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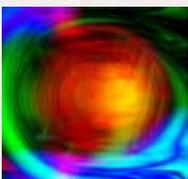
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# Editorial

## Welcoming the Entry into Force of the Convention For the Protection of All Persons From Enforced Disappearances

by Mugiyanto

On behalf of the AFAD, we wish you a happy new year 2011! Let us make this year a fruitful year for the respect of human rights and the attainment of justice and peace.

Last year has been a successful year for the struggle against enforced disappearance. The International Convention for the Protection of All Persons from Enforced Disappearance (the Convention) entered into force on 23 December 2010. At the time of this treaty's entry into force, it had 88 signatories and 21 ratifications.

The entry into force itself does not necessarily mean that enforced disappearances of persons will automatically disappear from the face of the earth and that victims will attain their rights. This treaty, whose crucial provisions are rooted from the concrete experiences of the victims and families of victims of enforced disappearances from different parts of the globe, gives more meaning to our common struggle to prevent and stop this heinous practice, to enable victims and survivors to find truth and justice and to concretize their rights. It signifies that we already have a legally binding international instrument that can be implemented in countries whose governments have ratified it so that we can realize our dream of attaining a world free from enforced disappearances

The present challenge for the AFAD is to intensively and extensively campaign and lobby for more ratifications so that the Convention will universally be implemented. For the AFAD and the rest of the members of the International Coalition Against Enforced Disappearances (ICAED), it is important to nurture the spirit of hope before the treaty was adopted by consensus in 2006 by the UN General Assembly. With states' ratification and obligatory codification of the offense through the enactment of domestic laws penalizing disappearances, the Convention's implementation in the ground will certainly benefit the victims and their families in the process of attaining truth, justice, reparation and memory and to prevent recurrence. For this purpose, the role of victims' families' associations, national human rights organizations and the rest of civil society in pushing for the treaty's implementation is of paramount importance.

In this issue, The Voice shares with you, among other articles, some analyses and updates on the process of campaign for justice for the *desaparecidos* vis-a-vis the ratification of the Convention, through the articles by Atty. Gabriella Citroni and of *IKOHI* of Indonesia.

This issue also shares with you AFAD's efforts for empowerment and consolidation such as the summary of victims' psychological strengthening and a bird's eye view of our Fourth Congress in Jakarta in June 2010.

Also in this issue is a review by Alan Harmer, AFAD member in Geneva, of the documentary film, "Unsilenced," depicting the uphill struggle for justice of the families of 6 paper factory workers whose loved ones disappeared in the Philippines.

Moreover, this issue speaks of our solidarity with our Latin American sisters and brothers, who, because of their indefatigable struggle in the fight for truth and justice, have garnered small and grand victories in the fight against impunity.

The rest of the pieces in this issue speak of the continuing malady of enforced disappearances in Asia and the undying struggle to put an end to the crime of enforced disappearances, to deliver the elusive truth, to obtain justice and reparation for the victims and to ensure that never again will this brutal practice of denying human existence occur in any part of the world.

# Entry into Force of the International Convention for the Protection of All Persons from Enforced Disappearance and Future Perspectives

by Gabriella Citroni

*Note by the author: This contribution is based on excerpts of the transcript of an intervention delivered by video-message on the occasion of the 4<sup>th</sup> Congress of the AFAD held in Bogor, Indonesia on 1-5 June 2010. The contents have been updated due to the deposit of new ratifications to the International Convention for the Protection of All Persons from Enforced Disappearance (the International Convention) and the entry into force of the treaty on 23 December 2010.*

## **Where does the International Convention stand?**

As of the end of February 2011, the International Convention has been signed by 88 States and ratified or acceded by 23 States.<sup>1</sup> On 23 November 2010, Iraq became the 20<sup>th</sup> State party to the International Convention and therefore, pursuant to Article 39 of the latter, the treaty **entered into force on 23 December 2010**.

The entry into force of the International Convention is a major achievement in the struggle against enforced disappearances as it will constitute an effective means to eliminate this heinous practice and to prevent it from happening again. Nevertheless, this has to be seen as a first crucial step of a long trail.

First, it must be stressed that, out of the 23 States parties, **only 7** have recognized the competence of the future **Committee on Enforced Disappearance** to receive and examine inter-State and individual

1 Albania, Argentina, Armenia, Bolivia, Brazil, Burkina Faso, Chile, Cuba, Ecuador, France, Gabon, Germany, Honduras, Iraq, Japan, Kazakhstan, Mali, Mexico, Nigeria, Paraguay, Senegal, Spain and Uruguay.



PHOTO SOURCE: Alan Harmer

communications (Arts. 31 and 32 of the Convention).<sup>2</sup> Japan has recognized only the competence of the Committee with regard to inter-State communications (Art. 32 of the International Convention).

If we analyze the status of the International Convention with regard to **Asia** (notably, the continent with the highest reported number of enforced disappearances to the United Nations Working Group on Enforced or Involuntary Disappearances), the situation is far from promising: **only Armenia, Japan and Kazakhstan** are among the States parties and none of them has recognized the competence of the Committee to receive and analyze individual communications.

**Azerbaijan, India, Indonesia, Lao People's Democratic Republic and Mongolia** have signed the International Convention. It is noteworthy that, pursuant to Article 18 of the 1969 Vienna Convention on the Law of the Treaties, a *State that has signed a treaty is under an obligation not to defeat the object and purpose of the treaty prior to its entry into force*.

## **What role can the AFAD play in the future?**

Provided that, at present, Asian countries represent the minority of the States parties to the International Convention, it appears clear that the AFAD can and must play a crucial role in this sense.

2 Albania, Argentina, Chile, France, Mali, Spain and Uruguay. Recently, on a public occasion, Spain announced that it has also formulated the recognition of the competence of the Committee. However, as of the time of writing, such recognition has not been formally deposited with the Secretary-General of the United Nations.

First, it has to play a role in convincing **other States from the region to ratify the treaty without further delay** and to **fully recognize** the competence of the Committee to receive and analyze communications; second in lobbying on **States that have already signed** the International Convention to **take a step forward** and to ratify the treaty and also recognize the competence of the Committee (in particular India and Indonesia); and third in lobbying on the **Asian States parties** to make sure that they **accept** the competence of the Committee with regard to **individual communications**.

**Timor Leste, Nepal, Malaysia and the Republic of Korea** represent potential targets for lobbying within the region. Also the **Philippines** could be a potential target, although it has expressed contradictory statements and positions towards the International Convention.

Further, by June 2011 the Committee on Enforced Disappearances will have to be set up. It will be constituted by **10 independent and impartial experts**, who shall be **elected by the States parties** according to equitable geographical distribution. The composition of the Committee will be of fundamental importance, since the first experts will be those who set the standards for interpretation of the treaty and this can bring major consequences in terms of the level of protection granted to victims of enforced disappearance and their relatives. Therefore, it is essential that the AFAD **closely monitors this process and lobbies**, together with other associations of relatives of disappeared people from all over the world and other organizations concerned, to obtain the election of highly qualified and engaged experts.

Moreover, the AFAD should continue its already outstanding work in terms of **dissemination of the contents** of the International Convention and **awareness raising**, in particular in universities and with judges, lawyers and other concerned categories and civil society in general: it is of the utmost importance that those who will be called to apply the provisions of the treaty get to know them in detail and become familiar with them, as well as with the potential most protective interpretations. In the same context, it is important to continue addressing **ministries or high level experts** in different countries who can play a role in the ratification of the International Convention: if they get to know the contents of the treaty, it is more likely that the whole process is speeded up.

Furthermore, another field where the AFAD must insist on is the adoption of **domestic legislation**

## INTERNATIONAL CONVENTION FOR THE PROTECTION OF ALL PERSONS FROM ENFORCED DISAPPEARANCE



Parties and signatories to the ICAPED

	Signed and Ratified
	Signed but not ratified
	Neither signed nor ratified

SOURCE: <http://en.wikipedia.org>

**that criminalizes enforced disappearance** and that provides, among other things, the right to know the truth, the right to justice and the right to integral reparation of relatives of disappeared people. Without these domestic legislation, the International Convention risks of remaining an “empty box” and, therefore, this has to be kept in mind. The **Philippines** and **Nepal** are the two countries within the region where steps in this direction have already been undertaken and therefore, they should be targeted to eventually finalize the exercise and have domestic laws enacted and implemented. Ideally, this will inspire other countries within the region.

In conclusion, with the entry into force of the International Convention, a huge gap in international human rights law has finally been filled and a clear message has been sent to the international community that enforced disappearances will not be tolerated any longer. The AFAD has played a major function in the very “generation” of the treaty, since it was present and proactive during the whole drafting process and it succeeded in having some fundamental provisions included in the International Convention. Now, the AFAD still has a number of major tasks ahead, in particular in making the International Convention known, widely ratified and, above all, fully implemented.



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# The Ratification of the International Convention for the Protection of All Persons from Enforced Disappearance by Indonesia:

## The Long-Awaited Promise...

by Yasmin Purba

The ratification of the International Convention for the Protection of all Persons from Enforced Disappearance (hereafter referred to as The Convention) has been an overdue promise since 2007 given by the Indonesian government to the families of the disappeared as well as to the human rights organizations at home and abroad and to the general public. The promised ratification was again reiterated by the House of Representatives of the Republic of Indonesia (hereinafter referred to as the House) in its recommendations to address the case of enforced disappearances against 13 activists, who have been missing since 1997/1998. The House's recommendations comprise the following:

1. Recommending the president to establish an *ad-hoc* human rights court to bring the perpetrators to justice;
2. Recommending the president and other related institutions and parties to immediately conduct search missions for the 13 missing activists of 1997-1998;
3. Recommending the government to provide rehabilitation and compensation for the families of the disappeared;
4. Recommending the government to immediately ratify the Convention for the Protection of all People from Enforced Disappearance as part of the commitment and support to cease the practice of enforced disappearances in Indonesia.

Since the above recommendations were legislated by the House in 2009, there has not been a single point under the recommendations fulfilled by

the Yudhoyono administration. The only thing that is close to the fulfillment of the fourth recommendation was the signing of the Convention Against Enforced Disappearances on 27 September 2010. The signing process should be regarded as a positive progress made by the government towards ending the practice of enforced disappearance that has been practiced widely in Indonesia for decades.





**Lt. Gen Prabowo Subianto, former commander of the Special Armed Forces (Kopassus)** (© <http://babesajabuw.wordpress.com>)

However, Indonesia is still a half way through to complete the whole ratification process and the treaty's incorporation into its domestic law. In this regard, the main challenge in the ratification process at the parliament may come from two political parties, namely the *Gerindra* Party and the *Hanura* Party. The first one is led by Prabowo Subianto, a former military general who is allegedly responsible for the abduction and disappearance of 13 activists in 1997-1998 while the latter is led a former Indonesian Chief of Armed Forces, who is also known as one of the military superiors who is allegedly responsible for the atrocities in East Timor subsequent to the independence referendum process in 1999.

Both parties currently have 44 representatives serving as members of the parliament for the period of 2009-2014. The two parties would do anything they could to hamper the Convention's ratification process. Considering this and the fact that the rest of the political parties at the parliament have always had vague positions towards the Convention and human rights enforcement as a whole, the advocacy conducted by *IKOHI* and other human rights organizations to accelerate the ratification process at the parliament will not be an easy task to complete.

The Indonesian government has a lot to prove with regards to human rights enforcement and protection both at the domestic and international levels. Enforced disappearance cases are among the many gross human rights violations committed by the state that have to be resolved through making the perpetrators accountable. In addition to the case of the 13 missing activists in 1997/1998, the Indonesian government also has to take responsibility towards the widespread practice of enforced disappearance in, among others, the 1965-1966 atrocities during the purge against Indonesian Communist Party, the 1984 and 1989 atrocities during the purge of the alleged

Muslim extremist groups in Jakarta and Lampung and the practice of enforced disappearance committed by the police and military in Papua against Papuan journalists, activists and alleged members of the Free Papua Movement.

The widespread practice of enforced disappearances and the lack of judicial means to criminalize enforced disappearance to hold the perpetrators accountable should be perceived as an urgent call for the Indonesian government to take action to stop the practice of enforced disappearances and the ongoing impunity for the perpetrators of such heinous crime. In this regard, the ratification of the Convention by the Indonesian government can play a major step in making Indonesia free from enforced disappearances.

After Iraq became the 20<sup>th</sup> country to ratify, the Convention will enter into force on 23 December 2010. With this recent development, Indonesia still has the opportunity to be the first ASEAN country to ratify the Convention and might as well to take the lead in the region to promote the ratification of the said Convention by other ASEAN members.



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**Misiati Utomo, the mother of Petrus Bimo Anugerah in a rally in front of presidential palace.** (© *IKOHI*)



*Note: This is an edited version of a presentation made by the writer at a panel discussion organized by the International Commission of Jurists at the UN in Geneva on 18 March 2010, on the occasion of the launching of the book "Rule of Law, The Criminal Justice System and Commissions of Inquiry since 1977" written by Kishali Pinto Jayawardena.*

Several Commissions of Inquiry into Disappearances of Persons (COIs) had been appointed by successive governments since 1990. Of these, the writer had been the Secretary to what is known as the Central Zone Commission<sup>1</sup> and the All Island Commission appointed in 1994 and 1998, respectively. Militancy of Sinhala youth in the South and the Tamil youth in the North resulted in what the NGOs estimate to be the disappearance of nearly 60,000 youth from various parts of Sri Lanka. However, the Commissions appointed in 1994 received only 27,526 complaints. Of these 10,136 complaints were inquired into by the All Island Commission appointed in 1998. The following comments and observations are made as a corollary to the book that is being launched today. It is hoped that the readers would get a clearer picture of the task of the COIs and what followed after their reports were submitted to the President.

### ***The Mandates of these Commissions***

It needs to be noted that the Mandates of the three Zonal Commissions authorized the COIs to inquire only into incidents of disappearances that occurred after 1 January 1988. This resulted in a large number of disappearances that occurred during the period before that date being excluded from being inquired into by these COIs.

At the time the COIs were appointed, Jaffna was under the control of the LTTE and the people of that area had no electricity or access to information. They were not able to travel freely to the South. So many of the victims of disappearances in the North at that time

1 The Central Zone Commission was for the disappearances that occurred in the Central, Uva, North Central and North Western Provinces while the other two Zonal Commissions were those for the Northern and Eastern Provinces, and, or the Western, Southern and Sabaragamuwa Provinces.

# **Victims of Disappearances**

## **- Still Waiting for Justice in Sri Lanka**

by M.C.M. Iqbal



The author of this article, Mr. M.C.M. Iqbal. (© www.jdslanka.org)

did not even know there was a COI appointed to inquire into such incidents. Consequently, the North East Zonal COI, which incidentally never had a sitting in Jaffna, received very few complaints from the Jaffna District.

In the conduct of their inquiries, the COIs are exempted from the requirement to comply with the provisions of the Evidence Ordinance so they were able to come to a finding on a balance of probabilities based on the evidence of complainant and other witnesses, and on an examination of the relevant information, books and records at the police stations. The COIs had to, *inter alia*, come to a finding on whether credible material indicative of the person or persons responsible, was available.

The COIs were also expected to report on the whereabouts of the persons alleged to have disappeared. This could not be done satisfactorily as they had no access to the several unauthorized detention centers about which the COIs became aware during course of the inquiries.

When the COIs had concluded their inquiries and were in the process of writing their reports, the Secretary to the President summoned the Chairpersons and Secretaries of the COIs and informed them that any compensation contemplated should not be a burden to the finances of the country. They were directed to fall in line with the provisions of a circular issued in 1987 with regard to compensation to victims of the riots that took place during that year. This circular had specified a scale of compensation ranging from Rs.15, 000 to a student who had been killed or disappeared to Rs.500, 000 to a politician who had been killed or disappeared. The COIs had no option in this matter and had to comply with the directive and they added a note in their Reports indicating their disapproval with the grading of the disappeared persons and the amounts to be paid as compensation.

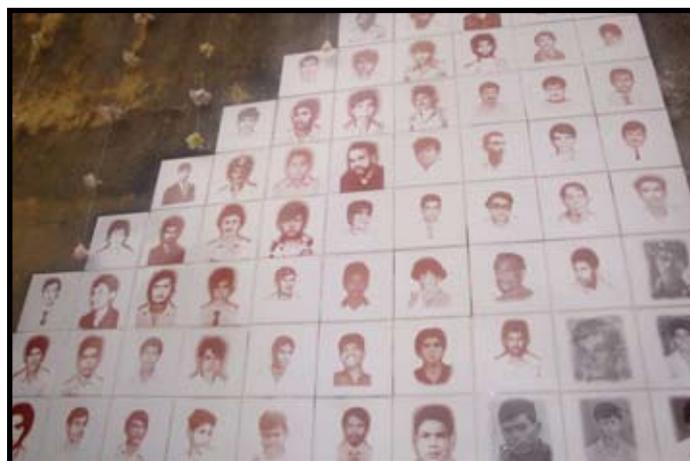
## Procedure of Recording Evidence

In view of the large number of complaints that had been received by the COIs, the evidence of the complainants and the witnesses were led only up to the point where credible material indicative of the person responsible came to light. During the trials where the court cases had been filed, the prosecution had not appraised the courts of this fact. Consequently, the defense counsel was able to take advantage of this deficiency and plead that the details of the incident as given by the witness during the trial, were fabrications.

## Ignored Recommendations

The key recommendation with regard to the legal action to be taken against the alleged perpetrators was that 'an independent public prosecutor should be appointed' to prosecute in cases of disappearances. In making this recommendation, the COIs implied that the Attorney General may not be able to play a neutral role in these cases. Yet these cases were handled by the lawyers in the Missing Persons Unit of the Attorney General's Department. They perused the evidence and passed on the files for further investigations by the Disappearances Investigation Unit of the Criminal Investigation Department which had been set up for this purpose. The latter consisted of police officers. The brotherly feeling they had with the perpetrators, some of whom had been their colleagues, superiors or subordinate officers, stood in the way of effective investigations being carried out in all earnest.

Among the perpetrators against whom the COIs found credible material indicative of their responsibility for the disappearances are names of several leading politicians, high ranking officers in the police and security forces, many of whom are still in service in higher positions. Those who gave evidence of their involvement in the incidents concerned are



The Sri Lankan *desaparecidos*: their faces are engraved in a monument along a street in the capital so that they may never be forgotten.

helpless spectators of these persons who are now in high positions despite their misdoings.

The President called for a special report from the Central Zone COI on the killing of a candidate contesting a leading politician on the request by the influential wife of the deceased. In compliance with this request, the Commission did a thorough investigation and submitted a special report. The passports of the security officers of this politician, who were complicit in the killing, were impounded. Yet no action was taken against this politician despite having enough evidence of his involvement in the killing. Subsequently, the wife of the deceased, who had complained to the COI and caused a special report to be submitted, was made a Minister following which the Special Report was swept under the carpet.

