

# Ethics in Action

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# C O N T E N T S

- 1**      **Philippines: An appeal to help flood victims and improve public warning system**  
*Asian Human Rights Commission*
- 3**      **Love marriages, women and rule of law in Pakistan**  
*Jack Hong*
- 7**      **Abuse and naked humiliation of three women casts shame on Pakistan's justice system**  
*Asian Human Rights Commission*
- 9**      **Torture: What is it, and why must it be prevented?**  
*Human Rights Correspondence School desk, Asian Human Rights Commission*
- 17**     **Thai lottery no game for Burma's kids**  
*Awzar Thi*
- 20**     **Continuing with the Prevention of Terrorism Act is a crime against Sri Lanka's children**  
*Asian Human Rights Commission*
- 22**     **Sri Lanka, the gulag island**  
*Basil Fernando*
- 25**     **'My son was murdered and the police did nothing'**  
*Baseer Naveed interviewed by Jo Baker*

28

**Police offer guns to Filipino journalists at risk**

*Danilo Reyes*

30

**Recent show trials in Burma and Sri Lanka**

*Asian Human Rights Commission*

# **Philippines: An appeal to help flood victims and improve public warning system**

*Statement issued by the Asian Human Rights Commission: AHRC-STM-204-2009*

The Asian Human Rights Commission (AHRC) express its sincere condolences to the Filipino people for the terrible loss of life caused by typhoon Ondoy (international name Ketsana) that affected Metro Manila and nearby provinces on Saturday, 26 September 2009. The displacement of people and families, the destruction of their livelihoods, properties and homes has brought untold suffering to the affected people. However, the Filipino people have once again demonstrated their resolute will to survive in adversity amidst a calamity that caught the government flat-footed.

In the aftermath of the typhoon, which left 83 persons dead, 32 people remain missing and over 300,000 were displaced. The fortunate ones are now in evacuation centres. However, while many have been rescued a number of persons have not been reached by the teams of rescue workers. There are also other villagers who opted to stay on the rooftop of their houses, wanting only food, clothes and drinking water instead of going with the rescue workers. One reason given is the lack of security in the affected areas which leaves their homes and property vulnerable to looting.

The nine-hour downpour has submerged about 80 per cent of Metro Manila, the heaviest in the country's 40-year rainfall record and disrupted power supply lines. Riverbanks overflowed which rendered even the government disaster response teams, along with their equipment, helpless against the magnitude of the calamity. Even the rescue workers themselves were trapped at the rooftops of their own houses and could not mobilize due to the shortage of the most basic rescue equipment such as rubber boats. The 10 to 20 feet deep flood waters dumped by the typhoon brought most rescue efforts to a standstill.

The AHRC, while offering condolences to the victims and the displaced, also expresses its disappointment with the government over its lack of a sufficient public warning system that could have reduced the impact of the damage by having the would-be affected areas better informed as to what to expect. Typhoons and severe tropical storms are not unknown in the Philippines as several of them make direct hits on the island of Luzon every year. Despite this, the country's public warning system and its dissemination of information regarding the possible extent of calamities have not been developed.

For example, the 5am and 5pm advisories on September 26 dispatched by the Philippine Atmospheric Geophysical and Astronomical Services Administration (Pag-Asa), a government agency responsible for issuing public warnings and hoisting storm signals, did not contain information as to what precautions the people should take or the extent of flooding they should expect. They did issue a storm signal but failed to issue adequate warnings or advisories as to the severity of the downpour and possibility of flooding.

The government's failure has actually resulted in rescue workers and their equipment being rendered helpless. In turn, people who are supposed to have been urgently rescued have had to wait for several hours under heavy rain, thirsty and starving on their rooftops.

When the power supply failed later that day it likewise aggravated the dissemination of more accurate information, advisories and warnings. The people, who largely depend on radio and television announcements were thrown into chaos not knowing what was happening around them.

The response of the government—according to victim observations—came only after the heavy downpour had subsided. In fact, a local television aired a video wherein a top government official was seen waving his hands while onboard a helicopter, to promote his 'aerial inspection' as they hovered over the affected areas instead of lifting people to safety.

The AHRC urges the government of the Philippines to learn from this tragedy and make every effort to drastically improve its storm warning system. There is no doubt that neighboring governments, particularly that of Hong Kong, would be willing and able to offer any assistance required in this respect.

The AHRC is encouraging those who want to make donations of money or relief goods to contact directly the organization listed below.

GMA Kapuso Foundation, Inc.  
2nd Floor GMA Kapuso Center  
GMA Network Drive cor. Samar Streets  
Diliman, Quezon City 1103  
PHILIPPINES

Tel. Nos.: +63 2 982 7777 local 9901 and 9905  
Telefax: +63 2 928 9351 / 928 4299  
Email: [gmaf@gmanetwork.com](mailto:gmaf@gmanetwork.com)

# Love marriages, women and rule of law in Pakistan

*Jack Hong, Intern, Asian Human Rights Commission*

The issue of love marriages is highly contentious in Pakistan, a traditionally patriarchal and feudal-based society. According to prevalent social and cultural norms, women are objects under the control and protection of male family members. Their rights and freedoms are severely restricted. Such a society sees marriage as a trade or business deal between different families. The idea of women choosing their own marriage partners is considered outrageous and unacceptable behavior.

In fact, in the feudal, fiercely patriarchal north of the country, there are even cases of forced marriages, where girls and women are literally sold into marriages for various ulterior purposes, including settling business or family disputes. Victims of such marriages can face much abuse and vulnerability. The situation of women throughout the country gives lie to Pakistan's various international obligations and domestic laws meant to protect women. In reality, these laws offer little concrete protection of women's fundamental rights. A key reason for this is the complicity of law enforcement and other public officials with those violating their rights.

These realities are clearly evident in the case of Miss Sajida Bibi who married Mr Mohammad Arshad of her own free will on 13 June 2008, in a Shekhupura civil court, Punjab province. Sajida's parents were fiercely opposed to the marriage, causing Sajida to leave home after being seriously threatened by them. She even filed a restraining order against her family under sections 22A and 22B of the criminal procedure code in the court of the Shekhupura Sessions Judge, about 150km from her hometown.

On June 18, two days before the decision of the court regarding the restraining order was due, Sajida's father Mr Saad Ullah, her uncle Mr Ahmed Khan and others apparently tried to kidnap her, but failed. Two days later, her husband's father and brother were reportedly abducted by her father, uncle, cousin and a police inspector dealing with the case. They remain missing as of today, as does Sajida.

