

TORTURE

ASIAN AND GLOBAL PERSPECTIVES

JUNE 2015 VOLUME 04 NUMBER 01 & 02

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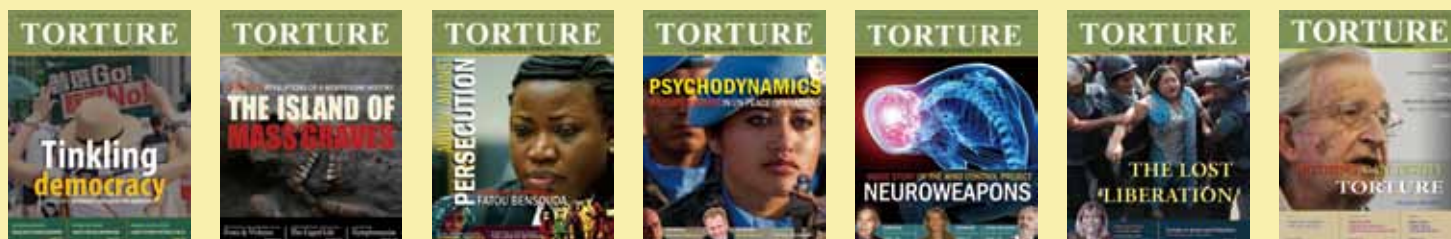
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THE LOST CAUSE

*Impunity of torture despite anti-torture legislation
In the Philippines*



Torture: Asian & Global Perspectives offers unflinching reflection of the practice of torture in Asia, and provides space for discussion to help eradicate torture throughout the world.

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Front cover photo:

Children in a village in the Philippines stand in front of some of the damage and debris left by the storm.

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Children in a village in the Philippines photograph © David Guyler

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A portrait of Marjorie Cohn, a woman with curly brown hair, smiling. She is wearing a red blazer over a grey top and large gold hoop earrings. The background is a bookshelf filled with books, some with red spines and some with black spines.

Interview

TORTURE IS JUST PLAIN WRONG

Marjorie Cohn

“There is absolutely no justification for subjecting any human being to torture. It is just plain wrong.”

MARJORIE COHN is a professor of law at the Thomas Jefferson School of Law, San Diego California. As a former president of the US National Lawyers Guild, Professor Cohn lectures throughout the world on human rights and US foreign policy. She is also a prolific writer, most recently editing *Drones and Targeted Killing: Legal, Moral and Geopolitical Issues*. Besides this, her publications include *Cowboy Republic: Six Ways the Bush Gang Has Defied the Law*; *Rules of Disengagement: The Politics and Honor of Military Dissent* (with Kathleen Gilberd); and the edited volume, *The United States and Torture: Interrogation, Incarceration and Abuse*. Professor Cohn has worked throughout the world, including Cuba, China, Mexico, Iran and Yugoslavia. She testified before Congress about Bush torture policy and is a recipient of the Peace Scholar of the Year Award from the Peace and Justice Studies Association.

LAUREN GLENMERE, Associate Editor for *Torture: Asian and Global Perspectives Magazine*, recently interviewed Professor Cohn.

Lauren Glenmere (LG): What inspired your professional path into law, human rights and the military?

Marjorie Cohn (MC): My mother taught me that racism is wrong. I was active in the antiwar movement during the Vietnam War in the 1960s. I saw that it was not just that war that was wrong; it was the US policy of imperialism throughout the world that was so destructive of human dignity.

LG: You edited and contributed to *The United States and Torture*, which explores America’s “policy of torture”. Why is this an important topic for you?

MC: Torture is not only immoral; it is illegal. It violates the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment as well as the Geneva Conventions, and the International Covenant on Civil and Political Rights. Although torture did not begin with George W. Bush, his administration took it to a new level with their torture

of thousands of men and boys. Moreover, torture doesn’t work - the person being tortured will say anything to get the torture to stop - and it is counter-productive - it creates more enemies who see their people being tortured and hate the United States.

LG: Aside from the publication of the Bush administration’s “Torture Memos”, we also now have the revelations of Abu Ghraib, the “Torture Report” and much more evidence of US complicity and active participation in torture. How has US torture under the Bush administration weakened the rule of law in America? How do legal scholars such as yourself perceive this impact domestically?

MC: Torture and cruel treatment violate US (as well as international) law. When the United States ratifies a treaty, it becomes part of US law under the Supremacy Clause of the US Constitution. Therefore the commands of the Torture Convention, the Geneva Conventions, and the ICCPR are binding on the United States. Moreover, there is the US Torture

Statute, which punishes torture committed abroad. And the Eighth Amendment to the US Constitution forbids cruel and unusual punishment.

The US Constitution also requires that the President make sure the laws are enforced. By refusing to bring the officials of the Bush administration to justice for their complicity in the torture program, President Obama is also violating his constitutional duty. This impunity will signal to future leaders in the US and elsewhere that they can get away with torture.

LG: In your book, *Drones and Targeted Killings*, you discuss how the Bush administration tortured, whereas the Obama administration prefers assassination. What do you believe inspired this change? Why not torture?

MC: By assassinating people the US captures instead of detaining and torturing them, Obama doesn't have to send them to Guantanamo. He has been trying to empty the prison there and close it so he has added only one new detainee to the Guantanamo roster. But assassination, or extrajudicial killing, off the battlefield is also illegal, immoral, and unwise from a policy perspective as it creates more enemies of the United States.

Certainly the torture that took place during the Bush years is not occurring now. But Jeb Bush, one of the Republicans who wants to run for president, refuses to rule out the use of torture. Again, as long as those complicit in torture remain unpunished, future leaders will not be deterred from using torture.

“

Torture and cruel treatment of individual prisoners can be challenged in the criminal justice system. But a much broader strategy is necessary to end torture once and for all. There must be a national consensus that torture is wrong, illegal, and counter-productive, and must never be used under any circumstances.

”

LG: Torture was a recognised and accepted form of interrogation and punishment until the 20th century. Some would say it still is. If we assume that torture as a proscribed act has been weakened under the Bush/Obama administrations, do you believe that there is the political will to challenge this? Is there any building of political pressure in the USA to completely abstain from torture?

MC: Torture enters the national discourse when it is in the news, such as during the revelations of the Abu Ghraib photos, the torture memos, and the Senate torture report. People decry torture and say we should end it. Congress passes laws to outlaw cruel treatment. Obama pledged not to torture during his administration. Yet they continue to violently force feed detainees at Guantanamo, a practice that amounts to torture. And by not punishing the torture team from the Bush years, future administrations will not be deterred from torture.

LG: You have previously commented on the conditions of US prison systems making torture a part of US domestic policy. Could you explain this for the readers of *Torture Magazine*?

MC: As described in one of the chapters in my torture book, torture takes place in US Supermax prisons. This includes violent cell extraction and solitary confinement, which can cause hallucinations, catatonia, and suicide. But the US Torture Statute only punishes torture committed outside the United States. And that statute has not been used to punish anyone to date.

■ *cont'd to page 10*

The impunity of torture despite anti-torture legislation



*Hundreds of policemen were deployed to ensure peace and security at the various protest areas during the former President of the Philippines, Macapagal-Arroyo's Administration. Photograph by © Duane Mendoza
— Photo © Duane Mendoza*

Historically, torture has been brandished as a weapon by the ruling classes. The authorities both possess and exercise their capability to carry out inhuman, cruel and degrading punishments.

by CARLOS ISAGANI T. ZARATE

TORTURE has various forms and purposes in the Philippines. Historically, torture has been embedded in the criminal justice system of the country. The use of torture could be as a form of punishment for breaking the norms and/or laws, or as a method of extracting information from a person suspected of a crime, or as a form of political repression to inflict harm or sow fear and terror against political dissidents and insurgents.

The Philippine experience has been largely influenced by foreign colonial powers that ruled the country for about 500 years. The colonial rulers introduced several ways of using torture to produce severe and inhuman effects on the victims and their families. These forms of torture by the foreign colonial rulers, especially those employed by the Americans during their direct colonisation of the country, have remained in use and have even been improved upon by the state security forces.

At present, the enactment of an anti-torture law has not deterred the law-enforcers from using torture against their victims. While many fraternal organisations and sectors already abhor and have abandoned the use of torture, the military and police institutions continue to practice this inhuman form of punishment and initiation even within their own ranks. Unfortunately, the impunity in the use of torture remains and even worsens notwithstanding the provisions of the 2009 Anti-Torture Act.

I. Brief Historical Background

During the pre-colonial era, the Philippine *barangays* (local political spheres independent from each other) used different methods of torture or acts that inflict severe physical and mental pain or suffering on a person. Forms of punishment included beating to death, burning, drowning and being stoned to death. The main purpose was to punish criminals or norm-breakers in the society. Local tribal leaders provided severe punishment to norm-breakers in order to deter a repeat of the same act. The local tribesmen saw such violations of their norms and customs as heinous crimes against their culture and tradition.

The Spanish-era saw a different albeit still inhuman form of torture. Most commonly used by the Spaniards to torture an insurgent or an indio (the Spaniard's name for the natives) was the *garrote*. The Spaniards tortured the insurgents or insurrectos they captured or arrested to extract information regarding their activities and the whereabouts of other rebels.

Yet it was the American occupation and colonisation of the Philippines that introduced one of the deadliest and most inhuman form of torture to the archipelago – the water cure. Although water cure has been used before the American occupation, the Americans introduced a more lethal method of water cure. They used it not sparingly but utilised it almost every time

they captured an insurgent. Testimonies show the inhuman and degrading form of water cure used by the Americans:

Lieutenant Grover Flint testified before the US Senate Committee in the Philippines in 1902:

A man is thrown down on his back and three or four men sit or stand on his arms and legs and hold him down; and either a gun barrel or a rifle barrel or a carbine barrel or a stick as big as a belying pin, – that is, with an inch circumference, – is simply thrust into his jaws and his jaws are thrust back, and, if possible, a wooden log or stone is put under his head or neck, so he can be held more firmly. In the case of very old men I have seen their teeth fall out, – I mean when it was done a little roughly. He is simply held down and then water is poured onto his face down his throat and nose from a jar; and that is kept up until the man gives some sign or becomes unconscious. And, when he becomes unconscious, he is simply rolled aside and he is allowed to come to. In almost every case the men have been a little roughly handled. They were rolled aside rudely, so that water was expelled. A man suffers tremendously; there is no doubt about it. His sufferings must be that of a man who is drowning, but cannot drown.¹

In his book *The Forging of the American Empire* Sidney Lens recounted:

A reporter for the *New York Evening Post* (April 8, 1902) gave some harrowing details. The native, he said, is thrown on the ground, his arms and legs pinned down, and head partially raised “so as to make pouring in the water an easier matter”. If the prisoner tries to keep his mouth closed, his nose is pinched to cut off the air and force him to open his mouth, or a bamboo stick is put in the opening. In this way water is steadily poured in, one, two,

three, four, five gallons, until the body becomes “an object frightful to contemplate”. In this condition, of course, speech is impossible, so the water is squeezed out of the victim, sometimes naturally, and sometimes – as a young soldier with a smile told the correspondent – “we jump on them to get it out quick.” One or two such treatments and the prisoner either talks or dies.²

After the World War II, the Philippines was given nominal independence by the United States, accompanied with lopsided treaties heavily favouring the US to ensure their continued presence and domination of the country.

Despite receiving independence from colonial masters, the legacy of torture that the colonialists introduced in the Philippines continued. The military and police establishments employed the use of torture to instil fear and maintain order in favour of the status quo.

Under the Marcos dictatorial regime, torture was widely used. Under the Martial Law declared by President Ferdinand Marcos, torture was the most utilised method of suppression by the military. Thousands of activists, innocent civilians suspected of being NPA-sympathisers and other persons were arrested, detained and subsequently tortured by the state security agents. Water cure, electrocution, and other severe physical, mental and emotional torture was used by the military and police agents against the opposition and activists.

Unfortunately, the overthrow of Marcos through a People Power uprising did not eradicate the use of torture. The succeeding Cory Aquino administration did not stop the use of torture by the military but actually escalated it further. Up to the present administration under Pres. B.S. Aquino III (son of Pres. Cory Aquino), the use of torture remains as prevalent as before.

1 Told of “Water Cure” Given to Filipinos. Witness Went Into Details Before Senate Committee on the Philippines. *New York Times*, Feb. 25, 1902, p. 3

2 Sidney Lens (2003). *The Forging of the American Empire: From the Revolution to Vietnam: A History of U.S. Imperialism*. Pluto Press. ISBN 0-7453-2100-3

II. Prior to Anti-Torture Legislation

Before the enactment of the Anti-Torture Act of 2009 (R.A. 9745), the Philippines has several statutory provisions that implicitly banned the use of torture but without provisions for penalties. The first Philippine constitution, the 1899 Malolos Constitution, contained articles against human rights violations. This constitution however did not explicitly prohibit torture.

In the 1935 Commonwealth Constitution, a prohibition against cruel and unusual punishment was stipulated. But the provisions of the 1935 Constitution did not define cruel and unusual punishment nor did it provide penalty for it. The 1973 Constitution provided a closer description of torture but did not explicitly define it. The 1973 Constitution also did not punish the practice of torture, only proscribing the use of evidence gathered from the “use of force, violence, threat, intimidation or any means which vitiates the free will” of a person.

The present Constitution, the 1987 Constitution, provides for a more elaborate prohibition of torture. It expressly forbids, “torture, force, violence, threat, intimidation, or any other means which vitiate the free will” but did not provide a definite penalty against torture. The Constitution left it to the Legislative body to enact a law that provided penal and civil sanctions in violation of the constitutional provision on torture.

The Legislature, however, took 22 years before it finally enacted Republic Act 9745 or the Anti-Torture Act of 2009.

III. Defining Features of the 2009 Anti-Torture Act

One of the most significant feature of the Anti-Torture Act is the wide scope of the definition of torture. In Section 3, torture is defined as:

“(a) ‘Torture’ refers to an act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him/her or a third person information or a confession; punishing

him/her for an act he/she or a third person has committed or is suspected of having committed; or intimidating or coercing him/her or a third person; or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a person in authority or agent of a person in authority. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.

(b) Other cruel inhuman and degrading treatment or punishment refers to a deliberate and aggravated treatment or punishment not enumerated under Section 4 of this Act, inflicted by a person in authority or agent of a person in authority against a person under his/her custody, which attains a level of severity causing suffering, gross humiliation or debasement to the latter.”

The definition of torture also expands the list of culpable criminal acts to include “pharmacological torture”.

Another significant feature of the law is the provision on the right to medical attention for the victim of torture. Besides the right itself, authorities are also compelled to inform the victim of their right to be granted medical examination before and after interrogation.

Torture as a separate and independent crime is a novel provision of this law. It provides a separate remedy for torture victims should other cases filed against the torturer not prosper. That torture is not absorbed or cannot be absorbed by another crime makes it equally heinous with other crimes. This characterisation as a heinous crime strikes the state security agents hiding behind the cloak of their uniforms.

Command responsibility is also a defining and revolutionary feature of the 2009 Anti-Torture Act. It penalises not only those who committed or participated in the act of torture but also the law

enforcement officials and any other public official or employee whose negligence led to the commission of torture by their subordinates or other persons within their area of responsibility.

The Anti-Torture Act is granted additional teeth through the exclusion of perpetrators of torture from special amnesty laws. This feature provides for a limited scope of exemption from penalty by torturers.

These, and other important provisions of the 2009 Anti-Torture Act should be enough to make the state security agents and forces to think twice before committing such deeds. Sadly, however, the law remains a piece of paper that has yet to be strictly implemented.

IV. The Current Culture of Impunity in the Use of Torture

Despite the revolutionary features of the 2009 Anti-Torture Act, torture is still widely practised by the military and police establishment. In an ironic twist, the perpetrators of torture are the same as those tasked to prevent it.

