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# Neglect & Loss

***(Reports and Commentaries on current problems)***

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# **The meaning of Sustainable Development Goal 16**

## **An AHRC Paper**

A recurring question that has been raised during this evaluation is about the link of justice related work to the problem of poverty.

The difficulty for seeing this link maybe due to the fact that in development studies, this aspect of the link between the operational systems of justice and the issue of development in general and in particular the distribution of resources in the manner that the poor would benefit from has not been, to my knowledge, pursued very much in development studies. Thus, it appears as if the two elements are not so intertwined. Some concession may be made by others saying that if the justice related work relates in some way directly to the provision of some relief to some individual or group who is faced with the problem of poverty, as recognized within the 15 goals of the sustainable development program, then it may have some relevance.

While we recognize that aspect of providing relief for individuals or group directly affected by poverty, the main thrust of this program is not that approach. The basic approach is that there is a systematic delinking of the possibilities of achieving sustainable development goals as contained in the United Nations sustainable development goals for 2030, by disempowering the very processes of justice and thereby creating a situation where the people are pushed into a very powerless situation. And this disempowerment process helps the Governments to impose extremely harsh conditions on the poor which destroys or undermines even the achievements they have made in the past. If in the past certain improvements have been made to the life of the poor by desire for the empowerment of the judicial process, new legislative or other measures could be brought to take away those gains. For example, the minimum in terms of goal number one of the sustainable development goals is for a minimum of one United States Dollar and twenty five cents as an income for an individual as the daily income. At one point, the State may have taken some steps to implement this and thus improve the most minimum income to some extent.

And then the same Government imposes a devaluation of the currency which reduces the real value of that one Dollar and twenty five cents. If we explain by way of one example from Sri Lanka, the Dollar value now is about 206 Rupees which is very regularly increasing. In 2010, the value of a Dollar was about around 150 or 160 Rupees per Dollar. Thus, there is almost a 50 Rupee devaluation from 2010 to 2021. Even if that one Dollar and twenty five cents of daily wage has been achieved (very often that has not been achieved), the real value in terms of a Dollar now would be about two thirds of what it was in 2010. Added to these are the uncontrolled forms of price hiking and the indirect taxation on the goods. If we again take the same years as a reference, the distinction between the prices of basic commodities like rice or other food items and most essential items, have gone up many times higher. Thus, it would be a complete misunderstanding to think that the fact of one Dollar and twenty five cents at the time of increase has achieved the sustainable development goals. Despite all these other increases, the amount of money the

poorest group receives has not increased but the value of the money has decreased. This is just one example. The same thing could be said about basic expenditures for primary education, health care and the minimum requirements that are in the 15 goals. In the State exercise of policies, when the process of accountability is removed, or seriously undermined, then the State can take many measures that increase the level of poverty of the general population.

The start of this project was based on observations over a long period about this phenomena. How is it that countries which have achieved some form of improvement for the poor are going back and getting things much worse? This took several years of work and working on, in fact, many thousands of cases as well as the gathering of other kinds of data analysis and discussions with many groups. It became very clear that the increase of poverty was not due to resource problems but they were due to problems which have occurred within the administration which has removed many of the measures for accountability that have been present in the past.

A detailed explanation of this will take a long time but we could give a short summary. The basic accountability system within the Government is the Parliamentary supervision of Government expenditures. For this, there are various organizations at work like the Auditor General's Department, the Central Bank and the avenues for public discussions on the matters relating to Government expenditures. Now, if the Government takes measures to reduce the role of the Parliament in the exercise of all its powers and reduces the Parliament to a kind of a rubber stamping position where the sole authority passes to a small group that is gathered around a key figure like the Prime Minister or the President, then they could undermine this whole process by making decisions outside their usual legally allowed limit.

Within a normal system, this process of the abuse of power by the Executive is prevented by the authority of the courts as the ultimate guardians of the legal process. Now, if the Executive reduces the power of the Judiciary and reduces to an extent their jurisdiction, stating that they cannot intervene into the area of public finances and other matters, then the main instruments by which the checks and balances work which is the Judiciary cannot any longer perform that function that is expected of them.

### Diagram 1

#### **Government's grant to the poorest families**

In Sri Lanka, the Government grant to a very small group of selected persons who are considered the poorest is SLR. 5,000 a month for a family.

The equivalent of US Dollars 25 (approximately): One US Dollar at present is equal to SLR. 200

This amount is distributed among the family members and the minimum average would be about four members for a family

This means (approximately) US Dollars 6, for a month, for a family

This, when distributed for 30 days would be 1/8th of a US Dollar for a family

# This is similar and applicable to Nepal, Indonesia and Bangladesh.

### **Questions**

**Q. Why is the Government able to maintain such an absurd situation, causing unbearable hardships?**

A. If the Government is able to remove checks and balances to power, the Executive can enforce any hardships on livelihoods without any institutional hindrance.

**Q. How does the Government remove checks and balances to its power?**

A. By legislative, judicial and administrative measures to cause such removal of checks and balances. (In UN language, this means by way of the violation of Article 2 of the International Covenant on Civil and Political Rights which prescribes that a Government is obliged to provide legislative, judicial, and administrative measures to protect rights. In the UN Sustainable Development Goals for 2030, the same is stated with greater clarity by stating in SDG 16 that the Government must provide for functional institutions to ensure access to justice. When that fails, the situation described in these diagrams is the result.)

**Q. How does this project address this problem?**

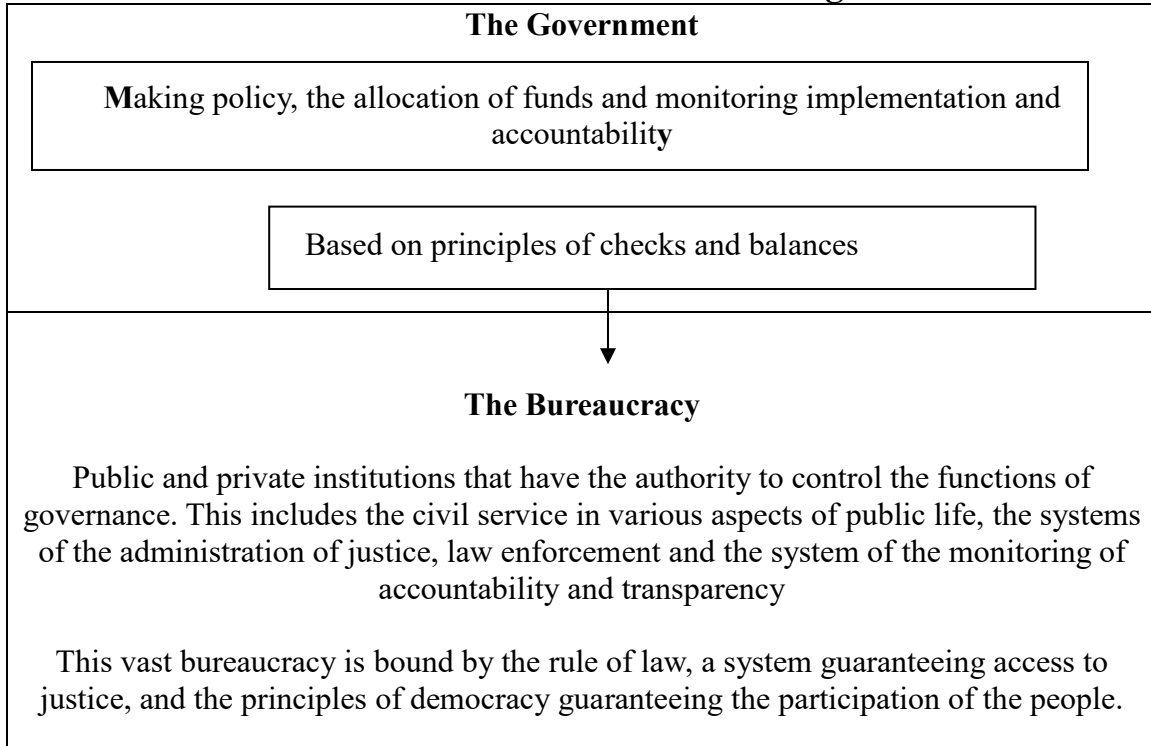
A. By activating the civil society through education and awareness building to get engaged in the issues related to Article 2 of the ICCPR and SDG 16 with the view to improve the Government's capacity to develop checks and balances and monitoring mechanisms for accountability and transparency, so that improvements of the conditions of life of the people including adequate health to the poorest can take place.

## Conclusion

If the civil society does not intervene to bring about this change in creating conditions for an accountable system of governance, under the present circumstances of the countries where this project is taking place, things will get worse and not better for the people, especially for the poor. Poverty will not decrease, in fact it will increase.

