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Neglect and Loss

(Reports and Commentaries on current problems)



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Contents

SOUTH ASIA: COVID -19 – South Asian Lives Matter	1
INDIA: COVID – 19 – When a family, in personal touch with the Prime Minister, pleads for justice: (In) Human tales of the pandemic	3
Covid-19 - The social infrastructure and the legal infrastructure	5
INDIA: An Unprecedented humanitarian crisis	8
INDIA: Where has all the COVID aid gone? World demands accountability from India	9
BANGLADESH: UN Rights Chief needs act to address excessive use of force leading to extrajudicial killings and torture amidst mass arrests	11
BANGLADESH: Stand with Bangladeshi Journalists on Press Freedom Day	13
BURMA/MYANMAR: Myanmar Situation Update	16
BURMA/MYANMAR: Myanmar Situation Update	18
NEPAL: UN experts express concerns for independence and integrity of the NHRC	19
INDONESIA: Pretrial detention under the existing Code of Criminal Procedure and the Bill of Criminal Procedure	21
SRI LANKA: It Is Time for the Judiciary to Defend Itself	25
Making of a “free crime” zone	28
Defending the commandment ‘Thou shall not kill’	31

SOUTH ASIA: COVID -19 – South Asian Lives Matter

India is facing a massive threat to the lives of its people as evidenced from the ever growing number of corpses that are being scattered everywhere in the country. The crematoriums cannot keep up with the huge number of these corpses and everyone is talking about someone or the other that was known to them having succumbed to the deadly Virus.

However, India, one of the most powerful countries in the world does have all the resources that it requires to deal with this situation and to bring the pandemic under control. Only one thing is missing. That is leadership that cares for the people. And that is quite sufficient to cause the greatest possible damage to a nation as history has shown over and over again.

The shortage of hospital beds, oxygen, testing facilities and so many things that people all over the world are trying to fight this Virus with could easily be available in India if there was a leadership in place that really wanted to provide facilities to its people.

Arundhati Roy, a leading Indian voice, has rightly said that what we are witnessing in India is a crime against humanity. However, the Indian leadership is not crime conscious. In recent years, the Indian political system has moved away from its Constitutional foundations towards an ever increasing authoritarian direction. A marked feature of South Asian authoritarianism in particular is the gross disregard to the law and regarding crimes. For this purpose, all the matters of accountability and transparency are crushed. Critics are punished. The laws are ever more sharpened in order to keep as many kinds of critics as possible inside jails. The creation of a fear syndrome in order to control the people receives the top priority of the authorities.

Believing that no amount of neglect of the functions of the State would lead to a threat to their existence, the authorities have become quite indifferent to whatever that has been happening to their people. There is no urgency being shown towards addressing the issue. Nor are the people who could deal with the issue like people in the medical profession and civil services are being given the freedom and the resources needed to take the initiatives that are necessary in order to cope up with the problem. Elsewhere, even much smaller nations have done everything in their power in order to control the effects of this deadly Virus and could take pride in their relative achievements.

The crippling of public opinion and the right to protest is the source of the all pervading neglect and indifference that is prevailing in India as well as in other South Asian countries regarding this problem.

The absence of a culture of resistance contributes to perpetuating this tremendous neglect on the part of those who are in power and those who control the resources. Resistance is a creative power that could galvanize the people, particularly in times of danger. History gives many examples of nations which became the nations that they are today only because of their capacity to develop resistance at the time of danger.

It is resistance that creates cooperation. In order to deal with the tremendous threat that the people are faced with now in the face of Covid-19, particularly in South Asia, what is needed is the expression of cooperation by way of resistance to the neglect on the part of those who hold authority to do their utmost in every possible way by way of the allocation of every possible resource to save human lives.

This is a challenge that is posed not only to South Asia but also to the whole world. Today, the world is one and when the lives of the people are threatened in one place, its influence spreads and influences others. Carelessness towards life and the failure to protect lives will diminish the very human spirit which carries the light that is needed at all times but particularly in the times of crises.

<http://www.humanrights.asia/news/ahrc-news/AHRC-STM-005-2021/>



INDIA: COVID – 19 – When a family, in personal touch with the Prime Minister, pleads for justice: (In) Human tales of the pandemic

There are no dearth of horrible tales of blood and tears from India, the epicentre of the second wave of COVID-19. The country's daily case load crossed 400,000 once while steadily hovering over 300,000 for almost 2 weeks with over 3,000 deaths for almost a week. This is despite the fact that there are serious doubts about the veracity of the statistics. Both the local and the world media are accusing the Government of under-reporting both COVID cases and COVID deaths.

Here is one heart-wrenching story of the Pandit Channulal family. They are one of the greatest names in Indian classical music and a Padma Vibhushana (India's second highest honour) awardee.

Millions of hapless Indians were devastated as much by the pandemic as by the Government's policies. It all started with the first lockdown. It pulled them out of the slums, snatched their jobs and left them on the roads to die—with no end to all this agony in sight.

Millions more who are, or at least were, far better off than their lesser cousins are facing the brunt of searching, often in vain, for hospital beds, oxygen cylinders, basic medicines et al. Many of them are dying on the road—in their cars or on makeshift carts, waiting outside a hospital to gain admission.

Panditji is not one of them. As we mentioned earlier, he is a Padma Vibhushna awardee. He is also very close to Prime Minister Narendra Modi and is on personal terms with him. Mr. Modi touches his feet in public. Panditji was also one of the four proposers when Mr. Modi contested the Parliamentary election from Varanasi.

In a span of just a week, Panditji lost, first, his wife and then his eldest sister to the pandemic.

The family is accusing the hospital of gross negligence, ill treatment and extortion after his daughter, Smt Sangeeta Mishra, was admitted. Panditji's younger daughter, Smt Namrata Mishra broke down in the hospital's lobby after being repeatedly denied CCTV footage (at the time of admission). The Hospital informed the family that they cannot visit the patient as she was in isolation. However, they can see her on CCTV every day from 2 to 4 PM. They later claimed that the CCTV broke down.

Ms. Namrata claimed that she was repeatedly misled and misinformed about the treatment, denied all information including reports and medication. She also alleged that the family saw their sister only once, on a conference call, after the personal intervention of the Prime Minister.

She then pleads with the Prime minister on camera with folded hands: Prime Minister, Sir, you touched the feet of my father. He, too, loves and blesses you.

PLEASE ENSURE US JUSTICE.

<https://youtu.be/pMaMZlwMxde>

<http://www.humanrights.asia/news/ahrc-news/AHRC-STM-007-2021/>

Covid-19 - The social infrastructure and the legal infrastructure

The situation that has manifested itself in India, Sri Lanka, Nepal, Bangladesh and a few other countries clearly demonstrates the absence of a social infrastructure capable of dealing with the situation of an epidemic/pandemic or a major social crisis. These countries are taken by complete surprise when a major crisis breaks out and they are unprepared to deal with the consequences of such a crisis.

This is not a problem that just arises on these occasions when this kind of situation emerges. It is a permanent situation that exists within a particular society where historically they have not paid attention to develop their own social infrastructure to deal with the basic problems of the people in general, and in particular, the problems of the poor. Or it could also happen when a certain degree of social infrastructure has been built up in the past but that due to social policies adapted in later times, for various reasons such as the privatization of most services, the basic social infrastructure that benefits the average citizens have been sacrificed.

