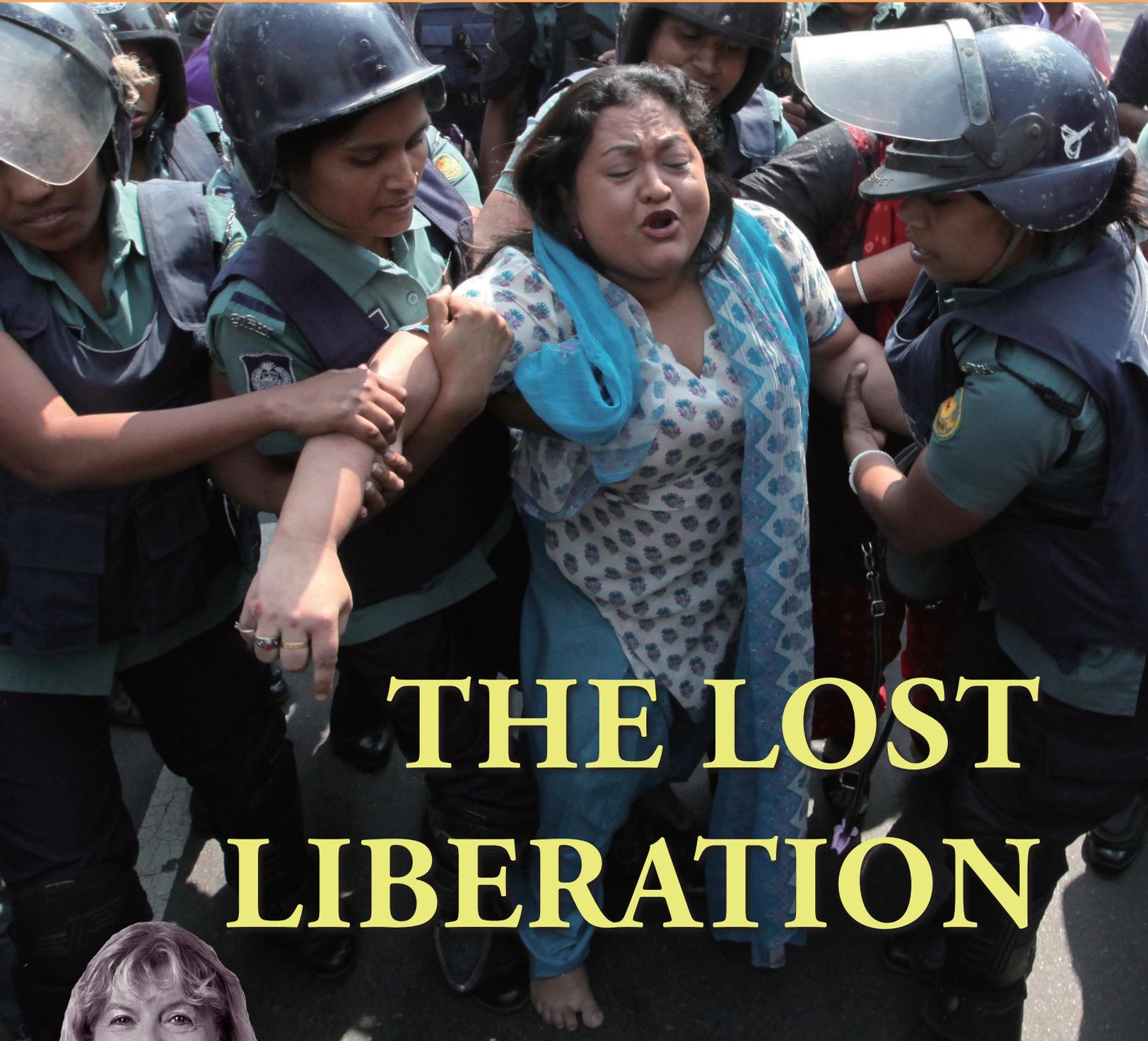


TORTURE

ASIAN AND GLOBAL PERSPECTIVES



THE LOST LIBERATION



Testimonial Therapy
& the Life Project

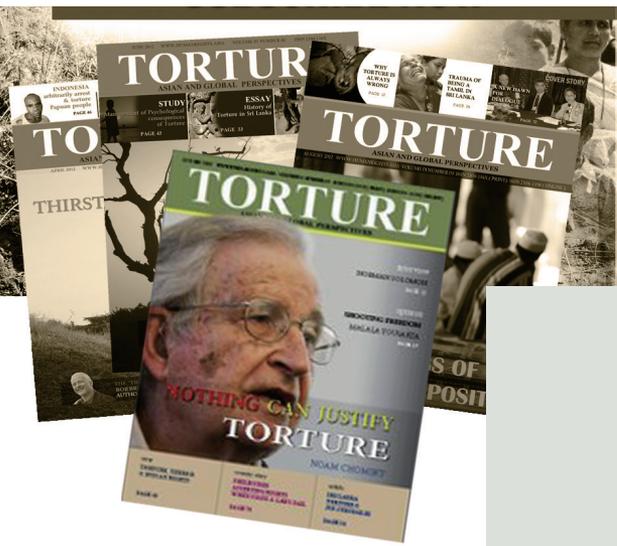
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The dark pursuit of the truth

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EDITORIAL BY NILANTHA ILANGAMUWA

Searching for Shadows in a Dark Hole



Sri Lanka parliament passed the Code of Criminal Procedure (Special Provisions) Bill to extend the detention time for suspects arrested by the police for 48 hours.

Cartoon by: Avantha Artigala

We are on the edge of the new era of extremism and fundamentalism which constantly challenges and curtails the personal liberty of the people, and that reduces mankind's desire for freedom to little more than a dream. We are in the miserable position of not just trying to fight these enemies, but also of just trying to understand what threat they really pose. It has become increasingly clear in recent years that the concepts and mindsets of previous decades are no longer suitable to explain or counter modern extremism.

Recent violence in countries like Myanmar, Bangladesh, and Pakistan demonstrate the very real dangers facing not just Asia, but the entire world, and this danger is not limited

to insurrectionist movements or other non-government actors. The rise of government sponsored extremist organizations like the Bodu Bala Sena (BBS) in Sri Lanka is also an emerging new trend of social disorder. Thousands of people were killed, thousands were injured, and countless more have become victims of social disorder due to acts by such groups. These violence based groups have been striking every aspect of a free society.

It has not only caused chaos among the communities in which they are active, but has also created an enormous opportunity for unjust regimes (who often come to power while showing that the electoral

system is little more than the cynical manipulation of absolute power) to remain in power indefinitely. The creation of extremist originations is benefiting to those governments in many ways. They can manipulate public debate towards fighting some vilified portion of the population (whether real or imaginary) and away from necessary questions about personal liberty. The government can close many avenues for peaceful political dissent by citing "national security". This excuse for extraordinary government power and the silencing of dissent opens the door for governments to abuse and exploit their citizens – plundering their businesses, farms, and homes, and breaking up families between "loyalists" and "traitors". Isolated and ostracized by one another, a society that was once peacefully coexisting is as hard pressed to find their way back from perpetual sorrow and grief as a man in a dark hole, searching for his shadow, without so much as a single candle. In this edition we were able to extensively cover the institutional collapse in Bangladesh, a country which was created in 1971 after a bloody war for independence from Pakistan. Millions of people were murdered, including women and children, while hundred thousands of people were sexually assaulted over the course of the conflict. The independence fighters created a nation which can be measured in land, but were unable to create a peaceful place where people have an opportunity to enjoy their fundamental universal rights. Not only the non-state actors, but state law enforcement agencies as well, are falling afoul of the law and the citizenry. "Who can trust the law when you can buy the law at cheap prices?" a scholar from Dhaka disclosed to this writer a couple of months ago.

The collapse of the multi-stored clothing factory, which killed hundreds of innocent people, as well as the use of live bullets to

kill protesters, are just two examples of a series of catastrophes in Bangladesh since 1971. The dark has never turned into light; political vulgarism has played its own role while fueling the fundamentalism that is now curtailing individual liberty. However, the dream is still alive while reminding us of the words of Abraham Lincoln. "Among free men," he said, "there can be no successful appeal from the ballot to the bullet; and those who take such appeal are sure to lose their cause and pay the costs."

Over the years, history taught us the bitterness of violence. Entire generations of young men, women, and children, in certain countries, are far too often lost and their dreams, buried. Violence has become a tool of spreading social fear and creating a "culture of silence". State as well as non-state actors are engaging in violence continuously while advancing their own explanations to justify their actions. In one of his speeches, the late Robert F. Kennedy said, "... violence breeds violence, repression brings retaliation, and only a cleansing of our whole society can remove this sickness from our soul."

"For there is another kind of violence, slower but just as deadly, destructive as the shot or the bomb in the night. This is the violence of institutions; indifference and inaction and slow decay. This is the violence that afflicts the poor, that poisons relations between men because their skin has different colors. This is the slow destruction of a child by hunger, and schools without books and homes without heat in the winter. This is the breaking of a man's spirit by denying him the chance to stand as a father and as a man among other men. And this too afflicts us all," he further said.

The late-Robert Kennedy suggested, "We must admit the vanity of our false distinctions among men and learn to find

our own advancement in the search for the advancement of others. We must admit in ourselves that our own children's future cannot be built on the misfortunes of others. We must recognize that this short life can neither be ennobled nor enriched by hatred or revenge."

In this issue we attempted to present torture as a global phenomenon while publishing a variety of views and ground reports. This will give all of us a clear-cut picture of torture, as well as a better understanding that we must unite to fight against torture in this crucial time. Torture is a tool of cowards; it does not give us any permanent solution to any problem, but it will create frustration and resentment among all of mankind. Neither peace nor solutions to any problem can be found by torturing a person. It only spreads misery and trauma to both the lives of the victim and the assailant.

In their lengthy report released recently, by the Constitution Project based in the US, again reveals the use of torture by the US government and their law enforcement agencies. "U.S. forces, in many instances, used interrogation techniques on detainees that constitute torture. American personnel conducted an even larger number of interrogations that involved "cruel, inhuman, or degrading" treatment. Both categories of actions violate U.S. laws and international treaties. Such conduct was directly counter to values of the Constitution and our nation," the report, which is more than six hundred pages, observed.

Again, the report has questioned US policy towards developing countries that seeks to teach the ways of governance under democracy, while engaging mass abuses of human rights around the world. It has given an opportunity to authoritarian leaders,

who manipulate public opinion advance oppressive policies. It has also served to actually smother the seeds of authentic dissent and has helped foment the creation of more angry and violence prone movements. When their common policy reads as, "do as we say; not as we do", the prospect for meaningful change largely evaporates.

International organizations, concerned about the grave destruction of state institutions rather than military interventions, currently makes up only a minority of the international community's response to regions in conflict. The bloody reality and its contrast to the initial dream of the Arab Spring demonstrates this better than any other current crisis. "The so called spring turned into autumn, and now those who joined the spring have lost their direction", said a human rights activist from Western Sahara, during discussions with this writer. Meanwhile, a Tunisian blogger said, "The conflict in Tunisia has changed. There are deadly internal conflicts within the groups who fought against the former dictator. In these circumstances the situation has turned into a dilemma where the people have lost their confidence and solidarity."

Let us try to understand, who we are. What happened to us? Let us try to find a way to close the Pandora's Box, we have opened. Without understanding the gravity of the problem, personal liberty is smokescreen. Acting against torture is one of the main actions that needs to be addressed, globally, and every section of society must understand that torture cannot be justified under any circumstances. We must realize that searching for shadows in a dark hole will never give us a chance to find any solution to any problem that mankind is suffering.

INTERVIEW



Iñger Agger

On Testimonial Therapy & the Life Project

What testimonial therapy does is try & bring private suffering into public & political spheres.

*Inger Agger (IA) is a psychologist, currently working with the Danish Institution Against Torture, (DIGNITY) and the Nordic Institute of Asian Studies. She visited Hong Kong in early March to conduct a workshop on Testimonial Therapy, which is her area of expertise. Basil Fernando (BF), Director Policy & Programmes, Asian Human Rights Commission, spoke with Ms. Agger, exclusively for Torture magazine.*¹

BF: First, could you start by sharing your personal background? How did you get involved with developing Testimonial Therapy?

IA: Actually it goes more than 40 years back, all the way back to the 1970s, when I was part of a consciousness-raising group, in a women's movement known as the "Red Stockings Movement", and there we worked with testimony. That was the first time I tried giving testimony. One of the main methods of the consciousness-raising groups was for women to give testimony about their private lives and try to see their personal experiences in a political perspective. Our slogan was "to make the private political". So we tried in giving testimony about our own lives to see how we, as women and girls, had been oppressed by the patriarchal society, in which ways this oppression had shown itself in our own lives and become conscious of that. So that was the main objective of the consciousness-raising method. In this consciousness-raising group I gave testimony about my own early childhood trauma. For the first time I was able to speak about the loss of my mother and my separation from my family when I was four to five years old, and to see how this painful story related to the post-war situation in Danish society in the 1940s, in which many women – of which my mother was one – could not get any education that enabled them to support their children if they got divorced. When a child

is separated from their parents they will often blame themselves and feel shameful about not being like other children. The consciousness-raising group helped me to see my "private pain as political", and this empowering experience gave me the initial strength to start a lifelong process of liberating and healing myself. I was gradually able to formulate a "life project" of exploring ways of healing trauma – both for myself and for others. I actually wrote my thesis about it for my masters in psychology. So that was the first time I tried giving testimony and I thought it was such a powerful experience that I never forgot it and I have worked with it in different variations ever since, in everything I've been doing.

BF: Your Masters was in that?

IA: Yes, on the Consciousness-Raising Method in the Women's Movement². It was published in 1977, in Danish, by the Danish Pedagogical Institute. This method included testimony as a main principle for connecting the private, individual level with the political level. One of the aspects of testimony that I experienced at that time and have met many times since is the fascinating way that testimony can change the energy in a group. When someone says: "Let me tell you what

¹ Conversation transcribed by Meredith McBride

² Agger, I. (1977). *Basisgruppe og kvindebevidsthed: En analyse af basisgruppemetoden som udviklingsproces (Consciousness-raising group and women's consciousness: An analysis of the consciousness-raising method as developmental process)*. Copenhagen: Munksgaard.

happened..." it can have an almost palpable, electric effect on the audience.

BF: You are touching the heart of the issue here. So what testimonial therapy does is try to bring private suffering into the public and political spheres.

IA: Exactly. I spent my first six years of school in a so-called "free school" which had been created by a group of parents in opposition to the "black" authoritarian school system we had in Denmark at that time. The "Free School Movement" was, amongst others, inspired by Grundtvig, and I think that the method of creating liberating testimonial narratives, which I met in the Women's Movement, touched me at a deep level because this spirit of freedom, poetry, creativity, and discovery had also been an important part of my learning experience in the "free school". It is so interesting that you, Basil, have also been inspired by Grundtvig and have promoted his ideas in the "Folk School Movement" among human rights organisations in Asia.

BF: Grundtvig was very important to my own development and that of the Asian Human Rights Commission. In fact, I discovered N.F.S. Grundtvig on my own. I came across one of his quotes in a book, and felt, it said something very close to the way I was beginning to see things. I then inquired about him and I was told that the library in the Lutheran seminary, may have some of his writings. In fact, I found three books there. Later, I told some friends at the Danish Institute of Human Rights that I wished to know more about him and his work. The Institute provided me a fellowship for three months. I came to Copenhagen, met many people associated with the Folk School Movement and was

able to read a lot more about Grundtvig. I visited the home for elderly people where there is a large statue of him, close to the central bus stand in Copenhagen. During those three months I wrote a book, comparing the ideas of Grundtvig and the Indian political leader, Dr. B.R. Ambedkar. It was later published under the title "Demoralization and Hope". At the AHRC we adopted the folk school approach as a framework for our discussions and educational work. Everyone who participated in our programmes have expressed appreciation for the "folk school style".

Now returning to your work, this, in fact, has quite strong philosophical roots. The whole idea of the development of consciousness and what you are really advocating is not just that public politics, but also that the private lives of individuals should be brought into the public sphere, and that a working method for implementing this should be created.

IA: Yes exactly, and I think it's all connected with the radicalization that was also happening at that time among the students in the Western World - in the sixties and seventies. I thought a lot about that when I was in Hanoi last week, and visited the Hoa Lo Prison museum (called the "Hanoi Hilton" by the American pilots that were detained there during the Vietnam War). There I saw photographs from the demonstrations of the Vietnam Movement in France and the US, and I remembered how it was a very powerful experience for myself to participate in these demonstrations. In 1967 I worked as a volunteer at the Russell Tribunal, also known as the International War Crimes Tribunal or Russell-Sartre Tribunal, which was a private body organized by British philosopher Bertrand Russell and hosted by

French philosopher and playwright Jean-Paul Sartre. One of its sessions, concerned with the US aggression towards Vietnam, took place in Roskilde, Denmark. Representatives of the Black Panther Movement also participated in the Tribunal and told us how "Black is Beautiful". Of course, as everybody else I knew, I participated in the Vietnam demonstrations in front of the American embassy in Copenhagen, where we met regularly and in which we ran while we shouted "Ho Ho Ho Chi Minh". All this happened while I was studying psychology, and so I realized when I was standing there in the Hanoi museum, how important that had been for my own radicalization or politicization of my consciousness and that this inspiration had given me the wish to work politically with psychology, not just to view a person's psychology as an individual phenomenon, but as connected with their context - their surroundings and society. It was very important for us at that time, for the radical psychologists, to fight for this viewpoint: we were not trying to change people so that they became better at accommodating a repressive system; no, we wanted to support them in liberating themselves from oppressive structures. This meant that we had to see and understand people's suffering in political terms and not as an individual trauma or mental health problem. "They are not ill, they are suffering from the dictatorship and the oppression", as the Latin American psychologists said at that time, and that brought me into the Latin American understanding of things which helped me connect psychology and the fight for human rights. In 1969 I had gone to Cuba and lived there for a year, and as many others at that time, I also went on pilgrimages to other communist countries: the Soviet Union in 1973 and to China in 1976 in search of alternatives to our own, capitalist societies. Later on, many of us

became disillusioned with the ways in which these utopian dreams had been realised by authoritarian, centralized governments. Instead we turned towards the development potential of grassroots movements in local communities, and searched for other ways in which people could organize and liberate themselves.

I travelled to Latin America in the eighties and experienced the approach of the Latin American psychologists and psychiatrists, who saw mental health as strongly linked to human rights. Their discourse was based on the principle of connecting "human rights and mental health" (*derechos humanos y salud mental*). This was an approach they had developed as a response to the various dictatorships in Latin America, in Argentina, Chile, and Uruguay at that time. Many doctors, psychologists and social workers who were part of the left-socialist movement had been imprisoned and tortured, and they developed their approach as a resistance against these dictatorships. As I had learned Spanish in Cuba I was able to read the documents of the Latin American psychologists, and in reading these conference papers I read - for the first time - about the testimonial method that Chilean psychologists had developed as part of their resistance movement. This method was very similar to the consciousness-raising method I had met in the Women's Movement and I felt very familiar and "at home" with it. The Chileans had - sort of accidentally - discovered that when the lawyers from the resistance movement made testimonies with victims to keep as evidence against the dictatorship, it also had a beneficial and therapeutic effect on the victim. Lawyers of the resistance collected testimonies of human rights violations during the dictatorship in Chile under the protection of the Catholic Church. They kept these testimonies of torture

hidden with the purpose of using them after the end of the dictatorship as evidence. But then, while recording these legal testimonies they discovered that this process also had a psychotherapeutic effect on victims. So they started working more consciously with this method and started writing about it. Later, in 1983, a Chilean psychologist and a psychiatrist under pseudonyms published a very famous article in English about their testimonial method³. The real name of the main author was Elizabeth Lira, a prominent Chilean psychologist whom I interviewed later as part of a research project in Chile in 1988-89.

In 1984, I started working for the Rehabilitation and Research Centre for Torture Victims (RCT)⁴ in Denmark, as a clinical psychologist, and this gave me a unique opportunity to work with political refugees from Latin America, and in this way work “politically” with psychology. I have to thank Inge Genefke for giving me that opportunity. I tried using the testimonial method with the refugees and I published my first international article about it in 1990 - that’s 23 years ago⁵. I also used the testimony method in my PhD research, in which I had made testimonies with 20 Latin American and 20 Middle Eastern women who had been tortured and were political refugees in Denmark⁶.

3 Cienfuegos, A.J., & Monelli, C. (1983). The testimony of political repression as a therapeutic instrument. *American Journal of Orthopsychiatry*, 53, 43-51.

4 Now: Dignity - Danish Institute Against Torture.

5 Agger, I., & Jensen, S.B. (1990). Testimony as ritual and evidence in psychotherapy for political refugees. *Journal of Traumatic Stress*, 3, 115-30.

6 Agger, I. (1994). *The blue room: Trauma and testimony among refugee women*. London: Zed Books. Spanish edition (1994). *La Pieza azul: Testimonio femenino del exilio*. Santiago de Chile: Cuarto Proprio.

BF: Could you say more about the Chilean approach? You said you started reading their papers during your visit to Chile. Can

you say more about what they were doing, what those people were trying to do?

IA: Are you familiar with their work? The radical mental health professionals in Latin America worked on basis of the same understanding as the radicals in Europe and the US: that “the private is political”. Their way of phrasing it was by connecting human rights and mental health, and they were always emphasizing that we should not pathologize victims. They are not “ill” - they are suffering from the dictatorship. So the Latin Americans emphasized that we should always see the suffering of torture victims in a political perspective and that this approach would be the most healing for victims of human rights violations. One of the objectives of these Latin American psychologists was to try to re-establish the connection of the victim to his or her political project - the “life project” as they called it. At that time, torture victims in these countries were often politically active people in the socialist movement. They could be political party or trade union leaders - people who were active in politics and whom the dictatorship tried to crush. And so the therapeutic goal was then to strengthen the victim so that he or she could re-establish this project, the life project, which gave their life meaning. I describe this approach in detail in a book based on our research in the Chilean Human Rights Movement⁷.

7 Agger, I. & Jensen S.B. (1996). *Trauma and healing under state terrorism*. London: Zed Books.

BF: Is this in English?

IA: Both in English and it was also published in Spanish, in 1996, in Santiago de Chile. The Spanish edition was edited and revised by Elizabeth Lira⁸. I had received a grant to do a post-doctorate research project in Chile and based on this research I wrote the book in cooperation with my ex-husband, who is a psychiatrist. We went to Chile and interviewed psychologists, psychiatrists, and social workers from the Human Rights Movement and that was just in the transition period at the end of the eighties, when Pinochet was ousted and they had their first democratic elections. So that was happening at the time of our arrival, actually. It was a very interesting period to be there. So, now the mental health people could talk freely about their work and we interviewed many mental health professionals who had been in prison and tortured themselves.

BF: Could you say more? Because I think you are now touching something dynamic. You are really linking the element of mental health and the political ethos. In the post-Hitler period, the psychologist, Alexander Mitscherlich, who wrote *Inability to Mourn: Principles of Collective Behavior*, did his clinical work with patients and then he came to the conclusion that the things that his patients were complaining about had nothing to do with illness, but was a result of their inability to come to terms with Germany's political past. The repression of the political problems that were associated with the Hitler's regime period was causing the mental illnesses.

⁸ Agger, I., & Jensen, S.B. (1996). Trauma y sanacion bajo situaciones de terrorismo de estado. Santiago de Chile: CESOC.

In Asia, this has not been brought forth in a forceful way. Still, psychology is about individual health, the individual person. You try to help them get out of depression or something like that, but the larger issue,

that political repression is a cause of disturbed mental health, is ignored.

IA: I would say that the main conclusions we drew from the research in Chile was the importance of a movement, the Chilean Human Rights Movement, as a protective shield or context for the victims and for the mental health workers in the resistance movement: they were not alone. They were part of this large movement which they had developed very expertly in Chile. We also noticed the way in which the mental health people had developed a system of helping victims organize themselves in groups, such as groups of former political prisoners, or family members of torture victims, or mothers of disappeared people. These groups were very good at organising in Latin America and seemed to have a great therapeutic effect on the victims.

So we observed the activities of the groups and wrote about it. I guess that was the main conclusion from our research, how important it was to support these kind of protected networks in situations of human rights violations, and in Chile, the Catholic Church had an important role as a part of this protective network. When I later worked as a researcher from 2010-2012 in Cambodia, I did not see this type of protective organisations for victims to the same extent, although some NGOs were trying to promote it. In Cambodia, I found that Buddhism had an important protective and healing role.

BF: That's very important. I think it was the Jesuit priest from El Salvador, Ignacio

Martín-Baró, who, in his work on social psychology, pointed out the need for dealing with the structural issues, which cause mental illness.

IA: Yes he was a great inspiration for me also, and for the Chileans, definitely. I have during my whole career been opposed to a medical, clinical approach to torture, to what the Chileans call a “medicalizing” of political problems.

BF: Can you explain that, why you are opposed to it?

IA: Yes, because by medicalizing, by diagnosing, and pathologizing victims of torture, and victims of political oppression, you are in a way giving them the responsibility for their pain. It’s like saying they are sick or “crazy” because they are “weak” and could not resist. Mostly, victims do not appreciate that. You should instead place their cause of their mental suffering where it belongs, in the political structures. By doing this you might also support them in becoming conscious of the reasons for and the meaning of their mental symptoms, of how they have been persecuted, and learn that their symptoms are a result of that outer pressure, not because a personal illness or weakness or of being mentally ill, crazy, suffering from PTSD, or whatever people believe about themselves. This can enable them to become survivors and participate again in their “life project”.

BF: So it is getting a person to come to a recognition, or understanding, that his problem is related to what has taken place in his society and giving him a method of understanding the process of healing, while also trying to support him in engaging with his society.

IA: Yes absolutely. Many other psychoanalytic or psychological theorists have also emphasized re-connecting to the “life project”, but they have used other terms for it. I have found the writings of Carl G. Jung, the great Swiss psychoanalyst, very important, especially his autobiography, *Memories, Dreams, Reflections*, in which he describes his own self-actualization process which has involved what he calls “transcendence”, the integration of the diverse systems of the self toward the goal of wholeness and identity with all of humanity. Transcendence also includes a spiritual or religious dimension, which is an integrated part of self-actualization.

BF: That is a very dynamic thinking process.

IA: Yes, and that is what you can encourage when you are making a testimony with an individual victim. That’s why the attitude of the human rights defender who is helping the victim make their testimony is so important, because the human rights defender can help the victim to become conscious of this. So the human rights defender is active in his or her response to the victim, and should help victims to contextualize their suffering. This includes helping victims to understand how their testimony can help other victims and how it can become a weapon in the fight against dictatorships. Essentially, this means helping victims to see the political meaning of their private pain.

You can work with testimony in many ways, and the model, which includes a culturally adapted testimony ceremony at the end of the therapy process, is a special Asian brief therapy version of the method. Supported by the RCT, I developed this model in an action research project from 2008-2010 with the RCT’s local partners. We started with a pilot

project in India⁹, and continued in Sri Lanka, Cambodia and the Philippines. This work with testimony ceremonies also brought me in closer contact with Asian spirituality and the great resources for healing, which are part of many Asian cultural and religious traditions, and inspired me to continue my testimony work with a research project in Cambodia on local approaches to healing of trauma.

BF: So the idea of developing the document, the testimony, is working with the victim to get him to realize that what he is going through is related to much larger issues, helping him to come to that recognition, and then holding a public ceremony where he makes a declaration about it.

IA: Completely correct and very well expressed. Yes. And this is why it's so important to train human rights defenders to understand that this story is not just something which is out there that they just need to record, but that they are helping the victim to come to that understanding - to see their suffering in another perspective and to record that. The public ceremony at the end of the testimony process also plays a very important role, because it links the victim to the community through a public acknowledgement and mobilisation on basis of the narrative about the human rights violations suffered by the victim¹⁰.

9 Agger, I., Raghuvanshi, L., Khan, S.S., Polatin, P., & Laursen, L.K. (2009). Testimonial therapy: a pilot project to improve psychological wellbeing among survivors of torture in India. *Torture: Journal on Rehabilitation of Torture Victims and Prevention of Torture*, 19 (3): 204-217.

10 Agger, I., Igreja, V., Kiehle, R. & Polatin, P. (2012). Testimony ceremonies in Asia: Integrating spirituality in testimonial therapy for torture survivors in India, Sri Lanka, Cambodia, and the Philippines. *Transcultural Psychiatry*, 49(3-4): 568-589.

This public ceremony can also be seen as a re-connection with the life project or, in Jung's terms, a ritual in which the victim can re-connect with his or her spiritual and transcendent self.

BF: So the testimonial therapy method is really not a teaching process, it's a dialogue?

IA: It's a dialogue! Just as you and I are having an important dialogue right now about certain aspects of my life story.

BF: To get him or her to come out, to express their story.

IA: Yes, but one of the problems is, of course, to help those victims who were imprisoned by accident, or who were not politically active. It is quite common that people are arrested and tortured maybe because they have the same name as someone that the police is looking for, or by another error or just by accident. So it's actually more difficult to provide psychotherapeutic help to these victims who maybe do not have a life project or a cause they are fighting for.

BF: So a person develops a meaning. A meaning! They are developing something to fight for; to live for. See, this is very different. Victor Frankl's idea of looking for meaning comes in.

Now, the difference is now in Asia, in a number of places, there is an idea of dealing with mental illness by helping people to forget. Now, for example, in Cambodia, before this new period with the Khmer Rouge Tribunal, they had many ceremonies, rituals, conducted by the Buddhist monks, and various other people, including water purification ceremonies. The victim, who is feeling down and dark, is encouraged to go

through a whole process in which the monk tries to make him feel happy internally. By these methods, the monks help him to become a little lighter and then the monk says “forget this”. The same thing was done in Sri Lanka.

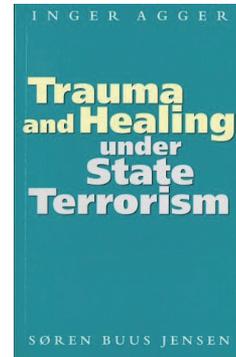
IA: Of course I would be very much against that approach. You shouldn't forget, but maybe forgive! In Buddhist Vipassana meditation and “mindfulness” which I have been working with over the past five or six years, the main principle is not to forget, but to accept and then let it pass. That is a very different process. I also think that meditation is very good for calming the nervous system. By including the body in the therapeutic process the victim can be supported to restore self-regulation and the sense safety and goodness, (which has often been destroyed by torture) as explained by Peter Levine in his book *In an Unspoken Voice*. In later years I've been very interested in combining the Asian spiritual knowledge - represented in the West by, for example, mindfulness and yoga - with the more political approach represented by testimonial therapy. In the testimony ceremony the two approaches come together. The political and the spiritual dimensions mutually reinforce each other. A human being is both mind and body and we must pay attention to both when we search for the restoration of resilience and involvement in the world.

BOOKS

Trauma and Healing Under State Terrorism

by Ignier Agger and Soren Ruus Jensen

State terrorism and political violence are common phenomena in the world today; psychological warfare and human rights violations are integral to these forms of violence. This essential book explores state violence and shows how psychological and social trauma caused by the violations of basic rights can be healed.

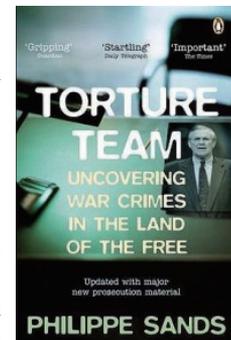


The authors develop a model of trauma and healing under state terrorism based on their fieldwork with the Chilean human rights movement. It is characterised by a powerful spirit of survivor resilience and a ‘healing’ approach which both in theory and practice understands individual suffering in a political perspective.

Torture Team: Uncovering War Crimes in the Land of the Free

by Philippe Sands

In 2002 Donald Rumsfeld signed a memo that authorized the controversial interrogation practices that later migrated to Guantanamo, Afghanistan, Abu Ghraib, and elsewhere. From a behind-the-scenes vantage point, Phillippe Sands investigates how this memo set the stage for a divergence from the Geneva Convention and the Torture Convention and holds the individual gatekeepers in the Bush administration accountable for their failure to safeguard international law. Cited in Congressional hearings, “Torture Team” is the “rigorous, honest, devastating” (Vanessa Redgrave) account of high ranking members of the Bush administration’s involvement in authorizing torture and subsequent attempt to cover their tracks.]



INTERVIEW



Rajat Mitra

“Have you done everything?”

The practice of torture from the perpetrators’ point of view, through a psychological perspective

*Doctor Rajat Mitra has not only spoken to, but also worked with police and prison officers for nearly twenty years. He has worked with officers who were in charge of interrogations, and was often called to assist those interrogations as a psychologist, mostly by the Court, or sometimes, in the later stages, by the police or the prison officers themselves. He also has experience with torture survivors, therefore having known and explored the issue from ‘both sides’. Doctor Rajat Mitra speaks to **Liliana Corrieri**.*

LC: Why do police officers and militia commit torture? Do they do it to feel manly?

RM: I would not say they practice it to feel manly. I personally have not seen anyone trying somehow to prove his manhood. It is important to keep in mind that torturers are a heterogeneous group. Not everybody practices torture for the same reasons. If we study the history of torture, we see that until almost a century ago, torture was considered a universal and integral part of the policing system everywhere. In Western countries, Africa, Asia, everywhere. It was something integral to the attitude of the police, their way of thinking and working. Then the humanistic movement started to attack the core of this 'philosophy'. However, this process has not occurred in a large part of the world. I would say that in my country and in the whole subcontinent, almost ALL policemen carry out torture, female police officers too. The thought that runs in their mind is: "We have to be and act tough in order to get information from that person, and if the person has not shared details about the case, it is because we have not been tough enough, we have not done our job properly". I have experienced myself in a number of situations the way officers have been asked questions such as: "Hasn't he opened up yet? Have you done everything?". This way of talking actually implies that duties have not been executed fully.

