

GENEVA UN MEETING

*Implementing Justice with
the UN Sustainable
Development Goals
in the May 18 Spirit*

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HOW: Side Event

CO-ORGANIZERS



SPONSOR South Korea Permanent Mission in Geneva

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A concept paper for May 18th Foundation

The Challenges posed towards access of justice in less developed countries.

The United Nations sustainable development goals (SDG) for 2030 contains the goal as goal 60; the creation of inclusive societies through access to justice and strong institutions.

The understanding of what prevents access to justice needs a better understanding if this goal is to be pursued with seriousness.

The access to justice could mean several things: a) it means that the possibility of obtaining justice exists within the legal system of a particular country; b) that all wrongs particularly wrongs related to crimes and violation of human rights is available/addressable by way of effective remedies that exist within the legal system; c) that all persons have access to this system without any kind of discrimination. The equal right to justice should exist if persons who are of minorities, marginalised groups and particularly the poor are to have access to justice; d) that no one would be deprived of obtaining a remedy for wrongs purely on the basis of lack of financial resources- it means that legal aid schemes and by other means effective assistance is given for those who lack means to come before the courts and obtain the redress that they deserve.

Now we may examine each of these four elements from the point of view of their availability within a given legal system particularly in less developed countries.

a. The legal system which makes justice possible should exist in the first place. Persons from more developed countries which have histories going back for a long time may assume that everywhere this basic element does in fact exist. That assumption is not based on actual observation of these systems in many of the developing countries. The non-availability of a system could happen following these that the limited development of the law in articulation of what would be considered by that society as wrongs, politically criminal wrongs and wrongs related to human rights violations is something quite common to several of these countries. Due to various kinds of political upheavals some of the countries have virtually faltered the framework of penal courts and criminal procedure courts and other laws to an extent that many things which are normally considered as justiciable wrongs in a developed legal systems are not recognised in such a system. For example, torture and ill treatment is not recognised as a crime in many of the countries in Asia. The enforced disappearances and extrajudicial killings are also not recognised in several of the jurisdictions. And a long list of

such things could be listed in terms of separate countries. It is not only lack of recognition of the substantive law but the limitations in the procedural law that also affects access to justice.

For example- if there is no effective system of investigations into all crimes, it implies that many of the crimes will not lead to the possibility of having remedy. A remedy requires a serious investigation into allegations. The practice in some countries where the mere allegation is itself sufficient for arrest, detention and even imprisonment implies that the prerequisite of proper investigation is not part of the law. The third area of concern from the access to justice are the evidentiary laws where to what extent proof is required before punishment. In this area, some countries have adapted philosophies which virtually displaces the burden of proof on the prosecution or the persons who allege a crime and instead put the burden entirely on the suspected person. For example the Chinese trial system although in theory recognises the burden of proof on the prosecution, in fact procedurally has created a situation where the accused had to give the evidence first and then he is thoroughly questioned in a way on the basis of statements he has made during the time of a prolonged detention to contradict it. Thus confession becomes the basis of conviction although in the context that the situation is being denied.

In the attempt to improve the access to justice, it is essential to conduct detailed studies on what is the extent to which the wrongs done to a person is justiciable.

Access to justice also implies adequate funding for all institutions related to the execution of functions related to administration of justice, such as the investigative arm of the police which serves the function of collecting the necessary evidence through which it is possible to judge whether the allegations made against a person is based on fact or they are being fabricated. Prosecution departments with adequate number of qualified legal personnel who could play the role of the prosecutor in related cases and above all adequate funding to have the availability of judges, court houses and other staff to make administration of justice possible in a very effective manner.

Access to justice without discrimination

Justice needs to be available to all the persons living in a country. There should not be any kind of ranking by which some are excluded from legal liability while others are subjected to it. For example there are some countries in which the higher ranking, those who represent the government cannot be brought to court or prosecuted whatever the crime they may have committed. Even if they are called upon to give evidence before the courts- the evidence is sent by way of documents and they have to be accepted without having the opportunity of cross

examining the authors of such reports or documents. There is direct and indirect impunities which also excludes some persons from legal liability. For example, in several countries, such as the Philippines, Bangladesh, Pakistan and Sri Lanka the impunity is granted to everyone who had taken part in enforced disappearances. Thus the victims or family members of victims of such serious crimes have no access to justice because either by direct means of laws and regulations or by indirect methods of non-acceptance of complaints and non-investigations of complaints and like they are also denied of even taking the earliest steps to seek justice. Then there are forms of discrimination in terms of minorities. It may be minorities in terms of indigenous people who live outside the mainstream society and they have no institutions created by the state in order to look into their complaints and where necessary to prosecute the offenders. Then there are racial minorities or ethnic minorities- the specific wrongs done to them is not justiciable due to obstacles arising from lack of legislation or other institutional variants. There are also limitations of justice particularly to women. Lack of effective protection prevents them from taking advantage of laws because the heavy repercussions could follow if they try to do so. Lack of special procedures also could deny the right of children for access to justice particularly in the cases where they are exposed to sexual abuse and other forms of violations of their rights. Thus, there is a vast area that needs study and understanding of the limitations placed on various categories of persons from obtaining justice.

Availability of justice to the poor

This is a topic that is usually discussed when talking about access to justice. Many persons who have been wronged in a serious way have no financial resources to get the services of competent lawyers in order to pursue their cases. It's only a few places in Asia that satisfactory system of legal aid exists to assist them. There are several countries in which there is no such service at all. On the other hand in countries there are some services such as assigned councils or junior lawyers who may undertake such cases, there is the disadvantage of matching the knowledge and experience of lawyers who appears against them. The party that can spend money on lawyers can retain highly competent lawyers who with their acquired skills makes the work of junior lawyers very difficult. The net result of all that is that there are vast numbers of persons in many of the countries who have just grievances but who do not dare to undertake the journey to seek justice. The result is that kind of imposed silence begin to prevail and when that happens even more persons try to bear up whatever they have suffered and retreat to their corners and will not attempt to find justice. Resignation against the victimisation has an extremely negative impact on the entire society. As the perception of the society grows to consider the system itself as not fair and just. Then the trust in the system suffers from a great deal. The functioning of the judicial system requires the trust of people.

Strong institutions

The SDG for 2030 requires that every society should have strong institutions which would provide protection to the people. From the point of view of justice these basic institutions are the systems of civilian policing, the department of the prosecuting lawyers (in some countries they are called the state councils representing the attorney general) and the judges and material infrastructure for courts to function.

In most of the countries in Asia, there are serious limitations on this. Some of the limitations could be summed up as thus:

a; Severe forms of political interferences into the system. That the interference into the administration of justice which is considered a crime in itself is disregarded and politicians from the top to the bottom interfere into the work of the police and the prosecuting departments and also the judiciary. Interference in the judiciary takes place in several ways. One is in the very process of recruitment in order to exclude those fair minded and independent persons and select those who are willing to comply with requests from powerful persons. This could happen at the stage of recruitment or at the stage of promotions to higher positions. The interferences into the police could come with threats of transfers or dismissals if they do not comply with the request made by those who hold powerful positions. This has a chaining effect on the whole institution of civilian policing and appear to take independent actions on the basis of what is legally correct and wrong is replaced with what is expedient in the political environment of a country.

b: One of the ways by which a whole administration of justice system could be virtually made non effective is through failure to allocate adequate funding for the policing, running of the prosecutor's department and judiciary, including the failure to provide buildings, technological facilities and adequate number of staff for running of the system. This inefficiency within the system could also lead to any litigation taking a long time. Even a chief justice in India has remarked in order to deal with the backlog of cases in his country it would take at least 300 years. Some other countries like Sri Lanka, average time for finalisation of a criminal case would be 17 years as noticed by parliamentary select committee in their report. Similar delays exist also in other countries like Bangladesh, Pakistan, Philippines and the like.