It is common for legal authorities, particularly the police to mishandle cases involving love marriages or other 'family issues'. For this reason, violence against women in Pakistan (including violence against women in love marriages) remains very high. Furthermore, the country's social infrastructure and institutions are largely operated and staffed by

men, most of whom carry various cultural and gender biases. Cases involving women—whether at police stations or in the court system—are inevitably prejudiced, prone to violence, and illegal. A pregnant woman in Punjab province for instance, was severely beaten by the police in August 2007 for secretly marrying and living with a man despite her parents having already chosen her bridegroom. Her husband was falsely charged with her abduction, while she was ‘punished’ by being raped by her intended bridegroom.

In another case illuminating police abuse of power, the bride’s family influenced the police to abduct and imprison her in-laws. In April of this year, Miss Firdous Shaheen, who belongs to a wealthy and influential Shiite Muslim family in Muzaffarabad, capital of Pakistan controlled Kashmir, married Mr Zamir Lone, a Sunni Muslim, without her parents’ knowledge. Their anger when they found out led Firdous to leave home, requesting them not to look for her.

After this, her father Mr Bukhari lodged a First Information Report against the groom and his family on 14 June 2009, claiming that they had abducted his daughter. He also went to see Mr Sabir Naqvi, superintendent of the Muzaffarabad commissioner's office, and Mr Murtaza Gilliani, the provincial minister of Pakistan controlled Kashmir, about this case. On the same day, June 14, Mr Naqvi reportedly threatened Zamir’s father, that if Firdous didn’t appear in 24 hours, his whole family would be arrested.

Later that day, the police did in fact raid Zamir’s house, and arrested his father and two brothers. On June 29, his mother and sister, who had been in hiding, were detained. They were granted bail before arrest, but the court denied bail to his father and brothers.

In their continued bid to find the couple, superintendent Naqvi and provincial minister Gilliani have reportedly threatened Zamir’s sister Ruheena, who lives in London. They have told her that should Firdous not be produced before her father, her mother and sister will be killed. They have reportedly promised the release of all family members should Firdous be given up.

Pakistan’s judiciary plays its own role in aiding perpetrators of violence and illegal behavior, as seen in the case of Miss Kulsoom Baloch, who enraged her family with her decision to marry Mr Fazal Abbas, from a less wealthy family than her own.

On April 25, a complaint charging Fazal with Kulsoom’s abduction and rape was filed by Kulsoom’s brother. The next morning, Kulsoom's brother-in-law and several police officers raided the house where Kulsoom was staying and beat her severely.

Subsequently, a group of police officers visited Fazal and his sisters at their house, from where they were taken forcefully to the police station and subjected to serious torture,

including violent physical abuse as well as sexually exploitative verbal threats. After a few days, Fazal's sisters were produced before Mr Azmat Ullah, a civil judge in Rawalpindi, for remand and were charged with aiding the abduction of Kulsoom when she married their brother. The judge ignored the sisters' claims of torture and granted remand.

In the meantime, on April 28, officers from the Brana Police Station, Jhang, Punjab, arrested Mr Shafiq Dogar, married to Fazal's sister, on charges of theft. On May 3, Shafiq was taken to the Airport Police Station, where he was beaten so badly he lost the use of his legs. He was produced before Mr Azmat Ullah in a wheelchair on May 12, where the judge showed the same indifference to his assault and injuries. He was granted bail for the charges of theft, but remanded on a new charge of aiding in Kulsoom's abduction.

After Shafiq's arrest on April 28, his wife was released from custody. Subsequently, Fazal's mother Mrs Nasrin Akhtar was arrested and beaten at the Airport Police Station; her back and hands still bear torture marks. She is currently in Adiala jail, on the orders of the judge.

Although Fazal's family filed a case regarding their illegal arrest and torture, they continue to be harassed and threatened. They are in hiding at present, unable to pursue their case or live a normal life.

The judge's dismissal of genuine torture claims, even after seeing the injuries for himself, is very disturbing. It indicates a complete abdication from his responsibilities to the law and to justice. Instead, he seems to be merely rubber stamping the actions of the police. This kind of collusion makes the judiciary implicit in the numerous fundamental rights violations occurring in the country. Furthermore, not only does it encourage impunity for the perpetrators, but it denies justice to victims.

Even without directly assisting perpetrators of violence and crime, judges can be responsible for hindering victims in their fight for justice. Additional District and Sessions Judge Nizar Ali Khawaja for instance, required a teenage gang rape victim to describe and even demonstrate her rape, in detail, in front of the accused and a full Karachi courtroom earlier this year. Such behavior merely serves as a reminder that Pakistani women should not expect justice or fair treatment in court.

One positive development recently has been a landmark decision by the Chief Justice of the Lahore High Court in Kulsoom and Fazal's case. The court ordered the arrests of the police officers involved in the torture of Fazal's family members, as well as the release of all detainees including Fazal's mother. This notable decision will surely serve as a benchmark in future cases involving love marriages.



The overall situation regarding both women and the rule of law remains grim however. Pakistan's obligations under the UN Convention on the Elimination of Discrimination against Women, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and the International Covenant on Civil and Political Rights require the government to promote and protect the rights to life, to freedom and dignity of all its citizens, as well as their rights to be free from arbitrary arrest, detention and torture. The lives and welfare of those involved in love marriages are no exception to these obligations.

Pakistan's Women's Rights bill and Women's Protection Act of 2006 have also done little to change the conditions faced by Pakistani women, including deterring violence against women. It is thus clear that merely signing up to international laws or enacting domestic laws do not provide practical remedies for rights violations. It is also clear that violence against women and citizens cannot be overcome without reforming the entire law enforcement system as well as other public institutions. Laws protecting citizens' rights must be strictly enforced, and the country's justice system must be made to function in accordance with these laws. Members of the police, judiciary and other institutions must be trained in these laws and in international principles regarding non-discrimination and gender sensitivity. Only then can Pakistani women and men live in freedom and dignity.

# **Abuse and naked humiliation of three women casts shame on Pakistan's justice system**

*Edited version of a statement issued by the Asian Human Rights Commission:*

*AHRC-STM-206-2009*

The violent humiliation of three women reported from Punjab this week has thrown stark light on the complicity of the police and courts in gender-based crimes, and on the continued degeneration of law enforcement in Pakistan. When police arrived at the scene and found that three women had been forced to parade naked through their neighborhood and onto a local highway, they promptly arrested the women at the behest of the perpetrators. The courts subsequently complied with the arrest.

According to media reports, this violation, like many others in the country, began with a land dispute. Union Council Chairman Mr Ilyas Khanzada wished to purchase the house of Ms Shehnaz Sirajo, who had been accused of running a brothel from home for a number of years. On September 27 a mob dragged two women out of her house and destroyed it. The women were stripped, reportedly under the orders of a Mr Intezar-ul-Haq who leads a banned Muslim militant organization, Lashkar-e-Jhangvi, but before they were forced to walk nude, children were instructed to degrade them by poking them with sticks, one woman's face was blackened with ink and garlands of shoes were put around both their necks. When Ms Shehnaz arrived on the scene, the same was done to her. The three women were then paraded and tormented in a procession from their village to a highway about 500m away.

