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從甘地的年代到現今的莎美拉
FROM GANDHI TO SHARMILA
Support Iron Lady of Manipur
Repeal Armed Forces Special Powers
Act, 1958 from Manipur, India
15 MARCH 2010



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High Commissioner speaks out against domestic violence and 'honor killing' on International Women's Day

Press Release from the United Nations High Commissioner for Human Rights forwarded by the Asian Human Rights Commission: AHRC-FPR-016-2010

Following is the statement by the United Nations High Commissioner for Human Rights, Navi Pillay, on the occasion of International Women's Day, which is commemorated on 8 March 2010:

"It has been estimated that as many as one in three women across the world has been beaten, raped or otherwise abused during the course of her lifetime. And the most common source of such violence comes from within the family. Amongst the most extreme forms of abuse is what is known as 'honor killing'.

Most of the 5,000 honor killings reported to take place every year around the world do not make the news, nor do the other myriad forms of violence inflicted on women and girls by husbands, fathers, sons, brothers, uncles and other male—and sometimes even female—family members.

In the name of preserving family 'honor,' women and girls are shot, stoned, burned, buried alive, strangled, smothered and knifed to death with horrifying regularity.

The reasons for these murders vary. They may be committed because the victim is considered to have breached family or community norms with respect to sexual conduct, or simply because a woman has expressed a desire to pick a husband of her own choice, or wishes to divorce or claim inheritance. Most perversely, rape victims are sometimes viewed as having 'dishonored' their families and are killed by them as a means of erasing the stigma, while the men who raped them often escape lightly.

The problem is exacerbated by the fact that in a number of countries domestic legal systems, including through discriminatory laws, still fully or partially exempt individuals guilty of honor killings from punishment. Perpetrators may even be treated with admiration and given special status within their communities.

Honor killings are, however, not something that can be simply brushed aside as some bizarre and retrograde atrocity that happens somewhere else. They are an extreme symptom of discrimination against women, which—including other forms of domestic violence—is a plague that affects every country.

For many women and girls, the family life that is supposed to be productive, protective and harmonious is little more than a myth. Instead, for such females, family life means physical, sexual, emotional or economic violence at the hands of an intimate partner or other family members. Domestic violence typically involves punches, kicks and slaps, or assaults with objects or weapons. It also frequently involves persistent belittlement and humiliation, and often includes the isolation of women from traditional supporters such as other family members and friends. Sometimes it may involve forced participation in degrading sexual acts, rape and homicide. Some women, who resist an arranged marriage, are locked up by their families for long periods until their will is broken and they agree to marry the man who has been chosen for them.

It is often argued that economic independence and empowerment of women in general are the best way to combat domestic violence—and rightly so. The main reason cited by women for not leaving abusive relationships remains the lack of financial autonomy and access to a safe home.

However, too much reliance on these solutions disguises the depth and complexity of the problem: domestic violence has also been on the rise in countries where women have achieved a considerable degree of economic independence. Successful business-women, and female parliamentarians, lawyers, doctors, journalists and academics have all been known to lead double-lives—applauded in public and abused in private.

The reality for most victims, including victims of honor killings, is that state institutions fail them and that most perpetrators of domestic violence can rely on a culture of impunity for the acts they commit—acts which would often be considered as crimes, and be punished as such, if they were committed against strangers.

Traditionally, there has been some debate around the issue of state responsibility for acts committed in the private sphere. Some have argued, and continue to argue, that family violence is placed outside the conceptual framework of international human rights. However, under international laws and standards, there is a clear State responsibility to uphold women's rights and ensure freedom from discrimination, which includes the responsibility to prevent, protect and provide redress—regardless of sex, and regardless of a person's status in the family."

Gender based disparities worst in Pakistan

(Edited text of two statements issued by the Asian Human Rights Commission: AHRC-STM-043-2010 and AHRC-STM-041-2010)

Physical and sexual violence, honor killings, forced marriages and structural inequalities within society make Pakistan one of the worst countries in terms of the gender gap, according to the World Economic Forum's *Global Gender Gap Report 2009*. Pakistan ranks 132 out of 134 countries, and its ranking among Asian countries is also low. In terms of economic empowerment, it stood at 132, health at 128 and political empowerment at 55. Clearly the situation is worsening, as its ranking was 127 in 2008, which was also Asia's worst ranking in terms of the gender gap.

Although the 'international women's day' originated as a day in which women are reminded of the battles they have fought, the achievements gained, and the small but certain steps taken towards equality and empowerment, there is little doubt that the road ahead is long and bumpy. While the day honors the rights women acquired over years of struggle, Pakistani women have almost nothing to celebrate. Their rights and safety are continuously curtailed by repressive laws and customs. The government's paltry efforts have done nothing to improve the structural inequalities and violence they suffer. Moreover, their low status is entrenched in society's patriarchal and feudal mindset.

Laws have been issued to tackle violence against women, such as the Protection of Women Act, 2006 or the Criminal Law Act, 2009. The latter provides protection to working women from sexual advances and intimidation at their workplace. The 2006 law protects women from abduction and rape among other things, and provides for the punishment of such offences. It still fails to fully protect women however, by not recognizing marital rape or by severely punishing non-marital sex for instance.

On 26 January 2010, a bill regarding acid violence was submitted to the National Assembly. This marks the beginning of a long legislative process. Furthermore, without strong political will—so far non-existent—it will take considerable time before a law is successfully adopted and enforced. Until now, most cases of acid attacks have not seen significant actions taken against the perpetrators, nor have adequate compensation and support been granted to the victims.

