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C O N T E N T S

- 3** **Making money from the dead**
Danilo Reyes
- 9** **Poor governance in Ganjeong**
Asian Human Rights Commission
- 11** **Ethnic wars must end for Burma to be 'on the right track'
to democracy and development**
Helen Joe
- 16** **India: Censorship is a myopic world vision**
Asian Human Rights Commission
- 19** **For daddy**
Mayhang Reblando Zainal
- 21** **Case study: Uzma Ayub**
*Teenage girl's fight for justice after year of captivity and
gang-rape*
- 31** **Toppling Cambodian dictators is not impossible if we
think and act smart**
Dr Gaffar Peang-Meth
- 40** **Burmese farmers' land fight celebrated in new booklet**
Asian Human Rights Commission

‘Making money from the dead’

Danilo Reyes

Several months ago, sitting on a bench at home in our village in the Philippines, I was listening to the complaints of my brother-in-law about his corrupt manager. He worked as a security guard before his death in a motorcycle accident, and for years, his manager deducted a quarter of his USD 113 monthly salary as commission for ‘helping him be employed’. To ensure the manager gets his ‘commission’, he kept my brother-in-law’s ATM card, so he could withdraw the money himself on pay day.

In our village, where most of our neighbors are unemployed, most people would agree to this arrangement. With the lack of employment opportunities, knowing someone who could help you get a job, whether you have the professional qualifications or not, is very important. These persons are called ‘*backers*’.

In the following months, I was again sitting on the same bench, but this time listening to my brother-in-law’s long time neighbor, a police officer, talk about how much money he needed from his family. My brother-in-law was dead at this time, and could not voice his dissent and disgust at this police officer’s attempts to make money from him. At the time of my relatives’ mourning, the police officer was asking for money to pay for his transportation and meals to follow-up the case of my brother-in-law’s death.

At that time, the police had temporarily released the truck driver, who tried to escape after he hit my brother-in-law’s motorcycle, but were keeping in their custody at the police station the truck involved in the accident. My brother-in-law was with his 8-year-old cousin when the accident happened. The boy had to be admitted in a hospital for days as he suffered severe injuries. Here, the police were supposed to follow-up the financial liabilities of those who owned the truck and the driver that are due to my brother-in-law’s family for his death.

Police duties and obligations as part of the State are hardly known in our village. This is not because villagers are ignorant, but because they barely have any experience with the police that would give them a sense of their working habits. All they know is that any traffic accident, killing, fight due to drinking, or someone being threatened, needs to be reported to the police. They usually have no idea what comes after this reporting however.

For most of their adult life, unless they were to encounter any of the problems above, villagers may never have to deal with policemen or visit police stations. Police stations

are predominantly seen as places where criminals are held, and thus a place one should stay away from. On the other hand, survival requires one to know a police officer or persons working for the police who could be approached with any problem. It is therefore necessary to establish relations with the police as a form of protection, particularly for businessmen.

The policeman responsible for investigating my brother-in-law's death had not only known him since they were children, but also knew his entire family, as my brother-in-law's parents were 'godparents/wedding sponsors'¹ at the policeman's parents' wedding. There was a feeling of assurance and confidence that he would assist them and do his job. My in-laws' concerns of not knowing how to deal with the case were mitigated by them knowing the police. Unfortunately, instead of them making use of their police connections to obtain justice for my brother-in-law, the police officer made use of their neighborliness to extract money from them.

How police make money

Traffic accidents resulting in deaths are a very common occurrence not only in my village, but throughout the Philippines, due to death trap road conditions. Basic traffic rules are commonly ignored, even by traffic enforcers themselves. In some parts of the Philippines, driving licenses can be obtained without taking any exams or driving lessons, without any medical examination of one's eyesight or health condition. They are literally bought and paid for from people working in government offices where the licenses are issued.

In fact, it is often hard to determine which of the licenses drivers are carrying are valid, fake or fabricated. There are many shops whose business is solely to fabricate driving licenses that look like originals. They operate openly, with the full knowledge of the police. And yet, they are neither arrested, nor are their shops closed for falsifying public documents.

The reason is that the more widespread the illegal and arbitrary activities, the more money the policemen could make. In the same way, traffic police enforce law to make money, not to arrest, detain or prosecute those who commit traffic violations. While this is common knowledge, the events of my brother-in-law's case and how the investigating police officers dealt with it, tell me far more explicitly how fast my country is deteriorating. Not only did the policemen involved extract money from his death, but they also acted as 'brokers', deciding how much life is worth.

1. The role of 'ninong' ('godfather') and 'ninang' ('godmother') in Filipino society, is to take responsibility and care of a couple's married life. It is a strong relation, akin to that of blood relations.

Shortly after his death, my brother-in-law's family was summoned to the police station. There, the police told them to settle out of court for Php100,000 (USD 2,371), without making any pretence at investigating who was responsible for my brother-in-law's death and the injuries of his cousin. They were told it is better to settle than to pursue charges in court as it would take years. The police's behaviour raise serious questions regarding their role, particularly regarding the dominant perception that the police are there to detain, investigate and record offenses committed against the State. In my relatives' experience, police officers themselves were committing crimes at the very place where crimes should have been investigated. Who would investigate this?



For days, the police kept telling my relatives that they needed money for transportation, meals and so forth in following up those meant to pay for my brother-in-law's death. All this occurred inside the police station, with the full knowledge of the investigating officer, and yet, none of this can be found in any police records; on record, they never happened. For helping them to settle the case, the investigating officer expects that he should get some 'blood money' in return.

The living can be 'officially dead'

In the Philippines, burying the dead requires death certificates. These certificates supposedly contain information as to the person's cause of death. Usually, local authorities do not allow any burials in public or private cemeteries without the issuance of this certificate. My brother-in-law's death revealed that we would be wrong to assume that what is written in these certificates is always the truth. The chances are quite high that the information is false and inaccurate. This leads to the assumption that many public records could be inaccurate, and it would be foolish to believe otherwise. In our village, even the living could be recorded officially dead.

Whether the dead is rich or poor can be seen by the type of tombs and where these tombs are situated—either private or public cemeteries. The poor ones do not have names properly engraved in tablets on their tombs. These tablets often appear worthless; however, somebody makes money on them too. During elections, there is anecdotal evidence that some are paid money only to copy the names written on these tablets to be written in official election registers. Yes, even the dead can vote in elections, at least their names could. Burying the dead had become expensive; my brother-in-law's family agreed on the settlement amount so they could purchase a small lot for his burial.

In my brother-in-law's case, there were two death certificates: one on which the police had entered false information, and another that I have with me, containing accurate information on his cause of death. My accurate copy was never officially recorded however.

When the police sensed I had been asked to intervene in the case, and when they were told by some relatives that I had been providing paralegal assistance to the needy, they became concerned. The overly delayed issuance of death certificates—which also caused a delay in scheduling the burial—were suddenly issued in no time, the out of court settlement was also settled quickly, with the policeman by now not asking for any 'commission'. However, it is in exchange of my in-laws having to tolerate and accept, for lack of choice, the inaccurate recording of my brother-in-law's actual cause of death. Writing this article is one way for me to record what really happened to him.

Ambulance driver, not doctor, declared death

In the Philippines, securing a death certificate in order to officially record the death would depend on the jurisdiction—city or municipality—the person died in. When I was helping in securing these certificates, to speed up the processing of his insurance claims and burial, I learnt—heretofore unknown details—that it was the ambulance driver, and not the doctor, who declared him 'officially' dead.

What I was told after the accident, as well as what I gleaned from the police records, was that my brother-in-law was taken to a private hospital outside the municipality where the accident occurred, as the municipality had no hospital where patients could be taken for emergency treatment. His case was no different to that of other road accident victims in that area, who would also be taken to the same private hospital owned by a couple, both medical practitioners. According to the police records, my brother-in-law and his cousin were "immediately brought to [name of hospital is withheld for security reasons] for medical treatment but later [my brother-in-law] was expired as pronounced by the attending physician".

In fact, the doctor reported to have given my brother-in-law "medical treatment", was gravely shocked at the inaccuracy of the police records. As argued by the female doctor, my brother-in-law was already "visibly dead" when he was brought to the hospital, and could not have been treated in any way as the police claimed. One of the doctors asked me, "Their [police report] is wrong. Can you ask the police to make corrections?" In fact, making corrections is easy, but the records I had were already 'certified correct'. So I asked them, "You're asking me to tell the police to make corrections to what they had 'certified correct'?"

When I asked who examined and declared him to be dead, as this is required to be written in the certificate, the doctor could not tell. She also refused to put her name on it, nor was she willing to write the cause of my brother-in-law's death.

