WE NEED THE TRUTH

Enforced Disappearances in Asia
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Why a book like this?

The present publication is one of the fruits of the First Asian Conference on Psychosocial Support in the Search for Enforced Disappeared, in the struggle for Truth and Justice and in Exhumation Processes that took place in November 2009 in Manila, Philippines, organized by Asian Federacion Against Involuntary Disappearances (AFAD), Equipo de Estudios Comunitarios y Accion Psicosocial (ECAP) and Geimeinnützige Entwicklungszusammenarbeit GmbH (GEZA).

In this conference nearly forty Asian experts, representatives of family organizations, psychologists, social workers, human rights activists, lawyers, anthropologists and forensic scientist assisted and discussed International Minimum Standards for the psychosocial support of victims, their relatives, affected groups as a whole and the entire societies that suffer or had suffered from the crime of enforced disappearance. Minimum Standards that cover the search for the disappeared person, the exhumation process and the struggle for truth and justice (the Minimum Standards will be shortly available at: www.congresoexhumaciones.com).

These International Minimum Standards were the achievement of the exchange of experiences of more than 500 experts from more than 45 countries – from Latin America, Asia, Africa and Europe – that met at the 1st International Conference about Psychosocial Work in Processes of Exhumation, Enforced Disappearance, Justice and Truth in Antigua, Guatemala in 2007 and three years later in April 2010 at the 2nd International Conference in Santa Fe de Bogotá, Colombia. In Bogotá it was already possible to consider the comments from the Asian conference the year before. The Asian contribution to this discussion is highly valuable, as Asia is the continent that reports the highest number of enforced disappearances to the UN working group every year.

The participants of the conference in Manila commonly expressed the wish and accepted the need of documenting their own working experience, in order to continue and intensify the exchange of experiences between Asian actors. Furthermore documenting the past and ongoing atrocities contributes to pressure the different governments to take serious their duty of investigation and prosecution of severe violations of human rights. And of course documenting the struggle of the families in order to dignify it and respond to the need for truth and remembrance.
The initial idea was that people working in the several countries with families of enforced disappeared persons come together and write jointly an article about the situation of enforced disappearances in their country, explaining the political and historical background, the current context and sharing some thoughts about future perspectives. The following pages contain the valuable result of the effort of the writing teams to write down their point of view on the situation they are working in.

“First of all we want to know the truth” is a quote from a mother of two missing sons in Nepal. But “truth” is not only her priority; the same words could have been expressed by a mother from Sri Lanka, Thailand, the Philippines or Indonesia, from Cambodia, East Timor or Kashmir. They could have been expressed by any relative of a disappeared person around the world. In this quote the voices of all people who lost a loved one are echoing, united behind the common need to know the truth. This publication aims to give room and audience to all these voices, that claim “We need the Truth”.

Furthermore this is a call to the respective states to create and implement the judicial requirements to define enforced disappearance as a crime in the national legal system, to foster and not to restrain the search for the truth and exhumation processes and to provide compensation and reparation programs for the affected families. The state, in not acting at all, is responsible for a prolongation of the daily pain of the families of the enforced disappeared person. The “coping process” for the families would be far easier if the states revealed the truth, acknowledged the disappearance, asked for forgiveness, provided means for the prosecution and provide possibilities for compensation.

Thank you
This publication wouldn’t have been possible without the disposition of all the contributors to dedicate their time to write and work on the articles. We want to thank each of them, that they opened the door to their life a bit for us readers, that they let us have a glimpse on their commitment, their energy and motivation and the force with which they defy the obstacles in their day by day work. *To know that you all keep working makes the world a lighter place.* Special thanks to Mr. Simon Robins, Ms. Judith Strasser and the Anonymous Author from Sri Lanka, your effort has shaped this book sustainably. We also wish to express our gratitude to the Austrian Development Cooperation for the substantial financial support.

Katharina Lauritsch (Compilation and redaction)
Franc Kernjak (responsible for the edition)
Introduction

By Mary Aileen D. Bacalso,
Secretary-General
Asian Federation Against Involuntary Disappearances

First and foremost, allow me to express my heartfelt congratulations to this book’s principal publishers, the Equipo de Estudios Comunitarios y Accion Psicosocial (ECAP) and Gemeinnützige Entwicklungszusammenarbeit GmbH (GEZA), which organized the First Asian Conference on Psychosocial Support in the Search for Enforced Disappeared, in the Struggle for Truth and Justice held in Manila, Philippines on 9-11 November 2009 and the results of which are published in this book, entitled, “We need the truth.”

This publication is an integral part of the results of that conference participated in by about forty NGO workers, who came from different parts of Asia to discuss for the first time a subject matter so relevant in a continent that continues to submit the highest number of cases to the UN Working Group on Enforced or Involuntary Disappearances.

The ECAP and GEZA deems it important to give birth to this publication as part of its effort to help empower the families of the disappeared who are the most important actors in the fight against impunity. The book’s contents reveal the still continuing crime of enforced disappearances in the world’s largest continent, many of whose states have not yet signed and ratified the United Nations Convention for the Protection of All Persons from Enforced Disappearance. While the book aims to reveal the stark reality of enforced disappearances in Asia, it also strives to show some signs of hope, one of which is the establishment of the Asian Federation Against Involuntary Disappearances (AFAD) whose work is to a certain extent mentioned in some of the articles in the book. The conception and birth of the Federation has, among other factors, contributed to the efforts in helping the traumatized families of this unspeakable crime of enforced disappearance in overcoming its devastating effects.

During our almost 12 years of journey toward a world without desaparecidos, we have been working with the families of the disappeared who are our very constituents.
An integral part of our work is the psycho-social rehabilitation in recognition of the traumatic effects of the disappearance on the families of the victims and the imperative of helping them transcend the trauma incurred in the loss of their loved ones. We are aware that no amount of reparation and psycho-social rehabilitation can fully bring back the broken pieces remaining in the lives of families. However, we believe that each and every family member of a victim has, with our help and the help of greater society, the capacity to heal and empower themselves and in the process, serve as co-healers to their co-victims. From this inner healing comes the innate power to search for the truth, to struggle for justice and reparation and to reconstruct the historical memory of their disappeared loved ones.

In recent years, as an integral part of our goal to attain a world without desaparecidos, our Federation has been facilitating psycho-social rehabilitation activities, entitled “Healing Wounds, Mending Scars” and “From Victims to Healers.” In the process, we were able to witness how the devastated family members of the disappeared valued their oneness and solidarity in their common pain and struggle and how they were able to recognize their built-in capacities to go beyond their loss. In a summing–up of our rehabilitation program held in Bangkok, Thailand in December 2007, entitled “Sharpening Our Healing Capacities Towards Empowerment,” families of the disappeared expressed their deep appreciation in the value of such activities and signified the importance of their sustainability. It is unfortunate, however, that such a valuable program for the families of the disappeared, who are the very constituents of our Federation, could not be sustained due to dearth of resources. Much remains to be done to revive the circle of healing and empowerment in order to strengthen the Federation’s very constituents – the families of the disappeared.

In the course of our work for the last eleven and a half years, we initially searched for the truth, manifested among many other ways, in finding remains of disappeared persons. This experience continues to be enriched in many of our countries where our member-organizations are based. In the context of the level of achievement in the struggle for human rights Asian organizations have achieved and considering legal and cultural impediments, the use of forensic anthropology in the search for the truth is not yet well-developed and is found wanting in countries herewith mentioned.

To mention a few of these countries, during our first visit to the Association of Parents of Disappeared Persons in the disputed-state of Jammu and Kashmir in 2003, the idea of excavating remains of disappeared persons was frowned upon with skepticism. The
cultural factor of desecrating the dead if skeletal remains are exhumed, coupled with the security implication for those who may be conducting the excavation and the pressure of responding to the every day violations of human rights—these were some reasons for resisting the conduct of this important human rights task. It was only in 2008 when a report, entitled, “Facts Underground,” revealing the existence of mass graves in 18 Uri districts, in localities near the Line of Control with Pakistan, was released, that the imperative of this very important aspect of work has been gradually appreciated. A more recent report, entitled “Buried Evidence,” speaks of 2,700 unnamed mass graves, 154 of which contained two bodies each and 23 contained more than two cadavers. Within these 23 graves, the number of bodies ranged from 3-17. Sooner than later, these skeletons in the closet have to be unearthed if we are, indeed, to be true to our mission of ferreting out the truth about what happened to the desaparecidos. And if this is realized, accompaniment to families of the victims would certainly be much-needed.

In East Timor, efforts to exhume remains of disappeared persons who were made to disappear during the conflict brought about by the Indonesian occupation are being conducted by the Argentinian Forensic Anthropology Team (EAAF). In a visit of our Federation to our newest member-organization, Perkumpulan HAK in November 2009, skeletal remains of a thirteen-year old child, Antonio da Silva Freitas, killed on 12 November 1991 were exhumed and returned to the family for proper reburial. Carried in the street of Dili was a coffin with the skeletal remains of Antonio while his mother wailed incessantly during the long march terminating with a long Catholic ritual at a local church of Dili. Despite the passage of time, no mother would be able to withstand the poignant sight of the young skeleton of her son. With the mother sobbing without let-up, at that very moment of profound grief, there was an obvious absence of psychosocial support. It is not certain if such support was made available after the burial.

It is a consolation to know that in the Philippines, human rights organizations such as the Families of Victims of Involuntary Disappearance (FIND), the Desaparecidos and Karapatan are conducting individual efforts to exhume remains of disappeared persons. FIND claims to have exhumed eighty-one remains of desaparecidos. It has a program that is, in general, giving peace of mind to the families of the victims and providing potential pieces of evidence needed in the pursuit of justice. Most of these families were able to put closure to their search for their loved ones and to pay their last respects during the proper reburial of their dead.

In the course of doing this, FIND deems it important to respond to the need for psychosocial support to the grieving families of the victims. To borrow from the words
of Dr. Benito Molino, “news that a missing relative’s gravesite has been found almost always trigger emotions from loved ones, relatives, friends or ordinary human rights advocates. Temporal relationship between the missing victims was reported and the discovery of the probable gravesites may affect the gravity of emotions, but there will always be emotions involved. Thus, psychological preparation for all concerned individuals and groups in the whole process of the exhumation is very necessary.”

Due perhaps to the inadequacy of experience and much-needed resources in many of our countries, or perhaps, the lack of documentation of efforts conducted in countries that may have possibly reached a higher level of experience, the above-mentioned examples are but a drop in the bucket vis-à-vis the vast continent of Asia and thus, do not necessarily establish a trend in the Asian region in terms of psychosocial support and exhumations.

The psychosocial rehabilitation activities that AFAD conducted were not necessarily carried out in the context of forensic investigation. After all, with or without forensic investigation, these were relevant and were, so far, conducted independently from forensic investigation and successfully serving their purpose, albeit needing sustainability.

We are aware that in Asia, much remains to be done in the search for those who disappeared, through forensic investigation. Whatever level of accomplishment in terms of forensic investigation that have been conducted so far here in countries where AFAD member-organizations are based still need to be reinforced and be complemented by accompanying psycho-social support for the families. Theoretically, we are convinced that always and in all circumstances, psychosocial support has to be made available in the process of exhumations. However, the complementation of these efforts remains to be carried out. In actual practice both in the past and possibly at present, they are not yet being fully carried out. Thus, the Minimum Standards for Psychosocial Work in Exhumation Processes of Serious Human Rights Violations should be given serious consideration.

Nevertheless, experiences from different Asian countries in the field of psycho-social support and forensic investigation, no matter how limited they may be, have to be harnessed and raised to the theoretical plane in order to contribute further to the search for truth, justice, reparation and memory. These will contribute in no small measure to giving an Asian particularity to the global efforts to enhance psychosocial support in the search for the disappeared and the struggle for truth and justice.
DISAPPEARANCES IN THE SCOPE OF INTERNAL ARMED CONFLICTS
Sri Lanka
Individual, Familial and Social Impacts of Enforced Disappearances
Tactics of a ‘Repressive Ecology’ and Ways of Responding

By Daya Somasundaram, Induwarana Gooneratne, Thanuja Pathirane, Visaka Dharmadasa and an Anonymous Author

Background
Enforced disappearances have been a well known phenomenon to Sri Lanka before, during and in the ‘post’ conflict scenario. However, from time to time we had large-scale disappearances, becoming widely used from the 1980s onwards, connected to the politico – military situation and in local areas of the country.

For the first time in Sri Lanka, we came to know about the phenomenon of enforced disappearance during the 1971 JVP insurgence which was brutally crushed by the state forces. Thousands of youths were reported missing. Then the same fate happened to many Tamil speaking youths since the early eighties (before the 1983 riots), who were suspected to have connections with the militant organizations. Like in many parts of the world, ‘disappearance’ was systematically used by the state to suppress opposition and to terrorise society. Ironically, during late 80’s both, Sinhalese and Tamil militant organizations also adopted this inhumane, cruel phenomenon to deal with their opponents, suspected informants and their own ‘traitors’.

When there were large-scale battles in land or sea or in secret missions, many combatants were just ‘disappeared’. Sometimes they were claimed as dead and some times...
they were thought as being kept by the ‘enemy’ forces. When members of the state forces were killed or taken by the militants and if the bodies of those who were killed in action couldn’t be found, they were labelled as “missing in action” in accordance to military tradition. Also if they were taken and not declared to the ICRC, the same term was used. Normally the soldiers who are “missing in action” are regarded as “killed in action” after one year, this was done solely in order to facilitate the compensation process and the access to legal documentation for the families. The Liberation Tigers (LTTE) didn’t have a category “missing in action” in the early days of their warfare. Once the whereabouts of a combatant were not known after a battle, they were regarded as killed in action. For those, whose bodies were not recovered, special graves have been erected.

The situation became more muddied during the late 80’s, when the Indian (peacekeeping) forces (IPKF) were unleashing a war against Tamil militants (and the Tamil community on a large scale), while the state forces were busy suppressing the re-emerged JVP insurgence in Southern Sri Lanka.7 Ten thousands of young men and women just ‘disappeared’ in that period, which in a way helped the state to get over the threat. Disappearances peaked in 1988-89 when thousands of youths were reported missing to the various Commissions of Inquiry. The victims were abducted from homes and streets, and their bodies were found floating in rivers and burned on tires thrown on the way side. The numbers are astonishing: More than 60,000 girls and boys were reported missing. Parents waited for them for so long but they never made it home.8

During early, middle and late nineties, disappearances simply continued in different parts of the country and at times people were even taken as a group. After a cordon operation or after catching them from their working places (like paddy fields), they were made to disappear. During these periods there were changes of control over local areas, either by the state forces or by militants and with each change of power many people disappeared.9 In the Eastern province of Sri Lanka, a record number of cases, more than 12,000 forcibly disappeared civilians, were reported to the ICRC. In most of these instances the family or the village could identify the perpetrators as the persons who took the people that subsequently disappeared.10

7 “In 1987, India signed agreement with the Sri Lankan government that dispatched peacekeeping force (IPKF) to north east and initiated constitutional amendments promising Tamil autonomy. IPKF soon became embroiled in war with LTTE.” International Crisis Group (2010).
9 See the report of All Island Commission, Cap. XI.
10 International Committee of the Red Cross (2009).
The story continued in the new millennium and disappearances became a part of everyday life in these years. Disappearances once again reached a zenith when the peace process was broken in 2006 and large numbers of people were made to disappear not only in the distant parts of the country but also in the capital. Now, apart from the reasons mentioned before, disappearances just occurred for obtaining ransom and other financial gain.

In the recent clashes in the early months of 2009, many combatants and civilians were disappeared and no reliable data was available either to confirm their death or to know their whereabouts. The access to the former war area has been denied until now, although the war is officially over.\(^\text{11}\)

No one knows the exact number of disappearances that have happened in Sri Lanka nor is there any reliable and comprehensive data about how many of those disappeared have returned. But the number is very large – the three Zonal Commissions together investigated over 27,000 complaints and established more than 15,000 cases of enforced disappearances between 1988 and 1998\(^\text{12}\) – and part of the ‘repressive ecology’ of the country.\(^\text{13}\)

In Sri Lanka, disappearances haven’t solely happened to one group, village or region. Disappearances have now become a widely prevalent phenomenon (like an ‘endemic disease’ in medical terms) even in the post-conflict situation. There are differences in the social, political, religious and cultural contexts among the victims and their families. These cultural contexts have not been addressed while dealing with disappearances. The inquiries held by the different commissions or the few exhumation processes didn’t attempt to address the cultural context, nor did they have a mandate to do so\(^\text{14}\). A drastic example of not considering the cultural and religious context is the exhumation of Krishanti Kumaraswamy, her mother, her brother and a family friend that is described below. Here the bodies were re-buried right away and the relatives didn’t get a chance to “mourn over the dead or perform the last rites”.\(^\text{15}\)

\(^{11}\) University teachers for Human Rights (Jaffna), Sri Lanka (2009).


\(^{13}\) See: Somasundaram (2007).

\(^{14}\) See chapter I of the All Island Commission of Inquiry: http://www.disappearances.org/news/mainfile.php/frep_sl_ai/102/

\(^{15}\) Thangavelu, V. (2001).
Effects on the families

Culturally the ambiguity of the loss is very significant and the family members are often confused about the role they have to adopt. For example, a wife of a disappeared husband would not know which role to take – an awaiting wife or widow? Obviously these two roles are very different in the cultural context.

The local society is not prepared to accept the nature of ambiguity in a disappearance. It expects the victim’s family to behave in an ‘all or none’ manner, which creates a huge amount of pressure on the family members. This may reflect in situations like attending cultural ceremonies and festivals, forming new relationships, taking part in different forums and becomes palpable for children in school. In the Tamil culture, *thali* (a sacred chain which functions much like an engagement ring) and *kungumap pottu* (a red mark in the forehead) are the two symbolic representations of one’s marriage and their living husband. In general, a young unmarried woman should not wear these, until she marries a man and similarly a divorced or widowed woman is not supposed to wear these symbols. Women without these symbols are not considered as ‘auspicious’ and are not allowed in the front lines of any event. A wife of a disappeared person finds it very difficult to adapt either of the roles, since the loss is ambiguous and she is put in a quandary in social situations. In her own mind too, she undergoes considerable agony and wavering between these two different roles, a struggle mixed with guilt, sorrow, anguish and unresolved grief.

