Arabs who had committed no other crime than try to escape the brutality of their conquerors. The Colonel commanded them to be put to death immediately."

How did they do that?

"There were thirty of them. They dug thirty holes in the sand, and they buried them up to their necks, naked, with their heads shaved, in the noonday sun. So they wouldn't die too fast they watered them from time to time, like cabbages."

"At the end of an hour their eyelids were swollen, their eyes bulged from their sockets, their swollen tongues filled their mouths, which gaped frightfully, and their skins cracked and roasted on their skulls."

Let us get back to the philosophical discussion. Some of the arguments were very much similar to the English thinker of the 17th century, Thomas Hobbes. "If not for coercion [torture as part of it], there would be no government of any kind. We should then live in complete anarchy, which is inconceivable," the scientist argued.

"Besides," he continued, "murder is self-propagating."

"It is a vital instinct which is in us all – which is in all organized beings and

dominates them, just as the genetic [to mean love and sex] instinct. And most of the time it is especially true that these two instincts fuse so well..."

The verbose philosopher from Sorbonne also agreed and reinforced the argument. Of course there were other views expressed. A young man who had been silent until then said: "Is this really the explanation that strange murderous mania by which you maintain we are all originally or wilfully tainted? I do not think so and I do not wish to." Then he said, "But first permit me to add that I ascribe these abnormal states of mind to the environment in which I was brought up, and the daily influences which affect me, unawares." Then a writer also contributed and even related how he was once about a kill a man, but didn't.

The conversation was continuing chaotic and rather lifeless, with hundreds of frivolous matters were discussed, when a man with a ravaged face said: "Up to now you have talked everything but women, which is really inconceivable in a situation in which they are of primary importance." The illustrious writer agreed and opined:

"It is by her and through her that we forget our savage instincts - that we learn to love, and are raised to the supreme conception of pity and the ideal."

The conversation continued differently. The purpose of this review is not to relate all, but to whet the appetite of the reader to read the novel.

The Voyage

The voyage is a long story, titled "The Mission" with several parts. It begins the narrator saying, "Before relating one of the most frightful episodes of my travels to the

Far East, perhaps it will be interesting if I briefly explain under what conditions I was led to undertake them."

It is written pretending to be a true story. The narrator, a political henchman, contests legislative elections, thanks to a Cabinet Minister, as he says "who was my friend and old school-chum." It is apparently like Sri Lanka! There is so much of worthwhile sarcasm on politicians and bureaucrats in the novel. But the fellow gets badly defeated at the elections irrespective of all kinds of false promises given to the voters. As he says, "I faithfully followed this program [fooling the voters] which my powerful friend had laid out for me, and I was wrong. I was not elected."

It was under those conditions that he finally obtains a government assignment, again thanks to his friend in the Cabinet, to go to the East on a pseudo-scientific mission. As the Minister offered, "It involves going to India, Ceylon, I believe, to drag the sea, in the gulfs, and study what the scientists call the pelagic ooze, you understand?"

He also adds that, "Ah, my lad you won't be bored down there. Ceylon is marvellous. They say there are extraordinary women there, little lace makers - beautiful - temperamental! It's the earthly paradise!"

The voyage starts from Marseille. A particular destination is Ceylon. He obtains necessary recommendations to the authorities in Ceylon for his 'expedition.' He goes as a 'celebrated scientist.' He becomes slowly friendly with an English woman everyone calls Miss Clara, who lives in China. They pass Naples, Port Said and many other places. The crossing of the Red Sea is the most excruciating, the heat is crushing. They cross the gulf, see the coast of the Somaliland, but no 'sea pirates' like today.

He meets Clara as her new table mate kindly arranged by the Captain. "Miss Clara was returning to China after dividing her entire summer between England, for her business affairs, Germany for her health, and France for her amusement." As he says, "one thing leading to another, we soon arrived at mutual confidence." "When the Sagahalien [that is the name of the ship], touched at Aden to take on coal, she and I were perfect friends," he says. It is a great joy to them when the ship entered the Indian Ocean, the "temperature is still warm but the air is delicious to breath."

Let me say something related to torture and all that during the voyage. This is again in the form a conversation. In the company of the narrator, or rather Clara, there were two Chinese, a French explorer, and English artillery officer.

"One evening on deck, after dinner, we were all gathered about Clara, who was delightfully lounging in a rocking chair." Clara addressed the explorer:

"Well? She said, in a malicious voice, you're not joking? You have actually eaten human flesh?"