For centuries, it has been believed that police officers should not talk to perpetrators, convicts or people suspected of a crime, because it would mean treating them as equals. Nowadays there is still a strong reservation against talking to them. Instead, police officers put pressure on them, beat them, make everything disagreeable for them with the belief that disclosure depends on how uncomfortable the person feels. It is believed that a person who has committed

a crime has somewhere inside him/her a resistance that does not favour talking. Only by pushing that person to extreme limits will the body give in. The body is very crucial in torture. You start with the threat of pain, but the threat alone is not going to suffice, therefore you actually put that person in pain. The pain will break that person's will. It has been proved by now that this method does not make the real perpetrators confess. Many culprits have escaped justice, since it is always the innocent who succumb under torture. This extreme situation makes your brain feel so disoriented that you actually end up stating, "Yes, I have done it". Receiving a confession represents a powerful ego-boost for the torturer, who thinks, "Yes, I have broken the prisoner's will". It gives a sense of excitement and high. Evidence with regard to the case does not matter. What counts is the complete control over the prisoner.

LC: Extended consequences

RM: It is important to point out that many of those military and police officers who witness or carry out torture become acutely disturbed personalities and experience psychological repercussions themselves, especially through episodes of violence and addiction to alcohol. A question that always comes up is: "How can a person who commits torture continue his life and love his children?" It's very ironic. Remember the Nazi Generals, some of them were loving fathers to their children. It's not that they perpetrate that violence on their children, but it's more the case of that violence which becomes part of them. This violence comes out one way or another and makes them disturbed people behaving in a way sane people would not. Being a good father, for instance, is a form of 'justification' and 'dissociation', a way to separate the professional sphere from the private life, the 'me' at work and the one at home. But being a torturer affects them in

terms of nightmares, lack of sleep, disturbed relationships and mental problems.

LC: Once it becomes clear that torture is not an experience people can erase, and that even torturers get heavily affected by witnessing and practicing it, why not simply stop it?

RM: There are a few aspects to take into consideration.

The police forces and the militia have for a long time conducted *a culture of silence*, under which officers or soldiers did not talk about their feelings. Only during the recent wars, such as the Vietnam, Iraq or Afghanistan wars, have soldiers felt more freedom to talk about their experiences, including torture and abuses.

Furthermore, most of the forces select their men at a very young age (17, 18). According to some studies conducted on soldiers in service during the first and second world war, if these soldiers were not 'indoctrinated' well enough, then they were unable to shoot enemies dead. This assertion was mainly founded on the amount of cartridges left unspent. It was felt that soldiers needed to be fully 'indoctrinated' for what they had to do in order to obey the authority. In official bodies such as police and military forces, it is very important to obey and to be loyal, so that you are not seen as somebody who fails. Individualism is not allowed or conceived in these institutions, which is also the case for society in general in Asia. The American notion of individualism, for instance, is extremely strong. Therefore, soldiers and other people have been reporting about war and what war has done to them (in Vietnam, Iraq, etc.) because of the notion of individualism which society in the U.S.A. promotes so strongly, whereas the sense of community is not very strong.

From a psychological point of view, it is very interesting to foster individualism, to encourage people to 'take for themselves' and to see how torturers can realize they are actually like the people they are torturing, human beings. This realization can actually represent a turning point against torture. However, in those kinds of environments (police bodies, militia) you are under so much stress, that you do not think independently, instead you follow what you have to do and what it has been told you to do. In certain situations, things happen in a split second.

Personal experiences

I remember the first time I witnessed torture, many years ago. I was walking in a prison with the superintendent, and we had just passed by the high security ward. It was just the two of us, followed by a guard, and I was due to interview somebody for a case. It was around lunch time and there was a young prisoner who was supposed to distribute food in the high security ward. Just when we were about to leave, a chit of paper fell in front of our feet. The superintendent picked it up and read that on it was written "4 o'clock". Obviously this young prisoner was trying to throw this message in the cell of one of the high security prisoners, he was probably a 'courier' and it was his bad luck that instead it fell right on the feet of the superintendent. Before I could even realize it, the superintendent had called two guards who were coming with the food trolleys and he hit the boy extremely hard. Within seconds the guard behind us and the other two who arrived started to beat him too. It was like a reflex action, because their boss was doing it. I stood there literally frozen. I remember asking the superintendent to stop but he told me to stay out of it, because the boy had broken the rules of the jail. No interrogation or inquiry could occur in that case, the boy had been caught and had to be

set as an example for the whole prison by being beaten to a pulp. In such environments like prisons, they have their actions all laid out.

In such circumstances, I imagine it would take tremendous moral courage to say no, to refuse to go by these methods, to instead call the prisoner over and initiate a dialogue with him. Courage, but also a deep firm belief, is necessary in order to break away from the habit of violence. I used to tell this story and give this example in my lectures to police officers and I used to ask: "Would you be able to break away and say no to torture, for a person who is just passing a message? Would you have a talk with him in your office?" The reply was always no, for all of them torture was right. At this point, we come across a very difficult challenge regarding the system. Nobody tells them to do it; it is not required in any manual. It is something similar to an unwritten rule, at every level. I would say almost every police and military officer is within this process. Most of them come from families where obedience is of a very high value. Therefore this compliance comes naturally to them. A rebel or somebody with a personal conscience would not join a policing body.

The criminal justice system works by taking out information and not by talking. Interviewing is a process, which is not there and is not even encouraged. I know for example that in India most of the police officers have not undergone any sort of training for interviewing. On many occasions, I was the first person they met stating that something called "interview" existed! When I entered this field, I remember that one of the biggest difficulties was having prisoners sitting before me. They would be either made to stand or sit on the floor. I met a big resistance and police officers always told me: "No, you can't do that! Otherwise they will become equal to you!". My request of having a chair

and talking privately with the convicted was seen as radical, something completely against every basic rule of police work! You don't talk to the prisoners at the same level. You don't give them the permission to sit in police officers' rooms, otherwise authority is threatened.

LC: Being it widely known that the majority of confessions come from innocent people who simply cannot bear the pain anymore, where is the gratification of being an efficient policeman?

RM: To feel that you are good at any job, you have to consider the value with which you enter into that job and what your basic values in life are. The value for a good policeman should be to arrive at the truth. This should be the goal of an investigation, of an interview. If the value of truth is not there, then nothing matters. Unfortunately, most of the people joining police forces do not start their career with this value. In colonial India, for instance, policemen were hired for local order, to gain control over people. They were told that when they were walking in the street, people would bow to them. There was no value of achieving the truth through systematic and investigative procedures. This has remained the same throughout the years and it is very likely to remain until the mentality changes. There can be no professional ethics if you enter a field with no values. In the whole system the value of truth does not exist, the system is instead very 'result-oriented'. The idea of spending time on talking and investigating is seen as a waste of time. There is therefore a very limited amount of frustration among police officers.

LC: Can one define those carrying out torture and violence as 'bad' people?

RM: I would say that what they are doing

is extremely heinous and bad, however there is also no condemnation from society either. Until society rises against torture and demands to stop it, there can be no progress. It is also a matter of recruitment, since those joining the police forces fall into a certain profile, they are people with no value for truth and human beings.

If individuals start rising and speaking up against torture at multiple levels, silence will break up. I personally don't believe that corruption is the only explanation for what happens. It is something reflective of many layers of society. Do judges, do university professors, do intellectuals condemn torture in our countries? No, they don't. It's only the NGOs and the human rights activists who openly condemn it. Therefore, those who remain silent are as much to blame as the bad police officers. It is important to challenge, to claim that torture is intellectually and morally hollow, that there are other ways of dealing with justice and human beings. It must become clear that when torture is practised, it is not just about the individual, but the whole society also pays an enormous price. It takes centuries before such a price can be retrieved. Society is reduced to a level of tribalism and inhumanity from which it is very hard to emerge. There can be no renaissance, no intellectual revival, no arts, no creativity, nothing of value can emerge in such circumstances. It is for these reasons that intellectuals must condemn it, and once they do, then a mass movement for conscience can start.

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TORTURE IN ISRAEL AND PALESTINE: ARTICLE



**US & Israeli Intelligence
Practice of
Torture**

by Ron Jacobs

Uncovering documented instances of torture is a challenge. That challenge grows even greater when the torture one is investigating is undertaken by agencies whose definition demands secrecy and cover up. Therefore, when I began this article by looking for instances of torture committed by the United States Central Intelligence Agency (CIA) and Israel's Shin Bet, I met nothing but dead ends and cul de sacs. It was only after I discovered documents unearthed by Wikileaks and various Israeli human rights agencies that I was able to proceed. The process involved is comparable to going back in time. A certain instance of torture is presented in the human rights report and traced back from there. While this piece is primarily discussing torture by US and Israeli intelligence agencies in a general manner, it is the specific cases that validate that discussion.

One does not need to be reminded that torture is an accepted method when it comes to interrogating prisoners today. This is true no matter whether the torturer is working for an acknowledged authoritarian regime like Mubarak's Egypt or a supposedly democratic, liberal regime like the United States or Israel. Despite the desire of those agencies and governments involved with these interrogations to hide their methods from the public, the facts do come out. After all, unless the victims of torture are killed or permanently and completely removed from any human contact, sooner or later someone will hear their story. This became clear most recently when prisoners held in various US/CIA prisons in Afghanistan and Iraq were able to detail what had happened to them during interrogation. Furthermore, it was the leaks to the media by military members and the arrogant acknowledgement of torture by the US administration under George Bush that made it clear how widespread torture actually was. Official announcements of "enhanced interrogation methods" still

being used are no longer broadcast, so if they are still in use, the public is not being told.

Most of the methods publicly acknowledged by the Central Intelligence Agency, the US military and the contractors in the Agency's employ are methods also known to be used by the Israeli agency Shin Bet. Indeed, a report by the Israeli human rights organization B'Tselem published on January 1, 2011 discusses a 1999 Israeli high court ruling that ruled "that Israeli law does not empower ISA interrogators to use physical means in interrogation, and that the specific methods discussed in the petition filed were illegal". In the article (and elsewhere on their website), the methods discussed include sleep deprivation, beatings, painful cuffing, sudden pulling of the body, sudden twisting of the head, the "frog" crouch, and bending the back (the "banana" position), among other physical manipulations. These methods are not applied singularly, but in combination and over an extended period of time. After the court ruling and the report of the Landau Commission (which found instances similar to the court but was not as certain as to their illegality), the number of instances of torture by Shin Bet and other Israeli agencies supposedly diminished. However, they have not ended... in fact, whenever a so-called "ticking bomb" scenario appears, harsher interrogation methods are usually applied.

As anyone who has even followed the discussion around the recently released US film *Zero Dark Thirty* knows, it is the ticking bomb scenario that provides supporters of torture with their rationale for defending it. This discussion usually leads to more and more exceptions to the non-acceptance of torture by its adherents and, one assumes, those who actually administer the interrogations.

In 2007, B'thslem and HaMoked issued another report regarding Shin Bet practices

six years after the high court ruling that was supposed to have forbidden torture by Israeli Security agencies. The report states, "... the ISA routinely operates an interrogation system involving the psychological and physical ill-treatment of interrogees. This system includes several key aspects: The isolation of the interrogee from the outside world; the use of conditions of incarceration as a means to apply psychological pressure and to debilitate the interrogee physically; the shackling of the interrogee in painful positions; the humiliation of the interrogee; and the use of threats. In a minority of cases, probably those defined as "ticking bombs," the ISA also uses violent interrogation methods that constitute full-scale torture (beating, the tightening of handcuffs, the sudden pulling of the body, the bending of the back, and so on)."

There are literally thousands of accounts by Palestinian detainees describing the torture dealt to them while in Israeli custody. Indeed, as the B'Tselem/HoMoked report made clear: "It should be emphasized that, far from being used only in special circumstances, torture methods are used against a large number of Palestinian detainees. According to the last official estimate, some 23,000 Palestinians were interrogated by the GSS between 1987 and 1994. According to the experience of B'Tselem and other human rights organizations, it is very rare indeed that the GSS interrogates Palestinians without using at least some of the methods described below. In 1995, following the death of a Palestinian detainee as a result of "shaking", the then Prime Minister, the late Yitzhak Rabin, said that this method had been used against 8,000 detainees."

The CIA is well known for its practice of torture, too. In a moment of unusual candor, General Barry McCaffrey once stated while discussing the invasion of Afghanistan in

2001: "We tortured people unmercifully. We probably murdered dozens of them during the course of that, both the armed forces and the CIA.'" (Cohn, Marjorie. NLG Review) Rarely has there been such a bold admission by a top military or intelligence official regarding overt violations of US and international laws. The normal procedure is to violate the laws and hope the violations go unnoticed. A prime example of this in recent years has been the CIA program of rendition. Under this program, US intelligence agents (or contractors working for the agency) have kidnapped individuals, hooded and bound them, and sent them to be tortured and interrogated in countries throughout the world. Recent revelations about this program, since the so-called global war on terror was initiated, listed at least fifty-four countries throughout the world that participated at the CIA's behest.

On November 5, 2009, the *London Times* reported that twenty-three Americans, including Robert Seldon Lady, a former CIA base chief in Milan, were tried and convicted by an Italian court in 2009. These convictions were in regards to the rendition and torture of Abu Omar, an Egyptian cleric who was kidnapped in Milan, Italy and transferred to Germany, then to Egypt where he was tortured. All but one of those convicted were CIA agents. The Italian government has not sought extradition although all of the convicted were sentenced to at least five years in prison. Germany would also have prosecuted except that the US refused to provide relevant information to prosecutors.

In 2005, hundreds of photographs were released to the media around the world. These photos showed individuals in US military uniforms torturing and sexually abusing Iraqi prisoners in Abu Gharaib prison. The release of the photographs provoked an outcry around the world. They also caused

the Washington denial machine to go into high gear. Administrators in the Pentagon, Defense Department, and the White House issued statements disavowing any knowledge of the torture and abuse. Instead, these officials and other spokespeople told the media and public that the torturers were acting on their own and that the United States did not condone torture. Simultaneously, the US Congress worked in concert with the military and White House to block the publication of more pictures, some which reportedly provided even more graphic detail of the torture administered in the US-run prisons of Iraq.

When all was said and done, the public knew very little about the actual chain of command regarding this torture. Legal justifications written up by White House legal counsel were shown to have been written before the torture was alleged to have taken place. These documents are little more than rationales redefining torture in order to justify what were now termed “enhanced interrogation methods.”

The methods included many of the stress positions also used by Shin Bet against Palestinians and others, along with various forms of psychological torture and even the practice of water-boarding. All of the techniques utilized are considered torture under UN conventions, yet by merely renaming them, the White House and Pentagon convinced themselves, their underlings, and enough of the US public that they did not torture. While these practices certainly continue (albeit most likely on a smaller scale), any outcry has been limited to a few antiwar, human rights, and religious organizations.

As Michael Ratner of the Center for Constitutional Rights makes clear in his book *The Trial of Donald Rumsfeld*, the

legal rationalization for the US torture of its prisoners is based on a false premise. In addition, the argument used to legitimize the premise is poorly made and ultimately wrong and illegal. Yet, dozens, if not hundreds, of human beings have been tortured using this false and illegal premise.

The case presented in the *The Trial of Donald Rumsfeld* is straightforward and reasoned and based on decades of accepted universal practices and understanding of the definition of war crimes. It is also the basis for the case made by Ratner and others in the German courts in 2006. Unfortunately, in what most assuredly was a political decision, the German government prosecutor refused to pursue the case.

What did become clear from the uproar around the leaked Abu Ghraib photos was this. The CIA hired so-called contractors to extricate information from Iraqi (and one assumes Afghan) prisoners. These individuals were trained by CIA operatives and others. They were given leeway in utilizing their training and, if they went beyond accepted methods, their status as contractors provided the US government and its agencies with a legal deniability.

Some of the corporations involved in this web of torture included Blackwater (now Academi), Engility, formerly known as L-3 Services and Titan Corporation, and CACI International. Of these, only Engility was forced to pay any type of compensation. None of the corporations and their employees faced any criminal charges. According to the Center of Constitutional Rights (CCR).

The reason is because the private military contractors have raised many legal defenses – many of which we have argued are plainly inapplicable to private corporations – which have taken up the court’s time and resources.

So far, CACI and Titan/L-3 have focused the courts on any question but whether the plaintiffs were tortured.

The following are several of the defenses claimed by the contractors:

- government contractor defense argues that contractors were operating under the control of the U.S. military and therefore cannot be held liable for their actions because all they were doing is what the government told them to do and the actions of the government in “combat” cannot be reviewed by a court.
- political question doctrine argues that the lawsuits deal with fundamentally political or policy choices that courts should refrain from reviewing and, in light of the separation of powers, should leave to the executive or legislative branches;
- derivative immunity argues that that their behavior constituted combatant activities for which the United States is itself immune and for which contractors, in turn, should be immune.

Furthermore, a majority of the Court of Appeals for the District of Columbia created a new defense when they dismissed Saleh v. Titan under a “battlefield preemption” theory, which essentially aims to bar civil lawsuits from addressing abuses and other torts that occur on a “battlefield.” Of course, plaintiffs challenge that the torture at issue in these cases constitutes “combat” and that Abu Ghraib and other prisons are “the battlefield.” This defense, if allowed to stand, could have far reaching consequences for contractor accountability.¹

¹ <http://ccrjustice.org/files/Accountability%20for%20Contractors%20factsheet%2012.11%20%282%29.pdf>

In short, the contractors deny their liability and so do the government agencies that hired them to do their dirty work. In other words, the plan worked exactly as it was designed to work.

Torture by intelligence agencies is difficult to prove. This is precisely how these agencies want it to be. The examples of torture and its denial discussed in this article are anecdotal evidence of a regime of torture much deeper and complex than acknowledged by the governments involved and the mainstream media. It is only through the work of nonprofits like the above-quoted Center for Constitutional Rights, the Asian Human Rights Commission, and media, such as the journal this originally appears in (*Torture: Asian And Global Perspectives*) that the facts about torture will ever be revealed.

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ASIAN HUMAN RIGHTS COMMISSION

The Asian Human Rights Commission is a regional non-governmental organisation that monitors human rights in Asia, documents violations and advocates for justice and institutional reform to ensure the protection and promotion of these rights. The Hong Kong-based group was founded in 1984.

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TORTURE IN ISRAEL AND PALESTINE: OPINION

Whitewashing Israeli Murder by Torture

by Stephen Lendman

Torture is official Israeli policy. It is longstanding. Palestinian suffering explains this best. Thousands every year are subjected to cruel and inhumane treatment. Their physical and emotional scars bear witness. Accountability is long overdue. Arafat Jaradat is Israel's latest victim. Israel tortured him to death. His body bore clear signs. Autopsy evidence proved it.

Severe upper body bruising, blisters, and blot clots were visible. Multiple broken bones in his neck, ribs, spine, arms and legs were discovered.

Israel initially attributed his death to cardiac arrest. On February 28, Haaretz headlined the story as "Death of Palestinian in Israeli jail not due to abuse or poisoning, autopsy finds."

Israel's Health Ministry said so. It lied. Alleged findings turned truth on its head. Institute of Forensic Medicine officials said Jaradat's cause of death remains undetermined.

Chief pathologist, Dr. Yehuda Hiss, conducted the autopsy. Israeli Health Ministry head, Arnon Afek, witnessed it.

PA chief pathologist, Dr. Saber Aloul was there at the time. His assessment was blunt. Jaradat's body bore clear signs of torture, he said.

Shin Bet interrogators tortured him to death. They were caught red-handed. They denied culpability. Lies and cover-up define Israeli policy. They follow all Israeli crimes.

Jaradat was in good health when arrested. Days later he was dead. Israel bears full responsibility.

More tests are being conducted. Final results are expected in about another two weeks. Health Ministry officials claimed bruises and broken bones were "characteristic of findings of a resuscitation."

Israel Prison Service and Magen David Adom medical personnel spent "50 minutes in an effort to save" him.

Perhaps they beat him to death trying. Israel notoriously whitewashes truths. Officials are paid to lie. Death by torture killed Jaradat. He was murdered in cold blood.

"Who killed Arafat Jaradat," asked Gideon Levy? Knowing is as simple as saying Shin

Bet. His death became “a national symbol.” Hopefully he didn’t die in vain.

West Bank anger’s on the boil. More on that below. Prison conditions haven’t changed. Gulag harshness continues. Palestinians are incarcerated for wanting to live free.

Israel calls them terrorists. Rogue states operate that way. Israel is by far the region’s worst.

Palestinians mourn Jaradat’s death. Flags on King Hussein High School’s roof fly at half mast. His brother Mohammed was with him the night he was arrested.

He viewed his body in the morgue. He remembers ugly bruises on his forehead and legs, swollen wrists, and blood stains in his nose. He was told his ribs were broken.

“Is it possible a person suspected of (stone-throwing) was tortured to death under interrogation,” asked Levy.

“Did he really die in the solitary confinement cell at Megiddo Prison, or had he been transferred there after his death in Jamameh in order to blur the fact that he died under interrogation, as his family suspects?”

He was strong and athletic. He hadn’t been ill a day in his life. He was a third year Al-Quds Open University student.

He didn’t resist arrest. Neighbors said soldiers beat him anyway. They heard him scream. Days later, his family learned he was dead. He is Palestine’s latest martyr.

He won’t soon be forgotten. Palestinians demand justice. They’ve been protesting for days. After Friday prayers, thousands rallied supportively. They did so across the West Bank.

Israel responded violently. Nonviolent demonstrators were attacked. Israel does viciously with tear gas, stun grenades, rubber bullets, skunk water, and at times live fire.

Dozens were injured. Clashes broke out near Ofer Prison. High-velocity tear gas canisters were fired. Some hit passing vehicles. Others hit two ambulances.

Calls for a third Intifada are heard. Some believe it started. It is long overdue. Liberation won’t come otherwise. Confronting the Israeli beast takes courage. Ending occupation harshness is crucial. Living free matters most.

In February, Israel kidnapped 382 Palestinians. Women and children were included. Multiple neighborhood incursions occur daily.

Palestinians have no place to hide. Police state harshness terrorizes them.

Preliminary Jaradat autopsy results are in. Dr. Saber Aloul conducted Palestine’s examination.

He said:

“Reason of Death: nervous shock as a result of extreme pain from the intensity of (his) injuries, which resulted from multiple direct and extensive acts of torture.”

Signs of severe upper back, spine, chest, and arms bruising were visible. Blood was inside his nose. More was around his mouth. Multiple broken bones in his neck, spine, ribs, arms and legs were discovered.

His heart was completely healthy. No evidence of damage or weakness was found. Injuries discovered were recent and severe. Torture caused them. Dozens of Palestinians

died in detention. Others succumbed after release.

Thousands languish in Israeli gulag hell. Human rights defenders are targeted.

Addameer legal researcher Mourad Jadallah has said:

“This is a way to (break) the principle of solidarity between the Palestinian people and the Palestinian prisoners, and the case of the Palestinian prisoners in the conscience of the Palestinian people.”

Collective punishment is enforced. No one is safe in Palestine. Children are vulnerable like adults. Stop the Wall’s Jamal Juma says “Israel’s drunk with power.”

Its government reflects “right wing fascism.” Total control is policy. Viciousness enforces it. Palestinian resistance is brutally targeted. He expects a third Intifada.

People can only take so much before exploding. Perhaps it is soon. He and others want Israel challenged judicially.

They want sanctions, boycotts, and divestment imposed. They want long denied accountability.

Israel’s whole system is corrupt. It is immoral, oppressive, and lawless. Palestinians have a right to live free. They’re committed to fight for it.

Last October, Addameer’s Ayman Nasser was targeted. He was violently arrested and detained.

He is outrageously charged with supporting Palestinian prisoners. Israel accuses him of calling for their freedom. He spoke for others saying he “supports the prisoners issue even if the cost is my freedom.”

Jadallah shares his sentiment. Liberating struggles will continue, he said.

“It’s very emotional and sensitive for Palestinians all over the world. They look to the prisoners as the real leaders.”

“The prisoners issue means that we are still in occupation and we still have to resist.”

“We are ready to pay the price. Just like Ayman said, I am supporting the Palestinian prisoners and I am ready to pay my freedom as a price for my support.”

Many others feel the same way. On February 27, Addameer headline read: “The Prisons Will Be Gone, and the Shackles Broken.”

On March 4, it commemorates its 20th anniversary. Everyone is welcome. Ramallah’s Cultural Palace is the host venue. Palestinian art work will be displayed. A photo exhibit will be featured. Cultural performances will follow.

“Together we will bring the prisoners issue to the forefront of Palestinian sentiment.” Doing so is vital for everyone to know.

Eileen Fleming is an author, writer and activist. She’s in the forefront of Mordechai Vanunu’s struggle for liberation. Her new book is titled “Vanunu’s WAIT for Liberty: Remembering The USS Liberty and My Life as a Candidate of Conscience for US HOUSE 2012.” It’s the fourth in the series she began writing in 2005. She’s been to both sides of Israel’s Separation Wall seven times.

She founded the Public Service WeAreWideAwake.org. She did so after her first trip. She’s written over 1,000 related articles. She provides information vital to know. Pre-9/11, she had no interest in politics, she said. That event changed her. It compelled her to travel to Israel and Palestine.

In 2005, she met Vanunu. Israel imprisoned him for 18 years. He exposed its nuclear weapons program. He was released in 2004. He's severely restricted. He can't give interviews. Speaking to foreigners is prohibited.

Fleming was inspired to act. She's done so ever since. She does it honorably. She's supports right over wrong. She challenges what needs to be exposed and changed. She struggles for what's vital to support. She inspires others to act the same way.

Stephen Lendman was born in 1934 in Boston, MA. In 1956, he received a BA from Harvard University. Two years of US Army service followed, then an MBA from the Wharton School at the University of Pennsylvania in 1960.

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TORTURE IN ISRAEL: OPINION

The Dark pursuit of The Truth

Torture and Human Rights violations in Israel and Palestine

by Ludwig Watzal

Torture allegations against the treatment of Palestinians detainees in Israeli prisons make headlines again. A few days after his arrest, Arafat Jaradat died in Israeli custody.

On February 27, the United Nations Special Rapporteur for human rights in the Occupied Palestinian Territories, Richard Falk, called for an international investigation on the death of Palestinian prisoner Jaradat who was undergoing interrogation in an Israeli facility.

Falk stressed that “The death of a prisoner during interrogation is always a cause for concern, but in this case, when Israel has shown a pattern and practice of prisoner abuse, the need for outside, credible investigation is more urgent than ever. The best approach might be the creation

of an international forensic team under the auspices of the UN Human Rights Council.”

The violations of the human rights of the Palestinians by the Israeli occupying forces have not decreased despite the peace process and there is no difference between the Labor Party and the Likud bloc. The list of offenses is long: torture, arbitrary killings and arrests, the demolition of houses, the severe restrictions imposed on the freedom of movement by hundreds of check points, violence against Palestinians, land confiscation and the construction of illegal settlements, the “ethnic cleansing” of the Palestinians from East Jerusalem, collective punishments, such as the total closure of territories like Gaza and curfews, and the bombardments of the people of the Gaza Strip.

The list of human rights violations involving Palestinian victims for which the Palestinian Authority (PA) is responsible is similarly long: torture and maltreatment; the denial of fair trials before military courts and the State Security Court, which has the power to issue the death sentence; the intimidation of undesirable persons; the restrictions on the freedom of speech and the press; and the hampering of the work of human rights organizations.

Both, the Fatah- and the Hamas-led governments, use repressive measures in order to control and subdue the population under their reign. After Israel began its offensive in Gaza in 2008/09, Hamas took extraordinary steps to control, intimidate, punish, and at times eliminate, their internal political rivals and those suspected of collaboration with Israel. The majority of Palestinians executed by other Palestinians during Israel's military operations were men accused of collaboration with Israel.

However, one should not forget that the cause of the whole chaos is the illegal occupation of Palestinian land by the State of Israel. Since the start of the Zionist colonial enterprise, the different Israeli governments have tried everything to bring as much Palestinian land as possible under their control, but with the least possible people.

Tradition of Torture in Israel

Torture in Israel has a long tradition, dating back to the "Haifa Trials" in 1972. The Western media outlets have only reported sporadically about this wide-spread phenomenon. The torturers are usually Shin Bet agents (Shin Bet = General Security Service GSS) who run special interrogation sections in some Israeli prisons.

In June 1993, I attended the first conference

on torture in Tel Aviv that was organized by Physicians for Human Rights (PHR) and the Public Committee against Torture in Israel (PCATI). Neve Gordon, then general secretary of PHR and currently professor for Political Science at Ben-Gurion University in Beer-Sheva, declared at the final press conference that 25 to 30 per cent of the detainees were mistreated during interrogation. Stanley Cohen, then professor at Hebrew University, said that a "society that tolerates such practices, requires self-immunization.

"Although torture has become routine, the public is not informed, and they do not even want to know." The publication of the report "On Torture" shows that Cohen's statement 20 years ago still holds true.

In April 2011, Adalah - The Legal Center for Arab Minority Rights in Israel, Physicians for Human Rights (PHR-Israel) and Al Mezan Center for Human Rights in Gaza held a two day international expert workshop in Jerusalem on the subject of "Securing Accountability for Torture and Cruel, Inhuman or Degrading Treatment or Punishment (CIDT) in Israel: New Trends and Comparative Lessons".

Israelis, Palestinians and international experts discussed strategies whether the existing domestic mechanisms of torture and ill-treatment prevention were sufficient and whether the perpetrators could be held accountable. This volume presents the results of this conference. Torture and ill-treatment inflicted by the Fatah- and Hamas-led governments were out of the scope of the joint work of these organizations and they did in no way intend to undermine the gravity of such acts or suffering of the victims. There are several Palestinian human rights organizations in the Occupied Palestinian Territories (OPT) that fight these violations.

In this report, Lea Tsemel, a leading human rights lawyer, gives a rundown on the history of torture in Israel. The two main bodies that carry out the torture are the GSS, which continues to do so up till now, and the Military Intelligence. The last one was involved in the interrogation of detainees who had been kidnapped from abroad or had infiltrated the country. The vast majority of the interrogations of thousands of Palestinians took place in the GSS centers.

According to Tsemel, the Israeli public was first exposed to the torture practices in 1977, after the New York Times published an article containing testimonies by tortured young and old Palestinians. After the Nafso case in 1980 and the Bus 300 affair in 1984, the Israeli government established the Landau Commission, named after the former High Court Judge David Landau. It came up with a list of permitted and non-permitted methods of torture. The permitted methods had to be disclosed. Despite these recommendations, torture continued unabated till 1999, when the Israeli High Court issued its verdict that torture was practiced and was illegal. It also stated that torture could be permitted in situations of "necessity".

According to Lea Tsemel, since then something shrewder happened. In the "Palestinian theater", like the author calls it, the Palestinian detainees are tortured by Palestinian collaborators. These Palestinian "friends" are known as "birds" (Asafeer). Their conversations are recorded and later taken to the GSS agents. Later the detainee is confronted with this "evidence". These "friends" have an advantage over the GSS interrogators; they remain secret.

Torture permission is required in cases of the "ticking bomb" doctrine of "necessity", as envisaged by the High Court, writes Lea

Tsemel. In so-called "military investigations" the definition has been broadened to justify torture of a person who merely "knows someone who may know something" about an upcoming danger. No permission is needed in cases that are not regarded as "direct" torture, like shouting, threats against the detainee and his or her family, and, above all, spitting at their faces. Another mechanism is the lie detector machine and the total isolation of the suspect. In this imaginary world, people are totally lost.

The founding member of PHR in Israel, Ruchama Marton, spoke on the involvement of Israeli physicians in the torture and ill-treatment of detainees. She mentioned that medical personnel involved in such unethical behavior are not exclusive to the Israeli-Palestinian conflict, but rather a worldwide phenomenon. According to her opinion, the medical system functions as an agent of social oversight, regulation and control. "The Israeli Prison Service physicians provide medical authorization for the solitary confinement and isolation of prisoners." Psychiatrists have brought about the continued incarceration of detainees in solitary confinement, causing unequivocal and sometimes irreversible harm to their health, writes the author. Instead of healing, they cause harm.

Manfred Nowak, Professor of International Law and Human Rights at the University of Vienna, and a former UN Special Rapporteur on Torture, gave an overview of the progress and the setbacks during his tenure. There is an urgent need "for hard international law to protect and promote the rights of detainees". In Nowak's opinion, the "most important preventive means are visits to places of detention". And the international monitoring has to be strengthened. Nowak mentions the negative example the Bush administration gave by using torture in their

detention facilities. Other nations asked: Why can't we do the same? Unfortunately, the British already used torture against IRA suspects in the 1970s. With their "ticking bomb" scenario, the U. S. and their torture supporters have been trying "to make torture socially acceptable", writes Nowak.

According to the Israeli human rights organization B'Tselem, more than 700 Palestinian detainees have filed complaints against Shin Bet agents for mistreatment during interrogation over the last decade; however, not a single one has resulted in a criminal investigation being opened.

In violation of the Fourth Geneva Convention, the Israeli government transfers prisoners, including children, for interrogation and detention to prisons outside of the Occupied Palestinian Territories into Israel. Currently, there are 159 administrative detainees held without charge or trial in Israel prisons; almost 4,600 Palestinians prisoners are in Israeli custody. B'Tselem has reported that while incidents of physical abuse have decreased in recent years, they have not ended.

Besides torture, there are a wide range of other human rights violations against Palestinians committed by the Israeli occupying forces. Despite that, officially, Israel has remained a Jewish democracy in which law and order and the freedom of opinion are secured. There is a huge amount of information about the ill-treatment of another people that's why no Israeli could claim that he would not have known about these human rights violations.

Torture and Ill-Treatment under Fatah and Hamas.

In the course of the so-called peace process in 1993 that led to the establishment of the Palestinian Authority, Yasser Arafat and

later Mahmoud Abbas have been forced by the Israelis and the United States to take on the role of despotic peace angels.

Immediately after his arrival, PLO chief Arafat established a comprehensive security apparatus that was used to intimidate, threaten, arbitrarily arrest and mistreat any critics of the peace process and members of Hamas and the Islamic Jihad. The political situation under the Abbas regime did not change fundamentally, especially, after the Fatah instigated coup in 2007 against Hamas in the Gaza Strip failed. A repressive policy again violated the most basic rights of the Palestinians - the right to life, freedom of assembly and speech, peaceful opposition, and personal security.

Torture and arbitrary arrests are among the common methods. There have also been killings that could not be solved. In April 2009, Human Rights Watch released a report on Hamas political violence in Gaza. The report shows that human rights violations are manifold, including torture, extra-judicial killings, mistreatment, arbitrary detentions, and executions of alleged collaborators.