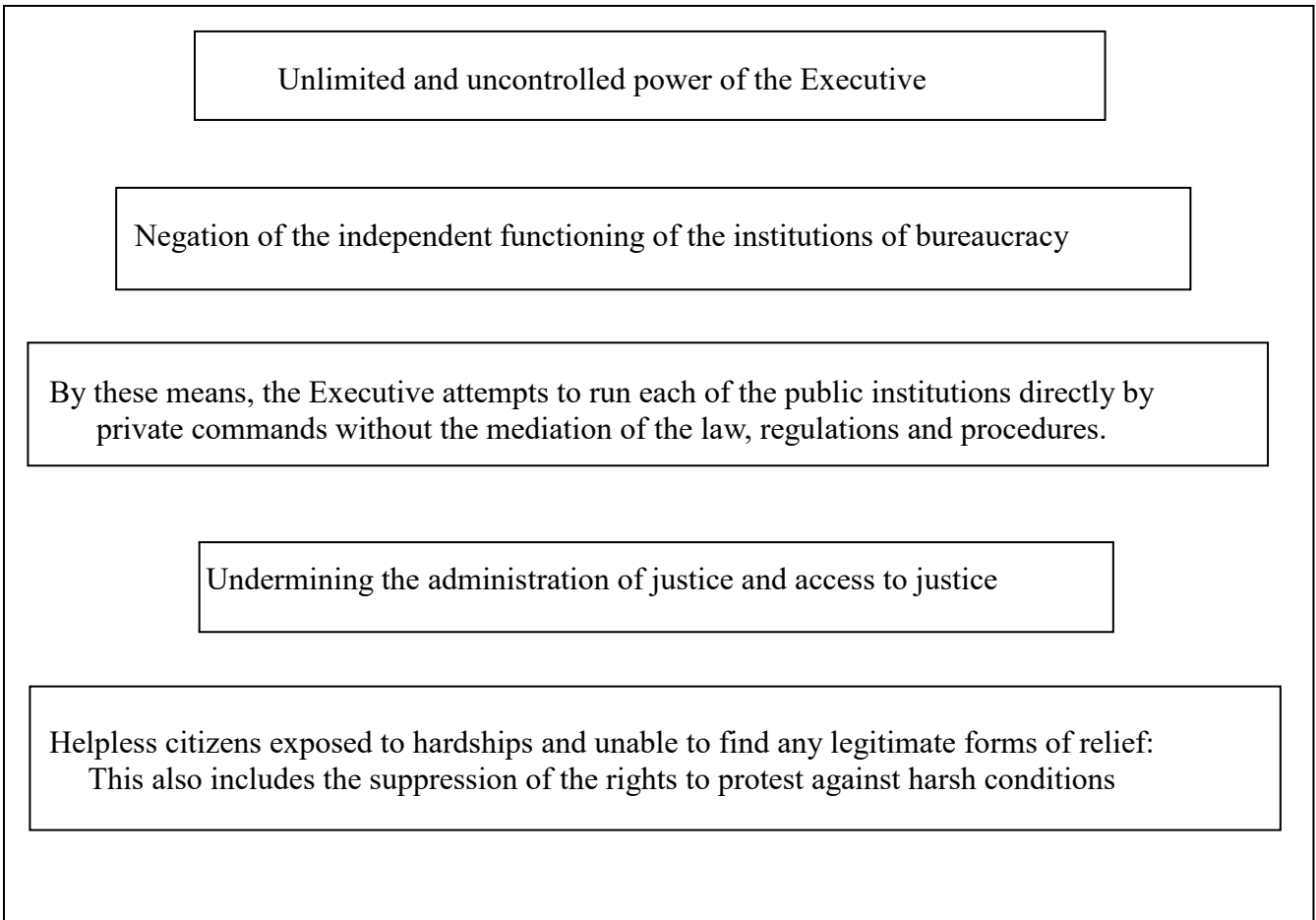
## Diagram 2

### Basic structure of an accountable form of governance



### Diagram 3

#### Governance without accountability



**Note:** Some examples of what is described in diagram 3 and the implications

- A) There are at least two countries in Asia which illustrate what is in diagram 3 in an almost complete sense: That is, Cambodia and Myanmar. These are two countries which, for different historical reasons, lost whatever basic infrastructure they had to support, even in a limited way, the rule of law and human rights. I do not want to go into the historical details as they are generally well known. Basically, in Cambodia, the entire infrastructure that existed before Pol Pot was completely done away with and even the human resources to reconstruct it was lost due to killing or fleeing of the entire intelligencia. With that died even the memory of such infrastructure. As for Myanmar, only a minimum infrastructure was built by

the short period of total colonization of Burma by the British. However, with the military coup of 1962, which continued up to 1988, and was only slightly modified thereafter, completely new infrastructure based on militarism was established. Instead of public institutions for the protection of people from excessive use of power by the state, what came to be was institutions to protect the state from everyone, including the people. Despite minor democratic reforms, particularly by way of introducing suffrage, leading to changes in the surface level, the basic infrastructure of public institutions never recovered. This was one of the reasons why it was possible to turn the clock back and to subdue even the limited democratic reforms in the country.

In these two countries, the development of infrastructure in terms of diagram 2 will take a very long time. Although it is possible to speed up, like what happened in Germany after the Second World War, that is possible only if massive support is provided, as was provided to Germany under the Marshall plan. However, this is very unlikely to happen.

- B) There are countries which have suffered a lot in terms of the matters described in diagram 3 but still they are at a stage when it is possible to make a recovery. These are countries like the Philippines, Nepal, Bangladesh and Sri Lanka. A lot will depend on the people themselves understanding their problems in terms of article 2 of the ICCPR and SDG 16, as described above. Our project is based on the Philippines, Indonesia, Sri Lanka, Bangladesh and Nepal.

### **Q. How does this project try to address the problems discussed in Diagrams 2 and 3?**

A. This project tries to help the civil society to understand the problems of the destruction of the legitimate structures of governance in creating the conditions which impose extremely harsh conditions of life, including livelihood problems on the people without internal structural barriers for doing so.

By trying to create awareness, we are trying to activate the civil society to get engaged in these problems as an unavoidable part of their duty to improve livelihoods.

By this way, we try to make the civil society aware that problems relating to the destruction of avenues for access to justice as a problem that is directly related to their livelihood problems.

By this, we are encouraging the civil society to develop a holistic approach in understanding and fighting against the hardships that they face in their lives.



## **The explanation about the above mentioned position**

From the point of view of this project and the work relating to overcoming the most difficult problems of the poorest sections in an underdeveloped country, SDG 16 should be treated as the precondition for the achievement of other goals in the UN Sustainable Development Goals 16.

From this set follows independent work that should be done to create the understanding of the implications of SDG 16 to the resolving of the harshest problems of poverty faced by the larger section of the population of an underdeveloped country and in particular the poorest sections. It follows that if this independent work is not done, the situation of poverty will not only not improve but is most likely to increase the harsher conditions of poverty. It is not difficult to show empirically that this has already happened in the four countries that we have mentioned in this project, Sri Lanka, Nepal, Bangladesh and Indonesia.

There should be independent work on SDG 16 because there is a separation of matters relating to governance and access to justice on the one hand and poverty alleviation as a separate subject on the other hand. This separation has had a tremendously negative effect on the work of civil society organizations. The result is that there are serious failures in the work relating to governance and civil and political rights on the one hand and on the other, there is a bewildering increase of poverty despite the various efforts to alleviate poverty. Thus, the failure to understand the implications of SDG 16 implies the repetition of failures in the civil society work and increasing demoralization and frustration among the civil society activists themselves in the developing countries.

## **Why was SDG 16 included in the UN SDG 2030?**

In the Millennium Development Goals for 2000 to 2015, a provision similar to SDG 16 was not included. SDG 2030 was developed in a process of the critical examination of the Millennium Development Goals of 2000 to 2015. One could assume that the drafters of SDG 2030 realized that without dealing with functional institutions which sustain the SDGs and ensures access to justice in a comprehensive sense, it is not possible to achieve the proposed Sustainable Development Goals. Thus, the inclusion of SDG 16 was not an accident, but a deliberate move arising out of the analysis of the previous experiences. Our work in developing the work in Asia confirms that the inclusion of SDG 16 was a very significant breakthrough in trying to address the questions of poverty.

## **Very hard objections to SDG 16 approach in the past**

There was within the human rights movement itself, very strong objections to dealing with problems of dysfunctional public institutions and the problems of effective access to justice on all matters including the improvement of livelihood conditions. These objections were based on a world view on human rights which narrowed the focus only to civil and political rights violations. The general view was that such civil and political rights violations should be investigated, prosecuted and redressed. However, the basic problem that without the

functioning of the institutions of justice, such investigations, prosecutions and redress were avoided, is an inconvenient fact. Thus, the objective of redressing violations of civil rights was pursued only abstractly but in the real lives of the people in the developing countries, this abstract position has had no practical impact.

It was this problem that led to the introduction of SDG 16 to the SDG 2030.

However, those who took up this issue were few. So far, adequate knowledge about promoting this goal has not developed adequately. The Asian Human Rights Commission is among the first groups that have taken this goal as a matter of crucial importance and is trying to introduce it into the civil society discourse with the hope to build a knowledge base relating to this goal and to also develop practical experiences of how to work this out at the ground level.