Further these women are expected to take the missing member’s role in the family. All of a sudden the family becomes a woman-headed family and the woman in addition to her personal suffering has to take the additional burden of earning livelihood, dealing with different authorities, looking after their children’s educational and other needs and struggling against family conflicts and social marginalization. As one witness of the inquiry Commission states:

> The society survives because of women. They have kept the hearths burning. They could be seen almost on every road in Jaffna either walking or on their bicycle. They are the ones who get checked at checkpoints and get exposed to harassment.\(^{16}\)

Another aggravating factor is that the majority of these women are still young. Children are often kept away from the truth and are told false – fabricated stories, which create additional confusion for them at schools and playgrounds, since in these places they sometimes are confronted with the reality of the missing parent. Adults think that children may not understand the reality or may not withstand the pain of

\(^{16}\) Report of the All Island Inquiry Commission, Cap. XI
the truth. But children do understand what has happened in the family and they tend to suffer silently. In some cases, these silent sufferings are reflected in their educational performance, socialization skills, in their dreams and behaviour (sadness, anger, defiance, withdrawal).

However, it is important that children need to know the truth and the ambiguous nature of the loss and their emotions should be appropriately dealt with. Their worries, dreams, expectations, frustrations, etc. need to be addressed. Some family members or the mother herself should provide the father figure. Grown up children should be encouraged to support the family as a whole. Issues at the school and society should be handled carefully.

The families of those, whose fate is not known, are affected in more than one way. On one hand, they are psychologically affected and unlike in other instances such as death, where the impact is reduced by time, in cases of missing, time aggravates the problem. Families wait for very long periods for the loved one to return. This trauma has a big impact on how the family is socialized. They prefer to be isolated, because others might not understand how they feel. Outsiders tend to think that the immediate family members are suffering from mental illness due to their unreasonable way of thinking of a dead persons’ return. On the other hand, all this has a very negative impact on the families’ economy. A family, who has someone missing, will never be able to give back their whole potential to the society. It is this aspect that has to be highlighted to make the world understand that if and when the existence of one individual is concealed, in fact the family is much more hurt than the very individual that has been abducted.

Responding
It is very hard to imagine the burdens that the family suffered after the disappearance of their beloved ones. Since it happens so suddenly and the family never faced similar experiences in the past, often the families suffer a lot without knowing how they should respond to the disappearance. It would be good to have a handbook or folder-like educational material that gives an overview on things to do and possible consequences of a disappearance. Shanthiham elaborated on a local scale the handbook “Waiting” in Tamil17, but apart from that, nothing is widely available to educate the public about what should be done after the occurrence of a disappearance. This fact reinforces the hidden purpose of disappearing a person. It leaves the family and community in limbo, confused about what to do and not knowing what has actually happened. The choice

17 Shanthiham (2008).
between reporting to authorities and searching can lead to such serious repercussions that some people just remain in limbo. Generally people are encouraged to lodge a complaint with the Human Rights Commission or the nearest police station (both are state sponsored institutions) and international organizations like the ICRC or the UN and then start waiting for their family member’s return. Some people start searching for the person in the local army, navy or militant camps. Few may go beyond these steps and start communicating with various authorities and human rights organizations to make the event more public thinking that it will give pressure to the perpetrators. But on the other hand many fear that this sort of publicity may endanger the life of the disappeared person and minimise the chances for him to return back. Other people file a case (habeas corpus\textsuperscript{18}) in the courts with some evidences and get a court order to bring the person to the courts. Some families resort to cultural practices or rituals like consulting oracles\textsuperscript{19} or taking vows for their return. Most are reluctant to perform the last rites or accept a death certificate, leaving them in limbo.

After sometime, the families become fed up with these procedures and rituals. Then they start readjusting their life, with the deep-rooted uncertainty and pain in their hearts and minds.

Generally the family gets good support from their relatives, neighbours or friends. However, in some instances, there is little safety for those families and witnesses. In these circumstances, the survivors and witnesses have to flee from the area or country. Similarly, if the politico-military situation is too tense, people feel unsafe identifying themselves with the disappeared persons or their families. In communities which were under the ruling of the Tamil militant organization LTTE and where the person has been disappeared by the LTTE, the situation becomes more complex. Families are sometimes compelled by social circumstances to forget or erase the person from their minds to continue to live in society. They may not show their pain publicly to the world, but they continue to suffer privately, suppressing their grief and anger within themselves.

\textsuperscript{18} “A writ of habeas corpus is a judicial mandate to a prison official ordering that an inmate be brought to the court so it can be determined whether or not that person is imprisoned lawfully and whether or not he should be released from custody.” http://www.lectlaw.com/def/h001.htm

\textsuperscript{19} See Lawrence P. (1999).
Inquiry Commissions:
In the past, as a result of the local and international pressure the state appointed four commissions and inquiry boards – three “Zonal Commissions” for the different geographic parts (1995-1997) and one “All Island” commission (1998-2000) – mainly to collect evidence but they also served to get some ideas about the families’ needs and expectations. Furthermore they elaborated recommendations for relief measures and rehabilitation, recommended exhumations and the establishment of an independent Human Rights Prosecutor and identified perpetrators in more than 1,000 cases. However the subsequent developments leave doubts about the seriousness of the implementation. Of the several thousand suspected perpetrators only about 500 court cases have been filed and only some of them had been convicted. Some of the scholars who worked in these commissions later expressed their mental agony and dissatisfaction about their work, partly caused by the stricken realities and partly by the insensitivity of the authorities who failed to take actions based on their commission’s findings and recommendations.

Compensations:
In Sri Lanka the state never acknowledged the fact that disappearance is mainly carried out by the state sponsored military and paramilitary organizations. However, from time to time the state offers deaths certificates and compensations to the families, based on the complaints made to the Inquiry Commissions. These compensations are only monetary, recommendations of the Commissions on other relief measures, including counselling, have not been implemented yet. While some families are receiving those death certificates and compensations, other families are not receiving them, thinking that if they receive it they have to accept their beloved one’s death, which they do not want to do. How can one accept a death without credible evidence? This is the dilemma – in order to receive compensations, people have to accept, even to declare the death of their beloved one without proof. From the psychological point of view, this is very difficult and families are not ready for that. However many have to accept the monetary compensations due to economic pressure. If the states revealed the truth, acknowledged the disappearances, asked for forgiveness, provided means for the legal prosecution and compensated the families, in other words, if the state conceded integral reparations and dignified the dead person, then the families would find it far easier to go through their grieving process.

Family organizations:
When enforced disappearances occurred at a mass level, families tended to organize themselves with or without the help of some facilitators (like NGOs, Human Rights or political organizations). In Sri Lanka, there were and still are organizations, working with families with forcibly disappeared members and most of the time they work without making much noise and publicity. Community participation is largely restricted in our country for more than one reason. The phenomenon of disappearances, though being considered as a forgotten tragedy, causes a considerable amount of stigma and pressure to the state and groups which were directly or indirectly (functioned as informants) involved with the acts. Therefore, those who are in power and/or those who are responsible for the disappearances won’t allow the community to actively organise themselves. During the time of conflict and even in the post conflict scenario, any emerging leadership would be kept under constant surveillance, pressure and monitoring.

When compared with the Northern and Eastern part of Sri Lanka, people and organizations from Southern Sri Lanka did many works – advocacy, making short films, presenting their problems in international conferences like the one on “The Missing – The right to know” in February 2003 organised by the ICRC.

But still, organizations at times ran the risk to be either misused or politicised and thus the neutrality of these organizations was destroyed. “Mothers and Daughters of Lanka” is such an organization. From time to time politicians and high state authorities wanted to listen to the families with much publicity but with no follow through afterwards. Family members complained that they were made to cry in front of cameras but without long-term avail. They only received political spin and pressured the organizations to organize protest campaigns against specific perpetrators. Neither the passive acceptance of the promises, nor the forced activism is very helpful to overcome the agonies of the families with disappeared members.

Furthermore, there was little communication between the different organizations to strengthen their work, their relationships or to exchange their experiences and lessons that they had learned. The ethnic barriers, language obstacles and the majority – minority issues have also played and are still playing a major role in preventing adequate networking between the organizations working in different parts of the country. Some families and organisations have lost hope, are frustrated and also they are tired of working and waiting for decades to get some relief. New hope for justice is necessary to bring all together to collaborate. However, despite the difficult working

context, some organizations from 1988, for instance “Parents of Servicemen Missing in Action” have been able to maintain neutrality and keep on pressing the authorities for the truth. This organization also gained other kinds of remedies such as identification discs to all solders and combatants, funerals monuments, etc. They could also work together with the Jaffna based “Guardian Association for Disappeared” in particular to collectively participate in the ICRC conference in Geneva in 2003 “The Missing – The right to Know” and to demonstrate together in the heart of Colombo calling for the right to life for all.

In general, psychosocial work among families and communities with disappeared members is at a minimal level. Group meetings that are conducted in some areas among the members of family of enforced disappeared persons should be considered as a very good activity from the psychosocial point of view.

From a clinical and research based point of view, one of the immediate needs for the families with disappeared members is emotional and economical reparation. However, this is not seen and addressed properly. Families should be helped in order to minimize their ambiguity and to move on with the unforgettable memories of their beloved ones.

Exhumation in Sri Lanka

The sad truth was and is that in most of the time, the disappeared persons were really disappeared from the world and more often than not they were made to disappear in the air – without showing any evidence of the remains. In Sri Lanka the current law permits the state sponsored armed forces (military, police and other special groups) to dispose of bodies without obtaining a medical report.

A magistrate orders an exhumation, in accordance to the law of Sri Lanka when there is convincing evidence of a surreptitious disposal of human remains or when there are doubts concerning the nature of the individual’s death of. The criminal procedure code provides general guidelines concerning exhumations in Sri Lanka. Also it is possible for a special commission of inquiry to authorize an exhumation order under a special law addressing a special context.

Forensic experts in Sri Lanka engage in exhumations routinely, if the death circumstances are doubtful or if it concerns illegal disposals or unknown human remains. However there were hardly any exhumation processes of mass graves in Sri Lanka. The exhumations of the Chemmani mass grave (1999), the Duraiappa stadium mass grave (1999), the Murusuvil mass grave (2000) and the Sooriyakanda (Embilipitiya) mass grave (1994) were the most noted ones and will be described here in detail. Almost all
exhumations of mass graves have been conducted under supervision of forensic specialists. However it is apparent that the police units are not well trained in this area and depend on forensic experts for advice. There was a special unit created in the police for crime investigations, what can be considered an improvement in that respect.

**Case studies of exhumations**

The **Mirusuvil massacre** happened when eight internally displaced Tamil refugees, including children, returned to inspect their property, on 19th December 2000. They were arrested in a village named Mirusuvil close to Jaffna and subsequently murdered, allegedly by Sri Lankan Army soldiers and buried in a mass grave. The murders were disclosed because one of the arrested escaped from Army custody with serious injuries and informed relatives about the incident. Eventually the Sri Lankan government charged five Sri Lankan Army soldiers with illegal arrests, torture, murder and burial of the dead bodies in a mass grave. The case is still pending.23

The **Duraiappah stadium mass grave** was accidentally found during the excavations for the Duraiappah Sports Stadium in Jaffna. As workers sank the foundations for new changing rooms, their spades struck bones. Eventually 25 skeletons, including those of 2 children, were unearthed. There is no information as to the fate of these findings so far.24

The **exhumation of the grave of Krishanthi Kumaraswami** was another remarkable case in Sri Lanka, as far as disappearances are concerned. On August 7, 1996 the 19 year old student went missing on her way home from school. She was last seen alive at 11.30 am at the Kaithady Army checkpoint in Jaffna. Her mother, brother and a family friend were concerned, went to look for her and also disappeared. Subsequently evidence located their bodies in a mass grave near the military camp. In the course of investigation, it was revealed that Krishanthi was gang raped and murdered. Also her family who searched for her was murdered – by state military personnel. A trial was conducted and six soldiers were sentenced to death. One of the sentenced soldiers revealed the existence of the Chemmani mass grave and other graves around Jaffna.25

Most of the exhumations were done merely with a political agenda, either to find fault with the previous Governments or – like in the case of the exhumation of the **Chemmani mass grave** in 1999 in the North, the most significant one in Northern Sri Lanka – after international pressure, – to show the International Community that actions were taken in respect to enforced disappearance. This exhumation was mainly organised by the judicial system, supported by the then Government, and involved all the local and international stakeholders (Amnesty International and Physicians for Human Rights were present) including the media. It was a big show piece for a short time but was not permitted to be followed up. As such nothing constructive came out afterwards. 13 bodies have been exhumed and even after the DNA analysis only 2 could be identified and no legal steps have been taken since.26

Sadly the idea of reparative work was ‘out of context’ in those exhumations. There was hardly any psychological support and accompaniment during the exhumation processes. Neither the Government organizations like the District Mental Health Services

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23 For the current situation and a Chronology see: Tamilnet, 27 June 2007
24 CanadianHART (2009).
25 University Teachers for Human Rights (Jaffna), Sri Lanka (1999); Thangavelu, V. (2001).
and/or the Department of Psychiatry at the University nor the local NGOs and family organizations made any active contribution and people in general were too afraid of future retaliations to take an active role during the exhumation processes.

Almost all forensic experts in Sri Lanka have been trained abroad. They have been exposed to and trained on international standards. Sri Lanka does also have DNA laboratories and other identification facilities. One of the drawbacks in Sri Lanka is the limited number of fully trained forensic anthropologists and odontologists, however with the existing experts it is possible to manage any exhumation process to international standards. Regardless, there must be a commitment from the state and other relevant parties to proceed with investigations and legal processes.

In concrete terms, that means: training police and improving the state agencies’ motivation to proceed with investigations, fostering the empowerment of families, civil society and the assistance of INGOs and NGOs. Likewise there should be transparency or quality check mechanisms for exhumation processes, including papers such as the “Working Paper for International Consensus On Minimum Standards for Psychosocial Work in Exhumation Processes for the Search for Disappeared Persons”\(^\text{27}\), which has not been discussed yet. As seen in the previous case examples, more than one family member tends to disappear at the same time or within a short interval. Obviously the perpetrators don’t want to leave anyone who witnesses the incident or who actively searches for evidences. The fear is that if someone tells something or organises something, then he/she too will be disappeared. As a result, even though the community has some doubts or information about the possible outcome of the disappearance or burial ground where they may find evidence for what happened to the disappeared persons, they may choose not involve themselves with any active organised exercises like exhumation.

**Impunity**

It is important to note that all the exhumations were supported, sponsored and politically “owned” and used by the Government of Sri Lanka. Afterwards the state falls silent on this issue and there hasn’t been any progress on the legal side. While there are filed cases on disappearances, very few have lead to convictions like in the case of the killings of 23 school children from Embilipitiya High School.

Although the root cause of this case of disappearance was in fact a private dispute, it was allegedly related to Army operations against JVP. Three officers and four soldiers were condemned to 10 years’ rigorous imprisonment by the High Court of Ratnapura. Two other officials were acquitted.\(^\text{28}\)

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\(^{27}\) Equipo de Estudios Comunitarios y Acción Psicosocial (2009).

This was also one of the occasions where exhumations have been conducted. This time the government ordered the involvement of the High Court in 1994 after receiving pressure from the UNWGEID\textsuperscript{29}.

Although the Commissions of Inquiry handed over the names of thousands of perpetrators to the President, the list has never been made public and the perpetrators were sometimes released from custody, honoured and promoted not only in their regimes, but also even to a diplomat level.\textsuperscript{30} Many police officers, who were identified by the Commissions as perpetrators, were given promotions in the very same areas making the lives of those who gave evidence very unsafe.

\textbf{Concluding note}

The minimum standards for the psychosocial support of families in exhumation process, compiled in the draft document\textsuperscript{31}, seem to be very good and appear a strong enough tool. However, in countries like Sri Lanka much needs to be done even before entering into the exhumation processes. Disappearances are often denied rather than acknowledged. At present there is resistance in accepting the realities of disappeared persons and their families’ dilemma on a wider level and at the political level. They have become the ‘lost reality’ of the society. The legal system and even some human rights organizations are not offering adequate information and services for the victim’s family members. The psychosocial support is minimal. Organizations and individuals are fearful of working in this area. Everything is done with a low profile. The legal provisions are not adequate as abduction is not a criminal offence in this country, unless the intention to kill can be proven. Enforced Disappearance is not yet an offence nor has the “International Convention for the Protection of all Persons from Enforced Disappearance”\textsuperscript{32} been ratified. The affected families are continuously suffering from their loss. Some are coping well, some are not.

\textsuperscript{29} United Nations Working Group on Enforced or Involuntary Disappearances. See http://www.ediec.org/areas/un-mechanisms/unwgeid/ for more information.
\textsuperscript{30} E.g.: Major General Janaka Perera: „After he was appointed Sri Lanka’s High Commissioner to Australia, the Tamil community there accused him of being responsible for hundreds of deaths and the torture of Tamils in the Jaffna peninsula when he was in command. [...] The human rights group Amnesty International raised similar concerns. However, no formal charges were ever brought against General Perera." http://en.wikipedia.org/wiki/Janaka_Perera
\textsuperscript{31} Equipo de Estudios Comunitarios y Acción Psicosocial (2009).
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Association of War Affected Women and Parents of Servicemen Missing in Action: http://www.awawsl.org/
Association for Family Members of the Disappeared (AFMD): contact: thanuja_pathirane@yahoo.com
Still waiting for justice in Sri Lanka

By MCM Iqbal

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 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 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

The Mandates of the three Zonal Commissions authorized the COIs to inquire only into incidents of disappearances that occurred after 1st January, 1988. This resulted in a large number of disappearances 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 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 centres about which the COIs became aware during the 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 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. Nevertheless they have 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 defence counsel were 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. 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 the names of several leading politicians, high ranking officers in the police and security forces, many of whom are still in service in higher positions. The victims of the disappeared who gave evidence of their involvement in the incidents concerned, are 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 there being enough evidence of his involvement in the killing. Subsequently the wife of the deceased, who had complained to the COI, 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.

**No disciplinary action against errant police officers**

Though it was recommended that disciplinary action should 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 IGP35 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 OIC’s36 had destroyed these books.

