

Asia: A year of historic struggles for human rights

Asian Human Rights Commission

Statement to mark International Human Rights Day 2007: AS-281-2007

The year 2007 will be remembered as a year in which historic struggles for human rights brought out increasingly belligerent responses from ruling elites across Asia. It is certain that throughout the region more and more people are resolved to assert their rights. It is also clear that its autocrats will respond more and more aggressively in order to keep control. Instead of acknowledging the need for change, states throughout Asia are continuing to prefer overt violence and blatant constraints on basic freedoms.

To mark International Human Rights Day, 10 December 2007, the Asian Human Rights Commission (AHRC) is releasing its latest annual report on the human rights situation in eleven Asian countries. Among them are Burma and Pakistan, which witnessed immense popular uprisings against military rule during the year. Also included are Bangladesh and Thailand, which have returned to periods of heavy military authoritarianism during the year. And there are Sri Lanka and the Philippines, where conflict and gross rights violations persist as a way of life, despite the superficial workings of elected governments. Other sections are devoted to Cambodia, India, Indonesia, Nepal and South Korea.

BANGLADESH

A prolonged and unjustifiable state of emergency has increased lawlessness and abuses of human rights in Bangladesh since January 11, 2007. All fundamental rights have been suspended. The armed forces have since enjoyed unbridled power and sheer impunity. Many human rights defenders have been threatened and intimidated, arbitrarily arrested and detained, tortured and implicated in fabricated cases. As a result, most human rights organizations have put a halt to controversial work, including fact-finding missions to document cases of abuse. Torture is rife but has not yet been criminalized, despite the government having ratified the UN Convention against Torture in 1998. The country's prisons are overcrowded. Private houses are being used to hold prominent persons detained on corruption charges. Custodial deaths from violence and neglect continue, with around 100 reported in 2007. Security forces also extrajudicially killed at least 148 persons up to the end of October. In not a single case of torture or extrajudicial killing were the alleged perpetrators brought before a court; the courts are not yet independent however, despite their powers having been formally separated from other parts of the state at the start of November. There is no independent prosecution department or attorney general's office. Country report link: <http://www.humanrights.asia/wp-content/uploads/2018/07/Bangladesh-2007.pdf>

BURMA

The mass protests in Burma during August and September have shown that there is wide consensus for a transfer of power from the military regime to a civilian government. The government's response, with killings, disappearances and the arbitrary detention of thousands entirely outside of any legal process obliges the international community to take a determined stand, in particular through the United Nations. China and India, as Burma's big neighbors, have important roles and responsibilities. Thailand too must understand that its security depends upon improved conditions in its neighboring country. If economic conditions further deteriorate and dissent is stifled rather than acknowledged as legitimate, then it will cause further outpourings of persons in search of work and safety. All of Asia and indeed the world can only but benefit from a change in political and social arrangements in Burma, and thus it is in the best interests of all to see that it occur. Every society has its threshold, the point after which it will no longer tolerate things going on as before: Burma has reached its threshold. It is beholden on all of us to see that it does not spill over that point and into further uncontrollable violence and illegality, as it is sure to do if

nothing is done to address the legitimate grievances of millions.
Country report link: <http://www.humanrights.asia/wp-content/uploads/2018/07/Burma-2007.pdf>

CAMBODIA

Throughout 2007 the government of Cambodia continued to exhibit hostility towards UN human rights mechanisms, particularly the special envoy appointed by the Secretary General. In June the Cambodian ambassador in Geneva said that the government no longer recognized the envoy's mandate and effectively signaled that it will no longer cooperate with him. But at the same time, the country continued to join international human rights agreements, early in the year ratifying the Optional Protocol to the UN Convention against Torture. It has at the same time embarked on a number of reform programmes, although judicial reforms have lagged behind others. In February, a Code of Ethics for Judges was adopted, which if effectively enforced would be a remedy to endemic corruption and could inspire more public confidence in the courts; however, it lacks details and relies too much on political will to be made effective. Meantime, in August the Code of Criminal Procedures was finally brought into effect, after years of work; however, there remain doubts about its capacity to ensure fair trial, over the extent to which the justice minister may interfere with the workings of the judiciary, over inadequate protection of the rights of the accused, victims and witnesses; over the insufficient relaxing of pre-trial detention provisions, and over its silence on redress for human rights violations. During 2007 criminal lawsuits and arrests continued to be used as a tool for political repression, particularly in land and labor disputes, and there were many restrictions on freedoms of the press, of expression and of assembly. Land grabbing was rife and remains one of the most serious economic and human rights issues in the country today.
Country report link: <http://www.humanrights.asia/wp-content/uploads/2018/07/Cambodia-2007.pdf>

