

Ethics in Action

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Cover photo:

Filipino farmers run for their land rights,
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Those left behind

Editorial

That the victims of human rights violation suffer is well documented and accepted. The sufferings of their families is both less well known, and less discussed. The following excerpts from the Human Rights and Culture newsletter document the thoughts of one father who lost his son, and two solidarity responses.

Human Rights and Culture, Issue 30: AHRC-ART-030-2008, 31 October 2008

A letter from the father

Baseer Naveed

Today (October 28) would have been the 24th birthday of my son Faraz Ahmed, who was kidnapped on 8 November 2004. His tortured body was found two days later outside the wall of my work place, Radio FM103. He had turned 20 just 10 days before.

He came to my office to collect his university fees from me as on that day I received the advance for his fees. I also asked him to do a program of one hour on the life of a famous poet Joan Elia who died just one year before on 2003 on the same day. My son was very fond of him and he remembered all his three books like a recitation of a holy book. His program was so good that the telephone calls started pouring into our office as people wanted to talk him. I told the callers that he had gone to the toilet and to call again. But after 30 minutes we found that he was not there. Somebody had called him from outside and since then he had been missing. Then after two days we found his mutilated and tortured body lying along the wall of my office.

On his last birthday he went with his mother and purchased books for his studies instead of birthday clothes. In his all life he was totally disinterested in good clothing. The first time in his life he was happy to have some western dress when he was invited in a youth peace conference in Canada, in 1998, he was only 15 years and had been selected from amongst 112 young men.

People tell me that my son still lives in my heart but I know the actual meaning of these words. He was a writer, poet, news writer, anchor person, a very good student, a very good son and a very good companion to his brother and sister.

It is a loss for the whole nation; such a brilliant and outstanding young man was murdered for no crime.

To whom shall I say Happy Birthday today. Anyhow, happy birthday to him.

Baseer Naveed is a Senior Researcher with the Asian Human Rights Commission. He now lives in Hong Kong with his wife, son and daughter. Baseer runs the Pakistan desk at the AHRC and is dedicated to finding viable solutions to the human rights problems being faced by his countrymen. In particular, Baseer campaigns on the issue of honour killings and the death penalty. Baseer is the recipient of several awards received for efforts to obtain housing for disadvantaged people in Pakistan.

My dear brother Baseer,

K G Sankara Pillai

We went through your touching note to your son on his 24th birthday.
 went through every word of that note;
 saw the depth and width of human suffering in times and spaces
 of inhuman state of affairs.

We went through the deep silence in between your words;
 It is the dark silence of the abyss of existential agony stretched over
 the past the present and the future in your life,
 in everybody's life.
 In the sad life of a great nation, of all nations,
 in the brutally injured history of democracy,
 in the tortured ethics of power,
 in the eternal tragic rift between crime and punishment.

We hear that silence in your expression as a greater language beyond words.
 It is not a suppression.

It is a more powerful expression of love and hope.
 A dissent against destiny.

That silence carries cry and criticism,
wrath and agitation.

It is a poignant statement against the fascism of brutal state power,
the blades of which are ployed against the innocence of the ordinary people.
Autocracy is always afraid of truth and youth and written word.
Autocracy is madly aggressive against
the youth gifted with high rate of creativity and brighter vision of history;
the real saviour saints of our time .

Dear Baseer, the silence in between your words
flows like a dark brown river of meaning
through the anxiety and sufferings of
true lives of thousands of innocent people,
all over the world.

I could also experience the spiritual strength of a father, of a family, in their patient
revolt in transcending their unequalled pain to sublime forms of humanness,
in rearranging their lives to strengthen the new social movements for the protection
of human rights and peace, which I believe is totally relevant in a time of growing
resistance against all kinds of kindless atrocities.

This day of great birth is now a great day of reminder of creativity,
culture , and human values.
Your sacrifice is among the greatest of its creed.

With love and respects to my dear Baseer Naweed and family,
KGS
Lakshmi;
Adityan
From Thrisur, Kerala , India.

K G Sankara Pillai, is a contemporary Indian poet writing in Malayalam. He has won the National
Award for Poetry in India on two occasions. More about this author may be found at [http://india.
poetryinternationalweb.org/piw_cms/cms/cms_module/index.php?obj_id=8636](http://india.poetryinternationalweb.org/piw_cms/cms/cms_module/index.php?obj_id=8636)

what are we

Basil Fernando

parents are finite
children are infinite
in the birth of a child
parents experience the infinite

when the state
becomes a death squad
against the young
nature is disturbed
profoundly,
out of the depths
humanity cries out and asks
“what are we?”

when the shadow of Herod
falls on humanity
state versus parents
death squads against parents
profoundly disturbed humanity asks
“what are we?”

when the seed is destroyed,
the tree asks
“what am i?”
if god destroyed the seed
the tree will ask
“what is he?”
when the State destroys the young
“what is it?”

when seed-destroying death squads
move against humanity
one parent's pain
is the cry of all that is human
left in humanity
manipulating language

media supports the deathsquads
attempting to drown the voice
of humanity that asks
“what are we?”

parents’ cry of protest
the cry of pain
in the face of the death of the young
is the pure stream of humanity
that still flows
while deathsquads and the media
murder the infinite.

Basil Fernando is a Sri Lankan poet and has published several collections of poems. An anthology of his poems entitled, *Sundramaithry*, has been translated into Malayalam by Dr. Dhanya Menon, and published in 2008. This is the first anthology of Sri Lankan poetry translated into any India language. His writings may be seen at www.basilfernando.net under literature.

In the spirit of focusing on the loved ones of human rights abuse victims, two other articles in this issue of *Ethics in Action* tell of family suffering. The first article on Bangladesh narrates the obstacles and fear felt by the wife and families of two human rights defenders detained by the police on fabricated charges. The second article on India consists of first person narratives of two victims of army and police abuse respectively, and their lives afterwards.

Without addressing the difficulties and needs faced by the victims and their families, no human rights work is genuinely complete or effective.

Families suffer more than victims of human rights abuse

Bangladesh desk, Asian Human Rights Commission

Human rights defenders F M A Razzak and Shankar Kumar Dhali were arrested by five police officers, Sub Inspectors (SI) Mr Ainuddin, Mr Mahbub, Mr Shushil, Mr Ayub and Assistant Sub Inspector (ASI) Mr Moidul on the morning of 3 November 2008 without any warrants, and taken to the Paikgachha police station in Khulna district, south western Bangladesh. They were arrested from a motor workshop at Agorghata Bazar, where they had an appointment regarding the resolution of an abduction case implicating them, filed in court on 22 October 2008.

Razzak is a law graduate, aspiring to be a lawyer; he is at present working as a lawyer's assistant. He makes his living by editing a fortnightly newspaper, Gonomichhil, which has published many stories critical of the police and judges, as well as the bribery prevalent in the area. Shankar comes from a Hindu family, who have a shrimp cultivation farm. Both are from the rural middle class.



Razzak



Shankar

After being informed of the arrest, their family members went to the police station at about 11am. They asked the men if the police had tortured them in custody, at which the men started crying instead of answering the question. Their unusually swollen faces indicated that they had in fact been beaten. Their shirts had also been removed, and they were forced to sit on the floor of the cell.

Razzak's wife Rahima was told by the Officer-in-Charge (OC) Mr Ali Hashem Khan that, "I am under pressure from the court to arrest him. I did not have any choice but to do this. We will produce him before the courts tomorrow (November 4)". In fact, the court had issued no warrants for the men's arrest, but the magistrate was informed of their arrest by the OC via cell phone. It was reported that one month before, the magistrate had announced in an open court, "If anybody files any case against Razzak, I would issue a warrant of arrest without any delay or hesitation."

Since then, Razzak and Shankar's families pursued the case by speaking to anyone they thought could convince the police to release the men. Their rationale was that the police should release them in due honour as there was in fact no case against them. Moreover, even if there was a case, the men should not be ill-treated or tortured. With Razzak being the only breadwinner, Rahima had to borrow money from her relatives. She also sent her three young children to stay with her sister, so that she was free to visit the police station and other places as necessary. When she was not running other errands, Rahima spent her time outside the police station in fear that something would happen to her husband. In order to see Razzak, she had to bribe the officers.

At 3:10pm on November 3, the OC went to visit Birashi village to inquire into the alleged abduction case. The court had in fact ordered the police to conduct an inquiry on October 22, but even 10 days later, nothing had been done. OC Khan returned 20 minutes later and at 4pm the abduction complaint was recorded as a First Information Report (FIR) (No 4, under sections 364/34/385 of the Penal Code).

In the evening, the Government Record Officer (GRO), a police officer dealing with public records in the magistrate court came to the police station to see Razzak and Shankar after receiving information of their arrest. He told the two men that he would meet them in court on the following day.