In their efforts to sow terror and inflict harm to dissidents, state security forces use all kinds of cruel, inhuman and degrading methods. The passing of the Anti-Torture Act has proven to not be sufficient. It has not dented the impunity enjoyed by the state security forces in committing torture. In the five years since the law was enacted not a single perpetrator has been punished, in the face of hundreds of documented cases under the Aquino administration alone.

One significant example is the case of Rolly Panesa, a security guard falsely accused of being a high-ranking

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”

official in the Communist Party of the Philippines (CCP). During military interrogation, Panesa was badly beaten. Under torture, he admitted his “guilt” and was arrested by intelligence agents 5 October, 2012. At 48 years old it seemed ridiculous that he could have been mistaken for the 68 year old CCP official.

Rolly Panesa was arrested under the “reward system”: an organised racketeering scheme run by the military and the police. The Department of National Defence and the Department of Interior and Local Government issued a joint memorandum listing 235 names identified as communists and offered a reward for their arrest or neutralisation. These names have subsequently been used by law enforcement agents to falsely accuse and arrest innocent civilians. Human rights organisations have claimed that the joint order is a hit list.

Yet the scheme continues. Recently, two elders were arrested and falsely accused of communist activity. Lourdes Quioc, 64 years old and a local hilot (village midwife), and Reynaldo Ingal, 63 years old and a retired company driver, were arrested and falsely named as Eugenia Magpantay and Agaton Topacio respectively. The latter two are included in the DND-DILG “hit list” order.

V. Conclusion

Historically, torture has been brandished as a weapon by the ruling classes. The authorities both possess and exercise their capability to carry out inhuman, cruel and degrading punishments. The culture of impunity in the use of torture by state security forces could occur

without the tacit approval or backing of government officials. The military and police institutions cannot implement torture if the government has the political will to stop it.

The Philippines government, run by the elite classes desperate to protect their hold on power, are anxious to allow their war dogs to use any method to maintain the status quo. In order to instill fear among the people, to prevent dissent and uprising, the ruling elites will accept the military's use of torture.

While the passage of the 2009 Anti-Torture Act has been commended by international human rights groups, implementation and strong determination by the government to curb torture remains to be seen. Now the law exists, the need to implement it and punish culprits comes to the fore.

This goes to demonstrate that the enactment of a law is not enough to solve the problems of society. Action and determination to curb criminality, especially those committed by uniformed officials, is the next step to take. ■



Text adapted from the speech given by Rep. Carlos Isagani T. Zarate of the Bayan Muna Partylist House of Representatives, at the 16th Philippine Congress and 3rd Asian Alliance Against Torture and Ill-Treatment (AAATI)

Conference of Asian Parliamentarians, 10-14 October, 2014.

■ cont'd from page 4

LG: Do you think a functioning criminal justice system is the ideal way to challenge torture? What features would such a system require?

MC: Torture and cruel treatment of individual prisoners can be challenged in the criminal justice system. But a much broader strategy is necessary to end torture once and for all. There must be a national consensus that torture is wrong, illegal, and counter-productive, and must never be used under any circumstances. Indeed, the Torture Convention says, "No exceptional circumstances whatsoever, whether a state of war or a threat or war, internal political instability or any other public emergency, may be invoked as a justification of torture." That prohibition is unequivocal.

LG: It was a whistleblower who leaked the Abu Ghraib photos, resulting in the torture committed becoming a matter of international discussion. What impact can the average individual have in preventing, limiting or challenging torture?

MC: Whistleblowers serve a critical function in society. Without them, government can get away with secrecy, lies, and illegal treatment. We should protect and encourage whistleblowers such as Daniel Ellsberg, Chelsea Manning, John Kiriakou and Edward Snowden.

LG: Finally, in your own opinion, why is torture wrong?

MC: There is absolutely no justification for subjecting any human being to torture. It is just plain wrong. ■

JOURNALISM & HUMAN RIGHTS protecting yours and OTHERS' RIGHTS

Text adapted by LAUREN GLENMERE from the speech given by DANILO REYES, deputy director of Asian Human Rights Commission (AHRC), at the 19th National Press Forum hosted by the Philippine Press Institute (PPI), at the Diamond Hotel, Roxas Boulevard, Manila City on May 15, 2015.

In Hong Kong:

IN February 2014, Kevin Lau, former chief editor of Ming Pao, a Chinese language newspaper, was stabbed in his legs and back. The attack is believed to be linked to his paper's critical role of Beijing in Hong Kong politics. Within two weeks, eleven persons, mostly from the mainland, were arrested and detained. Two were charged for, "malicious wounding with intent to do grievous bodily harm" in court.

October 2014 saw Ken Tsang, one of the Occupy Central protestors, beaten by seven police officers in a dark corner. The incident was videoed and widely publicised, with the policemen involved suspended from duty the next day. Within the month, the court issued arrest warrants for the seven indicted police officers for "assault causing actual bodily harm".

In the Philippines:

On 13 April, 2014, Melinda Magsino, former correspondent for the Philippine Daily Inquirer, was shot dead in Batangas. She became the 173rd journalist to have been killed since the ending of the Marcos' regime, in 1986.

Magsino is also the 32nd journalist to have been murdered under the present administration. One of many unsolved cases, to date the perpetrators have not been identified.

Even when perpetrators are identified, indicted and prosecuted, as in the case of the 2009 Maguindanao massacre, the trial drags on. In between, witnesses are killed, family members are harassed and intimidated and others, like Myrna Reblando, are forced to leave

the country and seek protection through asylum abroad.

Our final case took place in June, 2010. The National Bureau of Investigation (NBI) arrested a villager before realising his innocence. They then proceeded to torture the man to death and threw his body into a drum filled with cement, to conceal the crime. Despite a NBI informant testifying against his colleagues it took two years and seven months to complete the investigation, another two months for the prosecutors to file a case, and seven months to issue an arrest warrant.

To date, none of the involved have been arrested.

These examples demonstrate two types of violations: first, attacks on journalists and press freedom; second, assault and torture committed by law enforcers.

In Hong Kong, investigators and prosecutors act swiftly. Attacks against the press and individual journalists are responded to by arrests by the police and indictments by prosecutors. The police establishment acts swiftly in response to police crimes against civilians — those responsible are suspended pending investigation, and submitted to the court's jurisdiction if it judged that there is a case to answer for.

In the Philippines, those who murdered Melinda Magsino are unlikely to be arrested or identified, regardless of whether or not the murder was connected to her profession as a journalist. Identification, arrest, detainment and indictment would be the exception, rather than the norm.

The response to the Maguindanao massacre follows a similar story — the policemen, soldiers and



paramilitary forces involved remain at large. In cases like this, even when arrests are made, the persons arrested are either not the real perpetrators, or are tortured into confessing the crime.

For journalists in many Asian countries, such stories will be very familiar. You will have witnessed and lived these stories as a part of your daily work.

Journalists witnessing human rights violations are faced with a tremendous decision. What should journalists witnessing rights violations do? For me, the fear of repercussion, isolation, insecurity and losing my sources was overwhelming.

In Asia, in countries where torture is widespread, systematic and prevalent, the press is not free and freedom of expression is under attack. Journalists are themselves victims of torture. There seems to be a correlation between torture and press freedom.

Employees of the Asian Human Rights Commission are no strangers to attacks on press freedom and torture

In Pakistan, the son of our colleague was murdered and had his dead body dumped in front of the radio station where he was broadcasting live;

In Bangladesh, a lawyer and community journalist was assaulted by the police;

In Thailand, journalists and academics were forced to leave to seek refuge in Hong Kong after the military takeover;

In the Philippines, I myself was charged with libel, threatened, harassed and intimidated for my work

“
As journalists, the words you write, your ideas, insights and reflections, are powerful tools because they convey, create and build knowledge and opinions which are essential for our democratic system to function. It is here where your power lies.
”

as a journalist. I lost three mentors and good friends, Bong Reblando, Neneng Montano and Ian Subang in the Maguindanao massacre. In separate killings I also lost Ely Benoya, Jun Abayon, Cris Guarin and Gerry Ortega.

Yet in Hong Kong, threats, intimidation and the murder of journalists is not tolerated. I do not fear repercussion for my work.

Not a single incident of torture has occurred in Hong Kong since the 1993 enactment of the Crimes (Torture) Ordinance. The aforementioned example of protestor Ken Tsang's beatings was not classified as a case of torture under Hong Kong law. Despite this, the investigation and prosecution of the policemen involved demonstrate that the crime was taken seriously. This

prompt reaction by the system leaves the public with an impression that physical injuries are enough for law enforcers to be suspended, or even lose their jobs.

In the Philippines it is very different. Since the 2009 Anti-Torture Act, human rights groups Task Force Detainees and Karapatan have documented 197 and 328 persons respectively as victims of torture between 2010 and 2014. In all instances, not a single perpetrator was convicted. Where physical injuries could be proven, as in the case of torture victims Adabilla Five, it still took 19 years for the policemen responsible to be indicted in court.

Since 2010, there have been merely three occasions where the police and military were suspended from duty: the case of Darius Evangelista whose torture was videoed in Tondo; the Abdul Ajid Bajinting case where a man was tortured and set on fire in Basilan; and the case of Misuari Kamid, who was tortured and had evidence planted on him in General Santos.

Notwithstanding the reality on the ground, the Filipino concept of justice, according to the late Senator Jose ‘Pepe’ Diokno, has a high moral content intimately related to what is right or *tama*. Broader than Western ideas of justice, it embraced the concept of equity. In the Filipino understanding of justice, the fundamental element is fairness.

Writing in 1987, shortly after EDSA I, Diokno explained that justice is achieved through a system of law and that injustice is committed:

“First, by not having a system of law at all, written or unwritten, or one so flawed that people do not know what their legal rights and duties are.

Second, by not enforcing law fairly, and;

Third, by enacting law that does not pursue the social values that constitute the Filipino vision of a just society, or that adopts means which subvert those values.”

In support of Diokno’s view, Rene Sarmiento, Commissioner of the Commission on Elections (Comelec) and a Board Member of the AHRC, visualises the foundation of protection of rights:

“...a system where laws are fair, where the law enforcers are efficient, where prosecutors are just, where judges and justices are wise and where jail wardens and guards are humane”.

To accomplish this, Sarmiento posits that it is imperative to:

“...integrate the skills and development of our law enforcement officials, prosecutors, judges and jail management personnel, systematic training on ethical norms, teaching of human rights values and the formation of new attitude and new approaches of thinking and doing.”

In this process of “formation of new attitude and new approaches of thinking and doing,” journalists, publishers, editors and reporters, play a crucial role.

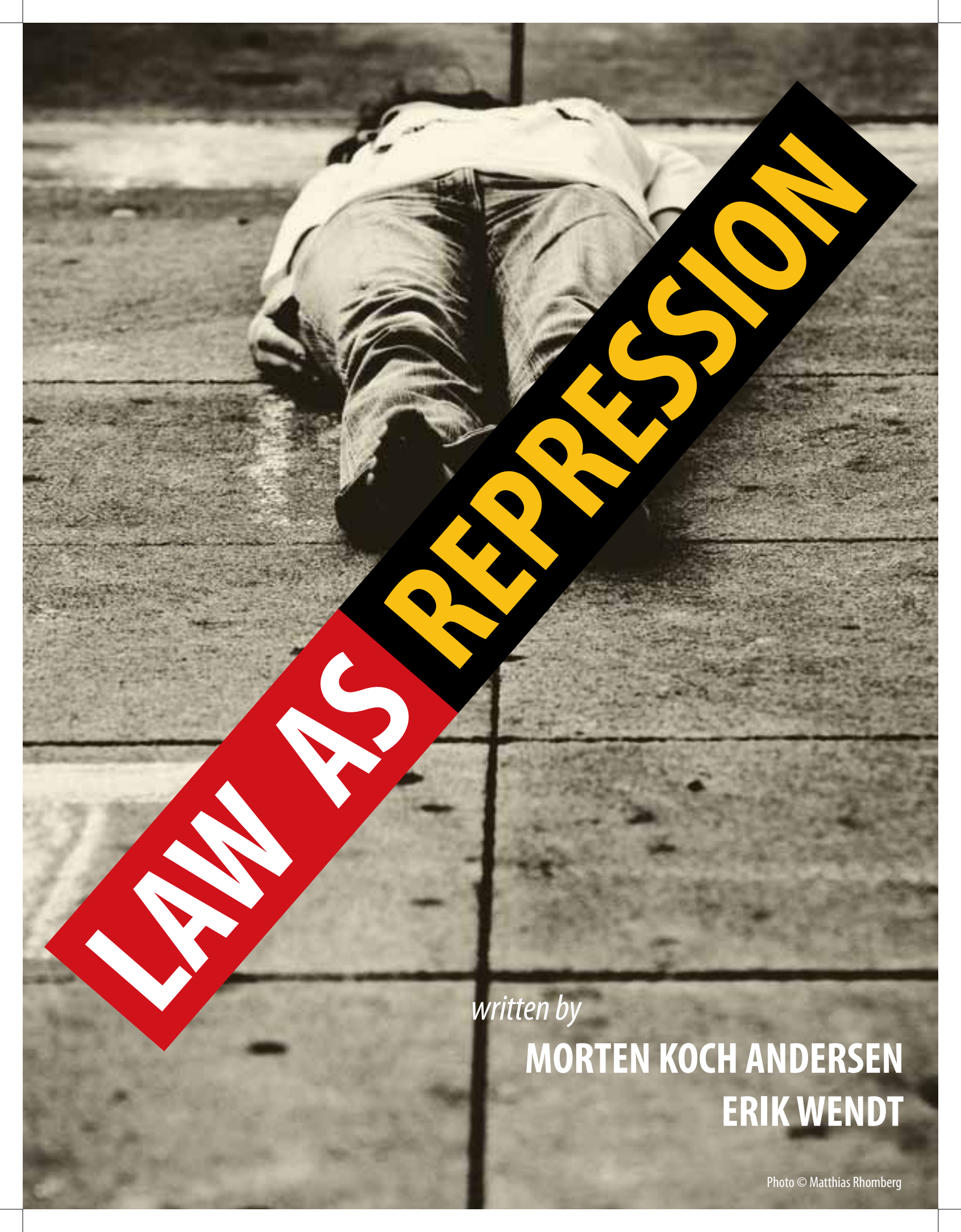
As it currently stands, the institutions of criminal justice in the Philippines remain unfair and deeply opposed to the Filipino understanding of justice and fairness.

Journalists are not advocates. The editorial independence of journalists must never be compromised. No one should tell journalists what to write; you must be free to seek, receive and convey ideas freely, at your own disposal. It is this process that makes journalists credible and independent thinkers.

But journalists need allies. At the AHRC, our aim to be a part of this – to share and contribute our knowledge. For journalists to gain insight, skills, competence and understanding on the protection of rights, strengthens both their own credibility and that of the press.

As journalists, the words you write, your ideas, insights and reflections, are powerful tools because they convey, create and build knowledge and opinions which are essential for our democratic system to function. It is here where your power lies. ■





LAW AS REPRESSION

written by

MORTEN KOCH ANDERSEN

ERIK WENDT

Photo © Matthias Rhomberg

It is a global trend that cuts across democracies and non-democracies alike. The uniqueness of this new form of repression is the very active use of the legal system and legal institutions in curbing activists' voices and stopping organisations' activities.

AN ALARMING trend to contain and curtail civil society is spreading globally. The latest passing of the anti-NGO law in Russia is yet another example of the shrinking political space for civil society, divergent views and voices. Russia is not alone in this move to contain critical national organisations and voices, curtail external partners and international non-governmental organisations. In recent years we have seen how governments across the globe have become increasingly suspicious and repressive towards the funding of civil society organisations, especially foreign funding of rights-based organisations. Governments in Russia, China, India, Bangladesh, Pakistan, Egypt, Kenya, Ethiopia, Rwanda, Uganda, Israel and many more are step by step prohibiting civil society from engaging in documentation, assistance and advocacy work that critique state and government laws, policies and practices.