"Yes, certainly! He explained proudly." "And as though out of politeness she had wished to minimize the horror of this anthropology, she specified: "Undoubtedly, you only ate negro flesh."

"Turning to Clara with gesture of protestation, he insisted: but negro flesh - never!" Then the 'accusation' turned to the English artillery officer.

"Oh, you've also killed negroes? Said Clara. "Yes, certainly, adorable lady" was the answer. "Then why - since you don't eat them?" was the question again.

"Well - to civilize them - that is to say, to take their stocks of ivory and resins. And then, what do you expect? If the governments and business houses who entrust colonizing expeditions to us learned that we hadn't killed anyone, what would they say?"

It is important also to note that Tom McCarthy who wrote the introduction to the new edition in 2007 noted, "As I write this introduction, our government [UK] is helping transport people to locations outside Europe to be tortured in the name of liberty, reason and civilization..." McCarthy is an English novelist, artist and a literary theorist.

The Garden

The narrator, as an alleged 'embryologist,' was supposed to work in Colombo with a scientist called Sir Oscar Terwick. But instead, he went to China with Clara who has become his lover by now. They stayed in Colombo only for two days. There was no such a person named Oscar Terwick in Colombo at that time to my knowledge, but an imaginary figure for an imaginary novel. But many of the torture incidents resemble true events and practices.

They went to China and were living in a Cantonese town where the 'Torture Garden' was just over the river. China is explained in the novel as a mysterious place where many things cannot be understood easily. Torture is only one. The death of Annie was such a mystery.

One day, suddenly Clara asks: "Would you like us to go and feed the Chinese convicts? It's very curious...very amusing."

"Listen! I've seen robbers hung in England; I've seen bullfights, and anarchists garrotted in Spain. In Russia I've seen beautiful young girls whipped to death by soldiers..."

All the horrors, all the human tortures – I have seen them. It was very lovely! But I've seen nothing lovelier...you understand? ... than the Chinese convicts."

To see the Chinese convicts they went to the Bagnio on the other side of the river. Bagnio is a hard labour prison, and in this case, also an execution chamber. While they were going, Clara related the following story.

"Listen! Eight days ago I saw an extraordinary thing. Oh, dear love, I saw a man whipped for stealing a fish...For a fish, darling! It took place in the torture-garden...The man was kneeling on the ground – imagine it – and his head rested on a sort of block...a block all black with old blood...Besides the culprit, a soldier was heating a little ...a very little iron switch, at the fire of a forge...When the switch was red, the soldier whipped the man on the loins..."

The story went on, so horrific to relate in this review. Clara also related a story of 'torture of the caress.' In the meanwhile, the door of the Bagnio was opened. They went inside. First they couldn't see anything important except 'The Bell.' The bell in this story is a torture instrument. Then on to the right, he (the narrator) saw the cells or rather cages.

"The first ten were each occupied by ten condemned men, and all ten offered the same spectacle. Their necks were clasped in a pillory so wide it was impossible to see their bodies, and you'd have thought they were frightful severed living heads placed on tables. Crouched amid their filth, their hands and feet's chained, they could neither stretch nor lie down, nor even take a rest."

That is where the spectators fed the convicts!

"Clara prodded in the boy's basket, and lifted out some small scraps of meat, which

she gracefully tossed through the bars of the cage. Ten heads simultaneously turned in their balanced collars; simultaneously, twenty bulging eyeballs cast glances at the meat – glances of terror and hunger."

As Clara said, they can't eat, they can't reach the meat. It was like 'Tantalus' in Greek mythology, with Chinese imagination. According to Wikipedia, "Tantalus was made to stand in a pool of water beneath a fruit tree with low branches, with the fruit ever eluding his grasp, and water always receding before he could take a drink."

"What crimes have these creatures committed, to suffer such torment," the narrator asked. Clara replied carelessly, "I don't know. Nothing perhaps, or doubtless very little. Petty thefts from shopkeepers, I suppose. Besides, they are only common people... wharf-rats...vagabonds...paupers!"

But there were others as well, imprisoned – like today. One was a poet who had written a satire against a prince who robbed the treasury. His situation was horrific as it could be imagined. On the left side of the wall, there were sculpture and paintings, depicting the means of torture used in China; scenes of decapitation, strangulation, flaying and tearing of flesh etc. and etc.

Then they went into an open space where the sound of the bell was audible but gentle. "What does that bell mean? Where does it come from? I asked," the narrator says.

