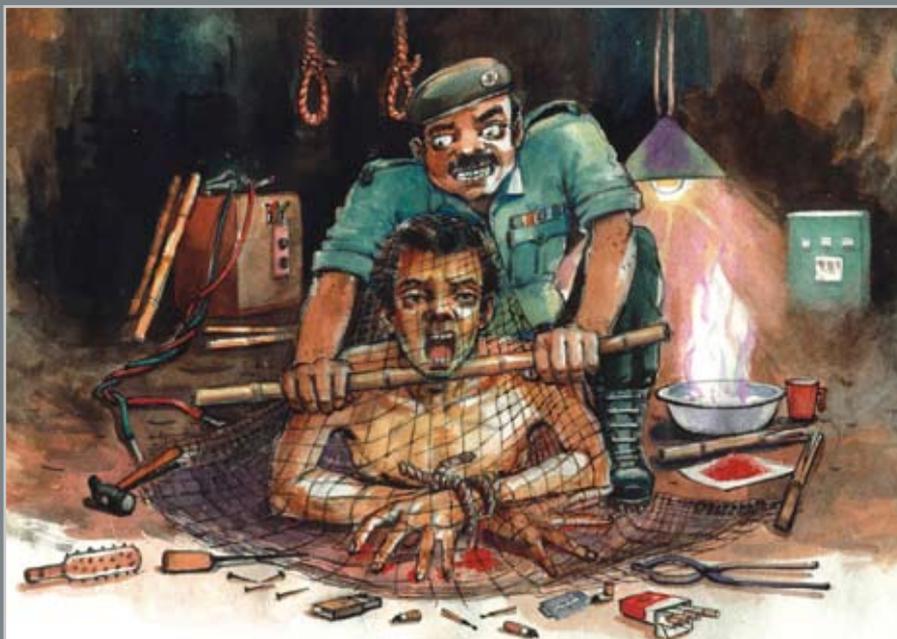


# Ethics in Action

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June 2008



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# Ethics in Action



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# C O N T E N T S

- 1**      **Cyclone relief no laughing matter**  
*Awzar Thi*
- 6**      **Creative writings in wretched times**  
*Basil Fernando*
- 11**     **Herat Hami: Translation and comment**  
*Basil Fernando*
- 14**     **Documenting the slaughter of innocents**  
*Danilo Reyes*
- 16**     **Christmas with a dead man's watch**  
*Fr. Roberto Reyes*
- 21**     **Aime Cesaire: An appreciation**  
*K G Sankarapillai*
- 25**     **Poetry as a radical discourse of demystification**  
*E V Ramakrishnan*
- 28**     **Asian NGOs call on UN member-states to reject Sri Lanka's  
Human Rights Council election bid**  
*Asian Human Rights Commission*
- 35**     **Pakistan's lawyers' movement**  
*Munir Malik*



# Cyclone relief no laughing matter

*Awzar Thi*

On the night of 4 June 2008, a group of police officers came to a house in suburban Rangoon, searched it and took away one of the occupants. But the person they took is not a wanted robber, murderer or escapee. He is a comedian.

Although Zarganar is famous in Burma for his antics on stage and screen, he has not been joking much lately. Instead, he has been at the front of local efforts to get relief to where it has been needed most since Cyclone Nargis swept through his country a month ago.

Zarganar, whose adopted name means “pincers”, has thrown everything into the relief effort, organising hundreds of volunteers in dozens of villages to help in giving out food, water, clothes and other basic necessities to thousands of people.

His sister told Voice of America that he had sold his and his wife’s mobile phones to use the money for the work, and that as the monsoon is setting in they had just purchased seeds to distribute in order that villagers who have nothing to plant might at least grow vegetables and stave off hunger.



He has also been a vocal critic of the government response to the cyclone, constantly pointing to the shortfalls in assistance and needs of survivors.

“The odor [of death] sticks with us when we come back from the villages,” Zarganar told The Irrawaddy news service on June 2, a full month after the cyclone struck.

“Nobody can stand it, and it causes some people to vomit. How could people find edible fish and frogs in that environment?” he asked, in response to an editorial in a state-run newspaper that survivors did not need foreign aid as they could catch and eat small animals instead.

Although perhaps the most outspoken, Zarganar is not the first person to be detained over the cyclone response—or the lack of it.

In mid-May, at least eight journalists from local periodicals who were doing their best to gather news and report on the tragedy without running afoul of the censors were held

overnight at an army camp in the delta. They were released, but not before being threatened and having their digital photographs deleted.

Back in Rangoon, the reporters' editors were also told to stop covering the extent of damage and instead publish articles on rebuilding efforts. The warnings had the desired effect. Journals that were the week before packed with images of hungry, tired and frightened people sheltering in monasteries instead concentrated on the setting up of emergency camps and delivery of supplies.

Meanwhile, authorities continue to constrain and prevent domestic donors from getting where they want to go.

At the end of May, some blocked a bridge into Rangoon and impounded vehicles that were returning from taking goods to the needy.

Monks who tried to deliver food from other parts of the country also found officials interfering with their every move, wanting to make it appear that they were the ones responsible for the largesse.

And international agencies have corroborated reports from many areas of people being evicted from temporary facilities and being told to go back to homes that they no longer have.

Zarganar has a home, but he is nowhere to be found in it tonight. Not for the first time, he is in a cell somewhere, awaiting news of what will happen next.

Burma's new constitution may insist that nobody can be held for more than a day without going to a court or being charged, but as Zarganar knows full well, the gap between what is said and done in his country is far too large for such words to be taken seriously, although that is no laughing matter either.

### **Numbers are not the issue**

Among the many responses to the unconscionable blockading of humanitarian assistance to victims of the cyclone that swept through Burma on May 10, perhaps the strangest, if not the most offensive, have been claims that journalists, diplomats and aid workers have exaggerated the death toll.

Take an article that David Rieff wrote for the Los Angeles Times (Save us from the rescuers, May 18). For Rieff, exaggerated reports are all about numbers. And not just high numbers for that matter, but pretty much any numbers. If the numbers jump up suddenly,

he reasons, they're suspect. But even if they don't, they're still suspect, because those who make them up are prone to hyperbole and have vested interests.

What Rieff omits is that those ultimately responsible for the making of numbers, those who are most prone to hyperbole and those with the biggest vested interests are not the relief agencies against whom he rails or their proponents, but the national authorities who obstruct the making of accurate tallies with which to obtain a better picture of what needs to be done.

Burma's government is particularly notorious for this sort of behavior, not least of all since the cyclone hit and the army carried or sold off the first planeloads of stuff that arrived. But it is by no means alone in Asia in its ability to manipulate and distort a tragedy for its own advantage.

Ultimately, it is the fault and success of the powerful that the truth of what has happened can never be known fully, that attempts to make sense of it by assigning numbers can be all too easily dismissed as exaggerated or inaccurate, and that those persons searching for answers can be ridiculed and silenced.

The issue for Burma today is not about numbers at all. It is about the language and behavior of social and political control, as it always is at such times. Those who make the mistake of wagging their fingers at the wrong people over the wrong issue do more than disservice themselves. They risk winding up like Rieff, as proxies for the holders of power, as spokespersons for the perpetrators of abuse.

Anyone who sincerely wants to get a sense of what has been going on in Burma should not bother with arguments about how many have died and how we can know for sure that humanitarian groups haven't got it wrong. Learn from real stories instead. Websites like The Irrawaddy, Mizzima, and Democratic Voice of Burma are daily retelling narratives of affected persons and also of those who have been packing their cars with supplies and driving them through the gauntlet of checkpoints that now ring the cyclone-affected areas.

These people aren't giving accurate numbers of dead, killed, missing, sick or displaced. Some hazard guesses when prompted. But the way they offer up the figures suggests that they mean little. What counts is everything else: the odor of dead bodies still permeating the air two weeks on; the emptiness of mothers who have gone insane after witnessing their children being swept away before their eyes, the desperateness of people literally throwing themselves at arriving vehicles to plead for help.

"It is," wrote a resident of Rangoon who joined one convoy a few days back, "worse than we expected." Nargis hasn't been exaggerated; it has been understated.

### **More abuse and suffering ahead**

While the military government's atrocious handling of Cyclone Nargis and its aftermath is by now well known, it is likely that once authorities have obtained a semblance of normalcy and official behavior becomes a little more coherent, human rights abuses directed against storm refugees and people in nearby areas will increase.

To begin with, the emptying out of afflicted coastal regions could become a permanent feature of Burma's map. Entire villages and their populaces have been swept away; with them have gone council offices and registrars containing records of land titles and other important documents. Whole islands are now all but deserted, the survivors moved elsewhere or concentrated in isolated temporary camps.