C: Another category of countries is that the whole system is inbuilt not on the basis of rule of law but on principles which are opposed to rule of law. Cambodia and Myanmar are glaring examples of such a system. These systems exist not for protecting of the individual from the unjust repressive machinery of the state but

in order to protect the State from the individuals. With this change of standpoint, it virtually means a system of justice based on liberal principles and values do not exist in these countries at all.

The role of the May 18 Memorial Foundation on Promoting Sustainable Development Goals for 2030

The May 18 Memorial Foundation was established by individual donations of Koreans both inside and overseas Koreans to perpetuate the memory of the persons who fought and sacrificed their lives in fighting against military dictatorship with the aim of establishing democracy during the May 18 Democratic Uprising in 1980. The Uprising is the turning point of Korea's democratization movement that has served for Koreans as the wellspring of resistance spirit against dictatorship and human rights violation. It also served as a beacon for human rights activist to be guided not only in Korea but also countries in Asia.

Ever since its establishment the May 18 Memorial Foundation has worked with activists and experts in the fields of democracy, human rights, and peace. Its projects include the Gwangju Prize for Human Rights, the Gwangju Asia Forum, the May 18 Academy, the Global NGOs Master's Program, cultural and educational programs, scholarship programs, academic research, and archiving historic materials to name a few.

The democratic way of governance has also contributed to the achievement of economic progress and safeguarding the rights of the workers and the population by sharing the benefits of economic and social development. In this direction, there is yet a long way to go but basically the combination of the return to the rule of law with strong institutions to support it has laid the foundation for sustainable development.

As a nation which is relatively more prosperous than many of the countries in Asia, South Korea also provides employment opportunities for workers from less developed countries. Thus the issues of migrant workers and refugees is also an issue of a national concern.

Some issues that need to get addressed in the future are how to achieve sustainable development goals in dealing with problems of the environment, climate change, and improving the justice system on the basis of equality for all.

A challenge for organizations like the May 18 Memorial Foundation is how to contribute to the sustainable development goals in the Asian region as well as within its own country.

This will be the areas of discussion at the proposed meeting in Geneva on the 23rd of September 2019.



The May 18 Memorial Foundation

The May 18 Memorial Foundation is a non-profit organization established on August 30, 1994 by the surviving victims of the May 18 Democratic Uprising, the victims' families, and the citizens of Gwangju with individual donations of Koreans both inside Korea and overseas to inherit and to commemorate the May 18 Spirit of persons who fought and sacrificed their lives during the May 18 Democratic Uprising.

The Foundation aims to commemorate the Spirit of struggle and the solidarity of the May 18 Democratic Uprising, to contribute to the peaceful reunification of Korea, and to work toward peace and human rights. The Spirit of the May 18 Democratic Uprising significantly influenced the progress of democracy in Korea. Ever since its establishment it has been on the front-line working with experts in the fields of democracy, human rights, and peace.

Over the years, the Foundation, in affiliation with many domestic and overseas organizations, has worked -

- 1) to assist civil society organizations and NGOs,
- 2) to boost solidarity among fellow activists,
- 3) to combat state violence,
- 4) to enhance democracy,
- 5) to promote democratic governance,
- 6) to strengthen rule of law.

Since its establishment, the Foundation has carried out projects as below.

The Gwangju Prize for Human Rights

The Gwangju Prize for Human Rights was established in 2000 in an effort to promote the Spirit of the May 18 Democratic Uprising. The Prize has

inherited the objectives of its predecessors, the '5·18 Citizen's Award' and the 'Yun Sang-Won Award'. Selected individuals or organizations are from around the world who have made significant contributions to the advancement of human rights, democracy, rule of law, and world peace.

Gwangju Asia Forum

The Gwangju Asia Forum is a platform for activists and experts in human rights, pro-democracy, and peace. It provides them a space to discuss how they can make contributions to improve current situations and share knowledge and experience about creative alternatives. It is an annual event which is held every May. It also functions as a power house for human rights activists by encouraging them and strengthening solidarity, thus enabling them to better handle explosive situations.

The May 18 Academy

The May 18 Academy aims to establish a deeper understanding of the current human rights situations in Asia. It is an annual program offering intense courses on human rights for around two weeks. Its lecture series are about international human rights mechanisms and human rights protection systems. It also delivers lectures on current human rights situations along with detailed case studies. Its participants also have opportunities to visit human rights-related work places and organizations in Korea and to go on field trips. The ultimate goal of the May 18 Academy is empowering activists and strengthening their capacity to conduct research and advocacy for human rights so they will be able to bring a meaningful development in the world.

GNMP(Global NGOs Master's Program)

This graduate program aims to empower young human rights activists and to inherit the May 18 Spirit which is translated into democracy, human rights, and peace. This program is especially designed for students with activist backgrounds.

May 18 Scholarship

It is established to help students whose family suffered from state violence or participated in democratic movements and who are from bereaved families of

state violence and marginalized groups and who strive for democracy, human rights, and peace.

May 18 Educators Training

This education program is to encourage educators from schools and civil society organizations to adapt creative methods in teaching the value of the May 18 Uprising to young generations.

The May 18 Academic Symposium

The Foundation conducts research to uncover the truth of the May 18 Uprising. It also conducts seminars and conferences on May 18 related issues. Domestic and international researchers can access the results via the Foundation's website or upon request.

Collecting and Digitalization of May 18 Documents

In order to preserve and maintain historical materials which were produced during the May 18 Uprising, the Foundation runs an archive that collects and digitalizes relevant materials that is open to the public.



ASIAN LEGAL RESOURCE CENTRE

The Asian Legal Resource Centre (ALRC) is an NGO having General Consultative status with the Economic and Social Council of the United Nations. The ALRC was founded in 1986 by a prominent group of jurists and human rights activists in Asia. It is a body committed to the development of legal self-reliance and empowerment of people. It will place particular emphasis in its work on the areas of cultural, social and economic rights and the right of development. ALRC will work closely with and support regional, national, and local groups involved in this field, taking care, at the same time, to protect the autonomy and independence of such groups.

The Centre will promote the development of, and support specific legal service and resource programs promoting self-help at the local level. It will also seek to strengthen and encourage positive action on legal and human rights issues by the bar and other legal bodies and personnel, at local and national levels. The Centre will press, where appropriate, for the introduction and improvement of effective government legal services.

The ALRC has done extensive work in several countries in Asia. More notable ones are: the judges' and lawyers' programs conducted in Cambodia and Sri Lanka. At such meetings judges and lawyers from a particular country are brought together with other experts from the region and discussions are conducted for arriving at conclusions on what changes are to be recommended to the governments concerned. These programs have been well documented.

Principles Guiding AHRC and ALRC Programs

- Victims-directed approach must be combined with structural reforms needed to prevent human rights abuse and to promote rights;
- Protest work will be combined with a community-based approach. In this, building of a support base in church and religious groups will be given priority;

- UN-directed approach must be combined with regional and country based human rights promotional activities;
- Human rights promotion must be combined with promotion of democracy and rule of law;
- The issues of poverty eradication, gender equality, caste, indigenous peoples' and minorities' rights must be brought into all programs.

