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Amidst the continuing struggle
for a world without *Desaparecidos*,

HOPE SPRINGS ETERNAL

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Amidst the Continuing Struggle for a World without *Desaparecidos*, Hope Springs Eternal

Justice for all *desaparecidos*!

The struggle for truth and justice of victims and survivors of enforced disappearances has been waged for decades. In individual cases, it started when a person was made to disappear, but rarely ended even when the fate and whereabouts of the disappeared have been clarified. In many situations, the struggle continues beyond the clarification of the fate and whereabouts of the disappeared persons. The victims, as exemplified by those in Latin America, Africa, Europe and particularly in our region Asia, forge on with the struggle for justice, reparation, memory and guarantees for non-recurrence.

Many victims and survivors are at the forefront to convey a strong message that what they and their loved ones have experienced should never happen again. The message comes with the imperative to construct a society with the moral and legal obligation not to tolerate enforced disappearances from ever happening again. In this vein, victims of enforced disappearances that occurred decades ago in Indonesia since the 1960s; in Bangladesh since the 1970s; in the Philippines since the 1970s; in Sri Lanka since the late 1980s; in Thailand since 1990s; in Nepal since 1980s and in Timor-Leste since 1970s, are still struggling today. This situation indicates a cycle of impunity which exists in the Asian region, thus causing the repetition of the crime.

All United Nations (UN) Member-States are morally obliged, under the 1992 Declaration on the Protection of All Persons from Enforced or Involuntary Disappearance, whose spirit is for all UN Member States to combat and strongly condemn enforced disappearances. However, in the 2011 report, the UN Working Group on Enforced or Involuntary Disappearances (UN WGEID), whose mandate is taken from the 1992 Declaration, stated that it received more than 53,778 cases from more than 87 countries, 21 of which are from Asia.

With the global spread of the phenomenon of enforced disappearances, in 2006, the UN General Assembly adopted without a vote a legally binding normative instrument for the protection against enforced disappearances, which is now the International Convention on the Protection of All Persons from Enforced Disappearance. 91 States have signed it. However, as of today only 34 States have ratified it, of which only 3 States are from Asia, the region that submitted the highest number of cases to the UN WGEID.

Only 15 have recognized the competence of the UN Committee Against Enforced Disappearances, but out of the 15, Japan has a reservation on inter-State complaints.

There is, however, no useless pain. “*No hay dolor inutil,*” as our sisters and brothers in Latin America stated in the Founding Congress of FEDEFAM in San Jose, Costa Rica in 1981. Despite the still bitter reality and worsening situation faced by our colleagues in Asia and in other continents, some positive developments in the struggle for justice for the victims of enforced disappearances are happening. The Thai government has just provided reparation for the victims of enforced disappearances in Southern Thailand. The Indonesian government is in the process of ratifying the Convention after signing it in 2010. The Timor-Leste government, through its *Provedor* (Human Rights Commission) is following up the recommendation of the Truth and Friendship Commission (CTF) by initiating the establishment of a joint Commission on Enforced Disappearances with Indonesia. Moreover, the Philippine Senate is about to finally enact an anti-enforced disappearance law, which if finally approved, will be the first in Asia.

In the Southeast Asian region, an ASEAN Intergovernmental Commission on Human Rights (AICHR) was established in 2009 and it is now drafting an ASEAN Human Rights Declaration (AHRD) that is expected to be adopted this year. Despite criticisms that the AICHR is receiving from civil society on its performance and mandate on the protection of human rights as well as on the lack of transparency and participation of civil society in the drafting of the AHRD, the existence of this regional body and mechanism is something to count on. Civil society organizations, though, have to keep on pushing for this Commission, for the latter to be true to its reason for existence, i.e. not only human rights promotion, but also protection and defense. Although it comes decades after the establishment of similar human rights mechanisms in Latin America, Europe and Africa, it is better late than never. The challenge is how to make full use of it to respond to the human rights situation in Southeast Asia.

In this dark night of the disappeared, hope springs eternal amidst the continuing struggle for a world without *desaparecidos*.

MUGIYANTO

ECHOES OF Justice from GUATEMALA

by Gabriella Citroni*

The Guatemalan 36-year internal conflict ended in 1996, leaving behind 250,000 people arbitrarily killed, around one million refugees and internally displaced people, and 45,000 victims of enforced disappearance.¹

As ascertained by the two different Truth Commissions subsequently set up, more than 626 massacres were perpetrated during the conflict. Massacres hit in particular the Mayan population. In fact, the Commission for Historical Clarification declared that acts of genocide were committed against Mayan communities.

In general, during the internal armed conflict, the State applied the so-called “National Security Doctrine.” Within the framework of this doctrine, military intervention increased to address subversion, a concept which included any person or organization who represented any type of opposition to the State and was equated to the idea of “internal enemy.” In particular, the commission of massacres was part of a strategy known as “*tierra arrasada*” (scorched earth), aimed at eliminating persons or groups of persons identified as “enemies” or more generically potential supporters of the guerrilla, and at spreading terror among the population.

Massacres were therefore characterized by conducts directed at destroying, in whole or in part, entire ethnic groups. To do so, not only physical integrity was attacked, but crimes were committed also with the specific intent to hit the cultural identity of the Mayan population. In this sense, after the commission of massacres, often mortal remains were mutilated and concealed, precisely to impede the carrying out of burials according to

traditional rituals and beliefs. Almost 30 years after massacres were committed, relatives of victims continue struggling to establish the truth and to obtain justice. Moreover, they claim for their right to know the fate and whereabouts of their relatives and for the mortal remains of their loved ones to be exhumed, identified and returned to them, so that they can bury them in accordance with their own beliefs.

After decades where impunity prevailed, in the first months of 2012, Guatemalan justice moved some first significant steps in the right direction.

The Facts

The *Plan de Sánchez* Massacre

On 18 July 1982, 256 members of the indigenous community inhabiting the village of *Plan de Sánchez*, in the Rabinal District, were tortured, raped and eventually massacred by approximately 60 members of the Guatemalan army and civil collaborators who

acted under the protection of the army. Victims included children, women and the elderly. The mortal remains of the victims of the massacre were mutilated and concealed in common graves. Survivors of the massacre were subjected to forced displacement and some were forcibly recruited in the army. To date, the great majority of mortal remains of those killed at *Plan de Sánchez* have not been recovered, exhumed, identified and returned to the next of kin. In some cases, this will most likely be impossible as mortal remains are said to have been burned. Inhabitants of *Plan de Sánchez* pertain to the Maya-achí community, for which the burial of mortal remains and the whole grieving ceremony vest a crucial significance. Over the past 30 years, survivors of the massacre and relatives of victims have been deprived of their basic right to bury and grieve for their



In honor of the massacre victims, a chapel is being erected in Rabinal, in the interior of Guatemala.
Photo: ELIAS REGUEIRA

¹ On the Guatemalan conflict and related impunity. See, among others, Citroni G., Guatemala: First Steps to End Impunity over 45,000 cases of Enforced Disappearances, in *The Voice*, Vol. 10, No. 1, March 2010, pp. 43-47.

loved ones according to their customs and beliefs.

The survivors could not denounce the facts until 1992, when they informed the authorities of the location of the clandestine common graves. All attempts to use domestic remedies failed. Given that for over 15 years, none of those responsible for these heinous crimes was judged and sanctioned, survivors and relatives of the victims represented by local NGOs decided to bring the case before the mechanisms of the Inter-American system of human rights protection.

In 2004, the Inter-American Court of Human Rights delivered its judgments⁴ on the case. The State admitted the international responsibility of the Guatemalan authorities for the *Plan de Sánchez* massacre as well as for the violation of Articles 1(1) (obligation to respect rights), 5(1) and 5(2) (right to human treatment), 8(1) (right to a fair trial), 11 (right to honor and dignity), 12(2) and 12(3) (freedom of conscience and religion), 13(2) and 13(5) (freedom of thought and expression), 16(1) (freedom of association), 21(1) and 21(2) (right to private property), 24 (non discrimination) and 25 (right to judicial guarantees) of the American Convention on Human Rights. Among many other measures of reparation⁵, the Court ordered the State to:

“conduct an effective investigation into the facts of the *Plan de Sánchez* massacre so as to identify, prosecute and punish the perpetrators and masterminds. The victims must have full access and competence to act at all stages and in all bodies of these investigations, in accordance with domestic law and the provisions of the American Convention. The result of the proceeding must be publicized so that the Guatemalan society may know the truth. The State must guarantee that the domestic proceedings to investigate,

prosecute and punish those responsible for the facts will be effective. As the Court has noted in other cases, it must also **abstain from using figures such as amnesty and prescription, and the establishment of measures designed to exclude responsibility, or measures intended to prevent criminal prosecution or suppress the effects of a conviction.**”⁶

When the Inter-American Court of Human Rights rendered its judgment in 2004, almost 22 years after the massacre was committed, none of those responsible had been judged and sanctioned for the crimes concerned.

Moreover, survivors of the massacre and witnesses had been subjected to threats and harassment by State agents to prevent them from reporting the massacre and to hamper their participation in domestic and international proceedings.

The Dos Erres Massacre

Between 6 and 8 December 1982, 201 inhabitants⁷, including children and women, of the community known as “*Las Dos Erres*” in the Petén District, were massacred by members of a special unit of the Guatemalan army, known as “*kaibiles*.” Almost 60 soldiers took part to this “operation.” Before being arbitrarily killed, victims were tortured. In the case of women, many were subjected to rape or other forms of sexual violence. Moreover, one of the members of the *kaibiles* abducted from the community a child who had survived the massacre, took him to his place and registered him under a false identity, therefore making this child a victim of enforced disappearance. Although some exhumations have been carried out, the great majority of the relatives of the victims have not received the duly identified mortal remains of their loved ones to date.

Although the massacre was committed in 1982, investigations began and continued until 1994, and for many years none of those responsible for these heinous crimes was judged and sanctioned.

In 1996, associations from the civil

society submitted a complaint before the Inter-American system of protection of human rights to challenge this rampant impunity.

In this context, on 24 November 2011, the Inter-American Court of Human Rights issued a landmark judgment⁸, whereby it declared Guatemala responsible for the violation of the right to life and the prohibition of torture with regard to the material victims of the massacre⁹; and the right to a fair trial and judicial protection as well as the right to humane treatment of the relatives of the victims of the massacre.

With regard to the survivor child who was abducted and whose real identity was altered by a soldier, the Court declared that the State violated the rights of the family, the right to a name, and the rights of the child. Among several other measures of reparation¹⁰, the Court ordered Guatemala to:

“use the necessary means, in conformity with its domestic legislation, to **effectively direct the investigations so as to identify, prosecute, and punish those responsible for the crimes committed in *Las Dos Erres*, and remove all obstacles, *de facto and de jure*, which maintain the case in impunity.** Specifically, the State must ensure that the investigation covers the following criteria: a) considering the gravity of the facts, the State may not apply amnesty laws nor argue prescription, non-retroactivity of the criminal law, former adjudication, the *non bis in idem* principle, or any other similar means of discharging from liability, to excuse itself from this obligation. Consequently, the State must continue the criminal proceeding without delay; b) effectively investigate all facts of the massacre, taking into account the systematic pattern of human rights violations existing at the time that the facts of the instant case took place, including, apart from the murder of the inhabitants of the community, other possible serious

² Commission for Historical Clarification – CEH, whose final report *Guatemala: Memory of Silence*, was published in 1999. A second initiative to establish the truth on the crimes perpetrated during the conflict was launched by the Guatemalan Archbishop. See: Arzobispado de Guatemala, Oficina de Derechos Humanos, Guatemala: Nunca Más - Informe Proyecto Interdiocesano de Recuperación de la Memoria Histórica, Ciudad de Guatemala, 1998.

Indeed, the sentence is highly symbolic. In fact, according to Guatemalan law, a person can spend in jail up to 50 years. Nevertheless, survivors of the massacre and relatives of the victims celebrated the landmark decisions, expressing particular appreciation because in their view, when counting the years of imprisonment for each of the victims, the sentence duly took into account the value of each and every single broken life, thus contributing to restore the dignity of hundreds of men, women and children. Moreover, judges affirmed that the crimes committed at *Dos Erres* amounted to crimes against humanity, thus fully recognizing the existence of a widespread attack against civilian population.

The first four convicted people appealed the judgment, but on 2 April 2012 the First Criminal Chamber of Appeal upheld the judgment of first instance. On 4 April 2012, also Pedro Pimentel Ríos filed an appeal against the judgment delivered on 12 March 2012. The appeal is currently pending.

It is to be expected that these first steps will be followed by others aiming at punishing all those involved in the commission of the massacre, as well as the masterminds and accomplices.

Indeed, it will be of the utmost importance that future proceedings and judgments encompass also other violations committed during the massacre, such as torture, violence against women and children, as well as the enforced disappearance of a child survivor of the massacre and the concealment of his real identity.

These crimes are characterized by their own specificity, which must be acknowledged and addressed accordingly, to prevent similar atrocities from happening again.

One former soldier and four former members of a *patrulla de auto-defensa* (self-defence patrol) convicted for the *Plan de Sánchez Massacre*

On 20 March 2012, one former member of the Guatemalan army (Lucas Tecú) and four former members of a self-defence patrol (Eusebio Grave Galeano, Julián Acoj Morales, Mario Acoj Morales, and Santos Rosales García) were convicted by the First Section of the *Tribunal de mayor riesgo* to **7,710 years of imprisonment** for the *Plan de Sánchez* massacre. The sentence amounts to 30 years for every person subjected to arbitrary killing, even though, according to Guatemalan law, a person can serve up to a maximum of 50 years in prison. Also in this case, the crimes committed at *Plan de Sánchez* were recognized as crimes against humanity.

Besides delivering its sentence with regard to the imprisonment of those responsible, interestingly in this judgment, the court also ordered the Ministries of Education and Culture to realize educational documentary films to be used in schools throughout the country in order to honor the memory of the victims of the massacre and to restore their dignity.

Conclusions

Guatemala, also known as the “country of eternal spring,” has been

considered for over 30 years a safe-haven for criminals, responsible for massacres, systematic rape, torture and thousands of enforced disappearances. Survivors and relatives of the victims, in despair, commenced to call Guatemala the “country of eternal impunity.”

The judgments recently rendered by Guatemalan tribunals - that ironically were in fact issued in spring-time, send a powerful message. Even if this may require 30 years of waiting, justice and truth can triumph. Given the magnitude of the Guatemalan tragedy, these must be seen as mere first steps that, nevertheless, certainly go in the right direction.

These judgments speak to the hearts of thousands of Guatemalans, telling them that no suffering is useless and that for those who committed past atrocities, the time has come to face justice and to pay. Certainly, the message of these judgments goes beyond Guatemalan borders and their echoes of justice reach the entire world, encouraging relatives of victims of gross human rights violations to continue their brave struggle. As, some day, they shall overcome.

.....

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⁶IACHR, Case *Masacre de Plan de Sánchez*, *supra* note 4, judgment on reparations, paras. 98 and 99.

⁷When the massacre was committed, *Las Dos Erres* was inhabited by 300/351 people. The massacre thus erased almost the entire population of this community.

⁸IACHR, Case *Dos Erres Massacre v. Guatemala*, judgment of 24 November 2011, Ser. C No. 211. Available (in English) at: http://www.corteidh.or.cr/docs/casos/articulos/seriec_211_ing.pdf.

⁹It is noteworthy that when the case reached the Court, Guatemala partially acknowledged its international responsibility for the *Dos Erres* massacre.

¹⁰The payment of compensation aiming at covering pecuniary and non-pecuniary damage; the amendment of domestic legislation that in fact contributed to maintaining the case in impunity; the carrying out of the exhumation, identification, and delivery of the mortal remains of the people who died in the *Dos Erres* massacre to their relatives; the implementation of training courses on human rights for different State authorities; the publication on Guatemalan newspapers and the broadcasting on local radio channels of relevant excerpts of the judgment; the carrying out of a public ceremony whereby the highest authorities of the State publicly recognize the responsibility of the *Dos Erres* massacre; the building of a monument to restore the dignity and to remember the victims of the *Dos Erres* massacre; to provide relatives of the victims of the massacre with medical and psychological treatment; and to create a Web-page to facilitate the search and identification of the children subjected to enforced disappearance and appropriated during the conflict.

¹¹IACHR, Case *Dos Erres Massacre*, *supra* note 8, para. 233.

¹²Pedro Pimentel Ríos had been detained in the United States of America that extradited him to Guatemala to face trial for the *Dos Erres* massacre.

Finding the Missing and Bringing Perpetrators of Enforced Disappearance to Justice

by Wilma Tizon*

Deciding to embark on legal actions through the courts in 1999 was a move that others met with raised eyebrows, what with the common perception of the costly and snail-paced wheels of justice in the Philippines. Some even said that FIND was giving false hopes to the families of *desaparecidos*.

For the victims' families however, hope springs eternal. Given the chance and backed up with the necessary support, they would welcome each possible way to search for their missing loved ones and seek justice for them. For FIND it is one of the many efforts, intensifying the campaign to end the phenomenon of involuntary disappearance, to demand that perpetrators be penalized and that justice, including indemnification, be rendered to the victims and their families.

Thus in 1999, FIND decided to support the prosecution of perpetrators of enforced disappearance whose remains the organization was able to exhume and whose relatives were willing to file cases in court. Since enforced or involuntary disappearance is not yet considered a crime under Philippine laws, the cases had to be lodged as kidnapping and serious illegal detention and/or murder.

The PICOP Six

On 13 November 2000, FIND helped the families of six sub-contractual workers of the Paper Industries Corporation of the Philippines (PICOP) file a Petition for the Writ of *Habeas Corpus* versus Lt. Col. Eutiquio Cabando and Corporal Rodrigo Billiones who both belonged to the 62nd Infantry Battalion of the Philippine Army.

The case was for Joseph Belar, Jovencio Lagare, Romualdo Orcullo, Diosdado Oliver, Artemio Ayala, Jr. and Arnold Dangkiasan who were

apprehended and forcibly disappeared on the night of 14 October 2000 in Sta. Maria, Trento, Agusan del Sur. The young victims were suspected to be members of the New People's Army who in early October 2000 ambushed soldiers belonging to the 62nd Infantry Battalion of the Philippine army and killed its commanding officer, Colonel Velasco.

The Petition for the Writ of *Habeas Corpus* was withdrawn a year later in favor of a criminal case of Kidnapping and Serious Illegal Detention lodged on 29 November 2001 against Corporal Billones who was arrested and detained at the Patin-ay Provincial Jail in Agusan del Sur. The principal witness to this case was a companion-friend of the six victims who was able to escape when the group was being herded to the camp.

Another witness, former Army Sergeant Esequias Duyogan, offered to testify in favor of the petitioners. A former member of the 62nd Infantry Battalion, he later became a rebuttal witness.

According to Sgt. Duyogan, he witnessed the ordeal suffered by the victims. He took pity on their families and decided to testify in court. He was able to describe how the soldiers killed the victims by bashing their heads with iron pipes; dug graves and buried the bodies at the back of the PX building; and three days later loaded them on a Chevrolet service vehicle and burned them at Rampid, Km. 57 in Barangay

Nueva Gracia, Trento, Agusan del Sur.

Executive Judge Dante Luz N. Viacruis in a landmark decision promulgated on 18 July 2008 convicted Billones as an accomplice to the kidnapping and serious illegal detention of the six workers. The court sentenced Billones, for each of the six victims, to the indeterminate penalty of 9-15 years of imprisonment and to indemnify the heirs of each of the six victims the sum of P50,000 as life indemnity and P50,000 as moral damages. The period he spent under preventive detention since 28 June 2001 shall be credited to the service of his sentence. Billones elevated the case to the Court of Appeals in Cagayan de Oro City that as of this writing has yet to decide on it.

As to the other soldiers implicated by Sgt. Duyogan, the Court decision says that "... there is now cause for the Department of Justice to start an inquiry into their criminal culpability." The Clerk of Court has officially transmitted a copy of the judgment to the Department of Justice (DOJ) and the Provincial Prosecutor of Agusan del Sur for their information and appropriate action.

With no known action from the DOJ, the families of the victims on 12 April 2010 decided to file before the Office of the Provincial Prosecutor in Prosperidad, Agusan del Sur a complaint for multiple murder against the other soldiers implicated by Sgt. Duyogan in his testimony.

Some of the respondents to the case made various attempts to stop this case from being filed in court. These include offering P200,000 per family of the victim and threatening the witness and his family.

The scheduled clarificatory hearing called by Fiscal Vicente Abugho on 20 December 2010 turned out to be an attempt at an amicable settlement. When the families signified their openness to the payment of P200,000 per victim, the representatives of the accused negotiated and lowered their offer to P75,000. The negotiations and the obviously planned arrest of Sgt. Duyogan after the said hearing angered the families. Sgt. Duyogan was issued a warrant by Judge Buaya of the Regional Trial Court in Ormoc City, Leyte, for violation of R.A. 9262 (Violation Against Women and Children Act). They resolved to pursue filing the case in court.

The arrest of the key witness posed grave danger to his life as well as the future of the multiple murder case. It has also threatened the personal safety and security of Rose Deano, FIND worker in Northern Mindanao Chapter.

FIND immediately organized and led a group composed of its members to follow the arresting team and to strive to ensure that no foul play would happen to Sgt. Duyogan since there was a warning from sympa-

thetic members of the Regional Mobile Group of a possible attempt on Sgt. Duyogan's life. He was bailed out and eventually secured.