"What? Don't you know? Why, it is the bell in the Torture Garden! Imagine...They bind a victim, and they lay him under the bell. Then they ring it wildly until the vibration kills him! And when death is near, they ring it gently, gently, so it doesn't come too soon – like they're down there, now!"

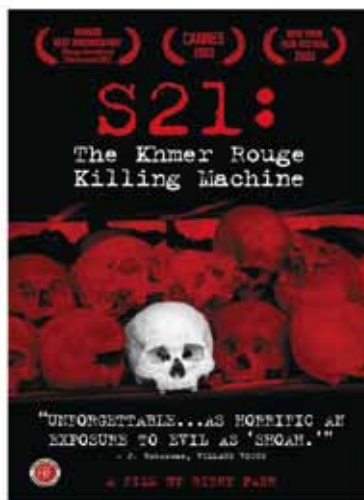
DOCUMENTARY REVIEW

This is an original, and entirely necessary, documentary of the S21 prison in Phnom Penh. The prison is revisited, decades after the imprisonment and torture of men, women, and children – Cambodians who were dubbed as “treasonous” by the ruling regime, showing the prison, as it was, alongside some of the surviving victims, as well as some of the perpetrators.

The documentary is largely lead by Nath, an artist. To quote Nietzsche, “*We have art so that we shall not die of the truth.*” Nath’s art is used as a way of showing what happened there and the later re-enactments of the guards also shows that. It is part of a method of starting to deal with the torture and heinous treatment undergone by men, women and children trapped inside S21.

The documentary starts with a brief contextualization of the brutal regime under which the S21 Tual Slay Authority existed. It begins with how Cambodia was changed by the war, and describes the displaced population, the schools being closed and currency banned; the genocide of 2 million people. In the background, the soundtrack is the propaganda music used by the regime, with celebrations of the “sublime blood of the revolutionary men and women”.

At the start, we are introduced to one of the camp guards, first with his wife and children, and then sitting next to his mother and father. His mother speaks about how she raised a good boy who did not get into



Reviewed by
Jessica Fernando

trouble – about how he was indoctrinated, and that he killed people. “You killed people,” his father says and tells him to tell the truth, to have a ceremony for the dead and to ask the dead to remove the bad karma.

The son, the prison guard, says that if he and his fellow guards had killed people out of their own will, then that would have been evil. He says they were terrorized by the leadership. He says he had always been good, that he doesn’t commit crimes. He

says it was the leadership who were evil and that he did what he did out of fear for his own life. He wanted to go join the army and die on the front, he says, but he had to stay at the prison.

Nath is shown painting, and what he is painting is explained. He was a victim of the prisons, arrested in Battambang, tortured and brought to Phnom Pehn in a truck with around 30 other people. He says that when they arrived the guards shouted like “wolves waiting for food.” He was systematically processed by a guard, who took down his biography. He heard a phone ring while this was happening and thought that perhaps the law was close. After all, he had done nothing wrong.

Then he was blindfolded and put alongside the other prisoners, who were tied together with rope. The camera spans the painting, which shows blindfolded prisoners being pulled along like cattle, with those who fell facing further abuse.

Nath takes a friend, a fellow prisoner, back with him inside the prison to go over the records, though at first his friend is overcome. He lost his entire family. "Nath," he asks, "Why did it happen like that?"

They go over the records the prison guards had kept of them. They contain their names, their dates of arrival, whether people were to be kept or killed. Nath's own is written in Duch's handwriting. Duch, the name used by Kang Kechleu, who was the head of the prison, used to sit and watch Nath paint. He spoke about Van Gogh and Picasso. Nath painted carefully, with gentle and light strokes on the wall because hard strokes would show disrespect, and with "lovely young virgin skin", so that Duch would be happy with the painting. Old, cracked paintings were buried, not burned. The people who came to work for Duch were killed. Many artists came, some greater painters, and all were killed except for Nath. It haunts him.

In the record of his friend's interrogation, Nath finds a summary of the "treason" the guards noted down: "breaking sewing needles" and the like. He also finds the names of around 60 people his friend denounced. His friend tells him that it was because he was beaten. Five names would not have been enough. He had to keep naming people; they were just people he knew. He says it haunts him, the idea that they may have been captured. He doesn't know.

Nath was also beaten, in Battambang before he was put onto the truck, before any questions were even asked. He says that if each person they captured had to give 50 or 60 names, soon there would have been nobody left.