35 Inspector General of Police, the head of the Sri Lanka Police
36 Officer in Charge
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’.

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 their names appear in the Diet Register for that particular day which was maintained by another officer.

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 the officers concerned.

**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 – some important information from the original reports 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.

The Citizens’ Committee of Batticaloa handed a list of 7000 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.

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. 341 of them had been filed at the National Human Rights Commission, which appointed a Committee 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 also launched 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 disappearances that had been inquired into 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. As stated earlier in this document, the COIs have recommended the appointment of an Independent Public Prosecutor with constitutional safeguards. This was cited by the International Independent Group of Eminent Persons (IIGEP) 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.37

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 had by then pervaded the police and security forces personnel. It has been said in a lighter vein that the COIs have helped the successive governments to 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 by then become a useful weapon in the hands of whichever government that came to power. Even the current incidents of disappearances could be 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, perhaps because, at some time or the other, each of these parties have themselves 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 meted out to them in the near future.

Nepal
Victims Families’ Needs for Truth and Justice – Challenges for Human Rights Groups and the Nepali Justice System

By Harihar Wasti, Pashupati Mahat, Ravindra Karn, Simon Robins

Historical Overview

Nepal’s Maoist insurgency was driven by a legacy of centuries of feudalism in a Hindu kingdom built on a codified framework of social, economic and political exclusion that marginalized indigenous people, lower castes and women. In 1996 a small party from among Nepal’s fractious Marxist left, the Communist Party of Nepal (Maoist) [CPN-M], declared a ‘People’s War’ against the newly democratic regime. The insurgency grew rapidly from its initial base in the hills of the impoverished Mid-west with the Maoists conducting military operations throughout the country. Whilst disappearances had occurred from the start of the conflict, and even before it, the introduction of the Royal Nepal Army (RNA) into the escalating conflict in 2001 dramatically increased human rights violations of all kinds. Between 2000 and 2003 Nepal was responsible for a greater number of cases of disappearance reported to the UN’s Working Group on Enforced Disappearances than any other state. Enforced disappearance has become the defining violation of the conflict. The conflict came to an end in April 2006, with a second ‘People’s Movement’ uniting the Maoists and the constitutional parties against a king who had seized absolute power. As part of an ongoing peace process the monarchy has been abolished and following elections to a constituent assembly the Maoists are now the largest party in the legislature. The conflict has left a legacy of some 15,000 dead, and more than 1,300 unaccounted for.

Since the end of the Maoist insurgency abductions have continued at a lower level, largely perpetrated by armed Madeshi groups in the Terai.

38 INSEC (2007).
40 INSEC (2007).
Victims and Perpetrators of Enforced Disappearances and Abductions

Complete data concerning the number of enforced disappearances and abductions of the conflict are not available and estimates vary from 600 to 3000. However agencies working in this field have estimated it to be in excess of 1,300\textsuperscript{42}, although no agency claims a complete list. Different organisations have reported different numbers of those still unaccounted for. This is due partly to variations in definition and purpose, but also reflects the need for a comprehensive and systematic review of cases. For example, INSEC reported 933 as of August 2008, 828 “disappeared” by the state and 105 “abducted” by the Maoists, while noting that NHRC had recorded 998 as of May 2008, 732 disappeared by the state and 266 abducted by the Maoists.\textsuperscript{43} The International Committee of the Red Cross (ICRC), which employs a broader concept of “missing” given its humanitarian mission, reported over 1,300 persons missing as of April 2009.\textsuperscript{44} National NGOs like the Advocacy Forum, courts and OHCHR-Nepal have also documented cases.

Whilst disappearances\textsuperscript{45} were also perpetrated by the Maoists, the vast majority were the responsibility of state actors, apparently as a deliberate strategy of war by military commanders at several levels in the hierarchy. One motivation was the elimination of those perceived as part of the Maoist threat, and this appears to be what drove the disappearance and apparent extra-judicial execution of students and others perceived to be Maoist activists. In rural areas there were additional dynamics that encouraged disappearance linked to the traditional power structures of caste, class

\textsuperscript{42} ICRC (2009).
\textsuperscript{43} Informal Sector Service Centre (2008), p. 6 and Annex I.
\textsuperscript{44} ICRC (2009), p. 1.
\textsuperscript{45} According to the definitions of international human rights law only forces linked to a state can perpetrate disappearance (although states are obliged to investigate those perpetrated by non-state actors); here, the term disappearance will be assumed to also include cases of abduction perpetrated by non-state parties to the conflict in Nepal, notably the CPN-M.
and ethnicity that were the underlying cause of the conflict. In rural areas controlled by the Maoists both killings and abductions targeted landlords and others perceived to be ‘class enemies’ of the People’s War, and others who opposed the CPN-M, including journalists and teachers.

A minority of the disappeared are educated and urban (a significant number of students are among those missing) but most come from rural peasant backgrounds. As a result, many families of the disappeared are of low educational level, illiterate and poor. The missing are predominantly younger males with the result that families have been deprived of breadwinners and women of husbands, often with young children to support, further reducing economic security. As a result of women’s position in both the community and family, the loss of a husband can have catastrophic consequences.

The Janajati, those people considered indigenous to Nepal, were successfully mobilized by the Maoists and thus became more vulnerable to becoming casualties of the conflict. The Janajati of both the hills and Terai are among the most excluded and poorest of the people of Nepal and the conflict reduced further their ability to cope both as communities and as individual victims of the conflict. The district worst affected in terms of the number of disappearances is Bardiya in the Mid-west Terai, where the local Tharu population were targeted by the state as an extension of the ongoing conflict over land; the district has almost twice as many persons missing as any other (more than 200), of those approximately 80% are Tharu.46

In the hills of the Mid-west, and in particular the Rapti region that includes the districts of Rukum and Rolpa, where the insurgency began, a large number of Magar people are missing as a result of actions of both parties to the conflict. In the central and eastern Terai, the Madeshi population constitutes a large majority of the missing.

The majority of the disappeared are in the age range 15 – 30 years of age, and an empirical study suggest that more than 90% are male.47 The same study suggests that more than 80% of all disappearances were state perpetrated. Disappearances peaked in 2002, but occurred throughout the conflict.

In addition to Bardiya, highly impacted districts are dominated by those in the Mid-west and include Banke, Dang, Rolpa, Surkhet and Kalikot. Elsewhere, Kanchanpur in the Far West, Chitwan in the Central region, and Kapilvastu and Kavre in the West were highly affected.48

46 Conflict Victims’ Committee, Bardiya (2007).
A Brief description of active organizations:
The Office of High Commissioner of Human Rights in Nepal (OHCHR-Nepal) is a UN body that takes up issues directly with state actors such as Nepal Police, Armed Police Force (APF) and Nepal Army (NA). It has also provided forensic experts for exhumations according to international best practice (e.g. exhumation of Ms Maina Sunwar). Its intervention at the highest level has attempted to ensure the cooperation of the Government and its agencies, as well as the Maoists and other political parties.

The Informal Sector Service Centre (INSEC) gathers data and maintains records on enforced disappearances. It works very closely with other human rights organizations.

The National Human Rights Commission of Nepal (NHRC-Nepal) is a statutory body which is regarded as a neutral national human rights watchdog which has the authority to order and supervise exhumations (alongside the Nepal Police) and its findings are admissible in a court of law. NHRC-Nepal has identified and supervised many exhumations.

The Advocacy Forum is a Non Governmental Organization (NGO) working for the rights of families of victims of the conflict in Nepal. It counsels victims’ families, provides them with assistance to approach the police or the court to get justice and bears all the costs of victims’ families including their travel and logistics during the process of registering cases with the police and proceedings in court.
The International Committee of the Red Cross (ICRC) has been carrying out its mandate to protect and assist victims of conflict in Nepal since 1998 and has documented missing persons and other violations throughout the conflict. The International Centre for Transitional Justice (ICTJ) is an international NGO that works to address all issues arising from legacies of violence in states in transition. In many cases of exhumation in Nepal, these agencies have worked in close coordination.

Victims organization
The Conflict Victims’ Society for Justice-Nepal (CVSJ-Nepal) is an organisation of the survivors of violence and relatives of those killed and disappeared at the hands of both the state and the then Maoist rebels during the decade-long armed conflict in the country. Since 2003, and actively supported by Advocacy Forum (AF), victims started to form pressure groups in various parts of the country starting in Banke and Bardiya and spreading out across the whole country. In 2008 they united and currently have a presence in 20 districts. Their objectives range from exerting sustained pressure on the Nepalese government to address issues of conflict victims, to overseeing the implementation of transitional justice mechanisms and putting an end to impunity by bringing the perpetrators involved in (gross) human rights violations to justice. Foremost of course, the objective has to be to empower the victims and to advance collaboration within civil society and with various national and international human rights organizations.

The Conflict Victims’ Committee (CVC) was established in 2006 in Bardiya district and is working to provide skills training, income generation programmes and legal support to families of victims of enforced disappearance and extra-judicial killings. CVC has documented disappearances in Bardiya, was engaged to develop awareness for filing cases of disappearances and extra-judicial killings and has been campaigning for victims’ justice, relief and reparations, and for the establishment of the Truth and Reconciliation Commission (TRC), organizing many activities and protests.

Committee for Social Justice (CSJ) was founded in 2007 in Lamjung to advocate for victims’ rights and assist families in discovering the whereabouts of their loved ones. CSJ conducts workshops and awareness meetings as well as family visits. The group also acts as a community level watchdog for issues of social justice in Lamjung. On the basis of creating a national network of families of the disappeared run by and for victims and independent of human rights agencies, CSJ has provided the core of the Families of Disappeared National Network (FDNN), which is the largest and most inclusive family organisation on the national level in Nepal.
Solidarity Campaign for Justice (SOCAJ) is a new national structure, formed in January 2010, that advocates for victims of both, Maoist and state, backed by national and international human rights agencies. It is a loose forum where victims and community based groups from across the country jointly put pressure on the government to address the issues of conflict-related victims and combat impunity. SOCAJ conducts meetings and workshops with different stake holders and human rights organizations to share information, moreover SOCAJ coordinates different NGOs/INGOs and civil society at local and central level to speed up their movement.

In addition to the above, other Family Associations that are actively engaged in the issue of disappearance include the Pressure Committee for Investigation of Disappeared Citizen, Nawalparasi, and the Pressure Group of Investigation of Disappeared Citizen (PGID)-Western Region. The oldest association of families of the disappeared is the Disappeared Warriors Family Association, founded by the Maoist party during the conflict and representing only those taken by the state. It remains active in Kathmandu. The construction of grass-roots movements and activism is still at an early stage in Nepal.

**Challenges in the search for the disappeared**

It is feared that there may be several clandestine mass burial sites known only to perpetrators from both the state and the Maoists. The prevailing situation in Nepal strongly...
suggests that both state and Maoists seek to shield their people from any legal action, irrespective of the gravity of the crimes they might have committed. This seems to explain the non-cooperation of state actors. The perpetrators of such crimes remain free and in many cases in positions of authority, which prevents families lodging complaints or pursuing cases further. In the absence of any clear cut guidance from the government, The morale and initiative of the Nepal Police is too low to take any action against perpetrators. As a result, the police cannot provide protection to the families of victims in this scenario.

This lack of resources, trained manpower and technical facilities is the background under which Human Rights defenders have to work to provide some relief to the families of the victims.

**Challenges faced in every day work**

- Although civil courts issue warrants concerning human right violations, investigation and enforcement is not necessarily provided due to non-cooperation from state actors and political bias.
- The ongoing illegal activities of Terai-based armed groups (extortions, murders, abductions, etc.) continue to increase. This creates difficulties for human right defenders to monitor their activities, as security cannot be guaranteed.
- Another challenge for human rights defenders is their simple failure to achieve visible results in the current environment. Victims blame human rights workers for collecting testimony but being unable to take things any further. The Government does not implement court orders or recommendations of the NHRC or the OHCHR and this has a direct impact on the activities of organizations working in the field of human rights. Until and unless the government is serious in such implementation, the work of human rights defenders will not be able to combat impunity or provide access to justice and reparations for victims and their families.
- It remains a challenge for human rights workers to motivate and convince victims to continue struggling for their rights, as they face financial difficulties, psychosocial problems and as the legal efforts continue with no result.
- The lack of adequate technical and financial resources to properly document cases and record testimony of affected families is a further difficulty.
Response of State

The peace process that started in 2006 with the active collaboration of the Seven Party Alliance (SPA) and the CPN-M ended the decade long violence. The Comprehensive Peace Accord signed by the SPA and the CPN-M included a commitment to create mechanisms of transitional justice, several of them concerning disappearances, including a Truth and Reconciliation Commission (TRC) and a Disappearance Commission.

The Interim Constitution, adopted in January 2007, recognizes “enforced disappearance” as a feature of the conflict and demands relief for the affected families, in terms of interim relief and economic support pending a comprehensive reparations process.

Several important Judicial Interventions have constituted the most positive interventions on the issue. However, they have generally been followed by inadequate and deficient government responses which have failed to satisfy the judicial orders or meet international standards. The most extraordinary incidence in this context has been the 129 page landmark judgement of the Supreme Court on the 1st June 2007 that set the bar for government action. It ordered the Government to form an “all powerful commission” to investigate the fate of the disappeared. The government and the Home Ministry were also ordered to file criminal charges of murder against all officials implicated in the death of detainee Chakra Katuwal and to provide compensation to those affected.

Truth and Reconciliation (TRC) Bill: In August 2007 the Government presented a draft bill to create a TRC, that drew sharp criticism from various human rights groups, victims’ families and others. It fell short of international standards in creating a body lacked operational independence and transparent appointment of Commissioners, dealt inadequately with victims’ right to justice and reparation and provided amnesty to perpetrators for a range of offences. Despite changes to this initial draft, the government has yet to produce a comprehensive and acceptable TRC bill.

The Disappearance Bill: The interim parliament ordered the government in November 2007 to withdraw the current draft of the Disappearance Bill and produce a new version, compliant with the Supreme Court ruling. The government was however given

50 A schoolteacher from Okhaldhunga District “who had appeared in person at the office of Chief District Officer (CDO) on 13 December 2001, and upon the CDO’s order, was put in illegal detention, first at the district police office, and then at the army barrack. On 16 December 2001, due to cruel torture given by army officials, he was killed.” Uprety, Kishor (2008).
only one month to implement this, and could only issue an ordinance without consultation with victims and civil society. The bill criminalizes disappearance retrospectively and creates a Disappearance Commission, in charge of investigating disappearances and determining guilt; cases are referred by the Commission to the Attorney General. Victims, national and international organizations maintain that the Bill falls short of international standards.53

**Psychosocial work in the search for the forcibly disappeared**

The aftermath of war presents numerous challenges for societies attempting to recover and rebuild. Among the most difficult is locating and identifying those missing during the conflict. Providing families psychosocial assistance and education around the identification process should be an essential part of all forensic investigations involving recovery of human remains and identification of bodies. The role of social workers and other mental and public health professionals is integral to the success of that task.

Psychosocial support to the families of the disappeared means supporting family members to deal with the ambiguous loss of the disappeared and the accompanying emotional reactions, helping them to redefine their lives and structure it in a way that they are socially functional.

The Centre for Mental Health and Counselling Nepal (CMC-N) is working in Nepal to support victims of war in the most affected regions of the country. This has included support to families of the disappeared. Social field workers support family members in dealing with their psychological trauma, with family members encouraged to ventilate their feelings and traumatic experiences, and to find meaning in the relative’s absence from the family, how this has affected their hope of his return and how they can cope if he never returns. Family members prepare to make the final rituals and say farewell to the disappeared person when evidence of death is identified.

The meaning of death rituals in Hindu and other cultures of Nepal is intimately linked with the end of physical contact and closure. The spirit of the dead must be allowed to travel to the spirit world and be a source of protection for the remaining family members. In the absence of proper ritual the spirit may haunt the home and cause misfortune and illness to the family members or community. As a result, great cultural importance is placed on completing the death rituals according to traditional practice, although the nature of this varies between ethnic groups. Family members

and community were seen to be content and secure after completion of this ritual. Somatic complaints of the wife and mother of the disappeared person were reported to decrease.

Social field workers help family members to register the disappeared with human rights organizations to advocate for justice. The birth registration of children in these families was coordinated with the Village Development Committee so that they can secure citizenship and property rights in their father’s family. Children of these families were supported by CMC-N in their education, play and recreational activities and teachers were sensitized to the reactions of victimized children.

Social support in developing self-help groups among the women and children of the disappeared and killed are also important where family members, mainly women, were encouraged to develop organizations to help families with livelihood options, skill development training, education support for children and to encourage them to advocate for their rights. In Rolpa, the district where the Maoist insurgency began, family members of both the disappeared and the killed have united to demand livelihood support from the local government. The local authority has responded with support for skill development and children’s education. This represents a success story in terms of empowering victims to fight for their rights and improve their situation.

There are various national and international organizations doing psychosocial work with victims of violence in Nepal including TPO (Transcultural Psychosocial Organisation) Nepal, Antaranga, Centre for Victims of Torture (CVICT), and CWIN (Children Workers In Nepal).

Whilst a number of agencies have worked with victims of conflict, and some have conducted workshops for families of the forcibly disappeared, none yet has regularly specific programmes to target these families. The ICRC has been actively working with families of the missing, including through the provision of livelihood assistance, and is beginning to provide psychosocial support to the families of the missing in some districts.

That psychosocial support to families of the disappeared is necessary in Nepal is beyond doubt, but the greatest challenge is the lack of financial support to such work, which has prevented funding of proposed interventions. If and when such work begins on a significant scale, it will be necessary to ensure the broadest base of learning from experience to ensure that the unique cultural context, and limited experience to date, informs any future initiatives.
Exhumations in Nepal – Traditions and practices

Whilst Nepal contains a diverse range of religious cultures, including animists, Buddhist and Muslims, a majority of the people are Hindu and laws and traditional rituals followed by most are based on the ancient Hindu philosophy. In Hindu tradition death is considered as the start of a new life through reincarnation and cremation of the dead is mandated. As a result there is little tradition of exhumation or excavation of human remains, and no legal framework for such procedures.