After Israel's withdrawal from Gaza in 2005, internal violence in Gaza has continued. That led to 14 killings between January and March 2009. The violence has gone mostly unpunished. Only one killing was investigated that was done by members of their security forces or armed wing. Hamas security forces have also used violence against Fatah members, especially those who had worked in the Fatah-run security services of the PA.

In the West Bank, the Fatah-run authorities have also increased repressive measures against Hamas members and their supporters. In 2009, Palestinian human rights groups recorded 31 complaints of

residents who said they had been tortured by Fatah-led security forces. They also recorded one known death in custody and the arbitrary detention of two journalists from a private television station considered pro-Hamas. Besides the Fatah-led security apparatus, Israel's occupying forces too arrest not only democratically elected Hamas representatives but also many Hamas supporters on a daily basis.

In both Gaza and the West Bank, these abuses violate Palestinian law, although the Palestinian Basic Law, considered the interim constitution, prohibits torture and mistreatment. The situation in both Palestinian areas is depressing, not only because of the exerted pressure from the outside, but also due to the increasing brutality of the Israeli occupation regime.

Under the prevailing circumstances in Palestine, there is little hope for democracy and the respect of human rights.

For the whole chaos, however, the Israeli occupation regime is mainly responsible. As a belligerent occupier, Israel has special responsibilities under international humanitarian law to deal humanely with all Palestinians, including those held in detention.

The international community has a similar responsibility to ensure that these international laws are carried out and respected. Why shouldn't these legal standards apply to Israel?

The author works as a journalist and editor in Bonn, Germany. He holds a PhD in International Relations (IR) and has taught IR from 2000 to 2006 at the University of Bonn. He can be reached at: www.watzal.com



TORTURE IN ISRAEL AND PALESTINE: ARTICLE



Terror & Torture

Protection of Victims of the Crime of Torture on the Scales of Transitional Justice: the "Palestinian Case"

by Khalil Abu Shammala

After about five months we are going to the 15th anniversary of the International Day against Torture. The UN General Assembly proclaimed 26 June as the United Nations International Day in Support of Victims of Torture, with a view to push for the total eradication of torture, and to ensure the effective functioning of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment (CIDT) or Punishment (which entered into force on 26 June 1987).

The international community adopted article five of the Universal Declaration of Human Rights, which stipulates that “no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.” This proves that there is an international approval on prohibiting torture and it was an important step in the much-needed process of globalizing human rights and acknowledging that torture, and all forms of inhuman or degrading treatment or punishment, are absolutely and universally illegal.

The Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment was adopted by the General Assembly on 9 December 1975. The text of the Convention was adopted by the United Nations General Assembly on 10 December 1984. The United Nations Commission on Human Rights, in resolution 1985/33, decided to appoint an expert, a special rapporteur, to examine questions relevant to torture. The Vienna Declaration of the 1993 World Human Rights Conference likewise affirms “all human rights derive from the dignity and worth inherent in the human person.”

The Rome Statute of the International Criminal Court [17 July 1998] emphasizes the need to conduct International criminal

trials for people accused of committing acts that constitute war crimes, crimes against humanity or genocide, including torture.

It appears to be necessary to institute such a day to remind ourselves that the practice of torture is widely prevalent, as in the case of the Palestinian detainees in the Israeli jails.

Some officials or victims misunderstand the requirements of national reconciliation that often follow the conflict stage. We will highlight this issue in order to attempt to solve it within the framework of the transitional justice system.

Despite numerous reasons that have lead to the expansion of impunity for the perpetrators of the crime of torture and the lack of protection to victims of this crime, the crimes of torture remains punishable at all times.

The distinction between the concepts of law and justice from the perspective of the work of the authority and legislators reassure our hearts and the hearts of the victims of torture.

Dr. Kamal Ganzouri, when he was talking about transitional justice in Darfur, stressed that if the law is a set tool, the powerful think that justice will spin off automatically from these basic or transitional texts.

Justice, in fact, is an inherent tendency of human nature, the self inherent sense in the soul that is proven by healthy mind and enlightened conscience.

William Temple, Archbishop of Canterbury, said, when visiting some courts in England, that he could not pretend to know much about law, but primarily drew his own attention to justice.

To avoid ambiguity – especially with the

relative modernity of the legal literature that has tried to demonstrate the relationship between legal protection for victims of the crime of torture and ensuring that perpetrators of the crime be brought to justice, and between the requirements of the application of the transitional justice system – this issue requires an objective analysis that can contribute to finding solutions to unexpected problems.

Whenever the legal grounds and national and international evidence spreads to confirm the existence of a complementary relationship between legal protection for victims of the crime of torture and bringing the perpetrators of such crimes to justice, and between the requirements of the application of the transitional justice system, it has led to the flexibility in providing integrated protection for humans.

It is important to clarify a number of concepts that are related to this issue, both at the theoretical and practical levels.

Justice comes on top of standards that govern the equation of right and duty, so as to ensure state power with reasonable acceptance to human rights rules in people's relationships with each other, on one hand, and between them, on the other, and this, at all times accompanies the emergence of a historic state.

It often comes to mind of some people to attempt to link the application of the transitional justice system in the states with amnesty, forgiveness, and the lack of accountability of offenders, particularly those who commit torture crimes. To know if this is right or wrong from this linkage that is based on the general understanding which is inaccurate, or by the desire of community to neglect this conflict, or by some politicians to make the system of transitional justice as a

legal way to ensure the lack of accountability for their actions.

We will try to understand and analyze all this according to our human rights vision, to ensure protection of the rights of victims of crime of torture in the scale of justice. We are going to give a brief on the following:

- 1) Law and its relationship with the existing political system: According to the comparative results and the application that govern humanitarian science, national laws, particularly those governing the special stages or transition, appear as a neutral foreign force. While the state / power / political system, which is similar to it, appears as the regulatory tool to the authority of the ruling class and the fullest expression of its political will. To ensure the enforcement of these laws, arsenal of government agencies are used. With this evidence, the laws represent an institution, where the ruling class enforces its human rights vision, and duties of individuals and groups in different areas and circumstances, according to specific rules. Therefore, law is an ambiguous concept that reflects the value of limited perceptions to part of the community and claims its ability to take all the values and ideals of this community. So, until belief continues that laws are a foreign neutral tool that expresses for everyone, stand above everyone, and are accepted by everyone in order to achieve social stability and peace, they will in fact constitute an economical, political, and social cultural history of conflict.
- 2) The concept and the context of applying the transitional justice system: The field of transitional justice means the quest for universal justice during periods of political transition. It is interested in the development of a wide range of diverse

strategies to confront human rights violations in the past. The aim of these strategies and their practical application is to create a just and democratic stability. The aim of transitional justice is to deal with violations in a broad way and it includes comprehensive criminal justice, justice to repair the damage, and social and economic justice. Additionally, it is based on the belief that the judicial policy and justice must include measures that envisage a dual purpose, which is accountability for past crimes and preventing new crimes in the future.

3) The concept of the crime of torture:

Torture is the practice or act of deliberately inflicting severe physical pain and possibly injury on a person. Torture has been carried out or sanctioned by individuals, groups and states throughout history, from ancient times to modern day. The Rome Statute, which established the International Criminal Court (ICC), provides for criminal prosecution of individuals responsible for genocide, war crimes and crimes against humanity. The statute defines torture as “intentional infliction of severe pain or suffering, whether physical or mental, upon a person in the custody or under the control of the accused; except that torture shall not include pain or suffering arising only from, inherent in or incidental to, lawful sanctions”.

4) The crime of torture in Palestinian law:

The Palestinian penal system did not know a crime called the crime of torture. While noting that a definition of torture has been included in article 208 of the Penal Code, Chapter Two of the Jordanian Constitution provides for “Rights and Duties of Jordanians”, but does not contain a specific prohibition of torture and other forms of ill-treatment or punishment. Torture is

not treated as a serious crime, but rather as a misdemeanor, and is not subject to penalties appropriate to its gravity (6 months to 3 years imprisonment).

5) Transitional justice in Morocco: The Equity and Reconciliation Commission is a Moroccan human rights and truth commission created on January 7, 2004 in order to reconcile victims of human rights abuses, such as torture. The proclaimed objectives of the commission are the protection and the promotion of human rights in Morocco. IER’s aim is to rehabilitate the victims, and pay compensation for state outrages against them.[1] This has been hailed internationally as a big step forward, and an example to the Arab world. However, though the IER has also come under attack from parts of the human rights-community, the establishment of the ERC marked a turning point in the history of the kingdom and established a precedent in the MENA region. It is arguably the only known commission of its kind to have been established by a state that decided to document its own abuses and, as a result of internal political dynamics, to deal with its past in a healthy and sustainable way. So far, the Commission has managed to document and archive the truth about what happened over four decades of regime suppression and has managed to be generally equitable in compensating victims. In the nearly two years since its formation, the ERC has interviewed thousands of victims and conducted field investigations in different parts of the kingdom. It also organized seven public hearings, some of them televised, at which Moroccans described the abuses to which they or their relatives had been subjected. The ERC also arranged medical assistance for victims of past abuse who urgently needed it.

Freddie Sarwar

Freddie Sarwar (40) was arrested, in London in 2003, for 16 charges including: commission of the crime of torture, which proves that the perpetrators of crimes of torture will not be able to escape from impunity. Freddie Sarwar was accused of committing the crime of torture against many citizens having different nationalities.

He was the leader of an armed group in Afghanistan in the period between 1992 and 1996 on the border between Kabul and Pakistan. Sarwar was also known as Zrdad Khan, a military commander in the Sarobi area in Afghanistan near Kabul. This is the first case under Article (134) of the British criminal law for 1988, which included the United Nations Convention against Torture of 1984. This article allows British courts to try suspects in cases of torture, regardless of where those violations occurred.

Allies of the criminal court could not convict the accused (Freddie Sarwar) for lack of evidence. Therefore, this investigation was re-opened against him again in 2005 to search for new evidences. Thus, he was referred to the Criminal Court in London on 18 July 2005, on charges of committing the crime of torture and hostage-taking against victims of different nationalities in the Afghan province. The court found him guilty of the offenses charged to him and he has been sentenced to 20 years imprisonment.

Accordingly, history is full of attempts to address the crime of torture, and to bring the perpetrators to justice, which constitutes protection for victims of torture, cruel and degrading treatment, and this also reduces the recurrence of new victims of this crime.

The above mentioned example is considered a model for the accountability of those who

committed the crime of torture by its use of the principle of universal jurisdiction. This reinforces our understanding that the implementation of transitional justice can find for itself legal safeguards for victims of the crime of torture, as transitional justice means access to the truth, something still not clear for everyone.

To achieve Palestinian national reconciliation on the basis of transitional justice will lead to ensure the stability of society after the conflict and division stage, in addition to non-recurrence of a state of fragmentation, which is represented by suppression of rights and freedoms and disrupting the unity of the community.

International truth and experience confirms that communities in different periods of history are subjected to fighting, civil wars, crises, and other countless problems, which have had a disastrous impact in the internal relations of these communities. Also, these circumstances subjected the rights and freedoms of citizens to danger and risk. But these communities have quickly rectified their situations, and they have cooperated in order to get rid of these violations and problems through multiple mechanisms, such as transitional justice.

It may be difficult to list all the steps that should be taken by the Palestinian society to start the implementation of the system and the idea of transitional justice, to ensure the rights of victims. But, I think that there are a number of steps that we should start with :

- 1) The first step is to implement a system of transitional justice as part of the mechanism for ending the state of Palestinian division, which has resulted in many problems such as the occurrence of the victims of torture. Torture is committed in prisons or inside or outside detention

centers by the conflicting parties. We all know this problem and there is a need to acknowledge its existence, so we may think about dealing with its effects.

- 2) The success of the Palestinian experience is guaranteed one hundred percent, if it is based on a collective desire to be applied for the benefit of society.
- 3) The need to develop the document of Palestinian reconciliation, as a guide and a moral and legal reference for all society, that can determine precisely the expected and appropriate mechanisms.
- 4) Palestinians should know the experiences of others, and the implementation of the transitional justice system should be accompanied by good faith in order to have a Palestinian society that respects human rights.
- 5) There is a need for not forgetting the past violations of human rights, and the strengthening of the democratic system. Facing the past creates a kind of deterrence, so remembering and demanding accountability can prevent the committing of heinous acts in the future. The experiences of different people have proven that the application of transitional justice helps in strengthening reconciliation and democracies through the building of exchange and trust relations.
- 6) The Need to pursue various judicial and non-judicial ways to address the crimes of human rights and in particular the crime of torture. Several methods are used in order to achieve a more comprehensive sense of justice, such as lawsuits against the perpetrators of violations, as happened in Kosovo. Or, establishing fact-finding initiatives to address past abuses, as

happened in Sierra Leone. Or, providing compensation to victims of human rights violations, as was the case in Morocco. Or, introducing reconciliation in the divided societies, as happened in East Timor, and a number of countries in Latin America. Or, finding a common formula between them to ensure accountability, and providing the victims of torture the right to an effective judicial remedy.

- 7) Developing solutions to the problems that are resulted from the stage of division in order to achieve justice for the community under the rules of national reconciliation in all its forms to achieve comprehensive development, progress and prosperity.
- 8) Emphasizing the need to adopt the philosophy of community, which confirms that the State and the parties of the conflict that are going in a democratic trend needs to break with the past, with all its tragedies and mistakes. The break with the past means establishing rules for not repeating these mistakes. According to some people, preventing the repeating of mistakes requires a review of the past mistakes and bringing to justice those who have committed these mistakes. Some states have taken a different step through the Truth and Reconciliation Commission, which is based on the Recognition of mistakes by those who commit it rather than brining those who commit mistakes to trials and justice. There are different experiences focused on documenting the violations that occurred.
- 9) The Palestinian Authority is supposed to be creative and to apply transitional justice in light of the political and economic conditions. In this framework we need national peace. And, we need to recognize the facts, as no one wants to admits his/her mistakes, and there is

insistence on condemning one party only.
We need self-transcendence.

- 10) There is a need to hold accountable the perpetrators of the crime of torture, provide compensation for the victims, and achieve society's desire for harmony and national reconciliation.

Perhaps **the most important reasons to apply the transitional justice system** in Palestine are the following:

- 1) Strengthening democracy and reconciliation: Democracy and reconciliation cannot be based on lies, and the continuous efforts to confront the past can lead to more powerful democracy and reconciliation. This is achieved through the establishment of accountability and compensation, and through the building of democratic culture.
- 2) Moral duty in the face of the past: There is a moral duty to remember, and to accept the victims and to recognize them as victims. To forget the victims and survivors of the atrocities and crimes of torture can only restore the sense of injustice and humiliation.
- 3) Remembering and demanding accountability can alone prevent the committing of heinous acts in the future.
- 4) The experiences of different people prove that the application of transitional justice helps in strengthening reconciliation and democracy through building exchange and trust relationships.
- 5) It is impossible to ignore the past or forget it so it's better to show it in a constructive and satisfactory manner.

“Providing impunity for the perpetrators of the crime of torture means depriving them from all forms of protection, inflicting punishment on them, and informing everyone that there will be no tolerance in the future with the perpetrators of this crime.”

On the other hand if financial compensation was granted without complementary processes to tell the truth and with disclosure, it will be expected that such compensation for victims will be considered as bloodstained money or as an attempt to buy silence. It must be emphasized here that the mechanisms and methods of transitional justice is working according to an integrated vision in order to forget the past and to ensure stability in the present and to achieve complete justice in the future.

The integration of the compensation process with the trials can provide reparation of the damage that is more comprehensive than providing it separately. The compensation on the other hand may need to be supported by institutional reforms to declare formal commitment to review the structures that supported or committed human rights violations.

It should be taken into account that the memorials are often aimed for symbolic compensation and moral reparation for the damage suffered by the victims of human rights violations.

All of the above confirms that the mechanisms and methods of transitional justice work in an intimate integration to put an end to the ongoing violations of human rights crimes or the crimes that are committed in the past, and to open investigations into the crimes,

and to identify those who are responsible, and punishing them, in addition to granting compensation to victims, preventing the commission of human rights crimes in the future, rebuilding trust between the state and the citizen, promoting peace and democracy, and encouraging individual and national reconciliation.

The achievement of the principles of transitional justice through equity and national reconciliation and compensating the victims of the crime of torture and psychological reparation, and providing them with legal protection, are considered essential steps to achieve a comprehensive political reform process.

The call to inspire, to absorb, to evoke, the experiences of transitional justice, and the creativity in its application, in line with the reality of Palestinian society, while not forgetting the values of unity, tolerance, and dialogue, justice, and the rule of law, and human rights, are considered as a call for struggle and a call to overcome all challenges and obstacles that could hamper reconciliation and transitional justice.

I think that the majority of the Palestinian people are able to apply such transitional justice, and overcome the past and the impact of the violations and negative consequences. Perhaps most Palestinians, and particularly victims, understand now that they need to live together according to political and social contract that invoke reason and tolerance, democracy and human rights.

The past and the present in Palestine, and the violations committed, cannot afford any more procrastination. It needs 'awakening', and a courageous political decision that moves the country to another stage, not only to heal the wounds of the past, but also to

establish a new era that respects human rights.

Finally, we have to evoke all the new preventative tactics, as well as the tactics of intervention and compensation included in the new tactics book on human rights - a reference for practitioners, as it has considered practical ways that enhance protection to victims of the crime of torture.

The tactics of intervention and compensation in the book state that the criminal justice and refurbished justice are traditionally distinguished. The refurbished justice confirms the recovery of the victims and the community from the lesions. The criminal justice confirms the punishment on the abuser and the victim's redress. Both methods are useful and are essential for rebuilding and restoring the affected community.

Providing impunity for the perpetrators of the crime of torture means depriving them from all forms of protection, inflicting punishment on them, and informing everyone that there will be no tolerance in the future for the perpetrators of this crime.

Although the Palestinian legislative texts and international conventions criminalized this crime, but there is insistence on committing the crime of torture, which represents a challenge for everyone. The Palestinian community, with the help of international friends, should prevent the commission of the crime of torture, and that requires developing a strategic plan to respond to the Palestinian situation and this plan should include new tactics that are characterized by creativity and flexibility. Also, there is a need to change the media discourse to be stronger and to be in harmony with the complexities that characterize the crime of torture.

To start the implementation of transitional justice, a national organization that works through scientific programs and action should develop realistic plans to fight anti-discrimination and marginalization, to promote the values of citizenship as a framework of rights and obligations, to provide practical suggestions, to ensure the non-recurrence of internal division, and to allocate a special effort that complies with Palestinian laws and to bring them in line with international conventions allocated against the crime of torture.

The Palestinian state should declare that it abides by the United Nations Convention against Torture of 1984 and the Optional Protocol of 2006, just as its commitment with the United Nations Convention against Corruption in 2005. Also, the Palestinian state should make the necessary changes in the various legislations so as to comply with the Convention against Torture, and to adopt a national mechanism for the control and prevention of the acts of torture. There is no doubt that all this is consistent with Article 2-10 of the Palestinian basic law, so there is a need to proceed without delay in order to join the international conventions on human rights.

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CHAPTER VII 35. (1)
While any person holds office as President, no proceedings shall be instituted or continued against him in any court or tribunal in respect of anything done or omitted to be done by him either in his official or private capacity.
(THE CONSTITUTION OF THE DEMOCRATIC SOCIALIST REPUBLIC OF SRI LANKA)



SRI LANKA
Executive Presidency is anti-democratic
and it should be abolished

TORTURE IN ISRAEL AND PALESTINE: OPINION



Drinking Lightly: Israel and the Torture Conundrum

by Binoy Kampmark

Arafat Jaradat, arrested on February 18, on suspicion of casting stones at Israeli soldiers, died in Israel's Megiddo Prison after heavy interrogation at the hands of Shin Bet, Israel's feared internal security service. It took only five days to conclude the man's life.

According to the Palestinian Authority, an autopsy conducted on Jaradat's body revealed evidence of torture – broken ribs, spinal injuries, and bruising to arms and legs. The attempt to deflect suspicion that torture was used was immediate – prison officials claimed that the prisoner had died of cardiac arrest. The statement released on Sunday by the Ministry of Health suggested otherwise:

"Two [sic] internal haemorrhages were detected, one on the shoulder and one on the right side of the chest. Two ribs were broken, which may indicated resuscitation attempts. The initial findings cannot determine the cause of death."

At a news conference in Ramallah, Issa Qaraq saw his suspicions confirmed:

"The evidence corroborates our suspicion that Mr. Jaradat died as a result of torture, especially since the autopsy clearly proved that the victim's heart was healthy, which disproves the initial alleged account presented by occupation authorities that he died of a heart attack."¹

Force had been added under the skin and inside the muscle of the right side of the chest. In addition to the broken ribs was evidence of torture on the muscle of the upper left shoulder.

Activist organisations claim that Jaradat's case is far from new. Addameer, a prisoner's rights organisation, claims that, since 1967,

¹ Ma'an News Agency, "Minister: Autopsy shows torture killed Jaradat," Feb 24, 2013, www.maannews.net/eng/ViewDetails.aspx?ID=568699.

72 Palestinians have died from torture, with 53 perishing due to plain medical neglect. According to B'Tselem, the Israeli Information Centre for Human Rights in the Occupation Territories, between 2001 and 2011, 700 Palestinians made official complaints to the State Attorney's Office over the brutality of Shin Bet.² The reaction to these calls has been less than impressive – not a single case has been investigated so far.

This has not deterred the most recent application by a Hamas member to the High Court of Justice seeking intervention by the prosecution on his behalf. This follows his efforts to convince the Justice Ministry's department investigating police officers on the charge that they tortured him 18 months ago.³ Attorneys Bana Shugari-Badarna and Adi Lustigman have been instrumental in not merely drafting the petition but extracting an admission by Shin Bet that methods of torture, as outlined in the petition, were, in fact, used.

At times between August 25 and August 27, "special methods" were employed involving "a number of full kneelings," "a number of lifting the hands to the back", and "a number of standings" (making the petitioner repeatedly stand up and down). Added to this were periods of handcuffing, sleep deprivation, shaking, and the infliction of an inadequate diet.

Physicians have come under fire for the case, claiming through a spokeswoman on April 3 that -

² B'Tselem, "Failure to Investigate Alleged Cases of Il-Treatment and Torture," Jan 1, 2011, www.btselem.org/torture/impunity.

³ Amira Hass, "Shin Bet documents show illegal interrogation methods used against Palestinian prisoner," Haaretz, Apr 4, 2013, www.haaretz.com/news/middle-east/shin-bet-documents-show-illegal-interrogation-methods-used-against-palestinian-prisoner.premium-1.513324.

*“The Israel Prison medical team is responsible for the life and health of some 18,000 prisoners and does its work faithfully, expertly and sensitively.”*⁴

They have not covered themselves in glory.

To suggest that Israelis are indifferent to the occurrence of torture would be false. Activism in the country against torture has been aggressive, despite a sense that the opponents are fighting a tide of acceptance. The range of opinions to the treatment of Palestinian prisoners is complex.

Founded in 1990, the Public Committee Against Torture in Israel (PCATI) is an industrious group with an eclectic range of justice projects – advocating for Israelis, Palestinians, labour immigrants and other foreigners in Israel and the Occupied Palestinian Territories (OPT) against torture.

Through its actions, including those of Hamoked – the Centre for the Defence of the Individual and the Association for Civil Rights, the High Court of Justice narrowed the scope of torture techniques availed to Israeli security forces in *Public Committee Against Torture in Israel v State of Israel* [1999] IsrSC 53(4) 814. Prior to that, the General Security Service (GSS) had been operating under recommendations of the Landau Commission Report rather than any formal legal framework.

The decision certainly gave commentators hope, including fellow justices outside the country, that Israel had abandoned the use of torture in its arsenal of measures. This was the view of US Justice Ruth Bader Ginsburg in April 2009, who erroneously suggested that torture, after the decision, could never

be used even in the case of a “ticking” time bomb scenario.⁵ We find a similar view expressed by Justice Richard Goldstone in an issue of the *Case Western Reserve Journal of International Law*.⁶

In so doing, Justices Ginsburg and Goldstone neglected the defence of necessity that the Israeli justices allowed. The exceptional tag, in effect, legitimises torture in certain circumstances. Given that Israeli security forces claim to be operating in an environment of permanent emergency and insecurity, the concerns of necessity are never far away. Some legal commentators, among them Itamar Mann and Tel Aviv human rights attorney Omer Shatz, argue that the *Public Committee* case was the fillip for a more centralised approach to torture and the management of its use, perpetrated under the umbrella of “necessity.”⁷ Sophistication has taken the place of coarseness.

Article 2 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment bucks such reasoning, proving uncompromising in its language against the justification of necessity: *“No exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture.”*⁸

⁴ Hass, “Shin Bet documents show illegal interrogation methods used against Palestinian prisoner.”

⁵ Adam Liptak, “Ginsburg Shares Views on Influence of Foreign Law on Her Court, and Vice Versa,” *New York Times*, Apr 11, 2009, www.nytimes.com/2009/04/12/us/12ginsburg.html?_r=0

⁶ Richard Goldstone, “Combating Terrorism: Zero Tolerance for Torture,” 37 *Case Western Reserve of International Law* (2005-6): 343, 344.

⁷ Itamar Mann and Omer Shatz, “The Necessity Procedure: Laws of Torture in Israel and Beyond, 1987-2009,” *Student Scholarship Papers*, Paper 113, Yale University, http://digitalcommons.law.yale.edu/cgi/viewcontent.cgi?article=1113&context=student_papers.

⁸ Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, www.hrweb.org/legal/cat.html

Individual soldiers have also been forthcoming in recounting their experiences of the security state and its disposition towards torture. Yuval Lev has posted his own accounts through social media of what he claims were “medieval-style” torture techniques used during his army service in the first intifada in 1989, some of which he directly witnessed. He is penitent in recalling the actions of the GSS:

“Today I think the real punishment for a sore conscience is that you simply cannot delete what happened in your brain, and you are sentenced to remembering it forever, with no ability to forget.”⁹

Responses to Lev are as reflective of the contradictions, furious that he is challenging methods that save rather than compromise Israel. “What do you expect?” raged one post. “For them to be given a 5 star hotel?” Another suggested that he was merely an effete “cross-dressing leftist” who should best spend his time in the Qiryah, a base in downtown Tel Aviv.

The use of torture is not merely ineffective but counterproductive. It consumes and renders those who use it addicts of brutality. The argument that torture can be used in modest doses, applied in certain pressing circumstances is akin to, as Henry Shue strikingly notes, expecting an alcoholic to drink lightly.¹⁰

9 Ali Abunima, “Israeli who revealed ‘medieval-style’ torture of Palestinians faces virulent backlash,” *The Electronic Intifada*, Nov 13, 2012, <http://electronicintifada.net/blogs/ali-abunimah/israeli-who-revealed-medieval-style-torture-palestinians-faces-virulent-backlash>

10 Henry Shue, “Torture in Dreamland: Disposing of the Ticking Bomb,” *Case Western Reserve Journal of International Law* 37 (2005-6): 231, at 234.

Circumstances show, however, that the conditions of desperation produce the all too ripe conditions for violence. Even Israeli officials admit that acts such as those inflicted on Jaradat may lead to greater unrest, with the possibility of a Third Intifada brewing. Without due restraint, Israel’s forces may just get what they bargained for, and the Palestinian Authority President Mahmoud Abbas will be unable to rein in the rage. Justified acts of torture may well lead to justified acts of vengeance.

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Torture enforces silence. Breaking this wall of enforced silence is pivotal in working against torture.

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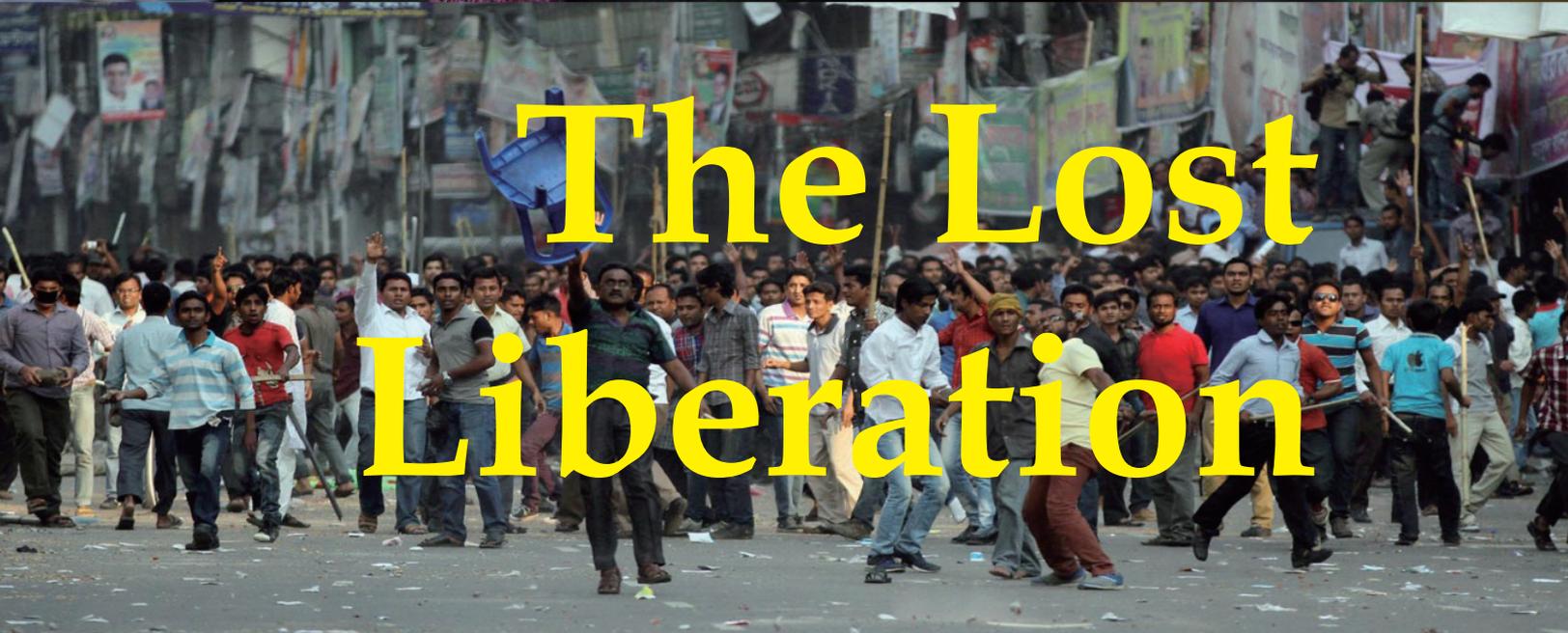
TORTURE
 ASIAN AND GLOBAL PERSPECTIVES



TORTURE

ASIAN AND GLOBAL PERSPECTIVES

THE COUNTRY STORY: BANGLADESH



The Lost Liberation

BANGLADESH: PAPER

State of Human Rights under Bangladesh Law Enforcing Agencies in Bangladesh: 2007-2011

by Dil Rowshan Zinnat Ara Nazneen* & Tarnima Warda Andalib**

Introduction:

Human rights are basic rights and freedoms that all people are entitled to, regardless of nationality, sex, national or ethnic origin, race, religion, language, or other status. Human rights include civil and political rights, such as the right to life, liberty and freedom of expression; and social, cultural and economic rights including the right to participate in culture, the right to food, and the right to work and receive an education. Human rights are protected and upheld by international and national laws and treaties. The need for developing 'Human rights' arose when the state required to respect, protect and provide certain sets of individual rights to its citizens. The state included certain acts to be prohibited, and another set of acts to be performed. Human rights arise from the very basis of humanitarianism.

Human Rights and Democracy are two distinct concepts but are interrelated in various manners. Human rights and democracy have historically been viewed as separate, albeit parallel, concepts. Democracy

refers to government by the people, and human rights refer to the universal rights applicable to all individual human beings in various societies. Therefore, though the understanding of human rights vis-à-vis democracy is dynamic and varied, recently these have been re-conceptualized and a discourse has emerged recognizing their interdependence.

In the Universal Declaration of Human Rights, the link between democracy and human rights is captured. It states:

*"[t]he will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures."*¹

Democracy is essentially a system of alternative programs and policies propagated by political parties. When a particular set of programs and policies fail to command the support of the people, alternative programs and policies are tried.²

Human rights or fundamental rights of individuals are the main thrust on which the concept of Democracy is based. A democratic

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1 UDHR, Article 21 (3)

2 Emajuddin Ahamed, The Military and Democracy in Bangladesh, Chapter 7

government's motto is to protect these rights, and all of its instruments are enabled to achieve this protection. Sometimes, governments of the third world countries have curtailed and reduced these rights. Democracy then becomes the safeguard of these types of rights. This significance has made 'the democratic system' quite popular as well as widely accepted. Therefore, whenever fundamental or basic rights of the people cannot be protected or enforced through legal means, the foundation of a democratic government gets shattered. However, there are some clear differences between human rights and democracy. Human rights aim to empower individuals whereas democracy aims to empower "the people" collectively.

The existing democratic systems around the world are failing to protect human rights in different arenas. Specially, in overpopulated countries, with large proportion of the population below the poverty line, like Bangladesh. When human rights are guaranteed by the constitution, then these are called the constitutional rights, which are recognized as the basic rights of the citizens of a country³. And constitutional recognition means the state is under constitutional obligation to protect these rights. Fundamental rights are also enforceable by the courts. The Constitution of People's Republic of Bangladesh has recognized a number of human rights as fundamental rights⁴. Among them, equality before law, freedom of speech, right of religion, right of free movement, right to get justice, right to association etc. are important ones. When fundamental rights are at stake, a citizen could take recourse to the court to protect the same.⁵

³ *Bangladesh Constitution*, Article 27.

⁴ Article 26- 44

⁵ Article 102

The state may, by no means, deprive a citizens access to justice. In the Bangladesh constitution, civil rights are not fundamental rights; only political rights are the fundamental rights. So, it is essential that while performing their duty, the police should take special measures not to violate the fundamental rights of citizens. Right to 'protection of law' and 'safeguards as to arrest and detention' are mostly related to policing. This means, when police arrest a person, they must not be insensible to the fundamental rights of the arrestee and the arrestee should be informed about his or her fault or guilt. Besides this, he or she should be produced before the court within twenty-four hours and he or she has the right to defend himself or herself via a lawyer. On the other hand, police also must treat the arrestee as per the rule of law, when he or she is in their custody. The police cannot torture the arrestee, nor treat him or her indecently.