The Asian Legal Resource Centre will focus on the following functions:

- Co-ordinating and sharing amongst local, national and sub-regional groups and individuals information on legal service programs and legal initiatives being taken in Asian countries, through such means as e-mail, newsletters, publications, exchange of materials and workshops;
- Facilitating exchanges of people working in the field of human rights and legal resources, and to encourage sharing of information and skills. Development of such programs in places where they do not currently exist through visits, internships, and the like;
- Develop training schemes to assist the creation and operation of legal resource and para-legal programs, and promoting the running of such programs on a sub-regional basis;
- Researching and analyzing current legal issues, human rights violations and oppression of people within Asia and to encourage development of a macro-perspective on these problems and provide such information for the Asian Human Rights Commission.

Congratulatory Speech

Jiah Back

Opening Remarks

Jin-tae Cho, Executive Director
May 18 Memorial Foundation

Good afternoon.

I am Cho Jin-tae, the Executive Director of the May 18 Memorial Foundation in Gwangju, a city in the southern part of Korea.

I am honored to hold a meeting here in Geneva where the office of the UN, the organization that has worked for peace and human rights and above all for a better life for the mankind, is located.

In order to bring a peaceful reunification of the Korean Peninsula, the Korean government and the Korean people are working very hard. We are currently experiencing economic disputes with Japan, but I don't think it will last. Japan, as the old imperial power, invaded Korea and other Asian countries and this caused numerable pains to the people. It committed many atrocities to both South and North Korea but never offered a genuine and sincere apology. This is the reason why many sensible persons in the world condemn Japan. But the victims and Koreans in general are ready to forgive them and go forward with reconciliation if Japan truthfully apologizes and indemnifys the damages it caused.

Korea is in the process of cleaning up old evils in order to establish itself as a true democratic republic and to go forward to a better future. And the May 18 Memorial Foundation is working hard to unveil the full truth of the May 18 Democratic Uprising where Gwangju citizens fought against the military's atrocities. Unveiling the truth of the May 18 Democratic Uprising is not just righting past wrongs but also entails establishing a stronger justice system on the way to a better democracy while also solidifying transitional justice. The process of materializing the UN's Sustainable Development Goals has the same roots as the process of materializing the universal justice of mankind. I do wish this meeting bears some fruits related to the UNSDGs.

Lastly, I would like to thank those who willingly offered help for our meeting. I especially would like to offer my sincere gratitude to Mr. Basil Fernando, our long time partner and respected Laureate, and Ms. Ambassador Baek Ji-ah of the Permanent Mission of Korea to Geneva and other distinguished attendants.

I hope every participant in this meeting may receive blessings from their own god. Thank you.

The May 18 Democratic Uprising

Inrae You

Director, International Affairs Department

The May 18 Memorial Foundation

1. The Root Causes

The May 18 Democratic Uprising is one of the most tragic events in modern Korean history. Its roots date back to October 26, 1979 when president Park Jung Hee was assassinated by his own intelligence chief, Kim Jae-gyu. This brought an end to Korea's longest republic that had begun with a coup in 1961 and lasted for 18 years. This also ended all the schemes, including the Yushin System, Park had designed to eternalize his absolute power. People's aspirations for democracy spread across the country like wild fire.

Taking advantage of this power vacuum, Chun Doo Hwan, the then Security Commander, staged a coup and seized control of the government. This illegitimate power seizure enraged people. Tens of thousands of protesters began flooding the streets of Korea's cities. It peaked at the Seoul Station Rally on May 15 where over 150,000 students from 30 universities participated. Being concerned about the new military's armed repression, though, its leadership decided on disbandment. It is the well-known Seoul Station Retreat which ended the Seoul Spring, the democratization movement that began after the collapse of the Yushin System. But Gwangju stood out in continuing to fight against the dictatorship.

2. The 10-day Struggle

On May 17, 1980, the government expanded martial law throughout the country. Under this measure the National Assembly was dismissed, all universities were closed, political actions and meetings were prohibited, and the media was heavily censored. The following day Chunnam University students protested against the school closure and the martial law army reacted with brutal violence. In support, Gwangju citizens also held a protest rally in downtown Gwangju. The soldiers violently suppressed the protesters – beating and kicking, bludgeoning, and bayoneting were rampant.

The first shootings by martial law soldiers occurred on May 20. Witnessing this, Gwangju citizens were enraged. More and more people joined the downtown rally and casualties were severe. As

part of the Uprising, around 200 vehicles, including cabs, buses, and trucks, also staged a protest. The authority cut off electricity and water supplies to the city. The entire city turned into darkness. But the news media carried only government-allowed news. Outraged, Gwangju citizens torched TV stations that shamefully abandoned their obligation of delivering truthful news and also torched the tax office where collected taxes were used to suppress the very taxpayers.

By May 21 the crowd grew much larger in scale numbering about 300,000 people. They poured out of practically every corner of the city and joined the demonstrations. The troops fired at the crowd of people. People dispersed into alleys when the shooting occurred and re-gathered to resume protests when the shooting ceased. Now citizens began to arm to protect themselves. They also formed a Citizens' Army and attacked armories and sub police stations in nearby counties to cull firearms. They then finally succeeded to expel the martial law army to the city's outskirts by the afternoon of May 21. And beginning May 22 until the 26th, the city formed a community with no police presence and thus the citizens were in charge of the public domain. They shared food and other necessities and treated and nursed the wounded. Upon knowing that there was a blood shortage, people queued long lines to donate blood at hospitals. During this period of autonomous community, no single burglary occurred.

On May 26, the citizens received an ultimatum from the army to disarm by midnight. But they decided to continue fighting and convened at the Jeonnam Provincial Hall. At four o'clock in the morning of May 27 the army began to open fire and soldiers burst into the building. They shot at anything that moved. In less than 90 minute the ten-day struggle came to an end and the Provincial Hall was handed over to the army.

3. Its Impact

There are different points of view in evaluating the May 18 Democratic Uprising. But today, the most commonly discussed are as follows:

- 1) It advanced Korea's democracy by helping people realize that they are the center-force in the nation's history. By rejecting Chun Doo Hwan's claims of legitimacy, the May 18 Uprising was decisive in ending his regime that had simply continued the oppressive policies of president Park's Yushin System. This greatly encouraged a national democratic movement that followed afterwards.
- 2) It promoted human rights in Korea. The Uprising is a case where people realized that they can gain their rights through their own struggles. They fought to improve their

rights, especially the rights of marginalized people. This visibly enhanced Korea's human rights record.

- 3) It facilitated the rise of art and culture. Gwangju citizens had been labeled as 'rioters' and 'communists' and thus were not allowed to testify or write about what they had experienced during and after the Uprising. What they could do only was to adopt various art forms to express their experiences and emotions.
- 4) It ushered in other countries' democratization in Asia. The May 18 Spirit expanded to other countries, such as the Philippines, Thailand, Myanmar, and Indonesia, sending out a strong warning to other authoritarian regimes about possible consequences of their draconian actions.
- 5) It was also recognized by the world when its records and documents were registered as UNESCO Memory of the World in 2011.

