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Neglect & Loss

(Reports and Commentaries on Current Problems)



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SOUTH KOREA: HOW to HONOUR the heroes of the Gwangju uprising in 1980?

On May 18th, the Gwangju uprising is being celebrated in the Republic of Korea as well as elsewhere. It has been the position of the Asian Human Rights Commission that May 18th should be recognized as a universal day of commemoration and also reaffirm the commitment to democracy, human rights and human dignity.

The most admirable aspect of those who gave their lives in defence of democracy and human rights in Gwangju as well as several other parts of South Korea is that they preferred to die rather than to live under a military dictatorship and under oppression. They had a choice not to go down that path but they chose otherwise. Today, South Korea is what it is because of those who made such sacrifices.

When the Conditions of life in South Korea was appalling

Perhaps, what is forgotten today in South Korea which is today an affluent country is that not once but many times they were under severe forms of repression, brutal colonial controls, as well as horrendous military controls. The people have suffered enormously under those conditions.

It is necessary to recall this today because all around Asia, and particularly in South Asia and South East Asia, people are suffering enormously under conditions of horrendous forms of repression. In many countries, the system of governance and management has so drastically collapsed that people no longer have the protection of the law. Democracy is undermined in severe ways in favour of more authoritarian and sometimes anarchical forms of Governments. What life was for South Koreans some decades ago is what life is for vast millions of people today.

Collapse of governance and the management structures within society is manifest in most blatant ways at this moment when the Covid-19 pandemic is claiming large numbers of lives in India and in all South Asian countries and also some of the South East Asian countries. Leading voices in India have called the kind of deaths that are occurring in their country being a result of failed governance, an act of neglect which would amount to a crime against humanity. That is not an emotional outcry, but the expression of reality.

While Covid-19 is a recent problem, the process of the collapse of governance in many of these countries is a long term problem. Bad systems of policing, the near non-existence of credible criminal investigation systems which act on the basis of internationally acceptable standards, highly negligent and politicized prosecutorial systems and the marked collapse of the independence of the judiciary are the normal conditions under which people in these countries live. Any average person living in these countries, if asked, will describe, what a nightmare their life has become.

This tragic situation in these countries has gone unnoticed. When the Jews were being put into concentration camps and gas chambers, the world was silent. All the expressions of horror came only after the war when pictures of what had happened began to be exhibited through various forms of media. When Cambodia collapsed under the 1975 - 1979 regime of Pol Pot, the world was again silent. All the concerns about Cambodia's people came only many years later and by then the damage that would last for many decades to come had already taken place

The inherent incapacity to deal with an emerging catastrophes

There seems to be some inherent incapacity to deal with an emerging catastrophe as it takes place. This is so particularly true in the field of human rights and democracy. Perhaps, on an occasion like the present, when we celebrate a significant historical event, it is better to spend a little time to ask as to why such delays take place.

In the human rights movements and democracy movements in particular, one reason stands out more than others. Most articulate voices and those with control over resources for the promotion of democracy and rule of law come from developed countries. In the post Second World War period, they have not seen the kind of horrors that the developing countries are going through. Besides that, centuries of development of the systems for the administration of justice, like the policing system, criminal investigation systems, the prosecutorial systems and also the judicial system provides for these developed countries an umbrella of protection. We are not saying that these institutions are perfect. However, they are working reasonably well and the people who grow up in these countries grow up in that environment and acquire their intellectual perceptions on the basis of their own lived experiences.

Conditions of people living in less developed countries

However, the lived experience of less developed countries is so different. Unfortunately, despite a movement for human rights, particularly beginning with 1948, while many things have been done, the global understanding of the life of people who are living in developing countries has not been grasped thoroughly by the global human rights community. The leaders of the global human rights community very often prescribe remedies based on their own historical experiences without any understanding of the kind of illness they are dealing with in terms of democracy, the rule of law and human rights in developing countries.

It would not have been difficult to create a vibrant dialogue between the developed countries and developing countries if there was a realization of the vast gap of consciousness and understanding that prevails between the two camps. All that was needed was to come into contact with people of developing countries who will express very clearly the existential conditions under which they live. However, there are no forums for such kind of discussion.

The Asian Human Rights Commission has tried to raise these issues even with the globally powerful human rights organizations. None of the issues like the reform of bad policing systems, widespread torture that daily takes place through Police stations, routine problems of extrajudicial killings and disappearances, widespread rape and the abuse of the rights of women and also the large scale abuse of the rights of children, the large scale plunder of natural resources, and the destruction of the environment and vast problems created in ecology which in turn creates serious health problems by contamination of food and drinking water, have received adequate attention at least by way of a discourse that could be called an authentic one. The Asian Human Rights Commission for several decades has pointed out that a democracy cannot exist if the judicial systems are undermined to an extent that the judges will have to pay a heavy price if they are to act independently, particularly on matters that are dealing with the wrongdoings of the Executive. It has also been pointed out that the prosecutorial systems can be so contaminated by political factors that instead of serving to protect

the people, these institutions will protect the Executive from the people. Worst of all are terrible conditions of highly corrupt and irresponsible policing systems that prevail in these countries.

These factors create a conflict of democracy because when these factors prevail, Governments cannot exercise a proper management over a country. When management structures break down, not only civil and political rights but also economic, social and cultural rights gets deeply affected. The right of education, the right to health and the right to proper food and drink and all the other factors that goes in the name of human rights are also completely undermined when the management fails. And the management failure by the State is what we call a failed or failing State.

Failing States and Militarization

Failing States often resort to militarization. Heavy levels of militarization that is happening in these countries mentioned above is an indication of not just the violation of democracy and human rights but the abandonment of democracy and human rights altogether in favour of rigid controls of an authoritarian system. National security laws take the place of normal laws. Administrative detention is used against everyone including the people who actively promote any positive reform, against intellectuals, against journalists, against human rights activists, against trade unionists and anyone else who represents the poor.

The poor does not matter- The gap between human rights movements in affluent counties and poor counties.

The underlying premise is that the poor do not matter. Anyone who tries to attempt to be of assistance to the poor is regarded as some kind of a subversive that is disturbing the peace. The peace here means the right to plunder national resources, for unlimited forms of corruption and causing the deterioration of the livelihoods and incomes and protection which are essential to live a life of dignity.

We thought it fit to raise these serious issues because those who gave their lives in the Gwangju uprising took their obligation towards democracy and human rights seriously. To honour these persons, we should at least to some extent be honest enough to examine whether we have as much commitment as they did, whether we at least have some genuine concerns about democracy in the world.

In this regard, it is our view that the global human rights community itself needs to face up to this situation. The Office of the United Nations High Commissioner for Human Rights, the offices of the Rapporteurs and treaty bodies, the United Nations Human Rights Council as well as the major human rights organizations in the world and also the Governments in the affluent countries must genuinely re-examine their commitments to human rights and democracy in these countries.

What we are calling for is not about sanctions and punishments as is often misunderstood. What we are calling for is for a global discourse where resources will be made available for these countries both to the Government and civil societies to do their tasks in order to improve their systems of policing, the systems of criminal investigations, the systems of the judiciary, the systems of prosecution and all other institutions of accountability. This could happen only if the two parts of the world, those who live in affluent circumstances and those who do not live in affluent circumstances are able to talk to each other on the basis of good faith and on the basis that they want to respect the human divinity of all.