FIND believes that the case filed against witness Sgt. Duyogan and the timing of his arrest were efforts to prevent him from testifying on the multiple murder case filed by the six families. Atty. John Unay, legal counsel of Sgt. Duyogan and the PICOP 6 families, suspected that fraud could have attended the issuance of the arrest warrant on Duyogan.

It was noted that Sgt. Duyogan never received any copy of a subpoena or complaint affidavit from the Office of the City Prosecutor in Ormoc City. A motion for preliminary investigation filed by Atty. Unay was even later granted by the same judge, implying that there was indeed no preliminary investigation undertaken.

With perceived and real threats to the life of Sgt. Duyogan and his family, FIND together with the Philippine Alliance of Human Rights Advocates (PAHRA) wrote an urgent appeal addressed to both the Commission on Human Rights (CHR) and the Department of Justice (DOJ) requesting that the witness be assisted under the Witness Protection Program of these agencies. The DOJ acted favorably and swiftly on the request. In addition, they ordered the relief of

Deputy Regional Prosecutor Vicente B. Abugho from the disposition of the multiple murder complaint. The case is now awaiting resolution.

The Manalo Brothers

The case of the Manalo brothers is the most unique case ever encountered by FIND in its more than two decades of continuous searching for the *desaparecidos* and seeking justice for them and their families.

Farmers Reynaldo E. Manalo, 37 years old at the time of his disappearance, married with two children, and his brother, Raymond E. Manalo, then 23 years old, single, were abducted on 14 February 2006 by elements under the control of the 24th Infantry Battalion of the Philippine Army led by a certain Master Sergeant Rizal Hilario a.k.a. Rollie Castillo. Sergeant Hilario was at that time the detachment head of the 24th IB in Barangay Pinaod, San Ildefonso, Bulacan. They were taken from their respective homes in Centro, Barangay Buhol na Mangga, San Ildefonso, Bulacan.

Having no information on the whereabouts of Reynaldo and Raymond, the Manalo family, supported by FIND filed a petition for the writ of *habeas corpus* on 12 May 2006 before the Court of Appeals.

The petition, CA-G.R. SP No. 94431, named the following as respondents: Master Sergeant Rollie Castillo, Major General Jovito Palparan as commander of the 7th Infantry Division, Lieutenant General Hermogenes Esperon in his capacity as the then Commanding General of the Philippine Army, being the Chief of Staff of the Armed Forces of the Philippines, and members of the Citizens' Armed Forces Geographical Unit (CAFGU), Michael dela Cruz, Madning dela Cruz, Puti dela Cruz, Pula dela Cruz, Randy Mendoza and Rudy Mendoza.

Ester and Jesus Manalo. Photo: FIND





Families of Jose Sumapad and the PICOP 6 victims, namely Joseph Belar, Jovencio Lagare, Romualdo Orcullo, Diosdado Oliver, Artemio Ayala, Jr. and Arnold Dangkiasan join in the two-day FIND summing-up conference and forum on the legal battles of the families of the disappeared. Photo: FIND

Oddly, the Manalo family reported that on 21 July 2006 at about one o'clock in the morning, Reynaldo and Raymond were shown to them by armed men wearing white shirt, fatigue pants and boots. Raymond was accompanied by armed escorts to his parents, Ester and Jesus Manalo. They were told that they would be back in a week.

On the other hand, Maria Leonora, Reynaldo's wife, was fetched by armed men who escorted her to a bus terminal. She saw Reynaldo in one of the two vehicles that were parked there. She was instructed to go inside the vehicle where Reynaldo was and they were given a chance to talk briefly.

The family was of course happy to see that the brothers were still alive and apparently healthy although Raymond showed difficulty walking. According to Ester and Jesus, the armed men warned them not to tell anyone about the incident. The family believed that the armed men were from the military because of the timing of their "visit," their long firearms, their fatigue uniforms and the way they talked and acted. After about 30 minutes, the armed men left the place and again, took Reynaldo and Raymond with them.

The July 21 incident of "showing" the two brothers to the Manalo family was repeated. Each time the brothers were presented to them, the parents were told not to appear in court hearings if they wish to see their sons alive again.

The sixth and the last time the Manalo brothers were brought home was on November 8, the day of the last hearing at the Court of Appeals. Ester, Jesus and Maria Leonora were at the Court of Appeals to attend the hearing and were thus, unable to see the two brothers. A relative informed them that Raymond and Reynaldo were again brought to their homes.

In one of the "visits," Reynaldo had a chance to tell his wife that they were being held at Camp Tecson. Hoping that Raymond and Reynaldo would be freed on or before Christmas 2006 as promised to them by the armed escorts, the Manalo family did not entertain the idea of visiting Camp Tecson.

The New Year came and there was no sign of the two brothers. Thus, FIND organized a search team to Camp Tecson and invited other human rights organizations and individuals to join the search. The visit was conducted on 10 January 2007. However, Camp Tecson authorities denied having the two brothers in their custody. Moreover, they explained that Camp Tecson is only used for training and that it has no detention facility. Nevertheless, the team gave them pictures of the two and appealed for their help in finding the missing brothers.

The Court of Appeals decided on the case on 27 June 2007 and held the CAFGU respondents liable for illegally detaining Raymond and Reynaldo Manalo and thereby

ordered them to release the said victims.

Such decision was appealed to the Supreme Court both by the respondents and petitioners.

In a twist of fate on the 13th of August, the Manalo brothers escaped after 18 months of secret detention and managed to contact friends and FIND. Conscious of the grave probable risks, FIND sought the help of other human rights organizations.

A medical examination was conducted on the two brothers. They revealed the harsh ordeal they endured under the hands of their captors. Severe acts of torture were inflicted on them especially within the first three months of their detention.

FIND also brought the matter to the attention of their legal counsel, Atty. Ricardo Sunga of the Free Legal Assistance Group (FLAG). Consequently, the appeal before the Supreme Court was withdrawn on 23 August 2007 in favor of the petition for prohibition, injunction, temporary restraining order and legal and equitable relief such as protective custody orders, appointment of commissioner, inspection and access orders before the Supreme Court. The Supreme Court issued the Temporary Restraining Order (TRO) the following day, 24 August.

With the promulgation by the Supreme Court (SC) of the rule on the Writ of Amparo, the FLAG lawyers filed on 24 October 2007

a MANIFESTION AND OMNIBUS MOTION TO TREAT EXISTING PETITION AS AMPARO PETITION, TO ADMIT SUPPORTING AFFIDAVITS AND TO GRANT INTERIM AND FINAL AMPARO RELIEFS.

On 25 October 2007, the Supreme Court granted the Writ of Amparo and required the respondents to file with the Court of Appeals (CA) a verified written return within five (5) working days from service of the writ. They remanded the petition to the CA and designated the Division of Associate Justice Lucas P. Bersamin to conduct summary hearings on the petition on 8 November 2007 and to decide the petition in accordance with the Rule on the Writ of Amparo.

After three summary hearings were conducted, a 30-page decision on the case was promulgated on the 26th of December. The dispositive portion of the decision read:

Accordingly, the privilege of the writ of amparo is granted. The respondents Secretary of National Defense and AFP Chief of Staff are hereby required: 1) to furnish to the petitioners and to this Court within five days from notice of this decision all official and unofficial reports of the investigation undertaken in connection with their case, except those already on file herein; 2) to confirm in writing the present places of official assignment of M/ Sgt. Hilario aka Rollie Castillo, and Donald Caigas within five days from notice of this decision; 3) to cause to be produced to this Court all medical reports, records and charts, reports of any treatment given or recommended and medicines prescribed, if any, to the petitioners, to include a list of medical and personnel (military and civilian) who attended to them from February 14, 2006 until August 12, 2007 within five days from notice of this decision.

Photo: FIND



Petitioners in the petitions for writs of amparo assisted by FIND. From left: Dorina Paras who filed the petition for her missing husband Tomas Paras, Jose and Cleofas Sanchez for missing son Nicolas Sanchez and nephew Heherson Medina, and Ester Manalo for escaped *desaparecido* brothers Raymond and Reynaldo Manalo.

The Office of the Solicitor General appealed the decision on 5 January 2008 to the Supreme Court. In October 2008, the Supreme Court reaffirmed the CA decision.

Tomas Paras Case

Tomas and Dorina Paras, both former members of the Communist Party of the Philippines (CPP), decided to apply for amnesty in their desire to lead a peaceful life for their children. They formally surrendered to the Civil Relations Group for National Capital Region of the Armed Forces of the Philippines on 10 December 1997, the 49th anniversary of the adoption by the United Nations of the Universal Declaration of Human Rights.

It was not easy for the Paras family to adjust to a “normal” life. The promised economic assistance from the government’s Amnesty Program was not sufficient. After their surrender, they have settled with their five children in Barrio Site, Samal, Bataan and struggled to meet the family’s needs by producing charcoal. They maintained a small hut where they rest for days after burning charcoal.

Sometime in April 2005, they learned from the 24th Infantry Battalion of the Philippine Army in the Palili, Samal, Bataan Detachment that they were still included in the Army’s Order of Battle (OB). Dorina suspected that it was a pressure tactic to force her husband to accept the Army’s offer for him to be part of their military operations as

he was known to be a skilled pyrotechnician.

On 13 October 2005 at around 8:30 pm, a group of soldiers in full battle gear belonging to the 24th Infantry Battalion of the Philippine Army came to their small hut and forcibly took Tomas. Dorina recalled that on the day Tomas was abducted, at around 4:30 in the afternoon, while they were burning charcoal a short distance from their hut, she heard the dogs barked.

She figured that strangers must have come into their hut. This was confirmed by their daughter who told them that while they were out, soldiers came looking for Tomas. She also heard that the military would be taking somebody from their area to show the residents of their serious campaign against communist insurgents. Dorina feared for Tomas’ safety and told him to be careful. It was the last time Dorina saw her husband and the start of her seemingly endless search. All search efforts yielded nothing up to this date.

The Case of Cousins Nicolas Sanchez and Heherson Medina

Cousins Nicolas Sanchez and Heherson Medina bade farewell to their respective families and proceeded to a nearby rice field in Sitio Cabatuan, Barangay Bueno, Capas, Tarlac an hour past midnight on 18 September 2006 to catch edible frogs for the next day’s meal. Little did their families know it was the last time they would see Nicolas and Heherson.



Families of the disappeared at the two-day summing-up conference and forum on the legal battles of the families of the disappeared. Photo: FIND

According to relatives and witnesses, about 30 armed men in camouflage uniforms believed to be soldiers belonging to the 71st Infantry Battalion of the Philippine Army (IB, PA) took Nicolas and Heherson to a truck which witnesses identified as the same truck they had seen at the compound of the 71st IB, PA in Hacienda Luisita in Tarlac City.

In December 2006 however, a witness came forward giving hope to the victims' respective families to locate the whereabouts of the two. The said witness claimed having personally seen the two on 21 September 2006 on board a military truck at the gate of the Northern Luzon Command at Camp Servillano Aquino, San, Miguel, Tarlac City. The witness claimed further having seen them again on 24 September and 1 November at the camp of the Bravo Company of the 71st IB, PA located at the Aqua Farm inside the Hacienda Luisita in Barangay Cut-Cut II, Tarlac City. They were allegedly forced to clean and cook for the Bravo Company.

In response to the request made by the families of both Nicolas Sanchez and Heherson Medina, a search mission was organized by FIND and the Commission on Human Rights, Region III. However, authorities of the said camps denied having custody of the two. This, despite signed affidavits by relatives and witnesses and the positive identification by the latest witness of a certain 2Lt. Ali Sumangil as the Bravo Company Commander of the

71st IB, PA and T/Sgt. Gil Q. Villalobos, both of whom allegedly have personal knowledge of the whereabouts of Nicolas and Heherson.

A petition for the Writ of Amparo was filed before the Court of Appeals on 27 December 2007. Several court hearings were held until 28 April 2008.

A decision was rendered on 17 September 2008, stating that the Court could not find any link between respondent individual military officers to the disappearance of Nicolas and Heherson, nonetheless, they granted some reliefs in the interest of human rights and justice that included: a) inspection of Camp Servillano Aquino in San Miguel, Tarlac City; any military camp of the 7th ID located in Aqua Farm, Hacienda Luisita, Tarlac City; and b) thorough and impartial investigation for the appropriate investigation unit of the Philippine Army, 7th ID in Fort Magsaysay and for them to immediately file charges against those found guilty. This decision was appealed by the respondents to the Supreme Court. The Supreme Court favored the appeal.

Challenges

Until now, the big sad question remains, ***will there ever be justice for the victims and their families?*** FIND therefore appeals to the Aquino government to pursue efforts to stop this odious offense;

for the immediate enactment of the anti-enforced disappearance law and the signing and ratification of the International Convention for the Protection of All Persons from Enforced Disappearance. Doing so, and complemented by significant pro-human rights reforms in the security sector, would send a strong signal to perpetrators and the whole of society that this government is indeed determined in promoting, protecting and fulfilling human rights and in ending impunity.

Finding the missing, the road to justice for the *desaparecidos* and the fight against impunity is indeed long, risky, demanding and arduous based on FIND's 12 years of assisting families seek justice through court actions. Families, lawyers, human rights workers, witnesses and the local and international human rights community must work together closely.

No matter how long the road to justice maybe, FIND and the families of the victims remain steadfast in their resolve to attain it. This is their contribution to break impunity and to send a reverberating message to society and the whole world that enforced disappearance must end, that human dignity and the right not to be disappeared must be respected at all times.

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*** Wilma Tizon is the Deputy Secretary General of the Families of Victims of Involuntary Disappearance (FIND).**

The Journey to Self-Healing, Healing with Peers and Building Healing Communities

Emilia P. Aquino, DMD*



Photo: KontraS and IKOHI

AFAD's Psycho-social
Rehabilitation Program

Services



The Second Congress of AFAD held on 29 August 2003 in Bangkok, Thailand officially approved the inclusion in the Federation's programs the psycho-social rehabilitation for families of the disappeared. This resolve marked the commitment of the Federation to respond to the psycho-social needs of families of the disappeared, at least in countries where its member-organizations are based. AFAD believes that rehabilitation of the families of the disappeared and survivors of enforced disappearance, through the inner modality for self-healing, is an essential component in the challenging pursuit for justice.

Giving focus on the *persona* of the families of the disappeared does not compromise the struggle against impunity but rather attempts to further understand the psycho-social effects of enforced disappearance and facilitates empowerment of the principal actors in the struggle against enforced disappearances, who are the families of the disappeared.

Counselling expert Fr. Juvenal Moraleda expressed: *"Not to forget the need to continue the struggle for justice for the families but also remember to consider the need for caring and healing for the families of the disappeared. Those two are connected, but I think all of us will realize that unless the inner healing and the mending of the wounds of the families happen, the work for the struggle for justice will suffer."*

The Process

On its conceptual stage, the direction of the rehabilitation undertaken at the regional level would enhance the existing efforts being done by the AFAD member-organizations at the national level. This was applied in Kashmir through the Association of the Parents of Disappeared Persons (APDP); in Indonesia through *IKOHI*, in Nepal through Advocacy Forum; and in Thailand, the Justice for Peace Foundation (JPF). *IKOHI*, though had already been conducting rehabilitation activities among their beneficiaries – families of enforced disappearances even prior to the launching of AFAD's psycho-social activities in December 2004. At the regional level, the *"Healing Wounds, Mending Scars: A Sharing of Experiences of Asian Families of Victims of Enforced Disappearances"* was the first major effort of the Federation to facilitate the empowerment of families of the disappeared and thus, making its presence further felt by families of the disappeared.

The workshop with the theme, "Healing Wounds, Mending Scars" contributed significantly to the liberation of the families from the debilitating emotional stocks by discovering their own giftedness of self-healing. This process was reinforced by the camaraderie developed after the carefully guided sharing sessions. The inter-familial setting allowed the families to tell and share their stories of pain, anger, fear, denial, acceptance and hope in different magnitudes - reflecting how each one was dealing with this dreadful loss.

For many families of the disappeared, their cases systematically occurred in the context of politically repressive governments, thus the depth of the wound- edness has been made more profound by such historical contexts. For them, knowing the enduring pain and

common tragedies the other family members of the disappeared had experienced is cathartic.

The regional workshop served as an occasion for emotional relief. Pain was recognized. During and after which, families of the disappeared who participated became more determined to continue the struggle for justice, for ending impunity and for charting a future without *desaparecidos*.

The Project

The successful conduct of the first phase of the psycho-social rehabilitation initiatives from 2005-2006 resulted in the enrichment of the earlier concept and the establishment of the follow-up segment, dubbed as "From Victims to Healers". This was an apt title lifted from the assessment results of the summing up of the rehabilitation and direct assistance work of the Federation, where capacities of some participants to steer fellow- victims of enforced disappearance to the journey of healing, were discovered.

The following is a summary of the rehabilitation workshops which AFAD member-organizations had conducted from 2005 – 2009:

Healing Wounds, Mending Scars

Philippines (Families of Victims of Involuntary Disappearance or FIND) 24-27 October 2005

Thailand (Relatives Committee of the May 1992 Heroes) 2005

Sri Lanka (Organization of Parents and Family Members of the Disappeared) 2-4 May 2006

Pakistan (Truth and Justice Commission) 29-30 October 2006

Jammu and Kashmir, India (Association of Parents of Disappeared Persons) 13–15 November 2006

Nepal (Advocacy Forum) 5–8 December 2006

Thailand (Justice for Peace Foundation) 11–13 December 2006

Philippines (Claimants 1081) November 2007

Recognition of training potentials of individuals to become co-healers from the Healing Wounds, Mending Scars workshops, a second level called "From Victims to Healers" followed.

From Victims to Healers

Sri Lanka (CPRLD), 27-29 November 2006

Indonesia (*IKOHI*) 4-6 December 2006

Kashmir, India (APDP) 28-29 December 2008

Philippines (Claimants 1081) June 2008

Nepal (Advocacy Forum) 17-19 Feb 2009

The Working Group on Justice for Peace, Thailand, then a relatively new AFAD member-organization, underwent the Healing Wounds, Mending Scars Process on 9-12 June 2007.

One important challenge seen in the conduct of these activities is the need for sustainability at the national level in order to effect maximum impacts on the lives of the victims' families. This was identified during a regional summing up session of the first interventions conducted from 2004-2007, dubbed, "Sharpening our Healing Capacities Towards Empowerment" held in Bangkok, Thailand in December 2007. The need for sustainability was sharply related with

The program also recognizes the importance of empowering families and survivors of enforced disappearances in the fight against impunity and claim for collective justice. A corps of peer counsellors are expected to be developed in AFAD member-organizations in Indonesia, Nepal and India.

These groups shall be trained with basic skills in peer counselling. Knowledge gained shall be translated among their peers in their respective communities. It is further envisioned that peer counsellors will become agents in the continuing journey to healing until such time that they would have expanded to other families and would be capable of establishing healing communities in their own areas. Persuasions to achieve justice will resound more loudly. With active listening as one of their strategies for healing, they can convince government authorities to listen to their cries for truth and justice.



Rini Kusnadi facilitates a psycho-social activity in Indonesia. Photo: AFAD FILE

the common resources constraint of the Federation as well as its member-organizations to sustain its work.

In 2011, the Women World Day of Prayer – German Committee (WWDP) and the United Nations Voluntary Fund for Victims of Torture (UNVFVT) supported the continuity of the psycho-social rehabilitation work in some countries where AFAD member-organizations are based, e.g. Nepal, India (particularly Kashmir), Indonesia. At this time, there is more application of the concept of victims as *co-healers*. It follows the process by which one person is helped by another with a similar experience.

Familiarity among each other would therefore, provide each of the family members participating in the program with an environment wherein self-expression would be undaunted. Personal relaxation is in itself a precious comfort zone which will lay down the grounds for deeper understanding, active listening and a nurturing situation for developing the capacity to heal them and heal other victims.

Developing Healing Capacities to Empower Women -Victims of Enforced Disappearances and the Circle of Healing

Following the project, "From Victims to Healers," AFAD launched another project entitled: *Developing Healing Capacities to Empower Women-Victims of Enforced Disappearances and the Circle of Healing*, funded by the Women World Day of Prayer (WWDP) and the United Nations Voluntary Fund for Victims of Torture (UNVFVT) respectively. There is a specific focus on women being unwilling recipients of the hard consequences of the phenomenon of disappeared persons.