The COIs drew the attention of the government to the information on the existence of about ten mass graves and several torture chambers in various parts of the country. It was recommended that these be investigated into, yet, successive governments did not take any action with regard to this recommendation even though the location of these places and the names of the persons who were responsible for them were made available in the statements of the relevant witnesses who gave evidence before the COIs.

Interim Report VII of the Central Zone COI refers to an officer in charge of a police station in the North Western Province who was alleged to have threatened a complainant and his family for having given evidence against him before the COI. This matter was brought to the notice of the President with a recommendation that this officer be interdicted forthwith and disciplinary action taken against him. But this recommendation was ignored. Subsequently, this police officer was promoted to the level of an Assistant Superintendent of Police, despite this case and his involvement in several disappearances in the area where he served.

### ***No disciplinary action against errant police officers***

Though it was recommended that disciplinary action be taken against all police officers who were found by the Commissions to have violated departmental rules and procedures, no such action had been taken against any of them. Given below are some instances of such violations found by the COIs –

- In spite of a circular by the IGP directing that all Information Books relating to the period of the COIs should be preserved until the COIs had completed their task, it was found that many Officers in Charge (OICs) had destroyed these books.



**Sri Lankan parliamentarians take turns in lighting candles during the opening ceremony of the 20th anniversary of the Families of the Disappeared (FOD).**

- Where complaints of disappearances had been accepted by the police, such complaints had been recorded in the Minor Offences Register. This indicates that whoever recorded such a complaint considered the disappearance of a person to be a 'minor offence.' Yet no action has been taken against the officers concerned for this serious lapse.
- There were instances where the list of detainees at a police station on a given day, did not contain the names of some individuals who had in fact been detained as was evident from such names appearing in Diet Register for that particular day which was maintained by another officer. This non-entering of the name of the persons in the detainees register is indicative of the intention of the OIC of that station. Many such persons had disappeared. Yet, no action had been taken against such police officers.
- There had been evidence of female complainants having been raped by police officers either at the police station when they came to make complaints or at other places during search operations. No action had been taken against any such officer even though evidence of such instances had been recorded.

### ***Miscellaneous***

The copies of the Reports of the COIs that were printed and made public by the Presidential Secretariat do not contain all the contents of the reports that were handed to the President. While sections of the Reports had been omitted in some reports, parts of the reports in others had been completely left out. Thereby, some important information which the original reports

contained had not been made public.

The mandate of the All Island Commission on Disappearances was identical to those of the Zonal Commissions except that it was authorized only to inquire into the 10,136 complaints that had been received by the Zonal Commissions and left un-inquired. In other words it was precluded from inquiring into any new complaints. Yet while the Commission was functioning, it received 12,000 new complaints of disappearances which it was not authorized to inquire into. These complaints have been listed and included in the Report of the COI with a recommendation that the President should take action to inquire into them at a future date.

At the time the All Island Commission was appointed in 1998, Jaffna had been regained from the LTTE and had come under government control. About 600 of the new complaints received by this Commission were in respect of disappearances from the Jaffna District which occurred following the takeover of Jaffna by the government. The Citizens Committee of Batticaloa handed a list of 7,000 disappearances with a note that these were not filed before the COIs appointed in 1994 as the persons who were alleged to be responsible for the incidents were still in service at the respective stations in the East. So the complainants were afraid to complain against them at that time.

Of the 600 alleged to have disappeared from Jaffna, 341 complaints had been filed at the National Human Rights Commission. This Commission appointed a Committee to which it delegated its powers to inquire into these 341 complaints. The Report of this Committee states that in an overwhelming number of those cases, there was clear evidence that the army in Jaffna had taken the persons concerned into custody and that there is no evidence whatsoever as to what happened to them thereafter.

The National Human Rights Commission launched on a project to process the 12,000 complaints left un-inquired by the All Island Commission and to compile a computerized data base of all the information on the disappearances that had been inquired into up to that date by the COIs. Unfortunately, this project was aborted with the change of government and the new set of members taking over the Human Rights Commission by-passing the provisions of the 17th Amendment to the Constitution.

As stated earlier in this document, the role of the Attorney-General in prosecuting disappearances cases was discussed by the COIs in their reports and they have recommended the appointment of an Independent Public Prosecutor with constitutional safeguards. This was cited by the International Independent Group of Eminent Persons, who, too

contended that the Attorney General was not an independent person and should not lead evidence at the COI appointed in 2007 to inquire into serious human rights violations.

**Conclusion**

Successive governments continued to ignore the recommendations of the Commissions with regard to the perpetrators and the steps that need to be taken to prevent the re-occurrence of such incidents in the future. This promoted the culture of impunity which pervades the police and security forces personnel. It has been said in a lighter vein that the COIs have helped the successive governments identify those in the police and army who could be used to cause disappearances effectively. By this time, causing the disappearance of a person had become a useful weapon in the hands of whichever government that came to power. Even the current incidents of disappearances could be perpetrated by such persons who have by now become adept in the technique.

The three major parties in Sri Lanka -- the UNP, the SLFP and the JVP are not interested in dealing with perpetrators of disappearances. They have not pressed for the implementation of the recommendations of the COIs in this regard perhaps because, at some time or the other, each of these parties had used this weapon on those who had become thorns on their backs. In these circumstances, the victims of disappearances who are waiting for justice have no hope whatsoever of getting justice in the near future.



M.C.M. Iqbal is a retired senior civil servant of Sri Lanka who had been Secretary to several Presidential Commissions of Inquiry, two of which had been on disappearances of persons. Later he was a Consultant at the National Human Rights Commission of Sri Lanka.



Honoring her beloved disappeared, the old lady lights a candle during the FOD's 20th anniversary. (© www.srilankaguardian.org)



# From 'Healing Wounds, Mending Scars' to 'From Survivors to Healers'

by Josephine Z. Callejo and Fr. Juvenal A. Moraleda

It was the Asian Federation Against Involuntary Disappearances (AFAD) that first introduced in the Asian region a more organized, structured and sustained psycho-social program for the families of victims of enforced disappearances to its member-organizations. Before then, there had only been a very limited and case-to-case response to this urgent need, and only in some member-organizations of AFAD, e.g. in the Philippines and Indonesia. It was in 2004 that the AFAD decided to do something about the situation.

### ***"Healing Wounds, Mending Scars"***

This was both the theme and the title of the workshop that launched the AFAD psycho-social rehabilitation program in the region in 2004. This workshop was held in Jakarta, Indonesia from **6-10 December 2004**. The participants were selected family members of disappeared victims from AFAD member- organizations from Thailand, Philippines, Sri Lanka, Pakistan, (Kashmir) India, and host country, Indonesia and with participation from representatives of organizations of families of the disappeared from Latin America and Africa and two representatives from Linking Solidarity. At that time, AFAD did not yet have a member-organization in Nepal. All in all, there were 40 participants in this pilot-workshop, not to mention the participation of the staff members from host organizations, *IKOHI* and *KontraS*.

Two facilitators from the Philippines had been commissioned by the AFAD Council to design and implement the program: Ms. Josephine Callejo, a counseling psychologist, and Fr. Juvenal Moraleda, a family and marital counselor. They also facilitated this pilot-workshop in Indonesia. Combining our varied but complementary expertise in our individual fields, we came up with a psycho-social rehabilitation program based on **Dr. Judith Lewis Herman** M.D.'s framework on *Stages of Trauma Recovery*. We utilized group dynamics theories and practices that take serious consideration the various and varied cultural and religious beliefs, traditions and practices of the multi-nationalist participants. To off-set the foreseen problem of the participants' different languages, we made use of artistic and creative expressions like drawing/painting, clay sculpture, rituals, role-playing, power-point presentations, etc. But we also were ready with instant translators during the small group sharing and the plenary sessions.

### ***A few words on the workshop itself - its rationale and methodology:***

Our basic premise was that all the participants had been deeply traumatized by the sudden and oftentimes violent disappearance of their loved ones; and that they were still suffering from the traumatic event. But for most of them, the traumatic event had



Thai families of the disappeared break individual shyness and open up themselves in solidarity.



Above: Families of the disappeared in Sri Lanka go beyond their pain and perform a healing exercise.

Below: Families of the disappeared in the Philippines chant: "We shall overcome!"



happened many years before, even decades ago for some. And most if not all of them had either *'forgotten'* the event, or had denied or trivialized its effects on them, whereas for some they wanted to believe they have *been 'healed'* of their trauma. And the most common reason for these varied reactions is because these victim-families were still living in the same oppressive political, economic, social conditions which caused the disappearances of their loved ones. So, consciously or unconsciously, they were neither willing nor able to get the 'space and opportunity' to look back to what had happened, to be in touch with the physical, mental, emotional and spiritual effects of what happened, to process and find new meanings to their traumatic experiences, to (re)discover both the inner and external resources they have to deal with what happened, and finally, to move on with their life from the tragedy they have experienced. Most of them remained a "victim" or took on a "victim mentality."

It is this 'space and opportunity' that the participants have been denied or have denied themselves that the psycho-social workshop aimed to offer them. We deemed it appropriate to use Dr. Judith Herman's, Three Stages of Trauma Recovery: 1) Establishment of Safety; 2) Remembering and Mourning; 3) Reconnection with Reality.

#### 1.) *Establishment of Safety*

Loss of trust, that is, a deep sense of **not being safe**, from anyone, including oneself, is surely one of the gravest wounds inflicted on the family of the disappeared. Therefore, the process of 'recovery' must start there, in helping the 'victim' to regain trust and to start believing again that one is protected and is safe. In the workshop, we promoted this, first of all, by taking the participants away from the places/situations where they had experienced danger and threat. Through appropriate activities like breathing and relaxation exercises, teaching them basic body movements, utilizing Oriental concepts that foster harmony of body and mind (e.g. Shibashi, meditation, body prayer), we led the participants to become aware of and to trust again their physical, mental and spiritual capabilities that were momentarily 'paralyzed' by the tragedy they had experienced; as well as the need to continually nourish and strengthen these capabilities as resources for their 'safety'. Through group dynamics activity like "getting to know each other," "trust walk," 'trust fall,' nights of cultural exchange, socialization, parlor games, we aimed to gradually make the participants regain the need and possibility of trusting some other than oneself. It was a



joy to notice the participants who had come in fearful and untrusting of themselves and others slowly opening up and joining the group in the activities.

## 2.) ***Remembering and Mourning***

This was the most poignant and liberating portion of the whole workshop.

The lyrics of the song “Tears were flowing like a river” was played out at this stage. But it did not happen like magic.

It was almost hard to believe that after all these years, this was the very first time since they lost their loved ones that most of the participants had the chance to really look back and truly grieve for all that was lost. They had valid enough reasons for this: *too busy with ‘more urgent’ matters, they had to be strong for the ‘weaker’ members of the family, grieving would have only made them give up*, etc. But

ultimately, it boiled down to one sad truth: they had felt there was no one who would really listen and understand their ‘story’ and ‘accompany’ them in their grief! And so, their story had remained untold, and their tears had dried up unshared inside themselves! And they were none too enthusiastic at first to dig up what had been dormant for so long and share it with near-total strangers!

But evidently among them, trust had slowly started to come back, and they had started gradually to feel safe with and among each other. This process was helped immensely by activities that allowed them to remember, to tell their stories and grieve their ‘losses’ not so much with words as with the use of art - drawing, painting, clay sculpture, song-making, poem writing, sharing pictures of their loved ones - as well as role playing, singing, and small group sharing. Where there was a need to use words, we employed direct translations to facilitate understanding between the varied

**We hope and pray they do not wait  
forever...**



**Above: A Nepali family member of the disappeared interprets her molded clay depicting her loved one's disappearance.**

**Below: A child of a disappeared in Pakistan shows her cut out drawing that tells her unique story.**



languages of the participants. **They were allowed a space to express their sorrow in tears and sighs and anger in the presence of warm and accepting companions.**

### 3.) *Reconnection with Reality*

We also call this stage 'reframing the experience', in the way that a picture takes on a different perspective when put into a different frame.

Having found the trust one needed to feel safe again, the participants were able to tell their total story, to recognize and own all the emotions and effects caused by the tragic event, and to feel understood, accepted, supported and empowered to move on.

But not in a vacuum, in fantasy or self-delusion, but rooted in reality – their reality and the reality that surrounds them... It was here that the participants were challenged to identify and claim the resources they have at their command. If they had indeed lost their loved ones (even temporarily), what have they not lost or still possessed in spite of what had happened.

Again, through sharing with one another, in words but also in activities that expressed their hopes and their dreams (e.g. kite/lantern-making, prayer/song/poem composition, role playing, etc), inner and external resources slowly began to surface, to be claimed and celebrated in cultural and religious rituals. Interesting to note, that although the participants were of varied nationalities, the common Asian values and heritage characterized the most basic strength and resources that the participants identified as their own: strong family ties, true neighbor/friend comradeship, and above all, a deep-seated trust in a higher Being, whether one called Him/Her God, Allah, Buddha, Jesus, or no name.

The 2004 pilot workshop "Healing Wounds, Mending Scars" in Indonesia was deemed a success by AFAD and the participants. And there was a united clamor to echo the workshop back to their own countries. So, during the following months, we held the Healing Wounds, Mending Scars workshops in Thailand, Sri Lanka, Indonesia, Kashmir-India, Pakistan and Philippines, Indonesia, and Nepal (which had an AFAD member-organization in December 2006). The two of us, Ms. Callejo and Fr. Moraleda, facilitated most of these



Mrs. Estelita Topacio of FIND paints a thousand words through her portrait of her disappeared son.

echo-workshops, except for one workshop in Southern Thailand, and another in Pakistan which were facilitated by two other facilitators from the Philippines, and one each in Indonesia and Kashmir-India which made their own arrangement with their own facilitators.

### From Survivors to Healers

During the *'Healing Wounds, Mending Scars'* Workshops, we had three very important realizations, among other things: one, that there were countless other families of victims in the member-organizations of AFAD who needed this kind of psycho-social trauma rehabilitation assistance; two, that AFAD Regional office could not cater to all of these families from the 'center'; and three, that AFAD should/could perhaps help the member-organizations to train local and develop local facilitators to do their own psycho-social rehabilitation program.

Thus, was born the *trainors' training program* which we rather ambitiously called **"From Survivors to Healers" Workshop**. Its objective was precisely to help train local psycho-social facilitators to minister to victims' families in their own locality. And we had a very successful launching of the "From Survivor to Healers" Workshop in Colombo, Sri Lanka, from 27-29 November 2006. This first *trainors' training* workshop was participated in primarily by selected Sri Lankan family members of victims who had already attended the "Healing Wounds, Mending Scars" echo-workshop which was held earlier in Sri Lanka. Two local psychologists and a psychiatrist were also invited to participate and help us to facilitate the workshop. It proved quite successful, from all reports.

The long-term plan was to conduct the *"From Survivor to Healers"* workshop in all the other AFAD member-countries and jump-start their own program.

Unfortunately, due to shortage of funds, this plan had to be shelved for the meantime. AFAD is still in the process of looking for possible funders to sponsor this worthwhile project. Meanwhile hundreds of families of the involuntary disappeared are waiting to tell their story, to share their grief, to recognize and claim their inner and external resources, and finally, to move on from being **Victims and Survivors** to becoming **Wounded Healers**.

We hope and pray they do not wait forever.



Josephine Z. Callejo has an M.A. in Counseling Psychology degree (or is a Counseling Psychologist) and currently a Consultant of AFAD in their Psycho-Social Trauma Recovery work for the member families of the AFAD in Asia. She co- developed and co- facilitated these recovery programs since 2004 in Indonesia, Sri Lanka, Thailand, Nepal and the Philippines.

Ben Moraleda, M.A. is a Marital and Family Counselor and a Faculty Member at the Center for Family Ministries (CEFAM). He is also the national spokesperson for *Kaalagad Katipunang Kristyano (KKK)*, an ecumenical group advocating genuine and lasting societal and ecclesial transformation, and a member of the Executive Committee of the Faith-based Congress against Immoral Debts (FCAID).



And they have finally shed tears and can move on....

# Bogor, Bond and Basho

## Memoirs of AFAD Fourth Congress

by Dhiraj Kumar Pokhrel

### *The Arrival*

Beads of sweat streamed down my temples as we came out of Soekarno-Hatta International Airport, Tangerang, Indonesia. We saw a lean figure with a placard held high written "Mrs. Dhiraj Pokhrel" in bold letters.

My friend chuckled with her usual grin. I felt a little embarrassed.

To her horror and my utmost pleasure, another placard surfaced out of the crowd reading "Mr. ...".

Relieved, I, with a reflexive smirk, tried to read her reaction.

Boomeranged, she answered back with a frown.

After exchanging few pleasantries with the innocent duo who unwittingly perpetrated the

"inversion" offense, we lunged towards the parking lot bathed in sweat; streams had started producing occasional rapids by then.

*Inferno!* I yelled out as we sat in blistering seats roasted in the tropical sun. The chauffeur turned the AC on to normalize things. Heaving a sigh of relief, my friend mopped her brow. Draughts started seeping through the skins in no time.