It was then that I learnt that the person who declared my brother-in-law dead, in reality, was the ambulance driver who took him to the hospital. This information created more problems, as there was no way now to issue a medical cause of death, which was required for the death certificate, as well as other related legal insurance claims issues. The doctor's husband then asked me to ask the embalmer what injuries he had seen while embalming my brother-in-law, which he later wrote in the certificate on behalf of his wife.

Thus, not only did an ambulance driver and not the doctor declare him to be dead, but it was also the embalmer who certified my brother-in-law's cause of death rather than a doctor. No one would ever know this version of reality however, because the inaccuracies and false information were stamped as 'truth' by the doctor's signature. In this manner, it seems that anyone could die or be declared dead officially for any 'cause of death'; no one takes responsibility. On the other hand, it is sometimes impossible to get true details to be officially recorded.

Before we knew it, the police had already secured their own version of 'death certificates' from another municipality to cover up their neglect of this case. My relatives now kept quiet, not because they do not see it as wrong, but simply so they can survive, by not challenging the doctor or police and creating 'trouble'.

Subtle threats

The doctors involved indirectly warned and threatened me from commenting on their medical neglect. He told me, "You have a tongue like that of a snake. Your [comments] strike". To this doctor, I have no right to comment simply because "this is not your territory. Slow down". Such indirect threats are a common practice. In many areas of the Philippines, those who are powerful, influential and part of the government, have deeply territorial and aggressive mindsets. It is not whether what you say is right or wrong that matters; what is important is where you come from, your social standing. If you are an outsider, you have no right to criticize.

When doctors could do this, it gives you a sense of what the police, army and those working for the security forces, could do to harm. People survive and live their daily lives back home understanding this. In fact, not only doctors, but even teachers and journalists establish connections with the police and soldiers for their own protection. The police and the army give them arms for their protection, and in turn they extract money and information from them.

Anyone working for social and political change in the Philippines must understand how the local power structure operates in reality. To merely condemn and critique on society's ills is naïve, if not ignorant. The challenge is to understand how the security forces and the power structure operates, resulting in people's oppression and silence, and then to articulate this to inform and educate others.

This article describes not only the corrupt practices of the police, medical practitioners and government employees, but also how the status quo in society thrives as a result of a largely unchallenged power structure. This story is not just about my brother-in-law's family, but also about the lives of all those ordinary people who live in the country without protection.



Poor governance in Gangjeong

Edited text of statement issued by the Asian Human Rights Commission: AHRC-STM-012-2012, 16 January 2012

The Asian Human Rights Commission (AHRC) is disturbed by the arrest of 29 people for praying in front of the naval base construction site in Gangjeong village, Jeju Island, South Korea on 10 January 2012. Although they were released two days after their arrest, the incident sends the message that the local government can arrest anyone if their actions relate to the construction of the naval base.

Gangjeong village in Jeju Island was designated for a naval base in 2007. Legally, if the government plans to build a facility, the relevant authorities have to obtain the consent of the residents in the area and the decision must be made at a meeting of the villagers. According to an interview with Mr. Kang Dong-Kyun, the head of Gangjeong village however, a meeting for approval of the naval base was illegally held at that time. Only 87 out of 1,900 villagers took part in the meeting and everything was passed without due process. No investigation has been conducted into the illegalities of the meeting, while construction work is now ongoing.

It is reported that some 94 percent of Jeju Island residents are against the construction of the naval base. These residents have held peaceful protests asking for the withdrawal of the naval base plan, and to leave the island as it was. As more construction was undertaken, more and more people supported the villagers and protested against the naval base. While the local mainstream media is reluctant to take up this issue, alternative media and foreign media including *Al Jazeera* have highlighted the protests and construction.

In response to the protests, the government started taking legal action against all those protesting. Catholic priests and activists were repeatedly arrested and released, and hundreds of villagers have been called by the police for questioning. The villagers consider such legal action as a form of threat, discouraging their protest.

Apart from the impact on the environment and ecology caused by the construction of the naval base, the social impact goes far beyond that of being just a local problem. The villagers lived in the location for several decades by fishing and farming. However, after the area was designated as the naval base without due process, democratic values and process in the village were slowly eroded, and hatred and mistrust among villagers on opposing sides arose. Many families were separated, with fathers supporting the construction and sons opposing it. The situation worsened after legal action against the villagers and activists was taken.

Governance is a process of decision-making and implementation. The government is one of the actors in governance, and the local government of Jeju Island has played a poor role in this process. The very purpose of the government is to provide a place for people to participate and make voluntary decisions to address issues affecting them, not to choose one side and implement its views by force.

In fact, the case of Gangjeong is one of many prevailing in South Korea, where laws are used to suppress dissent and opposition, regardless of whether such action (and laws) are restricting the fundamental rights of people affected by the law. The National Security Act for instance, is notorious for restricting freedom of opinion and expression. (For more details, please see AHRC-STM-027-2012.) While laws are passed at the National Assembly, the contents are not thoroughly scrutinised, particularly regarding the possibility for the contents to restrict freedom of opinion and expression. At present, law enforcement agencies enforce the law despite the law restricting rights. For instance, the decision making process related to the naval base was not transparent, but in order to proceed with construction, the government took advantage of the process having occurred, without investigating its drawbacks.

Legal action against those opposed to the naval base construction in Gangjeong village and the arrest of peaceful demonstrators only demonstrates the serious failure of governance as well as a misleading use of the rule of law under what is in fact rule by law. Under rule by law, a law need only be enforced with due process, without any question on the substance of the law. Under rule of law however, the contents of the law should not infringe on fundamental and constitutional rights. For the last couple of years, the South Korean government has placed an emphasis on law and order, but without paying attention to the substantive requirements of the law, it will turn South Korea into a country where a law benefits a particular group rather than all people.

Having monitored the situation of Gangjeong village as well as the arrest and persecution against the villagers and activists, the Asian Human Rights Commission urges the government of South Korea to stop the arbitrary use of force by the police and military in Jeju Island, guarantee the islanders' right to peaceful assembly and demonstration, and respond to the demands of those affected by the construction. Any policy with no reflection from the affected will only result in further violence and mistrust.

Ethnic wars must end for Burma to be 'on the right track' to democracy and development

Helen Joe

Beneath a makeshift roof in the misty morning, a funeral took place on Friday, 2 December 2011 for an eight-year-old Kachin boy who died from diarrhea the night before in a refugee camp in Laiza, Kachin. The boy's mother was suffering from cholera and malaria too. She did not know when would be the last day in her life, or if she could even survive another day. She had no money for the medicine and food she needed, nor did she know how to obtain any money. Sometimes she would just kneel on the concrete floor where she slept at night and pray that the civil war would end soon. She also prayed for the consolation of the sick and hungry children whose cries could be heard everywhere around the camps.

Finally, she would pray that God would give her strength to fight the illness that haunted her. Even though there were doctors and nurses in the camp, they could not give her much attention because they had to take care of other patients who might have been queuing for three days or so.



A child suffering from diarrhea in Laiza, camp no. 8 with a population of 8000 people in August 2011. Photo: *Banyar Kong Janoi, freelance journalist.*

Kachin state, where the camps are located, is situated in the northern part of Burma, which has been home to the longest running civil wars with the military for more than five decades. Thousands of people have since fled their homes to escape the fighting and associated human rights abuses, with an estimated 50,000 internally displaced persons scattered around the state. Forty of these are in and around Laiza, the headquarters of the Kachin Independence Army (KIA), where there has been a recent outbreak of cholera due to lack of sanitation and clean water.¹

1. <http://www.mizzima.com/special/kachin-battle-report/6525-cholera-outbreak-in-kachin-refugee-camps.html>

In Burma, ethnic wars are happening not only in Kachin State, but also in many other areas across the country populated by ethnic groups. While some areas may look peaceful, the military dictatorship has been exploiting the local ethnic minorities for over 60 years.

Ethnicity is a longstanding unsolved issue in Burma that has become a major bone of contention. Burma has officially 135 ethnic groups making up 40 percent of Burma's population, and more than 20 armed ethnic groups have fought against the government. For a long period of time, considering these ethnic groups as second class has been common in Burma. The principle of marginalizing them has resulted in their isolation from military rule. These are the reasons for the emergence of armed ethnic groups who have been fighting for greater autonomy from the majority Burma-led central government since independence from the British in 1948.

In the landmark year 2011, when Burma was seen as dramatically transforming towards democracy, the military conflict with these armed groups continued. In remote, indigenous populated areas, the military government is systematically committing crimes and human right violations against the people, including forced labor, religious persecution, human minesweepers, disappearances, torture, rape and widespread pillaging, looting, extrajudicial killings, as well as occasionally burning villages.² Both insurgents and local residents are targeted. These acts are not easily forgotten, making the ethnic population more distrustful of the army and government.