Razzak and Shankar help victims of rights violations; annoy police and perpetrators

Razzak and Shankar have been providing legal advice to Mrs Khodeza Bibi regarding a fabricated land case filed by her neighbours in 2005. Police officers attached to the Paikgachha police station were allegedly receiving bribes from Khodeza's neighbours to harass her. As the neighbours continued to demand money (to settle the case) and threaten her over the past three years, most recently she lodged a complaint against them at the Paikgachha police station (No 22) on 13 February 2008. When the complaint was forwarded to the Senior Judicial Magistrate's Court of Paikgachha for trial (Government Record case no 85/08) the magistrate ordered the detention of the neighbours. After they were released on bail, they cut her trees and bamboos in revenge. When the police refused to file Khodeza's complaint against this behaviour, she lodged a petition with the court (Petition Case Number-683-08), which ordered the police to record her complaint as a First Information Report (FIR) on 15 October 2008.

Mrs Jahanara Begum, the wife of Mr Abul Hossain Gazi, one of the neighbours involved in the harassment of Mrs Khodeza, thereafter lodged a complaint before the court on October 22. Using the name Mrs Nilufa, she claimed that

her 13-year-old daughter Khaleda was abducted by Mrs Khodeza Bibi at around 6pm on October 15, and that Khodeza demanded 50,000 taka as ransom, or her daughter would be killed. Mrs Nilufa also claimed to have seen Khodeza in a secret meeting with Mr Md Yunus Sardar, Mr F M A Razzak, Mr Shankar Dhali and Mr Alauddin Raza, leading her to suspect they were all involved in her daughter's abduction. The court thereby ordered an investigation into the complaint (although the police did not comply until November 2, and nor did they record it as an FIR).

In an affidavit on October 28 however, Mrs Hamida Begum, the first wife of Abul Hossain Gazi and the real mother of Khaleda, said that her former husband and his second wife Jahanara Begum had hidden her daughter with a view to taking revenge against Khodeza and her supporters. According to the affidavit, Abul confessed to Hamida that the daughter was not abducted but sent to an unidentified place.

A copy of the notarized affidavit was submitted to the Paikgachha police on October 30, informing the Officer in Charge Mr Ali Hashem Khan about the conspiracy behind the abduction case.

Apart from this case, Razzak's work in assisting individuals to obtain redress from the courts and other relevant authorities has long created pressure for the local police, who have attempted to implicate Razzak on fabricated charges more than once. In 2004, the local police misdirected the Rapid Action Battalion (RAB) of the Khulna region to arrest him on the grounds of being a 'criminal'. Following immediate intervention from human rights groups, senior officials of the RAB investigated the matter and found Razzak to be innocent. They subsequently handed him over to the police without any charges being laid against him.

More recently, Razzak and Shankar played very important roles when Sub Inspector Manjurul Alam of the Paikgachha police illegally intervened in a land dispute case, which was pending trial. The police arrested and detained people, extorted bribes, as well as ill-treated others, including women belonging to the Hindu community. After the Asian Human Rights Commission publicized the case, senior police authorities ordered a departmental inquiry. SI Manjurul was later transferred to the Dighalia police station.

Razzak also assisted Ms Tapati Rani Mondol in a defamation case, after she was targeted and traumatized by two journalists who wrote about the rape and suicide of her younger sister, Laxmi. Laxmi, a student, was raped by three youths at 8:30am on 27 May 2002 and committed suicide at 4pm in her room by taking poison.

The Paikgachha police did not investigate and only lodged an Unnatural Death (UD) case on May 28. Her dead body was cremated without any postmortem.

Nine months later, her family found her diary describing the rape and Tapati demanded that the police change the UD case to a murder case. The police did not do so, allegedly having received bribes from the perpetrators of rape.

In April 2003, Tapati then lodged a complaint (Complainant Register-C R 71/2003 under section 302 of Penal Code of 1860) asking the Senior Magistrate's Court of Paigachha to bring a murder charge against the alleged rapists. The court ordered the police to record the complaint as an FIR, which they also did not do.

However, a probe committee consisting of officers of the Ministry of Home Affairs and the police was formed on May 23, which investigated this case and ordered the police to record it as a murder case. The Paikgachha police finally recorded an FIR (No 15, dated 25 May 2003) and arrested five persons for rape and murder, all of whom were later granted bail by the court. (This case is currently pending before the Special Tribunal for the Prevention of Women and Children Repression in Khulna, case number 255/2003).

In the meantime, two journalists, Mr Gazi Md Mizanur Rahman of the Daily Lokshamaj and Mr Md Abdul Gafur of the Daily Anirban, contacted Tapati saying they had good connections with the officer in charge of the Paikgachha police station. They extorted about 30,000 taka from Tapati, assuring her that they would persuade the police to conduct a proper investigation and publish the obstacles in prosecuting the perpetrators. Later, when Tapati asked about their progress, the journalists published a series of nasty reports attacking both Tapati and her deceased sister Laxmi, causing her significant trauma and social stigma.

In 2005, Tapati came to Razzak for help. Amongst other things, Razzak helped Tapati lodge a defamation case (No Mani 6/2005) on October 11 with the Senior Assistant Judge's Court of Paikgachha against the two journalists, as well as the alleged perpetrators of the rape and their fathers.

On 25 September 2008, the court ordered the accused to pay compensation of 100,000 taka to Tapati with eight percent interest on the amount since the case was lodged with the court. Half of the compensation was to be paid by the journalists. Tapati has so far received nothing.

The police officers who allegedly received bribes from the perpetrators of the rape case, reportedly got annoyed with Razzak for his intervention against the police.

Razzak and Shankar's families were very concerned that the two men would be spending the night in police custody, where they were likely to face torture and ill treatment. When these concerns were expressed to the police, the OC told Razzak's uncle—an acquaintance of old—to slaughter a goat and bring some mutton for a meal. In addition, both families paid the officers 10,000 taka (1 USD = 68.5 taka) to prevent any beating. Rahima also brought food for the two men, which was never given to them.

At about 8:25pm that night, the Asian Human Rights Commission contacted officer-in-charge Mr Khan, who refused to provide any details of the case, but gave assurances that the men would face no torture or ill-treatment.

The two men were brought before the Senior Judicial Magistrate's Court of Paikgachha at 1pm on November 4. Even though Rahima had hired a rickshaw, the police forced the two men to walk to the court with handcuffs and their arms raised in front of them. At the court, the police showed that the FIR of the abduction case was recorded "at 8:45 on November 3", without mentioning morning or evening. The police requested 10 days remand for each detainee, but the court gave five days. It is alleged that the OC and the magistrate had privately settled the remand sentence amongst themselves. From the court, Razzak and Shankar had to walk back to the police station in the same humiliating manner as before.

In Bangladesh, police remand commonly equals torture. Rahima was very worried about this: "Razzak is sick, if they even beat him a little, he will die." The police reportedly demanded 50,000 taka from the men's families to ensure they would not be tortured during the remand period. Rahima paid 20,000 taka on November 4 to prevent torture. The men and their families were further worried that the police could implicate them in other cases.

In the next few days, the OC kept telling Razzak's uncle to "bring money". At the same time, Rahima had to arrange all the meals for the two men, as the police did not provide them with any food. To ensure that her meals were given to the men, she had to pay the police officers 50-100 taka for each meal.

The men's families were told by Mr Khan that, "When we bring people like you in police remand for five days we have to pay money to our superior officers. We need money for fuel and many other things. Shall I bring money from my home by selling my cattle and my ancestors' properties? If you don't pay money get ready to sustain torture in the last night of the police remand (after 7 November midnight)."



The OC also threatened to implicate the two victims in three more fabricated cases—one for murder, one for illegal possession of arms and one for extortion—during or after producing them before the Court. Shankar's family therefore paid 70,000 taka to the Paikgachha police, for which the police noted in their investigation report that apart from the complainant's report, there was no other evidence found against him. The 50,500 taka paid by Razzak's family was only enough to prevent him from being tortured in custody, however.

Police 'investigation' into the abduction of 13-year-old Khaleda

On 6 November 2008, at about 7pm, Sub Inspector (SI) Mr Mahbub, the Investigation Officer (IO) of the fabricated abduction case (No 4 dated 3 November 2008, under Section 364, 385 and 34 of Penal Code) went to the village of Birashi to conduct his investigation.

Eyewitnesses observed that Mr Mahbub went to the house of Mrs Jahanara Begum (who called herself "Mrs Nilufa" in the complaint). He informed her that his senior officers were supposed to come to interrogate her, and suggested that she tell the story of abduction as alleged in her complaint.