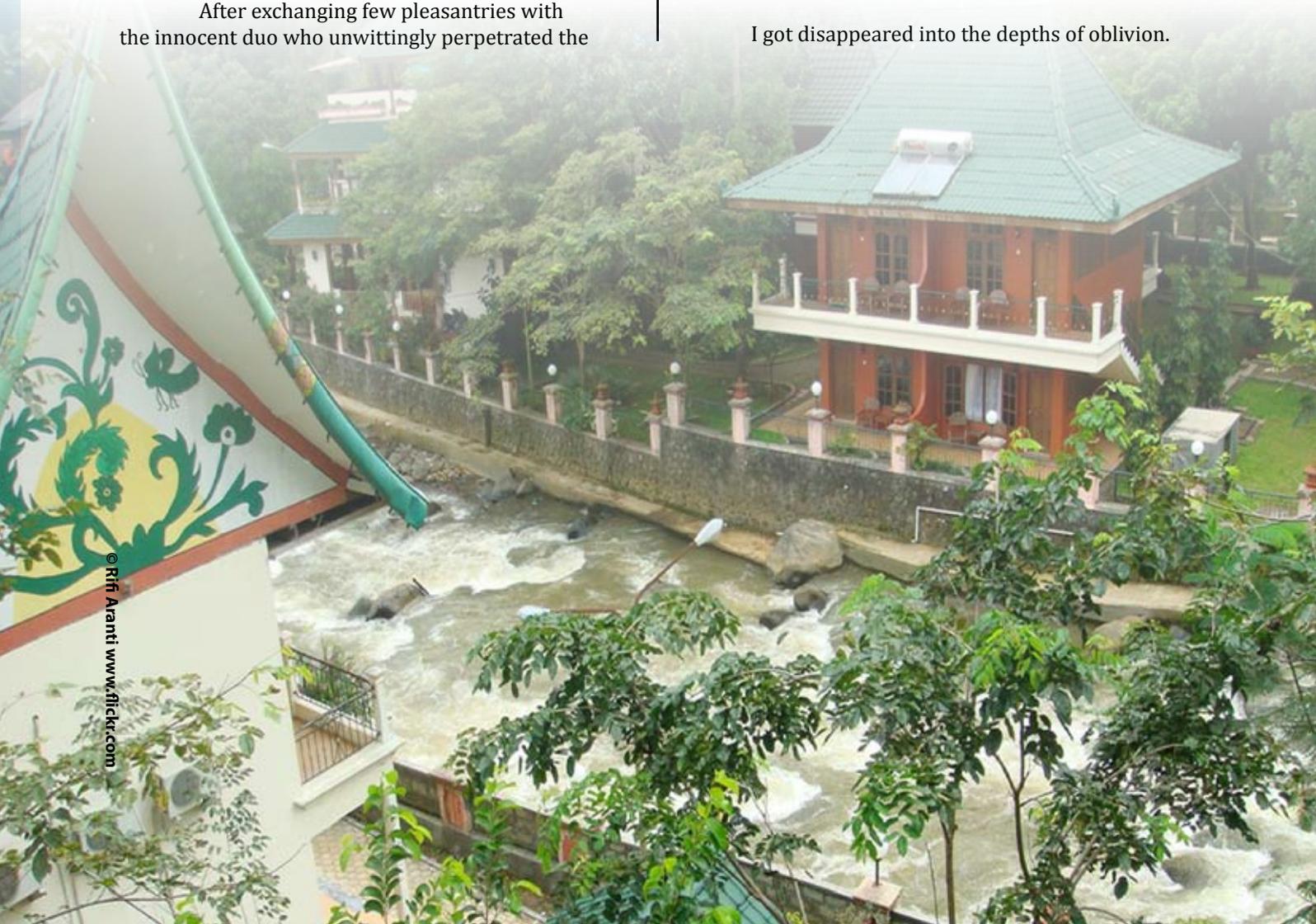
As I closed my eyes to do justice to my body - whose right to sleep was transgressed during the 12-hour of tedious transit in Bangkok - I remembered the famous *haiku* by Japanese poet Basho:

*An ancient pond,*

*The Frog Jumps*

*Pluckkkkkkkkkk.....*

I got disappeared into the depths of oblivion.





## The City of Rain

A cool drizzle welcomed us as we reached to Hotel Pramesti in Bogor, West Java, 60-km far from Jakarta, Indonesian capital. I felt at home as soon as my eyes fell upon a life-sized statue of Lord Ganesha at the entrance of the hotel. The Moslems of Indonesia regard Lord Ganesha highly and use his idols and statues as a lucky charm and install them in their houses and business centers.

Rain and Lord Ganesha – two auspicious signs – the stay at *Kota Hujan*<sup>1</sup> seemed to augur well for me, I felt.

The hotel was a classic one: it looked like a small hill-city interspersed by a river. I was given the key to a room that was on the other side of the river. I walked across a metallic bridge to get to my room; the river was raging under the bridge. I took shower and changed quickly to attend the session that had commenced early in the morning (*we were already late by two afternoons to attend the program thanks to the blunder of our travel agent in Nepal who post-dated our tickets*).

I tried to remember the theme and objectives of the congress as I rushed towards the meeting venue. The theme was : *“Consolidate the Gains of More than a Decade of Struggle: Face Challenges of the Entry Into Force of the Convention”*; and the objectives were: to validate the correctness of the results of the AFAD internal evaluation which will be done by all bodies within the Federation; to sum-up AFAD’s implementation of its 6-year strategic plan formulated during the 3<sup>rd</sup> Congress; to prepare a three-year plan based on the review of AFAD’s implementation of its 6-Year Strategic Plan; to review the organizational set up of the Federation vis-à-vis the need to network with as many human rights organizations as possible in order to respond better to the demands of the work and taking into consideration and political and human rights situation in Asia, especially in countries where AFAD member-organizations are based; to review and amend AFAD’s Orientation, Constitution and By-Laws; to decide on applications for membership and other matters related to membership; and, to elect a new set of officers.

*Age hadn’t blanchd my memory, I felt proud of myself.*

<sup>1</sup> Bogor is often referred to as *Kota Hujan* meaning “City of Rain”

As I entered the meeting hall, a tea-break announcement was made. My journey to the tea-stand was punctuated by several handshakes, smiles and smile-backs, back pats and hi-there(s). I took a cup of hot water and went to Darwin Mendiola from the AFAD Secretariat to learn what happened during the public event we missed.

*The rain had started gathering momentum, so did the river.*

Darwin recounted: “The inaugural session was held in the Aryaduta Hotel in Jakarta yesterday (31 March 2010). It was graced and addressed by Indonesian Minister of Justice, Patriales Akbar and the Honorable Chairperson of the United Nations Working Group on Enforced or Involuntary Disappearances (UNWGEID), Mr. Jeremy Sarkin. It was also participated in by the National Commission on Human Rights and other government agencies, some foreign embassies, members of the civil society in Indonesia, the media from Jakarta and families of the disappeared and other victims of human rights violations. Representatives of the Steering Committee of the International Coalition Against Enforced Disappearances (ICAED), who had its meeting in Jakarta prior to the AFAD Congress, were also present. “

*Flashes of lightning and thunderclaps continued in the background.*

“The event also became a venue to express solidarity with families of the disappeared and civil society organizations in Indonesia and to pressure the Indonesian government to realize its promise to sign the Convention. The public event ended with the expectation and hope that Indonesia would sign and ratify the Convention without further delay. It ended with high spirits among the participants and that in the next meeting of AFAD in Indonesia, there would be a victory party for the ratification of the Convention. It also served to bolster the morale of families of the disappeared both from Indonesia as well as from other countries who were present during the event”, Darwin said in his usual dignified tone.

“Time’s over, let’s get inside ladies and gentlemen,” a lady hollered.



We went inside. The roundtable was occupied by an assortment of faces: the AFAD's member-organizations' representatives from India, Indonesia, Nepal, Thailand, Timor Leste and the Secretariat from the Philippines, including selected staff members from *KontraS* and *IKOHI*, along with representatives from *FEDEFAM*, *We Remember-Belarus* and the Asian Human Rights Commission based in Hong Kong.

*Outside, the rain had started to grow torrential; deluge of opinions and visions avalanched inside.*

### **Mama's Cry**

Tears streamed profusely from wizened visage of Mama from *KontraS* as she recounted the story of her son's disappearance. In the midst of her speech, she mumbled some long incoherent sentences that the translator was unable to translate. Yet, I could feel that everybody clearly understood what she was trying to convey.

Human rights are universal; human emotions existential, I concluded. Tears don't tear us apart but bind us in a higher universal bond.

*The downpour continued to feed the raging river; Mama's tears administered adrenaline to the participants.*

Mama's cry was followed by a presentation session whereby each member-organization presented the human rights situation in their respective countries with a special focus on the phenomenon of enforced disappearances and the work done by the Federation vis-à-vis the plan of action and the organizational status of each member-organization, including its expectations from AFAD. Ms. Fe Garcia presented a SWOT analysis of AFAD's work for the last three years while Mr. Ted Borrero presented some of the results of his interviews which he did with the AFAD member-organizations in their respective countries.



... and Mama's tears have been transformed into courage as she struggles for truth and justice. (© Rini Kusnadi)

# We, the dewz of AFAD, will certainly wash the dust of disappearance out of the globe...

## Planning, Resolutions and Amendments

The incessant rainfall had left the river swollen to dangerous proportions. We could see the uprooted trees and other wreckages flow downstream. The water-level had considerably risen and was occasionally crossing the safety dykes. The hotel staffers were busy pulling out a big tree and other materials that were blocking the river's normal course. The drift was threatening, yet they were resolutely flexing their muscles to clear the blockage. They even used some conduits to direct the water back into the river.

A fellow representative from Kashmir commented:

"The dykes are not properly designed. In case the rain persisted and there are blockages on the way, the river will certainly go off-course and might sweep the hotel away."

*The hotel staffers were busy clearing the river; the AFAD representatives started streamlining their working procedures via a conscious planning.*

The representatives were divided into two groups: one comprising of AFAD member-organizations from Southeast Asia and the other, the AFAD member-organizations from South Asia. The other participants from other continents were distributed between the two groups. A video sent by Professor Gabriella Citroni, University of Milano, was presented and viewed by the Congress delegates and other participants regarding challenges for AFAD, the entry into force, more ratifications and implementation of the Convention. A format for planning was given for the purpose of uniformity and easy collation of plans.

The planning was followed by resolution writing. Representatives of member-organizations were assigned to draft each own country resolution, which when drafted, was presented to the body for discussion, editing and finalization. Based also on the reports, the Congress Statement was drafted and discussed and finalized by the body. Alongside, three letters were drafted and finalized: A letter to the government of El Salvador pressing it to sign and ratify the UN Convention for the Protection of All Persons from Enforced Disappearance; a solidarity letter to the Tiananmen Mothers on the occasion of their 21<sup>st</sup> anniversary; a letter in support to Judge Garzon of Chile.

*With much heave-ho, the hotel staffers were able to pull out a big trunk that had got entangled in stones. They concentrated themselves on clearing other wreckages that were forcing the river to flow astray.*

The representatives busied themselves and started reviewing policy documents of AFAD, i.e. Orientation, Constitution and By-laws, for possible amendments vis-à-vis the developments in the situation of the Asian region and the developments of AFAD. Some major amendments were made to respond to the new needs and challenges of the Federation in the next three years. During the discussion of the basic documents, the Congress decided to accept the resignation of Claimants 1081 in the Philippines on the basis of its being non-functional and of its inability to respond to the questions of the AFAD Council regarding the implementation of its rehabilitation activity in 2008. Another important decision on membership was the acceptance of the application of a Nepal-based organization of victims, Conflict Victims' Society for Justice-Nepal.

The review session was followed by an election. The Council members were chosen by acclamation. There were some new faces, including mine, in the Council and some of them were reelected:

Mugiyanto – Chairperson

Mandira Sharma – Treasurer

Mary Aileen D. Bacalso – Secretary-General



The elected Executive Council members express gratitude for the confidence given them and vow to lead the Federation in the next three years.

Members:

Timor Leste – Sisto Dos Santos

APDP-Kashmir – Parvez Imroz

IKOHI – Indonesia – Simon

KontraS – Sri Suparyati

Advocacy Forum – Dhiraj Pokhrel

Conflict Victims Society – Council member has yet to be determined

Truth and Justice Commission – Farooq Niazi  
Justice for Peace Foundation – Angkhana  
Neelaphajit

Relatives Committee of the May 1992 Heroes –  
Boonthan Verawongse

**Of Dust and Dew**

*The inclemency was gone and the sun shined happily all afternoon. The tropical humidity again started seeping through the skins. However, the sweats*

symbolized the tough days ahead and a challenge to hold the AFAD's flag high and to orchestrate the AFAD's cause and campaign.

*Inferno of impunity and we are just a handful bespattered drops!*

I became a bit nervous. I, nevertheless, realized suddenly that AFAD, as a formidable weapon, is there, to normalize things. I remembered Mama's tears and felt a surge of energy inside me. As I lay in bed and tried to have some rest, another haiku by Basho flashed unto me:

*I like to wash,  
the dust of this world  
In the droplets of dew*

We, the dews of AFAD, will certainly wash the dust of disappearance out of the globe – I silently vowed.



**Dhiraj Kumar Pokhel. A human rights advocate, Dhiraj is the Council Member for Advocacy Forum-Nepal for the AFAD.**





# UN WGEID and the 1992 UN Declaration on Disappearances

*Abridged Version of the Speech of Ms. Mandira Sharma delivered during the  
30<sup>th</sup> Anniversary of the UN Working Group on Enforced or Involuntary Disappearances  
5 November 2010*

**Chairperson, Excellencies, Ladies and Gentlemen,**

I have been asked to speak about the United Nations Working Group on Enforced or Involuntary Disappearances (UN WGEID) and the 1992 UN Declaration on the Protection of All Persons from Enforced or Involuntary Disappearances (the Declaration). Now that we are all expecting the International Convention for the Protection of All Persons from Enforced Disappearance (The Convention) to come into force, I feel like giving a eulogy. But this would be entirely wrong, as I strongly believe that the Declaration lives on in the Convention and in the day to day practice of numerous human rights defenders around the world. I believe the WGEID and the Declaration have done a great service to human rights over the last three decades, for which we are all very grateful. I particularly want to salute the WGEID's practice of adopting General Comments on the Declaration, which have assisted us time and again to more forcefully advocate for specific measures

for the prevention, investigation and prosecution of perpetrators of enforced disappearances which are to be taken by governments.

To demonstrate my point, I would like to focus on just one specific article in the Declaration which I know my colleagues in Nepal, as well as friends and human rights defenders in the rest of Asia, have found tremendously helpful. This is Article 17 and the General Comments of 2000 relating to it. The way in which the Declaration and the WGEID in its General Comment explicitly define disappearances as "*a continuing offence*" is something for which many lawyers and relatives of the disappeared are indebted to.

In Asia, before the WGEID was established and before the Declaration came into being, we always thought of disappearances as a Latin American phenomenon. This is not because disappearances were not happening in Asia, but we did not characterize them as a regional phenomenon. Thanks to the WGEID



and the Declaration that we were able to highlight our concerns more strongly and name them as among the most egregious violations of human rights.

We felt the need for organizing ourselves and expose the patterns of disappearance in Asia by forming the Asian Federation Against Involuntary Disappearances (AFAD). Solidarity with similar associations in other regions such as *FEDEFAM*, *FEMED*, We Remember Belarus has given us the strength to continue our struggle in establishing truth and attaining justice. Together under the International Coalition Against Enforced Disappearance (ICAED), we continue to campaign for the ratification of the Convention. In the course of this work, we lost one of our colleagues, Patricio Rice, who was the focal person of ICAED.

The practice of disappearance is not a past phenomenon in Asia. It has continued up to this date. The AFAD continues to receive cases of ongoing disappearance from Southern Thailand, Northern part of Philippines, Kashmir, Pakistan and Sri Lanka. In addition to this, we continue to struggle for establishing the truth of disappearance that took place years ago. More than 60,000 people are thought to have disappeared over the past two decades, both in the context of the war with the Tamil Tigers and during the *Janatha Vimukthi Peramuna* insurrection of the

late 1980s. The fact that the Working Group visited Sri Lanka three times and raised concerns about these violations has, from the outset, made it impossible for the government to deny knowledge of disappearances in the country. In India, hundreds are known to have disappeared in Punjab as well as in Kashmir, Andhra Pradesh, the Northeast and, most recently, in Chhattisgarh. Since the peak of the insurgency in Kashmir in 1989, some 8,000 people have reported to be disappeared at the hands of Indian security forces. Last year, the Association of Parents of Disappeared Persons (APDP) published a report about 2,900 mass graves in 18 villages near the line of control, dividing Kashmir between India and Pakistan.

We are very much helped by the continuing work of the WGEID in relation to these cases in the region. In Nepal, particularly, we, human



Current Chairperson of the UN WGEID, Mr. Jeremy Sarkin. (©BOOKPhotoSA at [www.flickr.com](http://www.flickr.com))



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rights defenders and the families of the disappeared were very much helped by the work of the WGEID. Having the Group's reporting to the then Commission on Human Rights in both 2003 and 2004 that Nepal had the highest number of disappearances firmly placed the situation in my country on the international community's agenda. It has become a serious embarrassment to the government. It certainly also helped us to advocate for the establishment of an Office of the High Commissioner for Human Rights (OHCHR). As the UN became involved in the crisis in Nepal, the number of human rights violations notably decreased. The OHCHR's field presence in the country since May 2005 continues to give immediate positive impact on our human rights situation, as evidenced by the decrease in the number of disappearances and extrajudicial executions in Nepal.

We also found the visit by the WGEID in December 2004 to be extremely helpful. The recommendations in the subsequent report remain invaluable to us up to this day. For instance, the WGEID recommended that *the Supreme Court consider a more active application of its inherent contempt power to hold accountable and punish officials who are not truthful before the Court*. Regardless of its more robust performance since the end of the conflict, the Supreme Court bears considerable responsibility for not setting strict limits on state behavior during the period of the armed conflict. We thank the WGEID for highlighting this shortcoming. Weak sanctions for perjury and contempt of court in law exacerbate the problem. But as the WGEID said, the court has inherent powers

that it should use more actively. Despite obvious and repeated lies and misinformation from the security forces and government authorities, no one has ever been prosecuted or otherwise disciplined by the courts for perjury. This contributes to the prevailing sense among security forces that they are above the law and of course reinforces the prevailing impunity.

There are, however, some positive signs. In June 2007, Nepal's Supreme Court ruled on 83 *habeas corpus* writs, and ordered the government to immediately set up a commission of inquiry to investigate all allegations of enforced disappearances and to provide interim relief to the relatives of the victims. The court ordered that the Commission of Inquiry must comply with international human rights standards. However, to date, this order to set up a commission of inquiry has not been implemented. The Supreme Court and courts of appeal have also repeatedly ordered police and public prosecutors to investigate individual complaints of disappearances and other violations from the conflict period. Quite recently, the Supreme Court imposed legal strictures on the Nepal Police and Attorney General's Department (as institutions) for their lack of rigor in investigations. The police and other authorities, however, are still not complying with court orders. Even if the punishment itself is little more than symbolic, I would argue that it will have considerable impact.

Allow me now to focus in more detail on Article 17 of the Declaration, which as you all know, says that "*Acts constituting enforced disappearance shall be*

*considered continuing offence as long as the perpetrators continue to conceal the fate and the whereabouts of persons who have disappeared and these facts remain unclarified."*

As explained by the WGEID in its General Comment of 2000, the definition of "*continuing offence*" is of crucial importance for establishing the responsibilities of State authorities. The article is intended to prevent States from reneging on their duty to provide full redress to the families of the disappeared, including by explicitly ruling out that perpetrators of those criminal acts take advantage of statutes of limitations. This goes to the heart of the human rights problems in Nepal and so many other countries – that of widespread and systematic impunity. We are fighting to have those responsible brought to justice, but face considerable hurdles, both in law and in practice.

As of today, all Asian countries lack legislation criminalizing disappearances. For several years now, we have been pushing governments to put in place such legislation, and set out procedures for investigations that will both identify and punish those responsible and also result in the release of the disappeared person, if alive, or the return of their body and reparation for victims of enforced disappearance who are subsequently released and for their families who have

to suffer so much due to the uncertainty and anguish that disappearances cause.