Throughout 2009, thousands of cases of violence against women were reported in Pakistan. Most of the perpetrators are family members, such as a husband, a brother or a cousin. If a woman has been branded 'kari' (black woman) by a jirga (a tribal assembly), her husband is entitled to kill her and her alleged lover. Jirgas are illegal in Pakistan, but the rule of tradition is often more powerful than the rule of law. The number of women of all ages and backgrounds who are killed in the name of honor cannot be determined; the vast majority of these cases are unreported and only in the rarest cases are perpetrators brought to justice. Many women in Pakistan live lives circumscribed by misogynistic traditions which systematically control their bodies, their decisions and their lives. Undocumented and unreported killings in the name of honor are often bolstered by governmental indifference, discriminatory laws and negligence on the part of Pakistan's police force and judiciary. As Neshay Najam in 'Honour Killings in Pakistan' notes, "it is paradoxical that women who enjoy such a poor status in society and have no standing in family should become the focal point and a false and primitive concept of family honour, which they are expected to uphold at the expense of their inclinations and preference in matters of marriage."

Women are beaten up, raped, tortured or even killed at home; they have to face the constant threat of sexual harassment, sexual assaults, rape and gang-rape. In Swat, 17-year-old Chand Bibi received 34 lashes in public for going out in the street with her father-in-law. A few weeks ago, Samina Khawar Hayat, a female legislator in the legislative assembly of Pakistan's Punjab province stunned her colleagues by asking the Punjab government to amend existing laws to allow men to marry a second, third and fourth wife without the consent of first wife, whereas existing Islamic family laws in Pakistan make it mandatory for husbands to obtain permission from their first wife.

Religious minorities

Women belonging to religious minorities are particularly threatened by repressive laws, customs and religious hatred by Muslim extremists. The majority of women from Hindu and Christian communities in urban centers are employed as scavengers or sanitary workers and earn less than USD 12 per month. They are deprived of basic human rights and denied of the protection of labor laws. In rural areas they have to live in shanty towns outside Muslim dominated areas and are treated as the scheduled caste.

In the Sindh province in particular, Hindu women are direct victims of a feudal society and work for very meager amounts. They remain in debt to loans provided by landowners for their labor in the fields. The Hindu community in this area, along the borders of India, is from different scheduled castes like Bheel, Kohli and others, and its women are subjected to abduction, rape, arbitrary arrest, torture, displacement and killings. Furthermore, most of the bonded labor in Sindh comes from the Hindu community,

a century old tradition. Women suffer the most from practices of bonded labor. In the districts of Badin, Mirpukhas, Sanghar, Umer Kot, Tharparker Hindu women are treated as slaves due to religious hatred and debts claimed by their 'owners'.

Pakistan's working class women, including peasants and laborers, are mostly employed in informal sectors and cannot even earn one USD a day. In the kilns, road construction, fields and domestic industries, women have no rights and are bonded. There is no question of the implementation of labor laws when it comes to women from minority groups, as they are treated as slaves.

Women from religious minority groups are of the least concern to the government as well as to civil society groups. While there is a quota of two percent employment for religious minorities in government departments, hardly any women from these groups are employed in these positions.

Pakistan has ratified the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), but has yet to implement its provisions within society. The Asian Human Rights Commission urges the government of Pakistan to implement the CEDAW in its true spirit. All women, regardless of their religion and socio-economic status, should be treated equally according to the constitution of Pakistan.

It is clear that discrimination against women is not only a legal problem, but also a societal problem; laws are therefore not sufficient to protect women against century old traditions. Societal discrimination can be addressed only through a fundamental evolution that includes the disassembly of jirgas, the effective implementation of the rule of law in every region of the country, and the reform of the judiciary and the police to prevent impunity and condemn perpetrators, all of which requires a strong political will. Structural changes must also occur, such as a better representation of women in state and public offices. The government should also make changes in the education curriculum according to CEDAW, ensuring that hatred from the Muslim society against women from religious minorities is prevented. Furthermore the women from religious minorities should have free access to education and health facilities. The international women's day, March 8, should be taken as an opportunity to remember the women of Pakistan and think about how their lives can be improved.

Acid attacks a serious concern in Pakistan

(Edited text of a statement issued by the Asian Human Rights Commission: AHRC-STM-018-2010)

The Asian Human Rights Commission (AHRC) has received photographs from Mr Javed Kapoor showing the extent of the gender-based violence in Pakistan and the concrete consequences of the misogynist mindset spreading within the Pakistani middle-class. The AHRC is working on those acid throwing cases as part of its involvement in denouncing human rights violations across Asia.

On 26 January 2010, a bill regarding acid violence—which would specifically target acid related crimes by providing graver punishments for the attackers and by regulating the sale and purchase of acid—will be submitted to the National Assembly of Pakistan. But this only marks the beginning of a long legislative process and it will require some time before the law is successfully adopted and effectively enforced. It will also require a strong political will, which until now, has proven inadequate, if not nonexistent. Indeed, in most of those cases, the judicial institutions have not taken stern sanctions against the perpetrators, which have often been able to walk away in total impunity. Nor has adequate compensation and support been granted to the victims.

Irum Saeed, 30, poses for a photograph at her office at the Urdu University of Islamabad, Pakistan, Thursday, 24 July 2008.

Irum was burned on her face, back and shoulders 12 years ago when a boy whom she rejected for marriage threw acid on her in the middle of the street. She has undergone plastic surgery 25 times to try to recover from her scars.



Shameem Akhter, 18, poses for a photograph at her home in Jhang, Pakistan, Wednesday, 10 July 2008.

Shameem was raped by three boys who then threw acid on her three years ago. Shameem has undergone plastic surgery 10 times to try to recover from her scars.



Shehnaz Usman, 36, poses for a photograph in Lahore, Pakistan, Sunday, 26 October 2008.

Shehnaz was burned with acid by a relative due to a familial dispute five years ago. Shehnaz has undergone plastic surgery 10 times to try to recover from her scars.



Najaf Sultana, 16, poses for a photograph at her home in Lahore, Pakistan on Wednesday, 9 July 2008.

At the age of five Najaf was burned by her father while she was sleeping, apparently because he didn't want to have another girl in the family. As a result of the burning Najaf became blind and after being abandoned by both her parents she now lives with relatives. She has undergone plastic surgery around 15 times to try to recover from her scars.



Shahnaz Bibi, 35, poses for a photograph in Lahore, Pakistan, Sunday, 26 October 2008.

Ten years ago Shahnaz was burned with acid by a relative due to a familial dispute. She has never undergone plastic surgery.