At about 8:15pm, OC Mr Khan and ASP Mr Shamim arrived at Jahanara's house, and interrogated her in the presence of her neighbours. Jahanara gave different versions of the so called abduction of her stepdaughter Khaleda Khatun to the three different police officers, contradicting her claims in the complaint.

At around 10:30pm, the Additional Superintendent of Police (Additional SP) of Khulna Headquarters Mr Abdur Rouf also arrived to investigate the case. Jahanara told him that Khaleda was found missing from 8am on 15 October. She admitted that she has no children of her own and that Mrs Hamida, not herself, was Khaleda's real mother.

While she claimed she saw Razzak, Shankar and Raza meeting Mrs Khodeza Bibi in Khodeza's house, she failed to describe them in sufficient detail for identification purposes. Some of her testimony was also factually incorrect. For instance, she said that one of the accused, Mr Alauddin Raza, was the next door neighbour of Mrs Khodeza in Birashi village, while Raza's house is actually in Ghoshal village, about five kilometers away.

Jahanara also admitted that her husband Abul was in Dhaka to arrange for bail from the High Court, as he and his friends were charged with cutting down trees on Mrs Khodeza's land.

After recording her statement, the Additional SP publicly read out the abduction complaint. Referring to the time of the alleged abduction, he pointed out that according to the complaint the girl was found missing at 6pm, but during the interrogation Jahanara said the incident happened at 8am.

The Additional SP then went to Mrs Khodeza's house at around 12:30am on November 7, but the 72-year-old woman was in Khulna city at that time. In her absence, the police officer asked her grandson, relatives and neighbours about the abduction case. They narrated how a group of people led by Akbor Gazi, Abul Hossain Gazi, journalists Mizanur Gazi, Gaffar Gazi and Khokon Gazi cut down trees from Khodeza's land. To counter Khodeza's case on this matter, they lodged a false abduction case against Khodeza and those assisting her, including Razzak, Shankar and Raza. The Additional SP verified that a large number of trees had been cut down on Khodeza's land.

The Additional SP also went to Shankar's house at around 1am on November 7 at Paikgachha town. He did not succeed in speaking to anyone however, as everyone was asleep. He also wished to interrogate Razzak's family, but he later changed his mind.

At the end of their remand on Saturday November 8, Razzak and Shankar were brought again to the Senior Judicial Magistrate Court of Paikgachha at 3pm. As Saturday is a holiday in Bangladesh, the Court Sub Inspector (CSI) Mr Isahak went to the magistrate's residence to get the documents signed. While the magistrate ordered their detention in the Khulna prison, the defence lawyers had no chance to submit a bail petition as the court was officially closed.

According to the report submitted to the court by the Investigation Officer (IO) of the abduction case, Sub Inspector (SI) Mahbub Rahman, the police had obtained information and evidence regarding Razzak's involvement in the case. In reality, no such details or witnesses had been found when the police investigated the case late at night on November 6. Moreover, the police report differs from the original complaint: while the complainant said the girl was found missing after 6pm on October 15, the police report noted that Khaleda was missing between 8am to 6pm of that day.

After obtaining the court detention order, CSI Isahak suggested that since it was late, Razzak and Shankar should return to police custody. Both Isahak and the police constable with him argued that it was impossible to hand the two men to the prison authority in Khulna, which is 61 kilometers away from Paikgachha, due to lack of transportation.

Fearing the consequences of Razzak and Shankar staying the night in police custody, their relatives agreed to pay the bus fare for Razzak, Shankar and one police officer. The police constable refused to travel by bus however, forcing the family members to rent a car at 1,800 taka, for a round trip from Paikgachha to Khulna. They were further forced to pay 1,500 taka for food and refreshment. At 4pm, the police left for the Khulna District Jail where Razzak and Shankar were to be detained.

On November 9, Razzak and Shankar's lawyers submitted a bail petition to magistrate Mr Syed Habibul Islam, who did not hear the petition but instead fixed the date of November 12 for hearing it.

Razzak and Shankar's families had to pay a substantial amount of money to the lawyers as well. In Bangladesh, every piece of paper in the legal process requires money, whether for the bench clerk, the police-led prosecution (at the magistrate level) or legal assistants. In order to pay for the lawyers' cell phone communications to senior lawyers in other cities, Rahima topped up their prepaid cards on several occasions. Such cases are like a festival to make money for everyone involved.



After Razzak was detained in the Khulna prison, Rahima brought their three children back home. While she was busy with the case however, her two sons aged eight and four got lost. She later found them in the nearby town of Kapilmuni Bazar, Khulna.

Finding the 'abducted' girl

After the police investigation report noted that no evidence was found against Shankar, there was greater pressure on Razzak's family, particularly his wife. Rahima tried to convince the missing Khaleda's family to look for her whereabouts, even offering to pay for their transportation, food and work compensation. After initially asking for 100,000 taka, the family accepted 47,000 taka.

Khaleda was found in Mongla Port in Bagerhat district, working at a restaurant, although her family was unable to convince her to return home with them. On hearing this, Rahima sold the little jewellery and ornaments she had, for 70,000 taka. She took 50,000 and went to Mongla Port herself with a few relatives and a representative from Khaleda's family. Once there, after some difficulties, she was able to convince the restaurant owners and Khaleda to make a report at the Mongla Port police station that she was not abducted. After some reluctance, the police wrote down the report and called the Paikgachha police, who—also reluctantly—sent a couple of officers to collect Khaleda.

When the officers arrived, in a hired van, they required Rahima to pay for their vehicle, as well as their lunch. At the restaurant, the entire party ordered the most expensive items on the menu, while Rahima herself ordered a simple egg.

On arriving back at Paikgachha, the police then took Khaleda for a medical examination, which also had to be paid for by Rahima, even though at the last moment the girl refused to go through with the examination.

After all this, SI Mahbub took 10,000 taka from Rahima on November 18, in order to submit a Final Report (no 60, which noted that the original complaint filed by Jahanara was false) to the magistrate on November 19. The next hearing at the magistrate's court regarding the case is on 15 December 2008.

Razzak and Shankar were released on interim bail on November 27 by the Sessions Judge's Court of Khulna, while the final bail hearing is set for 12 January 2009.

Razzak is at the time of writing suffering from a water-borne disease contracted in jail. His wife is also sick, due to prolonged stress and fatigue.

Implications

As indicated from the experiences of Razzak and Shankar's families, particularly Rahima, the security of detainees and their families is a pressing problem in Bangladesh. Anyone can be arrested and implicated for anything. As a result, people try to meet the demands of the police rather than pursue any legal process, which is not followed by the country's police or courts, and does not provide any effective or timely remedies to victims and complainants.

The tarnishing of individual reputations and social standing is another problem, also greatly affecting Razzak and Shankar. In Razzak's case, his reputation as an honest human rights defender is affected, with many rumours regarding the causes and circumstances of his arrest and detention rife in the local community. Shankar has been severely traumatized by his experience and is even thinking of moving from Paikgachha with his wife and children. Both Razzak and Shankar worry about how the troublesome rumours surrounding them will affect their children as well as other family members.



Life after assault by India's army and police: Two stories

India desk, Asian Human Rights Commission

The following story is narrated by Ms Najma Latif, alias Soniya, aged 15 years, daughter of Mohammad Abdul Latif, residing at Phoubakchao Mayai Leikai, Ward 2, Mayang Imphal Police Station, Imphal west district, Manipur state, November 2008.

On 27 June 2007, I was studying with my sisters Samina (14 years) and Reshma (16 years) in the front veranda of our house. My uncle Mohammad Manawar lives in a house nearby. At around 7pm we saw a person in plainclothes coming to our uncle's house and making inquiries. Thereafter we saw several army officers dragging our uncle from his house.

We ran towards our uncle's house and asked the officers why they were taking our uncle into custody. We also asked them where they were taking him without an arrest memo. The officers refused to provide any information. Instead, one officer asked where we had come from, knowing about legal procedures such as arrest memos, and then began assaulting us. Other officers immediately joined in, attacking us with their rifles, particularly hitting us with the butts. We all cried out of fear and I fell down. As I was trying to get up, an officer hit me hard with his rifle butt. I felt like something was grinding my left shinbone. The pain was unbearable and I fell unconscious.

When I regained consciousness I found myself at the Regional Institute of Medical Sciences (RIMS). There were some villagers inside the room, as well as my parents. I was informed that my shinbone was fractured from the assault. It was really hard to remain in the hospital; I will not forget those days. All of a sudden I required someone's help for everything, whether going to the toilet or changing sides in bed. I was finally discharged from the hospital on July 3.