Healing Families of the Disappeared

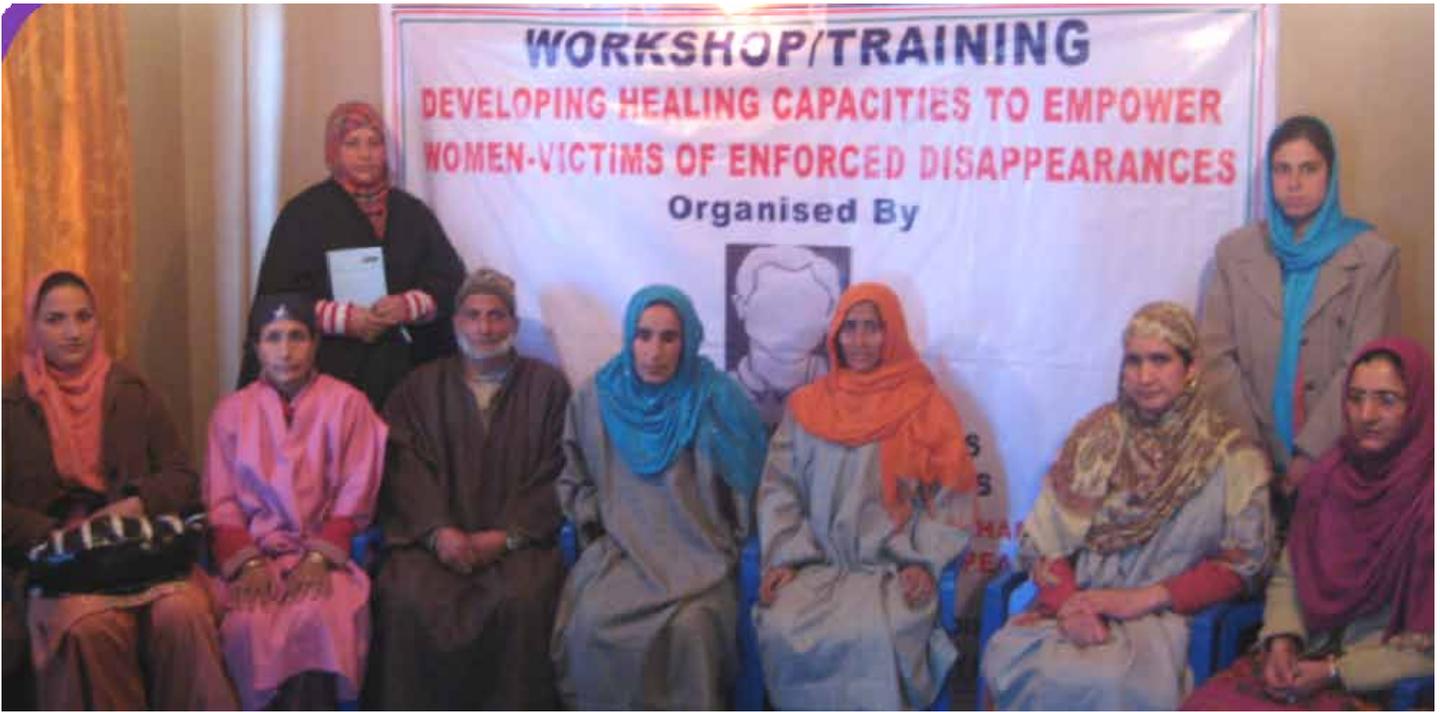
IKOHI and *KontraS* in Jakarta, Indonesia, successfully implemented the start of the project, *Developing Healing Capacities to Empower Women-Victims of Enforced Disappearances* on 6-7 July 2011. Ten family members of the disappeared attended. Rini, a volunteer psychologist of *IKOHI* facilitated the two-day workshop. She, along with the other families was happily going through the workshop when one participant suddenly cried intensely during a sharing session. She lost

her son for some days and later found him totally burned. After the incident, she was engulfed with a deep anger. All she wanted was to face her son's perpetrators to show to them her personal devastation.

In the same workshop, this mother affirmed the value of the activity which, she said, had touched on her wounds again and also released hidden emotional burdens.

I was overwhelmingly touched watching how two participants volunteered to comfort their peer outside the workshop room while the psychologist continued her lecture. The act of comforting a co-victim was a concrete manifestation that indeed, co-victims can themselves be transformed into healers. It was a situation that also made us realize that several psycho-social rehabilitation sessions conducted are not necessarily sufficient to carry out a serious psycho-social intervention for the families.

The AFAD member-organization in Kashmir, India, the Association of Parents of Disappeared Persons (APDP) reported the following, "The APDP organized a two-day activity attended by 10 women families of victims (mothers, wives, daughters) of enforced disappearances from different districts of Kashmir. One male victim who is also a member of the APDP participated in the workshop. The participants underwent training on overcoming psycho-social problems through a psycho-social support system. At the helm of the project is a prominent psychologist in Kashmir, Dr. Muzaffar Ahmad Khan, who has been engaged as the resource person for the year-long program. In addition to the workshop participants, APDP Coordinator and AFAD alternative Council Member, Mr. Khurram Parvez and APDP focal person Mr. Parvaiz Matta were also present."



APDP's Psycho-social Rehabilitation workshop in Jammu and Kashmir. Photo: APDP

For the project in Kashmir, the sharing of experiences by some of the participants helped in understanding the problem of each participant-family member and in determining the corresponding coping and support system that will address the needs of each of the participants. The series of workshops were an integral part of the various coping strategies that intended to alleviate the emotional distress of the participants. Further, the training and skills acquired by the participants were intended to be utilized to counsel other family members of the disappeared.

Members in Nepal, The Advocacy Forum (AF) and Conflict Victims Society for Justice (CVSJ) continued the rehabilitation program with the support from UNVFT. The report of the two AFAD member-organizations in Nepal states: *“Initially the project called as “Circle of Healing” was a step to further heal the conflict victims’ pangs of agony and sufferings. This project involved six members of the families from different districts of the country for them to be trained as peer counsellors. The experiences and the feelings and the difficulties shared among the group were really heart-rending. It was very encouraging that the participants were fully open by revealing their difficulties, and that they were fully committed to counsel other victims with the knowledge and the zeal they obtained. The objective of the project was fully achieved as the participants pragmatically felt that the counselling was of their great need to heal themselves from within.”*

Enforced disappearance is a continuing crime. The families’ state of inner turmoil on whether to stop grieving or accept the loss is a continuing ordeal. The very nature of enforced disappearance where closure is almost always constantly absent until the fate and whereabouts of the disappeared persons are unknown makes it very difficult for families of the disappeared to move on.

But amidst this wound festering in the hearts of families of the disappeared caused by their loved ones’ disappearance, making lives of families and communities whole again is not an impossible dream.

Hence, the psycho-social rehabilitation program must be continued in a manner that will strengthen their will to move on, to restore the broken pieces of their lives, to facilitate the re-discovery of inner strengths, help rebuild confidence and foster a high spirit of solidarity.

Freedom from pain and misery may not be absolutely attained but small steps, such as developing peer counselors to reach out to other families to collectively do the process of collective healing can mitigate the effects of injustice - a significant contribution to the attainment of a world free from disappearances.

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**Emilia Aquino is the Administrative Officer of AFAD and formerly led the Federation’s Psycho-social Rehabilitation Program. A dentist by profession, she also works on health and human rights issues with the Medical Action Group.*



Families of the disappeared in group discussions. Photo: APDP

Indonesian victims and their family submits campaign letters to the President's Advisory Council.
Photo: KontraS



The Old Promise Not Yet Fulfilled

by Mugiyanto*

Indonesia at the UPR

The human rights performance of Indonesia was reviewed by the members of the United Nations Human Rights Council during the Universal Periodic Review (UPR) session on 23 May 2012 at the United Nations Office in Geneva, Switzerland. There were many important issues raised and questioned by the different States delegations to the Indonesian delegation headed by the Minister of Foreign Affairs, Marty Natalegawa. Some of these issues included the following: religious intolerance, impunity and the worsening situation in West Papua.

In response to the questions and recommendations raised by different states delegates, Minister Marty Natalegawa was defensive, to say the least. He said that freedom of religion is guaranteed in Indonesia, despite the fact that harassment and violent attacks against religious minorities and other minority groups are ongoing and the government action is nowhere to be found to prevent the violent acts of the hardliner Islamic groups such as the

Islamic Defenders Front (FPI). Regarding this denial attitude of the government as expressed by Minister Marty Natalegawa in the UPR Session, the editorial of the English daily newspaper, *The Jakarta Post*, dated 24 May 2012 very strongly put the title, "Lying for the Country." (*The Jakarta Post*, 24/5/2012)

In relation to the performance of Indonesia during the UPR Session in May, AFAD member-organization from Indonesia, *KontraS* expressed its disappointment in a press statement dated 23 May 2012: "... the second UPR Session was still filled with the same answers from the Government of Indonesia which were uttered during the first UPR Session in 2008. This means that there has been little change in the situation of human rights enforcement in Indonesia. Particularly noting the number of dominant cases of intolerance, impunity and violence against human rights defenders (including the ones in Papua) are still unresolved to date..."

The Promise at the HLS

On 28 February 2012, Foreign Minister Marty Natalegawa delivered a speech before the High-Level Segment (HLS) of the Human Rights Council of the United Nations. In this important segment, he said that Indonesia is committed to "the pursuit of human rights and democracy," and that it is "a commitment that is total and absolute despite all the challenges that are facing us."

In the same speech, Minister Natalegawa emphasized the importance of developing a strong culture of prevention. "A culture that prevents abuses from being perpetrated in the first place.... A culture that is nurtured through international norms setting as well as homegrown national processes..."

For this particular purpose of prevention, Minister Natalegawa said in the last part of the speech, "This year, we expect to make significant progress in the ratification process of some important instruments. This progress includes the International

Convention for the Protection of All Persons from Enforced Disappearance.”

The seven-page statement was so well formulated and well delivered in good English that people could hardly believe. Furthermore, the statement deserves appreciation for it contains a strong commitment on human rights of the Indonesian government. The most important point however is that this total and absolute commitment should be translated into concrete actions.

Ratification this Year

The promise to ratify the International Convention for the Protection of All Persons from Enforced Disappearance (the Convention) was not only expressed during the UPR and in the HLS in February 2012 at the United Nations. Back in March 2007, Hamid Awaluddin, the then Minister of Law and Human Rights also made the promise in the same High-Level Segment of the UN Human Rights Council that Indonesia would sign it.

The ratification of the Convention then has been a long time commitment of the Indonesian government.

The ratification and implementation of the Convention has also been one of the common calls by the human rights community, particularly victims' groups in Indonesia after the issuance of the recommendations of Parliament (DPR) to the President in September 2009 on the cases of abduction and disappearances of pro-democracy activists in 1997-1998. One of the four recommendations of the Parliament explicitly says that it recommends the government to ratify the Convention for the purpose of preventing cases from happening again.

Despite the victims' disappointment on the absence of follow up on many human rights agenda, including on the recommendations of the parliament, we gave our appreciation when on 27 September 2010, the government signed the Convention in a Treaty Event in the UN Office in New York.

It was an initial, but essential step towards the eventual ratification. We are happy that the 3rd National Action Plan on Human Rights 2011-2014 also mentions that it will be ratified within the given period.

With this, we are eager to be witnesses to the fulfilment of the promise of the Foreign Minister Marty Natalegawa before the prestigious international forum of the Human Rights Council of the United Nations.

Comprehensive Approach

The ratification of the Convention is not everything. But it is definitely something to prove the seriousness of the government amidst its many unfulfilled promises on human rights. It could function as an entry point into the implementation of other bigger human rights commitments.

As a mechanism of prevention, ratification of the Convention is the least and a minimum form of commitment. Is it not our common

Albert Hasibuan, member of the President's Advisory Council receives 1,257 campaign letters from the victims and the families of the disappeared.

Photo: KontraS





In front of the President's palace. Tuti Koto (Mami Koto), a mother whose son disappeared during the 1997/1998 tragedy, reads her letter to the President and calls for justice for her son's case.

Photo: KontraS

commitment in this transition to democracy that there should be no more gross human rights violations?

In a context where the government does not want to “create political noise” when asked to deal with gross violations of human rights in the past, ratification of the Convention should find its smooth way as it orients itself towards the future. This has been indicated by the fact that the government is done with the drafting of the Academic Paper and Draft Law on the Ratification so that people can expect that very soon, all documents for ratification be handed over to the Parliament for adoption.

However, preventive measures can not be achieved solely by

producing a new piece of legislation or ratifying an international treaty. Implementation is very important. There should also be corrective measures which are based on past mistakes – an important point which is an integral part of the Convention, i.e. the provision on the continuing character of the crime of enforced disappearances. In the context of transition from authoritarianism to democracy, ensuring that abusive practices of the government are not to be repeated is possible only if the public is informed of what went wrong in the past, that the most responsible persons be held accountable and the damages that the victims experienced be repaired (Priscilla Hayner, 2011).

Ratifying the Convention for the purpose of prevention will have its perfection if followed by above mentioned comprehensive approach. Only then that the call for non-repetition of the crime of enforced disappearance and other violations of human rights, as put in the title of the reports of several truth commissions such as “*Nunca Mas*” in Argentina and Brazil and “*Chega!*” in Timor-Leste will have its ultimate realization.

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**Mugiyanto is the Chairperson of Ikatan Keluarga Orang Hilang Indonesia (IKOHI) and of the Asian Federation Against Involuntary Disappearances (AFAD).*

Defying Silence

Sandya Eknelygoda's Search for Truth and Justice

by Candy Diez*

I met Sandya Eknelygoda one scorching afternoon in Sri Lanka by accident. Prior to our meeting, I have read and heard about the disappearance of her husband Prageeth Eknelygoda from various news articles and found myself interested in the wife that led several inquiries to Sri Lankan authorities and the international community in search for the truth behind her husband's disappearance.

The meeting was quite unexpected. I found myself standing before a medium-built woman clad in a white sari. After exchanging smiles, we were introduced. Fortunately, there was enough time for both of us to get acquainted with each other's work and advocacy. The conversation gradually progressed to the issue of her husband's disappearance.

Prageeth Eknelygoda is a journalist and a political cartoonist. He worked with the Lanka News website. He wrote articles supporting the presidential candidate of the opposition party during the period leading to his disappearance.

He was on his way home on 24 January 2010 when he called his driving companion and informed him that he would travel using a different transportation heading toward Koswatte. His family had not seen him. The following day, Sandya and Prageeth's driving partner attempted to register the disappearance case at the Homagama police station. The Officer-in-Charge, however, refused to receive the complaint in their station without a directive from a superior officer. Only after

continuous assertion of Sandya did the OIC register Prageeth's disappearance.

Before he disappeared in 2010, Prageeth was previously abducted on 27 August 2009. He was blindfolded and chained by unidentified persons under the command of a superior. He was released after the abductors confirmed he was not the target person.

Meanwhile, Prageeth's workplace LankaeNews Website, was not spared from threats. The office was searched by a group of unidentified men on 28 January 2010. During the election period, the website was also blocked by authorities.

Sandya, with the several non-government organizations, immediately launched efforts to locate Prageeth. However, more than two years after he was last seen, Prageeth still remains missing.

In our exchange, Sandya shared the difficulties of leading the search for Prageeth. The months following his disappearance, Sandya and her sons frequently received threatening calls, some even accusing Prageeth of being a traitor to the country.

Due to the need for the sustained search and monitoring of interventions, Sandya lost her employment and struggled economically, raising her sons while continuing her pursuit for truth. She expressed the difficulties of being a human rights defender, a mother and a wife of a disappeared cartoonist. Despite such discouraging circumstances, Sandya believed in sustaining the search and the advocacy to bring justice to Prageeth, other disappeared victims and prevent the act of disappearance.

We parted in a surprisingly light

mood. She bid me a cheerful farewell, which I returned with good wishes and hopes for more progress in the case of Prageeth.

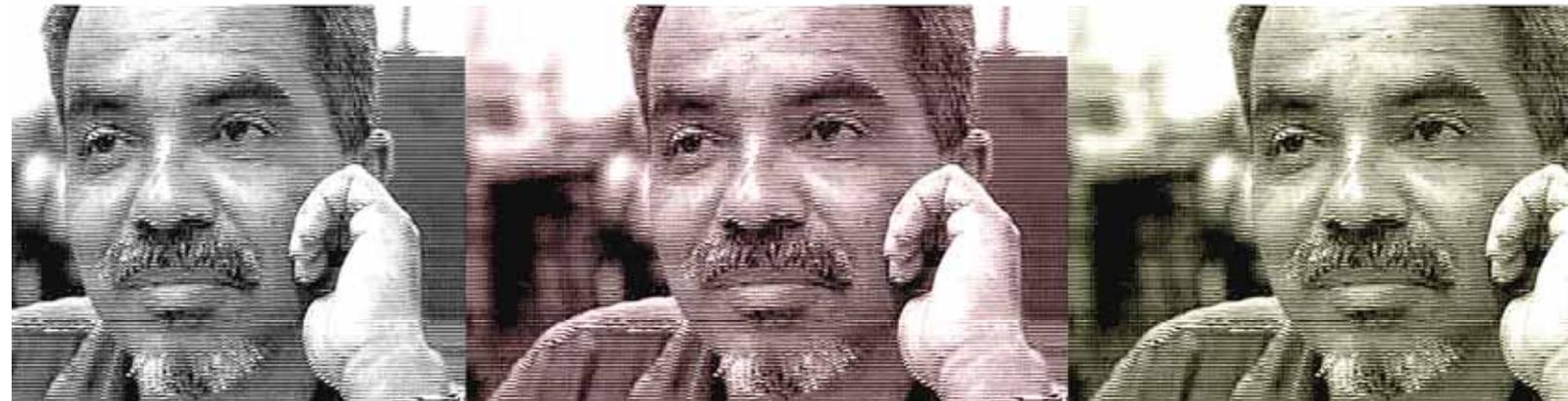
Months after our meeting, I learned of Sandya's predicament in the domestic courts and the response from her recent engagement at the United Nations Human Rights Council.

On 19 May 2012, she participated in a side event in the 19th sessions of the United Nations Human Rights Council. She narrated the circumstances of her husband's disappearance and the insights of the families of the disappeared victims in a forum entitled, "Rule of Law and Human Rights Violations in Sri Lanka: Perspectives from women, minorities and families of the disappeared."

Sandya faced snide remarks from a man who was reportedly a staunch supporter of the Sri Lankan government delegation in Geneva. Mr. Douglas Wickramaratne reportedly told Sandya, "You are coming to Geneva with a smiling face. You are not a victim." Several Sri Lankan nationals also approached her with accusations of being manipulated by funds of various international organizations.

After returning to Sri Lanka, Sandya attended the Homagama Magistrate's Court's (Colombo district) hearing in connection with her plea filed before the High Court to summon former Attorney General and current Advisor to the Cabinet of Ministers, Mr. Mohan Peiris.

Mr. Peiris stated on 9 November 2011 to the UN Committee Against



Torture that Prageeth was not missing but has sought asylum abroad. Sandya's plea to summon Mr. Peiris intended to seek further evidence and information about the statement he issued before the Committee Against Torture.

Based on reports, Sandya was subjected to extensive intimidation by Deputy Solicitor General Shavindra Fernando who represented the office of the Attorney General's department. Mr. Fernando probed Sandya of her involvement during the 19th session of the UN Human Rights Council, asking specifically why the news of the disappearance of her husband reached the United Nations. Again, she was questioned about the details of her travel to Geneva, names of organizations who supported her travel and whether or not she received any funds for her participation. At one point, the queries were suspiciously focusing on the time period wherein Sandya waited until the following day to report her husband's disappearance. This particular inquiry is evidently related to Mr. Peiris' statement that Prageeth was living abroad.¹ Sandya immediately corrected the notion saying that it was late night when they became suspicious of Prageeth's absence, but could not proceed towards the police station for lack of someone to accompany her. Her son was still young at the time, and under such risky environment, Sandya opted for a safer course of action. The complaint was filed immediately the following morning at 10:00 a.m.

The allegations thrown before Sandya brought forth the issue of the effects of disappearance to the families that are left behind. When a family is robbed of a breadwinner, the wife or the mother often bears the brunt of the economic hardship that follows soon after a disappearance.

Families of the disappeared suffer an agonizing search for even the smallest trace and evidence that will lead them closer to where their lost loved ones are. Sandya and her sons are not different. Each complaint, each communication sent to a police station, secretary of a human rights

commission, ministers, parliamentarians and other government authorities are attempts to bring them closer to the truth behind a disappearance.

Accusations of having financially-related motivations, being manipulated by organizations, or in the case of Prageeth, being accused of hatching an elaborate plot for asylum and forcing the family to lie before the entire country and the international community, further traumatizes the families. It inflicts pain, insults the memory and discredits the entire search for their missing.

During the period wherein the incident of intimidation happened, civilians including several human rights defenders have been disappearing in Sri Lanka. Most of them were abducted using a white van. I thought of Sandya then and how she was faring in terms of the harassment incident and her work. When we had a chance to chat, she mentioned she was good and asserted that even under such risky situations, *"I can neither stay at home, take cover nor be silent. I cannot give up the fight I'm fighting."*

This is the reality of the life of the families left behind. Many cannot afford to stay silent and continue wondering what might have happened to their family members. Human rights bodies such as the United Nations Working Group on Enforced or Involuntary Disappearances (UN WGEID) are often seen as a welcome course for pressuring states through case submissions and urgent appeals for the disappeared victims.

Insinuations that there was something wrong about engaging international human rights bodies as well as rebuking a family member of a



Sandya and her two sons.

Photo: Sri Lanka Mirror

disappeared for doing so, creates an impression that seeking justice is wrong, that the issue of disappearances does not deserve domestic and international attention and intervention. Such insinuations remain unacceptable with the families of the disappeared.

As we wrapped up the conversation the day we met, I asked Sandya what she thought of the silence and inaction of some Sri Lankan authorities on inquiries about Prageeth. She told me she was glad that she was able to ask unanswerable questions to the Sri Lankan government but she firmly believes she will soon get results for her efforts. She wanted to let them know that she wanted her husband back.

It was clear to me in that meeting and all the incidences succeeding our exchange that all of Sandya's efforts are intended to bring her husband back, to ensure that perpetrators will be held accountable for the injustice done to Prageeth and for the world to know that the wives, mothers and families shall continue to press forward and demand what was deprived of them - justice for their disappeared.