Kanwal Kayum, 26, adjusts her veil as she poses for a photograph in Lahore, Pakistan, Sunday, 26 October 2008.

Kanwal was burned with acid one year ago by a boy whom she rejected for marriage. She has never undergone plastic surgery.



Munira Asef, 23, poses for a photograph in Lahore, Pakistan, Sunday, 26 October 2008.

Munira was burned with acid five years ago by a boy whom she rejected for marriage. She has undergone plastic surgery seven times to try to recover from her scars.



Memuna Khan, 21, poses for a photograph in Karachi, Pakistan, Friday, 19 December 2008.

Memuna was burned by a group of boys who threw acid on her to settle a dispute between their family and Memuna's. She has undergone plastic surgery 21 times to try to recover from her scars.



Zainab Bibi, 17, adjusts her veil as she poses for a photograph in Islamabad, Pakistan, Wednesday, 24 December 2008.

Zainab was burned on her face with acid thrown by a boy whom she rejected for marriage five years ago. She has undergone plastic surgery several times to try to recover from her scars.



Naila Farhat, 19, poses for a photograph in Islamabad, Pakistan, Wednesday, 24 December 2008.

Naila was burned on her face with acid thrown by a boy whom she rejected for marriage five years ago. She has undergone plastic surgery several times to try to recover from her scars.



Saira Liaquat, 26, poses for the camera at her home in Lahore, Pakistan, Wednesday, 9 July 2008.

When she was 15, Saira was married to a relative who would later attack her with acid after insistently demanding her to live with him, although the families had agreed she wouldn't join him until she finished school. Saira has undergone plastic surgery nine times to try to recover from her scars.



The case of Naila Farhat (see picture above) was brought to the Supreme Court of Pakistan in November 2008 and received enormous publicity. In this specific case, the perpetrator was sentenced to 12 years imprisonment and ordered to pay 1.2 million rupees in damages. This represents a landmark decision in dealing with gender-related violence, but the judgment could not stop the menace of acid-throwing. It is important to recognize that this decision was an exception in the landscape of acid attacks in Pakistan; in most cases the measures taken—if any—are not proportionate to the sufferings inflicted by the attacks.

Most acid-attacks are punishing measures towards women who have refused to accede to commands from men or have stood against abuses from them. The effects of these acid attacks upon their lives have been destructive: apart from the physical trauma undergone (some are scarred and maimed for life, despite numerous surgical interventions), they also have to face psychological trauma as well as social isolation and ostracism from their community. A law against acid crimes will hardly act as a deterrent when perpetrators know that if they have enough resources and leverage they can shrug off any charge held against them, no matter the atrocity.

From the victims' point of view, there is a high risk of denial of justice, and the numerous obstacles they can face in their pursuit of justice may act as a strong disincentive

preventing them from reporting the attacks. Indeed, the status of women in Pakistan, subject on the one hand to pressures not to disgrace their families by filing a case, and on the other hand, to disdain from the police officers themselves, will add to the obstacles faced by any average Pakistani seeking justice within a corrupted policing system and administration.

Irom Sharmila Chanu and the fight to end impunity in Manipur

(Compiled from a statement and petition of the Asian Human Rights Commission: AHRC-STM-017-2010, <http://campaigns.ahrchk.net/manipur/>)

Menghaobi, alias Ms Irom Sharmila Chanu, known as Manipur's beacon of peace and hope, received the Lifetime Achievement Award on 26 January 2010. Sharmila shares the award with Mr Tenzing Tsude, Professor Hassan Mansoor, Fr Claude, Mr Abhay Sahoo, Mr Prasanta Paikray, Mr Cherkadi Rama Chandra Rao, Mr H Ganapati Appa Sagara, Ms Anasuyamma Allalasandra and Mr Himanshu Kumar.

The award is organized by a collective of Indian NGOs and was presented in a ceremony held at Bangalore. Unable to be present during the ceremony, since she is held in house arrest in Manipur, Sharmila, accepting the award, sent a letter to the Union Minister of Law and Justice, Dr Veerappa Moily, reproduced below:

Message from Ms Irom Sharmila Chanu
The Civil Society Submit 2010
Bangalore, 24-26 January

The tranquility or disorderliness of a society is dependent on the relationship between the civil society and its Rulers. Just like the relationship between the King and the Queen bees on the one hand and their numerous offspring on the other. The offspring build a hive in accordance to the directives of the Rulers. And they all settle together happily inside the hive with plenty of food, honey and in the safety of a secured shelter.

But this pristine peace is not eternal. As the offspring matures and assumes multiple roles, contestation and competition crops up. One tries to outsmart the other right besides the much coveted Couple. The harmony of the hive is disturbed. The inevitable intermittent fractional fighting leads to dilapidation of the hive and ultimately ruined the bees.

The role of civil society within a nation, much like the offspring bees, is enormous. They are the very backbone of the nation. The capacity to stand united by overcoming our narrow sectarian interest, by realizing the common good in

building up a just social order and by our commitment to work hard to achieve this higher goal is the only way to bring about emancipation in our society. These virtues alone can make our dream of Justice—social, economic and political—come true. This alone can abolish starvation and poverty that has been chronically plaguing our society.

I am of the firm belief that it will also heighten Nature's Beauty. And Her Beauty will ultimately harmonize with mankind's well being. And in the same manner as honey contributes towards our well being and wax enhances the beauty of our cloths, an organically-evolved, value-based civil-society can bring about a Civilized Universe wherein all our fundamental rights and basic freedoms can be realized in its true sense.

My warmest regards to each and every one of you who have contributed toward sustaining this hope for a just-world order! From the confines of my hospital bed in Imphal, I wish the Civil Society Summit 2010 a Grand Success!

Also known as the Iron Lady of Manipur, a human rights activist, journalist and poet living in Manipur, Sharmila's birthday is on March 14. The Asian Human Rights Commission has initiated an online signature campaign to support her 10 year hunger strike and to demand the government of India and the Manipur state government end impunity in the state. The campaign also urges the government to withdraw the Armed Forces (Special Powers) Act, 1958 (AFSPA) from Manipur.

