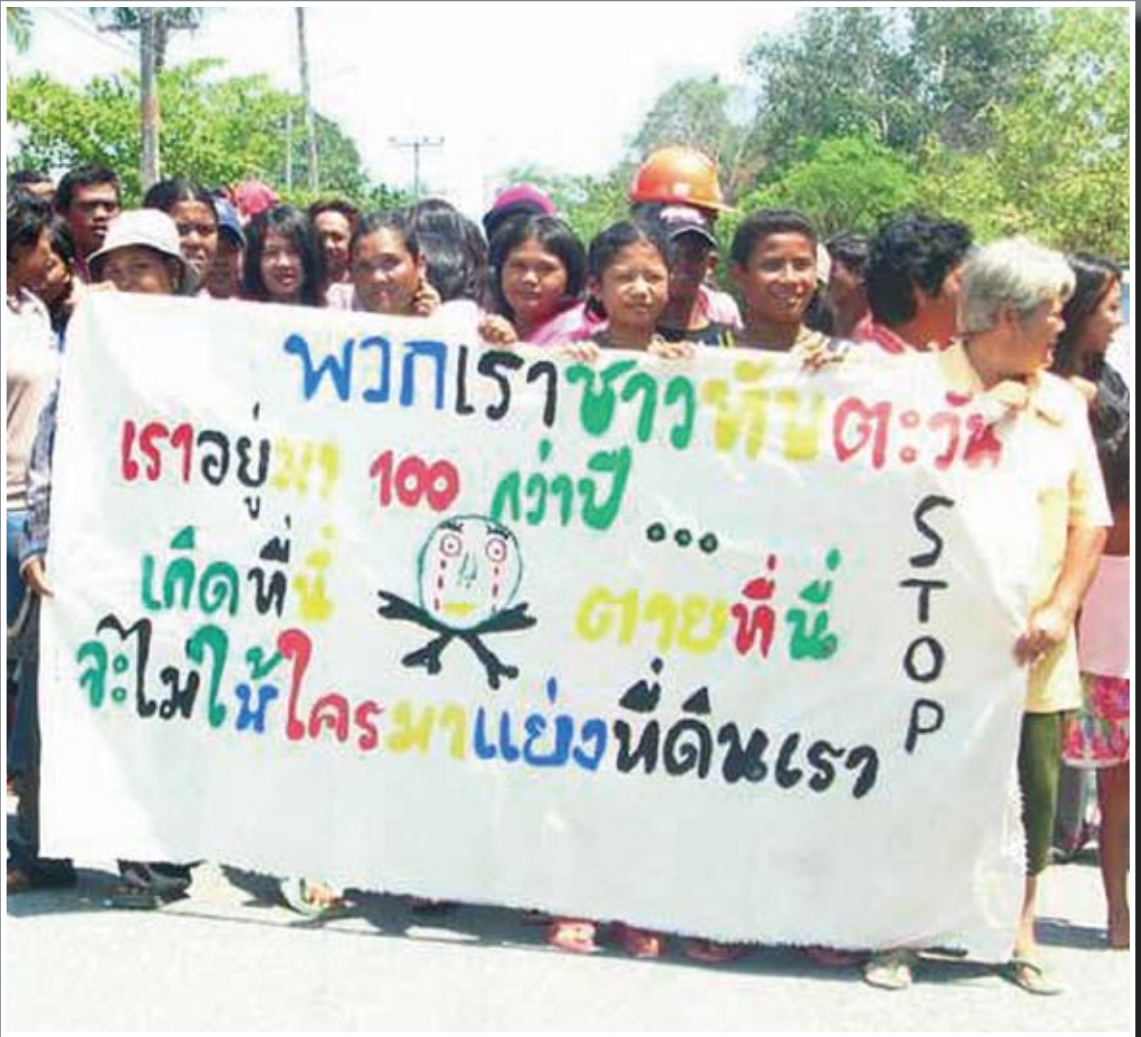


# Ethics in Action

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## Ethics in Action



**Cover photo:**

The Moken community protest against land grabbing in the village of Thaptawan, Phang Nga province, southern Thailand.

Source: Wanchai Buddhathong.

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# **Building back a better community: Transforming disaster into opportunity in Nias**

*E Anna Marsiana*

## **A forgotten island**

I was sent to the Indonesian province of Sumatra by the HEKS (Hilfswerk der Evangelischen Kirchen Schweiz, based in Zurich, Switzerland), a Protestant Church Aid organization one day after the tsunami of 26 December 2004 struck large parts of Aceh and North Sumatra in Indonesia, as well as parts of Thailand, India, Sri Lanka and the Maldives. I proposed to HEKS that we should pay attention not only to Aceh, but also to the island of Nias. My reasons for this were simple and practical—not only did I have information regarding the destruction in Nias, but also, once I arrived in Medan, North Sumatra it was clear that everyone’s attention was focused on Aceh. This was not surprising, given the tremendous destruction and casualties suffered there. However, the other reason for this was that Nias was not known to many people, internationally or locally.

The island of Nias comprises of the main island, and some small islets to the south and west. The main island of Nias, together with the Batu Islands to the south and the Hinako Islands to the west, houses a population of around 750,000 people. Nias Island, part of the province of North Sumatra, is divided into two districts: Nias and South Nias. Gunungsitoli is the capital of Nias and Telukdalam of South Nias. The size of the main island is 4800 square kilometers, and the total area of all the islands is 5625 square kilometers.

Although working in Nias did not sound as sexy as working in Aceh, HEKS agreed with my proposal and we were able to find a partner organization with whom to work. The people of Nias were still recovering from the tsunami when a second and more

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devastating tragedy struck the island in March 2005. While the tsunami mainly affected the west, north and south coasts, the earthquake of March 28 affected the entire island. Two villages on the east coast were submerged, whereas large areas of coral rose above sea-level in the north. The earthquake lifted the western side of the island by an average of two metres. More than 850 people were killed, while 6000 people were severely injured. There was extensive damage to homes, schools, infrastructure and economic activities. Over 100,000 people were left homeless and the main coastal towns—the economic centres critical for the survival of the island's subsistence farming and fishing communities—sustained damage of about 80 per cent.

Together, the tsunami and earthquake had a severe impact on Nias' economy. The commercial sections of the major towns, schools, clinics, boats, irrigation systems, ports and bridges suffered extensive damage. Moreover, the disasters scared away tourists, seriously disrupting production and the markets. It was estimated that the total income for 2005 dropped more than 20 per cent. Eighty per cent of households were living below the poverty line.

Being a small peripheral island, Nias had been largely neglected prior to these two disasters. The population had a very low level of education and less than 20 per cent spoke Bahasa Indonesia, the national language and the language used in schools. Infrastructure around the islands was dismal. The few roads that existed were in poor conditions. To live in a village of more than 1000 inhabitants with no access to public services or economic means such as markets was considered normal. Such conditions made the effects of the tsunami and earthquake that much worse for the inhabitants of the islands.

### **'Build back a better community'**

The two disasters finally attracted the attention of the international community to Nias Island. Many organizations contributed support during the emergency phase, although it was obvious that international and national organizations would need a longer time frame to address the complexity of the problems faced by a society already heavily affected by poverty and marginalization.

It was therefore prudent that the BRR for Aceh and Nias (The national Reconstruction and Rehabilitation Agency for Aceh and Nias) along with all I/NGOs working in Aceh and Nias, decided to centre all rehabilitation work on the premise 'Build back a better community'. Although such a premise is basic to any disaster relief work, it was of great consequence for Aceh and Nias for historical reasons. In Aceh, apart from the tsunami taking more than 130,000 lives, the community has long been torn apart by conflict and civil war. Nias on the other hand, has long been neglected from any development by the government.

With over 25 international groups as well as a large number of national NGOs working on Nias at that time, turning the disaster into opportunity and building back a better community was not just an option, but rather a duty. Otherwise, a huge amount of resources would have been wasted. It was our responsibility to turn the disaster that had taken thousands of lives and nearly destroyed the entire island into an opportunity to develop the island in a holistic and sustainable way. By doing so, not only would we help the survivors to overcome their trauma, but also help them transform threat into challenge and disaster into opportunity, thereby being more resilient in the future.

In accordance with HEKS policy to work with local organizations, we found a very capable local group to work with, HOLI'ANA'A. This policy helps to empower local capacity, which is crucial as ultimately, they are the ones who will stay behind. International and other NGOs usually stay for 1-3 years, before moving on to other disaster areas. Furthermore, local groups are aware of local conditions and customs. In our case, working with a local group helped in gaining people's trust. As in other isolated communities throughout the world, residents in the villages we worked in shared the traits of being suspicious, narrow minded and ignorant to information from outside. It was not easy to gain their trust even after some months of staying with them; even when they knew that they needed help and that these people were there to help. Working with a local organization was therefore a wise decision, and in the long term, it helped the community to open up. Clan-based conflicts are another challenge we had to deal with.