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Prageeth Eknelygoda

Cave Art of 21st century

"The Cave Art of 21st Century" exhibition is an effort by Prageeth Eknelygoda, to impress in a simpler but focused manner, his specific responses to some complex socio-political issues of our times. We present this exhibition to you in his absence, but the way he himself designed and named it.

He has expressed himself fully through this medium too, and there is nothing we can add to it.

Prageeth Eknelygoda Foundation

If we
lose
our voice,
there will be
no voice
even to claim our
voice.



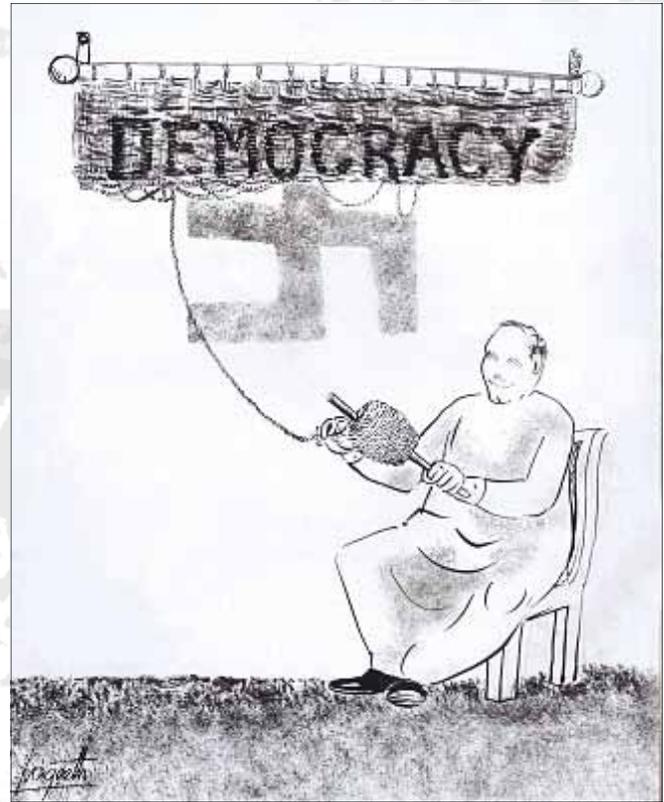
At least
there
should be a
FREEDOM
to suffer.



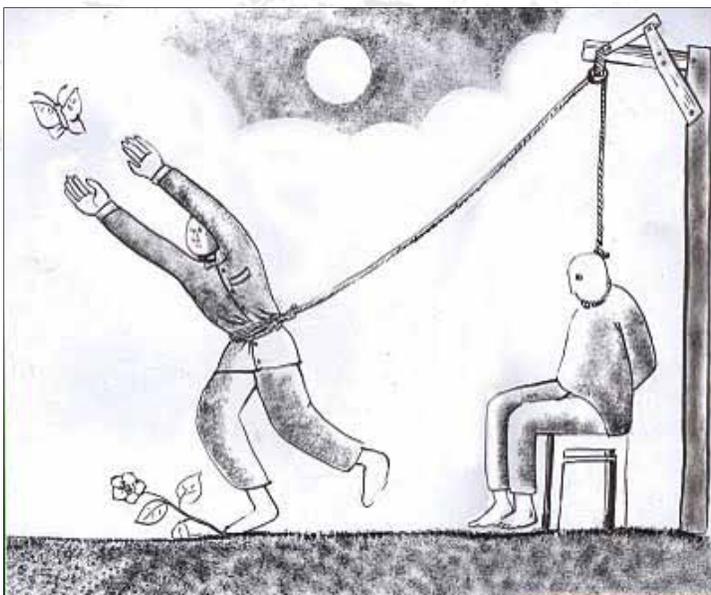


**The weak
hates
DEMOCRACY.**

**Media
can be
suppressed
but not
exterminated.**



**Your
passionate dream
can be the
noose
of the other.**





Evading Justice

An Outcry of Families of The Disappeared in Nepal

by Rabindra Gautam*

Nepal has reached the crescendo of political transition. With the official proclamation of Nepal as a republic, Nepalese people expected that it would be a milestone towards sustainable peace and a significant way forward to uphold human rights and rule of law. With the prognostication of *New Nepal* characterized by full protection of human rights and the administration of accountability, the general populace was at fever pitch with its expectations that all would catch acme. However, with the prevalence of impunity with its counter-effect on the criminal justice system and the administration of justice, the conflict victims have been devoid of access to justice.

Commitments to human rights norms and specific steps such as investigating disappearances have been central to succeeding agreements, including the Comprehensive Peace Agreement (CPA). Lip service, however, has only become entrenched as a substitute for action. Concern for victims has been inconsistent. A single and most tangible response and step taken by the government to provide interim relief to families of those who died and were disappeared was lacking any solid policies and procedures. Yet, this has been weakened by political manipulation and the lack of effective oversight of fund distribution.

For relatives of the more than 1,300 still missing, distress, frustration and a sense of betrayal have grown. Political parties have shown no interest in dealing with past crimes. They have exploited the lack of accountability to avoid reining in the unlawful activities of their own activists and to justify regular interference in the criminal justice system.

The issue of involuntarily disappeared persons has featured considerably in the transitional justice initiatives in Nepal, which is being depressingly unrequited with the ongoing political coldness. The debauched temperament of the political leaders has yet kept victims of conflict in the dark by making their voices not inhabited. A decade-long bloody conflict precipitated by the instigation of armed insurrection in 1996 by the Communist Party of

Nepal (Maoist) and the political catastrophe ensued thereto left the country in fiasco.

During those ten years, Nepal experienced the gross-est of human rights violations including disappearances and extrajudicial killings. The reluctance, showed by the main political parties in addressing the past human rights abuses, continues to impede the approach of conflict victims' access to justice.

Though the historic 12-point agreement was signed in 2005 between the Maoist and the Seven Party Alliance that apparently led to peaceful democratic movement to Comprehensive Peace Agreement (CPA) discounting the increasing martial aggrandizement of the then king, and hope of getting justice to conflict victims increases, the long-rooted culture of impunity has been reiteratively denying respect and protection of the right to know the truth, right to life, and to justice at all. It is evident that the government bodies are indifferent to address the issues of victims of conflict who have been raising their voices from the beginning. Though the political leaders, especially the Maoist party, seem positive and promising to address the woes and to provide justice to conflict victims, the mind-set in this regard is quite contrary.

After the government and the Communist Party of Nepal (Maoist) signed the Comprehensive Peace Agreement (CPA) in 2006, the document evidently speaks that the status of the disappeared persons is made public

within 60 days. Following the CPA, announcement by the government and the Maoist party about enacting a piece of national legislation on enforced disappearances was publicly promised, but it is yet to come into force, and is limited only in words.

The bill on enforced disappearances to establish the Disappearance Commission is yet to be passed by the Sub-Committee. It has failed to mark its consistency with international standards. It has many lacunas, including the incomplete definition of the act of enforced disappearance, recruitment of the commissioners in regard to fair and politically non-influential personality, statute of limitation, reparation, penalty, and mostly its vague connection to the Bill of Truth and Reconciliation Commission (TRC) as regard to jurisdiction to prosecution and mutual correspondence while collecting pieces of evidence and so on. A landmark decision issued by the Supreme Court of Nepal on enforced disappearances is yet to be implemented. The decisions of the court are being overlooked. The recommendations made by the National Human Rights Commission (NHRC), a Constitutional body, are deliberately undermined. Similarly, it is shameful that the recommendations made by the Human Rights Committee, Geneva, are also disregarded. However, the family members and relatives of the disappeared persons have continuously been raising their voices and clamoring for justice. But all the efforts made have been proved in vain.

As a continuum to the culture of impunity and undermining the pangs and sufferings of conflict victims, the government has been seeking favorable stair to grant amnesty to the alleged perpetrators of human rights violations. The amnesty intends to include even those who were implicated in the gravest of human rights violations including disappearance, killing, rape, and torture, to which International Humanitarian Law and International Human Rights Law strictly prohibit.

Disregarding the dozens of First Information Reports (FIRs) filed by the relatives of the victims, the government, especially of the Maoist-led government, is planning and preparing to withdraw all of the complaints and the cases registered even at the court. The current Maoist-led government, crushing the shame under the grandeur of the position as the largest political party of Nepal, is preparing to grant amnesty to one of their Constituent Assembly members, who was convicted by the Supreme Court of Nepal and was ordered to serve life imprisonment. It is just one of the examples that are being discussed at the moment.



The families of the disappeared in Banke District demands for information for their missing loved ones and prosecution of perpetrators. Photo: ADVOCACY FORUM

The rights of conflict victims have been systematically denied, not because the country lacks laws or that its system of justice is structurally weak to hold perpetrators into account, but because its institutions are tainted.

Though many promises were made public by the politicians to address the problems facing the justice system, and unless systemic blockages and lacunas are tackled head-on, such promises will remain unfulfilled.

Almost five years have passed since the formal end of the conflict in Nepal, yet the scars of the conflict are yet to be mended and the wounds healed. The violent past remains unaddressed amid the delay in the establishment of the proposed transitional justice mechanisms including TRC and Commission on Disappearances. The political instability, coupled with the possibility of detrimentally affecting the prospects of reconciliation in case of taking retroactive justice measures, is helping the impunity to roll on, thereby hampering the victims to seek justice for the harms they suffered.

Despite the widespread pioneering work of human rights activists, Parliamentary attention to questions of justice often seems sporadic. The government of Nepal and all other major political parties, in general, seem indifferent to the execution of the Bill on enforced disappearance. Every succeeding government built after the CPA seems to be avert to pass the bill of Truth and Reconciliation Commission (TRC) and the bill of Disappearance Commission (DC). The government is always reluctant towards the demand of the conflict victims. The majority of victims are from the underdog class of society who mostly fear to approach legal remedies against the perpetrators due to the fear of reprisals. In response, organizations like Advocacy Forum have been actively assisting and representing the victims to seek legal remedies since 2001.

The Supreme Court in June 2007 ordered the government of Nepal to form a high level commission of inquiry into enforced disappearances as the robust pressure received from national and international communities. Subsequently, the first draft of the bill was made public in November 2008, but it fails to meet Nepal's human rights obligations.

There were several drafts made with several amendment proposals submitted by the national and international human rights organizations and victims. The subsequent draft bill came with some amendments, but the bill still has fundamental loopholes and did not meet standards based on international law relevant to the investigation and prosecution of enforced disappearances. This was also reflected in the jurisprudence of regional and international human rights bodies, international declarations and treaties, as well as the jurisprudence and practice of international and national criminal jurisdictions. Similarly, there was much uproar *vis-a-vis* the statute of limitation as the new revised bill also failed to regard "disappearance" as a continuous crime. However, the bill was passed by the Cabinet in October 2009.

The families of the disappeared often express with despair that the quest for justice for them is a mere hallucination, as the politicians have repeatedly been ignoring their voices and attempts to access to justice. They seem tired and traumatized. On the marshy veneer and whirlwind of pervasive impunity, the families find themselves being drawn into it.

The country is non-exhaustively looking for sustained peace. However, the slowly deteriorating law and order situation due to the state's failure to bring the perpetrators into book, has cast a blight on the aspirations of peace.

Similarly, the issue of criminalizing the act of disappearances has been a pivotal discussion. Nepal has not officially ratified or accepted the 2006 UN Convention to acts of forcefully disappearing individuals. However, Nepal's national laws, and those international provisions related to human rights, compel the government to ensure that laws are made and implemented to prevent acts of enforced disappearances by the state. Nepal's Interim Constitution 2063 and the Comprehensive Peace Accord both have emphasized on this. Both documents are committed to forming a high level investigation commission to find out the truth about disappeared people.

The full clarification of all cases of those missing after abduction or arrest must nevertheless remain a high priority for the government, and for the Maoists. Families of the disappeared have the right to know the fate and whereabouts of their loved ones and to see those responsible held accountable. They should not be made to wait any longer.

The 1996-2006 conflict in Nepal brought tragedy for many families: over a thousand families still do not know what happened to the disappeared relatives.

International humanitarian law (IHL) requires

authorities to take all viable measures to account for people who go missing and to give families all the information they have on their fate and whereabouts. In parallel, IHL requires the authorities to do all they can to provide families with answers that will end the anguish of uncertainty, so that they can begin mourning the loss of a beloved husband, caring father, loving son or daughter.

The bill on Disappearance Commission still has gaps and cannot be effective as per the

demand of the victims' families. After relentless advocacy, lobbying and campaigning made nationwide by the civil society and victims' families, the government made some amendments in the Disappearance Bill. However, there has been no concrete progress in this connection. The delay is taking a heavy toll on the families of over 1,300 people who went missing. The immediate priorities should be prosecutions of the most serious crimes, including investigation of disappearances and action to vet state and Maoist members. The political parties can never foresee durable peace without providing justice to the conflict victims. It is a matter of life of their loved ones.

Failure to address the systematic crimes committed during Nepal's civil war is threatening the peace process. There has not been a single prosecution in civilian courts for any abuses. The cultures of impunity that enabled the crimes in the first place have remained intact, further increasing public distrust and incentives to resort to violence.

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**Rabindra Gautam is the Documentation and Research Officer for Nepal, which is assigned by AFAD. He has been working with Advocacy Forum since 2008 in order to protect and promote human rights and to foresee his country without the acts of enforced disappearances. He is also a University Lecturer in English Literature and has carried out more than five researches in the critical issues of human rights, including disappearances.*

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The country is non-exhaustively looking for sustained peace. However, the slowly deteriorating law and order situation due to the state's failure to bring the perpetrators into book has cast a blight on the aspirations of peace.

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Bearing the Agony of Stories Untold

Butch and Cora Fortuna have been searching for their son, Daryl for more than two years since he had gone missing along with fellow student, Jinky Garcia while doing an academic research on the effects of coal fed power plant in the fisherfolk community of Masinloc, Zambales. Their son's political involvement gives them every reason to suspect that the military is behind his and his friend's disappearance. The two missing students of the state-funded Polytechnic University of the Philippines now join the long list of *desaparecidos* in the country, that includes among many others, Atty. Hermon Lagman, Gerardo Faustino, Fr. Rudy Romano, Jonas Burgos, Sherlyn Cadapan and Leo Velasco. They are not mere statistics of human rights violations but real stories of heroism and martyrdom in this continuing saga of enforced disappearance in the Philippines that prides itself as a member of the United Nations Human Rights Council.

Regrettably, under the administration of President Benigno Aquino III, enforced disappearances continue to happen and are being committed under a climate of impunity which allows those responsible to freely walk away from criminal liability and repeatedly perpetuate such a condemnable act without fear of punishment.

In recent years until now, many States, especially Asian governments, continue to use enforced disappearance as a convenient tool to counter terrorism, to fight against organized crime or to suppress legitimate civil strife demanding for the right to exercise of people's freedom of expression or religion. Thousands of people are reported in various international and national bodies of inquiry to have been forcibly taken away by government agents or by individuals or groups acting with the authority, support or acquiescence of the State but responsibility for this odious offense is not acknowledged. What makes it worse is that in cases of enforced disappearance, victims are placed outside the protection of the law, making them vulnerable to further violations. Most of the time, they are tortured, some are even killed - their bodies thrown, or buried in unmarked graves or burned to destroy evidence.

More stories of disappearances have not reached public knowledge. This is quite common as enforced disappearance is coupled with the perpetrators' silence, fear instilled on the victims' families and the latter's consequent mistrust in the authorities. As a result, many cases

remain largely underreported and undocumented.

Despite harassment and intimidation, there are also families of the victims who refuse to give up in their search for truth and justice. They courageously speak out the truth and demand for justice.

A Week of Disquiet and Remembrance

An occasion where the families of the disappeared can speak out, tell and retell their stories is the International Week of the Disappeared (IWD). Accompanied by human rights organizations and civil society groups, families of the disappeared in many parts of the globe gather together to pay tribute to their beloved *desaparecidos* by remembering - their lives, works and sacrifices to make the world a better place for the generations of today and tomorrow. This worldwide occasion has been annually observed every last week of May through various public events to gain public attention and response to the depressing plight of the victims and their families. This tradition was started by the Latin American Federation of Associations of Relatives of Disappeared-Detainees (*FEDEFAM*) during its first Founding Congress in San Jose, Costa Rica in 1981 so that the international community may notice of this horrendous practice of violently and forcibly disappearing people. Over the last three decades, this occasion has become a worldwide observance both as an expression of solidarity and a testimony to the truth that enforced disappearance is not a phenomenon of the past; it is not only a Latin American problem, but it is also a global and continuing scourge against humanity.

In the Philippines, the Asian Federation Against Involuntary Disappearances (AFAD), the Families of Victims of Involuntary Disappearance (FIND) and the International Coalition Against Enforced Disappearances (ICAED) commemorated this occasion by holding a series of activities to inform the public of the extent of this human rights violation and to reiterate its call on the Philippine government to immediately sign and ratify the International Convention for the Protection of All Persons from Enforced Disappearance and to enact the anti-enforced disappearance bill into law without further delay.

International Week of the Disappeared 2012:

Intensifying the Work Against Enforced Disappearances in the Philippines

by Darwin Mendiola*

Seeking Justice. (L-R) Prof. Jeremy Sarkin, AFAD Secretary General Mary Aileen Bacalso and Gabriela Partylist Representative Luzviminda Ilagan.

Photo: CANDY DIEZ



The AFAD, FIND and ICAED invited Mr. Jeremy Sarkin, Extraordinary Professor of the University of South Africa, former Chairperson-Rapporteur and incumbent member of the United Nations Working Group on Enforced or Involuntary Disappearances (UN WGEID) in his personal capacity to participate in these activities. The invitation was extended for Mr. Sarkin to help convince the Philippine government of the imperative to institute legal measures to ensure state accountability and end impunity for human rights violations.

The IWD commemoration coincided with the Philippines undergoing the second Universal Periodic Review (UPR) in Geneva, Switzerland in which the issue of enforced disappearance was once again raised by many States as one of the major human rights concerns that need utmost consideration and apt response from the Philippine government. To note, the Philippines went through the UPR in 2008 and was scheduled for a second cycle in Geneva on 29 May 2012.

As a kick-off activity, the FIND-National Capital Region organized an opening event, entitled, "Preserving the Memory of the Disappeared" held on 28 May 2012 at the *Bantayog ng Mga Bayani* (Heroes' Monument), Quezon City. During which, children and relatives of the disappeared symbolically released balloons signifying their call for the immediate enactment of an anti-enforced disappearance law and the Philippines' accession to the International Convention for the Protection of All Persons from Enforced Disappearance. This was followed by a story-telling session on the lives of the disappeared.

Together with members of the House of Representatives under the *Makabayan* Coalition, Mr. Sarkin

met some family members of the victims in a Consultative Dialogue on 29 May 2012 at the Sulo Riviera Hotel in Quezon City. The family members presented the disappearance cases of their loved ones and related their enduring search for them and for their efforts to seek the assistance of legislators and of Mr. Jeremy Sarkin in their quest for justice.

Those who presented their cases were Butch and Cora Fortuna, Erlinda Cadapan, Peachy Burgos and Lorena Santos.

Just like the Fortunas, Erlinda Cadapan, mother of disappeared University of the Philippines student Sherlyn together with fellow student Karen Empeno and local farmer Manuel Merino who were abducted by the military on 26 June 2006 in Hagonoy, Bulacan, narrated how she and her family looked for her daughter in different military camps. She recounted her failure to find Sherlyn and her experience of being turned away by soldiers at gunpoint when turning up at a military camp to look for her daughter. As a result of her and her other colleagues' consistent fight for justice, Ret. Maj. Gen. Jovito Palparan, former head of the army in Central Luzon, was later charged with the abduction and multiple murder case of the three activists. Palparan went into hiding after the Malolos Court issued a warrant of arrest in 2011. The authorities fail to capture him.

Ms. Peachy Burgos also shared the ordeal of her family because of the disappearance of her brother, Jonas. It has been five long years since Jonas was abducted from a shopping mall in Quezon by unidentified armed men turned out to be members of the military.

For five agonizing years, the Burgos family has been searching for Jonas everywhere. They went to different military camps, visited morgues, dug graves to find his whereabouts and to know the truth of what happened to him. They have begged for help from the government but their pleas fell on deaf ears. Jonas' family and friends marched to the streets to protest against his disappearance. They went to court and used every available legal mechanism to bring Jonas back. In doing so, they experienced intimidation and harassment. The unflinching hope to see Jonas again gives them the strength and courage to continue looking for him and for all others who suffer the same fate.

Ms. Lorena Santos whose father Leo Velasco and mother Elizabeth Principe were abducted in separate incidents said that she is not losing hope to find her father. Leo Velasco, a consultant of the National Democratic Front (NDF), was abducted by government agents on 19 February 2007 in Cagayan de Oro, Misamis Oriental. Her mother was presented to the media by Army officials as a high-ranking cadre of the Communist Party of the Philippines and the New People's Army. Army officials said she was captured on 28 November 2008 in Cubao, Quezon City by virtue of standing arrest orders for six criminal charges, such as kidnapping, arson, murder and frustrated murder in the provinces of Isabela and Nueva Vizcaya. She was released in 2009 when Regional Trial Court in Nueva Vizcaya dismissed her case for lack of merit. Lorena shared that being a daughter of NDF consultants, she is aware of the security risks her parents face, but she never imagined that both of them would disappear. She recalled that like all other families of the disappeared, her family also made use of all possible legal avenues but none of these steps succeeded in surfacing her father.