During the experience of Covid-19, examples of these could be illustrated from different countries. For example, large scale deaths and widespread infections due to Covid-19 in the United States were mostly due to the fact that due to the libertarian attitude and other philosophies, policies had been developed, which had taken away the Government's responsibility to maintain the basic health infrastructure. All functions relating to health have been assigned to the private sector and to insurance companies and the like.

In a place like the United Kingdom where after the Second World War there had been a very conscious attempt to improve the health infrastructure of the country, many quality services were developed which were available to everybody on health related issues. However, later these were restricted with the adoption of open market policies where the Government expenditure on issues like health was restricted and these services were passed on to the private sector. When Covid-19 arrived, the country was caught unprepared and the spread of the disease and also the resulting deaths were high because the once existing social infrastructure had been seriously undercut.

What we see in India and South Asia is something similar but at the same time different. Although in the early period of Independence, India adopted a policy for the development of a social infrastructure in order to deal with the enormous inequalities that were existing in India, gradually this approach had been changed. Particularly during the Governments of the Bharatiya Janata Party and most specifically during the Government of Prime Minister Narendra Modi, less and less concern was shown to the poor and average citizens. Thus, even the facilities that were developing earlier, suffered setbacks. However, India's problem is much deeper. Even in the best of times, India's concern for the larger section of the population who were not only poor but were treated as either Dalits, the latter earlier considered outcasts as well as low caste, the indigenous people of various types and many other sectors, were neglected as a matter of general policy. A country which has adequate resources was not able to at least overcome the problem of the starvation and malnutrition of a considerable sector of the society. From the point of view of health, while better and

more modern hospitals were built at some of the city centres, which in turn provided services to those who could afford them, the medical services for the poor remained seriously wanting.

In a country like Nepal, which was under a monarchy till about 2006, no serious attempt was made to develop the social infrastructure. In many parts of Nepal, in the countryside, hardly any modern infrastructure for dealing with social issues was developed.

That is also the case of Bangladesh, where also, the existing services were developed in a very small scale and these services are available only for the more powerful and richer sections of the society. As for the vast masses, the basic social infrastructure has not been developed.

Sri Lanka, to some extent, is a different story. By the latter part of the colonial rule, the basic infrastructure relating to health had been developed and spread into many parts of the country. Due to the introduction of the education service, a highly qualified medical service has also been developed. Until a few decades back, the medical services were available free of charge and that made big changes in terms of the health of the people in many respects. However, this policy began to change from around 1978 when the policies similar to those introduced in the West during the eras of Margaret Thatcher and Ronald Reagan were also introduced to Sri Lanka. While there was no significant improvement in the conditions of life of the people, the basic social facilities that were available to the people including the health facilities were seriously undermined.

The consequence of all these is now manifesting with the spread of Covid-19 in all these South Asian countries. The hardest hit is India where over 3,000 deaths are reported daily. Except for a State like Kerala, none of the other States are prepared to deal with the crisis, although there was a long period that was available since the first manifestations of Covid-19 last year in order for them to prepare themselves to meet the impending crisis.

At the heart of the South Asian problem regarding the highly underdeveloped nature of the social infrastructure lies the attitudes that are embedded in these societies on the basis of various kinds of social ideologies such as caste that remain a major influence in these countries. Indifference towards the average citizens and the neglect of even the harshest forms of deprivation of the basic needs have become so much a part of the cultural patterns of these countries. These hardened attitudes have led the various Governments that have come into power to pay little heed to the needs of the larger sections of the society.

Thus, at the heart of the problem that is manifesting itself through the neglect in dealing with Covid-19 are the entrenched attitudes of inequalities that exist within these societies. When the problem of inequalities is looked down upon with indifference if not contempt, then there is no possibility that more positive policies could be developed in order to give priority for the development of a social infrastructure that would benefit the average citizens of the country.

This ties the problem of neglect of the social infrastructure with the neglect also of the legal infrastructure. The dynamism of a legal system lies in its capacity to hold onto the principle of equality before the law. Equality before the law is not just a legal concept. Equality before the law is one of the most powerful social tools by which the development of laws and law enforcement is ensured in order to maintain a basic social arrangement which will provide security to everyone. This way, the development of a social infrastructure becomes not just some kind of act of goodwill on the part of some good Government or politician but an integral part of the society that could never be altered.

South Asia's central problem is that while speaking abstractly about laws and even Constitutions that have adopted the principle of equality before the law, no real legal infrastructure has been developed to ensure the practice of equality before the law through a proper system of legal enforcement.

In South Asia, particularly in recent decades, there has been a very direct attack on even the limited developments of the application of equality before the law and this has in turn led to the deterioration of the basic institutions of the administration of justice. These institutions basically are the policing, which needs to play a strong role in maintaining the security of the people at all levels, the prosecutorial system that will prosecute all those who disturb the principle of equality before the law by whatever means such as corruption, misappropriation, fraud or the stealing of national resources, and a judicial system that adjudicates fairly on these issues.

A system for the administration of justice that is unable to create and protect the basic social infrastructure of a country cannot fulfill its main function which is the protection of law and order.

Thus, what we see manifested in South Asia is a total crisis. It is at the moment aggravating the problem of Covid-19 and threatening the lives of the people. However, this is not the end of the crisis. This crisis will deepen in every aspect of the society for a long period to come. If not Covid-19, there will be many other acute social problems arising out of the fact that societies' infrastructures both for protecting the basic social services as well as the basic infrastructure for the protection of life through law have been thoroughly disturbed. At the moment, all South Asian societies suffer from a severe disturbance caused by both of these factors.

INDIA: An Unprecedented humanitarian crisis

A Statement from Arundhati Roy & Barkha Dutt forwarded by the Asian Human Rights Commission

The world is watching the highly disturbing situation the second wave of Covid pandemic has caused in India. It is not just an Indian crisis but a major humanitarian crisis that requires the attention of the whole world.

We provide links here to two powerful statements on the prevailing situation: one by Arundhati Roy whose article was published in [We are witnessing a crime against humanity](#) in The Guardian.

The second one is of an interview of Barkha Dutt, one of the India's most prominent journalists, [after losing her father to the pandemic](#).

<http://www.humanrights.asia/news/forwarded-news/AHRC-FST-003-2021/>

INDIA: Where has all the COVID aid gone? World demands accountability from India

This article is part of Anatomy of a pandemic series. [Click here](#) for the first part.)

Avinash Pandey

The World sent India millions in Covid Aid. Why it is not reaching those who need it most screams the headline of a [CNN report](#).

A reporter in the [daily press briefing](#) of the United States' Department of State raised the same question. A reporter, Tejinder Singh asked Jalina Porter, the Principal Deputy Spokesperson of the department about accountability of Indian government over how it is handling aid by the US taxpayers' money. He asked.

“Thank you. I have just two short questions. One is: We are sending these plane loads of material to India. But our journalist in Delhi is reporting that even after trying for two days he's been unable to find out who is taking away the oxygen concentration, medicines, or how much is arriving. There's no website or transparent system where people can apply to get this. So this accountability for the U.S. taxpayers' money being sent, is there anything being done to check on how it is being distributed, the aid that we are sending?”