HOLI'ANA'A is a term for heaven found in Nias folk religion. Literally, it means a place full of gold, or a place where people's welfare—in its holistic meaning—is met. HOLIANA'A came to us with a village-based approach instead of the usual (sporadic) activities approach. The village-based approach focuses on certain villages, involving an integrated project covering various activities with long term targets. While this was not a new approach for someone working in the development field, it was not easy to convince HEKS and its donors that the approach would work effectively for rehabilitation projects. In the end, my superior in Switzerland supported me; we decided to proceed slowly and not let ourselves be driven by the considerable funding pressure.

### **Remote and devastated: Survival against the odds**

HEKS began working with HOLI'ANA'A in six villages of three different sub-districts: Hiligawöni, Bitaya, O.Tumula, in Alasa sub-district, Muzöi in East Lahewa sub-district, and Sifaoro'asi and Faekhuna'a in Afulu sub-district. Two more villages, Banua Sibohou in Alasa sub-district and Lauru Fadoro in Afulu sub-district were subsequently included. HEKS also decided to work with another local group, PESADA, focusing on developing women's groups in 11 villages spread out in 10 sub-districts in Nias and South Nias.



Some of these villages were affected by both the tsunami and the second earthquake that devastated almost 80 per cent of the island.

Many of the villages were severely isolated. To reach Muzöi for instance, you have to first go by motorbike for two hours, wait for another 1-2 hours until it is low tide so you can cross two wide rivers with the bike, continue on the bike for another half an hour, before leaving the bike to continue the journey in a small canoe for 1-1.5 hours—depending on the season. This requires



you to arrange for locals to lend you their canoe some days in advance, keeping in mind that there existed no means of communications until three years after the project began. To get to O Tumula, you have to spend four hours on a motorbike and then continue on foot for 1-3 hrs crossing a thigh-high swamp.

The remoteness of the villages was difficult for a Swiss colleague to comprehend until he experienced it himself when he visited Nias early last year: “My dear, I have read many times of how remote the areas were, but definitely I had no idea of how remote it was, I never expected that it was **this** remote...”

As a result of the remoteness, even BRR failed to resolve how the rehousing project could be done. However, this was also because the project failed to recognize and make maximum use of the local resources in participatory ways.

Happily, after some negotiations, BRR agreed to finance an access road to the villages. Although construction was interrupted a few times due to the remote location, there is hope that work will begin again in 2009. The BRR and its new funding partner will also build a permanent bridge over the Tumula River, linking O Tumula to the town where the main market and public services are located.

### **Restoring livelihoods and local capacities**

Given the conditions of these communities, it was clear that a medium-long term project with a timeframe of 2-3 years was essential in achieving sustainable goals. For this reason,

all projects undertaken by HEKS were of a period of 2.5-3 years, expandable for several more months or even years, based on the end evaluation. Unfortunately, this is not shared by all NGOs, many of whom were working in Nias on a short term basis. Many more work on a 'fund available basis'. One NGO planned a medium term project but ended it after only a year of implementation. Another NGO set up a nine-month project, but then extended it for three months and then three more months, and another three months, simply because new funds were available. Perhaps one of the stranger incidents was when an international organization told local groups to write false reports of their projects because its office was closing due to a lack of funds. Two months later, new funds allowed the office to reopen; they had to build a new office and buy new cars as the old ones had been donated to government offices. As a grassroots activist, I was dismayed by such methodology in running rehabilitation projects. The few NGOs that tried hard to think and work on medium-long term rehabilitation projects were thus doubly important in building back a better Nias.

Through its 2.5-3 year project, HEKS and its partners aimed to ensure economic recovery and livelihood rehabilitation for over 3500 families in 19 villages, and contribute to better disaster preparedness. As most villagers had lost their homes, HEKS and its partners made sure their housing needs would be met by other organizations or by the BRR. This has not been completely successful however; as mentioned earlier, due to the remoteness of one of the villages, no house there has been rebuilt, either by the BRR or other NGOs.

In each village, the project was quite wide-ranging. It involved replacing lost livelihood instruments such as boats, fishing gear and farming equipment, to repairing and constructing clean water sources, latrines and related sanitation facilities, to building simple roads that allowed economic access and evacuation, to providing support and organization for socio-economic activities. Women for instance, were encouraged to begin income generating projects; they were provided with start-up capital and relevant business course training, including business and market management for small-scale business. Courses on sustainable fishery and agriculture, as well as market networking were



Rain water collector in Muzoi



Rubber and cacao training

organized for the men. After the various businesses were up and running, Credit and Saving Unions were formed to sustain them. Training courses on other socially relevant issues were also provided, such as gender awareness for men and women, community organization, gender and conflict sensitive leadership training. These were seen as important for social change and long term development.

The participatory approach of the project was at first difficult for the islanders to accept. This was not because they were incapable of valuable contributions, but because they had learned the wrong way of what constitutes a rehabilitation project. The immense international generosity and concern towards the tsunami survivors translated into huge amounts of money collected by I/NGOs, which put them under considerable pressure to spend the funds. Given the amount of money as well as the time frame in which it had to be used, many NGOs were forced to spend the money as quickly and easily as possible. Suddenly, there were numerous grants available through different NGOs. Emergency and rehabilitation projects were understood to mean NGOs distributing money to the people—as grants without much effort from the people’s side; as start-up capital to set up businesses without having to account for any business development (because in many cases after just one year the NGOs had left the island or even the country), or as income generating projects without guidance from the NGOs. In fact, many people initially refused to attend meetings organized by HOLI’ANA’A or PESADA when they learned they would not be paid for doing so, contrary to their experiences with other organizations. Not only was all this misleading, but it also worked against local capacity and wisdom.

In time, the villagers were convinced that a participatory approach is the best way to guarantee the sustainability of the project goals. Also, being consulted in all activities helped people, especially the women, to gain confidence and self esteem. Credit for this must be given to the local partner organizations, whose patience and efforts were able to assure people that they have the capacity to rebuild their lives; they must begin with what they have; only they can decide what they want and change their condition; and finally, that the role of an NGO is but to support their efforts.

## **Four years later...**

Four years have today passed since the tsunami and subsequent earthquake. The BRR is winding up, and its office will be closed by the end of April 2009. A larger number of NGOs have left both Aceh and Nias. At the time of writing, there are 10 international organizations, including UN bodies, hoping to finish their projects by mid 2009 or 2010 at the latest, leaving 10 local organizations working on Nias.

It is easy to see that Nias today is far more developed, not only compared to the beginning of the post-tsunami work, but also compared to the conditions prior to the tsunami. The island's infrastructure as well as social organization has come a long way in the last four years. As noted before, there were few accessible roads on the island when we began working there. Only one simple 5km road, 1.5m wide, could be found in the city of Gunungsitoli. Outside Gunungsitoli however, nothing existed that could be called a road. To date, 6-8m wide roads measuring hundreds of kilometers in length have been built circling the island and connecting the city to major towns in the sub-district level. More than 60 per cent of the island's villages now have at least a primary school guaranteeing elementary education for children, while prior to the tsunami, there were few schools at the village level. Many sub-districts today also have a number of well equipped health clinics and Gunungsitoli's main hospital has been renovated and refurbished with modern equipments and facilities—through donations—meeting international standards. The list of infrastructural developments does not end here; in short, it is fair to say that Nias is an example of how a disaster can be turned into an opportunity to build a better community.

As infrastructure on the island grew, so did the villages and sub-districts. In fact, many large areas were divided into two or three smaller villages or sub-districts, to enhance and quicken the development process. There is even an agreement that Nias district would be split into two new districts: West Nias and North Nias.

The socioeconomic status of the island has also improved considerably. Having just ended our first medium-term project in four villages, it can be said that despite difficulties and delays in some activities, the impact of the project is tremendous. This can be seen in Bitaya, one of the four villages. In fact, Bitaya was the most remote village, where the BRR failed to execute the housing project. In the course of the four years, HOLI'ANA'A had no choice but to twice stop the project due to clan-based conflicts or due its remoteness. Today however, Bitaya is a different story. A rice farm of over 50 hectares is being maintained by a women's community based organization (CBO) formed by HOLI'ANA'A, with a production increase of 25 per cent. This has allowed the village to become self-reliant in their staple food. Moreover, with a rice mill operated by another CBO, Bitaya is even able to supply rice to neighbouring villages. Eighty per cent of

Bitaya's households now have easy access to clean water and sanitation facilities. Reducing the burden on women, this leaves them with more time for other social and economic activities.

Similar stories of economic activities can be found in the three other villages of O.Tumula, Hiligawoni, and Muzöi. A comparison of the number of pigs in the four villages before and after the project period shows an average increase of 300 per cent. Each village has 2-3 credit and saving unions. Although the intensive rehabilitation project is over, HEKS is still providing support to strengthen the management of these unions. Social conflicts have decreased significantly, while gender awareness and sensitivity training is proving influential. The women's CBOs in particular, have been a great influence in the community's social dynamic. Women have generally become more confident and have started to take part in almost every public meeting at the village level. One woman, a former village community organizer, even ran in the village head elections in Tumula. Although she lost, it was a new and positive experience for the community. The CBOs in Hiligawoni caught the attention of the government and now receive grants from a central government programme.