While I was in the hospital, several people including my parents asked me why we interfered with the military officers. My mother told me if the officers had wanted, they could have taken me with them and done bad things to me. She told me that they often do this to girls, later killing them and throwing their bodies in some forest. My mother also said that if that happened to me, she would not live anymore; she would kill my sisters and herself. When I asked why, she said if the army took me away, not only would

they do bad things to me, they would also suspect my parents or other close relatives of being involved with underground groups and thus take them all into custody. My mother claimed it was better to commit suicide than be arrested by the military. Hearing all this was terrible; I cried a lot during those days in the hospital and also after returning home.

After the incident our family lives in constant fear. We have a feeling, more intense immediately after the incident, that the military will come at any time and take us all. May be it is just paranoia, as nothing after the incident has occurred to suggest that something like that would happen. But when we go out, other villagers are clearly reluctant to speak to us. We also receive fewer invitations for social functions such as weddings.

I do not know for sure, but people are perhaps scared that we are on a military watch list. What I do know for sure, is that some of my friends' parents have asked them not to be too friendly with me. Some of them are even instructed not to travel alone with me to school or to town. My parents are also aware of this change of attitude. I have heard my mother complaining that because of my intervention when my uncle was taken away, the entire family now has to suffer. I have also noticed that we have fewer visitors at home since the incident. The army is so powerful that this attitude of fear is not surprising in our small village.

In the days following the incident, I learnt that some villagers had protested against it. My parents were very worried as to what would happen to our family if the protests continued; they feared the army or police would take us away in order to silence the protests.

It was three months before I could remove the plaster cast. Even then, my leg still hurt when I stood up.

At school, my friends asked why I had protested before the army. Some told me that the army is in our village and state to protect us from bad people. But see what has happened to me. Now is it that the army is as bad as some of the underground people? If you ask me, I will say they are even worse.

I know many friends whose relatives were abused by the army. Only when it happened to me, did I know how terrible this experience is. When I grow up I want to become a lawyer who can fight against these things.

When I started going to school again, I was so scared that when I return home, my parents will have been taken by the army, and an army officer would be waiting to take me also. For a long time, whenever I returned home from school or after being away from

home for some time, I would look to see whether there was any army vehicle nearby. Any vehicles that I heard during the nights, I would imagine to be the army coming to take us. For a while, I wanted to go some place where there is no army, even though I knew that was not possible.

Nowadays, when I go out, I avoid crossing any army checkpoints, of which there are many in our town and village. We cannot walk for 30 minutes without coming across an army officer or an army check post. I used to shake with fear upon seeing someone in army uniform. A cold chill would overcome my body, and my palms would be ice cold.

It was difficult for me to concentrate for a while after the incident. I also could not sleep; flashbacks of the incident would haunt me. These days I only have occasional nightmares of being beaten, or of an army officer slicing me up alive, shooting me, or chasing me. I do not know what to do. I have told my parents, and they said that I should try to forget what happened to me. I am trying, but I do not know whether I will succeed.



The following story is narrated by Sunil, son of Velayudhan, residing at Padinjarekunnathu house, Kodakara, Thrissur district, Kerala, November 2008.

My name is Sunil, I am 25 years old and I belong to the Scheduled Caste community. I am a daily labourer and support my mother Chakkikutty, who is very old. We live in a small house, in a village. The houses in this village are clustered and disputes between neighbours regarding boundaries, the use of the public well, drainage and so on are common. People often argue with each other on these issues. Most people quickly forget the arguments, while others don't. It is all part of village life.

On 22 September 2006, a police constable from the Kodakara police station came to our house and asked me to report to the police station the next day. The officer informed me that there was a complaint against me from my neighbour Mr Kannan. According to the constable, Mr Kannan complained that I had tried to molest his wife and poison their dog.

I informed the constable that I had disputes with Kannan regarding the boundary of our house and this might be why he had filed a false complaint against me. However, I agreed to report to the station the next day.

The next morning I went to the Kodakara police station along with my mother at around 10:30am. The police officer at the station informed me that the Sub Inspector will be coming at about noon, and asked us to wait. We waited in the veranda.

At about 2:30pm, the Head Constable Mr Lohidakshan approached me and asked my name. As soon as I said that I am Sunil, Lohidakshan shouted, "Son of a bitch! Stand up!" Terrified, I stood up. Lohidakshan then punched me in the stomach. I could not bear the pain and shock, and I doubled up. Lohidakshan then slapped me on my left ear: blood started coming out and I felt like a whistle was blowing in my ears. I saw my mother collapsing; later, she told me that she blacked out upon witnessing my assault.

After a few minutes, three other police constables also came out and shouted at me using vulgar language. One police constable also tried to push me around by my shirt sleeve. After the officers left, I had unbearable pain in my ears. I forced myself up by holding on to the veranda wall. I felt sick, but was scared to vomit in the police station, fearing the police officers' anger. However, I could not hold back, and vomited outside the veranda, forcing my head over the wall. Hearing me vomit, an officer came and shouted at me: "Son of a bitch! If you vomit, I will make you eat it. You sons of the devil (indicating my caste) can do such things at your shithole (indicating our house). Don't think that the police station is your shithole. If you create a mess here by your vomit, we will make you clean the entire station. If you cannot do it, we will make your mother clean the mess by making her eat it."

Hearing this terrified me and I covered my mouth with my hands so I would not vomit. I started crying and sat down beside my mother. Then my mother regained consciousness and I asked her to get out of the police station, fearing that the officers might hurt her. I also asked her to find someone who could get me out of this situation, while I sat there waiting for the Sub Inspector. My ear was bleeding, so I used my shirt sleeve to wipe the blood. It hurt so severely that I thought I would black out. I also felt very cold.

Why my neighbour had filed such a false complaint against me was difficult to understand. I did not know that a simple boundary dispute could get me into such trouble. I was worried about how I could come up with enough money to bribe the police officers, without which I knew they would assault me again.

The Sub Inspector came to the police station at around 5:30pm. He called me to his room and questioned me about the complaint. Although I told him that the complaint was false, he threatened me by saying that my name would be included in the list of local criminals maintained at the police station. The officer also took my photograph.

Later in the evening, a local panchayat (village council) member Mr V M George came

to the police station and got me released from custody. Once out from the police station, I went to the Kodakara Government Hospital to treat my bleeding ear. The treatment I received there was not good enough however, and I was admitted to the Medical College Hospital in Thrissur on September 26. The doctors said I will never regain hearing in my left ear as the assault had ruptured my ear drum and also damaged some nerves. I was released the next day. Today I am partially deaf.

Even though I did not pay any money to the police, the case against me was not registered. I was subsequently told by a friend that Kannan requested the police to withdraw the complaint. I do not know whether that is true, but there were no further proceedings against me.

The villagers now see me as a 'person wanted by the police'. If not often, at least once in a while I come across people indicating that I am a person who was once taken into police custody. Such remarks make me feel that people see me as a convicted criminal. Even my mother complains that she is often referred to as the mother of Sunil, who lost his hearing because he was at the police station. I was not taken to the police station due to any fault of my own. I did not lose my hearing because of some wrong that I committed, but because of someone assaulting me for no reason whatsoever.

I also find that people are reluctant to employ me after the incident. Some of them perhaps think that I was taken to the police station for some theft or something. People who employ me for daily labour often warn me to "beware, you know what happens if we have to inform the police if you are up to anything mischievous". My mother is now worried that no one will let their daughter marry me.

It is just my mother and I in our family. If I do not get work, we both suffer. We do not starve, since we have a small patch of land where I can do some cultivation. However, we no longer have any savings.

After the incident, I approached a human rights organization called the Nervazhy. Their secretary took down my statement and promised he would do whatever possible to see to it that the police officer who assaulted me would be punished. I was later told that the National Human Rights Commission of India took up my case. This month (November 2008) I was paid 30,000 rupees as compensation for the loss of hearing in my left ear. I am informed that the police officer responsible was made to pay that money. As a punishment for what he did to me, it is hardly anything, but better than nothing.

I need not explain what a person suffers after losing hearing in one ear. I live with the fear that if by some accident I lose hearing in my right ear as well, I will be permanently handicapped.

I have a few questions: What if I do the same to the police officer and pay him 30,000 or maybe even more? How can police officers assault individuals in this manner? If I assaulted someone as an ordinary person, I would be arrested and put in jail. Why is the police officer exempted from such punishment? Do they have separate laws for the police in this country? In my life, I will never want to go a police officer. To complain against anyone to the police is the worst thing that one person can do to another.

Filipino farmers commit to 10 days of running and hunger strike to protest losing their land

The following is compiled from a series of press releases issued by the Asian Human Rights Commission: AHRC-PRL-036-2008; AHRC-PRL-037-2008; AHRC-PRL-038-2008; AHRC-PRL-040-2008; AHRC-PRL-042-2008; AHRC-PRL-044-2008.

Hacienda Luisita and Hacienda Bacan

To expose the government's failure to make good on its promises of land distribution, farmers from the Arroyo lands in Negros Occidental and others commenced 10 days of running on Monday, 1 December 2008. A few others also began an indefinite hunger strike.