The new government has not raised the urgent issue of military reform, and these military abuses persist. The government continues to suppress dissent through a raft of repressive laws and the lack of an independent judiciary.

A 58-year-old Kachin farmer, who said all his possessions had been taken by the Burmese army, told Human Rights Watch, "We lost our homes and properties to the Burmese soldiers several times. That is why I don't have hope in this situation."³

In an interview with Asian Calling, Khun Oo reh, the general secretary of the Karenni Progressive Party, stated,

We have been discriminated against and we have been ignored. The majority Burman ethnic group always wants to control the country. We are not treated fairly. Also, we are fighting to protect our ethnic identity. We want self-determination. We want a federal democratic system in Burma. When Burma gained independence from Britain it was not so

2. https://s3.amazonaws.com/PHR_Reports/Burma-KachinRpt-ExecSum11.30.2011.pdf

3. <http://www.hrw.org/news/2011/10/18/burma-army-committing-abuses-kachin-state>

that the Burmese people could rule but so all ethnic groups could have self-determination. We all have to live and rule together.⁴

Ethnic minorities want to be assimilated into mainstream Burmese society while maintaining and promoting their culture and dialect free from discrimination. They also want equality before the law. Even the armed ethnic groups believe that trustworthy negotiation is crucial for any peace agreement, together with federal political arrangements.

The government however, demands a ceasefire first, not due to any sympathy with the ethnic cause, but due to its interest in economic development and wanting to transform the entire ethnic minority to one nationality (Burman). Without a guarantee for ethnic rights, the various ceasefire agreements cannot bring peace and can be broken at any time. For genuine peace and development, human rights must be made a priority rather than any other political agenda. Human rights must be developed on the ground, not just passed as laws in parliament. Only then can other sectors develop.

Despite the ongoing conflict with armed ethnic groups, President Thein Sein has tried to quell some ethnic conflicts (for instance in the states of Kachin, Kayin and Shan) and push through reforms, such as four prisoner amnesties during his 11 months of rule.

Another significant change in the country, indicating a loosening of dictatorial rule, is that pro-democracy leader Aung San Suu Kyi, whose party was the long repressed opposition party the National League for Democracy, is allowed to compete in the by-elections. International observers have been particularly pleased with these two steps towards greater democracy.

While laws are continuously being reformed or enacted in parliament at present, it remains to be seen how they will be implemented and the level of social participation involved. Generally however, the government is focusing on rushing through economic development, rather than institutional reforms. For this reason, the government has not yet implemented basic rights for citizens, and nor has it scrapped politically repressive laws like the electronic transaction law, penal code section 505, Immigration (Emergency Provisions) Act, 1947 and so forth⁵.

Likewise, in this transition period, it is only the parliamentarians who are profiting from government property as a result of opening up the economy. This is another way to

4. <http://www.asiacalling.org/en/news/burma/2463-ceasefires-will-not-bring-about-lasting-peace-burmese-ethnic-leaders>

5. For more information, please see 'Diagnosing the un-rule of law in Burma', <http://www.article2.org/mainfile.php/0902/379/>

monopolize the country, as the old brutal government used to do. As can be seen from the 2008 constitution drafted by the junta, the military generals can obtain up to 25 percent of seats in parliament. Meanwhile, more land confiscation will occur, affecting ordinary citizens.

While international scholars are debating that social and political development should occur before economic development, the Burmese government is talking about trade delegations; this is like putting the cart before the horse. If economic development is pushed through in Burma before basic freedoms like freedom of expression, freedom of political belief and guarantee for minority rights, there will be massive bribery of government officials as well as ethnic minority leaders. Proper economic development needs the concrete foundation of rule of law, which does not exist in Burma yet.

There can be no development without peace and no peace without properly addressing the human rights and minority issues. In other words, no democratic state will come into being in Burma without first taking into account the specific demands of the ethnic groups.

According to Dr. Kyaw Yin Hlaing, a professor at the City University of Hong Kong, merely pointing out those problems will not allow us to move on to the next stage, and Burma will remain in a poor environment.⁶ Does this mean that we should rush towards building concrete economic zones and genuine democracy while ignoring gross human rights violations and wars in ethnic zones? Meanwhile, the chief advisor of the president, Ko Ko Hlain confidently and repeatedly notes that “We are on the right track”.⁷ Burmese government representative, U Myint Soe, boldly states there is no human rights abuse in Burma, while blaming the ethnic insurgents for disrupting economic growth.⁸ The question that comes to mind now, is how can the government promote the basic rights of ordinary people in Burma, while the wars in conflict zones do not seem to stop?

Additionally, a senior government official bluntly disclosed that

If the people of Myanmar want democracy, the commander in chief will use the constitution and take over the government. The coup is more real than what many people might think. If there is another coup, the situation will be back to square one and this will be very bad for the country. The coup could also bring many more hard-liners back to the government.⁹

6. <http://kongjanoi.blogspot.com/2012/01/is-government-really-honest-to-ethnics.html>

7. <http://www.mmtimes.com/2012/news/612/news61218.html>

8. Quoted from 26-27 January conference on “Myanmar after the 2010 Elections”, City University of Hong Kong.

9. http://www6.cityu.edu.hk/searc/Data/FileUpload/306/WP111_11_Kyaw.pdf

What this means, is that those who wish to see political reforms in Burma should not do anything that would cause the return of the senior General to power. To counter this, it is essential to reform the country's laws, including the 2008 Constitution, under which the President has no authority over the military. It is a grave matter to consider that the military can take over power and rule the country at any time.

All of this shows the country is far from stable, and that genuine democracy and freedom is going to require more change than the moving of parliament and certain cities. Without engaging in a genuine national reconciliation process, it will be difficult to develop democracy, and without practicing federalism, Burma will definitely go back to the old days.

Hkun Okker, regarded by non-Burman ethnic peoples as one of their leading legal experts, strongly criticized the ongoing peace talks and agreements as a "quick fix" to solve what is primarily a political issue between the Burman government and the non-Burman ethnic peoples. "They are generously offering business opportunities under the name of Development or Special Economic Zones and using them as delaying tactics against meaningful political dialogue," he charged.¹⁰

While the recent rapid changes in Burma are encouraging, particularly compared to the recent past, it is difficult to predict whether the current progress will bring real change to the country in the future or not. Ethnic groups in Burma have been struggling under the harsh military rule for more than 50 years; now is surely the time to realize their rights and freedom to live with dignity.

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India: Censorship is a myopic world vision

Edited text of statement issued by the Asian Human Rights Commission: AHRC-STM-018-2012, 27 January 2012

The authorities in India have to wake up to the reality that censorship is not an acceptable norm in today's world. In what could be considered as one of the most controversial proceedings in the country's legal history, 21 companies are to appear in a trial court in New Delhi on 13 March 2012. Unable to prevent users from posting 'objectionable' contents on their websites, they are required to show cause as to why their web content should not be banned in the country. The companies include Facebook, Google, Yahoo, Microsoft and YouTube. Beyond the fact that the complaint seeks worldwide censorship of information and the curtailment of freedom of expression and opinion as relief, the irony is that the complainant in the private petition, Mr Vinay Rai, is reportedly a journalist.

The petitioner had sought and obtained the Government of India's consent to prosecute under Section 188 of the Code of Criminal Procedure, 1973. In fact, the sanction issued by the Ministry of Communication and Information Technology was filed directly in the metropolitan magistrate's court by the government. The respondent companies panicked and approached the Delhi High Court seeking a stay of the proceedings. Not only has this been unsuccessful so far, it has also allowed the Court to indicate its view on the subject, which does not look promising. During the hearing, the presiding judge noted that, "[y]ou must have a stringent check. Otherwise, like in China, we may pass orders banning all such websites". The Court further stated that companies should "develop a mechanism to keep a check and remove offensive and objectionable material from their web pages".

Coming after an opinion publicly expressed by the Union Minister for Communications Mr. Kapil Sibal, in December 2011, this case gains prominence. On a question concerning censorship of contents on the worldwide web, the minister said that the government would soon 'crackdown' on 'unacceptable' contents. He did not elaborate however, as to what contents would be acceptable, since the acceptability of opinions and its forms of expression are subjective. What is acceptable to one person may be objectionable to another. In many ways, what the court is now expected to decide is 'what is acceptable in India'.

The right to free speech and expression, covered by article 19 of the Indian constitution is central to this issue. The constitutional right comes with riders—self censorship—which the country's courts have thus far held as reasonable.

The Information Technology Act, 2000 prescribes a legal framework for internet content and use in India. The government has conveniently used the law to block internet content from users in many cases, most of which challenge common sense. In one such case for instance, the law was used to remove contents from the social networking site, Orkut, criticizing Mr. Bal Keshav Thackeray. A controversial figure in the country, Mr. Thackeray is infamous for his racial, religious and otherwise extremist views. The government chose to demand that Orkut withdraw the comments posted against Thackeray on the grounds that they could harm national security, integrity and public harmony. Meanwhile, it has so far imposed no restraint on Thackeray's opinions and public calls, many of which are impeccably executed by his fanatic followers, and incompatible with constitutional rights and guarantees.