Unfortunately, the government of India seems to have no answers to both. Despite its claim otherwise, reports expose that it took a whopping 7 days merely to make a Standard Operating Procedure (SOP) for distributing the foreign aid. India received its first foreign aid consignment on 25 April, 2021, the government issued the first SOP only on 2 May 201. All this while, the aid kept lying at the airports, oxygen concentrators remained stuck with the customs.

This happened as Indians, actually even foreigners in India, gasped for oxygen. The death toll stayed over 3,000 meaning at least 21,000 died for the lack of essential supplies. All this as instead of treating the patients, hospitals after hospitals had to run to courts as [“last resort”](#) for oxygen supply warning that they had thousands of patients needing oxygen support while supply would not last for more than a few hours.

The cluelessness of the government on fighting the pandemic can be gauged by the fact that forget Indians, ordinary or Very Important Person (VIP) as they are known in country, even the members of [foreign missions started seeking help of Indian National Congress](#), the main opposition party for their oxygen and other needs. The embassy of the Philippines was the first to tag the president of INC's youth wing for help. The High Commission of New Zealand soon followed suit. Embarrassed Ministry of external affairs of India, of course, tried to deny this but in the era of internet and screenshots, truth can hardly ever be hidden.

Further, by confirming that the High Commission of the New Zealand did indeed seek help from the Youth Congress, New Zealand Prime Minister Jacinda Ardern nailed the lies of the government of India.

The government of India was only further exposed by the fact that it had to [reactivate the Covid cell](#) in the Ministry of External Affairs, the nodal body to take care of covid cases in the diplomatic community, only after the embarrassment. The ministry reactivated the cell, formed in March 2020 to coordinate the Covid help for the members of the diplomatic community on May 1, 2021 by assigning a joint secretary level officer to it- after the fiasco.

One may wonder what the government of India was so busy with as to take a whole week merely to put up a SOP for the distribution of foreign aid, especially oxygen, as people were dying for the lack of. Well it was doing what it has been known for last 7 years- exercises to manage headlines and build a narrative boosting its image, fighting opposition governments of [several states in high courts over oxygen quota](#), and arm-twisting a newly elected opposition government of Bengal over law and order often with [fake news from its leaders and party](#). The most embarrassing among them was sharing a picture of a journalist as its worker killed in political violence 1000s of kilometres away.

Even as the pandemic raged and killed thousands, the foreign minister of India, S Jaishanker held a virtual meeting of Indian envoys across the world asking them to [counter 'one-sided' world media narrative on govt's pandemic 'failure'](#). The meeting took place on 27 April, 2021 as the foreign aid, securing which was the other thing on agenda, kept lying on airport tarmacs and/or remained stuck with the customs.

The government of India also organised yet another meeting with over 350 top officials of the country on May 4, 2021. The main agenda of the meeting, led by the Information and Broadcasting Minister Prakash Javdekar, was to “create a positive image of the government”, manage “perception through effectively highlighting positive stories and achievements”, and making the government “be seen to be sensitive, bold, quick, responsive, hard-working etc”.

To put this meeting in context, it came in the middle of the [worst of the pandemic in the country](#), the worst across the world. With 36,110 deaths, the country has now surpassed the United States which witnessed 34,798 in ten days and Brazil which recorded 32,692. The meeting also came on a day when India reported over 4 lakh cases yet again, worsening its own record, and 16th straight day of more than 3 lakh cases.

Yet the priority of the government remains to boost its image, not the decision making, forget the health infrastructure that is in ruins now.

The Government of India may very well hide its failures, as it has been doing for a while now, by hiding data from its own citizenry. How would it hide the same from the world community demanding accountability for the aid given by the money of the taxpayers?

BANGLADESH: UN Rights Chief needs act to address excessive use of force leading to extrajudicial killings and torture amidst mass arrests

The Bangladesh Government continues [using dis-proportionate lethal force](#) and brutal crackdowns on dissidents. The authorities have been using the COVID-19 pandemic as one of the excuses for denying the rights of liberties and livelihoods to the people.

The Bangladesh Government, in its signature style, chose to crackdown on protesters for staging two peaceful protests. They were aimed against India's apartheid politician and Prime Minister Narendra Modi's visit to celebrate Bangladesh's 50th anniversary of independence.

The Police and the [ruling party's student wing, Bangladesh Chhatra League \(BCL\)](#), were jointly [attacked in the peaceful protests](#) organized by the leftist students' group, the Progressive Student Alliance. They were protesting India's apartheid politician Narendra Modi's visit to Bangladesh. The Bangladesh Student, Youth and Labor Rights Council, led by the immediate past Vice-President (VP) of the [Dhaka University Central Students' Union \(DUCSU\)](#), [Nurul Haque Nur](#), became the [target](#) of the ruling party goons and the Police for the anti-Modi protests. Dozens of leaders of [Bangladesh Chhatra Odhikar Parishad](#) and its associate organization Bangladesh Jubo Odhikar Parishad were abducted by plain clothes men. The abducted leaders remained disappeared since the plain clothes men picked them up. After hours and days of incommunicado detention, followed by criticism on social media platforms by online activists, the Law-Enforcement Agencies had made this claim: the abducted activists were [shown arrested](#), allegedly, in [fabricated criminal cases](#). Many of the cases are registered against the detainees under the [Digital Security Act-2018 \(DSA\)](#).

The [Police and the BCL also launched an attack on the the Baitul Mukarram National Mosque](#) on 26 March 2021. The gravity of disproportionate use of force becomes apparent as the [Police fired over 1100 bullets](#) including 827 rubber bullets, 310 lead bullets, and 93 tear gas shells in less than three hours at the Mosque. The people were confined inside the mosque after their Friday mid-day prayers. The reports of the Police and BCL's joint attacks on the anti-Modi protesters at the Baitul Mukarram Mosque triggered instant protests in many parts of the country. At Hathazari of Chottogram, [Police gunshots killed at least four people](#) because the students of the Hathazari Madrasa protested, surrounding the local Police station and throwing bricks at the Hathazari Police.

Protests erupted in the Brahmanbaria district following the Police-BCL attacks at Baitul Mukarram Mosque on 26 March. The Police and Border Guards Bangladesh (BGB) used live ammunition against the protesters leading to [extra-judicial killings of at least 15 people](#). Most of the victims were identified as poor, working-class people. In the anti-Modi protests at least 19 persons were killed between 26 and 28 March in Bangladesh, according to the documented information the Asian Human Rights Commission has received from human rights defenders of the country.

The Government of Bangladesh has imposed a county-wide ‘lockdown’ from 14 April using the excuse of containing the spread of COVID-19 without providing necessary supports for millions of extremely [poor people](#). The Government left donated, [life-saving medical equipments](#) abandoned at its airport for nearly a year. And, it has not improved its healthcare infrastructures to address the pandemic while using the [lock-down to unleash a crackdown against the dissidents](#).

Dissidents are being detained *en masse* for participating in, and organizing, the anti-Modi protests across Bangladesh. Human rights documentation confirms that at least 660 people were detained until 25 April, since Narendra Modi’s visit to Bangladesh. The detainees include the leaders of Bangladesh Chhatra Odhikar Parishad, Bangladesh Jubo Odhikar Parishad, Progressive Students Alliance, and Hefajat-e-Islam Bangladesh. Most of the detainees were abducted by men in plain clothes and remained disappeared for certain period of time. Following social media exposures of the abductions and disappearances, formal acknowledgments from the Rapid Action Battalion and the Police came about the arrests of the detainees. The leaders of Hefajat-e-Islam are mostly [shown arrested and remanded under criminal cases registered in 2013](#).