In Nepal, we are also advocating for a commission of inquiry into disappearances, as provided for in the peace agreement of 2006. We do not see this as a substitute to what I have just discussed and we are only pushing for it provided it conforms to international standards. The initial draft was extremely problematic, with the definition of disappearances falling far short from the one in the Convention. It has now been changed subsequently because of the pressures from the civil society and the family members of disappeared persons. A new version of the bill is currently filed before the Legislative Committee of the Parliament. This also has some problems such as the provision that complaints will have to be filed within six months of the promulgation of the Act. To strengthen our position, we have been working with the members of the Parliament to have this provision amended and have been able to draw on the work of WGEID and the provisions of the Declaration, its General Comments and the Convention. Whether or not we will be successful remains to be seen.

Similarly, following extensive criticisms from civil society and the international community, the Peace and Reconstruction Ministry has reviewed a bill to set up a Truth and Reconciliation Commission



which had initially provided for the possibility of amnesty for a wide range of crimes, including crimes against humanity. We were able to get these provisions amended, and though amnesty is still provided for in the Bill, it is now explicitly ruled out for grave human rights violations including disappearances.

We have some way to go before both these commissions will be set up, and have to practice extreme vigilance to avoid some people in Nepal using the concept of reconciliation to prevent meaningful investigations into violations and/or abuses committed both by the Maoists and the security forces.

We all hope that the Convention and the Committee on Enforced Disappearances that will monitor state compliance of the treaty will be able to be as innovative as the WG has been and continues to be.

In particular, we believe that the Convention will be a strong tool to break through the climate of impunity. It will be important to not only consider prosecutions as such but consider a wider range of innovative measures that can be taken to address this evil.

Working in the field, we see a huge gap between standards and practice. How to mitigate this gap in realizing the right not to be disappeared requires proactive, sustained and creative ways of engaging with state agencies. Increasingly, non-state actors (such as the Maoists in Nepal) are involved in abductions and

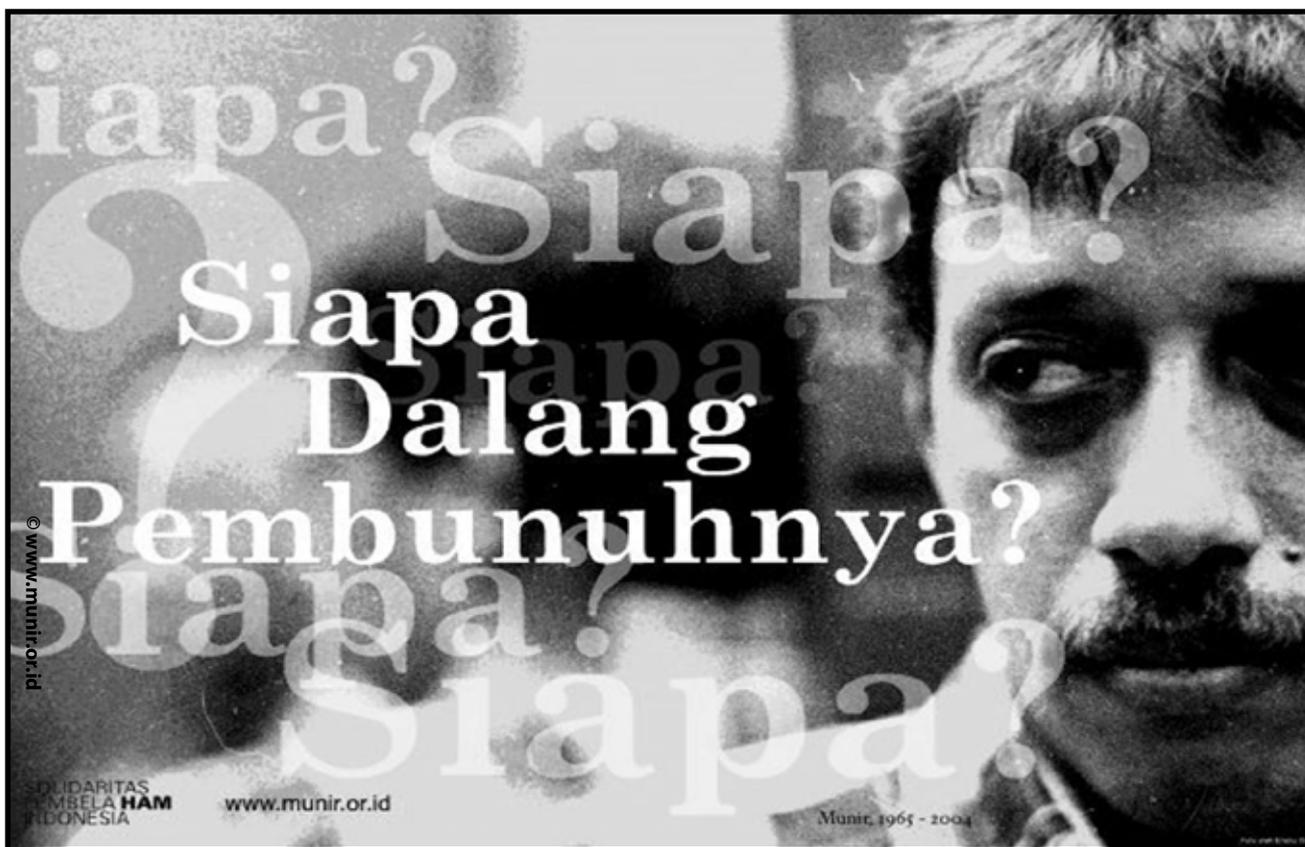
disappearances and the State is too weak to address these. We need to make sure that they are also held to account.

Threat to human rights defenders, families of disappeared person is another aspect that we need to respond to. The case of Munir, former Chairperson of the AFAD, is emblematic to what human rights defenders face on the ground....

Thank you.



Mandira Sharma is currently the Executive Director of Advocacy Forum-Nepal, a leading human rights organization in Nepal, and incumbent Treasurer of the AFAD. Ms Sharma has carved a niche in the Nepalese human rights arena and has been at the forefront of human rights advocacy in Nepal since past 15 years. Ms Sharma is a recipient of many awards including "Human Rights Defender Award" from Human Rights Watch.





# Hiding Behind Lies

by Khurram Parvez

On 25 December 2010, while clearing the rubble of a damaged house in Ladoo, Pampore in Pulwama district of Indian administered Jammu and Kashmir, a group of laborers found a skeleton that was buried under the debris. From the same spot, some clothes, an amulet and a black head band were also recovered, which helped a local family to identify the buried man. According to the family, the buried man was Mohammad Maqbool Dar, who was abducted by unidentified gunmen in 1995 and since then, had disappeared. Maqbool's elder brother, Mohammad Yaseen Dar, a militant of Al Umar Mujahideen was killed in an encounter in 1994. Due to Yaseen Dar's involvement in militancy, their house was raided quite regularly and his family members were often harassed by the armed forces. 15 years after the abduction of Maqbool, his remains have been surfaced despite the efforts of the perpetrators to bury the evidence.

Mohammad Maqbool Dar is one among those thousands of victims who have been subjected to enforced disappearance. There are very few cases like Maqbool whose bodies have resurfaced in this manner after the disappearance. In 2007, the exhumation of remains of 5 persons from Ganderbal district led to the expose of a fake encounter. Recently, with the exhumation of 3 boys in Macchil who were killed in a fake encounter by the army, also the various cases in

which after the court orders for exhumations, it has been established that there is a link between those subjected to enforced disappearances and those killed in fake encounters and those buried secretly in unmarked graves.

The government of India and government of Jammu and Kashmir live in denial mode. Each time, an exhumation like this comes as a reminder of the demand for probing all the cases of disappearances in Jammu and Kashmir and each time, it has been ignored or rejected by the government. The truth about those disappeared is forcing itself to come out and will not allow itself to be buried forever. Since 1989, more than 8,000 people have been subjected to enforced disappearances. Whether the discovery of the 2,943 bodies in the unmarked graves and mass graves in north Kashmir or investigations into the cases of more than 800 disappeared or the exhumations which have taken place over the years, the concerns and demands of APDP for an impartial international investigation are becoming emphatic and more significant.

On 2 December 2009, the International People's Tribunal on Human Rights and Justice in Indian administered Kashmir (IPTK), in collaboration with APDP, released a report, '*Buried Evidence*' about the presence of more than 2,700 nameless and mass

graves in the 55 villages of north Kashmir in which there are 2,943 bodies.

The report was formally sent to the state government and the Chief Minister Omar Abdullah acknowledged receiving the report. The State Minister for Law and Parliamentary Affairs stated to the media that the government would respond after reading the report. The matter was even raised in the Indian Parliament by MP Mohammad Shafi Uri, to which the Defense Ministry of India responded that it would study the report and come up with a response. It has been more than a year since the report on unmarked and mass graves in Indian administered Jammu and Kashmir was submitted to the government but it seems that it has fallen to deaf ears.

The government continues to exhibit its policy of callousness, indifference and arrogance and is not allowing an independent and impartial probe into all the cases of enforced disappearances and all the unmarked graves.

The APDP had urged the Indian government to allow the International Committee of the Red Cross (ICRC) to exercise its global mandate of investigating the cases of disappearances and unmarked graves and mass graves. The ICRC is professionally neutral and capable organization to carry out an unbiased and thorough investigation into disappearances and on the issue of unmarked graves. It is ironic that a democratic country like India is afraid of transparency. An ICRC led probe or any international investigation, in no way, will infringe on the sovereignty of the Indian state. It certainly will help in establishing truth about those

disappeared and those buried in these unmarked graves. The Indian state continues to suppress facts and thus, deny and delay the information about those who have been cruelly subjected to enforced disappearances.

India has signed the International Convention for the Protection for All Persons from Enforced Disappearance but so far, has not ratified it. Signing this Convention by any country is normally considered its commitment against the phenomenon of enforced disappearances. In India's case, its commitment does not reflect at all in Jammu and Kashmir. Neither does India acknowledge the phenomenon of enforced disappearances in Jammu and Kashmir nor has it taken any measures to investigate into the cases of enforced disappearances.

India is hiding behind lies, but truth cannot be always buried. Truth shall overcome...



*Khurram Parvez, an undaunted champion for peace, defends human rights in war-torn Kashmir, encourages young people to pursue peaceful approaches to change and advocates for families affected by the violence. While he was a university student in Kashmir, Khurram witnessed the distress and hostility of students accustomed to a lifetime of violence. He was a recipient of the 2004 Reebok Human Rights Award. He works for the AFAD as an alternate Council member representing the APDP.*



Ang mamatay  
na dahil sa iyo

A Nationwide University  
Roadshow on  
Extra Legal Killings and  
Enforced Disappearances

To raise public awareness on the issue of enforced disappearances and extrajudicial killings in the Philippines, the Asian Federation Against Involuntary Disappearances (AFAD) joins the Ateneo Human Rights Center (AHRC), as one of its partners in the nationwide university roadshow from August 2010 to January 2011. Under the theme, "*Ang Mamatay ng Dahil Sa Iyo*<sup>1</sup>," the project aims to inform university students about the reality of this form of human rights violations in the country and orient them about the available international mechanisms and domestic laws and policies that protect individuals from enforced disappearances and extrajudicial killings.

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<sup>1</sup> To die because of thee.



Adamson University



Angeles University



San Agustin University



St. Paul University



Silliman University



St. Thomas Aquinas College



Western Philippine University (Aborlan Campus)



Western Philippine University (Busuanga Campus)



Western Philippine University (Culion Campus)



Western Philippine University (Culion Campus)



University of Baguio



University of the Cordilleras



Laguna Bel-Air School

**Together with the AHRC, AFAD visits 10 universities. In Luzon: Angeles University (Pampanga); Adamson University (Manila) and Western Philippine University (Palawan - Aborlan, Busuanga, Culion, and Puerto Prinsesa Campuses). In the Visayas: San Augustin University (Iloilo City); St. Paul University (Dumaguete City), Silliman University (Dumaguete City); and St. Thomas Aquinas College (Sogod, Leyte). The team prioritized areas where enforced disappearances and extrajudicial killings are prevalent.**

**Apart from the joint efforts of these institutions, AFAD also takes the effort to organize its own roadshows in the University of Baguio, University of the Cordilleras (Baguio City), and Bel-Air School (Laguna). It is part of AFAD's mission to educate the younger generation to build a sustainable line of defense against human rights violations, as it strives to work for a *WORLD WITHOUT DESAPARECIDOS*.**

## Trekking Latin American Terrains in the Pursuit of Truth and Justice...

by Mary Aileen D. Bacalso

### *The Asian-Latin American Cooperation on the Phenomenon of Enforced Disappearances*

"El pueblo, unido, jamás, será vencido!" is the slogan which we, in the Philippines, repeatedly chanted when we invited representatives from the *Asociación Pro Búsqueda de Ninas y Ninos Desaparecidos* of El Salvador and the *H.I.J.O.S.* of Argentina respectively to the 1997 commemoration of the International Week of the Disappeared by the Families of Victims of Involuntary Disappearance (FIND). From the inspiration of the Latin American families' establishment of the Latin American Federation of Associations of Relatives of Disappeared-Detainees (FEDEFAM), the Asian Federation Against Involuntary Disappearances (AFAD) was born and has now become the only regional federation in Asia which has united in one common direction eleven member-organizations working directly on enforced disappearances. Its solidarity has made a difference in the lives of the families of the disappeared.

The cooperation between the AFAD and the FEDEFAM has flourished and grown during the last twelve years through their mutual support at the United Nations during and beyond the drafting process of the UN Convention for the Protection of All Persons from Enforced Disappearance (The Convention) and recently in various Asian countries in the campaign for the signing and ratification of the said Convention.

One of the recent manifestations of cooperation was the First Asian Conference on Psychosocial Work for the Search of Enforced Disappeared Persons in Exhumation Processes and the Struggle for Truth and Justice. It was convened on 8-11 November 2009 in Manila, Philippines through the AFAD's cooperation with the *Equipo de Estudios Comunitarios y Acción Psicosocial (ECAP)* and GEZA.

This conference was part of the preparations for the Second World Conference on Psychosocial Work in Enforced Disappearance and Exhumation, Justice and Truth Processes held in Bogota, Colombia on 21-23 April 2010. During which, this author was invited to speak on challenges for lobbying on the Minimum Principles and Standards for Psychosocial Work in Cases of Enforced Disappearance, Arbitrary and Extrajudicial Executions and Forensic Investigations on Serious Human Rights Violations and on the Philippine organizations' responses to enforced disappearances in the country.

With an atmosphere of impunity looming in

1 Its English translation: "The people, united shall never be defeated!"



The 60-meter and 40-centimeter grave of La Verbena is a testimony to the genocide of 200,000 people during the war in Guatemala.

almost, if not all Asian countries where disappearances prevail, these activities serve as a foundation for the continuing struggle to search for the truth, to obtain justice and redress and to reconstruct the historical memory. It is important to take into consideration the empowerment of families of the disappeared, who have to muster their inner resources which they might not have recognized because of the impact of the loss.

The wealth of experience in Latin America in searching for the disappeared and in prosecuting the perpetrators is worth imitating, notwithstanding that Latin America and Asia have different social and political contexts.

After all, as the mothers and grandmothers of Argentina always assured their Asian counterpart, "*estamos en el mismo dolor, en la misma lucha, en la misma esperanza y en la misma victoria.*"<sup>2</sup>

### *Trekking Latin American Terrains*

From the Southern Cone, this author was also invited by *ECAP* for a 16-day interchange of experience in Guatemala from 23 April - 8 May 2010. She revisited the war-ravaged *República de Guatemala*. A small country of 108,890 km<sup>2</sup> (42,043 mi<sup>2</sup>) with an estimated population of 13,276,517, Guatemala has 45,000 *desaparecidos* and approximately 200,000 assassinated. This occurred in the context of the longest civil war in Latin American history, running from 1960-1996 due to land conflicts resulting in an armed conflict between the guerilla movements and the Guatemalan military.

2 "We are one in the same pain, in the same struggle, in the same hope and in the same victory."

## ***The Use of Forensic Science as a Foundation for Truth and Justice***

Arriving Guatemala City on 25 April from the 6-hour flight from Colombia, the author took a day off to prepare for the half-month exposure.

Immediately, at the start of the long week, she was quickly introduced to *ECAP* by her host, Mr. Franc Kernjak and led to the Office of the *Fundación de Antropología Forense de Guatemala*<sup>3</sup>, a non-governmental autonomous, technical-scientific, non-profit organization that contributes to the strengthening of the justice system. The foundation aims to respect human rights through the investigation, documentation, dissemination, education and awareness raising on human rights violations and cases of non-clarified deaths<sup>4</sup>.

The Assistant Director, Jose Suasnavar explained that the foundation was established in 1992 as a response to the request of victims of the armed conflict. It aims to know the magnitude of the massacres and to find the remains of the victims. This Guatemalan foundation was the third forensic team formed in Latin America after the establishment of the Argentine and the Chilean forensic anthropology teams. After the dictatorship, it began its work.

The use of forensic anthropology is an integral part of the search for justice. It is the anthropologists' function to help the fiscal in the investigation and seeks to establish the cause of the death and the identity of the disappeared persons. It aims to identify the remains and the cause of death. The families' testimonies are crucial. They are witnesses to the whole process of forensic investigation, which goes beyond identification of skeletal remains and their return to their families for reburial. The process continues up to criminal investigation of the perpetrators to obtain truth and justice. In all these, 93 percent of the victims underwent a process of psycho-social support to prevent re-traumatization and facilitate empowerment.

The Foundation showed its DNA<sup>5</sup> laboratory, where the anthropologists very ably explained its 99.99 percent accuracy. It also presented the process of identifying skeletal remains which were in the process of identification and eventual return to their families.

The visit was informative not only in terms of the scientific value of forensic science but also indicating the horrible effects of war. How victims and

<sup>3</sup> Guatemalan Forensic Anthropology Foundation

<sup>4</sup> Source: <http://www.fafg.com>

<sup>5</sup> Deoxyribonucleic acid or DNA is a nucleic acid that contains the genetic instructions used in the development and functioning of all known living organisms (with the exception of RNA viruses). The main role of DNA molecules is the long-term storage of information. DNA is often compared to a set of blueprints, like recipe or a code, since it contains the instructions needed to construct other components of cells, such as proteins and RNA molecules. The DNA segments that carry this genetic information are called genes, but other DNA sequences have structural purposes, or are involved in regulating the use of this genetic information. Accessed from [www.wikipedia.org](http://www.wikipedia.org) on 28 February 2011.



**An epitaph of Fr. Conrado de la Cruz and his sacristan can be found near the capital's Roman Catholic Cathedral.**

perpetrators can live in the same communities without reconciliation because justice has not been served was elucidated based on the anthropologists' integration with the people in the communities. To simply illustrate an example of painful post war realities, a victim pleading to a perpetrator to turn on the water could be very revolting.