If such a discourse could be created, the resources will naturally generate. Through common consensus, there will be less war and more discourse and dialogue.

It is a pity to see that often human rights are being used purely as a political tool for all kinds of hidden agendas which are not for the benefit of the people but for the people who represent powerful forces. This image of human rights should disappear. Human rights democracy should appear as a common heritage and the common rights of all the people who wish to pursue peace and who wish to contribute to a world where human resources and natural resources could be better utilized in order to generate the kind of respect for human rights that every person of good will wants to see.

<http://www.humanrights.asia/news/ahrc-news/AHRC-STM-010-2021/>

ASIA: Impunity, Poverty, and Covid 19

For many decades, in almost all Asian countries, the Civil Society Organizations have continued to complain about impunity. However, such complaints have not led to improvement of the situation but in fact the situation in many countries has gotten much worse. The Civil Society must ask, why is it that their efforts in this direction have failed to produce at least some progress in eradicating this evil of impunity? Out of the work we have done, we are able to suggest a few reasons as to why this has happened.

We believe that the major reason is that the Asian Civil Society Organizations have failed to develop their own strategies based on local realities. They are trying to address the local obstacles to accountability. The reason for this is that the Asian CSOs have been trained in this work on the basis of fields developed in more developed democracies. In these democracies, the institutional structure had already been developed over centuries. And if the State wants to take action on any violations of rights, they have the capacity to do so. However, in Asian countries, as institutional structures are so backward, it is not possible even for a well-meaning Government to address the issue of impunity. It is because these institutional structures themselves are the reason for the prevalence of impunity.

Concretely, what this means is this..... a very bad Policing System where the violations of rights are allowed to happen all the time. They include things such as illegal arrests and detentions, torture and ill-treatment, extra-judicial killings including disappearances, violence against women and sexual abuse of children. All are protected because the institutional structure for prevention does not exist. Thus, the mere passing of resolutions, making of recommendations, even by the UN agencies, and many forms of protest do not themselves cause a change in these dysfunctional mechanisms.

What we suggest is that the Asian Human Rights Organizations and CSOs must concentrate on trying to understand the defects of the institutions such as the Police, Prosecution, Judiciary and other institutions related to justice. It needs to grasp where the problems are and thereafter work towards the reforms of these institutions. It will be from this perspective that the speakers of this panel will make their presentations.

BANGLADESH: Collapsed Institutions and Impunity Lead to Poverty

By Mohammad Ashrafuzzaman*

Bangladesh, like many developing nations, is a country where the narratives of ‘economic progress’ are often referred to GDP (Gross Domestic Product) growth. The notion of ‘development’ is also wrongly propagated by displaying certain constructions projects such as highways, bridges, ports, airports, or buildings. Deepened poverty of a large population co-exists in parallel to the narratives and propaganda referring to development in the real life of the people. The systemic defects - often deliberately designed for political face-saving purposes and their impacts deserve sincere attention to the question that what triggers it to happen.



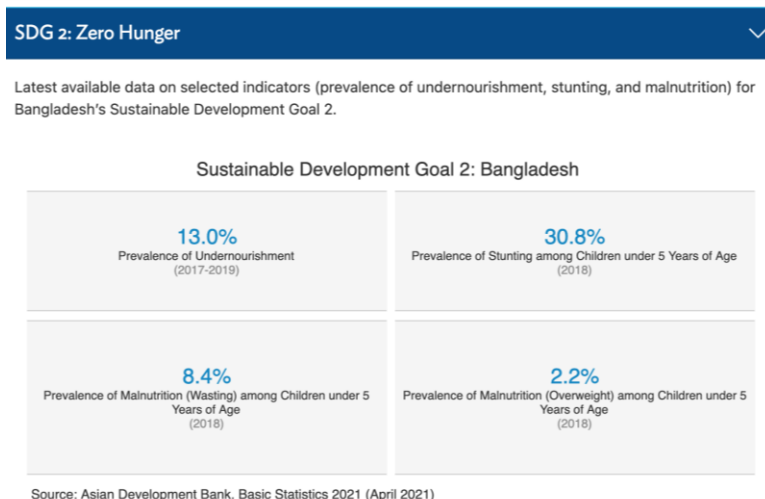
‘No Poverty’ requires combating 20.5 % Portion of Population Living below Bangladesh’s National Poverty Line

During the pre-pandemic era, Bangladesh’s [Per Capita GDP in 2018](#) was US\$ 1,698.35, according to the data published by World Bank, with a growth rate of 6.73 per cent. In the same year, the country’s [Per Capita Debt](#) remained US\$ 585, indicating that US\$ 1113.35 was Per Capita surplus, which should have been reflected in the economic life of the people. The county’s [loans](#) are ever-growing at the moment.

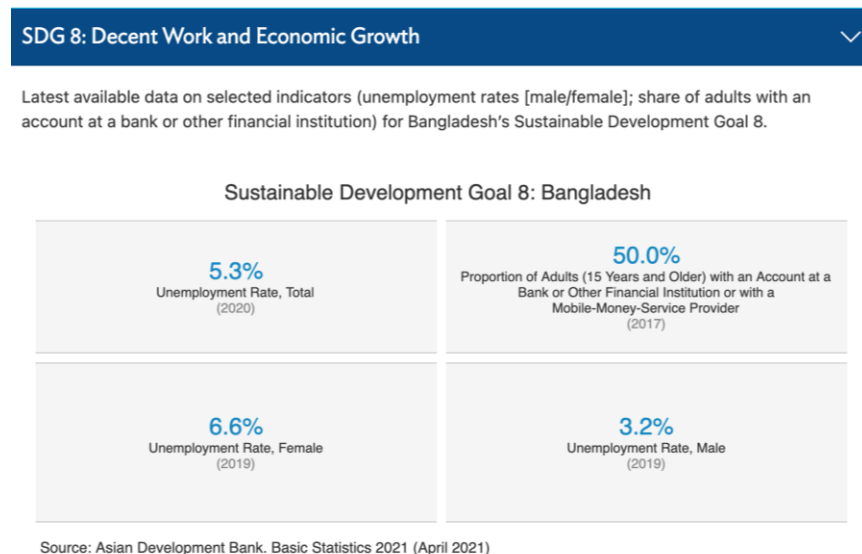
It is important to look at Bangladesh from the perspective of the United Nations’ (UN) [Sustainable Development Goals](#) (SDGs), which is expected to be achieved by 2030 as

the [Agenda 2030](#) of the UN as agreed by all the states including Bangladesh. The [data published by the Asian Development Bank](#) (ADB) shows the country's current position regarding SDG Goal-1 is pretty bleak (Please see, 'SDG1: No Poverty' screenshot). It suggests that 14.3 % Portion of Population remains below \$1.90 Purchasing Power Parity while the Employed Male Population stands 5.3 % and the Female Employed Population is 6.2 %.

In the global campaign of achieving 'Zero Hunger' Bangladesh has to deal with a challenging reality (Please see the 'SDG2: Zero Hunger' screenshot)



Achieving 'Zero Hunger' needs to address 13% Undernourishment and 30.8% of Stunting among Children under 5 Years of Age



'Decent Work & Economic Growth' Data shows half of the population of Bangladesh is excluded from formal financial transaction

given the fact that the country has 162 million population.