## **NEPAL: Torture and extrajudicial killing by the duty police officer of border out-post**

ASIAN HUMAN RIGHTS COMMISSION - URGENT APPEALS PROGRAM

Urgent Appeal Case: AHRC UAC-006-2021

**SEND AN APPEAL LETTER**

28 May 2021

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**NEPAL: Torture and extrajudicial killing by the duty police officer of border out-post**

**ISSUES: Torture, excessive use of force, extrajudicial killing**  
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Dear Friends,

**The Asian Human Rights Commission (AHRC) is bringing to your notice an incident where the police officer misused his authority, tortured, and even shot and killed a 23 old year man after a minor argument near the Nepal-India border out-post.**

### **CASE NARRATIVE:**

The Asian Human Rights Commission (AHRC) has received information from the Advocacy Forum (AF) Nepal that a police officer used excessive use of force and even shot-dead Abinash Rajbhar (Ray) at around 9:30 am on 18 May 2021. According to the information that we have received, Abinash Rajbhar (Ray) was injured in Armed Police gun firing near Nepal-India border at Nathui of Susta Rural Municipality, Ward No. 5, West Nawalparasi.

According to the District Police Office's Speaker SP Raju Lama, he was shot below his knees and excessive bleeding was the cause of his death. He was taken to local Shahid Smriti Hospital, Chaupat, however, the Hospital referred him to the City Hospital, Butwal. The hospital declared him dead on arrival. He died on the way to the hospital.

But according to Anju Chaudhari, Vice-chair, of the Pratappur Rural Municipality, he was shot just below the waist at his thigh slightly injuring his private parts, and he died due to the excessive bleeding. The police opened the fire while the locals made arguments with the Armed Police Force (APF) deployed there about crossing the border. The Chief District

Officer (CDO) Dharmendra Mishra said, “Initially the duty officer tried to stop around 5 people who were trying to cross the border but they presented aggressive behavior to the police. Later, more youths from the village arrived and began to attack the police, and the police officer opened fire in self-defense.”

Likewise, APF 26 No. Headquarters’ Superintendent of Police, Mahesh Adhikari informed that the locals attacked the duty police officer by pelting stones and ASI Shankar Budhathoki was severely injured on his head during the scuffle. He said that around 5 locals were trying to cross the border and argued with the APF deployed at the check-post. In the beginning, they did not listen the police’s instruction. The youths summoned more (around 50/60) youths from the village later and started to attack on the police with stone and pebbles. The police opened fire on air first but police were forced to open fire over the crowd while they did not stop attacking. (<https://english.onlinekhabar.com/nawalparasi-youth-dies-in-police-squads-fire.html>)

However, the family members and eyewitnesses gave a different information about the incident. They said that the same police officer first let Bipin Rajbhar (Ray), youngest brother of Abinash Rajbhar (Ray), to cross the border to India and later they stopped him while he returned after shopping some cloths and medicines for his father.

That morning, Bipin had gone to India with the police officer’s permission with Amit Rajbhar in his motorbike. Upon returning, they found that the police officer was drunk and was with a woman who smuggles goods across the border. The police officer snatched the motor-bike’s key, and the argument started there. Bipin and Amit asked for the reason for letting them to go to India and stopping while returning. Upon this, the police officer assaulted and slapped them and said, "Do not be too smart." Then Bipin made a phone call to Abinash and informed him about the misbehavior by the police officer, and seizure of the motorbike's key.

After some time, Abinash arrived and saw Bipin’s face down and in stress as he was assaulted and beaten by the Border Outpost Police. Getting angry, Abinash questioned the police, ‘Why they let the smugglers cross the border for trading but stop the public who cross the border for emergency needs?’ As the arguments was going on, the woman who was drinking with the police officer provoked him to fire. The police officer opened the fire directly targeting to Abinash. During the argument between Abinash and the police officer, some locals and passersby gathered there to listen to the argument, but it was only after the gun shot that 20-25 people gathered there.

On May 20, 2021, the Ministry of Home Affairs has formed an Investigation Committee in Coordination of the Joint Secretary Mr. Krishna Prasad Panta and APF DIG Mr. Kishor Pradhan, Nepal Police’s SP Mr. Madhusudan Luitel, Home Ministry’s Under Secretary Mr. Madhav Prasad Pokharel and Mr. Sushanta Sharma, Director of National Investigation Department as members of the committee. They have mandate to submit the report within seven days, i.e., by May 26, 2021, and which has not been submitted yet.

The Asian Human Rights Commission (AHRC) condemns police actions involving beating and shooting during a minor dispute. The police officer was also drunk during his duty hours. It seems that the police in Nepal are regressing to medieval methods, and shooting to kill in order to maintain peace and order in society citing Covid-19 pandemic.

**We call upon the Government of Nepal:**

- **To thoroughly and impartially investigate the case,**
- **To make public the report of the investigation committee formed by the Ministry of Home Affairs,**
- **To take stringent legal action against the perpetrator/s,**
- **To provide justice and adequate compensation to the family members of the victim,**
- **To guarantee of non-repetition of such violations in future.**

We urge the readers to send the following letter to the authorities mentioned below.

**SEND AN APPEAL LETTER**

To support this case, please click here:

**SAMPLE LETTER:**

Dear \_\_\_\_\_,

**NEPAL: Torture and extrajudicial killing by the duty police officer of border out-post**

**Name of victims:** Abinash Rajbhar (Ray)

**Name of alleged perpetrators:** Duty Police Officer of Border Out-Post, Nathui Border of Susta Rural Municipality, Government of Nepal

**Date of incident:** 18 May 2021 to the present

**Place of incident:** Nathui Border (Nepal-India) of Susta Rural Municipality, Ward No. 5, West Nawalparasi, Lumbini Province, Nepal

I draw your attention to the following incident where a police officer used excessive use of force and even shot-dead Abinash Rajbhar (Ray) at around 9:30 am on 18 May 2021. According to the information that I know, Abinash Rajbhar (Ray) was injured in Armed Police gun firing near Nepal-India border at Nathui of Susta Rural Municipality, Ward No. 5, West Nawalparasi.

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Smriti Hospital, Chaupat, however, the Hospital referred him to the City Hospital, Butwal. The hospital declared him dead on arrival. He died on the way to the hospital.

But according to Anju Chaudhari, Vice-chair, of the Pratappur Rural Municipality, he was shot just below the waist at his thigh slightly injuring his private parts, and he died due to the excessive bleeding. The police opened the fire while the locals made arguments with the Armed Police Force (APF) deployed there about crossing the border. The Chief District Officer (CDO) Dharmendra Mishra said, "Initially the duty officer tried to stop around 5 people who were trying to cross the border but they presented aggressive behavior to the police. Later, more youths from the village arrived and began to attack the police, and the police officer opened fire in self-defense."

Likewise, APF 26 No. Headquarters' Superintendent of Police, Mahesh Adhikari informed that the locals attacked the duty police officer by pelting stones and ASI Shankar Budhathoki was severely injured on his head during the scuffle. He said that around 5 locals were trying to cross the border and argued with the APF deployed at the check-post. In the beginning, they did not listen the police's instruction. The youths summoned more (around 50/60) youths from the village later and started to attack on the police with stone and pebbles. The police opened fire on air first but police were forced to open fire over the crowd while they did not stop attacking. (<https://english.onlinekhabar.com/nawalparasi-youth-dies-in-police-squads-fire.html>)

However, the family members and eyewitnesses gave a different information about the incident. They said that the same police officer first let Bipin Rajbhar (Ray), youngest brother of Abinash Rajbhar (Ray), to cross the border to India and later they stopped him while he returned after shopping some cloths and medicines for his father.

That morning, Bipin had gone to India with the police officer's permission with Amit Rajbhar in his motorbike. Upon returning, they found that the police officer was drunk and was with a woman who smuggles goods across the border. The police officer snatched the motor-bike's key, and the argument started there. Bipin and Amit asked for the reason for letting them to go to India and stopping while returning. Upon this, the police officer assaulted and slapped them and said, "Do not be too smart." Then Bipin made a phone call to Abinash and informed him about the misbehavior by the police officer, and seizure of the motorbike's key.

After some time, Abinash arrived and saw Bipin's face down and in stress as he was assaulted and beaten by the Border Outpost Police. Getting angry, Abinash questioned the police, 'Why they let the smugglers cross the border for trading but stop the public who cross the border for emergency needs?' As the arguments was going on, the woman who was drinking with the police officer provoked him to fire. The police officer opened the fire directly targeting to Abinash. During the argument between Abinash and the police officer, some locals and passersby gathered there to listen to the argument, but it was only after the gun shot that 20-25 people gathered there.

On May 20, 2021, the Ministry of Home Affairs has formed an Investigation Committee in Coordination of the Joint Secretary Mr. Krishna Prasad Panta and APF DIG Mr. Kishor Pradhan, Nepal Police's SP Mr. Madhusudan Luitel, Home Ministry's Under Secretary Mr. Madhav Prasad Pokharel and Mr. Sushanta Sharma, Director of National Investigation Department as members of the committee. They have mandate to submit the report within seven days, i.e., by May 26, 2021, and which has not been submitted yet.