4. Its Legacy

The legacy of the May 18 Democratic Uprising includes

- 1) Community participation where people, regardless of their social status, gender, vocation, etc. voluntarily joined the Uprising while maintaining optimum morality.
- 2) Community demonstrating that even armed resistance against an unjust government is a form of human rights and that its rightness can be officially acknowledged.
- 3) Community sharing where people shared basically everything, including blood, food, money, and other valuable items during the ten-day struggle.
- 4) Community solidarity where people defended themselves while facing extreme fear for their life. This later spread nationwide and became an inspiration for the June Democracy Movement in 1987 and for the Candlelight Revolution in 2016.

5. Truth Finding Efforts

After grabbing power, Chun tried various means to manipulate the public to remain in power, but the gross power abuse only propelled people to protest and in the end his Fifth Republic was finally overthrown through popular action. Subsequently, in 1988 the first national level truth

unveiling body was formed – The May 18 Democratic Uprising Truth Unveiling Special Committee. It was launched under a strong demand from the opposition parties after the ruling party had lost its majority in the general election the same year. It was also made possible because Roh Tae-woo, the successor of Chun, strongly felt that his administration needed to put some distance from its predecessor in order to gain the political and moral upper hand.

At the same time, cunningly enough, the Roh Tae-woo administration also formed the May 11 Research Committee led by the Vice-Minister of National Defense which was in charge of concealing, doctoring, and re-creating May 18 related materials in order to justify the armed crackdown of the Uprising at the Gwangju Hearings. Those forged documents became the source of all the distortions that followed afterwards.

The Gwangju Special Committee was faced with confrontation from the start because of the different interests existing between the political factions. None of the Korean perpetrators nor the American collaborators complied with the investigation process. In the end, the Gwangju Special Committee came to a close without adopting a final report as well as not reaching any political, legal, and systemic agreement to follow up. It still, though, had a significance as being the first formal investigation done by a constitutional body.

In February, 2018, after 38 years since the Uprising, The May 18 Democratic Uprising Truth Unveiling Special Law was enacted. And its Committee was to begin its work in September the same year. But with the obstructions of political groups, with the main opposition party as the leading one, the Committee is still in the process of forming.

Thus, the full truth of the Uprising has not yet been uncovered, including the actual number of casualties, why the original martial law forces were later reinforced with paratroopers, who commanded them, who gave the order to fire on the demonstrators, and the role of the United States in suppressing the Uprising.

Most of all, the two ringleaders of the Gwangju Massacre, Chun Doo Hwan and Roh Tae-woo, were initially sentenced for crimes against the state in 1996 – Chun was sentenced to death and Roh life in prison. But both were freed the following year after their sentences were commuted. In the end, they, far from being punished, are freely living in mansions in the most affluent neighborhood in Seoul and justice hasn't been done. Also, their crimes of gross violations against humanity were not even investigated. But the effort to bring them to justice continues.

Opening Remarks

Basil Fernando

ALRC,

The understanding of the problems that causes non-implementation of human rights norms and standards despite of ratification of conventions is one of the most difficult problems facing the human rights movement, globally. This is more so regarding the countries which are characterized as developing countries.

The UN Sustainable Development Goals for 2030 has improved the global understanding of the problems of the non-implementation of human rights obligations, and also provided a wider perspective in dealing with this problem. The set Goal 16 speak of open and inclusive societies by way of improvement of access to justice, strong public institutions and respect for the rule of law.

For over 20 years, the Asian Legal Resource Centre (ALRC) has tried to highlight the link between the practical implementation of human rights and solving of problems relating to absence of access to justice, weakness or non-existence of public institutions for protection of human rights and the failures to respect the rule of law. The ALRC therefore expresses appreciation for inclusion of Goal 16 of SDG as a significant advance of articulating the Sustainable Development and also advancement of human rights.

The May 18 Memorial Foundation is an organization that is engaged in trying to perpetuate the legacy of 1980s uprising at Gwangju, South Korea. In May 1980, the entire city of 700 thousand people rose up against the military take-over of the country. With rare show of solidarity, the whole city was held by the people for over one week protesting against the attempt to displace democracy and the rule of law and subject the people to the military rule.

When finally the military troops entered the city, a group of about 155 persons sacrificed their lives with the hope to awaken the whole nation to fight back and not to get demoralized and surrender. That heroic act galvanized the people of South Korea who through a prolonged struggle defeated the military rule and brought the leaders of the 1980 takeover into trial before South Korean courts.

Today South Korea demonstrates the combination of economic growth together with the respect for administration of justice through viable public institutions. Access to justice and respect for the rule of law are legacies that have taken root through courageous struggle.

The May 18 Memorial Foundation is committed to the sharing of this Gwangju experience and also the Gwangju spirit. The Foundation also wishes to share the unique experience of South Korea with other countries in the world and particularly Asian countries which are facing very serious threats to democracy and the rule of law. Large-scale killings under various pretexts such as dealing with drug problem, control of political opposition, anti-terrorism, and the like is the common experience of most of these countries. A fundamental attack on liberal democracy is taking place quite visibly. The result is many forms of denial of access to justice, destruction of the public institutions which are reduced to powerlessness in providing protection to people and creation of legal systems which are in opposition to the rule of law.

It is these themes that the panel of this meeting will discuss from different angles and perspectives. We invite you to participate in this new attempt to combine problems of sustainable development with the problems relating to attainment of justice.

What is the May 18 Spirit for Women?

KIM, Gwi-Ok

/professor of Hansung University, Sociology

1. Introduction

In the history of Korean democratization movement, there was the May 18 People's Uprising. At the center of the struggle, there were women who have not only faced the fear of state violence but have inherited the spirit of the uprising until the end. Today, I will first explain why women participated in the May 18 People's Uprising, and what women gained during the uprising. Furthermore, I would like to discover what was the May 18 spirit in women's activities.

2. The Women Who Participated in the May 18 People's Uprising.

Who were the women that participated in the May 18 People's Uprising in 1980, and what were their motivations? According to previous studies and testimonies of women involved in the uprising, women participants can be classified into three types.

First, there was active and initiative participation by women who belonged to organizations. Several anti-dictatorship, pro-democracy movement groups were formed in Gwangju in the 1970s, and along with them, women-centered organizations actively took part in the May 18 People's Uprising. The leading group was Songbaekhoe, which was founded in 1978. The Songbaekhoe was formed at the Gwangju YWCA by around 30 women, including teachers, nurses, workers, homemakers, young women's rights activists, and some members of the National Democratic Students' League.

Second, there was a wide range of women who didn't belong to any organization but dedicated themselves during the uprising. They mostly took part with the devotion and the sense of justice, and eventually became proactive elements during the Uprising while witnessing the brutality of the Chun Doo-hwan's military regime and its dictatorship. Not only did they participate in protests, but they also appealed to the public for the blood donation which was needed for the treatment of the injured, and the women themselves donated their own blood as a sign of support of the Uprising. Additionally, women volunteered from breaking up sidewalk blocks and delivering supplies such as rice balls and drinks in order to support protesters.

Third, many women participated in the uprising with anger over the damage of female dignity and family's injury. Throughout the uprising, the martial law

soldiers, including paratroopers, indiscriminately beat up people from middle school girls to grandmothers. They even stabbed and killed a 19-year-old woman, stripped women's clothes in broad daylight. The soldiers committed sexual assaults in remote alleyways. The brutal behaviors of the martial law soldiers resulted in tens of thousands of women joining the street demonstrations.