Nath asks the guards whether they feel themselves to be victims. One says they feel like they were part of an accident. Nath asks

again, and another replies that they were all victims. If they didn't obey, they would have been killed. Another says that only thirty out of a hundred guards would survive, that they were all terrified. They too would be interrogated, tortured and executed. Nath asks them, then what about the prisoners that they tortured and executed. There is no answer.

Nath shows them a painting of the cell that they were trapped in, lying down and chained together. "Death came every day," he says. If somebody died, "we slept with the corpse." He describes one case in which a man died slowly from his injuries, during which time a guard had given him some rice soup. A doctor or a guard came in and kicked the corpse, insulting them, saying "Bastard, we wanted you to live but you didn't want to."

They were kept on two spoonfuls of soup per day.

One of the guards responds that he was brainwashed, taught to believe that there were enemies and friends. Even babies, were thus branded. He says that the party said all arrests are of enemies, and that the party, that Ankhon, said they were always right and that they never made mistakes. The guards had to repeat that the prisoners were the enemy, even if they were family. The enemy and their whole family had to be destroyed. The guards are shown, throughout the documentary, reenacting their day to day activities. One of the first involves them going from cell to cell in which the guards note grievances, such as a prisoners shouting.


One of many things to note from this documentary is the way in which torture was used by the system. It was used as a very deliberate tool in order to extract information to fill in the paperwork. Prisoners were blindfolded, handcuffed, and removed from

the other prisoners and then from the cell. The section guard would give the prisoner to the guard, who had come to collect them and take them to be interrogated. The guidelines to the guards stated that the aim of torture is to get a response; to break and frighten the prisoner, but not to death. The guard was to check the prisoner before torture, check the club that they would use, and to not proceed in haste or to relieve their own anger. The torture was meant to be used alongside political pressure, and in order to fill the documents. If the prisoner dies, they lose the documentation, the rules note. Those difficult to break under torture were flayed in the "Hot" group. If they proved more difficult, they were put in the "Rabid" group.

One of the guards notes that he didn't think he had power and that he was arrogant, that "my heart and my hand worked together."

He also says, "Once we had the answers, we killed them all."

In summary, the film provides representations of the brutality, through: a former prisoner interviewing the perpetrators about names in a record book of the former inmates; the paintings of a former prisoner, whose paintings depict the torture Cambodians, like the artist, underwent – such as being laid out in rows for long periods of time; and re-enactments. Former prison guards harangue invisible inmates in empty cells, going through the motions they used to, shouting at them for various behaviors. The former guards and prison wardens also talk about how they treated the prisoners, including one who speaks about how he spotted a woman he considered attractive, and how he later raped her while she was bound to other inmates in a crowded cell.



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VIEW POINT CAMBODIA

Extra-judicial killings

an emerging challenge to human rights in Cambodia

by Munty Khon

In the wake of more than three decades of wars, civil strife, and the Khmer Rouge genocide, which is perhaps one of the worst human tragedies in the twentieth century, Cambodia has continued to witness widespread and serious human rights violations across the country. According to local and international human rights organizations, Cambodia's human rights record has been one of the worst in the region. Serious human rights violations are widespread and rife. These violations range from torture to extra-judicial killings, to other forms of violations such as the suppression of the freedom of assembly and press, and land eviction. And, despite the fact that Cambodia has ratified almost all international human rights instruments and incorporated international human rights norms and principles in its own laws. It has been documented that such human rights abuses are commonly perpetrated by state authorities, and those associated with state agencies, against human rights defenders, union leaders, political leaders, and those affiliated with the opposition, in order to suppress critical voices against the government. A disturbing means used to silence opposition voices is the ruthless extra-judicial killings, perpetrated by the government and its affiliated agencies. A series of extra-judicial killings has plagued Cambodia, as the justice systems are weak and under the influence of the powerful and

the rich. Therefore, the culture of impunity has become a social phenomenon in the one of the youngest democracies in the world.

What follows is an overview of extra-judicial killings as an emerging method used by the government to silence independent or opposition voices and to suppress human rights defenders in Cambodia. Several, more recent, high profile cases will be investigated to provide a full-fledged context of how extra-judicial killings are taking place. The last section will consider relevant domestic legislations and applicable international human rights instruments to which Cambodia is a party.