I condemn police actions involving beating and shooting during a minor dispute. The police officer was also drunk during his duty hours. It seems that the police in Nepal are regressing to medieval methods, and shooting to kill in order to maintain peace and order in society citing Covid-19 pandemic.

**I call upon the Government of Nepal:**

- **To thoroughly and impartially investigate the case,**
- **To make public the report of the investigation committee formed by the Ministry of Home Affairs,**
- **To take stringent legal action against the perpetrator/s,**
- **To provide justice and adequate compensation to the family members of the victim,**
- **To guarantee of non-repetition of such violations in future.**

I look forward to your prompt action in this matter.

Yours Sincerely,

.....

**PLEASE SEND YOUR LETTERS TO:**

1. Mr. Khadga Prasad Sharma Oli  
Caretaker Prime Minister  
Office of the Prime Minister and Council of Ministers of Nepal  
Singh Durbar, Kathmandu  
P.O. Box: 23312  
NEPAL  
Tel: +977 1 4211000  
Fax: +977 1 4211086  
Email: [info@opmcm.gov.np](mailto:info@opmcm.gov.np)

2. Mr. Bed Prasad Bhattarai  
Secretary  
National Human Rights Commission  
Pulchowk, Lalitpur  
NEPAL  
Fax: +977 1 55 47973

Tel: +977 1 5010015

E-mail: [complaints@nhrcnepal.org](mailto:complaints@nhrcnepal.org) or [nhrc@nhrcnepal.org](mailto:nhrc@nhrcnepal.org)

3. Mr. Ramesh Badal

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Email: [info@attorneygeneral.gov.np](mailto:info@attorneygeneral.gov.np)

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Inspector General of Police

Police Head Quarters

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Tel: +977 1 4412432

Email: [phqigs@nepalpolice.gov.np](mailto:phqigs@nepalpolice.gov.np)

Thank you.

Urgent Appeals Program

Asian Human Rights Commission ([ua@ahrc.asia](mailto:ua@ahrc.asia))

**SEND AN APPEAL LETTER**



## INDIA: Scam or a curious case of self-vanishing vaccines?

By Avinash Pandey

A massive vaccine shortage amidst the second wave of the Covid 19 pandemic ravaging the country and clocking a 3,000 plus daily death toll for almost a month is forcing many states to stop vaccination for the population aged under 44. The shortage, coupled with repeated increase in the gap between the two mandatory doses of the Covishield, the local name for the World Health Organisation approved Oxford and AstraZenca's vaccine, has left many who got their first dose in an endless, often traumatising wait. The extent of the crisis can be easily understood by the fact that the External Affairs Minister of India, Mr. S. Jaishankar is currently visiting the United States of America to secure more vaccines for the country. Ironically, this is almost an impossible task and a mere photo op given the prior commitments of almost all vaccine makers leaving no room for any early despatch for vaccines to India anytime soon.

Bafflingly, the data from the country shows an inexplicable mismatch in total production of the jabs in the country and their administration. It is also giving rise to serious questions about the vaccines that are seemingly disappearing on their own!

The mismatch first became known on 24 May, 2021 when the Union Government told the Kerala High Court in an affidavit that the [actual vaccination in the country was 57% below production](#). The daily production of the vaccines in the country stood at about 2.83 million as against only 1.2 to 1.3 million doses being administered per day. It is evident from the numbers that only 43% of the doses produced in the country a day are reaching the people with no account of the remaining 43%!

The Union Government had then informed the Court that India was producing 85 million doses of both Covid vaccines approved in India. The vaccines are Oxford Astrazeneca's WHO approved vaccine locally manufactured and known as Covishield by Serum Institute of India and Bharat Biotech's Covaxin which is still seeking WHO approval for emergency use. Of these, the government claimed, Serum Institute was producing 6.5 million a month while Bharat Biotech produced 2 million. The government also told the court that both were ramping up the production.

Bharat Biotech's own statements also corroborated the claims in the affidavit. Back in April, Krishna Ella, the company's CMD had asserted that the company [had produced 15 million doses of the vaccine in March](#), would produce 20 million in April and would further ramp it up to 30 million in May.

Unfortunately, the Court did not grill the government on the mismatch then though it should have and asked the government what was happening to the rest of the jabs!

The facts have just got even murkier by the revelation that Bharat Biotech did produce at least 85 million doses of Covaxin but the data shows that only 20 million of the same have been administered. Even if one takes into account the export (and also sale) of about 6.6

million vaccines to other countries under the ill-fated Vaccine Matri (vaccine friendship) diplomacy of the government of India from January to March, numbers do not add up. To begin with, most of the exports of the vaccine consisted of Covishield as it had already secured WHO's Emergency Use Approval unlike Covaxin for which there were few takers. Till date, only 11 countries have given approval to the use of Covaxin. They include Iran, Philippines, Mauritius, Mexico, Nepal, Guyana, Paraguay, Zimbabwe and, of course, India.

In any case, hit by the second wave itself, the government of India had cut down on the export of vaccines at the end of March promising to ramp it up in a 'phased manner'. Since then, the official position of the government of India has remained the same that it has not banned the exports. It is just that the world media is buying none of that and calling it a ban outright- as evidenced by this DW story titled [\*Africa scrambles as India vaccine export ban bites region.\*](#)

That said, it is apparent that India had hardly exported any vaccines after March so there is no way that Covaxin doses could have been exported. What then, could explain the inexplicable mismatch between production and administration of vaccines?

The world is getting increasingly anxious about India, and it is not only about the second wave ravaging the country. International Media, governments, business and civil society, all have been asking uncomfortable questions from the Indian authorities on a myriad of issues ranging from the country's pandemic situation to the growing attacks on the rights in the countries. It is not for nothing that India's External Affairs Minister S Jaishankar, in USA for procuring vaccines for India, was asked about ["Hindutva Policies"](#) (right wing majoritarian politics that often gets violent against marginalised communities including minorities) in Battlegrounds series of virtual conversations hosted by former US national security adviser HR McMaster for Hoover Institution of Stanford University. That someone with a fair idea of contemporary world order could even think of asking that question to EAM of a country battling pandemic should be warning enough for the government of the country.

The fact that this scepticism is coupled with serious doubts regarding official data on the pandemic should force it into immediate action. Rubbishing The New York Times estimation of the actual Covid toll of India being at least twice the official toll and more than 10 times (4.2 million!!!) is easy, it would not help India's case internationally though.

The government of India must immediately put its act together and answer all the uncomfortable questions with honesty. It can begin with answering where the 40 million Covaccine doses disappeared. It must, as it has serious implications for the country's capacity to import vaccines from other countries amidst a global shortage hitting the poorest countries the hardest. If India chooses to wait for someone else asking, why should we give you vaccines when your own are vanishing into thin air, it would be catastrophic for the country's health care system already bursting at the seams!

## **BANGLADESH: Families Take to the Streets to Demand Justice for Enforced Disappearances**

Families of victims of enforced disappearances and extrajudicial killings, took to the streets across Bangladesh to demand justice. The families organised human chains and rallies in different parts of the country. In the International Week of the Disappeared, the victims defied intimidation and harassment by the agencies of Bangladesh.

Parents, wives, children, and siblings of the victims of enforced disappearances came to the streets to raise their voice in demand of the whereabouts and return of their loved ones. They allege that they faced harassment and intimidation by the law-enforcement agencies while reiterating their demands. They await the factual details about what has actually happened to the disappeared persons. Many children do not know whether they have been orphaned forever by the State. Many wives question whether they are widows and should move on in life. The wives and children, despite being the legitimate heir, face uncertainty in inheriting the assets of the disappeared men. Unwarranted poverty becomes integral part of their life as the State deliberately refuses to resolve the matters by explaining the fate of the disappeared persons.

The struggles of endless waiting and pursuing justice is one of the hardest tasks in the given conditions created under Sheikh Hasina's authoritarian government. Bangladesh's incumbent government has institutionalised enforced disappearances, which is a crime against humanity under the Rome Statute of the International Criminal Court. The state's law-enforcement agencies, intelligence units, and the ruling party's goons work together to deny the disappeared their right to have access to justice. Members of the families face threats to their lives for pursuing and demanding answers and justice. The complaint mechanisms under the control of the police, refuse to register the cases of 'disappearances' with the names and ranks of their own colleagues within the police, the Rapid Action Battalion (RAB), and the Directorate General of Forces Intelligence (DGFI), who are allegedly responsible for the crimes. Lawyers hardly dare to help the victims file a petition to the Magistrate's Courts, due to lack of motivation and courage to 'fight against the crocodile while living in the same water<sup>1</sup>'. Habeas corpus litigations at the Supreme Court's High Court Division are expensive – both in money and time- especially for families who have lost their sole breadwinner. The High Courts intervention in the habeas corpus cases are extremely frustrating for the petitioner-victims, as no assertive remedies have ever been provided under the incumbent government.