To put their stories on a discourse for policy reform, the AFAD, FIND and the ICAED, in partnership with the Presidential Human Rights Committee (PHRC), organized the National Human Rights Forum on Enforced Disappearance on 1 June 2012 at the Intercontinental Hotel, Makati City.

This activity was attended by various government agencies, foreign embassies and civil society groups which served as a venue for a dialogue to collectively find a solution to put an end to this horrible practice.

Keynote speaker, Professor Sarkin, in a powerpoint presentation, explained why enforced disappearance is considered one of the cruelest and most dehumanizing of human rights violations. According to him, it is a multiple and continuous violation of the basic human rights not only of the direct victims but also of their families and the greater society. He added that it is the duty of the State to continue promoting and giving full effect to the UN Declaration on the Protection of All Persons from Enforced Disappearance, especially the definition of enforced disappearance as a sepa-



Butch and Cora Fortuna share the story of Daryl's disappearance with Philippine media reporters. Photo: CANDY DIEZ

rate and autonomous criminal offense in national legislation. Based on his expertise in international law, he said that the inclusion of enforced disappearance as an autonomous offense, separate from similar acts like kidnapping, has proved to be effective in preventing and eradicating enforced disappearances. He also reiterated that the Working Group stands willing to assist States who seek to include enforced disappearance in their criminal codes, according to international human rights standards.

Sarkin emphasized that one positive development at the international level is the adoption of the International Convention for the Protection of all Persons from Enforced Disappearance

(The Convention) in 2006 and its entry into force on 23 December 2010. According to him, this shows the willingness of a number of States to take on the commitment to make enforced disappearance disappear. The Convention includes the right of any person not to be subjected to enforced disappearance and recognizes the right of all the persons affected by enforced disappearance to know the truth about the circumstances of this crime, the progress and results of the investigation and the fate of the disappeared person.

Moreover, he said that following the entry into force of the Convention, the Committee on Enforced Disappearances has been established and the Working Group works side by side with the Committee to ensure cooperation in preventing and eradicating enforced disappearances, wherever they occur around the world.

Speaking on behalf of the Philippine Government, Undersecretary Severo S. Catura of the Presidential Human Rights Committee (PHRC), the advisory body to the President in effectively addressing human rights issues in the country, explained the response of the Philippine government to this human rights issue. He said that the government has clear directions and takes pride in its human rights advocacy. According to him, as a matter of principle, while others may look at human rights in the context of violations, the Philippine government

looks at it in the context of good governance and therefore, should be the centerpiece program of the government.

But when asked why the Philippine government has yet to fulfill its promise to accede to the Convention as repeatedly recommended during the UPR, he said that in due time, the Philippines will become a State-Party to this international treaty and that the government just needs to take some institutional reforms including the enactment of a piece domestic legislation that will facilitate the ratification of the Convention.

The Living Reminder

The International Week of the Disappeared is a reminder to all of us that the pursuit to peace in any country is done as a means to end grave human rights violations and a reminder to all of us of the need for an adequate delivery of justice for the victims and their families. All of us have the moral duty to make it happen.



**Darwin Mendiola is currently the Philippine Advocacy Project Coordinator of AFAD. He is the former media liaison person of the Laban ng Masa (Struggle of the Masses) under the leadership of former University of the Philippines President Dr. Francisco Nemenzo, Jr.*



Prof. Jeremy Sarkin in a dialogue with victims and advocates.

Photo: CANDY DIEZ

Destroying Monuments for those killed and disappeared: **The Catholic Church and the Sri Lankan Government**

by Ruki Fernando*

On the evening of 26 October 2011, Fr. Srilal Manoj Perera (appointed by Cardinal Malcolm Ranjith to be in charge of land issues for Archdiocese of Colombo), Fr. Prasad Perera, Parish Priest of St. Cecilia's Church, Raddolugama (in the Colombo Archdiocese), members of the Parish Council and a lawyer representing them, took the unprecedented step of requesting that the Police destroy a nationally and internationally recognized monument for disappeared persons situated in the Raddolugama-Seeduwa junction in the Gampaha district in Sri Lanka.



This was on the eve of the 21 annual commemoration for disappeared persons held annually on the 27 October at the site of the Monument, with the participation of families of disappeared persons, religious leaders, political leaders, human rights activists and concerned citizens.

This request to destroy the Monument was preceded by several attempts by Fr. Prasad and the Parish Council to disrupt and discourage the use of the Monument and the commemoration. These attempts included the construction of a wall that obstructed access between the Monument and the church premises. Verbal and written appeals have been made by the leaders of the organization of Families of the Disappeared (FOD) to the Parish Priest and the Parish Council to facilitate the continuance of activities that take place surrounding the Monument, including and the annual commemoration, but these have apparently fallen on deaf ears. Church leaders have made complaints regarding the Monument to the Police and also threatened legal action against the



Early commemoration at the site.
Photo: RUKI FERNANDO

Families of the Disappeared seeking a Court order to destroy the Monument.

The main allegation by the Church is that the Monument is situated on land belonging to the Catholic Church. This is the first time such allegation has been made in the past 11 years of the existence of the Monument. The Church delegation had gone to the extent of accusing the Families of

the Disappeared that they had "secretly built the Monument in the night" despite it being built for over a period of two months and construction work taking place in broad daylight in full view of the Church premises and its access roads.

The fact that both the allegations made and the request to destroy the Monument came from the Archdiocese's official representative in charge of land issues together with a lawyer indicates that these allegations and the request to destroy the Monument is most likely done with the approval of the leader of the Archdiocese, Cardinal Malcolm Ranjith.

What the Monument is about:

The Monument has photos of Sinhalese youth disappeared and killed in the late 1980s, during the regime of the United National Party (UNP). Families and loved ones still don't know the fate of many of them and probably never will. These are persons who have no grave, no place to light a candle, no place to lay flowers and no place to say a prayer. It is in this context that the Monument became a place for families of those killed and disappeared to gather collectively, together with concerned religious leaders, political leaders and citizens to light candles, lay flowers and conduct religious observances.

The Monument has also become an important symbol and record of a tragic part of Sri Lankan history – a part that the powerful and victors ignore. Even Presidential Commissions, which heard tens of thousands of testimonies relating to disappearances, refuse to publish their reports.

More importantly, the Monument also provided a space to campaign against the heinous crime of disappearances and raise a voice demanding that it should never happen again, anywhere, to anyone.

The history of the October 27 Commemoration, the Monument and the Catholic Church

The Monument is built at the Seeduwa-Raddolugama junction in the Gampaha district (Western Province), at the place where bodies of two disappeared trade union activists, H.M Ranjith and H. Lional, were found in 1989. During a period of severe repression, in which it was usual to find the bodies of those killed everywhere every morning, Seventeen people had come together to remember Lionel and Ranjith on 27 October



The Monument of the Disappeared in Sri Lanka. Photo: AFAD FILE

1991. This continued over the years, drawing more people, including political leaders and activists from all over Sri Lanka and the world, including the present President and Ministers of Cabinet. On 10 December 1999, the foundation stone was laid for the Monument, adjoining St. Cecilia's Church by the roadside. It was opened on 4 February 2000.

In the 1980s, some Catholic priests who had tried to safeguard youth from being disappeared and killed and buried bodies when no one else dared to do so, were killed and threatened. Every year, Catholic priests had come forward to conduct religious observances on 27 October, to console grieving families and support these families' and other activists' efforts to struggle against disappearances and impunity. Among the Catholic priests present at this year's commemoration was Fr. Terence Fernando, who was among the sixteen people who had gathered in 1991 for the first commemoration.

In the past, St. Cecilia's Church had been very supportive of the commemoration and the building of the Monument. The families and their supporters were invited to use the Church premises for activities related to the commemoration. Particularly significant had been the offering of the Church space for traditional alms giving to Buddhist Monks at the end of the 27 October commemoration. There was a period when the first Sunday service after 27 October was dedicated to the disappeared and their families, with family members invited to share their grief and the whole church community going to light candles at the Monument. Over the last few years, I have seen the material displayed and distributed, meals served, and discus-

sions held in the Church premises with the support of the Church.

For 20 years, no question or objection had been raised about the commemoration or the Monument, nor had any allegation been made that the church-owned land was being used for this purpose.

Pleas Not to Destroy the Monument

During this year's commemoration, Mrs. Annie Theresa, a Catholic mother whose son had disappeared in 1989 and had been participating in the commemoration for many years, pleaded with Church leaders not to destroy the monument and to allow the commemoration to continue. "My son has no grave, where can I lay flowers and pray?" she asked. The sister of a disappeared person asked "whenever I pass this way, I get down, lay flowers and go – where will I go if this monument is destroyed?" "The Church has been helping us in the past – why are they doing this now?" asked Mrs. Sandya Ekneligoda, wife of cartoonist Prageeth Ekneligoda, who disappeared in January 2010.

At the end of this year's commemoration, families and others present held a protest against the request to destroy the Monument and signed an appeal to the Cardinal not to destroy the Monument.

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Monuments, Commemorations and Catholic Priests in the North and South

In the North, the military has destroyed a number of memorials for Tamil militants where mothers and loved ones used to go and pray, light a candle and lay some flowers.

When a Tamil Catholic priest in the North tried to erect a monument in memory of those killed and gone missing during the war, the military threatened him with death, compelling the Bishop to transfer the priest to ensure his safety.

When Tamil Catholic Priests in the North together with other Christian Clergy and Hindu Kurukkals tried to organize prayer services for those killed and disappeared, they were also threatened by the military and some events had to be cancelled. Military officers had even walked into a Church and stopped a service the priest was conducting.



Cemeteries for Tamil militants before and after the destruction. Photo: RUKI FERNANDO

In St. Anne's Church Vankalai (Diocese of Mannar in Northern Sri Lanka) where I often visit and stay, is a statue to remember Fr. Mary Bastians, who was, in the presence of witnesses, shot dead by the military and whose body was carried away, never to be seen again. His photo is also prominently displayed. Several times, I had participated in the commemorations on 6 January, as the whole village gathers with the Bishop and other priests to remember his killing and his selfless service for which he sacrificed his life.

Here in Colombo however, Sinhalese Catholic priests appear to take on the role of the military in the North - demanding that Police destroy a monument of 11 years and a commemoration that has been held for 20 years.

Why Destroy the Monument and Obstruct the Annual October 27 commemoration?

Among the many Sri Lankans killed and disappeared due to their commitment to serve the poor and oppressed and raise a voice against injustice, have been Catholic priests. With few exceptions, such as the one I mentioned above in relation to St. Anne's Church Vankalai, they are forgotten and not remembered.

Thus, in a way, it is not surprising that some priests do not appreciate the importance of remembering tragedies, collective grieving and the inspiration and strength drawn through monuments and commemorations to prevent such occurrences in the future.

Remembering Sri Lanka's Disappeared

Thoughts on the Monument of the Disappeared and the motivations behind its proposed demolition

Brito Fernando, Families of the Disappeared (FOD)

I was involved since the beginning of the commemoration of the disappeared in 1991. We were severely disturbed by the Police the following year. The same police officers who had personal interests in harassing us ironically shifted and became very supportive when a new government came into power in 1994 under Chandrika Kumarathunga.

I remember in 1998 when President Mahinda Rajapaksa, who was then the Minister of Fisheries, was invited as the chief guest for the 27 October commemoration. He said in front of the public at the monument that "If a single disappearance takes place under the government, I will resign and go home". Now, the Rajapaksa government is severely accused for the disappearances of civilians during and beyond the war.

Annual commemoration for the disappeared continued each year with various representatives of civil society groups joining the commemoration. With the blessings of the Asian Human Rights Commission (AHRC), Mr. Eugene Shaw participated as a representative of the May 18 Memorial Foundation in Gwangju, South Korea.

He met many human rights organizations wherein advocacy and other human rights experiences in Gwangju were shared. He then suggested building a monument to keep the memories of the society on the disappearances that happened and to remember that the society should stand against disappearances.

During the time, no organization took this challenge. The Families of the Disappeared then decided to take the responsibility of building the Monument. The AHRC and the May 18 Memorial Foundation provided the financial assistance needed for the construction.

When it was successfully constructed, representatives from the said organization attended the opening of the Monument in 2000. Prior to its launch in 2000, the majority of the participants during the annual commemoration were workers from the Free Trade Zone and the Trade Unions. After constructing the Monument, it started attracting mostly the family members of the disappeared.

In 2009 for the first time, some families from the North and East participated in the commemoration. During that time, it was observed that even several Sinhala family members, not very openly, issued some objections in taking up the issue of
(cont. next page)

But still, it is not easy to understand why these Church leaders want to destroy the Monument and disrupt the commemoration.

Is it purely due to greed for land?

Or are they objecting *now*, because it is only in the last few years, that many Tamil families from the North and East, and Tamil Catholic priests from North have started to attend the commemoration and organizers and speakers have become increasingly critical of the present government's role in the disappearance and killing of Tamils?

Or is it because they want to follow the policy of the government in the North to destroy memorials for those killed and disappeared, disrupt any efforts to build a monument and organize religious observances for those killed and disappeared and threaten those organizing?

In the recent past, the Cardinal and Catholic Church in the Archdiocese of Colombo have been perceived to be supportive of the government instead of the poor, the oppressed and victims of human rights violations and injustices.

(cont. Remembering Sri Lanka's...)

North and East disappearances. In spite of this, the participation of the Tamil victims' families in the commemoration notably increased the following year.

Then the proposal to demolish the Monument of the Disappeared came in 2011.

Though the land belonged to the church a long time ago, it was taken over by the government to build roads. We were told that the church was compensated. Before building the Monument, we inquired from the church and they never claimed right of the land. With the blessing of the political leaders in the area, especially from former minister Mr. Jeyaraj Fernandopulle, we decided to start building the Monument.

Since 1991 and consistently for 20 years, we were holding our annual commemoration at the Monument. No one claimed this land for the 20 years that we have been organizing the annual event. No one protested when we were building this memorial for the disappeared. And now the church suddenly started protesting and insists on claiming that the land rightfully belongs to them.

I was called for an inquiry at Seeduwa Police station on a complaint made by the Parish priest, protesting against building up some steps. He claimed that the land belonged to the Church. When I demanded to prove the ownership of the land, they came out with some survey plans made in the years 1912 and 1913.

The Cardinal and Priests in Colombo,

1. supported the government in opposing the linking of human rights to GSP+ and attempts to balance trade privileges with the human dignity of all peoples;
 2. joined the government in labelling the report of the Panel of Experts of the UN Secretary General as a conspiracy even when as Church leaders in the North affirmed the report;
 3. stood by government MP Duminda Silva instead of supporting poor slum dwellers facing imminent evictions;
 4. didn't join and support the struggles of the fishing community of Negombo against a sea plane project that would have damaged the lagoon and the livelihood of the fishing community;
- (cont. next page)*



Brito Fernando of the Families of Disappeared.
Photo: COLOMBO TELEGRAPH

When I inquired about the details of the acquisition made by the then Sri Lankan government, the representatives of the Church remained silent and were not able to provide information. After the discussions, the Police then agreed that the claim should be inquired at a civil court. They proceeded to inform the Church representatives that they can prove their ownership at the same court. We challenged the church people to do so but to date, no action has been taken by the church.

We will not forget how the Government demolished the Monuments in North, East and even the other monument in the South, which was constructed in the memory of the disappeared 37 students of Ambilipitiya. The said monument was erected under Chandrika Kumarathunga and was situated in front of the Parliament.



Commemoration at the site of the monument before the monument was built. Photo: RUKI FERNANDO

(cont. Remembering Sri Lanka's...)

Mahinda Rajapaksa's government still continues to use disappearances as a political weapon to sow fear among its opponents. Its acts prove that it wants to obliterate from history the position they once took when they were seated as the opposition - the position ironically supporting the struggle against enforced disappearance.

When they were seated as the opposition - the position ironically supporting the struggle against enforced disappearance.

The Government succeeded in their efforts in North and East. Did the Catholic Church assume the responsibility of doing the same deed in the South through the proposed demolition of the Monument? Does this signify that the Church consents and allows enforced disappearances to continue?

The Church has previously sided with the Rajapaksa government on several issues. We can never forget the Church stance supporting the government when a Free Trade Zone worker and a fisherman were killed during protests. The Church then handled the funeral with the support of the court orders preventing the trade unions and other organizations from taking any action against the brutal murders. The support they provided to the Government in seeking the GSP+ concession from the

(cont. Destroying Monuments...)

5. collaborated with the military in suppressing the public expression of grief and outrage over the brutal killing of Free Trade Zone worker Roshane Chanaka by the Police.

Are the efforts of these Church leaders to destroy the Monument for the Disappeared and disrupt the annual commemoration simply another example of the practice of defending the government against any allegations of abuses?

What is actually at stake?

What are these Church leaders actually trying to destroy?

It is just not a concrete structure, but the memory of loved ones with no grave and resting place, the space and spirit of collective grieving, consciousness, outrage and spirit and resolve not to let heinous crimes happen to anyone anywhere.

By The Way Side

This wreath
 With no name attached
 Is for you
 Who have no grave
 As the place of earth
 Which embraced you
 Could not be found,
 This wreath was placed by the wayside
 Forgive me
 Forgive me
 For placing a memorial for you
 By the roadside

(A poem at the foot of the monument, by Basil Fernando, a key supporter of the monument from its inception)

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**Ruki Fernando is the former Head of Human Rights In Conflict Program at Law and Society Trust (LST). He currently serves as the Chairman of Rights Now and a consultant for Inform Human Rights Documentation Centre. He was awarded the 2009 Tji Hak-soon Justice and Peace Award for his work in support of victims of the ethnic conflict in Sri Lanka.*

European Commission still remains fresh in our memories. The Church marching with the government against the March 2012 resolution at the Human Rights Council in Geneva further strengthens its reputation as a consistent supporter of the Rajapaksa government.

With such memories of oppressing the disappeared victims and their families, we challenge the Church and the Sri Lankan government. Try to demolish the Monument for the Disappeared in Seeduwa, if you can.

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Odhikar's local human rights defenders brought out a rally to observe the World Human Rights Day on 10 December 2011. Photo: Odhikar

Odhikar has, over the years, been monitored by intelligence agencies, who have even visited the office on the pretext of 'a cup of tea and a chat.' In 2007, the Director of Odhikar, ASM Nasiruddin Elan was picked up by Navy Intelligence and taken to the Navy Headquarters where he was physically and verbally assaulted and threatened with death – over a report of a young man who was tortured and killed by members of the Navy. Odhikar's human rights defenders (HRDs) have not been spared either. Those who have been investigating allegations of extra-judicial killings and torture have been threatened and questioned. Korban Ali, a fact-finding officer of Odhikar, was threatened over the telephone in July and September 2009, over his conduct of fact-finding missions on extra-judicial killings. He was also threatened with dire consequences if he did not stop further fact-finding missions into incidents of custodial torture and extra-judicial killings. Odhikar's human rights defenders at the grassroots level were also tortured and intimidated by law enforcement agencies. Odhikar carries out advocacy with the policymakers and implementers in order to sensitize them into stopping human rights violations through dialogue, lobbying, discussion meetings, mobilizations and demonstrations.

Odhikar and its HRDs have come under scrutiny and harassment by various intelligence and national security agencies due to their constant campaign against torture, extrajudicial killings and acts of enforced disappearance. The organization's secretary and staff members are under surveillance because of their outspoken attitude.

In the seventeen years of its existence, Odhikar likes to believe that it has worked hard to uphold and defend human rights, with all sincerity and dedication. Odhikar has also earned a high degree of credibility because of its unbiased reporting and statements. It has always defended human rights with the same devotion, in total disregard to the political affiliation of the government and consistently opposed military and quasi-military regimes and argued for a democratic government.

During the so-called 'Caretaker Government,' nurtured by the military by using emergency laws, Odhikar was virtually the sole voice against the military influence and the State of Emergency, when other human rights organizations unfortunately either supported that regime or toed their line. Such an organization now faces high degrees of non-cooperation from the government, extensively hampering its human rights activities.

Facing all the Challenges

Human Rights Defenders in Bangladesh

Odhikar

Strategic Focus

Odhikar, since its inception, has been strategically focusing on rampant human rights violations such as extrajudicial killings, custodial deaths, torture, enforced disappearances and various degrading treatment by the law enforcement agencies, an area that was not commonly highlighted by human rights organizations in a systematic manner. Lack of security of HRDs may be the major reason for this lapse; challenging the violation of human rights by the law enforcing agencies is not an easy task and assumes some amount of social strength and networking ability of the organization. Given our social standing; and the capacity to engage with social issues by our members, this was not very difficult for Odhikar - compared to other organizations.

However, the major problem Odhikar faces is not the lack of courage to deal with difficult situations but with (a) the incomplete development of a democratic polity and therefore 'abstractness' in the notion of rights and responsibilities of both the state and the citizens; (b) the popular perception of human rights organizations as tools of foreign intervention and (c) problematic perceptions and the conception of crime and the role of the state or in other words, the 'criminalization' of socio-economic, political and cultural problems as problems of crime and punishment.

The incomplete development of a democratic polity is a process and cannot be solved overnight and cannot be addressed outside the political process either. Odhikar routinely invites representatives from all political parties that advocate democracy, in its various discussion meetings, dialogues and seminars.

Negative perceptions about human rights organizations are an occupational hazard that we must endure; and can be eliminated only by remaining engaged with the people and defending peoples' rights. However, from the perspective of leveraging and influencing policy, the paradigm of 'crime' as the determining measure of governance is the biggest hurdle that we have been facing to promote human rights.