The government's double standard is visible further in the communications minister's opinion that content in the internet depicting obscenity and violence must be removed. In that case, many of the country's temple sculptures and paintings must also be removed from public view. Furthermore, how could violence in the internet pose greater damage to the country than that witnessed daily by Indians at the hands of their own law enforcement agencies?

The inane and political nature of such restrictions was further visible when they were used for private profit, as happened in July and December 2011 when Internet Service Providers (ISP) blocked file-sharing sites to prevent copyright violations of movies, one of which was produced by an ISP, Reliance. In December 2011, Google revealed that out of an estimated 358 items the Indian government wanted Google to remove from its worldwide web, 255 were those criticizing the government. Asia has umpteen examples of restrictive laws on freedom of expression and opinion being used to silence dissent and opposition. Indians should take heed.

It is in the midst of all this that the court case has come up. It will not however, be an easy proposition for any court to decide. At the same time, it is also not for the ISPs or the government to decide, since the freedom of expression and opinion—a fundamental right that has an arguably higher place among other basic rights—cannot be restricted at the mercy of any company or government.

The maturity of a democratic state and society is seen in its ability to accommodate criticism and accept an individual's right to form and express various opinions. The imposition of any censorship will not only reduce the space for free speech in India, but

will also hinder its development. The free space that existed until now places India apart from most Asian countries, where censorship that suits the government is largely the norm.

To seriously opine that India's security, integrity and dignity is based on who says what in the worldwide web is as obtuse as looking down upon its luminous history. The Asian Human Rights Commission expects that India's vibrant civil society and media would not reduce themselves to be observers in a fight that has the potential to change the country's destiny.

For daddy

Mayhang Reblando Zainal

Dad, a lot of images were running in my head every time I speak your name,
Without you in my life feels like things will never be the same.
What happened to those days when I was still a child;
When my life is captivated by your love, your smile, and your heart that is
so kind?

I constantly hear you say that I'll forever be your "little girl,"
And I want you to know that for me you are my entire world.
You were my father, my hero, and a best friend;
That will always remain until the end.

When I was in trouble I could run to you and you would always see me
through,
Even if I'm hard headed and wouldn't listen to you.
You never fail to let me feel that I am so much loved,
And you alone is enough that I have.

Dad, who will I seek for answers when life doesn't make sense?
Who will be there to hold my hand when I feel so tense?
My life seems incomplete without you by my side,
Just like a rider without his ride.

My heart breaks each day that goes by,
But I'll be strong for you and keep my head up high.
Because that is what you've taught me,
To be strong, hopeful, and just believe.

This poem is written by the daughter of Alejandro Bong Reblando, to mark his 2nd death anniversary. Bong was murdered together with 32 journalists in the Maguindanao massacre. For more information on the massacre, please see <http://www.humanrights.asia/campaigns/mm> and for more information on Bong, please see <http://www.humanrights.asia/news/ahrc-news/AHRC-ART-065-2009/>.

I hope that you are always looking down on me;
And when life gets hazy, I hope you will help me see.
Help me as I move on and face the world,
And remember that I'll always be a **"Daddy's little girl."**

Case study: Uzma Ayub

Teenage girl's fight for justice after year of captivity and gang-rape

Uzma Ayub, a rape victim from Karak, Khyber Pakhtunkhwa province, gave birth to a baby girl at a local hospital in Peshawar at 11:45pm on 20 January 2012. According to Bilqees Begum, Uzma's mother, a local women's rights organization took the baby from the hospital soon after her birth along with a document signed by Uzma; one family had an agreement with Uzma to adopt her child. Since then however, Uzma has changed her mind and is keeping her daughter with her.

In early October 2010, 16-year-old Uzma, daughter of Mohammad Ayub, a daily wage earner and former sepoy of the Pakistan Army, resident of Marwataan Banda, Tehsil Takhte Nasrati of Karak district, Khyber Pakhtunkhwa province, was abducted when police raided her house together with one army officer in search of her brother, who was wanted by the police in a theft case. Uzma has six brothers and the family is of modest background and meagre means of livelihood. They have relatives of stronger social and economic backgrounds, including a doctor and a teacher.

After her escape a year later on 19 September 2011, Uzma told the media that she had been dragged by her hair into a waiting car on that fateful day, taken to an unknown place and locked in a room. At night several men came into the room, including a Dr Iqbal, who gave her an injection rendering her unconscious. Uzma thought she was moved twice, both times given an injection to make her unconscious. She was later sexually assaulted by several men, including army officer Naseeb Ullah, Sardar Ali, Shakeel, Guley, Karim, Qamar Ali, police officer Hakim Khan and Alam Ustad during her incarceration.

Persons involved in Uzma's abduction and rape

There were three key individuals in Uzma's abduction and repeated rape who made use of the influence and power of the army and police: Dr. Iqbal, who blamed Uzma's brother Alam Zeb for the murder of his son; army officer Naseeb Ullah,

This article is compiled from numerous documents on the case published by the AHRC, including urgent appeals and statements, as well as some updated information. Older material published on this case can be found by searching the AHRC website: www.humanrights.asia.

who wanted to marry Uzma since she was 13; and ASI Hakim Khan of Karak, whose cruelty was notorious in the area. When powerful people seek revenge on anyone, they take help from Hakim.

In 2005, Dr Iqbal's son was kidnapped and the family accused Uzma's brother, Alam Zeb of the crime. As a result, Alam Zeb spent 18 months in jail and was ultimately acquitted by the session judge. Dr Iqbal's son was killed by his kidnappers and his body was found in a field.

In 2007, army officer Naseeb Ullah's mother, asked for Uzma's hand in marriage to her son. Due to their weak position in the village, Uzma's mother did not reject the proposal, but responded that her daughter was young and studying and she wanted to wait before getting her married. She also stipulated that Naseeb Ullah should take his first wife's consent to the second marriage. His wife refused to consent and conveyed this personally to Uzma's mother Bilqees Begum.

Sometime later, in a show of camaraderie and no grudges held, Naseeb Ullah came to Alam Zeb's house and invited him to a local musical concert. Alam Zeb was unwilling, but Naseeb Ullah convinced him to at least attend his 'baithak' (a guest room for males) where there were two other guests, one named by Uzma as one of the rapists.

Subsequently, Alam Zeb was accused of stealing one of the guest's mobile phones, said to cost Rs 50,000.00. Alam Zeb vigorously denied the theft, and even responded that he would pay the money if the persons accusing him swore on the Holy Quran that the mobile was stolen.

Another fabricated case was registered against Alam Zeb after a village football game. A group of people loyal to Dr Iqbal's family and apparently with his connivance, disrupted the game and started shooting. The men set upon Alam Zeb and beat him severely. He also received a bullet in his thigh. Alam Zeb was accused of firing and a case was filed against him.

In Uzma's words,

These people kept me at their house, where Msrs Guleena and Shakeel came and spent some time with me. Then Dr Iqbal came and administered an injection, and I fell unconscious. When I regained my senses, I noticed that I had been shifted to another location. I did not know anybody there. After some time, Qamar Ali (alias Guley) and Karim visited me.

In that house, Naseeb Ullah, Guley's brother visited me and tried to force me to marry him. On the same night Naseeb Ullah's son visited me and raped me. Qamar Ali Khan, Karim and Alam also raped me. Two police officials, one named Hakim, used to frequently visit me to satisfy their lust. I don't know the name of the other cop but can recognise him if he is produced before me.

I charge these persons with ruining my life and making me pregnant. In the house when I was drugged and raped for the second time [by two turbaned men who] told me that I had been sold to them, and they were taking me to Dera Ismail Khan [another city in Khyber Pakhtunkhwa province]. When they stopped at Bannu [a district along the way], I escaped from their captivity.

Uzma managed to escape from the car in Bannu and ran into a nearby shop. She managed to get to a Public Call Office and telephoned her eldest brother, Alam Zeb, who advised her to reach the Bannu bypass. Uzma had Rs 300 tied in her 'narha' (the belt inside the shalwar trousers), a common practice in rural areas, enabling her to pay for the phone call and a taxi to reach her brother.

Alam Zeb found her and took her straight to the Tehsil Court in Takhte Nasrati. There Uzma was able to make her statement before her abductors arrived in pursuit. The judge telephoned the Crimes Investigation Branch and Uzma and her family went to Peshawar to have her statement recorded. In her statement she accused police personnel Station House Officer (SHO) Mohsin Ali, Assistant Sub Inspector (ASI) Hakim Khan, Amir Ali and army officer Naseeb Ullah, among others, of sexually abusing her. In all, she named 13 persons as involved in her abduction and rape. Uzma also told the provincial high court that she was pregnant. A lady doctor Zakia conducted her medical examination and confirmed her to be six months pregnant.