Prime Minister Sheikh Hasina's government, defends enforced disappearances by making untrue and absurd statements. On one hand, the authoritarian government blocks the paths to redress, through denial of access to justice and through intimidating the families of the disappeared persons. On the other, the government blocks international human rights experts who wish to examine and verify the allegations. Since the institutionalised practice of enforced disappearances was adopted, the government has not entertained the invitation

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<sup>1</sup>A common Bangla saying.

of relevant human rights experts of the United Nations to visit Bangladesh. The calls for stopping enforced disappearances have been met with dumb denials.

The non-governmental organisations (NGOs), who receive foreign donations for human rights-based activities, need to come out of their comfort zone of maintaining silence on enforced disappearances. They should stand beside the victims of gross rights violations. If they are receiving money to consciously do human rights activities – they cannot and must not look the other way when gross violations to human rights are occurring.

The donors who fund Bangladesh need to understand - if they are not deliberately doing so - that their existing funding programmes have resulted in the extreme empowerment of authoritarianism and all that comes with it. Their ‘help’ appears to be counterproductive for the general people of the country and their civil and political rights. This authoritarianism has also rendered the justice institutions dysfunctional; and the process of democratisation has collapsed in that country.

The families of the disappeared victims find themselves in a situation where the options for seeking domestic remedies have already been exhausted and where the judicial system is either unable or unwilling to give them remedy. The international justice mechanisms for crimes against humanity seem to be the ultimate resort. Sensible segments of society need to build broader unity towards and in the struggle of transforming justice institutions and the system of governance, for a liveable Bangladesh for future generations. There needs to be a conviction in the society that without universal access to justice, sustainable development, alleviation of poverty and peace will remain unattainable.

## **SRI LANKA: A Man Who went in Search for food for his family beaten and killed**

### **Basil Fernando**

An incident reported from Waligama, Matara demonstrates the kind of very saddening situations which has been experienced by people in terms of the spread of Covid-19.

A young girl in a family was detected of having been infected with the virus and was taken to hospital for treatment. The rest of the family was asked to quarantine themselves by staying in their own house.

They stayed for three to four days using all that they had in terms of food and other necessities and finally that came to an end and they needed some supplies. As there was the fear of Covid-19, nobody came to their help. Even nobody came from the health department or any other government service to inquire about them or to help them in any way.

Finally the father, (49 years old man) decided to come to the town and to get some food and other items. The lockout has been imposed in the area but he had no alternative but to go and try to get some basic items. As he was walking, he came across two policemen who were on their motorbike. Some questions were asked probably about why he was breaking the rules and walking on the street. The man would have tried to explain but it turned out into an exchange of words between the two policemen and the man.

Near the two policeman was a person who is working for the police as a cook and a cleaner and doing odd jobs like that. The two policemen asked their helper to assault this man who was having an argument with them. At first, the helper hit the man not so hard twice. The two policemen insisted for him to hit hard. He did so and the man fell on the street. The two policeman who were watching thereafter went away in their motorcycles. All these has been caught in CCTV cameras.

As he was fallen, a bus was passing and it went over the man and the man died as a result.

Then the question came about the fact that there is a Covid patient in the family and there was the refusal to hand over the body to the family on that account. Family has to even to seek the help of the courts to get a order that the body should not be burnt and that it should be allowed to be buried after a postmortem. The postmortem was held and naturally because of the Covid situation, no family member was allowed in the vicinity.

Now it is said that even the man also had Covid and only very few close relatives are allowed even to attend the funeral.

This story is not told with the view to place blame on anyone. But to illustrate the tragic situations people can face under the present circumstances in Sri Lanka. Probably, the two policemen were also on the street not very willingly. Almost everybody is taking precautions by staying at home and protecting themselves, which is what they should do.

However, the police officers are asked to work even without leave and they are supposed to be running around all over the place attending to so many things and trying to deal with all kinds of complications arising out of the Covid situation.

Perhaps, if the policemen were aware of the pathetic situation under which this man has come from home and was trying to get some food, they may not have dealt with him in the way they in fact did. This is not said in any way by way of excuse about the behavior of the police but may be to indicate the kinds of problems that many people who had to do various duties relating to the Covid-19 were faced with. While that is there on one hand, there is also the problems of people who runs out of food and other basic items and who definitely need help.

Managing a situation of epidemic or which is widely spreading is of course no easy task. However, it is the duty of the government and the various layers of people who are attending to and coordinating the work of the government under these circumstances to develop various means by which the extreme situations could be avoided. There are many countries which has managed to do this and whereby extremely tragic incidents like this have been avoided.

This surely is not the only incident of this type that may be happening. However, this should give some food for thought to everybody to ensure that state of concern and care prevail to protect and to help people who are living through extremely abnormal conditions.

Now let us look at the different characters involved...

What could the two policemen say as arguments to defend what they did and what they did not do? Why did they not have a short moment to talk to this man who would have told them a story that would have moved them and that would have made them want even to do some act in order to assist him? Why were they not able to understand something as simple as the situation of a man who was going in search of food for himself and his family?

What would they say in defense of asking a helper in their police station to assault this man? If the man had done something really wrong, and if they reacted in anger, that is one thing. But to get someone else who was there and order him to assault is completely another. It is even worse when the helper did not want to hurt the man too much, the police insisting that to hit this man harder.

Perhaps the police did not want to hit him themselves because there were cctv cameras around and they would have known it. If that is the case, it does not make things better but much worse.

Why didn't the helper refuse to do or evade doing what he was asked to do? He could not have helped noticing that the man was in a helpless condition and yet that did not make any difference to him.

Once the man was fallen on the road, why did the two policemen leave the place without in any way trying even at least to get him out of the main road where he was likely to face an accident?

Why did the driver of the vehicle run over on the body of this man? He was already fallen on the road and any vehicle coming that way would have seen that. He could have stopped the vehicle or tried in other ways to avoid the accident. Instead, the driver ran over the body.

Even after that, there was no attempt to stop and help the man or take him to a hospital. This driver has not being arrested even as of yet.

There would also have been at least some passers by. What were their reactions?

### **A man was left to die.**

Since after the death, there was no attempt at all to help the family to deal with the dead man in a decent way. When the family somehow got to know and arrived, they found that there were plans to burn the body. They had to seek the help of a lawyer to get the order from a court, disallowing the cremation of the body and also to have a postmortem.

Even through all these orders, even after the death, there was no attempt by any of the authorities to be helpful to the family who has suffered the tragedy.

Are these all some kinds of accidents or is there something much more deeper going on? Does the matter of a family going hungry is no longer a matter of any significance? A matter of getting someone by the police assault another, is that also something that no longer matters? Is the running of a vehicle over the body of a man and causing his death, is that also another occurrence like many others that are taking place on the roads? Same type of questions could be asked about what happened after the death.

The more important issue is not that. What is most significant is as to whether asking these questions any longer any relevance. Are these questions belonging to a different time and bygone period? Asking questions about tragedies seems a futile exercise in itself.

This is not just about one thing. But this seems to be the overriding situation about everything. A government writes a bill as they did in the case of the Colombo Port City Commission bill. It is taken to the Supreme Court and Supreme Court finds that it is substantially against the constitution. Just within two days some amendments are automatically included and the bill is passed. Is there any point in asking whether that is the way the laws should be passed? Is that the way to deal with the problem relating to laws that contravene with the constitution? Is that the way to conduct a debate in the parliament ? The answer would be what is the point in asking any of these questions.

We have reached a stage at which no arguments are needed to justify or to contradict anything. Power is exercised because exercise of power itself is the justification for the use of the power. No other justifications are necessary.

We no longer live in a situation where laws are violated but we are in a situation where the word 'violations' themselves does not have any significance. In fact the word 'law' itself has no significance.

Although this particular incident and other incidents that are happening everyday demonstrates this fact, no one any longer takes notice of it. Absence of law and a sense of law enforcement is a matter of no significance. Filing of charges on serious crimes is also not a matter of much significance. All this could happen and not happen, by an act of power. Not by an act of logic or an act of law.

The parliament itself seems to be a place where arguments no longer matter. Shouting at each other is the game. And the game is shown in the television. If it was done by way of a drama, people would consider it as a comedy. That a scene in the parliament and a scene in a comedy is not very different seems also to be a matter of no significance.

It is not possible to suggest a solution to the problem faced by this man who went out in order to buy some food for his hungry family. Whatever may be done at the moment if there is some pressure would at the end nullified by a total indifference to all these things?



## **INDONESIA : Victims and Justice Seekers must be included in the Sustainable Development Goals**

"No one left behind" is the main principle of implementation of the Sustainable Development Goals (SDGs).

Will the principle apply in Indonesia? Will the Government include victims and families of victims of human rights violations in the implementation of SDG's?

In the Indonesian context, we can see a strong relation between SDG Number 1 on poverty and SDG Number 16 on Peace, Justice and Strong Institutions. To prove the link, this note will share important instances from Indonesia, as follows:

### **Poverty and Past Human Rights Abuses**

In Indonesian history, Suharto was President of the Republic of Indonesia for 32 years. He left many legacies. A few of them are gross violations of human rights, a weak Judiciary System and regulations. The regulations were not in favor of poor people, and vulnerable minority groups.