In order to achieve SDG-8: Decent Work and Economic Growth Bangladesh needs to bring half of its population to the remit of formal financial activities and banking system by 2030 while it has taken fifty years since inception to reach to the present point. It indicates the challenge of achieving the Goal-8 of SDG for Bangladesh by 2030 given the fact that the unemployment rate of female is double than that of the male population.

It is important to note that the prevailing condition of poverty and economic growth do not suggest that the country stands on a sustainable foundation or even moving toward a direction of being sustainable in the near future. A recent [survey report](#) conducted and published during the COVID-19 pandemic claims that population below poverty line has been doubled in 2020 in comparison to 2018. ***“The South Asian Network on Economic Modeling (SANEM) on Saturday said the percentage of the population living below the poverty line (upper poverty line) has nearly doubled from 21.6 per***

cent in 2018 to 42 per cent in 2020, while the percentage of extreme poor (lower poverty line) trebled from 9.4 per cent in 2018 to 28.5 per cent in 2020”, according to the report.

It also claims that, “[T]he poverty rate has increased in both urban and rural areas in Bangladesh. The percentage of the population below the poverty line in rural areas was 45.3 per cent, while the number was 35.4 per cent in urban areas. The percentage of extreme poor in rural areas was 33.2 per cent, while in urban areas it was 19 per cent.”

There are two significant aspects of this report suggests that 58% fall of the extreme poor households in per capita education expenditure; and, the average per capita health expenditure has increased 97% in the case of moderately poor and 104 % in non-poor households.

In terms of access to online or distant educational lessons during the COVID-19 pandemic 15% of the poor household students had access while 26% of the non-poor household students could afford it.

Had there been a ‘good governance’ of any sort having the ‘sustainable’ characteristics in the development trend the picture would have been much different in Bangladesh. The disparity between the poor and the rich is in ever-increasing trend during the pandemic, according to the report referred above.

One may ask question that where is the resource as per the GDP growth claims of Bangladesh. The answer is: the resources are laundered to abroad. A ruling party-backed business group has reportedly



[invested hundreds of billions of dollars in Singapore](#) without following [due process of transferring money as per the rules and regulations](#) laid down in Bangladesh. [S Alam Group](#), owned by Mohammed Saiful Alam, purchased three luxury hotels and commercial buildings spending around S\$553 millions between 2014 to 2019.

Bangladesh’s Ruling Party Backed Business Group Buys Hotels in Singapore

This is a tip of the iceberg in the context of the embedded culture of impunity guaranteed in Bangladesh for those having closer ties with the topmost powerful politicians like the Prime Minister of the country.

The same business group has been provided active supports from law-enforcement and intelligence

agencies to grab commercial banks and private television channels. There are many similar business groups who have provided the privileged facilities, even more than what the S Alam Group enjoys, from the state due to their closer allegiance with the ruling elites.

The government backed the S Alam Group to implement a [Chinese funded coal-fuelled power plant](#) in Chittagong in violation of the rules regarding environmental and ecological balance at its project sites. The police extrajudicially killed several people since the inception of the coal-fuelled power plant at Banshkhali in Chittagong amidst [growing concerns expressed by human rights defenders](#). In the latest incident, took place on 17 April 2021, the workers of the power plant project demanded their overdue wages, increased working condition like toilet facilities and fast-breaking and prayer time during the month of Ramadan, which was silenced by police firing. The group has never held accountable for the crimes it has been committing with impunity. The poor workers who have lost lives in police firings in three separate occasions at the same power plant project site have been denied access to justice.

The state of Bangladesh and its criminal justice institutions, specially the police, the prosecution, and the judiciary protects the powerful political and financial elites through systemic institutional practices. Impunity is adopted as the norm while coercion, abuse of state's powers for corruption and political advantage is the way of governance in Bangladesh. In the systemic practice of such abuse of power the poor, the powerless, and the defenceless segments of the society are the default targets of the State. The socio-political, financial, and criminal offences of the individuals or groups having privileged political and bureaucratic backups, and the personnel of the law-enforcement agencies and intelligence units are covered-up regardless of the nature of the crimes, including enforced disappearances, extrajudicial killings, torture, arbitrary detention, or knee-capping. As a result, the institutions of the state directly contributes to deepen the crisis leading to increased poverty in Bangladesh by guaranteeing impunity to the perpetrators having privileges.

The way forward to achieve the SDG by 2030 must be focused on transforming the degenerated institutions without which good governance is impossible. Addressing the deeply rooted complex problem of poverty is unthinkable unless a system of checks and balances in the legislative, administrative, and judicial systems of transparent accountability is established with a functional democracy in place. Transforming the institutions from its existing abusive and coercive nature and guaranteeing a universally fair access to the justice mechanisms can be the game changer. Sooner it happens better fruits will be enjoyed throughout and beyond Bangladesh.

————— End of the Article —————

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INDIA: Collapse of governance: Impunity and current political crisis

The world is witness to the current covid wave in India. This however, is not unprecedented or unpredictable as the Indian government would like the world to believe. India had been warned, and was fully aware of the possible second wave. Yet it continued to export vaccines, oxygen cylinders and medicines ignoring the dangers it was presenting itself with. The responsibility of the state is to provide for its citizens basic living conditions, and the Indian government denied its citizens the basic right to life, let alone a quality of life. The Prime Minister and his other ministers held electoral rallies, mass public meetings and allowed for religious gatherings all to suit their political agenda while the covid numbers were surging.

If this was not enough, state governments such as Uttar Pradesh banned private laboratories from testing for Covid. News reports showed ambulances waiting in line with desperate patients and families who were not let into the hospitals as they did not have a covid report. Many who did finally get a covid report got it a bit too late and lost their lives due to covid and other complications.

The central government, state governments, the justice institutions exhibit a severe decay in their functioning. One cannot expect a corrupt, dysfunctional and unaccountable system to work miracles and wonders during a crisis. And the failure of the Indian state and other institutions are a display of just that. If a Prime Minister of a country appears in public violating basic covid physical distancing norms then the image being given to the citizenry is that they do not need to follow these norms too. If the chief minister of a State, known for its poor public health infrastructure, allows for religious gathering despite a drastic increase in covid numbers, then the message being sent out is that citizens need not worry about their health. Needless to mention, the attention of those in power should have been to procure more supplies, medicines, stop hoarding and have a concrete roadmap in place to battle the crisis. Instead, those in power chose to spend their time creating speeches, photographing themselves and giving broad assurances with no concrete plans. They were ably aided by media channels, who chose to run unverified treatment or remedies to recover from covid, boosted the image of a successful vaccine drive, when in fact, the vaccine suppliers had gone public that there was a shortage of vaccines, and telecasted the election rallies and speeches in full gusto. The narrative was set and reinforced time and again, that all was done by those in power to control covid. In fact one Chief Minister threatened to slap the National Security Act on anyone who were to write on social media that there was a lack of Oxygen or medicines, stating that there was no such shortage.

The question arises then as to how did these various state actors get away and continue to get away with any sense of accountability and responsibility. Why is it that no one is brought to task. One of the possible ways to understand this is that in a society where the legal mechanisms and law enforcement has collapsed, people resort to out of court actions to express their frustrations and anger. In the past we have seen vigilante mobs, mob attacks as a result of injustice felt by the common person. Though this has no long lasting effect on the system or even the person concerned, it seems to be a natural choice when one has no legal or other formal mechanisms for justice. Another reason for this impunity is the narrative set by the government that the failures are due to personal neglect, or due to circumstances beyond their control, or simply put, fate. Hence, covid related deaths are not seen as systemic failures where the deaths could have been prevented but rather as something where death is inevitable due to fate or actions in this/previous life. The lack of trust in the institutions is to

an extent that the common person believes that nothing can change the corrupt and inefficient system, no change of government or political will can set right a dysfunctional system.