Understanding the Philosophical Context

According to the Roman jurist Cicero, the Greek stoics developed the theory of natural law, a law higher than the positive laws of states. These natural laws declared that individuals were entitled to certain unchallengeable rights as human beings. So, the origins of human rights may be traced to ancient Greece.

The idea of human rights, to a great extent, evolved as a result of political absolutism when people became aware about their freedom as well as their state rights. Especially when tyrannical government started perpetrating indignities and injustices towards their own citizens, movements for these rights were started. Gradually modern states tried to include these rights in their constitutions. In time, these types of rights could get support not only from the state, but also from the regional and international agencies, and also from international law.

After World War I and II, for protecting human rights and for ensuring international peace, United Nations Organization was established. It was the United Nations' view that peace cannot be possible as long as injustice, oppression, and economic inequality prevail in the world. The United Nations Charter (1945) internationalized human rights and created obligation for member states to co-operate with the organization to promote the human rights as well as to establish fundamental freedoms.⁶ After the Charter was established, on 10th December, 1948, the General Assembly adopted and proclaimed the Universal Declaration of Human Rights. According to the Declaration, all human beings are born free and equal in dignity and rights. They are extraordinary with reason and conscience and should act towards one another in a spirit of brotherhood.⁷

Bangladesh, according to its constitution, is committed to ensuring all Human rights - civil, political, economic and cultural, including the right to develop the fundamental freedoms - to all its citizens without any discrimination. From the time of the freedom movement of Bangladesh, and even before that, when people realized that they are a different nation, different from Pakistan, attempts began being made to build a society free from exploitation, in which the fundamental human rights and freedom, equality & justice, political, economic & social rights are secured.

So, it is because of commitment to the promotion of human rights and fundamental freedoms of all its citizens, that Bangladesh is, theoretically, actively and constructively participating in the negotiations of the Human Rights Council.

⁶ Thomas Buergenthal, *International Human Rights*; Minnesota: West Publishing Company. 1988) pp-21-23.

⁷ UN Charter, Article-2

Therefore, Bangladesh symbolizes the principles and provisions of the Universal Declaration of Human Rights in the Supreme Law of the Republic. Theoretically, it guarantees the following rights to all its citizens without any discrimination.

One of the important rights is human rights, which should be ensured by democracy. The Republic should be democratic, in which fundamental human rights, freedoms, & respect for human dignity would be guaranteed. Basic Needs of human rights must be guaranteed by the state. The state must establish a uniform, free and compulsory mass-oriented education system. The state must not discriminate against any citizen on grounds of religion, gender, caste, place of birth, or ethnicity. Women must have equal rights in all spheres of the state and public life. Police must uphold all these rights accordingly, as the police is the protective body-guard for all human beings in the state.

The term police is now widely used to indicate a body of people organized to maintain civil order and public safety, to enforce the law, and to investigate the transgression of the law. The officers appointed for this purpose are also called the police. Police power comes from any sovereign state by law for monitoring the regulations appropriately and being compliant with the state's law. They prohibit the conflicts against the state law and their motto is to ensure peace by enforcing law in every sector of the state. An ideal police department will contribute to ensure peace in every minute sector of society by creating awareness about laws, by enforcing those laws, and by protecting law with all means.⁸

⁸ Frazier, words and phrases - permanent Edition 32a 1958 to date, at page 378 in *State v. Cromwell*.

Role of Bangladesh Law Enforcing Agencies

The Bangladesh Police is the main law enforcing agency of Bangladesh. It is administered under the Ministry of Home Affairs of the People's Republic of Bangladesh Government. Though the police is primarily concerned with maintenance of law and order and the security of persons and property, it also plays a vital role in the criminal justice system.

Five main protocols can lead the police force to this direction and these are: -

- (a) The Police must act properly,
- (b) The Police must obey the rules of right conduct,
- (c) The Police must not extort confessions by threats or promises,
- (d) The Police must not search a man's house without authority and
- (e) The Police must not use more force than the occasion warrants.

The Police as individuals are endowed with powers and duties, in excess of those given to civil citizens, in order that they may carry out their functions effectively. They are given rights to interfere lawfully with the liabilities of persons suspected of crime or to use force in their duties to protect other people and to maintain order. Only police officials can use the power of the force. The police acts through a process: identifies the problem, looks for the problematic encounter of the arena, and strikes the correct attitude to understand the problem. Every police official needs to acquire the consciousness of concepts of democracy, justice, fundamental freedom, and human rights.

In a day-to-day function, the Police needs to operate on those margins of society where liabilities are at risk, and for the effective operation these rights often have to be curtailed and infringed. They are agents of

law and their duties are to protect the public from arbitrary and improper interference with their liabilities. They have the right to arrest and detain suspects, but under humanitarian rights provisions, and trials and punishments have to be particularly humane, even if the suspect is proven guilty.

Law enforcing agencies, especially the police, are naturally expected to be the protector of the country's laws well as the caretaker of the human rights situation and the human security. But, in reality, their performances, their knowledge about human rights and security is very poor. Moreover, their ignorance and lack of awareness is very high. Though, normally, most of the officers are highly educated and have received vigorous training after joining. But public, as well as government, appear to agree on the fact that torture of the arrestee in police and law enforcing agency's custody takes place and is very common.

Especially for confession by the arrestee about a crime, torture is used in remand and it is used regularly. To investigate any problem, remand is used as a tool, and most of the time the accused person becomes sick. Besides this, police are not ready to hear about problems from citizens, do not respond quickly, or never want to provide their service at the appropriate time. They do not have the sympathetic mentality or kindness to the people. So, most citizens normally try to avoid law enforcing agencies, especially the police. In this situation, human rights violation occur repeatedly and are very common in Bangladesh.

The situation of human rights and human security in Bangladesh is very disappointing. Every year, many people get tortured and even killed in the hands of the law enforcing agencies. Given below is some information of the past five years that have been collected from the Ain o Shalish Kendra (ASK), a

reputed research organization that deals with human rights and human security issues in Bangladesh.

The Rapid Action Battalion (RAB) is an anti-crime and anti-terrorism elite force in Bangladesh. Though Bangladesh is a developing country, one of the impediments to its development is unstable law and order situation. According to the Government of Bangladesh, the need was felt to organize a permanent special force under the direct supervision of the Ministry of Home Affairs, in order to make the society crime free. Therefore, a special Force named Rapid Action Battalion was created. The main focus areas of the RAB are:

- a) Internal security duties;
- b) Recovery of unauthorized arms, ammunitions, explosives, and such articles;
- c) Apprehension of armed criminal gangs;
- d) Assistance to other law enforcing agencies for maintaining law and order;

- e) Intelligence gathering in respect to crime and criminal activities;
- f) Investigation of any offence on the direction of the government; and
- g) Other duties as the government may, from time to time, assign.

The RAB has been repeatedly described by Human Rights Watch as a “government death squad” and its killings and use of torture since its inception are very well documented. It is alleged to be involved in kidnap, extortion, and in taking bribes to carry out killings. RAB consists of members of the Bangladesh Police, the Bangladesh Army, the Bangladesh Navy, the Bangladesh Air Force, the Border Guard and Bangladesh Ansar. It is the most powerful law enforcing agency of Bangladesh. And, Amnesty International and the Asian Human Rights Commission have accused RAB of lack of accountability, for being responsible for numerous deaths, which have been attributed to crossfire, extra-judicial killings and torture.

Table 1: Death by Law Enforcement Agencies 2007

Ain o Salish Kendra (ASK)

Nature of Death \ FORCE	RAB	RAB & Police	Police	Joint Force & Army	Total
Cross Fire (before arrest)	59	2	20		81
Cross Fire (in custody)	19	1	14		34
Physical Torture (before arrest)	2		5	2	9
Physical Torture (in custody)	2		11	5	18
Shot (before arrest)	9		15		24
Sick (in custody)			9	5	14
Total	91	3	74	12	180

Note: The word “crossfire” has been used in the newspapers

Sources: Daily Prothom Alo, Daily Ittefaq, Daily Janakantha, Daily Jugantor, Daily Inqilab, Daily Shamakal, Daily Naya Diganta, Daily Amar Desh, Daily Star, Daily Independent, Daily New Age

Violation of Human rights by Law Enforcing Agencies in Bangladesh

In the year 2007, one hundred and eighty people were killed by law enforcement agencies, which is extremely alarming for the human security environment in a country. Police, RAB, Joint Force, and Army, are the most important law enforcement agencies in Bangladesh. They are all involved in the torturing and killing of the general population. Who, then, is the protector of the citizens of Bangladesh is a good question.

Beyond these statistics, other deaths also deserve noting. Two men died at their residence when the joint force operation was being conducted. One person committed suicide in joint force custody. One child was shot dead during the training period of the army. One child was shot dead during the training period of the police. One man committed suicide in his house, afraid of the police. One man drowned and died

in the river, afraid of the police. Two men committed suicide in police custody. One accused person died of cardiac arrest, when he was taken to the Court, and another died of cardiac arrest during police operation.

From this table, we can see one hundred and seventy five people were killed by the law enforcement agencies in 2008. Besides these numbers, one person died of cardiac arrest in the presence of the RAB, something not included in this table. The large number of deaths in the table proves the condition of the human security in Bangladesh. Most of the killing occurred in custody or prior to arrest. This suggests that the deaths occurred prior to trial. Appealing for justice is a fundamental human right, but it is also a practice rare in Bangladesh.

This table shows that two hundred and twenty nine people were killed in the hands of the law enforcement agencies of Bangladesh in 2009. Apart from the data

Table 2: Death by Law Enforcing Agencies 2008

Ain o Salish Kendra (ASK)

Nature of Death \ FORCE	RAB	Police	RAB & Police	Joint Force	BDR	Total
Cross Fire (before arrest)	58	40	11		1	110
Cross Fire (in custody)	10	20	1			31
Physical Torture (before arrest)		2				2
Physical Torture (in custody)		4	2	1		7
Shot (before arrest)	10	2				17
Suicide		2				2
Sick (in custody)	4	2				6
Total	82	72	14	1	6	175

Note: The word crossfire has been used in the newspapers.

Sources: Daily Prothom Alo, Daily Ittefaq, Daily Janakantha, Daily Jugantor, Daily Inqilab, Daily Shamakal, Daily Naya Diganta, Daily Amar Desh, Daily Star, Daily Independent, Daily New Age

Table 3: Death by Law Enforcing Agencies 2009*Ain o Salish Kendra (ASK)*

Nature of Death \ FORCE	RAB	Police	RAB & Police	Joint Force & Army	RAB & Coast-guard	Total
Cross Fire (before arrest)	33	55	22	2		112
Cross Fire (in custody)	9	3	1			13
Physical Torture (before arrest)		1			1	2
Physical Torture (in custody)	1	7				8
Shot (before arrest)		10		1	78	89
Suicide	1	1				2
Sick (in custody)	1	2				3
Total	45	79	23	3	79	229

Note: The word crossfire has been used in the newspapers.

Sources: Daily Prothom Alo, Daily Ittefaq, Daily Janakantha, Daily Jugantor, Daily Inqilab, Daily Shamakal, Daily Naya Diganta, Daily Amar Desh, Daily Star, Daily Independent, Daily New Age.

provided, fifty three BDR members died after they joined the force, eight people died while being pursued by the police, and one person committed suicide by jumping off a roof out

of fear during an RAB mission. This confirms the day by day deterioration of the human rights and human security environment in Bangladesh.

Table 4: Death by Law Enforcing Agencies 2010*Ain o Salish Kendra (ASK)*

Nature of Death \ FORCE	RAB	Police	RAB & Police	Joint Force	Army & BDR	RAB & Coast-guard	Total
Cross Fire (before arrest)	57	17	7	2	1	3	87
Cross Fire (in custody)	5			1			6
Physical Torture (before arrest)	1	6				2	9
Physical Torture (in custody)		14	1				15
Shot (before arrest)		8		1			9
Shot (after arrest)		1					1
Suicide	1	2					3
Sick (in custody)	1	2					3
Total	65	50	8	4	3	3	133

Note: The word crossfire has been used in the newspapers.

Sources: Daily Prothom Alo, Daily Ittefaq, Daily Janakantha, Daily Jugantor, Daily Inqilab, Daily Shamakal, Daily Naya Diganta, Daily Amar Desh, Daily Star, Daily Independent, Daily New Age.

From the table above, we can see that one hundred and thirty three people died due to the efforts of the law enforcement agencies in Bangladesh in the year 2010. Other than that, five people died during police missions. The primary duty of the state is to ensure security and hence protection of individual’s

dignity and well-being. Bangladesh is a democratic country by constitution. As a result, its people have big expectations from it. The country has failed to meet up with the people’s expectations, because the condition of a country can be determined by its human rights and human security environment.

Table 5: Death by Law Enforcing Agencies 2011 January to June

Ain o Salish Kendra (ASK)

Nature of Death \ FORCE	RAB	Police	RAB & Police	Joint Force	Army & BDR	RAB & Coast-guard	Total
Cross Fire (before arrest)	19	7	3	0	0	2	31
Cross Fire (in custody)	0		0	0			0
Physical Torture (before arrest)		2			0		2
Physical Torture (in custody)	1	7	0				8
Shot (before arrest)	5	9	1	0			15
Shot (after arrest)							0
Suicide							0
Sick (in custody)	0	1					1
Total	25	26	4	0	0	2	57

Note: The word crossfire has been used in the newspapers.
Sources: Daily Prothom ALo, Daily Ittefaq, Daily Janakantha, Daily Jugantor, Daily Inqilab, Daily Shamakal, Daily Naya Diganta, Daily Amar Desh, Daily Star, Daily Independent, Daily New Age.

From the table above, we can see that within the first six months of the year 2011, fifty seven people were killed by law enforcement agencies. Along with that, one person died in fear of an police officer’s warning, and two others committed suicide jumping-off a rooftop in fear of the police.

law enforcement agencies that are violating the human rights and human security of Bangladesh. Indian Border Security Force (BSF) and Indian civilians in the vicinity of the border, play a vital role in this as well. A reason for this is perhaps the government’s reluctant policies and attitude towards the preservation of the human rights and human security.

Bangladesh shares almost three-fourth of its border with India, and it is along this border that numerous casualties have occurred in recent years. From the data given above, we can see that it is not just the Bangladeshi

From the data, we can see that a total of one hundred and fifty eight people were killed and injured by the BSF and Indian civilians

Table 6: Bangladesh-India Border Violence 2010

Month	Killed by BSF	Killed by Indian Civilians	Total (Killed)	Injured by BSF	Injured by Indian Civilians	Total (Injured)	Grand Total
January	12		12	6		6	18
February	5		5	6		6	11
March	5		5	15		15	20
April	3		3	7		7	10
May	6		6	3		3	9
June	6		6	7		7	13
July	9		9	4	10	14	23
August	4		4	9		9	13
September	2		2	7		7	9
October	6	1	7	3	1	4	11
November	8		8	1		1	9
December	8		8	4		4	12
Total	74	1	75	72	11	83	158

Sources: Human Rights Report 2010 & Odhikar Report on Bangladesh⁹

in the year 2010; seventy-five people were killed and eighty three were injured. This is a highly alarming situation which the government of Bangladesh should address.

Conclusion

From the above analysis, it can be stated that the situation of human rights and human security is rapidly deteriorating in Bangladesh. There are many causes noticed which have worsened the situation. The claims of human rights in the areas of political and civil liberties are believed to be more often ignored in Bangladesh. The government of Bangladesh is authoritarian in nature; the government demands unconditional loyalty at all times, even though, it lacks morality itself. Though

there is an emphasis on reciprocal human relationships enriching human values and rights, authority and obedience are the two core concepts in Bangladesh politics.¹⁰

“Local government institutions can play a vital role in improving the situations. Especially popular participation in local level planning, formulation of the need based plans, implementation of the plans are very much helpful to improve the law and order situation of Bangladesh.”

9. <http://www.odhikar.org/>

10. Emajuddin Ahamed, *Globalization and Asian Values: Human Security*, Asia Publications, p 70

Local governments are the key component of any democratic state. The constitution of Bangladesh obliges the state to promote representative local government institutions and that the local government, in every administrative unit of the republic shall be composed of persons elected under the law, with powers to impose taxes for local purposes, to prepare their budgets, and to maintain funds.

Moreover, during the parliamentary election, the Awami League, which is now in Government, vowed that if elected the Union, Upazilla and District Councils will be strengthened through decentralization of power. District Councils will be transformed into centres for implementation of programmes on education and health and all other development plans, and programmes, and for maintenance of law and order. Every union will be made the headquarter for development and administration of the area and will be developed as a planned rural community. Every Upazilla headquarter will be developed as an industrial growth centre and a planned community. The power and sphere of responsibility of city corporations and municipalities will be enhanced; the standard and quality of civic facilities will be improved.¹¹ But, in reality, these promises have not been kept. For this reason, in every sphere of the state, violation of human rights and human security is very much common.

Local government institutions can play a vital role in improving the situations. Enthusiastic participation in local level planning, formulation of need-based plans, and implementation of such plans, can be very helpful in improving the law and order situation of Bangladesh. Most of the inhabitants of villages are

however condemned to a life and living characterized by malnutrition, illiteracy, disease, squalid surroundings, and high rate of infant mortality. Though poverty and underdevelopment constitute the general phenomenon, rural poverty is more depressing. Urban poverty in Bangladesh is but a spillover of the rural reality; rural poor come rushing to the urban centres in search of jobs.¹²

As a result, the human rights and human security situation is violated in both the rural and urban areas equally. The strategy of participatory local government as a means of development has been based upon the belief that development, both economic and political, will be meaningful through popular participation.

People's participation can play a big role in the process of rural transformation and removal of poverty and inequality. The basic premise has been that Bangladesh cannot be developed without developing thousands of villages. The belief that an effective system of local government working through large-scale popular participation may bring a new era of development which can provide the human security, as well as maintain human rights in the society.¹³

11. *Election Manifesto of Awami League, 2007*

12. Dil Rowshan Zinnat Ara Nazneen, *Popular Participation in Local Administration: A Case Study Of Bangladesh*, Gyan Bitarani, p 204-205

13. *Ibid*, p 205-206

BANGLADESH: ARTICLE

What is the RAB?

*The Rapid Action Battalion's development,
legality and existence in Bangladesh*

by Md. Ashrafuzzaman

The People's Republic of Bangladesh emerged on the world map as a nation-state in 1971, shedding its identity of East Pakistan, i.e. a province of Pakistan. History confirms that the inception of Bangladesh was the ultimate result of a long struggle in the territory for democracy and rule of law, ideas which could not flower, intellectually

or practically in the domain of Pakistan, caught then, as now, under the vice-like grip of military coteries. The interests of having a territory following the rule of law, in a democratic set-up, grew among the people of East Pakistan, over that of maintaining a pro-military, non-rule of law, autocratic system of governance.

These inclinations, amongst others, begat conflicts between the leaderships of East and West Pakistan; the people of the East Pakistan could not be accommodated by the civil and military bureaucrats of Western Pakistan. The distance of around two thousand kilometers between East and West Pakistan became very real, not just a symbolic distance. Many, who thought the geographical distance between the two parts was only a symbolic one, didn't comprehend the intellectual gap between the peoples, which manifested vividly in the form of a struggle for self-reliance, leading to a bloody war for 'independence'.

On 17 April 1971, when declaring the independence of Bangladesh, the Provisional Government, which was in exile in India during the war of independence, claimed as its first reason for declaring Bangladesh as an 'independent' nation the following: "[i]n order to ensure for the people of Bangladesh equality, human dignity and social justice."

In 2013, after more than four decades have passed for Bangladesh as an independent nation-state, the people of Bangladesh have a different national identity with a national flag and national anthem like all other nations in the world. They are, however, still found to be waging the same struggle for achieving 'equality, human dignity and social justice', which seems to have disappeared in the hands of its own state-agents. It may be recalled how the same accusations were leveled against the military, paramilitary and the police of Pakistan.

Lesson Unlearned in Independent Bangladesh

In the post-independence era, while building a nation, along with rebuilding war-damaged infrastructure, the need to commence certain tasks with urgency was not comprehended. A call for forming a 'national government' involving all the political parties that

actively participated in the war of liberation was one of the foremost demands that leaders did not agree to. This disagreement of the ruling party, the Bangladesh Awami League, which won the general election held in 1970 under the combined Pakistani pre-liberation regime, became a characteristic of government in the independent country, creating a distinction between the rulers and the ruled.

The disagreement took with it the potential opportunity for unifying the people of the country under one umbrella, and offered instead the traditional pattern of 'governing' the country with virtually the same old institutions inherited from the British and Pakistani rulers. A quickly drafted and debated Constitution, which was adopted in 1972, kept these distances intact.

As a result, the character of the governmental institutions remained unchanged; the old torturous law-enforcement system prevailed; the same judiciary reigned, without a comprehensive notion of independence and the accompanying juridical mindset that could aim to administer justice to all without discrimination.

The reality of custodial torture in the hands of the police continued in the independent territory as it had been practiced in the pre-independence era. It is so commonly used in the Bangladeshi system that, for the people, the police are synonymous with ferocious animals. The practice of using torture and abusing police power for the purpose of extracting confession from crime-suspects, extracting bribes from detainees, and repressing any opposition to those in power, increased manifold after independence.

Bangladesh has more than 600 police stations across country to deal with the law and order situation. It is common practice to use torture whenever the police make an arrest. There is hardly any police station in

the country where at least five persons are not arrested daily on average – the most conservative figure of arrests made by the police who torture every arrestee. In generic discourse one can see a fair picture of torture. Suppose one police station arrests only one person – who is by default tortured – in a day, then at least 600 victims of torture are created in Bangladesh everyday. At the end of a year the country's police stations will produce at least 219000 victims of torture. This figure will be mathematically higher when the number of daily arrests increase¹. There are several hundred 'out posts' of the police and few dozen police barracks, including the Police Lines, and specialized torture cells maintained by various branches of the Bangladesh Police. Can one imagine the amount of tortured human beings in Bangladesh?

The people's trust in the Police, in the process of upholding the rule of law – as one of the basic institutions to assist the criminal justice system of the country – is nearly zero. One may ask a simple question: what is wrong with the criminal justice institutions that such practice and behavior remain unchanged, given that Bangladesh achieved statehood for the sake of achieving 'equality, human dignity, and social justice', i.e. what the same people did not find as part of Pakistan?

Different segments of the society of Bangladesh respond to the above question on the basis of their own patterns of understanding about the real problem, either going into the depth or assessing the situation superficially, i.e. considering the deeply rooted problems from a normative point of view. The intention of understanding the problems for the sake of required reforms is absent in the country's political leadership, as well as in other institutions and amongst professionals. Instead, a culture of blaming

each other, and surfacing excuses to cover up the inability to make the institutions effectively functional, prevails.

Spree of Excuses & Blame-Games

The police officers, for example, often blame 'illiterate people' for 'not knowing the laws properly'. A large number of police officers claim that crime suspects of Bangladesh 'habitually lie' when interrogated by the investigators; by default all police officers according to law; about an alleged crime.

The ratio of police to people, 1 policeman for 1127 people, as the Home Minister of Bangladesh informed the nation's Parliament in June 2011², puts the police in a situation where they have to remain engaged with work for a much longer time with poor pay, lack of adequate modern equipment and logistic facilities and more risks than other professionals. This, however, is often used as an excuse for the failure to address the problem related to Rule of Law in the country.

Many police officers keep blaming the 'Courts of Magistrates and Sessions Judges' for releasing suspects on bail, pointing fingers at the judicial officers for not having regard for the efforts of the police and at the lawyers for assisting the alleged suspects at the cost of exaggerated amount of money received as fees. However, the judges and lawyers disagree with the police. The lawyers claim that it is their professional responsibility to assist their clients to seek judicial remedies available from the legal system of the country. A 'suspect' cannot be considered as a 'criminal' by any person or institution until or unless the suspect is successfully prosecuted in a fair-trial system by a competent court and 'convicted' by any Court established by law for committing a

1 "Torture in Bangladesh"; www.humanrights.asia/countries/bangladesh/torture-in-bangladesh

2 <http://news.priyo.com/law-and-order/2011/06/03/ratio-of-police-to-population1:1127-27859.html>

crime. There is a legal obligation providing legal representation to a suspect whenever the suspect is produced before a Court, according to the Common Law system in effect in Bangladesh.

The judges make different points by asserting that it is the duty of the judiciary to work within the purview of the law of the land. A suspect's release on bail is one of the fundamental rights; granting bail depends on the gravity of the alleged crimes, the authority of a particular Court chaired by a judicial officer's hierarchy in the judiciary, and the evidence acquired and presented before the Court regarding the alleged crimes in particular. The job of judges is to administer justice to every litigant, which becomes challenging in the face of certain constraints and lack of resources. There is a lack of resources for the judiciary in terms of manpower and logistics; the judges and relevant professionals frequently point these out as the weaknesses of the judicial institutions of Bangladesh. The 'subordinate judiciary', i.e. the Magistracy and Courts of Sessions, have remained under full and partial control of the executive authorities, respectively, until October 2007. It is one of the major reasons, as lamented by the judicial officials, for the institution's poor performance.

Police, the Mafia of Bangladesh

In today's Bangladesh, police literally act like the mafia, a group of criminals that emerged in the 19th century in Sicily and expanded to the United States. The police manifest within the government and the state and directly down to the grassroots level of common people living their daily lives. They have enrooted corruption - as they legally possess the authority to investigate all crimes, including corruption - in all levels of the society, regardless of the socio-economic and political status of the people. The chain of corruption is replaced by the chain of

command within the police³, much worse than what the force/institution had inherited from its colonial masters.

The political leadership and bureaucratic administration only have a superficial 'routine control' over the police, who are actually beyond any control by any institution of the country. For example, when the ruling party leaders want the police to 'give lessons' to the political opponents, the police implement the instructions for the sake of keeping political masters happy. Serving the purpose of the rulers enable the police to enjoy impunity and maintain the license to commit more crimes using the identity of police. This allows them to continue their favoured methods of feeding off the people of the country, which include extortion, torture, extra-judicial assassination, murder in custody, and grabbing property.

At the end of the day, the victims' either have to complain to the police, who always refuse to register a complaint against their own officers, or go to court. Even if one goes to a Magistrate's Court to complain against the police, the complaint will be investigated by the police, who will have the sole authority to 'give further lessons' to the victims by using torture for complaining against the police. Judicial institutions not only fail to hold the police perpetrators accountable but also play a complicit role, which allows the perpetrators in the force to carry on their crime spree. Thus, the term 'policing' carries another meaning, closer, and even darker than 'coercion', in Bangladesh. Thus, the plight of the people of Bangladesh has worsened endlessly without the emergence of any institution that could protect them!

3 BANGLADESH: People pay more to the police than to their government; www.humanrights.asia/news/ahrc-news/AHRC-STM-160-2012/

Disconnect between criminal justice institutions & justice-seekers, & between realities & requirements

In the spree of excuses and blaming each other, what is forgotten is that ordinary litigants do not get justice, although there are judgments of acquittal or conviction of deserving and of non-deserving persons taking place, throughout the criminal justice system in Bangladesh.

Litigants complain about a number of difficulties that they are forced to experience from staff and professionals involved in the institutions of the criminal justice system. Most complaints come against the police, according to litigants, who become victims throughout the entire process, starting from the registration of complaints right up to the stage of prosecution, and problems include distortion of facts, extortion and intimidation, alongside inclusion and exclusion of the accused in accordance with police whim.

Things become much worse when the victims of gross human rights abuse - such as custodial torture, extrajudicial deaths, or enforced disappearance - or their families wish to seek justice. As a matter of fact, victims of human rights abuse are systematically denied access to the complaint mechanism by law enforcement and intelligence agencies of the country. In addition, the police and other security forces fabricate criminal cases against the victims for the purpose of harassing and intimidating them and their families. The experiences of victims and their families reach such an extent that none of them dares to seek justice in the given conditions. Continued threats by state agents against victims and their families, alongside numerous forms of harassment, compel a majority of ordinary helpless people to learn to survive without justice, i.e. unless they are ready to face being completely silenced.

The cries of the victims go unheard and

uncared for. Ironically, the professionals - magistrates, judges, lawyers and the police - in particular fail to understand that they themselves have alienated their institutions from the people's actual needs - justice through a speedy process of fair trial.

The victims of crime, no matter whether the offenders are state officers or private individuals with or without any connection to the State, hardly approach the criminal justice institutions. Many victims avoid going to the police and courts for assaults, theft, robbery, or even rape and murder. They know that they could only multiply their suffering and financial losses, instead of gains or satisfactions, by approaching to these institutions. In reality, the crime-affected people expose the fact that there is a huge disconnect between their needs and the criminal justice institutions of Bangladesh.

The governments of the past and the present know that the people of the country, in general, have lost faith in the criminal justice institutions. The 'law and order' situation of Bangladesh has deteriorated day by day, according to the criticism. The governments, from time to time have deployed the military in order to aid the civilian administration for controlling crimes and recovering arms. On each occasion the military was deployed for the purpose of 'controlling the law and order', the government guaranteed impunity for the atrocities committed by the soldiers⁴.

A Mule Agency for Crime Control

The Rapid Action Battalion (RAB) - a paramilitary force composed of members of armed forces, border guards, and the police, all of whom are subject to work in the RAB following deputation to the newly created

⁴ Fighting lawlessness with lawlessness (or) the rise & rise of the Rapid Action Battalion, by Nick Cheesman, www.article2.org/mainfile.php/0504/244/

agency – was created in 2003.

The background of creating the RAB should be taken into consideration in the post 9/11 era, in which an individual's personal liberty is considered to be of little importance, while the propaganda on 'security of State' has emerged as the 'top priority'.

Bangladesh deployed military across the country in the name of 'Operation Clean Heart' from 16 October 2002 to 9 January 2003. A period of 86 days resulted in around 58 deaths by 'heart attacks', as the military publicized, followed by around 11 thousand illegal arrests, itself followed by arbitrary detention and horrendous forms of torture, resulting disability to the victims⁵. The plague of 'heart attacks' ended when the military was withdrawn, after serious criticism from civil society and rights groups.

The withdrawal of the armed forces took place with another rubber-stamp law, the Joint Drive Indemnity Act (2003)⁶, which initially came into force as the 'Joint Drive Indemnity Ordinance - 2003', for the sake of ensuring impunity to the perpetrators of atrocity in the armed forces.

The government claimed that the RAB was created for conducting 'intelligence in respect of crime and criminal activities'⁷ and 'investigation of any offence on the direction of the Government'⁸. The RAB appeared to be dominated by the military as the key

positions were occupied by the officers deputed from the armed forces.

The authorities introduced the RAB as an 'elite force' to control law and order in the midst of growing public frustrations over the deteriorating trend of crime control in the country. The government gave assurances that they would provide modern technological equipment and upgraded facilities to the RAB, which was proven true when the agency came into operation from June 2004.

In order to create the RAB, the government used the Armed Police Battalions Ordinance - 1979⁹, originally promulgated during the regime of General Ziaur Rahman on 31 March 1979, by making an amendment in 2003¹⁰, for the purpose of the authorities, instead of making a new law. As a matter of fact, General Ziaur Rahman, who assumed in the office of President of Bangladesh as a 'Martial Law Administrator' in the aftermath of the assassination of the country's founding president Sheikh Mujibur Rahman, promulgated the Armed Police Battalions Ordinance while he was an unelected President cum Chief Martial Law Administrator, who claimed his authority on the basis of 'Military Proclamation'.

It was in 2003, under a government headed by Prime Minister Begum Khaleda Zia, widow and successor to General Ziaur Rahman (of the Bangladesh Nationalist Party, originally established by General Rahman) when the Rapid Action Battalion was created. This should not be considered

5 Ibid

6 *Joutho Oviyan Daimukti Ain-2003* (Joint Drive Indemnity Act): www.bdlaws.minlaw.gov.bd/bangla_all_sections.php?id=897

7 Section 6 (aa) of the Armed Police Battalions (Amendment) Act-2003: www.bdlaws.minlaw.gov.bd/sections_detail.php?id=593§ions_id=18553

8 Section 6 (bb) of the Armed Police Battalions (Amendment) Act-2003: www.bdlaws.minlaw.gov.bd/sections_detail.php?id=593§ions_id=18553

9 The Armed Police Battalions Ordinance-1979, Ordinance No. 25 of 1979, promulgated on 31 March 1979 : www.bdlaws.minlaw.gov.bd/print_sections_all.php?id=593

10 The Armed Police Battalions (Amendment) Act - 2003, Act No. 28 of 2003, was the source of authority to create the Rapid Action Battalion at the wish of the government: www.bdlaws.minlaw.gov.bd/pdf_part.php?act_name=&vol=&id=593

simply as a coincidence. It was, however, certainly an act of confusion, if not entirely a well thought out preference.

Critics say that the Bangladesh Nationalist Party itself is a product of militarized mindsets that could only beget militarized ideas and rely on pro-military forces. The creation of the RAB exposes the level of the government's dependence on the military and helplessness in the hands of the armed forces.

The Rapid Action Battalion did not waste time in revealing its identity, capability, skill and creativity to the public. The agency was given a dark black uniform with black goggles and cap or headscarf. The picture was completed with heavy automatic guns.

Black vehicles started operations across the jurisdictions of the country, carrying such jet-black uniformed gunmen. The external appearance of the members of the RAB was enough to create panic in the minds of the public. Their capacity to arrest suspects without a proper warrant from the courts, and detain persons without any accessible record about the detainee, exceeded the limit of the public imagination. The skill of staging similar late-night-drama for killing detained suspects in the pretext of 'crossfire' succeeded in drawing quick attention from all parts of the world. A number of terms, such as 'crossfire', 'gun-battle' and 'in the line of fire', 'encounter' and 'exchange of fire' which were synonymously used to publicise the extra-judicial murders, became integral part of the public vocabulary in Bangladesh. Sole credit must go to the RAB's creativity in introducing these terminologies and making them a part of the colloquial language of the people.

