

# Ethics in Action

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Asian Human Rights Commission

# Ethics in Action



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**Cover illustration:** Painting by Stanley Kirinde, Sri Lanka. Taken from cover of *Conversations in a Failing State*, with kind permission of artist.

Asian Human Rights Commission 2008

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# The Sri Lankan caste of mind

*Basil Fernando*

Recent discussions within Sri Lanka have focused on the 'alien' nature of democracy, rule of law and human rights, advocating a return to the 'paradise' that existed prior to the country's colonization. Without detracting from the condemnation of the colonial domination and its repression of local people, this is a dangerous illusion; pre-colonial Sri Lanka was far from a paradise. Nine to ten centuries before the colonial takeover of the island in 1815, Sri Lanka was a society organized under the principles of the caste system.

This system is perhaps the most important aspect of Sri Lanka's political and social organization, and yet is the least studied amongst historians and anthropologists. In fact, the practice of the caste system is firmly linked to all aspects of contemporary life, including the blanket rejection of democracy, rule of law and human rights, as well as a rejection of the concepts of a modern state, such as the separation of powers, all of which were enshrined in the 1948 constitution of independent Sri Lanka.

Common reasons given for not paying much attention to caste are that the caste system in Sri Lanka was far less rigorous than in India, and that today, the caste issue is no longer of much importance. A close examination would show that both these assertions are only partially true. Basic principles of the caste system were the same in India and Sri Lanka: (a) a person's occupation is determined by birth, (b) there cannot be intermarriage between persons from different castes (the principle of endogamy), (c) your caste cannot be altered, (d) the positions and privileges each person has is determined by caste and these positions must be demonstrated externally by the language used to address each other, by dress codes and all areas of lifestyle, and (e) the hierarchical form of society which accepts these distinctions are conducive to the making of a harmonious society. There was also no distinction in the way the principles were practiced between the Sinhalese and Tamil communities within Sri Lanka. As a mode of social organization and control, the caste system worked in the same way in both countries: one all powerful caste existed, whose position was beyond the challenge of others and this position was passed from generation to generation on the basis of birth. Central to the concept of social organization based on caste is the complete rejection of any form of meritocracy—a system in which the talented move ahead on the basis of specific criteria.

One difference however, was that in India, harsher methods were used to maintain the distinctions between different castes. At a later stage, India also developed the idea of 'untouchability' in absolute terms; the complete separation of one group of persons, who constituted almost one-third of the Indian population. The practice of untouchability is

less known in Sri Lanka, although it is evident to some extent among the Tamil community in particular.

This brings us to the second argument, that caste is no longer of importance in today's Sri Lanka. In fact, what this article attempts to show, is that the historical practice of the caste system has left indelible marks on the psyche of Sri Lankans, which are an obstacle to genuine progress in the country's economic and political development, conflict resolution and the realization of human rights. A brief review of three periods of Sri Lankan history will examine the practice of the caste system, followed by its impact for today.

### **Pre-colonial origins of Sri Lanka's caste system**

By the end of the Anuradapura period (approximately 250 BCE-1020 CE) the caste system was solidly entrenched as the mode of social organization in Sri Lanka. While in India it was the Brahmins (priests) who were the upper caste, in Sri Lanka the system was adjusted to make the landlords the upper caste. To protect the absolute power of the upper caste, it is essential for the caste system to prevent social mobility. For anyone born outside the upper caste to think of changing his social status was a ridiculous, silly thing. Anyone silly enough to do so, was punished with death or other forms of gross abuse, thereby warning others against similar silliness. In a caste-based society, all power is at the top and below that there is only powerlessness. Such a relationship can only be maintained by extreme forms of repression, which become part of the system and even peoples' mindset.

Such a mindset is well illustrated by two stories in the Sanskrit epic 'Mahabharata', of Sambuka and Ekalvya. Sambuka was a Sudra, and therefore forbidden to engage in any exercise of learning, which was the privilege of the Brahmins. He was silly enough to dream of being a learned person however, and secretly learned as much as he could. In this way, Sambuka soon acquired knowledge and skills equal to that of any Brahmin. During this time, a Brahmin's son died. The Brahmin father brought his son's corpse to Rama's residence and complained that the death of a young Brahmin can occur only when someone has transgressed their law and defiled their order; it was Rama's duty to find and punish the transgressor. Rama immediately left to do so. He could not find the transgressor so he resorted to the normal custom among Brahmins of identifying each other by asking for their genealogy. When he came to Sambuka and asked for his genealogy, Sambuka replied, "Sir, I am a poor man who has a thirst for learning and that is how I have acquired this knowledge and skills." At this, Rama used his weapon like lightning and slew Sambuka. The story goes on to say that 'devas' descended from heaven and praised Rama for his defense of the divine order.

Ekalvya was a young boy fascinated by archery after he saw a guru training Arjuna in archery. He sought his mother's advice regarding obtaining the services of the same teacher for himself. His mother explained that they were not of the same social standing

and were not allowed to practice archery. Furthermore, gurus demand dakshina, which they were unable to pay. Ekalvya refused to give up. He made a sculpture of the guru, which he worshipped before he did the archery exercises himself which he learned secretly by watching the guru teaching Arjuna. Soon, he became an expert archer and secretly practiced his art. One day he was meditating when he heard a dog barking, disturbing his meditation. To regain the silence, he shot a small arrow in the direction of the noise, which prevented the dog from opening its mouth. Passing by the place, Arjuna and his guru examined the dog and were convinced that only a very great archer could do this. This meant that there was someone around who excelled Arjuna and even the guru, which aroused their jealousy. They looked around and found the boy and the sculpture in which the guru recognized the image of his own face, about which he questioned the boy. The boy, seeing the guru, worshipped him and begged him to teach him also. The guru promised to teach him if he were to give his dakshina immediately, and the dakshina he demanded was the boy's right thumb. According to the story, the boy immediately obeyed the teacher, thereby losing his thumb and his capacity to be an archer.

Both these stories can be further supplemented with thousands of similar incidents from India as well as Sri Lanka. The suppression of the lower caste was the main function of the upper caste, particularly those who were to exercise leadership roles. Sri Lanka's present elite in fact originate from such upper caste families of the past.

### **Colonial times**

Under the Portuguese, Dutch as well as British rulers of Sri Lanka, every form of local resentment and protest was crushed with complete ruthlessness. The atrocities committed during these times indicate the absence of any norms or standards when punishing dissent. Among the many rebellions crushed, the 1918 and 1948 rebellions against the British are prominent. Thousands of people were killed, villages burnt and paddy fields destroyed, in order to instill fear in anyone who may rebel in future. The killing of monks and destruction of Buddhist temples conveyed the message that to think of rebellion is downright silly and would be met with absolute ruthlessness.

Like in India, the British learned to rely on the Sri Lankan elite for the purposes of social control. The elite acted as informers about any form of protest against the British rule in the country and helped to crush any rebellion. Due to economic opportunities during this time, some families outside the traditional upper caste families also entered into the elite group through their acquired wealth. Once within, they also acquired caste-based social habits. In this way, although caste-based traditions were somewhat undermined during colonial times, they continued to remain a powerful force in controlling people's minds as well as behavior.

The British introduction of rule of law and a judicial system was restricted by imperatives



of the colonial system. The supremacy of the law for instance, was in no way allowed to undermine colonial power or interests. The same principle applied to judicial independence. As a result, though professional classes grew during this time, receiving liberal education in schools locally and abroad, their liberalism was limited to matters which did not challenge the interest of the empire. Their caste of mind remained.

### **Post-colonial times**

With the achievement of independence the colonial imperative disappeared. The new elite coming to power however, had inherited the mindsets and attitudes of the past eras. When protests occurred after a few years of independence, Sri Lanka's ruling elite resorted to the same patterns of repression used in the past. The crushing of 1971's minor rebellion, the killing of over 10,000 persons, suppressing the second Janatha Vimukthi Peramuna (JVP) uprising, perpetuating widespread torture, disappearances and mass graves, and the large-scale killings of the Tamil rebels from 1978 onwards, as well as ruthless killings by the rebels themselves; these are all forms of repression in the face of conflicts.