While Nias can certainly be cited as a model for different actors to work together and turn a disaster into an opportunity for significant change, it would not do to ignore the fact that there are over 400 villages within Nias district only, the majority of which did not experience rehabilitation in the way of Bitaya, O.Tumula, Hiligawoni, and Muzöi. Some villages experienced recovery and rehabilitation projects as sporadic activities, while others experienced none, due to their remoteness. In other words, when the BRR is completely closed and major NGOs finally leave the island, there will still be much work to be done.

Additionally, if a close look is taken at the amount of money spent in the past four years, perhaps we would expect to see more results. At a press conference on 16 April 2009, BRR noted that the total funds collected for the rehabilitation of Aceh and Nias come to around IDR 35 trillion (USD 3.25 billion). For Nias, over IDR 5.8 trillion (USD 538 million) is estimated to be spent through the regional



One of the public faucets built in Bitaya

government, UN agencies and I/NGOs. By the end of 2008, about USD 390 million was disbursed and implemented (see [www.e-aceh-nias.org](http://www.e-aceh-nias.org)). Such large sums of money should surely result in greater developments than have occurred in the past four years. Alas, this is a topic for another article.

# Five years post-tsunami: Land conflicts yet to be resolved

*Wanchai Buddhathong, Songkhla Youth Citizen Centre*

“Where shall we go? Our home is here; where then shall we move? All islands and seas already belong to others. We also can’t live in national parks. Even if there is a place for us to stay, the capitalists try to drive us away. We Chao Lay [sea-gypsies] have made our livelihood by the sea for generations; if we cannot live by the sea, how we can survive? We are also human.”

These are the deepest, darkest thoughts of Orrawan Haantalay, a 23-year-old Moken woman in Thailand’s Thaptawan village, Takuapa district, Phang Nga province. The lives of the Moken community, as well as other minorities are harsh, despite the tsunami having past five years ago. When it struck the Andaman coast (southern Thailand) on 26 December 2004, it swept away numerous lives and completely destroyed property and housing. Communities living along the coast lost were overcome by the sorrow of losing family members, homes and the means of earning a livelihood. They have yet to truly recover from this disastrous event.

The lives of the tsunami victims along the Andaman coast today does not differ significantly to what they experienced in the immediate wake of the disaster. This is largely due to the greed and selfishness of their fellow men, who grabbed their small pieces of land, just enough to sleep, and drove them out.

According to Haantalay, the tsunami passed a long time ago and villagers try to exercise self-control and composure when talking about its destruction. “Nowadays we can recover from the tsunami. There is something else that we cannot accept, which is growing bigger and bigger, even more so than the tsunami itself.” Haantalay is referring to the grabbing of community land by developers and industrialists. “They grab our land and turn it into their own property through the legal system and selfish lawyers. They went to court to evict the Moken from their own homes. These cruel people also worked with the officials to obtain title deeds for the mangrove forests and public land used by our community to earn livelihoods.



“We are merely Chao Lay who have no knowledge about the law. We have never gone to court and know nothing about fighting for land rights. Although there is clear evidence that the Moken have settled here for a long time, after the tsunami people came to forcibly evict the Thaptawan community from their new houses, built by kind persons who came to help us after the tsunami.

“What kind of persons are they, to force us out of our homes? These lands are our home. Many people acknowledged that we, Moken people, have been staying here on the Andaman coast for a long time. Moken are the ethnic group who have been here before others.

“When the tsunami destroyed our homes and all evidence establishing our existence, the cruel people saw this as an opportunity for exploitation. They thought the Moken had no proof of residing on the land and so took legal action to evict us. But we are human, we can confirm that we live here and we are Moken in this area. It is not only the Thaptawan community facing this problem in the aftermath of the tsunami; the Lhampom community in Takupa district of Phang Nga province, the Ban Nai Rai community in Thay Mheuang of Phang Nga, the Yao Yai island community of Phang Nga, the Lawai beach community in Phuket province, the Pa Khlok community in Phuket, and several other communities are also facing similar problems. Victims of the tsunami are already facing tremendous suffering from the loss of their family and destruction of property. Those people should not add to our suffering by evicting us from our lands.”

According to Mr Pakphum Vithantirawat, a member of the National Economic and Social Advisory Council (NESAC), an independent body set up to advise the government, the land conflicts along the Andaman coast are serious. Private developers are grabbing public and private lands. When they investigated the initial complaints from the Moken community regarding such land problems, NESAC found many other communities facing similar situations. After investigating numerous



such cases, the Council made recommendations to the Thai government on 31 August 2007. A Cabinet resolution of 1 November 2007 acknowledged NESAC's comments and recommendations. The Cabinet also acknowledged considerations by government agencies related to this problem, including the ministries of finance, foreign affairs, agriculture, transport, education, health, industry, interior, tourism and sports, and the National Economic and Social Development Board. However, as of yet there are no concrete solutions to the problem.



The comments and recommendations by NESAC include several important points, such as the problematic issuing of ownership certificates for mangrove forests by the Department of Lands. At the intersection between land and sea, these mangrove forests support a multitude of life and are among the most productive and biologically complex ecosystems on the planet. One such certificate for instance, was issued in Nai Rai village, Na Toei sub-district, Thay Mueang, Phang Nga province, which the Department of Maritime and Coastal Resources noted was a mangrove reservation under a 1996 Cabinet resolution. The maritime department further recommended the Thay Mueang branch of the provincial land office to withdraw seven ‘nor sor 3 kor’ or land utilization certificates (a legal document allowing for use of land) concerning 59.02 rais (1 rai = 400 square meters) of mangrove forests. It also advised the Phang Nga provincial governor’s office to confirm its objections to providing land deeds for these areas. Unfortunately, during the long process of considering the certificate withdrawals, the government has not been able to postpone or prevent the deforestation and destruction of the mangroves in question.

In Ku Ku village, Ratsada sub-district, Meuang Phuket district, Phuket province, the Department of Lands issued a private company with a title deed of 21 rais, which overlap with a mature mangrove forest of 69 rais, which is a ‘royal celebrated’ (public space created/managed in celebration of Thailand’s royal family) mangrove. Ku Ku village also has a pending title deed application for an area of 29 rais of mangroves and forest by the same company. Together, this is an area of 98 rais, which has already been ploughed to destroy forest and mangrove. Due to protests by the villagers, some areas are still protected, but the long delay in the legal procedure means there is little that can be done to prevent deforestation.



Apart from the problematic issuing of ownership and utilization certificates by the lands department, the NESAC also came across cases where public lands and natural resources necessary for the survival of local communities were appropriated by private developers. The case of Yamu village in the Thalhang district of Phuket province is such an instance. On 17 September 2007, the Prachachart newspaper reported an interview with Mr Ian Michael Charles Henry, the managing director of Campbell Can (Thailand) Company. According to the report, Mr Henry was developing ‘The Yamu project’ on an area estimating 220 rais, comprised of three separate projects. One is the Cape Yamu project, consisting of 32 deluxe villas sold to European and Asian customers, the project value of which is 2500 million Thai baht (1 USD = 34.2928 Thai baht). Second is the Yamu luxury hotel project, with 63 rooms, the investment budget for which is 3500 million baht. Third, the Yamu Villa Estate is an elegant villa to be sold for 145.75- 274.34 million baht.

The NESAC investigation found that the land to be used by the company for the three projects—for which the Department of Lands issued a utilization certificate—overlaps with a public path that is five meters in width and 150 meters in length. The Yamu villagers complained to the Phuket provincial governor, who asked them to negotiate with the company.

Later, the company constructed a new public path without consulting the villagers. The path is only three meters wide, and it ends at the cliff, from which are 147 perpendicular footsteps down to the beach. This makes it impossible for the villagers to transfer their fishnets, fishing tools and daily catch from the sea to the village. The investigation committee appointed by the provincial governor found that the public trail used by the Yamu community has a long history and goes from the village to the sea.

The community has coherently articulated that the law provides for public land to be under public rule and management. The official investigation into the matter has taken over a year now, and the main recommendation continues to be only that the community negotiate with the private company to resolve the problem. In the meantime, the company has been continuing its work: putting up fences, ploughing land, building a reservoir and houses.



There is also another land project in Yamu, concerning the harbour. The project involves dredging the seaway and building a footpath, pier and pontoon. After receiving complaints, NESAC went to investigate, discovering that the public area comprises of a black sand beach, stony shore and seagrass bed. The area is used by the local population to collect shells and install fishnets, from which they make their livelihood. It is also used as a place for recreation, since Phuket has few public beaches. Not only will the private project affect the lives of the locals, but the dredging and construction would destroy the seagrass bed.