The decade long armed conflict in Nepal that led to gross violations of human rights created new modalities of investigation not mentioned in existing laws. Investigations of the National Human Rights Commission (NHRC) and other human rights organizations in the country led to the exposure of the burial sites of victims of violations. The first such example of exhumation in Nepal was performed in 2003 at a mountain site in Ramechhap district, east of the capital, Kathmandu.

Today families are searching for loved ones who were disappeared by both parties to the conflict. Sites have been identified or are suspected as alleged human grave sites scattered throughout the country. There is huge need from the relatives of the disappeared for exhumation to find remains of their loved ones and to confirm his or her death, as well as to permit the necessary religious and cultural rituals and to seek justice and compensation from the state. The families, relatives and friends of the disappeared have already started to search for grave sites and have even attempted excavation in a number of places. Such an attempt was made in the well known “Shivapuri Case” where around four dozen individuals were allegedly cremated or buried having been removed from detention in an army camp.54

The state remains reluctant to listen to the voices of the families of the disappeared and is taking no proactive initiatives to conduct exhumations. NHRC and other concerned international and national NGOs are trying to assist but the resulting efforts are limited and insufficient. 29 exhumations have been conducted since 2003 and 24 victims of illegal killings have been positively identified.

Most exhumations were conducted on the initiative of NHRC. A few cases were exhumed by the Nepal Police and one case was exhumed by order of the Supreme Court. There are very limited human resources available for such procedures and the same technical experts are engaged whoever guides or initiates the process. In a majority of cases sufficient evidence of homicide could be found and according to the mandate of NHRC, cases were recommended for prosecution by state authorities in civil courts. Unfortunately no case has yet been prosecuted and to date nobody has been punished.

54 OHCHR (2006).
for such killings or disappearances according to the existing legal provisions. This situation of impunity is enhancing the existing psychological trauma of relatives and families and coping mechanisms after the conflict are further challenged. Impunity is furthermore the major challenge for all who are trying to contribute to the search for the disappeared and to find the truth.

**Case studies of exhumation of enforced disappeared persons:**

**DOROMBHA (2003)**
19 persons, active members of the Communist Party of Nepal (Maoist) [CPN-M] were captured by army personnel and allegedly shot dead one by one while hand-cuffed. An internal investigation by Royal Nepal Army (RNA) Headquarters was conducted and informed the public that the deaths had occurred during an armed encounter. Huge pressure from civil society compelled the NHRC to demand an independent investigation which was conducted by a High Level Enquiry Committee. It concluded after the exhumation that the dead were killed while hand-cuffed by powerful rifled firearm shots to the upper body, mainly the head. To date, no action has been taken against any army personnel as a result of these deaths.

**PANCHKHAL KAVRE (2007)**
A young school girl (Maina Sunuwar) detained by RNA personnel at the Army Training Centre was alleged to have been killed and buried at the site. Concerned organizations, including OHCHR Nepal, NHRC, Advocacy Forum and others, pressured the Government to conduct an exhumation. Three years after the death and burial, the body was exhumed and positively identified, with confirmation that she had been shot. This is the sole case where a prosecution has been registered in a civil court but as yet no perpetrators have been arrested, despite their having been identified.

**DAILEKH (2008)**
In a remote hill area, a journalist had been detained for some days by the CPN-M armed organisation, the People’s Liberation Army, and allegedly beaten to death. Exhumation was made four years after the death and bones and other artefacts of the alleged journalist recovered with confirmed identification and multiple blunt force injuries to many parts of the body.

**Psychological work in exhumation processes**
Although it is crucial to counsel the relatives and families of the disappeared, the psychological aspects for families are often not considered and no specific activities carried out. Family members are always in great mental stress from the time persons go missing and this is exacerbated during and after exhumation. The psychosocial work at all steps must be performed according to specific objectives and in a systematic way. Many relatives are found with depression. One such example in Nepal can be cited. The father of Maina Sunuwar (see case above) recently committed suicide by ingestion of poison. This could have potentially been prevented if regular psychosocial counselling was available around and following the identification of his daughter and information about her cause and manner of death.
If there are no exhumations: Alternatives in the Asian Context

The number of exhumations that have occurred in Nepal remains tiny compared to the total number of persons missing as a result of disappearance and abduction during the decade long conflict. In the absence of such process families have a range of needs that can be addressed while awaiting return of human remains.

A study of the needs of families of those missing in Nepal55 has identified the needs of the families of the missing as articulated by a representative sample of families. In addition to the need for an answer and a body, this identifies economic support as the most urgent need. Those most targeted by the state during the conflict were the poor and the marginalized, and since 92% of those missing are men56 the loss of breadwinners has left families struggling with livelihoods, particularly those now headed by women or the elderly whose ability to work is limited. As such, economic support to families of the missing is a priority to ensure their well-being. Limited payments of Rs.100, 000 have been made to some families, but these payments remain both far from comprehensive and inadequate to ensure the long-term livelihood of many families. Families identify their principal economic needs as paying for children’s education and affording health care. Whilst a comprehensive reparations programme must await the truth regarding the fate of the missing, families are in urgent need of economic support from the authorities in the short term.

Solidarity and support has been provided to some families through their formation of family associations, most often on a district basis. Such groups provide a crucial outlet for families to share problems with peers who sympathize and understand. This provides a particularly important coping mechanism for women who, in the patriarchal societies in which they live, often find themselves stigmatized and discriminated against in their families and communities. A number of wives of the Missing face extreme stigmatization in their homes that has led to their being rejected by their in-laws, leaving voluntarily or continuing to live in terrible conditions. In their communities the problems of the families of the missing are poorly understood; wives of the missing are often stigmatized for refusing to behave as widows are expected to, and are often perceived as being predatory in pursuit of a new husband. Where family associations do not exist, or where they are unable to access families in more remote areas, it is vital that they be supported to access the most isolated victims who are likely to be most in need of their support. The training of family association members in psychosocial counselling by appropriate local experts would increase their capacity to support their members.

55 ICRC (2009).
56 ICRC (2009).
Chronic physical symptoms that are attributed to the long-term impact of disappearance are also widely reported, presumably somatic. A minority of family members report symptoms consistent with the impact of trauma and are subject to various depressive and anxiety disorders. Small minorities are disabled by mental illness but have little or no access to the specialized services that would enable them to restore function. No psychosocial or mental health programme addressing families of the missing is currently ongoing in Nepal. A minority of families faces administrative issues, notably concerning the transfer of land or property owing to the ambiguity of the fate of a head of household. A majority of affected families favours a legal status of “missing” so that such issues can be addressed. Recognition also remains a need of many, with a desire for acknowledgment from the state of the missing as martyrs, and the construction of physical memorials in their areas.

Outline of works to be undertaken

Rather few studies of the needs of the families of the disappeared have been made, but those that have, suggest that families prioritize the need for livelihood and economic support, the need for an answer concerning the fate of the disappeared person and access to human remains where they are dead. Other needs include that for recognition from the state and judicial process against perpetrators; to achieve that, the most urgent measures are outlined here:

- **A reliable and integrated database of victims** of disappearances is required. A single authenticated database, maintained by a reputed impartial body, will go a long way to supporting justice and reparation to the victims and their families.

- **A Survey of families of disappeared**, that identifies the families of victims, records their statements and provides them with support to file and pursue cases, should be conducted by NGOs working in the field of human rights. The Advocacy Forum is attempting this in the most severely affected regions of the conflict.

- **The adequate Protection of families of enforced disappeared persons** should be provided by the state. Therefore, NGOs need to put pressure on the government. At present the perpetrators of crimes remain free and threaten families of victims with dire consequences, causing insecurity and hesitation to come forward to demand justice. In some cases the families of victims are dissuaded by human rights activists themselves not to lodge cases against the perpetrators, due to the grossly inadequate security environment. Police simply refuses to provide any security to victims’ families.

- **The encouragement of Mobilization of Victims through Family Associations** can provide psychosocial peer support as their members are victims themselves and they

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best understand the needs of victims. This may also protect victims from the agenda of human rights organizations which nor always meet the aspirations of the victims and most importantly, through these associations victims themselves become actors with an agency in the process.

- **The Identification of burial sites and exhumations** is a priority, as it is widely believed that most of the disappeared are dead and buried at places known only to perpetrators, in some cases in mass graves. Exhumations should be subject to international archaeological and anthropological best practices. Forensic experts should be trained to take DNA samples of not only the fresh tissues but that of bones too. Adequate training in this regard should be given to local forensic teams and the support of external forensic experts promoted with the help of international agencies. This expertise is required to establish the identity of the victims of disappearance beyond doubt. At present there is no forensic lab in Nepal that is equipped with DNA testing facilities and all samples collected are sent outside the country for such tests. The international community should help Nepal to establish such a forensic lab for a faster processing of forensic cases.

- **Justice to the victims and their families**: The scale of violence due to Maoist insurgency and state counter action and the prevailing security situation in Nepal warrants an empowered and independent Truth and Reconciliation Commission (TRC) and/or Disappearance Commission backed by all major political parties. This can only be achieved by sensitizing people and making them more aware of the necessity of such a commission in order to bring lasting peace, come to terms with the past and obtain justice for victims and their families. Political parties should be subject to intense pressure from the people, the international community and organizations to facilitate the formation of such mechanisms that should start working with the help of an integrated database of disappeared persons and other victims of violence.

- **Interim measures**: The government should form a separate empowered cell within the police department to investigate and file cases of human rights violations. This cell may also maintain a database of cases of serious human rights violations and could prepare the way for a full functioning TRC.

- **The Rehabilitation of the families of victims of disappearances** represents some kind of justice. A single payment is insufficient to rehabilitate families, especially when the victim was the sole breadwinner. In present circumstances, guaranteed monthly support to victims’ families, with provision of free education for the children of the victims would be more beneficial. Similarly the close relatives of such victims suffer prolonged mental trauma which may result in other complications. Therefore a rehabilitation package should also contain the provision of medical support.
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ENFORCED DISAPPEARANCES IN DEMOCRATIC COUNTRIES
Thailand
The Justice for Peace Foundation, a network of human rights and peace activists to protect human rights, to promote access to justice and to end impunity, has collected extensive information related to enforced or involuntary disappearances in Thailand. This short article highlights the scale of the problem as well as the obstacles faced by the families and victims.

**The situation of enforced or involuntary disappearance in Thailand**

Enforced or involuntary disappearance in Thailand seems to be a new phenomenon in Thai and international perception, due to the small scale comparing to other countries in Asia. But, in fact, the problem of enforced or involuntary disappearances is not new in practice, since reliable information affirms that the Royal Thai police has used enforced disappearance as a tool to eradicate political opponents since the 1940s. This fact demonstrates that the problem is not new, and also shows us that enforced disappearances are a chronic problem in Thai society. As a newly democratic country, Thailand has to face political instability due to the weakness of the Rule of Law, the weakness and politicization of the Royal Thai police as well as of the Army by politicians and political parties. Also the lack of rights awareness among Thai citizens aggravates the problem of enforced or involuntary disappearance, because obviously until now, no one has been held accountable for any case, while the Human Rights organizations found and documented an increasing number of disappearances.

In the past, at least before the disappearance of the prominent human rights lawyer Somchai Neelapaijit in 2004, the problem of enforced or involuntary disappearance used to be only a rumor because no case had been raised to the public yet. Moreover

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58 http://www.wgjp.org/; The Justice for Peace Foundation was formally known as Working Group on Justice for Peace.
the problem has been justified with the question of security of the state, therefore in the past, Thai society was only familiar the term “missing” not “enforced or involuntary disappeared”. We can argue that since Thai society had no word to address the problem, enforced or involuntary disappearance is quite “new” in the social perception.

**Unknown number**

The scale of enforced or involuntary disappearances remains unknown, due to the lack of concrete efforts by government agencies to acknowledge and investigate the issue. The Deputy Prime Minister Chavalit Yongchaiyudh told the Thai parliament on March 18, 2004, “Villagers [in the southern border provinces] complained to me that they have been abused continually by the authorities. They said more than 100 people have been ‘disappeared.’”

The National Reconciliation Commission has received reports of disappearances and documented 23 cases. There are no reliable and comprehensive statistics regarding the exact number of people who have disappeared. While some relatives immediately filed missing persons’ reports at their local police stations, others have never done so.

The *Justice for Peace Foundation (JPF)* has collected throughout the country more than 90 cases between 1991 and 2010. In detail this data shows that **over 30 cases** occurred in 1992 when security forces cracked down on democracy demonstrations in Bangkok, **one** concerns the President of the Labour Congress of Thailand in 1991, **dozens of cases** occurred during 2003-2005, when the Thaksin administration was embarking on its infamous “shoot-to-kill” anti-drug campaign across the country, in 2004 **Somchai Neelapaijit** disappeared, **34** documented cases occurred in the South of Thailand during the anti-separatist policy from the term of the former Prime Minister Thaksin Sinnawatra until now [2002-2010], and another case is **Kamon Laosopapan**, who complained to the local police about corruption in the Northeast of Thailand in 2008 and wasn’t seen since.

The details collected on the cases highlight at least two points: First, in terms of space and time, as mentioned before, enforced or involuntary disappearance is not new in Thai society and many of the cases occurred during times of democratic governance. Moreover, disappearances have taken place in all parts of the country and have impacted all classifications of Thai people, ranging from hill-tribe communities, to Malay Muslims, from pro-democracy activists to anti-corruption leaders.

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60 Human Rights Watch (2007).

61 See in http://www.wgjp.org/
Second, the phenomenon of enforced disappearance shows the weakness of the regime and the democratic institution in Thailand, especially the problem of politicization in the Royal Thai police and Army. Looking back in time, when the legitimacy and the power of the political party relied on support from the police or the Army, enforced disappearance seemed to be an effective tool to quell anybody, who was considered a national security threat. Many of those who have been disappeared, were suspected by the police or the army of being communists, drug sellers [in the time of the infamous “shoot-to-kill” anti-drug campaign in 2004], militants or of supporting one of these groups, or of having information on separatist attacks in the ethnic conflict area in the Deep South – in general, suspected of being opponents of the police or the army.

**Background of enforced disappearances**

Several conditions can be identified that served as underlying causes for the occurrence of disappearances in Thailand, involving the *power structure* of Thai society as well as *legal framework*. Special laws are being used in sensitive areas namely, the *Martial Law*, the *Emergency Decree* and, most recently, the *Internal Security Act*. They provide the legal basis for security forces to arrest and detain people. Numerous victims were arrested as national security threats and subsequently went missing.

Regarding these laws, particularly concerning is the imbedded impunity for security officers abusing their power. Moreover, lawyers, and sometimes even families, do not have access to the detainees under these laws, which provide the grounds for unlawful behavior. As the judiciary is lacking independence and strength, legal oversight over detentions have also not consolidated. There is a prevalent culture of impunity, particularly among high ranking officers, coupled with a lack of good governance. So far, not one case of official abuse of power has been successfully brought to court. Investigations of police crimes continue to be carried out by police officers, who protect each other. Hundreds of victims of the War on Drugs, for example, are still waiting for the government to carry out investigations of the deaths and disappearances.

The power structure in Thailand ensures that the military still plays an important role in Thai politics, especially in the border area where the mentioned special laws provide for excessive powers. Particularly, the border areas in the North and South suffer from excessive military abuse as martial law applies and national security concerns rank high. Often killings are justified by branding people as drug traffickers or insurgents.

As a matter of fact, I would argue that disappearances are a symptom of the existence of authoritarian characteristics in the Thai democracy.
On the way of Seeking Truth and Justice:
Stories from the court, the exhumation field, reconciliation stage, and psychological work with the families of the disappeared in Thailand

The most important point conditioning the situation of enforced or involuntary disappearances in Thailand is that the problem is not considered a serious crime, as there is no law criminalizing it. This poses a major obstacle for victims and family members to access the Thai justice system and other ways to seek the truth, justice or even the body of the disappeared. Because of this reason, Thai society has responded to the situation by refusing the fact at all or just paying some compensation to the families of the disappeared, without acting on the truth and justice for the case. At the moment we in Thailand have not enough knowledge to solve or prevent the situation.

Nevertheless, the Royal Thai Government by the Rights and Liberties Protection Department, Ministry of Justice has done a research on the readiness of Thailand to ratify the *International Convention for the Protection of All Persons from Enforced Disappearance*\(^{62}\). The government seems to have political will to stop and prevent the problem of enforced disappearance in Thai society and also wishes to ratify the Convention, but because of the government’s instability, nothing happened till now.

As a result of the continuing failure of the government to seriously address the issue of disappearances and the ongoing culture of impunity, witnessed by the lack of prosecution and coupled with the lack of remedies for the families, the problem of enforced disappearance still is serious in Thai society. While the number of cases seems to have dropped over the years, families continue to live in fear and poverty. In our working experience we found, that most of the affected ethnic hill tribe families in the North as well as the Malay Muslim families in the Southern most part of the country still live under the control of the Internal Security Operation Commander (ISOC), which forms part of the Thai army. Their daily life is affected by the Martial Law and the Emergency Decree, which force them to keep silence. Those families are farmers without other livelihood options, often they are plunged in debt as high as 1875 US$ and on top of it, the only head of the household is a widow or a wife of a disappeared with difficulties to feed the families.

STORIES FROM THE COURT:
One of the key cases that has affected the trust in the justice process and the rule of law in Thailand is the case of the disappearance of the prominent human rights lawyer

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Somchai Neelapaijit. So far, this case was the only one taken to court. However, even in this prominent case the government has continuously intervened in the investigation and obstructed justice, because it relates to high ranking police officers. The case has been politicized.

Somchai Neelapaijit was 53 years old at the time of his disappearance. He had practiced law for more than 20 years with Somchai Neelapaijit Law Office, was the chairperson of the Muslim Lawyer Club and Vice-Chair of the Human Rights Committee of the Lawyer Council of Thailand at that time. Many of the cases he worked on were regarded as politically controversial. Since 1983 he had represented a number of clients charged with alleged terrorism-related offences, many relating to the long-standing low-level insurgency in the Southern border provinces of Thailand – Pattani Yala and Narathiwat.