After completing a six-kilometre run from inside Hacienda Luisita in Tarlac, Fr Robert Reyes, a staff member of the Hong Kong-based Asian Human Rights Commission (AHRC), and several other farmers joined other farmers in Munos, Quezon City to continue running. Fr Robert and the farmers running with him aim to complete 157 kilometres in ten days, at around 15 kilometres a day.

The number of kilometres represents the hectares of land owned by Jose Miguel Arroyo, husband of the Philippine President Gloria Macapagal-Arroyo, which has yet to be awarded to the farmer beneficiaries of Hacienda Bacan, Isabela, Negros Occidental.

According to President Gloria Arroyo's promise in May 2008, all land under the Comprehensive Agrarian Reform Programme (CARP), including her husband's, would be distributed to farmers.

In reality, Task Force Mapalad (TFM) has found that political interference and pressure upon government agencies processing farmers' claim applications is causing delays. Time is particularly critical as the implementation of CARP is due to expire on December 31.

Although the 67 farmer beneficiaries have already completed all the requirements of claiming Arroyo's property, the public officials and government agencies responsible for processing their applications are either reluctant or deliberately refusing to perform their duties.

The Registry of Deeds (ROD) in Bacolod City for instance, refuses to transfer the Certificate of Title to the name of Republic of the Philippines from the Rivulet Agro-Industrial Corporation—the company claiming ownership of Hacienda Bacan—which is required for the farmers to register their Certificate of Landownership Award (CLOA).

The ROD justifies its refusal claiming that it could not facilitate the issuance of the transfer because of the annotation of “Declaration of Trust” in favor of the president’s husband, Jose Miguel Arroyo, and that the Certificate of Deposit that was issued by the Land Bank of the Philippines (LBP) as payment for the property is still under the name of Rivulet.

Under the CARP, the LBP is obliged to pay the owners of land covered by the programme on behalf of the farmers. Despite 42 million pesos having been paid for the property, the farmers cannot process their CLOA due to the ROD’s refusal.

The run from the Hacienda Luisita—owned by the family of former President Corazon Aquino—thus symbolizes how the land distribution programme has been undermined from its very enactment. While the farmers inside Hacienda Luisita are recognized as owners of the land, their authority and the benefits they get from the land is meager. They are stock holders and get a small percentage from the Hacienda’s profit under the Stock Distribution Option (SDO), but are not actually tilling their own lands. Several farmers have in fact died in attempting to reclaim their land.

Fr Robert and the other runners held a short prayer before beginning their run. The farmers carried sugarcane stalks from the Hacienda Luisita as well as banners demanding the Arroyo family to give their lands to them. Utterly exhausted, they completed their run for the day at the head office of the Department of Agrarian Reform (DAR) in Quezon City.

Waiting in front of the DAR office were eight more farmers from the Arroyo land, one of whom was a woman, who commenced their indefinite hunger strike. Three of the farmers shaved their heads to symbolically protest against their plight.

A few of these farmers have only recently been released





from detention after being detained last week for holding a peaceful protest in front of the Land Registration Authority (LRA), whom they asked to intervene into the registration of their land.

Under the law, the LRA has authority over the registration of lands. The farmers were forced to pressure the LRA after the Registry of Deeds in Bacolod refused to transfer ownership of the land from the Arroyos to the farmers.

Law reform and extension

Fr Robert Reyes, known in the Philippines as the ‘running priest’, held a solo protest inside the Philippine Congress in Quezon City on December 2, calling upon legislators to consider as a priority, the extension of the land reform law.

Before he resumed his daily 15-kilometre run together with farmers, Fr Robert Reyes went inside the Congress’ main lobby where he offered his daily prayer for the farmers and reaffirmed their demand that the bill seeking an extension and reform of the Comprehensive Agrarian Reform Program (CARP) be passed promptly before the year’s end.

There are serious concerns that if a law is not passed by the end of the year, landless farmers will be left hanging, while the beneficiaries under the CARP will have no other means or legal remedies to seek ownership of the lands they till.

Although the implementation of the law at present is weak and ineffective, not having any legal obligations on the part of the Department of Agrarian Reform—the agency responsible for the land distribution programme—will make the pursuit of land reform even more difficult. As it is, two decades after the land reform law took effect thousands of hectares of land have failed to be awarded to farmers.

According to Task Force Mapalad, in Negros Occidental alone, the claims of a total of 11,239 hectares of land covering 134 haciendas by about 5,731 farmer beneficiaries remain pending at all levels of the CARP process. This includes the 157 hectares of land owned by President Arroyo’s husband in Isabela.

Several farmers were waiting for Reyes at the gate outside the Congress compound, from where they resumed their run towards the head office of the DAR. One of those joining the run was Reiko Sembad, a 22-year-old student of Cultural and Tourism Studies from

a university in Tokyo. Reiko, like other farmers who joined the run, did not mind the scorching heat and exhaustion during the run. Some of the farmers, including the elderly, were wearing flip tops and trousers, rather than any running gear. Their endurance and willingness to complete the run was moving.



In the afternoon, Reyes held a mass inside the farmers' makeshift tents, which had been in front of the DAR over the past few weeks. Eight farmers from the Arroyo lands who are holding an indefinite hunger strike are also staying in those tents.

Hacienda Yulo

On their third day of running, farmers of two of the country's most influential landlords—the Arroyos and the Yulos—sought urgent intervention from members of the Senate and the House of Representatives to address their desperate plight.

Apart from the farmers in Hacienda Bacan in Isabela, Negros Occidental—which is owned by President Arroyo's husband, Jose Miguel—farmers from Hacienda Yulo in Laguna province, have also been deprived from owning the land they cultivate.

Of the 7,100 hectares of land in Hacienda Yulo, about 3,256 are being claimed by farmers whose ancestors have been occupying and cultivating the land since 1905. It was first given to the Madrigal family during the Spanish colonization, and was later transferred to Jose Miguel Yulo, whose family is the present owner.

At least 1,354 farmer beneficiaries are seeking ownership to the land. As early as the 1960s, the ancestors of the present claimants began their fight for ownership. In 1990, three years after the CARP was made into law, the farmer beneficiaries applied for inclusion in land distribution under the CARP. Three years later, the land was declared exempt from the CARP, on the pretext that it is industrial and commercial land.

Needless to say, the land conversion process was highly questionable. The municipal mayor at the time, Jesus Miguel Yulo—son of the landowner—and the zoning administrator, who also had connections with the Yulos, deliberately abused their authority. They used their influence to convert the contested land to ensure it would be exempted from distribution.

Since then, the land has been idle, used for neither industrial nor commercial purposes. The municipal government of Calamba has even issued a certification affirming that the

land has been idle. Although this certification was submitted to the DAR, it reiterated its previous decision exempting the land for distribution. The farmers filed a petition seeking to revoke the land classification in 2006, which remains pending.

In 2007, the Yulos instead offered to distribute home-lots that measure about 150 square meters, to each beneficiary, as well as cash worth PHP13,000 (USD 263), supposedly as “disturbance compensation”. The farmers have refused the offer; as one farmer said, what they need is not home-lots, but land to farm and somewhere they can build their homes and earn a livelihood.

To date, the farmer’s petition asking the DAR to reconsider its earlier decision is not showing any progress. This was the issue they ran 7-kilometres with on December 3, from the head office of the DAR towards the House of Representatives.

After that run was completed, a separate run by farmers from the Arroyo land took place, from the Baclaran Church in Coastal Road towards the Senate building. After the farmers reached the Senate led by Fr Robert Reyes, some of them also joined the Senate committee hearing on the Arroyo land. The Senate’s committee on agrarian reform was conducting an inquiry, in aid of legislation, as to why the farmers in Negros Occidental have not been able to acquire the land under the CARP. However, the committee failed to come out with a concrete resolution to immediately ensure the speedy distribution of land.

Physical cost of protests

Three days of running and hunger strike was physically costly to some of the farmers. One of the eight farmers on hunger strike, 22-year-old Irene Celis, had to be taken to the nearby East Avenue Medical Center on December 4, after she fell ill. Before she was taken to hospital she told her colleagues that she was feeling weak, dizzy and her head was aching, while tightly holding her stomach. She had only water and no food over the past three days.



Irene’s colleagues and Fr Robert took her to the hospital for treatment. She was diagnosed to have suffered from dehydration and her sugar count was low.

Irene is the daughter of Jose Celis, one of the farmer beneficiaries of the Arroyo land. She was also one of those 30 farmers arrested and briefly detained at a police station in

Kamuning, Quezon City on November 27, for holding a protest at the LRA.