Yet, despite getting away with unaccountability at large, questions are being asked both in domestic and international circles about the role of the state. These questions are being posed by the layman as well as experts on what the government does to tackle the covid surge. The notable journal Lancet published a scathing review of the government and its failures. Social media platforms such as facebook and instagram are increasingly seeing a critical take on the government and its wrongdoings. One can only hope that a personal anguish, and loss translates into the larger issue which is the failure of the state, certainly intentional to protect the lives of its citizens. The way towards gaining some accountability and reclaiming the justice institutions is to realise that the current covid status in India was certainly avoidable, preventable and better managed. That these deaths are in fact institutional murders by a corrupt, unaccountable, collapsed state. There has to be an internal stir in India, among its citizenry to acknowledge the state of affairs and the entanglement with other issues such as caste, poverty and gender. For this, merely taking cognizance of what is done in more developed countries would not help for the social realities in India are vastly different, the prejudices deep rooted and poverty endemic. That which is being reported and what we know of is just the tip of the iceberg. One can only imagine the extent of institutional failure and non accountability. The same can be seen with regards to covid too. Asking people to sanitise their hands often, where there is no water supply is pointless and yet such is the reality for the majority of India. Similarly, the covid statistics are just the reported ones. One only has to take a look at the corpses floating in Indian rivers to get a glimpse of the covid realities that are not part of the statistics. A deep churning therefore is the only way out of this entanglement, where people in authority are held responsible right from the village to the Chief Minister to the Prime Minister.

Indonesia: Covid 19 pandemic and uncertain government policy

Written by : Chris Biantoro¹

Since Covid 19 hit Indonesia in May 2020, the whole structure of people's lives has changed. The victims of human rights violations are no exception, activists and journalists must also aware to the Covid 19 pandemic. Covid 19 continues to grow and infect thousands, hundreds thousands, even in 2021 it has turned into more than one million people infected in Indonesia. The pandemic taught Indonesia that the economy and health system are failures and public resilience are very weak.

One of the problems that causes Covid 19 in Indonesia the number continues to increase due to inconsistent government policies, at the beginning of the pandemic the government still opened international flights to Indonesia on behalf of support the tourism sector without considering the risks that would arise. Meanwhile, policies among the local governments are also unclear and inconsistent, so that the spread of Covid 19 in Indonesia quickly reaches more than one million. This number is believed to be bigger considering the limitations of testing and public awareness to carry out examinations and the weak government support.

The Covid 19 pandemic has also brought a negative impact on law enforcement and human rights protection in Indonesia. The victims and families of victims of past human rights abuses who are sick and old are increasingly experiencing difficulties of life because they do not have adequate income. Meanwhile, justice seekers and those caught in lawsuits also find it increasingly difficult to access justice because legal services are very limited due to government policies on preventing the spread of Covid 19.

Under the current president, President Joko Widodo, attention to resolve cases of gross violations of human rights has not shown much progress. This situation is worsening, during the Pandemic Covid 19, the government does not have special treatment and policy to the victims and families of victims of human rights violations, thus in the time of pandemic they are very risky to be infected of the virus. Although Indonesia has a Witness and Victim Protection Agency that has mandate to provide psychosocial and aid for victims, however not yet fully running.

Ironically, the logistic aid provided by the government to help people affected by Covid 19 was corrupted by the Minister of Social Affairs, Mr. Juliari Batubara. In December 2020, the Corruption Eradication Commission (KPK) arrested and detained the Minister of Social Affairs, Mr. Juliari Batubara. Mr. Juliari, along with his subordinates Matheus Joko Santoso and Adi Wahyono, had purportedly accepted roughly Rp 12 billion (US\$582,020) in bribes. They came from a number of suppliers during the first wave of the ministry's aid distribution earlier in the year.

Does the arrest and detention of the minister indicator of the progress of Indonesia law enforcement?

In the beginning of the Pandemic Covid 19, the Government of Indonesia, through the Ministry of Law and Human Rights, issued Minister of Law and Human Rights Regulation Number 10 of 2020 concerning the Terms for Granting Assimilation and Integration Rights for Inmates and Children in the Context of Preventing and Combating the Spread of COVID-19 (hereinafter referred to as the Assimilation Policy). Approximately thirty thousand inmates have been released by the minister.

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Nevertheless, despite the fact that the government release inmates of ordinary crimes from the prison due to Covid 19 reason, the police and prosecutors still arrested and detained social activists and opponent groups. Some instances the case of the arrest of 8 activists of the Coalition for the Action to Save Indonesia (KAMI). Three (3) of them named as suspects were detained in Police custody in the Jakarta Metropolitan Police Office. Then, there were the three cases of Mr. I Gede Ari Astina alias Jerinx SID, Mr. Nur Sugi, Mr. Muhamad Rizieq Sihab and Mr. Munarman.

Moreover, detention also torture is also happening in the time of Pandemic. On

December 2, 2020, the Asian Human AHRC received information from a local network regarding the torture to death of Mr. Herman Alfred. It was allegedly conducted by Police Officers of the Balikpapan City Police Office (Kepolisian Resor Kota Balikpapan). Mr. Herman was alleged to have stolen a smartphone. Subsequently, unknown people forcibly picked him up from the Police station. In the end, the Balikpapan City police office officially informed Herman's family that he died while under Police detention. Herman's family faced difficulties in seeking to examine Herman's body. Seemingly, the Police did not provide enough access to the family to view the body.

Further, AHRC also received information regarding violence against a journalist, Mr. Nurhadi, a correspondent journalist for Tempo Magazine. He became a victim of maltreatment and was brutally attacked while conducting media coverage. The violence against Nurhadi occurred when he put forth an analysis report. It was related to the Director of Investigation of the Directorate General of Taxation of Ministry of Finance, Mr. Angin Prayitno Aji. It was a case of a tax bribe handled by the Corruption Eradication Commission (KPK).

Last but not least, the above situation emphasizes that the Indonesian government, especially law enforcement, has not shown a consistent policy. Unfair trials and the practice of torture and pretrial detention are still happening in the time of pandemic. Despite in the beginning the Minister has released thirty thousand prisoners in order to avoid transmission of Covid 19, the law enforcement agency still committed unfair trial and torture also implement pretrial detention. ***

SRI LANKA: IMPUNITY – POVERTY AND COVID-19

Sri Lanka has an endemic problem of impunity about some sorts of crimes and human rights violations. This problem of impunity is recognized locally by everyone and is constantly part of the local conversation. The reference to Sri Lanka as a lawless country by the local people themselves, does not surprise anyone. It is almost taken for granted now that the Law is not enforced. And, as a result, most of the time, crime and serious human rights violations go unpunished.

This impunity has caused a much greater problem than mere individual violations. It has caused a crisis of Governance. This is manifest not only in civil rights issues but also on basic problems like extreme poverty. It also contributes to a considerable amount of malnutrition, high suicide rates, massive unemployment and an ever-increasing rise of prices for basic goods. Needless to say, Sri Lanka has a particularly grave problem relating to foreign debts.