The number of extrajudicial killings committed only by the RAB since its inception exceeds one thousand, according to the statistics maintained by human rights

groups. Save two cases, none of the so-called instances of death by 'crossfire' have been credibly investigated¹¹. All the extra-judicial cases have been covered up by the 'executive magistrates' for the purpose of ensuring impunity to the perpetrators of crime in the RAB. The same facilities of impunity have been enjoyed by the police, who have competed with the RAB in killing suspects, following the methods invented by the 'elite force', and surpassing the RAB in the number of kills. Credit should again go to the RAB for generating a competitive environment for the police to strive to match!

The RAB has been found more engaged in execution of persons than in conducting investigations into 'serious crimes'. Its success in investigating the complicated cases is very poor. Take the example of the murder of a journalist couple - Ms. Meherun Runi and Mr. Golam Mostofa Sarwar (widely known as Sagar Sarwar), who used to work for two private television channels, killed in the bedroom of their rented flat in Dhaka on 11 February 2012. Professional journalists' organizations claimed that the journalist couple unearthed some high profile corruption scandals relating to ruling political figures, whose personal image

11 The case of custodial murder of Mohiuddin Arif, a health technician by profession, due to torture by the Rapid Action Battalion was investigated by a probe committee of the Ministry of Home Affairs, following pressure from rights groups and the National Human Rights Commission of Bangladesh in early 2009. See, www.humanrights.asia/news/urgent-appeals/AHRC-UAC-019-2010 for details. The other case of Kawsar Mahmud Bappi, a showbiz model, who was extra-judicially murdered by the RAB was also investigated by a probe committee of the Ministry of Home Affairs. In both cases, the RAB was found to be responsible for murdering the victims. By the time the probe reports were completed, a pro-government academic bureaucrat was planted in the office of the Chairperson of the NHRC. Since then the reports have remained shelved without leading to any complaint registration let alone a prosecution.

matters to the image of the entire party and the government, and were about to broadcast the stories. However, the police investigators failed to find any clues relating to the murder. Subsequently, the RAB was assigned to conduct the investigation, which has so far achieved zero success. Whenever the RAB investigates a case, it does not get engaged with the relevant court of law to submit its investigation report. Rather, the RAB transfers their reports to the police for submitting before the Court. So, no direct accountability of the RAB before the judiciary is practiced.

According to the organogram¹² of the Bangladesh Police, the RAB is shown as one of the branches of the Bangladesh Police. The RAB is officially headed by its Director General¹³ and assisted by two Additional Director Generals. The Bangladesh Police was established by the Police Act-1861¹⁴, which does not have any post called 'Director General' anywhere in the entire force. If the Government and Bangladesh Police claim that the Rapid Action Battalion is a component of the regular police force, then the authorities have to explain where they get the designations such as 'Director General', 'Additional Director General' and 'Director' in the Police Act-1861 or in the Police Regulation of Bengal-1943." In fact, such designations are non-existent in the relevant laws of Bangladesh. But the illegality of creating a designation is considered a mere technical matter that can be rubberstamped by the parliament of the country, as it did in the case of ratifying the ordinances promulgated

by the military dictators of the 1970s¹⁵ and 1980s¹⁶, in February 2013 (following a judgment¹⁷ of the Appellate Division of the Supreme Court of Bangladesh, which had

15 The founding President of Bangladesh Sheikh Muzibur Rahman was assassinated on 15 August 1975. The Office of President was usurped by Sheikh's cabinet's Finance Minister Khandakar Mushtaque Ahmed, who could only survive for about three and half months in the midst of military coup and counter-coup. The country's parliament was dissolved and constitution withheld. One of the military coups, which took place on 7 November 1975, brought Major General Ziaur Rahman – an independence war hero who received the highest State honour, *Bir Uttam*, for his war-time contribution – who established his political party, the Bangladesh Nationalist Party (BNP), and revived electoral democracy headed by an executive presidency until his assassination in a military coup on 30 May 1981. The Bangladesh Supreme Court held that all actions since 15 August 1975 to 9 April 1979 (when the second parliament came to session) were unconstitutional and void.

16 On 24 March 1982, Lieutenant General Hussein Muhammad Ershad led a military coup. President Abdus Sattar, a retired Supreme Court judge, who was elected President on 15 November 1981, was removed by Ershad. Bangladesh remained under the direct military rule of Ershad until 11 November 1986 (when the third parliament was in session), although Ershad continued ruling the country until he was forced to leave office on 6 December 1990 following a people's uprising in the country.

17 The Bangladesh Supreme Court passed a judgment declaring the 5th Amendment to the country's constitution as unconstitutional. See, www.humanrights.asia/countries/bangladesh/countries/bangladesh/cases/Appellate%20Divisions%20Verdict%20on%205th%20Amendment.pdf. This judgment was pronounced on 2 February 2010 in the open court. The government, on 30 June 2011 made the 15th Amendment to the Constitution of Bangladesh, repealing the 5th Amendment, which had ratified all ordinances promulgated prior to the 5th Amendment to the constitution, along with all other actions of the then Government. However, the latest ratification, which took place on 24 February 2013 legalises ordinances of two former military generals, and thereby appears contradictory to the Supreme Court judgment calling for repeal of the 5th Amendment, which is the standing adoption of the 15th Amendment.

12 Bangladesh Police's organogram shows RAB at number 4: www.police.gov.bd/organization.php. (Last accessed, 18 March 2013).

13 Director General of the RAB is the head of the force while there are positions of two Additional Director Generals and several Directors: www.rab.gov.bd/rab_wings.php?mid=19

14 Police Act (1861): www.bdlaws.minlaw.gov.bd/pdf_part.php?id=12&vol=1

declared certain periods of the regimes of the two military generals unconstitutional and void). The government maintains that it can 'legitimise' whatever they want, provided that the amendments of law suffice for their political purposes, without caring about the normative principles and democratic values of the process it is supposed to follow, and ignoring the ultimate consequences that the people and democratic institutions will have to suffer in the long run.

Impunity & Corruption at any Cost: the Ultimate Goal

Paramilitary forces like the Rapid Action Battalion do not help in controlling the law and order in countries like Bangladesh, where none of the basic institutions of the rule of Law have the capacity or intention to function credibly¹⁸. Bangladesh is one of those countries where state-sponsored perpetrators enjoy blatant impunity. Military officials have never been investigated or prosecuted under the penal laws for committing crimes – either for violating the constitution or for torturing and killing ordinary people. The Rapid Action Battalion, which is a paramilitary force dominated by military officers, enjoy impunity in a very strange way. Any member of RAB with a serious allegation of having committed crime is sent back to the individual officer's parent force, such as the army, navy and air force, with the tacit assumption that there the individual officer will be held accountable if his or her alleged crimes are proven true. Several officers claiming anonymity have, however, revealed that, in reality, the process becomes a matter of 'managing' the superior officers, through available ways of

influencing the process, to walk free.¹⁹

The police officers have, in very few cases, faced prosecution, but the number is so low that it is pointless even to compare it in any percentage terms to the huge number of crimes committed by members of the Bangladesh Police every year. That said, there is an 'eye-wash process of departmental proceedings', which is based on the chain of corruption within the force.

Any alleged criminal having the capacity to prove attachment to the ruling political parties or alliance can easily get away from prosecution or punishment upheld by the Courts due to political interventions²⁰ in the subsequent regimes. The constant practice of withdrawing criminal cases and providing presidential clemency to convicts having political identities establishes the fact that Bangladesh officially cultivates and nourishes a culture of impunity. There, the military remains out of reach; the police and other law-enforcement agencies and paramilitary forces hardly have to be afraid of prosecution unless there is an exceptional situation; and the rest can enjoy impunity depending on how capable they are in

18 The corruption scandal of former Railway Minister Suranjit Sengupta went unpunished due to the ineptitude and insensitivity of the Anti-Corruption Commission to hold the minister accountable before a judicial process: www.humanrights.asia/news/ahrc-news/AHRC-STM-201-2012

19 Interview with officers of Bangladesh Army who served in the RAB and were sent back to their units of the army for allegations of extortion and grabbing property of others revealed such information.

20 President of Bangladesh Md. Zillur Rahman abused his constitutional prerogative to pardon convicts having attachment to the ruling political party: www.humanrights.asia/news/ahrc-news/AHRC-STM-037-2012. The government has withdrawn at least one thousand eight hundred seventeen cases. The alleged defendants in those cases are associated with the Bangladesh Awami League – the main ruling party of the 14 party alliance government, which termed the withdrawn cases 'politically-motivated'. www.globalsecurity.org/military/world/bangladesh/corruption.htm. The withdrawn cases also include at least 170 cases of alleged corruption against persons having attachments to the ruling political parties.

establishing their identity and connection to the rulers. In countries where the culture of impunity is so deeply rooted in an entrenched militarized mindset – regardless of which party is in power – the situation of law and order is virtually impossible to improve.

Given context of Bangladesh, there is impunity for murder, robbery, rape, possessing and abusing illegal firearms, all forms of corruption, torture, extra-judicial killing, enforced disappearance, and all sorts of criminal offences, provided that the offenders succeed in proving that they committed the crimes either under the instructions and intention of the influential ruling authorities or had political, bureaucratic, and personal connection to the ruling ‘elites’, or manage the relevant ‘saviours’ by paying bribes.

As part of the culture of impunity, the rulers promote lawlessness in diverse ways. Perpetrators get rewarded with gallantry awards given by the State - for example the incumbent government has handed the President’s Police Medal²¹ to officers of the RAB and police, who have committed torture and or extrajudicial killings in person. The Additional Director General of the RAB, Colonel Md. Mujibur Rahman, was awarded for leading a team succeeded in killing five ‘robbers’ on 16 March 2012 in an ‘encounter’²². The rulers always defend the perpetrators of the Rapid Action Battalion and other law-enforcing agencies and security forces, including the police, in

public and in parliament²³.

Whatever rights or norms are enshrined in the constitution and in books of law as theoretical frameworks of governing the country end up in utter meaninglessness when it comes to practice. The real life of the ordinary people and the behaviour of the organs of the State remain distant from each other in terms of the amount of suffering that the people are forced to endure and the repressive and coercive attitudes that state machineries possess and apply in their day to day functions.

The population of Bangladesh is primarily divided into two parts: the ‘rulers’, which include the power-rabid politicians, bureaucrats, military, paramilitary forces, law-enforcing agencies, public servants of different statuses, and members of the so called civil society, who all have quick access to the machineries of the state, on one side; and the ‘ruled’, on the other, which includes the ordinary masses having no specialized identities of value to the rulers and no options to enjoy any benefits, let alone privileges, from the state, or from the rulers.

There is a huge disconnect between the rulers and the ruled in the real life of Bangladesh. The rulers, as repressive beasts, most often manifest the entire state itself, while the ruled may only explore utter helplessness, as they succumb to manifold repressions that emanate from the state. The given conditions increase the insensitivity among the persons and professionals attached to the institutions of the state, which ultimately makes the

21 Government of Bangladesh selected 67 members from the Police and the Rapid Action Battalion for the President’s Police Medal for the year 2012. Many of the recipients had allegation of several extrajudicial killings and torture: www.newagebd.com/detail.php?date=2013-01-19&nid=37329#.UUxDvhdTcJM

22 A publication of the Bangladesh Police prior to the Police Week in January 2013 published the identity of the officers who were selected for President’s Police Medal.

23 On 20 June 2012, Bangladesh’s Prime Minister Sheikh Hasina told the country’s national parliament “the law enforcing agencies are always in action in their hot pursuit of curbing crimes. To arrest or resist organised gangs, the law enforcing agencies often have to use force and sometimes even have to open fire in self-defence”: www.newagebd.com/detail.php?date=2012-06-21&nid=14500#.UU2QXxw16_0

entire state indifferent to the reality, as it is happening in Bangladesh.

Everyone who occupies a position in the State contributes to the process of making himself or herself unable to realize the reality and respond to actual necessities.

Thus, the whole State becomes unable to realize the consequences of what goes on within and around the entity itself. Bangladesh, being conditioned to plunge into such insensitivity and indifference, has been only nourishing insanity replacing sanity.

Take the case of Nirapad Boiragi, a freedom-fighter of Bangladesh's war of Independence in 1971, who used to live a life as a tailor in Koyra upazilla town in Khulna district. He was illegally arrested, arbitrarily detained and extra-judicially murdered by the police in Dumuria area. The police did not allow the relatives of Nirapad Boiragi to touch or get closer to his dead body, which was cordoned-off until the cremation was over. Ironically, the local administration held a funeral of Nirapad Boiragi paying 'state honour' for the murdered man's contribution as a war hero²⁴. This while the police termed Nirapad as an 'operative of underground political terrorist group', a blatant lie.

There has been no credible evidence made available prior to the extrajudicial murder of Nirapad that he had committed any crime that could have been cognizable before a Court of law. Even if any evidence existed against Nirapad for his so-called involvement in underground and banned political activities, this cannot be justification for killing him extra-judicially. More than

three years after the extra-judicial murder of Nirapad Boiragi, no credible investigation has taken place regarding the lawless actions of the police.

"Nirapad Boiragi's wife Ms. Kalpana Boiragi told the Asian Human Rights Commission that when she and her son Amit went to the Dumuria hospital after hearing of his death, they were kept at a distance from the body. They describe it lying on the floor in a thick pool of blood with signs of bullet wounds in his chest, throat, lower abdomen and back, but were prevented from attending to the body, as is customary. Instead, after preparing an inquest report and arranging a post mortem at Khulna Medical College Hospital, the police monopolised the cremation process. Even though the body was taken to the family's house for an hour on 9 October [in 2009] at 9pm, they report that no one was allowed to see or touch the body. At 10pm Boiragi was cremated at the local funeral yard in the presence of the Upazilla Nirbahi Officer (the administrative head of a sub-district) Mr. Sakhawat Hossain and the OC of the Dumuria police Mr. Md. Fauzul Kabir, along with a large number of police officers. 'State honour' was paid with a salute, but without a bugle call, as is often custom in the case of former liberation fighters.

According to the family, Nirapad Boiragi had been arbitrarily arrested three times in the past, and had charges fabricated against him by police; his son alleges that officers have urged the family to not look further into his death. His wife considered the state tribute 'extremely ridiculous', remarking to the AHRC that: 'Nirapad's achievement was his extrajudicial death at the hands of law-enforcers in the same state for which he fought four decades ago. The Bangladeshi police were able to do something that even Pakistani soldiers couldn't do in the war – put an end to the life of my husband.

²⁴ The case details of Nirapad Boiragi was documented by the Asian Human Rights Commission immediately after the extrajudicial murder was committed by the police: www.humanrights.asia/news/urgent-appeals/AHRC-UAC-167-2009

*Justice is an unthinkable matter in this country'."*²⁵

The murder of freedom-fighter Nirapad Boiragi clearly shows where the state of Bangladesh stands today. The criminal justice institutions did not bother about a credible investigation regarding Nirapad's so-called involvement in 'banned' political activities before arresting Nirapad. If there was any reasonable ground to believe that Nirapad had involvement in outlawed political activities, it required further investigation in order to understand the nature of this engagement, and whether such engagements required a proper arrest warrant from a court of law leading toward a prosecution. Without following due process of law the police killed Nirapad. They did so, allegedly, in order to help certain individuals who have the intention of grabbing Nirapad's ancestral land.

Freedom-fighter Nirapad, like many of his compatriots, dedicated his life to create a nation-state having 'equality, human dignity and social justice' for all, and was only offered extra-judicial murder after forty years from the birth of the state. It shows how much time the nation has wasted in establishing the infrastructure enabling criminal justice institutions to administer 'justice'. Nirapad's extra-judicial murder proves that he was not only denied all of his fundamental rights but also informed that even the very notion of justice does not exist in the entity of the state, which was created by the freedom-fighters like him. Whichever regime of Bangladesh claims that they possess the 'spirit of liberation war' actually blatantly deceives the public of the country.

The state is so shameless that it did not

²⁵ Urgent Appeal Case of the Asian Human Rights Commission - AHRC-UAC-167-2009: www.humanrights.asia/news/urgent-appeals/AHRC-UAC-167-2009

hesitate to brand its dedicated son a 'criminal' and protect those who commit heinous crimes. Such brandings are not only an extreme form of injustice to the deceased person, or his or her survivors, but also a life-long humiliation for the surviving relatives and future generations of the victim. Without any legally acceptable evidence the state agents continue the practice of branding innocent people criminals, just as the Rapid Action Battalion has done in the case of Limon Hossain²⁶, while the original offenders remain at large by paying bribes to, and keeping nexus with, the law-enforcement agents and their political masters.

The state-sponsored funeral to 'honour' Nirapad's contribution to the war of independence of the country is a tragic joke, indeed. A freedom-fighter, who deserved at the very least his 'right to life' as his fundamental right, was given a lesson by the state that one is wrong if one expects 'justness' from the state. The act of murdering people extra-judicially is humiliation to all of those who fought for establishing a country with 'equality, human dignity and social justice', which was the fundamental reason behind achieving the territorial independence.

In denying Nirapad's relatives the opportunity to hold an appropriate funeral,

²⁶ Limon Hossain is a college student from a poor rural family living under the jurisdiction of Rajapur police in Jhalkathi district. A team of the RAB shot Limon point blank in the left knee on 23 March 2011. In order to cover up the crime the RAB fabricated two criminal cases. The entire state machinery, including the police, courts of all branches, and administration of all levels complied with the propaganda of the RAB, which branded Limon criminal, despite the fact that his innocence was proven in public due to continuous interventions from civil society and media that the RAB and the police failed to challenge with any substantial evidence. www.humanrights.asia/news/urgent-appeals/AHRC-UAU-028-2012 & www.humanrights.asia/news/urgent-appeals/AHRC-UAC-075-2011

as practiced customarily, and by refusing them a chance of touching the dead body due to a tight police cordon, the state denied a final right, the rite of a funeral. The family could not mourn the death properly due to constant threats from state agents not wanting the story to be exposed. This, in turn, exposes the state of Bangladesh's inability to mourn, which is obvious in a state that kills people without respecting their right to fair trial and right to life, then and protects the killers in the employ of the state. When the state fails to realize the importance of mourning death, it denies the very existence and needs of human nature.

The subsequent absence of investigation into the extrajudicial murder of Nirapad Boiragi clearly shows the true helplessness in the State of Bangladesh, where there is either no control over the agencies that kill citizens without a trial or the state itself does not exist as it should. The entire entity of the state, including its justice institutions, professionals, and politicians awash in rhetoric, proves to be a dark joke in reality, one that harbors criminal-making machinery.

The extra-judicial murder of any person establishes that the State itself does not believe in its own criminal justice system. The State directly tells its justice institutions that the institutions are mere tools, and the professionals engaged with the institutions are worthless at best, superficially existing only at the mercy of the few, not for any fundamental necessity to administer justice to the masses, but only for the sake of performing certain rituals in the country.

One of the many byproducts of the ongoing state-sponsored extra-judicial killings and custodial crimes Bangladesh has been the production of an immense number of orphans, widows, and families without a bread-winner. These orphans, widows and starving citizens survive with an inexpressible amount of grief, fear and distrust for every

institution that the State offers the people. Additionally, the survivors of torture live a life with endless psychosomatic and socio-economic miseries for the rest of the life.

The people of Bangladesh, particularly the victims of brutality and the families of extrajudicial murder and enforced disappearance victims have learned many lessons. One of the lessons is that in order to commit endless corruption - to plunder the people's assets either owned by the state or by the citizens²⁷ - the state machineries save the 'Frankenstein' killing agencies while the government and the judiciary do almost everything possible to protect the perpetrators. The ordinary people's well-being is never a priority in Bangladesh, where politics sickens the people.

(The writer is a Programme Officer for the Asian Legal Resource Centre, Hong Kong)

²⁷ Bangladesh, a corrupted & tortured nation, By Asian Legal Resource Centre, article 2, Vol. 5, No. 4, 2006: www.article2.org/mainfile.php/0504/242/

BANGLADESH: INTERVIEW

The Inside Story of the RAB



*Can the Government-sponsored
Death Squad only
add to its body count?*

Mr. Muhammad Anisur Rahman is widely known by his pseudonym Anu Muhammad. At present, he is Professor of Economics at Jahangirnagar University. He is well-known as an economist and a political activist. His research interests include globalization, social transformation, gender, NGO's, and energy based economy and politics with a focus on Bangladesh. He has been leading a movement as Member Secretary of the 'National Committee to Protect Oil Gas, Mineral Resources, Port and Power'. He has been tortured by the law-enforcement agencies of Bangladesh for his active protests against the government's secret agreements with multinational companies that want to control the mineral resources of Bangladesh. Professor Muhammad has edited two books and authored more than 20 books. Torture Magazine interviewed Mr. Muhammad about the Rapid Action Battalion in early February. The following is an English translation:

Torture Magazine: What was the backdrop for the creation of Rapid Action Battalion?

Professor Anu Muhammad: The Rapid Action Battalion (RAB) was actually established in 2002. We need to focus our attention the two specific dimensions of the world during that particular period. At the time of creating RAB we observed interests from the United States, Britain, and several international agencies. Another aspect was that in 2001 a new government came to power in Bangladesh. The state which we have is such that whichever regime assumes power they become repressive, as far as they can, for securing their power, and continue their efforts to strengthening their authority by coercive action. These efforts seem to be insufficient to them. Because, the crimes of those in power are so much that they create certain repercussion among the people. The authorities cannot always control, or prevent, the people's growing response, i.e. the repercussion. As a result, people of different walks of life – from the workers of ready-made garment factories, to labourers and even floating populations– protest and express their disgust. The authorities wish to address these matters from the perspective of law and order and term such public protests as law and order problem. In reality, these are not problems related to law and order. These are symptoms or trends that expose the existing exploitation and discrimination

in the society. The rulers wish to portray this as a law and order problem and claim to be representative of the people or ambassadors of peace. So, they [rulers] try to control the public protests for securing their power. They are always interested in renewing or strengthening the process of controlling mechanisms, which is a continuous process.

It is my calculation about this country. We need more schools, colleges, hospitals and other basic institutions, while more resources are spent for repressive agencies.

After 2001, when a new government came to power in Bangladesh, a new international trend had just been added – related to the collapse of the twin towers in 2001. After the demolition, United States made it an excuse and occasion for creating a sensation in the world in the name of 'war on terror'.

In order to expand influence, enroot the terroristic system, grab important territories in different countries, and create panic about enemies and exploit these excuses for the purpose of establishing a torturous and repressive system in the world. They [US] did this to the people of the whole world, and finally, they did the same thing to their own country. Then, it appeared that different nations received pressures, financial loans and pressures of signing agreements for creating new agencies and forces in the

respective territories. Bangladesh had signed several secret agreements with the United States of America that included military accords too. The Government of Bangladesh has never admitted these facts officially. Many things that happen here, what the Government of Bangladesh does, are destined by such international accords.

Once we focus our eyes to these backdrops, we also observe that the creation of several forces namely the RAB, Cobra, and Cheetah were started since 2002. It was observed that the operations of some Islamist groups were increasing in Bangladesh. A man named 'Bangla Bhai' appeared. It was clearly understood that the government was making this happen. The government made Bangla Bhai, and the same government created the RAB to control Bangla Bhai. It was an unprecedented situation indeed. Matiur Rahman Nizami commented that 'Bangla Bhai was a creation of media'. Endless torture and atrocities of Bangla Bhai were already going on in the country at that time. At one stage, the justification of creating RAB was used to claim that the RAB was necessary for controlling Bangla Bhai. Announcements were made that militancy had been controlled by the RAB. They [militants] were captured and were given the death penalty. Interestingly, nothing was heard from the convicts about who created them. At one time, there were country-wide bomb blasts in around 150 places. We saw similar incidents to those involving the twin towers in 2001.

Large scale terrorist actions, if they continue to take place, intelligence agencies should be held accountable for failures. What is the work of the intelligence agency? Their duty is to carefully watch. After attacks on the twin towers, no officer of the FBI and CIA has been accused. In Bangladesh we have observed that bomb blasts took place in 150

places of the country, but the intelligence agencies did not have to be accountable for it. There had been no discussion about them!

How come bomb blasts occur in 150 places of an independent country? Now, the investigations reveal that the home minister of that regime and many others were involved in it. The grenade attacks were made in the rally of the Awami League. It was a self-created panic-stricken situation and an artificial enemy was created. Again, a coercive system was initiated for controlling the same. I put these as model justifications for creating the RAB.

After 2002, in the name of 'Operation Clean Heart' people were killed without any trial.¹ As a matter of fact, the history of killing people in the pretext of crossfire did not begin at this point. After 1971, the Rakkhi Bahini killed numerous people without trial. The difference between the killing of that period and today's incidents is that the Rakkhi Bahini used to pick up and kill people secretly and they used to deny responsibility for that. After 1975, most of the killings took place inside the cantonments. In those days, killings were matters for keeping secret. Today's reality tells us a different story. Now, we see that the stories of crossfire

1 On 16 October 2002 the Government of Bangladesh deployed military across the country for arresting 'criminals' and seizing illegal arms in the backdrop of a seriously deteriorating law and order situation. The military arrested approximately 11,000 people all of whom were brutally tortured, leading to permanent and temporary psychosomatic disability. Only around 300 of the 11,000 detainees had one or more criminal cases against them. At least 58 persons died, as a result of torture, while the military claimed the deaths were due to 'heart attacks'. Following serious criticism for gross violation of human rights the government pulled out the military on 9 January 2003 by imposing an Ordinance, later adopted by Parliament as "Joint Drive Indemnity Act - 2003" in order to ensure impunity to perpetrators in the military and RAB.

are being made public and people are being killed one after another. Many leftist party men or activists of so called underground outfits were termed terrorists while killings went on in the south-western region of the country.

After the change of power, from the BNP to the Awami League, Prime Minister Sheikh Hasina once mentioned in Parliament that crossfire will be stopped. But, it appears that the RAB's programme about the crossfire is wider than Sheikh Hasina and the RAB is operated by certain authority stronger than hers. Later, ministers too started endorsing crossfire. In many aspects, we observe that the repressive systems introduced by the Four Parties Alliance government have been continued after the Awami League Government assumed office.

Today, the situation has reached a level where the RAB can pick up any person they wish, kill him in the name of crossfire and publicise him as a terrorist. This trend was introduced by the Four Parties Alliance government, which the Awami League has not stopped and has rather continued in a larger scale.

TM: Why are the issues of accountability of RAB not coming forward?

AM: I am not so clear about the legal matters related to the RAB. But, the army was given impunity after Operation Clean Heart. In the case of RAB, as far as it is the Rapid Action Battalion, the story of crossfire is being used as a legal shield in every case of killing. Don't they realize that the people actually understand that the same story is being repeatedly told? They understand it too. But, for saving themselves they have been telling the same story again and again.

In country like Bangladesh law does not take its own course. Here law is directed

by powerful people. Given this situation, if anyone wishes to file a case against the RAB, who will save that complainant from crossfire? In a prolonged legal process with interventions from the government, the job of establishing truth is so terribly difficult, as can be understood from the case of Limon Hossain [A college student, Limon, was shot on the left knee by the officers of RAB on 23 March 2011 at Rajapur in Jhalkathi. The RAB fabricated two criminal cases against Limon and claimed that he was an ally of a local gang, which was found untrue through investigations of human rights groups. Limon's left leg had to be amputated at the knee due to the point-blank gun-shot by the RAB. Limon is still facing the charges]. In the name of capturing an alleged crime suspect, college student Limon was shot. The entire nation stood beside Limon; the media publicized many stories about Limon. Despite support from the human rights organizations, influential persons, and the whole country for Limon, his cases have not yet been withdrawn. It shows that if any moneyed and powerful person wants any person to be assassinated, he is doing so by killing the targeted person, staging the drama of crossfire through the RAB, and later branding the deceased a terrorist.

What is the point of talking about laws until there is a big environment created in society against this trend of crossfire? There is no way for one or two individuals to stand against the RAB. There had been reports published in newspapers that because of a common name many innocent men have been murdered. It had also happened that persons having reputations as good souls in the neighbourhood and having no complaint against them with any police have been murdered in 'crossfire'.

The government has faced certain embarrassment internationally due to continued reports on 'crossfire' deaths. As

a result, the incidents of disappearance and secret killings are on the rise. Most of these crimes remain unpublished. We hear that groups claiming to be from the RAB are picking up persons, whose dead bodies are then surfacing somewhere else. In such circumstances, the RAB should have ensured that no one is allowed to use their name while picking up persons, and should arrest the offenders immediately whenever these incidents occur. It is obviously the state's repressions, examples of fascist characteristics.

TM: In the case of Limon, the RAB maintains its position despite the entire nation having stood for Limon. What can we imagine about the source of power for RAB from this circumstance? Is RAB not under the government's control?

AM: As I pointed out earlier, after assuming office, the current Prime Minister had pledged stopping 'crossfire.' Often, the members of cabinet talk about stopping crossfire. Despite their having said so, crossfire has not yet been stopped. This gives rise to the question: who controls the RAB? If RAB alone is allowed to decide who is an offender, and can kill the so-called offender, then what is the point of having the courts of law in the country? If laws and courts do not function, or are not meant to exist, then the roles of the Law Minister and Home Minister come into question. Why should the country have such ministries? We have never received any reasonable explanation about these entire affairs from the Government. There is also no reason to believe that the RAB is under the control of the Government when you observe the role of the Government.

TM: During the conversation sometimes you have referred to the 'state' and sometimes the 'government'. Would you kindly specify these two terms a little bit?

AM: State is referred because government changes one after another. But, the state sustains. The agencies like RAB are part of the state, not of the government. A government may initiate reforms of, or disband, any institution of the State through a legal procedure. If a government does not reform, then we have to understand that this Government continues supporting the principles adopted by its predecessors. In this country the state we had during the regime of the BNP [Bangladesh Nationalist Party] is the same State we have now during the regime of the Awami League. Our bureaucracy, police, RAB - all behave in the same way - are all like the same. One of the important issues where the Awami League had pledged to focus was on human rights related matters. They did not keep their pledge. Here, one of the interesting things is after 2001, all the treaties signed with states across the world by the United States of America, for controlling Islamic militancy through training and the creation of new agencies. RAB is one of the new agencies. However, as a matter of fact, none of the militants have been killed in the crossfire of RAB, for which it was created - to stop the so-called rise of militancy in Bangladesh. The RAB was used to kill those people who were in leftist politics or in underground politics. The victims of crossfire assassinations might have participated in leftist parties' rallies some day. That's why, it was seen later, they were killed in crossfire and publicized as 'terrorists'. I am fully against terrorism. However, till date, I feel that the war criminals are the worst type of terrorists. Yet, I do not support the proposition of killing them in crossfire.

In 1971 their crimes were of an extreme degree. But, I will say, for an offender, who may be accused of whatever form of crime, the government should settle his fate through the due process of law. In any circumstance,

any kind of extra-judicial execution or secret deal is unacceptable. Often, it is lamented that offenders get released on bail. But, if appropriate documents are produced against the offenders, if the legal procedures are transparent, and if the government has political will for not to allow any offender to walk free, then I don't see any option left for the offenders to go unpunished! The state leads the prosecution, which itself is weaker by all means. Moreover, we see that criminals are being released from prisons at the wish or instructions of the government. Of course, there are serious problems within the judicial process as well. Besides, the nourishing of criminals in political patronization continues. Many have received presidential clemency. In many photographs, notorious criminals are seen standing next to the political leaders or the ministers.

TM: Why has the police been widely ignored, and faced no police reforms?

AM: There are conflicts between the Police and the RAB. Police are always deprived. From their arms to salary, everything is substandard. Police were not properly provided in the colonial system. There have been no attempts of taking the police out of that system. The policeman extracts from the people or indulges in corruption for fulfilling his needs. Let's say, what is offered to RAB for gaining skills why is that not provided to the Police by training them?

TM: At present, what do you think about the possibility of the reformation or abolishment of the RAB?

AM: What is the necessity of RAB in a democratic civilized society, I don't know. I am not convinced about a different institution like RAB. It is also unintelligible why such a uniform is needed. The uniform of RAB and their attitude gives an impression

that they are only born to create a culture of fear. This fear is not for the offenders or criminals; not even for those who nourish the offenders. Rather, the RAB is created to spread fear among the ordinary people. Criminals hang around the ministers and Members of Parliament. If RAB had any success creating fear among the criminals, the same fear should have been spread among the ministers and parliamentarians too. Ministers are part of the government, where fear should have also entered. But, this doesn't match with what is going on. It means, at the end of the day, it is the people who are being threatened.

TM: In the context of extra-judicial killing and frequent disappearance, is society or democracy being disrupted?

AM: Killing a human being itself creates a deep grief in a society. And, if such killing is orchestrated by the state's own forces, then the credibility of the government becomes highly questionable. From the Four Party Alliance government to today, in ten years, numerous people have been killed in an extra-judicial manner. The deep wounds that Bangladesh has been inflicted, any discussion on democracy sounds like a parody. Democracy is there and the state's agencies kill people without trial - this is double standard. This is cruel double standard.

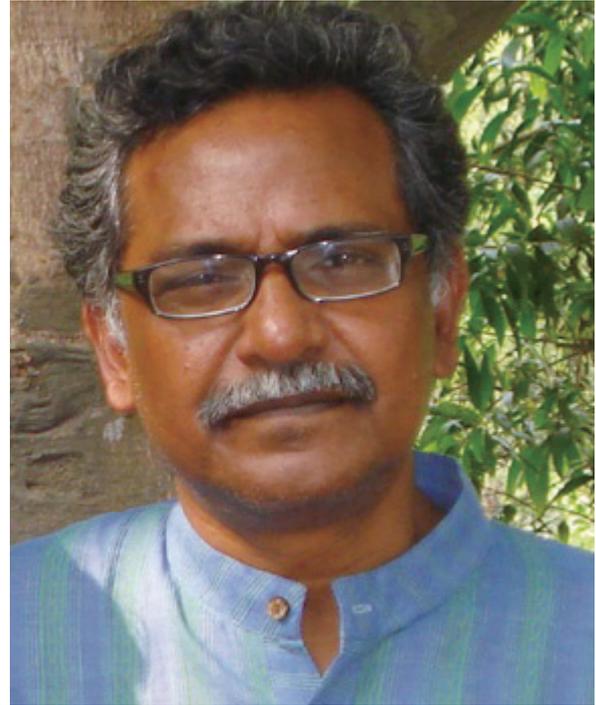
TM: What type of democracy does Bangladesh practice?