In December 2014, China announced that it would move to "regulate" foreign non-governmental organisations to keep political checks on these organisations and – with clear reference to the situation in Hong Kong – to prevent them from fomenting political unrest. In India, the government has blocked the Greenpeace funds alongside some other 8000 local organisations. In Pakistan, Save the Children's activities have periodically been closed down by the government.

Governments' rhetoric against civil society groups is often harsh and hostile. They do not hesitate to publicly name and shame the organisations' work as 'undesirable', 'threatening' and 'dubious' activities with direct reference to national security concerns and economic interests.

The general public discourse underlining these repressive measures is partly propounded as a necessity to regulate a sector out of control by the continuous sprawling and spreading of more or less sincere and professional organisations. It is also partly based in a fear of organisations that purposely undermine the state, often on behalf or in collusion with foreign powers and interests. In other words, the reason to crackdown on civil society is purported as measures against unprofessionalism and for national integrity and security. Though we recognise that civil society organisations need to be regulated and accountable (in the same way as state institutions and the business sector), the rationality behind increased control by the state is not to ensure accountability and transparency but to control dissident voices and prevent unwanted information and documentation to surface in public, nationally and internationally.

It is a global trend that cuts across democracies and non-democracies alike. The uniqueness of this new form of repression is the very active use of the legal

system and legal institutions in curbing activists' voices and stopping organisations' activities. In almost all of the aforementioned countries the repressive control and the containing and curtailing measures, originate in parliament: decided upon by representatives of the people.

What before was effectuated by extra-legal provisions, policies and regulations or (prolonged) state of emergencies, is now made into criminal and civil law. Often these measures are presented to the public on an agenda of anti-terrorism, anti-corruption, media and broadcast policies, regulations or acts to protect state and citizens. But their implementation and practice effectively enclose and shrink the space for political activism and criticism.

In this situation, state agencies, notably law enforcement agencies, become the prime monitoring body of transgressions. Courts become the battlefield of legal interpretations and adjurations which halt the work of individuals and organisations, stall criticism and negate political voices.

Many human rights organisations and civil society activists function as a main tool for reform and change – keeping duty bearers accountable to rights holders. Repressive governments are turning against this body of reformers and change agents, undermining proactive, vocal and progressive individuals to suit their agenda.

“
It is alarming when organisations which are well-known for their accountability and credibility, are stopped in doing their legitimate work to monitor and publicise violations, be they environmental issues or human rights, by the active engineering and application of new legal frameworks.
”

These measures work in two ways. For international organisations, the objective is to prevent activities on the ground and disrupt or stop cooperation with local partners. Registrations are revoked and funding blocked on a vocabulary of state threatening subversive activities, effectively terminating the function of the local unit of the organisation or their access to the country.

For local organisations, repression is multifaceted, harder and targeted. Funding is either blocked or controlled and channeled through state institutions, such as NGO bureaus or offices, before dispersal. Again, a vocabulary of “subversive state-threatening activities” is used to criminalise activities and arrest activists and leaders. Assets and funds are seized or frozen while investigations and trials are ongoing. At times, these preventive security measures are combined with allegations of corruption which involve exhaustive investigations of financial transactions and budgetary accountability.

The aim of these state sanctioned interventions is not necessarily to prosecute and sentence organisations and people according to the law, but rather to dismantle the organisational structure and stop their activities through a combination of legal investigations and indictments and the suspension of organisational systems, capacity and functioning.

Actions against international organisations essentially target the international community, not the individual organisation. This is locally explained to prohibit undue foreign governments' interference in national issues and legitimised as a concern of security and independence, often on a vocabulary of post-colonialism.

Actions against national civil society organisations target particular individuals in their capacity as change agents, role models and forerunners of social transformations. The aim appears to be to silence critical voices by publicly showcasing the risk of dissidence and critique by threatening and harming the social and individual safety of individuals, families and relatives.

It is alarming when organisations which are well-known for their accountability and credibility are stopped from performing their legitimate work to monitor and publicise violations, be they environmental issues or human rights, by the active engineering and application of new legal frameworks. Like the proliferation of restrictive security measures in many western democracies, the measures are technical, imprecise and wide-ranging – often bordering otherwise acknowledged obligations and requirements within national state constitutions and international law and conventions.

Some would argue that international and national NGOs nonetheless have lost public support and touch with their target groups, being dependent on external donors and funding. This might be true and it is a challenge we must address within the human rights community, but repression does not address this. It is troubling when the documentation of torture, extra-judicial killings and other transgressions of law enforcement and humanitarian assistance to victims is questioned as “state-threatening” and effectively terminated by law.

Our concern is: if activists and organisations who courageously defend and promote basic civil and political rights, such as the right not to be tortured, are stopped by draconian laws against civil society and demonising statements against their work – being ‘undesirable’ and of ‘national security concern’ – what will come next, who will be the next in line and who in future will dare to speak out on behalf of the poor and marginalised?

These processes substantially undermine our work within the progressive human rights community. Many countries that have legislated and implemented such repressive measures have for long been targets of human rights and good governance advocates for institutional changes, such as the domestication of international UN standards and the improvement of judiciary and police practices.

Such behaviour cannot be isolated from greater political developments, attitudes and views, held in the country, such as the parliament, major political parties and other influential forces including the military and big businesses. When these forces decide to curb the political space via rules and regulations – the same system that the human rights community tries to improve, create awareness of and give voice to – we are somehow skilfully disempowered, outmanoeuvred and our efforts made futile.

The essential question is: what can we do when repression becomes legal? ■

***Morten Koch Andersen** has worked for DIGNITY-Danish Institute Against Torture since 2006 as Programme Manager for the Prevention of Violence and Rehabilitation of Torture Survivors.*

***Erik Wendt**, Programme Manager, Asia of the DIGNITY-Danish Institute Against Torture.*

PROHIBITION ON MORNING

Reminiscence as a form of resistance



In China it is different. The right to mourn is denied because of obstruction by the authorities, instead of a lack of information. The Chinese government demonstrates its willingness to repress any dissenting opinion on a daily basis. It has effectively silenced the social discontent of its people to a very large extent. By forbidding family and public to mourn the victims, the government believes that it can construct a collective amnesia about the human rights violations.

by DEBBY CHAN

THREE years ago, I travelled with friends from Sichuan province to Tibet. As Hong Kong citizens, we had to report our arrival to the police in various Tibetan cities. Inside one of the police stations, a large notice board listed dozens of “sensitive dates” in Tibet. Besides the anniversary of the Tibet Uprising Day, National Day of China, the anniversary of the Tiananmen Massacre, and International Human Rights Day, even the anniversary of a mild protest by a villager some years ago could be classified as a “sensitive date”. Noticing that we were interested in the information, police became surly and ordered that we stop looking at the board. The Chinese government is obsessed with “national stability.” On “sensitive dates”, political control is further tightened to prevent citizens from staging any collective action against the regime. To many people’s surprise, the government even perceives the traditional Ching Ming Festival as posing a potential political threat to its governance.

On Ching Ming Festival (Qing Ming Festival or Tomb-Sweeping Day), the Chinese commemorate deceased loved ones. Family remember the deceased by visiting the tomb, cleaning the headstone, lighting incense, burning joss paper, and/or presenting

flowers. However, the families of many human rights defenders or victims of human rights violations in China, are denied the right to mourn their loved ones in public. On some occasions they can pay tribute to their dead under the escort of plainclothes police in a sealed off area. At other times, the mourners are placed under house arrest, or sent to black jails, as the dates are politically sensitive for the Communist regime. By barring memorials in public the government hopes that the victims will be forgotten. More importantly, they hope that the atrocities they committed will be ignored.

Thus the reminiscence of the victims of human rights violations is a form of a resistance to injustice. Like democratisation, transitional justice is not confined to a top-down approach¹. By confronting propaganda and collective amnesia, truth and justice can prevail.

1 Transition justice is processes and mechanisms that gross human rights violations are being addressed by judicial and non-judicial means to ensure accountability, seek justice and promote reconciliation. Some common components in the programmes include criminal prosecutions, reparations, institutional reform and truth commissions. Also see the ‘Transitional Justice’ at the United Nations Rule of Law’s website, http://www.unrol.org/article.aspx?article_id=29.

In many cases, families of the victims of gross human rights violations are among the first to stand up in the process of democratic transition². Relentless harassment and indignities experienced by the families after the death of the victim, especially the denial of the right to mourn, create families ever more determined to defend the dignity of the defunct loved ones. Looking at examples of these cases offers an understanding of the importance of their fight, as well as honours those who struggle.

Li Wangyang: afterlife isolation

Every 4 June a candlelight vigil is held in Hong Kong to commemorate the victims massacred during the 1989 pro-democracy movement in China. At each memorial, participants raise their candles high and chant, “release of all political prisoners in China”, with tears in their eyes. Yet we still do not know who most of these political prisoners are. In 2012, a former political prisoner named Li Wangyang was found to be still detained in hospital after 22 years imprisonment for his involvement in the pro-democracy movement and political activism in Hunan province. He was blind and deaf due to repetitive torture in the jail. After spending more than two decades under solitary confinement in a dark cell Li Wangyang could hardly communicate due to his disabilities.

His story was reported by a Hong Kong television journalist, leaving the public both stunned and saddened by his suffering. Yet Li never knew of this public support: he died in hospital four days after the interview was broadcast. The Chinese government insisted that Li committed suicide. Family and close friends rejected this official version and disappeared for weeks as a result. The tragic death of Li Wangyang triggered mass protests in Hong Kong. Despite the public outcry to investigate Li’s death, his body was cremated by the authorities and the ashes were buried in a remote cemetery. The family were finally allowed

to erect a tombstone ten months after his death, but his sister was threatened that if she disclosed the location of the tomb to the public then they would unearth Li’s ashes and scatter them into the river.


Three years on, Li Wangyang’s family and friends remain under the tight surveillance of local authorities. The cemetery where he is buried is a forbidden zone, with office staff reporting to the police if anyone comes to pay tribute to Li. On “sensitive dates”, such as the anniversary of Li Wangyang’s death and Ching Ming Festival, the cemetery is guarded by police who perform duties on three-shift basis. Family and friends who attempt to visit are put under house arrest, or detained. They can only mourn Li from afar, outside of the cemetery or even the city, where they can avoid the surveillance of the provincial authorities.

Tiananmen Mothers: forbidden to cry

While the crimson blood on Tiananmen Square was quickly washed away in the aftermath of the Tiananmen Massacre, white terror has remained. As the government underreported the death toll and refused to release the names of the victims, family members formed a group called the Tiananmen Mothers. They documented the deaths of the Massacre through their own efforts and the testimonies collected have exposed the lies of the government. One Mother discovered the body of her son buried near to Tiananmen Square, in an attempt to hide the remains of victims. Another found that her son was shot by an explosive bullet: a lethal weapon that seems strange to use if the government was only aiming to disperse civilians. A further testimony reports how a female medical student was killed trying to rescue the injured. What crime did she commit?

In the search of justice for their daughters and sons, the Tiananmen Mothers have never taken to the streets. They have only persistently issued open letters to the authorities and urged them to open a dialogue with the families. Nonetheless, the government still perceives these elderly women in their seventies and eighties as great political threats. Some of the Mothers are

2 Guillermo O'Donnell & Philippe C. Schmitter, *Transitions from Authoritarian Rule: Tentative Conclusions about Uncertain Democracies*, Baltimore: Johns Hopkins University Press, 1986, p.53.



也許你們不會在這個世界
上留下自己的名字；但你們
已經以生命的代價，證明
自己是真正的人。

constantly monitored and have been interrogated by the authorities. During the period of 4 June and Ching Ming Festival, they are barred from mourning their children in public and neither strangers nor journalists are allowed to approach them. Occasionally, memorial services for their loved ones are allowed under the presence of plainclothes police.



A Hong Kong group called the Tiananmen Mothers Campaign made a flower wreath to commemorate victims of Tiananmen Mothers in Ching Ming Festivals some years ago.

A founder of the Tiananmen Mothers, Prof. Ding Zilin, was allowed in 2007, 2008 and 2010 to mourn her son at the site where he was murdered. Visiting at midnight and surrounded by police, she would bring flowers, light candles, pour a libation on the ground and cry. Yet since 2010 she has not been allowed to perform even this small commemoration, instead she is placed under house arrest during the “sensitive dates”.

Sichuan Earthquake: commemorations follow the party line and lies

In 2008, a deadly earthquake in Sichuan claimed the lives of over 88,000 people. Annually, the government holds official commemorations to mark the anniversary of the disaster. During these high profile events, the heroes who sacrificed their lives in rescue efforts are



A member of the Tiananmen Mothers, Xu Jue.

honoured, and the transformation of the earthquake-struck areas is publicised.

In contrast, parents of school children killed in the earthquake are forbidden from mourning their children to accordance with their own wishes.

Dying from a school building collapse, over 5000 children were victims of the earthquake. The shoddy construction of public schools triggered an angry backlash against corruption in Sichuan province. An environmental activist, Tan Zuoren, who investigated the deaths of the children was sentenced to five years’ imprisonment in 2010. Over the past few years, parents demanding accountability for the death of their children have been monitored and taken into custody. Besides this, even non-political activities of the mourning parents are not tolerated. Last year, more than one hundred parents attempt a commemoration of their children at the school sites. Prior to their arrival, dozens of police appeared for an “anti-terrorism drill”. The authorities sent the parents away and seized their flowers.

What the regime is afraid of?

Recently, maritime disputes and rapid growth in defence expenditure in China have drawn concern from other countries. Surprisingly, China’s spending on domestic security surpasses even its military



The tomb of Li Wangyang. We were arrested after staying about 20 minutes in front of his tomb.

budget. In 2013, the National People's Congress revealed that the budget allocated to domestic security and military was 769.1 billion yuan and 740.6 billion yuan respectively.³ This implies that the Chinese government identifies societal actors as the greater threats. Owing to the controversy, the government has ceased reporting money spent on domestic security in 2014.⁴

3 Ben Blanchard & John Ruwitch, 'China hikes defense budget, to spend more on internal security', Reuters, 5 March 2013, <http://www.reuters.com/article/2013/03/05/us-china-parliament-defence-idUSBRE92403620130305>.

4 Sui-Lee Wee, 'China to raise defense budget 10.1 percent this year in high-tech drive', Reuters, 5 March 2015, <http://www.reuters.com/article/2015/03/05/us-china-parliament-defence-idUSKBN0M100Z20150305>.

Human rights violations are widespread in many non-democracies. However, prohibiting family to mourn their loved ones is not a common practice across authoritarian regimes. Due to the atrocities of forced disappearance during military rule in a number of Latin American countries, bereaved families yearned to know the whereabouts of their presumably dead loved ones. During the transitional justice period, families of victims as well as the general public demanded information including the location of their loved ones remains, detail on the abuses they suffered, the reasons for such violations and the identity of the perpetrators. Internationally, this right is recognised in articles 7 and 18 of the International Convention for the Protection of all Persons from Enforced Disappearance.

In China it is different. The right to mourn is denied because of obstruction by the authorities, instead of a lack of information. The Chinese government demonstrates its willingness to repress any dissenting

opinion on a daily basis. It has effectively silenced the social discontent of its people to a very large extent. By forbidding family and public to mourn the victims, the government believes that it can construct a collective amnesia about the human rights violations.

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In many cases, families of the victims of gross human rights violations are among the first to stand up in the process of democratic transition.

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Speaking out in China always entails political cost. As most people are not ready to pay that cost, there



In 2012, we staged a protest in HK to call for the release of Li's family and friends

is still a long way to go to attain transitional justice. Nonetheless, something that everyone can do is to preserve our memories and resist propaganda by the government. No one can predict when justice will be done, but the more people resist to forget, the sooner that day will arrive. ■



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The vigil is us.