Debt payments take up the entirety of the national income and even more! This puts the Government further into a cycle of increased indebtedness. Meanwhile this situation is used by foreign powers to secure a greater foothold in the country to exploit national resources for their own benefit. Furthermore, the powerful people are known to be extremely corrupt and exploit the national resources for themselves. The cutting down of forests coupled with other natural disasters could bring the country into a serious ecological crisis at any moment.

The acute nature of these crises is manifest just now as the numbers of Covid-19 infected persons are rapidly increasing. Daily infection rates have gone up to 3,000 or more per day and the numbers of deaths have increased. Reputed International Agencies studying these matters have put forth this probability. In the coming months, infection rates may go as high as 4,000 per day and the death rate may rise to about 3,000 or more. Given the fact that the country's population is about 21 million people, percentage wise, this rate of infection is even higher than that of India. Presently, it is attracting global attention for the high level of deaths occurring in the country. The problem really is that the Civil Society has not yet learned to deal with the question of impunity. WHY? The reason being, that it has being ill-trained to understand the local causes for such impunity and for the collapse of Governance. Locally and internationally, the mode of action is based on the behavior of the more developed democracies. And unfortunately, these do not work within a framework where the basic infrastructure of the State is extremely poor. Law enforcement is at the lowest level even including petty crimes and other forms of criminal activities. There is no sensitivity, within the Government or the public sector, of a respect for human rights

That lack of respect is reflected in the absence of a concern for the value of life. The occurrence of an enormous amount of suffering, due to economic deprivation and disease situations, does not attract any kind of moral response from the State or the Society. Furthermore, it is also rather numb and passive on these issues.

The Civil society needs to be able to report in detail about all that happens to ordinary people in their day-to-day lives. Three examples are cited here: their rights are violated daily, poverty is widespread, and the consequences of poverty, such as suicides, malnutrition et al. The extremely dampening situation developing in the country regarding Covid-19 needs to be properly documented. It needs to be discussed in a way that the whole issue of the collapse of Governance becomes a central part of the human rights discourse. And - this is something that could only be done by organizations and

people who know their country well. It is those who know the details and are committed to assist their own people by learning the art of proper communication of what is taking place NOW.

Accordingly, the lesson to be learned from Sri Lanka is this. There needs to be a new learning. How to deal with the issue of impunity of bad systems in public institutions in developing countries. And, in addition, developing methodologies by which impunity could be fought. Mere dependence on experiences from more developed countries will not be of much use under these circumstances. Doing the same thing over and over and expecting different results is the height of stupidity. Civil Society Organizations have to be aware that there is some kind of absurdity going on which paralyzes their own capacity to give genuine assistance to their own people.

NEPAL: Covid-19 and governance, the collapse of a conscience

Nepal reported 7,316 new cases and 145 Covid-19 related deaths on 16 May, which was 8,842 new Coronavirus cases on 13 May. Nepal on 12 May reported 9,238 new cases and 168 Covid-19 related fatalities. Similarly, 9,317 new cases and 225 Covid-19 related deaths were recorded on 11 May and 9,127 new cases and 139 Covid-19 related deaths were reported on 10 May. The number of active cases stands over 100,000. These are the statistics provided by the Government and picked up from the media. Without any doubt, one can easily guess that exact numbers are much more than this.

The situation has drastically changed overnight in Nepal. The health care system is on the verge of collapse. Patients and their family members are begging for help. They are begging for beds, and running around from hospital to hospital seeking it. But very few are getting it. The Covid-19 infected are laying around hospital gates seeking treatment. And, most of them only need oxygen.

Nepalese are dying due to the lack of oxygen. Seriously. Dying due to the lack of oxygen. There is something deeply wrong here. Doctors are giving up and pleading for help. They are using social media, asking for the Government to provide oxygen. Many doctors and nurses who are themselves infected have been forgetting about their conditions and are treating Covid-19 patients. They are the true angels for some handfuls of lucky Nepalese who were able to get a bed at hospitals, who are able to receive the basic facility of getting oxygen.

And coming back to the State. Where is the Government? Where is the governance facility and mechanism? Looking at the current dance of death, and the lack of governance has been exposed to its fullest.

What was the Government doing for the last one year? The answer is that it was playing political musical chairs. It was embroiled into dirty politics and trying to hold on to its position. The K.P. Sharma led Government was busy claiming that the Covid-19 pandemic was merely a Viral influenza and sneeze, and advised to drink lukewarm turmeric water, as a domestic remedy.

Instead of building oxygen plants, instead of investing in increasing hospital beds, instead of building makeshift hospitals, instead of making isolation centres at the local level, and instead of purchasing and securing Covid-19 vaccines, the Government spent time and money on building view towers, making idols of Hindu gods and goddesses, telling Lord Pashupati will save us all.

What is this? Good governance or the height of stupidity? When people are dying due to the lack of oxygen and hospital beds, the Ministry of Health has been busy issuing statements warning doctors and nurses not to scare the public by telling that they do not have any further capacity to admit new patients and that they do not have any oxygen left. This is the arrogance of the Government which pretends that all is well in Nepal and that there is no Covid-19 emergency.

So videos and pictures of Covid-19 deaths and cries and pleadings for help must be dramas played by common Nepalese who do not have access to anything.

And surprisingly, the civil society who were very vocal and active a year ago are very much silent after a year. They may be helpless and trying to protect themselves and their families first. Or they may be trying to protect themselves from the wrath of the State as they know that K.P. Oli, a Nepalese version of Nero is enjoying the deaths and still claiming that all is well and that everything is under control. It is time for the civil society to wake up, advocate, protest and overthrow the authoritarian

K.P. Sharma Oli who is not the Prime Minister, but merely a propagandist. To borrow the famous words by Arundhati Roy, a famous author, this is a crime against humanity. And it is true, when people are dying because of the lack of oxygen, it is indeed a crime against humanity, and maybe more than that. The only one responsible is the state and K.P. Sharma Oli Government. The role of the state and its so-called institutions are seriously in question.

Human rights - whose duty is it to protect and promote human rights?

There is a commonly spread misconception that human rights is basically the work which should be done by those who are professionally engaged in work relating to what is thought to be human rights. By this, it is often meant either specialized agencies or the United Nations beginning with the United Nations High Commissioner for Human Rights and the Office of the United Nations High Commissioner for Human Rights and also various other treaty bodies that are assigned with the task of monitoring and assisting with the development of human rights. In terms of Governments too, there are people in the Foreign Ministries in particular who are supposed to be in charge of reporting on these matters to the United Nations and other international agencies, and work on human rights issues. In terms of the civil society, it is usually thought that it is the human rights non Governmental organizations (NGOs) that are the professionals who should be engaged in this work.

The presentation of the problem in that manner is completely distorting the very meaning of human rights. Human rights are about the protection of human life and everything that goes with that. Human life involves the life of everybody. It also involves the life of the environment within which human life can flourish without being harmed.

All other rights hinge around this whole notion of human life. What is called civil rights are the conditions that should exist within the political, social and cultural context in order to protect and promote human life which in turn also includes the elimination of everything that harms human life. Therefore, in terms of the duty to protect life that is the primary duty of every person, every community, every State, every inter State agency and also every international agency that has obligations relating to the protection and enhancement of life.