On 4 January 2004 a robbery of military weapons from an army camp in the Deep South happened and the Government of Prime Minister Thaksin Shinawatra, responding to the gun robbery, declared Martial law in the effected provinces.63

Somchai Neelapaijit was asked to represent some of the suspects and he played a key role in collecting names for a petition of 50,000 signatures to request martial law to be lifted. Based on the torture allegations, he issued a court petition requesting the release of the five detained men. The petition was rejected. On 11 March 2004, he therefore submitted a petition alleging abuse to the Ministry of Justice, the Ministry of Interior, the Royal Thai Police, the Attorney General’s Office, the National Human Rights Commission, the Prime Minister and the officer of the senate. The following day, on 12 March 2004, Somchai Neelapaijit has been seen getting forced into a car and disappeared since then.

In the first court case, the five police officers who stood trial were only accused of minor charges of coercion or robbery. The judgment was pronounced on 12 January 2006 and the court found only one of the five defendants guilty of coercively abducting Somchai Neelapaijit and sentenced him to three years imprisonment.

On 19 May 2009, the Bangkok Post reported, that the officer, Pol Maj Ngern Thongsuk of the Crime Suppression Division, sentenced in connection with Somchai’s disappearance, is believed to have fled the country after having been released from jail while appealing the verdict. Earlier that year he had reportedly gone missing in a flood. Angkhana Neelapaijit, the wife of Somchai had requested the police to investigate the whereabouts of the officer’s body, which was not found.64

63 See Lawe-Davies (2005).
64 See: AHRC (2010).
Angkhana recently petitioned the civil court to declare her husband missing so she could take control of his assets. The civil court took up the petition and declared on 18 May 2009 that Somchai was a missing person, as he had been missing for five years.

In the process of investigation and searching for the body of Somchai Neelapaijit, no substantial progress has been made until now, although several former government officials, including a former Prime Minister and the Attorney General, have publicly stated that they know Mr. Neelapaijit was killed. The case was handled in the past four years by the Department of Special Investigation (DSI), but attempts have only been made to acquire evidence from the Maeklong River, Ratchaburi province. Insofar, four 200-litre-drums have been recovered and are believed to have been used for destroying the body of Mr. Somchai. Some human bone remains have also been obtained, but after forensic tests, it has been found that they don’t match the genetic pattern of Mr. Somchai Neelapaijit.

There have been further developments in the Somchai case. Pol Lt Gen Panupong, head of police Region 7 (Ratchaburi province) withdrew from his post and Pol Gen Tanee, the chief investigator of the Somchai case within the DSI, is now looking for new evidence and witnesses in the area. At the same time, the National Counter Corruption Commission (NCCC) is preparing to deliver their investigation results into the torture allegations brought forward by Somchai Neelepaijit before he disappeared. Meanwhile, compensation has been offered to the family. It is important to know, that compensations are commonly used by the Thai government to discourage further demands or actions by the victims’ families, as was attempted in the cases from Southern Thailand. But Angkhana still keeps asking for truth and justice in her husband’s case.

Recent developments show that the case is still highly topical and disquieting for some people. In the morning of 7 June 2009, the car of Somchai Neelapaijit was broken into. The Honda Civic was parked in front of the house of the Neelapaijit family in Bangkok. The small window on the right hand side of the car was broken, in order to unlock the door. Several of Somchai’s belongings were moved within the car including a prayer’s hat, an Al Qur’an and a mobile phone charger, but nothing was stolen even though it contained valuables such as a radio-tape player. Angkhana Neelapaijit reported the break-in to the head of the Department of Special Investigation, responsible for investigating the case, the head of police, the local police and her lawyer. The local police and a forensic investigation team arrived at the house quickly and took fingerprints. An umbrella and the broken window were subsequently found in a garbage can opposite the house.

At about 2 am of 10 June 2009, Angkhana Neelapaijit’s car, a Honda Accord with the license plate Por Yor 8574, which parked in front of her house in Bangkok, was
broken into in the same way as Somchai’s car. Nothing inside the car was stolen but a little purse and cards were dropped in a trash bin opposite the house. Everything happened in the same way as with Mr Somchai’s car earlier. At the moment the officers are investigating the finger prints and have not found any matching finger prints taken during the investigation of the break-in into Somchai’s car. Also, finger prints could not be matched to any person filed with a criminal record by the police. The police have set up a CCTV camera outside the house and assigned civil police officers to guard.

Angkhana Neelapaijit believes that this latest incidence is a threat to her and her family, due to the ongoing pressure and developments regarding the disappearance case. Examples for these developments are the several meetings she had with high ranking officials, including the newly appointed Prime Minister Abhisit Vajajiva and the Minister of Justice, to lobby for greater action. Especially PM Abhisit Vajajiva assured, that the Thai government is determined to do its utmost to bring the case to a conclusion, based on the rule of law and that the Government’s intention was to ensure swift and meaningful progress in investigating and bringing to justice the perpetrators of Mr. Neelapaijit’s enforced disappearance.

Then, in March 2009, the case was highlighted by the Canadian delegation during the reporting of the Working Group on Enforced and Involuntary Disappearances (WGEID) at the UN Human Rights Council. They asked for details on the progress of the case. In response, the Thai government again reconfirmed its commitment to take all allegations of disappearances very seriously and put all efforts in addressing the cases in accordance with the rule of law and the principles of justice.

At the same time the public commemoration of the fifth anniversary of Somchai’s disappearance took place in Bangkok. Moreover, in a Joint Press Statement of the Secretary General of the Organization of The Islamic Conference (OIC) and H.E. Nitaya Pibulsongram, Minister of Foreign Affairs in May 2007, followed by the exclusive report of the Secretary General on Muslim Communities in Non-OIC Member States, submitted to the 36th session of the Council of Foreign Ministers in May 2009, the OIC urged the government of Thailand to investigate the cases of Tak Bai, Krue Se and Somchai’s disappearance.

The disappearance of Mr. Somchai Neelapaijit is also related to the alleged torture of the 4 January 2004 gun robbery suspects while being detained by several high ranking police officials. This case is investigated by the National Counter Corruption Commission (NCCC). But due to the slow justice process and inefficient witness

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65 For more information about the Tak Bai and the Krue Se incidents see AHRC (2008).
protection, witnesses and their families have been living in fear, unable to live their normal life ever since. On November 2009, the Justice for Peace Foundation has received information that three of the witnesses are now being charged with making a false statement of torture by Pol. Maj. Gen. Chakthip Chaijinda. The plaintiffs filed the complaint with the Bangkok Criminal Court, which is now in the process of calling for evidence. At the same time, the plaintiffs have requested to obtain access to the investigation report of the NCCC, which they have not yet made available. Again, this constitutes another tactic by police officers to abuse their powers and threaten victims to protect themselves. According to one of the witnesses, Pol. Maj. Gen. Chakthip Chaijinda is one of two police officers were among the group who allegedly tortured the five men.

As a result of these developments, Angkhana Neelaphaijit submitted a letter to Mr. Wicha Mahakhum of the NCCC, to request not to include the testimony of the defendants in the investigation report that is supposed to be sent to the plaintiffs, due to the sensitivity of the information and the protection of the defendants. WGJP/JPF published an open letter, concerned about the security of the defendants, their relatives as well as the lawyer involved in the case and therefore also plans to observe the trial. We also called on the international community to raise these concerns with the Thai government and particularly the Royal Thai Police, in order to ensure the safety of the defendants, a fair process and to secure impartial observation of the trial. On 9 November 2009 the NCCC refused to send the requested information to the plaintiffs.

On 11 December 2009, one of the key witnesses in this case, Mr. Abdulah Arbukaree was made to disappear. He had been waiting for years to testify as a witness in the Court. During late November, he has gone to his hometown in one of the Southern border provinces and wasn’t seen since then.

Should the disappearance of Mr. Abdulah Arbukaree prove to be an enforced disappearance, it shall inflict a horrendous threat to other witnesses in this and other cases. Their confidence in their safety and their trust in the efficiency of the justice system to hold the perpetrators liable shall be gravely eroded.

The second case which had been brought to the court, is case of Mayateng Marano [from Yala province, Deep South] and was also reported to the WGEID. His wife has asked the court for investigation of the case, making it the first attempt of a habeas corpus case in Thailand. But finally the court ruled, that the missing man was not disappeared by military forces, as they had argued, and that he had been released already. Again, evidence heard by the court was limited and weak and lawyers, judges and witnesses were intimidated by military officers.
Similarly, in northeastern Thailand, in February 2008, Kamon Laosopapan, an activist exposing corruption in his local community had met a senior police officer. His family lost contact with him during the meeting. Police officers failed to explain his disappearance to his family. For a year now, this case is under the responsibility of the Department of Special Investigation, like the case of Mr. Somchai. But till now there was not any progress made.

STORIES FROM THE EXHUMATION FIELD:
Actually I can’t say that exhumation processes are already practiced in our country. As far as I know, there was only one case that has gone through a process similar to an exhumation process, which is the case of Mr Somchai Neelapaichit. The work of NGOs or relatives of the disappeared in Thailand mostly focus on legal and compensation issues. Since enforced disappearances are still not a crime in Thailand, there are several challenges and obstacles for the process of exhumation.

First, the concept of the “exhumation process” is very new for us. The Thai state has very little knowledge about it. At this stage, JPF are campaigning for the ratification of the Convention against enforced disappearance and lobby the judiciary to renew laws concerning enforced disappearance, because Thailand does not have adequate laws.

At the local level, an exhumation process is far beyond the understanding of the relatives. There was an attempt from Mr Wasant Panich, a former National Human Rights Commissioner (NHRCT), who tried to establish a procedure for exhumation processes of the disappeared. However, the procedure has not been completed.

Second, related to the culture and the religious belief, exhumation is a sensitive issue, particularly in southern Thailand, where most disappearances happen. The Islamic concept, which is valid for the majority of the southern border provinces, is that exhumation is not allowed, because in Islamic thought, the grave is the recreation place for the (whole) body, waiting for the day of Judgement. Therefore most local people do not agree with exhumations, because it might disturb the dead and their “life” in the grave.

Among the relatives the necessity of exhumations is an issue of discussion, as some don’t agree for religious reasons, but some are in favour of it, and argue that exhumations are acceptable for the sake of justice.

The Islamic Committee of Thailand has a fatwa (agreement among Islamic Nobels) that exhumations are allowed under the agreement of three components: the family, the local Imam and the provincial Islamic committee. There are two cases from the south, where the relatives signed an agreement for an exhumation. However, the location of the exhumation is still not identified. The exhumation has not yet started.
Third, although exhumations in other parts of the country would be possible, judicial and legal processes remain to be obstacles of the exhumation. In a case where Mr Wasant Panich tried to do an exhumation in a graveyard in Pattani province in the year 2007, he had difficulties to get the permission from the court. Even though he finally got the permission, for some reason the exhumation couldn’t start until now. It seems that in this case not the judiciary but rather the legal procedure seems to be an issue. There is not much information available about the background of the case; we wish to find out more about it.

Fourth, Thailand has no independent institution or participation in the exhumation process. There are at least four state agencies that are or might be involved in the exhumation process, the National Human Rights Commission Thailand (NHRCT), the Department of Special Investigation (DSI), the Central Institute of Forensic Science Thailand (CIFS) under the Ministry of Justice and the Forensic Department of the Police.

The former NHRCT was quite active advancing the issue of exhumation processes, but the new staff of the NHRCT has not proven its qualities yet. The DSI and CIFS cooperate in the Somchai case, but not in all other cases. Besides, the head of CIFS is now suspected of having taken favors from the army, which could be bias if the disappearance was allegedly caused by the army. The Forensic Department of the Police could not gain trust from the relatives, because most of the missing were allegedly disappeared by the police.

Furthermore there are very few anthropologists in Thailand and to our knowledge there is no Thai forensic anthropologist. We would depend on foreign forensic anthropologists, if exhumation processes were really functioning.

Fifth and finally, the security would be a main concern for the exhumation process, as disappearances are committed directly or in directly by state officials. Those perpetrators have an interest to cover the crime, therefore they made people disappear. Once the remains are found, an exhumation would trouble the perpetrators and they would try any way to prevent the process. The State officials that are involved with this crime mostly come from influential agencies as the police or the army. It would be very dangerous if there was no security plan to protect the team.

But it has to be noted that there would be the reasons to advance exhumations in Thailand: the head of the CIFS, Dr. Khunying Porntip stated in 2004 that only her agency received details of some 1000 unknown persons’ remains each year. Besides that, there are some 400 unidentified graves documented in Chinese Graveyards of the Southern Provinces that also wait for investigation. The Asian Human Rights Commission states in this context:
Heavy denial is a common characteristic of any country or place where gross human rights abuses are routinely occurring. So it was in Somchai’s case, where at first it was denied that he had been abducted, then it was denied that he had been abducted by the police, then it was denied that any other part of government was involved, and then it was denied that the evidence exists with which to solve the mystery. So it was too with the hundreds of graves in the south, where it was denied that the graves existed, that they existed in such large numbers, that they would be the graves of Thai people (as opposed to Burmese or others from outside of the country), and that it was anything out of the ordinary that hundreds of unidentified graves could be found within a small area.66

**STORIES FROM RECONCILIATION STAGE:**

In 2005, the National Reconciliation Commission was tasked with analyzing the conflict in southern Thailand and to make recommendations for reconciliation. For the first time these mechanisms provided for the establishment of a committee on disappearances. The committee was informed of 23 cases of enforced or involuntary disappearances that took place in the conflict area between 2003 and 2005. The government then established the “Commission of policy and administration of healing for the people affected by conflicts” with aimed to distribute healing mechanisms to victim’s families. The commission approved to pay compensation to 17 families of disappeared persons, offering 100,000 Bath for each family, including scholarships until university grade for their children.

However, the commission was dissolved without reasonable explanation, which implicated that no further distribution of compensations occurred thereafter. Moreover, the JPF has received complaints from the victims’ families in the South that the provincial administration refused to approve the scholarship for their children, because a newly established healing program does no longer cover cases of enforced disappearance.

**Psychological Work with Families of the Disappeared in Thailand:**

There is no organization or team that focuses on psychological accompaniment. The Justice for Peace Foundation (JPF) did a couple of psychological trainings for the relatives of the disappeared. They were psychologically strengthening for the relatives, but they were not involved in exhumation processes at all. Since the issue of disappearance is still considered small scale in Thai society, there is no psychologist focusing on this issue. As far as we know, JPF is the only NGO so far, that did psychological activities for the relatives, in cooperation with the AFAD.

From our experience, here are some challenges we found in the field. First, Thailand has no knowledge, no lesson-learned, *no experience* in taking care of the victims or the
families of the disappeared, so there is still no special program from the government to help the families. The most important reason for the lack of a reparation program is that the government does not want to accept that the perpetrators are government officers, both police and military.

Second, most areas where enforced disappearances occurred are considered very insecure, deadly conflict areas, especially along the border. Because of this precarious situation, some social workers try to convince the families not to bring the case to the court or not to seek the truth for their loved one.

Third, the diversity of belief, culture and language in areas where enforced disappearances took place is another challenge for the psychosocial work in Thailand. As a worker, it is necessary to understand the cosmology of the groups the families of the disappeared belong to. Especially the way they think about life, death and being disappeared, the way they respond to the situation, and the way they express their feelings. Understanding those people and their contexts is useful, not to say indispensable for psychological work, because sometimes we have to use different methods and some local cultural tools in addition to the standard medical science methods. Even local language seems to be an obstacle for psychological work in some areas.

Nevertheless, in our experience we found that uniting a group of different people from different cultures in the same activity, is a very successful method, because all families share the same feelings. Especially in cases, where the family has been suspected by their community, a multicultural group proved effective, as different cultural beliefs or languages turned out to be good, since it took away a lot of pressure and made the sharing natural and more relaxed.

Fourth, in some areas with an ongoing deadly conflict like the southernmost provinces in Thailand, psychology work seems to be harder, because the families have to live in a violent and insecure context. Fear for safety and the live of those that have been disappeared is heightened by extrajudicial killings and torture of detainees, suspected of being involved in the insurgency. Advancing psychological activities and networks between the families are very important in this situation.

JPF has been working with families of disappeared persons since 2006. We conducted several activities – needs assessments, rehabilitation trainings, investigation and advocacy on disappearances for instance – and encourage the families, mostly wives and daughters of the missing persons, to set up or join the Network of Families of Disappeared Persons (functioning right now in all three provinces, Yala, Pattani, Narathiwat). We also encourage a village volunteer to take care and cooperate with the families of the disappeared in their area.
Impact of enforced disappearance on women in the area of the ongoing conflict

The violence in Thailand’s Southern border provinces escalated in 2004 and has incessantly affected the livelihood of the local Muslim population. Women in particular have to suffer a great deal from the turbulence, injustice and various kinds of structural violence, including domestic violence, drug abuse, income disparity, impoverishment, food security, etc. These problems prove challenging for women in their role of taking charge of their families and raising their children. It is particularly true for women who not only lost their husband, but also the household’s breadwinner and who are now solely responsible for the household’s economic survival.

Angkhana Neelapajit (2010, in process of publishing), the president of the Justice for Peace Foundation, in her academic paper on *Roles and Challenges for Muslim Women in the Restive Southern Border Provinces of Thailand* argues that the violence renders an acute impact on women as victims and perpetrators of violence. A number of women have had to change their roles from being wives or daughters to leaders and breadwinners of the families. They take efforts in studying various legal texts applicable in the local area, including Martial Law, the Emergency Decree on Government Administration in States of Emergency B.E. 2548 (2005), or civil and criminal laws. Life is hard for them considering their existing low education, their weak literacy in Thai language and that they have to take on the economic burden of the households as family leaders, coupled with the lack of available means and resources to do so. Traditionally, religious teaching was considered enough to qualify Malay Muslim women to perform the roles of good wives and daughters. This report looks in detail at how women have been affected by the violence and the type of violence inflicted on them.

Angkhana points out the main facts conditioning the situation of families of enforced disappeared persons: To this day, the government is lacking a clear policy concerning remedies for the families of enforced disappeared persons. In 2006, the government set up the National Reconciliation Committee (NRC), which documented 23 cases of enforced disappearance, perpetrated by state forces, in the Southern border provinces. The Special Subcommittee under the “Committee on the Remedy Policy for Those Affected by the Situation in Southern Border Provinces” has provided help to 17 families. As the Subcommittee became dormant with a new government, support for the families was discontinued. On top, enforced disappearances are not yet criminalized in Thailand, meaning families do not have any legal possibilities of acknowledging the disappearances. Without official recognition of disappearances, families of the

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67 The full paper will be published in June, 2010 on http://www.wgjp.org
68 Available at: http://www.unhcr.org/refworld/docid/482b005f2.html
disappeared are not entitled to a judicial process, compensation or remedies. Meanwhile, human rights organizations have filed complaints of cases of enforced disappearances among the Malay Muslims in the Southern border provinces with the UN Working Group on Enforced or Involuntary Disappearance (UN WGEID). 18 cases have been received by the UN WGEID so far,\(^69\) and efforts should be made to urge the Thai government to track down the disappeared and to provide remedies to the families.