All the detainees of the anti-Modi protests have allegedly been brutally tortured in custody. The [Police tortured Akhtar Hossain](#), Bangladesh Chhatra Odhikar Parishad’s Dhaka University unit’s President, in custody. In press conferences the [victims’ families demanded unconditional release of the detainees](#).

The most worrying aspect of the ongoing mass arrests, extrajudicial killings, torture, and fabrication of criminal cases is that Bangladesh’s justice mechanisms systematically deny access to justice for the victims. The pro-government judiciary sends the detainees to remand allowing law-enforcement agencies to use torture in custody. There is no resort to afford remedies for the gross violation of human rights under the incumbent government. This reality also establishes the fact that the law-enforcement agencies are not accountable for the disproportionate use of brute force while they curb the right to peaceful assembly and freedom of expression in the country.

The Asian Human Rights Commission urges the [United Nations Office of the High Commissioner for Human Rights](#) (OHCHR) to focus on the present crackdown along with the deplorable human rights situation prevailing in Bangladesh. The OHCHR needs to exercise its mandate to collect evidence of the systemic denial of access to justice in the embedded pattern of gross violation of rights in that country with blanket impunity. The International Community needs to explore avenues to apply effective universal, and other appropriate mechanisms, to hold the Bangladeshi perpetrators accountable in the given context.

<http://www.humanrights.asia/news/ahrc-news/AHRC-STM-004-2021/>

BANGLADESH: Stand with Bangladeshi Journalists on Press Freedom Day

Free Expression under Serious Threat

A Joint Statement by the Asian Federation Against Involuntary Disappearances, Asian Forum for Human Rights and Development, Asian Human Rights Commission, Asian Network for Free Elections, Committee to Protect Journalists, Eleos Justice – Monash University, Human Rights Watch, International Federation for Human Rights, and Robert F. Kennedy Human Rights Center

The Bangladesh government's increasingly violent crackdown on media freedom is of urgent concern on World Press Freedom Day, nine nongovernmental organizations said in a [letter today](#) to Michelle Bachelet, the United Nations High Commissioner for Human Rights. Bachelet and UN experts should publicly and vigorously express concerns over continuing attacks on the media including arbitrary arrests, torture, and extrajudicial killings, and use all possible means to urge the Bangladeshi authorities to protect and respect freedom of expression.

At least 247 journalists were reportedly subjected to attacks, harassment, and intimidation, by state officials and others affiliated with the Bangladesh government in 2020. More than [900 cases were filed](#) under the draconian Digital Security Act with nearly 1,000 people charged and 353 detained—many of them journalists.

“Bangladeshi journalists are risking arbitrary arrest, torture, and their lives just to do their jobs,” said [Angelita Baeyens](#), **Vice President of International Advocacy and Litigation at [Robert F. Kennedy Human Rights](#)**. “The UN and concerned governments should stand with journalists and make clear to the Bangladesh government that freedom of expression is essential to democracy.”

Bachelet's March 1, 2021 [statement](#) following the [death in custody](#) of a writer, Mushtaq Ahmed, and [torture](#) of a cartoonist, Ahmed Kishore, was important for highlighting the dangers facing journalists in custody, the organizations said.

In recent months, a number of Bangladeshi journalists have been targeted for their work. Those who expose government corruption or express dissent are particularly at risk. At least 17 journalists, a majority of them photographers, were injured covering protests over

the visit by Indian Prime Minister Narendra Modi in March. Demonstrators and police officers hit journalists with pistol butts, sticks, iron rods, stones, and bricks. Journalists shot by rubber bullets sustained bruises, swelling, bleeding, broken bones, a dislocated shoulder, and a cracked skull. During these protests, there were also reports that Facebook and Messenger services were restricted in Bangladesh.

Media critical of the ruling Awami League party are frequently censored. The Bangladesh government has allegedly targeted websites and YouTube channels of Bangladeshi dissidents abroad, media reports said. In March, for instance, the Indian news website Scroll was inaccessible in Bangladesh, media reports said, after publishing an article by a Bangladeshi writer criticizing Gowher Rizvi, a Bangladesh government adviser. With widespread repression of the media and the harassment of editors who publish reports critical of the government, journalists have taken to self-censoring at unprecedented levels given the risks of imprisonment or closure of media outlets.

The authorities continue to use the Digital Security Act (DSA) to harass and indefinitely detain journalists, activists, and others critical of the government, resulting in a chilling effect on expression of dissent. Bangladesh authorities are poised to undertake even more prosecutions of DSA cases, as the Law Ministry has approved a proposal to expand the number of special tribunals specifically for these types of cyber “crimes.”

“The UN and donors should continue to take every opportunity to call on the government to repeal the Digital Security Act and release all those detained under it,” said Brad Adams, **Asia director at Human Rights Watch**. “Anyone violently targeting journalists and activists should be held accountable, including ruling party activists.”

Signatory Organizations include:

Asian Federation Against Involuntary Disappearances (AFAD)
Asian Forum for Human Rights and Development (FORUM-ASIA)
Asian Human Rights Commission (AHRC)
Asian Network for Free Elections (ANFREL)
Committee to Protect Journalists (CPJ)
Eleos Justice – Monash University
Human Rights Watch (HRW)

International Federation for Human Rights (FIDH)
Robert F. Kennedy Human Rights

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<http://www.humanrights.asia/opinions/AHRC-JST-006-2021/>

BURMA/MYANMAR: Myanmar Situation Update

A Statement from Anfrel forwarded by the Asian Human Rights Commission

The pro-democracy protests continued across the country while the Myanmar community outside of the country also conducted the protests in places such as London, Kuala Lumpur, Tokyo and Seoul. The protests started again in Yangon last week just before the ASEAN summit after a few weeks of absence. Some flashmobs were also witnessed in townships such as Kyauktada, Sanchaung, Ahlone, Hlaing, Kamayut, Dawbon, Thaketa, Tamwe, Insein and Hlaing Tharyar townships in Yangon.

A series of small-scale explosions also reported in Yangon in the past week. On 2 May alone, explosions were reported at least in six townships including Insein, Hlaing Thar Yar, Tamwe, North Dagon, South Dagon and Thaketa.

The junta lifted the nightly fibre internet cut off while mobile data and wireless broadband remain blocked, except for some selected business and banking apps. Social media, including Facebook, Instagram and Twitter, are still banned in the country.

Despite the call for immediate cessation of violence through ASEAN summit by the ASEAN leaders which was joined by the junta leader Senior General Min Aung Hlaing, deadly crackdowns, human rights violations, raids and arrests have continued in days and nights. The junta also announced that stability is the current priority of the regime including maintaining law and order and restoring community peace and tranquility. The junta also announced it will only consider the ASEAN leaders' recommended five- point consensus after the situation stabilizes in the country.

Suppression of media and arrest of journalists also continued. More than 70 journalists have been arrested since the coup and of them, 40 are still under detention and another 22 journalists face arrest warrants on incitement charges. It was also reported last week the junta has terminated the license of Myitkyina News Journal, a local media based in Kachin State.