As soon as the police arrived on the scene, they arrested the three victims to a chorus of jeers. The women were charged under sections 371-A and 371-B of the Pakistan Penal Code, dealing with prostitution. Despite their actions being contrary to legal and human rights principles, the police have protested that they did their duty by providing the women with clothes before they were taken away.

The next day in the local magistrate's court of Patuki town, advocates objected to the women's arrest and demanded that cases be filed against the police for the inappropriate use of the penal code: they had applied the wrong section with no evidence. The magistrate chose not to do so, simply releasing the women on bail. It is still not clear

on which charges they were being released on bail; according to Pakistan's law, persons wrongfully booked must be set free.

Although women's rights to respect and dignity, and to be free from arbitrary arrest and abuse are protected in Pakistan's constitution and penal code, these were callously overlooked by the police and the judge. In fact, section 354-A of the penal code states that "assault or use of criminal force to women and stripping her of her clothes, in that condition exposes her to the public view, shall be punished with death or imprisonment for life, and shall be liable to a fine". Instead however, the police officers found charging the women with possible prostitution to be a priority. Pakistan's laws and legal principles are thus being disregarded and abused by those meant to uphold them. The country's police and judiciary have failed in their duties to protect individuals and serve justice. They are instead following the dictates of corrupt and influential politicians, criminals and feudal lords.

It is pertinent here to question the legal knowledge of the police and the magistrate; it is more than likely that they were not even aware of section 354-A. With the rights of women being so little regarded in Pakistan's legal practice, it is not surprising that laws protecting them have fallen into the shadows. The Asian Human Rights Commission (AHRC) consistently comes across cases, particularly in Punjab, in which vital laws are not being used, and which raise doubts regarding the knowledge and competence of certain police, judicial members and even ministers in the provincial government of Punjab, in applying laws correctly in the running of the state.

The AHRC urges that all those involved in the abuse and humiliation of the three women be thoroughly investigated and punished under section 354-A of PPC, and the relevant police officials and magistrate be investigated for misconduct. Such violations plague the country precisely because they go unpunished. The government must take a much stronger interest in the revival and implementation of laws to protect women and all individuals. Gender based training and education are also clearly required. For the women who fell foul of this male ocean of administrative and moral ignorance, the legal system must now be strong and representative. Compensation must be paid and their dignity restored.

# Torture: What is it, and why must it be prevented?

*Human Rights Correspondence School desk*

There has not been any significant global or regional campaign against torture in recent years. In fact, particularly after the 'war on terror', countries have begun to erode the absolute prohibition against torture, and its status as a crime against humanity. Government officials, academics, professionals and even civil rights activists throughout Asia are blinded to the perversity of torture and its affect on society, democracy and rule of law. Instead, the mention of torture raises eyebrows and queries involving the (in)frequency of the acts and the nature of the offence resulting in torture.

Such queries miss the point. No offence justifies the use of torture, and even one case of torture is too many. In actual fact, torture in a number of Asian countries is widespread and occurs on a regular basis, in many instances for no offence at all.

By the use of torture, the state is sanctioning violence and ill treatment for the purposes of confession, punishment, intimidation and personal gain. Inevitably, this practice permeates all levels of society; from a police officer assaulting a suspect of drug trafficking, police officers begin to assault or threaten to assault (in exchange for bribes for instance) petty criminals or complainants of other crimes. As the practice widens and spreads, the propaganda accompanying it suggests that torture is necessary for effective criminal investigations, and that those being tortured are deserving of such brutality.

Such propaganda is blatantly false. It has long been accepted that torture is a crude and inaccurate method of criminal investigation; torturing an individual to extract information cannot guarantee that the information is valid. Most persons will confess to anything while undergoing severe pain. Similarly, torture as punishment is disproportionate and ineffective. The purpose of punishment is not just retribution for the crime committed, but also deterrence to future crimes. It is not the severity of punishment that deters persons from committing crimes however, but the certainty of punishment. These principles were clearly elucidated by the 18th century Italian philosopher Cesare Beccaria in his treatise *On Crimes and Punishment*, and were quickly adopted throughout Europe and many of its colonies.

## Understanding torture

Despite the decades-long existence of international principles codifying and prohibiting torture, there continues to be a lack of understanding within civil society regarding what exactly constitutes torture. The UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), defines 'torture' as

*“any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person 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 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.”*

According to this definition, the following three elements make up an act of torture: 1) Causing physical or mental pain and suffering; 2) Carried out by a state officer or someone acting in official capacity, or anyone else with the consent/acquiescence of a state official; and 3) With the purpose of obtaining information, intimidation or discrimination.

The gravity of the act of torture stems from it being committed by state officers, officers whose duty is to serve and protect citizens. It is this aspect that distinguishes torture from other violence crimes such as domestic violence and grievous hurt. This distinction is often not made or is overlooked by both activists and members of civil society.

Furthermore, arguments are sometimes made that existing legal provisions relating to assault, wrongful detention/confinement are enough to address acts of torture. This is incorrect; such provisions do not include the following aspects, which comprise the internationally accepted definition of torture:

- The act of torture is specifically carried out by state officers (or those acting in official capacity or with their acquiescence);
- The act of torture is not limited to a specific purpose, such as obtaining confessions;
- Torture includes both physical and mental pain or suffering;
- Torture is a punishable offence with grave penalties.

Another important element in understanding torture is that there can be no justification for it, no derogation from its absolute prohibition. Innocent or guilty, all individuals have the right not to be tortured.

*Differentiating between torture and other crimes:*

<b>Torture &amp; ill treatment</b>	<b>Other crimes</b>
Police violence towards demonstrators Public officials assaulting individuals Teachers hitting students Individuals beating someone in view or with the knowledge of police/public officials Law enforcement officers assaulting suspected criminals	Civilians assaulting individuals Wife beating Parents hitting children

**Below are five cases documented by the Asian Human Rights Commission in 2009, all of which include the three elements making up torture as discussed above:**

On July 12 **Sushan Limbu** was arrested and detained by **police officers** from Morang, **Nepal** on charges relating to an earlier dispute with a hotel owner. The next day, July 13, Limbu and another detainee, **Bhakta Rai**, were beaten for several hours by the police, first in their cells and later in public, in front of a large crowd. Both detainees were forced to strip down to their underwear and to crawl on their knees and elbows on a pebbled and concrete surface for an hour, severely injuring their knees and elbows. They were beaten with iron rods and bamboo sticks, punched, and kicked by officers wearing boots. Several witnesses were able to record the abuse on their mobile phones.