The common perception is that if someone can be identified as 'criminal,' state agencies can terminate that person without any judicial process, to ensure the security of the rest of society. This is a major challenge we face as human rights defenders. That we are citizens of the state and thus, have certain rights provided for by our Constitution as well as by various international covenants, gets blurred by the over-determined notion of 'crime' and 'terrorism.' Although Odhikar works on various issues related to human rights, we have felt that

extrajudicial killings, custodial deaths, cases of disappearances and acts of torture should receive special attention. It also broadens our scope to address 'crime' and 'terrorism' as a failure of socio-economic and political issues and brings these matters to more fruitful policy discussions.

Why the Challenges to Human Rights Defenders?

The Government of Bangladesh has always been defensive about human rights activities, making the protection and promotion of human rights a challenging work. It is a general perception – and one rapidly being confirmed- that the government regards human rights violations better hidden from public knowledge and feels that any disclosure of such violation tarnishes the reputation of the government. As a result, human rights defenders are facing numerous challenges in the fight against impunity and social injustice.

Human rights work in the form of civil and political rights, gathered momentum during the protests against the regime of Lieutenant General H.M. Ershad. However, successive regimes, elected or otherwise, have failed to channel the energy towards a positive institutionalized form. Failure of the initiatives for political reforms has widened the gap between the government and human rights defenders and has created a confrontational situation.

Human rights work has also faced challenges during the State of Emergency. The HRDs and media were obstructed from working on human rights issues after 11 January 2007. The state of human rights deteriorated badly during the period. The HRDs who were proactively fighting for the cause of human rights were intimidated and tortured. Unfortunately, the situation has not changed much even after the 9th Parliamentary elections of 29 December 2008. The elected government has become more defensive about human rights work and remains in denial of glaring human rights violations perpetrated by state forces. This often leads to a fascist approach towards human rights organizations and the media.

Due to its nature, the State is more inclined towards civil and political concerns. As a result, Odhikar has faced much of its wrath since the organization monitors and reports on incidents of torture and impunity by law enforcement agencies; the rights of the media and other relevant issues. Forms of 'harassment' include intimidating phone calls, visits from members of the 'Special Branch' of police, stoppage of funds, etc.¹

¹For example, Odhikar's 'Human Rights Advocacy and Training Programme' supported by RCT-Denmark was cancelled on 17 August 2009 by an order from the Ministry of Home Affairs. The main theme of the programme was to highlight torture and lobby for ratification of the OPCAT. Odhikar filed a writ petition before the High Court Division of the Supreme Court, challenging the cancellation. On 11 October 2009, the High Court Division issued a *Rule Nisi* against the Government and suspended the Ministry's order. As a result, Odhikar could complete its programme for that year. Due to its success the programme was extended for another 3 months by the donors. Accordingly, Odhikar applied to the NGO Affairs Bureau for a 3-month extension of this programme. The NGO Affairs Bureau, by a letter dated 11 February 2010 refused to grant the extension. Odhikar faced a difficult time during the renewal of its registration with the NGO Affairs Bureau (which is under the Prime Minister's Office). At present Odhikar is facing difficulty in getting approval for the projects submitted to the NGO Affairs Bureau. The Home Ministry asked the Special Branch of the Police and the National Security Intelligence (NSI) to investigate about Odhikar's activities. Odhikar is now under close surveillance/monitoring by the intelligence agencies.

The role of CSOs in extending assistance through solidarity work

It is very important to develop a democratic culture in the country. In Bangladesh, peoples' participation in all sectors must be ensured and the local government and human rights defenders should be given a wider scope to work independently. If the local government institutions are not empowered, then the participatory democratic culture will not be established.

Civil society organizations (CSOs) of other countries have a specific role to play through their solidarity work. This experience of solidarity should be visible in ensuring that the national authority ends this culture of impunity, as the members of the law enforcement agencies, political elements and party supporters are almost untouched and escape punishment. The members of solidarity networks of CSOs should be ready to adopt the victims' organization for providing all out support. Funding for human rights work will have to be given priority and mobilizing funds would be another challenge.

Torture in custody, extrajudicial killings, enforced disappearances and attacks on journalists should be stopped immediately. Human rights are denied due to lack of access to justice. Fair trials should be ensured - particularly for those people who have very limited access to justice.

Members of the civil society speaking at a discussion meeting organized by Odhikar, FIDH and AFAD on the accession to the International Convention for the Protection of All Persons From Enforced Disappearance in Dhaka, Bangladesh.
Photo: Odhikar

Conclusion

It is obvious that international standards need to be maintained in order to ensure human rights protection and establish rule of law. There should be effective and result-oriented initiatives to reduce the gaps between government and HRDs. UN mechanisms and EU guidelines for human rights defenders could be the most appropriate tools for successful advocacy.

In order to strengthen the HRD activity in Bangladesh on an international level, it is important to use the following tools:

1. The Universal Periodic Review, for it highlights the current situation of human rights in Bangladesh at an international forum.
2. A regular visit from the Special Rapporteur on Human Rights Defenders is necessary to ensure a continuity of any commitments made by the government.
3. Active engagement of the Asian human rights networks to observe the State actors as well as ensuring support and safeguarding human rights defenders in Bangladesh.

The human rights movement is a continuous struggle. Human rights will only be realized when all human beings will have their rights established and justice ensured. Only then will the mission of Odhikar be over.

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***KontraS* and *IKOHI* Sustain Lobbying Efforts for Indonesia's Ratification of Anti-Disappearance Convention**

by Mary Aileen D. Bacalso*

AFAD member-organizations in Indonesia, *KontraS* and *IKOHI* conducted an extended commemoration of the International Week of the Disappeared from 4-7 June 2012 through a series of activities to step up their campaign for the ratification of the International Convention for the Protection of All Persons from Enforced Disappearance (The Convention). The activities were conducted in cooperation with the Asian Federation Against Involuntary Disappearances (AFAD) and Amnesty International – International Secretariat (AI-IS). These were graced by South African Extraordinary Professor and current member of the UN Working Group on Enforced or Involuntary Disappearances (UN WGEID), Mr. Jeremy Sarkin and representatives of the AFAD and Amnesty International respectively.

Experts' Conference on the Anti-Disappearance Convention

On 4 June 2012, an Experts' Conference on the Convention was conducted with series of presentations from Mr. Sarkin, Mary Aileen D. Bacalso, AFAD Secretary-General; Ms. Marek Marczynski of Amnesty International – International Secretariat. The speakers discussed about the process of achieving the Convention and the role of victims in achieving the Convention, its salient provisions and its added value to human rights promotion and protection, particularly in the struggle against enforced disappearances. The importance of drafting a piece of legislation criminalizing enforced disappearances as the best way to prosecute perpetrators was stressed by the participants from civil society and the academic community. The event was concluded with the common resolve to continue pushing the Indonesian government to ratify the Convention as part of its international commitment on human rights and to enact an anti-disappearance law to ensure implementation.

National Conference on the Anti-Disappearance Convention

On 5 June 2012, a national conference, entitled, "**Progress of Ratifica-**



**Families of victims of enforced disappearances in Indonesia.
Photo: AFAD FILE**

tion of the International Convention for the Protection of All Persons from Enforced Disappearance" was held at the building of the Indonesian Judicial Commission. It was participated in by family members and survivors of enforced disappearance, civil society organizations, representatives of government agencies and the diplomatic community.

Foreign Affairs Deputy Minister of Indonesia, Mr. Anshor spoke about the importance of Indonesia's ratifying the Convention while Mr. Marzuki Darusman, chairman of The Human Rights Resources Center for ASEAN (HRRCA) gave

the keynote speech highlighting the same.

A national situation on enforced disappearances, giving the context of the struggle against enforced disappearances in the country was presented by Mr. Haris Azhar, *KontraS* Coordinator.

Mr. Sarkin, on the other hand, stressed on the definition of enforced disappearance and the significance of Indonesia's ratification of the Convention. He mentioned that out of the 53,778 outstanding cases of the UN WGEID, only 160 cases are from Indonesia, thus he stated the reality of underreporting and the imperative of using the UN

WGEID's mandate by submitting more cases, even if these occurred several years ago. He assured the Indonesian government that there is nothing to fear about ratifying the Convention and as a matter of fact, it would strengthen Indonesia's human rights position and improve its human rights situation.

Marek Marczyński of Amnesty International-International Secretariat congratulated the Indonesian government for signing the Convention in September 2010 and gave emphasis on the challenges in combatting impunity. He mentioned the initiative of Amnesty International in publishing a checklist for the implementation of the Convention, a document that has been translated to Bahasa and other languages.

Mary Aileen D. Bacalso gave a brief account on the role of the victims in the process of the drafting, negotiation, adoption and eventual entry into force of the Convention. She presented salient provisions of the Convention and its importance to the victims. If Indonesia ratifies the Convention, it would be the first Southeast Asian country to ratify it and will give a very good example for other ASEAN members to do the same, Bacalso added.

A representative from the government of Indonesia, expressed Indonesia's commitment to ratify the Convention before the end of 2012. He mentioned that Indonesia's ratification would guarantee Indonesia's non-repetition of the crime of enforced disappearances.

Paian Siahaan, father of disappeared student, Ucok Munandar delivered a testimony about the disappearance of his son. He stressed the importance of Indonesia's ratification of the Convention and sought the support of the Amnesty International in the process of searching for justice.

The whole event was concluded with a brief open forum where families and survivors of enforced disappearances expressed their utter disappointment for the slow delivery of justice.

Meeting with Victims

In the afternoon of the same day, the speakers had a special meeting with victims to continue the discussion. Series of testimonies on brutal experiences of violations as well as stigmatization by society were shared by the victims. Expressions of disappointment were shared by elderly men victims of enforced disappearances, families of the disappeared and victims of other forms of human rights violations. The victims very clearly expressed that while the Convention is important, what is more important for them is the concrete delivery of truth and justice for them and for all the other victims of human rights violations in the country. "We are already tired," a number of them shared their frustration.

Ms. Bacalso encouraged the victims and asked them not to lose heart in their continuing fight for justice. It is important that they count some achievements, e.g. the signing by Indonesia of the Convention and the 4-point recommendations of the Commission of Inquiry of the Parliament to look into enforced disappearances, some of which are in the process of being implemented.

Mr. Sarkin realistically mentioned the limitations of the UN WGEID, but encouraged the families to submit cases, even if these occurred in the past and challenged them not to give up the struggle.

Mr. Marczyński assured the victims that with persistence and perseverance, justice shall come one day.

The victims responded with an expression of gratitude to the international community, particularly to

the UN WGEID, to AFAD and Amnesty International, for their solidarity.

The event was concluded with a party to commemorate the 14th anniversary of AFAD. A hearty dinner with a big cake was prepared by KontraS and IKOHI for all participants to partake.

Meeting with the Ministry of Law and Human Rights

The KontraS and IKOHI delegation of families and survivors of enforced disappearance was accompanied by Mr. Sarkin and the AFAD and Amnesty International delegation in meeting with the Director General of Human Rights in Indonesia, Harikrustuti Harikrisnowo. The KontraS and IKOHI leaders commended the Indonesian government for its commitment to human rights, expressed among other things in the signing of the Convention and its commitment to ratify it in 2012. The AFAD Chairperson, Mugiyanto expressed the importance of Indonesia's ratification in 2012 as the upcoming 2013 elections might further delay the process.

Family members of the disappeared took turns in supporting the call for ratification of the Convention while stressing on the importance of achieving justice on individual cases.

The international delegation then encouraged Indonesia to realize its promise and be the first ASEAN government to ratify the Convention. Mr. Sarkin, for one, stated that Indonesia has more to gain in ratifying the Convention, encouraging other states to imitate its good example.

In response, the Director General assured the delegation of the commitment of Indonesia to ratify the Convention as part of the government's National Human Rights Action Plan. She mentioned that Indonesia is expected to ratify it, if not before 2012, at the beginning of 2013.

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**Mary Aileen D. Bacalso is the AFAD Secretary General. She formerly served as the Secretary General and later as Co-Chairperson of the Families of Victims of Involuntary Disappearance (FIND). She is presently the Focal Point of the International Coalition Against Enforced Disappearances.*



Experts' Conference on the Anti-Enforced Disappearance Convention. Photo: AFAD FILE

Linking Solidarity Revival and ICAED's Campaign for Truth and Justice

by Mary Aileen D. Bacalso

The year 2010 ended with the entry into force of the International Convention for the Protection of All Persons from Enforced Disappearance (hereinafter referred to as The Convention). It also culminated with the Asian Federation Against Involuntary Disappearance (AFAD) taking up the challenge of affirmatively responding to the endorsement of the *Madres de Plaza de Mayo* to the Steering Committee of the International Coalition Against Enforced Disappearances (ICAED) that AFAD, through its Secretary-General, accept the position of being the latter's focal point. In an AFAD Council Meeting held in Kathmandu, Nepal in December 2010, the Federation's second highest policy-making body, in between its Congresses, accepted the coordinatorship role of the now 41 member-Coalition, whose mandate is to campaign for the signing and ratification of the International Convention for the Protection of All Persons from Enforced Disappearance.

Worth-mentioning is that ICAED's hopes were at its peak when human rights defender and former victim of enforced disappearance, Patricio Rice became the Focal Person of ICAED based on a decision made by the Steering Committee in its meeting in Jakarta in May 2010. All hopes dimmed when Patricio succumbed to a heart attack and died at the Miami airport on his way back from Ireland to Argentina, while campaigning and fund-raising for the Coalition. Patricio was the ideal ICAED focal person – a survivor of enforced disappearance himself, very experienced, profoundly committed and highly competent. His death was a great loss to the Argentinian human rights community, particularly those who struggle against enforced disappearances. It was a loss for the ICAED.

Grief-stricken, the Coalition had to continue the work that Patricio left behind which is the best way to honor his memory. Hence, on the occasion of the 16th session of the UN Human Rights Council in March of 2011, the ICAED Steering Committee took it as an opportunity to meet and discuss the agreement of the AFAD Council to be the focal point of ICAED; reflect on continuing the work of the Coalition given its limited resources and decide on the continuity of the project, "Linking Solidarity" under its auspices. Shortly after the meeting, after consulting the leadership of the organizations that comprise the Steering Committee, the latter unanimously agreed to adopt the

Linking Solidarity program as its own, with the support of the PSO and the IKV/Pax Christi, both from The Netherlands.

Sowing the Seeds of Linking Solidarity Revival

A small group of representatives of the three major federations of associations of families of the disappeared from Asia, Latin America, the Euro-Mediterranean region, accompanied by Mr. Ewoud Plate, former staff member of the Linking Solidarity Program of the former Aim for Human Rights, met in Manila, Philippines to start the process of Linking Solidarity revival.

Together with the focal person, this small group of ICAED Steering Committee Members reflected on the immediate future of the program and agreed to hire a team of researchers tasked to evaluate the 15-year experience of Linking Solidarity, and a project assistant to assist the focal person in running the program. This step took into consideration the process of revival in the context of the ICAED's inherent mandate to campaign and lobby for the ratification of the Convention.

The group's international presence in the Philippines was maximized through a meeting with the Commission on Human Rights and other government agencies and with the office of the Executive Secretary to the President. Undersecretary Ronaldo Geron, was delegated by Executive Secretary Paquito Ochoa to meet the ICAED delegation. The Families of Victims of Involuntary Disappearance (FIND) was also present. There was no significant development on the position of the Philippine government on the Convention, although there was hope for the enactment of the anti-enforced disappearance bill into law. The group also conducted radio interviews to call on the Philippine government to ratify the Convention and to enact the anti-enforced disappearance bill into law.

Constituting the Linking Solidarity Team in Manila and Laying the Foundation of the Program Revival

A team of Linking Solidarity staff members, under the leadership of the ICAED focal person was constituted, composed of two researchers and a project assistant.

The team started with an introduction, orientation,



ICAED member-organizations convene for the first time and share experiences to strengthen the impact of the Coalition in its fight against impunity.
Photo: ICAED FILE

planning and integration at the Secretariat of ICAED's focal point, AFAD.

With close guidance from the ten-member ICAED Steering Committee, the team, under the coordinatorship of the focal person, charted a six-month plan. The research team immediately started working on the Learning History project, with the help of the former Linking Solidarity staff, Ewoud Plate and Iratxe Florez, who sit on the Steering Committee as observers. Target respondents were identified, questionnaires were formulated and interviews were conducted, either personally or electronically.

Meanwhile, as the evaluation process commenced, it was significant to note that, upon the recommendation of the small body of the different federations' representatives who visited Manila, the Steering Committee agreed to convene for the first time all the ICAED members in Geneva. After a series of Skype conferences, the Steering Committee conceptualized the Conference with the theme, ***Linking Our Solidarity: "Strengthen our Unity, Renew our Commitment Towards the Ratification of the International Treaty Against Enforced Disappearances."***

The project assistant, in close coordination with the focal person and the rest of the members of the team, sent out invitations to the member-organizations. Thanks to the voluntary work of translators from the SC observers, advisers and supporters, communication in English, Spanish and French was possible. Simultaneous with the conference preparations was the lobbying conducted by the ICAED Manila team with European embassies who are either signatories or States Parties to the Convention. It was an effort to introduce ICAED to the diplomatic community in Manila and seek possibilities for financial support for the ICAED team's transportation to Geneva. While financial support was not possible on such short notice, what was most important was that the Ambassador of Spain in Manila, His Excellency Jorge Domecq initiated a

lobbying visit by States Parties at the Department of Foreign Affairs in Manila to encourage the Philippine Government to sign and ratify the Convention. Representatives of Spain, France, Argentina and Belgium were present at the meeting with the Department of Foreign Affairs held in November 2011. This was followed by another visit of the Group of Friends¹ to the office of the Department of Justice Secretary Leila de Lima in the first quarter of 2012.

The team also managed to solicit an amount from Catholic religious congregations to augment the transportation budget for its members' participation in the Geneva conference.

Linking Our Solidarity: Strengthen our Unity; Renew our Commitment Towards the Ratification of the International Treaty Against Enforced Disappearances

The first- ever gathering of ICAED member-organizations was held on 7-10 November 2011 in Geneva, Switzerland.

This Conference sought to re-launch the program of the former Aim for Human Rights, the Linking Solidarity. It is envisioned as a new comparable initiative owned by the ICAED, rooting it within the group of main beneficiaries: the families and relatives of the disappeared and human rights organizations based in countries where disappearances occur.

Further, the conference aimed to provide a venue for its forty (now forty-one) member-organizations to meet and give updates on the situation vis-à-vis enforced disappearances and their campaign for the signing and ratification of the Convention. It was an important venue for the Coalition's member-organizations to chart a plan of action.

Held in the John Knox Centre of Geneva, the conference was attended by a total of 50 individuals. Twenty-

¹The Group of Friends are composed of friendly States who are States-Parties to the Convention and who support the campaign of families' associations and civil society organizations for signature, ratification, entry into force and universal implementation of the International Convention for the Protection of All Persons from Enforced Disappearance.

three out of forty ICAED member- organizations arrived in Geneva. Due to financial and visa constraints, the others were not able to attend. Most of the participating organizations paid for the airfare of their delegates. Four professional interpreters volunteered their services.

“In the name of solidarity, despite all these uncertainties, we took up the challenge and invited all of you to come, asking you to spend energy and hard-earned resources to travel here. But we underestimated your sense of solidarity and to our great surprise and happiness, all of you confirmed your participation! So here we are, gathered together to link our solidarity, strengthen our unity towards the ratification of the International Convention for the Protection of All Persons from Enforced Disappearance, and to work for our goal to end impunity,” thus stated the welcome address of the focal point.

At the end of the welcome remarks, the ICAED gave a posthumous award to Mr. Patricio Rice for his global fight against enforced disappearances.

Mr. Scott Wright of the Torture Abolition and Survivors Support Coalition-Washington (TASSC) and a personal friend and colleague of Patricio received the award with a brief speech on behalf of his family.

Since the conference was a venue to present the initial results of the Learning History project, an integral part of the program was the presentation of the previous program by Mr. Ewoud Plate. It was an apt backgrounder of the Learning History project. Researchers Rosa Bella Quindoza and Razaile Elaine Besa presented an overview of the project, the objectives of which include the documentation of the lessons, merits, and challenges of the program which hopes to enable the ICAED, to “listen to what it is trying to tell itself” about its own learning and change efforts toward the struggle of addressing enforced and involuntary disappearances. It also hopes to give to the organizations lessons learned to revive or initiate a new program. The power of learning histories is that they allow everyone who has been involved in a process, from the head office, to field office and partners, from managers

to program officers of the LS Program, an opportunity to speak.

Initial results of interviews were presented. Since there were identified respondents from among the participants, individual interviews were also conducted in between the activities.

After the presentation of the Learning History research, the conference facilitated the sharing of the current status of enforced disappearances in each respective country, introducing their organizations and their challenges in promoting the Convention.

Except for Latin America, many organizations in Africa, Asia, Europe, Euro-Med, North America are confronted with issues of resistance of their governments to ratify; failure to address enforced disappearances and the lack of domestic bills or laws criminalizing enforced disappearance and impunity.

Only the delegate from Switzerland categorically stated that this country has zero cases of enforced disappearance, but for the rest of the countries across the globe, enforced disappearances still remain as a grave recurring problem which needs immediate resolution.

Professor Gabriella Citroni, ICAED’s legal adviser and consultant, presented observations on the Convention and the challenges ahead for ICAED. Among other things, she suggested including the need for a domestic law supporting the Convention and the active participation of ICAED and civil society in the drafting of the rules of procedures for the UN CED.