The toxic legacy of the MAGNANA CARTA at 800 YEARS

NOAM CHOMSKY

THE MAGNA CARTA MESSED UP THE WORLD

Here's How to Fix It

The “logic” of capitalist development has left a nightmare of environmental destruction in its wake.

by NOAM CHOMSKY

In a few months, we will be commemorating the 800th anniversary of the sealing of Magna Carta—commemorating, but not celebrating; rather, mourning the blows it has suffered.

The first authoritative scholarly edition of Magna Carta was published by the eminent jurist William Blackstone in 1759. It was no easy task. As he wrote, “the body of the charter has been unfortunately gnawed by rats”—a comment that carries grim symbolism today, as we take up the task the rats left unfinished.

Blackstone’s edition actually includes two charters: the Great Charter and the Charter of the Forest. The former is generally regarded as the foundation of Anglo-American law—in Winston Churchill’s words, referring to its reaffirmation by Parliament in 1628, “the charter of every self-respecting man at any time in any land.” The Great Charter held that “No freeman shall be arrested or imprisoned,” or otherwise harmed, “except by the lawful judgment of his equals and according to the law of the land,” the essential sense of the doctrine of “presumption of innocence.”

To be sure, the reach of the charter was limited. Nevertheless, as Eric Kasper observes in a scholarly review, “What began as a relatively small check on

the arbitrary power of King John eventually led to succeeding generations finding ever more rights in Magna Carta and Article 39. In this sense, Magna Carta is a key point in a long development of the protection of rights against arbitrary executive power.”

Crossing the Atlantic, the Great Charter was enshrined in the US Constitution as the promise that “no person shall...be deprived of life, liberty, or property, without due process of law” and that “In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury.”

The wording seems expansive, but that is misleading. Excluded were “unpeople” (to borrow Orwell’s useful concept), among them Native Americans, slaves and women, who under the British common law adopted by the founders were the property of their fathers, handed over to husbands. Indeed, it wasn’t until 1975 that women gained the right to serve on juries in all fifty states.

The Fourteenth Amendment applied the “due process” provisions to states. The intent was to include freed slaves in the category of persons, but the effect was different. Within a few years, slaves who had technically been freed were delivered to a regime of criminalisation of black life that amounted

to “slavery by another name,” to quote the title of Douglas Blackmon’s evocative account of this crime, which is being re-enacted today. Instead, almost all of the actual court cases invoking the Fourteenth Amendment had to do with the rights of corporations. Today, these legal fictions—created and sustained by state power—have rights well beyond those of flesh-and-blood persons, not only by virtue of their wealth, immortality and limited liability, but also thanks to the mislabeled “free-trade” agreements, which grant them unprecedented rights unavailable to humans.

The constitutional lawyer in the White House has introduced further modifications. His Justice Department explained that “due process of law”—at least where “terrorism offences” are concerned—is satisfied by internal deliberations within the executive branch. King John would have nodded in approval. The term “guilty” has also been given a refined interpretation: it now means “targeted for assassination by the White House.” Furthermore, the burden of proof has been shifted to those already assassinated by executive whim. As The New York Times reported, “Mr. Obama embraced a disputed method for counting civilian casualties [that] in effect counts all military-age males in a strike zone as combatants...unless there is explicit intelligence posthumously proving them innocent.” The guiding principles are clear: force reigns supreme; “law” and “justice” and other frivolities can be left to sentimentalists.

Problems do arise, however, when a candidate for genuine personhood is targeted. The issue arose after the murder of Anwar al-Awlaki, who was accused of inciting jihad in speech and writing as well as unspecified actions. A New York Times headline captured the general elite reaction when

“

**Let us now put
the sad relics of
the Great Charter
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Its significance is
perhaps even more
pertinent today.**

”

he was assassinated: As the West Celebrates a Cleric’s Death, the Mideast Shrugs. Some eyebrows were raised because Awlaki was an American citizen. But even these doubts were quickly stilled.

Let us now put the sad relics of the Great Charter aside and turn to the Magna Carta’s companion, the Charter of the Forest, which was issued in 1217. Its significance is perhaps even more pertinent today. As explained by Peter Linebaugh in his richly documented and stimulating history of Magna Carta, the Charter of the Forest called for protection of the commons from external power. The commons were the source of sustenance for the general population: food, fuel, construction materials, a form of welfare, whatever was essential for life.

In thirteenth-century England, the forest was no primitive wilderness. It had been carefully nurtured by

its users over generations, its riches available to all. The great British social historian R. H. Tawney wrote that the commons were used by country people who lacked arable land. The maintenance of this “open field system of agriculture...reposed upon a common custom and tradition, not upon documentary records capable of precise construction. Its boundaries were often rather a question of the degree of conviction with which ancient inhabitants could be induced to affirm them, than visible to the mere eye of sense”—features of traditional societies worldwide to the present day.

By the eighteenth century, the charter had fallen victim to the rise of the commodity economy and capitalist practice and moral culture. As Linebaugh puts it, “The Forest Charter was forgotten or consigned to the gothic past.” With the commons no longer protected for cooperative nurturing and use, the rights of the

common people were restricted to what could not be privatised—a category that continues to shrink, to virtual invisibility.

Capitalist development brought with it a radical revision not only of how the commons are treated, but also of how they are conceived. The prevailing view today is captured by Garrett Hardin's influential argument that "Freedom in a commons brings ruin to all." This is the famous "tragedy of the commons": that what is not owned will be destroyed by individual avarice. A more technical formulation is given in economist Mancur Olson's conclusion that "unless the number of individuals is quite small, or unless there is coercion or some other special device to make individuals act in their common interest, rational, self-interested individuals will not act to achieve their common or group interests." Accordingly, unless the commons are handed over to private ownership, brutal state power must be invoked to save them from destruction. This conclusion is plausible—if we understand "rationality" to entail a fanatic dedication to the individual maximisation of short-term material gain.

These forecasts have received some challenge. The late Elinor Ostrom won the Nobel Prize in economics in 2009 for her work showing the superiority of user-managed fish stocks, pastures, woods, lakes and groundwater basins. The historical review in her study, *Governing the Commons*, ignores the Charter of the Forest and the practice over centuries of nurturing the commons, but Ostrom did conclude that the success stories she'd investigated might at least "shatter the convictions of many policy analysts that the only way to solve [common-pool resource] problems is for external authorities to impose full private property rights or centralised regulation."

* * *

As we now understand all too well, it is what is privately owned, not what is held in common, that faces destruction by avarice, bringing the rest of us down with it. Hardly a day passes without more confirmation of this fact. As hundreds of thousands of people marched in the streets of Manhattan on September 21 to warn of the dire threat of the ongoing

ecological destruction of the commons, The New York Times reported that "global emissions of greenhouse gases jumped 2.3 percent in 2013 to record levels," while in the United States, emissions rose 2.9 percent, reversing a recent decline. August 2014 was reported to be the hottest on record, and JAMA: The Journal of the American Medical Association predicted that the number of 90-degree-plus days in New York could triple in three decades, with much more severe effects in warmer climates.

It is well understood that most of the world's fossil-fuel reserves must remain in the ground if an environmental disaster for humankind is to be averted, but under the logic of state-supported capitalist institutions, the private owners of those reserves are racing to exploit them to the fullest. Chevron abandoned a small renewable-energy program because its profits are far greater from fossil fuels. And as Bloomberg Businessweek reports, ExxonMobil announced "that its laserlike focus on fossil fuels is a sound strategy, regardless of climate change." This is all in accord with the capitalist doctrine of "rationality."

A small part of the remaining commons is federal land. Despite the complaints of the energy lobbies, the amount of crude oil produced from onshore federal lands in 2013 was the highest in over a decade, according to the Interior Department, and it has expanded steadily under the Obama administration. The business pages of newspapers like The New York Times and The Washington Post are exultant about "the boom in American energy production," which shows "no signs of slowing down, keeping the market flush with crude and gasoline prices low." Predictions are that the United States will "add a million more barrels of oil in daily production over the next year," while also "expanding its exports of refined products like gasoline and diesel." One dark cloud is perceived, however: maximising production "might have a catastrophic effect" in "the creation of a major glut." And with climate-change denier James Inhofe now chairing the Senate Committee on Environment and Public Works, and others like him in positions of power, we can expect even more wonderful news for our grandchildren.

■ *cont'd to page 36*

A man with dark hair, wearing a white long-sleeved shirt with intricate embroidery on the sleeves, is seated and looking slightly to his right. The background is a dark wall covered in a grid of small, circular, illuminated lights, creating a bokeh effect. The overall tone is warm and professional.

A Nation For **Our Children**

We must build our nation on the principle of depending on ourselves and getting as loans only what we need, not what we can get. We must build our political system on respect for the sovereignty of the people, on the establishment of adequate checks and balances and on empowering the people at the grassroots level.

by JOSE W. DIOKNO (1922 -1987)

THERE is one dream that all Filipinos share: that our children may have a better life than we have had. So there is one vision that is distinctly Filipino: the vision to make this country, our country, a nation for our children.

A NOBLE nation, where homage is paid not to who a man is or what he owns, but to what he is and what he does.

A PROUD nation, where poverty chains no man to the plough, forces no woman to prostitute herself and condemns no child to scrounge among garbage.

A FREE nation, where men and women and children from all regions and with all kinds of talents may find truth and play and sing and laugh and dance and love without fear.

A JUST nation where whatever inequality exists is caused not by the way people act towards each other but by differences in natural talents; where poverty, ignorance, and hunger are attacked and every farmer has land that no one can grab from him; every breadwinner, a job that is satisfying and pays him enough to provide a decent standard of living; every family, a home from which it cannot be evicted; and everyone, a steadily improving quality of life.

An INDEPENDENT nation which rejects foreign dictation, depends on itself, thinks for itself, and decides for itself what the common good is, how it is to be attained, and how its costs and benefits are to be distributed.

An HONOURABLE nation where public powers are used for the public good and not for the private gain of some Filipinos and some foreigners; where leaders speak not only well but truthfully and act honestly; a nation that is itself and seeks to live in peace and brotherhood with all other nations of the world.

Is this vision attainable? Or is it just an idle dream? If we base ourselves on today, we would be tempted to conclude that it is an idle dream. For our country today is in a mess. There is no other way to describe its condition.

Our economy is bankrupt. We cannot pay our foreign debt. Within the next two years, whether or not our foreign loans are restructured, prices and taxes will continue to rise. The peso will continue to fall. The domestic market will contract further. More workers will lose their jobs; more students will be forced to drop out of school. Hunger will spread and disease will not be far behind. Crime will continue to stalk the streets even more menacingly. Anger, resentment, and frustration will escalate. Dissidence will propagate,

and repression will intensify. The government has lost all credibility, yet it refuses to do the decent thing: return power to the people. Instead it continues to deny the people their basic rights and freedoms. And the calloused behaviour of some of its leaders mocks and defies this cherished Filipino value.

Yet we must not give up our dream because of today. For if we look at ourselves, we have all the resources — human and natural — to become what we Filipinos choose to be. Our population is about 53 million, and that's the 17th largest potential domestic market in the world.

We are a literate people. Our adult literacy is 75 per cent, the 40th highest worldwide. Sixty-three per cent (63 per cent) of our young people in the 15-19 year age group are enrolled in secondary schools, which is about 50 per cent higher than the average for countries like ours. And 27 percent of the 20-24 year age group are enrolled in colleges and universities, which is twice the average of countries like ours and more than that of some developed countries like the United Kingdom, West Germany, Australia, France, Belgium, and Switzerland.

Our land area is 300,000 square kilometres, the sixty-third largest in the world. It is rich in natural resources. Less than half of our land has been systematically surveyed for mineral but commercial quantities obtained of the thirteen basic raw materials required by a modern industrial economy have already been discovered: bauxite, chromium, copper, iron ore, lead, manganese, nickel, phosphates, zinc, natural rubber among these. And we also have the human drive to develop these.

Encounters with nations which invaded and occupied us or traded with us have made us open to change and quick to adapt to it. Our people are ingenious and fast learners, competitive and achievement-oriented, rational and practical and dedicated to freedom and independence. We are, let us not forget, the first Asian people who revolted against a western imperial power, Spain; the first who adopted a democratic republican constitution in Asia, the Malolos Constitution; the first

to fight the first major war of the twentieth century against another western imperial power, the United States of America. Since 1972, we have suffered the brutal repression of martial rule, but freedom still burns bright in the hearts of most of us.

So there is no insurmountable barrier that could stop us from becoming what we want to be. Why then are we in this sorry condition? I think it is because we have forgotten one basic thing. We Filipinos are a variegated people. We live in seven thousand islands. We profess no less than five major religions. We pray in no fewer than seven native tongues. But all of us — Muslim or Christian, Tagalog or Visayan or Ilocano or Kapampangan — all of us are Filipinos not only because we are brothers in blood — many of us are not — but because we are all brothers in tears; not because we all share the same land — many of us are landless — but because we share the same dream.

Whether we like it or not, we are one nation with one future, a future that will be as bright or as dark as we remain united or divided.

Sometimes — as at present — events obscure this truth. At other times, human selfishness tries to deny it. But the truth will not die. We are one nation with one future. Yet today that nation is sorely divided even on such seemingly uncontroversial questions like what to do with the Marcos government or how to deal with the U.S. government. Some — I am one of them — would want to change not only Marcos but the system he has implanted in our country. Others would want to change only Marcos. Others would not even want that. They would be happy with changing Imelda and Ver. And others would not even demand that, simply that Marcos give up Amendment 6 or the power to issue presidential detention actions or both. On such a simple matter as relations with the United States, some want statehood. Others want independence, and those who want independence do not all agree on what it means. Some believe in independence from every foreign government except the United States, the World Bank and the International Monetary Fund (IMF). In fact, some of those who think this way seek U.S. government

help to get Marcos out and put themselves in. Still others believe in independence from every foreign government which includes Russia, China, Japan, besides the United States, the World Bank and the IMF. They want no U.S. intervention in our affairs not even to oust Marcos and they want the U.S. bases out. But some who think this way, or say they do, urge that U.S. issues be submerged for the time being. Let's finish with Marcos first, they say, and then let's take on the U.S. government.

Just as we are not agreed on what changes we want, we are not agreed on how to obtain those changes. Some believe that change can only come from within the Marcos system which is why they took part in the last elections. Others are convinced that change can only come about from outside that system which is why they boycotted the elections. Some think that only violence can bring about change which is why they joined the NPA, the MNLF or other guerrilla groups. Yet others think that non-violence can bring about change and so they have joined militant, peaceful mass actions.

In this state of disunity, change could come about, but except by a stroke of luck, it would hardly be the change that any of us want. For change to be meaningful, it is important that we agree at least on the basic issues, i.e., (1) Do we want to change just Marcos, or do we also want to change the system; (2) Do we want to free ourselves from the dominant influence of the U.S. government, or do we want to continue under its control; (3) Do we want to return to the kind of society we had before martial law, or do we want to establish a better society, more just and more humane.

If we can agree on the basics of these issues, even though we may disagree on some details, then disagreements on how we can achieve these goals would not be insoluble. As long as we pursue the same basic objectives, there should be no difficulty in coordinating the activities of those who wish to pursue these objectives by different means. Let me just give you an example of what I mean.

We have today what is commonly called the parliament of the streets and the objective of this parliament is to get rid of the Marcos government as soon as possible. But we also have political parties that are gearing for the elections in 1986 and 1987. Surely there should be no basic contradiction between these different methods. We can pursue the parliament of the streets and hopefully change the government before 1987, preferably before 1986, preferably before 1985. But if we fail, what is to prevent us from using the other methods in order to change this government. The important thing is that we agree on what we want because if we do then the dilemmas that we face today would no longer be critical.