Recent Incidents of Extra-judicial Killing

The last decade has seen a number of high profile extra-judicial killings by the government to crack down on dissenting voices. Political activists, journalists, human rights advocates, and union leaders have fallen victim to these abhorrent human rights violations. Much more rarely, however, perpetrators for these crimes have never been caught and punished and brought to justice, giving rise to the culture of impunity. Extra-judicial killings are perceived as a threat to civil and political rights such as freedom of expression, freedom of speech, right to personal security, and most importantly,

the right to life, which is guaranteed by the Constitution of Cambodia.

Extra-judicial executions are not a new phenomenon in Cambodia. History has shown that they were widely practiced during the communist regime of the genocidal Khmer Rouge in the 1970s, where basic human rights were totally obliterated. Cambodia went through a brutal transformation into an agrarian communist state with no class, status, religion, culture, and education, but pervasive fear, despair, trauma and mass killing throughout the whole nation. Civil citizens, particularly politicians, scholars, teachers, and officials who were considered politically unreliable and right-wing Lon Nol-affiliated individuals were arbitrarily executed by the Khmer Rouge. In this particular sense, extra-judicial executions can be seen as a tool that governments with authoritarian mindset pursue for their own political sake. To illustrate this point, instances of extra-judicial killings were well documented in various countries in Latin America, where authoritarian regimes and dictatorships were deeply entrenched and ruled virtually the entire subcontinent during the mid-twentieth century.

In the wake of more than three decades of wars and civil strife and genocide, when democracy has been restored, Cambodia has continued to witness widespread and serious human rights violations, in particular, the alleged state-sponsored killings of political dissidents, human rights defenders, and journalists. Over the past year, there has been an increasing concern of threats to and intimidation against political leaders, human rights activists, and journalists who are perceived to get involved in politics against the Government. These people are becoming formidable targets of intimidation, physical violence and murder—often

committed by the Government's personnel. By way of example, in 2004, the high-profile murder case of Vichea Chea, the president of the Free Trade Union of Workers in the Kingdom of Cambodia (FTUWKC), has become a public menace to political leaders, particularly opposition-affiliated ones. Two suspects were arrested, charged, and forced to confess by means of torture. The concept of freedom from torture is paradoxically violated by the police forces who are supposed to guarantee this right for citizens. Following Chea's murder, Sovannareth Ros, the president of FTUWKC at the Trinunggal Komara factory, was also murdered. In 2007, Vuthy Hy, the president of FTUWKC at the Suntext garment factory, was shot dead while riding his motorbike home after finishing his night shift, making him the third high profile person to be killed in three years. More recently, Sambo Khem, an opposition-affiliated journalist, was shot dead in 2008 since Khem was a critical journalist, one of the most hard-hitting reporters. Weeks before his murder, Khem criticized the ruling party for alleged corruption and internal rifts inside the ruling party.

Even more recent cases of extrajudicial killings involve the murder of environmental defender Chut Wutty and the slaying of Vorakchun Khmer newspaper reporter Hang SereiOudom. Whtty was gunned down by a military policeman on April 26, 2012, while he was escorting two journalists to document and record illegal logging in the Cardamom Mountains. Chut Wutty was striving and fighting hard to save indigenous lands and protected forests in Cambodia. Illegal logging, illicit timber trade and land grabbing are rampant across the kingdom under the name of economic land concessions, in which community members are evicted from their ancestral lands for foreign companies to build hydro electrical dams and to establish large-scale agro-

industrial plantations. The high profile death of the environmental activist prompted the suspension of economic land concessions and review of all existing concessions by the government. However, that is merely a temporary measure by the government. Similarly, on September 11, 2012, Hang Serei Oudom was found axed to death in his car in a cashew nut plantation in Ratanakiri province, in the northeast of the country. Oudom was journalist for Khmer-language Vorakchun newspaper, who uncovered and wrote a series of articles about illegal logging and corruption involving the military. His last piece of writing pointed a finger the son of a military police commander in connection with smuggling and extortion.

These incidents illustrate the intimidation tactics and brutal suppression by the government to discourage people from criticizing the government. In his 2012 report on the situation of human rights in Cambodia, Surya P. Subedi, the Special Rapporteur on the situation of human rights in Cambodia, voiced the same concern: "Many human rights defenders, civil society representatives and journalists in Cambodia have continued to encounter harassment, intimidation and the threat of a defamation or incitement lawsuit."