Spokespersons for various regimes in modern Sri Lanka have denied the existence of any form of repression. Rather, when meeting violence and conflict, whether in the south or the north, with more violence, government and security officers term this as acts of heroism and patriotism. Even among professionals and intellectuals, there has been considerable praise for this behavior.

### **The impact of caste on social development**

It is therefore clear that the historical practice of caste and all of its consequences has left a lasting impact on Sri Lanka. Recent nationalistic aspirations to return to pre-colonial times stem from these ingrained attitudes and rejection of reality. Some individuals from the Sinhala community believe a return to the past means a return to the Anuradapura period, forgetting the centuries of caste-based social organization that existed between the Anuradapura period and British colonization. In fact, this period of caste-based organization is seen by archaeologists and anthropologists as a clear rupture from the Anuradapura period, while historians view it as a period of decadence.

Such nationalistic aspirations also indicate the conflict between Sri Lanka's centuries-old mindset and the basic concepts of a modern legal system. The concept of equality for instance, still remains an imaginary concept for many Sri Lankans, despite rational acceptance of it through basic documents upon which the country's constitutional and legal framework is based.

While it is not possible for Sri Lanka to return to a caste-based mode of social organization—despite all the political rhetoric of nationalism—the rejection of social organization based

on equality and meritocracy have created a vast vacuum within social consciousness. This vacuum perpetuates ordinary Sri Lankans' inability to form coherent views on issues of national and social importance. Some are questioning whether being Sri Lankan involves the rejection of democracy as a western or Judeo-Christian concept. By implication, this would mean that a caste-based social order of inequality is a more acceptable national ideal than democracy. It would also mean that Sri Lanka is better governed by an authoritarian system than a legal system based on rule of law and democracy.

The concepts of equality and meritocracy imply that individuals have obligations towards others in their public and private lives, including accountability for one's conduct. The rules of public life based on the ideals of equality and meritocracy are completely different to the eternal rules on which the caste system is based. Instead of the restraint used within a rule of law system, the punishment within the caste system knew no bounds. According to principles of caste, those who decided upon and carried out the punishments—like in other areas of life—were not accountable to anyone. The upper caste could punish individuals at the bottom in any manner they chose. The punishments did not have to conform to strict limitations laid down by law or basic principles of equality. The reemergence of this tradition is starkly manifest in the type of punishments that have surfaced in Sri Lanka since 1971, both on the part of the state as well as its opponents, such as the JVP, various Tamil militant groups culminating in the LTTE, as well as other paramilitary groups that have proliferated in the past three and a half decades.

Within caste based societies the notions of common good and common humanity are absent. In fact, there is no 'common' at all; everything is defined and understood in the context of each specific caste. The absence of the common good concept makes the idea of democracy alien to such a society. Similarly, to attribute any characteristics that humans might commonly share amongst each other is incompatible with the concept of caste, which is based on the understanding of different categories of human beings who are unsuited to common discourse. For the upper caste the people of the lower caste are not human at all. While the idea of common humanity celebrates differences among humans while underlining the common characteristics binding them together, what we find within the caste system is the concept of the insiders (those who belong to one caste) and the pariahs. The idea of the pariah is not the equivalent of an outsider; it is the equivalent of the unworthy outsider, an 'out-caste'. It is a term that denotes rejection of the most fundamental kind; all those of a different caste are excluded as unworthy of contact and of 'polluting' the insiders. When this idea is practiced over centuries, psychological habits are formed which resist latter day rationalizations about common humanity.

Related to the absence of common humanity is an absence of civic consciousness. In celebrating common humanity, where each person is a part of the other, civic consciousness links preservation of the self with preservation of the other. The recognition of self by the other is the obligation of each individual, forming the basis for civic consciousness.

Both have basic boundaries not to be transgressed by either. The individual and the other are distinct but not separable concepts; rather, they are mutually dependent.

It is therefore no surprise that Brahminism—the conceptual framework on which the superior position of the Brahmin caste is based—rejects the idea of self (this is not to be equated with a rejection of selfishness, as posited by some; the question of selfishness does not arise at all within the context of Brahminism). Without a recognition of self and other, the behavior of one caste reaping all the advantages of society to the detriment of another caste is not considered wrong, nor a transgression.

It has become fashionable these days to claim that the western civilization is based on the idea of the individual, while the Indian civilization is based on the idea of the collective. Such a claim can be made only by those rejecting the link between Indian civilization and the caste system. The caste system is a complete rejection of the collective. Each caste exists as a fragment; a caste-based society, by its very definition and nature, is a fragmented and divided society. Any system that rejects the concepts of self and other, of common good and common humanity, cannot have any collective consciousness.

In the same way that the caste system rejects common good and humanity, it also rejects any notion of the ‘public’, whether it is public space or morality. Equality is essential to the idea of a public. In a society organized by caste, there can be gatherings of pariahs, but these do not constitute a gathering of the public. In such circumstances, events bringing people together do not have much meaning. Public space is the space—geographically and politically—for people to gather to express themselves or in solidarity with others. There is no need for a public space if the public itself is an alien concept. In the same way, Brahminism failed to create any kind of public morality as the different castes have nothing in common. How can pariahs be expected to have the same moral norms and standards as the insiders?

The only bond or solidarity one had was to one’s caste. Belonging to the most privileged and powerful caste, Brahmins considered solidarity to members of their caste in sacred terms and everything was permissible for its defense. They owed no obligation of solidarity to those outside their caste. This absence of solidarity is one of the fundamental problems of a caste-based society. In fact, the deadening of the Indian mind commonly acknowledged to have taken place after the Gupta period (approximately 600-700 CE), can be attributed to this absence.

A key theological concept in sustaining the caste system is the Brahmin rejection of the ‘real’: everything in this world is illusory, what is important is spiritual liberation. If absolute power and exploitation of other castes are not in fact real or important, there is no room or need for discourse. Notions of equality, repression and suffering were not rooted in any reality according to Brahminism, they were mere illusions.

Without discussing the philosophical implications of this concept, it is clear that such a rejection of reality makes it possible to imagine certain historical periods as divine, while others are seen as of no importance at all. The result of all this is the incapacity to build connections between events and epochs. In other words, reality is denied.

In this way Sri Lanka has inherited a legacy of denial, denial of repression. This legacy is a product of three distinct periods: the end of the Anuradapura period when social organization was controlled on the basis of caste; the brutality of the colonial times; and the authoritarianism marking Sri Lanka since independence and self rule. All three periods saw the suppression of ordinary people as the way to maintain harmony in society. Harmony referred to the prevention of any challenges to the privileged elite. Anyone who disrupted the harmony—who dared to challenge the elite—were silly fools to be put in their place.

Liberal education has done little to alter such ingrained attitudes among the descendants of the privileged elite, who even today, largely retain the more powerful positions in Sri Lankan society. It is therefore not surprising for anyone pointing out repressive habits in Sri Lankan society to be considered silly. If the critic is Sri Lankan, his 'silliness' is counteracted with violence, explaining the routine aggression and intimidation directed at local journalists, political dissidents and human rights activists. If the critics are foreign, including groups such as Human Rights Watch or the IIGEP, they are dismissed as being silly and unaware of the actual situation.

Such a mindset is responsible for the lack of any substantial dialogue on any matter of importance within the country. What is the need for discussion when your opponent's views are clearly silly? Rather, he should be punished for insisting on such silliness. This mindset also has no room for remorse or regret. When there is nothing to regret, there is also no reason for investigation or prosecution. The denial of investigations into all the events since 1971 is therefore no matter for surprise. The practice of investigation can develop only when a society develops the acceptance that some kinds of actions are wrong and must be prevented. If all these acts—considered crimes elsewhere—are seen as good deeds of the security forces, then on what basis can they be blamed? It is silly to be worried about such behavior. If some foreign fools refer to them as violations and Sri Lanka may be blamed internationally for such acts, then some way must be found to satisfy these fools. Hence you have all sorts of so called investigations and commissions set up to pander to the international community; they are nothing but a theatre of the absurd.