Take for example this possibility. Suppose that Mr. Marcos for one reason or another were to quit his office tonight. Do you think the opposition would be able to put one candidate for President and one candidate for Vice-President to fight against whichever candidates Mr. Marcos and the KBL would put up within the next sixty days? In 1986 if there is no agreement to these basic objectives, will the opposition be pulling up one candidate for the UNIDO, one candidate for PDP-LABAN, and one candidate for the LP, or more in the local elections as against the candidates of the KBL? And if so, what chance would the opposition have? And in 1987 if Marcos is still around to run, or even if he does not run — if he sponsors a candidate — would the opposition be able to put up one candidate, or will we be putting up four or five candidates to run against Mr. Marcos?

If we can agree, however, on all of these basic issues even if we don't agree on all the details, then it would be easier to get agreement on one candidate. Why? Because if all of us are agreed on what we want, then insistence upon running can only be the result of personal ambition. And no candidate will ever tell you that he has personal ambitions. In fact, they will all say: I don't want to run, but if the people want me, I will run.

And if we do agree on these basics, then does it really make much difference who is the candidate as long as we are all united and agreed on what is to be done?

No cause is more worthy than the cause of human rights . . . they are what makes a man human. Deny them and you deny man's humanity.



The point is not to make a perfect world, just a better one - and that is difficult enough.



Against a united people, no force is strong enough to prevail.



All of us are Filipinos not only because we are brothers in blood, but because we are all brothers in tears; not because we all share the same land, but because we share the same dream.



The superior virtue is not to receive justice, it is to fight relentlessly for it.



JOSE W. DIOKNO

quotes



We must believe in ourselves, in our capacity to overcome hardship, in our ability to make the right decision.

Yes-men are not compatible with democracy. We can strengthen our leaders by pointing out what they are doing that is wrong.



Authoritarianism does not let people decide; its basic premise is that people do not know how to decide. It promotes repression that prevents meaningful change, and preserves the structure of power and privilege.



It may make some difference. Some candidates may be more competent than others. The mere fact that we are all agreed on these basics should not make it impossible to achieve these changes regardless of who is this candidate. And therefore if we can agree on these basics, then we should be able to achieve the first step in this long journey to a nation for our children, and that is, the step of regaining our freedom.

But to do that, as I have said, will take time. It will be difficult. Wounds have become very deep, I'm sorry to say. I arrived, as you know, about a week ago and I have found out during this short week that, between certain groups, disagreements have become personal and those are the most difficult to address. But I also wish you to know that efforts are being made, and will continue to be made, so that all these disagreements can be ironed out. We do not expect perfect unanimity, we do not expect total agreement on every detail, but we believe that we can all agree at least on these basics. First, that we must change not only Mr. Marcos but the system he has implanted. We must return to a truly democratic government with an independent judiciary and a responsible Parliament. And more than that, we must bring government and the making of decisions closer to the people affected by those decisions. Second, I feel that there should be — and there will be — no disagreement on the need to obtain our total liberation and freedom from American control. I say this because just the other day, there was a short meeting between representatives of UNIDO and others — those who had taken part and those who had not taken part in the last elections — and on the matter of “let's start getting together, let's talk and let's see if we can get some bases of agreement,” one of them said: “Tanny, do you remember two years ago we signed a paper. Why don't we use that as the basis of the agreement?” And Tanny said: “Fine. I don't remember what was in that paper we had signed, but why don't you just send it over?” And it was sent over. And the first two paragraphs of that agreement made it very plain that every political force was committed to the proposition that the Philippines must be controlled by Filipinos and that all foreign bases must be removed from our country.

So I see no insurmountable difficulty there and certainly I also see very little difficulty with respect to the third agreement, i.e. that we use our freedom and our independence to improve the quality of life of our people. Again we may disagree on how this is to be done but on the objectives, I think we are all agreed. I think that the second step in that long journey to attain a nation for our children is simply this: that in order to improve the quality of life of our people, what we have to do is really very simple and do the opposite of what Marcos has done for the last twelve years. I am not being facetious. I am not trying to be witty. I'm trying to state a fundamental truth.

Marcos has built his entire program on the principle of depending upon the U.S. and Japan and getting all the loans that he could. We must build our nation on the principle of depending on ourselves and getting as loans only what we need, not what we can get. Marcos has built his entire political system on gathering all power unto himself and eliminating all checks and balances. We must build our political system on respect for the sovereignty of the people, on the establishment of adequate checks and balances and on empowering the people at the grassroots level.

Marcos has built his economic system on a policy of overspending, export-orientation, low wages, recession, unemployment and poverty. We must build our economic system on strengthening our domestic market by increasing the productivity of our farmers and our workers and increasing their real wages, because without an increase in the real wages and the real income of our workers and our farmers, it will not be possible for us to industrialise. We will continue to be dependent on foreign resources.

We must build our economy on removing disparities between urban and rural areas so that whatever social services we supply our rural areas — health, education, water, power, roads — are of the same quality and the same standards as the social services that we supply to our cities.

And we must build our economy on using every method that we know as soon as possible to restore the buying power of our workers, at the very least and as a first step, to what was their buying power in 1972. From 1972 to the present, the real wages, the purchasing power, of our workers has dropped by no less than 45 per cent across the board — about 37 per cent for skilled workers and 48 per cent for unskilled workers. That has to be completely reversed. And our first objective must be to bring back their purchasing power at least to what it was in 1972 and then gradually increasing it.

Marcos has built his entire social system on a system of falsehood, on a system of repressing creativity, and on creating in our people a feeling of impotence and helplessness. I wonder how many of you have read Prof. Luisa Doronila's report on the textbooks that are being used in our public schools and the effects they are having on our children. When the children were asked what they preferred to be — Filipinos, Americans, Japanese, etc. — the lowest rank was gotten by those who wanted to be Filipinos. What are we doing to our children? Our system must be the

complete opposite. Our system must tell our children the truth. Our system must seek as much as it can to unleash their creativity.

I described to you when I began what I thought was the vision of most Filipinos of a nation for our children and I know that for many of you, it may sound ideal. Yet reality is often much more beautiful than anything that we can conceive of. If we can but release the creative energy of our people then we will have a nation full of hope and full of joy, full of life and full of love — a nation that may not be a nation for our children but which will be a nation of our children. ■

Text adapted from a speech delivered late in 1984 by Jose W. Diokno. At that time he was deeply involved in trying to unify the opposition against the fascist but failing regime of Ferdinand E. Marcos. This important and crucial task did not prevent him from delineating in near-lyrical language his dream of a nation for all Filipino children — a just, humane and free society. Jose W. Diokno was one of conveners of the Asian Human Rights Commission.

■ cont'd from page 29

Despite these long odds, the participants in the People's Climate March are not alone. There is no slight irony in the fact that their major allies throughout the world are the surviving indigenous communities that have upheld their own versions of the Charter of the Forest. In Canada, the Gitxaala First Nation is filing a lawsuit opposing a tar-sands pipeline passing through its territory, relying on recent high-court rulings on indigenous rights. In Ecuador, the large indigenous community played an essential part in the government's offer to keep some of its oil in the ground, where it should be, if the rich countries would compensate Ecuador for a fraction of the lost profits. (The offer was refused.) The one country governed by an indigenous majority, Bolivia, held a World People's Conference in 2010, with 35,000 participants from 140 countries. It produced

a People's Agreement calling for sharp reductions in emissions, as well as a Universal Declaration on the Rights of Mother Earth. These are key demands of indigenous communities all over the world.

So, as we commemorate the two charters after 800 years, all of this gives us ample reason for serious reflection — and for determined action. ■

Noam Chomsky is Institute Professor in the Department of Linguistics and Philosophy at the Massachusetts Institute of Technology, Boston. This article was a part of The Nation's 150th Anniversary Special Issue. We re-printed with the non-exclusive permission by the author. Copyrighted © by Noam Chomsky.

photo essay

26 JUNE 2015

DIGNITY
DANSK

DIGNITY

DAY



PHOTO ESSAY DIGNITY DAY 2015

June 26 is the UN International Day against Torture, a day when people around the world do something to make the Danish population aware of the measures that must be taken to prevent torture. In Copenhagen, where torture victims are celebrated, the day is marked with a live concert by the band The Philippine. DIGNITY DAY is the world's biggest protest, and over 10,000 Danes find their way to the concert to fight for DIGNITY: 'Torture can

TEXT BY **DORRIT REE AKSELBO**
PHOTOGRAPHS BY **MADS DAMGAARD**



al Day in Support of the victims of torture. It is a truly important day that far too many not know about. DIGNITY – the Danish Institute Against Torture - aims to make the the widespread use of torture around the world, the constant battle against it and the to build a world without torture. In Copenhagen, the result of this wish is 'DIGNITY DAY', celebrated for their dignity and courage. The Danish people show their support on the Danish international star Oh Land, speeches from prominent individuals and videos s, Hong Kong, Liberia, Pakistan, Sri Lanka, Honduras, Nepal and many other countries. ggest celebration of the UN International Day in Support of Torture Victims. More than the King's Garden in inner Copenhagen, leaving with the same opinion as those who never be accepted!'

PHOTO ESSAY DIGNITY DAY 2015







PHOTO ESSAY DIGNITY DAY 2015

"We were just
magnitude of
We did not know
who DIGNITY
We think that
know that to
An event like

Group of students from the University of Copenhagen: From left: Tine, Julie, Annika, Mette & Sofie



Just passing through the gardens when we stumbled upon the event. Positively surprised by the weather of the day, we have stuck around to hear the good music.

We know much about torture or its extent worldwide, but have learned more today and now we know more. Before we only knew that Amnesty International worked against torture.

The event is perfect and is a good way of putting the topic on the agenda – especially now that torture is so widespread. More ought to be done to place high priority on the eradication of torture. This really stresses the importance of the problem.”

PHOTO ESSAY DIGNITY DAY 2015



Therese Rytter, Director of Legal Affairs & Advocacy, DIGNITY

A woman with grey hair, wearing a black blazer, white top, and patterned scarf, is speaking into a microphone. She is standing in front of a large red backdrop with a stylized white map of Africa. The text 'DIGNITY DANSK INSTITUT MOD TORTUR' is printed in white on the backdrop. Two microphones on stands are visible in the foreground.

DIGNITY

DANSK
INSTITUT
MOD TORTUR

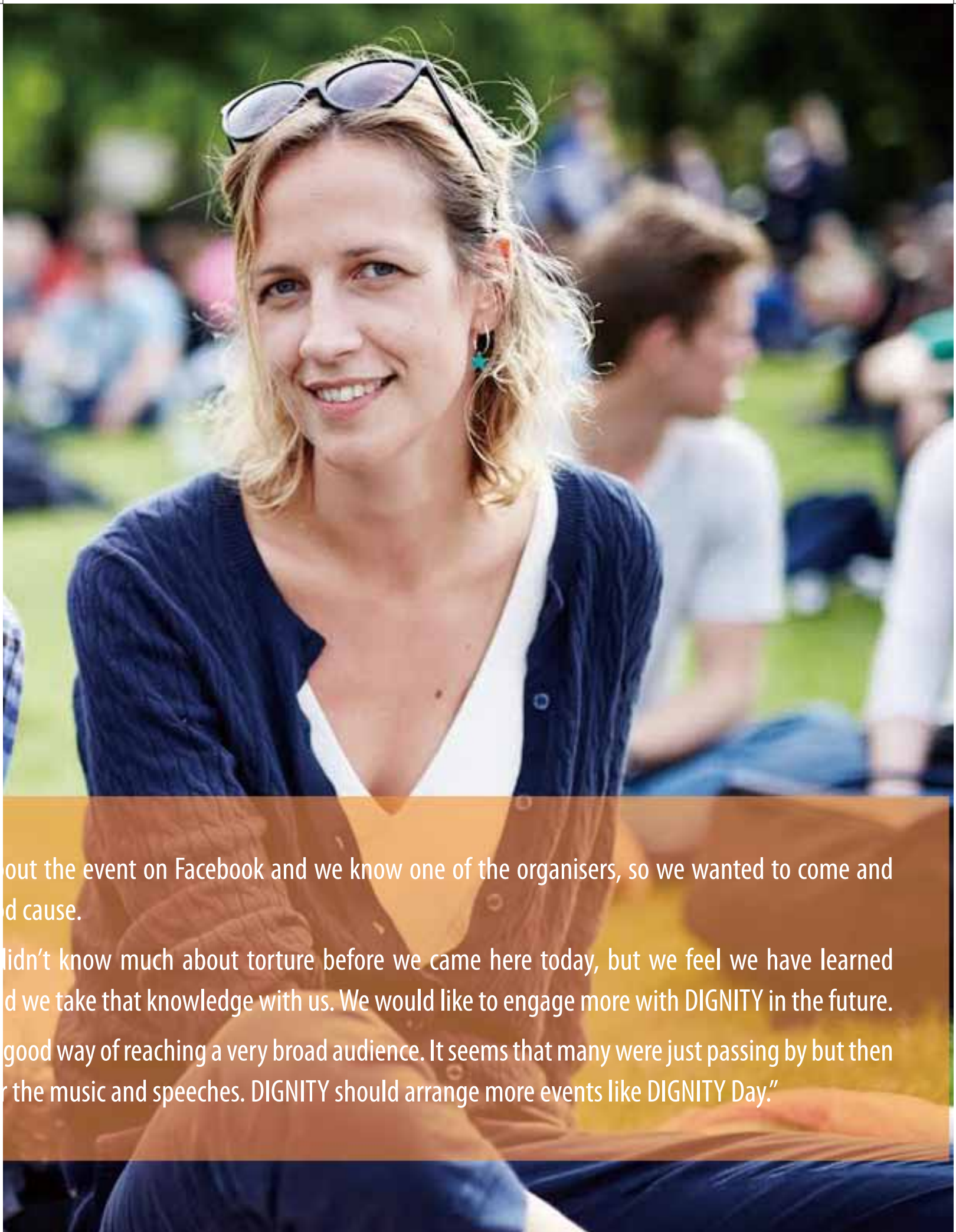
Karin Verland, Director General, DIGNITY



PHOTO ESSAY DIGNITY DAY 2015

"We heard ab
support a goo
We actually c
something an
The event is a
stayed to hear

From left: Karina Hansen & Julie Hansen, sisters from Copenhagen



out the event on Facebook and we know one of the organisers, so we wanted to come and
d cause.

didn't know much about torture before we came here today, but we feel we have learned
d we take that knowledge with us. We would like to engage more with DIGNITY in the future.
good way of reaching a very broad audience. It seems that many were just passing by but then
r the music and speeches. DIGNITY should arrange more events like DIGNITY Day."