INDIA

Economic and political leaders across the world have referred to India as a model for the convergence of a new global order: democracy and capitalism going hand in hand. But from a human rights standpoint, India did not improve much in 2007, but rather increasingly showed up its failures and inability to give even the most basic guarantees to all of its citizens. While the central government tried its level best to cover up abuses in sensitive regions, like the northeast, state governments have continued to turn blind eyes towards extrajudicial killings and widespread custodial torture. The state administration of Gujarat even filed an affidavit in the Supreme Court that it had authorized its police to run interrogation chambers to 'elicit' evidence from suspects in an Indian version of Guantanamo Bay. Meanwhile, all government authorities in the country, particularly at the state level, have continued to neglect rural people to the extent that violent opposition groups have in some parts rapidly gained ground. Continuing caste-based discrimination and deaths from lack of food and simple illnesses have fanned anti-state sentiment in villages across the country, causing violent responses from security forces in Chhattisgarh and Andhra Pradesh, among other states.
Country report link: <http://www.humanrights.asia/wp-content/uploads/2018/07/India-2007.pdf>

INDONESIA

Changes initiated in recent years have not been pursued, due in large part to a lack of political will. Police reforms have stalled, torture has not yet been prohibited according to international standards, the military continues to be the dominant institution in many regions and historic injustices have not been righted. Impunity remains the key feature of law and order, particularly with regard to torture and other gross abuses of human rights. Torture has not been criminalized; nor do mechanisms exist through which evidence of torture can be properly recorded, complaints made and investigated or any sort of redress obtained, either through the ordinary courts or the Human Rights Court. There remains heavy resistance to the amending of the outdated Penal Code. Even though a law on Victim and Witness Protection was

passed in 2006, the Witness Protection Agency has not yet been established to give it effect. Country report link: <http://www.humanrights.asia/wp-content/uploads/2018/07/Indonesia-2007-English.pdf>

KOREA

One bright moment for human rights in Asia during 2007 came with the passing of a revised Criminal Procedure Act in the Republic of Korea (South Korea), which will be passed into law in 2008. The revised act sets in place many new measures to prevent abuses during criminal investigation, including provisions for non-custodial inquiries, rights to an attorney and to remain silent throughout interrogations, and technical innovations, specifically the use of videotaping, including special provisions to prevent tampering after recording. It also has amended and tightened procedures on warrants, court hearings, review of arrest and detention, and emergency searches and seizures. And it has explicitly introduced an exclusionary rule on evidence obtained not according to correct procedure. However, some major human rights concerns persist over laws relating to migrant workers; the rights of "irregular" workers; restrictions on freedom of assembly, and the continued use of the National Security Law. The persistent absence of any mechanisms to implement international jurisprudence and laws means that decisions on Korea at the UN Human Rights Committee have not been given effect; the government has so far failed to take up recommendations of the National Human Rights Commission that it address this gap in the country's human rights framework. Country report link: <http://www.humanrights.asia/wp-content/uploads/2018/07/SouthKorea-2007.pdf>

NEPAL

Following a tumultuous year in 2006, in which popular uprisings effectively ousted the King of Nepal and the alliance of seven political parties signed the Comprehensive Peace Accord with the Maoists, bringing to an end a decade-long bloody internal armed conflict, it was expected that 2007 would be a year of progress towards peace, democracy and respect for human rights. Unfortunately, political gamesmanship and the lack of political will by all parties to address the much-needed human rights issues, such as the widespread impunity concerning forced disappearances, extrajudicial killings, torture and the rights of marginalized people led to increased criminalization and the proliferation of armed groups. Society, which had earlier shown great unity, began to break apart along ethnic, social and political divides. At the end of 2007, the Maoists have left the country's government, grave rights abuses are ongoing and there is a palpable fear that the country may soon again return to conflict. Addressing past and present rights abuses remains the only way to ensure stability, security and progress in the country—it is time for the country's leaders to start taking credible measures in this regard. Country report link: <http://www.humanrights.asia/wp-content/uploads/2018/07/Nepal-2007.pdf>

PAKISTAN

This year was one of great upheaval in Pakistan, culminating in General Pervez Musharraf declaring a state of emergency and suspending the constitution in October. The crisis has centered on the judiciary's heroic struggle to free itself from executive control, led by Chief Justice Iftikhar Chaudhry, who has now been deposed from his post for the second time in one year. Thousands of lawyers and others have been held under detention in recent months, outside of the ordinary workings of law. Heavy restrictions have been placed on the media, with the broadcasts of two networks from abroad shut down. The question of disappearances remains unaddressed, with the failure of the military authorities to respond to earlier attempts by the courts to obtain answers in over a hundred specific cases. Torture remains habitual. Women and minorities continue to suffer violence and discrimination disproportionate to that already shared out among the rest of the population. Without the unconditional restoration of the judges dismissed since the state of emergency, without a complete lifting of its provisions and removal of restrictions on

the media, and without addressing the growing numbers of forced disappearances and other grave abuses of human rights the situation will only continue to deteriorate. If that indeed happens then it will be a very serious cause for concern throughout the entire region.