The anti-Chun Doo Hwan military regime protests, which is called the "Seoul Spring", began in April 1980 nationwide. The demonstrations were expanded, and politicians, intellectuals, students, and workers participated in it. However, the most significant difference between the nationwide democratization movement and the May 18 People's Uprising was the brutal, bloody suppression, widespread violence, and the participation of citizens and women from various social classes. In other words, women who participated in the 5.18 People's Uprising are not just a few social activists and intellectuals but are widely gathered women such as high school students, women working at marketplaces, homemakers, laborers, and grandmothers.

3. Women's Self-awareness Through the Uprising

The May 18 People's Uprising had a great impact on women, not to mention many Koreans. Significant self-awareness or new perceptions have been formed among women who have participated in the Uprising.

1) State Violence and the State

The shock that the May 18 People's Uprising brought to the people in Korea was huge. The people's uprising was the occasion for people to question the state or the regime. The terrible sexual assaults committed during the May 18 People's Uprising by martial law forces in Gwangju and Jeonnam area, indiscriminate violence and massacre showed what women to the state. In the lyrics of *Song of May*, "Your beautiful breasts cut off like tofu" sounds painfully trembling. At that time, the Chun Doo Hwan government not only stigmatized Gwangju citizens and women as "rioters," but also committed physical, psychological, mental violence including shame, humiliation particularly through gender-based violence. The cruel and destructive sexual violence against women by martial law forces during the Chun Doo Hwan regime include beatings, killings, and brutal torture and this triggered for many women who have long distanced political issues to participate in the Uprising. Furthermore, the anger toward the state became the source of their force, which leads to constant memory struggle after the May 18 People's Uprising.

The Bereaved Family Members of the May 18 People's Uprising and Their Struggles to Remember



▲ 5.18 광주민중항쟁 유족들이 서울 서대문구 연희동에 위치한 진두관 전 앞에서 이순자의 방언을 규탄하는 성명서를 발표하고 있다. ⓒ고승은

From 『News Free-zone』 2019.01.04.

(<http://www.newsfreezone.co.kr/news/articleView.html?idxno=94136>)

2) A New Community: *Bob*(translator: literally means rice but can mean meal as well) Community and the May Mother's House

Gwangju citizens and women did not want to be just victims or weak subjects of the state violence. Instead, they wanted to show what kind of community and government they really wanted to have. From May 21, 1980, when the martial forces retreated temporarily but entered Gwangju city on the 26th, women participated in self-government, civil autonomy, and the Citizens' Army around the former Jeonnam Provincial Hall and the YWCA building. They also organized the Democratic Congress in front of the Provincial Hall, published the 'Fighter's Bulletin' as an alternative news outlet, managed and controlled supplies, and prepared meals for the Citizens' Army soldiers. Some women played leading roles, and many other women were actively involved. The 'Jumeokbab,' which means rice balls made by women for all citizens who participated in the protests, became the title of the newsletter outlet, the symbol of the May 18 Memorial Foundation, and the Spirit of the May 18. Indeed, the protesters fought together, forming a rice ball community that shared food.

Women who created the rice ball community during
the May 18 People's Uprising



광주시내각 등마다 부녀자들이 손아저나와 주먹밥을
만들거나 음식을 만들어 시민군들에게 제공했다.

From: the May 18 Memorial Foundation
(<http://www.518.org/sub.php?PID=010101>)

In the 1980s, when the military trials on participants of the May 18 People's Uprising began, women formed the May 18 Family Association of the Incarcerated. They started campaign and activities to publicize the truth of the state violence and uprising. At the end of September 1980, the Family Council of the Incarcerated was formed, and later the Family of Council the Incarcerated during the Democratic Movement was formed. In the 2000s, the May Mother's Association is launched, and the May Mother's House is opened as well. The May Mother's House has the educational project to inherit the May 18 spirit, hold the May Mother Award Ceremony, runs exchange program with domestic and international organizations for the peace for the two Koreas, and programs such as yoga, oriental medicine, singing class, and counseling for the May Mothers.

The May Mother's House in
Yangrimdong, Gwangju

The May Mothers' Sharing Rice Balls
in every May to remember the May 18
People's Uprising



From: <https://blog.naver.com/somchanel/220008553627>

『News 1』 2018.05.17.
<https://news.naver.com/main/read.nhn?oid=421&aid=0003377744>

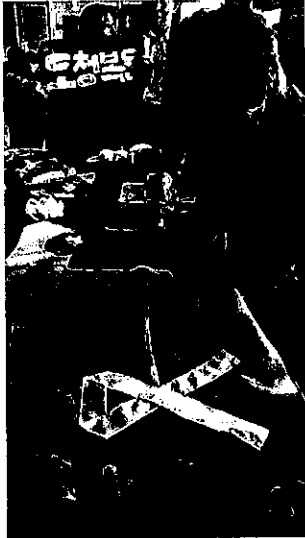
For women who participated in the protests in Gwangju or Jeonnam area, the May Mother's House is a community that inherits the May 18 spirit, an egalitarian community of sharing that they hope to create, and a community for solidarity and communication.

3) Rediscovering Themselves - Women Expanding in Solidarity

In the early days of the May 18 People's Uprising, rumors about the sexual violence and suffering that women against women spread and those stories were mentioned in literature. Indeed, sexual violence against women during the uprising was not properly relayed in public even at courts before 2000. Not to mention sexual violence during the protests, sexual torture, and its cruelty in the investigation process are also entirely concealed. The sexual abuse was considered as rumors due to the neglectful attitude of civil society, and survivors' silence and guilt. However, such sexual violence committed by martial law soldiers during the May 18 People's Uprising was officially recognized by the government finally in 2018. In 2018, Kim Seonok, delivered her testimony on sexual assault that she experienced for nearly two months when she was arrested by the martial law headquarter after 38 years later. On October 31, 2018, the Joint Investigation Team on Sexual Violence during the May 18, officially recognized sexual violence against female citizens committed by martial law forces. In the process of memory struggle of the May 18 People's Uprising, women were forced to be submissive to patriarchal culture, but they are trying to overcome fears, the shame of sexual violence.

On the other hand, women who participated in the May 18 People's Uprising or Korean female activists reanalyzed and re-defined the May 18 People's Uprising from a feminist perspective and is writing the history of women during the uprising. In addition, women at the May Mother House and May Mothers Association are supporting and solidifying democratic movements on a domestic and international level to spread the May 18 spirit.

A patchwork project for solidarity between the May Mothers and bereaved family members of the Sewol Ferry Tragedy



작은기차의 경우 내부 칸으로 이동하기 위한 칸과 칸을 연결하는 철도용 칸 연결용 철도 칸 연결용 칸이 있다. (이재갑)

From: 『The Hankyoreh』 2017.04.30.

<http://www.hani.co.kr/arti/society/area/792874.html>

Press conference condemning distortion on the May 18 People's Uprising and Sewol Ferry Tragedy



【광주=뉴스1】신대희 기자 = 5·18 민주화운동 39주년 기념식을 하루 앞둔 17일 광주 북구 운정동 국립5·18 민주묘지 민주회관 앞에서 5·18 유가족과 4·16 세월호 참사 유가족이 '역사 왜곡 근절과 진실 규명에 뜻을 모은다'는 기자회견을 열고 있다. 2019.05.17. sdhream@newsis.com

From: 『Newsis』 2019.05.17.

http://www.newsis.com/view/?id=NISX20190517_0000654194&cID=10899&plD=10800

4. Conclusion: The May 18 Spirit Reestablished by Women

The May 18 spirit, particularly in the relationship with women, is that they declared the people are the origin of state power. Citizens, who were the subjects of Western democratization, were male, white, knowledgeable, and wealthy. However, in the May 18 People's Uprising, "minjung(translator: the people)" was a concept which means the people regardless of their class background, gender, and age.