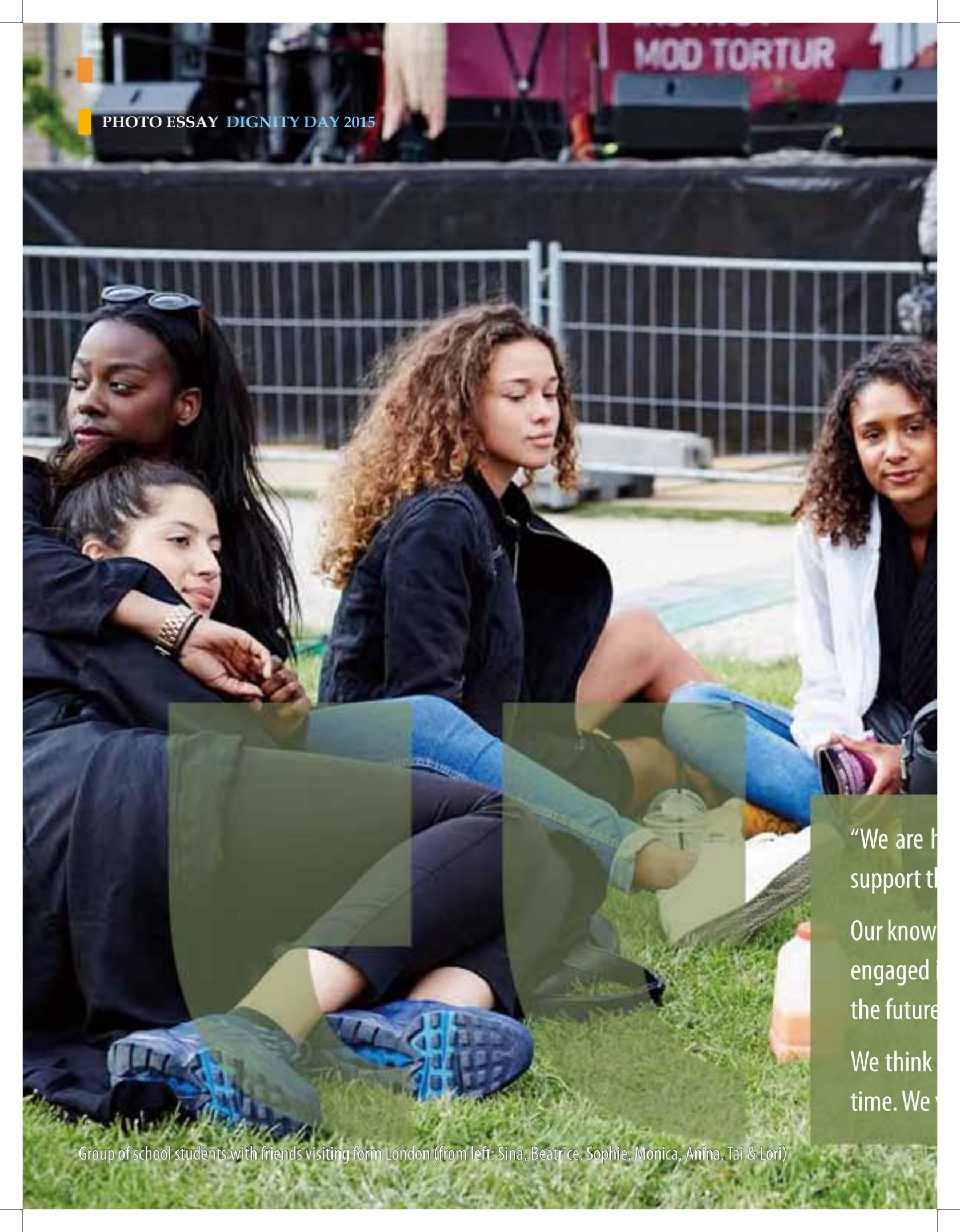


PHOTO ESSAY DIGNITY DAY 2015

"We are h
support th
Our know
engaged
the future
We think
time. We

Group of school students with friends visiting from London (from left: Sina, Beatrice, Sophie, Monica, Anina, Tai & Lori)



here, because we heard about the event from a friend. We have come for the music, but also to the cause.

ledge about torture is pretty much nonexistent. But we would like to learn more and become more in the cause. We will definitely remember DIGNITY and think of how we can support their work in the future.

DIGNITY Day is a great type of event. The music is good and we can support a cause at the same time. We would definitely come again."



"We came before
beforehand, but
We knew before
inhuman and
DIGNITY Day
would definit

(Ruth Petersen & Margrethe Dinesen)



because my friend's son is a musician and is performing in one of the bands. We didn't know DIGNITY but we think the work you are doing is really important.

Before coming here today that torture is an extensive problem worldwide. We find torture to be unacceptable. It should never be accepted.

This is a great way of putting emphasis on the cause and we think that you reach a broad crowd. We will definitely come again."



Death penalty for **GERALD'S** **MURDERERS**

Police officer Suresh Gunasena who was sentenced to death has challenged the Appeal Court decision and filed a case in the Supreme Court.

by PHILIP DISSANAYAKE

AFTER a prolonged hearing at the Negombo High Court, on 22 June 2015 Judge M.Z. M. Razeen found the two suspects guilty of murdering Mr Gerald Mervin Perera, a cook at the Colombo Dockyards, in November 2004. The two policemen have been sentenced to death. Mr. Gerald Mervin Perera, a father of three residing in Makewita, Wattala was shot dead while travelling by bus.

The policemen guilty of murder are Suresh Gunasena residing at Kadurupokuna, Tangalle, who was attached to the Crimes Branch of the Wattala Police Station and P R Ajit Nishantha residing in Wattala, Hunupitiya.

Gerald was arrested in a case of mistaken identity and severely tortured at the Wattala police station. He was in the intensive care unit for nineteen days. He filed a Fundamental Rights case against the police officers.



In reporting his decision Justice Mark Fernando ruled that Gerald's fundamental rights had been violated and he was awarded a compensation of nearly 15 lakhs. The Supreme Court ordered the Attorney General to file a case under the Convention against Torture Act of Sri Lanka, Act No. 22 of 1994.

Thus the Attorney General filed a case in 2003 against the two suspects mentioned above and six other police officers. While the case was being heard at the Negombo High Court and Gerald was to give evidence before the courts on 2 December 2004, he was shot dead while travelling to work by bus on 21 November 2004, by the two officers.

The lawyer who appeared on behalf of the accused had told them that the only way out of the case was to stop Gerald from giving evidence. Thus, Suresh Gunasena, along with a provincial council member, approached Gerald with a bribe of 3 lakhs and tried to influence him to withdraw the complaint. After several failed attempts they decided to simply murder him.

According to their lawyer, the other six police officers were released by the then Negombo High court judge. Gerald's wife, along with the Asian Human Rights Commission, Right to Life Human Rights Centre and Gampaha People's Committee and other human rights organisations challenged the decision and appealed. After a prolonged hearing the release of the first four defenders was cancelled and the Appeal Court decided to rehear the case.

Police officer Suresh Gunasena was sentenced to death and challenged the Appeal Court decision by filing a case in the Supreme Court. The Supreme Court confirmed the decision of the Appeal Court and ordered the hearing of the case against the suspects before December 2014, with the inclusion of Wattala OIC as a defendant.

However, six months have passed and the case continues at the Negombo High Court. The only comfort for human rights defenders is the verdict in the murder case, despite taking ten years to procure.

At this moment it is important to recognise the courage and sacrifice of Mrs. Padma Wickramaratne, Gerald's wife. Alone with her three children, she sought justice in an environment where threats, discouragement and economic hardship is commonplace. Fighting against torture takes tenacity and the support of many skilled advocates. And so we thank Mr. Basil Fernando, Director of the Asian Human Rights Commission; Raseek Sanjeewa, Attorney at Law; Ranjan Mendis, Attorney at Law; and the many other lawyers, and organisations who fight tirelessly for justice against torture. ■

Philip Dissanayake is the Executive Secretary Right to Life Human Rights Centre, Colombo, Sri Lanka.



DEATH AND THE BLOGGER(S)

A BOOK fair in Dhaka, Bangladesh; a man and a woman walk about checking out the stalls. Looking back months later, the woman thought they may have been holding hands. She remembered that they were discussing dinner, whether to eat at home or to eat out, ordinary conversations about ordinary things.

The attackers materialise as if from nowhere. They wield machetes and they are intent on murder. They are many and their victims are unarmed. The place is crowded, but the attackers know that no-one will stand in their way. This is not the first time a man has been hacked to death in broad daylight for his beliefs and this will not be the last.

So Avijit Roy dies, killed for his ideas by those who believe that they possess a heaven sanctioned monopoly on truth. Roy's freethinking earned him the violent wrath of Bangladesh's Islamic fundamentalists.

GERMINAL



Tisaranee Gunasekara

He was threatened many times but refused to give up his work. He stood for his ideas and for his right to express them freely, and was brutally killed by those who are determined to impose religious-correctness by whatever means necessary, including machetes.

Within a month of Roy's murder yet another freethinking blogger, twenty seven year old Washiqur Rahman, was "brutally hacked to death... with big knives just 500 yards... from his home at Dhaka's Begunbari area"¹. Several months later another humanist blogger and a colleague of Roy's, Aananta Bijoy Das, was

butchered while on his way to work². Earlier in 2014, Prof. Shafiul Islam, a sociology professor, had been

1 <http://www.theguardian.com/world/2015/mar/30/blogger-hacked-death-bangladesh-dhaka>

2 <http://www.thestar.com/news/world/2015/05/12/bangladeshi-blogger-is-third-to-be-murdered-this-year.html>

slaughtered with machetes while on his way home³. In 2013, blogger Ahmed Rajib Haider “was hacked in the head, jaw and shoulder before his throat was slit”⁴.

Roy’s wife Bonya Ahmed (who was severely injured in the attack which killed Roy) gave her 2015 Voltaire Lecture the interesting title: Fighting Machetes with Pens⁵. The religious fundamentalists who are striking down freethinking bloggers in Bangladesh have opted for machetes and knives over guns. The victims must not only die; their deaths must be as gruesome and as bloody as possible. Guns would be too fast and too merciful; the errant thinkers should not be killed like humans but butchered like animals. The killers want much more than to eliminate a handful of outspoken critics. Each murder is also a warning to innumerable ordinary Bangladeshis. They wish to do more than silence the few; they want to frighten millions into compliance.

The brutal murder of bloggers in Bangladesh reminds us that freedom (not only freedom of expression but freedom in general) can be threatened not just by autocratic states but also by autocratic popular movements. Such movements can be both secular, like the JVP in Sri Lanka during the late 1980’s, and religious. In the post-socialist world we live in, they are more likely to be religious than secular. Threats which emanate from such movements can be far more deadly than threats which emanate from states. Even

3 <http://www.asianews.it/news-en/Rajshahi:-Islamists-kill-university-professor-for-banning-burka-in-classroom-32720.html>

4 <http://bdnews24.com/bangladesh/2013/02/16/killers-hacked-rajib-first-then-slit-his-throat-police>

5 <http://enblog.mukto-mona.com/2015/07/03/voltaire-lecture-2015-fighting-machetes-with-pens/>

“
**Religion is safe only
when it is an opiate.
The task of impeding
the ongoing
transformation
of non-Christian
religions into the
cocaine of non-
Christian masses
belongs to those
holding the faiths.**
”

the most autocratic of states in today’s world cannot afford to ignore national and international opinion completely. Yet most autocratic movements can – and do. This is an aspect which needs to be taken into account when struggling for basic human rights including freedom from torture.

The Coke of the Masses

Religion, wrote Karl Marx famously, is the opiate of the masses. Marx was writing about 19th Century Christianity. Christianity has been through its holy wars, its inquisitions and its burnings. In Marx’s time it was a pale, domesticated version of its former violently intolerant self and its impact on the masses was indeed soporific. But look back a couple of centuries, and the picture was almost antithetical. Violence and religion went hand in hand; intolerance was absolute and not even a humanist like Thomas More saw anything wrong with roasting a few heretics.

Islam is not the only religion retreating into the black-hole of all-consuming ignorance and lethal intolerance Christianity escaped from. Hinduism, Judaism and Buddhism too are headed in the same direction, albeit at a much, much slower pace. Of the major world religions, perhaps the only one which has escaped the virus of violence from its inception until now is Jainism. The reasons for this exception need to be investigated. One explanation may be that Jainism is not and has never been a state or a racial/national religion – and therefore never had its own version of politics of salvation as all other religions did.

The Islamic fundamentalists who are butchering freethinkers in Bangladesh and elsewhere mentally reside in the Middle-Ages – not the relatively more tolerant Islamic Middle Ages but the absolutely

intolerant Christian Middle Ages. This is a historic truth both anti-Muslim bigots and Islamic fundamentalists never acknowledge: that the Islamic Middle Age was a time of development and prosperity, of intellectual attainment and artistic excellence with a degree of tolerance which is absent in many an Islamic nation of the 21st Century. An illuminating example is the case of Muhammad al-Razi, thinker, polymath and physician, who lived between 824 CE and 925 CE. Al-Razi is believed to have authored two 'heretical' books, *On Prophecies* and *The Prophet's Fraudulent Tricks*. The following excerpt said to be from the second book is likely indicative of the whole:

"If the people of this religion are asked about the proof for the soundness of their religion they flare up, get angry and spill the blood of whoever confronts them with this question. They forbid rational speculation and strive to kill their adversaries. This is why truth became thoroughly silenced and concealed."

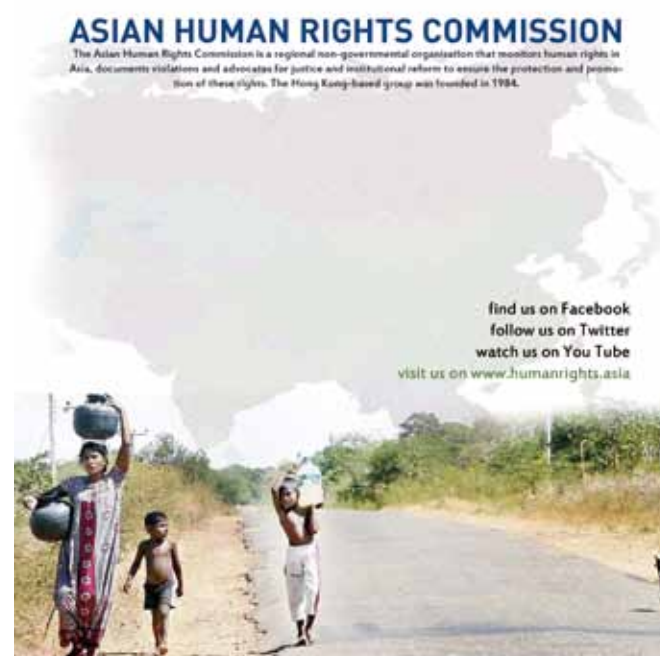
Al-Razi was not beheaded or even incarcerated for writing such words. Instead he was highly respected for his learning. The more orthodox philosopher Amiri's complaint about the honourable position occupied by al-Razi is an unintended compliment to the tolerance of Islamic Middle Ages: "The extraordinary thing about the people of our own time is that, when they see that a man has read Euclid's book and mastered the principles of logic, they describe him as a sage... even if he completely lacks (knowledge of) the divine sciences. Thus they ascribe wisdom to Muhammad b. Zakariya al-Razi because his proficiency in medicine — this in spite of his various ravings."⁶

Europe (and America) escaped the scourge of religious extremism and politics of salvation by putting Christianity in its allotted (politically marginal) place. That transformation came from within the religious community. It was led by Christians, often at great personal risk. Books and not guns were their weapons of choice. Eventually laws could be changed because minds had changed.

6 Quoted in *Freethinkers in Medieval Islam*, Sarah Stroumsa

Religion is safe only when it is an opiate. The task of impeding the ongoing transformation of non-Christian religions into the cocaine of non-Christian masses belongs to those holding the faiths.

It will be a long war and it will have to be fought mainly in the terrain of ideas. But that does not mean real blood will not be shed, like that of Avijit Roy and his freethinking compatriots. Their struggle for a world in which a human being will not be punished for their ideas is an integral and essential component of the larger regional and global struggle for basic freedoms and rights. ■



THE MURDERER AS HERO

THE preponderance of torturers and killers that make up the modern day heroes imposed upon the populace is appalling. Equally appalling is the willingness with which so many of us accept the definition of these questionable characters as heroic. From Chris Kyle of American Sniper infamy to the fictional characters in the US television crime series NCIS, the common denominator is the characters' self-righteous sense that they are somehow better than those whom they beat and kill. The fact is that they are not. Murderers are murderers no matter who they kill for.

I have not seen American Sniper and have no intention of doing so. The book was a difficult and repulsive read all by itself. Actually seeing reenactments of the murders described and hearing the nationalistic and racist dialogue onscreen is more than I want to deal with. However, I do watch NCIS. After each episode I view I ask myself why I watch it. The national security rationale that is the foundation of the show and the



Ron Jacobs

forays into propaganda for the US Marine Corps, National Security Agency and the entire US warfare state is against everything I believe in. Yet, the apparent integrity of the primary characters and their interpersonal relationships keep me coming back for the next episode.