Irene's brief detention and the suffering her sickly father had to endure prompted her to take part in the indefinite hunger strike. Since her sickly father could not be physically present in Manila, she took this on in his stead. Her colleagues were reluctant to let her join the hunger strike as she had a fever some days after being released from detention, but Irene nevertheless decided to carry on. She is the youngest individual and the only woman in the group.

Some of the other farmers who had been running since December 1 had to reconsider joining the run on the fourth day. Farmers from UNORKA, particularly the elderly, decided not to join as some of them began to suffer severe muscle pain, with their legs swelling and becoming numb. While farmers from TFM were ready to resume running, they had to reconsider due to concerns that their health may deteriorate if not given a day rest. Both TFM and UNORKA are peoples' groups assisting farmers in their fight for land ownership under the CARP.

In addition, heavy downpours prevented the overly exhausted farmers from resuming their run.

Fr Robert pledged to complete the run of 157-kilometres even if the farmers would be not able to join him. "I understand what farmers had to endure because they are used to working hard at farms and not to run on streets. However, I have promised to complete the 157 kilometres even if it means completing it in Hong Kong," Reyes said.

Farmers take grievances to the heart of regime's power

To once again draw attention to their plight, farmers from the Arroyo lands went to the presidential palace on December 5, to submit a letter to the president.

Signed by eight farmers on hunger strike—Jose Rodito Angeles and Salestiano of Hacienda Grande; Rogelio Salva, Alex and Irene Celis of Hacienda Bacan; and Romeo Pidoy, Nilo and Bonifacio Algona of Hacienda Paraiso—the letter called upon President Arroyo to fulfil her pledge to redistribute the Arroyo property to landless farmers. Apart from the Hacienda Bacan owned by the president's husband, Jose Miguel Arroyo, his uncle Antonio Arroyo owns the 197-hectare Hacienda Grande in La Castellana, and a 60-hectare plot at Hacienda Paraiso, La Carlota City.

Jose Rodito Angeles, one of the 25 petitioners of the Hacienda Grande and president of Task Force Mapalad, renewed the farmers' pleas to the government for the immediate valuation of Haciendas Grande and Paraiso. The assessment of the property by the

Land Bank of the Philippines would determine the cost to be paid to the owner by the government, on behalf of the farmers. Under the CARP, transfer of title or ownership from private individuals to the Philippine government can only be made after the LBP completes its valuation. Once the procedures are completed, the Department of Agrarian Reform would then issue a Certificate of Land Ownership Award to farmers.

While the valuation of Haciendas Grande and Paraiso are delayed, the distribution of the Arroyo land remains in a deadlock.

While carrying the letter from the farmers to the Office of the President, AHRC staff Fr Robert Reyes and Danilo Reyes were initially prevented by the Presidential Security Guard (PSG) from entering the palace. The guards also attempted to arrest Danilo for taking photographs of Robert running. Fr Robert was to commence his daily 15 kilometre run inside one of the palace gates, but was stopped by the PSG, on the pretext that the area had been restricted. The farmers accompanying him were perceived as security threats and barred from entering the gate.



While the AHRC staff were inside the palace, the farmers—those on hunger strike and those who had been running daily—held a small demonstration outside and waited until the letter was officially received.



Refusing to let Fr Robert and Danilo enter the palace records office, the PSG instructed a palace staff member to receive the letter at a makeshift tent beside the road, which Fr Robert objected to. Had Secretary Silvestre Bello, one of the president's Cabinet secretaries not intervened by accompanying Robert to the palace's record section, the receipt of the letter would not have been officially recorded.

In their letter to the president, the farmers wrote, “We are hoping for your understanding and strong conviction that you would fulfil what you have promised [to us]. If you will, we are seeking for a dialogue with you.”

Afterwards, Secretary Bello held a short discussion with the farmers and promised he would arrange a dialogue between them and President Arroyo. Secretary Bello also urged

the farmers to consider lifting their hunger strike, but they refused to do so until their needs were met.

Fr Robert was then joined by the farmers for a short run from the palace gate towards the nearby San Sebastian Church, outside which they offered prayers.

Urban poor share similar plight in land struggle

The place where they dwell and eke out a subsistence living may be different, but the urban poor and rural farmers share the same struggle: to own a plot of land, build a decent house and earn a livelihood.

Like the farmers in Haciendas Bacan, Grande and Paraiso in Negros Occidental and Hacienda Yulo in Laguna, the urban poor in Baseco compound in Tondo, Manila are likewise struggling for land ownership in the city.

Driven by the lack of opportunities in the countryside, some of those hoping for a better life in the metropolis often end up living in urban slums. Their makeshift houses are often targeted for violent demolition, which routinely occur without prior warning or relocation.

Even though the 57-hectare Baseco compound is government property, the people living there have never owned the land their houses stand on. According to a local group, at least 47,000 families have been occupying this land, a reclaimed part of Manila Bay. These families live with the constant fear of demolition and subsequent loss of livelihood.

The residents are also under constant threat of fire and other natural disasters due to congestion. In January 2004, about 20,000 families lost their homes when about 2,500 structures were burnt to the ground. Some of the families rebuilt their homes for the third or fourth times.

To highlight their plight, at least 15 residents, mostly women, on December 6, joined the farmers in a two-hour run from the Baseco compound, Manila to the DAR office in Quezon, even though they lacked both preparation and training. The residents stopped occasionally and rode in the jeep convoy accompanying the runners to get a few minutes rest, before running again.



At the DAR, the residents met the farmers on hunger strike. They shared their thoughts and expressed their solidarity with the farmers, whose health conditions were visibly weakening as they continued on the sixth day of their hunger strike. One of the residents from the Baseco compound cried as she reflected on the residents' and farmers' struggle to own land.



A symbolic march

After a day of recuperation, on December 8 the farmers marched for approximately four hours with a pushcart—'Kariton ni Maria' ('Mary's pushcart', symbolizing poverty)—from around 10:30am to 2:30pm. Their route began at the DAR office, from where they went to the Department of Environmental and Natural Resources (DENR), the Department of Agriculture, the Land Registration Authority, the Mendiola bridge, and finally to the Manila Cathedral.



Each place along the route has significance for the farmers' struggle for land:

The DENR is responsible for issuing Environmental Compliance Certificates (ECC) to corporations and other bodies. Many corporations operating factories and community-based forest management strategies work without any certificates however, adversely affecting the rights and livelihoods of indigenous peoples. Numerous indigenous communities have been displaced from their traditional homelands by such corporations.

The Department of Agriculture is obliged to provide assistance to farmers, both technical and financial. This includes small loans/grants and the provision of fertilizers.

The Mendiola bridge is near the presidential palace and is generally closed to protest. In 1987, the bridge



was the site of the Mendiola massacre, where a group of farmers were shot while demanding the enactment of a land redistribution law. Since then, the bridge is seen as a historical site for farmers' struggles. Upon reaching the bridge, Fr Robert and the farmers offered prayers there.



At the Manila Cathedral, the group was met by some bishops, and mass was said together in the afternoon. The farmers wished to urge the clergy to take an active interest in their plight, as well as that of other vulnerable and needy groups in the country.

Spirit of hope

Tuesday, December 9, was a disheartening day. Two of the farmers on hunger strike were taken to the hospital. Sources close to the office of the president informed the AHRC staff and the farmers that it was likely that their demands regarding the Arroyo land would not be met. At a dialogue on Monday, the head of the LRA appeared to take the position of legal counsel for the Arroyos, and refused to register the land.

Sensing this struggle may take longer than anticipated, Fr Robert convinced the farmers on hunger strike to at least drink some malunggay (nutritional leafy vegetable) soup.

The farmers however, showed no signs of losing hope. At the same time, they were quite ready to die for their cause. Many of them feel they have nothing else to live for. They have no land, no employment, no home. Some of them are also under constant harassment due to their vocal fight for their rights.

International human rights day

To mark December 10, international human rights day, Fr Robert and the farmers ran from the DAR to the House of Representatives, and marched back along the same route. They continued to demand for the extension of the CARP and the redistribution of the Arroyo lands. The House of Representatives' current session is ongoing until December 17, and the farmers are desperate to ensure that the extension of CARP is tabled before the session ends. They plan to continue indefinitely with their hunger strike, until their demands are met.

Asia: Sixtieth anniversary of the Universal Declaration of Human Rights

(Edited text of a press release issued by the Asian Human Rights Commission: AHRC-PRL-041-2008)

(Hong Kong, December 8, 2008) “There is no getting away from the fact that 60 years after the Universal Declaration of Human Rights (UDHR), the actual enjoyment of human rights in most countries of Asia is even less than what it was 60 years before,” said Basil Fernando, director of the Asian Human Rights Commission (AHRC).