Under Suharto, various cases of gross violations of human rights occurred. Some nine (9) examples are: student shooting at the University of Trisakti and Semanggi, 1998-1999; kidnapping and enforced disappearance of Student Activists in 1997-1998; Talangasari Massacre in 1989; the 13-15 May Tragedy; mysterious shooting 1981-1983; Tanjung Priok case in 1984; the 1965-1966 Massacre; Military Emergency in Aceh in 1989 to 1998 and 2003 and human rights violations in Papua.

On average, victims and family victims of past human rights abuses live in poverty. The causes of poverty are land grabbing and forced eviction by the Government on behalf of development. Moreover, in many cases, husbands as the backbone of the family, disappeared or were killed by Security Forces. Young boys were shot or forcibly disappeared. There was discrimination, continuing impunity because of no justice or remedy, and no attention from the Government to provide or support the basic needs of victims and their families.

Many victims and families of victims of past human rights abuses do not have jobs and do not own land. Meanwhile, they are not young anymore and do not have enough money to develop a business. So, they live with poverty and illness. Even after Suharto stepped down in 1998, many of them still live in poverty.

### **Poverty and Labor Unions**

In Indonesia, the Labor Unions still face serious problems, such as threats against freedom of expression, assembly, association, and freedom of opinion. The Labor Unions frequently become targets of criminal charges under the Indonesian Penal Code, in particular, the Article of Criminal Defamation.

As COVID-19 came around, Labor Unions faced more difficult circumstances. Many members of the union lost their jobs due to companies and factories closing and reducing employee numbers significantly. Unfortunately, the Parliament enacted a controversial law known the Job Creation Law without sufficient public hearing. Labor Unions do not have opportunities to organize peaceful protests against the enactment of the Law. Why? Because the Government prohibited all forms of public protests during the pandemic COVID-19. Labors did not have any choice. They lost their jobs and are without enough capital to start a new life. The number of poor people in Indonesia increased during the pandemic COVID-19. Based upon the National Statistical Body (BPS), poverty numbers increased in September 2020; the number of people in poverty is 27,550 million with an increase of 1.13 million people in March 2021.

Indonesia is one of the countries which still applies the National Law which regulates Criminal Defamation in the Criminal Code. The Electronic Information and Transaction Laws are frequently enforced to prosecute human rights activists and opponent groups, including labor activists.

In practice, there is no clear boundary between the right to freedom of expression on the one hand and criminal defamation on the other. Therefore, human rights activists in Indonesia still face criminal charges under the law regulating criminal defamation. The Law should be abolished because it is in violation of international human rights standards and principles.

## **Poverty and Minority Groups**

### **PAPUA**

Indonesia has not yet fully become home to minority groups, ethnics and religious minorities. Discrimination, persecution, and restrictions on freedom of expression are still major problems for Papua. The indigenous Papuans still experience various acts of violence and torture. This includes not only people who are living in Papua, but also Papuan students in dormitories outside of Papua Island, such as Surabaya, Yogyakarta and several cities in Indonesia.

The basic problem in Papua is that impunity and a weak Judicial System still remain. Various behavioral patterns such as torture are still taking place. Look at the case of Michael Ipnun, an indigenous Papuan. He was tortured to death by four members of the Civil Service Police Unit (Linmas). Michael was found dead with his hands tied behind his back.

Another example is that of the case of Army personnel Yonif 755 / Yalet. He was unlawfully arrested and detained. Isak tortured him to death in Kimaam, Merauke Regency, Papua Province.

## **Shia Minority Religions**

Besides the problem of ethnic minorities, there is also the problem of minority Religions, namely the Shia congregation in Sampang Madura Regency of the East Java Province. In 2012 they were forcibly evicted from their homes. They lived in flats for many years without sufficient support from the Government. They were forcibly evicted from their hometown, their houses were burned, and their land was confiscated by the residents. As a result the Shia Congregation lived in poverty. The children did not have enough food and lacked an education. Up until the present, the Judiciary failed to prosecute the perpetrators and failed to ensure Justice for victims and their families.

## **The Ahmadiyya Minority Religion**

The Ahmadiyya Minority Religion is in West Nusa Tenggara Province. In 2018, they were forcibly evicted from their hometown in Grepek village, West Nusa Tenggara Province. Law Enforcement Agencies and the Judiciary failed to ensure justice for the Ahmadiyya Congregation, whereas the offenders enjoyed impunity even now. A similar case occurred in 2004. The Ahmadiyya Congregation was forcibly evicted from their hometown and lived more than 10 years in public buildings.

Most of them live in poverty because do not have proper jobs and do not have land for cultivation. They depend on voluntary aid from the Community or Human Rights Organizations; at times the Government provides aid for them. The Judiciary has failed to prosecute the perpetrators who attacked the Ahmadiyya Congregation, whereas the offenders enjoy impunity.

In this regard, the Asian Human Rights Committee would like to draw to the attention of the Indonesian Government the following action--seriously implement the Sustainable Government Goal, DG No.16. It should be the center of all SDG's. Without seriously promoting and implementing SDG-16, the other number of SDGs are difficult to achieve.

## **BANGLADESH: Government Abuses COVID-19 Lockdown for Mass Arrests and Muzzling Freedoms**

The Bangladesh Government continues its ruthless campaign of gagging freedom of expression and freedom of peaceful assembly. In the spree of muzzling the people's freedom of expression, hundreds have been arbitrarily detained under the Digital Security Act-2018, Anti-Terrorism Act-2009, Special Powers Act-1974, Official Secrets Act-1923, the Penal Code-1860, and other draconian laws under the incumbent Government of Sheikh Hasina.

### **Investigative Journalist Detained for Spying:**

Rozina Islam, a senior reporter of the *Prothom Alo* (a largely circulated national daily), is the latest Journalist to face detention in Bangladesh, allegedly for her investigative journalism. She was, first, confined for five hours at the Ministry of Health located at the Bangladesh Secretariat - the bureaucratic headquarters of the country, on 17 May 2021. In the evening, Rozina was brought to the Shahbagh Police Station with the criminal case under Section 379 Punishment for theft and Section 411 Dishonestly receiving stolen property of the Penal Code-1860 and Section 3 Penalties for spying and Section 5 Wrongful communication, of information of the Official Secrets Act-1923.

Dr. Md. Shibbir Ahmed Osmani, Deputy Secretary of the Health Services Division of the Ministry of Health and Family Welfare has filed the case against Rozina Islam with the Shahbagh Police Station of the Dhaka Metropolitan Police (DMP) on late May 17, 2021. On 18 May, the Police produced Rozina before the Chief Metropolitan Magistrate (CMM) Court of Dhaka and sought her remand for five days. Magistrate Mohammad Jasim rejected the remand petition, ordered her detained in prison, and fixed 20 May for hearing the bail petition. Metropolitan Magistrate Baki Billah on 20 May heard the bail petition and decided to deliver the decision on 23 May after 'examining the documents in relation to the case'. The Magistrate granted bail to Rozina on condition of BDT 5,000 surety and surrendering her passport to the Court. She has been released on the same day evening from Kashimapur Women's Central Jail at Gazipur after her six days' detention. The Detective Branch (DB) of the Police is assigned to investigate the case.

Rozina's confinement and subsequent detention in the case has sparked protests online and off-line among the Bangladeshi public. It is mostly understood as retaliation for her journalist works that revealed scandalous corruptions of the Ministry of Health in handling the COVID-19 pandemic. Demands for Rozina's release were growing since she was detained. Detaining an Investigative Journalist on a spying charge under a century-old Colonial Law indicates the brutal attitude of the Sheikh Hasina Government towards the freedom of press in Bangladesh.

### **Journalist Detained for Facebook Post Critical of Khulna City Mayor:**

Abu Tayeb Munshi, a journalist of the National Television (NTV), *Dainik Loksomaj* and *Khulna Gazette*, was arrested at his residence at Nurnagar in Khulna City on 20 April 2021

under the Digital Security Act-2018. Abu Tayeb made a Facebook post about alleged corruption involving a private company owned by Talukdar Abdul Khalek, Mayor of Khulna City Corporation and President of the city unit of the Bangladesh Awami League (BAL) - the ruling party of the country. Abu Tayeb's Facebook post was substantiated by official documents of Mongla Customs House Authorities where the Mayor's name and signature was found in relation to evading custom duty. Acting Chief Metropolitan Magistrate, Sumi Ahmed, of the Chief Metropolitan Magistrate (CMM) Court of Khulna on 21 April 2021, ordered detaining Abu Tayeb in jail. On 22 April, Metropolitan Magistrate Tariqul Islam, and on 28 April, Metropolitan Sessions Judge Shahidul Islam rejected Abu Tayeb's bail petitions. On 5 May, a High Court Bench granted him bail. Subsequently, on 12 May, Abu Tayeb was freed from jail. The case against the Journalist remains pending.