There have been no public announcements about what will happen to those who have been relocated, but as in Burma all land is technically state property and as its uncompensated seizure is commonplace, military and civilian officials will be eyeing these areas with a view to something other than simply letting villagers back to rebuild.

Where rebuilding does go on, it is likely to be accompanied by a dramatic increase in demands on the citizenry to pitch in. There is a lot that needs to be done. Who will do it? Not international agencies. They won't get free rein. Not domestic businesses and joint ventures. They are promoting themselves as do-good donors because of lucrative contracts to construct things like government schools and hospitals. The remaking of small bridges and canals, digging of ditches and repaving of side roads is going to fall to the locals.



Although the International Labor Organization has reduced the use of forced labor in Burma, even in normal times the practice is still widespread. Its national office will have its work cut out in the coming months, as town and village authorities increasingly slip back into old habits and give their constituents orders to turn up at 6:00 a.m., one person per household, with tools and the time needed to reinforce an embankment or byway.

The increased demands on people's hours will be accompanied by more on their pockets too. The levying and collecting of tax in Burma is ordinarily haphazard. Officials will both be obliged and emboldened to seek more money and stuff from more people more often. Already there are reports that traders have had goods confiscated in the name of cyclone victims, and that villagers have had to give increasingly large amounts for basic services. As the cash crisis hits home, petty bureaucrats and security forces will shift their shortfalls onto the ordinary folk underneath them, who are already suffering from galloping price increases and severe unemployment.

Other routine human rights abuses are equally likely to grow in number during the rest of the year and into the next. There was a story this week that children orphaned due to the cyclone had been picked up and taken away in army trucks, ostensibly for special care. Elsewhere government thugs beat back angry crowds of people who had seen but not received emergency supplies. Such incidents will readily multiply.

The displaced, hungry, sick and homeless are not going to be able to organize and protect themselves from the inequities of officialdom as usual. They have lost their livelihoods, houses, families, contacts and their ordinary means of survival and self-defense. They are going to need the special interest not only of humanitarian groups but also human rights defenders and bodies at home and abroad throughout this period of heightened risk.

Rights advocates, journalists and specialized agencies need to ready themselves now to respond to the wave of abuses that are sure to follow this emergency period, and make sure that they have the money, people, means and mentality to react quickly and effectively to reports of incidents as soon as they arise, for arise they shall.

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This article consists of edited text from several issues of a UPI column entitled 'Rule of Lords', [http://www.upiasiaonline.com/Human\\_Rights/](http://www.upiasiaonline.com/Human_Rights/). The author's work can also be read at his blog, <http://ratchasima.net/>.

# Creative writings in wretched times

*Basil Fernando*

In the 1960s and 70s there was a group of Sri Lankan writers who wrote in English. Many of them have ceased to write since the later 1980s. One of them who was teaching abroad, once wrote to me around the year 2000 stating that with the changing circumstances in the country many who were writing earlier have ceased to write.

The evil that takes place in society when it is so widespread has its impact on everyone, even though there may be so many who are not directly affected by the violence, the fraud and the deceit that becomes so common. However, all human beings who see and hear these things are deeply affected by what they see as wrong and evil around them.

For many, silence comes not as a result of direct fear but due to disgust. They develop contempt for the type of despicable behavior that they see around them. They see how life is being mocked. They see how humor disappears in their society.

In the small disputes under the normal circumstances of life, people intervene. They bring some humor to their neighbors or even strangers who may engage in some sort of quarrel. This type of normal human intervention helps to bring down tempers and calm people.

However, when social evils are so deep and so common, people cease to intervene. In fact, internally they withdraw from a society that they cannot cope with.

In such times what do you write about?

Charles Pierre Baudelaire wrote *Les Fleurs du mal* ("The Flowers of Evil"). Many other writers living under such circumstances gave expression to the wrath against the widespread degeneration that is part of wretched times. And in the circumstances of Sri Lanka and other countries like Cambodia and Burma, it is the writers that can reflect on the evils of their time that can keep the creative discourse going.

In these times those critics who say that issues of justice and injustice are not suitable topics for such writings are themselves engaged in deception. In societies where murder has become so common and is even legitimized by the state, where life is trivialized by

propaganda agencies, not to be angry, not to express disgust, not to express wrath is humanly demeaning. To expect creative writers to demean themselves by contributing to the deception of their times is itself a reflection of how deep the degeneration has crept in.

In such wretched times, human commitment to others lies in trying to write about the wretched of the earth who suffer the brutality of such cruel times.

A country like Sri Lanka which has allowed large scale murder by the state as well as by its opponents for almost four decades now, has created in the minds of its citizens a disgust for the type of society they are being forced to live in. Whether some will admit this openly or not is not the issue. The natural disgust for murder, fraud and deceit are such inherent qualities of human beings, that it would be strange if it were to be said that Sri Lankan society is an exception to this.

This deeper inner mind of the Sri Lankans needs to be given expression too. This is a challenge that the creative writers are facing under these circumstances.

**Oh, you miserable pen pusher**

Oh, you miserable pen pusher  
Trying to kill the dead the second time

Your sword cannot hurt the dead  
It hurts the living which includes you

To those who are killed  
We need to apologize  
To remove the pain of the living  
To prevent the living rooting alive

You poison your drink  
And of others  
Dead do not die again  
You and other livings ones do all the time.

We should apologize to dead  
For their murders  
To save ourselves  
From our collective death

You rotting pen pusher  
Look in the mirror and smile  
In the mirror you will see  
Something worse than death

### **A Son's Tale**

It was a crowd of twenty or so  
Many not so young and some old  
One among the not so young rose  
This tale he told

Blame not for what I say  
I am worried and this I thought  
I should loud say  
For years now it bothers me

My father had father  
Him my father dearly loved  
Humble gentle a man was he  
I was told

To a landlord's family  
A tenant farmer was he  
Working hard earned but little  
With respect he served the masters

Hurt in his heart he hid  
To his son he said  
Never a tenet father be  
Get away from here and study

To a distant place my father fled  
With someone's help books he read  
To make my story short  
After study some fortune he amassed

During that long time  
Of his father he did hear  
That the master revenging son's departure  
Had beaten his father dear

Some revenge my father had in mind  
Brought lands next to the masters  
Furious was this landed lot  
Seeing servant's son their equal

This way some years had fled  
A day when we all were gone  
He was left alone  
In the big house now he owned

Some from the old master house  
Like wolf had enter and pounced  
Beating him hard shouting words so foul  
Thinking him dead had happily left

Returning home I saw my father dear  
Thinking him dead was full of tears  
With neighbours help to hospital went  
Found him unconscious but not dead

Doctors did him well treat  
His heart did better beat  
All the story he did with names repeat  
Police and lawyers were upbeat

Here my friends my worries start  
My father in fact breathed his last  
In court three were sentenced to death  
I must say, I had my revenge

Now do not blame when you this hear  
Give me your forgiving ear  
When my father was still not dead  
Here is something that doctor said

It is possible to prolong father's life a little  
But a serious surgery he need  
Risk there is that his memory  
He may fully lose

I loved my father and his father too  
Wanted him alive with memory or not  
But with honesty let me say  
A lawyer I did consult

Briefly this is what he said  
Your father had told what happened  
If he dies or live to tell his tale  
To death or jail those villains will go

If he lives but cannot tell his tale  
I asked this lawyer and this he said  
Then these villains will free go  
A profound problem in me arose

Whole night sleepless I thought  
Justice to him, his father, I did want  
But to let him go  
That I did not want

Tell what you wish or forgive if you can  
The risk of loss of his memory  
I did not take  
Soon peacefully he was gone

Now my secret I have said  
Not so old man said and sat  
There was silence all around  
No word any one uttered.

# Herat Hami: Translation and comment

*Basil Fernando*

## **'Herat Hami' by Wimalaratne Kumaragame**

Herat Hami who lived in Aliya Watunu Wawe\*  
Even someone like me was more important than him  
Though Harat Hami cut dead bodies\*\*  
He was twenty, thirty times more decent than me

In the hospital of Aliya Watunu Wawe  
He spent his time removing night soil  
Though he lived happily with a monthly salary  
Whenever I saw him I was moved with sadness

A hard, wiry body, handsome and thin  
Not much of age, fresh and young  
No wife as yet  
I was perplexed by the job he did

Making someone like me sad  
Each day he carried my excrement  
If someone dies suddenly  
Doctor comes  
He cut the dead bodies in front of us

None from the farmer, worker or elite caste  
Ever did such a job  
No known disease of mind he had  
He did no harm to any dwellers of the forest

He spread a docile smile  
Every word of his spread ahimsa  
Every evening he drank burning water  
His heart overflowed with kindness

His sister was stabbed  
 Recalling her my eyes get wet  
 He did not cry the day his sister died  
 When she had a fever he wailed with tears in his eyes

When his younger sister died he went with a doctor  
 Her dead body was cut by Herat Hami  
 Though the villagers blamed him in harsh words for this  
 He did not care much about the world's violent flesh  
 As he was not born in a rich mansion  
 He went to the temple at every Poya  
 He was a member of the newly built stupa  
 Even more than that he respected Iyyenayaka\*\*\*

\* The Tank Where the Elephant Fell – the name of a rural village

\*\* It was customary some time back for a lower ranking employee to do the cutting of the dead body while the doctor was doing the autopsy. This custom still prevails in many parts of India.