None of the religious scholars in Thailand have made any attempts to interpret the issues concerning enforced disappearances within Islamic law, to adopt measures such as the right of the surviving wives to manage the matrimonial assets, the right to lead family matters, child education or livelihood, or even the right to remarry. Thus, Malay Muslim women in the Southern border provinces, whose husbands have disappeared, find it difficult to live their life, being left on their own.

Although families are still living in fear and poverty, they draw hope from the fact that their voice had been heard, their problem had been recognized by compatriots and the global community. They hope that some day their problem will be solved. For that, the families and their alliances in Thai society are seriously working to stop and prevent the problem of enforced or involuntary disappearance, if not for ourselves, at least for our children.

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Indian Administered Kashmir
“To forget, they say, would be to reconcile to injustice.”
Situation of families of enforced disappeared persons
Arranged by Katharina Lauritsch

**Historical and political context in Indian-administered Kashmir**
Since 1947, the year Pakistan and India gained independence, the Kashmir Valley is a disputed territory and reason for political tensions between Pakistan and India. After the first war in 1948, the Kashmir region was divided by the 740 kilometre-long disputed Line of Control (also ceasefire line) into the Indian-administered Jammu and Kashmir and a smaller area under Pakistani control, without a plebiscite consulting the Kashmiri population, as promised before.

Since then Pakistan and India fought several wars about the control, from the 1980s onwards, Indian-administered Kashmir faced a guerrilla war fought by the Young Fighters of Jammu and Kashmir Liberations Front (JLFK), that aimed at a reunited and independent Kashmir. Later on religious militant groups arouse that focused more on the religious and global issues. Both are said to have received support from Pakistani based organisations.

The answer of the Indian government was a militarisation of the whole region, leading into a spiral of violence and although it seems that in the last years moderate forces that are willing to negotiate different concepts of autonomy are gaining strength, the presence of the Indian security forces continues. A presence visible in 671 security camps around the region and perceptible in ongoing pressure and human rights violations.  

Between 1989-2009, the actions of India’s military and paramilitary forces in Kashmir have resulted in 8,000+ enforced and involuntary disappearances and 70,000+ deaths, including through extrajudicial or “fake encounter” executions, custodial brutality, and other means. 10 Lawyers have reportedly filed 15,000 petitions since 1990, inquiring, largely unsuccessfully, into the location and health of detainees and the charges against them.

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71 Chatterji et al., IPTK (2009), p. 10.
On the 8.10.2005 an earthquake with the epicentre near Muzaffarabad, the capital of Pakistani administered Azad Kashmir, killed in total more than 74,000 people and injured over 106,000, also effected the Indian administered part with a death toll of 1,400 and 6000 injured. The international humanitarian response lead to the opening of five crossing points along the Line of Control that divides the two Kashmir regions, in order to facilitate the humanitarian help. Many international organisations came to assist in the relief operations, some stayed afterwards, like MSF and Action Aid.

Since 2006 the numbers of people killed by the insurgency are declining.\(^{72}\)

**Situation of enforced disappearances in Kashmir:**

*The following text is an edited excerpt taken from the report “BURIED EVIDENCE: Unknown, Unmarked, and Mass Graves in Indian-administered Kashmir.”*\(^{73}\) *The 108-page report was published in December 2009, authored by Angana Chatterji, Parvez Imroz et al. The excerpt below published here by courtesy of the IPTK (International People’s Tribunal on Human Rights and Justice in Indian-administered Kashmir).*

### I. GRAVES

Children ask us about these graves. Children ask us why soldiers are everywhere. Children grow up here thinking violent death is “natural.” (Community elder, Baramulla)\(^{74}\)

The Indian state’s governance of Indian-administered Kashmir requires the use of discipline and death as techniques of social control. The structure of governance affiliated with militarization in Kashmir\(^{75}\) necessitates dispersed and intense forms of psychosocial regulation.\(^{76}\) As an established nation-state, India’s objective has been to discipline and assimilate Kashmir into its territory. Discipline is affected through military presence, surveillance, punishment, and fear. Death is disbursed through “extrajudicial” means and those authorized by law. Psychosocial control is exercised through the use of death and deception to discipline the living.\(^{77}\) Discipline rewards forgetting, isolation, and depoliticization.\(^{78}\)

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\(^{72}\) http://www.satp.org/satporgtp/countries/india/states/jandk/data_sheets/annual_casualties.htm

\(^{73}\) Full report At: www.kashmirprocess.org

\(^{74}\) Personal communication, IPTK (2009).

\(^{75}\) Unless otherwise specified, “Kashmir” refers to Indian-administered Kashmir.

\(^{76}\) Indian-administered Kashmir includes Kashmir, Jammu, and the Ladakh region.

\(^{77}\) Deception operates through systematically distorted communication as the ordering principle in regular interactions between state-legitimated authorities and civilian populations.

Mourning the dead is a habitual practise of dissent amid Kashmir civil society. The conventional and recognized cemeteries that hold Kashmir's dead are maintained and cared for by local people and organizations. Alongside these cemeteries are other clandestine graveyards, often unnamed, unmarked, undecorated. They exist amid habitations, next to schools and homes, by the roadside and town square, in prayer grounds and forests, at the edges of fields and community cemeteries across rural and urban space.

This research into unknown, unmarked, and mass graves was conducted by the International People’s Tribunal on Human Rights and Justice in Indian-administered Kashmir (IPTK) between November 2006 and November 2009. The graveyards we investigated entomb bodies of those murdered in encounter and fake encounter killings between 1990-2009.79

The graves, their creation and effect, belong to the present history of Kashmir, to a continuing chronicle of violence and violation. The graves are hyper-present in the local imaginary, but rarely spoken of in public. These “secrets” are hidden from/through speech. As a gravedigger in a rural town stated: “They [graves] are there to be noticed and to make us fear them [security personnel]. We all know what they are, where they are, but we cannot say so. To speak of them is treasonous.”80

Based on the investigations, the IPTK recorded in 3 districts (Baramulla, Kupwara and Bandipora) and 55 villages a total of 2700 graves containing more than 2943 bodies.

Next-of-kin, community, collective testimony and archival research evidences that most of the bodies in the graves recorded above were of men (99%) and that in various instances, “encounter” killings across Kashmir have, in fact, been authenticated as “fake encounter” killings. Post-death, the bodies of these victims were routinely handled by military and paramilitary personnel, including the local police. The bodies were then brought to the “secret graveyards” primarily by personnel of the Jammu and Kashmir Police. […] We have been reliably informed that, prior to the delivery of bodies to the “secret graveyards” security forces personnel selected local male residents or professional gravediggers, usually those respected within the local community, and asked that graves be prepared to bury the dead. The graveyards were prevalently constructed on local religious or community owned and/or used land and dug by local residents at the coercion of security personnel. The persons preparing the graves were

79 “We” refers to the authors of the report and IPTK staff, unless otherwise noted. Encounter killing: Killing of civilians alleged to be involved in armed confrontation with state forces. Fake encounter killing: Extrajudicial killing of civilians, often while they are in the custody of state forces, recorded by officials as resulting from an armed confrontation with state forces instigated by the recently deceased, see Human Rights Watch (2009).
80 Personal communication, IPTK (2008).
usually informed in advance of the number of bodies to be buried. Professional gravediggers and local residents who were forced to become gravediggers and caretakers were directed to dig the graves but were largely not supervised by security personnel during the process of digging or burial. In the process of soliciting their labour, gravediggers and caretakers were routinely intimidated and not remunerated for their services.

In Islamic religious ethos and the Shari’at, death, and care of the dead, is interpreted as a directive to the living, linked to atonement and forgiveness. Gravediggers and caretakers attempted burial of the corpses in accordance with such tradition. Local community members and gravediggers that prepared the graves routinely constructed one grave per body. When permissible, they offered Salat (prayer) prior to burial. At times, they planted flowers on the graves. For gravediggers and caretakers, the requirement of burial of the dead was prioritized over whose body was being inhumed, and its possible identity and political affiliation or nonaffiliation.

The bodies buried in the 2,700 graves investigated by IPTK were routinely delivered at night, some bearing marks of torture and burns. Photographs of the dead have been reportedly documented by local police stations, even as they are not rendered into the public domain. Systems of identification were developed by gravediggers and caretakers in tagging the bodies prior to burial. Gravediggers and caretakers devised systems through which the bodies were identified and kept identifiable for next-of-kin. Identification occurred through clothing, distinguishing characteristics and marks, and/or numbering. The process of identification, dependent on literacy, threat, fear, and other factors, were usually orally recorded and remembered, or recorded in writing.

In instances where, post-burial, bodies have been identified, two methods have been used prevalently. These are 1. Exhumation; and 2. Identification through the use of photographs. In instances where photographs have been used to identify the body, the family/next-of-kin of the deceased has been able to identify the body from the photographs maintained by the police. Following which, graveyard identification records have been able to match the photo of the deceased with the grave in which the body was buried. On occasion, these graves have been exhumed and the bodies transported and re-buried by next-of-kin at the place of residence or family burial grounds of the deceased.

In the discourse of the Indian Armed Forces and the Jammu and Kashmir Police, the dead buried in unknown and unmarked graves are stated to be uniformly “foreign militants/terrorists.” They claim that the dead were unidentified foreign or Kashmiri
militants killed while infiltrating across the border areas into Kashmir or travelling from Kashmir into Pakistan to seek arms training.\(^8^4\)

Exhumation and identification have not occurred in sizeable cases. Where exhumations have been undertaken (50 documented cases) or the bodies in unknown graves have been identified through other means, in numerous instances as detailed below, records indicate the dead to be local people, nonmilitant or militant, killed in fake encounters.

In certain occurrences of fake encounter killings, where the bodies of victims have been identified, it was found that civilians resident in one geographic area in Kashmir were killed in another area. At times, these bodies were transferred to yet another area, then buried. In one instance, we learned that the killings took place outside Kashmir, for example, in the state of Gujarat in India.

In instances of “encounter” killings, which have later been verified as “fake encounter” deaths, security forces have manufactured the identities of victims, and entered into record a list of arms and ammunition being carried by them.

In interactions with police and armed forces personnel, those disappeared and/or killed in fake encounters were routinely and uniformly presented as “violent” and “anti-social” without corroboration, and as objects of danger to their families and society. Through organizing deception, Kashmiri Muslim men are posed as agents in cross-border armed militant negotiations, as harbingers of violence to Kashmiri Muslim women and the Indian nation.

In claiming these bodies as uniformly “foreign militants/terrorists,” state discourse exaggerates the presence of external groups and cross-border infiltration. State discourse positions cross border infiltration as critical to mobilizing and sustaining local struggles for the territorial and political self-determination.\(^8^5\)

Local community members have also testified that, in addition to the burials, bodies of persons killed by security forces have been disposed of in the Chenab and Jhelum

\(^8^4\) While some persons did travel to Pakistan to seek training, such activity was largely confined to the early days of the armed militancy, circa late 1980s through the early-mid 1990s. The graves of such persons killed by the Indian armed forces are usually located on the border, in mountainous terrain far away from villages and towns, as, for example, in Gali Nullah, Gulmarg, in Baramulla district, where there exists one grave containing 12 bodies. All were claimed to be militants in the Muslim Janbaz Force (MJF), a Kashmiri organization, and were killed by security forces in May-June 1991 in an ambush attack in the Gali area situated between Tosmadaan and Afarvat hills. There were 15 members of MJF present, and one survived.

\(^8^5\) “Self-determination”: In this context, the ability of a people to determine their political or national status and future without coercion. Legal and political processes through which the legitimacy of any claims to selfdetermination may be resolved, or a “people” may define themselves as such, are inconsistent. See Atlantic Charter of 1941 and the United Nations Charter of 1945 for the principles of self-determination.
rivers of Kashmir. Local community members testified that, for example, on January 1, 1996, four persons were cast into in the Chenab river in Doda district. Of them, one person survived. According to a statement made by Talib Hussain, the survivor: “On the evening of January 1, 1996, Mohammad Hussain, Fazal Hussain, Faried Ahmad, and I were picked up from the home by members of the Village Defence Committee (VDC).”

VDCs are made operational by security forces and supported by the state. VDC members are recruited by Hindu nationalist/militant groups, and are organized as civilian “self-defence” campaigns and militias. In the understanding of local communities these campaigns are staged as retribution for anti-national activities. A network of VDCs has been instituted throughout the Jammu region and in certain parts of Kashmir. VDC personnel are predominantly of Hindu and Sikh descent, and in some instances include Muslim villagers deemed “trustworthy” by VDC personnel.

The testimony continued:

After finishing our daily work from a brick kiln I was having food at my house with Mohammad Hussain, a colleague and friend of mine, and there was a sudden noise from the outside. We came out of the house and spotted five VDC members in khaki dress armed with 303 rifles. Mohammad Hussain was taken away and so was I. They took us to the truck. I thought they would take us for interrogation. I was asked how many children I had. I replied, four, and he said that it was enough. They blindfolded me... I was asked to get out. Then they pushed me toward the Chenab [river]. I was forced to jump, and due to swimming, I survived. I caught hold of a rock. They fired at me. After they left I climbed up to the shore and managed to reach the road and hitch a ride to Kishtwar where I offered prayers. The whereabouts of the other three were not ascertained and their dead bodies were not recovered.

It appears that diverse techniques of rule used by the military and paramilitary in Kashmir generate and circulate death and the fear of death. These techniques of rule are used to kill, and create fear of not just death but of murder. Across Bandipora, Baramulla, and Kupwara, the people who were forced to bury the dead in the unmarked and unknown graves attest to the detrimental psychosocial and physical health impacts they suffered. These graveyards have been placed next to schools and homes and their affect on women and children is daunting.

Massified testaments of state power, these unknown, unmarked, and mass graves seek to produce social death and proscribe remembrance. Acknowledgement and
articulation of events that precipitate these deaths are forbidden. Internalization of loss and horror is intended to produce fear and isolation. Keeping alive memory, local communities state, is resistance. Atta Mohammad, 68 years of age, gravedigger and caretaker at Chehal Bimyar in Baramulla district, testified to burying 203 bodies on a hillside adjacent to the Jhelum river between 2002-2006.

I have been terrorized by this task that was forced upon me. My nights are tormented and I cannot sleep, the bodies and graves appear and reappear in my dreams. My heart is weak from this labour. I have tried to remember all this... the sound of the earth as I covered the graves... bodies and faces that were mutilated... mothers who would never find their sons. My memory is an obligation. My memory is my contribution. I am tired, I am so very tired.88

II. EXPLANATIONS:

How should these graves in Bandipora, Baramulla, and Kupwara be characterized? As unknown, unmarked, single, and some multiple and mass entombments? Or, as contiguous displays of death through massified killings and burials? Massacre, gendercide, crimes against humanity function within a continuum of tactics. If the intent of a mass grave is to perform death with impunity, with intent to kill more than one, and to forge an unremitting representation of death, then, to that extent, the individual graves within the graveyards IPTK has identified must be noted as part of a collective burial and display by India’s military and paramilitary in creating a landscape and habitus of “mass burial.”

Concern

There is a paucity of research, discourse, and discussion on the unknown, unmarked, and mass graves of Kashmir. Such research is fraught with difficulty and danger. IPTK’s research was undertaken in extremely tense political conditions within a conflict zone, and IPTK members were intimidated, targeted, and endangered by the Indian military and paramilitary during the process. IPTK has been able to study only partial areas within 3 of 10 districts in Kashmir, and our findings and very preliminary evidence point to the severity of existing conditions.

This inquiry was not conducted in areas that are hyper-proximate to the Line of Control (LoC). We were able to access graves in areas where civilians were not expressly prohibited from entering, even as it remains of concern that such activity may have been carried out, and perverted, in areas that are restricted from the public eye.

88 Personal communication, IPTK (2008-2009). Atta Mohammad, 68 years of age, gravedigger and caretaker at Chehal Bimyar in Baramulla district, testified to burying 203 bodies on a hillside adjacent to the Jhelum river between 2002-2006. He has spoken on public record before the State Human Rights Commission in Srinagar, and to members of the local and international press.
IPTK’s work is a first and preliminary step in what must be undertaken to disclose the injustices perpetrated in Kashmir. IPTK’s findings do not include the forensic study of the exhumations and the conditions of the bodies interred, necessary to documenting evidence of torture and brutality.

The intensity of IPTK’s findings are indicative of what would potentially be uncovered, with regard to single, multiple, and mass graves and the numbers of people killed, if independent and transparent investigations were permitted in Indian-administered Kashmir. As well, if independent investigations were to be undertaken in all 10 districts, it is reasonable to assume that the total number of disappearances (8000+) since 1989 would correlate with the number of bodies in unknown, unmarked, and mass graves.

Crimes Against Humanity

The methodical and planned use of killing and violence in Indian-administered Kashmir constitutes crimes against humanity in the context of an international conflict.89 [...]