### **Pro-Opposition Newspaper Journalist Languishes in Jail:**

Ruhul Amin Gazi, Chief Reporter of *The Daily Sangram* - a pro-opposition newspaper representing Bangladesh Jama'at-E-Islami (BJI) party, has been languishing in jail for more than seven months since he was detained on 21 October 2020. He is charged in a sedition case, which was originally filed under the Digital Security Act-2018 against the newspaper's editor Abul Asad, who served an arbitrary detention from 13 December 2019 to 7 December 2020. *Muktijuddho Mancha* - a pro-ruling party group physically assaulted Abul Asad, vandalised the newspaper office, and filed a case against him for publishing an article. It named Abdul Quader Mollah - a senior leader of the BJI party who faced the death penalty in a controversial trial, a 'martyr', which offends the narrative of the supporters of the incumbent government. Subsequently, the Police detained the Newspaper Editor who faced arbitrary detention for a year and the Chief reporter Ruhul Amin Gazi is still in jail for seven months. In contrast, the perpetrators who assaulted Abul Asad and vandalised the newspaper office are at large without any complaint for the crime they had committed.

### **A Panicked, Abducted Journalist Reappeared after Four Days.**

Golam Sarwar - a journalist of Chottogram based Online News Portal www.ctnewsbd.com, was abducted and remained disappeared for about 96 hours since the morning of 29 October 2020. He was found unconscious in a ditch at the Kumira Bazar under Sitakunda Upazilla of the Chottogram Port District. The local people called the Police after seeing Golam Sarwar. He was taken to the Chottogram Medical College Hospital for treatment. After regaining consciousness, Sarwar screamed in panic and repeatedly said, "I will not write news anymore!" Two reports are believed to have connections with the abduction and torture of Golam Sarwar.

A week before the abduction, on 23 October 2020, Sarwar wrote a report alleging that Anisuzzaman Chowdhury Ronny, brother of Minister for Land Saifuzzaman Chowdhury Javed, grabbed the land of a businessman in the port city. Following the report, the minister's brother Anisuzzaman Chowdhury filed two defamation cases against Golam Sarwar and served Legal Notice.

Golam Sarwar, on 27 October 2020, published another report on gambling at illegal casinos in Chottogram port city involving a pro-ruling party politician's son. On the morning of 29 October Sarwar was abducted and remained disappeared. His unconscious body was found at around 8:00 PM on 1 November 2020.

On 4 November, Sarwar registered a case with the Kotwali Police of Chottogram city against six unidentified people for abducting him. The investigation of the case made Sarwar more frustrated due to the negligence and insincerity of the Police. He expressed his frustration in a press conference at the Chottogram Press Club on 12 April 2021. He alleged that the Police Officers did not behave responsibly when he enquired about the progress of his case. The possibility of affording justice to journalist Golam Sarwar appears to be almost impossible in the given context of Bangladesh.

### **Journalists Attacked After being Terminated En Masse from Pro-Government Newspaper:**

The *Daily Janakantha* - a pro-ruling party, national vernacular newspaper, terminated 26 journalists on 15 March 2021. The management of the Daily sent emails to the Journalists notifying them about the terminations of their jobs.

The sacked Journalists protested against the decision of mass termination. On 11 April 2021, the sacked reporters and leaders of the journalist bodies came to protest in front of the Globe-Janakantha Building. The protesters found the main gate locked to prevent them from entering the premises. They also reportedly locked the gate from outside and starting protesting on the street. A group of hoodlums from the newspaper management section attacked the protesting journalists. Ten journalists were injured in the physical attack from sticks, iron rods and bricks. No redress has yet been available for the affected and injured journalists since the incident.

### **Workers' Leader Arbitrarily Detained in Digital Security Case:**

Ruhul Amin, coordinator of Sramik-Krishak, Chhatra-Janata Oikya Parishad in Khulna, was picked up from persecuted cartoonist, Ahmed Kabir Kishore's family house, at Goalkhali, Khalishpur, Khulna city, at 10:00 PM on 26 February 2021. Ruhul Amin criticized the Government on Facebook for the prolonged arbitrary detention of writer Mushtaq Ahmed. Mushtaq died in prison on the 297th day of his detention without bail. The following day the Police implicated Ruhul in a case filed under the Digital Security Act-2018. The Police accused him of 'tarnishing the image of the State', 'defaming the Government', and 'spreading confusing information' through Facebook. The Chief Metropolitan Magistrate (CMM) Court of Khulna placed him on a two-day Police remand. After the remand period Ruhul was detained in the Khulna Jail. His bail petitions were denied on March 1 and 14 at the CMM Court. On 19 April, the Metropolitan Session Court Judge Shahidul Islam granted bail to Ruhul Amin. After 51 days of arbitrary detention Ruhul was released from jail on the evening of the same day.

### **Mass Arrests of Anti-Modi Protesters:**

Peaceful protests had erupted in Bangladesh, after the Government made India's apartheid politician and incumbent Prime Minister Narendra Modi the chief guest, to celebrate the Golden Jubilee on 26 March 2021. The Government maintained its brutal characteristics by retaliating against the peaceful protesters. The Police, Rapid Action Battalion (RAB), and the ruling party's student wing Bangladesh Chhatra League (BCL) unleashed violence against the peaceful protestors. The BCL attacks left numerous protesters injured. The victims include ordinary students, workers, and leaders of pro-opposition entities. It included the Progressive Students' Alliance, Bangladesh Chhatra Odhikar Parishad, Bangladesh Jubo Odhikar Parishad, and Hefazat-E-Islam - a close ally of the ruling party.

Bangladesh's Sheikh Hasina Government launched mass arrests against the Anti-Modi protesters since the celebration of the golden jubilee of the country's independence. Leaders and activists of the *Bangladesh Chhatra Jubo and Sramik Odhikar Parishad* (Student, Youth and Workers' Council) and *Hefajat-E-Islam*, a recently defunct pro-ruling party organization, were made the prime targets for arbitrary arrests and detention in the aftermath of the Anti-Modi protests in the country. The Government slowed down internet speed and restricted Facebook, to curb communication and publication of the attacks on the protesters.

### **Student Leaders Arbitrarily Detained:**

Among the student leaders, Akhter Hossen, president of the Dhaka University Unit of *Bangladesh Chhatra Odhikar Parishad*, secretary Akram Hossain, its former President Bin Yamin Mollah, and, at least 58 leaders were detained. The BSRC claimed that across the country 69 were charged in criminal cases until May 6, 2021. There were allegations of torture in custody against the detainees who were initially denied access to lawyers.

### **An Islamic Leader Dies in Custody as Dozens Face Arbitrary Detention:**

Among the Islamic leaders, *Hefajat-E-Islam's* Organizing Secretary Azizul Haque Islamabadi was abducted on 11 April 2021 from Chottogram. He remained disappeared for hours until the Detective Branch (DB) of the Police admitted his arrest following criticism in the social media. He was kept in Police remand for seven days in a case registered on 6 May 2013 in Dhaka. Mufti Harun Izhar, Education and Cultural Affairs Secretary of Hefajat-E-Islam, was arrested by the Rapid Action Battalion on 28 April. The organization's immediate past Joint Secretary General, Maulana Iqbal Hossain DIED in prison custody on 20 May. The Rapid Action Battalion - RAB-11 arrested him on 11 April. The police took him in remand through the Court's for three days in separate cases. He was allegedly tortured in custody that triggered a disorder resulting in his death in custody.

### **Exploitation of Lockdown to Contain COVID-19:**

The Bangladesh Authorities are exploiting the COVID-19 pandemic to curb the use of Civic Space. A country-wide lockdown was imposed since 14 April 2021 to contain the spread of the pandemic. The Government maintains South Asia's poorest testing facilities coupled with a high undercount of infection and death. Its Vaccination Program had to be suspended due to the shortage of supplies from the Government's preferred lone source. The country's law-enforcement agencies, including the Rapid Action Battalion (RAB) and the Police, are apparently using the condition of lockdown to abduct, arbitrarily detain, and torture the targeted activists and leaders of the dissident entities.

The victims are systematically denied Access to Justice under the subjugated Judicial system in place. Affording justice to the victims of arbitrary detention, torture, and custodial death is absolutely impossible under the incumbent Government and the incompetent justice institutions. The situation will remain so until the restoration of a Democratic System takes place in Bangladesh leading to the transformation of the Criminal Justice Institutions.



## **SRI LANKA: Colombo Port City Economic Commission - An authority without any real authority**

The Colombo Port City Economic Commission Bill has been passed. However, the Bill that was passed was not what the Government wanted. The decision of the Supreme Court which held that 25 of the proposed Clauses contravened the provisions of the Constitution and that 9 of them require a referendum meant that the Government had to revise the Bill. From a legal point of view, these revisions are of a fundamental nature. Therefore, the Bill that was passed is substantially different to the Bill that the Government wanted to have the consent of the Parliament for.

These substantial alterations are not just a matter of the letter of the law. They have far reaching economic and political consequences. The Government's design for the original Bill would have been at the request of the investors who wanted certain conditions for engaging in business and bringing in investments to the Port City. The Government originally agreed to these conditions and drafted the original Bill in keeping with these demands. Now, the Government has disappointed the investor or the investors. The conditions that they thought were prerequisite for the security of their investments are no longer available.