\*\*\* A popular god figure among the rural folk in Sri Lanka

**Wimalaratne Kumaragame** was one of the well known names among the groups of poets who are known as Colombo poets. This group of poets wrote poetry on matters close to the ordinary folk of Sri Lanka. They usually followed the four-lined stanzas or traditional poetic expression. However, their language was simple and at one time in almost all Sinhala households their poems were sung.

Wimalaratne Kumaragame was unique among these poets due to his deep understanding of the rural folk in the remotest villages. He was a civil servant and therefore would have been a well educated person and having taken a great interest in the people he worked for, he was able to get inside their psyche. He can be said to be the poet of the folk psychology in Sri Lanka. Like this poem, he wrote several others regarding rural folk, demonstrating their inner character and their spirit. Thus, his poetry helps us to understand the folk spirit of Sri Lanka.

Much of Sri Lankan literature after about the 10th century was influenced by the Sanskrit language and literature which came through Indian invasions after the Anuradhapura period that ended around 1070 AD. The imitation of various forms borrowed from Sanskrit

literature became quite a pastime. In fact, it can be said the rigid adherence to form became part of the Sri Lankan mind and psyche during this period. It was also during this period that a very rigid caste system was introduced into Sri Lanka. Rigid social stratification and extremely rigid social consciousness is part of the inheritance of this period of history. As a result, much of Sri Lankan poetry of the subsequent centuries does not show very much of a folk spirit.

Separately, there was a folk poetry and, in fact, it became a normal activity among the rural folk to express themselves through poetry. There were even traditions of spontaneous creation of poems and poetry contests where different people would try to reply to opponents by way of poetry. It is this folk poetry that influenced the Colombo poets.

When poetry loses its connection with ordinary folk, it loses its power and beauty. From the mid 20th century there developed a branch of poetry known as free verse (Nisadas). This was an attempt to break away from the formal four-line stanza style and to choose styles which did not conform to any particular pattern. More well known poets of this group belonged to the newly educated graduates from Sinhala backgrounds. The newly educated were also assimilating themselves into the elite or middle classes and they sought their audience in these social groups. The result was that poetry became disentangled from the folk and due to this it lost its power. This movement of free verse is now an accepted part of poetry writing, but the work of these poets has failed to have the same appeal to ordinary people as did the poetry of Colombo poets like Wimalaratne Kumaragame.

Underneath the poetic expressions of Kumaragame, it is not difficult to perceive a sense of indignation about what was being done to the rural folk during this time. In giving expression to their lives he also expresses their suffering, and how despite such suffering they were able to maintain their dignity and balance. There is also an expression of defiance.

Among the Sri Lankan poets of the 20th century, Kumaragame enjoys a unique place. His work and the memory of his work needs to be revived, particularly the folk spirit that he brought into Sinhala poetry. Whether a Sri Lankan poet writes in Sinhala, Tamil or English is not the real issue, the issue is whether he can express the folk spirit in a way Kumaragame was able to do in his time.

# Documenting the slaughter of innocents

*Danilo Reyes*

Apart from the constant murders of human rights and social activists in the Philippines, there have also been many—largely unnoticed—forms of arbitrary deprivation of life taking place, which are claiming dozens, if not hundreds, of lives.

The pretexts for this arbitrary deprivation include the following:

## **‘Legitimate encounter’**

Individuals who lose their lives in ‘legitimate encounters’ are usually civilians who have been killed on the pretext of an armed encounter between security forces, soldiers and/or police, and illegal armed groups, rebel or ‘terrorist’ groups.

## **‘Vigilante killings’**

This term initially referred to killings committed by the notorious group ‘Davao Deaths Squads’, or the ‘DDS’. Their victims are persons accused of being involved in criminal activities or gang warfare. Former detainees, recidivist offenders, or those with criminal records have also lost their lives in this manner.

With similar violence now also occurring in Davao’s neighboring cities, ‘DDS’ has evolved into Dadiangas Death Squads and Digos Death Squads—Dadiangas and Digos being two cities near Davao.

## **‘Gang war’**

Deaths supposedly motivated by gang rivalry are quickly dismissed under this term. However, most victims’ deaths are being concluded as such even prior to any thorough investigation. There are also claims that the killers could have been hired by security forces themselves, or have links with rogue police.

## **‘Shootout/Rubout’**

The deaths of crime suspects, often during police operations, are explained under this category. In a ‘shootout’, individuals are killed because they fought or traded bullets with

the police. A 'rubout' is the opposite; as the Philippines Commission on Human Rights describes, it is a summary killing.

If a death occurs as a result of a shootout, the police are not accountable. There have been several deaths however, where persons were killed without putting up a firefight at all.

Regardless of how these deaths are termed, they all constitute an arbitrary deprivation of life, and are an obvious result of the police and government's failure to protect citizens' lives, and to hold those responsible to account. The state's inability to undertake effective investigations in these cases, to identify perpetrators and provide witness protection has further fueled such arbitrary deaths in the country.

To document and expose how certain classes of society are being systematically killed, a blog entitled 'Slaughter of Innocents' has been launched. It can be accessed at: <http://noprotection.blog.humanrights.asia>

# Christmas with a dead man's watch

*Fr. Roberto Reyes*

*(This was issued as an Asian Human Rights Commission Paper: AHRC-PAP-005-2008)*

*This article is an account of a well known Filipino priest, Fr. Roberto Reyes, whom a rebel group claiming responsibility to the murder of Colonel Rolando Abadilla had approached nine years ago. They handed over to him Abadilla's Omega watch as their evidence that they had killed him, not the five convicted accused. The court had accepted the watch but never considered Fr. Reyes' testimony.*

It was an unusual Christmas. No one knew about what I had carefully hidden in my room. A few days earlier, I had unusual visitors. Members of the communist hit squad Alex Boncayao Brigade or ABB came to my office at the Parish of the Holy Sacrifice, at the University of the Philippines, Diliman, Quezon City. It was more than a friendly visit. They had a request which was a matter of life and death, a matter of justice and the grave possibility of its miscarriage.

I already met one of the ABB men who saw me. He was high ranking, well known and respected in the communist underground. The other men introduced themselves for the first time. "We will not take your time Father. We just came to make an urgent and serious request of you," uttered the leader. "We have here the watch of Colonel Rolando Abadilla," he explains. He then takes an envelope and opens it. He shows me a watch, an Omega watch. "This is Colonel Abadilla's watch. He was wearing it on the day that he died. He deserved to die for the crimes he committed against the people. The ABB carried out the execution of Abadilla. We carried out the execution and did not fail in acknowledging our responsibility for it. In fact, to this very day, we continue to insist that we killed Colonel Rolando Abadilla. We are indeed responsible for his death."

I looked at the watch. I looked hard and tried to sense what it represented, what it meant. The leader continued, "We would like you to keep this for awhile, until it is time to bring it out into the open. There are five innocent men accused of killing Colonel Abadilla. They are fall guys, conveniently and arbitrarily arrested to remove the political stigma from the death of Abadilla. You probably remember who and what he was during the Marcos era. He was known as the "Berdugo" (torturer) because he was the military's chief interrogator and torturer of political prisoners. He has worked with Marcos and with others who are now well placed in the political and military hierarchy."

I stopped the leader and asked, "You mean that there are five men in prison for a crime that they did not commit?" He promptly answered, "Yes, five innocent men, and they are on death row waiting for affirmation from the Supreme Court. And you know what affirmation means. When their sentence is affirmed by the Supreme Court it will be carried out within the next three months."

This was indeed a sad and dangerous time in the Philippine justice and penal system. The death penalty had just been restored during the previous administration under President Fidel Ramos. The incumbent President, Joseph Estrada has been making open and fiery overtures about implementing capital punishment as soon as possible. Inmates on death row have begun feeling the torture of the fatal combination of presidential bravado and the blood lust of a growing pro-death penalty segment of the population. "Kailangang sampulan yang mga kriminal na yan (criminals have to be given a lesson through an example), was President Estrada's oft repeated and heard comment those days. Everybody felt and knew that executions will take place quite soon. And those who knew, though in a different, scarier and more existential way were those on death row, which included the five men falsely accused for Colonel Rolando Abadilla's murder.