Next, the May 18 spirit led to overcoming the prejudice that "women are politically passive or indifferent." At the beginning of the May 18 People's Uprising, women who were passively participated in, except for some exceptions, such as May Mothers or a woman like Kim Seonok, have been struggling for democratization for a long time even after the uprising and came out to break a long wall of silence to speak about her experience on sexual assault.

Next, the May 18 spirit is solidarity. The solidarity movement who wanted to inherit the May 18 spirit has continued for decades and even in the 2000s by many students, youth, women, and workers. Various solidarity activities centered on the May Mothers' Association have also been done mainly with a focus on gender equality, which is inevitably related to democratization.

The May 18 spirit is based on the universal desire for humanity. During the May 18 People's Uprising, people dreamed of that they all share rice balls and hope for a more equal and free world. It may sound romantic, but if we are thankful for their sacrifice and consider their sacrifice as everyone's. Today, however, the May Mothers are spreading the May 18 spirit, wiping the tears of the world, forming solidarity with women suffering from the trauma, and working with people who dream of a new world.

The Korean Peninsula is still facing ideological conflicts and conflict between the two Koreas due to the division and legacies of the Cold War. It will take a long time and great patience for making a peace community on the Korean peninsula. The world that women have is the world where peace and human rights for all peoples are embodied. To realize the May 18 spirit in the Korean peninsula, patience, solidarity and sharing that women have demonstrated is very much necessary and essential.

WORLD: Competent Institutions needed urgently for achieving Sustainable Development Goals

**Mohammad Ashrafuzzaman
ALRC, Representative to the UN**

‘Sustainable development’ is defined by the United Nations (UN) quite comprehensively.¹ The UN Sustainable Development Goals (SDG) has envisioned 17 goals to be pursued within 2030 as it is known to be the Agenda 2030.²

Many States in today’s developing world, particularly those in Asia, often try to undermine the comprehensive meaning of ‘development’, ignoring the importance of sustainability. For example, constructing various bridges, culverts, highways, skyscrapers and mining by domestic or multinational companies, are often introduced as ‘development’. Indeed, such projects indicate infrastructural developments across the world, and in Asia, in particular. However, the essence of development to ‘achieve a higher quality of life for all people’ goes missing in most of the developing world. This occurs because most development projects fail to ensure the comprehensive definition of the UN. Often environmental and ecological protection is not guaranteed when development projects are undertaken. The benefits of economic and social development hardly reach the poor and marginalized communities regardless of their educational or ethnic backgrounds.

Human rights defenders’ day-to-day engagements with the victims of various development projects come across as painful realities that many societies face. It is ‘corruption’, which is found at the center of most of the development projects in the developing world, but not in the developed world. Immeasurable and entrenched forms of corruption, that involve the political, bureaucratic, and financial elites of society, have controlled the system of governance for

¹ United Nations General Assembly Resolution A/RES/51/240 Reads:

Development is a multidimensional undertaking to achieve a higher quality of life for all people. Economic development, social development and environmental protection are interdependent and mutually reinforcing components of sustainable development.

Sustained economic growth is essential to the economic and social development of all countries, in particular the developing countries. Through such growth, which should be broadly based so as to benefit all peoples, countries will be able to: improve the standard of living of their people through the eradication of poverty, hunger, disease and illiteracy, provide adequate shelter, secure full employment and preserve the integrity of the environment.

Democracy respects all human rights and fundamental freedoms, including the right to development, transparent and accountable governance and administration in all sectors of society, and effective participation by civil society. It is an essential part of the necessary foundations for the realization of social and people-centered sustainable development.

The empowerment of women and their full participation on the basis of equality in all spheres of society is fundamental for development. Retrieved on 23 August 2019:

https://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/51/240

² The United Nations articulated the contents of all the 17 Goals of the Sustainable Development Goals as part of its Agenda 2030, which can be retrieved from the following link:

<https://www.un.org/sustainabledevelopment/sustainable-development-goals/>

decades. Yet, such systems of governance are embedded with weaker and incompetent institutions that collude with the elites and establish a 'norm'. This is just the opposite of what the normative standards connote universally. Its ultimate result is that development does not guarantee sustainability by any means.

Among institutions, there are at most three components vital for offering sustainable development.

First, criminal justice institutions include law-enforcement, crime-investigation, prosecution, and adjudication for the objective of upholding 'justice'. They require treating everyone equally before the law, administering justice regardless of race, color or ethnicity of the litigants, particularly the victims.

Second, the electoral systems and institutions are responsible for holding credible, transparent, participatory processes of election to contest and choose representatives of the people's choice. Any failure – either partial or absolute – to ensure credible inclusive elections ultimately paves the way for disqualified and undeserving people to usurp the leadership of the State. This often leads to disastrous consequences.

Third, the process of oversight and the curbing of corruption has emerged as an integral institution in today's contextual reality. For the sake of achieving sustainable development, it is necessary to eliminate corruption entirely from institutional practices – both public and private sectors. It is everyone's obligation, but particularly the States that undertake development projects or conduct administrative operations using the tax-payers' money.

The question of implementation of sustainable development must be addressed in compliance with Goal 16 of the SDG³ as Agenda 2030 of the UN inspires us. There is no way of succeeding in achieving this Agenda without competent criminal justice infrastructures, a credible electoral system, and capable anti-corruption oversight bodies. Once these three larger components of States institutions are rebuilt, there will be functional democracy on the horizon, a feeling of the protection of human rights with peace, and the smell of the Rule of Law available all around us.

The End

³ Goal 16 of the Sustainable Development Goals: "Promote just, peaceful and inclusive societies". For further details regarding the Facts and Figures in relation to the Goal 16 of the SDG, please see: <https://www.un.org/sustainabledevelopment/peace-justice/>

Implementing Justice with the UN Sustainable Development Goals in the May 18 Spirit

Angkhana Neelapaijit

Laureate of GPHR and Magsaysay Award

Former Commissioner of National Human Rights Commission, Thailand

Good afternoon everyone,

As the Gwangju Prize for Human Rights Laureate 2006 and the Magsaysay Awardee 2019, I'm very honored to be here today and I would like to thank the May 18 Memorial Foundation for inviting me to join this very important discussion about democracy, human rights, and justice.

Today many countries in the world accept the Sustainable Development Goals (SDGs) as the parameter in all aspects of development including the eradication of poverty and hunger, achievement of gender equality, access to resources, education, information, human rights, and justice. Undeniably, access to justice is very important to human dignity and value and it is indispensable in all aspects of democracy and rule of law. The right to access justice is also provided for in various international treaties including the ICCPR, the ESCR, CEDAW, CAT, and CED.

Democracy and justice ensures that the voices of all people will be heard and respected. Democracy also enhances the freedom of people and the *"right to access justice"* with the protection of the law and the efficient and transparent monitoring mechanisms, especially the independence of the judiciary. In such an environment, people can access the policy and decision making of the government promptly, particularly the policy that affects a large number of people and community. All of these are so important for sustainable development based on the respect of values and the dignity of all human beings.