Complaint procedure

When it comes to cases of rape and abduction of women, it can be seen that the complaint procedure and justice process is far from effective, while the attitude of the court is hardly sympathetic. After Uzma's abduction in October 2010, her mother filed a complaint, to no effect. She then sent an application to the Chief Justice of Peshawar High Court, who converted it into a writ petition in April 2011. On April 5, a two-member bench comprising Justice Dost Muhammad Khan and Justice Yahya Afridi directed the district police to trace the kidnapped girl. The Karak DPO, Sajid Khan Mohmand, appeared before the court and contended that on the complaint of Bilqees Begum, the police had registered an FIR at the Takhte Nasrati Police Station in Karak. The police had raided several places but could not recover the girl. He added that four persons earlier charged by the complainant had been granted bail by a local court. In fact, the court subsequently released them on the grounds Uzma was not recovered from their custody.

Alam Zeb Khan, Uzma's brother, told the court that the family had learnt that Uzma had been taken to Quetta by army officer Naseeb Ullah Khan. According to Alam Zeb, although the family had named him the local police did not arrest him. The DPO however, noted that the initial complaint did not mention Naseeb Ullah. The bench then directed the Karak DPO to record a supplementary statement of the girl's brother against Naseeb Ullah in the case, and to contact the station commander of the Pakistan Army in Quetta to search for Uzma and pursue abduction charges against the soldier. April 21 was fixed for the next hearing, but no further proceedings in regard to her recovery or arrest of the army officer were seen.

The Provincial Commission on the Status of Women, Khyber Pakhtunkhwa, issued a fact finding report¹ compiled by a team of different rights organizations including, Child Welfare and Protection Commission, Shirkat Gah, Blue Veins, Khwendo Kor, CRSO and SPARC. The report says that the story has many threads to it and is a case of family quarrels, exploitation of the poor and weak by the better off among the relatives, male lust, the collusion of the forces of law and order with the stronger element of the society. The forces of law and order have not only turned a blind eye to the tragedy of a family and the ruination of an innocent life but have been openly and actively complicit in it.

After Uzma's statement to the media and the vast media coverage into the case, the government formed a high level committee under the provincial home secretary to probe the case. The committee recommended² the arrest of the police officials and conducting of a DNA test of Uzma and the accused persons after the birth of the child.

Threats and harassment after Uzma's accusations made public

The police and perpetrators requested the court to grant permission to settle the case outside the justice system. Uzma refused and asserted her conviction that the perpetrators should be prosecuted according to the law. Uzma and her lawyer, Javed Akhter, pointed out that the perpetrators' attempts to settle the case outside the court is tantamount to a confession, and the court should take prompt action against them.

On November 30, about 35 persons arrived at Uzma's house, apparently sent by Pir Mohsin, Ameer Khan, Hakim Khan, and the other perpetrators. They announced that they would pay Uzma whatever compensation she required to settle the case, but she

1. See <http://www.humanrights.asia/news/urgent-appeals/AHRC-UAC-226-2011/pdf/AHRC-UAC-226-2011-01.pdf/>

2. See <http://www.humanrights.asia/news/urgent-appeals/AHRC-UAC-226-2011/pdf/AHRC-UAC-226-2011-02.pdf/>

refused any offer of settlement. The delegation consisted of influential elders of the area who were forced by the police to pressure Uzma for settlement.

One day earlier, relatives of Hakim Khan telephoned Uzma and threatened her that if she did not withdraw her case, she would face serious problems.

While the committee under the provincial home secretary recommended the arrest of the perpetrators, the provincial police, government and courts were busy trying to provide impunity to the perpetrators by delaying their arrest, and instead forcing Uzma to settle the case outside the judicial system. In fact, the government even tried to tamper with the committee report, under pressure from the army. The entire state machinery of Khyber Pakhtunkhwa was against Uzma in protecting the perpetrators, perverting the justice system and making a mockery of the law.

Uzma's family, from a poor and illiterate background, also faced pressure and threats from their relatives and fundamentalist Muslim religious groups, to abort the 'illegitimate' and therefore un-Islamic child. The perpetrators took support from Taliban militants to force her family to kill the child in a bid to eliminate the evidence of repeated rape. Local human rights organisations opened an account to raise funds in support of Uzma's legal battle and the birth of her child. Stating that she recognises the right to life and will not kill an unborn child, Uzma noted, "The child is innocent and what sin he/she did, so why should I kill her. No matter what the people will say, but I respect life."

Threats to her lawyers

On October 29, one of her lawyers Mr Irfan Khattak, was arrested and tortured by ASI of Takhte Nasrati police station. According to 'The News', the ASI chased Irfan's car and stopped it at Inzar Chowk, Takhte Nasrati tehsil at 3:30pm. He then took out a copy of the Holy Quran and asked him to take oath on the Quran that from now on he would neither contest the case nor assist Uzma's family in any way. "Hakim Khan first asked me to quit the case. After my refusal, he along with his guard beat me up and then arrested me," said Irfan Khattak.

The ASI then took him to the Takhte Nasrati Police Station and tortured him there. The lawyer said that the ASI released him after the visit of Karak Bar Association President Jan-e-Alam and Takhte Nasrati Sub-divisional Bar President Javed Akhtar to the police station. The lawyer categorically said that he would pursue the case even at the cost of his life and refused to bow down before the torture of the policeman.

The Civil Society of Pakhtun Kha, a local rights group, reported that earlier the police succeeded to force the victim's first lawyer, Afsar Khan, to quit the case after mentally and physically torturing him.

In addition, two other lawyers, Mr Javed Akhtar, the divisional president of the local Bar Association and Mr Suleman Ghazi, advocate, were harassed by the police and ASI Hakim Khan. The police threatened both lawyers of dire consequences should they pursue the case. Once more, these lawyers stood up to the intimidation and threats of the police.

Although Akbar Ali Shah, Programme Manager Juvenile Justice, KPK, wrote a letter to the Deputy Inspector General (DIG) of Kohat range, informing him of the threats to the victim's family and lawyers, and although on October 26, the DIG instructed the local police to provide protection to Uzma and her family, no protection was provided.

The impotent provincial government is to blame for not initiating any action against the perpetrators. Despite their apparent suspension, the perpetrators were still wearing their uniforms and serving at the police station. They were able to exploit the government's ineptness at protecting its citizens, as well as portraying that holding a minor girl captive and gang-raping her for one year carries no legal consequences.

Threats from the Taliban

In addition, the Taliban also entered the case and supported the perpetrators. They support ASI Hakim Khan in particular, who is alleged to be a Taliban informer in the area. He himself claims that he has the patronage of Mangal Bagh, a Taliban leader wanted in many cases of terrorism, bomb blasts and killings of law enforcement personnel. Some Taliban members belonging to the Wazir tribes approached the family, seeking for a settlement. They said that Hakim Khan is an important member of their group and threatened the family with dire consequences if they refused to sit with them for negotiations. They also threatened to kidnap the younger brothers of Uzma and Alam Zeb. The family feared for the lives of the younger siblings, who stopped attending school.

Alam Zeb's murder

On Friday, December 9, Alam Zeb was shot dead in the Takhte Nasrati court premises, after three police officials Inspector Peer Mohsin Shah, Sub-Inspector Ameer Muhammad and Assistant Sub-Inspector Hakim Khan and another accused Qamar Ali, were produced before civil judge Mr Asif Iqbal and their pleas of bail were cancelled.

According to Alam Zeb's younger brother Zafranullah, after coming out of the court, Alam Zeb asked him to take their mother home and that he would tell him about the hearing later. "When Alam Zeb was about to ride his motorbike, a car hit him and Alam Zeb tried to run away, but Pir Abdul Waheed, the driver, held him and Ibrahim, ASI

Hakim Khan's brother, shot him on his head and chest. Alam Zeb was sprayed with five bullets." Nobody stopped the killers, who escaped safely, despite the presence of some 50 policemen and many court staff.

The car that hit Alam Zeb was a slate-coloured stolen car with the fake registration number of 899, and was in the use of the District Police Officer Sajid Mohmand, to bring the perpetrators from jail.

The killing took place days after Uzma rejected another out-of-court deal offered by the accused police officers: about 30-40 elders from ASI Hakim Khan's area Gudikhel, including MPA Shah Abdul Aziz, had come to her house and told her brother Alam Zeb that Hakim Khan, Pir Mohsin Shah and Ameer Khan had confessed their crime before them and were ready to accept the aggrieved family's demands. A call from ASI Hakim Khan was also received by Uzma's family, in which he categorically warned her mother, saying that, "I am anyway in jail, but soon Bilqees Begum will receive a gift from me."