The long day ended with a mass at the Guatemalan Cathedral commemorating the anniversary of the brutal murder of Bishop Juan Gerardi, 75, beaten to death in the garage of the rectory where he lived just two days after a commission he headed released a report documenting 55,000 human rights violations during Guatemala's civil war, most of which were committed by the army.

Little did this author know that near the Cathedral, engraved are names of Fr. Conrado de la Cruz, CICM and Herlindo Cifuentes Castillo who disappeared on 1 May 1980 in that particular place. Fr. de la Cruz, a Filipino priest, disappeared with his sacristan in Guatemala 30 years ago. They have never been found.

### ***Finding Skeletons Inside the Closet as an Integral Part of Forensic Science***

*Mi Nombre no Es XX*<sup>6</sup> is a campaign calling on all Guatemalans who have loved ones who disappeared to give blood and saliva samples to be matched with skeletal remains. With an education drive at the community level, indigenous peoples who, by their culture, cannot easily give a part of themselves as samples for DNA tests, are being encouraged to give blood and saliva samples leading to the identification of skeletal remains because of their very accuracy as means of identification. The process has not always been smooth and necessitates patience especially on the part of the families who may have to wait for a long time before results can be known.

Making the visit to the Foundation more concrete was a follow up visit, this time in the cemetery

<sup>6</sup> "My name is not XX."

of La Verbena . The entrance to the cemetery of La Verbena sported a big streamer that states: “*Con tu muestra de ADN es posible identificar a tu familiar desaparecido durante el Conflicto Armado Interno. La toma de muestra es gratis y confidencial.*”<sup>7</sup>

A lady anthropologist explained the campaign and showed a mass grave with a depth of 60 meters and 40 centimeters. The forensic people had already discovered 3,177 remains buried during various periods of the war in that same grave. Some of them had identification cards. Others brought rosaries. Some still had personal effects on them. Others were tortured and died slow deaths while many were shot dead with bullets remaining in their skeletons and a significant number may have just died of hunger. Several women were allegedly raped.

I was encouraged by the anthropologist to enter into the grave. I did not think that I could do it. But I did. Deep down into the grave, I personally witnessed the continuous digging and saw the broken bones of people who most certainly had names, lives to live and families to love and cherish, but were mercilessly murdered in the name of national security.

#### **MEETINGS WITH CIVIL SOCIETY ORGANIZATIONS**

Civil society organizations in Guatemala are very much alive. Not bereft of internal dynamics, they are not necessarily homogenous. Despite their diversity, the work of each one contributes to that of the others.

#### **Liga Guatemalteca de Higiene Mental**

The *Liga Guatemalteca de Higiene Mental* is an eleven-year old organization that searches for disappeared children during the war. It found 300 children in different countries whose identities had been changed. With the search for these children, the organization is facilitating their reunification with their biological parents. For more than a decade, the organization, in its contribution to the construction of peace, has struggled against forgetting and has overcome silence.

It was an honor to have met with the local organizers who took charge of taking care of families of victims. So kind was the *Liga* that it organized a press conference for this author to present the Asian phenomenon of enforced disappearances and her federation’s solidarity with the Guatemalan organizations. Moreover, it bestowed a plaque of appreciation to her for her global work against disappearances.

#### **FAMDEGUA**

*FAMDEGUA*, a group of women family members of the disappeared, started organizing themselves in 1984. Two women in the office told me a story of an incident in December of 1982 when the army was looking for arms, but found nothing. They took men, women and children to a school where all the adults were killed and the children left alive.

*“We were looking for survivors. We found a soldier, who was five years old then when the massacre occurred. His mother was killed. He was white-skinned, with clear eyes. We found witnesses who told the names of 17 military men. This guy, a survivor of the massacre, was put in the army service. We did everything to advise him to leave the army and the country. He saw the killing of his 6 brothers. Some said that a five-year old child cannot remember what happened. But he vividly remembered what happened during the war. Fortunately, the judge took the testimony.*”

*We had to present the case to the Inter-American Commission of Human Rights. The investigation was very exhaustive. The sentence was very good, i.e. to exhume the victims’ remains and have them identified by DNA. There is an investigation, judgment and punishment for the perpetrators. On 9 February, they captured the two perpetrators. We have small steps and these are our sources of hope.”*



<sup>7</sup> With your DNA sample, it is possible to identify your family member who disappeared during the Internal Armed Conflict. Taking your sample is free and confidential.

**Victims of the massacre in Guatemala’s interior have lived to tell their stories.**

### Grupo de Apoyo Motuo (GAM)

I have known *GAM* since 1997, during the 14<sup>th</sup> Congress of *FEDEFAM* held in Mexico City in November 1997 and its succeeding Congresses, one of which it hosted in 2003.

The *GAM* started in 1989. Its tasks include, among others, making the armed forces accountable for the 440 massacres during the period. It was then that *GAM* shared the case of Fr. de la Cruz, whose details were provided to me so that I could facilitate coordination between the priest's family in the Philippines and the *GAM*. The case is still open as one of the 102 cases of disappearances filed in court.

*GAM* is organizing and training 42,000 families from 381 communities and 18 departments. It focuses on accompaniment program for victims, e.g. psychosocial rehabilitation; establishment of new members from women and the youth and legal work. *GAM* also facilitates socio-economic projects. Another aspect of the work focuses on gender, particularly on victims of sexual violence.

The *GAM* shared that in its integration with the Mayans, the latter invoke their gods and give thanks to the land, the heavens, the sun and ask mother earth to exhume and rebury their dead. The Mayans do not believe that the disappeared are dead.

### ECAP

The six years of war was the inspiration for the program, *Diplomada Salud Mental Comunitaria*. 2002 was the first promotion of the *diplomado*. So far, 151 men and women have graduated.

One lady beneficiary shared how the program has helped her.

*"It helped me a lot. We realize that we also have the right to live in peace. We had no opportunity to go to school because our parents did not bring us to school. It is important to help other people. My community work is important. I am a midwife. I have the opportunity to practice my profession with couples. To give counsel to the couples, especially the women is important and gratifying. I thank God because He is the only one who gives us life. I thank ECAP. What is important is that in the diplomado, there are persons from different places, with different customs. You learn to trust other people."*



These are part of the 80 million files of the Guatemalan National Police.

A *diplomado* instructor shared:

*"We discovered that dreams are bridges of the one that disappeared. We had success with women who do not have the remains of their husbands. It was a way of communicating with the dead. It is important to work within the spaces and time that these persons have. In the dream, was the person dead or alive? One part of us says that our disappeared are alive. Another part says that they are dead. It is a symbol of the connection between death and life. The disappeared people do not have to have a body in order for you to communicate with them."*

The *ECAP* also arranged my visit to Rabinal, where I was humbled by the organizing work of the local team. Fernando, Erlinda Corazon, Fabian, Eduardo, Diego, Fabian, Manuel Roman – each of them contributes in carrying out the three projects of the organization, e.g. accompaniment in the exhumation process; accompaniment to torture victims and torture prevention; strengthening of the community.

The visit brought me to various graves and memorials of massacre victims where names of heroes and martyrs are engraved. What was striking is the Catholicism of many and the emergence of other religions, thus, further driving a wedge to an already divided population.

Victims shared the horrors of the massacres and their consequences, the absence of truth and justice and the strong resolve to obtain them. A late night meeting with Jesus Tecu, who was only ten years old during the Rio Negro massacre on 13 March 1982, told the story of sufferings, of pain and of tears. This author read his book, *Memoria de las Masacres de Rio Negro: Recuerdo de mis Padres y Memoria Para Mis*

*Hijos*<sup>8</sup>." He witnessed the killings of men and women in Rio Negro, including those of his own immediate family. In vain, he pleaded for his two-year old brother's life. He began to conduct legal proceedings to have the mass grave of Rio Grande exhumed, leading to the prosecution of three of the perpetrators.

### ***The Archives – A Strong Evidence of the Truth***

Mr. Alberto Fuentes, who shared the work on the archives of the Police in Guatemala, toured me through the voluminous files which are concrete evidence to the genocide of 200,000 people. He affirmed that the police was one of the institutions that executed people. Thus, it was important to investigate the human rights violations it committed through access to its archives.

The government denied that the archives existed. The person who made the inspection saw many documents. He entered a door and asked for these documents. The lady affirmatively answered that the documents belonged to the national police. The archives are huge, containing 80 million files.

The archives are being digitized, but because of their huge volume, only 10 million files have thus far been digitized during the last five years by 150 persons. The archives are facing the risk of a lack of security for the documentation; the danger of being destroyed by water during rainy days and the darkness of the building. There is a process to get rid of rats and insects that could also destroy the documents.

In the documentation, there is evidence on how the army worked and cooperated with the police. The anti-insurgency operations and intelligence work are obvious in the documents. They put the remains in the cemeteries which people called, XX. In those detailed reports, there are signs of torture, mutilations, strangulation, sexual violence, but this information has disappeared. The reports state that the common cause of death was cardiac arrest.

The following are four important lines of work on the archives:

1. Recuperating the documents that are in bad condition;
2. Organizing the archived documents and arranging them alphabetically and numerically;
3. Determining sources of information;
4. Developing a macro investigation in trying to determine the persons who perpetrated the act, the chain of command and the changes in the structures.

### ***Revisiting El Salvador***

<sup>8</sup> Memory of the Massacres of Rio Negro, In Memory of My Parents and Memory for My Children.

El Salvador is a three-hour ride by car from Guatemala. Together with an *ECAP* team of lady psychologists, the author revisited nearby El Salvador. Revisiting Fr. Jon Cortina's parish, now a museum in Guarjila, Chalatenango was part of the journey. Fr. Cortina, S.J. facilitated the cooperation between AFAD and FEDEFAM in 1997.

It was also an opportunity to visit the Universidad Centro Americana (UCA) where 6 Jesuits and their two lady helpers were massacred by members of the Salvadorean Armed Forces. In was also in their common grave in the UCA chapel that Fr. Jon's remains were buried.

The visit allowed the renewal of ties between AFAD and the Asociación Pro Búsqueda de Niñas y Niños Desaparecidos.

### ***And tears and blood have been turned into courage...***

For every drop of blood, a victory in the name of truth and justice...Our Latin American sisters and brothers found many disappeared children. They work for prosecution of perpetrators. In the process, they are constructing genuine and lasting peace.

Trekking bloody terrains of these Latin American countries, I salute our Latin American sisters and brothers for their courage, their persistence and determination to ferret out the truth and to pursue the struggle for justice at all costs.

These are sources of inspiration to us here in Asia as we envision a world without *desaparecidos*.

*"Venceremos!"<sup>9</sup>*



<sup>9</sup> "We shall overcome."

Mary Aileen Diez-Bacalso is currently the Secretary-General of the AFAD. She has been recently elected as the new focal person of the International Coalition Against Enforced Disappearances. One of her outstanding contributions to the fight against impunity was her active participation in the three-year drafting and negotiation process of the UN Convention for the Protection of All Persons from Enforced Disappearance in Geneva, Switzerland from 2003-2005. She has also been nominated by the Government of the Philippines as independent observer for the Peace Process between the Government of the Philippines and the National Democratic Front.

# Ciudad Juarez, Mexico: Laboratory of the Future

by Peter C. Hinde, O.Carm.

Family and friends of Nubia Valencia Rodriguez and two other women friends of *Casas Grandes* were disappeared on 18 August. In broad daylight, the three went for a drive in the immediate area of this small town just outside Juarez. Three of thousands, they have not been heard of since.

## Background

Forced disappearances in Mexico escalated in 1968 when the army and paramilitary slaughtered scores of people in a student protest at the heart of Mexico City, their bodies trucked to some destination and never revealed. Some were captured alive and disappeared. In 1972, another military operation captured and disappeared people accused of belonging to an armed insurgency.

Rosario Ibarra de Piedra's son was taken in this latter operation. In response, she founded **Eureka** as a movement of families of some five hundred people to protest disappearances. Since then, such disappearances were of scattered instances through the years, but without any government response to those registered with Eureka. Private investigations have identified the commanders and government officials in charge of those operations. With overwhelming evidence, ex-President Luis Echeverria was charged and tried in 2006, but ironically, charges were dismissed for "lack of evidence."

In 1994, Esther Chavez Cano, owner of a women's apparel business, began to take notice of the killings and disappearances of young women in Juarez. She wrote a column in the principal daily, *El Diario de Juarez*, to denounce these crimes. By 1999, she had sold her business and opened *Casa Amiga* to register such crimes against women. She hired a lawyer and psychologists to assist victims of abuse and families in search of loved ones. *Casa Amiga* became an effective institution.

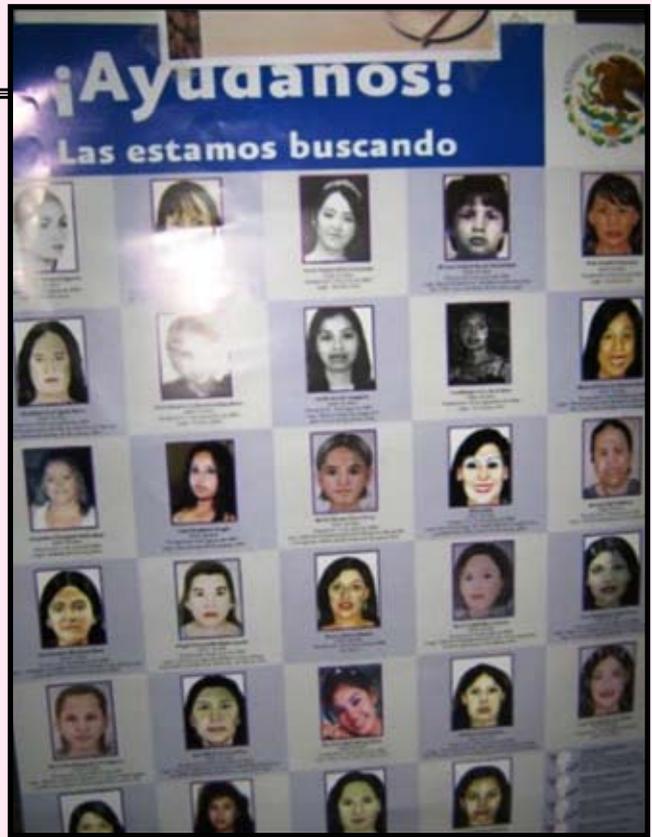
Several movements were started by families of the disappeared. Early on, *Sra. Judith Galarza* of Juarez, whose sister had been disappeared, initiated a group. After a few years, she headed a group in the Federal District that related to the Latin American Federation of Associations of Relatives of Disappeared-Detainees (*FEDEFAM*). From 2001, Judith has headed up *FEDEFAM* from Caracas, Venezuela.

The challenge to the government by *Casa Amiga* and these other organizations in Juarez to find, arrest and punish the culprits was met with indifference and at times cynicism. Support through the 1990s grew in Mexico and in border cities in the USA with demonstrations of a size that forced media attention. It was the disappearance of men that first drew international attention.





Esther Chavez Cano, founder of *Casa Amiga*, answers questions from the audience about the Juarez murders. (© www.amnestysd.org)



"Help us. We are looking for them." (© www.youoffend-meyouoffendmyfamily.com)

**“We have much work left to do, the road ahead is long and hard. There will come a time when my voice becomes silent so that new voices can be heard to carry on the struggle for the rights of women, which, as I have said, is also for the rights of men, because it is the struggle for a more just and democratic society for all.”**

### Esther Chavez Cano, 9 November 2007

Jaime Hervella, a business consultant in El Paso, searched for his godson and wife who disappeared in Juarez in 1994. In time, Hervella discovered other families in Juarez on the same search. In 1997, he organized a press conference in El Paso with some 60 people from Juarez and a reporter from the New York Times. That meeting revealed that 55 men, a number soon set at 189, had been disappeared in Juarez, and thus, was born the Association of Families of Men Disappeared in Juarez. Over the years, with publicity, Hervella forced a succession of inspection teams from the Federal government to come to Juarez, but each proved fruitless. Families grew tired of the interminable run-around by officials of government, but continued to educate the public and use the media.

However, the government of Japan expressed to the government of Mexico its alarm at the news in the front page article in the New York Times. They

feared for the managers of their maquila industries in Tijuana at the US border. As the case of disappeared men hit the international news, the situation of the women in Juarez did also.

Moreover, Laura Bonaparte of the *Madres de Plaza de Mayo* of Argentina visited the families in Juarez to stress with them the need to go to Amnesty International, to her own *Madres de Plaza de Mayo*, and the Organization of American States (OAS) Human Rights Commission in Costa Rica to garner international legal support. The killing of women in Juarez was an atrocious crime that, to date, has reached over 1000 and the number of disappearances is calculated in the thousands. Men were being killed at eight and ten times the number of women.

The number of killings due to the incipient drug war in the 1990s was another factor to reckon. By the year 2000, the government’s failure to solve these

crimes convinced many that there was complicity from within the government. So often, the army or the federal police stood by while Narco gunmen shot down supposed opponents and many innocent civilians. The lack of prosecution of crimes created a situation of impunity and an invitation for anyone with criminal intent.

The downturn of the US economy in 2007-2008 resulted in sudden unemployment in Mexico. In the meantime, Juarez had become not only a point of crossing drugs to the US, but of drug consumption, an additional prize for the drug gangs. Extortion and kidnapping for ransom have now become common. The killing escalated this summer to 300 per month.

**Confusion Reigns... Government Inept, Officials Complicit... "Forced" Disappearances?**

It is a question of whether or not the disappearance of Nubia Valencia could be registered as a "forced disappearance." The current drug war has occasioned many to be disappeared by the several cartels vying for control of drug routes. If the person recovers their liberty, they are silent about their captors for fear of reprisals. "Narcos" have bought the collaboration of officials of government at every level. When kidnapping is done by officials of government in collusion with a cartel, the threat is double.

The result is that much confusion reigns, as in this case of Nubia Valencia, as to what agency is responsible for her disappearance. In recent years, there are many cases of government agents or "narcos" clearly identified, for kidnappings are done



Mothers and relatives of women reportedly murdered or missing show pictures of victims during a press conference in 2004 in Ciudad Juarez, Mexico, near the U.S. border. (© Jorge Uzon AFP/Getty Images)

by the army, narcos, police and paramilitary. An army patrol entered a house to take two young men. They terrorized the other members of the family and in broad daylight, led the two to a vehicle with other soldiers. Their tortured bodies were found three days later outside the city.