Subsequently, the officers reportedly pressured several people, including members of political parties, to issue statements blaming the public for the beating, and not the police. One officer forcibly erased video evidence of the beatings from the mobile phones of witnesses. Moreover, several human rights defenders who visited Limbu in hospital received threatening phone calls warning them against pursuing this case. It is also alleged that police are continuing to torture Limbu and threatening to frame him for the possession of a weapon [AHRC-UAC-086-2009].

**Mansur Utto Salih**, 32 years, was abducted on January 9 and taken to the headquarters of the 6th Infantry Division of the **Philippines Army**. There, soldiers applied electric shocks to his sex organs, his body and behind his ears several times, in an attempt to secure his confession to masterminding the bombing in Kidapawan City and burning

of houses in Midsayap, North Cotabato in 2008. For seven consecutive days, Salih was tortured in the same manner in three different interrogation rooms. He was only given food and water on two occasions. Salih was kept in detention until April 7 [AHRC-UAC-081-2009].

After arresting **Sadiq Ali** from a roadside hotel on June 17, **Pakistani police officers** took him to the Gilgit Judicial Magistrate with a First Information Report (FIR) regarding the murder of a government worker. Even though Ali's name was not in the FIR and he had not been in Gilgit on the date of the murder (June 13-14), the magistrate still granted remand.

On June 24, without registering the case or asking permission of a magistrate as required by law, intelligence agents took Ali from the police station for investigation into anti-state activities. He was brought back to the Gilgit police station on June 26, unconscious and bleeding, in critical condition. He died at around 4am on June 27, reportedly with deep open wounds near his kidneys and around his hips, and with bloody fingernails and toenails [AHRC-UAC-069-2009].

On April 29, **Zaenal M Latif** was arrested by a group of **Indonesian police officers** who reportedly assaulted him around his head. He was taken into an interrogation room and punched in the face and back, with the purpose of forcing him to confess to being a drug dealer. One officer burned Latif's left hand with a cigarette. He was then unexpectedly released. Less than an hour later, the police officers arrived at Latif's room and subjected him to further physical abuse in an attempt to force a confession out of him. They punched his face and body and trampled on his hands. When the officers were unable to find any evidence to prove Latif as a drug dealer, they took him back to the police station. There he was told that if he did not confess by 5am the next morning, he would be killed.

On April 30 Latif was told to clean up and change his bloodstained clothes, before being released. He was warned not to tell anyone about what had happened to him [AHRC-UAC-065-2009].

**Upul Palitha Mawalag**, a taxi driver in **Sri Lanka**, was stopped by **police officers** for a routine search of his vehicle on May 7. It was alleged that his two passengers were found to be carrying drugs. The three were taken to Bluemendhal Police Station but the passengers were released, allegedly after paying a bribe. Mawalag reports having been stripped naked, tied to a chair and beaten severely with a stick by officers in a bid to force a confession. He was charged with transporting drugs, and is currently in remand at Welikada prison [AHRC-UAC-093-2009].

### ***Punishable crime***

The above cases indicate the routine and widespread nature of torture within law enforcement agencies throughout Asia. Over many years of work, the AHRC has built up a considerable amount of torture documentation (which can be found at <http://notorture.ahrchk.net>). In most countries, including Nepal, Indonesia and Pakistan, there is no law prohibiting or punishing torture, which means that victims have no means of redress. A first step in eliminating the practice and providing justice to the victims is to enact a specific law against torture.

Such a law should incorporate a broad definition of torture as found in the Convention and provide serious punishment to the perpetrators.

### **Torture and other human rights**

Torture affects the enjoyment of all other rights. If you voice your opinion regarding government education policies, or the suspicious expenses incurred by a local politician and you are subsequently beaten up and put in prison, your freedom of expression and opinion is curtailed. In the same manner, if you are assaulted and evicted from your home/land by the police under the influence of wealthy developers, your rights to housing, land and/or food are violated. Severe and brutal torture—together with a lack of medical attention, food and water—can result in death, thereby depriving individuals of their right to life.

Torture thus prevents you from enjoying your fundamental rights. It is used by state officers to punish you, be it for a crime committed or for doing anything that inconveniences them. It serves a dual purpose—as punishment for an act, as well as deterrence to future acts. Corruption and personal gain are common reasons for torture as well. In fact, the practice of torture can be a lucrative business for many state officials.

In several Asian countries, torture is also used as a means of criminal investigation. Criminal charges are filed based on ‘confession’ statements made by victims of severe torture and assault. When this occurs, it impinges on the right to fair trial.

### ***Fair trial***

The litmus test of the enjoyment of basic rights is the realization of the right to a fair trial. Fair trial is the means by which justice is served for the abuse of any rights, as well as how future such abuse can be deterred. Without the possibility of a fair trial, there is no way to guarantee basic human rights. Apart from serving as a remedy to the victim, fair trial serves as a legitimate and rational way to determine punishment for the accused. Both of these aspects are equally important for a functioning and harmonious society.



There are several conditions necessary for the guarantee of fair trial, including:

<b>Background requirements</b>	<b>Pre-trial rights</b>
Independence of judges and lawyers Right to effective remedy  Access to lawyers and legal services Independent and competent tribunals	Right to liberty and security Rights upon arrest (including freedom from torture and inhuman treatment) Right to habeas corpus Presumption of innocence Proper investigations

The importance of these elements is to eliminate any possibility of arbitrary or biased punishment imposed by the state, on its citizens. If the judge is politically motivated for instance, the individual expressing dissent with government education policies is unlikely to get a fair hearing; the judge may decide on a harsher punishment than prescribed in law. On the other hand, if the right to habeas corpus does not exist, the police may imprison the individual indefinitely, with no recourse to judicial proceedings. For the person evicted from her home, the lack of effective remedies may mean she has no way to complain against the violation of her right to housing. In all three cases, the crime and punishment are decided arbitrarily, outside the purview of a fair trial.

The pre-trial rights also ensure that torture is not used at any point during arrest and investigation, which would compromise the rights to liberty and security, to presumption of innocence and to impartial and proper investigations. If these rights are compromised, so is the right to a fair trial. Without a fair trial, no other human rights can be realized, including the rights to due process and effective remedies.

If the above preconditions to a fair trial were met, the individual imprisoned for his views on state education policies would be freed, while the responsible police officers would be prosecuted and punished for illegal assault and detention. Similarly, the victim of forced eviction would have a channel through which to complain. It is therefore essential that elements needed for an effective fair trial are first established, in order for punishment to be certain, swift and proportionate to the crime. This is necessary for the harmonious functioning of society. As mentioned before, it is widely accepted that true deterrence of crime comes from the certainty of punishment, rather than its severity.