Although Uzma's family and local and regional rights groups had informed the provincial government and police about such security threats, they were totally ignored. One of the reasons for this is the government's lack of concern regarding violence against women, who continue to be seen as secondary citizens in society. While the provincial government calls itself secular, its attitude to women is in fact no different from the Taliban. This is the province where women are still being stoned to death on the accusation of adultery. The highest crime rates against women are recorded in Khyber Pakhtunkhwa province. In the last by-elections of 2011, political parties came to an informal agreement that women cannot cast votes.

Another reason for the government's apathy is that the rule of law is generally undermined in the province by law enforcement authorities and the ruling party. The security of citizens is not an issue of concern.

A few hours before Alam Zeb's murder, there was apparently a police rally against the judiciary and in support of their three colleagues who were arrested for Uzma's abduction and rape in Takhte Nasrati town. When the judiciary became aware of this action, the Peshawar High Court took a suo moto notice in the case and directed the provincial government to ensure the arrest of the accused within three days and the immediate suspension of the relevant District Police Officer (DPO), the highest police officer of the district, as well as to provide Uzma with tight security. The court also directed the Deputy Inspector General of police (DIG), to hold an inquiry into the police rally and submit a report within 10 days. It is thus clear that the court's priorities were to rebut any perceived slight to itself, not serving justice.

Uzma's child

From the very beginning, Uzma had no intention of aborting her baby, even as she was unsure of what to do with the child after birth. Eventually, and with Alam Zeb's support, she decided to bring up the child herself. In an early interview she had said that it was true that the child she was carrying in her womb will always remain fatherless, still what she knew was that she is the mother of the child and the most painful stage is yet to come when the child will ask her this question.

Alam Zeb had said that he would devote his life to help her sister in bringing up the child if she wishes so but after his death Uzma and her family members changed their mind of keeping the child with them. This was due to their poor financial condition and the fear of the conservative Pashtun society which she believes will never accept the child.

After her daughter's birth though, and after feeding her her own milk, Uzma has fallen in love with the baby, and is now keeping her.

Says journalist Farzana Ali Khan,

In Islam a daughter is called as a blessing from Allah but in the Pashtun (Pathan) society she is mostly considered as burden and her birth is mourned. I cannot say whether Uzma is fortunate or unfortunate to have a baby girl but apparently keeping in view the situation of the so called Pashtun society I believe God has sent one more feeble creature to this world to suffer and become a challenge to the conscience of humanity and human rights groups ['Uzma Ayub, the rape victim, gives birth to baby girl: what next?', AHRC-ART-001-2012, 20 January 2012].

Uzma's family is currently living in protective custody, and in need of monetary support. The money provided them by human rights groups was used to pay for legal fees, the funeral arrangements for Alam Zeb and other necessities, and the money promised by the government has yet to be seen. According to SPARC activist Akbar, continuous monetary and other support is important for Uzma and other such victims, as without it they cannot hope to survive and are likely to make a settlement with the perpetrators:

Poverty, incompatible circumstance, non-availability of support and hunger makes people to compromise, which is the main evil in tackling violence against women. In a situation like this I am afraid the family may compromise, as in other similar cases that we experienced. We can only feel the pain, while the victim is standing on a hot ground. We are the supporters and s/he is not only in an uncertain state of mind, but also a young girl, obviously there is a big difference. Now it is up to us—either we make it a history case or a precedent for others, to overcome the main evil of compromise [From email correspondence, 20 February 2012].

The AHRC has long advocated the dual concept of 'protection and participation' in dealing with victims of human rights violations.³ The participation of these victims in human rights movements and struggles is essential for genuine change and for the movement to have meaning to ordinary people. At the same time, their protection is a prerequisite to their participation. Without mental and physical security and stability, they cannot participate effectively.

Local and national civil society groups in Pakistan should continue to support Uzma in her struggle for justice and bringing up her child. Women's groups in particular should strategically campaign for an end to violence against women, for the education of girls and the change of social attitudes towards girl children. The fight begun by Uzma is a significant one, and one that she cannot fight alone. It is now the responsibility of civil society to ensure that the fight goes on.

3. See <http://www.ahrchk.net/pub/pdf/protectionandparticipation.pdf> for details.

Timeline of events in Uzma's case
<p>2005</p> <p>Alam Zeb suspected of kidnapping Dr Iqbal's son</p>
<p>2007</p> <p>Army officer Naseeb Ullah wants to marry 13-year-old Uzma, but is politely refused. Later, Alam Zeb is accused of stealing an expensive mobile phone, and implicated in false charges of shooting.</p>
<p>October 2010</p> <p>Uzma abducted from her home. A complaint is filed in court, but no action taken.</p>
<p>April 2011</p> <p>The complaint is converted to a writ petition and a two-member bench of the Peshawar High Court direct police to trace Uzma. Police claim that several raids were made earlier but Uzma was not found.</p> <p>Another hearing is set for April 21, but no further action taken.</p>
<p>19 September 2011</p> <p>Uzma escapes from her captives in Bannu and reaches her brother Alam Zeb. She records her statement in Peshawar, naming 13 persons involved in her abduction and gang-rape. She is medically examined and pronounced six months pregnant.</p>
<p>October 2011</p> <p>Uzma's lawyers are harassed and threatened to withdraw from the case.</p>
<p>November 2011</p> <p>Various delegations (comprising of influential village elders and Taliban militants) arrive at Uzma's house to persuade her to withdraw her case and make a settlement, or her younger brothers would be killed.</p> <p>Her mother receives a phone call from perpetrator Hakim Khan, informing her she would 'receive a gift soon'.</p>
<p>9 December 2011</p> <p>A police rally against the judiciary and the arrest of several police officers in Uzma's case is held in Takhte Nasrati town.</p> <p>Alam Zeb is shot dead in the Takhte Nasrati court premises after a hearing cancelling the bail applications of three perpetrators.</p>
<p>20 January 2012</p> <p>Uzma gives birth to a baby girl.</p>

Toppling Cambodian dictators is not impossible if we think and act smart

Dr. Gaffar Peang-Meth

My grandson, 12, a seventh grader, read *The Case for Democracy: The Power of Freedom to Overcome Tyranny and Terror* (2004), a bestseller by a former Soviet prisoner, Natan Sharansky. He passed the book to me, saying I might be interested in reading it.

I had read about Sharansky, a prisoner in the Soviet gulag for nine years; I hadn't read his book. I immediately opened the book to pages my grandson had bookmarked: Sharansky's distinction between "free societies" and "fear societies"; Sharansky's description of believers, dissenters and the millions of "double thinkers" who don't speak their thoughts because of fear of arrest, imprisonment and physical harm so they speak with their "eyes" but go through the motion of supporting rulers who are interested only in remaining forever in power.

Sharansky contends that elections are not enough to dub a society free—a free press, an independent judiciary, the rule of law must exist before genuine free elections are held. He became controversial as he blasted conservatives for placing "stability" above human rights in international relations, and liberals for failing to distinguish between struggling democracies and authoritarian regimes that overtly trample human rights. Sharansky advocates the universality of freedom and human rights.

As I browsed through the book, a Khmer saying came to my mind: "Tumpaeng snorng russey," referring to young bamboo shoots that grow to replace aging bamboo trees—the future is in the making.

A day later my grandson forwarded me comments by an anonymous blogger, 'Pissed Off', on KI-Media, regarding "potential Cambodian leaders" who oppose Hun Sen's rule as "different streams that run fiercely toward the same goal, but cannot merge to reach that goal with a strong and full force. Perhaps the four rivers that merge in front (of) Phnom Penh can serve as an enlightenment for them to see."

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Pissed Off's most relevant question: "(C)an't potential leaders of Cambodia be bound together by their education and the common goal of saving and helping Cambodia and her people?"

Inquisitive minds

Those who read my columns know that my purpose in writing springs from my role as an educator. I write to share what I know and have experienced and to nudge readers to remain curious and inquisitive: A mind that does not question is intellectually useless, especially in this ever changing world. Cambodia, the land of my birth, has gone through hell and fire for too long and her people have suffered greatly. The least I can do at my age is to write while my brain still functions.

As a political scientist, I have engaged in the discipline's conventional tasks: to describe objectively what is; to explain through analysis, causes and effects; to project what may or may not happen in the time ahead; and to suggest what or what not, to do. Of course, I don't expect everyone to agree with my views. But diversity is what democracy is about, and in a civilized world gentlemen disagree and move on.