In March 2008, when President Calderon sent a detachment of 2,000 soldiers, the mayor of Juarez ceded authority for security to the General. The police, under the authority of the army command, was purged: 300 of 1,500 police were dismissed and new recruits trained. In Tijuana, in Baja California, the whole police force was replaced. Of course, the police, now unemployed, feed the ranks of the "narcos." The "narcos" now have cadres better trained than the army and have equivalent weaponry. Fed intelligence about army moves, they can choose their time and place for ambushes.



Pink Crosses are seen dotting the surrounding areas of Ciudad Juarez, representing all the fallen women. (© Rocco Rorandelli)

At the turn of the century in the state of Tamaulipas, the Gulf Cartel managed to attract almost a whole company of soldiers, many trained as Special Forces in the U.S, with wages many times better than what they received in the army. Named the Zetas, they grew to such strength both in number and weaponry that some years later, they split from the Gulf Cartel to form their own and then terrorize the whole of the state of Taumalipas and the neighboring state of Nuevo Leon as they attack their former allies, police, and the army. They exercise violent influence in many other states along the drugs routes.

Since 2008, extortion for protection money has become common all along the border. The same is also true for kidnapping for ransom. If the money is not given, the business will be attacked or a relative killed or kidnapped. This year, the calculation is that there are 200 kidnappings a month in the one state of Tamaulipas. Many business and medical doctors have shut down their business or clinics and moved over to the US side. Just in Juarez, the estimates range from 60,000 to 100,000. Others flee the city to the south back into the interior of Mexico. The official population of 1.3 million has been reduced to one million over the past three years.

### Laboratory of Our Future

The financial melt-down in the US immediately affected the *maquila* industries in Juarez with 90,000 jobs lost in that year. In that sector of Juarez, where the larger *maquila* industries are located, only one killing has been reported. 60% of the industry seemingly keeps operating normally. Even with the escalating violence, over the last year, there has been a slight recovery in the industry. The capitalist logic of seeking out cheap labor continues to operate, the depression an excuse to keep wages even lower.

Even though the crime occurs in broad daylight and in public places, there are no witnesses. Nobody sees anything. Everyone fears reprisals. For journalists and editors in many smaller towns in the north, it is impossible to publish news of the violence. One editor said that it is even dangerous to know. You have to pretend that you know nothing, otherwise, you are in danger. Ten journalists or media people have been killed just this year.

Curiously, after the detachment of soldiers arrived in Juarez in 2008, the killings increased that year to four times the previous year, then to the unheard of 1,608 in 2008. In 2009, President Calderon sent another 5,000 troops plus 2,000 Federal police and the killing increased to 2,700. In the year 2010, it is set to surpass that figure (by years end 3,111). In the month of August, it reached 336. Despite or because of the presence of army and Federal Police, impunity reigns.

Recently, there have been many cases of disappeared people who were politically active in opposition to the government in states like, Oaxaca, Guerrero, Chiapas where military repression of popular movements was done at the orders of the governors. In Juarez, the heavily migrant population is fragmented and difficult to organize. There is no significant popular movement here in Juarez.

Efforts to organize movements to demand investigation, apprehension of criminals have not been

absent, but with little result. The present neo-liberal economy with its "race-to-the bottom" for ever lower wages has created the present day Juarez. The so-called Free Trade Agreements have impoverished Mexico's working class and made education and health service a luxury. Forty percent of youth from 13 to 20 are neither studying nor employed, an ideal recruitment base for the drug cartels.

We are forced to ask if the title of a photo-journalist's book published in 2000 is prophetic. The story Charles Bowden depicts shows the poverty of Juarez, the dead bodies in the streets or in the outskirts desert. It does not and cannot show the disappeared. He points to a future for any economy based on the neoliberal model.

At the moment when the eyes of the world are focused here, "**Juarez, the Laboratory of Our Future,**" is a title that is a warning for the world.



Ten of the 40 members of Tabor Community meeting in San Antonio, Texas in 1993: 3 from Argentina, 3 from Peru and 4 from the USA. In center Patricio Rice flanked by Peter and Laura Bonaparte of the *Madres de Plaza de Mayo*, Betty center bottom. (© Fr. Peter Hinde)

Peter C. Hinde, priest of the Carmelite Order, following missionary work in Peru, in 1973 with Mercy Sister Betty Campbell founded Tabor House Community in Washington, D.C. to do reverse mission to the US and solidarity work with Latin America. As close friends of Patricio Rice when Patricio belonged to the Tabor Community (1978-79), they developed special concern for the detained-disappeared. They continue the same work for the past 15 years in Ciudad Juarez.



# Unsilenced

## a REVIEW

by Alan Harmer

### ***The Evening of 14 October 2000***

It was a happy festive evening, gay with songs and laughter. The small village of Sta. Maria was celebrating its annual fiesta. The central square was alive with the lights and sounds of games, pop music, amusement stands and side shows. Delicious smells of aromatic spices and fresh fried pork wafted into the night air. Everyone was outside enjoying themselves.

### ***14 October 2000 - An evening that some people will have engraved in their memory forever...***

Sta. Maria is a small community located in the Trento province along the Pan Philippine highway, that majestic road that cuts its way north-south across the whole island of Mindanao, in the south of the Philippines. In the middle of the island, in Trento, the road runs through lush tropical forest passing the beautiful Agusan marsh wild life sanctuary. It is a remote region, a relatively poor area, and lack of reliable water supplies often spreads disease among the indigenous population. The main employer in the region, apart from the local agriculture is the logging operation, PICOP (the American-owned, Paper Industries Cooperation of the Philippines) with 2,000 employees in the area. Their logging lorries are to be seen frequently, rumbling along the main highway, taking their precious load of tree trunks down to the factory for processing. Adjoining the village of Sta. Maria is an army camp, which houses part of the 62<sup>nd</sup> Infantry Battalion. There is often agitation with the NPA, the New People's Army, and only two weeks

earlier, the battalion commander, Colonel Velasco, had been ambushed and killed by NPA<sup>1</sup> militia from Talacogon, 6 villages away.

In the village square, the crowd was becoming denser by the minute. Sporting a gleaming white shirt and with his hair especially spruced up for the evening, Crispin Barot was out looking for his six friends, Romualdo, Jovencio, Arnold, Joseph, Diosdado and Artemio. A young man of 18 years old, Crispin lived in Sta Maria and worked for PICOP. Through working in the logging company, he had met these close friends, who came from the neighboring town of Bunawan.

There they were in the crowd! They greeted one another happily. Laughing and joking together, they moved out of the village square and drifted slowly down the road to Jumapoy Joint, a favorite meeting place. The crowded videoke bar was packed to bursting, almost impossible to enter. They joined the crowd outside of more than fifty people, dancing and listening to the loud pop music beaming from the loudspeakers. Suddenly, a soldier in army uniform accosted Romualdo.

"You are a member of the NPA."

"I'm sorry I don't understand," said Romualdo.

"I recognize your face. You were involved in the killing of Colonel Velasco. Come with me."

"You must be mistaken," he said "I've got nothing to do with the NPA."

"He's not with the NPA," joined in his friends.

"He's from our village, we know him well."

1 The New People's Army (NPA) is the armed group of the Communist Party of the Philippines (CPP).



But the soldier produced a pistol, pointed it at Romualdo and pushed him out to the edge of the crowd. His friends followed. The soldier took him roughly by the arm and forced him down the road, frog-marched him with the pistol in his back. His five friends followed, protesting, "It's not him." Crispin went along behind. He was scared and hung back. Other soldiers, some in uniform, some armed, joined in and herded the six young men towards the army camp, only a short distance down the road. Crispin watched dismayed as his friends went through the main gates, uncertain what to do; just then his uncle pulled him away and told him not to venture into the army camp but to go home.

***Where did the young men disappear to?***

The following day, the young men had not returned to their village. Their families started wondering why they were not back home. Crispin recounted how they had been marched to the army camp and had been taken inside. Two people from the families, Artemio Ayala and Macaria Legare immediately went off to the camp to find out what had happened. They were not allowed in. Others members of the family went there, the mothers of the young men, in tears, but all were turned away roughly, or barred at the gate. Finally, six days later, a delegation of the



Numeria Orcullo recounts "I wanted to go and find my son but it was too far."

parents accompanied by the mayor of their village, the vice-mayor and a barangay captain went to the army camp requesting to speak to the commanding officer. They were allowed in but the army denied anything to do with the young men. The families were shown round the camp. There was no trace of their lost sons. Crispin Barot and the families of the missing men made written statements with the local police. The military continued to deny any involvement and all knowledge of the whereabouts of the young men.

This is the point at which most accounts about disappearances come to an abrupt end.

In not knowing what happens to the people who disappear;

In the blanket denial of the military, the police, and government officials to admit anything;

In the refusal of the authorities to investigate the case;

In the lack of witnesses because they are scared to come forward and disclose any information;

In the forgotten tragedies of the individual families;

In the terrible pain of the memories of those who are missing;

In the unresolved loss and grief...

This is normally where such tragic histories end.

***The Film, UNSILENCED***

The scene opens with the magnificent scenery of the Trento province, dense green forests, palm trees waving in the wind and the broad fast-running river. The ordinary life of the villagers, their simple routine, their attractive faces...



Numeria Orcullo says "It is a simple life here, we are a peaceful people."

The families go on to talk about their sons, and the work they did in the logging company. Then they hear the news, their disbelief that the young men are really missing, the panic and the fear.

Numeria Orculla recounts, after she was told her son was missing "I wanted to go and find him but it was too far. I am not familiar with that place."

Later on, with the other families desperately trying to trace the young men, "We searched for them on foot, day and night, for a week..."

She tried hard to gain access to the army camp. In tears, she describes her treatment at the ruthless hands of the army. Here, in a few simple images and a few simple words is the whole tragedy of disappearances.

### ***Seeking Justice***

There, the tragedy might have ended had it not been for FIND (Families of Victims of Involuntary Disappearance) who read about the incident in the local paper: Rose Deano from FIND visited the families of the young men. It needed several visits to gain their confidence, and to insist on the importance of action, and to reassure them that they would be helped in their cause. With the support of FIND, the families filed a court case against the army.

The initial hearing in the court was rejected.

However, four years later, an important witness emerged. Exequias Doyugan, an army sergeant, had witnessed at first hand the killing of the young men but had chosen to remain silent, afraid that he would be killed. At 41 years old, he had been in the army since 1988. He left in 2007. With encouragement from FIND, he resolved to speak out. The army discovered this, and

in August 2007, an envoy on behalf of the Captain of the 4<sup>th</sup> Infantry Battalion tried to persuade him to rejoin the army and offered him 200,000 pesos to remain silent. Doyugan decided, with strong backing from FIND, to tell the truth.

A court case was filed in the Regional Court at Prosperidad, Agusan del Sur, against Corporal Rodrigo Billones, the army soldier who had arrested Romualdo and brought him to the army camp. He was easily identified by Crispin Barot and others as the person initially responsible for abducting the young men.

In court, Doyugan, as key witness, said that on the night of the killings, the army camp was very quiet. Many of the soldiers had gone to the village fiesta. The commanding officer, Colonel Cabando, was away from the camp. Doyugan overheard a telephone conversation between the camp Senior Officer and Cabando telling him that they had found some possible members of the NPA. Cabando said that they should kill the suspects. The young men entered the camp, they were tied with rope and manhandled by a number of soldiers. One of the soldiers struck Arnolde on the head with an iron pipe. Three other soldiers joined in and together they beat the six young men to death. The soldiers dug graves at the back of the extension building and buried



**Artemio Ayala (Artemio's father)** "I live alone. He was the one who took care of me."



Arthur Danquiasan "Arnold, my brother, will be the one to support our parents."

the bodies. However, three days later, they dug them up and took them away in a Chevrolet service vehicle to a point along the road in Trento and burned the corpses there. Doyugan said that Billones had nothing to do with the killing, the digging up of the corpses and the burning.

The case was judged on 11 July 2008. Corporal Rodrigo Billones was convicted for unlawful arrest and illegal detention of the 6 men. He was sentenced to a maximum of 15 years imprisonment. The other army personnel, officers and soldiers in the crime are now being investigated.

### **The Victims**

The six men from Bunawan village, who disappeared, were:

- Romualdo Orcullo (27 years old)
- Arnold Dangquiasan (29 years old)
- Joseph Belar (31 years old)
- Diosdado Oliver (30 years old)
- Artemio Ayala (29 years old)
- Jovencio Legare (41 years old)

### **A Landmark Case**

Nilda Sevilla, Chairperson of FIND, says "The PICOP case is unique in the sense that it is a landmark victory in court with the conviction of the accused army corporal as accomplice to the crime of kidnapping and serious illegal detention of the six paper factory workers. But what is more important is the conviction of the principals, the military men and members of the 62<sup>nd</sup> infantry battalion. Now they have filed a case before the office of the prosecutor in Agusan for multiple murder, serious illegal detention, coercion and torture. These are existing crimes punishable under the Revised Penal Code."

"However not one of these crimes captures all the elements of enforced disappearance, especially the element of concealment, of the fate and whereabouts of the victim. So enforced disappearance is enforced disappearance; it is not kidnapping and illegal detention. **What is important is for the phenomenon of Enforced Disappearance to end.**"

### **The Need for Government Laws against Enforced Disappearances**

The documentary film is a joint production between FIND and AFAD. It is valuable in detailing the whole story of the PICOP case: the abduction of the six men, the disappearance, and the killing. It interviews the families of the disappeared. It recounts the actions of the families taken against the army and the resulting successful court case.

The main conclusion is that it is vital for the Philippine government to ratify the International Convention against Enforced Disappearance and to enact local laws to guarantee security for all their citizens and justice to eliminate Enforced Disappearances.

The film is available from the AFAD office, Rooms 310-311 Philippine Social Science Center, Commonwealth Ave., Diliman, Quezon City, Philippines and in the AFAD website: [www.afad-online.org](http://www.afad-online.org)



Alan Harmer is a human-rights supporter in Geneva. Over the last twelve years he has been host to members and friends from AFAD who come to participate in meetings at the United Nations.



"Let justice flow like a river that never runs dry."

# Bird's View in the Crows' Nest:

## a visit to Sri Lanka

by Darwin Mendiola

Crows are passerine or songbirds. They can communicate not only to their own kind but also to others. They also have a mystical nature. Different cultures usually associate a crow with death. Tale has it that when a person dies, a crow carries his or her soul to the land of the dead. But if the soul is disturbed, the crow can bring that soul back to put the wrong things right.

I got a chance to have a close encounter with this bird when I joined Ms. Mary Aileen Diez-Bacalso, the Secretary-General of the Asian Federation Against Involuntary Disappearances (AFAD) in a lobby visit to Sri Lanka from 25-30 October 2010. It was made possible through the invitation of the Families of the Disappeared (FOD), which is now one of the two newest member-organizations of AFAD.

As a regional human rights organization working on the issue of enforced disappearance, AFAD has been doing lobby visits to different Asian countries to get the support of Asian governments concretely by their signature and ratification of the International Convention for the Protection of All Persons from Enforced Disappearance (hereinafter referred to as The Convention) and to urge them to take necessary domestic measures that will address this global malady. This is in view of the fact that Asia is the continent which has the highest number of disappearances cases reported to the United Nations Working Group on Enforced Disappearance (UN WGEID).

To note, Sri Lanka is historically and politically important to the AFAD since one of its founding members, the Organization of Parents and Family

Members of the Disappeared (OPFMD) came from Sri Lanka. Moreover, the prevailing phenomenon of enforced disappearance in this part of the globe necessitates a regional response.

Before coming to Sri Lanka, my basic knowledge of the country's political situation was mainly in reference to the report of our international networks and local contacts in which my article in the May 2009 issue of *The Voice* entitled, **Sri Lanka: Human Rights Under Fire** was largely based. But what I know is just a tip of the iceberg and it is different when one personally witnesses the avalanche of social reality.

Sluggish and heavy-eyed and feeling like falling vegetables, we arrived in Sri Lanka after traveling almost 4,440 kilometers from the Philippines via Singapore for more than 12 hours. I just remembered how to breathe when we finally passed through the standard security check and immigration clearance. Stepping out of an airport always gives me an eerie sense of coming out from the coffin.

After going in and out of the airport looking for someone to fetch us, we finally met Mr. Brito Fernando, the enthusiastic president of the Families of the Disappeared (FOD) whom we happened to just pass by in the arrival area but did not recognize. After the exchanges of pleasantries, we immediately boarded a van that headed to the FOD office and then to our hotel. Too tired and sleepy to stick one's nose in the conversation, I just looked outside the window to enjoy the scenery. When the landscape dramatically changed from urban to pastoral view after traveling for hours, I started to appreciate why Sri Lanka was once called the

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Brito, Fr. Praveen and Fr. Beno during the meeting with families in Negombo.

island jewel of the Indian Ocean. I was fascinated when I spotted the flocks of black birds flying and squawking in the sky as if welcoming us. As I have learned from our host, house crows are so common in Sri Lanka that they are often ignored. Sri Lankan authorities have counted on them to help clear smelly garbage from the streets.

But by just looking at them, I began to see life as naturally free and simple. Suddenly, I remembered a poem that I have read a year ago from the internet about the Crow. It was written by Gerry Legister a black man from Yorkshire who saw the world from the eyes of the crow. It was the poem's insight that made me look at Sri Lanka from a bird's view.

*"With fascinating intelligence,  
these crows could be the harbinger of death.  
They did fly sublime in ancient meadows, to bring food  
stolen from the last breathe."*

***"Absolute power corrupts absolutely"<sup>1</sup>***

Mahinda Rajapaksa, championed the cause of the disappeared and other victims of other forms of human rights violations when he was still in the opposition. He spoke strongly against the atrocities committed by the government to its people in the parliament, in the streets and in international avenues. But when he rose to power, the promise of peace, political reforms and economic development vanished. Much to the public outrage, the Rajapaksa government is largely dominated by his family; two of his brothers hold key executive positions, as defense secretary and senior economic advisor to the president. It is the competition for political power that becomes a vicious struggle to grab public wealth.

***War is a cowardly escape.*** Instead of pursuing a peaceful resolution of war against the Tamil Tigers, Rajapaksa ordered the Sri Lankan army to intensify the military offensives in the Tamil controlled territories after the peace talks collapsed. The renewed military

<sup>1</sup> The phrase is borrowed from a letter dated April 1887 written by John Dalberg-Acton, 1<sup>st</sup> Baron to scholar and ecclesiastic, Mandel Creighton.

solution might have eventually ended the 26-year-long civil war between the Sri Lankan army and the Liberation Tigers of Tamil Eelam (LTTE), but it was the civilians who paid the highest price. Civilian casualties were reported to have reached nearly 10,000, with some 3,000 deaths and over 7,000 injuries during the period of military offensives. The warring parties were both attributed to gross violations of human rights and humanitarian law. Not only lives and pieces of property were senselessly destroyed by the war, it also forcibly displaced thousands of people from their homeland. Even after the war ended, people are made to suffer from lack means of subsistence and of rebuilding their homes.