Intimidation is a way to psychologically frighten political activists, journalists, and human rights defenders in Cambodia so they will not be able to fulfill their social roles, and will stop staging legitimate nonviolent protests and stop criticizing the Government. The killings also set an example that citizens will end up being killed, murdered and tortured. The Special Rapportuer also noted in his report that the incidents of killings on human rights defenders and others have interfered with the activities of civil organizations. Due to the weak judicial

system and corruption, innocent people have been implicated on false charges to disguise the wrongdoings of government officials.

International Legal Framework and Domestic Law

It is an indisputable fact that the right to life is the most fundamental human right to which all human beings are inherently entitled, and thus it cannot be derogated whatever the circumstances. The recognition of this "inherent dignity" and "inalienable right" is explicitly incorporated in the Universal Declaration of Human Rights (UDHR) and deeply embedded in other core international human rights standards. The UDHR is the product of the resolute determination of the international community in the immediate wake of the Second World War where the Holocaust claimed millions of lives, which triggered one of the worst human rights violations in the twentieth century. The UDHR is the first international human rights mechanism which has laid the foundations for the promotion and protection of human rights and for the recognition of fundamental freedoms across the globe. Worthy of note, since the adoption of the UDHR in 1948, there have been a number of core human rights instruments adopted to set common standards for member states of the United Nations (UN) to follow and uphold so as to prevent further serious human rights abuses elsewhere. Among these human rights instruments, the International Covenant on Civil and Political Rights (ICCPR), to which Cambodia is a state party, is generally perceived as the most important treaty which serves as the fountain where other human rights can spout out. The right of life is definitely enshrined in this convention as Article 6(1) enunciates that "every human being has the inherent right to life. This right shall be protected by law. No one shall be

arbitrarily deprived of his life.” As a state party to the convention, Cambodia has the obligation to strictly uphold and comply with the substantive provisions. State parties are not entitled to take away citizens’ negative rights which are basically civil and political rights, including right to life. Human rights are to be ensured by states. In this respect, Cambodian government must guarantee fundamental civil and political rights enshrined in the international human rights instruments to which it is a party. The government, moreover, must ensure wholesale incorporation of international human rights standards into domestic laws and proceed in their full implementation.

With regard to domestic legislation, Article 31 of the Constitution of Cambodia stipulates that “The Kingdom of Cambodia shall recognize and respect human rights as stipulated in the United Nations Charter, the Universal Declaration of Human rights, the covenants and conventions related to human rights, women’s and children’s rights.” It is important to note that Cambodia is one of the few countries in South-east Asia, which has ratified all of the core international human rights instruments, including ICCPR, ICESCR, and CAT. Furthermore, article 32 of the Constitution upholds the right to life of every citizen. However, this right is not well protected. It is violated by the government and its agents.

Furthermore, even though the Constitution guarantees the independence and impartiality of the judicial system, judges and prosecutors are more likely to tip the scales in favor of the rich and the powerful due to corruption.

As seen above, journalists and political activists are subject to various forms of threat to their lives, throughout the country;

and the absence of effective actions, coupled with indifference from the Government to tackle the problem, continues to deeply undermine a sense of justice and fuels further violations. Politically related crimes committed by government authorities, are often not prosecuted or even investigated. Impunity, thus, remains a matter of serious concern in terms of these extra judicial killings as criminals are rarely brought to justice. This failure largely stems from the incompetent and politicized judicial system in Cambodia. And, coupled with corruption, which has been entrenched in every aspect of life and every strata of society, this remains one of the key factors contributing to the persistent cycle of abuse and impunity in the country. The country’s system of impunity is permitting the continuation of numerous grave human rights violations such as extra-judicial killings.

Conclusion

Extra-judicial killings are seen as common practice in countries where the judicial system is crippled by impunity and corruption like it is in Cambodia. Extra-judicial killings perpetrated by government authorities are a hindrance to the right to life, freedom of speech, and freedom of expression, leading to the violations of civil and political rights of citizens. In this regard, their inherent dignity and rights which are considered the foundations of freedom and justice and which are to be provided and guaranteed by the State are severely affected and restricted by the State itself. Despite the fact that those rights are enshrined and guaranteed in the Constitution and international human rights instruments, which Cambodia has ratified and signed on, there has been little progress toward the respect for human rights. This inevitably indicates the State’s failure to comply with international human rights law and domestic legislation.

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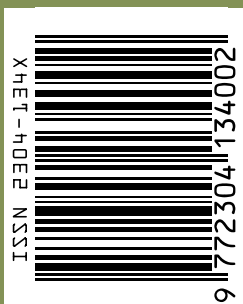


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