In the past week, tension between the Myanmar military and ethnic armed organizations Kachin Independence Army (KIA) and Karen National Liberation Army (KNLA) intensified. The military launched more airstrikes in the conflict areas, causing more residents to flee across the Thailand border.

There is also a trend that pro-democracy activists express their support towards the ethnic armed organizations and receive military training from ethnic armies in Myanmar's borderlands. Thousands of young people including students, doctors and engineers have joined the training in Karen and Kachin States.

The UNDP has reported that nearly half of Myanmar's population could be forced into poverty by 2022 due to the impacts of military rule and the COVID-19 pandemic.

The Assistance Association for Political Prisoners figures showed that as of 2 May, 765 people have been killed by the junta, 3,555 are currently under detention while 82 were sentenced. 1,396 arrest warrants have been issued and among them 20 were sentenced to death and 14 to three years imprisonment.

Click [here](#) to download the [Full Statement](#)

<http://www.humanrights.asia/news/forwarded-news/AHRC-FST-004-2021/>

BURMA/MYANMAR: Myanmar Situation Update

A Statement from ANFREL forwarded by the Asian Human Rights Commission

The protests continued for the 12th week across the country despite the brutal crackdown. After a weeks- long absence, protesters returned to the streets in downtown Yangon ahead of the ASEAN Leaders' Meeting. The media also reported that more than 110 people, many of them student activists and youth protesters, were abducted by the junta. Some of the protest leaders' houses were raided while some of them fled to avoid the arrests.

The ASEAN Leaders' Meeting was held on 24 April in Jakarta, Indonesia and was represented by junta chief Senior General Min Aung Hlaing despite strong objection from the people of Myanmar and both local and international CSOs. The calls to invite the National Unity Government (NUG) to the meeting in order to address the issue of Myanmar were not fulfilled. The meeting ended with the issue of a "Five Points of Consensus", which was criticised for not including the call for the release of political detainees in Myanmar. Deadly crackdowns on the protesters and the attacks on ethnic communities by the junta continued even during the ASEAN Leaders' Meeting.

The World Bank forecast the Myanmar economy will decline by 10 percent this year due to the impact of the military coup. Around 200,000 workers in the garment industry have lost their jobs and nearly a third of the garment industry jobs have been wiped out with many other industries. The World Food Program (WFP) analysis also shows up to 3.4 million or more people will struggle to afford food in coming months with urban areas worst affected as job losses mount in manufacturing, construction and services and food prices are in rise.

As air raids and the continuing fights between the Myanmar military led thousands of people to cross the border to Thailand and India. The humanitarian organizations also stressed the importance of unfettered access to everyone fleeing Myanmar to provide lifesaving aid and other services, including healthcare, food and water.

There are nearly 250,000 displaced persons inside Myanmar or neighbouring countries like Thailand, India. However, there is no proper humanitarian assistance for these victims and it was discussed in many CSOs forums for immediate actions, especially from the Thai government, UN and other international relief groups.

The Assistance Association for Political Prisoners figures show that as of 25 April, 751 people are confirmed killed by this junta. 3,431 are currently under detention while 79 are sentenced. 1,159 arrest warrants have been issued. 20 were sentenced to death and 14 to three years imprisonment.

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NEPAL: UN experts express concerns for independence and integrity of the NHRC

A Statement from the United Nations Human Rights Office of the High Commissioner forwarded by the Asian Human Rights Commission

UN Human rights experts* expressed serious concern for the independence of Nepal's National Human Rights Commission (NHRC) after the recent appointment of new members that they regard as being inconsistent with international standards. The experts urged the Government to rectify the situation immediately.

“We are deeply concerned that the appointment process is not in line with international standards and that it undermines the independence, integrity and legitimacy of the NHRC, which restricts the ability of the people of Nepal to access appropriate remedies for alleged human rights violations,” the experts said. “This will have a chilling effect on civil society actors.

“This appointment process has failed to implement the essential requirements of the Paris Principles, including the need for an open, transparent and participatory process with broad consultations,” said the experts. The Paris Principles, a set of minimum international standards for effective and credible National Human Rights Institutions (NHRIs), were adopted by the UN General Assembly in 1993.

The experts said Nepali authorities have failed to implement the extensive guidelines of the Sub-Committee on Accreditation (SCA) on the basis of which the NHRC was conferred its ‘A’ status. The SCA is a body of the Global Alliance of National Human Rights Institutions (GANHRI) responsible for reviewing and accrediting NHRIs in compliance with the Paris Principles. NHRC Nepal retained its ‘A’ status after a review in March 2019.

An independent and impartial national human rights institution is critical for the promotion and protection of civic space and in particular the right to assemble and associate. It is also vital to the transitional justice process, and ensuring accountability for crimes committed during Nepal's armed conflict, including extrajudicial killings, enforced disappearances and torture.

The experts said the recent appointments had also failed to adhere to domestic law as enshrined in the Constitution of Nepal and noted that authorities had shown unwarranted haste in avoiding crucial processes such as the parliamentary hearing.

On 15 December 2020, Nepal's President issued an ordinance to amend the Constitutional Council, clearing the way for it to hold meetings without quorum and take decisions based on a simple majority. Under Nepali law, appointments to Constitutional bodies must be confirmed through a parliamentary hearing process, which could not take place because the President dissolved the House of Representatives.

On 3 February 2021, the President appointed five new members of the NHRC, despite the fact that petitions challenging the constitutionality of the ordinance were pending at the Supreme Court's Constitutional Bench. New Commissioners of the Constitutional bodies

established to protect the rights of Dalits, Madhesi, women, Janjati, Muslims and Tharus were sworn in the same day.

While the Constitutional Bench of the Supreme Court reversed the President's dissolution of the House of Representative in a 23 February ruling, substantive hearings have yet to take place regarding petitions against the ordinance and appointments to Constitutional bodies.

The experts said that since Nepal's Chief Justice was part of the Constitutional Council that recommended the appointments, "the Chief Justice should recuse himself from their review by the Supreme Court to avoid any perception of lack of independence or bias".

The experts called on the Government to stand by its commitments to the Universal Periodic Review and its voluntary pledges for UN Human Rights Council membership to strengthen the NHRC.

"We call on the Government to reverse the appointments to the Constitutional bodies and facilitate a new process marked by openness, transparency, broad consultation and participation," the experts said. "The independence and impartiality of the Commission is vital for the effective functioning of a democratic State based on the rule of law."

The experts have communicated their concerns to the Government of Nepal.

<http://www.humanrights.asia/news/forwarded-news/AHRC-FST-002-2021/>

INDONESIA: Pretrial detention under the existing Code of Criminal Procedure and the Bill of Criminal Procedure

Under the Soeharto regime, which is known as the New Order Era, Indonesia issued Criminal Procedure Code Number 8 of 1981 (known as KUHAP). This Law was issued to replace the old Criminal Procedure legacy of the Dutch Colonial era, known as the Update Indonesia Regulation (RIB) or also called *Het Herziene Indonesisch Reglement*.

After Soeharto stepped down in 1998 due to massive public protest, Indonesia started to reform its Judiciary and Legal Systems, one being the Code of Criminal Procedure. One of the important provisions that need to be reformed in the existing Criminal Procedure is Pretrial Detention. The existing code provide authority to police, prosecutor, district court, high court and the Supreme Court, for a total of 400 days.