On the occasion of the 60th anniversary of the adoption of the UDHR, Fernando noted that while there is now more talk about human rights in Asia, the region’s systems are mostly non rule of law systems. “The primary focus in human rights work should therefore be institutional reform,” he said.

According to the Hong Kong-based rights group, the primary obstacles to human rights protection are the defects in justice administration systems. Such defects exist because of the lack of political will to devote adequate funds to the administration of justice, as well as deliberate attempts to subvert justice institutions, so as to place the executive above the law and outside accountability.

In its statement marking the 60th anniversary of the UDHR, the AHRC distinguishes rule of law countries from non rule of law countries. While there are many limitations on human rights even in countries where rule of law systems are well established, in countries where the systems are fundamentally flawed, even the possibility of rights protection does not exist. Recent times have seen rule of law countries such as the United States face serious problems manifested in issues such as the Guantanamo Bay detention centre, and the PATRIOT Act. Similar laws suspending civil liberties as well as anti-terrorism laws can also be found in many European countries. Adverse practices affecting the rights of women, migrants and minorities also persist in these countries. Most alarming has been the attempt by the United States to reduce the absolute prohibition against torture, in effect challenging one of the most well-established human rights principles. The human rights community in these countries, as well as the international community, must utilize the political and legal space available to fight against these serious inroads into the realization of human rights.

What is faced in non rule of law countries is far worse; the mere possibility of fighting for human rights is prevented either by the absence of institutions, or by the fundamental flaws in the institutions that do exist. The most prominent flaw is the predominant place acquired by the police, thereby crippling other justice institutions. Few countries in Asia can boast of policing according to the rule of law. In fact, the police themselves become the main violators of rights, with arrest, detention and torture as the means of extortion and undue enrichment. Criminals often find their closest allies within the policing system; organized crime is a combination of mafia and local police personnel.

The police engage in arbitrary deprivation of life under many pretexts. Encounter and self-defence killings are euphemisms for the brutal killing of arrested persons. The police also a play role in causing disappearances, kidnappings and attacks on journalists, human rights activists and political opponents of the ruling regime. Many of Asia's authoritarian regimes have politically manipulated the police through various arrangements. Under these, the proper receiving and investigation of complaints cannot take place. As a result, people suffering the gravest of abuses do not come forward to make complaints and a fear psychosis prevails in the society.

Prosecutors can hardly do anything when the policing system itself engages in rights violations. Often, the prosecution mechanism—such as the attorney general's department—comes under executive control. The judiciary is also subjected to executive control, as well as suffering from corruption. In many places, the legal profession is not allowed to play a significant role in protecting peoples' rights. Some lawyers merely become mediators, carrying bribes to the police or others. Very large sectors of the legal profession are demoralized and frustrated.

“What we have pointed to is a very serious problem,” said Fernando. “After 60 years of the UDHR, we cannot claim that the human rights situation in the region has improved. In many countries, both in civil and political rights, as well as in economic, social and cultural rights, there is a very significant deterioration. We may talk about human rights more than before. The people may be demanding human rights more than before. In actual fact however, violations of human rights have become far greater,” he stressed.

The work of the AHRC reveals that various forms of arbitrary deprivation of rights, torture and denial of fair trial are widespread in many places. There is more unemployment, and despite greater education, particularly among women, the actual enjoyment of rights has not become any easier for large sections of the population, who remain poor. Domestic violence against women is common, as is the deprivation of their personal liberties. Anti-terrorism is increasingly used as a pretext to suspend the rights of entire populations. Life for many remains a nightmare.

These grim realities need to be reflected on the occasion of the 60th anniversary of the UDHR. More importantly, both governments and citizens have to address such serious deprivation of rights. In order to improve human rights protection, local and international communities need to develop creative strategies to fight for the improvement of justice institutions.

The full statement by the AHRC may be found at: <http://material.ahrchk.net/hrreport/2008/AHRC-ART-042-2008.pdf>

Nepal must stop violence against women

Kim Soo A

(Hong Kong, China) The Women's Rehabilitation Center of Nepal and National Alliance of Women Human Rights Defenders started a 16-day campaign against gender violence beginning yesterday, to mark the International Day for the Elimination of Violence against Women and the International Day of Women Human Rights Defenders, which falls on November 29.

The strong movement symbolizes Nepali women's mixed feelings of hope and frustration, and the campaign's theme, "Ensure the right to access justice and guarantee security of women" accurately reflects the plight of victims of gender violence who have little or no access to justice.

In 2006, women actively participated in a historic democratic movement along with men on the streets of Nepal to end monarchy. The Nepali people finally achieved their goal. The women's movement also gained 191 seats for women out of 601 in the Constituent Assembly. Considering that the representation of women was less than 6 percent after the 1999 general elections, this is a great achievement and paved the way for their active participation in Nepal's civil service.

Yet few changes have been made to improve the daily lives of women. They still remain stuck in the brutal cycle of gender violence, although 17 years have passed since Nepal ratified the Convention on the Elimination of All Forms of Discrimination against Women in 1991.

Dhana Kumari Sunar, a member of the National Women's Commission, reported that every year tens of thousands of women in Nepal experience violence, 80 percent of which is domestic violence. The women's cell in Nepal's police headquarters recorded 1,100 cases of domestic violence against women between July 2006 and June 2007. These include beatings by husbands, dowry-related murders, and physical and psychological harassment by in-laws.

The Informal Sector Service Center, a local human rights organization, documented 203 rape cases in 2007, while the Office of the United Nations High Commissioner for

Human Rights (OHCHR) in Nepal received some 40 cases of sexual violence against women during the same period.

In its December 2007 report, OHCHR-Nepal stated that victims of rape and sexual abuse are significantly denied effective legal remedies. It said medical doctors often refuse to examine victims in the absence of a police report, while the police refuse to file a First Information Report in the absence of a medical report. Even the few brave enough to file reports with the police face threats to withdraw their cases.

The police mediate many disputes of violence against women without pressing charges against the perpetrators. Therefore most perpetrators escape punishment under Nepal's criminal justice system.

Nepal has many discriminatory laws affecting the rights of women. Rape is very narrowly defined in the domestic law and the victim has no chance for justice if the case is not reported within 35 days after the incident. Also, there are no specific legal provisions dealing with domestic violence. Moreover, since the victims face social stigma, most gender violence cases go unreported.

Nepali women, however, have started fighting back against deeply rooted gender violence. The killing of Laxmi Bohara, a human rights defender, by her husband in Kanchanpur district in June sparked a nationwide women's movement. On July 13 over 500 members of the NAWHRD held a huge peaceful rally in Kathmandu, while other rights groups organized similar rallies in different districts on the same day. All demanded that an independent investigative committee be formed to conduct an impartial and proper investigation into Laxmi's death. They also demanded another high-level committee to deal with all forms of violence against women.

Due to strong pressure from the women's movement, the Ministry of State for Law, Justice and Parliamentary Affairs finally tabled a Domestic Violence (Crime and Punishment) Bill 2008 in the legislative session of the Constituent Assembly. The government also formed a high-level task force consisting of nine members to formulate laws against domestic violence. However, similar previous bills on domestic violence have lingered in Parliament for over a decade. The fate of this bill therefore remains unknown.

Women have all along worked with men in fighting for democracy and peace in Nepal. Now it is time for the government to acknowledge their significant contributions and eliminate violence against women.

In particular, traditional feudal practices that discriminate against women should be addressed. The Nepalese government should take firm action to ensure that all cases of gender violence are properly investigated and those responsible are punished by law.

The Nepali society should listen to the voices of women, which have long gone unheard. This is a golden opportunity for the government to restructure its laws and protect and promote the rights of women.

This article was originally published on 26 November 2008 for a column entitled Demoralization and Hope at http://www.upiasia.com/Human_Rights/.

Bloodbath at Gettysburg

(An Ashokan Perspective)

Basil Fernando (www.basilfernando.net)

“The world can never forget
what they did here”
said Lincoln
what shall we
not forget, one may ask

brothers killings brothers
generals scheming to outwit others
forty thousand or more
lying Dead, Dead, Dead.

Indians also have bled and died
blood sucked by earth
at Gettysburg joined
rivers of native Indian blood

who are heroes, who are villains
who are brave ,who are cowards
what is glory
what is eternal remembrance.

he that has no will to kill
is he a fool
or Gettysburg, Waterloo
monuments to human folly.

when nations treasure military schools
name calculatingly cruel generals as great,
what human wisdom can
humanity retain.

Gettysburg ,Waterloo
human shame hides itself as pride

human minds find the escape route
to depression and psychosis
lie upon lie is born of
rotting consciences of human kind.

wasted blood, wasted lives
wasted minds of the generals
wasted pages and trees
propagating lies and making lies appear less harmful.

That's what new generations
remember of Gettysburg, of Waterloo
And other such places
Monuments to human folly.