Sharmila is on an indefinite fast since 4 November 2000, protesting against the violence committed by state and non-state actors in Manipur. Her protest also demands an immediate end to impunity in the state, for which the withdrawal of the martial law, the AFSPA, is a prerequisite. The government has not withdrawn the law; neither has Sharmila stopped her fast.

Within a few days into the fast, Sharmila's health deteriorated. Fearing adverse political repercussion and failing to admit defeat, the government arrested Sharmila and detained her under section 309 of the penal code, a provision penalizing the attempt to commit suicide. The government of Manipur is now force-feeding her through a nasogastric tube. Sharmila has been in this state for the past 10 years, confined under police custody in her small room in Manipur.



As Sharmila's protest gained publicity, several persons wanted to visit her and express their solidarity with the cause of ordinary Manipuri people that she represents. However, the government has denied her any visitors.

In the meantime, Manipur has become increasingly militarized. Each day innocent persons are killed by underground militant groups as well as state agents. Most of these incidents are not investigated or even registered as extrajudicial executions. In 2009, Manipur's Director General of Police, Mr Joy Kumar Singh, openly stated in an interview that his officers had killed more than 260 persons in 11 months, insisting they were all 'terrorists'.

There is no credible data available from Manipur that provides a reasonable estimate concerning the number of deaths and/or other forms of human rights violations. The state government, with overwhelming support from the central government, is relatively successful in silencing human rights activists in the state. The arrest and detention of Mr Jiten Yumnam is the latest of these cases. For further details please see AHRC-STM-010-2010.

Extrajudicial execution is not legalized in India, yet it happens every day in states like Manipur. National institutions like the National Human Rights Commission and the Supreme Court of India have expressed concern about the increasing number of extrajudicial executions reported in the country, to no effect.

The AFSPA is one more addition to the overall impunity framework that has contributed to the deterioration of the rule of law in Manipur. A number of national bodies including the Justice Jeevan Reddy Committee, the Second Administrative Reforms Commission and the Prime Minister's Working Group on Confidence-Building Measures in Jammu and Kashmir have recommended that a law like AFSPA will only facilitate violence and not prevent it.

The ongoing armed conflict in Manipur has only benefited two categories of individuals. The underground militant groups use the conflict to create a climate of fear so that they can extract resources from citizens and receive support from foreign entities that encourage internal disturbances in India. It also benefits politicians like the Chief Minister of Manipur, who in the past two decades has become one of the richest persons in the state. He has reportedly used the conflict as a catalyst for his political and economic growth. Not too long ago the Chief Minister was a petty contractor who paid extortion money to militant groups.

Caught between the two evils are the ordinary people of Manipur, forsaken by state and central institutions.

The withdrawal of the AFSPA will not in itself solve the Manipur crisis. Neither is it a panacea for the states's socio-economic problems. Yet, it could be a bold and open step by the government to show that it does have intentions to find solutions to an armed conflict that has haunted an entire state for over six decades.

Armed conflicts across the world have proven that murder and impunity sanctioned by the state will not end conflict, but rather encourage it.

By her humble yet bold protest, this is the message that Sharmila wants her government to acknowledge and respect.

To express solidarity with Sharmila, and state your disapproval of using force with impunity in Manipur, you can join the online campaign at: <http://campaigns.ahrchk.net/manipur/>. The petition will be open for signature till 15 March 2010.

The cry of women against disappearances of loved ones: From Manorani Saravanamuttu to Sandya Ekanaliyagoda

Basil Fernando

(Edited text of an article issued by the Asian Human Rights Commission: AHRC-ART-020-2010)

The voice of Manorani Saravanamuttu was heard loudly during the last decade of the 20th century, protesting strongly against disappearances in Sri Lanka. The voice of Sandya Ekanaliyagoda is now heard on the same issue. Both voices are echoing voices of tens of thousands of mothers, wives, sisters and daughters of persons who have been forcibly disappeared, mostly by state agents.

Their voice reveals a reality made up of the following components:

The making of selections for killings by agencies authorized by the state and carried out in secret;

The maintenance of units for the meticulous planning of abductions instead of arrests, and the detaining of persons who then have no access to anyone other than these agencies;

Secret detention and interrogation where the use of torture is likely;

The secret execution of these persons at the end of the interrogation, followed by secret burials; and

A process of denial by these agencies as well as by the government and the creation of various stories to generate doubt about what actually happened to these people and the complete denial of all rights to these people.

Forced disappearances are one of the cruelest ways to deal with individuals and their loved ones. They represent the absolute denial of rule of law, due process and the right to information and justice.

Richard Zoysa, **Manorani Saravanamuttu's** son, disappeared on the 17th or 18th of February 1990. A few days later his body was washed up on the shore and identified by her. It was widely speculated that the body was taken by helicopter and dropped from a height in the hopes that it might become stuck in the mud and disappear altogether.

On recovering the body and commenting on the process of such a disappearance taking place during that time, Saravanamuttu made the following comments:

“They come and knock at doors, ring bells and they look at you, and frighten you, and threaten you. If I had thought for one moment that they had come to take my son I would have died there at the door... It's the women who bear the brunt, and it's the women who are the strong ones, because, when you lose a child you lose yourself” [quoted from a video interview by Nimal Mendis].

“It is the most devastating experience to have a child pulled out of your arms. My boy ‘disappeared’ and 48 hours later his mutilated body was found. Since then I have received numerous threats, anonymous letters, telephone terror and I am also certain that my telephone is tapped. I want to pursue my son's case. Many friends and colleagues have asked me to stop: “the one who seeks the battle should not complain about the wounds”. But I know there are tens of thousands of relatives who have been affected by the violence. I will never advise the women I work with to forget, I will tell them that they must speak” [quoted from Linking Solidarity].