The latest bill of the Code of Criminal Procedure was issued in 2012. And there has been no amendment since then.

Unfortunately, the latest bill of criminal procedure still applied to pretrial detention. It can be described as follows:

- a. Police Investigator and Prosecutor can detain a suspect for 5 days extended for another 5 days for a total of 20 days under the Police and Prosecutor stages.
- b. District Court is 30 days extended for another 30 days for a total of 60 days.
- c. High Court is 30 days extended for another 30 days for a total of 60 days.
- a. Supreme Court is 50 days extended for another 50 days for a total of 100 days

Total pretrial detention under the latest Bill of Criminal Procedure is 240 days

A Comparison Between the Existing Code of Criminal Procedure and the Bill of Criminal Procedure

No	Pretrial Detention Under Existing Code	Pretrial Detention Under the New Bill
	<p style="text-align: center;">Article 19</p> <ol style="list-style-type: none"> 1. The arrest as intended by Article 17, can be made for at most one day 2. A person suspected of having committed a misdemeanor shall not be arrested, except when without valid reasons he has failed two consecutive times to comply with valid summons. 	<p style="text-align: center;">Article 57</p> <ol style="list-style-type: none"> 1. The arrest as referred to in Article 54, is carried out for a maximum of 1 (one) day. 2. A suspect in a criminal act which is punishable by a fine shall not be subject to arrest, unless the suspect has been legally summoned 2 (two) times in a row and fails to fulfill the summons without valid reason.
Detention in the stage of investigation		

	<p style="text-align: center;">Detention</p> <p style="text-align: center;">Article 24</p> <ol style="list-style-type: none"> 1. A warrant of detention issued by an investigator as intended by Article 20, shall only be valid for at most twenty days. 2. The period of time mentioned in Paragraph (1), if necessary for purposes of an examination which is not yet completed, may be extended by a competent Public Prosecutor for at most forty days. 	<p style="text-align: center;">Detention</p> <p style="text-align: center;">Article 58</p> <p>For the purpose of examination at the investigation stage, an Investigator is authorized to detain a suspect.</p> <p style="text-align: center;">Article 60</p> <p>The detention as referred to in Article 58 paragraph 1 and paragraph 2 conducted for a maximum period of 5 (five) days by the Investigator</p>
Detention in the stage of prosecutor		
	<p style="text-align: center;">Detention</p> <p style="text-align: center;">Article 25</p> <ol style="list-style-type: none"> 1. A warrant of detention issued by a Public Prosecutor as intended by Article 20 shall only be valid for at most twenty days. 2. The period of time as stated in Paragraph (1) if necessary for purposes of an examination which is not yet completed, may be extended by the head of a competent district court for at most thirty days. 	<p style="text-align: center;">Detention</p> <p style="text-align: center;">Article 58</p> <ol style="list-style-type: none"> (2) If the Prosecutor who is detaining is in the investigation stage of a certain criminal act, the approval of the detention that exceeds 5 x 24 (five times twenty-four) hours is granted by: <ol style="list-style-type: none"> a. the head of the State Prosecutor's Office in the event that the detention is carried out by the District Attorney. b. the head of the High Prosecutor's Office in the event that the detention is carried out by a high prosecutor's office; or c. The Director of Prosecution of the Attorney General's Office (AGO) in the event that the

		<p>detention is carried out by the AGO.</p> <p>Article 60</p> <p>(1) The detention as referred to in Article 58 paragraph (1) and paragraph (2) conducted for a maximum period of 5 (five) days by the Investigator.</p> <p>(2) The detention as referred to in paragraph (1) may be extended for a maximum of 5 (five) days by the Public Prosecutor.</p>
	<p>Article 26</p> <p>1. A Judge of a district court who is adjudicating a case as intended by Article 84 shall have the authority, for purposes of an examination, to issue a warrant of detention for the most thirty days.</p> <p>2. The period of time as stated in Paragraph 1, if necessary for purposes of an examination that is not yet completed, may be extended by the Head of the District Court concerned for at most sixty days.</p>	<p>Article 61</p> <p>(1) District Court Judges adjudicating cases as referred to in Article 58 paragraph (5), have the authority to issue detention judgements for a maximum of 30 (thirty) days.</p> <p>(2) If necessary, for the purposes of an incomplete examination, the period of detention as referred to in paragraph (1) may be extended by the Head of the District Court concerned for a maximum of 30 (thirty) days.</p> <p>(3) The extension of the detention period as referred to in paragraph (2) may be extended 1 (one) more time by the Head of the District Court for a maximum of 30 (thirty) days.</p>
	<p>Article 27</p> <p>(1) The Judge of a High Court who is adjudicating a case intended by Article 87, for purposes of an examination on appeal, shall have the authority to issue a warrant of detention for a period of at most thirty days.</p>	<p>Article 62</p> <p>(1) A high court judge hearing a case for the purpose of examining an appeal case has the authority to issue a</p>

	<p>(2) The period of time as stated in Paragraph (1), if necessary for purposes of an examination that is not yet completed, may be extended by the Head of the High Court concerned for at most sixty days.</p>	<p>detention order for a maximum of 30 (thirty) days.</p> <p>(2) If it is necessary for the purposes of an incomplete examination, the period of detention as referred to in paragraph (1) may be extended by the Chairman of the High Court concerned for a maximum of 30 (thirty) days.</p>
	<p style="text-align: center;">Article 28</p> <p>(1)The Supreme Court Justice who is adjudicating a case as intended by Article 88, for purposes of an examination in cessation, shall be the Authority to issue a warrant of detention for a period of at most fifty days.</p> <p>(2) The period of time as stated in Paragraph 1, if necessary for purposes of an examination that is not yet completed, may be extended by the Chief Justice of the Supreme Court for at most sixty days.</p>	<p style="text-align: center;">Article 63</p> <p>(1) The Supreme Court Judge who hears a case for the purpose of examining the cessation case has the authority to issue a detention order for a maximum of 30 (thirty) days.</p> <p>(2) If it is necessary for the purposes of an incomplete examination, the period of detention as referred to in paragraph (1) may be extended by the Chief Justice of the Supreme Court for a maximum of 60 (sixty) days.</p>

<http://www.humanrights.asia/news/ahrc-news/AHRC-STM-006-2021/>

SRI LANKA: It Is Time for the Judiciary to Defend Itself

The recommendations by a Commission appointed by the President, recommending that a large number of criminal cases that have been filed in the Courts of Sri Lanka be withdrawn, is the deadliest blow that has been dealt with the administration of justice in Sri Lanka. If this recommendation is put into effect, the consequence would be that of replacing the Judiciary of Sri Lanka with anyone that the President may choose to appoint in order to annul any of the proceedings that are instituted in a court of law. Thus, it would be impossible for the system of the administration of justice to recover from this blow if these recommendations are allowed to be put into effect.

The recommendations that over 70 cases pending in various Courts in Sri Lanka should be withdrawn on the basis of the recommendations of the said Commission amounts to nothing less than situating such a Commission above the Courts of law in Sri Lanka.

The fact that a Commissioner appointed to this Commission was a Supreme Court Judge does not add anything to alter the fact that these Commissioners were nothing more than civilians. A judge is a judge only to the extent that he or she exercises a judicial power. Only judicial officers can exercise judicial power. Civilians, whatever their former status, would have no power to stand above the courts and to interfere in the affairs of courts.