Sri Lanka: The age of misrepresentation and the No Fact Zone

Statement issued by the Asian Human Rights Commission: AHRC-STM-299-2008

In the No Fact Zone of Sri Lanka, flowers are blooming, the country is flowing with milk and honey and the old paradise still remains the old paradise. Internally displaced people are all smiling and enjoying their lives as never before; under the trees, in the flood, bitten by snakes, they are living as if they were in the Garden of Eden before the fall. They have nothing but gratitude to the government for the liberation they have achieved.

Paradise

In the No Fact Zone the east is also now an extension of that paradise where people happily submit themselves to extortion, and armed gangs of angels protect their security. Even the doctors can leave the place when they get threatening letters to vacate the area because people no longer fall sick. Complaints of electoral violence are of no consequence at all, for the people can achieve their happiness without being burdened with such things as elections. What does the murder of a few people matter when the majority lives in this wonderful state of bliss, security, peace, prosperity and happiness?

In the rest of the country however, people frequently suffer from hallucinations of seeing freedom of expression attacked, corruption thriving and even lawyers receiving letters from Mahason Balakaya, the Battalion of the Ghosts of Death, grenades being thrown and other attacks being made on lawyers. Some people are even hallucinating about witnesses being killed and their families having to go into hiding.

In the No Fact Zone the only villains are the human rights organizations whose sole aim is to create sympathy for the LTTE. Since there is no good reason for anyone to create such sympathy for no good cause, these human rights organizations may well be paid agents of the LTTE itself. They cannot see that the angel Gabriel, in the form of the Rajapakse regime, having rescued the nation from all evils, has now recreated the paradise of Sri Lanka.

The No Fact Zone in Sri Lanka was created by great intellects that devote all their time to tell the world about how wonderful things are. The guardians of the No Fact Zone are exasperated by those who cannot appreciate the progress and the improvements that are seen through eyes adjusted to the No Fact Zone. It is because they cannot see through the eyes which are adjusted to view the beauties of the No Fact Zone that these wicked people suffer from all types of syndromes and psychosis. The simple lesson promoted by the guardians of the No Fact Zone is that no one in Sri Lanka or outside, needs to worry about the country as it will do better without the critical scrutiny of the opposition, the media and human rights organizations. Things are so good so let's just allow them to remain as they are, is the message that the people in the country need to become indoctrinated to. Facts, photos and statements of anyone other than those who represent the government should be disbelieved thoroughly, as these are, intentionally or unintentionally, the creation of those who sympathize with the LTTE.

The propaganda industry has developed the art of misrepresentation to such an extent that perhaps those engaged in that industry themselves believe in their own propaganda. Goebbels explained that he learned the art of propaganda from western commercial advertisements developed to sell commodities. Today the government propaganda machinery has learned so much from Goebbels that what the Sri Lankan people have in plenty is the propaganda of success. As this propaganda flourishes, what the actual people experience, think and say does not matter at all. In fact, the people do not matter at all. The government by the people, of the people and for the people does not matter at all. In the No Fact Zone everyone can live happily ever after.

World: Press Conference by Special Rapporteur on Torture

Forwarded press release by the Asian Human Rights Commission: AHRC-FPR-020-2008

(New York, October 24, 2008) Though the concept of human rights was now universally accepted, Manfred Nowak, the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, today warned that ill treatment was still “widespread”. Indeed, he could not say that conditions of detainees had improved at all in the 60 years since the Universal Declaration of Human Rights had been adopted.

During a press conference at Headquarters this morning, he called the 9 million to 10 million people in detention around the world “forgotten prisoners”, and noted that they were one of society’s most vulnerable groups. While there had been some improvement in the treatment of prisoners in some regions, including in Latin America, where dictatorships had been replaced by democracies, incidents of torture were increasing in many parts of the world.

Though progress has been made in human rights laws, that contrasted with “sobering realities on the ground”. An “implementation gap” existed, possibly caused by a lack of empathy for detainees—“locked up, locked away from society” said Mr Nowak, who addressed the General Assembly’s Third Committee (Social, Humanitarian, Cultural) yesterday (see Press Release GA/SHC/3926). “Often, society doesn’t want to know what’s going on behind closed doors,” he added.

Having visited Paraguay, Sri Lanka, Nigeria and Togo so far this year, he could attest to the “appalling” conditions in which many detainees were living. Such overcrowded conditions, as well as a lack of access to hygiene, food, healthcare--or sometimes even light--amounted to cruel, inhuman or degrading treatment. He was also concerned that cases of pretrial detention often lasted for years due to poorly functioning justice systems, or because of corruption, lack of resources and the practice of judges relying heavily on the extraction of confessions, which put pressure on the police to extract those confessions by means of torture.

Amongst detainees, those particularly vulnerable were children, gays and lesbians, transsexuals and those with disabilities, who he called “the most forgotten ones”. They were often found in solitary confinement, or in pre-detention facilities without any

kind of medical attention or psychiatric care. Minors were also often found under those circumstances, he added.

Stressing that the Convention on the Rights of Persons with Disabilities, which had recently entered into force, should help to ensure the equal rights of such persons in society, Mr Nowak said the main problem was not that persons had a disability, but in how society dealt with them. He expressed hope that the combination of the new Convention and the anti-torture legal framework would result in further achievements, and called for the international community to honour those rights and obligations.

His report to the Assembly this year examined several different forms of detention, including the use of restraints, as in cases when people were held for days in “caged beds”; patients in psychiatric institutions where widespread medical experimentation and coercive treatment was carried out without consent, including forced abortions and sterilization of women and children, and electrode convulsive therapy; domestic violence against persons with disabilities, especially sexual violence and exploitation; and the use of solitary confinement.

Though the solitary confinement was permissible in some cases for a “legitimate purpose” and for short periods of time, solitary confinement on the most part was misused to put pressure on detainees to confess, and often led to their detainment for “many weeks, months”. Recalling his country visit to Mongolia, Mr Nowak said he had found there that a person sentenced to 30 years in prison might spend all those years in solitary confinement, with only half an hour visits granted twice a year.

In the case of the Republic of Moldova, he said that the death penalty still existed in that country, and prisoners spent 23 hours of their day in complete isolation, with only one hour to walk, alone, outside their cells. That was despite the medical and psychiatric evidence that isolation, even after only a few weeks, might lead to serious mental problems and illnesses. In light of such cases, he called on Governments to review their policies on solitary confinement and to apply the practice only if absolutely necessary for a “legitimate purpose” and for as brief a period of time as possible.

On the other opposite side of the spectrum, he noted that Denmark had a “high level” of prison conditions, as did Greenland, which followed the principle of normalization. Under that strategy, prisoners were targeted for rehabilitation, and life inside prison was as similar as possible to the life they would lead once released.

Mr Nowak urged implementation, “as quickly as possible”, of the recommendations in his report by the United Nations High Commissioner for Human Rights and United Nations Development Programme (UNDP), and for the international community to

take the situation of detainees more seriously by monitoring and offering better assistance to them.

Asked whether conditions of detention were worse because of the “war on terror”, he said there was very little correlation. At the same time, however, conditions for terrorism suspects were unacceptable and even “arbitrary” in the case of those being held at Guantanamo Bay. If evidence was lacking, terrorism detainees should be released after a certain period of time. He went on to say that the use of secret prisons was totally unacceptable, equating that practice to crimes of enforced disappearance. Also deplorable were maximum security prisons where individuals were kept in solitary confinement for prolonged periods of time and subjected to “enhanced interrogation techniques” that might amount to torture.

In regards to allegations of abuse by peacekeepers, Mr Nowak stated that, as long as the United Nations did not have a standing peacekeeping capacity, the Organization was reliant on peacekeeping troops from countries which did not have the best human rights situations, with their police involved in human rights violations, such as Pakistan and Nepal. That was important for the protection of the United Nations reputation.

When queried about United States’ detainment facilities around the world, Mr Nowak recalled that, in 2005, a team of special procedures of the United Nations Human Rights Council had called for the immediate closure of the Guantanamo Bay facility. However, he noted that the transfer of those detainees elsewhere would create other problems, with the ensuing risk of torture high.

He said he was concerned because of the number of complaints he had received during interviews with former detainees in Jordan about how facilities of multinational forces were much better than Iraqi prisons or, even worse, detention facilities run by non-State actors. When he had asked the United States and the United Kingdom for access to their prisons in Iraq, the United Kingdom had granted permission while the United States had not.

In terms of future plans, he said the Iraqi Government had offered him a standing invitation, which he was still pursuing. Also, allegations of torture persisted in Afghanistan, but no invitation from that Government had yet been offered. Next month, he was scheduled to continue his fact-finding work with a visit to Equatorial Guinea.

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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