***In war, truth is the first casualty.*** Human rights situation remained a major concern even after the armed conflict reached its conclusion. Extrajudicial executions and disappearances continue unabated while past atrocities were never investigated and perpetrators freely escaped from their accountabilities. Majority of the victims are Tamils who ironically constitute only 16 percent of the overall Sri Lankan population. While the government claimed to have an effective control over the military, human rights groups believed that paramilitary groups who are mostly responsible for serious human rights violations are closely linked with or working for the government.

*"When the prophet would not go home,  
by the river reconcile  
to his astonishment,  
crows arrived to his spiritual mourning,  
crows rant and herald the missionary scent."*

On our second day, we went to a resident camp within Negombo area to meet a group of families, mostly young Tamil mothers and wives from the northern part of Sri Lanka, e.g. Jaffna, Manna and Batticalao who were accompanied by two Catholic priests, Fr. Beno Alexander Silva, a parish priest from Jaffna and Fr. Praveen Mahesen, director of the Center for Peace and Reconciliation.

After briefly introducing ourselves and explaining to the families the purpose of our visit, speaking in Tamil and translating to English, Fr. Beno was telling the family that even if war made them all empty for losing their loved ones, it however brings them together as one people in God. He also said that it is very difficult to teach peace without justice and that justice and peace are everyone's mission. Those strong words were like keys that opened even an embattled heart. One by one, the family members started sharing their stories.

***War does not determine who is right but who is left.*** A 50-year old mother from Jaffna recounted the disappearance of her son on 11 September 2008 when unidentified armed men came to her house looking



A Tamil mother showing pictures of her disappeared loved ones during the public event in the Monument of the Disappeared.

for someone they did not know. But when armed men could not find the person, they took his son instead. The families immediately reported the incident to a nearby police station but the police told them to go and find their missing relative somewhere else.

A teary-eyed and desperate 30-year old wife and a mother of two children from Manna also related to us how her husband disappeared on 27 December 2006. She was told by a witness that her husband was seen riding a motorbike with a friend when they were stopped by military men on the road. Her husband did not return home that day and remains missing until now.

Another story of personal loss and grief was recounted to us by a 41-year old mother from Manna whose 15-year old daughter disappeared during the war on 19 May 2009. She told us that when the military started bombing their homeland, her daughter was injured by shelling and they were forced to leave their homes. They brought their daughter to a nearby hospital and left her to continue their way to the

refugee camp. After several days, they came back to the hospital only to find out that their daughter was no longer there. Witnesses told them that their daughter was brought in the army camp outside Manna. They searched for her but to no avail. Her husband is now sick and cannot anymore accompany her in the search for their missing daughter.

A 49-year old father also took his turn to tell us about the disappearance of his 19-year old son. He narrated that his son was forcibly taken by the LTTE in 2006 and recruited as a combatant. During the war, witnesses said that they saw his son in the hospital recuperating from a leg injury. But when they went to the hospital, the military did not permit them to see his injured son. After several days, they returned to the hospital and nurses told them that their son was already transferred by the military. Until now, they do not know where he is.

These are just few stories of tragedy indelibly marked in the pages of Sri Lanka's bloody history of war. Most of these stories have never been told, yet the pain and sufferings are already known.

*"They see the hunger of emptiness inside,  
and try to understand the bigger challenge,  
trying to hide with self consumed pity and pride.  
Crows don't ask for sympathy for being strange."*

**War is not just a story of suffering but also a tale of courage.** On the same day, we traveled for almost two hours from Negombo to Colombo to attend FOD's 20<sup>th</sup> annual commemoration together with Mr. Ewoud Plate of the Aim for Human Rights, The Netherlands, who just arrived that day to join us.

With the theme, **"Forced Disappearance is a crime against humanity. Let us not allow it to happen again,"** the event had drawn together more than 300 people coming from the diplomatic community, opposition parties of the Parliament, churches, civil society organizations, media and families of the disappeared both from the north and the south.

The FOD has been, for years, trying to rally all stakeholders to pressure the government to respect and protect human rights of the Sri Lankan people, both Sinhalese and Tamil. They believe that the government has an undeniable moral responsibility to stop the political violence that sows fear and undermining the rule of law in the country. The activity was meant to create a political consensus on this national issue and to come up with concrete actions to make it as an issue of conscience to all people.

Mr. Ewoud Plate was asked to present salient points of the Convention while Ms. Mary Aileen Bacalso was requested to discuss the phenomenon of



Etched in the faces of these women family members is the unfathomable pain as they hold their beloved *desaparecidos'* pictures.

enforced disappearances in Asia, the work of AFAD, the status of the Convention and the challenges to the Sri Lankan government and civil society.

Ms. Sindaya Ekanaliyagoda, wife of the disappeared journalist, Pregeeth Ekanaliyagoda abducted on 24 January 2010 was also there to speak about her husband's disappearance. She believed that what happened to her husband is an affront to the freedom of the press. She said that even members of the media are no longer safe and that anyone can be the next victim of enforced disappearance by those whose power and interests are threatened by people working for the truth.

Several speakers from members of the Parliament and civil society also expressed sympathy to and solidarity with the families of victims and committed their support for the UN Convention for the Protection of All Persons from Enforced Disappearance. They all agreed to take part in any actions that can make the government responsive to the cry of victims and their families for truth and justice.

The activity culminated with the signing of a pledge of commitment of the delegates, launching of FOD's newest publication and the candle lighting ceremony as tribute to all Sri Lankan *desaparecidos*.

***Moving on is not forgetting but living life in memory of the past.*** On the following day, we joined FOD in their commemoration of the National Day of Disappeared at the junction of Raddoluwa (Seeduwa), Western Province. Hundreds of people including relatives of the disappeared in Sri Lanka from the north and eastern provinces, gathered at the monument in memory of their sons, husbands and children. The memorial - a sculpture of a human figure

- was erected in 2000. Behind the statue, there is a wall where the families of the disappeared put flowers under the photos of their loved ones. The annual day of commemoration has become an occasion for many families from all parts of the country to gather and reflect on the problem of disappearances.

An ecumenical service led by a Buddhist monk, Catholic priest and Muslim *imam* was performed in order to implore God's presence and mercy upon the families by giving them courage to go beyond the pain of losing their loved ones and to continue their quest for justice.

Different speakers representing the government and civil society also paid tribute to the tens of thousands of disappeared Sri Lankans who, if ever they were killed, have neither date nor place of death, neither body to bury nor grave to light candles. They shared the same call to the current government to prevent the recurrence of enforced disappearances, clarify Sri Lanka's history of large-scale disappearances, and end impunity of those responsible for this horrendous crime against humanity. Speaking in Sinhala, Brito Fernando posed a challenge to the public, saying: *"It is an opportune moment for all us to open our eyes to the reality that surrounds us. Our society is battered by injustices. The phenomenon of continuing killings and disappearances is pushing us to stand up for the oppressed and the disappeared. So, I ask you all to hold hands and work together to achieve a just society that we all long for."*

We went back to Negombo after the commemoration activity to attend a meeting between civil society and the victims' families. Here, the sharing of stories continued. We showed our new documentary video *"Unsilenced."* Before presenting the video, I was

# TO FLY HIGH AND BATTLE THE WIND IS THE ONLY WAY TO CLEARLY SEE THE RISING SUN...

asked to discuss briefly its content. It is about the disappearance of six paper factory workers who were abducted at gunpoint on 14 October 2000 by members of the Philippine military and its landmark legal victory two years ago, in the conviction of one of its perpetrators as accessory for kidnapping and serious illegal detention. When the presentation ended, I saw tears in the eyes of the families. I realized that unspoken pain is better understood by the heart.

*"Where they nest and what they eat,  
Other birds watch silently in disbelief,  
The dark creature's lover of stale meat,  
Cherished the indifference of what is left."*

**Politics is nothing more than the continuation of war by other means.** On our third day, we had to travel again to Colombo to meet the leader of the opposition, Mr. Ranil Wickramasinghe who is the head of the United Nationalist Party (UNP). The UNP is allegedly responsible for the thousands of disappearances between the periods of 1987 to 1991 when the party was still in power. Since then, none of the succeeding administrations have taken steps to ensure that justice is rendered for past atrocities. After waiting for a couple of minutes, we were granted audience with this party leader who showed indifference to our appeal for the opposition to take on the pivotal role of convincing the government to support the UN Convention for the Protection of All Persons From Enforced Disappearance.

He simply ranted us with the typical litany of being supportive to the cause but the party could not do much as it only comprises the minority in the parliament. It was Brito Fernando who even suggested that the opposition uses its privilege motion to challenge the ruling party to table the issue through a resolution. The UNP leader simply agreed without showing any commitment. Our hope for winning more champions for the cause eroded as quickly as the meeting ended.

We went back to Negombo to have a meeting with the staff members of FOD to formally discuss the latter's membership application in AFAD and to explore future cooperation. With FOD as then incoming member of AFAD, we were reassured that something can be done to bring the issue of enforced disappearance into a national discourse.

*"Happily in the graveyard in no man's land,  
crows are found all over the world.  
Carrying the mantel of raven,  
dumpster dining where humans fear to tread."*

**There is great meaning in life for those who are willing to journey.** On our last day in Sri Lanka, Ewoud, Aileen and I decided to have a little break by going to a nearby beach which is about 5 -minute drive from our hotel riding a "tuk tuk", a tri-wheeler passenger bike. While taking some pictures, I suddenly sensed that there were eyes watching me. Following my instinct, I looked up and saw again the flock of crows flying and squawking in the sky as if conveying a message in the language of the unspoken word.

When we returned to our hotel to prepare our things, I was still dumbfounded. But reason told me that our senses are sometimes deceiving and that I should just shake my head to fasten some loose bolts.

Aileen and I left for Colombo in the afternoon to meet an old friend and former member of AFAD while Ewoud went with Brito to Kandy, the hill capital of Sri Lanka. After saying goodbyes and parting ways, I was still preoccupied with my mystic experience of encountering the crows.

After spending sometime in Colombo to buy *pasalubong* (presents), we went straight to the airport to catch our flight without realizing that we already missed it because our flight schedule was actually in the morning. Troubled and confused but driven by our impatience to go home, we decided to buy new tickets and make new flight arrangements.

Before walking back to the departure area, I once again saw the flock of crows flying and squawking in the sky as if saying goodbye. It was then that I finally grasped what they wanted to tell me all along: that our journey towards a peaceful, just and humane world is not yet over.

To fly high and battle the wind is the only way to clearly see the rising sun.



Darwin Mendiola is currently the Philippine Advocacy Project Coordinator of the AFAD. He has worked in various non-government organizations that engage the Philippine government in formulating and implementing policy reforms and institutional changes. Darwin is a former media liaison of the Laban ng Masa (Struggle of the Masses), a new Philippine Left Coalition under the leadership of ex-UP President, Dr. Francisco Nemenzo, Jr. As a former student leader in the Polytechnic University of the Philippines in the early 1990s, he remains an activist in his own right.

# RECLAIMING STOLEN LIVES:

## FORENSIC SCIENCES AND HUMAN RIGHTS INVESTIGATIONS CONFERENCE

by The Argentine Forensic Anthropology Team (*Equipo Argentino de Antropología Forense, EAAF*)

Puncak, Bogor, Indonesia, 7<sup>th</sup> – 10<sup>th</sup> June 2010

From 7-10 June 2010, the Argentine Forensic Anthropology Team (*EAAF*) and the Asian Federation Against Involuntary Disappearances (*AFAD*) hosted “Reclaiming Stolen Lives: Forensic Sciences and Human Rights Investigations Conference” in Puncak, Bogor, Indonesia. The conference brought together 35 forensic experts, human rights activists, and representatives of victims’ families associations from seven countries or regions: East Timor, India, Indonesia, Kashmir, Nepal, Philippines, and Thailand. Participants were also invited from Pakistan and Sri Lanka, but unable to attend due to difficulties in obtaining visas. Further, forensic experts from Latin America, Australia, and Europe attended to deliver lectures and provide input based on their experiences and regional perspectives. In total, 40 participants took part in the four-day conference. The objective of the conference was for

an open discussion about the different applications of forensic sciences to the investigation of human rights violations, as well to start a dialogue on mutual collaboration mechanisms for non-governmental human rights organizations and forensic practitioners from the South Asian and South East Asian regions.

The conference began with two days of training seminars on forensic sciences, with presentations by: Luis Fondebrider (*EAAF*) and Soren Blau (Victorian Institute of Forensic Medicine) on forensic anthropology and human identification; Carlos Vullo (*EAAF*) on forensic genetics; and Hans Petter Hougen (University of Copenhagen, Department of Forensic Medicine) on forensic pathology and documenting torture. These presentations were oriented to both the specialists and non-specialists



Asian forensic experts and NGO representatives gather together to lay down the foundation for truth and justice through the use of forensic science. (© *EAAF*)

in the audience, and discussed how NGOs and forensic experts could collaborate in investigations. They also covered the ethical and bioethical considerations in doing forensic work, especially when working with victims of torture, interacting with families of missing individuals, protecting confidentiality of DNA samples, and working with remains. All the presentations were followed by question & answer sessions, and the powerpoint presentations, as well as international protocols mentioned, were given to the participants in digital format.

During the third day, forensic experts and human rights activists presented on their own local contexts. In total, 15 presentations were given (7 from human rights NGOs, including a presentation by *AFAD* that covered a regional perspective, and 8 by forensic experts). Many of these presentations discussed local challenges faced in investigating human rights violations, and in applying forensic sciences to these investigations. Some common points included:

- *Judicial and Legal Systems:*
  - No country in the region has a civil law or strong legal code to explicitly prevent and criminalize forced disappearances.
  - The international treaty against enforced disappearances has not yet been ratified in any of the countries covered by the presentations.
  - Lack of acceptance of forensic evidence and expert testimony in courts, with a preference for witness testimonies, especially in some cases in relation to DNA.

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Forensic experts (t-b): Hans Peter Hougen, Soren Blau and Luis Fondebrider.



Hans Peter Hougen clearly explains his expertise on forensic pathology and documenting torture. (©EAAF)

- Impunity in human rights cases is still prevalent, aided by the lack of forensic evidence being used in courts.
- No legal resolution for families of disappeared persons, leading to “half widows”, inability by families to administer the inheritance, and children with obstacles to obtaining an education, among other concerns.
- *Investigations:*
  - Little political cooperation or support for forensic investigations of human rights cases, or in providing resources for a full forensic investigation.
  - Lack of awareness among the public about a person’s rights in regards to enforced disappearances, the possibility of a forensic investigation, or what forensic investigators can do.
  - Uneven coordination or communication between stakeholders (human rights NGOs, forensic experts, judicial or police investigators, and families of victims).
  - Data about missing persons have been collected, but are spread between various governmental and non-governmental organizations, and further, in some countries, total figures vary because of differing definitions of enforced disappearances, an absence of coordination and due to divisions among members of civil society.
  - Sometimes local forensic experts may submit conflicting or misrepresentative reports to court, undermining the contribution of forensic evidence.
- *Forensic Capacity:*
  - Not all forensic experts are willing to or familiar with human rights investigations, due to a variety of reasons like, lower pay, safety or health concerns, or little incentive to work in the public sector.
  - Those forensic experts willing to work on human rights cases are already overstretched.

- Lack of coordination regionally among forensic experts willing to work on human rights cases, either to share expertise or resources.
- The local academic or institutional base to train new forensic scientists is absent, only recently started, or not well supported.
- Need better laboratory facilities, or laboratory facilities devoted solely to forensic investigations and not shared with other agencies.
- *Exhumations:*
  - A lack of government policy about exhumations.
  - Cultural and religious differences within countries, including opposition to exhumations by either local population or administration.
  - When exhumations do take place, they may not have legal authorization, or families may do the exhumations themselves, without the involvement of forensic experts.

On the last day of the conference, participants held a roundtable discussion to talk about possible joint actions, recommendations, and collaborations that could help address these obstacles and increase capacity for forensic work, as well as increase forensic evidence’s application in judicial investigation. Several general recommendations and conclusions came out of this discussion. These points are drawn primarily from the last day of the conference, but were built out of discussions taking place throughout the week:

- Formation of a regional network of forensic experts willing to work on human rights cases, in order to share experiences, specialties, and case studies, as well as to collectively raise the standard of practice in the region.
- NGOs need to initiate investigations, meaning they must be familiar with the forensic sciences in general and how they are applied in investigations, in order to incorporate local or international forensic experts appropriately. NGOs are also often better situated to manage the political, legal, religious, and cultural contexts around specific investigations.



Angkhana Neelaphaijit and Triyarith Temahivong, a Thai forensic doctor, listen intently to the presentations with the idea of applying these to local situation. (© Rini Kusnadi)

- NGOs and victims' families association should be aware of local forensic capacity, and strategic in requesting assistance from international forensic experts.
- Forensic training should be provided specifically for lawyers, judges, and other governmental actors, in order to increase the acceptability of forensic evidence in courts, and thus improve the rule of law.
- The acceptance of forensic evidence in courts may also require a regional lobbying effort, involving NGOs, victims' families associations, and other stakeholders, not just forensic experts.
- NGOs, working with local forensic experts, can develop plans for collecting ante-mortem information or DNA samples, but also must take into account how this information will be used (and safeguarded) going forward.
- A regular meeting of forensic experts, human rights NGOs, and victims' families association, either locally or regionally, would increase coordination and communication.
- Legal authorization for exhumations should be sought when possible, but forensic experts, NGOs and victims' families need to consider carefully what their desires for an exhumation are, whether they want official identifications, are seeking cause of death, or other goals, and what are the limits and possibilities of operating if legal authorization is difficult or not possible.
- Training programs, in forensic practices, psychosocial support, and other topics, need to be tailored to the specific context, and to consider what training format may be most useful in moving forward.

Several concrete activities were discussed for the following year, involving collaboration between NGOs and forensic experts. The preliminary discussions for a network of Asian forensic experts willing to work on human rights cases and assist victims' families associations has since moved forward, and the association is tentatively named the **Asian Network of Forensics**. The network is still in its early stages, but an organizing committee is being formed to discuss membership and activities, and it appears that AFAD will provide organizational support when possible. The participants hoped such a network would contribute to strengthening the use of forensics in human rights cases in the region.

EAAF already considers the "Reclaiming Stolen Lives: Forensic Sciences and Human Rights Investigations Conference" a very successful first step in raising the level of regional communication and local capacity. EAAF has also planned a series of follow-up activities to reinforce the progress made at the conference. During 2010 and 2011, follow-up forensic assessment visits, by AFAD and EAAF, and forensic training visits, by EAAF and VIFM, will be made



A participant from Timor Leste presents the post-conflict human rights situation in his country and the imperative of forensic science.. (© EAAF)

to several of the countries participating in this conference. At the conference, EAAF was able to discuss with many country delegates the specific needs in their context, in order to anticipate how to tailor trainings or to plan possible collaborative investigations. Further, EAAF has already planned a 2011 follow-up meeting that will involve delegates reviewing the collaborative activities in their countries in the past year, an idea that was widely welcomed by participants, who also discussed possibilities of funding to expand the meeting from a smaller scale follow-up meeting to ideally a more general annual level.