As long as a society cannot distinguish between what is serious and what is silly, no public ethics or morality can develop within that society. Without a moral and ethical foundation, no special condemnation is attached to murder, torture or any other violations. This is starkly manifest in the writings of Sri Lanka's government spokespersons, who regularly deny or snub allegations of human rights abuse. This mindset has gone a long way to make

Sri Lanka a fragmented and divided society, with each community divided within itself, and set in conflict with other communities. Caste of mind remains the curse of the country.

### **Incapacity to change**

Only when there is a realization that something is wrong, and when habits and routines are collectively altered, can social consciousness change. In order for this to take place, habits of retrospection must exist within society, which include an acceptance of regret, repentance, mourning, dialogue and reconciliation. Such acceptance is the basis of tolerance. Through such a social framework, individuals are able to engage in meaningful interactions encompassing retrospection. If however, a particular form of social stratification has created habits and routines inherently opposed to acceptance and retrospection, individuals will be held back from such acts and emotions. The caste system for instance, allows no room for regret for any 'wrong' committed against those of a lower caste.

Under the caste system, there are no common wrongs of equal gravity; rights and wrongs are defined relatively. A rule of law system would see murder as a wrong of equal gravity irrespective of whether it is committed by a Brahmin or an untouchable. According to the principles of caste however, the killing of a Brahmin by a person of an inferior caste is considered an unforgiveable wrong, while a Brahmin killing an untouchable is not a wrong at all. As a result, wrongs are only committed by the lower castes, and any form of regret, repentance, mourning or dialogue cannot alleviate their responsibility; their wrongs—particularly against the upper castes—are deemed unforgiveable. Moreover, popular notions of reincarnation (to be distinguished from religious/theoretical concepts) hold that it is only through the long process of rebirth that such sins are erased. Meanwhile, those higher up the social ladder can do no wrong to those below them, and therefore should feel no regret at their suffering. In fact, any such regret or repentance would be seen as personal weakness, as well as a threat to their authority.

Under these circumstances, all social relationships are stiff and prone to violence. Flexible and creative interaction requires an acknowledgement of imperfections and a respect of both the self and the other. Centuries of habits and routines established through the practice of caste however, have created a mindset unable to adjust easily to creative interaction. Instead, a chain of retaliation and violence characterizes social relationships that have no room for regret, repentance or dialogue. For this reason, the influence of caste is important in understanding how violence has developed in south Asian societies. Not only do the upper caste elite believe in using violence and repression against the lower castes, but the lower castes are trapped by a psychological fear of rebellion against the upper caste.

# Sri Lanka 2008

*Jack Clancey*

## ***At one time:***

She was a beauty;  
Her attractiveness charmed all those who met her.  
She was admired by all;  
Adored by some;  
Envied by a few.

During New Year's celebrations,  
All her children,  
Praised her beauty;  
Lauded her assets;  
Acclaimed their good fortune.

## ***Then:***

Her daughter's face was brutally cut by the jealous wife of a rich merchant.  
There was an outcry,  
But no arrest.  
Her son was tortured by six police officers.  
People were frightened and shocked,  
But did nothing;  
There was no prosecution.  
Her granddaughter was raped by a politician's son.  
Reports stated people were horrified,  
But soon kept quiet;  
There was no conviction.  
Her grandson was blown to bits by a bomb.  
Onlookers expressed disgust and dismay,  
But only watched.  
Accusations announced, but no serious investigations undertaken.

## ***Now:***

Celebrations tinged with sorrow;  
Joy stained with tears;  
Festivals circumscribed by grief.

# Arbitrary treatment of Tibetan protesters in Nepal

*Asian Human Rights Commission*

Since 10 March 2008, the Nepalese police have been assaulting, arresting and subsequently detaining hundreds of Tibetan protesters and Buddhist monks—including women and children—holding peaceful demonstrations in the districts of Kathmandu and Lalitpur. Local and international rights groups have also documented the police's abuse of authority to frighten Tibetan protesters from exercising their rights to freedom of expression and assembly by threatening to deport them.

At around 10:30am on March 28 for instance, 29-year-old Tibetan refugee Mr Lam (name changed for security reasons) was assaulted by officers attached to the Metropolitan Police Range at Jaulakhel, Lalitpur while peacefully protesting with other Tibetans near the office of the United Nations at Pulchok, Kathmandu. The officers beat the protesters with wooden sticks and kicked them, before arresting Mr Lam and 11 others. They were then taken to the Metropolitan Police Range. The police put both the female and male protesters in the same truck. According to the protesters, "The police put us in the truck like a dog. They treated us as we are trash."

At least four of the protestors—Ms Kalpana, Ms Sunita, Mr Prem and Mr Shyam (all names changed)—had been arrested and detained more than once before. Ms Kalpana, an 18-year-old student of Lalitpur district, was arrested twice, on March 24 and 28 respectively. On March 24, she had been arrested by five police officers—two female and three male—and was sexually harassed. The police also verbally abused her. When she was arrested again on March 28, about 7-8 policemen attempted to sexually harass her again. When she resisted, they abused her and her female friends in sexually offensive language. The police also beat her legs, back and head.

Ms Sunita, 33, a resident of Kathmandu, was arrested eight different times between March 10-28. Whenever the police arrested her, she was physically assaulted. The police had told her several times they would 'deport her to China so that she would be killed by the Chinese government'. They beat her back, legs, head and private parts.

Mr Prem, 24, a resident of Kathmandu, was arrested on five occasions. When he was arrested on March 28, the police hit him with wooden sticks and kicked him on his back,

head and legs. The bloodstains on his legs were still visible when he was being interviewed later that day.

Mr Shyam, 22, a resident of Kathmandu, was arrested three times. He was also assaulted with wooden sticks and kicked on his back, head and legs on March 28.

When they got to the Metropolitan Police Range, there were at least 89 protesters there in total, arrested from other areas for holding protests. About seven monks, wearing their red robes, were seen amongst the detainees. At least 14 of the detainees were minors; none of the required legal procedures in the arrest of minors—such as informing their relatives of their whereabouts—were followed by the police however.

At around 12:15pm, 78 detainees were transferred to the Armed Police Force Training Centre in Kathmandu. Before they were transferred, some representatives from the United Nations office had visited them at the Metropolitan Police Range. The 11 persons arrested with Mr Lam however, were kept at the police station, apparently because they were drunk and thus had to be separated from the other detainees. When this claim was challenged, the officers insisted by simply saying, “I can see it through their eyes.”

Only four of the 11 detainees were allowed to speak with lawyers from a local human rights group. The detainees spoke of their painful injuries from the police assault and the police refusal to provide them with food and water. They also claimed that some police from the Lalitpur district had torn the Dalai Lama’s picture, which was very humiliating and distressing for them.

While they were speaking to the lawyers, one police inspector Mr Kadar Khanal came close to them and loudly told them: “You are a drunkard. Every time you drink wine and disturb us. You broke our vehicles. We respect the Chinese government and we would not allow you to speak against Chinese government.”

The protestors have also been reported to have their pictures taken in small groups while in custody of the Metropolitan Police Range. They were allegedly warned that, “We [police] have your photos. If you protest tomorrow again, we will arrest you and implicate you with heavier charges and deport you to China.”

All the detainees held at the Armed Police Force Training Centre and at the Metropolitan Police Range were released in the evening of March 28.