### ***Rational punishment***

Any punishment outside the sphere of fair trial is not only illegal, but unnecessary. Fair trial is crucial in determining appropriate punishments for crimes committed, and to

eliminate the possibility of arbitrary punishments imposed by the state, including torture and inhuman treatment. The use of violence and torture as a punishment or a mode of social control by the state has repercussions on various levels. First, it is impossible to draw a line between when torture is to be used and when not. Invariably, violence will become the solution for everything, leading to a conflicted and perhaps even militarized society. Second, when violence becomes the norm, it replaces other modes of social control, such as public discussion and rule of law. In turn, this will displace the ideals of democracy and human rights, for which public participation and supremacy of the law are crucial.

## **The social impact of torture**

Torture has an impact on individuals as well as on the society at large. It has a profound impact on an individual's physical and psychological health, which can impair economic and social productivity. It can also result in social problems such as domestic violence, robbery, and other criminal activities. Furthermore, the impact of torture can also be transferred from one generation to another (parents to children), termed 'secondary trauma'.

### ***Individual level***

- It has a profound, immediate and long-term impact on physical and psychological health. Research indicates that the psychological effects of torture can often be worse than the physical effects. Some of these include:
  - Lack of self confidence, inability to trust;
  - Anger, fear, anxiety and restlessness;
  - Insomnia, nightmares;
  - Recurring and intrusive memories;
  - Breakdown in family and personal relationships;
  - Breakdown in wider social and community relations.

Physical symptoms of the psychological effects can be a lack of energy & appetite, heart palpitations, headaches, depression.

- The economic and social productivity of the individual and perhaps even her family is affected.
- The individual's home/family life is disturbed. The family may have to leave their community due to discrimination, resulting in further economic problems. This can affect the education of children as well.
- The individual/family's relationship with the state becomes influenced by hate, fear and distance from the law enforcement agencies. Their relationship with society may also be thus affected.
- Individual perpetrators of torture and violence become brutalized by their acts, which will also affect their family and social relationships.

***Societal level***

- A society composed of traumatized torture victims and family members as well as brutalized state officers is far from healthy. Such an environment can lead to a rise in anti-social and criminal behaviour, as well as poor economic performance.
- Torture makes human rights, democracy and rule of law irrelevant. This means that society is now based on irrational means. Corruption and violence will then increase, particularly against marginalized and vulnerable groups. In turn, this will shrink the social space for dialogue and compromise.
- An increase of violence in the public sphere will encourage violence in the private sphere.
- There will be a widespread climate of fear and distrust, which is detrimental to growth and development. If torture and violence become a way of social control, pockets of resistance may develop, some of which will invariably be violent.
- At the extreme end of the spectrum, society will descend into chaos and violence, with gross human rights violations taking place.

# Thai lottery no game for Burma's kids

*Awzar Thi*

The Supreme Court of Thailand on Wednesday, 30 September 2009, found that a former deputy minister and two ex-officials had failed to comply with a number of laws when they set up a scheme to legalize two- and three-digit lotteries.

The politically motivated case has attracted a lot of media interest and online commentary. By contrast, the judgment this August of a court in Burma—also in a two-digit lottery case against three people who should never have been brought to trial—has not had any coverage at all.

The defendants in the latter case were not Bangkok bigwigs, but rural teenage girls. And unlike the group of accused who are in the news, they were not given suspended sentences but were immediately sent to prison for a period of one year with hard labor.

The two- and three-digit lottery is at least as popular in Burma as it is in Thailand, perhaps more so. It suits people with little disposable income. They can gamble small amounts on a small series of numbers. It also suits them that the digits are taken from the state lottery of Thailand, which is more trusted than their domestic equivalent.

The lottery is technically illegal, but in most places is played openly. Vendors sit in teashops and at roadside stalls with stubs of coupons and exercise books recording transactions. They stroll through marketplaces taking daily orders from shop holders and regular clients. Monks, soldiers, housewives and taxi drivers all play.

Dealers and their employees are easy targets for police looking to fill quotas. In fact, anyone is an easy target. The police only need to plant a few ticket stubs and a handful of cash and they have all the evidence they need. As the accused are usually poor, unfamiliar with the law and unable to afford lawyers, they get convicted and the police get the numbers for their crime control reports.

So it was that some officers this February came to the house of Daw Aye Myint in Daik U, northeast of Rangoon, and accused her and six people they found inside at the time of running a lottery. She and the others denied it, later telling the court that the police had fabricated the case and that they had signed documents out of fear.

Of the seven, four were teenage girls. Under the Child Law, which the government passed in 1993 in an attempt to comply with the UN Convention on the Rights of the Child, anyone under 16 must be tried as a juvenile.

When the police processed the case, they recorded the age of only one of the girls as less than 16. The others they said were aged either 16 or 17. But the girls' school records show that they are minors and that they should never have been held in custody as adults, let alone brought to trial in a regular court and then sentenced to prison.

The prosecutor and judge were both aware of these facts, but they went ahead with the case anyway, even though they have a special responsibility to confirm the ages of young people brought before them.

Where there is uncertainty over a young person's date of birth, the court has a duty to delay hearings long enough to get all the evidence it needs to make sure that it is not dealing with a minor, and if it is, to have that person transferred to a juvenile court.

In some cases this can prove difficult and judges skip the requirement. For instance, there are cases of children following the 2008 cyclone whose documents were washed away along with their houses and village offices. Defense lawyers for these kids have had to make requests to the courts that their clients be examined medically and dentally so as to estimate their ages.

In the Daik U case there was no such difficulty. All the judge had to do was to postpone it long enough to allow for both sides to bring more documents on the ages of the girls, and if necessary, verify these with the concerned officials. He didn't do this and today the three—Sanda Win, Amy Htun and Thuza Khaing—are behind bars.

To add insult to injury, two of them had to pay for the costs of their transfer to prison, including the meals of their police escorts.

The Child Law authorizes the social welfare minister to order the release of any child detained in Burma, no strings attached. This case needs to be reopened so that the correct ages of the girls are ascertained and the minister can make the order at once.

Aside from that, the law itself obviously needs to be changed so that the 16 and 17-year-old category is removed and anyone under the age of 18 is classified and treated as a juvenile.

This is a point that the UN Committee on the Rights of the Child has already made firmly and repeatedly, most recently in its concluding remarks on Burma in 2004. The government has since not given any sign that it intends to amend the law. Until it does, an unknown number of children like Sanda Win and her friends will languish in adult prisons, most with their cases unknown and their stories unheard.