"So, what exactly do you want me to do," I asked the leader. "We want you to take this watch and keep it and when it's time, perhaps early next month, present it to the Judge who convicted the five innocent men as new evidence to prove their innocence," explained the leader. Then he added with a note of urgency, "These are five innocent men who will become victims of a grave miscarriage of justice if we do not act and do everything possible to have them re-tried and proven innocent. We are not exactly religious or spiritual persons. But we have consciences which urge us to do everything to save five innocent men and to reaffirm our responsibility for the justified execution of an enemy of the Filipino people."

The meeting was over in less than an hour. The ABB men left and I sat in my office looking at this unusual object. I imagined what it would say if it could speak. But it lay before me in dead stillness. It did not speak. It did not tell time. I don't remember what time it read then but I do recall that it had stopped functioning. The hour hand and minute hand were frozen at some time in the past. It was as though the watch had died with its owner as well. It was after all a dead man's watch and worse, it was on his wrist when he was killed. I took the watch and wrapped it in paper and carefully hid it in a cabinet in my bedroom.

Colonel Rolando Abadilla's watch stayed with me, watched me and in a very real and active sense challenged me to think long and hard about the realities of the Philippine justice system. At that time, five men who were arrested, accused and subsequently convicted

of a crime they did not commit had already spent more than three years in jail. They were convicted and sentenced to death, a punishment whose implementation was just a matter of time. I had been given the watch of a victim of so-called “revolutionary justice.” Now the watch began to talk to me. It did not approve of its owner’s extrajudicial execution by those who condemned him as an “enemy of the people”. It also did not accept the exploitation of five innocent men who have become fall guys in order to reduce or erase the stigma of a political crime and have it degraded to something less.

If the watch could only speak and say more, I was ready to listen. In fact, I felt compelled to listen.

The following days were busy. There was the “simbang gabi,” the nine days novena masses at dawn before Christmas. I was busy and tired those days but the watch was a quiet, abiding presence, a question crying for an answer. The watched lay buried under my clothes. It was virtually invisible but an almost perceptible presence kept me awake and attentive at all times. No, it was not only the Colonel’s watch which kept me company. It was not only the dead Colonel’s spirit. It was also the voices of the living, innocent victims of a weak, defective, manipulated and controlled justice system.

I would take out the watch from time to time and look at it. I would ask it about its deceased owner and what it knew about him. I would invariably remember the first words of a Latin phrase, “res clamat...” (a thing cries out for its owner). But the watch cries for something more. It cries for truth and justice. I am sure that if the watch had eyes, it definitely would have seen what happened and know exactly who killed its owner. And so, I would also ask the watch what it saw on June 13, 1996. How many men approached the Colonel’s car? How many had guns and pumped several bullets into the Colonel’s body? Testimonies of alleged witnesses seem at variance and even contradictory. The watch could not err because it was there. Yes, if only the watch could speak... if only.

The nine days of novena masses went by. Christmas also came and went. No one knew that a dead man’s watch had kept me company. There were a few days of quiet and rest before the new year. There was time, more time to think, listen, pray and continue this unusual dialogue with a dead man’s watch.

The new year, the new millennium came. The watch and I welcomed the festive noise of fire crackers and toy trumpets. What aside from the new year were we in fact welcoming? I looked forward to a year of truth and justice. I prayed for freedom and happiness for the unjustly accused and imprisoned. I know if the watch could only speak, the watch would also utter the same prayer and wish.

Early that January of the year 2000, the Colonel's watch finally left its temporary home. I took it to the sala of Judge Jaime Salazar of the Regional Trial Courts of Quezon City. Judge Salazar was the judge who convicted the Abadilla 5 and sentenced them to death. I was accompanied by lawyer Neri Colmenares who argued in favor of an urgent motion to reopen the Abadilla murder case in view of new evidence. After Colmenares narrated the details of how and why Colonel Abadilla's watch was given to me, the judge instead of asking me to give my testimony cracked a joke. Far from funny, his joke was cheap and vulgar, extremely unbecoming of a man of his profession and the institution he represents. Judge Jaime Salazar smiling, smirking perhaps, commented:

“If you could tell the members of the Alex Boncayao Brigade to choose a mountain, any mountain of their choice where we could meet, I will go there. You, Father, are not a member of the Alex Boncayao Brigade, thus whatever comes from you, not being an official member of the ABB, has to be taken as hearsay. So I would rather talk directly to the members of the ABB who claim that they killed or executed Colonel Rolando Abadilla. I will go to the mountain except for one worry. I am diabetic and I need to relieve myself quite often. This can be a problem because mountains are enchanted. If I pee on some “thing” that I should not pee on, my “thing” might grow long and touch the ground.”

I listened with incredulity to a man of alleged integrity and honor. He was joking and teasing me and everyone else in the room. His ploy was clear, to trivialize what was serious and truly a matter of life and death. The judge did not stop there and continued with a bizarre avalanche of irrelevant comments, peppered with sexual innuendos which ended with the salacious song popularized by former American president Bill Clinton's sex scandal. Judge Salazar, thank God, did not sing it, but it was enough that those present in court heard him repeating, “a little bit of Monica in my mind... a little bit of Monica in my mind.”

Why on earth he had to bring in that song dumbfounded me. As to the Colonel's watch, he ordered the court to take it and put it under lock and key. I surrendered the watch to the clerk of court who takes it with the usual bureaucratic nonchalance. I quietly said goodbye to the watch whose significance and message were once more about to be locked away in another judge's prison of truth, bursting with unused and unaccepted evidence. That was precisely how he called the watch, “inadmissible evidence.” Yet this inadmissible evidence has been taken for safe keeping in the sala of this judge, a judge who most certainly will just ignore it and treat it like he would the many pieces of inadmissible evidences now piling up in his cemetery of truth.

I quietly said goodbye to the Colonel's watch, but made a promise. I promised to listen to the truth that it continues to communicate beyond the confines of its present prison. Here in Hong Kong, thousands of kilometers away from Judge Jaime Salazar's court, I continue to talk and listen to the Colonel's watch. No judge, no court could tell me to stop. No judge, no court can tell the Colonel's watch to stop. In fact, no judge, no court can continually suppress the truth. There was more to the watch than the metal casing, the glass face, the springs and tiny screws, the numbers, hour hand and minute hand, the metal bracelet and the hidden gems that make Omega watches expensive. But this particular watch is priceless, for it witnessed a truth that can set five innocent men free.

These five have been in prison since 1996, twelve years to be exact. Also from where they are, they cry out for the truth and clamor for justice. Funny, how a seemingly lifeless watch continues to speak in the same way that five living men do. The truth does incarnate itself in things and in human beings. A dead man's watch is not just a thing. It was worn by that man wherever he went and whatever he did. It told him and others the time.

I did not pay attention to the time on the Colonel's watch. I just remember that it had stopped. Sadly, it also seems that the wheels of justice in the Philippines have begun to turn slowly, dangerously approaching a standstill. Justice for the Abadilla 5 seems to have stopped. For the courts perhaps, it would have been a foregone conclusion. But there are those who continue to watch and act. There are the families of the Abadilla 5, their lawyers and friends. There are friends and supporters abroad. And I am still around after almost nine years of spending Christmas with a dead man's watch.

That was the last Christmas of the second millennium and the first year of the third. In those days of transition from the last thousand years to the next, a dead man's watch and a priest sat in anxious and painful expectation of better things to come. Truth known whether to things or men is sometimes hostages by something considerably less. Certainly, a lot of pride and amor proprio, fear combined with ambition, legal compromise and commercialized justice, political agenda and posturing and many obvious and less obvious forces are at work using institutions as bigger prisons to surround smaller prisons to further incarcerate the truth.

The Latin phrase is incomplete, "res clamat..." but so is the watch without its owner, the truth without its bearer and proclaimer. "Res clamat..." From afar, I continue to hear the Colonel's watch. I saw them. I know who killed my owner. I know...It's the truth...I know....Yes, I hear and more, I speak and will continue to speak...

# Aimé Césaire: An appreciation

*K G Sankarapillai*

The sad news of the demise of Aimé Césaire, the great Caribbean poet, at the age of 94 was not a shocking piece of information. But when it came to me last week, just the day following my return from the Asian Human Rights Commission and Hong Kong, it aroused in me a series of cultural and political issues, responses, and the battle for the cause of social justice, freedom, human rights and dignity in the 20th century world of the Blacks.