These killings are not part of “war” in the traditional sense, as India does not recognize itself to be at war with Kashmir, given that India understands Kashmir to be a part of its dominion. Kashmir civil society participates in administrative, bureaucratic, and political spheres of the Indian state in Kashmir. However, disproportionately large segments of Kashmir civil society understand themselves to be subjugated and annexed for political and other purposes by the Indian state and its institutions.90

Therefore, India’s role in Kashmir may be interpreted as constitutive of annexation and, in instances, subject to the rules of war under the covenants pertaining to International Humanitarian Law. Therefore, the executions portrayed here may be interpreted as crimes against humanity and, in instances, as war crimes. The situation portrayed here may be interpreted under International Humanitarian Law as an annexation where Jus ad bellum law applies, rendering applicable Common Article 2 of the Geneva Conventions.91

Even as it has been stated that a “low intensity war continues” across the borders of Kashmir-India-Pakistan, India’s military rule within Kashmir is not officially recognized by the international community. India’s prolonged battle on the northwest border, con-
nected to enforcing and unifying territory and identity as a nation, may be interpreted as linked to a war on Kashmir. The rights violations committed by India’s security forces in Kashmir are tactical to maintaining its dominion. A slow war within Kashmir is discoursed as a “low intensity conflict” necessitated in response to “cross-border terrorism,” masking the interests of state that organize the whole of Kashmir as a military zone.92

In identifying Kashmiri Muslims as dangerous anti-national elements and targeting this population as an internal enemy, the Indian state’s governance systemically perpetuates, and makes visible, death as strategy to achieve its specific political and nationalistic objectives. The message to the people of Kashmir, through these strategies of governance that produce and circulate death, is “You are our enemy. We are here to protect you from you.” “Safety” is made synonymous with submission to violent governance. Through these dynamics, the Indian state seeks to domesticate the local Kashmiri population and integrate Kashmir into its national identity and territory.

Furthermore, in maintaining an undeclared conflict, India’s militarization in Kashmir is justified as necessary to securing the India-Pakistan border, and, as such, having no brutalizing impact that is internal to Kashmir.93 India’s militarization is portrayed as an “internal” matter, while refusing transparency, international scrutiny, and adherence to international standards and customary practises of conflict and war.94 Internal use of force is explained as the eradication of “anti-national elements” within Kashmir society that collude with cross-border groups. These anti-national elements are seen as dangerous to themselves and as undermining of India’s national interest. Kashmiris are given the directive of proving their allegiance to the Indian nation through assimilation and dissociation from efforts of self-determination.

Official state discourse conflates cross-border militancy with present nonviolent struggles by local Kashmiri groups (and separatist leaders with divergent positions), portraying local resistance as “terrorist” activity. The Indian state and certain media institutions link Kashmir civil society to a discourse of “terror,” even as present-day civil society dissent is almost entirely principled, peaceable, and locally conceptualized. Islam, Muslims, and violence are equated and connected by the official and dominant discourses. However, the role of the Indian state in prompting the armed militant violence of the 1990s or its responsibility for inducing cycles of violence through sustained militarization remains invisibilized outside of public discourse and certain media representations.

92 Indo-Asian News Service (2009)
93 See Protocol II of the Geneva Conventions, pertaining to non-international conflicts.
94 These strategies have become routinized in international contexts, where, for example, per the Military Commissions Act, 2006, the United States has used the term “unlawful enemy combatant” to absolve itself of culpability, see Mark David “Max” Maxwell and Sean M. Watts (2007).
Official figures state that there are few, about 800-1,000, militants in Kashmir presently. While the Indo-Pak border remains the official reason for the militarization of Kashmir, a key focus/impact of militarization continues to be the brutalization of Kashmiri peoples. In the prolonged conflict, 6,67,000 Indian military and paramilitary personnel act with regularized impunity to regulate movement, law, and order across Kashmir.

While the Government of India has made repeated declarations regarding the internal demilitarization of Kashmir, it must be noted that in March 2007, three government committees on demilitarization resolved that the “low intensity war continues,” halting any action on troop reduction. When certain cursory reductions in troops have been made, they are influenced by political interests and not those of human rights. Continued militarization is accompanied by the use of draconian laws, such as the Armed Forces Special Powers Act, 1958, and the Disturbed Areas Act, 1976 that provide legal immunity to security forces for international crimes, and enable continued impunity, and in turn authorize the continued perpetration of crimes. It has been reported that acts of suppression and violence have been deemed as “acts of service.”

The impact of this “unspoken” conflict has had damaging psychosocial consequences. Mental health professionals note that Kashmir has a very high rate of people with suicidal behaviours.

III. CONTEXT

Gendered and sexualized subjection has been definitive of militarized nationalism across Indian-administered Kashmir, enacted with impunity by the military and paramilitary. Violence against civilian men expands spaces for enacting violence against women. Women have been forced to disproportionately assume the task of care giving to disintegrated families and undertake the work of seeking justice following disappearances and deaths.

96 Including counter-terrorism operations commandeered by approximately 32,000 security personnel. Indian military and paramilitary have been prevalently aligned with Hindu majoritarian interests vis-à-vis Kashmir. The police are reportedly 81,370 strong in Kashmir and there are 20,000 special police officers. The paramilitary Central Reserve Police Force (CRPF) have 75,000 personnel and have been progressively trained to function in corresponding capacity to the military.
98 See Reuters (October 29, 2009).
100 In 2008, more than 68,000 visited Kashmir’s sole psychiatric hospital, risking social stigma, to receive outpatient care, IPTK (2008-2009).
101 See also Radhika Coomaraswamy (2001).
Mental health professionals note that incalculable numbers have experienced gendered and sexualized violence, including the use of rape as a means of torture. Gendered violence has been utilized to shame and punish the culture. Male youth and men refusing to participate in the sexual servitude of women have been sodomized and men have been forced to witness rapes of women and girl family members. Women whose male partners are missing, “halfwidows” and widows have been victimized. “Halfwidows” do not qualify for state support, such as pensions offered to “widows,” while they are marginalized from securing property rights under prevalent structures of property ownership customary in heteronormative contexts in South Asia, including in dominant interpretations of Islamic law.

Extensive surveillance and the practice of illegal and long detentions by the legal system remain regularized. Hundreds of thousands have been displaced, including approximately 250,000 Kashmiri Pandits of Hindu descent. International organizations and institutions, that are allowed access to other places, are not permitted to visit Kashmir. The denial of passports to human rights defenders and journalists continues to sustain disconnection and isolation.

In May-July 2009 and August-September 2008, Kashmir witnessed uprisings, as millions of people engaged in nonviolent protest, calling out for “Azaadi.” Amnesty International stated:

[Civil society protests] are about the ongoing failure of the Indian government to bring members of the security forces to justice for serious human rights violations. Until the Indian government provides accountability for the conduct of the armed forces in Kashmir, it will continue to face discontent from the residents.

IV. “EXHUMED” TRUTHS

Kupwara District

The road to Kupwara district from Srinagar city is often lined with army convoys and military camps, with security personnel stationed every few metres along the road. Approximately 1,524 metres above sea level, Kupwara borders the Line of Control to the north and west and is one of the most heavily militarized zones in Kashmir, about
95 kilometres from Srinagar. Six army camps and seven interrogation centres have been operational in the surrounding area of Handwara town, with police stations functioning as additional interrogation cells. In the whole district, only 209 instances of disappearances have been confirmed between 1989 and 2009. IPTK documented 1453 graves containing at least 1487 bodies in 14 villages. 1278 of them or 87.9% are unnamed.

A resident of Kalarus, Kupwara testified:

Since then [1993, year of the construction of the graveyard], other bodies have been buried here. The army used to tie those killed to their vehicles and drag them down from the hilly areas. The dragging mutilated the bodies. Whenever we asked about the identity of the slain brought to our village, the police often answered that the bodies were of unidentified foreign militants who got killed during different encounters with army and other security agencies in the frontier areas of Kupwara.

**Barmulla District**

Baramulla is the largest district in Kashmir with respect to population and area. Baramulla district houses 29 camps of the Indian armed forces. Many of these camps contain interrogation centres. There are numerous allegations and reports of instances of perpetration of torture in these camps. In the whole district, only 245 instances of disappearances have been confirmed between 1989 and 2006. IPTK documented 1122 graves containing at least 1321 bodies in 33 villages. 1013 of them or 90.3% are unnamed.

**Bandipora District**

In Manasbal, in Bandipora district, army bunkers, barracks, barbed wire fences, and a checkpoint built on 3,000 kanals of land forcibly “coexist” with laboratories, sheds, and other buildings of the Cattle Research Station overlooking Manasbal lake. Also in Manasbal, 2,500 kanals of land, mostly belonging to the Sher-e-Kashmir University of Agricultural Sciences and Technology, were taken over by the army for constructing an airport. In the whole district, 95 instances of disappearances have been confirmed between 1989 and 2006. IPTK documented 125 graves, containing 135 bodies in 8 villages. 82 of them, or 65.6% are unnamed.

In all three districts, the burials were prevalently undertaken by local residents on community land, while professional gravediggers undertook the task of burial in a couple of villages.

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107 Handwara is an area of political and military significance in Kupwara district.
Example of an identification in Sedarporna, Kupwara District


Three of the four male bodies were buried in Sedarpora village in the Kandi area, Kupwara district. The three bodies were later identified to be residents of Kashmir, killed in fake encounters. The names of the deceased were Reyaz Ahmad Bhat, Manzoor Ahmad Wagay and Sartaj Ahmad Ganai. The identity of the fourth body has not been ascertained. Reyaz Ahmad Bhat and Manzoor Ahmad Wagay were identified as ordinary civilians. Sartaj Ahmad Ganai was identified as a local militant.

The bodies of Manzoor Ahmad Wagay, 18 years of age, and Sartaj Ahmad Ganai, 17 years of age were exhumed and identified. Reyaz Bhat was identified through a complex process.

The Bhat family stated on record that Reyaz Ahmad Bhat, had been missing since April 25, 2007. Informal lines of communication are circulated across Kashmir to assist families with possible identification of their dead. Through such networks, Bhat’s family learned about the four bodies that were buried at Sedarpora. It took them approximately four months to gain access to the photographs on file with the police station.

Reyaz Ahmad Bhat was identified by Javeed Ahmed Bhat, his brother, based on police photographs taken by the police following his death. The caretaker of the graveyard at Sedarpora village then confirmed the particular grave. Javeed Ahmed Bhat spoke of grieving, of his imprisonment and beatings at the police station as he attempted to locate his brother. Bhat’s family stated that Reyaz Ahmad Bhat had never been involved in militancy, they reiterated the demands for an investigation into the events and the circumstances of the death and stated that the petition filed is pending in the Jammu and Kashmir High Court.

Editors Note from Katharina Lauritsch:

Psychosocial support for victims and families in Kashmir

The Indian Ministry of Health in 1982 determined a policy of community based mental health care in the whole of India, but till now not much infrastructure has been developed. There is only one psychiatric hospital in Kashmir, the governmental psychiatric hospital in Srinagar. Psychosocial support is also provided in some rural areas.
through healthcare centres. MSF (Medecins sans frontiers) is working in Kashmir since 2000, conducting counselling inside existing structures, operating a weekly radio program on mental health problems, training of doctors, authorities and also outreaching in rural areas.

Especially for families of enforced disappeared persons, APDP (Association of Parents of Disappeared People) organised in collaboration with the department of psychiatry, MSF and AFAD (Asian Federation Against Involuntary Disappearances) three rehabilitation sessions from 2006-2008, each two or three days long.

Another organisation that provides psychosocial support for victims of violence is Action Aid. They have a community based psychosocial support program and are working in seven districts.

**Recommendations and future perspectives for the work with families of enforced disappeared**

Over the last twenty-five years, exhumations of unknown, unmarked, and mass graves have been undertaken in Argentina, Iraqi Kurdistan, Rwanda, former Yugoslavia, and other places. The international community has largely utilized information on mass graves in organizing advocacy campaigns and used reliable information, when available, to evidence torture, murder, or complicity of regimes and states in crimes against humanity, war crimes, and genocide. While there are investigative norms for forensic and social sciences research, there is a deficit of regulations and protocols on the matter of unknown, unmarked, and mass graves in international human rights and humanitarian law. We urge the formulation of the above. We note as well that a mass grave itself may be a violation of international law, as per the Geneva Conventions.

We ask that evidence from unknown, unmarked, and mass graves in Indian-administered Jammu and Kashmir be used to seek justice, through the sentencing of criminals and other judicial and social processes. As well, the existence of these graves, and how they came to be, may be understood as indicative of the effects and issue of militarization in Indian-administered Jammu and Kashmir, and the issues pertaining to militarization itself must be addressed seriously and expeditiously.

We note that the international community and institutions have not examined the supposition of crimes against humanity in Indian-administered Jammu and Kashmir. We note that the United Nations and its member states have remained ineffective in containing and halting the adverse consequences of the Indians state’s militarization in Kashmir.


Philippines
Families of the Desaparecidos in the Philippines
Turning sadness and longing to flames of justice

By Lorena P. Santos (Desaparecidos) and Maria Esmeralda de la Paz-Macaspac (Children’s Rehabilitation Centre)

“I say, I am proud of you, Tatay. I have always been. I thank you for showing the realities of life and society. I thank you for the importance of service. Had you not taught me these, my life would have no meaning.

And we, the children of disappeared fathers and mothers say we miss you so much. We will never stop looking for you until we find you. We will never stop fighting until we find justice.”

Excerpt from a letter made for Leo Velasco on Father’s Day

I received a phone call from my father’s colleague on February 20, 2007. A voice, cracking with emotion, told me that we have to meet immediately. And then, everything shattered.

My father, Leo Velasco, 56 years old, was abducted by several armed men at Cagayan de Oro, Misamis Oriental, northern part of Mindanao, Philippines on February 19 of that year. He was walking along President Aguinaldo Street at around 10 A.M. to meet with someone close by when a gray L300 van suddenly blocked his path. An unidentified man alighted from the van and grabbed him. My father was able to struggle for a while but more men came out the van and carried him bodily, literally like a pig, and forced him inside the van which immediately sped away.

We have been searching for him ever since.

I immediately reported this incident to my colleagues in KARAPATAN Alliance for the Advancement of People’s Rights. KARAPATAN paralegals and staff members immediately formed a Quick Reaction Team (QRT) and flew to Cagayan de Oro to verify the abduction.

109 Also published in: Pagtatagpo sa Kabilang Dulo: Panitikang Testimonial ng Desaparecidos (Meeting at the other End: Testimonial Literature of Desaparecidos), Desaparecidos (2009).
110 http://www.karapatan.org/
The abduction took place in front of the Philippine First Insurance Bank, and was witnessed by the bank’s security guard. According the security guard, my father was abducted by 4 to 8 men wearing jackets with “CIDG” printed at the backs. In the Philippines, CIDG means Criminal Investigation and Detection Group, a division under the Philippine National Police. I also found out that my father’s eyeglasses had fallen off during his struggle, and the security guard picked it up.

A reporter from a local newspaper was the first to respond to the incident, and asked around about what happened. He was able to talk to the security guard, who even gave the eyeglasses to the news reporter.

After a few days, the reporter was visited by a certain colonel of the Philippine Army asking for the glasses.

I knew I should have talked to that military and asked why he wanted my father’s glasses.

My father, Leo, is a consultant for the National Democratic Front of the Philippines for the peace process between the Government of the Republic of the Philippines and the NDFP. He is community health worker since the 1970’s during the dictatorship of Ferdinand Marcos. He has been an activist against tyranny and repression since his college days, up until the time he was abducted.

Since Gloria Macapagal-Arroyo came to power in 2001, many innocent and unarmed activists have been killed or forcibly disappeared in the government’s battle against so-called “insurgents” or who they deem as “terrorists.” I believe that, as a consultant for the peace process of the government and NDFP, and as an activist, the Macapagal-Arroyo regime and the military wanted my father “silenced” at all costs. The military, however, denied having my father in their custody, but they admitted that my father is a “target for neutralization.” They even admitted that my father is on the list of what they call “order of battle”.

I have looked in every military camp where he could possibly being held captive. But there was no sign of him.

I even filed petitions for the Writ of Habeas Corpus and Writ of Amparo to the Philippine Supreme Court, but the case was dismissed.

Still, I have not found my father. Still, he is not surfaced by his captors. It has been three years now.
Enforced disappearance in the Philippines
My father’s disappearance is not an isolated case. There have been numerous of cases of enforced disappearance in my country.

The first documented case of enforced disappearance in the Philippines was that of Charlie del Rosario’s. He was a student-activist of the Polytechnic University of the Philippines during the regime of President Ferdinand Marcos, and was abducted a year before martial law was enforced. Charlie was never seen ever since that day he was abducted. There are unverified stories that the military placed his body in a drum, poured cement in and thrown into the ocean.

Enforced disappearance of the innocent or even the threats of being abducted and forcible disappeared is being used as a tool by the state to deter the people from speaking against the injustices of the government.

Sadly, documented cases of enforced disappearances continue even after the overthrow of Marcos’ regime.

Oplan Bantay Laya and Enforced Disappearance
Since the implementation of the counterinsurgency program Oplan Bantay Laya (Operation Freedom Watch), under the regime of Gloria Macapagal-Arroyo, extrajudicial killing and enforced disappearance have intensified.

Designed after the United States’ Operation Phoenix in Vietnam, this counterinsurgency program aims to quell the Philippine revolutionary movement by neutralizing so-called “legal front organizations” of the Communist Party of the Philippines, New People’s Army and the National Democratic Front of the Philippines. Thus, leaders and members of legitimate people’s organizations have become licit military targets.

To pursue the neutralization thrust of the Arroyo Regime, a so-called “Target Research” was conceptualized by the Armed Forces of the Philippines (AFP) to conduct monitoring and surveillance of leaders believed to be influential within identified legal progressive organizations. Those who were subjected to the target research are killed, abducted and detained, or abducted and disappeared.

However, the policy of involuntary disappearance is not only confined to the leaders of the legal organizations. To date, 11 consultants and staff of the NDFP in the peace negotiations with the Philippine government, remain missing.

In 2006, enforced disappearance reached its peak to an average of one abduction incident a week. Karapatan has documented 205 victims of enforced disappearances in the eight years of Mrs. Macapagal Arroyo. All of them remain missing to this date.

Bayan Muna (People First) Party List has the most number of victims of enforced
disappearance at 12, followed by Kilusang Magbubukid ng Pilipinas (Peasant Movement of the Philippines).

Even children were not spared with four victims.

**Families of the Disappeared**

In response, the Families of Disappeared for Justice or Desaparecidos, an organization of families of victims of enforced disappearances was founded and continues to strengthen its call for justice and the surfaced of victims. Relatives of the desaparecidos march the streets to raise the people’s awareness of the grave human rights violations that the Arroyo regime commits against its citizen.

In the course of our search, we discovered the world of our disappeared loved ones: the world of struggle and defiance. We have become part of the struggle for a genuine change and a just and lasting peace. We have integrated ourselves, as human rights defenders, to the broader mass movement in the Philippines, joining the Filipinos in their struggle for land, adequate wages and other rights.