*(Full details of this case are available on the Asian Human Rights Commission website:  
<http://www.abrchk.net>)*

# **Continuing with the Prevention of Terrorism Act is a crime against Sri Lanka's children**

*Statement issued by the Asian Human Rights Commission: AHRC-STM-198-2009*

Sri Lankans who grew up before 1971 have experienced basic freedoms, at least in a limited way. None of them experienced midnight knocks on their doors. If they went to a courthouse, they could expect certain treatment that while imperfect, would be relatively fair. If a policeman arrested them, they could ask why. Prolonged detention without the right of bail was not a frequent experience. Disappearances were hardly ever heard of.

This is not to suggest that there was a paradise that has been lost; rather, that there was a limited experience of freedoms.

The period from 1971 to now—except for short intervals from time to time—has been one in which normal laws have been suspended and replaced with emergency regulations. These emergency powers expanded to enable security forces and those under their direction to act as they saw fit. This resulted in a wave of extrajudicial killings and enforced disappearances. Emergency regulations were further expanded and the Prevention of Terrorism Act came into being. Under this Act, actions that would previously have been considered outrageous and criminal, now became possible.

Sri Lankans growing up during this long period know emergency and anti-terrorism laws as the country's normal law. They were constantly told that 'national security' depended upon these laws, and that their freedom would have to be sacrificed for the sake of national security and public good. Such a framework conditioned their rational and emotional lives.

In this manner they were forced into blindness, and that blindness was justified as a better way of existence than the assertion of freedoms. The problem now is not about how to undo that past; the problem is how to undo the damage caused to their future.

Wild elephants are said to be tamed through iron manacles and chains. For a considerable time, the elephant in captivity will initially struggle against its bondage. In the process, it will learn that attempts at freedom are painful and futile. Gradually, it will submit to the law of the chains. Later, even though the chains are removed, the elephant will struggle

no more. Its offspring will be born into the tamed world, where they will remain the willing slaves of their masters.

Long years of emergency and anti-terrorism laws have similarly affected all Sri Lankans, particularly those who have not had the opportunity to see anything different. Fear psychosis has become the Sri Lankan heritage. Each month and year spent under the operation of these repressive laws will further destroy the people's imagination and spirit.

While leaders who want to have the benefit of a crushed population will want to keep these laws in operation, no parent can want their children to be crippled by such bondage. If given the opportunity, children themselves would do all they could to reassert their love of freedom and live their lives without being victims to fear psychosis.

Parents and all those wishing for a brighter, freer future should rise against the continuance of the Prevention of Terrorism Act. Failure to do so will constitute a crime against their children.

To sign the petition to end the Prevention of Terrorism Act (PTA), please go to: <http://campaigns.ahrchk.net/repealpta/>



# Sri Lanka, the gulag island

*Basil Fernando*

Russian novelist and Nobel laureate Aleksandr Solzhenitsyn added the word ‘gulag’—the former Soviet Union’s forced labor camp system—to the human rights vocabulary. Unfortunately, it now describes an experience that is being repeated in many parts of the world.

‘The Gulag Archipelago,’ Solzhenitsyn’s three-volume study of the system, described his own experience and that of others in the Soviet camps from 1918 to 1956. Today in Sri Lanka the entire population is experiencing the same horror.

The dreaded Cheka was the Soviet security organ serving as informers, police, interrogators, judges and executioners, all in complete secrecy, according to whatever procedures it chose.

Interpreting and implementing the law was almost completely left up to the Cheka, with the possibility of intervention only by the highest authority of the Communist Party—for the most part, Joseph Stalin himself. Decisions on life and liberty were made casually by individuals who answered to no one. There was neither transparency nor accountability.

The insurgencies that took place in Sri Lanka from 1971 allowed a similar authority to emerge in this country. Thousands of people were ‘disappeared’ by this security apparatus, which served as informer, as the arresting, interrogating and adjudicating authority, and finally as the executioner and gravedigger.

An earlier system of criminal procedure and judicial authority, which handled accused persons from the moment of arrest through all the stages of adjudication, was replaced by this new system with no controls. The way the judicial process was usurped by the Sri Lankan gulag is a long story. What it does is turn the normal judicial process into a phantom limb. Like many amputees who continue to feel the limbs they lost, most Sri Lankans believe that their justice system still exists.

But the gulag now uses its powers not only against insurgents, but anyone it chooses. A case in point is its recent investigation into a letter signed by 133 well-known Sri Lankan citizens, to protest a death threat against a critic of the government. The investigation into the solidarity letter should be an eye opener for everyone regarding justice in Sri Lanka.

President Mahinda Rajapaksa reportedly instructed the defense secretary to verify the facts stated in a petition published in several newspapers, condemning a death threat received by Dr P Saravanamuttu, a well-known civil society activist. Saravanamuttu received a letter threatening to kill him if the European Union withdrew the Generalized System of Preference Plus tariff concession granted to Sri Lanka. The defense secretary was asked to verify the threat and whether or not an international conspiracy existed against Sri Lanka.

Following the president's instructions, officers from the Criminal Investigation Division (CID) visited and questioned many signatories to the advertisement. They were asked how they knew of Dr Saravanamuttu; whether there was any meeting for all signatories of the petition; had they seen the threatening letter, and who had sent it?

There is apprehension that another kind of political persecution may be on its way. Such visits by the CID and the questions asked have no basis in law and directly interfere with the basic rights of citizens to voice their support for whoever they like.

The defense secretary has no authority to direct inquiries into acts that are legal and within citizens' rights, and the CID officers have no obligation to carry out political work aimed at suppressing those that the government considers its political opponents.

CID officers are law enforcement officers; their activities must be defined within the framework of the law. It is the duty of the CID director to ensure that his officers are not used for political purposes or to intimidate people.

In the past, human rights organizations have warned that a political police and a political prosecution system are emerging in Sri Lanka. In several previous cases investigations and prosecutions have been conducted on criminal charges, when in fact the motives were entirely political.

This is even more alarming when the authorities refuse to investigate assassinations and threats of assassinations. In this instance, the letter containing the death threat was brought to the notice of the government and widely publicized. However, as with earlier cases of such death threats, no investigation was ordered. In fact, some who work for the propaganda machinery of repression tried to ridicule the complaint regarding the threat.

Instead of investigating who issued the threat, the authorities are investigating those who expressed concern and want protection for the threatened person. This is no different, for example, from conducting enquiries into the parents of the young men recently assassinated at the Angulana police station, instead of investigating the officers who carried out the killings. It was due only to a popular uproar that the actual perpetrators were finally investigated and prosecuted.

However, what happens most of the time is the actual perpetrators of the crime are protected while those who complain about harassment are suppressed.