Sandya Ekanaliyagoda is the wife of a journalist who worked for Lanka E-News. In the last two months of 2009 and in early January 2010 he wrote several articles supporting the candidature of Sarath Fonseka as the common candidate for the joint opposition and opposing the incumbent president. He was warned by a friend that his name was found on a government agency's death list. He has been disappeared since January 24, two days before the election, and remains missing. Sandya suspects the government for her husband's abduction and disappearance. She has made complaints to the police as well as the Human Rights Commission of Sri Lanka and other government authorities. Her voice has been given expression to by the Association of Journalists and the media as well as human rights organizations, not only in Sri Lanka but across the world.

The government's reply is a blatant denial that they are involved in any way. It has not conducted any kind of credible investigation, but instead has propagated stories that perhaps Sarath has gone away somewhere by himself, or that there is some personal matter involved in the disappearance. Even government ministers are involved in spreading these stories to discredit Sandya's claims of her husband's disappearance.

Once again, the reality that Sandya Ekanaliyagoda is dealing with is the complete denial of legality, recognition of rights, or due process. Here, an individual, a woman, is facing the total absence of accountability from the government, as well as any legal obligation. Here, a woman, a part of the community, is treated as a complete outsider to

the community. When the state deals with an individual in a way that defies every legal principle, how can the concept of human rights exist?

Manorani Saravanamuttu, Sandya Ekanaliyagoda and many other women are raising such fundamental questions, are wondering what it means to be a human being in the total absence of any respect for the rule of law; what human dignity means in the absence of any legal obligation by the state. The voices of these women must be heard if society is to give meaning to its conceptions of the rule of law, democracy, human rights and decency.

Manorani Saravanamuttu and Sandya Ekanaliyagoda are symbols of women crying in the deepest wilderness, asking questions that no decent society can avoid answering.

Burma: Authorities persecute political opponents ahead of announced election

Statement issued by the Asian Human Rights Commission: AHRC-STM-045-2010

While the military regime in Burma has iterated that it will hold a general election for a new legislature before the end of 2010, government officials have been relentlessly pursuing, intimidating and imprisoning political opponents. In recent weeks the Asian Human Rights Commission (AHRC) has issued appeals on a number of such cases, including the sentencing of a journalist to 13 years in jail for non-existent video footage; the detention, torture and evidence-free trial of 11 people; and the imprisonment of another nine on confessions obtained through use of torture.

The imprisonment of opponents rightly attracts widespread concern and condemnation abroad. But the authorities in Burma have a range of other legal and extra-legal measures at their disposal to persecute dissidents and their families beyond the jail walls. A case in point is the recent auctioning of seized property owned by the family of one detainee, Daw Win Mya Mya, in Mandalay.

In 2008 the AHRC issued an appeal on the imprisonment of Daw Win Mya Mya and four other persons for allegedly having participated in a meeting of the National League for Democracy during September 2007 where according to the police the speeches were aimed at causing public unrest (AHRC-UAC-246-2008). Win Mya Mya is currently serving her sentence for these so-called crimes.

Meanwhile, some months before her arrest in 2007 the Mandalay municipality seized the market stall owned by Win Mya Mya's family because of two small NLD stickers on one side of the premises. This February 17, it sold the stall at auction, despite repeated requests from the family to senior officials for the stall to be returned to them as the family income depends upon it. The family has also been unable to rent any other place with which to continue their business.

The persecuting of the family in this case speaks to the extent to which the authorities in Burma are prepared to exercise their coercive powers through a range of sanctions aimed not only at defeating the fundamental rights of political opponents through denial of fair trial and imprisonment but also comprehensively demolishing their social status and economic capacity.

It is also indicative of the pathetic conditions of a family victimized by officials in Burma, whose only possibility for redress is feudalistic: to approach senior army officers and beg that they not be punished for some perceived offence. This method of making a complaint and seeking satisfaction for wrongs committed belongs to the 18th century, not the 21st.

All this is while the military leadership has said that a general election for a new parliament will be held before the end of the year. Even though some persons inside and outside the country have expressed hope that the vote will mark a turning point in the long decades of army control over government in Burma, cases of this sort are indicative of how authorities at all levels are continuing with business as usual, and the extent to which the state's coercive apparatus will continue operating according to its own logic and the objectives of its agents irrespective of what goes on upon the national political stage.

As the year passes and the ballot approaches, it will be beholden on persons and organizations concerned with human rights in Burma to continue to document, narrate and protest against such methods of persecuting political opponents, clearly and unequivocally. In this way, we can express concern and solidarity not only for the persons victimized, like Daw Win Mya Mya's family, but also can paint a clearer picture of how the infrastructure of state in Burma has been evolved over the past half-century to suppress dissent and harass dissenters, and how it will continue to do so into the foreseeable future.

Indonesia: Freedom of religion not protected

Statement issued by the Asian Human Rights Commission: AHRC-STM-032-2010

U.S. President Barack Obama is scheduled to visit Indonesia, the place of his childhood, in March. It is important that the President does not waste this opportunity and uses his good relations with Indonesian President Susilo Bambang Yudhoyono to raise the issue of religious tolerance in Indonesia. Late last year Obama stated that “Indonesia is important... as one of the world’s largest democracies, as one of the world’s largest Islamic nations... it has enormous influence and really is... a potential model for the kind of development strategies, democracy strategies, as well as interfaith strategies that are going to be so important moving forward”.

While his statement is no doubt true in some respects, the essence of Obama’s remark is at odds with the current situation in Indonesia. In recent years the United Nations has expressed disquiet at religious discrimination and intolerance in the country. There is continuing concern at the distinctions made in legal documents between the six recognized religions of Islam, Protestantism, Catholicism, Hinduism, Buddhism and Confucianism, and the adverse impact on the freedom of thought, conscience and religion of people belonging to minorities, ethnic groups and indigenous peoples in Indonesia.

In 2007 the UN Committee on the Elimination of Racial Discrimination noted with concern that mixed-faith couples—in which the man and woman hold different recognized beliefs—faced difficulties in officially registering their marriages and that their children were not provided with birth certificates, as they were not the products of “lawful” marriage. Paradoxically, people who change their religion to marry their partner can face stigmatization.