Although many countries in Asia claim that they are democratic countries, the rights and freedom of people are still restricted. Sometimes human rights discussions in public places or at public gatherings are limited or banned. Right to freedom of expression and peaceful assembly are very meaningful to democracy as they are the fundamental rights of all people.

Asia has a long history of non-democracy and human rights violations. The failure of justice system make it difficult for people to access justice and impunity still remains in the whole region. The challenges for Asia are how the Asian countries can have real democracy and good governance under the Rule of Law and the people can enjoy their rights and liberties without discrimination and unfair treatment.

As a WHRD and the former Thailand National Human Rights Commissioner I have experiences working with and supporting several victims of human rights violation. Today I would like to highlight two critical issues: first, the situation of enforced disappearance and second, the role of human rights defenders.

Some of you might know that I'm also the victim of enforced disappearance in Thailand so I understand very well the suffering victims and their families face.

It is hard to imagine how immense the impact caused by enforced disappearances is on the victims themselves, their community, and their society, as well as on the economic, social, and cultural rights. In addition, enforced disappearance is the creation of "*ambiguity*" between "*existence*" and "*non-existence*". It has made the traumas inflicted that more complicated and aggravated than other kinds of violence. Enforced disappearance has even caused tremendous fear among families of the victims. It does not just render wounds on the body of the victim but also quashes the victim's selfness and degrades his or her human dignity and identity, directly and indirectly, including the secondary victims, i.e., his or her family and society.

Such deep impact has made the secondary victims to find it difficult to get reconnected with their society. It has made their daily living a challenge. Also, it has made the victims to find it difficult to interact with society. Many of them suffer from Post-Traumatic Stress Disorder (PTSD) as a result. Some are constantly consumed by fear and anxiety making them lose trust in people or to become pessimistic.

In Thailand, we have no specific law to criminalize enforced disappearance. It requires bringing the body of the disappeared as evidence to prove guilt. Weakness among law enforcement agencies include the Department of Special Investigation (DSI) which allows the cases of enforced disappearance to be intervened by influential people. It has feeble human rights protection mechanisms, inefficient witness protection program, and many problems as to the acquisition of forensic evidence. All of this has made the proving of guilt of

the perpetrators become a burden of the victims' families and made their access to justice almost impossible. The additional violations are the disappeared person's experiences and the Government's failure to provide remedies, both judicial and non-judicial remedies.

In order to stop this, enforced disappearance must be criminalized by specific laws, and the relatives of the victims must be allowed to take part openly in the legislative process. Thailand and all Asian countries should immediately ratify the UN International Convention for the Protection of All Persons from Enforced Disappearance.

Secondly, as a women human rights defender I face the same challenges with other HRDs around the world. Actually, human rights defenders have a very big role in supporting and empowering the victims of human rights violation as most victims are very scared. Some victims change themselves to survive and to remain defenders and they do need support from their communities and societies. HRDs are the liaison between civil society and the system for the protection of HRs, nationally and internationally. Their role in society is fundamental to guarantee and safeguards human rights, democracy, and the rule of law in the country.

In many countries, HRDs often face threat and intimidations, some are killed, disappear or are discredited while some face judicial harassment. In Thailand since 1995 to 2014, 36 Thai Human Rights Defenders have been killed and have disappeared. The most serious threats to human rights defenders in Thailand are open attacks, torture, and enforced disappearance, while there are abuses and threats with impunity and huge delays of the administration of justice.

And as for the infringement made to community rights defenders since 2014, more than 41 community rights defenders have been reported facing judicial harassment. The wide strategic litigation against public participation (SLAPP) also made for silencing rights defenders and communities.

Women Human Rights Defenders who work on women's rights, communities' rights, or LGBT's rights often face threats, intimidation, and dehumanization committed against them by some community and religious leaders.

To end judicial harassment to human rights defenders I recommend that Thailand and Asian countries provide more effective protection mechanisms for community rights defenders and speed-up the adoption of a draft law on the

prevention of torture and enforced disappearance and an anti-SLAPP law to protect HRDs from judicial harassment.

As the former Thailand National Human Rights Commissioner, on my fact finding mission investigation I found widespread human rights violation. When a rights violation occurs, it is very pertinent that the right to justice must be realized for the victims. Asia is a hub where large scale investments and industrial developments have flooded in. And while these developments have rendered a grave impact on the community and the people, it is even more important that people have access to justice.

Nowadays overall democratic space continues to be curtailed in Thailand and Asia. To have access to rights and justice we need the constitution and legislation to follow the Rule of Law and we need an independent judicial system. An independent body such as the National Human Rights Institutions (NHRIs) have to hold their mandate complying with the Paris Principle as NHRIs have a very crucial role in promoting and protecting human rights in their respective countries. NHRIs must work independently, impartially, and with integrity to investigate the cases of human rights violations and when human rights violation occurs, it is very pertinent that the right to justice must be realized as priority for the victims. States also have an obligation to ensure that all people have access to justice promptly. Culture of impunity must be ended and then people can enjoy their rights and freedom.

Last but not least, my thankfulness again to the people of Gwangju and The May 18 Memorial Foundation for their inspiring work to protect and promote Human Rights and Democracy in Asia. The Democratic Uprising in 1980 in Gwangju taught us the turning point of Korea's democratization movement that has served Koreans as the wellspring of resistance against dictatorship and human rights violation. It also serves as a beacon for human rights activist not only in Korea but also in all Asian countries.

I thank you.

Has Justice Been Done Since the May 18 Democratic Uprising?

Kwangsue Lee

Board Member of the May 18 Memorial Foundation
Professor, Busan University of Foreign University, Korea

My dear friends and colleagues,

I am pleased to be here at this honourable meeting. I hope we, the members of international community of civic rights, work together to bear fruit. History shows us that victims of human rights violations are constantly struggling to find their solutions. Even at this moment, there are innumerable places where justice is missing and that are not ready to accept justice. We have to commit to working for the cause. There were great struggles where people fought for justice in Asia, Africa, and South America. The May 18 Democratic Uprising is one of them that offered us a great inspiration. Through the Gwangju Spirit, all the people should be able to enjoy their rights via protective mechanisms provided by their justice systems.

Since the Gwangju Uprising, many democracy movements began to break out in Asia in the 1980s. The first one is the triumph of the people of the Philippines that ended the dictatorship of President Marcos. It spread to other Asian countries, such as Cambodia and Indonesia. It has been carried on to countries like Nepal, Bhutan, and the Maldives, countries that joined the democratic ranks. But their democratic transitions are still incomplete. In some cases, such as the 1989 Tiananmen Square Incident, a massacre occurred and this brought trauma to the Chinese. And Hong Kong's civil protests are occurring at this moment. In Thailand, history slipped back into authoritarianism, too. They have failed to create or institutionalize the full range of democracy.

The May 18 Memorial Foundation has been working along with partners in and outside of Korea along with many human rights organizations in Asia to raise the spirit of Justice and to foster it on an international level. It has been conducting campaigns demanding Asian governments to take proper actions for justice. I wish this meeting serves as a momentum to seek the right ways to promote democracy and to establish justice in Asia.