In this column, the author has repeatedly warned that the entire legal process in Sri Lanka has been turned upside down and justice is being deliberately subverted for political purposes.

There must be an end to the harassment of Saravanamuttu and his organization and the persecution of Sri Lankan citizens who engage in acts of solidarity.

The director of the CID must inquire as to how officers working under him are used for political activities. He must issue instructions to his officers that they are under no obligation to obey illegal orders.

Civil society must be urged to follow the courageous lead of the signatories to the petition and act in solidarity for the defense of their rights.

The international community should support the Sri Lankan people in their struggle for a return to a society based on the rule of law and their attempt to prevent the continuation of a gulag in Sri Lanka.

# 'My son was murdered and the police did nothing'

*Journalist and activist Baseer Naweed encountered the opaque operations of Pakistan's intelligence agencies when his son Faraz Ahmed was kidnapped, tortured and killed outside his office during a major campaign against corruption. Five years and various threats later, he works for the Asian Human Rights Commission in Hong Kong, but is no closer to the truth.*

My whole life I have been an activist. I was a student leader, then joined trade unions, then became an investigative journalist. I wouldn't say that my son was following me; in fact he would tell me I was making compromises. He'd probably have called himself an anarchist back then.

When he was 14 he started writing on his own, though at that time I didn't know it. In fact he was like an ordinary Muslim, going to the mosque and praying; it was only when he started arguing about religion and the existence of God with his mother and grandmother that I realized he was a different kind of man.

Faraz was very fond of reading Einstein and Stephen Hawking, and at the time of his death he had just started studying philosophy at university. He would spend days reading books in second-hand book shops, using his pocket money at night to eat dinner with the garbage collection boys – he'd sit with seven or eight. Once I saw him and asked what he was doing and he said: "I have to learn about how other people live".

I was the community organizer of a big campaign at the time. The Lyari Expressway project would displace 300,000 people from a slum, and the government didn't have any right to do it. We fought and we got a historical resettlement deal – each family got an 80-square-yard plot and 50,000 rupees (£364) – something like this had never happened in Pakistan. And the size of the plots was good. Here in Hong Kong only the very wealthy have that much space.

This all took three years, but corruption had also started in the use of public funds and we were fighting that too. I was seen as a real troublemaker. I was told that President Musharraf once said to the governor: "You cannot handle that man with white hair (I was not coloring my hair in the way Musharraf did)."

During this time I was being threatened regularly. They would call and say that I was against the army and its chief, Musharraf; that “we will kill you”, or “you won’t be able to walk on your legs.” I told them to go ahead. But my son used to take my mobile phone some evenings and he too would pick up these calls and get threats, though he didn’t tell me.

I presented an Urdu radio program on FM103 called Current Affairs. It was November, I was at the station and people had mentioned mysterious movements around our office. Then my son came to get his fees for university so I told him that he could read out some of the poems we were broadcasting that day by Urdu poet Joan Ellia, who he loved. Then he went to the washroom, but he didn’t return. It was only the next evening when we started to really worry.

The day after that, moments before the news program somebody came and said, “there is a body of a man outside”. I said: “Look, I’m going to start the program, why are you telling me?” But after, I went down. In those days there were two gangs who were always fighting and killing each other, but I thought that the young man looked educated, not like a militant, so I asked the police to check his pockets. He was so mutilated. His whole jaw was out and there was blood oozing from bullet wounds in his back and his neck was broken, I think because of being thrown from an upper window. It was not possible for me to think that it was my son. Then the card came out and, yes, it was him.

You cannot imagine. At the official hospital we sat there for two or three hours with the body of my son out in the open, waiting for an autopsy. They kept delaying and making excuses. A philanthropist organization eventually encouraged me to bury him, but the police refused to get the body themselves. The mullah and other Muslim people said that it was too late and that the prayer had been completed, so I felt I had to bury him.

A few days after the burial, when our house was full of people, one of my female relatives smelled burning. We rushed upstairs to find all Faraz’s photos and some of his writing on fire in the bath; now we have just one or two photos left. Really, these people wanted to punish me.

At first the people were protesting on my behalf but I discouraged street protests and I pursued the case with a human rights organization. But although the [government] made a committee to probe it, they appointed a higher official who was notorious for putting sensitive cases into cold storage. We had four or five head investigating officers in less than one year, all transferred from the case or suspended. They have given us nothing. And now no evidence is left, my friends in the courts and the police have told me that.

After two days we went up to the top floor of my office building and we found blood stains. So we told police to take a sample of them and they said they would do it. But because I was suffering from depression so bad I could barely talk, barely stand in those days, it was some time before I asked again. Then they said the stains had been washed away because there was rain. So what can you think? After twenty days my other son was dragged out of his school bus and beaten – he was 14 – and told to tell his father not to pursue this case.

I've even given them permission in writing to exhume the body. I talked to the superintendent of the civil hospital who assured me that he would get permission from the judge and do the autopsy himself. That was in 2005. Before leaving the country I had gone to see the officers to help some friends of my son who were being interrogated, and the officers said: "We have this report that it was a suicide". I asked them what finding they had to prove this and they said: "It's just our own conclusion".

I think there is no hope that the government will solve this case because the military is still so powerful.

Here in Hong Kong my family feels safer and I have more freedom and more space. After my son was taken there was no real hope in life, we were just living for our remaining two children. Working with a direction to help expose other human rights violations gives me energy, and patience and strength.

Once I was in a mood to take revenge, but to whom will I do this? It's not possible. But last year we did a lot of good work supporting the lawyers in Pakistan as they campaigned against Musharraf, to protect the rule of law and have the Chief Justice reinstated, which eventually happened.

I still work very closely with journalists, NGOs and lawyers in these kinds of cases. Still, really I feel like I'm only living now for my other two children's dreams – I hope that some of them have survived.

# Police offer guns to Filipino journalists at risk

*Danilo Reyes*

It seems that Filipino policemen take their profession seriously when it comes to journalists facing threats. If a journalist receives a death threat, they will proactively pay him or her a visit, register the complaint, and offer a weapon for self-defense.

This may not seem like a typical, or even reasonable, police response to a crime report, but at least it can show that the police are taking action, and help dispel their image of being passive and incompetent.

When Stella Estremera, editor-in-chief of the Sun Star Davao, and her news editor Gigie Agtay received threatening messages on Agtay's phone, they made them public by publishing a story in their newspaper. In an email, Estremera described her decision to publish the story, saying, the "story is for our protection; the wider the story can reach, the greater our protection."

Journalists writing news in which they themselves are the news is not an uncommon scenario in parts of the Philippines. They cannot afford to treat threats lightly. The Philippines is notorious for killings of human rights and political activists and also journalists. By February 2009, at least 78 journalists had been murdered since the fall of the Marcos regime in 1986.