I remember that winter evening in 1974 in the Monday market street of Karol Bagh in New Delhi where I saw for the first time in the long spread of second hand books '*Return to my native land*', Aimé Césaire's epic poem with a yellow line sketch of a Negro's head by Picasso on a deep black cover. I remember my sleepless Delhi nights with Aimé Césaire's poetry. It was far different from what I experienced as modern poetry from the west. Césaire's lines were like charged high power electric lines; multi-potential lines, lines which can evoke memories, history, wrath and protest lines which can carry resonances of dark crying jungles on its lyre, lines which could predict the freedom, pride, and cultural identity of the Negroes and the downtrodden masses. They were lines which can play the violent symphony of the upsurge of the undefeatable spirit of negritude. They were lines which can portray with love, joy, and music the resurrection of the oppressed, the victorious green vastness, and the beauty of triumphant and free human souls.

A disquiet and profound creative energy was my first experience of that long poem. It was a great poetic document of the new turbulent Negro times. It had a multitude of resistance-centres within; centres of consciousness and culture, fighting against colonialism, fighting against prisons and chains and gallows for a celebration of freedom, fighting against despotism for democracy. Centres that were in deep disagreement with the yielding savage attitudes of the traditional negro mind set, accommodating silently the torturous everyday happenings and inhuman bondage and sufferings in the brutal order of the white hell of colonialism.

Aimé Césaire's high power words relentlessly urged for resistance, freedom and justice. It was clear that the poem was written by a rare brand of poet fascinated by surrealism and its rebellious style and spirit dancing in tunes with liberty and equality of the inner universe of humanity. Naturally this poem was easily accounted in the registry of 'modern

poetry'; poetry of the bewildered individual surrounded by a hostile and bitter world; as poetry of memory and of dream. Later as the sense of black resistance resulted in the readings of the creative contributions of the Negroes and started redefining the black culture, '*Return to my native land*' by Aimé Césaire received great poetic acclaim as one of the masterpieces of third world political modernity, a work that raises serious questions against the value system of the ideology of the Eurocentric 'modern' of the west. The new mix of tenderness and thunder in this poem became one of the major hallmarks of modern black aesthetics. This poem became gradually identified as a great call for the freedom and the justice due to the wretched of the earth. Here the word RETURN means discovery; discovery of the self, reclaiming the cultural identity; regaining the locations of justice, dreams, freedom, love and happiness. Return is in no sense a going back to the primitive darkness. The new world could now hear in this poem the untamable lions roaring in the subconscious jungle of the Negro minds. Images in Aimé Césaire's poetry were wild and aggressive with a bright vision of liberation from all forms of oppression. Its rhythm is the violent rhythm of the storm.

The life of this great Caribbean poet Aimé Fernand David Césaire, playwright, thinker, politician, cultural analyst, is closely knitted to the renaissance movements and freedom struggles of the Negro race. He was a great inspirer, advocate, teacher, leader, and fighter for the cause of justice to the so-called slave race, the Negroes. Redefining the great negro spirit he used the word 'negritude' to convey the essence and force of the blacks' cultural identity. He is credited with coining the word negritude to spread the message of radical black humanism all over the world. He has his own unique contributions in shaping the new sensibility and fighting spirit in our modern heritage to shred down all forms hegemony from the social consciousness of all societies in the colonial and post colonial worlds.

Many of his poems were translated into Malayalam and some other Indian languages.

**Aimé Césaire's life, contacts, works, and commitments:**

Aimé Césaire was born in Basse-Pointe, Martinique in 1913 . In 1931, he traveled to Paris to attend the Lycée Louis-le-Grand on an educational scholarship. In Paris, Césaire, who, in 1935 passed an entrance exam for the École Normale Supérieur, created with Léopold Sédar Senghor, the great Sinegalese poet , and Léon Damas, the literary review, The Black Student, which was a forerunner of the Négritude movement. In 1936, Césaire began work on his book-length poem *Return to my native land*. The *Notebook of a return to my native land* (1939) was a vivid and powerful depiction of the ambiguities of Caribbean life and culture in the New World.

Césaire married fellow Martinican student, Suzanne Roussi, in 1937. Together they moved back to Martinique in 1939 with their young son. Césaire became a teacher at the Lycée Schoelcher in Fort-de-France, where he taught Frantz Fanon and served as an inspiration for, but did not teach, Édouard Glissant. He would become a heavy influence for Fanon as both a mentor and a contemporary throughout Fanon's short life.

The years of World War II were ones of great intellectual activity for the Césaires. In 1941, Aimé Césaire and Suzanne Roussi founded the literary review *Tropiques*, with the help of other Martinican intellectuals like René Ménénil and Aristide Maugée, in order to challenge the cultural status quo and alienation that then characterized the Martinican identity. Many run-ins with censorship did not deter Césaire from being an outspoken defendant of Martinican identity. He also became close to French surrealist poet André Breton, who spent time in Martinique during the war. Breton contributed a laudatory introduction to the 1947 edition of *Return to my native land*, saying that “this poem is nothing less than the greatest lyrical monument of our times.”

In 1945, with the support of the French Communist Party, Césaire was elected mayor of Fort-de-France and député to the French National Assembly for Martinique. He was one of the principal drafters of the 1946 law on departmentalizing former colonies, a role for which independentist politicians have often criticized him.

Like many leftist intellectuals in France, Césaire in the 1930s and 1940s looked towards the Soviet Union as a source of human progress, virtue, and human rights, but Césaire later grew disillusioned with Communism. In 1956, after the invasion of Hungary by the Soviet Union, Aimé Césaire announced his resignation from the French Communist Party in a text entitled *Lettre à Maurice Thorez*. In 1958 he founded the *Parti Progressiste Martiniquais*. In 1960, he published *Toussaint Louverture*, based upon the life of the Haitian revolutionary. He served as President of the Regional Council of Martinique from 1983 to 1988. He retired from politics in 2001.

In 2006, he refused to meet the leader of the Union for a Popular Movement (UMP), Nicolas Sarkozy, then a probable contender for the 2007 presidential election, because the UMP had voted for the 23 February 2005 law asking teachers and textbooks to “acknowledge and recognize in particular the positive role of the French presence abroad, especially in North Africa”, a law considered by many as a eulogy to colonialism and French actions during the Algerian War. President Jacques Chirac finally had the controversial law repealed.

His writings reflect his passion for civic and social engagement. He is the author of *Discourse on Colonialism* (1953), a denunciation of European colonial racism which was published in the French review *Présence Africaine*. In 1968, he published the first version of *Une Tempête*, a radical adaptation of Shakespeare's play *The Tempest* for a black audience.

Martinique's airport at *Le Lamentin* was renamed Martinique Aimé Césaire International Airport on January 15, 2007.

On April 9, 2008, he suffered serious heart troubles and was admitted to Pierre Zobda Quitman hospital in Fort-de-France. He died on April 17, 2008.

*Courtesy: Wikipedia , the free encyclopedia.*

# Poetry as a radical discourse of demystification

*E V Ramakrishnan*

One of the defining features of Malayalam poetry in the 20th century has been its concern with social issues. With modernism in the 1960s, the focus shifted towards greater linguistic experimentation, as can be seen in the vibrant tones and resonant images of poets like Ayyappa Paniker and K Satchidanandan. The formalist phase of modernist Malayalam poetry soon gave way to a politically aware and socially sensitive idiom in the early 1970s. K G Sankara Pillai's poetry played a crucial role in renovating the poetic idiom of Malayalam during this phase, curbing its romantic and nostalgic excesses as well as its insular, hermetic tendencies.

His poetry can only be understood against the backdrop of the shifts in the sensibility of Malayalam poetry in general in the post-1960s period, and the internal dynamics of its modernist poetry in particular. In turning away from the constricted and narcissistic idiom of aesthetic modernism, his poetry retained the liberating potential of modernism and welded it with the social and critical responsiveness of the dominant tradition of Malayalam poetry. His poems address the ethical problems of living in a turbulent society. This is as much a problem of language in poetry as its treatment of sociopolitical themes. For him, radicalism is not a matter of sloganeering but a self-critical attitude that requires a continuous reevaluation of one's relation with oneself as the self's relation with the world. His ability to assimilate an interior realm of self-doubt within a larger discourse of social criticism makes him an exceptional poet.

In the late 1960s and early 1970s, K G Sankara Pillai (KGS) had affiliations with some political movements that enabled him to participate in the social life of the masses. He has observed from close quarters how ideologies become mass rituals and how radical minds turn regressive with time. Poems such as 'Baldness' and 'The Gecko's Tail' are attempts to diagnose the moral crisis born of the death of ideology in our times. In the former poem he says that there is a crocodile living in the swamp of our brains, feeding on us. It is this erosion of inner spaces that reduces language to a mere instrument of concealment. Reality is finally reduced to mere spectacle. 'Photos in Various Poses' analyzes photography as the ritual of a society that substitutes images for reality. 'Trees of Cochin' traces a trajectory of loss which is as much cultivated amnesia, as a willed state of aphasia. Ecological

concerns point to deeper ethical problems that cannot be resolved within the realm of art. This is where KGS, even as he documents the crisis of our times, communicates the need to renovate the very apparatus of poetry. His interest in art, particularly painting, sculpture and cinema, has deeply influenced his art of poetry. He is one of the few Malayalam poets who has closely followed developments in these fields and internalized the creative possibilities of these media in poetic discourses.