Mr Pakphum of NESAC also spoke of a case in the Ya Mhi Hill and Chonglhard Mountain area, Koh Yao Yai sub-district. This is a mountainous area consisting of the National Chonglhard Forest and Koh Yao Yai Forest, with natural springs providing water for the local community. The area was declared to be national protected forest in 1968 and in 1984. However, the Department of Lands issued 29 certificates of ownership covering 585



Muslim villagers holding a prayer gathering against land grabbing

rais of land in this national forest to a private company during 1977-1978. This amounts to land from the mountains to the seashore at Klongson gulf. The local community, most of whom are Thai Muslims, have complained to the related government agencies, resulting in an investigation by the country's Department of Special Investigation, the top criminal investigation agency. While the protracted investigation continues, no measures have been taken to stop or slow down deforestation.

According to a representative from the Royal Forest Department, the government agency administering national protected forest reserves, the Department cannot investigate the case because of the ownership certificates issued. If an area has been issued with an ownership certificate, it is the duty of the Department of Lands to first investigate and revoke the certificate. The representative of the lands department however, informed NESAC that the investigation procedure must begin from the provincial level to verify and send the complaint to their office. Then the lands department would investigate, and if legitimate grounds for the complaint are found, the department would establish an investigation committee to officially examine and revoke the title deed. After a year, the inspection at the provincial level has not progressed, while deforestation continues.

In the Khlongson gulf, Phang Nga province, the Marine Department gave permission to construct a marina, to build a checked dam, to dredge the seaway for navigation and to build a pontoon. The Ministry of Natural Resources and Environment protested against the project, as it would adversely affect seagrass beds, the Khlongson gulf maritime ecosystem and the beach.



Villagers protesting against the marina project

After questioning and debate in the legislative assembly, in March 2007 the permission was revoked. The private developers continue attempts to move ahead with their project however.

In all of these cases, NESAC has found that when public land is granted to private interest groups, there is adverse impact upon the surrounding natural environment as well as the community using the natural resources for survival. Furthermore, the sluggishness of the government inspection system offers opportunities to these groups to encroach and destroy the public lands.



Five years have passed since the tsunami, and yet the victims are still bogged down in these conflicts. While the tsunami waves died into the sea, the wave of human greed is still sweeping over the Andaman coast. The future of its victims remains unknown.

# Thailand's stateless 'chao lay' or sea-gypsies

*Paladej Na Pombejra, Andaman Pilot Project,  
Chulalongkorn University Social Research Institute*

The disastrous tsunami of December 2004 brought the fate and life of residents along southern Thailand's Andaman coast into unprecedented limelight. Until then, many Thais knew nothing about the 'Chao Lay' or 'sea-gypsy' community living in various coastal villages, who have a distinctive way of life, language and culture, all bound with the sea.

There are three particular ethnic Chao Lay groups in Thailand: 1) The 'Moken': The Chao Lay population in the islands of Lao, Sin Hai, Chang and Phayam in the province of Ranong, as well as the Surin islands in Phang Nga province and Ra Wai village in the province of Phuket amounts to more than 800. 2) The 'Morklen': The Chao Lay population in Pra Thong island and over ten coastal villages in the provinces of Phang Nga and Phuket numbers to more than 3000. 3) The 'Urak Lawoi': The Chao Lay population in other islands across the provinces of Phuket, Kra Bi, Trang and Satun is over 5000.



The tsunami killed many people and destroyed much property along the Andaman coast. It was only when relief groups and government officials arrived at the area to provide relief and compensation that the Thai society was awakened to the fact that the three Chao Lay groups were facing problems similar to those faced by marginalized ethnic groups, including the issues of statelessness, insecurity of residence and being denied access to natural resources. Furthermore, the groups were experiencing a loss of pride in their indigenous culture and way of life, their traditional knowledge is no longer passed on to the younger generation, and they are treated with disdain by those with no understanding of their ethnicity. As a result of all this, many Chao Lay now call themselves 'Thai Mai', or 'new Thai', therein distancing themselves from their indigenous culture, and instead associating with the Thai culture.

In the aftermath of the tsunami, many international and local groups came to the forefront to help these communities rebuild their homes and livelihoods, as well as providing for their immediate needs. There was little they could do regarding their statelessness and lack of citizenship however, which goes hand in hand with the denial of fundamental rights such as the rights to food, work, housing and legal protection, and is therefore the most pressing problem faced by the Chao Lay. Unfortunately, there are also very few local groups working on this issue.

From data collected by the Andaman Pilot project in 2005, it was found that of the 800 or so Moken people in Thailand, only 94—residing in the Surin islands—have received National Identity Cards or were registered in resident organizations. More than 700 Moken living in Ranong province are still awaiting information regarding their status after taking part in a government census. In the past, the government policy has been to issue the Chao Lay with identification numbers beginning with a zero; this means that they are not entitled to the same rights under the law as other Thai citizens, including the right to medical services, the right to travel freely and the right to labour protection. Furthermore, it was common for those Moken without identity cards to be threatened and blackmailed for money



First Mokens to receive Thai nationality

by government officials.

As a result of their statelessness, Moken are forced to work in illegal and risky industries. Moken in the islands of Lao, Phayam and Sin Hai who do not have identity cards have no labour rights. Some of them were coerced by industrialists to catch fish, leeches and crocodiles in Burmese waters as well as near the Nicobar-Andaman islands using bomb-fishing, which is illegal and dangerous. A number of Moken individuals were killed and handicapped due to the practice of bomb-fishing. In May 2007, 19 Moken from the island of Lao were caught and charged with illegal smuggling of natural resources in the Nicobar-Andaman islands.

### Attempts to address the problem

Various attempts were made, especially after the tsunami, to address the problems faced by the Chao Lay communities. These attempts and the predicaments of the sea-gypsies were closely followed and reported by the media. A number of actors, including academic institutes, human right organizations and various foundations participated in the advocacy effort as well as shaping government policy.

The attempts to resolve the stateless/citizenship problem and provide fundamental civil rights to the Chao Lay included:

- ◆ In 2004, the Andaman Pilot Project of the Chulalongkorn University Social Research Institute (CUSRI) made unofficial cards to assist in people's identification, and to support medical treatment for the Moken in the Surin islands. The Khuraburi district office also urged the local police to support the holders of the card. (The card expired on December 2007). The project also collaborated with the Khuraburi Hospital in setting up a fund to support the medical and travel expenses of Moken patients as well as the travel expenses of their accompanying relatives.
- ◆ In 2005, the Department of Provincial Administration officially began a survey of the Moken and providing a 13-digit identification card for them. Ninety-four Moken already received the National Identity Card and were registered with resident organizations. However, the exact rights and protection provided by the card has yet to be worked out.
- ◆ In 2006, the Action Aids Organization issued similar unofficial cards to identify Moken in the island of Lao, and provide them with access to medical treatment. It further set up a fund in the Ranong hospital for the medical expenses incurred by Moken patients.



- ◆ Thailand's Nationality Act was finally amended and promulgated in the Government Gazette on 27 February 2008. In accordance with the amendments, stateless persons who met the following conditions were able to declare Thai nationality: 1) An individual born before 26 February 1992, or whose non-Thai mother or father was born in Thailand before 26 February 1992; and 2) Possessing residence address in Thailand.
- ◆ On March 2009, the Andaman Pilot Project compiled and verified data relating to the Moken in Khuraburi district, Phang Nga province. It successfully cooperated with the population registration division of the Khuraburi district office to investigate the Thai nationality registration procedure for this Moken group. It was found that 27 persons fell into the scope of section 23 of the amended Nationality Act. Seven of them reside at Chaipatthana-Ga Chart Thai village, while the other 20 reside in the Surin islands.
- ◆ A 'Mobile District Office' project was organized by the Khuraburi district office in April 2009 to visit the Moken community in the Surin islands. The annual six-month monsoon season of the Andaman Sea brings considerable hardship for the Moken community. The purpose of the mobile office would be to survey and investigate the individual data of the inhabitants, including their dates of birth and death.

While these and other activities are ongoing to remedy the national status of the Moken, it is important to continuously push the Thai government to do more. For instance, there is a need for people receiving National Identity Cards and Registration Status Cards to be aware of their rights and duties, especially related to population registration (such as reporting of birth, death, migration or marriage); applying for Thai Nationality under her husband's nationality (for stateless women married to Thai citizens); applying for Thai nationality after having continually residing in Thailand for more than 10 years and with the intent to settle in Thailand; exception of military conscription for men who have just been given Thai Nationality and the National Identity Card. It is also necessary for the Thai government to accept the sea-gypsies' nomadic lifestyle in the shaping of policy.

In the five years since the tsunami, the progress on the Chao Lay's citizenship issues has been worryingly slow. While numerous sustainable development projects have been initiated for their water, fishing and even cultural heritage, the same cannot be said of their national status. The reluctance of the Thai government to immerse itself in the problem and address it has been reflected in the lack of coherent and effective policy around the issue. Without strong government commitment and policy, the fundamental rights of the Thai chao lay cannot be realized.