Davao City, where Estremera and Agtay work, is notorious for the "Davao Death Squad," a shadowy group accused of numerous vigilante killings. The Sun Star and its sister newspaper, the Super Balita, have been reporting the cases of vigilante killings in Davao City. They are among the newspapers considered independent and credible.

The two editors were accused of being biased in local politics by the person who threatened them, although he failed to mention what bias he was referring to. The editors could not ascertain who could have made the threats, which story was considered biased, or who wanted them dead. Of course, some journalists and activists have been killed for reasons that were never made clear.

When Estremera and Agtay first received the threats, neither thought it a priority to go to the police to make a complaint or ask for police assistance or protection. About two days after the threats against them were made public, city and regional police officers phoned them both and asked for a meeting. They would not do this for ordinary persons.

When the policemen met the editors at the newspaper office, they brought along the police register and entered a complaint. They then asked the two women if they wanted guns to protect themselves.

The police suggestion appeared benevolent, but it fell short of the logic and professionalism required from a police force. Arming journalists is not a solution to crime. Rather than protecting them, it could put them in harm's way.

For the police of course, it is much more convenient to arm people rather than offer them police protection.

Ironically, arming civilians is a Philippine government policy. Firearms are issued to people facing threats, and also to civilians loosely trained as auxiliary police in communities where the government considers certain groups to be a threat. Then there are the militias, which are notorious for committing human rights violations. If they are given arms, why not journalists?

Some journalists agree to become "police assets" to justify having firearms issued to them, but the two editors rejected the offer. "I just don't like guns," Estremera explained as she refused the offer.

The police should ask themselves why these women did not seek their assistance when they found themselves in danger. Why did they not promptly register a complaint with the police? Like most people, journalists—among the best informed individuals in the community—have no confidence that the police would be able to help or protect them.

Is this any surprise, when all the police can offer is a do-it-yourself solution?



# Recent show trials in Burma and Sri Lanka

*A statement by the Asian Human Rights Commission: AHRC-STM-184-2009*

The recent case against Aung San Suu Kyi by the Burmese junta is well known internationally. The case and the verdict were condemned the world over as yet another demonstration of a fake trial merely orchestrated to silence Burma's opposition leader. Aung San Suu Kyi, who has already been under house arrest for two decades, was charged with violating the rules of her detention, for which the court sentenced her to five years rigorous imprisonment. Within hours of this ruling, the Burmese junta—aware of the negative international impact—reduced the sentence to 18 months of detention in her own home. It is clear that the trial's sole purpose was to give a semblance of legality and legitimacy to the further imprisonment of this lady so that she could not participate in the country's upcoming elections.



Aung San Suu Kyi

The Sri Lankan case of J S Tissainayagam, though not as prominent as the Aung San Suu Kyi case, is also quite well known internationally. The arrest, detention and the trial of this well known journalist and human rights activist received the attention of many governments. American president Barack Obama himself noted this case as an example of the repression of journalists throughout the world. Leading media organizations worldwide condemned the arrest, detention and trial and repeatedly called on the Sri Lankan government for Tissainayagam's unconditional release.

Tissainayagam was charged with aiding and abetting terrorism and instigating racial violence by way of an article referring to the armed conflict taking place in the north. Thousands of articles on the armed conflict exist, from varying perspectives, and Tissainayagam's writing was no different to any of these. Nothing in the article indicated any attempt to instigate violence or promote racial hatred. In fact, a veteran journalist, Tissainayagam had reported on the internal conflicts in the south as well as the north and east over a long period of time. In the late 1980s he helped the incumbent president

of Sri Lanka—then an opposition parliament member—by preparing and translating documents relating to disappearances and other atrocities in the south. As a Tamil, it was quite natural for Tissainayagam to write about the problems of the Tamils in the same way that others have written about the problems of their groups.

Tissainayagam was singled out for arrest, detention and prosecution solely for the purpose of intimidating other journalists and newspaper editors from publishing materials relating to the war. Several other journalists were exposed to serious dangers and some fled the country during this time.

As in the case of Aung San Suu Kyi, there were no grounds to lay criminal charges against Tissainayagam. In both cases therefore, the charges were fabricated, based on special regulations rather than ordinary criminal law. The regulations themselves were enacted to give enormous powers of harassment over anyone holding an opinion opposed to that of the ruling regime.



J S Tissainayagam

Where the charges themselves are not valid, there cannot be a fair trial. The court's job in both cases was to decide on the legality and validity of the charges in the first instant. Both courts proceeded on the basis of these bloated charges and found the two persons guilty.

The transformation of independent courts into those that merely carry out the wishes of the executive has occurred over a long period in both countries. As a result, in the courts of both countries today there is the possibility of conducting show trials.

The Sri Lankan court sentenced Tissainayagam to 20 years imprisonment. The previous democratic tradition of the country's Supreme Court upholding the rights of citizens to freedom of expression, criticism and publication has been altered by the High Court trying a case on special regulations under anti-terrorism laws.

The Ministry of Foreign Affairs has further noted that any criticism of the Tissainayagam judgment is a slur on the independence of the judiciary. In fact, the case itself, like that of Aung San Suu Kyi, demonstrates that judicial independence has suffered serious setbacks.

It is fitting that J S Tissainayagam has been named as the first winner of the Peter Mackler Award for Courageous and Ethical Journalism. This award should bring to global notice the manner in which courts can be manipulated for the purpose of suppressing freedom of expression and publication.

# Practicing Ethics in Action

*Ethics in Action* begins with the realization that both law and morality have failed the people of many countries, who are today facing incredible forms of cruelty that they have little power to eradicate. Despite all the rhetoric of empowerment, the reality witnessed in most Asian countries is desperation and powerlessness. The two ingredients necessary for any real empowerment of ordinary people are law and morality. If living conditions are to improve, defective legal systems and the failures of upholding ethics and morality cannot be ignored. *article 2*, a publication of the Asian Legal Resource Centre, sister organization of the Asian Human Rights Commission, is devoted to discussing matters relating to defective legal systems obstructing the implementation of human rights. *Ethics in Action* will be devoted to discussing how movements and leaderships claiming to uphold ethics and morality have failed to promote and protect human rights.

## Other regular publications by the Asian Human Rights Commission:

***Article 2*** – This quarterly publication covers issues relating to the implementation of human rights standards as proposed by article 2 of the International Covenant on Civil and Political Rights.

***Human Rights Solidarity*** – Also a bi-monthly publication and available both in hard copy (from July 2007) and on-line. This publication covers stories and analysis of human rights violations in Asia.

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