On March 29, at least 113 Tibetan refugee protesters, including some 80 monks, were arrested and detained by the police when they were holding a peaceful demonstration in front of the Visa Section of the Chinese Embassy in Baluwatar, Kathmandu. Again on



March 31, at least 210 Tibetan protesters were detained in Maharaggunj, Kathmandu, another 17 detained at the Metropolitan Police Circle, Singardarbar, Kathmandu and four detained at the Metropolitan Police Range, Lalitpur. All of them were released several hours later without any charges. Protesters reported ill-treatment and sexual harassment at the time of arrest and detention.

The Nepalese police have given no explanations for arresting the Tibetan protesters, although it is clear that they are abusing their power of arrest to prevent protests. Threats of re-arrest and deportation have caused fear and some of the protestors are frightened of going back to their homes following their release. Police officers have allegedly identified some of the individuals leading the demonstrations and warned them, "I [police] know who are organizing protests. If we deal with these persons, we will receive an award from the Chinese government."

It has also been reported that many monks have been attempting to travel to Kathmandu to join the peaceful protests from various monasteries in Bauddha. However, the Bauddha police stop their vehicles and subsequently arrest them on every occasion, regardless of the purpose of their travel. Many monks have now taken to wearing civilian clothes so as not to be recognized by the police when they travel to Kathmandu.

AHRC-FOL-005-2008

April 1, 2008

**An Open Letter from Amnesty International and Human Rights Watch  
forwarded by the Asian Human Rights Commission (AHRC)**

Prime Minister Girija Prasad Koirala  
Office of the Prime Minister and Council of Ministers  
Singh Durbar  
Kathmandu, Nepal  
P.O. Box 23312

Your Excellency,

**NEPAL: Letter to Prime Minister Girija Prasad Koirala**

We wish to express our grave concerns regarding restrictions imposed by your government on the rights of non-refoulement, movement, assembly, and expression of the Tibetan community in Nepal. As a party to the International Covenant on Civil and Political Rights (ICCPR), the government of Nepal is responsible for the protection of the human rights of any individual living within its borders.

On March 10, 2008, members of the Tibetan community held their annual event marking Tibetan Uprising Day. Unlike previous years, however, the Nepal police dispersed the peaceful gathering and arrested and detained more than 150 protesters. Tibetans have continued to protest to draw attention to reports of human rights violations in Tibet.

Since March 10, Nepal police have changed tactics and are preemptively arresting anyone they believe is likely to participate in demonstrations, targeting in particular anyone they believe to be Tibetan. Amnesty International-Nepal, following established Nepali procedure, notified the Kathmandu Chief District Officer of its intention to hold a peaceful protest on March 24. That Officer not only denied Amnesty the right to freedom of assembly, he also took the unusual step of issuing his prohibition in writing, stating that the protest could not proceed because it would “adversely affect relations between two countries.” Despite this, the protest went ahead and 148 individuals were arrested, including 13 Nepali human rights defenders. Police have also restricted freedom of movement of individuals from three major Tibetan neighborhoods in Kathmandu, particularly monks and nuns.

The Nepal police have arbitrarily arrested and detained over 1,500 people both during and since the demonstrations and in order to restrict expression and movement. The Police have provided no legal justification for the arrests and detentions either to detainees or to national and international human rights organizations. The Home Ministry has explicitly stated that no “anti-China activities” will take place in Nepal.

Our organizations have documented unnecessary and excessive use of force during arrests, as well as ill treatment during arrests and detention. We are particularly concerned by increasing evidence of police use of sexual and other forms of assault, including of minors, during arrests, violating the right to physical integrity. Police have also used lathis and tear gas on some occasions without necessity or with excessive force, resulting in numerous injuries. Direct interviews with detainees also suggest a pattern of delayed and limited medical treatment, misleading detainees about their likely time of release, and beatings in Boudha and Singha Durba police stations.

Police have also threatened Tibetan protesters with deportation, which would also constitute a serious violation of Nepal’s international human rights obligations. China has been cited by the UN’s Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment for its abuses of political dissidents in China, and those who have been protesting Chinese rule in Tibet will almost certainly be treated as dissidents. As a party to the ICCPR and the Convention Against Torture, Nepal must uphold Article 3, which prohibits the deportation of

individuals to countries where they may face torture. Customary international law also prohibits refoulement to such situations.

The government of Nepal should immediately restore the rights of freedom of assembly, expression, and movement, by allowing Tibetans to go about their daily lives and carry out peaceful protests without fear of arrests or threat of deportation. Should the Nepal police continue to engage in conduct that was condemned by all of the current governing parties, Nepali human rights defenders, and the international community, during the People's Movement of 2005-2006, it will betray its own record of restoring in April 2006 fundamental civil and political rights.

Please accept, Your Excellency, assurances of our highest consideration.

Catherine Baber  
Acting Asia director  
Amnesty International

Sophie Richardson  
Asia advocacy director  
Human Rights Watch

# Voices from Tibet

Since March 2008, Tibet has been the source of much news and angst. The following compilation of material from the International Campaign for Tibet (ICT) and the Tibetan Centre for Human Rights and Democracy (TCHRD) provides some insight into the lives of a few ordinary residents and monks in Tibet.

This letter was sent to the ICT:

## **‘Voice of a Tibetan on the March 14 unrest in Lhasa’**

22 March 2008

“With recent unrest in Lhasa, there has been massive coverage on international and domestic media, but none of these is trying to give a truthful and clear picture of the causes that contribute to these events. As a Tibetan who has been living and working in Lhasa, I believe it is important to consider the following factors that I believe led to the recent unrest in Lhasa:

### **1) Han immigration to Tibet**

- Most of the business opportunities are taken by Han Chinese - 70% of businesses are owned and operated by the Han.
- No true autonomous policy exists in Tibet. Whereas other autonomous counties, prefectures, and provinces in China have adopted policies that ensure benefits to local people, no such policies seem to exist in the TAR. Local officials within the TAR are afraid that they will be branded as Tibet sympathizers and lose their positions if they try to instigate any such policies.
- While the government promised that the new railway to Lhasa would bring prosperity, tourism, and cheaper goods to the region, the reality is that it has brought so many new settlers to Lhasa that the demand for, and consequently the price of, everyday commodities has sharply risen. Meanwhile, the benefits from the increase in tourism go mainly to Han immigrants because Han tourists prefer to travel with Han guides and companies. More than 70% of hotels, restaurants, shops, tourist vehicles, and travel agencies are owned and operated by Han immigrants. Levels of unemployment amongst Lhasa Tibetans remain high due to the increase in migration to Tibet.

## **2) Religious freedom**

- Despite Beijing's claims that religious freedoms are granted in Tibet, what exists is little more than a facade designed to fool tourists to the area. Students, government employees, and Tibetan Communist Party members are forbidden to visit monasteries and attend religious ceremonies and festivals - there are even cases of government employees being fired from their jobs for visiting monasteries.
- All materials related to the Dalai Lama are forbidden in Tibet. This is the rough equivalent of forbidding Catholics to have anything pertaining to the Pope. These rules are enforced by random inspections and searches of houses and stores, looking for objects such as pictures, books, recording and other materials that could be associated with the Dalai Lama.
- Monks are forced to write denouncements of the Dalai Lama and attend classes in patriotic and political education.
- The number of monks is very tightly controlled by a government branch called the 'religious affairs department.' To be admitted in a monastery one needs a recommendation letter from one's own township, county government and permission of religious affairs department. Even worse, Beijing has recently put a new law on the books, which states that all high lamas must be approved by a government committee in Beijing. Think of this as the rough equivalent of the US government appointing the leaders of churches.
- Beijing even installed their own "Panchen Lama," after making the Tibetan chosen child and his family mysteriously disappear. The true Panchen Lama and his family have never been seen again. Tibetans of course have no faith in Beijing's chosen Panchen Lama, who has himself denied being an incarnate lama. The government then made it compulsory for each family to send at least one member to attend the welcome ceremony upon his visit to Lhasa. Those who did not send at least one member of the family to pledge their respect were fined.
- Monks are always discriminated and targeted as the primary danger to the state, and any religious activity carried out without prior government approval is handled exceedingly harshly. For example, in 2007 two statues were built without permission of the government near the sacred Mt. Kailas. The army was later sent to destroy them, and those who constructed them were punished.