Furthermore, there is no provision for individuals without any religious belief to enter into a civil marriage contract, and no legal documentation. As a result, people keep their atheist beliefs secret and when the time comes to marry, they make the choice of either marrying in a religious ceremony that is devoid of meaning for them, or not marrying at all, which can leave their family and offspring without legal protection.

Moreover, under Indonesian Law No 23 of 2006 on Civic Administration, individuals are required to record their faith on legal documents such as identity cards and birth certificates. Atheists who ascribe to no religion or those who wish to leave the column blank or to register under one of the “non-recognized” religions face discrimination and harassment, including refusal of employment.

Forcing an Indonesian to adopt a religion as part of her identity grossly undermines her right to freedom of thought and religion under article 18 of the International Covenant on Civil and Political Rights.

Concern has been expressed in Indonesia and internationally about religious minorities such as the Ahmadiya—followers of a disputed branch of Islam—being targeted by fundamentalists, who have branded them as members of heretical cults. The Asian Human Rights Commission and other human rights organizations have highlighted violent attacks and intimidation against the Ahmadiya and other religious groups, and their places of religious worship. But so far there has been no concerted effort to protect their rights.

On the contrary, religious intolerance and discrimination is effectively condoned under Law No 1/1965 on the Prevention of Religious Abuse and Blasphemy, which amends the Indonesian Penal Code (article 156 (a)) to allow the state to prosecute people deemed to commit blasphemous acts which “principally have the character of being at enmity with, abusing or staining a religion adhered to in Indonesia”. The maximum penalty is five years imprisonment.

To combat this law and the issues of state-authorized religious intolerance within it, human rights groups have gone to the Constitutional Court to seek a judicial review of the law, in the hope that it will be struck down as incompatible with human rights and freedom of religion.

However, state officials have reacted against the review. They claim that if the court were to uphold freedom of religion and expression, as guaranteed in international and domestic law, as well as in the principles of Pancasila, the official philosophical foundation of the Indonesian state, it would create “unlimited religious freedom”. They fear this could lead to social upheaval, with people worshiping in ways not authorized by the state. Such intolerance is clearly a breach of the Indonesian Constitution under articles 28 and 29.

The state, by only recognizing six religions and enforcing a blasphemy law that alienates and criminalizes those believing in any other religion or faith, is in effect giving Indonesians a choice between one of six religions. The right to choose between one religion or another is a false choice and only creates the illusion of freedom.

Both President Obama and President Yudhoyono should understand very well that tolerance and acceptance of varying beliefs, including atheist belief, are vital for a peaceful, democratic society. Practices and laws requiring people to adopt a faith that they do not actually hold is not in accordance with the principles of tolerance, equal rights and non-discrimination, which are the cornerstones of democracy and human rights.

Any blasphemy law should be struck down as unconstitutional. The religions that Indonesia's blasphemy law seeks to protect can withstand criticism and do not need the full force of the criminal law to ensure adherence. No state should interfere in the practice of religion or belief other than to protect the rights of individuals to freedom of expression, assembly and thought including the right to be free from religious thought.

In a diverse democratic society that prides itself on being multicultural, multi-religious and multi-racial, the Indonesian government should welcome this judicial review and enforce laws to prohibit discrimination based on faith.

In a democratic Indonesia which seeks to adhere to the rule of law and the supreme law of its Constitution, the state should seek to protect the rights of religious minorities from the tyranny of those that wish to foster intolerance and discrimination.

Asia: Enjoyment of the right to food requires a shift from short-term and discriminatory practices

A written statement submitted to the Human Rights Council by the Asian Legal Resource Centre: ALRC-CWS-13-02-2010

The enjoyment of the right to food remains elusive for many across the Asian region. The Asian Legal Resource Centre (ALRC) will concentrate on specific concerns with regard to the right to food in India and Indonesia in this written submission to the Human Rights Council (HRC), although these problems are replicated in many other countries in South and South East Asia in particular.

On 23 December 2009, Shama, a four-year-old boy died of malnutrition and diarrhoea in the Indian state of Madhya Pradesh. Shama belonged to the Bhil tribe, Jhabua District, Madhya Pradesh. His father Galia cultivates four acres of farmland, from which they harvested just four bags of maize in 2009. The harvest, depending on depleting rainfall is not sufficient to feed the family of nine. As a result, the family had to migrate to neighboring districts or states, which made them more vulnerable to food insecurity. In the last three months, 43 children including Shama died of malnutrition in three tribal villages in Madhya Pradesh.

Madhya Pradesh is the one of the biggest contributors to neo-natal and child mortality in the world. The mortality rate among children under the age of five in the state's tribal community is far higher than the state and national average. The chance of survival of a tribal child is low, with 71.4 percent tribal children being malnourished and 82.5 percent children being anemic.

India has the highest number of malnourished children in Asia. UNICEF's 2009 report revealed that more than 80 percent of the cases of child malnutrition and mortality were found in the tribal and low caste community. The actual number may be even higher as the government often denies that children and adults die of malnutrition and starvation.

India's response to cases of hunger has been inappropriate at best, and often negligent. The quantity of food distributed by states has decreased, although the total agricultural product concerning rice or wheat has not. India has failed to address hunger among its tribal communities. On 8 May 2008, before the Committee on economic, social and

cultural rights, India underlined that it had adopted a comprehensive legal framework to protect the rights of its tribal population and that it is committed to the fulfillment of the economic, social and cultural rights of its entire people.

However, cases of hunger prove that this is false. Its response and action often come after children die of starvation. Since 2009, the ALRC and its sister organization, the Asian Human Rights Commission (AHRC), have been reporting on the situation of child malnutrition and its causes focusing on four tribal districts: Khandwa, Rewa, Sidhi, and Jhabua in Madhya Pradesh.

Tribes living in dry land or forest areas depend economically on agriculture and natural resources from the forest. Soaring food prices since 2008 and drought for the past few years have been aggravating food insecurity in tribal predominant areas. Traditionally, nutritional needs of tribals were met easily by forest resources. Recently, in the name of forest conservation, tribals are being evicted from their natural habitation, resulting in gross livelihood insecurity and malnutrition.