I recently read an article in the conservative weekly of the Catholic Church in the United States, the National Catholic Register. The article is titled "Catholic, Christian and Killing for a Living" and is essentially an interview with retired Marine sniper Jack Coughlin, who

intentionally killed dozens of people in US military war zones during his military career. Without any sense of irony, Coughlin is described in the article as "pro-life." He also justifies the murders he undertook in the name of fighting "evil." Of course, left unsaid is that many of the fighters and other people he and his fellow snipers kill also believe they are fighting "evil."

Jethro Gibbs, the head agent on the NCIS team (played by Mark Harmon), is also a former Marine

sniper. Although he is rarely bothered by the memories of the murders he committed (nor by the killings he and his team carry out in every episode), his justification is usually of a more personal nature. Indeed, the defining murder he committed as a sniper was the killing of a drug trafficker that murdered his first wife and daughter. If any killing haunts him it is this one. Yet, this does not stop him from killing again. Likewise, any qualms felt by the individuals employed as snipers in today's military are apparently not enough to change any aspect of the military's use of these killers.

Instead, what the civilian sees is greater and greater justification for the killing that comes with war; and greater and greater equating of murder with heroic action. The war in Iraq, which the Catholic Church did not think met its just war doctrine, nevertheless employed Catholic snipers, pilots and other military-approved killers, not to mention torturers, all of whom live today with relatively clear consciences. Why? Because their religion (like virtually every other) provides them with enough theological loopholes to continue living without examining the nature of their deeds.

Then, there are the politicians. Here in the United States the interminable election season has begun. Politicians from both parties are gathering supporters, building campaign bank accounts, hiring writers and advertising companies. They redesign their public personas and redefine their political positions depending on what their advisors tell them the polls are saying. As I write, the media is full of potential presidents explaining their positions on the 2003 Iraq invasion and the succeeding occupation. All of

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The incredible popularity of films like American Sniper prove, if nothing else, that the willingness to continue this imperial path of foolish and deadly destruction has plenty of support among those in the imperial nation.
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this is occurring while the somewhat contrived phenomenon known as the Islamic State claims to have taken another Iraqi city. The brother of former president George W. Bush claims that it was faulty intelligence that caused his sibling's administration to go to war in Iraq. Most of the other Republican candidates agree. Of course, this is nonsense. As anyone who was cognisant in 2002 remembers, the intelligence wasn't faulty. It said there were no active WMD. It was the determination of the neocon wing of the US ruling class that denied that intelligence, made up their own, and sent the US military off. The Democrats followed willingly. Even those who voted against the original authorisation for war, like candidate Bernie Sanders, voted to fund it afterwards.

From Baghdad to Ramadi, Al-Ghraiab to Mosul, and all points between and around, a fair amount of the onus for this war resides with those politicians and with the citizens who voted for them again and again. The torturers in US-run prisons, the civil war fomented by US intelligence, the massive civilian casualties—all of this is their responsibility. So is the current situation in that country, Afghanistan and elsewhere in the Middle East and South Asia. So are groups like Islamic State, which, according to recent reports in various Israeli media, is actually coordinating some of its attacks in Syria with Tel Aviv. At the same time, recent press releases from the US Pentagon have informed the world that the United States has Special Forces troops operating in Syria. In other words, there are ground troops in Syria.

The incredible popularity of films like American Sniper prove, if nothing else, that the willingness

to continue this imperial path of foolish and deadly destruction has plenty of support among those in the imperial nation. Whatever the reasons beyond those that serve the war industry and its benefactors, the brutality, senselessness, and plain old death of war is spreading, not shrinking.

As for those other reasons, what could they be? Why are mass murderers in the uniform of supposedly civilised nations (like the US) celebrated while those, like Chelsea Manning who expose their crimes, are imprisoned or ignored? What is it in the populations of these countries that invokes their support for actions they would find reprehensible if they were being perpetrated on their children and homes? Why do they celebrate the men who commit such acts? In 1967 Norman Mailer released a novel titled *Why Are We In Vietnam?* This exercise by Mailer is the story of a couple 18 year-old Texans off on a hunting trip with their wealthy fathers. The quartet are consumed with an overload of braggadocio and testosterone. The story of the trip, which is full of whisky and tales of past sexual conquests, racial slurs and assumptions of American exceptionalism, is told through the eyes of one of the younger men. It is obviously meant as a psychological metaphor for why the US fought in Vietnam. Like the film *The Deer Hunter* and a number of other films having to do with killing America's enemies, the nature of US machismo and its curious confusion with racism and homophobia, *Why Are We In Vietnam?* puts forth the proposition that not only is the rugged individualism of the white-skinned pioneer essential to the myth of the US conquest of the North America continent, it is also essential to the expansion of US capitalism as well. Indeed, it is part and parcel of why US history has more years of slaughter than it does years of peace. ■

Ron Jacobs is the author of a series of crime novels and *The Way the Wind Blew: A History of the Weather Underground*. His new book is titled *Daydream Sunset: 60s Counterculture in the '70s*.

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

THROUGH A GLASS DARKLY

Tariq Aziz and Iraq's Tragedy

A USEFUL way to start evaluating the disaster in Iraq and more regionally, could begin with the late Tariq Aziz, born on 28 April, 1936 in the town of Sinjar as Mikhail Yuhanna. With his death on Friday came an end to the line of formidable, if blood thirsty Ba'athist rulers that characterised Saddam Hussein's rule. It was a rule marked by such individuals of gangster-like proportion as "Chemical Ali" (Saddam's cousin Ali Hassan al-Majid), and son Qusay, who commanded the Republican Guard.

Aziz's own position of power said much. He was of the Chaldean Catholic minority. He was also a survivor, one of those who constituted the system of repression he also managed to evade. He became Saddam's voice to the foreign community, doubling as both deputy leader and foreign minister.

Despite Saddam's penchant for bloodthirsty excesses against those within and without his inner circle, Aziz never fell to that casual frivolity that so often resulted in death for those out of favour.

The assassination attempt on Aziz in 1980 at Baghdad's Mustansiriyah University, instigated by the Shiite

THE CORRECTIONIST

Binoy Kampmark



group Islamic Dawn, was the reddest of rags to the regime. It led to two fundamental consequences for Iraq, one internal, another external. Internally, it precipitated a brutal outlawing of groups, one that made it a capital crime to be a member of them, be they Communist or rival religious parties.

In terms of regional tremors, the assassination attempt on Aziz by the Tehran-backed faction led to an eight year war with Iran. At the very least, it was a good pretext, even if it did result in a chronic, lethal stalemate that cost over a million lives.

Blood soaked as Saddam's regime was, maniacal and brutal as the dictator of Iraq proved to be during his rule, Aziz's passing does provide much food for thought. Not a day passes by without some mention of Islamic State and its handiwork, or the rise of a plethora of Islamic militant groups brandishing the swords and knives of delivery and justice.

The Ba'athist regime of Saddam was the most choking of lids, holding such extremist tendencies down. Its suffocating and stifling tendencies did not merely target secular rival groups, but also those who might spring forth with sectarian justification. As Jon Lee

Anderson aptly summarises, “Arab Sunnis, Shiites, and Christians, as well as other groups, such as Turkmen, Yazidis, and even Kurds, between their bouts of resistance, made peace deals with the regime and took care to suppress religious militancy in their communities” (New Yorker, Jun 8).¹

Iraq was always a mishmash, an entity drawn out by colonial, chiefly British, interests centred on oil and realpolitik. Little heed was taken of the sectarian consequences of lumping the Shia, Sunni and Kurdish blocs into an artificial mass of rivalry and contest. It produced the monster of cruel stability that became the Saddam regime. That own inner logic ultimately led to the country’s destruction with the 2003 invasion by US-led forces. The lid was lifted; the box’s contents unleashed.

At his trial for crimes against humanity, which took place after Saddam’s execution in 2007, Aziz would use that tried defence of state necessity. Individuals could not be held responsible for targeting and ridding a country of its enemies. It was the logic of a brutal system that produced its own viral responses. Aziz was one of the self-touted antibodies.

The other tried and not always successful tactic was one of exoneration and contrived impotence. Yes, Saddam was brutal and murderous in dealing with his enemies, but Aziz did not feel responsible for those actions as such. “It’s been seven years and four months that I have been in prison,” observed Aziz to Martin Chulov in Baghdad in 2010. “But did I commit

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a crime against any civilian, military or religious man? The answer is no.”²

His was the theory of supreme agency, lodged neatly at the top of the totalitarian power structure. People might suggest and offer counsel, but the leader ultimately disposes. “All decisions were taken by President Saddam Hussein. I held a political position. I did not participate in any crimes that were raised against me personally. Out of hundreds of complaints, nobody has mentioned me in prison.”

He straddled the sidelines of history while his leader chugged along. For all that, he would still admit to *The Guardian* how he, “was a member of the Revolutionary Command Council, a leader of the Ba’ath party, deputy prime minister, foreign minister.”

The geopolitical masters of another generation, who felt so clever in carving up the Middle East, have their own descendants in the form of ruthless, and indifferent agents. “Britain and the US killed Iraq,” observed Aziz in 2010. Having ravaged the state, the departure of those very same forces would be tantamount to leaving the country “to the wolves.” The consequences of these actions have continued, producing their own

regional, and seemingly uncontrollable, monsters. ■

Dr. Binoy Kampmark was a Commonwealth Scholar at Selwyn College, Cambridge. He lectures at RMIT University, Melbourne.

1 <http://www.newyorker.com/news/news-desk/tariq-aziz-and-the-last-of-the-baathists>

2 http://www.theguardian.com/world/2010/aug/05/iraq-us-tariq-aziz-iran?CMP=share_btn_tw

The Floating Cemetery

UNWANTED AND ABANDONED AT SEA

The sea, full of mystery
And free souls, that out of
misery,
Abandoned and forsaken,
The road across the sea have
taken,
To find in exile the golden age,
And life's children to change,
But swept by the deadly waves,
Out from under,
As in a thunder,
Without any mercy,
Men, women, children,
Sank to the very bottom,
In salty water locked up
forever,
Not to see the sun light never;
Sea, the sea imprisoned them
forever!

~ by Shqipe Prenc

IN RECORD numbers, people are escaping regions plagued by warfare, instability, disasters, poverty, systemic persecution, violence and torture. The United Nations announced last year that forced displacement has topped 50 million globally and early tracking indicates that number may increase again this year. Multiple crises worldwide are driving the record migrations, which include Africans and Middle Easterners entering Europe, Rohingya Muslims fleeing Burma, civilians escaping violence in Syria, Libya, Yemen, Burundi, Somalia, Iraq, and more



— all undertaking risky journeys to find better lives.

We are witnessing the largest refugee crisis since the Second World War: over 50 million people are on the run from war, conflict, drought and famine. A humanitarian crisis of enormous proportions. At the same time, we are witnessing a historic failure of epic proportions. A failure our children and grandchildren will look back on and be ashamed of. How Europe, the world's richest continent, left innocent people, young and old, women and men, to drown. Despite the fact that we had the resources to save them. This is a

direct result of failing governance accompanied by a monumental lack of compassion.

Cynicism and populism have prevailed. Politicians argue that it creates “positive incentives” if you save the boat migrants and refugees. But neither the rescue services nor the prospect of drowning decides whether these migrants cross the sea, for they are not driven by “positive incentives”, but of something far stronger — their instinct of survival.

Migrants from West Africa in overcrowded pickup trucks drive through dusty roads, one desert town after

the other. They set off from their hometowns on the edge of the harsh Sahara desert to cross the merciless Sahel on the uncertain journey towards Europe via Libya, where the collapse of the government has provided an open door for smugglers.

The people I have met in West Africa or in Libya did not want to flee, to leave their family and friends, their home and work. But they had no alternative. Torture, disappearances, assassinations and war was a part of their everyday life. Stories of abduction, torture, sexual violence and abuse from migrants and refugees in Libya are ubiquitous.

Migrants and refugees are often raped and tortured. Torture and other ill-treatment in immigration detention centres remains widespread. In many cases, migrants and refugees attempting to cross the Mediterranean Sea have been subjected to prolonged beatings in such facilities following their interception and arrest by the Libyan coastguard or militias acting on their own initiative in the absence of strong state institutions. Women held in these facilities, which lack female guards, are vulnerable to sexual violence and harassment.

The deep desperation when all hope is lost, where everything else is better than what has been, has been countered by constantly increasing border controls, criminalising entry and creating a breeding ground for human trafficking. Instead of blaming the smugglers, one should instead tackle the root causes of why so many people risk their lives to reach Europe.

One of the underlying reasons is Libya. The chaos-ridden country has developed into a transit and a smuggler paradise — and with six bordering countries, has destabilised an already fragile region with massive increase in smuggling networks. NATO and allies bombed Libya's infrastructure, without any intention of rebuilding it, nor any idea of what would replace it. What you now have is anarchy, lawlessness and a security vacuum controlled by militias, clan leaders and warlords. Libya has now become the epicentre for weapons, drugs and human trafficking across the Sahel to Europe.

Last time I was in Libya, I stood at Tripoli's harbour, overlooking the Mediterranean and the wild waves. People had already started pushing out the overloaded rubber boats and discarded fishing vessels and hundreds had already died — in what they called the "Blue Desert".

It is estimated that there are a half to one million people in Libya, waiting to cross the Mediterranean. Sadly, we are only witnessing the tip of the iceberg. A mass grave is shaping up in the Mediterranean.

Even more depressing is that the Mediterranean is not the only floating cemetery. The first time I heard about the Rohingya was in a UNHCR High Level Meeting in Geneva, Switzerland in 2012, where I was representing the Danish UN Mission. A few European countries stressed the deteriorating situation in Burma, and the lack of protection for the Rohingya. Mainstream media had never covered the situation and only recently woke up to the devastating news about the Rohingya and other survivors of dangerous boat voyages from Burma and Bangladesh; describing horrific treatment by traffickers in Burma and abuse, neglect and ill-treatment aboard ships.

The poor treatment of the Rohingya has been accompanied by callous remarks by regional leaders. Burma's political leaders deny the existence of Rohingya, denouncing them as "illegal Bengalis." Burmese officials initially rejected that any of the people in the boats came from Burma. Prime Minister Sheikh Hasina of Bangladesh said the migrant workers from her country were "mentally sick" and vowed to punish anyone leaving the country illegally. Prime Minister Tony Abbot of Australia called the boat people "reckless" and when asked if Australia would consider resettling any Rohingya found to be refugees, replied, "Nope, nope, nope."

The international community must take a stand. Europe and Asia. Otherwise this sickening indifference is what eventually will kill humanity. Because the opposite of life is not death, it is indifference. ■

GENOCIDAL INDONESIA EXECUTING DRUG CONVICTS

Interestingly, most of the accused and executed are not bringing drugs in; they are instead smuggling narcotics out of Indonesia.

by ANDRE VLTCHER

INDONESIA, the country which did not earnestly punish one single top military brass for the genocide in East Timor and not one single person for horrendous and ongoing genocide in Papua, executed another group of people accused of drug trafficking on 29 April at 00:35. This follows its actions in January, slaying six drug convicts including five foreigners, which sparked international indignation.

AFP reported:

"Indonesia on Sunday signalled it was determined to push ahead with the execution of eight foreign drug convicts, despite a growing wave of global condemnation led by United Nations chief Ban Ki-moon.

Authorities on Saturday gave formal notice to the eight -- from Australia, Brazil, Nigeria and

the Philippines -- that they would be executed by firing squad imminently, along with an Indonesian prisoner."

It is hard to overlook hypocrisy of these trials and executions.

Indonesia is one of the most corrupt nations on earth, where the rich hold high government positions, openly and shamelessly robbing the poor. But they will never face the firing squad, because they are above the law.