## **3) Dilution of Tibetan culture and identity**

- Due to policies encouraging massive immigration to Tibet, Tibetans have become a minority in their own land.
- Most of the subjects in schools are taught in Chinese only. Tibetan language is taught only up to middle school. Nowadays it is even impossible to post a letter with an address written in Tibetan.

- Young people and office workers are encouraged to use Chinese language instead of Tibetan, so the younger generation is starting to lose their own language and culture. Many young, urban Tibetans are ashamed to speak Tibetan, preferring to speak Chinese as a sign of their education. Even for those who wish to study Tibetan language and culture, there are virtually no resources available to do so.
- Any person who starts a Tibetan language center or school is constantly under suspicion and surveillance by the government. Such institutions are frequently shut down ostensibly due to their association with foreign organizations. According to the law of the People's Republic of China, all 56 minorities in China are entitled to preserve their own language and culture. But, in Tibet, any efforts at doing this result in suspicion and repression from the government.

#### **4) Provocative propaganda in the media**

- Official Chinese media is always childish with their false accusations of the Dalai Lama. They try to claim he is responsible for a situation which has been entirely created by the government. The government should look to the Dalai Lama for a peaceful solution to the problem. The only reason why there is even a semblance of control in Tibet is because the Dalai Lama has requested that people remain calm and not commit violence. If the Dalai Lama instigated these riots, I can confidently say that the situation would be much, much worse. The Chinese media may fool their own population, which has no source of news other than the government, but the rest of the world is not fooled, as information is available everywhere.
- Tibet has become a proving ground of sorts for Chinese officials looking for further promotion. Those who promote very harsh policies in Tibet are often posted to higher positions—current President Hu Jintao is a classic example. After a reign of terror in Tibet, the communist party promoted him straight to President.
- The government constantly promotes the image of the Communist Party as the saviors of the poor Tibetan people from serfdom and slavery, condemning the old society of Tibet. If this were truly the case, people would of course be loyal to the government. The fact that people are unhappy enough to rise up and riot should be a clear indication of how people truly feel about the policies imposed on the Tibetan people.

#### **5) Unrestricted exploitation of the natural resources of Tibet**

- With fast economic growth and ever increasing demands for energy, Tibet's resources have been exploited without proper rules and regulations. The beneficiaries of this environmental exploitation are all wealthy business groups

from eastern China, especially Hong Kong. Meanwhile, the nomads and farmers whose land and water are destroyed receive virtually no compensation. Even worse, they do not understand the health risks of drinking contaminated water from mining sites. There have been several incidents where nomads' animals died after drinking such water.

- Deforestation is occurring on a massive scale in Gonpo area, where it contributes to downstream flooding on the Brahmaputra River. Ironically, this area has been dubbed the 'Grand Canyon Nature Reserve,' even while huge swathes of forest are being cut down.
- Local culture, faith and lifestyles are not considered by the government when approving mining projects. Last year, the government approved a mining project on one of the nine sacred mountains, leading to a demonstration and ultimately a riot. In Chamdo, huge copper mines have dislocated nomads from their traditional pastoral lands with no compensation.
- The government is forcing over 100,000 nomads to give up their traditional way of life and move into rows of housing that the government has built. They claim they are protecting the sources of the 'Great Rivers', but this couldn't be less true. The Chinese should look for the sources of pollution further downstream, where they support the industry on which the Chinese economy is built. The nomads near the sources of these rivers have been there for thousands of years, and the rivers were always fine. Only with China's economic boom have they become so polluted as to no longer support aquatic life.

Above are some of the main causes that contribute to the dissatisfaction and unrest in the Tibetan community. Instead of simply blaming the unrest on the Dalai Lama, the government should look closely at the situation with an open mind and enter into negotiations with Dalai Lama. What we are seeking is a genuine degree of autonomy (not to be confused with an independent Tibet), where Tibetans have the right to govern themselves within the Chinese system and preserve their own cultural and religious identity, while having equal economic opportunities to those afforded to the Chinese. As long as Tibetans can live happy, prosperous lives, we don't care what flag we do it under."

Regarding Tibetan violence against Chinese people and property, the ICT reported one well-informed source from Lhasa as commenting, "Sadly, there is plenty of proof of Tibetan-instigated violence in Lhasa. This is so very sad for Tibetan people but shows just how desperate we are. Some stupid people could not see any other alternative. There is no doubt that Tibetan murderers and attackers should be punished under the law, but the hundreds and likely thousands of innocent Tibetans who are now being arrested should not be treated in the same way."

## **Tibetan monks**

On 27 March 2008, the Chinese Ministry of Foreign Affairs organized a media tour for selected foreign journalists. At their visit to the Jokhang Temple in central Lhasa, a group of monks interrupted the tour and surrounded the journalists. Images of the young monks calling for Tibetan freedom and in support of the Dalai Lama, with one monk breaking down in tears, were broadcast internationally. According to the journalists, the monks were adamant that what has happened in Lhasa “has nothing to do with the Dalai Lama”, with one monk saying, “They want us to curse the Dalai Lama and that is not right.”

Although Chinese officials assured the press that the monks would not be punished, their outburst shattered the notion that the situation in Lhasa was under control after days of unrest.

In fact, the ICT reported on the same day that Lhasa’s three major monasteries Ganden, Sera, and Drepung, remained under lockdown and journalists on the official tour were not allowed to visit. The Ramoche temple in central Lhasa was also closed to the press group and after the Jokhang protest, the area was also closed to outside observers.

“Reliable reports from the city indicate that the water has been cut off at Ganden, Sera and Drepung, and monks are running out of food. Sources said that local people are not allowed to take food in for the monks, and one Tibetan source said that monks who tried to leave Sera were forced to go back after they had guns pointed to their heads.”

Also on March 27, the Tibetan Center for Human Rights and Democracy (TCHRD) reported that monk Lobsang Jinpa of Ngaba Kirti Monastery in Amdo Ngaba committed suicide. In his signed suicide note Lobsang stated, “The Chinese government has leveled false allegations against the monks of Kirti Monastery for leaking State Secrets to the outside world, leading and organizing the protests and for keeping the dead bodies of Tibetan protesters shot dead by the Chinese security forces. However, all the charges leveled by the Chinese government were not committed by anyone in Kirti Monastery, but carried out solely by me.” The last line of the suicide note reads, “I do not want to live under the Chinese oppression even for a minute, leave aside living for a day.”

Three days later on March 30, a 75-year-old monk named Legtsok of Ngaba Gomang Monastery committed suicide. Sources say that some days before committing suicide, Legtsok accompanied by two other monks on their way to perform prayer rituals at the home of a Tibetan family, encountered a large contingent of Chinese security forces heading towards their monastery to quell the peaceful protests. Legtsok was brutally beaten and detained for a few days, before being released and sent back to the monastery. Legtsok repeatedly told his two disciples that “he can’t bear the oppression anymore”.



Those words served as premonition to his imminent death.

More recently, monks from the Labrang Monastery in Gansu province staged a protest in front of another state-organized media tour for foreign and Chinese journalists on April 9. A group of 15 monks burst into the courtyard where around 20 Chinese and foreign journalists were assembled and spoke about having no human rights, and about the Dalai Lama returning to Tibet. One of the journalists who spoke to the monks told the ICT: “The monks were very emotional, and one of them was crying. They said that they were not asking for Tibetan independence, but for human rights, and that they had no human rights now. They spoke mostly in Tibetan although then switched to Chinese and also some words of English to communicate. When some of them saw the photographers they threw their robes over their heads so we couldn’t see their faces, but kept talking.”

The ICT reported that all of the monks have been detained and there are fears for their welfare in custody; monks detained after an earlier protest on March 16 were severely beaten. “One of the monks who demonstrated on March 16 and who has now been released from custody was apparently tortured so severely that his psychological condition is severely affected.”