Distress migration is often the only option left for survival, but results in increasing the burden of debt and food uncertainty. For those who stay, lack of nutrition and an unhygienic environment cause malnutrition and other sicknesses to the children. In Jhabua district, only 4.5 percent of the rural population have access to toilet facilities, while only 1.5 percent can access water from a pipe.

Nevertheless, the government statistical tools to determine who is living Below the Poverty Line (BPL) and are thus eligible to food assistance do not take into account the specific agricultural structures of tribal areas. Possessing land is an indicator of living Above the Poverty Line (APL) and therefore prevents small landowners, such as Shama's family, from receiving food assistance.

A new system introduced in 1992-93, called the targeted public food distribution system, is yet to be fully implemented in the country. For instance, 200,000 families in Madhya Pradesh are denied BPL status. The central government has identified only 4.2 million BPL families against the state's claim of 6.5 million in Madhya Pradesh alone. To ensure nutrition and food security, the BPL must be abolished and ration quota must be made universal.

In 2005, the Special Rapporteur on the Right to food, following a mission to India, acknowledged that the marginalization of tribal people hampers their access to state institutions, including public programs ensuring food security, which further aggravates their food insecurity. Approximately 50 percent of children in the tribal areas are not registered at childcare centers, denying them supplementary food grain. This implies that

the government does not have accurate data about the number of tribal children suffering from malnutrition and thus cannot design specific policies targeting them.

The system talks about institutional treatment of the malnourished children. However, without infrastructure, facilities and services it is unrealistic to provide institutional healthcare to 6.1 million children. Community based intervention for nutritional care of all children with special attention to malnourished children is required. The Supreme Court has recommended that such children's right to food be addressed in the proposed National Food Security Act.

Discrimination in access to public health institutions worsens the problem. In its 2008 State of Asia-Pacific Children Report, UNICEF underlined that in India, "Caste and ethnicity also play key roles in keeping primary health-care services to some populations well below national averages". Concretely, this implies that although parents try to have their malnourished children treated at public health institutions, they are either denied immediate treatment due to lack of facilities or are discriminated against at the hospital. For example, tribal children have to stay in beds next to the toilets and their mothers are in general not provided with food and water. Furthermore, even at public health institutions, they often have to pay.

In Madhya Pradesh, 67 percent of the people live below the poverty line and 60 percent of the children are undernourished while 73.9 percent of tribal women are anemic. However, the budget for health service accounts for merely 2.4 percent of the total state budget. One bed is available for every 2,425 persons in hospitals, and more than 1,300 out of 5,005 doctor posts remain vacant. Although child malnutrition has increased over the last five years, not one Primary Health Centre has been built and 1,659 out of 4,708 medical officer posts remain vacant at the Centers.

The food distribution system also often fails to reach the poor. In its 40th session in April-May 2008, the Committee on Economic, Social and Cultural Rights expressed concerns about "reports of corruption, inefficiency and discrimination in distribution that hamper access to food, particularly by the disadvantaged and marginalized groups of society" in India. For decades, corruption has prevented the government from identifying the BPL families. While many public servants have been identified as BPL, poor tribal communities have often been excluded. More often than not, food programs have been abused by corrupt officials and politicians.

The social audit system, the only official channel through which the poor can make demands fails to function due to corrupt public servants. Social audit reports concerning Jhabua do not mention the villagers' grievances. They are often either intentionally excluded from the audit, or, if they dare to speak out with the support of human rights

defenders, are physically abused or even killed by upper caste civil servants and influential villagers. Denial of freedom of expression and participation is rooted in a caste-controlled society and bureaucracy. The lack of a fair legal system through which victims can seek redress further prevents marginalized communities from enjoying the right to food. Even the National Human Rights Commission has failed to independently investigate right to food violations since 2009.

On 6 June 2008, the UN Special Rapporteur declared that the enjoyment of the right to food “requires that we focus on the most vulnerable segments of the population. It brings into the debate requirements of accountability and participation”. In India as is the case elsewhere in Asia, this remains a major challenge concerning the protection and enjoyment of rights.

The government targets higher economic growth and a second green revolution by adopting Genetically Modified (GM) seeds or food. In Orissa, multinational corporations like POSCO are allowed to occupy vast areas of land, depriving tribal villagers of their rights to land and water. In 2005, the Special Rapporteur on the right to food stated that the overrepresentation of tribal people among those displaced because of developmental projects reflects serious discrimination. Such communities’ right to food, land and water should be taken into account in designing developmental activities.

Indonesia is another example of governmental passivity when confronted with people starving to death, especially in Papua province. During the first half of 2009, about 113 villagers died of starvation and associated diseases in seven districts in Yahukimo. Fifty-five villagers had also died of starvation in Yahukimo in 2005. The government denied these deaths but provided food and food store facilities in some areas, while arguing that it was difficult to deliver food subsidies to remote affected areas.

The same situation was repeated in 2009. Because of a bad harvest, villagers living in the highlands suffered from a lack of food. While arguing that the areas are difficult to reach, the government has repeatedly delayed the distribution of food and medicine. Langda District, for example, received only 1.4 tons of rice for distribution to 6000 villagers.

In the short term, governments must take all necessary actions to ensure the right to food of all persons. To ensure the enjoyment of the right to food in the long term, States must encourage the empowerment of local communities and help them to develop sustainable food production systems. This cannot be done without combating discrimination and without securing the right to land of indigenous people, notably by guaranteeing against the risk of arbitrary expulsion from land because of industrial projects. Currently, the governments of India and Indonesia have failed to develop such projects and have chosen to focus on short-term hunger-relief assistance.

The ALRC recalls that the right to food cannot be fulfilled without general and comprehensive measures to fight against corruption; increase the accountability of public institutions, notably those in charge of food distribution; and provide effective legal remedies available to all. Consultative mechanisms should be implemented when decisions that may affect the right to food of certain sectors of the population have to be taken.