# Kerala: The tsunami and after

*T K Naveenachandran*

The infamous Indian ocean tsunami hit three states of India—Tamil Nadu, Pondicherry and Kerala, as well as the Andaman and Nicobar Islands. Tamil Nadu was the worst hit state. The tsunami hit the Kerala coast at about 11am, 26 December 2004. By then, many people were aware of its impending arrival through television broadcasts and ran away from the coast, an act that saved considerable lives. Government officials, such as personnel from the state observatory and department of natural disasters responded as if they were unaware of what a tsunami is. In fact, most of the government officers arriving at the coastal villages did not even comprehend the magnitude of the impending danger. This lack of awareness and understanding was also reflected in the manner of their assistance after the tsunami.

In Kerala's Kollam district, Alappad village, 132 persons died, while 39 persons died in Alappuzha district, Aratupuzha village. Considerable property was destroyed in other districts and villages, but there was no loss of life. Fishing boats, nets, houses, shops and other establishments were destroyed or severely damaged along the coast. Four thousand houses were reconstructed in Alappad and 1500 in Aratupuzha.

The tsunami's immediate devastation was far outweighed by its long term damage. Large areas of land for instance, were rendered useless due to salinity. This affected local farmers, particularly those dependent on paddy cultivation. The government's response was limited to oral rhetoric such as, 'We will give everything back to the people other than the lives lost,' declared by state finance minister Mr K M Mani in a public meeting. In reality, other than the mandatory deduction from government salaries for two months, the state government's tsunami relief fund was filled by public contributions.

The real relief work was carried out by political parties, welfare groups and human rights organizations; a mixed bag of good, bad and evil measures. The food distribution for instance, in camps setup to house those who lost their homes, was done by a private charity trust who did a good job. Other groups however, such as the RSS, the Communist party cadres and some groups within the Congress and the Muslim League tried to make

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use of the opportunity for political propaganda. They approached the tsunami victims with promises, but only helped those who subscribed to the party membership. These political parties canvassed funds throughout the state, but there is no account of how this money was spent. It was certainly not spent on the victims.

The RSS was the worst of the political/religious groups. They only helped Hindu victims, while threatening human rights groups and activists assisting in the relief and recovery process. In the guise of charities, other religious groups came to sell their beliefs to the affected communities. Within a few months of the active relief operation, these communities were divided along religious and political lines.

In the meantime, although the state government declared it had received adequate funds from the central government and other sources to support the victims, it provided them with a mere pittance. The government later spent this money to subsidize planters in the high-range areas. Finance minister Mr Mani, himself a planter, thus spent money on his constituency, rather than on the victims. There were even debates in the legislative assembly about this, but their outcome was of no help to the victims.

The tsunami did not just take away some lives and property; it changed the lives of many families forever, particularly when they were given no government assistance for rehabilitation. Farmers near the coastal region for instance, had to stop farming as their land was salinated. Those who had made their living by fishing lost everything to the sea. When these farmers or fishermen approached banks and other financial companies for loans, they were given conditions of exorbitant interest, the repayment of which was an impossibility. They had no choice but to give up their traditional way of life.

When the tsunami hit, Communist Party cadres visited the affected areas in Kerala, promising that when they come to power they will assist the survivors in every way. While the Communists did in fact come to power soon after the tsunami, they did nothing for the people.

It is important to note that before the tsunami hit, the state government was facing a financial crisis. After the tsunami however, funds poured in to the government treasury for assistance to the victims. Most of these funds were intentionally unused (within the prescribed period of time) so that the government could later spend it at its discretion. The money was therefore spent on government salaries, subsidies to large-scale rubber and spices planters and even to pay travel and telephone bills of state ministers. In short, the tsunami was a boon for the Kerala government, which was trapped in a financial crisis.

# **Tsunami rehabilitation in Sri Lanka: A brief outline**

*Inoma Karunatilake*

On 26 December 2004, devastating earthquakes along the western coast of Northern Sumatra, the Andaman Islands and Nicobar Islands caused tsunamis to sweep over south and southeast Asia, reaching as far as the shores of East Africa and producing one of the worst natural disasters in modern history. Those countries worst affected were India, Indonesia, the Maldives, Sri Lanka, and Thailand, with others, including Myanmar and Somalia also suffering damage and loss of life. Countries less severely affected by the tsunami included Bangladesh, Kenya, Malaysia, the Seychelles and Tanzania. In total, more than 170,000 people are thought to have died. Overall, an estimated two million people have been directly or indirectly affected, of whom 1.7 million are internally displaced. The damage and destruction of infrastructure has destroyed people's livelihoods, leaving many homeless and without adequate water, sanitation, food and healthcare facilities.

## **Impact of the tsunami**

Sri Lanka is an island in the Indian Ocean, lying east of the southern tip of the Indian subcontinent, from which it is separated by the Palk Strait. Sri Lanka is about the size of Tasmania, with an area of 66,000 square kilometers, including 870 square kilometers of inland waters.

When the tsunami hit Sri Lanka, more than 31,000 lives were lost, more than 15,000 were injured, livelihoods were severely damaged, and an approximate 443,000 people were displaced. In addition, the number of women and children among the dead was disproportionately high. More than 900 children became orphans or were separated from their parents. These children, along with widows, single-parent households, the elderly and disabled, comprise especially vulnerable groups in terms of psycho-social distress, restoration of livelihoods, and legal and protection rights. As such, these groups required special support during the recovery phase. According to government statistics, total loss and damage would cost about USD 1.5 billion. This includes the damage of schools, the health sector, housing, agriculture and livestock, electricity and water supplies, sanitation, transportation infrastructure, the fisheries sector and the tourism sector. The government encountered critical challenges in reducing the immediate suffering resulting from the effects of the disaster; restoring livelihoods and basic services; and starting the recovery and reconstruction process.

## The statistics of persons affected by the tsunami as of 3 January 2005

District	Deaths	Injured	Missing	Displaced
Colombo	76		12	16,139
Gampaha	7			32,000
Kalutara	213	421	48	37,595
Galle	4,101	2,500		120,000
Matara	1,205	8,288	404	41,900
Hambantota	4,500			27,351
Ampara	10,436	120		183,527
Mullaitivu	3,000	2,500	1,300	24,557
Batticaloa	2,497	1,166	1,097	203,807
Trincomalee	957		335	51,863
Killinochchi	560	147	56	49,129
Jaffna	2,640	541	540	48,729
Puttlam	4			850
Vavuniya				641
<b>Total</b>	<b>30,196</b>	<b>15,683</b>	<b>3,792</b>	<b>838,088</b>

Source: District Secretariats

(These figures are tentative, as reported by the respective District Secretariats)

Although these communities have been traumatized, they have demonstrated a strong sense of cohesion in mobilizing themselves into groups to remove rubble and distribute relief supplies.

### Initial reconstruction

Immediately after the tsunami, the international community responded with unprecedented generosity and solidarity towards the rescue and relief efforts of the affected communities and authorities. With more than USD 6 billion being pledged for humanitarian emergency relief and reconstruction assistance, considerable resources were available to Sri Lanka for relief and recovery activities.

With these resources, the Sri Lankan government successfully rebuilt and repaired damaged roads, electricity and water supplies, and the sanitation system within 2-3

months after the tsunami. While these infrastructural developments are a cause for celebration, after four years, there are people still living in tsunami camps in various parts of the country. Immediately after the tsunami, the Sri Lankan government together with various NGOs provided for the basic needs of survivors, such as water, food, shelter, clothes and medicines without any discrimination. The authorities put survivors in common camps located at schools, temples and churches. They were then divided into two categories: permanent family and non-permanent family. Those who had their own houses prior to the tsunami were categorized as permanent, while those who didn't, who had lived in rented houses, were categorized as non-permanent. Both categories were given temporary houses in the camps.



Both categories were given temporary houses in the camps.

Victims received cash donations for the first 3-4 months after the tsunami. The government and other organizations gave out Rs 5000 per family per month for four months. They also received a ration card worth Rs 200 per person per week for three months, for dry rations. The government further gave out Rs 2500 to buy other necessary items like cooking pots, tables and so forth. International organizations and local authorities together conducted health programmes, such as counseling and medical clinics, which were very useful. In the camps, most families survived by doing small jobs. Most of the families have more than four members and are living in a small room with few facilities. According to those still in the camps today, they live with the hope of eventually having their own houses. The government has apparently announced that all permanent families will get houses, but not the non-permanent families.

All of the children living in the camps are continuing their studies; the government has provided the necessary facilities for this.

## **Government initiatives for future protection in the case of natural disasters**

- A Parliamentary Select Committee was appointed to review the disaster risk management status of the country and make recommendations.
- An Interim Committee on Early Warning System was set up.
- In May 2005, the Government of Sri Lanka passed the Sri Lanka Disaster Management Act No 13 of 2005 in the Parliament.
- The National Council for Disaster Management (NCDM) was established, in accordance with the act.
- The Disaster Management Centre (DMC) was established under the National Council for Disaster Management (NCDM) as the lead agency on disaster risk management in the country in implementing the directives of the NCDM.
- In December 2005, the Ministry for Disaster Management was established. On January 2006, this Ministry was renamed as the Ministry of Disaster Management & Human Rights.