It is very essential to bring this out because otherwise human rights will be seen as some kind of a fringe activity, which should be assigned to a few people who may have some special knowledge about human rights whether in terms of civil rights or in terms of economic, social and cultural rights which have developed into many branches like the rights of women, the rights of children, the rights relating to the environment and the like. None of these areas that are mentioned cannot be properly protected purely by a fringe activity of those who are assigned the task of or who choose to engage in what is called human rights work.

A simple illustration would be useful to demonstrate the above stated position. We are today faced with the enormous amount of debts which have occurred in many countries related to the spread of Covid-19. Covid-19 has emerged as a major threat to human life. Now, it will be obvious that taking steps to eliminate this threat cannot be done by some specialized group who are known as human rights activists or human rights advocates. The fight against Covid-19 exposes all the weaknesses of the kinds of management of the society and also of nature that humanity itself has collectively failed. And when we look at it from the extent of debts, we find that the systems of governance and the philosophies that are behind these systems of governance are directly related to what had been done or what has not been done in order to protect life from the threat of Covid-19.

We see that even in the richest country in the world, the United States (US), the death rate due to Covid-19 was shockingly and staggeringly high. Why was that possible? That is a complex problem requiring complex responses. However, if we put it simply, it is quite clear that the medical care

arrangements that had been made in this most affluent country was an obstacle to dealing with a major crisis relating to health that the country was forced to face. It has been and it still is a policy of the United States not to develop a health care system that could deal with a major threat to life. Philosophies of governance which are entrenched in that country prevent the development of a strong and dynamic system for the protection of the life of people. Insurance companies and private hospitals and their existence are considered much more vital than the life of an individual citizen. While deaths due to wars like the deaths during the Vietnam War or even the World Wars are regarded as vital national interests and therefore would require policies for carrying out that obligation, the protection of the health of the citizens is not regarded in the same manner. During the war, when the enemies killed one of the soldiers from one's country, that person is regarded as a hero. With pride, even long after their deaths, at least some symbolic gestures are made by erecting monuments, maintaining cemeteries where ceremonies of honour are held for the dead. All these are marks of civilization. However, when the deaths are due to the neglect of the country's system of governance, when the system of governance is the enemy of those who are exposed to death, then even in death, these persons are forgotten. There is a fundamental flaw involved in the logic relating to the protection of life involved in this.

Like the US, there are also other countries which face the problem in a very serious way and just now, India is the most shocking example. Despite the fact that there was a long period of warning of the possibility of the spread of the impact of Covid-19, the Government did not think it a fit subject to spend all its resources on to prevent the terribly disastrous consequences of an outbreak of Covid-19. Today, while the deaths are mounting, still there is no manifest will to engage on this issue.

On the other hand, we see countries with even lesser resources having done considerable work in order to protect the life of the citizens and to prevent the spread of this deadly Disease. By mobilizing the best of the professional resources and by bringing the collective intelligence to bear on the problem and by allocating the necessary resources, they have created a protective system whereby the problem has been contained to a commendable degree.

What was said about Covid-19 could be extended to any of the major problems that have threatened human life on the planet as well as in different countries. Particularly in developing countries, the failure to develop a system of governance that will work towards the protection of life has resulted in creating the kind of problems which are basically upsetting entire societies and even the civilizations in these countries. The failure to develop proper regulatory mechanisms for the control of finance has left room for widespread corruption which negates every attempt at trying to improve the conditions of the life of the people. Money that could be spent in order to build schools, hospitals for child care, for the improvement of the poor and those who are disadvantaged are wasted greatly on corruption and the problems that come together with corruption. Widespread corruption can kill the entire political system in the country and the legal structure that is needed for the protection of the people. The rule of law and democracy becomes the great targets when corruption wants to spread its wing over any nation. Thus, misery is created manifold by neglect to develop policies and practices primarily aimed at the protection of human life.

This same thing can be said of the problems of the environment. In many countries, even the waterways and the food supplies are contaminated with substances which are poisonous to the human body. Forests are destroyed, thereby inviting colossal natural disasters. The policies followed by more powerful countries destroy also the very ecological system within which we live.

All of these mean that today human rights need to be understood as collective problems that need to be addressed collectively. It is the duty of everyone in whatever capacity, whether it is the capacity within Governments or within the civil societies, the obligation to work to protect the conditions of life has become imperative. The narrow minded view of human rights confining itself to a few questions can in fact spoil this necessary collective effort.

In this regard, those who represent religion in particular have an obligation to be engaged in the protection of human rights and thereby work towards the protection of human life and its dignity and sacredness. If man is at war with his own neighbours for petty reasons, thus sacrificing policies of the protection of health, education and well being for limited purposes, then it is an obligation of those who hold moral values to uphold those values.

The protection of the moral foundations of human civilization and the protection of human life cannot be separated. That separation not only harms life but also challenges the very notions of morality on which the civilization rests. It has been the contribution of religions to have empathized throughout history about the absolute need for the society to be founded on a system of moral values. Today, that is being very often undermined or forgotten.

Thus, we need to engage with each other and bring everyone together for the protection of human rights because everything depends on the foundations on which this enterprise is based.

ASIA: Human dignity and livelihoods

One significant distinction must be made when we discuss about human dignity in the context of a developed country where generally the people have adequate means of living their normal lives, and in developing countries where many people do not have such possibilities. In other words, the problem of livelihoods and the problem of human dignity cannot be divorced.

In an abstract sense, all human beings are equal and therefore all of them are entitled to be treated with dignity. From that sense, human dignity is an inherent quality of a human being.

However, in the actual circumstances of living, things do not work that way. If a person does not have a livelihood by which he/she could guarantee for himself/herself and his/her family to have their basic needs such as food, health care, education and such basic needs, he or she is not in a position to assert their dignity and remain as equals among others who may not have similar difficulties.

A person who does not have enough to eat for himself/herself or for his/her family including children, they simply have to suppress whatever feelings of dignity he/she may have had and will have to humble himself or herself in order to get these basic needs to some extent or the other. In the failure to get that, they will die and for many, before dying, they will be faced with all kinds of illnesses and other problems for which also they can find no solutions.

Perhaps this question is better discussed under the present circumstances in terms of the spread of Covid-19. These weeks, we are hearing the most shocking and saddening tales as to what happens to many and in particular to the poor in the context of Covid-19. Not only do they die in large numbers but also even the basic human dignities which are observed after death cannot be provided for many of them. The stories of bodies thrown into rivers in India in the recent weeks have been seen as an expression of very sad situations where people cannot even afford the funeral expenses. This is symbolic of the problem we are discussing here about the link between human dignity and the availability of the most basic needs of people to live and even to be buried with dignity.

This brings us to the whole issue of governance. The very purpose of the State at the most minimum level is to protect lives. The protection of life involves the creation of possibilities for people to have their very basic needs which are essential to remain alive. If the State is unable even to provide for this, then the whole purpose of the State is lost.

The above statement has profound implications. For very large sections of people in developing countries, the existence of the State do not mean much, simply because the existing State in their context is unable to provide for them even the minimum possibility of having a livelihood which makes it possible for them to attend to their basic needs.

What usually applies to the poorer sections of society applies even to the entire population in a situation such as Covid-19. We have seen this in the richest country in the world, the United States and also other rich and powerful countries in Europe as well as countries like India. In these 7

countries, due to various philosophies that prevail and the systems of governance that have been created, the provision for basic health care is not regarded as a State obligation. The result is that many people have had to pay with their lives and also often with the lives of their loved ones.