The Gwangju Uprising started as student demonstrations but the military junta massacred Gwangju citizens and this resulted in a massive uprising. According to reports, nearly 200 persons were killed, including 26 soldiers and policemen. Koreans were shocked by the fact that the government used such a brutal force against its citizens. They also felt betrayed by the United States after discovering that General John A. Wickham, Jr. had released South Korean troops from the DMZ to end the Uprising. This feeling of betrayal deepened when President Reagan strongly endorsed the ringleader of the Coup, Chun Doo-Whan, by officially inviting him to the White House. It ignited an anti-American movement in Korea and the democracy movement, which reached a climax in 1987 - the June Democratization Movement. This overthrew the then military dictatorship.

After the Gwangju Uprising, the citizens of Korea sought justice. Through the Gwangju Uprising, Koreans learned lessons. They realized that they needed solidarity to work together. Throughout the 1980s, citizens from different sectors all over the country got together to fight against the military junta and to bring democracy. This in the end resulted in the 1987 Civil Revolt.

A full-blown endeavor is in process to punish Chun Doo Hwan, the ringleader of the coup and the perpetrator of the Gwangju Massacre. In order to prove that Chun is the one who ordered the firing on

unarmed civilians, evidential materials and testimonies have been collected. Without punishing him for his crimes, historical justice won't be served. Even though a long time has passed since the Uprising and its 40th anniversary will occur next year, we still haven't secured enough evidence to bring him to court. We need help from the citizens of the world to establish justice for the Gwangju tragedy. We especially need sincere cooperation from the American government. The May 18 Memorial Foundation asked the American Embassy in Seoul for help in getting the American government to release declassified documents of the US Defense Ministry and the CIA that are related to the Uprising. The Korean government will also play an active role in this issue. I wish all of you here support us to establish justice through the May 18 Spirit and to usher in human rights and equality in this world.

Not *just* access to justice, *EARLY* access to justice that can prevent gross human rights violations

Karen Tse and Sanjeewa Liyanage¹

Access to Justice (A2J) is all the way down the list as goal 16 but A2J is fundamental to almost every other Sustainable Development Goal (SDG). No SDG can be effectively achieved in a system where rule of law does not exist and A2J is the key to building the rule of law.

While we appreciate that understandings and definitions are important – rather than talking IBJ has been *walking the walk* for almost 20 years and our expertise in this area is unmatched. A2J is not a conference term of a buzzword – but a *real-life* action.

While it is true that effective investigation is an important part of ensuring abuses do not occur i.e. false allegations / forced confessions, the principle group responsible for holding investigations accountable are defence counsel. Prosecutors themselves present information, judges are reactive. The safeguards often already exist and it is defense counsel that raises violations suffered by accused during criminal investigations to the courts' attention. While there is always room to improve, international legal texts have reached a saturation point with many government, even in developing countries, having signed or ratified many international human rights treaties with corresponding local legislation. But, often these laws are marooned in legal documents/books — the public are not aware of their rights and lawyers and justice systems do not know how to use them to protect people effectively. We as a global community need to give life to these laws while working constantly to align them with international norms and standards.

Access without discrimination: Less than 5% of victims of torture today are human rights activists or political activists. Most victims are the poorest members of society. While human rights lawyers are lining up to defend a well-known political activist or a human rights defender, 9 unknown, non-affluent people, too poor to afford a lawyer, are being tortured in police stations across the country. Torture has become a norm rather than an exception—it is the cheapest, sometimes only, method of criminal investigation known by police officers in many countries in Asia and Africa. The problem is so severe that even UN Human Rights Mechanisms have shied away from tackling this issue stating, “this should be left to the governments to take care of.”² Torture is not a rare occurrence but has become systematic and widespread within criminal justice systems. Furthermore, access is not enough. Trust in the system is crucial for A2J. Even where there is access, people will not use the frameworks unless they believe that the system is

¹ Karen Tse is the Founder and CEO of International Bridges to Justice (IBJ). Sanjeewa Liyanage is IBJ's Director of International Programs, and former program director of Asian Human Rights Commission (AHRC). Ms Tse and Mr Liyanage first met in Kwangju in May 1996 when the first international event was organized by then Kwangju Citizens' Solidarity (KCS). IBJ is a global leader promoting early access to justice and been working during last 2 decades to prevent torture through early access around the world. It has 10 active country programs in Asia, Africa and in Americas and 69 JusticeMakers in 43 countries around the world. It has developed first comprehensive legal online resource entitled DefenseWiki for over 100 countries in 6 languages, accessed over 10million times. IBJ has provided legal representation to over 300,000 victims of human rights violations around the world provided rights awareness to over 25 million people.

² Quote from a former High Commissioner of Human Rights at a meeting with NGOs in Geneva a few years ago.

reliable. Seeing arbitrary impunity erodes trust that everyone is equal before the rule of law. This is why traditional justice still exists in many countries alongside formal courts.

Availability of justice to the poor: The ultimate translation of access to justice *for all* is a functional and institutional legal aid system that removes the price tags often placed on access to justice. People have not just lost faith in the justice systems but also in human rights defenders, including lawyers. Legal processes are lengthy, legal costs are high and often there is no government supported criminal legal aid. In countries like South Korea, in 1980s such processes were led by civil society organizations like MINBYUN (Lawyers for a Democratic Society). Even in more developed legal systems in Asia like those of South Korea and Hong Kong, there are human rights violations. Since 2000, many people in South Korea have been convicted wrongfully due to the use of coercive methods of investigations by the police. Most of these people belong to poorer or more marginalised sections of society. In Hong Kong there is no legal aided early access to a lawyer during the early hours of arrest at the police station. Therefore, access to a lawyer is limited only to people who can hire a private lawyer at these early stages—poor or even many lower middle-class families often cannot afford representation. Access to justice today is a privilege, enjoyed by the rich or affluent in society. It has become a luxury for the poor.

Strong institutions: Discussing the limitations of institutions is not enough. We need strategic action for actively strengthening the weak links – often the criminal justice system. The laws and frameworks often exist – but there is often a severe gap between the law and reality. Addressing this gap directly through supporting ministries of justice to increase their supervision and resource allocation to legal aid is crucial. Justice reforms should not be a short-term project, but a long term and ongoing/ever-continuing process. Access to justice cannot truly exist unless it is a systematic right implemented equally throughout society – a charge often led by criminal defence lawyers.

5.18 Memorial Foundation: 5.18 Kwangju Uprising is not only the foundation of democracy but also the foundation for rule of law in South Korea. With its current limitations, South Korean's legal system has been progressive development. Early access to justice for those in poverty, who make up 18.6% of the population in Asia (327.2 million) and 41% in Africa (388.7 million), *CAN* prevent human rights violations. 5.18 Foundation can play an important role in *PREVENTION* of human rights violations in a systematic manner.

Global human rights development efforts must move towards a prevention-based model rather than the traditional reactionary model of condemnations after abuses occur. This is particularly true for transitional justice where there is a huge imbalance of resources dedicated to past violations, without a matching effort on building the institutional strength to prevent violations in the future. Justice doesn't trickle down. You cannot focus only at the high level without also addressing legal systems' general and systemic capacities. A paradigm shift is needed, and it is international organisations like the UN that must lead us into a new preventative era of human rights development.

IBJ works with governments, civil society, lawyer's organisations, academics and the private sector to make a concerted effort to create *systems* of prevention. We are *doing* this on the ground in many countries and see effective results. We invite the 5.18 Foundation to work towards creating and sustaining long-lasting systems to prevent human rights violations.