## **What happened to the money...**

The Sri Lankan government received more than USD 6 billion in post-tsunami aid. According to reports, the government needed only USD 1.5 billion for reconstruction and development. Nearly USD 1 billion has been spent on the basic needs of the survivors. It is very clear there should be more money.

The government's infrastructure developments have been satisfactory, as was its passing of the Sri Lanka Disaster Management Act No 13 of 2005. And yet, there are still many families suffering in the tsunami camps all around the country. The situation of people in the north and east is worse than that of the south, due to civil war. Reports and victim testimonies suggest that people get more facilities from international and local organizations than from the government. Days after the tsunami, INGOs were among the first to deliver emergency relief. Through cash-for-work activities, communities were mobilized to clean up debris, while putting money into their pockets.

Corruption in post-tsunami aid delivery however, has been reported from all parts of Sri Lanka by the local and international media. Many actors in the field are involved in corrupt practices due to personal greed. In the north and east, corruption is mainly instigated by the LTTE. In the east, the government, LTTE, and NGO/INGO personnel are all involved in corrupt practices. These have badly affected the people, allowing for their continuous suffering at the tsunami camps.

# Professors concerned about democracy in South Korea

*Statement forwarded by the Asian Human Rights Commission: AHRC-FST-049-2009*

The following represents the considered view of professors at colleges and universities throughout North America, whose thoughts are with Korea and Korea's democracy. In light of recent developments in South Korea, we, the undersigned, cannot but express grave concern. Nurtured by the toils and sacrifice of many, democracy is a proud asset of the Korean people. The world has watched as the Korean people have moved deliberately, with determination and at human cost, from dictatorship towards democracy, over the last half a century. Regrettably, since the inauguration of the President Lee Myung-bak administration, Korean democracy has lost its way.

A democracy must not only allow the people to select their own representatives through votes, but also guarantee the freedoms of assembly and association in order that they can express diverse political opinions. We have observed how the state suppressed last year's 'candlelight vigils', issued subpoenas even to ordinary citizens who had participated in the protests, and is restricting the lively online exchange of ideas. The recent police blockade of Seoul Square is an egregious example of the government denying its people a fundamental democratic right, the freedom to assemble.

A democracy acquires a capacity for self-regulation through the free press. We note with distress that the Public Prosecutor's Office has questioned journalists critical of the government, and the replacement of major broadcasting networks' executives with pro-government figures has infringed upon the professional autonomy of rank-and-file reporters. A foundation stone of any democracy, the free and independent press has suffered serious damage.

The Constitution of the Republic of Korea enshrines a system of checks-and-balances among the executive, the legislative, and the judicial branches of the government. We regretfully recognize and call attention to the fact that since its inauguration, the government has not upheld the principle of checks-and-balances. Moreover, administrative organs that should be politically neutral, such as the Public Prosecutor's Office, the police, and the National Tax Service, have exercised excessive state power in an arbitrary manner, weakening the legitimacy of democratic governance.

Speaking for North American professors interested in the health and strength of democracy in Korea, we express deep concern over the regression of democracy in Korea. Heart-wrenching incidents such as the death of forced evictees during the police suppression of their protest, the suicide of special contract workers, and the shocking decision by the former president to end his own life are some of the tragic consequences of a democracy that is taking backward steps in Korea; they highlight a democracy in crisis.

A democratically elected government cannot disparage its own people, because the mandate to govern derives from the people. We, the undersigned, urge the government of President Lee Myung-bak to recognize its responsibility for a regressing democracy and reorient itself as a government that respects the people's sovereignty and democratic rights. Democracy, the pride of Korea, must again find its direction and return to the natural path of serving the people.

**List of 240 professors:**

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- Youngrak Park (Columbus State University)
- Samuel Perry (Brown University)
- Michael J. Pettid (Binghamton University State University of New York)
- Mooweon Rhee (University of Hawaii, Manoa)
- Michael Robinson (Indiana University)
- Lawrence Rogers (University of Hawaii, Hilo)
- Mahua Sarkar (Binghamton University, State University of New York)
- Johnny Sarraf (Santa Rosa Junior College, Petaluma)
- Wesley Sasaki-Uemura (University of Utah)
- Andre Schmid (University of Toronto)
- Gary Schneider (University of Texas, Pan American)
- Bert M. Scruggs (University of California, Irvine)
- Jungmin Seo (University of Hawaii, Manoa)
- Michael Sherraden (Washington University in St. Louis)
- Jaesung Sim (Mansfield University)
- Heeju Shin (University of Wisconsin, Milwaukee)
- Jiwon Shin (University of California, Berkeley)
- Donghee Sinn (State University of New York, Albany)
- Soong Nark Sohng (Clarion University of Pennsylvania)
- Dorothy J. Solinger (University of California, Irvine)
- DongHee Son (Texas A&M University)
- Juyeon Son (University of Wisconsin Oshkosh)
- Seung-Hee Son (Purdue University)
- Soohyun P. Son (Mt. San Jacinto College)
- Jesook Song (University of Toronto)
- Joungmin Song (Marshall University)
- Junho Song (University of Illinois)
- Jae-Jung Suh (Johns Hopkins University)
- Serk-Bae Suh (University of California, Irvine)
- Seung Hye Suh (Scripps College, Claremont Colleges)
- Ken Wells (University of California at Berkeley)
- Hyeyoung Woo (Portland State University)
- Eun-Ho Yeo (Plymouth State University)
- Yoon Yeo (Purdue University)
- Hyangsoon Yi (University of Georgia)
- Sungwon Yim (New York University)
- Theodore Yoo (University of Hawaii, Manoa)
- Myung-Keun Yoon (South Dakota School of Mines and Technology)
- So-Yeon Yoon (University of Missouri, Columbia)
- Sung-Wook Yoon (California State University, Northridge)
- Jong Soue You (Algoma University, Canada)
- Jong-sung You (University of California, San Diego)
- Jisun Yu (Concordia University)
- ManSoo Yu (University of Missouri, Columbia)

# The neglect of Sri Lanka's tent people

*Basil Fernando*

The internally displaced people in Sri Lanka are outside the legal jurisdiction of the country, said Chief Justice Sarath N Silva on 2 June 2009, addressing a gathering on the occasion of the opening of court premises. He further said that the conditions under which these people are living will bring a curse on the authorities.

“We construct massive buildings on our side, but these IDPs live in tent shelters,” the chief justice said, according to the BBC's Tamil Service. “Ten IDPs live in one tent shelter. They can stand up straight only in the center of the tent shelter. They will break their necks if they move to the sides of the shelters.” Repeating that this is an accursed situation, Silva said he was willing to face the consequences for making this statement.

In a separate statement, the UN High Commissioner for Human Rights Navi Pillay, in addressing the Human Rights Council, urged the government of Sri Lanka to allow free movement in and out of the camps that hold hundreds of thousands of war-displaced people in the northeast of the country. She was quoted by Reuters as saying, “Unfettered humanitarian access to, as well as freedom of movement for the large number of IDPs held in closed camps, are of the utmost importance.”

Meanwhile the Sri Lankan ambassador to the United Nations in Geneva responded to the high commissioner's comment by stating that there is absolutely no problem with humanitarian access. He added that the high commissioner's offer of assistance would be accepted as soon as her office was “regionally a far more representative and transparent body”. He further said that Sri Lanka is a sovereign country and will decide the degree of access it grants.

The chief justice is the highest judicial officer of the sovereign nation of Sri Lanka, yet he stated categorically that the internally displaced people are outside the legal jurisdiction of Sri Lanka. This raises questions as to the meaning of the word ‘sovereignty’ as used with regard to these people.

The position of the Sri Lankan ambassador to Geneva on sovereignty remains highly questionable in terms of the chief justice's forthright statement that he and the law he represents have no jurisdiction over the 300,000 people now living in this collection of tents. In fact, Sri Lanka's IDPs may well be called 'tent people' in the same way that Vietnamese fleeing their country were called boat people.

What defines sovereignty is the law. Anything that is outside the purview of law in Sri Lanka and outside the jurisdiction of the courts is outside sovereignty, except in a very naked sense of political control outside the law. The tent people in Sri Lanka are, by the very declaration of the chief justice himself, being held by naked political power which does not subject itself to the law.

Thus, the high-sounding claims about sovereignty as a defense against securing humanitarian services to these people is nothing more than an abdication of responsibility for their protection. Protection is guaranteed only within a framework of law. When the law does not exist, claims of sovereignty are nothing but rhetoric to justify neglect.

The neglect of citizens is not an attribute of sovereignty. If a state claims that it has a sovereign right to neglect the wellbeing of its people, if it so wishes, this is a corruption of the use of the word sovereignty. Sovereignty, as well as international relationship, does not exist by the mere counting of noses. It is not within the power of a majority of people, for example, to say by raising their hands that murder or rape will cease to be crimes in their country. The decision to starve or deny facilities to one section of the population also cannot be decided by the counting of noses.

Gathering a number of votes in favor of one party cannot erase the legal consequences, either within a country or under international law. On the issue of crime, votes do not matter.