A question that is worth considering is as to whether a Commission of Inquiry can commit the offence of contempt of court. If the Commissioners act in a manner that interferes with the proper functioning of the courts according to the manner prescribed by the law, they are doing far more harm than anyone punished for contempt of court so far. These Commissioners have been virtually making the accusation that in the cases identified by them, the relevant Courts have politically victimized those named as accused parties.

The Commissioners have gone even further in recommending that these cases must be withdrawn. Is that not an attempt to order the relevant Courts to act on the authority of the Commission?

The action of this Commission is nothing less than a direct interference in the administration of justice. That is also a criminal offence. There is good grounds to bring all the three Commissioners before the Supreme Court for having committed serious acts of contempt of court and of the obstruction of the administration of justice.

It would also be absurd to argue that the Commissioners enjoy immunity, even if what they do amounts to criminal offences. It would also not be a defense to state that they have done what they did on orders received from above.

The recommendations of this Commission are completely null and void as no one including the President can grant a power to some civilians to interfere into the manner in which a court conducts its affairs. Anyone who obeys this Commission and plays any part in trying to put into effect the recommendations made by this Commission on the issue of ordering

the withdrawal of cases which are pending before Courts is also committing a serious act of contempt of court. It is only the courts that have that power and the courts can do it only within the framework of due process, where the rights of all affected parties should be heard. Besides, if courts make any decision, it should be appealable. To take the power of the administration of justice in the cases filed before court from the Judiciary of a country and handing it over to anyone else is the highest act of the destruction of the very fabric of the legal framework of a country.

This decision by a Commission to interfere in the administration of justice does not come as a surprise at all. It is merely a very clear manifestation of what has been going on for several decades to undermine the Judiciary. This gradual process has now come to its final stage when the President acting through a Presidential Commission directly interferes with the administration of justice.

With this last assault, the system cannot survive at all except as a farce.

Several Members of Parliament including C.V. Wigneswaran, have strongly condemned these recommendations and called them unprecedented. As he has stated, "If the appointment of the said Commission was a folly, the Commission itself called by Parliamentarian and Field Marshal Sarath Fonseka as the Pissu Poosa (Crazy Cat) Commission, has proceeded with visible glee into territories that angels fear to tread. It is clear that there are several cases that are presently pending in relation to the matters inquired into by the Commission. The Commission is not a body recognized by Article 105 of the Constitution as an institution for the administration of justice. It simply has no business regarding anything to do with matters pending before the Judiciary. All the actions by the Commission in respect of pending cases would constitute a clear interference with the Judiciary and as such would be in violation of Article 111C of the Constitution which states that any interference with the Judiciary would be an offence recognized in the Constitution itself." (Citation from Colombo Telegraph)

If serious offences have been committed, then the Commission should be held accountable for the wrongs they have done

Who Will Bell the CAT?

That several grave offences including an offence Against the Constitution itself has been committed is clear; that the system of administration of justice has been torpedoed is also clear. The vital question is as to who will act to set things right; who will transform mere verbal protests to action?

Here the ball is back to the courts itself, particularly the superior court judges and Chief justice himself. When the judicial system is faced with the worst attack it has ever suffered, it is those who are guardians of the statement must act first. They must act decisively. To act or to perish is the only option left.

Here something must be said about C.V. Wigneswaran's comment on Neville Samarakoon's example of defending the judiciary. Truly he acted with courage and responsibility when he saw that his former friend, then president took him for a ride.

However, history would have been different if he initially realized that the constitution under which he was to exercise his office, was fundamentally flawed. If he opposed that constitution, he would have set in motion a process that would have defeated J.R. Jayewardene's ambition to use the constitution itself to destroy democracy, rule of law, and the independence of the judiciary.

Subsequently, even otherwise great judges like Mark Fernando and C. V. Wigneswaren also made the mistake of been compromised by acting within the unprincipled limits imposed by this constitution. At one stage, when houses of a few Supreme Court judges were stoned, Judges Association wanted to go on strike as a protest. That was prevented. Had such action taken, even if some judges may have had to make some sacrifices, this constitution would not have lasted this long.

In Sri Lanka guardians themselves failed to defend themselves.

Now, they have their final chance. Will they act in a way, to provide an inspiration for people to come forward, to defend the judiciary?

This is one more occasion when the decisions of a few may decide the fate of a nation.

<http://www.humanrights.asia/news/ahrc-news/AHRC-ART-025-2021/>

Making of a “free crime” zone

Basil Fernando

Social reformers in some countries have spoken about crime free zones. This meant putting special effort to experiment with the possibility of making a particular area within a country crime free. The purpose of doing that is to create a model which would gradually spread into the whole country so that the crime would be reduced or eliminated gradually.

This same idea is embedded in the making of criminal justice systems. The idea of control of a crime through proper criminal investigations through competent and confident officers, through impartial prosecution systems and a judiciary that will uphold the basic principles of fair trial are all meant to reduce crime drastically if not for altogether eliminating crimes.

As against the crime-free zones, what has been happening within Sri Lanka is the deterioration into a free crime zone encompassing the whole of the country. This has happened in many ways and the basic system that was established during the colonial time to control crime has been undermined to an exceptional level.

However, what is proposed through the political victimization commission, by recommending withdrawal of criminal indictments filed in courts, is to make Sri Lanka even more of a free crime zone. If any commission or even the highest authority in the country has the power to order that criminal indictments file in a court should be withdrawn, that amounts to declaring that the crimes against which these indictments have been filed are not crimes at all. If that could be done once, then it could be done again. With that, the entirety of the system substantially changes. The facade of the system can remain but once the substance is removed, the result will be one that only the criminals could celebrate.

Therefore, the situation has reached a final critical moment.

The preparation towards that moment has been made over a long period of time. The series of measures by which this situation was brought about can be briefly mentioned as follows: Five judges of the Supreme Court and an Attorney General, who also later became a Supreme Court judge, agreed in 1972 to act outside the normal law of the country in deciding on the innocence or the guilt of persons without granting fair trial to the accused as is required by the system of law prevailing in the country. Till then, the judiciary mostly adjusted cases involving ordinary crimes such as theft, robbery, murder, rape and other individual crimes. With the incidents that took place in 1971, where the J.V.P attacked some police stations, a new situation came about. And instead of trying to find a solution to the new problem within the framework of the existing legal framework that guarantees the right to a fair trial, the very idea of the fair trial was abandoned. That paved the way to the collapse of the criminal justice system because once the foundation of the infrastructure is damaged, then gradually the whole structure that stands on it is bound to collapse.

Even before that, by gazette notifications under the emergency laws, disposal of dead bodies was allowed without following the proper legal process of having postmortems and

reports. This was a deliberate move to prepare the ground for political assassinations. Similar provisions have been repeated later from time to time. On each of those occasions, large-scale killings have taken place in the hands of the security personnel and these killings have taken place mostly after persons were arrested. The most basic and the sacred rule relating to the right to life and the right to due process under the law is the protection given to persons who are under arrest as they are in the custody of the state. This basic provision has been repeatedly violated. Since the first killing of prisoners in 1983, there have been several instances in which prisoners have been killed inside the prisons. Also, prisoners being killed at the police station after even being arrested for normal crimes, being subjected to extrajudicial killings is an occurrence that happened many times during each year. Again, none of these crimes have led to proper investigations or prosecutions.