In the past, I carried my tasks further: I became a political activist and "actionist" – a pursuit I put to rest when I left the Khmer People's National Liberation Front in 1989, to become a teacher. I taught in formal classrooms and engaged in writing for wall-less classrooms. Since my retirement, I continue to share, seeking to educate, and inspire – another form of activism.

The Chinese say, "Talk doesn't cook rice." True enough. But I have also often referenced Lord Buddha's words: "An idea that is developed and put into action is more important than an idea that exists only as an idea." It has been said, "The ancestor of every action is thought."

An old Khmer saying tells of a place for anything and any person in a Khmer's world: "A vieach york mork theu kang; A trang york mork theu kamm; A sam rognam york mork theu os dot" – "Bent woods make wheel; Straight woods make spoke; Crooked/twisted woods make firewood." So, think smart, make room; make use of it or him/her, or his/her ideas and thoughts.

The New Year 2012: An unhappy beginning

My end of the year article in December in this space contained unhappy news on Cambodia and her people. The New Year didn't begin with happy news, either.

On January 3, 2012, some 500 hundred police supported by emergency vehicles provided security to employees of private developer Phan Imex, and to its hired men armed with

axes and crowbars, who were bulldozing citizens' homes in Phnom Penh's Borei Keila.

The police fired shots and used sticks and electric batons against about 200 residents – including children, as photos and videos on the Internet illustrated. The residents fought back. They threw stones, Molotov cocktails, and used tree branches to fence off those who had demolished nearly 300 homes. Phan Imex was armed with a court order that ruled the land belonged to it.

A 2003 agreement between the government and Phan Imex authorized the latter to construct 10 buildings on 2 hectares of land to house 1,776 families, and to have development rights over a remaining 2.6 hectares. However, Phan Imex has constructed only 8 buildings leaving some 400 families without housing. On Jan. 3, 2012 Phan Imex, backed by the government, began dismantling the rest of the Borei Keila residents' homes.

The remarks of Var Ponlork, a member of the uniformed military, were posted on the Internet. He asked how Premier Hun Sen could send soldiers to protect Khmer land at the border while taking away land that belongs to the people?

Eleven human rights groups issued a joint statement condemning the “destruction of ... homes” and the “violent eviction” of the residents, “Phnom Penh's urban poor.” The Phnom Penh Post dubbed it “A Battle for Borei Keila” – a far cry from being a welcoming New Year!

If the past is a guide for the future, forced, violent evictions will continue, and more “battles” will be fought between the people and developers backed by the government.

Ironically, an almost identical event occurred in Southern China's fishing village of 20,000 residents in Wukan, where an open popular revolt took place against local Chinese Communist Party officials following seizures of farmland and land deals. The Wukan revolt began as a protest against officials selling a village-owned pig farm to developers of luxury housing community for USD156 million. The townspeople received none of the proceeds of the transaction. The protesters alleged that their village leader died as a result of a beating by police. Subsequently, Wukan villagers ousted the local officials. Worried, China's higher-ranking authorities called for negotiation – but the fate of the land deal remains unclear.

Some Cambodians speak

After my December column, a Phnom Penh University student, Phiev Tong Him (he authorized me to use his name), identified himself as a teacher of English in a state school and noted he is worried as a “culture of corruption (is) now being promoted in Khmer

society”: “Children in all grades do not study hard as they rely on the teachers to whom they bribe to get high scores.” He claimed the situation is “critical” because “corruption is rampant from the bottom to the top in all fields in the country.” He asked “what will happen to society if this habit continues?”

A former comrade-in-arms of mine from the royalist faction of the Khmer Non-Communist Resistance lamented from Phnom Penh about former leaders – both KPNLF and Royalist – “crippled” by the force they once had fought against, as they have been lured by a thirst for “power, money and prestige.” The ranking royalist called “pathetic” a Phnom Penh overpass called “7 January Overpass” – in recognition of Vietnamese seizing the capital in 1979 – and which “the new Khmer people called ‘Liberation Day’ overpass.” He optimistically asserted, “Personally I don’t think this is the end”; “The silent majority is hard at work.”

They will have to work quickly, however. Teveakor, a young Khmer activist I introduced in this space at an earlier time, wrote that he travelled last month from commune to commune in northwestern Cambodia looking for “land to rent, to grow cassava in the next year.” He was shocked, he reported, that “thousands of hectares of land already belonged to foreign companies through land concessions, about 10 hectares only are owned by a middle class family in the city, the Khmer farmers and villagers in the area no longer own land.”

I could feel Teveakor’s nationalist blood boiling in his e-mail, as he asked: “Does this not mean that the Khmer villagers, once masters of the land, will in the short future become farm workers and immigrants on their ancestors’ soil?” The nationalist sentiment is also very personal: “I always owned ten hectares of land in this area, but the authorities found reasons to let a foreign company grow rubber on them.”

He assured me that what happened to him with the land he owned also happened to “countless citizens” throughout Cambodia. Teveakor is angry, and frustrated.

Elections

The years 2012 and 2013 are election years that will change or sustain the status quo for another term in Cambodia. Looking ahead, Teveakor, a democrat, believes in elections as a founding principle of a democracy. He questions how anyone says s/he believes in democracy but rejects elections even in adverse conditions: If conditions are adverse, then do something to render them more favorable, he says.

Early this month, political analyst Lao Monghay told the Voice of America that, “Now, their destiny is in the hands of the Cambodian people entirely.” In a perfect world, this would have been true. As Pissed Off commented, “Dictators in Cambodia maintain their

grip on Cambodians using violence, fear, suppression of justice, false image of monarchy . . . control of the justice system and most importantly with a new method of providing just, or barely, enough for the poor, so they won't revolt . . .," et cetera.

Teveakor doesn't doubt that Hun Sen and the ruling CPP will rig and manipulate the elections, use fear and intimidation, in order to hold on to power. But, he thinks they can hold on to power perhaps for another decade only. There is still much work for rights and democracy advocates to do – like instilling a political awareness and new political thinking in the Khmers. But progress will be made over time.

Teveakor's thinking dovetails with that of democracy advocate Sambath and colleagues (who seem to keep low profiles at this moment). Even the ranking royalist correspondent shares the same thought.

What will happen when these different forces – and many others not mentioned here – converge against the same adversaries, to attain the shared goal of ending the autocrats' rule? Of course, democrats must not forget that the autocrats, too, seek to divide, weaken, and defeat them at every opportunity.

Non-Violent Resistance to Topple Dictators

I have written elsewhere about two men whom the December issue of Foreign Policy Magazine identified as among 100 top global thinkers.

One was American political scientist Gene Sharp, 83, a Ph.D. degree holder in political theory from Oxford, Professor Emeritus of political science at the University of Massachusetts Dartmouth, and founder of the nonprofit Albert Einstein Institution in Boston, devoted to studies and promotion of nonviolence action in conflicts worldwide. The other was Srdja Popovic a former marine biology student at Belgrade University, who at age 29, and influenced by the work of Gene Sharp, formed "Otpor" ("Resistance" in Serbian) in 1998, to mobilize Serbia's populace against Slobodan Milosevic, Serbian president (1989-1997) and Yugoslav president (1997-2000), ending Milosevic's rule in 2000.

Sharp's work has become a blueprint for the world's activists against dictatorship, and Popovic's first hand experiences and his writing have become sought after knowledge by democracy advocates in more than 50 countries – especially the Arab Spring movements against their dictators.

It is more the reason, and with urgency, that Cambodian rights and democracy advocates become familiar with the work by Sharp and by Popovic. Of course Cambodia is not Serbia nor Egypt. But we need to examine the similarities where they exist and learn to

see many trees in a forest and see a whole forest from different trees.

I have written on Sharp's 1993 book published in Thailand, "From Dictatorship to Democracy, A Conceptual Framework for Liberation," and I am happy to see the book, and Popovic's "Nonviolent Struggle, 50 Crucial Points" posted on the Khmer Blog KI-Media.

Sharp's 1973 classic, "The Politics of Nonviolent Action" has influenced revolutionists the world over, and Popovic's Center for Applied Nonviolent Action and Strategies' (CANVAS) one-hour documentary film, "Bringing Down a Dictator," is said to be a must-view film (which inspired Burma's Saffron Revolutionists).

There is no substitute for reading their writings. But here are some of Sharp and Popovic's ideas that opponents of Hun Sen might draw upon. Activists and "actionists" from other nations have already benefited from them.

Gene Sharp

A dictatorial regime remains in power thanks to the obedience, submission and cooperation of the people it governs. Therefore, democracy activists' goal is to convince the people that their withdrawal of obedience, submission and cooperation from the regime would end the regime's hold on power. As a regime is like a building that is supported by columns, activists must pull those columns from it to their side. Two very important columns to pull away from autocrats are the police and the military – and Popovic's Otpor and the Egyptian protesters did precisely that.