# Care for the sick tests a nation's health

*Philip Setunga*

Rangga, a four-month-old boy weighing only 1.4 kilograms (3 pounds), was diagnosed as suffering from malnutrition by a local doctor in the West Java town of Kedaton, Indonesia, and was referred to the Arjawinangun Hospital in Cirebon Regency for further treatment. The hospital refused to treat the child however, and Rangga was taken home.

The reason given for denying treatment was that the parents do not have the “blue card” called Askeskin, an insurance program for the poor. Later the father, accompanied by the head of the rural administration of Pegagan Lor Village, Kliwon Rusman, and with a letter certifying their impoverished status, went to the same hospital and was turned away yet again.

Meanwhile, the head of the healthcare office of Cirebon Regency said that a patient can claim their right for medication even without Askeskin if a reference letter from the local health clinic is produced. Is this simply a matter of bureaucracy?

In another case, a 22-year-old mother named Iis died in her home in Cipondoh in Tangerang District in mid-March, simply because the family did not have the money for medication. Juanda, her husband, admitted they did not have the money to take her to the doctor or the hospital. His daily income of 15,000 rupiahs (less than US\$2) would not be sufficient to take her to the doctor. Given his poor status, the neighbors would not lend him the money he needed either. Consequently, she died at home after complaining of severe pain for a week.

In yet a third case, a similar death due to starvation took the life of a pregnant mother and a child toward the end of February in Makassar, South Sulawesi.

The situation in East Nusa Tenggara in West Timor is also very severe, as more than 90,000 cases of malnutrition have been reported. Moreover, throughout the country, an

estimated 13 million children under the age of five are considered malnourished in Indonesia. These statistics beg a significant question: How many of these children will later die as well?

The Indonesian government ratified the International Covenant on Economic, Social and Cultural Rights two years ago, and with this ratification it recognized the right to an adequate standard of living for its people, which includes adequate food, clothing, housing and healthcare. Furthermore, in article 28H of the Indonesian Constitution, the right to health is well affirmed: "Each person has a right to a life of well-being in body and mind, to a place to dwell, to enjoy a good and healthy environment and to receive medical care."

While this right is enshrined in the Constitution for all Indonesians, it is not equally realized by everyone; for although the state has introduced various healthcare programs, the poor, as demonstrated in the above cases, who obviously should be the beneficiaries, have been excluded.

The simplest complaints relate to malpractice or bureaucratic lethargy. It is reported that in a number of cases the officers assigned to provide the required reference letters need to be bribed. This practice has resulted in well-to-do people in the cities becoming the beneficiaries of these healthcare schemes—designed by the state as the anti-poverty healthcare program *Askeskin* or the insurance scheme *PT Askes*—instead of the people who really deserve and need them.

Thus, if people's right to health is to be safeguarded, there are a few major issues that need to be addressed. In the health sector, malpractice, negligence and accidents have been noted for a long time, and there have not been any effective remedies because these healthcare deficiencies have not been properly defined nor have standards been established. Thus, none of the complaints can be investigated. Even if a complaint is made to the police, there are no national standards against which the behavior of any of the practitioners can be monitored or assessed. Everyone in the health sector is expected to be guided by their conscience. No service sector however, can function efficiently purely on the basis of a good heart or conscience. There must be standards to comply with, and mechanisms for efficient remedies in cases of violations.

The question of health is increasingly associated with the country's wider economic worries. If the statistics of 13 million children under the age of five are a fair reflection of the actual situation, a host of questions must be raised, including the role played by the state in the provision of adequate and nutritious food to its citizens.

At a recent meeting, the coordinating minister for people's welfare, Aburizal Bakrie, announced that more than 60 million people will be targeted in a special poverty eradication

program to be initiated this year. It is expected to include a social program focused on education and insurance for low-income families, an empowerment program for rural citizens and a small-scale business program.

Given the culture of corruption in the country, it is important that the government explain in detail the process of implementation and the agencies involved. There must be strict accountability and transparency in order to avoid corruption. Moreover, strict visible standards must be stated with mechanisms for reporting malpractices and speedy remedies to avert calamities of death and starvation. Hunger and illness are not something that can be addressed at one's leisure. Delay can mean only one thing: death.

While 60 million people, or one-fourth of the population, are brought under the poverty eradication program, there is a need to examine the country's economic policies to assess their impact on the poorer sections of society. They must be seen from the perspective of providing adequate food, healthcare, education, housing and security as well as ensuring people's dignity. It would be tragic if people are only viewed as the recipients of social welfare. It is time that the dignity of all is taken as the highest priority, thereby securing their participation in all matters pertaining to their rights, including their right to health.

# Bangladesh's criminal justice system delivers injustice

*Asian Human Rights Commission*

A media report implies serious questions about the credibility of Bangladesh's criminal justice system, including the investigation, prosecution and the judiciary, as well as the qualifications of the concerned professionals in those institutions.

A Dhaka based national daily newspaper, the *Din*, reported on 13 March 2008 that a court convicted three persons to rigorous life imprisonment—which is a 14-year sentence—for the alleged kidnapping of a girl in Jhalakathi district, when the said crime did not in actual fact take place.

According to the news report, Ms Liza Akther alias Fuli, who is now 19-years-old, fled from her maternal uncle's house eight years ago as a result of intolerable treatment inflicted upon her by her uncle and aunt, Mr Anowar Hossain and his wife, Mrs Shefali Begum. Strangely, four years later, Mr Anwar lodged a complaint of kidnapping and trafficking with the Jhalkathi police station on 31 May 2004 against three persons; Mr Rustom Ali Shikdar, a petty fisherman, Mr Harun Hawladar, a day labourer, and Mr Nuru Hawladar, a small businessman. The Jhalkathi police recorded the case under the Women and Child Repression Prevention Act.

After police investigation, the men were charged with kidnapping and trafficking and convicted of the same by the Special Tribunal of Women and Child Repression Prevention of Jhalkathi on 7 February 2007. The judge sentenced each of them to 14-years rigorous imprisonment with a fine of 10 000 taka. When the three men appealed the conviction before the High Court Division of the Supreme Court, bail was granted for Harun and Nuru, who were released from detention on February 27, while Rustom's petition was rejected.

When Liza heard that three persons had been convicted of her 'kidnapping', she immediately visited Jhalkathi and lodged a General Diary with the Jhalkathi police station. She also went to a Notary Public and recorded her testimony in an affidavit. Liza told the media that she had fled to Dhaka from her uncle's house following intolerable torture by her

uncle and aunt, and managed to get a job in a garment factory. She later married a businessman.

The lawyer of the three convicted persons, Mr Abdur Rashid Howlader, told reporters that Liza was produced before the Chief Judicial Magistrate's (CJM) Court on March 5, and the Court was requested to record her testimony in a petition. The CJM judge, Mr Reza Tarique Ahmad, who was also the judge of the Special Tribunal that initially found the three men guilty, rejected the petition however, and released Liza under her own custody.

The Officer-in-Charge of the Jhalkathi police station Mr AKM Faruk, while admitting this miscarriage of justice, told the media that one of the two investigation officers of this case, Inspector Mr Sohrab Ali, had already passed away while the other, Sub Inspector Mr Muzibur Rahman, was in service elsewhere.

The families of the convicted men suffered immense loss, including financial and social dignity, following the case. In terms of civil and political rights guaranteed to citizens, this incident reveals gross abuses: police investigators failed to critically examine the fabricated charge of kidnapping as well as of attributing the crime to these three suspects; the prosecutors failed to scrutinize evidence before filing charges; and the judiciary failed to ensure a fair trial.