AM: Democracy is meant to be about holding election. In a deceptive process it is also destined who the people should vote for in that election. In this country, people do not have security at home or outside. The five fundamental needs of the people remain far away. We are not in a place that is even close to a democratic society. There

happens to be an election in every five years. Thus, we only have mask of democracy. Election is also important for democracy. But, when will the people be truly allowed to choose their representatives? When the people's representatives are obliged to be accountable, every institutions of the Government including the forces will come under the process of accountability. Then, we will be able to term the process that of a true democracy. Bangladesh is far away from such a system.

TM: Is there any probable option to get rid of the present situation?

AM: First, the government has to come up with true political will to stop extra-judicial killings. Secondly, political black money and political violence must be stopped. Thirdly, the judicial process needs to become independent and transparent. Then only can crossfire be stopped, I think.



Anu Muhammad was born in 1956 in Bangladesh. He started teaching economics in 1982 at the Jahangirnagar University in Dhaka, Bangladesh. From 1991 to 2005 he had been teaching anthropology in the same university. As a scholar, Mr. Muhammad has taught International Development Studies (IDS) at the University of Winnipeg and the University of Manitoba as a Visiting Professor in 2001, and at Columbia University as a Visiting Scholar in 1993. Anu Muhammad has edited two books, one of which is Bangladesh at 25: A Discourse on Development in Bangladesh, 1998 (with Abdul Bayes). He has authored more than 20 books that include: Biswa Pujibad O Bangladesher Anunnayan (World Capitalism and Underdevelopment of Bangladesh), Bangladesher Grameen Samaj O Arthaniti (Rural Society and Economy of Bangladesh), Bangladeshe Unnayan Shankat ebang NGO Model (Crisis of Development and the NGO Model in Bangladesh), & Anunnata Deshe Samajtantra: Sangram O Aviggata (Socialism in Underdeveloped Countries: Struggle and Experience).

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BANGLADESH: INTERVIEW

The Ugly face of the **RAB**

Mr. Ruhin Hossain Prince is a leftist political activist. Currently, he is a member, Central Committee of the Communist Party of Bangladesh (CPB), and one of the organisers of Tel Gas Khonij Sampad Biddut Bandar Rakkha Jatio Committee (National Committee to Protect Oil Gas, Mineral Resources, Port & Power). He is a former president of Bangladesh Students union (BSU), and is remembered for his role as a student leader in the movement for ousting military dictators in the 1980s. Mr. Ruhin Hossain spoke to Torture Magazine about the RAB.

TM: The Rapid Action Battalion (RAB) is murdering people without trial in the name of ‘crossfire’, ‘encounter’, ‘gun-battle’, ‘line of fire’ and so on. What are your views about this trend?

RHP: Thank you! First of all, there are [a] few agencies in our country to maintain law and order. Apart from that there are [a] few ‘royal force’ created, with the claim that these forces will be to control terrorism and play roles in various important matters. But, on the basis of the actions of the Rapid Action Battalion (RAB), as we have observed in the past, they have created a terrorizing image in the various layers of the society. In fact, RAB failed to meet its original goal. The very visual example is crossfire, which we all know and we had talked a lot about this matter. It is not expected and acceptable at all. This is very true that we want capital punishment of any criminal, but not through crossfire. To me, the process of punishment should be through the legal procedures of the country. But what is done by crossfire is a gross violation of human rights; it is beyond the actions of human beings.

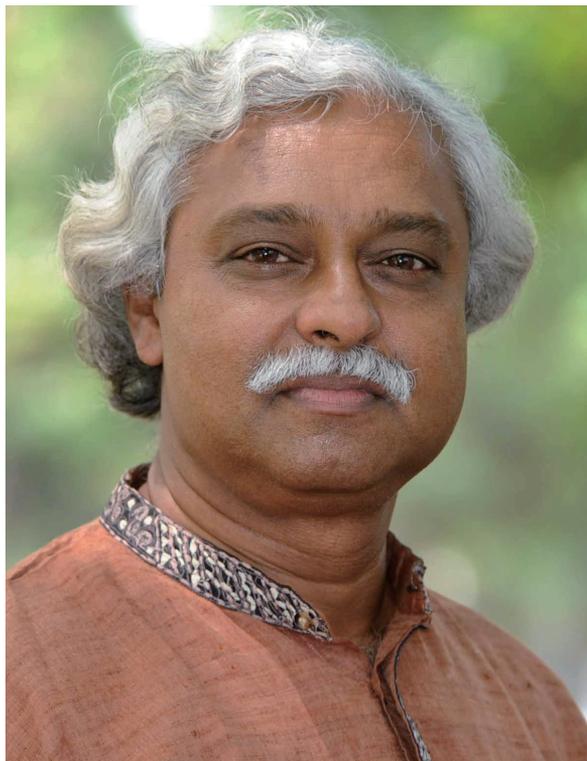
Secondly, we often heard about disappearances taking place and RAB never acknowledges its involvement with the incidents of abductions and subsequent disappearances. Now I have a question: if we agree that they [RAB] are not involved, then what happened to the former president of Student Union of Khulna and vice president of the Central Committee [of Bangladesh Student Union] Shamim? He is still missing. His family and others have pointed fingers at these types of law-enforcing agencies. But RAB denied their involvement. Let’s think it logically. RAB, as a royal force, denying their involvement in the crime, while they have failed to identify and arrest those who are really responsible for abducting and disappearing the victims. So, the questions always remain that to what extent the goal

of establishing RAB has been achieved. Moreover, statistics show that RAB members, who were departmentally punished, had involvement with different types of misdeeds. The government indirectly acknowledged this in different occasions. In fact, RAB is now far away from its motto and has failed to meet its goals.

TM: As there are failures in accomplishing their duties, what are your suggestions?

RHP: At first, I would say, we already have agencies like the Police, Army, BGB, etc. I don’t think that we need any more additional agencies or forces. We should take care of the limitations of these existing forces that we already have and then try to remove their limitations. For example, the salary structure and other benefits, living status and job placement of the police force is still questionable. It should be worked out and developed further. Their pattern of thoughts and perception should be changed and improved. They should be educated about the human rights issues.

First of all, a human is a human being and then if the person commits a crime he deserves punishment through the due process. He should be considered innocent until the court declares him a criminal. And only after court’s declaration, the person should be punished. This sensibility should be grown up among the members of the Police Force. No more new force! We have to step forward through a process of modernizing of the existing forces. As a developing country of the third world, we should identify our capacity. Here, to me, there is no scope of creating any new royal force. One more thing I want to say clearly if the quality of policing system is improved, accountability is ensured and political persuasion is stopped, I believe strongly that our existing Police Force is capable enough to face any challenge.



Mr. Ruhin Hossain

TM: Always, the deceased victims of crossfire are branded ‘criminals’. Nobody cares about these deaths. When people seek justice the actual offenders are set free through the loopholes of legal procedure. Few of them are being killed in crossfire. Is it helping uproot crime? Is it a solution?

RHP: No, it is not a solution to the problem. Just killing a criminal may not be the end of terrorism in a particular place. Other criminals might be replaced. So, the root should be removed. Otherwise this terrorism would continue. However, this doesn’t mean that we will pamper the criminal. I said earlier that the highest punishment for the offenders should be ensured through legal procedures. In such cases, in order to ensure trial of criminals, there are certain weaknesses such as proper collection and presentation of evidence and proof. The existing forces should do it. If the forces perform their duties in a right manner, there is no chance for

the criminal escaping as we have examples of the cases of some top terrorists; Ershad Shikder of Khulna is one of them. They were punished legally. Furthermore, the militancy was also eradicated by the existing forces legally. It means that when the government honestly wants to act properly and the law-enforcing agents are honest to accomplish their duties we should be able to solve many challenges. Our responsibility is only to turn out the limitations. We need to ask what do we want, really? We want freedom and a free society. We want the offenders to be rectified and will be acting as a valuable person in the society after being sentenced through a legal process. We want them to contribute to the society and to be determined to step forward for the well-being of the society as leaders on the earth. So, from this point of view killing [*the alleged offenders*] cannot be the solution.

TM: Currently, allegations are being reported in the newspapers against the RAB for land grabbing, looting, extortion, or for being used for partisan interests. What are your views about such involvements of the RAB?

RHP: Some of these allegations are already proved. Some of the RAB members are involved in corruption and criminal activities. You may know that not only in Bangladesh, in many countries of the world, the Elite Forces have room for getting involved in such kind of corruptions and in many cases the force members avail the scope. But there is no alternative to handling such crimes strictly. Whoever is involved, whichever force the personnel belongs to, should be punished strictly. Then the encouragement and corruption or crimes will be reduced. Regular supervision with accountability should be ensured to get rid of these.

TM: The allegations of crimes committed by members of the RAB often go unpunished. Do you think that this government will

provide indemnity to the RAB prior to completing its tenure in the office?

RHP: I don't want to comment on this point without seeing detailed information and statistics. I don't know what the government's plans are regarding the issue. So, no comment.

TM: There are speculations that the government may indemnify the RAB. If so, will it be right?

RHP: Why the Government shall do it? Whatever the Government may do that may be their matter of consideration that we don't know. But, I think, providing indemnity is wrong and unfair.

TM: Was it a right decision of establishing the RAB? What are your views?

RHP: Actually, over time, the existing regular forces of our country were not improved in their standards, merits, and professionalism, and it resulted in the crisis. Agencies like RAT, Chitah, Cobra and RAB were created out of that context. But we saw from our experience that this type of strategy didn't bring any fruitful result. So, I will not talk about any specific agency but the entire attitude of negligence on the regular forces like the police has created the present crisis.

TM: Do mean that such elite forces or royal forces are being created one after another only for covering up the utter failure of the state?

RHP: No, it is actually the consequence of long negligence. We have been observing since the independence of our country that the demands and needs claimed by the Police Force have been neglected. Proper importance had never been given to that. Many discussions had taken place and model reforms were also proposed. However,

implementations of those proposals were not visible. The present scenario could have been different, if over time, the police would have been modernised. No Elite Force would have been required then.

TM: The case of Limon Hossain has been highly discussed. How do you see the matter?

RHP: Limon's case is very disgraceful for the entire nation. I would say so because, the issue is condemned by the National Human Rights Commission and the mass people of the whole country. But we have seen that how deliberately the government invested all out efforts to prove the RAB's innocence in this case instead of acknowledging the mistake of the RAB. Limon was shot to disability, which is not the end of the story. Fabricated criminal case against Limon, physical attacks, threats and harassments – through all these the Government is trying to prove that the RAB cannot commit any mistake. The RAB is beyond mistakes! This is a serious alarming signal for any civilized nation.

TM: RAB has been working as an elite force. Should the RAB be disbanded at this moment? Or should it be reformed? What would you say?

RHP: On this issue, I think, there is a necessity of prompt discussion. The political parties, mass people and the government should participate in the discussion. In the discussion they should take decision whether the RAB is needed or not. If the discussion finds that the RAB could be utilized through some reformation, it could be done as well. On the other hand, if it is found that the RAB is not accomplishing the task for which it was created, then I think ultimately there is no need of keeping a force like RAB. However, I think, the decision on this matter should be taken through sufficient discussions.

BANGLADESH: INTERVIEW

Do we really need the RAB?



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TM: Since the inception of the Rapid Action Battalion (RAB) in 2004 there have been debates and controversies about its actions. Recently, the debates have been more heated following the incident involving college student Limon Hossain and numerous extra-judicial killings. What are your views?

ASM Amanullah: The objectives of establishing the RAB have not been achieved. As an 'Elite Force' the RAB has failed to play the role it should have played in society. The extra-judicial killings and controversial actions of the RAB have gone beyond the purview of the fundamental principles of the state, society, and the country. They have moved away from their original mission and vision. There are some specific reasons for that. For example, the members of the army have been attached to the RAB; the actions and operations of the RAB have not been brought under any specific structures and guiding regulations. As a result, the RAB have appeared as a threat to the society, law, and judiciary of the country. Although, at the beginning, the activities of RAB received praise, however, nowadays RAB has created a dreadful situation in the society. Personally, I feel that the other Elite Forces all over the world are seen with respect, which has not happened in our country in the case of RAB, who have lost their acceptance.

TM: Policing is considered as a service to the citizens on a daily basis, while the armed forces have different responsibilities. These two institutions have been combined together to create a so-called elite force like the RAB. In the last several years, the incidents of extra-judicial killings were termed as 'gun battle', 'encounter', 'crossfire' etc. There have been many

incidents of disappearances. Are these incidents related to the overall political context of the country?

ASMA: There is clear involvement of the RAB with the disappearances and crossfire. Killings of persons in the name of crossfire are taking place recurrently and the RAB itself has acknowledged that. They have been telling the same story again and again. Besides, regarding the incidents of disappearances – the politically motivated disappearances in particular – the Government has been blaming various segments including internal and external agencies and vested groups. Urgently, there should be credible investigations and research on these issues. According to the available information and context, although we cannot assertively blame the RAB for the disappearances, they are directly involved in the murders of persons in the name of crossfire which anyone can understand quite evidently.

TM: You mentioned that the RAB has been a controversial agency mixed with the members from the military and police. Does this fixed agency deserve reforms or disbandment?

ASMA: I am not preferring disbandment of RAB. Abolishing it cannot be the solution at all. At the very beginning, the RAB had played quite good role. RAB needs to be more people-oriented. They need to be pro-people. Instead of killing people indiscriminately they should create public trust by shifting their image from a frightening agency to a trustworthy agency. People do not take the RAB in confidence as they did before. In order to bring people's trust back to this agency, there should be correctional drives

within the RAB, which requires specific and clear-cut policy, which will strictly tell them what they are authorised to do and what they are not. They should be held accountable. The RAB have to regain people's trust through an applied policy. The Government and the Home Ministry have been playing a very apathetic role in making the required policies. Neither the Government nor the Ministry is clarifying the role of the RAB. As a result, certain members of the RAB are getting engaged with various controversial actions. I would not say that everyone of RAB is bad. But a group of them think that they are above the law. Such thoughts of being above the law gives them a feeling that they won't have to face any trial even though they commit crimes – this has been well-embedded in the mindset of the RAB. They have to come out of this mindset. I am not suggesting to abolish RAB but they should move toward reformation. The personnel of the Army who are working in RAB should be withdrawn completely. RAB has to recruit its own members and grow up as a force on its own. They have to have their own policy, strength that an elite force requires. Many countries have elite force, which becomes necessary to a certain extent. But the way we made this elite force was not right.

TM: Considering the budget allocated for RAB, the type of technological equipments and arms provided to them – if similar facilities were given to the police, then would we have need for such an agency?

ASMA: The pattern of various activities of the Police and the pattern of work of the RAB are a bit different. The purpose of establishing the RAB was quite different. Police are used to maintain peace and discipline. But, RAB is not supposed to do the same thing. In reality,

the RAB is being used to establish possession of someone's land or ousting someone from possession, demolishing someone's house, grabbing land or recovering someone's money. Currently, RAB is used for extortion, which was not its original goal. RAB is now diverted from its original goal due to the absence of any distinctive guidance from the Government and from the Home Ministry. In the absence of consensus among the political parties, the RAB has moved away, toward a different direction. Now, it is neither like the Police nor like an Elite Force. Recently, allegations of committing various crimes have come against RAB, including land grabbing, extortion, taking possession of flats illegally. Besides this, I think, a portion, not the entire force, is engaged in these kind of scandals.

TM: In 2013, Bangladesh is just few months away from the next general election. There are discussions about forming an interim government to hold election. If it so happens, do you think there are fears the RAB might be used for killing or disappearing contestants?

ASMA: As things are going on at the moment, if it continues as per the current policy, by the later stage of the year 2013 we will see very much dangerous situation. According to the precedence that the state has created in abusing the agencies it is very natural to have such scenario. What had happened to the college student Limon Hossain is very nauseating. Through this incident we have seen how shameless and naked the state can be for its own interest! This is a stigmatized part of Bangladesh's history. I think, by analyzing only the case of Limon the real character of all the units of RAB in Bangladesh can be understood



Dr. A.S.M. Amanullah

“Anyone who has reputation as a notorious criminal cannot be murdered without a trial as per our constitution. We know, after Mahathir Mohammad had assumed power in Malaysia several hundred thousand people were murdered extra-judicially. In today’s modern Malaysia, the matter is in public debates. They are being compelled to be accountable for that. They feel ashamed of this period as part of the world’s dark pages of history. Thus, we will have to be accountable to our people in future.”

very well. One case study reflects almost the entire scenario of Bangladesh.

As the upcoming election approaches closer to us, the degree of abusing the agencies for political purposes will be increased. Not only the ruling political parties, but also the rest of the political and other evil forces of the society will keep abusing the RAB for their respective interests.

TM: The incumbent government led by the Awami League pledged that they would maintain ‘zero tolerance’ for extra-judicial killings. In their election manifesto they made similar pledges about human rights violations.

ASMA: The Awami League has moved far away from their pledges. They are not at that point any more. Election manifesto is one thing while the reality of Bangladesh is utterly different from that. They have not even implemented 20% of their pledges of the election manifesto so far. As you have referred to the ‘zero tolerance’, the government is far away from that position. They are thousands of miles away. It seems that the total affairs of the state are not under the control of the Awami League or its government. Take the examples of the disappearances of Ilias Ali or Chowdhury Alam or workers’ leader Aminul. They were made to disappear. After these incidents it cannot be said that things are under the control of the Awami League or are limited to the politics of Awami League. Various types of evil forces are active in the field. Only in Ashula area the types of dead bodies are found floating and the frequency of such dead bodies. In 2012, we heard that only in the surrounding areas of Ashulia there have been around 72 dead bodies found. Who are throwing these dead bodies there? In the darkness of night whose dead bodies are being thrown? I would not blame the RAB

alone for all of these. But, the RAB and the Police are just watching these incidents. If we see the holistic picture of the last two years, if we see the extra-judicial murders and analyse the entire situation correctly we will see that there is lots of rooms to fear that the RAB will be abused during the periods of pre-election and post-election. If we look at the election manifesto of the Awami League, anyone will understand that this party never had a manifesto at all and they themselves might have already forgotten it!

TM: You were suggesting the withdrawal of the members of the military from the RAB and the needs of reforms. What do think about police reforms?

A S M A: Yes, since the independence of the country there have been much discussions and assurances regarding the reforms of the police. But, all those were fruitless rhetoric. In fact, the state itself and the political parties do not want reforms in the police. The ruling political parties actually want to use the police as their own lethal force as they have been doing, although they talk about reforms. The discussions about police reforms are fully meaningless. Former dictator Ershad increased little bit of financial benefits of the police, however, the system still remains as primitive as it was before. The political parties are indirectly encouraging the police to extract bribes so that the backbone of the police remains weaker and can be twisted according to the wish of the parties. It is a total failure of the state's system. None – the state, government and political parties – want reforms of the police.

TM: We have already learned that around 2000 incidents of extra-judicial killings have been taken place and more than 500 persons

have been disappeared in last few years. In such a context, what is the government going to do? Is the government going to pass another law to guarantee indemnity to the perpetrators for these crimes? Do you think there are such possibilities? According to you, in what form, the indemnity, if the Government goes for it, will be given?

ASMA: The state and the political parties have already given indemnity to the RAB in the past. And, I guess, very soon, by the months of July or August, further indemnity will be given, formally. But, as a social scientist, I think, today or tomorrow the state must have to be accountable for this. The question will definitely be asked: why a man was killed in the pretext of crossfire? The person had right to defend himself. Anyone who has reputation as a notorious criminal cannot be murdered without a trial as per our Constitution. We know, after Mahathir Mohammad had assumed power in Malaysia, several hundred thousand people were murdered extra-judicially. In today's modern Malaysia, the matter is in public debates. They are being compelled to be accountable for that. They feel ashamed of this period as part of the world's dark pages of history. Thus, we will have to be accountable to our people in future. It will certainly happen when the people will ask why murders took place in this country in the name of crossfire and why disappearances had taken place. Be it today, or tomorrow!

COLUMN: GERMINAL

Rizana Nafik & the Reality of Judicial Murder

*"A crowd of ordinary decent folk
Watched from without...
As three pale figures were led forth and bound
To three posts driven upright in the ground..."*

- **Auden** (*The Shield of Achilles*)

Long before the second Bush administration coined the phrase 'enhanced interrogation technique' to re-legitimise torture, death penalty became capital punishment. In the lexicon and in ordinary usage, 'capital' has multiple meanings, none of them discomfiting, and some, such as 'first-rate', 'excellent' and 'first-class', positively attractive. Calling judicial murder capital punishment enables us to tolerate, support or even demand a measure which is premised on the antediluvian morality of 'an eye for an eye', while keeping our consciences untroubled and our modernist façades intact.

The Saudi authorities do not believe in niceties. They implement this holdover from humanity's common tribal past with brutal simplicity, unmediated by modern trappings, unclouded by comforting euphemisms. The convicted man/woman is made to kneel and beheaded. Had Rizana Nafik been put to death in a more refined way, her execution

GERMINAL



Tisarane Gunasekara

may not have shocked many of us to the same degree. We are particularly appalled because what happened to Rizana is so hard to reconcile with the clinical, almost bloodless image conveyed by terms such as 'capital punishment'.

By dispensing with the faux-humane stage-settings most countries deploy to give a veneer of civility to a custom which belongs in the humankind's common barbaric past, Saudi authorities force us to confront death penalty in its gruesome reality.

Death penalty is a holdover from a time when life was nasty, brutish and most of all short, a time of ignorance and fear, a time when torture was the norm (the more horrendous the better), the hand that stole was chopped off so that it could not steal again, and the rape of 'their women' was the fit punishment for the rape of 'our women'. Death penalty belonged to legal systems which believed

in vengeance, and held that a life must be paid for with a life. Societies cling to death penalty, despite the proliferation of evidence that it is not a deterrent to crime, because of the need to gratify collective bloodlusts and visceral needs for vengeance.

Rizana's beheading happened [at a time] when Sri Lanka is just one step away from reactivating the death penalty.

From 2006 to 2008, the extra-judicial killing of 'criminal suspects' was touted as the most effective antidote to rising crime. Criminal suspects started dying in police custody, often 'killed while trying to escape'. That these men were murdered in cold blood was an open secret. But there was an unspoken societal consensus that such killings were necessary to ensure a speedy end to the problem of rampant crime. Thousands were murdered, but crime remained and became even more brutally violent.

Now the reactivation of the death penalty is being touted as the panacea for the crime-crisis, not just by the government but also by vocal and influential segments of society. There are even demands for public executions and the bringing back of the '32 methods of torture' (practiced in our monarchic past) as ways of 'punishing' those who engage in particularly heinous crimes such as child murder. When applications were called for the post of hangman, the response, reportedly, was inundating.

Albert Camus wrote that in France there were hundreds of people who volunteered for the role of executioner, sans payment, and warned, "behind the most peaceful and familiar faces slumbers the impulse to torture and murder" (*Reflections on the Guillotine*).

The Stanford Prison Experiment disturbingly demonstrated that the sadistic meme can exist even in the most ordinary and normal of human beings. It is to this visceral desire for vengeance death penalty appeals to. Judicial murder, instead of curbing the violent mores of a society, feeds into them and creates yet another circle of bloodletting. If there are public executions in today's civilised world, approving spectators will not be lacking. Sri Lanka with its vaunted civilisation will not be an exception to this rule.

A society's acceptance of death penalty is the best possible demonstration that its notions of justice are still wedded to the tribal maxim of 'an eye for an eye'. Sri Lanka has had her share of war and insurgency; extra-judicial murder still stalks [the] land. Judicial murder must not be added to this bloody repertoire – especially when the judiciary is on its way to becoming a weapon in the hands of [the] country's powerful ruling family. Violence indeed breeds violence.

What Sri Lanka needs is a rapid programme of physical and psychological demilitarisation, a definitive end to the cult of violence. The glorification of limitless power and of mindless obedience must be replaced with a more just, equal, and compassionate ethos. A society cannot be expected to emerge from two insurgencies and one long war psychologically unscathed. But acknowledgement of the malady must precede the search for remedies.

COLUMN: MAKING DIGNITY AN ENFORCEABLE ENTITLEMENT

Torture in Asia highlights a slow moving catastrophe

The Asian Human Rights Commission's publication *Torture in Asia* details the routine use of torture at police stations in Burma/Myanmar, Bangladesh, Indonesia, India, Nepal, Pakistan, the Philippines, Sri Lanka and Thailand. A closer study of torture and ill-treatment in all these countries indicates how rules and conventions, on which criminal justice was based are blatantly disregarded. What is evidenced by torture fits into the expression used by Erik Hobsbaum to describe the situation of several countries in Africa, Asia, and Latin America: "A slow moving catastrophe". By this term he distinguished quick catastrophes, such as earthquakes, from catastrophes that take place slowly, over a prolonged period, but have more or less the same, or worse, effect.

Within a system of justice, a slow moving catastrophe implies the abandonment of basic norms and standards, rules and conventions, used in the earlier period. It is, in fact, a slow-motion descent into barbarism, the result of this abandonment of rules and conventions. Those rules and conventions at one time helped society to preserve basic standards of decency in relationships between people.

The use of torture and ill-treatment has never been completely abandoned in most of the countries mentioned above, even in better times. However, in the past there was an attempt to introduce criminal justice procedures in investigations into crime and

MAKING DIGNITY
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ENTITLEMENT



Basil Fernando

these procedures described the limitations, if not the complete prohibition, of the uses of torture and ill-treatment. Further, criminal investigations had the ultimate purpose of leading to criminal trials and therefore the methods of gathering information could be tested in the process of the trial. For example, if it could be proved that some evidence had been obtained through torture, such evidence would be inadmissible. A rule that deprives any evidentiary value to information obtained through torture therefore played the role of limiting or prohibiting the use of torture altogether.

However, what we see in the countries mentioned above is the abandonment of the goal of a criminal trial as the ultimate aim of

criminal investigations. The 'investigations' are regarded as an end in themselves. 'The investigator' is not engaged in the collection of evidence. The investigator's aim is to achieve some other end. This 'end' might be to force a person subjected to torture to enter into some kind of agreement, through which a problem may be resolved. A complaint is not regarded as the beginning of a process that will end up in a criminal trial. A complaint is an expression of a problem and the role of the investigator is often to resolve that problem. For example, it may be that a person is complaining of a theft. The aim of the investigator is to discover what was lost and to hand it back to the person claiming ownership. The investigator will meet the alleged thief and demand that he hand over what the investigator assumes he has stolen. If, after a long period of torture, the investigator finds out that this person is unlikely to have done the theft - since, even after serious torture, he does not confess to the crime - then the investigator may decide to set the person free. This is the situation most investigations end up in, judging from a large body of reports from these countries.

Often, torture or ill-treatment is used in order to demand bribes. When a person is arrested, his relatives assume that if he is left in police custody for any length of time he is likely to be tortured by the police. This assumption leads them to give whatever is demanded to prevent their loved one from being assaulted. The issue, of whether the person under arrest has, in fact, been involved in a crime becomes irrelevant. It is assumed that he or she will be assaulted whether he or she is involved or not. In this way, the police are able to bargain for bribes or other favors. For example, they sometimes make demands for acts of a sexual nature from relatives of the person under arrest. Arrest and detention give the police an enormous power, and that

power is exploited in order to obtain financial and other gains.

A further cause of torture is at the instigation of someone (e.g., an interested politician or a rival) to harass someone else. In such instances, the police win the favour of the one who is requesting their assistance by committing such harassment. They may get political, financial or other rewards. There are frequent reports of torture and ill-treatment being used for such purposes. The other side of these kinds of incidents is that, while doing the favour on the one hand, the police can make use of the same situation to demand financial and other rewards from the victims through various promises.

Yet another use of torture and ill-treatment is to avoid criticism relating to the inefficiency of police officers. Such criticism may be made either by the government, police superiors, or the public. Increasing crime rates, for example, may lead to such criticism. In such a situation, the way to demonstrate efficiency is often to get confessions by the use of torture, and thereafter to use those confessions to demonstrate that the police are actively and efficiently engaged in carrying out their duties. Once the reports are made and the criticism is averted, nothing further happens, as the ultimate aim of bringing up cases for trial has largely been abandoned. If there is a trial, this kind of confession may be exposed; the best way to avoid this is not to institute proceedings leading to a trial.

In the past, there used to be ways through which such abuses, as mentioned above, could be remedied, i.e. by making complaints to higher authorities or even to the courts. These kinds of remedies are fast disappearing. Such disappearance is also often purposefully done in order to prevent the victims from making complaints. The

breakdown of complaint mechanisms therefore also leads to the disappearance of rules and conventions through which discipline was maintained in the past.

Torture is increasing and the possibility of dealing with it through legal and disciplinary measures has increasingly become limited. The result is the practice of torture with impunity.

Governments of the countries mentioned above are no longer embarrassed by public criticism or even criticism by international agencies, such as the United Nations, about the prevalence of impunity in their countries. Even the potential of correcting wrongs due to public embarrassment is becoming increasingly limited.

Unfortunately, the UN agencies have not come to a proper understanding of the situation in these countries. When the prevalence of torture and ill-treatment is brought to the notice of UN agencies, these agencies demand that the relevant governments should investigate, prosecute and then compensate the victims. It could be illustrated, with numerous examples, that these demands do not bring about positive responses from the governments in these countries. Therefore, if the UN agencies are to have any practical impact on the prevention - or at least the limiting - of torture, these agencies need to re-evaluate their working strategies and find ways to make rules and conventions workable again.

It is in this context that it can be said that there is a slow moving catastrophe, that is removing the very foundations of societal decency. These societies are plunging towards lawlessness.

COLUMN: MALABAR MASALA

Tamil curry & the curry leaf politics



Bijo Francis

Curry was adopted and anglicised from the Tamil word *kari* (கறி), meaning 'sauce', which is usually understood to mean vegetables and/or meat cooked with spices, with or without a gravy. Among many wonderful things Tamil culture has contributed to humanity, curry is just one. The sheer richness of the Tamil language far surpasses most other languages in the Asian subcontinent. Sangam poetry, with its Agam and Puram, is one of the earliest secular literary works known to Asians.

Sangam poetry, estimated to be originating from around 1000 BCE, has some of its roots in what is today known as Sri Lanka. This set of unique literary works, authored by both men and women, in its own genre challenges Sanskritised religious literature of the time. Tolkāppiyam (தொல்காப்பியம்), one of the first Tamil works on grammar, believed to be written in phases spanning across centuries, iterates that Sangam poetry has two sides to it. An inner side, Agam, that deals with personal aspects of love, hate, and relationships, and an outer side, Puram, referring to customs and practices.

It might be a tad unfair to borrow the terminology, yet one may say Tamil politics played in India, Sri Lanka, and globally has an Agam and Puram to it, a real and fake side. The real face is that of discrimination, of entrapment, and of endless violence. Fake are the tears shed in public for the Tamils, most notably by politicians in India, more precisely politicians from Tamil Nadu.

The Tamil issue in Sri Lanka, is older than what many Sri Lankans - Tamils included - believe to be the case. Admiral Zheng He, when he arrived in Sri Lanka in 1411 CE, had to summon his entire navy to force a peace agreement between the then warring Hindu and Sinhalese kings. The post-independence politics of the island and the 1978 constitution which established executive presidency conveniently transforming the then prime minister into an executive president, only made matters worse.

Discrimination against Tamils was met with violent dissent, which was dealt with more violence. The 1978 constitution ruled out the scope for consultation and dialogue, having its brutal consequences upon the entire nation, Sri Lankan Tamils in particular.

Those who ascribed to violence, in defensive and offensive forms, may have expected the consequences of their action.

There was nothing in the offing in Sri Lanka to answer the miserable plight of those Sri Lankans, who did not agree to any form of violence and rejected discrimination. The UN resolution against Sri Lanka, the outcome of which organisations like the Asian Human Rights Commission (AHRC) already know for the past two decades, is not a panacea to this issue.

In diplomatic *lingua franca* the life of a declaration, like the one passed against Sri Lanka, is as follows: first they pass a declaration to express 'concern' and ask Sri Lanka to do this or that. Obviously, had Sri Lanka been able and willing to do such things there would not have been the reason for concern on the first place. This is common sense, something rare in diplomatic circles, and one reason why diplomats are generally considered a human subspecies, even though, on the contrary, some among them, believe it to be their right - they call it *carte blanche* - to consider the rest of humanity inferior to them. However, it is also widely held that this unique subspecies behave as if they lack the set of bones connecting their skull and bottom, as if somewhere down the evolutionary cycle, a few important milestones were skipped.

Back to the business of resolutions. After about a year, another declaration will be passed against Sri Lanka to express 'serious concerns' about the country's failure to 'respect' the first declaration and, further, to 'urge' Sri Lanka to take immediate actions to solve the problem. Another year later, one more declaration will be passed to express concern about Sri Lanka's unwillingness to

REVIEWS: ZERO DARK THIRTY (Movie)

Can We Know What Torture Is?

by Karen Malpede

'Zero Dark Thirty'. Director, Kathryn Bigelow. Screenwriter, Mark Boal. Sony Pictures, December 2012; & 'Shadow Lives: The Forgotten Women of the War on Terror'. By, Victoria Brittain. Pluto Press, February 2013.

Whenever the long arm of state-sponsored violence reaches into the lives of ordinary

people, the artist, the writer, face choices, moral and esthetic. They can look away. Most do so, turning attention strictly to domestic or historical matters. Or, like film director Kathryn Bigelow and screenwriter Mark Boal, they can take the story power tells and retell it as it has been told to them, in this case by the CIA, which provided the filmmakers

special access to the archives on the hunt for, and slaying of, Usama bin Laden.

A few, however, will refuse to become complicit in the narratives of power and will try to speak the true cost of violence. In a series of newspaper articles, two verbatim plays, a co-authored memoir of Guantanamo detainee, Moazzem Begg, and culminating, now, in *Shadow Lives: The Forgotten Women of the War on Terror*, journalist Victoria Brittain has consistently brought to public view the lives of those deemed 'other', devout Muslims persecuted by the US and the UK in the so-called Global War on Terror. She has made connection with state-power's victims, and, through her writing, created a sense of justice where justice fails to exist. This, then, is a tale of two diametrically opposed politically motivated esthetics: Brittain's series of nonfiction portraits and Bigelow and Boal's Hollywood film, *Zero Dark Thirty*, alternately described by them as fact or fiction.