The poems of KGS often investigate intersecting points of politics, history and culture. The bird in 'Between Nectar and Poison' moves between different domains of experience, because it can simultaneously evoke multiple worlds. KGS has consciously constructed a polyphonous idiom in his poetry that can invoke the lost worlds of poetic traditions through subtle phrases and images. It is his use of irony that lights up the page and transforms what reads as a statement on the mundane into a deeply felt experience of anguish about contemporary life. His brand of irony becomes a tightrope walk along the manifestations of contemporary culture, recovering a critical sense that can see through the games of everyday life. Kerala is a land of excesses where positive indicators of social development that match with developed countries coexist with dark areas of violence and oppression. KGS is particularly concerned with the slow erosion of the secular and humanist ideals, painstakingly built during the progressive phase of social struggles. His poems warn that behind the glitter of the neon-lit cities are demons that can drag us back to an age of barbarism.

He has been closely associated with many organizations working in the fields of human rights and legal aid. Some of the villages in Thrissur could be declared 'litigation-free' through the dedicated efforts of organizations like Jananeethi, for which he edits a periodical. This commitment to the cause of the larger common good translates itself in his poetry as a tone of resistance against the neocolonial tendencies in our contemporary culture. The narcotic gaze of the market can paralyze us into mindless complacency if we do not retain our critical sense. His poetry, above all, is a reminder to reexamine our constructions of reality, which increasingly resemble the nightmarish fantasies of a dazed somnambulist.

KGS is one of the few Indian poets who have interpreted modernity consistently in his poetry. He hardly uses traditional metre in his poetry, but retains the music of everyday Malayalam in all its complexity. As a professor of Malayalam he is definitely well informed about its intricate history. But he knows that traditions of Indian poetry are not monolithic. There is a strong centrifugal impulse in Malayalam poetry, as elsewhere in other traditions in Indian literature, which looks towards the peripheral and the quotidian. He combines the aphoristic simplicity of traditional poetry with the subversive irony of everyday speech in his best poems.

His poems are political in the best sense of the term, since he demonstrates how ideologies shape us and also contain us. Poetry cannot but be political in an age when the ideological permeates everyday life through subterfuges. Poetry can easily lose sight of its greater responsibility of renovating the sensibility of an age and a living society by becoming a prey to what it should track down and conquer. In an age when poetry has become increasingly dissociated from the moral fulcrum of the social imaginary, KGS has unwaveringly held on to a critical gaze that unsettles our ritualistic habits of thinking. That he has sustained it over three decades, against all odds, resisting the temptation of becoming a popular and prolific poet, makes his achievement all the more remarkable.

# **Asian NGOs call on UN member-states to reject Sri Lanka's Human Rights Council election bid**

*Asian Human Rights Commission*

*(Joint open letter issued by the Asian Human Rights Commission: AHRC-FOL-008-2008)*

## **A Joint Open Letter by 84 Asian organisations to the UN General Assembly members**

May 17, 2008

Your Excellency,

We, the undersigned 84 non-governmental organizations working on human rights in Asia, write to urge that your government not vote for Sri Lanka for membership in the United Nations Human Rights Council in the election taking place in the General Assembly on May 21, 2008, because of the country's evident failure to meet the Council's membership standards.

Asia does not have a functioning regional human rights system, making the United Nations' human rights mechanisms, notably the Human Rights Council, of increased significance for victims in the region. Under the Human Rights Council, Asia now has 13 members and an increasingly important role to play in steering the global effort in favour of human rights. Ensuring the highest standard of Council members from the Asian region is of great importance.

We have therefore carefully scrutinized the human rights records of the six candidates currently vying for the four seats available to the Asian region in the upcoming election, based on our collective experience as Asian NGOs working to improve human rights protection in Asia. Sri Lanka stands out as the candidate that suffers from the gravest ongoing human rights violations, the most significant lack of cooperation with the Council, and the least evidence of measures being taken to protect citizens from violations and to deliver justice and reparation to victims of abuses. Sri Lanka is without doubt the least

suitable candidate of all those bidding for election this year, making it vital for your government to not support it.

We write to support the position of human rights organizations from Sri Lanka that wrote to UN members on April 28, 2008, stating that the government of Sri Lanka fails to meet the Council's membership standards, has "presided over a grave deterioration of human rights protection" since first winning membership in 2006, and "has used its membership of the Human Rights Council to protect itself from scrutiny". We also strongly support the campaign launched on May 6, 2008, by a coalition of international NGOs opposing Sri Lanka's candidacy (please see further at: <http://www.hrw.org/effectiveHRC/SriLanka/>).

We recall that General Assembly (GA) resolution 60/251 requires that "members elected to the Council shall uphold the highest standards in the promotion and protection of human rights" and "fully cooperate" with the Council.

**Failure to uphold the highest standards:** It is very clear that Sri Lanka has not only failed to meet this central criterion for membership in the Council during the last two years, but has become one of the worst human rights violators in the region and among the most negative voices within the Council during this time. Sri Lankan government forces have been directly implicated in a wide range of grave rights abuses, including:

- hundreds of extrajudicial killings, including of humanitarian workers;
- hundreds of enforced disappearances, the highest rate of new cases recorded by the Working Group on Enforced and Involuntary Disappearances in 2007;
- arbitrary arrests and long-term detentions without charge or trial;
- widespread torture of detainees, "a routine practice ... both by the police and the armed forces" according the U.N. Special Rapporteur on Torture;
- forcibly returning internally displaced persons to unsafe areas;
- unwarranted restrictions on media freedoms, and threats and killings of journalists;
- complicity with the recruitment of child soldiers by the Karuna militia;
- denunciations and threats against human rights defenders and humanitarian workers.

Few if any proper investigations have been launched into these most serious rights abuses and impunity reigns. Political will and sincerity on the part of the authorities to address these human rights remains elusive. These problems are compounded by the authorities having failed to provide easily accessible avenues enabling victims of human rights abuses to make complaints. Extreme delays in adjudication make it near-futile to pursue such complaints, when made. Witnesses and victims have been harassed and even killed while seeking redress.

**Failure to cooperate:** Sri Lanka has been a member of the Council over the last two years, while its government forces have continued committing widespread violations, so there can be no pretence that its future membership will bring about positive change. Instead, it is clear that Sri Lanka is making use of its Council membership to shield itself from criticism, thus undermining the Council itself and all the efforts made by UN members to create a Council free from the destructive forces that fatally damaged the Commission on Human Rights.

Cooperation with the Council should not just be measured simply by a state's inviting international officials to visit, but also through the quality of the cooperation with such experts and other mechanisms, as well as the extent to which their recommendations are implemented. On these counts, Sri Lanka's record is deplorable. Sri Lankan government officials have launched unacceptable and unfounded personal attacks on respected international officials who have visited the country and raised human rights concerns. These include U.N. High Commissioner for Human Rights Louise Arbour, U.N. Special Advisor on Children and Armed Conflict Allan Rock, U.N. Undersecretary-General for Humanitarian Affairs John Holmes. When Secretary-General Ban Ki-moon called such comments "unacceptable and unwarranted," a Sri Lankan cabinet minister said that he "didn't give a damn" what the U.N. secretary-general had to say.

The Sri Lankan government has made desperate attempts to block a realistic solution to the grave situation in the country by refusing much needed international assistance, notably by rebuffing the key recommendation by several special procedures and by the OHCHR to establish a human rights monitoring mission under the auspices of the UN to document and report on violations committed by all sides to the conflict and to prevent further violations.

Sri Lanka has a very poor record on cooperation with the Council's special procedures: the government did not reply to any of the 12 questionnaires sent by special procedures mandate holders between 1/1/2004 and 31/12/2007, nor to over half of the 94 letters of allegations and urgent appeals sent by special procedures in that period. Sri Lanka has not implemented the principal recommendations of the Working Group on Enforced or Involuntary Disappearances and the Special Rapporteur on Extrajudicial Killings. The Special Rapporteur on Torture and other Cruel, Inhuman or Degrading Treatment or Punishment observed that Sri Lankan authorities impeded his fact-finding, citing "instances where detainees were hidden or brought away shortly before the Special Rapporteur arrived."

We abhor all acts of violence and recognise that the armed separatist Liberation Tigers of Tamil Eelam (LTTE) are responsible for numerous and ongoing serious human rights

violations. We call on them to cease all such abuses immediately. However, abuses by non-state armed groups do not justify rights violations by state forces. The government has been hiding behind such justifications rather than taking concrete action to protect rights and deliver justice to victims.