Thus, the whole issue of governance needs to be understood differently when looked at from the point of view of human dignity. The international laws on human rights recognize the right to life as the most basic of all rights. Many of the Constitutions in most countries also include the right to life directly or indirectly within their supreme law. However, the basic obligation of the State to act in a manner that it is able to create basic livelihoods to meet at least the minimum requirements for survival is not being recognized as an obligation of the State.

The problem associated with this is that while the ideas of human dignity, human rights, State obligations and the like have been developed mostly by the involvement of persons from more developed countries, no work has been done to understand the implications of this concept in less developed countries. The result creates quite an absurd situation. The absurd situation is that a lot of documentation is produced asserting the problems of human dignity and human rights while for quite a sizable section of society, most of the time and even for the entire society on some special occasions, the possibilities do not exist to get treatment that is deserving of respect for their human dignity.

The conclusion that arises from this is that it is very essential to bring in the issue of the right to livelihood and the right to minimum care for the protection of life as a State obligation which needs to be brought to focus when discussing about the issues relating to human dignity and what flows from that concept.

Thus, particularly from the point of view of developing countries, a certain absurdity that at present exists within the discourse on human dignity and human rights needs to be resolved by way of serious studies, reflections, and discourses which would lead to a different level of understanding of this problem which may in turn result in finding solutions to extremely difficult conditions of life which contradict the very notion of human dignity.

Myanmar Situation Update (10 to 16 May 2021)

One hundred days after the coup, the junta has pushed the region's fastest-growing economy into an economic and humanitarian disaster. The World Bank forecast shows that Myanmar's economy is expected to contract by 10% in 2021, a sharp difference from the previous prediction of 5.9% growth in October 2020. There is a possible banking crisis which leads to cash shortages, limited access to social welfare payments and international remittances. Last week, Myanmar Kyat hit one of its lowest compared to the USD.

The World Food Program also estimates that up to 3.4 million more people, particularly those in urban areas, will face hunger during the next six months. Price rises, hurting the poor and causing shortages of some essentials, including the costs of fuel and medicine.

The junta called to reopen colleges, universities and schools soon but many students and educators are boycotting. As a result, around 13,000 staff had been suspended by May 8. The junta also announced job vacancies for educational positions to replace striking staff.

Across Myanmar, the ordinary citizens have taken up any weapons available from air guns to traditional firearms and homemade bombs and arms have spread in Chin state, Sagaing, Magwe and Mandalay regions. Mindat township in Chin State reported more intensified fights between the civil resistance groups and the Myanmar military while clashes were reported in Myingyan township, Mandalay region and Tamu township, Sagaing region.

According to our information, at least 43 bomb blasts happened across Myanmar in the past week and many of them were in Yangon's townships. It was reported that two people died and at least 21 people were injured.

Media reported the junta continued to conduct air strikes across the villages in Kachin, Kayin, and Shan states, leading to thousands of people fleeing their villages. The Ethnic Health Organizations (EHOs) called on the international community to provide direct support to the ethnic areas as international aid sent through central Myanmar was unable to reach EHOs. The media also reported that the IDPs in Momauk township, Kachin State are in desperate need for emergency support.

CSOs based in Thai-Myanmar border called authorities to consider measures for refugees on humanitarian principles and make an effort to monitor, assess the situation closely while consistently upholding both national security and humanitarian principles. They also urge Thai authorities to assess the situation comprehensively based on correct information and reliable sources.

A DVB reporter, Min Nyo was sentenced by a military court to three years in prison for his reporting. Threereporters from Democratic Voice of Burma (DVB) and two activists from Myanmar have been arrested in Thailand for illegal entry and face possible deportation. CSOs and foreign correspondents in Thailand urged the Thai authorities not to deport them back to Myanmar.

Thai prime minister and Foreign Minister met with the UN special envoy on Myanmar Christine SchranerBurgener to discuss the situation in Myanmar. The PM said he will not force those fleeing violence back to Myanmar. The National Unity Government also called for foreign countries to introduce and expand sanctions against the overseas relatives of Myanmar's military council members.

As of May 16, a total of 3,998 people are currently under detention and among 92 are sentenced. 1,679 have been issued arrest warrants. 20 were sentenced to death and 14 to three years imprisonment¹.

UEC member U Khin Maung Oo informed that there will be a coordination meeting with all the 91 political parties on 21 May and the main topic to discuss is about the use of the PR system. After the coup, the junta appointed UEC requested political parties to send the proposals on the PR system and some of the major parties such as NLD and SNLD rejected the proposal.

Word religious leaders are giving special attention to Myanmar, Pope Francis is offered special mass for people of Myanmar on 16 May Sunday.

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The Silenced Poet

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*“We will grit our teeth and with submission to god, wait,
even if the adversary aims at us the stone in the catapult sling,
and aims the arrow at us, with his bow.
Even if we have to walk through fire, Languish without food, Be struck with disease,
We will follow the path of Ahimsa (non violence)”*

– Thaneer (Water), Poem by Ahnaf Jazeem, from the collection Navarasam (Nine Emotions), translated by Prof. Sumathy Sivamohan and Dr. Mahendran Thiruvarangan

The author of the above poem is a 26-year-old Muslim poet from the remote village of Chilawathurai in the Mannar District. In another poem in the same book – “Navarasam”, published in June 2017, Ahnaf had said that he will only celebrate Eid al-Fitr (the end of the Ramadan fast) when there is a new world free of war as Muslims all over the world are suffering due to the hate and fire spread by the black-clad Islamic State of Iraq and Syria (ISIS). Today (14), on Eid, Ahnaf has been suffering in prison for 363 days without charge, with no courts examining his detention, no meaningful access to lawyers, and under harsh conditions including torture, cruel, inhumane, and degrading treatment.

Other poems by Ahnaf in the book critique the US and the UN, discuss violent acts committed by the ISIS, and repudiate its attempts to speak on behalf of Islam. The work ends with a question about how the obstacles to peace can be overcome and when truth will see the light of the day. A day after the Easter Sunday terror attacks on 21 April 2019, Ahnaf published a poem on his blog, titled “Not a Day of Resurrection, but a Day of Life Lost”, sympathising with the innocents killed, condemning the attackers, and disassociating the terrorists from the Islamic religion.

Accusations against Ahnaf

Ahnaf was arrested on 16 May 2020 by the Counter Terrorism Investigation Division (CTID) of the Police. The CTID, in a report submitted to the Colombo Chief Magistrate’s Court on 11 December 2020, alleged that Ahnaf’s book “Navarasam” contained “extremist ideas”. However, no specific poetry that is alleged to contain extremist ideas has been presented to the courts for one year. Many others and I have read the originals or the translations of these poems, and our feelings are aptly expressed by eminent scholar and University of Peradeniya retired Professor of Tamil M.A. Nuhman, who stated: “I find nothing on extremism in these poems. On the contrary, there are several poems against extremism, violence and war in this collection. The poet seems to be most concerned about religious morality, humanism, love and a peaceful life”. According to Prof. Nuhman, authorities who cannot read and understand Tamil may have thought that there might be some extremism since there are a few pictures of persons with arms in the book. Media reports indicated that the Police had seen and checked the book during a raid on Ahnaf’s house in 2019, and Ahnaf’s Fundamental Rights (FR) petition before the Supreme Court (SC) says that the Police had custody of the book 13 days before the arrest of Ahnaf. These would have given the Police ample

opportunity to verify and obtain accurate translations of the contents before arresting him.