Sharp's seven reasons why the many obey the few are applicable to the Cambodian situation. People obey out of habit, and from fear of punishment if they don't obey. Thus, many people are what Sharansky called "double thinkers." Also, there are those who feel a moral obligation to obey (as Cambodians obey "Sdech phaen dei" or the king of the earth); those who obey out of a kind of emotional-psychological identification with the ruler; and those whose "zone of indifference" allows them to tolerate and overlook areas that are unpleasant, so they endure.

Many people obey out of their own "self-interest" in prestige, power position, direct or indirect financial gain incurred. Cambodians in general fit this criteria so well. Those whose self-interests include desire to travel in and out of the country find using Hun Sen's travel passport and visa to be within their zone of indifference or tolerance. Sharp also mentioned people without the self-confidence to disobey and resist – Sharp refers to this as an avoidance of responsibility.

Can Cambodians reverse some or all of these reasons?

Sadly, Sharp argues, obedience is essentially “voluntary” – a person consents to obey because s/he is unwilling to face the consequence(s) of disobedience. Sharp mentioned Russian Leo Tolstoy’s writing on the English subjection of India: “What does it mean that (a commercial company of) 30,000 men . . . ha(s) subdued 200 million . . .? Do not the figures make it clear that it is not the English who have enslaved the Indians, but the Indians who have enslaved themselves?”

Sharp also cited 16th century French writer Etienne de La Boetie on the power of a tyrant: “He who abuses you so has only two eyes, has but two hands, one body, and has naught but what has the least man of the great and infinite number of your cities, except for the advantage you give him to destroy you.”

Sharp’s “Methods of Nonviolent Action” lists about 200 methods available for democracy activists to use against autocrats, including methods of social, economic, and political “noncooperation” and methods of nonviolent intervention (psychological, physical, social, economic, political).

Srdja Popovic

Born on October 29, 1969, the Belgrade University marine biology student Srdja Popovic who, with his friends, founded the Otpor resistance movement on October 10, 1998, at a time when Serbian dictator Milosevic’s rule was firmly entrenched, decided that it must be Otpor’s primary objective to transform the political culture of the Serbian people. Their political consciousness needed to change, and all issues were considered in terms of the overall goal of removing Milosevic.

Otpor leaders were very frustrated by the different opposition political leaders who were more concerned with protecting and promoting their own interests, and who fought among themselves rather than working to remove Milosevic.

A document, “Declaration of the Future of Serbia,” was drafted to expose Otpor’s vision for Serbia’s tomorrow: It defined Serbia’s main problems, Otpor’s objectives, and the methods Otpor proposed to use to remove Milosevic from power. Happily, the document was endorsed and approved by “all” important student organizations in Serbia, and prominent figures from different walks of life emerged to throw their support behind Otpor. Otpor’s symbol of the clenched fist was adopted.

Otpor’s two-pronged strategies included mobilizing the Serbian people to vote, although Otpor leaders knew well that Milosevic would never accept defeat in the elections. As Sharp puts it in his book, “Dictators are not in the business of allowing elections that

could remove them from their thrones.” So, while people were encouraged to vote, they were also encouraged to carry out “individual resistance” using nonviolent methods of civil disobedience. Otpor made clear that it was a must that the opposition must get more votes than Milosevic, and that in order to reach this objective the different opposition parties must “unite” behind one opposition presidential candidate, and that the only goal in the struggle was removing Milosevic.

Otpor leaders thus worked on improving analytical skills to promote and maintain “unity, planning, and nonviolent discipline” – the analytical skills that can be taught and learned.

Serbian students who led Otpor made use of Serbian translations of Prof. Gen Sharp’s writings on nonviolent action as a theoretical basis for their struggle.

Slowly, the Otpor leaders stripped away the traditional “fear, fatalism and passivity” of the Serbian people, and creatively turned those factors into positive action by making it “even cool” to be a revolutionist. They used humor and creative street theater in public protests to mock Milosevic, to make “those grey and square-headed bureaucrats look stupid and ridiculous.”

The idea was to break down fear, and to inspire “the tired, disappointed and pathetic Serbian society.” Elevate enthusiasm and humor, and fear and apathy would diminish. People needed to be empowered to see the regime’s vulnerability, thus, overcoming their fear of punishment.

“Gotov je” (He is finished!) and “Vreme Je!” (It’s Time!) became slogans to galvanize public discontent. One month before the people stormed Serbia’s parliament, Milosevic’s police arrested some 2,000 Otpor activists in September 2000.

But, in October 2000, Milosevic resigned.

Advice on Violence

Sharp posits: “Constitutional and legal barriers, judicial decisions, and public opinion are normally ignored by dictators.” On the other hand, “By placing confidence in violent means (in the struggle against dictators), one has chosen the very type of struggle with which the oppressors nearly always have superiority.”

Popovic advises: “There are two things you need to avoid if you don’t want your movement to be doomed: One is violence . . .” Popovic sees the maintenance of a “nonviolent discipline” as indispensable for the success of a revolution. A protester who throws rock at the police opens door for the police with superior power to respond with force on the whole group.

The second thing to avoid is “taking advice from foreigners.”

On reliance on outside saviors

Sharp says, oppressed people who are “unwilling and unable to struggle” for lack of “confidence in their ability to face the ruthless dictatorship . . . understandab(ly) . . . place their hope in for liberation in . . . outside force” to come to their rescue.

Sharp presented “a few harsh realities.” Frequently, Sharp tells us, “foreign states will tolerate, or even positively assist, a dictatorship” to serve the foreign states’ “own economic or political interests.” Also, foreign states “may be willing to sell out an oppressed people instead of keeping pledges to assist their liberation at the cost of another objective”; they will act against a dictatorship “only to gain their own economic, political, or military control over the country.” Foreign states may become actively involved “only if and when the internal resistance has already begun shaking the dictatorship . . .” However, Sharp posits, “International pressures can be very useful . . . when they are supporting a powerful internal resistance movement.”

“Foreign governments don’t have friends, only interests,” warned Popovic.

He encouraged democrats to “try to cultivate external support, get the knowledge and material resources from those offering it and use it for your movement’s mission. But beware of their political advice because successful revolutions are only those which are home grown, designed and followed by local people in a certain country.”

Happy 2012

I write this article hoping to spark discussion and cause Cambodians to reflect on what opponents to Cambodia’s autocracy can learn from the experiences of others. Some Cambodian democracy activists may feel helpless and lonely in their fight, but they must not feel hopeless or alone. Many people under the sun have traveled this road and some have seen success.

“Never” is too long a time. Humans’ liberation from oppression is not impossible.

Remember Lord Buddha’s words, “Nothing is permanent”; “He is able who thinks he is able”; “I believe in a fate that falls on (men) unless they act.”

Happy New Year 2012 to all Cambodian democracy activists!

Burmese farmers' land fight celebrated in new booklet

Press release issued by the Asian Human Rights Commission: AHRC-PRL-001-2012

(Hong Kong, January 10, 2012) A Burma-based rights group has released a new publication documenting and recounting the courageous fight against land expropriation, intimidation and false prosecution of a group of rural villagers.

The 38-page Burmese language booklet, "Forced expropriations of farmlands and partial victories", written and published by the Farmers' Rights Defenders Network, retells the story of the villagers of Sissayan, in Magway, part of the country's dry central zone, who have been struggling against the attempts of army-backed companies to take over their land for use by factories that will produce toxic substances.

The Asian Human Rights Commission issued an urgent appeal in April about an attack and false prosecution of a group of the farmers leading the fight against the army-backed companies in Sissayan: <http://www.humanrights.asia/news/urgent-appeals/AHRC-UAC-073-2011>.

Although a court convicted the farmers, the village community rallied around them, as told and illustrated through photographs in the new booklet, and on appeal their sentences were reduced to the time already served.

Wong Kai Shing, director of the AHRC, said that the new publication showed the strength of spirit and a sense of natural justice among people in Burma.

"It is a very promising sign for Burma that such a strong spirit exists among the people around the country to stand up for their rights and resist attacks on their livelihoods and even their very lives," Wong said.

"That people in Burma are themselves now documenting and publicizing their energetic struggle, with few resources and still relatively limited contact with human rights defenders from around the region also shows that they are maturing as human rights defenders and learning very fast," he added.

In its 2011 Annual Report, the Hong Kong-based regional human rights group highlighted forcible and illegal land expropriation through military-corporate links as one

of the major emerging human rights issues in Burma as political and economic conditions change.

The annual report is available for downloading here: <http://www.humanrights.asia/resources/hrreport/2011/AHRC-SPR-004-2011.pdf>

The booklet on the Sissayan farmers, in Burmese, is available here: <http://www.humanrights.asia/resources/BurmeseSysayamFarmerBook.pdf>

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.

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