Now, besides this disappointment, there is a further factor about the nature of the authority that is the nature of the Commission which was supposed to have all the power to run this City. Because of the intervention of the Supreme Court, the Government had to give some guarantees about who will be appointed to this Commission. That at least five of them will be Sri Lankans has now been agreed upon. This would also mean that at the management level itself there is a conflict between what the investor or the investors wanted and what has now been stipulated upon. That is a major distinction in the design of the management of the City itself. That the investor or the investors are going to be able to dictate their own terms and carry out those terms in the manner that they think fit is now under challenge. That too would be a problem of a very substantial nature.

All of this leads to the kind of authority that the Port City Commission would have in the actual practical administration of the City. If the authority itself cannot function in the manner that the investor or the investors wanted, then there is bound to be conflicts of a very serious nature that would develop from the inception of any attempt to implement this Law.

That brings up the issue as to why the investor or the investors wanted the type of conditions that were included in the original Bill that was presented to the Supreme Court. While there can be many reasons, one important reason is that the investor or the investors have through their previous intelligence gathering and previous knowledge and experience of Sri Lanka become aware that the country's system of governance is in serious crisis and that the strict enforcement of the laws to guarantee security for investment is not possible in Sri Lanka. This of course does not come as a surprise to anyone. Perhaps the one issue on which there is general consensus in Sri Lanka is that the country has become a lawless

society and that this fact is at the root of all the management problems that the country is faced with. At the very moment when the Law was passed, there was a great conformation of this management failure by way of the spread of Covid-19 throughout the country and the cries of help that are heard from all over the country. The country's system of management is unable to respond even to such a huge cry for help as it is felt today. It may not be an exaggeration to say that such a huge cry has never been heard in the recent history of Sri Lanka, despite the fact that the country has gone through very hard times of instability for several decades. At the moment, from every house in Sri Lanka, there is heard, cries of anxiety and in a considerable number of instances, cries arising from the loss of life and the threat of the loss of life.

The management system is in such a crisis that it is unable to prioritize spending in order to deal with the major crisis in the country. In any country, when a crisis reaches this kind of proportion, the entire country will be put on the greatest possible alert and all the expenditure that is necessary will be made and all the pleas will be made to the population itself to contribute as much as possible within their power in order to get over this problem as soon as possible. There are countries which when faced with most desperate situations went on to the extent of contributing by way of the sale of even their very personal belongings like gold and other items to deal with the crisis. However, a Government that is not willing to spend out of its own purse all the necessary resources in order to deal with the crisis cannot demand such sacrifices from the people. That is the extent of the management crisis that exists in Sri Lanka.

It is in a country like this that this Port authority is to function. It will function within that sea of mismanagement. It is to be a small island within a sea of instability and lawlessness.

That brings us to a question about the nature of the authority that could be exercised by the to be established Port authority. It is well known that the development of any city implies a huge increase in crime. A fundamental problem about urbanization is that it brings with its progressive aspects also very negative aspects such as the tendency towards extremely serious crimes particularly relating to finance, trade and other issues which are to be dealt with by the law enforcement authorities. We know that at the moment the country's law enforcement mechanism which works primarily within the framework of Sri Lanka's policing system has reached its lowest depth. It is completely unable to manage the situation of crime and the greatest manifestation of this is the much talked of bomb blasts relating to the Easter Sunday attacks in 2019. The talk in every corner is about crime both on a big and small scale.

It is also well known that the Sri Lankan criminal investigation capacity is at the moment at the lowest level. Due to political reasons of wanting to avoid prosecutions arising from crimes that have been previously investigated, the criminal investigation system has been brought under the most serious undermining that it has ever experienced. With many of the achievements of the system in the past now having been lost with any serious investigator fearing that due to political reasons, he or she could get himself or herself into more serious trouble by conducting investigations into crimes rather than avoiding investigation. Therefore, the question arises as to who will keep the law and order within the Port City.

As said before, being a City, it has to be expected that it would bring in among other things, the problems of very serious crimes. Big money always brings in big crimes and big criminals. To bring in very serious crimes without having a criminal investigative capacity and criminal administration capacity is to invite a disaster. What is worse is that it will make the administration by the new Commission almost a very difficult task. Attempting to manage where law enforcement is not possible particularly within an urban context is to pursue an illusion.

Thus, the new Law relating to the Colombo Port City Economic Commission has brought more problems to the Government, to the investor or investors and to the population at large than it could ever contribute to resolve.

Some spokesmen try to compare the proposed Port City to a place like Hong Kong. That reveals that they have no clue about the way Hong Kong is administered. Hong Kong had the same laws that the British introduced over 200 years back. It also has a most independent Judiciary, and a policing system that is capable of dealing with crimes. Above all, it has the Independent Commission Against Corruption (ICAC), one of foremost anti corruption agencies in the world. It is this legal foundation that has made Hong Kong an investor friendly place. It is the totality of Hong Kong, that attracts investment and not some small ghetto, which is what the proposed Port City is. The strength of Hong Kong is its commitment to the rule of law, in the most meaningful sense of that phrase. That is what Sri Lanka lacks.

Till this problem is resolved, Sri Lanka cannot expect investors to take serious notice of Sri Lanka.

The new Law on the Port City Economic Commission has messed things up even further.

## MYANMAR/BURMA: Myanmar Situation Update (17 to 23 May 2021)

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The Asian Network for Free Elections (ANFREL) released the [final comprehensive report](#) of its international election observation mission to the 2020 Myanmar general elections and said “*it is its informed opinion that the results of the 2020 general elections were, by and large, representative of the will of the people of Myanmar*”. It also said despite the raging COVID-19 pandemic, 27.5 million people voted thanks to the hard work of polling staff and election or health officials, their voices cannot be silenced. ANFREL has identified the election postponement, disenfranchisement of the Rohingya community and the other ethnic minorities, legal framework outlined by the 2008 military drafted constitution as the shortcomings of the election that has to improve in future elections. International and local media reported the findings, and diplomatic missions of Canada, US, UK, New Zealand, Switzerland to Myanmar also quoted ANFREL in their social media accounts with its full report.

The junta-appointed Union Election Commission (UEC) called for a meeting with the political parties on 21 May in Nay Pyi Taw and 59 political parties joined. The popular parties like National League for Democracy (NLD), Shan Nationalities League for Democracy, Arakan National Party, Democratic Party for New Society did not attend the meeting while a representative of the People’s Party, known as a pro- democracy party attended. The party faced mass resignation over the decision that seven out of 20 central executive committee members resigned, including co-founder Ye Naing Aung. At the meeting, the junta- appointed election commission chair Thein Soe said they will dissolve the NLD due to “electoral fraud” and the regime will prosecute NLD leaders as “traitors”.

The protests continued in different parts of Myanmar despite the crackdown by the junta. Tension between the junta forces and the civilian resistance fighters increased during the week that the situation in Mindat, Chin State further escalated after junta forces entered Mindat. The junta has blocked road access to the town and cut off its water supply, making life very difficult for those who stayed behind. Local media also reported the locals fled to the nearest forest due to the attacks on Mindat town and they desperately needed emergency support for food and medicine.

The clashes between the junta forces and the civil resistance fighters also emerged in several places in Kayah state such as Loikaw, Hpasawng, Demoso, and Bawlake townships. Media reported that emergency support on food, shelter and medicine were needed in IDPs camps of Kayah.

Kachin Independent Army (KIA) forces also clashed with the Myanmar military forces over the week in Kachin state, Sagaing region and Shan state. Continued fighting with KNU forces and military has also left many to flee to Thailand. The civil society

organizations based in Thailand and Thai-Myanmar border urged the Thai government to delay the repatriation of Myanmar refugees and allow war refugees and displaced persons at the Thailand-Myanmar border by the Salween to have access to humanitarian aid. According to Indian government officials, more than 15,000 had sought refuge since the Feb. 1 coup. A local official of the Union Election Commission (UEC) in Magway Region was also tortured to death by junta troops.

According to the information compiled by ANFREL, at least 57 bomb blasts happened across Myanmar in the past week. It was reported that at least 11 people died including a nine-year-old boy, and at least 40 were injured.

International Crisis Group reported that Myanmar's junta is seeking to limit access to the internet to an internal network of only "whitelisted" sites to quash opposition. Reports said that military and intelligence agencies are conducting some tracing of SIM cards and interception of calls.

United Nations General Assembly vote on 18 May on a draft resolution calling for "an immediate suspension of the direct and indirect supply, sale or transfer of all weapons and munitions" to Myanmar has been postponed. The US Office of Foreign Assets Control (OFAC) designated 16 individuals and one entity connected to Burma's military regime including adult children of previously designated senior Burmese military officials and the UK extended its sanctions to Myanmar Gems Enterprise, a distributor of jade and other precious stones.

According to the Assistance Association for Political Prisoners (AAPP), as of 23 May, 818 people were killed by the junta. 4,296 people are currently under detention and 95 are sentenced. 1,822 warrants have been issued. 20 were sentenced to death and 14 to three years imprisonment

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