In this context the ALRC requests the Council to:

1. Provide means and facilitate processes by which the Rapporteur on the Right to Food can actively engage with States concerning reported patterns of denial of the right to food;
2. Encourage human rights organizations by providing more opportunities for them to interact with states as well as entities within the UN framework in addressing the issue of the right to food and denial thereof;
3. Find means for human rights organizations to be part of interstate, inter-organizational dialogues with a view to have effective participation in policy formulating discussions;
4. Encourage states to find means through dialogue and partnerships to radically shift from food ration subsidy programmes to food and livelihood guarantee programmes by recognizing tribal and ethnic identities;
5. Develop guidelines for encouraging community based interventions for nutritional care of children, specifically for the treatment of Severely Acute Malnourished children.

The fruits of holy dissent

Fr Roberto Reyes

An article issued by the Asian Human Rights Commission: AHRC-ART-016-2010

It is almost four years since I left the Philippines for voluntary exile. My residence changed each year, at least five times in the last four years. I have lived a rather nomadic life in search of a most elusive truth, asking questions as I wandered from place to place. Why is my country deteriorating, rapidly sinking in the mud of corruption, official lies and injustice? Why is social inequality worsening? Why is the Church losing its moral and prophetic voice at a time when it is most needed? What is my purpose, my place in this world of compromise, of ever shifting loyalties, convenient, commodified truth? Why is there betrayal, rejection, persecution, marginalization and the trivialization of relationships? Who and what is a real friend? Where and what is a real Church? Who and what is a real follower of Christ?

By 17 February 2010, it would have been four years since I left for China in 2006. In the last four years answers to my questions did not come easily and clearly. Slowly, though, I have received some clarity and inner peace. All that hurt, anger, resentment and alienation due in part to what I have said and done in the past have revealed their inner roots and their outer sources of nourishment. I had to go away, be distant and invisible, to be more present to that within me which is a source of pain, suffering, confusion and injustice in others. A quote in *The Open Road*, Pico Iyer's book about the Dalai Lama, seems to capture what I have gone through and continue to struggle with; "It is the only thing we can do, Klaas, I see no alternative, each of us must turn inward and destroy in himself all the things he ought to destroy in others" [Etty Hillesum, on her way to her death at 29 in Auschwitz, p 205].

I have gradually returned to active involvement in Philippine realities, but not fully. I struggle to maintain the necessary tension between social engagement and inner transformation. Hillesum's counsel to turn inward and destroy in oneself all that one thinks he ought to destroy in others, rings loud and clear in my mind and heart. It was in this frame of mind and state of soul that I was informed about my 'Warrant of Arrest'.

I was just as surprised when a media friend called to ask me whether I knew about my Warrant of Arrest as when I was informed about my first warrant of arrest on Friday, 25 May 2002. This time was also a Friday, a common practice to make it difficult to

post bail, which naturally forces the arresting officers to detain the person over the weekend. That is the least of my concern. I will face my arresting officers. I will have myself arrested. I will choose not to post bail and welcome yet another opportunity to be among the most marginalized sector of society. I was then driving my elderly parents to the hospital for their regular check-up. I decided to keep silent about my Warrant of Arrest and be a dutiful son instead. Two days later, I had to leave for Palawan to report to Bishop Pedro Arigo, to whom I have volunteered my services as a priest. Later that week, I left for Hong Kong to report to the Asian Human Rights Commission where I have been working for the last two years.

This is the reason why the court is unaware of my whereabouts. This is why I wish to inform Judge Marie Christine Jacob of my current mailing address at:

Asian Human Rights Commission
19/F Go-Up Commercial Building
998 Canton Road, Mongkok
Kowloon, Hong Kong, China

Furthermore, I have lost contact with my former lawyers since the last hearing that took place five or six years ago. In the meantime, I have contacted attorney Francisco Chavez, who defended me for my alleged involvement in the 29 November 2007 Manila Pen incident. Chavez has agreed to take up my case.

Almost 35 years after the senseless murder of my nephew Ernest Robert Lucas, there is still no justice, no closure. My nephew's killer is still on the loose. He has not been accused or convicted. My nephew's family has been dispersed. A bitter memory, a gaping and painful wound remains untended. A father and mother, a brother and several sisters remain in grief. Another injustice is soon to be added to the Philippine universe of unsolved and forgotten cases. If not for the libel case slapped on me by father and son Enrile, Ernest Robert Lucas would have long joined the faceless and nameless army of the murdered and disappeared in the many secret Philippine killing fields.

I welcome the libel case. I welcome my arraignment scheduled sometime in April of this year. I welcome the opportunity to stand on the witness stand to speak the truth in my heart and soul. Ernest Robert Lucas was murdered in September 1975. Both newspaper accounts and the personal account of my own first cousin, Ernest Robert's father, retired Colonel Ernesto Lucas mention the name of the one who held the gun that was arrogantly pointed and fired at Ernest's forehead, instantly taking my nephew's 17 year old life. Thirty five years later this person walks freely around, enjoys power and wealth and enjoys the same impunity that protected him and many others in the heyday of martial law.

Ours is a society where stealing and killing can go unpunished and unnoticed. If not for the magnitude of the November 23 massacre in Maguindanao, killings in Mindanao have become routine. Those accused of masterminding and perpetrating the massacre are now being tried. Ironically, it is I and not the murderer of my nephew on trial. I am being tried for libel, for what I said when asked why I am so committed to the fight of justice and truth in the Philippines. I need not repeat what I said in my interview for Paolo Bidiones' 'Extra-Extra'. I will repeat it in court and pray that it will uphold the truth and that real justice will be served to both the victim and perpetrator of the crime concerned.

Let my libel case be another act of holy dissent against a manipulated and abusive justice system that favors the powerful and rich and continues to victimize the weak and the innocent.

I break my silence from my office in Hong Kong, and assert my right to speak the truth and demand justice for Ernest Robert Lucas. I do this both as a citizen and a priest. As citizen, it is my right as it is of all, to be able to express what I deem true and of benefit to the common good. As a priest, I speak the truth as part of my moral and holy duty as one consecrated to proclaim the Liberating and Healing Truth of the Word of God.

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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