East Timor lost 30 percent of its population during the Indonesian occupation, which amounted to one of the most brutal genocides of the 20th Century. The Indonesian military (TNI) is responsible for killing of between 150.000 (the lowest estimates of the Western-based human rights agencies) and 500.000 Papuans,

brutally occupying and plundering the country; its agony sustaining the highlife of thousands of Indonesian “elites” in Jakarta. Yet, not one Indonesian soldier is rotting in jail for committing barbarities, and not one politician or business oligarch is facing the firing squad for ordering this unprecedented plunder and extermination campaign. On the contrary: previous and present administrations are full of top commanders who served in East Timor and Papua.

It took a schizophrenic Brazilian man, four poor Africans, two Australians of Asian origin, and one deprived Indonesian to die, in order to show the world how moral and righteous Indonesia really is! The ninth prisoner, a Filipino woman, was “spared” but only “temporarily” and only after a woman who allegedly planted narcotics in her bag stepped forward and confessed.

The thugs, mass murderers who killed, with their bare hands, between 1-3 million leftists and intellectuals of Indonesia in 1965/66 are still bragging about their deeds, recalling gross details in television studios, being applauded by brainwashed and bloodthirsty crowds. Nobody in their wildest dreams thinks about throwing these killers against a wall and executing them for treason and for having served foreign (Western) interests.

The murder rate in Indonesia is on per capita basis much higher than even that of the United States. The country has sunk into violence. Rape, child abuse (I was recently told that in Surabaya, girls are forced into prostitution at the age of 5 and many of them are thrown to the gutter for being “too old” when they reach the ripe age of 12), mob justice; it is all *biasa*, normal.

But it has to be a bunch of deranged foreigners, smuggling few kilos of heroin, who are made to face the wall and the bullets!

In 2014, the populist President of Indonesia, Joko Widodo declared “war on drugs”, an approach strongly criticised by the United Nations. The moratorium on executions was lifted. In one statement

after another, Joko Widodo argued that thousands of Indonesians are dying as a result of illegal drugs.

Interestingly, most of the accused and executed are not bringing drugs in; they are instead smuggling narcotics out of Indonesia.

The religious leaders, mainly Christians but also Muslims (amongst others), are literally robbing their congregations. To become a preacher or an Imam in Indonesia, is the best job imaginable for the lazy, stupid and ambitious. Imams are pimping their wives in the Gulf and everybody knows it. Protestant preachers are robbing their followers of tens of millions dollars in Surabaya and other cities, while Catholic priests, like everywhere else in the world, are molesting children. Almost all religious leaders in Indonesia are right-wing bigots and supporters of turbo-capitalism and the pro-Western Indonesian regime. But none of them goes to prison, or if they do, they are released in just a few weeks or months. To steal from the poor is fine! To fool believers is absolutely acceptable. But dare to smuggle few kilograms of drugs (especially if you are a poor foreigner), and you will be executed!

Public lynching is admissible; it is common, all over Indonesia. Citizens of this unfortunate archipelago love spectacles, the more brutal the better! Some sources claim that around 90 percent of Indonesian public supports the executions.

To murder more than half of poor animals in the Surabaya Zoo is fairly acceptable, especially if several big business interests are behind the killing. But any attempt to smuggle 2.6kg of heroin should be punished by death.

To ignore, to rob and to humiliate poor fellow citizens (the great majority of the Indonesian population is dirt-poor and have no voice whatsoever) is truly laudable, something that the rich and famous of Indonesia are always proud of doing!

Nothing changed for better with this new administration (not that the previous one was at all superior). Nobody is suggesting that the President

goes to jail for fooling the nation, for mocking the poor, for raping hope!

Driving Range Rovers and Ferraris over the potholes of Jakarta, in full view of those who were mugged of everything so these vehicles could be purchased by corporate mafia and government officials, is considered glorious in Indonesia.

To have Gucci and Prada boutiques built right near some open sewage where the children from slums are playing is not only “moral”, it is fabulous.

Nobody is facing firing squad for bringing country to this level.

And drugs? Elites and their kids do coke and other “recreational” and hard drugs. Everybody knows it. But nobody in Indonesia, in their sane mind, would touch the “elites”, the military or the government officials and their families. You touch them, and you get burned to ashes. After all, it is no secret that Indonesia, since 1965, is a lawless country governed by thugs. Gangs and their leaders – political, business and religious ones – cannot be touched.

One of my Indonesian readers remarked, cynically but most likely correctly: “How else can this country’s elite react? They wouldn’t risk losing their monopoly on drug trafficking. If they let one foreigner get away with it, the next thing you know they will all want to get in on the action!”

Therefore, it is just that these few foreigners are “sacrificed”, slaughtered like

goats, periodically, in order for Indonesians to feel that they live in a “moral” and lawful society. ■

Andre Vltchek is a philosopher, novelist, filmmaker and investigative journalist. He covered wars and conflicts in dozens of countries. His latest books are: “Exposing Lies Of The Empire” and “Fighting Against Western Imperialism”. Discussion with Noam Chomsky: On Western Terrorism. Point of No Return is his critically acclaimed political novel. Oceania - a book on Western imperialism in the South Pacific. His provocative book about Indonesia: “Indonesia – The Archipelago of Fear”. Andre is making films for teleSUR and Press TV. After living for many years in Latin America and Oceania, Vltchek presently resides and works in East Asia and the Middle East. He can be reached through his website or his Twitter.

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Modern Slavery on the Southeast Asian Seas

Photo by: Uwe Schwarzbach

Inequalities and unemployment in Southeast Asian countries have created thousands of migrant workers.

by CELINE BRUESCHWEILER and NOREEN NAW

ALTHOUGH most would think that slavery ended decades ago, recent incidents on Benjina Island, Indonesia, remind us of its presence in our society today. In April 2015, the Thai and Indonesian governments sent Special Forces to the island to free 300 persons, enslaved by fishing companies, the majority of them from Burma and Cambodia. This response by the authorities arrived following different detailed media reports and investigations into the matter. These inquiries have shown links between international food distributors and unpaid workers in Southeast Asia.

The fishing industry is not attractive for Thai workers or its migrant populations since Typhoon Gay in 1989, which caused the sinking of 200 fishing boats and the death of at least 450 people. Despite the high demand, people do not want to work for fishing companies anymore because it includes 2 or 3 year long periods living in dangerous conditions on fishing vessels without returning to shore. As a result, and in order to cut labour costs, boat owners resort to slaves. They indenture those fleeing their homelands or from impoverished countries unfortunate enough to end up in the clutches of slavers/traffickers, under the threat of death. The documents of these unlucky souls are taken away by the captains in order to prevent their escape from the vessels.

The lack of signed contracts and regulation in the industry preclude fishermen from any legal status

or protection. They frequently change employers, which makes their registration even more difficult. It is also known that the human trafficking occurring in Thailand is possible only with the corruption of the police and some government officials. This means that even migrants with the chance to escape do not have anybody to turn to for assistance. Corrupt Thai officials, local police and boat owners have been working together secretly to keep the trafficking going. For years, the fishing industry has been kept out of any regulation. The different Thai authorities do not coordinate to take action in applying national and international laws. There is no registration of the boats, nor inspection of their operations, to protect those on board. Thai boats operate largely abroad, in particular in Indonesian seas, which has made regulation more difficult and which also makes this modern slavery a regional issue.

Inequalities and unemployment in Southeast Asian countries have created thousands of migrant workers. Some of them go to Thailand, with the hope that they will find well-paid work in factories there. Before they realise the truth, they find themselves becoming slaves and are forced to fish. The conditions on the boats are hard to imagine: 20 to 22 hours of work per day, without proper food or medical care, often without being paid. Many of those enslaved have experienced intimidation, torture, and witnessed murders on these boats and the islands where they have been detained. Benjina Island is one such of these modern

slave posts. Without any means of communication or the possibility to leave, the families of those enslaved on Benjine Island do not hear from their relatives, sometimes for years at a time.

Two Burmese men recalled their experiences (published in *The Irrawaddy*) after they were rescued and repatriated to their motherland, Myanmar.

One of them, who worked on Benjina for 7 years, states:

“In 2012, I realised I has been sold. I crossed the Thai border from Payathonzu town, Kayin State, Burma, and then from Thailand I was brought to Indonesia. Every time we went fishing, it lasted four or five months. After we came back from the sea, salaries were exploited by the employee. We were tortured and not fed enough food”

Another had this to say:

“I thought I would die there because we didn’t have time to rest, didn’t even have enough time to sleep or eat. I earned 100USD after five months working at sea. That was the first and last payment that I would ever earn after I was sold in 2013”.

Thailand is the world’s third-largest seafood exporter; the industry’s value rose to \$6.9 billion in 2013. Thai firms are selling their products worldwide, including to the US and Europe, with a trade of around \$2.5 billion annually. But recently reactions to the fishing exploitation have threatened the Thai export market.

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The lack of signed contracts and regulation in the industry preclude fishermen from any legal status or protection. They frequently change employers, which makes their registration even more difficult. It is also known that the human trafficking occurring in Thailand is possible only with the corruption of the police and some government officials.
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Back in 2011, the International Organisation for Migration (IOM) published a report on the trafficking of fishermen in Thailand, alerting the world to the problem. However, it is only in 2014 that international opinion seemed to wake up. In June 2014, *The Guardian* published a report on illegal activities in the Thai fishing industry, denouncing the human trafficking that is rampant.

Subsequently, the US Trafficking in Persons Report downgraded Thailand to the worst grade, at the same position as North Korea and Iran. Recent investigative reports helped raise significant awareness about the prevailing realities in March 2015. A yearlong Associated Press (AP) investigation laid bare the entire structure of the illegalities across the industry, and forced the EU to give Thailand a yellow card in April 2015. This card means that the country has 6 months to take serious actions against the trafficking of fishermen and to regulate the industry; otherwise, the EU will block imports.

Since then, the Thai Prime Minister, Prayuth Chan-ocha, has officially declared addressing human trafficking as a national priority. In addition to the release of fishermen

trapped on Benjina Island, new measures will be implemented to record the vessels and all the members of the crew working on it, according to Thai authorities. An amendment of the Thai Fisheries Act should also occur in the next two months to help prevent human trafficking on fishing boats.

Indonesian authorities, which assisted in the release of the fishermen on Benjina Island, have also begun to act against the illegal fishing happening in their

territories, catching foreign boats carrying slaves.

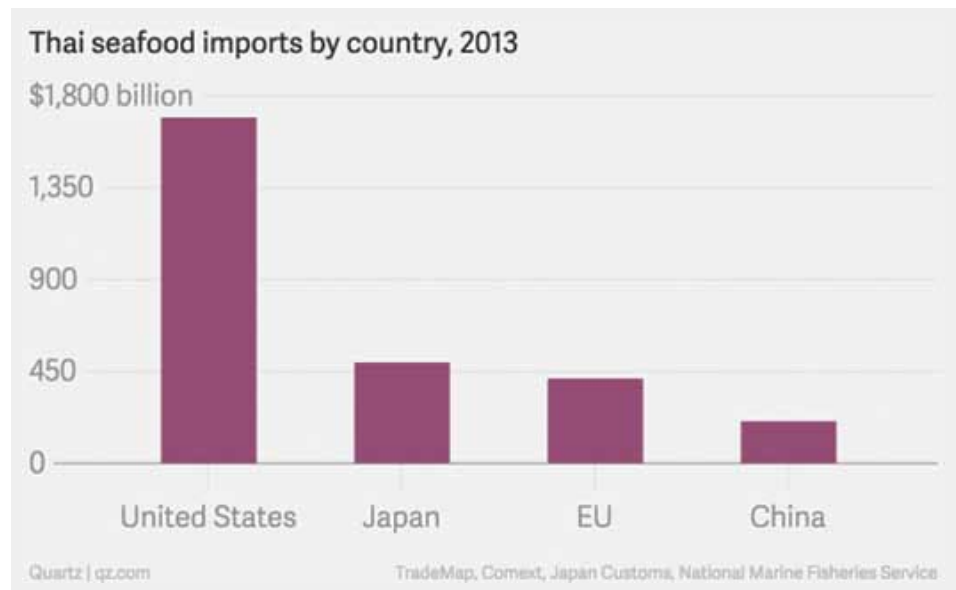
Following their discovery and rescue, dozens of migrants enslaved on Indonesian Islands have returned to their homes in countries like Cambodia and Myanmar. Most of them are happy to be back; however, the fear of not knowing what will happen next has given them reason to worry.

Daw Yu Yu Swe, Director of the Department of Social Welfare, Ministry of Social Welfare Relief and Resettlement, Myanmar, had this to say about those who have returned:

“We provided medical check-ups and managed documents for their National Registration Card. We explained how they can get job and what they can do after they reach home. We took detailed information for follow-up processes so that we may know how we can help them later. We also asked which company they had worked for and how much they think they earned.”

Thousands of people still remain detained on boats and on the islands awaiting rescue. The International Labour Organisation (ILO) estimates that approximately 145,000 people work for the fishing industry in Thailand; around 80% of these are vulnerable migrants. According to an estimate, around 3,000 victims of trafficking and enslavement from Burma, Cambodia, and other Southeast Asian countries are still trapped on the fishing boats or on remote islands.

Human trafficking in the fishing industry in Thailand is part of a much larger issue facing the whole Southeast Asia region. The Thai authorities' actions will not prevent migrants from seeking jobs

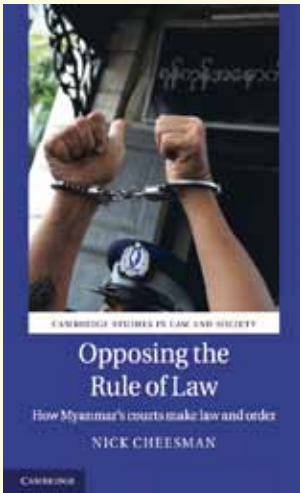


and ending up tricked, trapped and abused. Some skeptics are afraid that Thai Prime Minister, Prayuth Chan-ocha, is merely trying to obtain better statistics for the next US Trafficking in Persons Report or the EU investigation, rather than attempting to actually resolve the situation.

For this purpose, the ASEAN members should improve their collaboration and act, in a deeper way, to address the migration and human trafficking issues as a whole. They will have to think about the creation of job opportunities in their own countries to prevent their citizens from becoming economic refugees. The draft of a new ASEAN Convention Against Trafficking in Persons, which will be presented in November this year, could contribute to this movement. With the new international awareness, one hopes that this new Convention will be applied, unlike those which have preceded it. ■

*Both **Celine** and **Noreen** are interns at the Asian Human Rights Commission.*

OPPOSING THE RULE OF LAW



The rule of law is a political ideal today endorsed and promoted worldwide. Or is it? In a major contribution to the field, Nick Cheesman argues that Myanmar is a country in which the rule of law is 'lexically present but semantically absent'. Charting ideas and practices from British colonial rule through military dictatorship to the present day, Cheesman calls upon political and legal theory to explain how and why institutions animated

by a concern for law and order oppose the rule of law. Empirically grounded in both Burmese and English sources, including criminal trial records and wide ranging official documents, *Opposing the Rule of Law* offer the first significant study of courts in contemporary Myanmar sheds new light on the politics of courts during dark times and sharply illuminates the tension between the demand for law and the imperatives of order.

Nick Cheesman is a Research Fellow in the Department of Political and Social Change at Australian National University.

STUDENT PROTESTERS IN BURMA/ MYANMAR



If, as the government claims, the country is changing in a democratic way, why is it necessary to use force and violence on people with legitimate demands? Why did the government exclude student demands in the process of lawmaking and educational reform? These are important questions that the Burmese government and international community should consider.

Can the Burmese expect their country to be free and fair when people exercising their fundamental rights are beaten, arrested, detained and sentenced to jail, while those violating the law are not punished, and enjoy impunity?

Read more about the student protesters in Burma in the latest issue of the Article 2 (www.article2.org or www.humanrights.asia)



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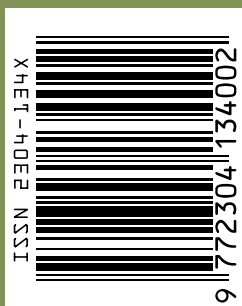
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