Of course, every work of art about historical events is both fact and fiction. Brittain, in the choice of subjects and empathic approach to their stories, inserts her subjectivity. Bigelow and Boal, contrarily, say they have no point-of-view; they want to let the "work speak for itself." All artists expect their work to stand alone, of course; otherwise why bother to make art? Nevertheless, there is something terribly disingenuous in their assumed neutrality. They will not comment on the "torture debate" their film has reignited among film critics, but also members of Congress and the human rights community; yet, contributing to renewed discussion of torture may be the film's real merit. Ever since President Obama, upon taking office in 2008, announced, we must "look forward and not back", the crimes of the Bush administration have been officially

forgotten; at the same time, the percentage of Americans who believe torture is justified "to keep us safe" has continued to rise, until "for the first time in the U.S. we now have a protorture plurality". Darius Rejali, author of *Torture & Democracy*, who tracks these numbers, attributes the increase to "the well-known psychological phenomenon known as false consensus generated by media elites." If media tells us most people approve of torture then most people come to believe that torture works. This nation needs a torture debate; we need a definitive investigation into the crimes of the Bush administration and we need accountability, too. We remain a long way from a substantive dialogue on torture, but Bigelow's big film and Brittain's distinctive book bring crucial moral issues back to public consciousness, in furiously contrasting ways.

This is what I saw in the opening torture sequence of *Zero Dark Thirty*: an actor made-up to look as if he has a battered face and swollen eye, stripped half-naked (we know by Jessica Chastain's wrinkled nose he has defecated into his pants), chained by the wrists to grommets on the walls, being faux-pummeled before the cameras.

Unwilling to tell his handsome interrogator what he wants to know, this actor, a "composite" character called Ammar, is further subjected to a single simulation of the simulated drowning which is water-boarding, before being folded and stuffed into a tiny box, and signaling, he's had enough. The camera follows the torturer outside where he relaxes by feeding chocolate ice cream to the pet monkeys he keeps in a cage some feet away from orange-suited prisoners kept in their cages in the sun. (Is this detail a convenient fiction of the torturer with heart of gold, is it based on fact, or both?)

In a following scene, Ammar is given a humus lunch and a cigarette on the terrace of the Black Site prison; there he reveals the name of Usama bin Laden's courier, setting off a 2 ½ hour film of an 11 year man hunt, led by an inscrutable and persistent female CIA agent (unlike Valerie Plame whose husband, Joe Wilson, spoke against the lies that led to the Iraq war and so was outed by Dick Cheney, the identity of this agent presumably remains classified.) *Zero Dark Thirty* becomes something of a faux autobiography in which a lone, preternaturally dedicated woman, surrounded by handsome men with guns, masterminds the hunt for the wanted person—just as Bigelow in real life operates nearly alone in a male world surrounded and supported mainly by men while acing the male sport of action-adventure filmmaking. But, there's a problem: the opening sequence is not true; torture first, lunch later did not, and does not, elicit crucial information.

From what I'd read about the film before I saw it, I had expected to be repulsed by the opening torture sequence. Instead, I found myself waiting for the torture to get real.

For example: Khalid Sheikh Mohammad, alleged mastermind of the 9/11 attacks, was water-boarded 183 times and told Red Cross investigators that "to please his captors," he gave the names of innocent people to the CIA; some of whom remain in detention. Abu Zubayduh, trumpeted upon capture to be bin Laden's 'senior lieutenant' was water-boarded 83 times in August 2002; suspended naked from hooks on the ceiling, not allowed to sleep for days on end he "confessed" to knowledge of a plot of blowing up shopping malls, sending the entire country into phony 'Orange alert' for days. The government no longer believes he was even a member of Al Qaeda. Walid bin Attash, another allegedly "high value detainee" told Red Cross

investigators that 'he was kept permanently handcuffed and shackled through the first six months of detention.' This September, Adnan Latif, a Yemeni poet who had been cleared for release six years ago, after being found innocent of any wrong-doing, managed to kill himself inside Guantanamo.

Torture in the real world is far more brutal and more useless than its antiseptic reenactment in *Zero Dark Thirty*. Why do Bigelow and Boal willingly distort the facts to make a Hollywood film that shows that torture works? Does this "point of attack" fulfill an exigency of story-telling in their minds? Did Bigelow and Boal knowingly grant themselves immunity from truth-telling, striving instead to captivate (or manipulate) in order to sell tickets, to impress the New York Film Critics who awarded this "best picture," and to remind us all how fortunate we are to live in an empire that supposedly has kept us safe by dumping habeas corpus rights and the body of Usama bin Laden into the deep blue polluted sea.

If it is truth about the last twelve years we're after, we might listen, if we dare, to a far quieter voice, that of the wife of a former Guantanamo detainee that forms the epigraph to Victoria Brittain's brave book:

"You have to be very careful how you speak to these men – they've survived traumas they don't tell about."

Living with torture, living with someone who has been tortured, or living with the thoughts of someone still detained who might be undergoing torture as I write, presents a different dynamic than splashing enacted torture up on the Technicolor screen. One speaks in careful, hushed tones, if one dares to speak, about such things.

It is difficult to over-estimate the enormity of the disaster: the damage done; lives ruined or lost, the economic cost, the emotional price that will be paid by generations in Afghanistan and Iraq, the US and the UK, for what Kleinian psychoanalysts name paranoid-schizophrenic rage (we are all good; they are all bad) that infected the Bush administration, and to a large degree, remains in the Obama administration, in the wake of 9/11.

Few Americans care to know what Victoria Brittain, Noam Chomsky, and others have documented: that Taliban leaders, who viewed Al Qaeda's 9/11 attacks, rightly, as a disaster for Afghanistan, offered to relinquish bin Laden for trial, an offer not responded to by the U.S. As many could see then, and all know now, the government project was to go to war against two nation states, not to bring a group of non-state perpetrators to justice. The U.S. began its bombing campaign of Afghanistan barely eleven days after the 9/11 attack, just as the delicate memorials were swept away, overnight, from the streets of New York. Those of us in the city remember the mournful air of reflection in which we walked and stopped to look at photos of mainly young dead. We came together in crowds in Union Square and Central Park to chant "our grief is not a cause for war," in a futile attempt to forestall the vengeance just as on February 15, 2002, ¾ of a million of us would join, on a bitterly cold day, hemmed by metal barricades and massive police brigades, the world-wide march against the invasion of Iraq, the largest antiwar march ever.

Perhaps when history judges this endless war on terror, futility will be the word that most accurately describes the actions of the decent.

Victoria Brittain remains unwilling to let the crimes of her time on earth go unremarked. Her densely informative first chapter relates modern history from the Muslim point-of-view, reminding us of many things, including how the Soviet invasion led to an influx of devout Muslims from the Arab world to Afghanistan and Pakistan, and how they were later forced to flee, or were picked up when the U.S. invasion started, and of the mobilizing effect on European Muslim youth of then Serbian genocidal war in Bosnia.

Then, the book turns personal. In an attentive voice reflective of the modest self-containment of Muslim female culture, Brittain tells the stories of women and children whose husbands, fathers, and brothers were snatched away, for reasons mainly never explained, and held for years, sometimes not yet released, tortured and interrogated again and again. She traces the recurring descents into mental illness of Zinnira whose husband Shaker was captured by bounty hunters in Afghanistan and disappeared into Guantanamo and of Shaker's two, nearly fatal, hunger strikes in prison. She quotes the poem Zinnira wrote to her husband in 2012, twelve years after his incarceration, and right before another bout with mental illness:

"You cared for me and were ever/On my side when I needed a favor,/I cannot forget you, no...never..."

She writes of a British M.P. assistant, Mark Jennings, who killed himself in despair and of the English-Arabic Koran she was given by the deeply religious woman, Sabah, she was interviewing, and whom he had sought to help, a nonverbal message not to succumb. Sabah once had taught school to international children in Pakistan, and later would earn a

college degree in the UK. Her husband Jamil el Banna was arrested in Gambia where he had gone hoping to start a business to support his family and disappeared into Guantanamo. "Allah will never give me more pain than I can bear," she says.

Noor Alashi, a Palestinian-American in her twenties, is a creative writing graduate, who, while working on a memoir about her family, also leads the campaign to free her father, Ghassan Elashi, sentenced to 65 years in a maximum security, CMU prison in Illinois, for his role as head of America's largest Muslim charity, the Holy Land Foundation for Relief and Development, after being charged with "material support" to a foreign terrorist organization, Hamas in Gaza, convicted in a second trial on the same evidence that in a first trial had been thrown out of court.

I return to *Zero Dark Thirty* and what for me is another indefensible moment. As the hunt for bin Laden's courier seems to stagnate, Jessica Chastain's character, Maya, a name that means illusion, asks her CIA superior for help. He explains his powers have diminished since he lost the "detainee [*read: torture*] program" once Obama was elected. "Who am I supposed to ask? Some guy in Gitmo who is all lawyered up? He'd just tell his lawyer to warn bin Laden." Chastain's crest-fallen silence seems to corroborate his point: the defense lawyers are Al Qaeda sympathizers. This is how they are treated by guards when they visit their clients in Gitmo as if the traitors and these young guards have gotten their misinformation from the higher ups.

Of course, the opposite is true: the lawyers for the detainees are defending the American justice system against the injustice of the American torture program; they are

defending victims, the vast majority of whom have been proven to be completely innocent, swept up in the War on Terror. And they are defending the few who may have committed criminal acts against the United States, but because of their torture have never been brought to trial. "By torturing...the United States has made it impossible to render justice on those criminals, instead sentencing them—and the country itself—to an endless limbo of injustice," Mark Danner explains.

"'Zero Dark Thirty' is factually inaccurate, and we believe that you have an obligation to state that the role of torture in the hunt for Usama Bin Laden is not based on the facts, but rather part of the film's fictional narrative," Senators Dianne Feinstein, Carl Levin, and John McCain, who have reviewed the CIA records wrote in a public letter to the President of Sony Pictures.

Bigelow and Boal responded to the Congressional rebuke by urging "people to see the film before characterizing it."

Sitting in a nearly full theater at the 2:30 p.m. show on the day after Christmas, the thought crossed my mind, "this would be a fine place for a mass shooting; this sort of film, on this day," and for a moment I was frightened to stay. Several predictable hours later (we always know the girl will get her guy), as the credits rolled, the man seated directly behind me pronounced his verdict: "Twenty-Four is better."

This is the Fox television program that, for years, dramatized torture as the necessary tool for stopping weekly 'ticking time bomb' scenarios. "Better" at conveying the fiction that torture works? Or, better at creating the media-driven adrenalin rush that substitutes for heightened life?

When we watch extremity depicted on the screen we might grimace, squirm, look away, or maybe sit straighter, engaged or aroused, but in the end, whatever our response, do we believe that we've seen it and we know what torture is?

Worse, because we have reacted viscerally to what we've seen, we might actually feel we have endured, and, that, hey, we're still here; torture cannot be so unendurable, after all.

Energetically, does this action-adventure formula, purporting to put us through it, so-to-speak, and with its quasi documentary feel, convince that by our presence and with our gaze we have fathomed the unfathomable; and so know what is unknowable – another person's harrowing pain, his shame.

Visual reenactments of torture make familiar what is, in fact, beyond imagining. How do you film edema of the legs, the swelling of the musculature and stretching of the skin, until it is taut and thin as tissue and starts to rupture, that results from being hung in stress positions. Instead of offering Brittain's humility before another person's suffering Bigelow's filmic reenactment provides us an all-knowing, a "been there, done that" sort of perspective, arrogant and dangerous for many reasons, not the least of which because it jacks the viewers up to demand ever greater depictions of ever-greater pretend pain.

The torture scene is prelude; the film's climax is the much touted assault on the complex, filmed through green night vision goggles, in which the Navy Seals got up to look like creatures from another planet, murder of a couple of unarmed men and a barefoot woman, on the way up the stairs to shoot bin Laden. Such voyeurism is the opposite of empathy, whether or not violent media contributes to actual acts of random violence

like mass shootings is, perhaps, a matter of debate, but that it encourages ignorance must, at least, be clear.

Reading *Shadow Lives*, in contrast, is a nearly meditative experience. Breathing calms as awareness grows. The strange and unfamiliar true stories in this book send us deeper into quiet reaches of ourselves, ask for our attention, offer connection to others, deepen our compassion, and renew humility.

We follow Brittain into the crowded living room of a terror suspect known as only as Detainee OO, "a wheelchair-bound, diabetic grandfather with high blood pressure, heart disease and renal failure, then held in a hospital wing at Belmarsh prison... There he seemed to have lost his mind." On two long couches across from Brittain sit six heavily veiled women, the wife and daughters, of "OO", while his son attempts an explanation. "No one except the authorities knew what had made him a terror suspect." Most likely his former torturers in Jordan gave his name to intelligence colleagues in Britain where he had been granted asylum after fleeing Pakistan. Fearing that she will never get this story straight and knowing that writing about the case is unlikely to have any effect, Brittain nevertheless persists because "a small act of solidarity might just raise spirits and help keep up hopes." Over time, she becomes intimate with the sisters and their mother Hamda, whose portrait, from happy, young wife in Jordan and Pakistan to bereaved family matriarch in London, she draws with simple, deft strokes: "This experience can make a person become another person... in fact, I think they are trying to make us become another person," Hamda says.

Finally, after years of Byzantine journeys through prisons, mental hospitals, suicide attempts and courts, the frail, old man, his

short-term memory nearly gone, is released back to the care of his wife and family where miraculously he recovers “his old joie de vivre”. Hamda is able, then, to return to Jordan with her daughters and their daughters for a three-week feast with extended family, every step of which is filmed for her husband in London.

In Jordan, growing up, Hamda says, “Our house was always open. 24 hours a day, anyone could come for our hospitality.” Back in London, Brittain watches her prepare a Ramadan feast with the help of her husband, “popping almonds out of their skins for her and reciting prayers” tacked to the walls so he can remember their words, and she sees how Hamda has become like her own mother whom she revered: “For the new generation of her grandchildren, for her grown up children and their husbands, she was the rock and reference of how to live.”

Shadow Lives makes me grateful for the graceful act of story-telling that opens doors and invites us in to unknown worlds. Language is human beings’ particular gift; we are here to listen and to tell. Stories are what make us human, after all. If there has been scant justice in the courts for the victims of torture and their families, they have not been completely forgotten, either. Insofar as their stories are told, there is some slight comfort and some redemptive virtue. Chapter after chapter, these women emerge as unique selves, often in despair, near madness, but also preternaturally strengthened as they continue to set examples of orderliness, studiousness, and politeness for their children and they endure, offering warmth and hospitality to extended family and guests.

Because Brittain has listened and attempted to enter the unfathomable to share experience of the inexplicable, the burden and the isolation of these families is to some degree lessened. Because, if no one knew their stories, the triumph of the evil done would be ever-more complete.

Therefore, it seems to me that Brittain has chosen her esthetic wisely, while Bigelow and Boal have squandered their choice.

They might well win an Academy Award; *Zero Dark Thirty* is being heavily promoted to do so. (To assuage the unconscious national guilt over torture and targeted assassination?) In comparison to such mass marketing, relatively few people are likely to read Brittain’s affecting book.

Yet, judging from another perspective, altogether other than commercial success, which record would we rather have remain to tell the story of our time—the film that promotes torture and targeted assassination or the book that honors enduring powers of tale-telling, resilience, and compassion?

REVIEWS: ZERO DARK THIRTY (Movie)

The Bigelow Experiment

by Binoy Kampmark

Oscar-winning director Kathryn Bigelow is in the news of late for an assortment of reasons. They centre on her much lauded film *Zero Dark Thirty*, an account of the killing and capturing of Osama bin Laden. The underlying message of the film – arguably the biggest catch – is the seemingly indispensable role torture plays in the mission.

The figures in the film, played by such glacial characters as Jessica Chastain and Chris Pratt are the nuts and bolt establishment of hardened CIA agents – they employ torture techniques as part of what is euphemistically termed “enhanced interrogation”.

The suggestion has been made that Bigelow slides into glorifying torture. But it can be just as easily claimed that she is portraying the appalling and the reprehensible nature of state policy. Governments torture, and that’s that. The next stage of the film’s premise is

also obvious: that torture did, in the end, have a role to play in finding and killing bin Laden. In this, the old question does arise when artistic license links arms with political themes. If you find it revolting, then the desired effect has been had.

Bigelow, in the words of Spencer Ackerman, writing for *Wired* (Dec. 10), “presents a graphic depiction of what declassified CIA documents indicate the torture program really was.”

In the words of an otherwise impressed David Edelstein, writing in the *New York Magazine* (Dec. 2), “By showing these excellent results – and by silencing the cries of the innocents held at Abu Ghraib, Bagram, and other ‘black sites’ – it makes a case for the efficacy of torture.”

Bigelow might not have intended it as such, but the chest-thumping justifications for its use in the name of the “greater good” are noisily present, a point remarked upon by critics. Again, it is worth pointing out that Bigelow is simply making use of existing records, and constructing a narrative based around policies that were adopted by the Bush administration.

Frank Bruni, writing in the *New York Times* on Sunday had an inkling that Dick Cheney might find much to commend in *Zero Dark Thirty*. As well he might – Cheney and his fellow fallen figure Donald Rumsfeld were always keen to extract any bit of worth from information that might have been obtained in such brutal circumstances. Bruni finds it hard to stomach the techniques (waterboarding, shackling) portrayed in the film. There is the “extended sequence in the movie [*that*] shows a detainee being strung up by his wrists, sexually humiliated, deprived of sleep, made to feel as if he’s drowning and shoved into a box smaller than a coffin.”

Bruni suggests that the film's message is clear – “no waterboarding, no Bin Laden”.

Bruni does have a valid point to make here. Debates within the administration, and at the lower levels of the CIA as to whether such torture is ever valuable are absent. Within the CIA, certainly at the operational levels, various officers found much to object to in the use of waterboarding. Nuance is neglected in favour of blunt justification, though this would be a harsh statement on Bigelow's artistic effort.

A frustrated Tony Camerino, a former US Air Force interrogator, has expressed his concern on that aspect of the film. “No body has mentioned the fact that you have a heroine in a movie who everybody praises who's complicit in torture and also tolerates torture” (*Huffington Post*, Dec. 13). If this is the case, Bigelow has succeeded in illustrating a rather depraved state of affairs, a culture where heroism can be alchemically derived from the application of torture.

It is striking to note how various American politicians have also weighed into the debate. Torture has been the bogeyman, and target, of Senator John McCain (R-Ariz.) ever since he returned from the Vietnam War a well rounded victim of its practice.

His comments came prior to the vote by the Senate Intelligence Committee chaired by Dianne Feinstein (D-Calif.) on a 6,000 page report on enhanced interrogation.

“It's wrong. It's wrong. I know for a fact, not because of this report – my own knowledge – that waterboarding, torture, does not lead to reliable information... in any case – not this specific case – in any case.”

Senator Feinstein herself has stated emphatically that none of the information that led to the finding and killing of bin Laden was derived from the torture policies of the Bush administration. Inconsistencies have arisen in the account. Both Feinstein and Senate Armed Services Chair Carl Levin (D-Mich.) were compelled to release a joint statement on April 27 countering suggestions by a former Deputy Director of Operations at the CIA Jose Rodriguez that torture had been effectively employed in finding bin Laden. “Statements by Mr. Rodriguez and former senior government officials about the role of the CIA interrogation program in locating Usama bin Laden (UBL) are inconsistent with CIA records.” The view held by those such as Rodriguez was “misguided and misinformed.”

Their colleagues, such as Senator Jim Risch (D-Idaho), take a middle ground. There was “a scintilla of evidence” that did “lead to this.” That did not mean he supported it. “Where enhanced interrogation turns to torture, of course, becomes a grayish line. But having said that, some of the things that were done were things that I wouldn't want to see done.”

That may well be – but the variances are damaging, enabling Bigelow's film to mine a field that, whatever her own motives, place torture in the grim light of the post 9-11 world. It's a damn dirty business, but for a few warriors willing to get their hands dirty in pursuing a cause, the rewards are there. Bigelow, far from being the propagandist of torture, is its forensic examiner. And the results are ugly.

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GROUND REPORT: SYRIA

© Barry

The hell of the 4th Division

Detention centers

Since the beginning of the uprising, as thousands of Syrians became detainees due to a massive arrest campaign, the regime had shortage of detention centers in prisons and security branches. And, this despite even schools being utilized as detention centers.

Among the replacement centers the regime has turned to are the premises of the Army's fourth division. Led by Brigadier General Maher El-Assad, these premises are spread

across armored Brigade 40, Brigade 138 Infantry, Regiment 154, armored brigade 42 in Sabora, Brigade 41 in Yafour, and Regiment 555 Paratrooper, all of which are located in Damascus suburbs. Often, detainees are directly held in the fourth division premises after being arrested, or they are transferred later from air force intelligence branches, after the air force is done investigating. Moa'damia and Somarie premises are the most widely used ones.

Paratrooper's Regiment 555 (Somariah)

None of the detainees whom have been held in this center has a clear description on the place's geography, since all whom have been there were blind-folded, the main gate is located 1 km away from Al-Somariah bus station. Yet, all who were admitted to this center have come to a mutual consensus that dormitories are cramped and undergrounded.

Most of them were transferred to the fourth division center in Al-Somariah after the investigation stage was finished (mostly in the nearby air force intelligence branch), and they were not subjected to any further investigation sessions while being in these centers.

Detainees who are usually sent to the fourth division centers are ones the regime has no intention of releasing or transferring to court any time soon, though they are done investigating the detainees.

In addition, these premises are considered to be torture centers in which detainees can be subjected to all kinds of ill-treatment and beating through the duration of their presence there, which often ranges from four to nine months.

First Testimony

Name: Kamal

Age: 25 Years

Province: Damascus Suburb

Profession & Educational Background:

A University Graduate

Charges: Taking part in demonstrations & other revolutionary activities.

Kamal Says: After completing a whole month in the air force intelligence branch, and after they were done investigating us, it

was decided that we were to be transferred to a different place. It was in February 2012, I cannot say how much time the trip from the air force intelligence branch at Mezzah's Military airport to the new place take us, as I was blind-folded. Upon our arrival, we were taken hand-cuffed with long chains that would bind me with other detainees so as to make movement impossible. We started to walk slowly and it took us almost 15 minutes. As we walked further, we could hear the screams of other detainees who were clearly suffering torture; voices kept getting louder as we walked further. During this time, guards wasted no time; they were hitting us all the way through, using batons and electrified sticks, all over our bodies, heads, necks and even areas of chastity, till we reached what was known to us later as the gate for the collective dungeon, which we went down through, using a stair. There they fully stripped us naked to do routine inspection, though we were just transferred from a different branch. But, I guess they used it as a means to humiliate us. And, right after we were stripped, they started hitting us and then we were admitted to the collective dungeon of course that was the reception party routinely given to new comers. It was after that I came to know we are at a fourth division premises.

There, we were reunited with some of the detainees who were with us through our detention at the air force intelligence base. Once I saw traces of the brutal beating and torture all over their bodies, I couldn't help but burst into tears.

Another friend that I met there had his back colored in red and grey cause they kept hitting him on this very same spot every time. Consequently, swelling and lesions were all over his back. He became extremely ill and had a high temperature.

There were only two Collective big cells and all other cells were relatively smaller. They used to put new detainees in the smaller ones as a preparation before transferring them to the big ones , and I remember they used the letter " C " to mark the big ones.

They used to put 25 detainees in each (C) Cell with no bathroom. Only 2 meals were served daily, and detainees had to follow specific rules when food is served. They had to stand facing walls with their hands behind their bags, blind-folded, and prison wardens would hit them with batons and electrified sticks, and after each meal we had to go to bathroom, and that would usually be accompanied with hitting and beating as well.

They used to make prisoners crawl their way to bathroom in pairs and to share the same one, they had to get it done in less than 30 second, and then run back to their cell stepping on the next pair crawling their way to the bathroom .

After serving the first short period in the small cells, prisoners are transferred to one of the two big collective cells. Mine was named (A). It had a shower and a plastic sink .

There was a respiration hole in the ceiling of the cell, and we believed that the hole was very close to the investigator office, as we could hear him clearly above us.

The second big collective cell was about two rooms opened to each other, with a very low ceiling (about 2.5 meters), with no respiration holes, and at times when electric power was off, and the air turbine stopped working , breathing became virtually impossible. Due to the poor ventilation, lots of detainees became very sick.

All new comers would arrive terribly

exhausted after being extremely beaten and tortured, and usually a few days passed before they would start talking to others. There was no constant pace for bringing new detainees. At the beginning they used to bring 25 almost every week, but through the last few months of me being there, they only brought a few. But in return they weren't releasing anybody, and they rarely made any exceptions.

We used to heal each other's wounds, playing doctors , and as I had an injury in my leg that kept deteriorating with time, I had to be carried to the bathroom. My fellow detainees tried to operate on me. They used to take the pus out of my festering wounds on daily basis, but things only got worse.

A person used to come by at the collective dungeon door to give medicine to sick detainees. Breakfast consisted of a one loaf of bread, 3 or 4 beads of olive, a small amount of jam and a hard-boiled egg that had a violet color. Lunch consisted of two loafs of bread, a glass of rice or bulgur, one small cold boiled potato, a single piece of fruit (apple or orange). We used to eat oranges without peeling them, and we used to consider old dried bread as a type of crackers.

In addition to overcrowding, and the rampant diseases which were wide-spread, massive hitting and beating campaigns were taking place irregularly. Through the first six months of the period that I spent there, beating and hitting campaigns were very intensive and horrific. At the beginning, hitting and beating was taking place on daily basis, then in a decreased pace, and then they went up again in frequency. Wardens pick randomly some detainees, take them out of the cell, and start to beat them for no apparent reason with batons and electrifying sticks. And, it may happen that the same detainee is chosen more than once consequentially

through these campaigns. And, in case detainees' chatter got loud or they started a quarrel, 15 wardens were sent to the cell, and they would start hitting and beating all the detainees insanely.

The concept of collective punishment was completely not understood from our side, as when newcomers arrived, they got brutally beaten upon their arrivals. One day after, at the time of inspection, and every time wardens enter the cell, and after each meal, they call on their names to beat them. And, they keep receiving this type of treatment, till other new comers arrive. Only then wardens label them as "Formers".

One of the unparalleled punishments that takes place on weekly basis is at the time when one is cleaning the cell. We were asked to group ourselves in a chosen corner in a rectangle shape, and wardens would enter the cell and start to beat us with batons and electrifying sticks, and after they were done with the first row, they asked those beaten to climb on the shoulders of detainees in the second row in front of them, so they can have access to that row. And, after being done cleaning the first half of the cell, detainees would have to move as fast as they could in a 3 meters space, or else they would suffer brutal beating. Accordingly, this would lead to senior detainees trampling on each other to escape the beating.

The Second Testimony

Name: Bassam El-Ahmad

Age: 31 year

Province: Hasake - Qamshlo

Profession & Educational Background:

A Human Right Activist & a School Teacher

Charge: Human Right activism

Bassam says: After 33 days of detentions, we were to be transferred to a new detention

center, which we discovered later was the fourth division. This only happened after me and other friends sharing the same cell carried out a hunger strike back in March 2012, at the time when we were held at the air force intelligence detention center.

We arrived at 11 o'clock in the morning blindfolded, and after going through what seemed to be like a gate in a mountain, as the headquarter of the fourth division in Al-Somaria looks carved in the mountain, we walked down in a north direction, coming down a 3 steps stair, and then we walked further till we arrived at another one, that got us to an underground dungeon, labeled (A).

Upon arrival we came to know through former detainees that we were at the headquarter of the fourth division.

Beating started the moment we arrived, as few men in military costumes (that I could hardly elude, blindfolded) started beating us "Newcomers" with batons, electrifying sticks and cables. They also used their hands and legs, kicking us all over our bodies, not to mention of course that all of this was accompanied by torrent of insults and cursing.

Fourth division's torture is distinguished for being not only physical, but it includes psychological and harassment as well. Nobody questioned me through the whole period that I spent there. It was only detention accompanied by harassments and insults through everything that we did: eating, weekly cell's clean-up, doctor's visit (who has absolutely no clue about medicine), and even through my visit to the barber (and that only happened after being there for 5 consecutive months).

The most painful scenes that I had to witness

were the torturing of old men, who were mostly from Homs, Hama, and Daraya.

When dinner is served, detainees are asked to blindfold themselves and to gather in one place kneeling on the ground, as wardens would start beating and electrifying detainees in the front row. And then they would order us to climb over each other so they could have access to other rows behind. Consequently floors of human bodies are formed on top of each other. Unpleasant odors, and the widely spread skin diseases such as scabies were the most distinctive features of the fourth division's detention centers, where total area for a single cell would not be more than (4 x 5 m), but yet the cell had to accommodate 80 persons. The collective cell, as it was called,

has one bathroom, and since we were given orders to economize on water, unpleasant odors filled the cell at all times.

In addition, insects such as lice and triatoma were widely spread on detainees' cloth, hair, and their long beards. Detainees were only designated one blanket infested with insects and disease for their own use.

Most of the detainees that I met were charged with either taking part in demonstration or being members of armed groups.

(Based on contributions by Syrian based rights group, the Human Right Violations Documentation Center)



“... country like India, having a planned defence spending outlay of an estimated US 44 Billion for 2012, has no justification to let 44% of its population suffering from malnutrition ...”

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EVENT: ASIA

A NETWORK OF JURISTS FOUNDED, TO FIGHT REPRESSION

Professional independence of judges & lawyers central to protection & promotion of human rights, rule of law, & democracy



The following is a statement based on discussions and resolutions made by a group of Asian jurists, who met between 9th and 11th April in Bangkok, to discuss threats to professional freedom of lawyers and independence of the judiciary in Asia. Jurists from Sri Lanka, India, Nepal, Bangladesh, Pakistan, Burma, Thailand, Indonesia, Philippines, South Korea, Vietnam, and Hong Kong attended the consultation. The Asian Human Rights Commission, along with the Lawyers' Collective of Sri Lanka, organised the consultation.

On 11th April 2013, the Government of Bangladesh arrested the Interim Editor

of a Bangla daily, Daily Amardesh, Mr. Mahmudur Rahman. When the police produced Rahman before the Dhaka Chief Metropolitan Magistrate's Court, he reportedly said: 'I know well that if I appoint any lawyer, he or she will submit prayers for my bail and cancellation of the remand prayer foolishly. The court will act on whatever decision comes from the government.'

Mr. Rahman's statement and its insight concerning the absence of judicial independence are unfortunately resonated in most of Asia. The public perception in Asia is that, in matters where the government is

keen in persecuting a person, the government dictates the courts to be biased in favour of the executive, and hence the courts cannot act independently.

The expectation, that the judiciary is to act independently and impartially at all circumstances, has eroded in most of Asia. This has led to a distrustful outlook about judicial independence in Asia. The spread of such a viewpoint in Asia is either a reflection of massive changes that have already taken place, or of conditions that have failed to improve, which poses serious threat to the independence of the judiciary, and the rule of law itself, in the region.

The participants expressed serious concern about the threats to the judiciary arising from different sources, and sometimes reflected by the internal changes within the judiciary itself. The unanimous view of all the participants is that, the independence of the judiciary must be taken-up as a major concern in Asia, and that it must be reflected in the interventions by the international community, including the United Nations, in its efforts that are undertaken to promote and to protect human rights in Asia. Protection of human rights is seriously undermined and threatened, when citizens cannot expect their courts to act independently, and to guarantee individual rights.

Concern about the absence of adequate protection for judges, lawyers, and litigants was a major sentiment expressed throughout this consultation. The participants felt that, a citizen commencing the path of seeking justice through courts, is exposed to serious threats to his or her life, liberties, and property. A citizen also has to take into consideration the threats that lawyers themselves are being exposed to and the possible unwarranted influences that prevent the judiciary from acting independently.

Many examples of threats faced by lawyers, judges and often litigants and witnesses, when they resort to litigation, were cited in the meeting.

The following is a list of concerns expressed by the participants:

- (i) threat of disenrollment of lawyers;
- (ii) actions of contempt of court against litigants and lawyers;
- (iii) attempted abduction of lawyers, witnesses and litigants;
- (iv) absence of investigation by the police on complaints of threats and intimidation of lawyers and litigants;
- (v) fabrication of criminal charges against lawyers, litigants, and witnesses;
- (vi) illegal arrest and custodial torture of lawyers, litigants and witnesses, in which, often even on complaints, courts are unable or unwilling to promptly intervene;
- (vii) close surveillance by state agencies of lawyers, judges and litigants, that violates privacy and privilege of professional communications;
- (viii) lawyers who are employed in government as well as private sectors restricted from freely exercising professional freedom;
- (ix) organised vilification campaigns of lawyers and judges by state and non-state actors;
- (x) intimidation of judges by arbitrarily transferring them repeatedly or promoting judges tainted with corruption overlooking seniority;
- (xi) internal as well as international travel restrictions imposed upon lawyers.
- (xii) lawyers who dare to challenge the smothering of professional freedom risk the loss of practice and income.

The above list is not exhaustive.

Extensive discussions were also held on the recent impeachment of the Chief Justice of Sri Lanka, Dr. Shirani Bandaranayake. The Government of Sri Lanka has abruptly removed Justice Bandaranayake from service, when a Supreme Court Bench led by her delivered judgments unfavourable to the government. The illegal removal of the Chief Justice from office, without adhering to universally approved fair-trial guarantees, is itself a stark expression of the threats that the judiciary is exposed to while trying to discharge their duties independently. The dismissal of the Chief Justice also strongly indicates that selection processes where persons willing to sacrifice the independence of the judiciary in favour of the executive are preferred by the government in such designations.

The participants highlighted the centrality of the independence of the judiciary to ensure the protection and promotion of human rights. Efforts to promote the rule of law and democracy are inseparable from judicial independence in Asia. Fundamental to this is the elimination of all threats against the exercise of professional independence of the judiciary.

It must be restated that the role of the magistrate is to protect the individual from undue interferences from the executive. This mandate is seriously undermined when the executive makes all efforts to subjugate magistracy to its administrative writ.

Lawyers are officers of the court. Threats to lawyers are threats to the independent operation of the judiciary. When the executive prevents, the possibility of citizens with grievances against the executive seeking redress through courts, the very notion of the separation of powers is jeopardised and negated.