All those concerned about human rights and rule of law in Bangladesh should commend the reporting of this case by the media. The Asian Human Rights Commission encourages such reporting, which countries like Bangladesh require regularly. This report obliges policy makers to look into Bangladesh's existing criminal justice system. The investigators, prosecutors and judges in this case created a case of fiction instead of facts while they arranged depositions from so called prosecution witnesses to convict the three men. This could only have happened amidst dysfunctional institutions. Government authorities, as well as professionals related to the justice delivery system, must ask themselves whether any of the three justice mechanisms have the necessary levels of efficiency, commitment and accountability required for upholding the law of the land.

The three victims and their families need to be compensated for the grave suffering that has been caused to them. Moreover, the incident needs to be thoroughly investigated and all those directly involved as well as those indirectly involved by way of command responsibility should be brought to justice. Until this happens they should all be removed from the positions they hold within the criminal justice system of Bangladesh.

The Asian Human Rights Commission urges the Bangladeshi authorities to conduct an immediate and thorough investigation into this case, which can be the basis for urgently needed reforms of the criminal justice system. A high level commission can be formed, comprising of legal experts and practitioners, to examine similar cases, determine the loopholes and propose the necessary changes.

# **‘Pink’ justice: Uttar Pradesh’s Gulabi Gang**

*Interview by Prashant Singh*

Little is considered remarkable about the Banda district of Uttar Pradesh, India. The district is a dacoit prone area located in the eastern-most part of the Bundelkhand region bordering the state of Madhya Pradesh. Geographically, the district largely consists of irregular uplands with outcrops of rocks, together with lowlands frequently under water during the rainy season. Banda’s economy is based mainly on agriculture.

From 2002, the entire Bundelkhand region suffered from drought, made worse by the absence of irrigation canals due to irregular uplands. The situation was such that there was a wave of farmers committing suicide, with more than 200 farmers dying in this manner. The numerous welfare schemes available for farmers, including crop insurance and credit, as well as subsidized rations through the Public Distribution Scheme, were all rendered futile, due to a corrupt district administration.

One group of women struggling against injustice under these circumstances have become infamous. For identification and the maintenance of discipline, the women adopted a uniform of pink saris, earning them the name of Gulabi Gang (Pink Gang). The group’s main activities are to check domestic violence, gender discrimination and corrupt government machinery. In the words of the group’s leader Sampat Pal, “We are not claiming that we are revolutionaries, but we are trying to make a corruption-free Banda, where nobody dies from hunger and starvation.” Towards this end, the group once recovered tons of grain stolen from the Public Distribution System and sold on the black market. Unfortunately, since the Banda police are also corrupt, they released the grain after the recovery.

When the Gulabi Gang are on a mission, they will be seen carrying sticks, axes and sickles. Government officers are aware that if found guilty, no one can save them from the attack of these women. When police officers at the Atarra police station refused to lodge a Dalit’s complaint, the group stormed the police station with dogs.

Banda women are proud to be part of the Gulabi Gang. They claim they are not political—they do not belong to any party, nor are they partial to any party—but have their own politics, their own vision. Upon receiving information of domestic violence, the group march to the relevant house, where they first try to solve the problem politely and peacefully.

If this doesn't work, they use their sandals and sticks. Men with feudal and patriarchal attitudes are particularly wary of them.

The group justifies its use of violence by a common proverb: "Bhaya bin hot na preet" ('without fear no love'). Says Ms Pal, "Here in Banda, people understand only the words of power, whether these words are by dacoit or policemen. Nobody wants our words in their ear, that's why sometimes we are violent. For self defense we organize workshop on how to use sticks."

Ms Pal is also an advocate of education, particularly for girls. She envisions a Banda where girls are not victims of child marriages. "I know the pain of child marriage because I was married at the age of 12 years. I lost one son of 16 days due to immaturity," she said. Today she has five children; one son and four daughters, three of whom are married.

"My son is pursuing a Bachelor of Science-Agriculture and my daughter is also pursuing a bachelor degree. Although I am only class 8 passed, I know the value of education and time, that's why I opened a school in the village and I started teaching children, and I also promote unemployed youth to teach children."

While the Gulabi Gang may not have started out with any political aims, they are slowly being pushed into mainstream politics, resulting in Sampat Pal standing for the Uttar Pradesh legislative assembly elections in 2007, where she mustered only 2800 votes. In her words, "Joining politics is not my chosen way to help people. We will keep up our good work, so the state does not take us for granted."

In the badlands of Uttar Pradesh where nothing seems to work for the poor, this is a laudable aim. The group's support among the poor and marginalized of Banda has extended to support from various sectors throughout the country, including state officials pleased with their attempts to improve administrative accountability. The use of violence however, can never be justified, no matter the aims. By ignoring the inherent destructiveness of a group using 'sandals and sticks' to achieve their aims, the Indian society is encouraging the inculcation of a culture of violence. It is also promoting the idea of alternative justice, which will inevitably erode rule of law principles.



# Endorsing murder in the Philippines

*Asian Human Rights Commission*

From March 18 to 22, seven alleged criminals were killed, including a 16-year-old boy, in separate shooting incidents reportedly perpetrated by men riding on motorcycles in General Santos City. The police and the city's mayor quickly announced that the killings could have been the result of a conflict within the group of criminals themselves, given that they all have criminal records. Mayor Pedro Acharon Jr. was quoted to have told a local television station: “ (We think they themselves are killing each other)”.

One of the victims, 16-year old Rolim Dagano, was reported to be on a 'list' of persons allegedly involved in the theft of motorcycles. Prior to this targeted killing, murders of motorcyclists and the subsequent theft of their motorcycles was a widespread problem—at least ten were reported in January alone. Rolim's previous records of theft were also mentioned by the police, to illustrate his supposed involvement in criminal acts, prior to concluding their investigation.

Aside from Rolim however, the remaining victims were not on any 'list' of criminals.

Before these murders took place, the city's police chief, Senior Superintendent Robert Po, issued orders to his field commanders demanding they 'dismantle' the group of criminals involved in motorcycle thefts. Thereafter, these murders started to occur. Victims have been killed in places close to their residences, outside chapels, and even inside their residences in the presence of their relatives. The perpetrators however, have gone unidentified and unpunished for their crimes.

There were sweeping allegations and immediate conclusions justifying these murders, but the police and city mayor have not given any reasonable explanations for their justification, or why this group of people deserve to be killed. When crimes are committed, it is the obligation of the police to investigate and discover who is responsible. Such an investigation does not rest on whether or not the victim possessed a criminal record.

Murder is a criminal act and it is the duty of the police to hold those responsible to account. In failing to do so, they deny victims' families of any remedies, particularly of

knowing the circumstances of their loved ones' deaths. Meanwhile, families' claims that their loved ones were not criminals and were not involved in any criminal activity, are not looked into. Families are also forced to live with the stigma of their loved ones being branded as criminals. They are deprived of equality before the law and equal protection by the law, because the law enforcement authorities themselves have justified the murders, concluding they were nothing but a 'war amongst criminals'.

In fact, the justification of these murders has given blanket impunity to the perpetrators, who continue to shoot their targets in public. The police and city mayor's premature conclusion of these murders not only endorses murder for a certain sector of society, but it also dilutes the notion that police authorities have a responsibility to investigate all crimes and punish offenders. They have abandoned their fundamental responsibility of protecting the lives of all citizens—whether a criminal or not.

If, as the police and the mayor have pointed out, the seven murders were a result of 'gang warfare', then the authorities should have a starting point for their investigations. They should be able to find enough information to identify, arrest and charge the perpetrators in court. That no one has yet been charged for these murders questions the credibility of the police, whose failure to take appropriate action serves as alleged complicity in the murders.

The police should also explain the existence of the reported 'list' of criminals, and how they came about it. Is the listing of persons as alleged criminals involved in motorcycle thefts a sanction to murder them?

# I am a woman...

*Somia Sadiq*

I am a woman, and I will stop by,  
To crush you to dust, to drown your pride.

All those dreams you took away,  
My life, my soul, you took away  
In the name of honour, in the name of pride,  
You consumed my tears, with every stride.

But I am a woman, and I will stop by,  
To crush you to dust, to drown your pride.