**Don't vote for Sri Lanka:** A vote for Sri Lanka is a vote for disappearances, widespread torture, extra-judicial killings and impunity. It is a vote to undermine the Human Rights Council and therefore a vote against victims of human rights the world over. We who work directly with victims urge you in the strongest possible terms to take this opportunity to show your government's support for present and potential victims of human rights, as well as support for the Human Rights Council. The rejection of Sri Lanka's bid would strengthen the Council, shielding it from those that seek to misuse it at the cost of many lives. Local, regional and international NGOs are united in calling on you to resoundingly reject this year's worst candidate.

**Don't vote for Sri Lanka.**

Signed by the following 84 NGOs:

1. ADHOC, Cambodia, Mr. Thun Saray, President
2. Advocacy Forum, Nepal, Mandira Sharma, Executive Director
3. All India Catholic Union, India, Mr. John Dayal, Chairperson
4. Alliance for the Advancement of People's Rights (KARAPATAN), Philippines, Ms. Marie Hilao-Enriquez, Secretary General
5. Angikar Bangladesh Foundation, Bangladesh, Muhammad Hilaluddin,
6. Asia Monitor Resource Centre (AMRC), Hong Kong, Sanjiv Padita, Director
7. Asian Center for the Progress of Peoples (ACPP), Hong Kong, Linda Noche, Coordinator
8. Asian Federation Against Involuntary Disappearances (AFAD), Philippines, Mary Aileen D. Bacalso, Secretary General
9. Asian Forum for Human Rights and Development (FORUM-ASIA), Thailand, Yap Sweeseng, Acting Executive Director
10. Asian Human Rights Commission (AHRC), Hong Kong, Michael Anthony, Programme Coordinator
11. Bahrain Centre for Human Rights, Bahrain, Abdulhadi Alkhawaja, President
12. Balay Rehabilitation Center Inc. , Philippines, Sister Arnold Maria Noel, Secretary-Board of Directors
13. Banglar Manabdhikar Suraksha Mancha (MASUM), India, Kiritoy Roy, President
14. Bhumi Haqdari Morcha, India, Mr. Maheshanand Bhai , Secretary
15. Bhumi Hukka Andolan , India, John.P.Abraham, Executive Director

16. Cambodian Center for Human Rights (CCHR) , Cambodia, Mr. Ou Virak, President
17. Campaign for Alternative Industry Network, Thailand, Penchom Tang, Coordinator
18. Catholic Human Rights Committee (CHRC) , Republic of Korea, Bae Yeo-jin , Activist
19. Center for Peace Education, Philippines, Loreta Castro, Executive Director
20. Center for Trade Union and Human Rights (CTUHR), Philippines, Daisy Arago, Executive
21. Centre for Organisation Research & Education (CORE), India, Dr D Roy Laifungbam, Director
22. Citizen Front, India, Mr. Tanweer Ahmed Siddiqui , Convener
23. Citizens Alliance Unified for Sectoral Empowerment in Davao del Sur (CAUSE-DS), Philippines, Peter Jason Senarillos,
24. Committee to Support Imprisoned Workers , Republic of Korea, Lee Gwang-yeol, Director
25. Commonwealth Human Rights Initiative, India , R.Iniyam Ilango, Consultant & Acting Co-ordinator, Human Rights Advocacy Programme
26. Congregation of the Immaculate Heart of Mary, Rome, Japan, Ludo Goossens, Missionary
27. Cross Culture Foundation, Thailand, Pornpen Khongkajonkiet
28. Dalit Women Forum (DWF), India, Ms. Ch. Vijaya Kumari, Executive Secretary
29. Documentation Research Training Centre, India, Ms Pamela Fernandes, Extension Worker, Hotline India
30. Ecumenical Movement for Justice and Peace (EMJP), Philippines, Girlie Padilla
31. Friend of Tripe Hill group, Thailand, Suriyan Thongnoo-ead
32. Global Human Rights Defense, Bangladesh, Rabindra Ghosh
33. Green and Purple Sanctuary (GPS), Philippines, Odalie Adiao-Garcia, Co-Founder
34. Guria, India, Ajeet Singh, President
35. Hong Kong Christian Institute (HKCI) , Hong Kong, TOO Kin Wai, Acting Director
36. Hotline Delhi, India, Antony Arulraj, Extension Worker
37. Hotline Human Rights Bangladesh, Bangladesh, Rosaline Costa, Human Rights Advocate
38. Human Rights Alert, India, Babloo Loitongbam, Executive Director
39. Human Rights Council of Australia Inc, HRCA, Australia, André Frankovits , International Project Director
40. Human Rights Now, Japan, Kazuko Ito, Secretary General
41. IMPARSIAL, the Indonesian Human Rights Monitor, Indonesia, Poengky Indarti, Director of External Relations
42. International Center for Law in Development, United States of America, Dr. Clarence J. Dias, President
43. IPANI, India, Fatima PBVM, Coordinator

44. Jananeethi Institute For Research And Training In Democracy, Human Rights, Rule Of Law, Conflict Resolution, Gender, Therapeutic Jurisprudence, Clinical Legal Education And Environmental Protection (Jananeethi Institute), India, George Pulikuthiyil, Executive Director
45. Japan Catholic Council for Justice & Peace, Japan, Fr. Francis Fukamizu, Board Member
46. Jesuit Social Center, Japan, Ando Isamu, Director
47. Justice and Peace Commission of Bishops' Conference of Indonesia (KKP-KWI), Indonesia, Fr. Serafin Dany Sanusi, OSC , Secretary of Commission
48. Kabir Panth - Kabir Chaura Math, India, Sant Vivek Das , Head
49. Kapaeeng Watch, Bangladesh, Aungkyew Mong, Coordinator
50. Kasiyana Peace and Healing Initiatives, Philippines, Florence Macagne-Manegdeg, Program Coordinator
51. Korean House for International Solidarity (KHIS) , Republic of Korea, Regina Pyon Yeon-shik, Co-representative
52. Lembaga Bantuan Hukum Masyarakat (Community Legal Aid Institute) , Indonesia, Taufik Basari, Chairperson of the Board of Directors
53. Lembaga Bantuan Hukum Surabaya (Surabaya Legal Aid Institute), Indonesia, Mr. Athoillah, Head of Operational Division
54. Mahila Adhikar Manch, India, Ms. Sandhya , Convener
55. Mahila Samakhya, India, Ms. Kumkum , Secretary
56. Migrant Forum in Asia, Hong Kong, William Gois , Regional Coordinator
57. National Alliance of Women Human Rights Defenders (NAWHRD) , Nepal, Dr. Renu Rajbhandari, National Coordinator
58. National Commission for Justice and Peace (NCJP) - Pakistan, Pakistan, Kiran Afzaal, Extension Worker Hotline Asia
59. Navsarjan Trust, India, Ms. Manjula Pradeep , Executive Director
60. Neervazhi, India, Mr. T. K. Naveenachandran , Secretary
61. Neethi Vedhi (Forum for Justice), India, Adv. Fr. Stephen Mathew, Director
62. Nonviolence International, Thailand, Diana Sarosi
63. People's Union for Civil Liberties (PUCL Bihar Unit), India, Mr. Ram Ashray Singh , Secretary General
64. People's Union for Civil Liberties (PUCL), India, Mr. Chitranjan Singh , National Secretary
65. People's Vigilance Committee on Human Rights (PVCHR), India, Dr. Lenin Raghuvanshi, Director
66. People's Watch, India, Henri Tiphagne, Executive Director
67. Rehabilitation and Research Centre for Torture Victims (RCT) - Denmark, Denmark, Erik Wendt, Program Manager Asia
68. Rights Development Centre, Bangladesh, Mr. F. M. Abdur Razzak, Executive Director

69. Sasvika Sangatan ( Organization For Community Based Health & Development), India, Carol Geeta, Director
70. Savitri Bai Phule Women Forum (SWF) , India, Shruti Nagvanshi, Coordinator
71. Swanchetan Society, India, Dr. Rajat Mitra, President
72. Sophia Institute, India, Sr. Carol , Secretary
73. South India Cell for Human Rights Education and Monitoring (SICHREM), India, Mathews Philip, Executive Director
74. Southern Thai-NGOs-COD, Thailand, Bunjong Na-sae
75. Stree Adhikar Sanghatan, India, Ms. Padma , Convener
76. Thai Sea Watch Association, Thailand, Suppawan Chanasongram
77. Thai Volunteer Service, Thailand, Vattana Narkpradit
78. The Human Rights Working Group (HRWG), Indonesia, Mr. Ali Akbar , Program Officer
79. The Indonesian Association of Families of the Disappeared (IKOHI), Indonesia, Mr. Mugiyanto, Chairperson
80. The Legal Aid Institute of Jakarta (LBH Jakarta), Indonesia, Mr. Asfinawati, Executive Director
81. Women's Rehabilitation Centre, Nepal (WOREC Nepal), Nepal, Ms. Jyotsna Maskay, Executive Director
82. Working Group Justice for Peace, Thailand, Angkana Neelapaijit
83. World Student Christian Federation Asia Pacific Region (WSCF AP), Hong Kong, Necta Montes Rocas, Regional Secretary
84. Young Muslim Association of Thailand, Thailand, Abdulasis Tade-in

# Pakistan's lawyers' movement

*Munir Malik*

*The following is Mr Munir Malik's Asian Human Rights Defenders Award acceptance speech, on behalf of himself and his colleague, Mr Aitzaz Ahsan, made in Hong Kong, 13 May 2008.*

Good evening.