The executive, to undermine judicial independence, denies the judiciary adequate resources. In all Asian states, there are serious complaints, from the judiciary and the general public, that necessary budgetary allocations are not provided to judicial institutions. This has hampered the efficiency of these institutions. In India, for instance, this lack of budgetary allocation has led to delays in adjudication; a case today takes more than a decade to complete, rendering the concept of justice itself a misnomer.

The participants further expressed serious concerns about judicial corruption and accountability. In most Asian states, judges face strong allegations of corruption. In Bangladesh, for instance, judges openly demand and receive bribes. In most of Asia, an independent oversight mechanism that could investigate judicial corruption does not exist. Often judges themselves prevent the creation of such an institution.

The participants affirmed that in Asia, judicial independence as a subject of discussion is to be brought to the forefront of national, regional, and international debates. This, the participants confirmed is the most urgent requirement, without which all discussions about protection and promotion of human rights, on prevention of corruption, and on democracy and the rule of law would be meaningless. The participants urged that the international community, including the United Nations – particularly its human rights mechanisms – should prioritise the need to protect the rights of the people to seek judicial protection and to obtain it within a framework of justice and fairness.

If there is failure in ensuring judicial independence in Asia, then, much of the global efforts to promote the rule of law, democracy, and human rights in Asia will not render any practical and tangible

results, affirmed the participants. Without a concentrated effort to ensure judicial independence, participants expressed fear, the people living in states where the judiciary does not enjoy the independent status it deserves, will continue facing huge stumbling blocks in the realisation of universally accepted fundamental human rights guarantees, most importantly those of dignity, equality, and freedom.

The participants urged that the international community, including the United Nations, should acquire adequate knowledge about threats posed to the independence of the judiciary and to lawyers in Asia. Today, the issue is not adequately addressed regionally and internationally, and participating members called out to states and all other international as well as regional entities, having their influence in Asia, to develop bilateral policies with Asian states where threats to judicial independence has become a matter of utmost urgency.

During the meeting, it was accepted and emphasized that much is to be done, by Asian lawyers and judges, in order to promote their own concerns about professional independence. It was agreed that more discussions like the one held at Bangkok need to take place within domestic jurisdictions. Individuals present urged, that to realise this, Asian jurists should come together, and pursue the development of the institution of justice as a common cause in Asia.

The participants reiterated that it is the duty of Asian jurists to demand policy changes from their governments, so that states give priority to the advancement of justice and to the development of domestic institutions' capacities to deliver justice. The participants are unanimously of the opinion that towards the above end, a network of lawyers and judges - sitting and/or retired - should be

developed in Asia. This network should lead the way to bring the discussion of independence of judges and lawyers to the forefront.

As a matter of priority, this network should develop capacities to assist lawyers and judges who face threats. Each case of threat to professional freedom needs to be expeditiously documented and shared with others within the country as well as internationally. With adequate utilisation of modern communication facilities, such sharing of information could be done without incurring exorbitant costs. Towards this, lawyers must be trained to document the treats they face, meticulously and with the greatest possible details.

The practice of such documentation and dissemination of information is inadequate in Asia. The participants opined that the quality of the documentation and its widest possible dissemination, seeking interventions, whenever professional independence of either the judiciary or that of the lawyers are under attack, could be a game-changer to the existing conditions dominated by fear and isolation in Asia. Besides, practical steps should be developed to assist persons facing threats, for instance, by ensuring protection of lawyers and judges under threat by safe relocation, whenever necessary.

Participants agreed to take active part in the development of this network for protection of independence of the judiciary and that of lawyers.

(The above statement was issued by the participants who attended the consultation on independence of judges and lawyers in Asia held in Bangkok from 09-11 April 2013, an event attended by 30 participants from 12 Asian countries)

ESSAY: TORTURE AND TECHNOLOGY

The Threats are Real

*Massive New Brain Projects, Secret Science, &
Emerging Cold War Weapons*

by Cheryl Welsh

In January 2013, the EU officially announced a decade long multi-billion dollar project to build a silicon brain—now the world’s largest program on brain research. The project utilizes computers to process existing brain research in order to reconstruct and simulate the brain. In his State of the Union address, President Obama proposed the Brain Activity Map project to understand how the brain works. Dr. Francis Collins is director of the US National Institutes of Health (NIH), a coordinating agency of the Brain Activity Map project. He was the former head of the Human Genome Project which sequenced the human genome. Collins compared the Genome Project to the new project:

[T]his could build a foundation for the future of our understanding of neuroscience that would be going forward for decades to

come. . . This is the natural place for the government to invest, just like the Genome Project, where all of that effort was basically funded by the taxpayer, but then resulted in this enormous proliferation of private sector activity that’s transforming medicine.

Not without controversy, the US scientists proposing the project warned of potential ethical concerns including mind control.

Ethicist Dr. Paul Wolpe agreed that the massive projects signal a turning point in neuroscience. Mind control is no longer science fiction and the threat of new technologies and weapons is real. The public has long held a general fear that the government will someday read a person’s thoughts remotely and take over his or her

brain. In the US, the science of mental and physical torture began with the Russian brainwashing scare in the 1950s and the CIA reacted by launching its mind control programs. Since then, brain research for national security purposes, as well as public fears have continued.

In 1976, the U.S. Defense Advanced Research Project Agency (DARPA) reported to Congress that mind-reading machines are beginning to decipher a person's brain waves or EEG. When asked if the machines could surreptitiously scan the brains of prisoners of war and unwitting victims, the Agency scientists stated that current technologies require electrodes placed on the scalp. However, they described magnetic brain waves that could be detected a few feet away and greater distances could be achieved in the 1980s. Today, it is not known if the scientists were successful.

Public fears of government scientists conducting secret mind control research are continuing. Since the 1960s, victim petitions for help to stop government mind control targeting worldwide have been unrelenting. In the 1960s and 70s, US Congress called them "wavies" while today the news media mockingly refer to them as "the tin foil hat crowd." Wolpe explained that he gets hundreds of letters, but the claims are not real. The conventional wisdom is that unclassified science research develops at a slower but similar rate as in classified research. Neuroscience is rudimentary largely due to the lack of technologies to access the brain. Brain implants are invasive and can only interface with small groups of brain cells while magnetic resonance imaging machines (MRIs) and other technologies can only imprecisely scan the whole brain.

Both mind control allegations and solving how the brain works require new technologies that can access the brain remotely and a general theory of how the brain works. The brain projects represent a major shift in neuroscience progress and a second look at the allegations is warranted. It sounds absolutely impossible but emerging evidence presented below supports the following.

Similar to the US Manhattan Project that led to the successful engineering of the atomic bomb, a secret 1950s "Manhattan mind control Project" may have taken place. In the 1950s, the basis of a generally accepted theory for how the brain works was available. The US government kept the science of remote mind control weapons secret from most experts for decades. The evidence is new and compelling and supports that the mind control allegations are true.

Atomic Physics & a 1950s Brain Theory

Although considered more complex than atomic physics, today neuroscience is at a similar stage as atomic physics of the 1940s.

In the early 1930s, physics experiments supported "the generally accepted idea that slow neutrons would be taken up by the atomic nucleus and increase its mass, the new nucleus might be unstable, and lose beta particles with the formation of a new element." But some physicists discovered that this hypothesis was wrong and in 1939, the process of fission was established. Notably, fission was considered impossible by some leading physicists at the time. Nevertheless, the concept of the atomic bomb could be discerned from unclassified physics literature and a group of physicists warned President Roosevelt to build the

weapon before Germany did. Likewise, the concept of advanced mind control weapons is evident in today's neuroscience literature; there is a consensus by the EU and US that the government brain projects are scientifically feasible and significant progress is likely.

Furthermore, a prominent neuroscientist recently wrote that a general theory of how the human brain works could be based on the neuroscience breakthroughs that occurred in the 1950s. Neuroscience breakthroughs after the 1950s paled in comparison. A theory for how the brain works was possible, based on the 1950s breakthroughs coupled with research after the 1950s establishing that the "microstructure of cognition" is the synapse of the neuron which is the basic computational unit of the nervous system. The book received favorable reviews; it has not been contested by neuroscientists; and it is the basis of two Yale University courses on neuroscience. The book won a 2010 International Society for the History of Neurosciences award. Thus, a strong case can be made that in the 1950s, the fundamental research required to develop a brain theory was available in the unclassified neuroscience literature.

20th Century Physics & 21st Century Molecular Biology

A fascinating history supports that the US government kept the science of some mind control weapons secret from most experts for decades. It turns out that classified and unclassified neuroscience research utilized different approaches to the study of the brain, as shown below in a brief history of the development of technologies to access the brain.

Physics dominated the first half of the twentieth century and much has been

written about physicists who left atomic research for biophysics research of life, including brain research. This contributed to a biophysics boom of the 1950s which included multidisciplinary research by physicists and biologist on the study of nerve and brain function. A.V. Hill, D.W. Bronk and F.O. Schmitt were all prominent neurophysiologists, scientific administrators and military advisors who believed in and promoted the importance of biophysics. But for several reasons beyond the scope of this paper, the great interest in biophysics did not last through the 1960s. Instead it was absorbed by molecular biology which culminated in the Human Genome Project, as well as by biochemistry and modern neuroscience. Molecular biology is one major area of science that has dominated neuroscience research.

So it is not surprising that the US brain project was conceived at a meeting arranged by Miyoung Chun, a molecular biologist and included George Church, a molecular geneticist among others. They agreed on a plan to study the brain that embraced a focus on molecular biology—by developing technologies to access the brain such as nanoprobe and wireless microcircuits to float freely in the brain. The proposed technologies to access the brain involved physical contact, invasive procedures or bulky machines and cannot be done remotely. By contrast, classified government research developed different technologies to access the brain remotely.

Secret US government mind control research utilized a physics and electrical engineering approach for remote access to the brain. In the 1940s and 50s, physics, computer science and electrical engineering were dominant areas of research in the classified realm. This led to

the development of U.S. radar and satellite surveillance and signals intelligence which proliferated in nearly complete secrecy. To some extent, the different approaches found in classified and unclassified neuroscience research can be traced to basic science facts about the brain.

For progress in neuroscience and mind control weapons to take place, technologies for direct access to the brain are required and the preference is for noninvasive remote methods. For example, invasive surgeries performed on healthy human subjects in experiments is unethical. There is no dispute that the electrochemical brain communicates with electrical, electromagnetic and magnetic signals as well as chemical signals; both are essential to understanding brain function. However, the brain can only be accessed remotely by electrical, electromagnetic and magnetic signals which can mimic, interfere with or directly communicate with brain cells. The brain cannot be accessed remotely by chemical signaling. While unclassified neuroscience research has focused on developing an electronic technology such as nanoprobes or implants to interface with the brain, classified research such as the DARPA EEG research is based on the concept that the brain itself is an electrical system. As shown below, this difference would have far reaching results.

Bioelectronics, the Application of Electronics Science to Biology

More than a brief introduction to the concept of the brain itself as an electrical system is beyond the scope of this paper. During the Cold War, unclassified research demonstrated that the brain is like a radio receiver that can transmit and receive electromagnetic signals, and the brain has

similarities to a hybrid analog and digital computer. The brain also resembles a computer's integrated circuits with direct current (dc) and semi-conduction. This research is considered promising although nearly all of it remains unproven. In the 1950s, government scientists would have realized the tremendous national security implications of this research—it is a likely scientific basis for some remote mind control weapons. Nevertheless, since the 1950s, the concept of the brain as an electrical system received little or no government funding for unclassified research and today, scientists conducting unclassified mainstream neuroscience research reject this concept as scientifically impossible, science fiction or worse.

One example illustrates the point. John von Neuman, the mathematician and computer pioneer who conducted secret research on the atomic bomb wrote the 1957 book *The Computer and the Brain*. He predicted on logical and mathematical grounds that a hybridization of data transmission and control functions must exist in the biological world. Von Neuman and several prominent scientists hypothesized or conducted unclassified research that extended von Neuman's prediction: there were two major brain signaling systems in the brain and the brain worked by a combination of analog and digital coding by means of the interaction of two types of brain cells, neurons and glia. This research has never been proven; for decades, it has faced lack of interest or scientific dogma and some of research is known to be classified.

There are many reasons that the mainstream science establishment opposes conflicting concepts and ideas, including entrenched scientific turf and theories, perceived

limitations in tools and methodology, and differential institutional power. For over 60 years, the US government has had the tremendous advantage of a secret physics and electrical engineering approach to neuroscience research— called bioelectronics— while for the most part researchers conducting unclassified research were limited to a molecular biology and biochemistry approach. For example, without exposure to bioelectronics, researchers in the unclassified realm could not fathom how electromagnetic radiation could interact with the brain. Consequently, mind control allegations are considered science fiction.

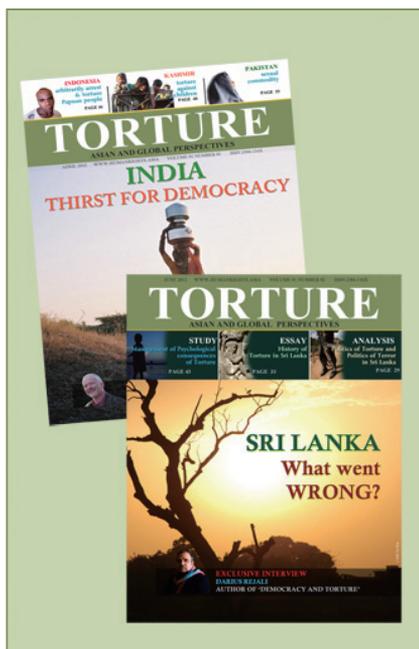
In reality, two different approaches— both essential to solving how the brain works—have been available to researchers conducting classified neuroscience research while at the same time only one approach has been available to researchers conducting

unclassified mainstream neuroscience research. Accordingly, the US government almost certainly has made great advances in neuroscience research while at the same time unclassified neuroscience research has remained rudimentary. In this way, a vital national security has been maintained for decades.

Conclusions

Contrary to the consensus, the emerging evidence supports that remote mind control weapons have been scientifically feasible for decades. The risk of already developed secret mind control weapons is significant and a thorough impartial investigation is called for.

(Cheryl Welsh is director of a small non-profit human rights group located in Davis, California, USA.)



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GUEST COLUMN



Matale Mass Grave

Ghosts of the past haunt Sri Lanka

by Ranga Jayasuriya

True to Sri Lankan style, the President's office in Colombo, on April 7, announced that Sri Lankan President Mahinda Rajapaksa has decided to appoint a 'presidential commission' to conduct an inquiry into the mass grave that had been discovered on the backyard of the Matale hospital, located in the central province, 142 km from the capital, Colombo.

The shallow grave was first discovered by construction workers, who had been digging a trench in the hospital premises. Since then, 154 skeletons had been unearthed from the grave before the excavations were concluded in March this year. Two expert reports, one by the Judicial Medical Officer of Matale, Dr. Ajith Jayasena and another by Professor Raj Somadeva, Professor of Forensic

Archaeology at the University of Kelaniya, have established that

- (a) the mass grave dates back to the government's counter insurgency campaign against the southern insurgency in 1989-90 and
- (b) that the victims had been subjected to extensive torture, before they were killed and buried.

Meanwhile, some survivors have come forward to allege that the Army, in 1989, operated a torture chamber in a school, Vijaya Vidyalaya, located near the site of the current mass grave.

However, the government's hasty announcement of the proposed presidential commission was made incidentally on the very day the *Ceylon Today* newspaper in Colombo reported a narrative by K.G. Kamalawathi, whose teenage sons had been abducted by the Army on 13 December 1989.

The hasty presidential announcement was apparently made in order to pre-empt a potential fallout from the media disclosure relating to powerful Defence Secretary's complicity in the ruthless counter-insurgency campaign in 1988-89.¹

However, the credentials of the commission as a genuine effort to seek the truth buried in the sand of Matale is open to question.

The President's Spokesman Mohan Samaranayake told the media, when he announced the presidential decision to appoint a commission, that the mandate of

the proposed commission was to be finalized in two days. Mr. Samaranayake was, in fact, candid enough to confide that he knew precious little about the commission and that he was also awaiting further instruction on the latest presidential decision. However, a week has passed since the initial presidential announcement was made and the president is conspicuously silent over the appointment of the presidential commission.

The procrastination has only been eroding the public confidence on the so called presidential commissions. The deep-rooted structural problems related to the governance, law enforcement, and criminal justice systems in the country, and weak institutions, raise serious concerns about the country's competence to conduct an independent domestic investigation into the Matale mass grave.

The prevailing culture of impunity in Sri Lanka has seen that not a single conviction has resulted in a series of high-profile human rights violations. As far as the mass grave in Matale is concerned, the situation is further complicated by the fact that some of those who held command responsibilities in 1989-90, are now holding positions of influence, including the current Secretary of Defence, Gotabhaya Rajapaksa.

Since the Criminal Investigation Department (CID), which is conducting a separate investigation into the mass grave, comes under the direct control of the Ministry of Defence headed by younger brother Rajapaksa, there is an obvious conflict of interest.

Equally troubling is that Sri Lanka does not have a witness protection scheme, which would have guaranteed the security of the family members who would come forward to give evidence before the proposed

¹ See the related story in which Mrs. Kamalawathi recalls how she was turned back at the gate of the Army Camp, when she went to meet the then Military Coordinating Officer (MCO) of Matale, Lt. Col. Gotabhaya Rajapaksa, to seek the release of her detained sons.

commission. Last year, a Tamil man known as Majestic Prabha, was allegedly abducted by the state apparatus, after he filed a Fundamental Rights Petition against senior police officers who had allegedly tortured him while he had previously been held at a detention facility of the Terrorist Investigation Division (TID).

Faltered, Crumbled

Sri Lanka's recent history of presidential commissions does not assuage concerns of political bias and lack of independence.

The previous 'independent commissions' that had been tasked with politically sensitive investigations have faltered and crumbled. Worst still is that most individuals who had been handpicked to those commissions were, in fact, apologists for the current regime.

One interesting analogy is the conduct of the Commission of Inquiry appointed by President Mahinda Rajapaksa in 2006 to probe several high-profile incidents of human rights violations, including the killing of five students in Trincomalee, and the massacre of relief workers of the Action against Hunger (ACF) in Muttur. An International Independent Group of Eminent Persons (IIGEP) - headed by respected Indian former Chief Justice, P.N. Bhagawati - was invited by the President to assist and observe investigations conducted by the Commission of Inquiry. However, in April 2008, after two long but futile years, the IIGEP terminated its existence, blaming the lack of political will on the part of the Government of Sri Lanka to support a search for the truth.

Sometime later, when the mandate of the Commission of Inquiry expired, it had done precious little, other than blaming the ACF for its slain employees.

The bottom line is that presidential commissions in Sri Lanka are meant to buy time and to divert international and local attention. One could only hope that the latest presidential commission would be an exception to this norm. For that to happen, one would argue that it is mandatory that the commission has international participation.

Gory Details of Torture

Twenty five years after thousands of youths were abducted, tortured, killed and dumped into undocumented graves, the ghosts of the past have come to haunt Sri Lanka. Matale mass grave has thrust open the door to a secrete torture chamber, which was among hundreds of such facilities that dotted Sri Lanka in its darkest years of its independent history.

The gory details of extensive torture that the nameless victims had been subjected before being tossed into the shallow grave have been catalogued in the report of Judicial Medical Officer (JMO), Dr. Ajith Jayasena.

"The skeletons bore extensive marks of torture. We have discovered a major crime scene," says Dr. Jayasena.

"Nails have been inserted into the fingers in some skeletons. In some others, nails have been inserted into the legs of the victims as well. "Some skeletons had their heads severed from the body by a saw. There was also a wire with a loop, which had been used repeatedly. According to our knowledge, its main use could have been to electrocute prisoners," he explains.

The JMO's report had been submitted to Matale Additional District Judge and Magistrate, Chathurika Silva.

The two reports by Dr. Jayasena and Professor Raj Somadeva, the latter assigned by the Magistrate to conduct an investigation on the mass grave, have established that the mass grave was dating back to the period between 1986 and 1990.

Their findings have now led to the former inmates of a military-run detention facility located in the vicinity of the mass grave site, in 1989-90, to come forward to claim the detention centre was, in fact, a torture chamber.

Pubudu Jagoda, Propaganda Secretary of the Frontline Socialist Party (FSP) told this writer that the survivors of the torture chamber would come out to reveal the gory details of their ordeal.

FSP is a breakaway group of the Janatha Vimukthi Peramuna which waged two unsuccessful rebellions in 1971 and 1988-89 in Sri Lanka.

“There are survivors of that torture chamber, who survived their ordeal and continue to serve as the active members of our party. They have narrated their ordeal to the party members,” Jagoda said.

Again, it is concern about their safety that dissuades many other potential witnesses and family members of the missing youth from coming forward, according to some parents who spoke to this writer.

Meanwhile, families of the youth who had been detained in the military facility and later disappeared are planning to petition the Human Rights Commission of Sri Lanka demanding justice to the dead.

Jagoda had also filed a complaint with the Commission demanding an investigation.

Janatha Vimukthi Peramuna (JVP) has also launched an island-wide campaign to document the dead and missing members of the party during the 1988-89.

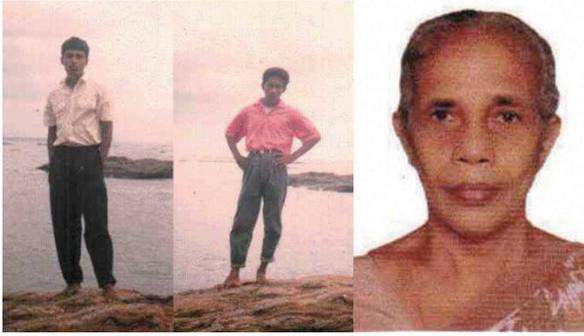
In the meantime, the government appears to be nonchalant, notwithstanding its initial kneejerk reaction. Powerful defence secretary has been tight-lipped over his role as the Military Coordinating Officer of Matale in 1989-90. Whereas in some other distant corners in the world, notably in Latin America, where the counter insurgency tactics of ‘Operation Condor’ and over a dozen dirty wars were emulated by the Sri Lankan military and paramilitary groups in the 88-89, the dirty war generals from Argentina to Guatemala are serving time in jail for their role in egregious human rights violations for which they have been held accountable.

Justice, however, remains a distant dream for the victims of Sri Lanka’s own dirty war in the south, even 25 years after it ended, and the more recent victims in the north.

A Related Story:

‘I was turned back when I went to see Goatabaya to plead for the release of my detained sons in 1989.’

A grieving mother of two teenage sons who were abducted by the Army in 1989, told this writer how she was stopped and sent back when she went to meet then Military Coordinating Officer (MCO) for Matale, Lt Col. Gotabhaya Rajapaksa. Her sons never returned home. Gotabhaya Rajapaksa later left the military and left for the USA where he was domiciled for the next 15 years. He returned to Sri Lanka upon the election of his brother President Mahinda Rajapaksa. He is now the all powerful Secretary of Defence in Sri Lanka.



File Photo: Susantha Janaka, Rohana Nishantha, & K.G. Kamalawathi

The two teenage sons of K.G. Kamalawathi were snatched by the soldiers who arrived at her residence during a notorious 'military round up' of local youth on 13 December 1989. The two teenagers, Susantha Janaka (18) and Rohana Nishantha (17), were GCE Advanced Level students at Science College and Vijaya Vidyalaya, Matale.

The two boys were having their lunch when the military unceremoniously entered their home at Warakanda Watta, Ukuwela, Matale, and took them to the Rest House Camp, near Vijaya Vidyalaya, which was located in the vicinity of the current mass grave at the backyard of the Matale Hospital, from where 154 skeleton remains dating back to 1986-89 as stated in the investigations, had been uncovered.

"Thirteen other boys from the village were also taken on by the Army that day," recalls Kamalawathi.

"When my children were taken by the Army, I followed them. They were taken to the Rest House Camp, located near Vijaya Vidyalaya. I asked that I be allowed to talk to my sons, but the soldiers refused."

Kamalawathi visited the Army camp the following day and once again she had been denied permission to see her sons.

"On the third day, a soldier read out from a list the names of the children who had been held in the camp. Some names had been cut off with a red pen and the names of my two sons had also been cut off, in red," she said.

Kamalawathi had arrived in Matale only four months before, after being driven away from Pulmudai by the Tamil Tigers.

"My husband was dead and I was looking after four children on my own."

Kamalawathi pleaded with a soldier, who she remembers as U.P.R Perera, to be allowed to see her sons. He went to the camp and returned to tell her that her two sons were kept in the camp, but she could not be allowed to see them.

No One to Turn to

A grieving widowed mother, who was new to Matale, she had no one to turn to for help. It was at that point she came to know that Nandimithra Ekanayake, now a Minister of the current government, was helping the families of the disappeared. She sought his help and he had promised to do 'whatever he could,' recalls Kamalawathi.

Nandimitra Ekanayake subsequently told her that he sent his Secretary to the Rest House Camp and that her two sons had been held there.

Later, he told her to go and meet the Military Coordinating Officer, who was identified as Gotabhaya Rajapaksa.

"We were at a loss. Here, Mahinda Rajapaksa was campaigning on behalf of the children who had been abducted, and I could not believe that his brother was in the Army at the same time," she said.

However, she decided to go and meet him. Nandimithra had told her that he had contacted Gotabhaya Rajapaksa over the two detained youth.

“But, when I went to meet him, I was stopped at the gate by a soldier called Corporal Silva. He told me I could not meet the MCO and I was ordered to leave the place,” she said.

Devastated, Kamalawathi continued to visit the Rest House camp every day from the day her children had been taken by the Army. The soldiers ‘tricked’ her by sending her to different camps that dotted Matale at the time, claiming that her two sons were transferred from one camp to another.

She pleaded for help from the Red Cross and wrote to UN agencies for help, some of which acknowledged the receipt of her letters. But, no one could get her children released from military custody. Months later, some local boys were released from military custody. They told her that they, along with her sons, had been taken to the ‘Red Barna Camp,’ and that they also spent time in a military camp, which was operating from Vijaya Vidyalaya, where the Gajaba Regiment was alleged to have operated a torture chamber.

However, her two sons never returned and Kamalawathi, shattered and helpless, had given up on her search.

Later, when the Chandrika Kumaratunga administration offered death certificates for the disappeared youth, she refused to accept death certificates for her two sons.

“I am coming forward now to tell the story because I want justice for my sons. I don’t know whether justice will ever be delivered,” she said.

Several years after the abduction of her two sons, Alick Aluvihare, the UNP strongman

at the time in Matale had contacted Kamalawathi.

“He asked me why I did not tell him about my sons. He could have saved them, he said. But how could I seek help from those who commissioned the crime. It was they who had authorized those crimes,” she added. By now, she may know that it was not only the Aluvihares who were behind the incident. There are others too, some of who still remain all powerful.

‘It could have been an Exception’

When contacted, Minister Nandimithra Ekanayake, he said he could not remember this particular incident involving Mrs. Kamalawathi, but added that he took up ‘countless’ cases of disappearances of local youth at that time. “I was the only MP elected from the Opposition; the other four parliamentarians were from the UNP,” he said. He also said Gotabhaya Rajapaksa, the Military Coordinating Officer of Matale at that time, had been very ‘cooperative’ (towards him) and ‘kind’ to the detained youth. Even those youth who committed ‘the worst offences’ had been sent to rehabilitation camps, he said, adding, “That particular instance, (Kamalawathi’s) could have been an exception.

Four Presidential Commissions

Nearly 18 years ago, the then newly elected President, Chandrika Kumaratunga, appointed three interlinked Presidential Commissions of Inquiry on Involuntary Removal and Disappearance of Persons.

The three commissions were vested with a mandate to investigate and report on the human rights abuses, mainly the disappearances that took place in three main regions during the period 1988-1994.

These three commissions inquired into 27,526 complaints of disappearances and established 16,742 proven incidents of disappearance.

After the mandate of the three commissions had expired, the government established a fourth commission, known as the All Island Presidential Commission on Disappearances, which inquired into 10,136 cases and established 4,473 cases of disappearances. At the expiration of its mandate, the All Island Presidential Commission referred an additional 16,305 complaints which it could not inquire into, due to the limitation on its tenure, to the National Human Rights Commission.

However, in July 2006, the National Human Rights Commission decided not to pursue investigations into the existing complaints, 'unless special directions are received from the government'.

The job of the proposed presidential commission on the mass grave would be made much easier by four lengthy reports prepared by the previous Presidential Commissions on Disappearances, which have provided extensive and disturbing details about the scale of disappearances, which were largely blamed on the State military apparatus and affiliated paramilitary groups.

(Earlier, faced with international condemnation, President Ranasinghe Premadasa, in January 1993, appointed a Presidential Commission of Inquiry into the Involuntary Removal of Persons. However, mindful of his own culpability in grotesque rights violations that took place in 1989-90, President Premadasa, excluded the period of the second JVP insurgency from the mandate of his farcical Commission of Inquiry. The mandate of his commission covered only the period beginning from 11 January 1991.)

'Chased away like dogs'

The All Island Presidential Commission in its report acknowledges the persistent problem in Sri Lanka's security apparatus and law enforcement agencies:

"The security forces and the police are necessary adjuncts of a State. They are required for the protection of the State and the protection of the citizens of the State. The average citizen looks to them for protection. The tragedy of Sri Lanka lies in the distortion of relationships between the citizens and the security forces including the police, which has resulted from the acts of both politicians and subversives."

The report narrates the routine experience of grieving parents, like Kamalawathi:

"During the sittings of this Commission, we repeatedly heard the saying: "When we went to a police station, we were chased away like dogs."

The following is an excerpt from the Presidential Commission of Involuntary Removal and Disappearances in the Western, Southern and Sabaragamuwa Provinces:

"Persons who sought the protection of law encountered a complete denial to them of recourse to the ordinary procedures of law enforcement; i.e. reporting to the police, the reports being followed up by an investigation by the police, a contemporaneous police record of the incidents of disappearance and statements of witnesses, and police report of courts with the attendant safeguards for witnesses, including the complainant, and assistance in obtaining relevant further evidence including forensic evidence."

"I went to the police 76 times, but we were driven away like dogs." - Father

And the reports shed light into grotesque counter insurgency practices deployed by the Security Forces.

Excerpts:

“Broilers:”

“A practice of keeping in unrecorded detention ‘stocks’ of detainees of a certain age-group, who had been taken into custody in combing-out operations or casually off the road/beach was evident in several instances from the evidence of returned detainees. These persons then disappeared without trace after being taken out of the camp generally following on a subversive act that had caused loss of life or damage to property damage or on the camp being dismantled. Given the practice of ‘reprisal killings,’ sinister significance attached to these disappearances from State custody. Hence the slang of the period.”

Some military officers were candid enough to confess the pressure brought upon them by local politicians. Below is an excerpt from a statement given by Lt. Gen. Rohan Daluwatta, Commander Sri Lankan Army, to the Presidential Commission:

“While I was Co-ordinating Officer, Ratnapura, certain political pressures were brought to bear on me. I was given a list of names with the direction to take them into custody, that they were JVPers. I received the List from a former Minister [deleted from the report]... When I checked the list with the Police, I came to know that they were SLFPers. I was told, that area could be cleared were I to catch them.”

Twenty five years after thousands of youths were abducted, tortured, killed and dumped into undocumented graves, the ghosts of the past have come to haunt Sri Lanka. Sri

Lankans have failed to hold the killers of their sons and daughters responsible, and their very failure condemned them to live in a climate of impunity. Should they decide to act decisively this time, not only would they help delivering justice to their dead, but also help end a culture of impunity, in which they have been held hostages.

Ranga Jayasuriya is a Sri Lankan journalist and defence correspondent. He covered Sri Lanka’s ethnic conflict, the peace process, and the war for several leading Sri Lankan newspapers during his career spanning over a decade. He is also the General Secretary of Sri Lanka Working Journalists Association (SLWJA). He is currently a Deputy Editor of the *Ceylon Today* newspaper in Colombo. He holds a Masters degree in Strategic Studies from Rajaratnam School of International Studies (RSIS), Nanyang Technological University, Singapore, and a BA degree in English and Journalism from the Sabaragamuwa University of Sri Lanka.

Cry, my beloved country, cry.
Loudly ask why
Do not let the monsters
Smash out the light.

Look at those three hoodless vans
In the thick of darkness coming,
Keeping measured distances.
They move slowly.
One in front carries
Young prisoners from a camp
And a few soldiers.
They each take a prisoner
Throw them into the air,
As children throw balloons.
A marksman takes aim,
Moving his expert fingers.
A few soldiers rush out of the third van,
Pour petrol and set fire
To the wounded youths.
Three vans move again,
Keeping measured distances,
Till the next prisoner is thrown like a balloon.
When Kerosene runs out,
The van begins its return, taking back
A single surviving prisoner.

In a mass grave at Matale
Remains of one-hundred
And fifty bodies are excavated.
Some, among so many
In the South, North and East.
Such are the works of new monsters,
Created by the marriage of
Modern physics and ancient metaphysics.

Modern monsters more sinister
Than a nine-headed poisonous dragon,
Medusa or Minotaur.
Theseus, Perseus and Hercules
Too weak to tame
The modern monsters,
Created out of new concoctions.
Perhaps, the depths of all oceans,
And ocean-like human minds,
Must be stirred, again and again...
Till a new potent concoction,
Emerges with powers
To annihilate the modern monsters.
Cry, my beloved country, cry.
Till out of the abyss of our desolation
New giants may arise,
Who, unlike Hellenistic heroes,
Will possess the psychic power
To melt away our collective burden.

Basil Fernando published his first volume of poems *A New Era to Emerge* in 1972. Since then, he has published several volumes of poems in English and two collections in Sinhala. His poems have appeared in several Sri Lankan and international anthologies. His poems have been translated into many Western and Asian languages. A translated anthology of his poems was published in Malayalam entitled *Sundaramaithry*. In 1983, he and Richard Zoysa shared the first prize for poetry in *New Ceylon Writings*, published by Professor Yasmin Gunaratne. His poems are available at http://www.basilfernando.net/modules.php?name=Content&pa=list_pages_categories&cid=15

Us

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The Modern MONSTERS

A poem by Basil Fernando

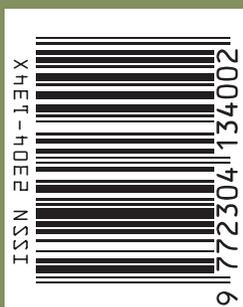
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