During the second day of the conference, the delegates were grouped based on their regional areas. Each group discussed and enumerated possible inputs for a concrete plans of action. These inputs were documented, based on which, the ICAED team in Manila anchors its work.

The morning of the third day was used as a venue for the participants to reflect on the value of the two-day conference and the ICAED’s prospects in further



All race for truth and justice: Representatives of governments and ICAED share an afternoon of reality through a side event held at Salle XXIII, Palais des Nations. Photo: ICAED FILE

campaigning for the Convention as an important contribution for the struggle for truth, justice, redress and the reconstruction of the historical memory of the disappeared.

To note, the ICAED activities in Geneva coincided with the first meeting of the new UN Committee on Enforced Disappearances (UN CED) so that ICAED could be introduced to this monitoring body of the Convention and to explore areas of cooperation. The activities also coincided with the 95th session of the UN Working Group on Enforced or Involuntary Disappearances (UN WGEID).

“Universal Implementation of the Convention Against Enforced Disappearances: A Task and a Challenge”

To give visibility to the presence of the Coalition, a side event, entitled “*Universal Implementation of the Convention Against Enforced Disappearances: A Task and a Challenge*,” was conducted at the *Palais des Nations* on 9 November. Speakers included then Chair of the UN WGEID, Jeremy Sarkin; Chairperson of the UN CED Emmanuel Decaux; Representative of the Government of Argentina, Sebastian Rosales and Amnesty International representative Stephanie Barbour. The event was attended by more than a hundred individuals from Permanent Missions of different governments to the UN in Geneva, members of the UN CED, UN WGEID and representatives of the ICAED’s member-organizations and other NGOs.

The Chairpersons of both the UN WGEID and the UN CED made a clear commitment to coordinate with each other using the respective mandates of the two bodies in facilitating the ratification of the Convention by as many States as possible, thus helping in its eventual universal implementation.

Mr. Sarkin emphasized the significant role of the Working Group (WG) in the adoption of the Convention. The WG launched a campaign to promote the Convention and for States to ratify it. He expressed his support to the CED and recognized its competence. He also recognized the importance of cooperation among the WG, the Committee,



Patricio Rice, former focal person of ICAED.
Photo: AFAD FILE

NGOs and civil society. The WG encouraged non-states parties to ratify the Convention and congratulated those that have already ratified. The WG also issued statements and press releases supporting the Convention. Mr. Sarkin concluded that the Convention, being legally binding, will hopefully reduce the occurrence of enforced disappearances globally and will help the victims and their families in the search for the truth.

Mr. Emmanuel Decaux thanked the NGOs, the civil society and the WG for their continuing support in campaigning for the Convention. He said that this spirit of cooperation combines all efforts against enforced disappearances. He, however, expressed frustration on the time factor because it will take 4 years for the Committee to fully utilize the Convention. Another session will open in March 2012 and that there is a need to wait until December 2012 to have the first periodic reports from the States. These reports must be submitted by the ratifying States within 2 years after ratification.

Mr. Sebastian Rosales of the Permanent Mission of Argentina to the UN in Geneva reiterated the commitment of the Argentinian government to end enforced disappearances and impunity through the many concrete initiatives it is undertaking towards this end.

Ms. Stephanie Barbour presented the recently published Amnesty International Checklist for Effective Implementation of the Convention for the Protection of All Persons from Enforced Disappearance as a comprehensive guide for States Parties to implement domestic legislation fully in line with the Convention and other international law standards and may serve as a useful tool to promote ratification and implementation.

Meeting with the UN CED and with the UN WGEID

On 10 November 2011, the ICAED member-organizations attended the UN CED Meeting with the NGOs at the *Palais Wilson*. The ICAED focal person delivered an official statement greeting the CED members on its historic inaugural session held in *Palais Wilson*. Describing the UN CED as a source of hope for thousands of relatives of the disappeared worldwide, the ICAED, in an official statement, made the following recommendations to the Committee:

- To ensure that its rules of procedure and methods of work are drafted in such a way as to ensure that the Committee can effectively carry out its mandate and functions and are accessible to civil society;
- To open a participative process in which representatives of civil society are invited to express their views and deliver proposals for the consolidated version of the rules of procedure of the Committee.
- To stress the crucial importance that the Committee will play with regard to Article 30’s urgent intervention procedure.
- To establish close cooperation with the WG, in order to enrich its own work in the light of its 30 years of experience, for example, coordinating the schedule and venue of sessions of the Committee with the WG and establishing a system of communication between the two bodies.
- To underscore the crucial importance of country visits that may be undertaken by the Committee. Wherever possible, planned visits should be announced as promptly as possible in order to enable the widest possible participation of civil society.

- To take cognizance of the grave situations of on-going and continuing cases of enforced disappearance in the territory of the following States Parties to the Convention: Honduras, Iraq, Mexico, Nigeria, and Tunisia, and urging the Committee to consider country visits.
- To promote the effective implementation of the Convention in the domestic laws of States Parties and to develop guidelines and tools to assist States Parties in this regard.
- To adopt interpretations of the Convention's provision that affirms the treaty's central purpose of ending the practice of enforced disappearance.

Some of the conference participants joined in a separate meeting with the UN WGEID held on the same day. It was an opportunity to submit individual cases and general allegations. The UN WGEID announced the 30th anniversary of the UN Declaration for the Protection of All Persons from Enforced Disappearance in December 2012.

During the meeting, the ICAED stated that the WGEID remains the principal venue where families of the disappeared and organizations dealing with the enforced disappearances can make their voices heard. It called on the WGEID to continue discharging its functions even as it strongly urge the United Nations to provide the WGEID with the necessary staffing and resources.

The ICAED encouraged the WGEID to closely cooperate with the newly established CED and share its 30-year experience and expertise with this new monitoring body for it to adopt best practices that can effectively protect human rights.

The ICAED also called on the WGEID to sustain its accessibility to the relatives of the disappeared from all over the world, ensure flexibility of its procedures and take into account the difficulties experienced in the field.

The Results of the Learning History in a Capsule

While ICAED continued its campaign for truth and justice particularly for more ratifications to the Convention, the Learning History research was concluded. It was participated in by program stakeholders from Asia, Euro-Mediterranean, North America, Latin America and Africa, with the vision to establish “A New Initiative of Linking Solidarity in Support of the Struggle Against Enforced Disappearance.”

The following paragraphs form part of the Learning History research that sought to understand the strengths, weaknesses and prospects of the Linking Solidarity Program in all its aspects.

The ICAED recognizes the need to develop strategies that will contribute to the struggle towards a world without disappeared persons, fought at the national, regional and international levels with continuity and visibility. As such, it positions itself to take an active stance in constant

project development and fund sourcing based on and consistent with the realities, prospects and needs of member-organizations and ultimately the victims, survivors and families of the disappeared as well as advocates of the struggle against enforced disappearances. The objective of strengthening the ICAED as well as its members and advocacy, through the re-launch of a new Linking Solidarity initiative, should be strongly buttressed with an intensive campaign for ratification and universal implementation of the Convention.

A new or revitalized Linking Solidarity initiative in the context of it being a core program of the ICAED presents a worthwhile learning process and prospect for the Coalition. A critical review of the role, intent and mandate of the Linking Solidarity program has to be complemented significantly by the history of the struggle and realities of the program stakeholders. As in any program, the Learning Solidarity program must learn from the lessons of its work with its avowed beneficiaries. It has to take into consideration the principles of the sense of ownership or at least appropriation by the beneficiaries, participatory leadership, transparency in the planning, monitoring, implementation and evaluation of its work and in the management of its resources vis-à-vis the constituents of ICAED. The strengths of the Linking Solidarity program should be measured and appreciated not just by the pre-defined program results, but also on how organizations were able to harness their inherent and existing systems and capacities to generate these results, while lessons from the LS experience should significantly include the challenges faced by the program.

Despite a very long history of struggle and actions and responses of the 15-year program, many cases of disappearances have yet to be solved while more are currently taking place in different parts of the world. The situation necessitates legal and organizational



Italian Prof. Gabriella Citroni (L), *Madres de Plaza de Mayo-Linea Fundadora* representative Martha Ocampo de Vasquez (center) and author Mary Aileen D. Bacalso (R) during a conference of the UN CED in Paris, France.
Photo: AUTHOR



Hear our Voices: (L-R) Mr. Sebastian Rosales (Rep. of Argentina); CED Chairperson Emmanuel Decaux; UN WGEID Chair Jeremy Sarkin, ICAED Focal Person Aileen D. Bacalso, Amnesty International representative Stephanie Barbour share perspectives on the imperative of universal implementation of the Convention. Photo: ICAED FILE

interventions which can be undertaken by an important international coalition.

The ICAED and its Continuing Challenges

While the results of the Linking History research are in the process of being disseminated for it to serve its very purpose, the ICAED continues to be true to its mandate of campaigning for signatures and ratification of the Convention towards its universal implementation. To date, there are 34 States-Parties and 91 signatories. Only 15 States have recognized the competence of the CED and Japan, as one of these States only recognizes the competence on inter-state complaints, but not on individual complaints. Much remains to be done.

During the first half of 2012, the ICAED Focal Point, some members of the Steering Committee and the member-organizations were actively participating in national and international events. Some of which include the Experts' Conference on Gender and Enforced Disappearances held in Addis, Ababa, Ethiopia in April 2012; the International Conference on Enforced Disappearance organized by the UN Committee Against Enforced Disappearances held in Paris, France; the Torture Survivors' Week organized by ICAED member, the Torture Abolition and Survivors' Support Coalition in Washington DC.

This is not to mention simultaneous activities held in various countries to commemorate the International Week

of the Disappeared, the press releases and letters to governments which the focal point issued to respond to burning issues related to enforced disappearances and the campaign materials it produced.

The work against enforced disappearances is a long-drawn out struggle. To ensure sustainability, the ICAED team in Manila, while working with AFAD and the Families of Victims of Involuntary Disappearance (FIND) and with all the Coalition's member-organizations in the rest of the world, intensifies its efforts to raise the much-needed resources to guarantee continuity and sustainability.

The team also recently visited foreign embassies to explore possibilities of cooperation on the work on the Convention and in terms of financial support in the course of the work. So far, the ICAED team visited the EU delegation in Manila and the embassies of Canada, Austria, Australia, France, Belgium and Argentina.

In the struggle against enforced disappearances, it is imperative to link in solidarity with all those who

are one with us in our dream to attain a world without *desaparecidos*. The realization of this dream costs the lives of our dear colleagues who have gone before us. Former ICAED focal person, Patricio Rice, was one of them. With the inspiration of all the *desaparecidos* of the world, the Coalition must be willing to pay the price for the realization of its dream.

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TASSC culminates the Torture Survivors' Week with a vigil in front of the White House. Ester Alvarenga (L), Director of Pro-Búsqueda and Mary Aileen D. Bacalso, AFAD Secretary-General deliver solidarity messages to torture survivors. Photo: ICAED FILE

Justice for Peace Foundation launches Report on Enforced Disappearances

Calls on the Thai Government to Ratify the ICPAPED

28 May 2012 - The Justice for Peace Foundation (JPF) in Thailand launched a report discussing the phenomenon of enforced disappearances in Thailand.

JPF President Angkhana Neelaphajit asserts that the practice of enforced disappearance extends beyond the cases in Southern Thailand as reflected in the cases found in every region. Such cases occurred as early as 1952 and in specific periods in Thailand's history involving communists and farmers in the northern areas during the 1970s. The May 1992 crackdown of the military forces against protesters also led to cases of enforced disappearances.

Based on the organization's documentation, 40 incidents of enforced disappearances were committed, with 12 victims from Thailand's northern areas, five cases from west Thailand, 7 incidences from the Northeast - Isaan and 33 cases from the Southern areas.

The report also indicated that among the victims, 94% were male and 86% were part of ethnic minorities.

In a press statement issued by JPF, Neelaphajit stressed, "Decades of impunity have created a context in which administrative and security officials know that their illegal actions are condoned by the state and that the likelihood of legal action against them is extremely low."

The report further focused on government policies

that affected the increase in enforced disappearances, the counter-insurgency measures adopted in South Thailand and the War on Narcotic Drugs in 2003.

JPF noted that patterns of disappearances remain evident in the documented cases. Among the vulnerable individuals most prone to disappearances are individuals with close relations with public officials, persons who criticize officials, activists working on human rights specifically political or anti-corruption activists, witnesses of human rights violations and crimes and migrants.

"Families, including myself, have even been denied the right to know the truth about our loved ones." Neelaphajit added.

The group strongly urged the Government of Thailand to ratify the International Convention for the Protection of All Persons from Enforced Disappearances (ICPAPED), adopt a law that will declare enforced disappearance as a crime and will provide investigative mechanisms to ensure justice.

Similarly, amendments to laws on witness protection, detention, "good faith" clauses and destruction of evidence should be ensured. A mechanism that will allow reparations at a nationwide scale must also be established. Relatives of disappeared victims should be provided with interim compensation until the reparations mechanism is established.

The group further recommended for the independent and efficient investigations leading to prosecution and conviction of perpetrators of enforced disappearances in Thailand. (Candy Diez)

Reference:

Justice for Peace Foundation (JPF). 28 May 2012. JPF calls on Thai Government to prevent enforced disappearances and ensure remedies for past disappearances.



AFAD conducts Regional Training Workshop on Documentation and Monitoring of Enforced Disappearances

The Asian Federation Against Involuntary Disappearances (AFAD) conducted its Regional Training Workshop on Documentation and Monitoring of Enforced Disappearances on 12 -15 June 2012.

Among the contents of the training includes an in-depth discussions of the International and Regional Context of Enforced Disappearances and International Standards and Mechanisms shared by AFAD Secretary-General Mary Aileen Bacalso.

Former HURIDOCS Executive Director Manuel Mario Guzman discussed the review of Documentation and Monitoring of Enforced Disappearances and an introduction to OpenEvsys Regional Database System presently being developed by AFAD.

Documentation and research staff members engrossed in a workshop activity. Photo: AFAD FILE



The training provided a session to discuss issues concerning the documentation, monitoring and reporting of enforced disappearance cases. Argentine Forensic Anthropology Team (*Equipo Argentino de Antropología Forense, EAAF*) Forensic Anthropologist Mr. Luis Fondebrider shared about the nature of Forensic Sciences and its application to aid the search for truth and justice behind a victim's disappearance.

Regional Coordinator of Frontline Defenders, Pokpong Lawansiri, shared a brief state of risks faced by human rights defenders in Asia and gave practical guides including the Risk Assessment Tool to aid the participants as they proceed on their work at the country level.

Cecile Gaa, Human Rights Defenders Program Coordinator of Asian Forum for Human Rights and Development (FORUM-ASIA) discussed FORUM-ASIA's available services and assistance for human rights defenders at risk.

Eight representatives from varying Asian countries, including Indonesia, Timor Leste, Thailand, Philippines, Jammu and Kashmir-India, Sri Lanka, Nepal and Bangladesh, participated in the training.

The training is jointly funded by the Open Society Institute and the OAK Foundation to strengthen the Federation's documentation, monitoring and reporting program. (*Candy Diez*)



AFAD's documentation and research team with resource speakers Manuel Guzman (2nd from the left), Pokpong Lawansiri (5th from the right), and Cecile Gaa (3rd from the right). Photo: DARWIN MENDIOLA

4 Years Already...

Euro-Mediterranean Federation Against Enforced Disappearances (*FEMED*)

by Naserra Dutour*

4 years already that the Euro-Mediterranean Federation against Enforced Disappearances (*FEMED*) was created. 4 years and already numerous activities have been put in place to work in favor of the fundamental right for Truth and Justice for the families of the disappeared.

The *FEMED* succeeded the Euro-Mediterranean Coalition against Enforced Disappearances created in 2000 as a space of reflection between organizations working on enforced disappearances. Our Federation now brings together 26 member-associations from 12 Euro-Mediterranean countries (Algeria, Bosnia-Herzegovina, Cyprus, Spain, Iraq, Kosovo, Lebanon, Libya, Morocco, Serbia, Syria and Turkey).

Indeed, even if public awareness about enforced disappearances was first raised by the association *Madres de la Plaza de Mayo*, the Euro-Mediterranean region is also widely affected by enforced disappearances. Men are, most of the time, victims of those disappearances. After having looked for their loved ones for a long time, mothers and wives have decided to organize themselves. They have created organizations to pursue their struggle for the Truth.



Third Euro-Mediterranean meeting of the families of the disappeared. Photo: *FEMED*

Those women come, most of the time, from disadvantaged backgrounds. Their organizations are often destitute, isolated from each other and low in resources. In some countries, those families and their organizations are victims of intimidation and harassment from authorities. They are subjected to violations of their freedom of association.

In almost all concerned countries, families share the same demands through their organization: the right to know the fate of their loved ones and the right to justice. In the light of this situation, there is a need for the families' organizations to be structured and to gather their forces in order to raise their actions' impact to have their demands taken into consideration by the authorities.

The challenge is about the past: to respect the victims' rights, among these, the rights to truth, to justice, to reparation and to memory are a duty. The challenge is also about the future: to guarantee the non-repetition of the violations and, the implementation of national and international preventive mechanisms.

With other associations and federations, FEMED has implemented several activities since its creation in 2007: trainings, missions in Euro-Mediterranean countries concerned with enforced disappearances, missions to raise awareness, publication of a biannual review, Euro-Mediterranean meetings of families of disappeared, lobbying for the International Convention for the Protection of all Persons from Enforced Disappearances, etc.

The current situation is particularly worrying in the Euro-Mediterranean area. Tunisia is the only country which currently seems to take advantage of the revolutions. In Egypt, after a small lull, protests against the Egyptian army took place recently. In Syria, authorities are carrying out waves of mass arrests and continue their targeted attacks against bloggers, lawyers, journalists, political activists, and human rights defenders. In Libya, the situation is not yet pacified.

The FEMED must therefore remain vigilant about the human rights situation in the Euro-Mediterranean region.

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**Nassera Dutour is the President of the Euro-Mediterranean Federation Against Enforced Disappearances (FEMED) and the Spokesperson of the Collective of the Families of the Disappeared in Algeria (Collectif des familles de disparu(e)s en Algérie - CFDA). Since her son's disappearance in 1997, she has been struggling against the silence's law surrounding the enforced disappearances in Algeria and in the Euro-Mediterranean region. She has dedicated herself to the search of truth and justice for all the families of the disappeared. In November 2011, she received the Oscar Romero Award.*

AFAD Visits Bangladesh and Timor-Leste



Advocacy Meeting of AFAD and Odhikar in Bangladesh.
Photo: Odhikar

Enforced Disappearances is Alarming in Bangladesh

In December 2011, the AFAD Chairperson Mugiyanto visited Dhaka, Bangladesh for campaign and advocacy activities organized by the one of the AFAD newest members, Odhikar. The activities focused on urging the government of Bangladesh to stop the continuing practices of enforced disappearances, prosecuting the perpetrators and fulfilling victims' rights. The activities also aimed at raising the awareness of the people of Bangladesh on the danger of enforced disappearance, the existence of the new international instrument, the International Convention for the Protection of All Persons from Enforced Disappearance (The Convention) and on how to deal with the phenomena of enforced disappearance in the context of Bangladesh.

The main event of the series of activities was an advocacy meeting on the Convention on Enforced Disappearances organized by Odhikar with the support from AFAD and International Federation for Human Rights (FIDH). The meeting was opened by Justice M Imman Ali, Judge of the Appellate Division of the Supreme Court and well attended by parliamentarians from both the ruling and opposition political parties, diplomats, political activists, human rights advocates, media and families of victims of enforced disappearances.

Besides the advocacy meeting, the delegation of Odhikar, AFAD and FIDH organized meetings with different institutions, both government and non-government institutions including media persons. The specific objective of these

meetings was to gain support from them to convince and pressure the government of Bangladesh to stop the alarming phenomenon of disappearances in the country and to ratify the Convention on Enforced Disappearance.

Adilur Rahman Khan, Secretary of Odhikar, said that it needs some time for Bangladesh to be on board of the Convention. Odhikar, with other human rights movements in Bangladesh, particularly with victims' groups, will continue the fight against enforced disappearances and other injustices.

He further commented that there might be a change, but advocacy groups have to keep working and waiting until December 2013 when there will be a General Election in the country.

New Country, New President, New Hope

In August 2011 and February 2012, the AFAD Chairperson made two separate visits to Timor-Leste for an organizational consolidation with the member-organization, HAK Association, lobby activities and meetings with victims. Despite the difficult organizational situation that HAK Association faced at the beginning of 2011, it is now improving and getting stronger. HAK conducted a meeting that resulted in the formulation of a strategic program for 3 years.

The HAK Association was lately busy in implementing a program in cooperation with the International Center for Transitional Justice (ICTJ) to strengthen the newly-established national victims' association and its advocacy for the adoption of the Law on Reparation, including its continuing advocacy for the ratification of the Convention on Enforced Disappearances. It is also very active in the National Alliance for International Tribunal (ANTI), an alliance of NGOs and victims' groups fighting for the creation of an international tribunal for the perpetrators of crimes against humanity in Timor-Leste committed during Indonesia's occupation from 1975-1999.

When AFAD visited Timor Leste in February 2012, the HAK Association released its annual Human Rights Report 2011. It is a comprehensive report written in Tetum and English. In relation to the issue of justice and Convention on Enforced Disappearances, the HAK association put the following recommendations to the President of the Democratic Republic of Timor-Leste:

"Explore possible ways with Indonesian government to improve accountability process on the crimes committed between 1974-1999 (besides peace and reconciliation process in Timor-Leste) in the future and ratify the Convention on enforced disappearances so that Timor-Leste can follow its legal obligations to identify and search for those who disappeared during the Indonesian occupation."