It may be sometimes extremely unpopular to punish a "hero" if a crime he is known to have committed makes him even more popular under certain circumstances. White settlers who used to harass the blacks were quite popular in their own community, which considered such harassment legitimate.

Sometimes even a thief that steals from the rich and shares part of his loot with the poor can become popular. If a vote were taken as to whether or not he should be prosecuted, the crowd may vote to exonerate him. If that is the criterion on which the law depends then the law cannot exist at all.

Within Sri Lanka now any crime that is considered politically sensitive—which simply means that the alleged criminals may have the protection of the regime—is not investigated

or prosecuted. Details about such non-prosecutions have been given over and over again and need not be repeated here. It is enough to remind the reader of the case of Lasantha Wickrematunge, who in his posthumously published letter said that in the event of his murder, it would be the government that was responsible. The latest victim in this list of uninvestigated crimes is Poddala Jayantha, the secretary general of the Sri Lanka Working Journalists Association, who was assaulted on his way home from work last Monday.

Perhaps under the present conditions the government may even be able to get the majority of people to say that prosecution for crimes committed against the opponents of the government is unnecessary. Would that be considered an exercise of sovereignty?

The Sri Lankan government has now extended its disregard of the law to the international sphere. By gathering together a group who seem to agree that human rights affairs and humanitarian problems should remain within the purview of sovereignty, it was able to get a self-congratulatory resolution in its favor. This is like a person sending a congratulatory email to himself and canvassing friends to do the same. Does that alter international law in any way?

The chief justice of Sri Lanka presides over a legal system in a country where the law has ceased to have much meaning. The Constitution has been ignored by the president himself. Thousands of crimes are not investigated or prosecuted. Criminals are rewarded and the victims of crimes neglected.

Now, by the chief justice's own declaration, the tent people are being kept completely outside the law. By the invocation of "sovereignty" they are also being kept outside the purview of international law. It is within this enormous absurdity that Sri Lankans have to live.

While the Constitution says the sovereignty of the state rests on the sovereignty of the people, the people live outside the protection of the law, creating a position in which the chief justice himself can do nothing other than to publicly curse the authorities.

# Hypocrisy of mourning in Bangladesh

*Rater Zonaki*

The husband of Bangladeshi Prime Minister Sheikh Hasina, Dr M A Wazed Miah, passed away on May 9 at the age of 67. Wazed Miah, whose reputation as an eminent nuclear scientist went beyond his family's political spectrum, had been suffering from heart problems, diabetes and other ailments for the last few months.

The death of a loved one is always sad for family members, relatives, friends and well-wishers. Wazed Miah surely had a large number of well-wishers at home and abroad to mourn his death. Many Bangladeshis as well as foreigners expressed their sorrow and condolences after learning of his death. However, it is not clear how many among those who sent condolences in fact had motives other than the sense of great loss felt by the family.

In the weeks since Wazed Miah's death, a segment of the country's politicians, including top policymakers, have been busily using this opportunity to participate in mourning rituals almost every day. Ministers, parliamentarians, senior government officials and public servants have been mourning in public under the banners of various sociopolitical and public institutions.

It appears that the death of a relative of the most powerful person in the government has created an opportunity for political parties—especially the Bangladesh Awami League, the current ruling party—to compete with other parties in displaying their shock and grief. Many leaders hope to get their names in the prime minister's good book by arranging “mourning” activities across the country.

In the midst of this political mourning, Cyclone Aila struck the coastal and southwestern parts of Bangladesh. At least 150 people died as high waves surged onshore from the Bay of Bengal, and the homes of tens of thousands of people were destroyed.

Thousands of people, who have been homeless since the cyclone hit on May 25, are suffering without food or drinking water, as corruption competes with relief work in the affected areas. The people who lost loved ones in the cyclone have had no chance to mourn their deaths.

Only victims living in easily accessible places are getting small quantities of relief on an irregular basis. In an attempt to show the nation that it is taking care of the victims however, the government has been creating video footage of relief distribution to a small group of affected people.

Apart from cyclone survivors, there are many people in Bangladesh who have been unable to properly mourn the deaths of lost relatives. These include victims of extrajudicial killings by state law-enforcement agencies. When the Rapid Action Battalion, the police and the armed forces kill people, they have only to label them “criminals”, even though they died without any trial for their so-called crimes.

In such cases, law enforcers routinely intimidate family members of those who are killed, warning them not to tell anyone, especially human rights defenders and journalists, about the death. In most cases the perpetrators also cordon off the home and burial place of the deceased, barring relatives from speaking out.

Out of more than 1,000 such cases, not a single one has been investigated by a credible authority since the practice of extrajudicial killings was adopted. Ironically, the government keeps pledging to stop extrajudicial killings and bring the perpetrators to justice, claiming “zero tolerance” for this particular practice.

And yet, the ruling political party—unable to create a stable society in which ordinary citizens can mourn their dead—remains busy mourning the death of the prime minister’s husband. This marathon mourning by political leaders is nothing but hypocrisy; it contributes nothing to a nation and people that have so many urgent needs.

The politicians should realize that the practice of extrajudicial killing, which has been institutionalized by successive governments regardless of their political and non-political identities, should be resisted and prosecuted. And if people are killed under unfortunate circumstances, their relatives should be allowed to conduct mourning rituals without intimidation.

Unfortunately this does not happen, because the relatives of victims of extrajudicial killings cannot benefit the politicians as a powerful person like the prime minister can.



All the institutions related to the rule of law—the police, criminal investigators, prosecutors and courts that try criminal cases—lack credibility in Bangladesh. State institutions have been surviving on arbitrariness and impunity instead of equality and justice. The people do not trust these institutions. Thus, what the Bangladeshis really have to mourn is the death of rule of law in the country.

If the leading politicians are not inclined to share in this mourning, they have two options. They can think about how to bury the institutions, so there is no question of legality. Once they have established unhindered lawlessness, the citizens will no longer expect lawful actions in the country.

The other choice is for the government to think about reforming the rule-of-law institutions into genuine, functioning bodies that the people can trust. This has long been an urgent task for the nation.

# Transcending caste in the classroom

*David Rodwin*

It is a pleasure to watch Mina read. Now 11-years-old and in sixth grade, Mina is the best English student in her class. Her brows furrow in concentration as she reads each line of an English storybook, and as understanding sets in, her face breaks into a smile. She excels in her other subjects as well, and states confidently that she will be a doctor. Though so many children say the same thing, with Mina it is as though nothing can stand in her way.

Mina is a student at one of the boarding primary schools operated by Navsarjan Trust, the largest Dalit organization in the Indian state of Gujarat. I recently spent several weeks at the schools in order to teach English to students like Mina and her classmates, and to interview the teachers.

In many government primary schools in rural Gujarat, Dalit children—children who are of the castes considered ‘untouchable’—are routinely discriminated against by their teachers and classmates in a variety of ways. Many are forced to sit at the back of their classrooms, to eat separately at lunchtime, and even to clean the school’s toilets while the rest of the children play.

Navsarjan began to solidify plans to establish its own primary schools around the year 2000. At that time, the organization was organizing foot-marches in villages to protest untouchability practices. In each village, Navsarjan fieldworkers arranged meetings with children to discuss the conditions at their village schools. It became clear that the schools themselves were instilling caste-based discrimination in the minds of the children by treating children of different castes in different ways, thereby strengthening the caste system. In some cases, Dalit children had committed suicide after being harassed by their upper-caste teachers.

The government curriculum itself was also found to be biased against the poor and so-called ‘backward classes’. And in any case, the education provided at these schools was often irrelevant, as Dalit children—especially of the Valmiki, or sweeper caste—often fell back on caste-based occupations.

A six-month training of potential teachers for Navsarjan’s primary schools began in 2004. This training was crucial, as teachers tend to follow the model they witnessed when they

themselves were in school. The training challenged the teachers to fully discard that model, and to replace it with a new model that would emphasize student engagement and questioning, and embrace the notion that teachers can learn from their students as well as teach them.

The three Navsarjan schools opened in 2005 with the help of donations from the local Dalit community and with funding from Miserior, an international aid organization. In addition to providing a learning environment free of all kinds of discrimination, the schools train the next generation of Dalit leaders by instilling values of equality and insisting on the need to challenge injustice. The pedagogy teaches that literacy itself is not education. Instead, literacy is the means by which a value and belief system can be built to challenge the caste system.

The schools are for grades 5 through 7, and are coeducational. At Mina's school, Navsarjan Vidhyalay Katariya, there are about 44 girls and 80 boys, which is a real success; it is very difficult to convince parents to invest in their daughters' education, let alone send them to a boarding school. Everyone at the school is extremely enthusiastic about learning, and it shows. When they first enrolled, only a few of the students could write the English alphabet, a majority had trouble with Hindi and about half of the students had trouble reading and writing their native Gujarati. Now all the students are reading and writing all three languages, which is a testament to the school's heavy schedule of classes and unstructured reading and study periods, and to the dedication of the teachers who provide extra tutoring in the evenings to students who need it.