Country report link: <http://www.humanrights.asia/wp-content/uploads/2018/07/Pakistan-2007.pdf>

PHILIPPINES

Continued failure to prosecute and punish the perpetrators of extrajudicial killings has caused the situation of human rights in the Philippines to go from bad to worse. Repeated government assurances that it would take legal action have come to naught. Neither the recommendations of the presidential-appointed Melo Commission or those of international agencies have been given serious consideration. Institutions exist, yet fail to perform as mandated; the reasons for the failure have not been examined in any detail. Human rights defenders, labor unionists, peasant leaders and others continue to face grave threats to their lives. The Human Security Act introduced in 2007 will pose further threats to these persons as it gives enormous new powers to the police on the pretext of combating terrorism. Even without this law, the police have been a major impediment to human rights, both through their acts and omissions. Investigations are poorly done or are not impartial. Witness protection is for all intents and purposes non-existent. Neither police nor soldiers need fear the possibility of being brought before the courts over incidents of human rights abuse. Bills on human rights have stood before the national legislature for years without being brought into law, notably those on torture and enforced disappearance. Country report link: <http://www.humanrights.asia/wp-content/uploads/2018/07/Philippines-2007.pdf>

SRI LANKA

In Sri Lanka, the last months have seen a return to the situation prevalent before the ceasefire agreement in 2002. The result is the arrests of thousands of people purely on the basis that they are Tamil, and on the other hand both parties to the conflict, the armed forces and the LTTE, have engaged in attacks on civilians, killing many. Virtually no investigations are taking place concerning violations of rights in any part of the country, either under the control of the government or the LTTE. The presidential commission appointed for inquiry into gross violations including disappearances has proven to be a farce. Sri Lanka has the highest frequency of disappearances reported to the UN. Under these circumstances the Sri Lankan government's refusal to allow any international human rights monitoring amounts to sanctioning of the prevalent levels of violence in the country. The present situation requires immediate scrutiny and action on the part of the UN and the international community. And the international community must examine whether it is justifiable to remain inactive purely on the grounds of the government's unwillingness to allow intervention to stop the high levels of violence in the country. The levels of insecurity for Tamils and Sinhalese alike are the worst seen in recent times as 2007 comes to a close. Country report link: <http://www.humanrights.asia/wp-content/uploads/2018/07/SriLanka-2007.pdf>

THAILAND

Throughout 2007, the military and its allies decisively reasserted their prerogative to determine the shape and direction of Thailand, following the coup of last September. It pushed through a new constitution of its own liking a year later, under extremely adverse circumstances, and is set to return power to a civilian government only after an election that it is also clearly determined to manipulate as much as possible. The constitution has compromised the senior judiciary by giving judges powers that are outside of their ambit and can but only subject them to greater political pressure and undue influence from other parties. Meanwhile, the army has awarded vast increases in funding to itself with no outside accountability, and reestablished a cold-war era command to oversee domestic affairs. It is set to have its appointed national assembly pass a security law that will give it unprecedented powers. It has throughout the year anyhow

kept much of the country under martial law, and the southern border provinces under special emergency regulations. And while it announced investigations into the human rights violations of the former government it firmly blocked efforts to investigate killings, torture and other abuses committed under its administration, particularly those of soldiers. Country report link: <http://www.humanrights.asia/wp-content/uploads/2018/07/Thailand-2007.pdf>

This year also saw the finalizing of the new UN human rights body, the Human Rights Council. The council is yet to impress or convince, but needs to be given some more time in which to prove it is capable of performing according to its mandate. Its mechanisms, notably the Universal Periodic Review and interactive dialogues with Special Procedures offer some new avenues for human rights groups. However, its membership remains problematic, with many of the grave human rights violators playing significant negative roles.

The complete reports on each of the 11 countries contained in the AHRCs 2007 human rights report are available on the internet at <http://www.humanrights.asia/hrreport/2007/>