It is a great pleasure to be here today to accept the third Asian Human Rights Defenders Award jointly presented to Barrister Aitzaz Ahsan and myself. It is indeed extremely humbling to join the company of the two previous awardees, Mr Michael Anthony Fernando and the late Somchai Neelaphaijit. The two distinguished awardees



exemplified the struggle for basic freedoms in Sri Lanka and the accountability of the state for forced disappearances in Thailand, issues that are at the core of the lawyers' movement in Pakistan.

Pakistan today stands at the crossroads trying to reclaim its destiny—a destiny hijacked by a coterie of military, industrial, feudal and bureaucratic elites. Concepts such as the rule of law, trichotomy of state powers, an independent pro-people judiciary forming the bedrock of the system of dispensation of justice, and an independent, robust and free press are alien to this coterie. For 60 years this indigenized offspring of our colonial masters has clubbed together to stifle and sabotage populist democratic forces. But a feeling of change is in the air and one can sense an opportunity to wrest, or at least weaken, their stranglehold over the nation's future.

It all began with an evolutionary change in our judicial system under the stewardship of Chief Justice Iftikhar Muhammad Chaudhry, increasingly resorting to judicial activism

even at the risk of being criticized for blurring the lines between the executive and the judiciary and detracting from the principle of separation of powers. The level of judicial scrutiny of executive actions maintained in Pakistan might be considered unusual in countries—for example, England—with a more traditional constitutional jurisprudence. But what is frequently forgotten is that such judicial circumspection is the outcome of a long democratic history where governments themselves display a far greater sensitivity to the wishes of their own electorate. On the other end of the spectrum, Indian courts—which operate in a legal and socio-economic framework closer to our own—have adopted an even more interventionist approach. Unfortunately in Pakistan, the legislature had completely abdicated its role as a watch-dog over the executive and left the judiciary to shoulder the entire burden. In this scenario—where the parliament had become a rubber-stamp for all and any acts of a Chief of Army Staff—it is the view of the legal fraternity that enhanced levels of judicial scrutiny over executive actions was not only desirable but imperative. Chief Justice Iftikhar Muhammad Chaudhry was someone who understood this. He was very conscious of his responsibilities and his legacy.

On 9 March 2007, a General in uniform, also wearing the hat of the President of the Islamic Republic of Pakistan, launched a frontal assault on the judiciary by suspending and detaining the country's Chief Justice. Chief Justice Iftikhar Chaudhry was summoned by General Musharraf and in the presence of five generals and the Prime Minister, asked to submit his resignation or to face trumped up charges of misconduct. In reality he was being taken to task for having chosen the less travelled road of judicial activism, challenging the conduct of the executive authorities of the state in diverse fields ranging from the privatization of state assets to asking the state to account for forced disappearances.

The Chief Justice held firm, refused to resign and preferred to defend the charges. This unprecedented “No” was to go down as a watershed in the struggle for a democratic Pakistan wedded to the concepts of constitutional liberalism represented by the rule of law, the principle of separation of powers and equality of all before the law.

How did we go about to intensify this struggle? Almost immediately, the Supreme Court Bar Association of Pakistan of which I had then been President—and Aitzaz is now—vowed to resist this frontal assault on the third organ of the State. The first aim of our struggle was to change existing beliefs that had enslaved the masses, who had—independence notwithstanding—been indoctrinated with the false idea that there were two sets of rules, one for the powerful and one for the meek; they were taught to be subservient at the cost of liberty. We sought to convince the masses that the courts are not there only to adjudicate property disputes between rich landowners or the competing commercial

interests of multinational corporations, but that a truly independent judiciary will allow the common man to realize his fundamental rights. That judges with security of tenure will be fearless enough to administer true justice, that such judges will protect them from the abusive exercise of power by the establishment.

In fact, the existing system is a hangover of our colonial past and despite the departure of the British, the system of governance of and by a free-people was still wanting. The local elite who had been the handmaidens of the colonial power quietly stepped into its shoes taking undue advantage of the illiteracy of the teeming millions, and took upon itself the task of keeping the people in control and to protect the privileges of the ruling class to which they belonged. It was therefore incumbent upon us to educate the people that their fundamental rights could only be realized under an independent judiciary. That an independent judiciary meant that those who adorned the robes reserved for judges were all fearless and bold like the Chief Justice and that every judge throughout the land from the lowest magistrate to the highest judge should be possessed of the courage to look the executive in the eye and say "No, this is unjust".

Our second aim was to change the mindset of the judges, especially those who manned the superior judiciary. Regretfully, the chequered history of the judiciary was essentially one of subservience to those who controlled the coercive power of the state. It was not that the concept of trichotomy of powers and the principle of separation of powers was alien to them, but in their own minds they viewed themselves more as civil servants than as holders of constitutional posts charged with specific duties under the Constitution. It was this state of mind that led them to rely on the reviled doctrine of necessity in validating extra-constitutional takeovers. We needed to inculcate in them the belief that the effective exercise of their writ was directly proportional with their moral authority and the credibility that they enjoyed in the eyes of the masses, and that their true duty was to provide access to justice and thereafter justice itself to the weaker sections of society; that they must be pro-people in their orientation and deed.

The third element of our movement was to remind the political leadership that a free and democratic society rests on the edifice of an independent judiciary; that the road to Islamabad runs through the towns and hamlets of our country and not from London or Washington.

Finally, the fourth element was to change the mindset of the military, bureaucratic, feudal and greedy capitalist establishment, to make it aware that the time had come for it to end its alienation from the masses; it was there to serve them instead of lording over them like a foreign force.

We must assert civilian supremacy over all our institutions. We are no longer prepared to live under the barrel of the gun. Those guns and their wielders must return to their rightful positions; facing outwards at the frontiers of our land. The people will rule themselves. Of course, our elected politicians will make mistakes, both honest and dishonest, and there will be misrule. But the court of accountability must be 170 million Pakistanis and not nine corps commanders. Elected governments must complete their tenure and face up to their failures at the time of polling, instead of being handed a convenient excuse by their forced ouster at the hands of the military. We seek to strengthen all the institutions of our state—the executive, the legislature, the judiciary as well as the media. Only by strengthening these pillars and strictly enforcing the limits on their separate powers in accordance with the Constitution can we protect ourselves from tyranny and secure the Rule of Law. Only then can we rid ourselves of the inequities of the past.

The first milestone of our journey was 20 July 2007, when the Supreme Court historically refused to affix its imprimatur on General Musharraf's attempt to dismiss the Chief Justice, who was then restored to his office with full dignity and authority. But the General again struck back to shore up his tottering dictatorship. He imposed a state of emergency and dismissed 60 independent judges of the superior courts including the Chief Justice, replacing them with handpicked judges ever willing to legitimize the General's actions to undermine the rule of law. Thousands of lawyers were arrested and a reign of repression was let loose on the media and civil society.

At this point we added a new demand to our movement—the reinstatement of the judges unconstitutionally sacked by General Musharraf. The struggle continued to create space for the political parties to operate in and fortify their challenge to dictatorship.

On 18 February 2008 the nation voted in massive numbers to reject the authoritarian system of General Musharraf. We were beginning to think that the objectives that we had laid down for our movement were now well in sight. But alas, this has not been the case. The entrenched establishment has managed to derail the struggle for its peaceful overthrow and embedded itself in the upper echelons of political leadership. The rule of law and an independent judiciary now seem to be distant goals of the lawyers' movement, but we are committed to sharpening our struggle to establish a society that rests on the foundation of justice for all without fear or favour.

I would be remiss if I failed to pay tribute to civil society across the frontiers of land for having supported us in our struggle. International public opinion has been an indispensable ally. You at the Asian Human Rights Commission have given us invaluable moral support

that has given courage to the lawyers of Pakistan to carry forward their unremitting struggle for establishing the supremacy of the rule of law, and we are at a loss of words to befittingly say thank you. Thank you ladies and gentlemen, and we look forward to working in tandem in our shared struggle for the realization of human rights.





# Practicing Ethics in Action

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

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

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

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

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