The CTID report to the Chief Magistrate also alleged that Ahnaf had shown videos containing “extremist ideas” to some students and tried to inspire extremist thinking. Ahnaf has spent a year in detention, and yet there is no evidence that has been produced to courts that can substantiate any of these allegations. According to the petition before the SC, in July 2019, Ahnaf took up an appointment as a Tamil language and literature teacher at a private international school in Puttalam. He had once shown students an Al Jazeera (television news channel) video containing footage of a leader of ISIS in order to denounce their violence and to teach the students not to be carried away by his false preaching which had nothing to do with the Islamic religion. This is consistent with his poetry, and the comments of those who had known him in Mannar and Puttalam.

Lack of due process

Throughout the 363 days of detention, Ahnaf has been denied meaningful access to lawyers. After many requests and nearly 10 months after the arrest, two lawyers were permitted to meet Ahnaf once for 19 minutes, but despite objections from the lawyers, CTID officers listened in on and recorded the privileged lawyer – client conversation. The lawyers made official written complaints to the Bar Association of Sri Lanka (BASL) on 9 March 2021 and to the Human Rights Commission of Sri Lanka (HRCSL) on 16 March 2021, but have not received any formal written responses. Ahnaf’s father made a complaint to the HRCSL within a week of the arrest in May 2020, but this also has not received a response.

The lawyers letter to the HRCSL on 16 March 2021 and the FR petition filed before the SC in April 2021 pointed out that Ahnaf was being subjected to torture, cruel, inhumane and degrading treatment, by being handcuffed to a chair, handcuffed while sleeping, as well as being detained in unhygienic and suffocating conditions. The petitions had also stated that Ahnaf had been bitten by a rat and suffered from ureteral stones, a skin rash, and psychological breakdowns. He was also exposed to the dangers of contracting Covid-19. Ahnaf also had very limited opportunities to be visited by his family and to make phone calls to his family.

The petitions also highlight that Ahnaf has been compelled to sign a statement without being given the chance to read and understand the contents. In a move that the lawyers describe as an attempt to coerce Ahnaf into making a self incriminating statement, the CTID had requested the Chief Magistrate to give an opportunity for Ahnaf to make a statement to the Chief Magistrate on 11 December 2020, along the lines that he was exposed to extremist ideas while he was learning at the Naleemiah Institute of Islamic Studies and thereafter, as a teacher, taught extremism to his students. The Court records indicate that the suspect (Ahnaf) had not said anything and that the Chief Magistrate had decided to provide more time to think about this and fixed a later date. The FR petition and the lawyers letter to the HRCSL also say that the CTID pressured Ahnaf’s father to convince Ahnaf to make a similar statement, in which case he could be released soon, and that if not, he may be in detention for 10-15 years.

Illegal detention orders, and the abusive PTA and ICCPR Act

The CTID reported to the Chief Magistrate that Ahnaf had committed offences under the Prevention of Terrorism (Temporary Provisions) Act (PTA), No. 48 of 1979 as amended and the International Covenant on Civil and Political Rights (ICCPR) Act, No. 56 of 2007 as amended and that he had been detained through detention orders under the PTA. But his lawyers have argued that the detention orders under which Ahnaf was detained are illegal and hence, his detention is illegal. They have asserted that according to the PTA, detention orders can only be issued by “the Minister” (in charge of the subject of Defence) and that the Act does not provide for the delegation of this authority. The detention orders against Ahnaf had been signed by the President, and during that time, the Constitution did not allow the President to hold any Ministerial position.

Studies have revealed that many PTA trials are based primarily on confessions, which are routinely obtained after torture or threats of torture. A study by the HRCSL reveals that PTA detainees have spent up to 15 years in detention without the commencement of trial, and I have heard of PTA detainees being acquitted by courts after as much as 15 years in detention. I still have unpleasant memories of being arrested and detained under the PTA, and facing reprisals even after my release, including the confiscation of equipment, restrictions on my freedom of expression and overseas travel. It took nearly five years for me to be discharged.

Last year, a prolific Muslim social media commentator Ramzy Razeek was detained for about five months under the ICCPR Act before being released on bail by a High Court (HC) Judge, who made strong remarks about the right to freedom of expression. The case against him still continues, and he is still suffering from ill health after the cruel, inhumane treatment to which he was subjected to during detention. In 2019, Shakthika Sathkumara, an award winning writer, was arrested and held in detention for about five months before he was released on bail by a HC Judge and eventually discharged early this year, nearly two years after the arrest.

The PTA and the ICCPR Act limit judicial supervision, including Magisterial discretion to grant bail, and grant extraordinary discretion to the Police and the Executive, which have been widely abused and used against detainees. These laws are the enemies of the freedom of expression and the right to express dissent, and perpetuate intolerance based on ethnicity and religion, and license authoritarianism. Media reports have quoted the Police Media Spokesman as saying that more than 700 have been arrested under the PTA after the Easter Sunday bombings and that more than 200 are still detained without charges. Most of them are Muslims, and in the case of long term PTA detainees, the majority are Tamils.

As citizens, we must rally against such abusive laws. We must demand justice for the survivors and all those affected by all atrocities such as the Easter Sunday attacks, whether by State or non State actors, but we must also insist on due process and justice for the suspects and accused, especially ones detained under abusive laws like the PTA and the ICCPR Act, such as Ahnaf.

*“Why take on the name of the almighty, when you have taken life, yours and others?
The name of Islam is not for you who destroyed your own life, and the lives of others.*

*To take the life of a single being, who has not done any wrong; is tantamount to wiping out the entire universe of humanity,
So said the holy book, have you not learnt so?
Mother Lanka is convulsed in cries of grief, but you, in the hope of a life of everlasting bliss, took your own life, and worse,

set us all on the pyre of death, in a death by fire.
Why did you have to kill us all slowly, in a daily ritual of dying while living.
Islam condemns all acts of suicide.
But you, in the name of Islam, not only committed suicide, but also murder.
How can you be a follower of Islam?
And why do you call yourself a follower of Islam?
What pleasure did you derive from seeing bodies shattered apart in a bath of blood,
What means that victory?
Our prophet said that even in war one should not harm the young and the elderly!
You have thrown those words to the wind!
Do not insult the god of other religions, for if you do so, they would insult yours;
But in a single moment, you blasted places of worship.
It was a day of celebration, but you had to choose that moment to commit this heinous act;
You will reap the dire consequences of this deed, for sure; I will bear witness to that.
A mother, a daughter, a grandfather and a grandson are gone in a moment, shattered beyond recognition.
You too lost your identity, but Islam and Muslims are in the dock now,
'cos of your lowly deed. You will daily die a death of infamy.
I heap a million curses set in fire on you,
for killing us without killing us, and for scattering apart all friendship.
With tears, I pay my respect, to those who lost their lives on this day.”
–Not a Day of Resurrection, but a Day of Life Lost, Poem by Ahnaf Jazeem,
published a day after the Easter Sunday bombings, translated by Prof. Sumathy Sivamohan*

(The writer is a human rights activist and an Executive Committee Member of the Free Media Movement of Sri Lanka. He acknowledges the input and support provided by Journalist Tharindu Uduwaragedara and Attorney-at-Law Sanjaya Wilson Jayasekera)