Students and teachers sleep in the classrooms on thin mattresses that are stacked up in a corner during the day. Though the buildings are constructed out of concrete, the interior walls are coated with a mix of dried mud and buffalo dung common in the houses of rural India, with the point of making the children feel that the school is their home. Indeed, the teachers often refer to the 'Navsarjan Vidhyalay Parivar', or Navsarjan School Family.

The teaching staff is young, and each teacher works with a dedication motivated by an understanding of the underlying issues of inequality in their society, as well as from a love of the children. They are the backbone of their schools, determining its positive atmosphere and ensuring that students discard the caste mentality taught in the villages, replacing it with a new worldview based on a foundation of equality.

One thing that became clear in my interviews with the teachers is that most had to struggle against poverty and discrimination (both caste and gender) to reach their current level of education, and that these experiences feed their passion to educate and empower their students.

Mahendra Parmar is the Social Studies teacher at the Navsarjan Vidhyalay Sami in Patan District. At 31 years old, he is the oldest teacher at Sami School, but he interacts with the children as a big brother, playing and joking with them outside of class. His father died when he was three years old, leaving his illiterate mother with the responsibility of raising three daughters and two sons with the meager wages of an agricultural worker. Mahendra paid for his own education by starting to work from the age of ten, variously polishing shoes, doing construction labor, and picking up plastic garbage.

“I did not like primary school,” Mahendra told me. “The teachers beat us. And the Dalit students had to sit separately at lunch and use a separate water pot. I did not understand it then, except that it made me angry.” Despite these negative experiences at primary school, Mahendra excelled in his studies, and went on to obtain a Bachelors degree in Education and an MA in Economics. For Mahendra, education was a means of emancipation from poverty and, to some extent, from discrimination as well. Now knowledgeable about relevant laws designed to eliminate untouchability practices, Mahendra has changed the power dynamics in his village by ensuring that cases are filed with the police when Dalits are abused. Mahendra teaches the students about the legal system and relevant legislation so that they, too, can challenge prejudice and inequality.

Jagdish Rohit, the English teacher at Navsarjan Vidhyalay Katariya where Mina studies, is just 21 years old. During our interview, he told me that he bears all the financial responsibilities of his family now that his father passed away last year. His brother and sister are still studying, and he pays all their school fees. “What money do I need to spend for myself?” he asked me after I wondered out loud if those responsibilities weren’t making life difficult for him. “I eat here at school. I don’t like to wear expensive clothes. I buy what is necessary for me. I like to read, and all the books are here in the library.” The teachers serve as models for the students, and Jagdish passes on these values through his actions as well as his lectures.

One of Navsarjan’s central goals is to empower girls and boys to fight the gender discrimination that pervades Indian society. As a result, girls and boys share equally in all school activities, including both games and chores. Girls are encouraged to play cricket, a sport generally associated only with boys, while boys and girls have equal responsibility to make chappati for lunch and clean the classrooms at the end of the day.

The female teachers at the Navsarjan Vidhyalay schools are role models for both the girls and boys. Alka Rathod, currently the principal at Navsarjan Vidhyalay Rayka (teachers rotate service as principals on a yearly basis), told me that what she likes most about the school is the chance to educate Dalit girls. “Dalit girls in the villages are in a difficult situation,” she said in our interview. “They are discriminated against in their families because they are girls, and they are discriminated against in society because they are Dalit.

Their brothers can go play cricket whenever they want, but the girls have to wash the clothes, make the food, and clean the floor. I want to fight this.”

On several of the evenings I spent at Navsarjan Vidhyalay Katariya, I went outside to sit on the grass and read with the children. Mina brought out a pile of English storybooks from the library, and picked out her favorites. “Start with this one,” she said, “And then let’s read those ones.” I held the books while Mina or one of her friends did the reading, and then worked to translate each line into Gujarati. After one reading session, as I was bringing the books back inside, I commented to Jagdish, the English teacher, that I thought Mina would make a great doctor.

“Yes,” Jagdish said, “she would. But I don’t know if it will be possible.”

Jagdish’s apparent negativity surprised me, and I asked him to explain. “I mean,” he said, “Mina is totally capable of becoming a doctor. She is brilliant, actually. But her parents have no money. Her family lives in a shack outside her village, on a field her parents work in but do not own. How can they pay for her education?”

The fees for the Navsarjan Vidhyalay schools are heavily subsidized by Navsarjan; other private schools cost substantially more, especially considering that the children eat and sleep at the Navsarjan schools. And if a child goes to a government school, the quality of education will almost surely not be good enough to get into medical school.

That interaction with Jagdish made me think. The Navsarjan schools are oases of equality in a society where caste, class, and gender discrimination are still the norm. Students at Navsarjan learn to fully express themselves and their intelligence, as well as how to challenge inequality when at home. The feeling at the schools is so universally positive that it is easy to forget about the series of roadblocks that lie in the way of these children reaching their dreams.

Navsarjan is just an NGO, and does not have the resources to expand its schools through upper secondary, let alone enroll the hundreds of thousands of primary-age Dalit children across Gujarat. What will happen when the inevitable day arrives and Mina must leave Navsarjan Vidhyalay? Will her parents have enough money to pay for her to stay in a hostel if there is no high school in their village? And if she is able to keep studying, will the quality of education at her government school be good enough to allow her to succeed?

Even if a school does not overtly discriminate against Dalit students, the gap in quality between government and private schools amounts to a kind of caste discrimination in itself; most Indians wealthy enough to afford private schools come from ‘forward’ castes,

while the poor are mostly Dalits, Tribals, and members of the Other Backward Castes (OBCs). Social power in India comes from caste, money, or both, and for the most part these groups possess neither. As a result, few government officials are receptive to complaints about absentee teachers, lack of drinking water and toilet facilities, corporal punishment, or any one of the other problems common at government schools.

Ultimately, it is the government's own responsibility to eliminate discrimination from its schools, and to ensure that those schools provide quality education. But until those responsibilities are taken more seriously, Mina, along with tens of millions of children just like her, will face an uphill battle.

# **Imprisoned Burmese prodemocracy activist awarded 2009 Gwangju Prize for Human Rights**

*Statement issued by the Asian Human Rights Commission: AHRC-STM-105-2009*

The Asian Human Rights Commission congratulates Mr Min Ko Naing, who is presently serving a prison sentence in Burma for fighting for democracy for his country, on receipt of the 2009 Gwangju Human Rights Award. We reproduce below the announcement of the May 18 Foundation on his being awarded the prize.

\* \* \* \* \*

The situation regarding democracy and human rights in Myanmar/Burma remains dire. At this very moment, many pro-democracy activists are locked up in freezing cold cells. The international community has put pressure on Burma's military junta, taking consistent interest in the nation's pro-democracy movement. Despite its efforts, some countries around the world have turned a deaf ear to the issue due to conflicts of interest. After the military junta crushed the 'Saffron Revolution' with brutal force, the UN special envoy Ibrahim Gambari visited Burma, meeting with Aung San Suu Kyi, a democratic leader of the country, in 2008. However, such efforts to demonstrate the international community's commitment to the region have been to no avail, and have only led to further disappointment with Burma.

Born in the Burmese capital of Yangon in 1962, Min Ko Naing organized the All Burma Federation of Student Unions (ABFSU), a nationwide student union, in 1988. Later, he was sentenced to 20 years' imprisonment for triggering the '8888 Uprising'. After being imprisoned for 15 years, he was released from prison and continued his pro-democracy resistance. Finally he was re-arrested and sentenced to 65 years imprisonment for organizing a demonstration which gave rise to the Saffron Uprising. He is currently serving this sentence.

According to an international human rights watchdog, the number of prisoners of conscience who, like Min Ko Naing, have been arrested and imprisoned for engaging in protests and anti-government activities, amounts to about 2000. In the aftermath of the

devastating natural disaster which hit Burma in May 2007, the international community tried to reach out to the afflicted country. Burma's military junta, however, decided to reject this helping hand. To make matters worse, the authoritarian regime arrested and detained protesters, killing at least several hundred people, including foreign journalists, involved in the nationwide demonstration driven by saffron-robed Buddhist monks.

The 2009 Gwangju Prize for Human Rights Committee has therefore chosen Min Ko Naing to be this year's prizewinner. Min Ko Naing and his colleagues have devoted themselves to Burma's democratization, and it is their devotion that we hope to remember and share as we commemorate the May 18 Gwangju Uprising. The committee sincerely desires that Min Ko Naing and other political prisoners be released as soon as possible, and hopes that democracy will truly take root in this country.

### **2009 Gwangju Prize for Human Rights Committee**

**Chairperson:** Moon Young-hee, Vice President of Korea Democracy Foundation

**Committee Members:**

Kim Chil-jun, Secretary-General of National Human Rights Commission

Yoon Gwang-jang, Chairman of the May 18 Memorial Foundation

Lee Jung-hyun, Korea National Assembly

Cha Sung-hwan, Director of Pusan Democratic Memorial Association





# Practicing Ethics in Action

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

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

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

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

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