Later, with the development of organized crime, again situations developed where either due to political influences or by way of other corruption and bribery, crimes go unnoticed or they get hushed up.

Then various methodologies were developed, particularly by the use of national security laws and anti-terrorism laws, to keep people in prolonged detention without trial. Often there was the complaint that many of these people who were kept in that way were put into that position due to political reasons or due to the influence of powerful persons.

All these matters affected the machinery of criminal justice. The quality of criminal investigations went down rapidly and the reason very often given for this is political interference. The fear that doing a proper investigation could lead to serious consequences for the investigators became a major factor undermining the entire process of investigations. It became common that even crimes of very serious nature affecting the lives of many people did not lead to proper investigations ending in prosecutions. The Easter Sunday massacre of 2019 and the aftermath itself is an illustration of the extent to which the system has collapsed.

Added to this, there are the entrenched problems of delays in justice which most of the time were in favor of the accused. These delays, according to a Parliamentary Select Committee, could go up to 17 years or more. How could any system of criminal justice survive with those kinds of delays?

With all that, if some elementary system survived, that too has now been challenged by use of presidential power for pardoning crimes without following any guidelines acceptable within a rule of law framework. It is against the backdrop of all these things that now the recommendations of the political victimization commission has arrived.

The virtual demise of a criminal justice system is a disaster of the greatest proportions that could ever happen to any society. Life, liberty, the right to property and right for the use of public space by way of free speech, right by free association and assembly, all can be protected only to the extent that the country's criminal justice system works. However, even more serious is the fact that the country's economic system is almost entirely dependent of the existence of a functional and credible criminal justice system which is

capable of maintaining the respect for legal rules and respect for the obligations under contract intact. Without an effective criminal justice system, daylight robbery is possible at all levels.

What we are witnessing now is a catastrophe of great magnitude. There does not seem to be sufficient public awareness of the danger with which the society is faced. Or it may well be that there is such a level of despair within society about the inability to do anything about the kind of problem we are faced with. Whatever be the reason, this lack of awareness will not lessen the catastrophe but it will add to it.

Defending the commandment ‘Thou shall not kill’

The Catholic Church is rightly concerned about the deaths of over 260 persons and injuries to 500 or more persons which took place as a result of the bomb blasts on 21 April 2019. It certainly reflects the wish of all the survivors of these deaths as well as the whole community when it demands full revelation about all that has caused this tragedy.

However, there is an even more fundamental issue that the Catholic Church as well as all other religions and all persons concerned with moral values should ask themselves. That problem is as to how a climate of disregard for the most basic norm of human civilisation, which is the precept against killing, has become such a trivial matter in Sri Lanka. And that raises far more important questions which may ultimately also help to resolve the killings which took place on that tragic Sunday.

Over the decades, the basic responsibility for protecting life from murder has been treated with the most careless disregard. And even the religions failed to assert strongly the most important moral precept that these religions have been preaching throughout their existence. When large-scale direct murders were taking place in the country, the churches and other religious movements remained silent.

We may discuss a few examples of a very blatant nature. Several commissions appointed in the 1990s to inquire into the involuntary disappearances at the time, mostly in the South, investigated and found that large-scale enforced disappearances had been taking place in the country. The details given in the commissions clearly established that most of these persons were killed after they were arrested. Thus, it could be surmised that their killings took place while they were in the custody of the security authorities. It is a fundamental norm even during a war that once a person has surrendered even in the battlefield that he/she should be given the protection by the enemy forces against whom he/she was fighting. Many of those who were killed by way of enforced disappearances in Sri Lanka were not taken into custody in the battlefield. They were taken from their homes. There seemed to be authorisation to arrest and kill, purely on the basis of any flimsy suspicion; it would seem a false petition was good enough evidence to arrest people and to kill them. And later, a similar process also took place in the North and the East. Here, we are not talking about those who were killed in combat. We talk about persons who have been taken into the custody of the military or the Police and whose whereabouts are thereafter unknown. Even such most basic forms of denial of the protection of life did not become a matter of conscience for the churches or for other religions.

According to the commissions on involuntary disappearances which gave statistics about the numbers of persons who had disappeared, 15% of those persons were children below the age of 19. Such a large-scale killing of children did not become a matter of serious intervention for the leaders of the churches or of any other religions.

Over and over again, people have been killed inside prisons. Even these did not become a matter of serious concern or intervention on the part of those who represent these religions and who preach the basic moral values as the foundation of any civilised society.

We have merely chosen only one aspect of this problem but that is enough to illustrate the point of this essay. That point is that what happened on 21 April 2019 was not a random act. It happened in a society where there is a moral disinclination to defend even the right against murder. Had there been religious and social concerns expressed strongly against the killing of persons after they had been taken into the safe custody of the Police or the military authorities, this climate would not have developed in the country in the way that it has got widespread now. So long as this climate prevails, anything can happen. Thus, finding a solution to the Easter Sunday massacre, which itself is illusive, would not suffice even if it could succeed. Something more than a liability for this particular cruelty is needed if Sri Lanka is to have a moral climate within which the life of human beings can be protected. For that to happen, there needs to be a moral cry and that cry is absent in the country. When morality is not defended, crying over some immoral acts alone would not make much of a difference.

To allow the security authorities to kill, is, among other things, the best way also to destroy the discipline within these security authorities themselves. Those who have been used to carrying out killings cannot also at the same time try to protect law and order. And that is a fundamental problem that is facing the country. When those who are to enforce the law lack the moral credibility within the community, they simply are unable to carry out their most basic functions. When they cannot carry out their most basic functions, then there is social instability, disorder, and chaos.

Such a situation of disorder and chaos is the social climate which makes any horrendous crime like that which happened in the Easter Sunday massacre possible. Within the country today, there prevails a complete breakdown of the law enforcement function because the law enforcement agencies themselves have been used for illegal, immoral, and criminal purposes. There has been no attempt to repudiate that past and to bring about a fundamental reform of the law enforcement agencies themselves.

Those who should get involved in creating that debate for a morally responsible law enforcement capacity to be installed in the country, have failed in their responsibility and in some ways directly or indirectly connived to bring about this situation of instability and disorder.

The religions that directly or indirectly contribute to the prevalence of a culture of impunity for murder have failed all communities and the whole nation. They have also helped the culture to degenerate and civilisation to be fundamentally undermined. If the attempt to seek justice for the Easter Sunday victims is genuine and not fake, then the whole issue of the attitude relating to murder prevailing in Sri Lankan society now, and in particular in the law enforcement agencies, should be seriously brought into a public discourse. There is a lot of talk of the non-recurrence of similar events as the massacre of 2019. However,

such talk will just be nothing more than hypocrisy unless the situation which tolerates murder and makes the whole issue of killings a mere matter of triviality, is not brought to a serious questioning with the view to have this situation changed.

That is a choice that is posed by the victims and the survivors of this massacre as well as all those others who are victims or survivors of alleged large-scale killings that have been going on and are going on in the country.

The prohibition against murder should be reinstated in the country with all the force and resources for the enforcement of the law within a civilised legal framework. To be legally uncivilised is of course the worst that could happen to any society.