The Argentine Forensic Anthropology Team (*Equipo Argentino de Antropología Forense, EAAF*) is a non-governmental, not-for-profit, scientific organization that applies forensic sciences - mainly forensic anthropology, archaeology, and genetics - to the investigation of human rights violations in Argentina and worldwide. EAAF was established in 1984 to investigate the cases of at least 9,000 disappeared people in Argentina under the military government that ruled from 1976-1983. Today, the team has worked in more than 40 countries in the Americas, Africa, Asia and Europe.

12 July 2010

## Dear bereaved family and friends of Patricio in Argentina and in the rest of the world,

For the Asian Federation Against Involuntary Disappearances (AFAD) which was established in 1999, we have known Patricio since 1999, during the 15th Congress of *FEDEFAM* in Mar del Plata, Argentina. During the first meeting with him both in Mar del Plata and in his nice home in Argentina, it seemed that

we had already known him from years back because he was one of the nicest persons we have ever met. Never did we know that the *FEDEFAM* Congress in Mar del Plata was only a start of more than a decade of meaningful and fruitful friendship and camaraderie that our Federation had the opportunity to share with him. In all these years, we were together in many countries: In Argentina (1999), Sri Lanka (1999); Switzerland (in many occasions till a few days before his death); Guatemala (2003); Croatia (2003); Benin (2003); Tanzania (2003); Philippines (2005 and 2007); The Netherlands (2005); France (2003 and 2007) Indonesia (2007); Colombia (2010), Washington D.C. (2009-1010).



On the eve of our 4<sup>th</sup> Congress held in Jakarta, Indonesia on 31 May – 5 June, Patricio was elected as the new Focal Point of the International Coalition Against Enforced Disappearances. He brought renewed hopes for the Coalition, whose principal mandate is to work for as many ratifications as possible to ensure the entry into force and universal implementation of the UN Convention for the Protection of All Persons from Enforced Disappearances.

We take this opportunity to fondly remember Patricio as a person, a friend, a comrade in this long-drawn struggle for a world without disappeared persons. Every time we met him, his warm greetings and beautiful smile always greeted us. Knowledgeable as he was, he could discuss human rights issues and various other topics under the sun. In intense discussions, he could be so transparent with his feelings but always maintaining composure. In a number of occasions, we called to his home at the middle of the night to request him to come to Asia and always, he tried his utmost best never to fail us - always taking into consideration the cheapest flight available, neither minding the distance nor the long hours of waiting at various airports.

For our Federation, Patricio contributed in no small measure to our development and growth as a Federation.

To recall, here in Asia, he was with us in Sri Lanka, during our infancy in 1999, he accompanied us in our meetings with the families of the victims, in meeting government agencies and in our discussion on the international phenomenon of enforced disappearances. In the Philippines, he was with us when we had our participatory capacity building evaluation. He took part in evaluating our work during our first seven years as a Federation, after which, participated in our concert entitled "Seeking." The second time he was with us; he participated in our management training and shared about the struggles in Argentina and Latin America. From then, we traveled together to Indonesia where he spent time to talk to the victims and their families, lobbied for the Convention, etc.

In Africa, with high hopes, we worked hard together to give our share on how our situation was in our respective continents and how we responded through the formation of our respective federations, *FEDEFAM* and *AFAD*. We likewise partook of each other's worry about the difficulty of forming the African network in view of the unique African context and the heterogeneous character of the participants during all those processes of forming the envisioned African Network Against Enforced Disappearances. Just a week before his death, he shared his frustration, albeit with kind understanding, that such a network was not sustained.

What we would like to remember the most was our joint celebration with the rest of the international movement against enforced disappearances, our friends from the international NGOs, our Geneva support groups, the UN delegations and with the late French Ambassador Bernard Kessedjian in that most euphoric moment when the UN Convention For the Protection of All Persons from Enforced Disappearances was adopted by the then Commission on UN Human Rights. Like all of us, and together with us, he was in his glorious state - enjoying the well-deserved champagne offered by the French government. Moreover, with the now Argentinean president,

## ***... and death shall have no dominion...***

Christina Kirshner; with the late French Ambassador Kessedjian and with his *compañeras* in Latin America, Marta Vasquez and Loyola Guzman, we were together in celebrating the signing by 57 governments of the Convention on 6 February 2007 in Paris, France.

In Latin American countries, we witnessed the intensive discussions of our *compañeras* and *compañeros* of FEDEFAM during their congresses. Always, Patricio had his words of wisdom and kind advice. His passion for truth and justice was evident. His stories of the horrors of the dictatorship were vivid. Always, he spoke with great respect and admiration about the mothers, grandmothers, sisters, brothers and children of the disappeared in his beloved Argentina who tirelessly continue to search for their disappeared loved ones. Only very recently, in Colombia, we spoke of the psychosocial support in the process of searching for the disappeared and as always, with passion and with a loud voice, he inspired everyone with his presentations.

In North America, particularly in Washington DC., in these two consecutive years, we knocked at the doors of the White House and the US Congress asking the latter to listen to the voice of torture survivors and to approve legislations criminalizing torture and enforced disappearances. We braved the heat and the cold in front of the White House in the annual vigil for torture survivors. In these occasions, Patricio gave his best –presenting speeches, singing songs, marching with other survivors, reciting poems of which, his favorite poem was: “*Death Shall Have No Dominion.*”

In many instances, he wrote for our publications. The wealth of his knowledge and experience, coupled with his writing ability, had helped enrich our publications.

And he was with us in some of our houses here in Asia, extending his friendship to us and remembering always, with his photographic memory, the many little things about our families and always concerned that from afar, all is well with us here in Asia.

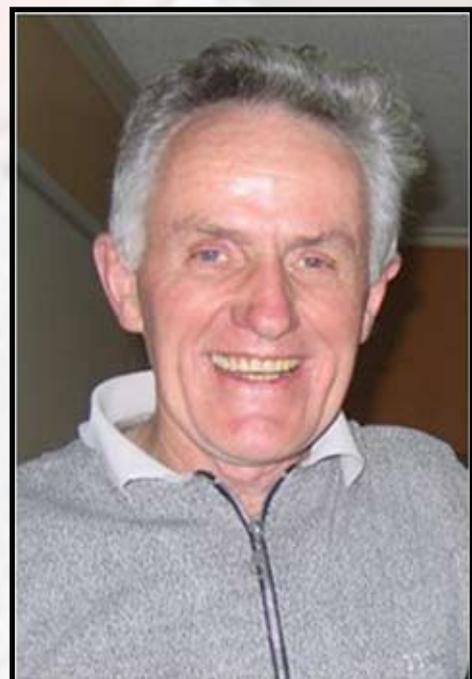
To you, Fatima, Carlos, Amy and Blanca, thank you very much for sharing your beloved Patricio with us. He left with us an indelible imprint in our struggle here in Asia. He endowed us a beautiful friendship and camaraderie which shall remain forever in our minds and hearts. Please be assured that “*death is not extinguishing the light, but putting out the lamp because the dawn has come.*” His exemplary life is worth our commendation. His heroic death which occurred when he was fighting against enforced disappearances and for a world without disappeared persons will be remembered forever.

Our dearest Patricio, we had so much confidence in you that we really collectively put you as the then new focal point of the International Coalition Against Enforced Disappearances. With a heart wide open, you accepted the position and immediately started so fast, writing to all of us, working on the administrative matters while traveling to five countries in less than a month to share your experiences, to lobby with us, and in all these tasks, you never ever forgot the value of humanity - that we were friends and comrades in struggle for truth, justice and memory! How we wish we could have expressed our heartfelt gratitude to you when you were physically with us. But again, we know that while you are physically gone, from the bottom of our hearts, your memory, your spirit and your good examples will never be forgotten.

To honor you is to continue our struggle so that the generations of today and tomorrow will have a better world to live in.

Farewell, our dearest friend and comrade. As you repeatedly recited recently: “*... and death shall have no dominion...*”

*Vaya con Dios....*



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# AFAD STATEMENT ON THE VISIT OF THE UNWGEID TO TIMOR LESTE

**10 February 2011** - The Asian Federation Against Involuntary Disappearances (AFAD) lauds the on-going visit of the United Nations Working on Enforced or Involuntary Disappearances (UNWGEID) to Timor Leste. The visit which started on the 7th of February and would end on the 14<sup>th</sup> of the month, occurs aptly after more than a month of the entry into force of the International Convention for the Protection of All Persons from Enforced Disappearances on 23 December 2010. Earlier scheduled in December 2010 but postponed to early 2011, the visit is hoped to bring about justice and peace in this country which, for more than a couple of decades from 1975-1999, was seeking for independence from the Indonesian occupation resulting in untold killings and enforced disappearances of millions of civilians.

According to the Truth, Reparation and Reconciliation Commission of Timor Leste, there are 18,600 death tolls and enforced disappearances during the war from 1974-1999. The International Committee of the Red Cross (ICRC) reports of 2,500 victims of enforced disappearances during the period. The *HAK* Association of Timor Leste, a member-organization of AFAD, reports that most of these disappearances occurred between 1975 to 1983.

In the November 2009 visit of AFAD to Timor Leste, we have learned that most of the people whom we had spoken to, including those from government agencies, have loved ones victimized by enforced disappearances. In a meeting of the AFAD and the Latin American Federation of Associations of Relatives of Disappeared-Detainees (*FEDEFAM*) with His Excellency President Ramos-Horta, no less than the president of the country shared that he has a disappeared brother.

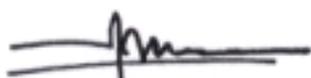
For most if not all of the victims of enforced disappearances, truth remains unveiled and justice is far from being meted out. In a visit that we had with some victims of the Sta. Cruz massacre in Liquiça, the victims whom we met expressed their profound frustration over the absence of truth and justice and the prevailing of the atmosphere of impunity and continued to look forward to the realization of their much-cherished dream for a just and lasting peace.

This on-going visit of the Working Group on Enforced Disappearances of the United Nations is expected to ferret out the truth of enforced disappearances in the country based on which, concrete recommendations are expected which would pave the way to the resolution of cases.

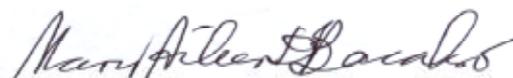
The AFAD takes this opportunity to request the UN Working Group on Enforced or Involuntary Disappearances to appeal to the Government of Timor Leste to expedite the fulfillment of the promise of President Ramos Horta to AFAD and to *FEDEFAM* that his government would sign and ratify the International Convention for the Protection of All Persons From Enforced Disappearance. The fulfillment of the promise will indeed help pave the way towards the eventual attainment of a just and lasting peace in this blood-stained country.

Finally, the AFAD believes that the voices of the victims and civil society organizations have to be heard and their recommendations be taken serious consideration. Thus, in this vein, AFAD encourages them to fully cooperate with the Working Group in our common endeavor to erase enforced disappearances from the face of the earth.

The *desaparecidos* and their families and the rest of the population of Timor Leste deserve no less than truth, justice, redress and the reconstruction of the historical memory.



**MUGIYANTO**  
Chairperson



**MARY AILEEN D. BACALSO**  
Secretary-General

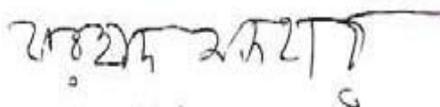
# ODHIKAR CONGRATULATES THE PEOPLE OF EGYPT ON THEIR VICTORY FOR HUMAN RIGHTS AND DEMOCRACY

**12 February 2011** - After the victory of the peoples' uprising in Tunisia, the President of Egypt, Hosni Mubarak, finally stepped down from power following 18 days of relentless protest rallies at various Egyptian cities, including the highly charged gathering at Tahrir Square at Cairo; the mass uprising was against the corruption and repression of a dictatorial. As a human rights organisation, Odhikar congratulates the victory of the peoples' uprising in Egypt. This mass upsurge was initiated for establishing democracy and human rights – particularly highlighting the fight against police brutality, torture and state terrorism. The role of the younger generation in the revolutionary peoples' uprising was remarkable. Odhikar believes that this victory is not only for the Middle-East but also for people all over the world who are fighting against violations of human rights and human dignity and state repression, torture and terrorism; it is a victory for popular democracy and human rights brought about by the masses. This victory will further ignite and spark the spirit of the younger generations. At the same time this uprising is an example of how to resist the abuse of power by the state by which a section of people or group acquire unlimited wealth and plunder resources, while pushing the majority people into poverty, unemployment and vulnerable conditions.

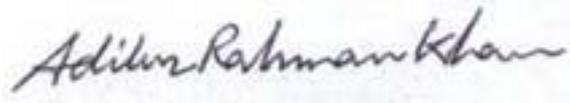
The Egyptian people, specially the younger generation, have educated the world on how to fight against autocracy using the internet and social networks even under repressive political conditions and adverse situations. It is specially to be mentioned that the Egyptian people had spectacularly demonstrated an effective strategy to keep the people united despite the ideological, religious and cultural differences, with the inclusive slogan 'Egypt is for Egyptians' for the sake of the common and greater interests of the people and thus singularly focused on dealing with the immediate political and social issues that affects all citizens.

It is needless to say that Egypt will have to overcome more challenges in the future. As a human rights organisation, Odhikar anticipates that the people of Egypt will succeed in creating and adopting a democratic Constitution and will be able to establish a democratic state, following the transitional phase when power has been handed over to the Military Council, which has already expressly committed to defend the aspirations and rights of the Egyptian people.

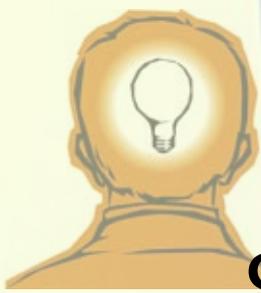
In Solidarity,



**FARHAD MAZHAR**  
Advisor, Odhikar



**ADILUR RAHMAN KHAN**  
Secretary, Odhikar



# Mind Teasers

## CROSSWORD

by Darwin Mendiola

1	2	3	4		5	6	7	8		9	10
11					12					13	
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		17					18			19	
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	32				33	34				35	
36								37			
38				39	40		41				
42				43						44	45
46			47								

### Across

- The late Irish human rights activist and former Focal Point of ICAED
- Twinge
- Buena* \_\_\_\_\_; good deed
- Political and economic union of 27 states; abbr.
- cease
- mass
- internet country code for the land of tulips
- Urgent Action
- while
- preposition
- caper
- abjure
- exist
- unreasonable
- egress
- ventilate
- 23<sup>rd</sup> letter of the Greek alphabet
- Writ of \_\_\_\_\_, a special legal mechanism for protection

36. structure

37. nomenclature

38. Bahasa term for "missing person"

42. sleep

43. Sea Eagle

44. international human rights group

46. a crime against humanity, abbr.

47. Foreign \_\_\_\_\_, diplomatic policy

### Down

1. 1999 Massacre in Timor Leste

2. perform

3. I and \_\_\_\_\_, philosophic writing of Martin Buber

4. indemnification

5. recent state to ratify the UN Convention on EID

6. Bahasa term for mother

7. tribe found in Eastern Kenya

8. censures

9. focus

10. tribute

21. conjunction

22. Private eye, abbr.

23. dry

25. elapsed

27. pat

28. lariat

30. Muslim religion

34. Teenage girl who was tortured and killed in Nepal

35. publication

36. grieved

39. "Oh, too bad!"; Interj.

40. Human Rights Law

41. allow

45. be form

- Patricia Rice

"Torture is a crime. It can never be permitted. All those involved must be prosecuted. Never Again!"

**Answer to Cryptique:**



The Voice is a bi-annual publication of the Asian Federation Against Involuntary Disappearances (AFAD). It is providing you with the latest on human rights with focus on involuntary disappearance issue within the Asian region. AFAD welcomes contributions but reserves editorial rights.

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The AFAD is a regional federation of organizations working directly on the issue of involuntary disappearances from Timor Leste, India, Indonesia, Nepal, Pakistan, Philippines and Thailand. Founded in 1998 to promote solidarity, lobby, communications, networking and advocacy among its member-organizations and network, the AFAD links arms with international, regional and national formations from other continents. For more information, you may write, visit or call us.

The AFAD is the focal point of the International Coalition Against Enforced Disappearances (ICAED).

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Jakarta Pusat 10320, Indonesia  
Telefax: (0062) 21 310060  
Email: kembalikan@yahoo.com  
Website: www.ikohi.blogspot.com

**KontraS** - Indonesia  
Commission for the Disappeared Victims of Violence  
Jl. Borobudur No. 14, Menteng Jakarta 10320, Indonesia  
Phone: (0062) 21 3926983 / 3928564  
Fax: (0062) 21 3926821  
Email: spry04@yahoo.com  
Website: www.kontras.org

**CVSJ** - Nepal  
Conflict Victims' Society of Justice  
Naxal, Kathmandu, Nepal  
Email: conflictvictimssociety@gmail.com

**Advocacy Forum** - Nepal  
Santiniketan Margh - 94/14 Gairidhara, Kathmandu, Nepal  
Phone: 977-1-4415789 / 977-1-4415646 / 977-1-4426698  
Email: info@advocacyforum.org.np  
Website: www.advocacyforum.org

**Truth and Justice Commission (TJC)** - Pakistan  
Old Civil Secretariat G.P.O. Box No. 56,  
Muzaffarabad, A.K. 13100 Pakistan  
Phone: (0092) 5881032688 / (0092) 3469685325  
Email: hrm\_org@yahoo.com

**FOD** - Sri Lanka  
Families of the Disappeared  
Address - No:555, Negombo Road, Katunayaka, Sri Lanka.  
Telefax: (0094) 312221604  
Email: fodlanka@gmail.com  
Website: www.right2lifelk.org

**Justice for Peace Foundation** - Thailand  
24/158 Ladprow 21, Ladprow, Jatujak, Bangkok, Thailand  
Phone: (0066) 2 9759975  
Email: angkhana\_nee@hotmail.com / tubjit\_moi@hotmail.com  
Website: http://wgjp.org

**Relatives Committee of the May 1992 Heroes** - Thailand  
43/29 Moo7 Tambon Kookot,  
Lulooka Pathumdhani 12130 Bangkok, Thailand  
Phone: (0066) 2 9948513  
Fax: (0066) 2 9948517  
Email: kongkanit@kongkanat.com

- അടികൾ വഴിയരികിലൂടെ

# By the Wayside

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.

- Basil Fernando