You took away my right, my right to be free,  
You stole my youth, you raped my innocence,  
You taught me to shush, freeze my tears,  
So I could stay your slave, lost forever,  
Lost for the shattering of my bones,  
Lost in the sound of you quenching your thirst,  
A thirst to suppress, a thirst to oppress.

But I am a woman, and I will stop by,  
To crush you to dust, to drown your pride.

How long did you think it'll be?  
Oh you stupid stupid man!  
I am a woman, fear my power,  
I am the rain, a rain of fire,  
I am awake, I will stop by,  
To crush you to dust, to drown your pride.

No longer will I remain a slow silent procession,  
Of suppressed wailings, of quiet agitation.  
The spark of freedom that I tucked away,

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Is now a fire, a storm, a wrath so powerful,  
Fueled by the obsession for emancipation,  
The obsession for freedom, obsession for love,  
Obsession to wipe out the system that breeds you,  
Obsession to eradicate all those like you,  
Who suppress, oppress and antagonize.

Yes, I am a woman, and I will stop by,  
With my comrades, standing as one,  
Red flags in our souls, red dawn in our hearts,  
To crush you to dust, to drown your pride.

# by Patrick Lawrence

*Reviewed by Fr. Roberto Reyes*

<http://www.ahrchk.net/pub/index.php>.

To the total stranger, Sri Lanka is no more than the modern name of an erstwhile British colony called Ceylon. Ceylon then would suggest a key export, tea. Between the story of a colony and its reputation as producer of world class tea, there is much to be said about Sri Lanka's continually beleaguered present and its emergence from an equally beleaguered past. is Patrick Lawrence's attempt at using the past as mirror to the present. The author achieves this by relying on the recollections of individuals of the Sri Lanka they knew and experienced.

Most of these recollections are sad and gray, a story of decline and decay. Both systems and individuals play a crucial role in this as the author observes: "Yes, men and women can destroy institutions, and it is a sad fact of public life that they do so far more easily than they can build or rebuild them. But the Sri Lankan case appears to be one gradual decline from the bottom up rather than the work of a single man."

Then he speaks of the justice system, "The higher courts appear simply to have taken the character evident for so many years in the lower courts, the courts that are supposed to serve ordinary people. So it is partly a matter of everyone now getting the treatment ordinary people have long endured." Thus, both persons and institutions are, as it were, going down with the flu.

The author gathered data through personal interviews which he termed "conversations." A whole gamut of Sri Lankans were interviewed, from the ordinary to the more prominent. The very personal testimonies are a combination of historical facts and personal reflection gradually bringing together the pieces of a complex puzzle called Sri Lanka. They make up essential aspects of Sri Lankan history in the last century, focusing on the more recent developments which drove a wedge between Sri Lanka's British colonial past and the

current politics of elitist rule backed by a corrupted and compromised police and military forces. The current woes of Sri Lanka are: the war being waged by Tamil separatists against the Sinhalese majority; a failed justice system controlled by an all-too powerful president who appoints only loyal lawyers to positions from the highest (Chief Justice) to the lowest (judge in the poorer provinces); human rights violations from torture to illegal detention.

What is of interest is the emerging variety of analyses that help understand both aspects of Sri Lankan history as well as the elusive Sri Lankan character. Sri Lankan history is marked by progressive institutional collapse, seen in particular in terms of an all too powerful presidency, abusive police, military, a compromised judiciary and corruption. Important historical markers vis-à-vis personal evolution show this interesting interplay between history and character. For instance, the author frames the life of one of his informants, Vijaya, in the following way: describing Vijaya in his twenties, before and after the       ; before and after the election of 1956 and before and after the language law. A seemingly endless story of suffering has produced a sad picture of victims. A mentality of looking up and looking down seems to afflict many. Each citizen can define herself in terms of those above and below her. On the lower-most rungs of the government stand the police, who manifest the “clearest, most naked expression of self-contempt that is now part of the hierarchical consciousness.”

There is more than one war raging in Sri Lanka. The first is apparently ethnic between the government composed of a Sinhalese majority and the Tamil separatists. A second war goes on everyday, in police stations, lower courts and jail cells. A third war is violence rooted in psychology and ultimately self-image. In another place, an informant uses the words “collective neurosis.” Again, due to constant threat of violence, people have become either fearful or desensitized.

But Sri Lankans are struggling and fighting. Small but significant successes have been documented, as in the cases of Angaline Roshana, Palitha Tissa Kumara and Lalith Rajapakse. These are ordinary Sri Lankans who suffered from torture and legal abuse, but who bravely fought for their rights and succeeded after some time. While a prominent member of the Colombo elite commented, “all of us are simply trapped” an informant, Thangavelu, felt differently, “You cannot say there is no hope. The human resources are superb. You can turn around the mentality in a couple of years if you really concentrate on it.” In the same vein, Chitral, living a life of defiance and revolution, insists that “hierarchy must be challenged.” He then proposes an important question of distance, “At what distance should one stand in a society as near to failure as Sri Lanka?”

The author ends the way he begins. The voices he heard in conversation lamented the gradual disappearance of public space. All of Sri Lanka has been reduced to the narrow

and jealous space of the political elite, shared by chosen loyalists in the judiciary and military. Towards the end of the book, public space is being reclaimed in a slow, painful and even risky way by individuals, groups and communities, which fight and promote the rights of the uncomfortably silent in Sri Lanka. Examples of this are colorfully illustrated by the likes of Shanti, Mrs Malkanthi, Clifford, a Judicial Medical Officer, Fr. George, the Uruwerige tribe and Amitha Priyanthi. Memory although personal and individual is transformed into history through the courageous struggle of individuals, communities and groups either for themselves or others.

There is hope for Sri Lanka. This precarious hope hinges on those who see, experience, speak and act beyond the narrow confines of ethnicity, elitist politics, compromised religion, meaningless suffering and repression and appropriated history, and together 're-enter' and 'reclaim' Sri Lanka by recreating public space.

# **Blog campaign launched on Thailand's national rights body**

*Asian Human Rights Commission*

(Hong Kong, March 4, 2008) The Asian Human Rights Commission on Tuesday launched a blog campaign to raise debate on the appointment of new members to Thailand's national human rights body.

The Hong Kong-based regional rights group started the blog alarmed at a lack of public discussion about the appointing of new members to the National Human Rights Commission (NHRC) of Thailand this year.

"Right now there seems to be no talk at all about who the new commissioners will be or how they will be selected once the senate is up and running," Basil Fernando, director of the AHRC, said.

"If people in Thailand don't keep their eyes on this, then one day soon without knowing it they will end up with a bogus and politically-managed commission comprising of people who couldn't care less about human rights, like what now exists in Sri Lanka," he warned.

Thailand's senate, which is half-elected and half-appointed, has the task of revising the law on the NHRC through which new members will be selected.

According to the 2007 constitution, candidates should have "apparent knowledge and experience in the protection of the rights and liberties of the people".

"We need to get as many ideas as possible about who fits these criteria," Fernando explained. "We hope that this blog will be a place for people to get talking about who can do this important job, and that it will promote talk elsewhere too," he said.

The AHRC plans to incorporate suggested candidates into the blog and come up with a list of seven possible new commissioners to put forward to the selection panel. It will also publish interviews with existing commissioners and other concerned persons.



“Although a national rights institution is no substitute for proper courts and criminal investigators, with good people on board it can certainly contribute to building a culture of human rights,” Fernando observed.

“The current commission in Thailand has a number of good persons who have tried their best to defend human rights there in extremely difficult times,” he said.

“We sincerely hope that through this blog campaign we can get some ideas going on suitable replacements and look forward to a good debate,” Fernando added.

The blog is titled “Who should be the rights commission?” and it can be read at: <http://nhrc thai.wordpress.com>.

It will be predominantly in Thai but also in English, and updated regularly.

# 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 bimonthly 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 bi-monthly 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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