In April 2012, Timor-Leste conducted a presidential election in which the people voted for Taur Matan Ruak, former commander of the guerilla forces, Falintil, to be the President of the Republic. To see his commitment on justice and human rights, on 12 April 2012, La'o Hamutuk, a non-partisan civil society organization, asked the two Presidential candidates (Taur Matan Ruak and Lu Olo) to answer 11 questions.

Below are the answers of Taur Matan Ruak (Now the President of RDTL) to the questions related to justice and human rights:

La'o Hamutuk: Do you think that Timor-Leste should ratify the International Convention for the Protection of All Persons from Enforced Disappearance?

Taur Matan Ruak: *I already sent my team to look and study its obligations in detail, because I am concerned with many past issues about disappeared people.*

La'o Hamutuk: The reports from CAVR, Indonesian KPP-HAM Indonesia and the UN Commission of Experts recommended the creation of an international tribunal to judge Crimes Against Humanity in Timor from 1975-1999, when both the Indonesian and Timorese justice processes failed. Do you think the president has a responsibility to struggle against impunity? When a criminal has been convicted by a court, do you think they should be imprisoned, or should receive a pardon or clemency from the president?

Taur Matan Ruak: *The Maternus Bere case will not happen again during my presidency. I will work forcefully to prevent active or verbal willful intervention by one state organ to another. I will not use my power to give clemency arbitrarily. This is part of my policy manual. The issue of an International Tribunal is the responsibility of the international community, and the international community should be pro-active. In my view, an International Tribunal takes time, and will depend on the democratization process in Indonesia. The State of Timor-Leste cannot stick its fingers into this process.*

President Taur Matan Ruak was sworn in as the President of the Democratic Republic of Timor-Leste on 20 May 2012 in Dili during the commemoration of the restoration of independence. What is clear is that there must be constant engagements with him from civil society so that he will make justice and human rights as one of his main agenda. However, the situation still needs to be reviewed until June or July when Timor-Leste will have parliamentary elections that will determine who will be the prime minister. In the parliamentarian political system of Timor-Leste, it is the prime minister who will determine the government policy, including human rights.

If we look at the seriousness of the elite, it is indicative that much work still needs to be done. This can be seen from what happened in April 2012 when the approval of the Bill on Reparation was not possible not because of the rejection from many of the members of the parliament, but because there was no quorum.

Being a very young state, Timor Leste has hopes. As name the country, *Lorosae*, suggests, it means the Land of the East, the Land of the Shining Sun. The new President of the Republic, Taur Matan Ruak, a former guerilla commander has the blood of the suffering of the people when they were colonized by Indonesia. Hopefully, he will listen more to the voice of the people who hunger for truth and justice. (*Mugiyanto*)

In connection with the International Week of the Disappeared (27th May to 2nd June) APDP started the commemoration with a special meeting of prayers and reflections today (28th May 2012) at the APDP office in Amira Kadal, Srinagar. This special meeting was to reflect about the on going struggle, achievements, failures, response of the Indian state and the response of the international community.

In the meeting, it was decided that APDP would urge the religious leadership of Jammu and Kashmir to hold special prayers for the disappeared persons and their families on Friday, 1 June 2012. APDP would also hold workshops for psychological rehabilitation and capacity building training of the family members of the disappeared.



STRUGGLE FOR JUSTICE VERSUS THE NON-SERIOUS AND INSENSITIVE GOVERNMENT

Association of Parents of the Disappeared Persons (APDP) | 2012 International Week of the Disappeared

Further, to reaffirm its commitment, to hold the government accountable, it was decided that in this week, a petition related to cases of disappearances from Baramulla district would be submitted to State Human Rights Commission (SHRC). Also another petition regarding FIRs pertaining to unmarked graves in Kupwara, Baramulla and Bandipora would be submitted to SHRC.

Finally APDP also reflected on orders issued today by SHRC in two matters relating to 3,844, unknown, unmarked and mass graves in Poonch and Rajouri districts, and graves relating to the “Al Faran” kidnappings of 1995. In both cases, on the last date of hearing, notices had been issued for reports to be submitted by certain departments of the Government of Jammu and Kashmir and police authorities. No reports have been submitted till today.

The SHRC, in its order relating to the graves in Poonch and Rajouri, stated that the proceedings were in a state of status quo and had not progressed an inch as the Government and police authorities had not submitted the reports ordered. The SHRC found this to reflect an insensitive and non-serious approach to the “burning” issue of unknown, unmarked and mass graves in Jammu and Kashmir.

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APDP believes the non-responsiveness of the Government

and police authorities in the “Al Faran” case reflects their insensitivity and non-seriousness which is perpetual.

Despite statements by the Government of Jammu and Kashmir, and recent submissions of the Union of India during the Universal Periodic Review of the United Nations Human Rights Council and also India’s commitment on enforced disappearance by signing the International Convention for the Protection of All Persons from Enforced Disappearance in 2006, the ground reality is as stated in today’s SHRC order: insensitivity and non-seriousness.

This continued and perpetual insensitivity and non-seriousness, depicts India’s lack of priority on human rights issues of the people of Jammu and Kashmir.

Spokesperson

Tahira Begum
28 May 2012, Press Release

Truth often plays a major role in a transition period when countries are moving from repressive systems of government towards democratization. The state is not only legally but also morally bound to deal with the legacy of its dark history.

Knowing the truth behind the gross human rights violations is but a necessary response to serious human rights violations that usually evolve around secrecy and denial by the state especially in cases of extrajudicial killings, enforced disappearances and torture.

TRUTH OR DARE?

Reflection on the Truth Telling Conference in the Philippines

by Darwin Mendiola

The acknowledgement of the truth is therefore, as important as knowing truth itself. The phrase, “bringing truth to light” can figuratively and literally eclipse the dark atmosphere of silence and deceit that almost always go with such violations. The accounting of past violations is deemed important not only to punish wrongdoers but also to redignify the victims and guarantee non-repetition.

Failure to do so perpetuates a climate of impunity which allows perpetrators to escape accountability and consequently reinforces a sense of fear, insecurity and resentment, particularly among victims and their families. Absence of truth and accountability leads to public apathy or the lack of trust and confidence not only in government institutions but in the overall criminal justice system. Redressing past violations, therefore can foster the rule of law, create an atmosphere of respect for human rights and legitimize structures of governance with the hope of altering the conditions that perpetuate such violations and ensure enduring and lasting peace.

In many countries that have gone through protracted periods of violence and repression, **truth-telling** is considered as a powerful tool for the victims and their families to express themselves and to seek justice and also for society to preserve its collective memory. The increased level of public involvement in establishing truth is also

valuable in protecting the collective memory against forgetting and for not simply allowing reconciliation to overrule justice and accountability.

As much as the victims and their families are willing to speak on the truth of what happened to them, the basic facts of their situation are often already known. What they normally seek is a mechanism that will establish their account as true and their demands for justice as legitimate. The significance of truth-telling lies on the truth seeking process or the acknowledgement in which the truth becomes a public knowledge, shared amongst the wider population, and bearing the state’s responsibility.

Truth-seeking or Truth-telling?

Many countries have recognized the importance of establishing truth-seeking mechanisms for cases of human rights violations. Various truth commissions and fact finding bodies were created in many parts of the globe after a violent historical event aimed at knowing the historical circumstances surrounding past human rights violations and to determine both individual and state accountabilities.

The Philippines likewise, recognizes the importance of the truth. The present administration of President Benigno C. Aquino III (PNoy) acknowledged the need to

set up a truth seeking body. In his inaugural speech and in his first State of the Nation Address (SONA), the president announced his government’s intention to establish a truth commission that would investigate the abuses committed by his predecessor and for those responsible to pay for their crimes against the people. Unfortunately, PNoy’s Executive Order No. 1 creating a truth commission fell short of international standards and merely an act of political vengeance against former Pres. Gloria Macapagal-Arroyo and her cohorts as this commission aimed to investigate only reports of large scale graft and corruption by the Arroyos and not to cast a wider net of accountability for human rights violations.

The PNoy administration failed to constitute this promised Truth Commission as it was later declared unconstitutional by the Supreme Court. His government was clearly not up to snuff on the real intent, nature and scope of a truth seeking process that supposedly encompasses human rights violations. The PNoy administration must learn from history that establishing a truth-seeking body is not intended only for the purpose of creating a legal body for investigation but a forum for public engagement, particularly for the victims and their families. Truth seeking is not just limited to knowing the

specific forms of violations but to draw greater attention to the root causes of such violations including large-scale corruption and brazen disrespect of human rights.

In the absence of such mechanism to know and establish the truth behind these human rights issues especially in cases of enforced disappearances in the country, the Asian Federation Against Involuntary Disappearances (AFAD) and the Families of Victims of Involuntary Disappearance

(FIND), saw the dire need to organize a Truth Telling Conference in order to provide a venue for the victims to give accounts of their experiences, relive their flight and agony and demand for knowing the truth and attaining justice from the government. This activity was held on 31 May 2011 at the Minority Hall in the House of Representatives, Quezon City. It was attended by more than a hundred participants coming from civil society, government agencies and organization of families of the victims.

During the conference, five family members and two surviving victims of torture and enforced disappearance presented their cases before the panel of reactors from various government offices.

Professor Estelita del Rosario related her family's experience in the disappearance of her brother, Charlie del Rosario, the first documented Filipino *Desaparecido*. She recalled that on 11 June 1974, at the height of martial law, Charlie, as witnesses recounted, was on his way to a meeting when group of armed men accosted him. He has never been seen again. Since then, her family



Truth-Telling Conference 2012 with FIND Deputy Secretary General Wilma Tizon and Chairperson Nilda Sevilla at the House of Representatives. Photo: DARWIN MENDIOLA

has been searching for him everywhere but to no avail. Except for their mother, the whole family was jailed for being subversives.

Louie Crismo, struggling to control his emotions, spoke of his brother, Prof. Romy Crismo who disappeared on 12 August 1980 in Tuguegarao. He recalled that his brother, a professor of St. Louis and Cagayan Teachers' College during Martial Law was convinced that as an educator, he should teach his students about the social realities that were characterized by repression and oppression. His brother's political conviction caused him his dear life. The family only learned about his disappearance three days after. His brother's wife went looking for him from campus to campus.

His family visited military camps only to be denied. The then Ministry of Defense responded to their inquiry with a sheer denial that his brother was never arrested. There was no record that he was in jail. But the family strongly believed and continues to believe that the military was behind Romy's sudden disappearance.

With teary eyes and hushed voice, **Linda Malicdem** spoke about the disappearance of her husband Jaime Malicdem. Before his disappearance, her husband was a community organizer who disappeared on 8 October 1987 while working for the rights of urban poor sectors. She clearly related how she looked for him at the Paranaque police station and at Camp Bagong Diwa but no information was given to him. But despite her husband's disappearance, she tried her best to tend to the need of their family while still searching for him and hoping for his return.

Cora & Butch Fortuna spoke about their son Darryl, who went missing together with his classmate Jinky Garcia on 9 March 2010 when the two went to Masinloc, Zambales to conduct a research on the effect of coal-fed power plant to the fisher folk community. In between sobs, they related their effort to locate Daryl's whereabouts by going to Camp Magsaysay and police precincts only to be told that their son might be a member of the rebel group, New People's Army.

The parents also heard the accounts of the witnesses who saw

their son and two others being dragged to known military vehicles but were afraid to speak publicly for fear of reprisal from the military. Until now, Cora and Butch continue to look for pieces of evidence and possible witnesses that can lead them to their son.

Boyet Itukal, a former member of *Kabataan para sa Demokrasya (KADENA)* in the 80s recalled the day when he was picked up in 1988 by the contingent group of military and the police in plain clothes. He remembered how the arresting officers dragged him and hog tied him inside a vehicle on their way to an unknown safe-house. There, he experienced all forms of torture - from water cure to electric shock. The worst that he experienced was when he was taken outside and ordered to dig his own grave. But luckily he was spared. His guard even agreed to send a letter to his parents that led his parents to know his whereabouts and to seek legal assistance. His personal experience led him to join FIND and become an advocate for the disappeared.

Romy Castillo, a labor leader and surfaced victim had vivid recollection of his disappearance and torture on 23 July 1984 in Antipolo. He was one of the victims of a highly publicized case known as “Antipolo 5,” where labor groups demanded their immediate release. According to him, it happened when their headquarters in Antipolo was raided by the military. He and four of his colleagues were taken in Camp Karingal where they he were subjected to the so-called the

“*Meralco-Nawasa*” treatment—electricity and water torture. Such torture was inflicted to force them to admit that they were top ranking officials of the Communist Party. The torture he endured caused infection on his genital. He could still recall the pain of torture. When he resurfaced in 1986, he went back working for the cause of the workers and it became his personal crusade to help the families of his comrades who also disappeared and were not lucky to resurface alive.

Colonel Olegario, a retired navy officer related the disappearance of his son, Nilo Olegario on 18 December 1983. He believed that his knowledge on the planned assassination of the late Sen. Ninoy Aquino was the reason for his son’s disappearance and also his son’s active involvement in the August Twenty-One Movement (ATOM). He recalled that when Gen. Fabian Ver asked him to pledge to him, he politely declined, forcing him and his family to move to the United States. But his son Nilo opted to stay and be part of the social movement. In 1984 when he learned that his son disappeared, he went back to the Philippines to look for him but without success. After years of searching, he went back to the US to forget what happened. He came back with the hope that the current president (President Noynoy Aquino) will keep his promise to give justice to those who suffered under Martial law.

A panel of reactors was invited to listen to the testimonies of the families and the victims and to give their own responses.

The panel was composed of Representative Edcel Lagman of Albay, main author of the anti-enforced disappearance bill filed in the House of Representatives, Hon. Loretta Rosales, chairperson of the Commission on Human Rights, Col. Domingo Tutaan, head of the Armed Forces of the Philippines Human Rights Office and Gen. Clarence Guinto, head of the Philippine National Police Human Rights Office.

While the panel members expressed their commitment to help the victims and their families to seek truth and justice, Rep. Edcel Lagman reiterated that although the truth telling conference may not be an official mechanism, the “*event should not just be a ritual but a spur on the advocacy*” to end impunity and stop enforced disappearance.

Whether the process of allowing the victims and their families to share their testimonies may be official or not, any truth telling and truth seeking exercises constitute the internationally recognized “*right to know the truth.*” In fact, the United Nations General Assembly through a resolution proclaimed on 10 December 2010, the *International Day for the Right to Truth regarding gross human rights violations and the dignity of victims* to be observed every 24th March – the anniversary of the assassination of El Salvador’s Archbishop Oscar Arnulfo Romero.

This shows that “*the right to know the truth*” is not only an indispensable right but a necessary step towards ending impunity. The past is here to stay, but knowing the truth offers a way for the society to put a closure of its past and heal the wounds of divisions based upon the recognition of human dignity and integrity.

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Families of the victims of enforced disappearance at the Truth-Telling Conference. Photo: FIND

Odhikar Observes International Justice Day

PRESS RELEASE
17 July 2012

International Justice Day is observed throughout the world on July 17th to commemorate the adoption of the Rome Statute for the International Criminal Court by the international community. *Odhikar* has been observing the International Justice Day for many years now. The day has added significance this year as the ICC is also celebrating its 10th year with 121 State Parties and 139 signatories. The ICC has been dealing with the most serious crimes of international concern – genocide, war crimes, and crimes against humanity. It is, however, yet to exercise its jurisdiction over the crime of aggression, a very serious crime that threatens international peace and security.

The international community has to go a long way to make the ICC a truly global justice institution. Adilur Rahman Khan, Secretary, *Odhikar* said, “More efforts are needed by the civil society networks and State Parties to the ICC to further invigorate the ratification campaign, to reach

all corners of the world.”

On this occasion, the Coalition for the International Criminal Court (CICC) of which *Odhikar* is a member, called on all governments to make a firm commitment to prioritizing international justice and to hold accountable those who are suspected of committing the crimes against humanity.

To observe International Justice Day, *Odhikar* held a discussion on 17th July 2012 in Dhaka. Speakers recalled the contribution of *Odhikar* in the ratification campaign in Bangladesh that ultimately led to the ratification of the Statute by Bangladesh.

“It was a historic and delightful day for *Odhikar* when the statute was finally ratified by Bangladesh on 23 March 2010, said Adilur Rahman



Khan, Secretary, *Odhikar*. He welcomed the new Chief Prosecutor of the ICC but said, “Now is the time for the ICC to also focus on other parts of the world, like Afghanistan, a State Party, where crimes are, to this day, being perpetrated while the situation is, as we understand, still under the Chief Prosecutor’s consideration for last many years.”

He added, “The ICC must be more active and global in its approach.”

Dr. Tasneem Siddiqui, Founding Chair, RMMRU noted with concern that some of the State Parties to the Rome Statute as well as other States, who are obliged to cooperate with the ICC, are markedly reluctant to do so. She called upon all States to support the ICC in its pursuit for justice and international rule of law.

The meeting was presided over by ASM Nasiruddin Elan, Director, *Odhikar* while Shahiduzzaman, Chief of the Correspondents, New Age; Taskin Fahmina, Researcher, *Odhikar*; Mustain Zahir, Executive Director, Fortnightly Chintaa; and Sazzad Hussain, Program Coordinator, *Odhikar* spoke. ●





ICAED members at the International Conference on Enforced Disappearances in Geneva. Photo: ICAED FILE

International Week of the Disappeared 2012: ICAED Vows to Continue Its Campaign for Ratification of the Anti-Disappearance Convention

27 May – June 2, 2012

Every last week of May, the international community, especially the associations of families of the disappeared, commemorates the International Week of the Disappeared (IWD). The commemoration of the IWD can be traced to the Latin American Federation of Associations for Relatives of the Detained-Disappeared (FEDEFAM), which initiated this event during its founding Congress in San Jose, Costa Rica in 1981. Over the past thirty years, this event has inspired many organizations world-wide to fight enforced disappearances.

This week, in the observance of the International Week of the Disappeared, the International Coalition Against Enforced Disappearances (ICAED) and its 40 member-organizations from Africa, Asia, the Eurasian Region (Euro-Mediterranean Region, Caucasus and Belarus), Latin America and United States of America will conduct various activities to intensify its campaign for the ratification of the International Convention for the Protection of All Persons from Enforced Disappearance (the Convention) and in so doing, pay tribute to the disappeared.

Enforced disappearance is extremely disturbing because it violates the human rights of both the disappeared person and their family. It does not recognize the victim as a person.

It strips a disappeared person of the right to be protected by the law, which is recognized under Article 6 of the Universal Declaration of Human Rights and Article 16 of the International Covenant on Civil and Political Rights.

This crime is especially alarming

when it is committed against pregnant women and children because it also violates women's and children's rights. The cycle of victimization caused by enforced disappearances is without end. Families and relatives left behind are deprived of the truth, bereft of justice and worse still, are often subjected to persecution.

To date, the International Convention for the Protection of All Persons from Enforced Disappearance (the Convention) has been signed by 91 States and ratified by 32. The number of signatures and ratifications pales in comparison with the 57,771 outstanding cases from 87 countries that rest with the UN Working Group on Enforced or Involuntary Disappearances (as per their 2011 report). These figures represent human suffering of the disappeared, their families and the greater society – a festering wound that refuses to heal.

Most member organizations of ICAED from Namibia, Zimbabwe, South Africa, Cyprus, Morocco, Georgia, Lebanon, Belarus, Russia, Iraq, Jammu and Kashmir, Indonesia, Timor Leste, Sri Lanka, Nepal, Philippines, Pakistan, Bangladesh, Thailand, Guatemala, El Salvador and Peru are confronted with the innumerable consequences of enforced disappearance, such as reprisal, intimidation, denial of state responsibility and grave threats by the governments' security forces. Adding insult to injury, most states are notorious for refusing to cooperate in bringing perpetrators to justice.

Much as the ICAED has made important accomplishments during its five-year existence by carrying out

its mandate of lobbying for the Convention, recruiting member-organizations, organizing important meetings and events, it can certainly further strengthen itself and expand its membership, especially in countries with the worst cases of disappearances. The consolidation of existing membership and its expansion, complemented with capacity-building, will go a long way towards mustering strength to combat enforced disappearances and impunity. Hand in hand with civil society, the Coalition can better fulfill its mission to convince governments to ratify the Convention, recognize the competence of the UN Committee Against Enforced Disappearances, codify the offense in their respective penal codes, fully implement the treaty, ensure truth, justice, redress and non-repetition. These are all important steps to end impunity and preserve the historical memory of the disappeared.

More than thirty years had passed since our Latin American sisters and brothers initiated the International Week of the Disappeared. It is high time to end enforced disappearances NOW!

As an apt tribute to the *desaparecidos* of the world, the ICAED vows to continue convincing UN States to sign and ratify the Convention NOW!

Justice for All *Desaparecidos* of the World!

Sign and Ratify the International Convention for the Protection of All Persons from Enforced Disappearance NOW!

International Coalition Against Enforced Disappearances (ICAED)

CRYPTOQUOTE

CryptoQuote is a phrase or quote that has been encrypted by simple substitution cipher.
Direction: One number stands for a letter.



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B=10 P=7

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AFAD also serves as the Focal Point of the International Coalition Against Enforced Disappearances (ICAED).

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