Our grief and longing has transcended to resistance and hope – fighting for a brighter future for our country. Our integration to the people’s movement provided us with more love for our disappeared loved ones, and deeper understanding of their commitment. We have come to realize and say that the tasks of disappeared and martyred in providing service to the people is indeed noble, and we have taken upon ourselves to continue this task and continue what they have begun.

In the midst of repression, we combat fear. We defy state terrorism with strengthened conviction.

**Legal remedies**

The relatives of the desaparecidos would petition for the writ of habeas corpus with hopes that the state security forces would be compelled by the courts to surface the victims. However, these petitions are dismissed because the respondents would merely deny having knowledge of the victims’ whereabouts, even without adequate and proper investigation.

At the height of the clamor of local and international human rights groups and advocates in 2006 and 2007, the Philippine government was compelled to act upon the numerous reports of extrajudicial killing, enforced disappearance and other human rights violations. The Supreme Court (SC) conducted a human rights summit in 2007 to address the issues\(^\text{111}\), and introduced the rule of the Writ of Amparo.

\(^{111}\) Also see the report of Jose A.R. Melo et al. (2007).
The Rules on the Writ of Amparo was issued by the Supreme Court in September 2007. It allowed courts to order the temporary protection, inspection and production of documents in cases where an individual’s life, liberty or security have been violated or are under threat.

I have petitioned for the writ of habeas corpus and for my father which was dismissed in June 2008 and was one of the relatives of the disappeared, who immediately petitioned for the writ of amparo to avail of its legal remedies.

What little gain or remedy achieved in the largely ineffectual justice system, through the introduction of the writs of amparo, has been systematically undermined by the very institutions tasked to act judiciously on them.

In the case of my father, the court put on me, as the petitioner to prove that my father was actually abducted by the military. Because of the military’s simple denial and my witnesses were too afraid to stand in court, it was easily dismissed.

In the petition for the writ of amparo filed by Lolita and Leny Robiños against Gen. Hermogenes Espero, Jr. et al, the Office of the Solicitor General (OSG) tried to block a court order calling for the inspection of military camps to ascertain the whereabouts of Romulos Robiños, a desaparecido. The OSG, while designated to appear on behalf of the government in litigations and legal proceedings, is however required by law to desist in committing “any act which may tend to obstruct, pervert or impede and degrade the administration of justice.”

Even when the court rules in favor of the victims, these orders are ignored, questioned or not followed to the letter by the military and police respondents.

In September 2008, the Court of Appeals (CA) granted the writ of habeas corpus petition for the missing student-activists Sherlyn Cadapan, Karen Empeño and Manuel Meriño, reversing its decision made the previous year. This “change of heart” by the court is largely due to the testimony of Raymond Manalo who was also abducted by the AFP and was held captive for 18 months in various military camps. Manalo escaped with his brother Reynaldo, and testified that he has met Cadapan, Empeño and Meriño in one of the military camps he was taken in, and even witnessed the three being tortured by the soldiers.

The CA said that “the testimony of Raymond Manalo can no longer be ignored and brushed aside” and that “his narration and those of the earlier witnesses, taken

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112 205 SCRA 816: Another role of the Solicitor General is as an officer of the Court, in which case he is called upon “to share in the task and responsibility of dispensing justice and resolving disputes;” therefore, he may be enjoined in the same manner that a special prosecutor was enjoined by this Court from committing any act which may tend to “obstruct, pervert or impede and degrade the administration of justice.”
together, constitute more than substantial evidence warranting an order that the three
be released\textsuperscript{113}.” The court, however, denied inspection of places and production of
documents that could further shed light on the whereabouts of the missing. The mili-
tary still refused to admit having the three under their custody.

A breakthrough lead

In August 2007, brothers Raymond and Reynaldo Manalo, also victims of abduction
and enforced disappearance on February 14, 2006, were able to escape from their mili-
tary captors. According to Raymond’s 21-page affidavit, he and his brother, Reynaldo,
were, at some point in their incommunicado detention, tortured and inhumanely treat-
ed together with Manuel Merino, Sherlyn Cadapan and Karen Empeño at the 24th
IBPA\textsuperscript{114} camp in Limay, Bataan. According to his testimony, he witnessed in that camp
the killing of Manuel Merino and the soldiers burned Merino’s body at the perimeter
near the camp. Witnesses whom Karapatan would later interview said that in Septem-
ber 2007, a month after the escape of the Manalo brothers, the military left this camp
in Limay, Bataan, burning some things in the process, using bulldozers in destroying
traces of evidence that the place was used as a military camp.

After a thorough study of Manalo’s affidavit, Karapatan’s search team was able to
locate the abandoned camp of the 24th IBPA. On October 14 and 15, 2008, Karapatan
in cooperation with the Commission on Human Rights (CHR)\textsuperscript{115} conducted the exca-
vation of the place and the team was able to dig about 5-7 pieces of human bones on
the exact location where, according to Raymond, Manuel Merino’s body was burned.
A bone specialist from the University of the Philippines attested that the bones belong
to a human.

These evidences were submitted to the Supreme Court as part of the on-going peti-
tion for review on the case of the Cadapan-Empeno-Merino case. Sadly, it has been
over a year, but the case seems to be frozen at the Supreme Court.

Despite having the cases of the disappeared stalled and at the mercy of the Supreme
Court, the Manalo testimony and other information gathered at the excavation may
be proof that the military is behind the spate of killings and abductions and enforced
disappearances.

As much as Karapatan and its member organizations would want to conduct
in-depth investigations such as this, its limited number of personnel and even more

\textsuperscript{113} Evangeline (2008).
\textsuperscript{114} Infantry Battalion of the Philippine Army
\textsuperscript{115} http://www.chr.gov.ph/
limited logistic and financial resources does not permit it to do so. Karapatan is grate-
ful for the support of other human rights advocates and professionals who have lent
their services for little cost, and the assistance of the CHR, whose present leadership is
sympathetic to the plight of the victims and their families.

PRESENTING A MEMBER ORGANIZATION OF KARAPATAN:
THE CHILDREN’S REHABILITATION CENTER: WORKING WITH CHILDREN

Karapatan is a network and umbrella organization of various human rights organizations. Strong
and close coordination between and among Karapatan members ensure that the needs of the vic-
tims’ families are immediately and comprehensively responded to. Health aspects are coordinated
with Health Action for Human Rights while psycho-social needs, particularly of the children are
coordinated with the Children’s Rehabilitation Center.\footnote{See: www.childrehabcenter.org}

The CRC’s services are given importance because it is very common that the effects of the human
rights violations on children are rarely noticed immediately. This is because in times of family
crisis, they are often “shielded” from the problems. Particularly in cases of human rights viola-
tions involving family members, children (particularly young ones) are not involved in the various
processes, from the legal procedures to other course of action such as justice-seeking/reparation or
advocacy. At other times, adults are just too busy following up cases of and/or looking for missing
loved ones and/or finding means for economic survival.

Thus, the effects of the human rights abuses, particularly grave violations such as extra-judicial
killings and enforced disappearances, on children go undetected until more serious behavioral ef-
facts are gleaned. This is the only time that the services of child-focused organizations are sought.
Unwittingly, children are deprived of their right to participate in processes that can actually fa-
cilitate their healing.

Many of the families of Desaparecidos have also been through CRC’s program, not only for
children but for adults as well. Their programs not only concentrate on processing grief and
longing for the missing loved ones and on adjusting to a different family life. CRC also ensures
that children are also aware of the whole human rights context and are able to learn life skills
that will enable them to be part of the whole family’s quest for justice. More importantly, the
psycho-social program instills in the children the importance of collective and organized effort
towards seeking justice.

Beyond grief
Our sadness and longing for the missing have turned into flames of struggle and cries
for justice. We found some ways to transform our grief into beautiful bits and pieces
of memories of our loved ones.

Initiated by the Services desk of KARAPATAN, some members of Desaparecidos
were able to attend psychosocial therapies. It is in this kind of gatherings that we re-
alize that one’s grief is in some way the same with other families yet also different in
some levels. We somehow understood each other.
I remember a colleague of mine whose father was disappeared for 20 years now and who has been nurturing this sadness for over decades. This person had no other way of letting this sadness transcend into healing. But through the psychosocial workshops, this person did some kind of catharsis and let out all the grief.

There was also a fellow whose both parents have been disappeared. He was trying with all his might the pain he was feeling for a long time until those therapies.

After a few round table sessions, the therapies evolved into psychosocial-writing workshops.

The secretariat of the Desaparecidos had the idea to come up with a book that would picture the victims of enforced disappearances as persons being loved by his or her families, friends and comrades and not as evil communists that the government portrays them to be.

We wanted the articles to be specifically written by those who personally knew them. But the challenge was that most of our members are not writers. And most had difficulties in writing. This is why we came up to have a “writing cum therapy” workshop.

With the collaboration of Congress of Teachers/Educators for Nationalism and Democracy and Community Medicine Foundation, the module for the writing-therapy workshop was a success. The psychosocial therapy and the writing workshop were merged so smoothly.

It was amazing how the poems, short stories and essays that came out from the families of the disappeared with just basic knowledge of reading and writing shows very vivid pictures of loneliness, happy memories and hope.

The workshop was also a challenge for families of victims who haven’t yet attended psychosocial workshops to participate. Some actually did, but there were also other members who were not ready to confront their feelings of loss and hopelessness.

This book, Pagtatagpo sa Kabilang Dulo: Panitikang Testimonial ng Desaparecidos (Meeting at the Other End: Literary Testimonials of Families of the Disappeared) was successfully launched last December 7, 2009, three days before the 45th anniversary of the International Declaration of Human Rights.
The following poem is a bright example of the literary quality of the published writings:

Original Version in Tagalog

SALAMAT
Ni Ipe Soco

Hindi ko na halos maalala
Kung kalian huling nabanggit ang mga salita
Mga katagang magpapakita
Kung gaano ka sa akin kahalaga.

Sa dilim ay aandap-andap
Tuloy pa rin sa paghahanap.
Walang mahanap, walang mahagilap,
Walang ibang masabi kundi salamat.

English Translation

THANK YOU
By Ipe Soco

I almost could not remember
how long it was when the word was spoken
phrases that show
How important you are for me.

Though it flickers in the dark,
The search continues,
finds nothing, finds no one
Nothing else to say but thank you.

Ipe Soco, 23 years old, is the son of Gloria Soco who was disappeared together with Prudencio Calubid and Celina Palma when they were abducted by suspected members of the military on June 26, 2006. Ipe is currently studying as a scholar of Malikhaing Pagsulat (Creative Writing) in the University of the Philippines.
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And They Shall Cry No More...
Enforced Disappearances in the Philippines and the Struggle for Truth and Justice

Co-authored by the Families of Victims of Involuntary Disappearance (FIND);
the Asian Federation Against Involuntary Disappearances (AFAD);
Rev. Fr. Ben Moraleda, Ms. Josephine Callejo, Dr. Benito Molino, M.D.
and Ms. Dianne S. Reyes

Disappearances – Never An Issue of The Past Only

“Please help us, Madam. Our son disappeared. He was only catching frogs when he was forcibly taken. He did not commit any crime.” Jose and Cleofas Sanchez, an Aeta117 couple from Mabalacat, Pampanga, appealed to President Gloria Macapagal-Arroyo (GMA) to help them find their son, Nicolas, who disappeared on 18 September 2006. They are among the many family members of the disappeared whose loved ones were forcibly taken away from them by alleged agents of the state under the GMA administration. The Families of Victims of Involuntary Disappearance (FIND) has recorded 299 reported cases of enforced disappearances under this present administration, that is from the period January 2001 up to the present. The Sanchez couple personally pleaded to President Arroyo in a meeting with FIND and the Asian Federation Against Involuntary Disappearances (AFAD) in Malacañang Palace on 14 January 2010.

In this meeting, President Arroyo favorably responded to the request of FIND and AFAD for the immediate enactment of an anti-disappearance law and the signing and ratification of the International Convention for the Protection of All Persons from Enforced Disappearance118 (hereinafter referred to as The Convention). Unlike the Philippine

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117 The Aeta (pronounced as “eye-ta,”), Agta or Ayta are an indigenous people who live in scattered, isolated mountainous parts of Luzon, Philippines. They are considered to be Negritos, who are dark to very dark brown skinned and tend to have features such as a small stature, small frame, curly to kinky hair with a higher frequency of naturally lighter hair color (blondism) relative to the general population, small nose, and dark brown eyes. They are considered to have been the original settlers of the Philippines. Accessed from http://en.wikipedia.org/wiki/Aeta.

118 The United Nations Convention for the Protection of All Persons from Enforced Disappearance is a treaty of universal scope, which will be legally binding for states that ratify it. It specifies obligations of states in order to prevent and suppress the practice of enforced disappearance. The Convention establishes the non-derogable right of everyone not to be subjected to enforced disappearance. Accessed from http://www.afad-online.org (A Primer on the UN Convention for the Protection of All Persons from Enforced Disappearance by AFAD, 2009).
House of Representatives which approved the proposed law on third and final reading in both the previous and the current Fourteenth Congress, the Senate has always failed to pass the measure. To date, the bill has not been certified as urgent and the Convention remains unsigned. The families of the disappeared have no choice but to intensify their lobby for the bill’s enactment into law in the upcoming Fifteenth Congress.

Looking back, the first meeting of AFAD and FIND with the president was held on the eve of the International Day of the Disappeared on 29 August 2001, a few months after her assumption of the presidency. During the meeting she promised that no case of enforced disappearance would occur during her administration. With that positive note, the delegation brought to the president’s attention the still unresolved cases of enforced disappearances in the previous administrations of Marcos, Aquino, Ramos and Estrada. The president promised that in her administration there would be no single case of enforced disappearance. The delegation further lobbied for the Philippine government’s support to the then United Nations Draft Convention for the Protection of All Persons from Enforced or Involuntary Disappearances and the enactment of the anti-enforced disappearance bill. The president, who responded that the Philippine government would support the international treaty and would enact a domestic law criminalizing enforced disappearance, referred the delegation to then Vice President and Secretary of Foreign Affairs, Teofisto Guingona who likewise promised to do something concrete to fulfill the president’s commitment.

Nine years later, contrary to the president’s earlier pronouncements, extrajudicial killings and enforced disappearances remain unabated.

This has prompted the United Nations Working Group on Enforced or Involuntary Disappearances (UNWGEID) to officially request a second visit to the country. To note, the Working Group visited the country in 1990 and made recommendations, a number of which still remain to be implemented. In an official request dated 24 May 2006, the UNWGEID asked for an official invitation from the Philippine government which it followed up on 3 April 2008. To date, the Philippine government has not responded to the request.

The United Nations Special Rapporteur on Extra-Judicial Killings, Mr. Philip Alston, was invited by the Philippine government to look into cases of extra-judicial killings, which are closely related with enforced disappearances. In many cases, victims are first disappeared before they are extralegally killed. To quote an excerpt from Alton’s report to the UN Human Rights Council in March 2007, “The impact of my visit, although I have not yet completed my final report, has been deeply schizophrenic. On the one hand, the President has taken a range of positive initiatives, many of which I list in my preliminary note to the Council. On the other hand, the military and many key officials have buried their collective heads in the sand and announced that business will continue as usual.”

The visit of Mr. Alston to the country on 12-21 February 2007, which confirmed cases of extrajudicial killings and enforced disappearances, prompted the Philippine Supreme Court to convene a National Consultative Summit on Extra-Judicial Killings and Enforced Disappearances: Seeking Solutions on 16-17 July 2007. This was followed by a two-year nationwide education campaign on the issue of extrajudicial killings and disappearances initiated and conducted by the highest tribunal among the members of the judiciary in major cities of Luzon, Visayas and Mindanao.

In a presentation before the National Consultative Summit, KARAPATAN disclosed that it had documented 188 cases of enforced disappearance for the period 2001-2007. This figure has since risen to 205.

One of these cases is the well publicized disappearance of Jonas Burgos, 37, a peasant organizer who was forcibly taken by four unidentified men and a woman at Hapag Kainan Restaurant on 28 April 2007. Despite the filing of separate petitions for the writs of habeas corpus and amparo and the victim’s mother's relentless search for her son, the victim is nowhere to be found. The case has been personally filed by Edita Burgos, the victim’s mother, before the UNWGEID. The Philippine National Police, alleged to have been responsible for the disappearance, completely denies responsibility and on the contrary, accused the victim of being a member of the New People’s Army. The red labeling has confirmed the fear that the case will be consigned to the dustbin of unresolved disappearances in the country.

Apart from the Burgos case, other prominent unresolved disappearances under the GMA administration include those of University of the Philippines students Karen Empeno and Sherlyn Cadapan; James Balao, former Chairperson of the Cordillera

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122 The Alston Report is the Report of the Special Rapporteur on Extrajudicial, Summary or Arbitrary Execution (A/HRC/8/3/Add.2), Mr. Philip Alston who visited the Philippines on February 12-21, 2007 to investigate alleged cases of extrajudicial killings, including enforced disappearances.
People’s Alliance, who disappeared in 2008, the Manalo brothers and the Melissa Roxas, et.al. case.

In a presentation by the FIND before the 2007 National Consultative Summit, the following data were presented:

1. As of June 2007, there have been 2,023 reported victims of disappearance nationwide (since 1971);
2. The Marcos regime registered the biggest number of reported disappearances at 855;
3. Most victims originate from the basic sectors: farmers (820), workers (254) and youth (149);
4. The AFP registered the highest number of involvement in disappearance cases (1,040) followed by the defunct Philippine Constabulary (PC-INP) (225) and Marcos’ Integrated Civilian Home Defense Force (ICHDF) (146);
5. Majority of the victims are between 16 and 25 years of age (482) followed by those between 26 and 35 years old (409); 498 have no age record;
6. The top three regions with the most number of victims are: Western Visayas (327), Western Mindanao (193), Southern Mindanao (181);
7. The period 1983-1985 (peak of the mass protests against the Marcos dictatorship) recorded the highest number of disappearances followed by the period 1987-1989 (period of the Aquino Administration’s total war policy);
8. FIND has exhumed 81 remains of victims nationwide.

In as far as cases of the present administration are concerned, FIND’s list has lengthened as it has recorded 299 reported cases of enforced disappearances since 2001.

Thus, from the data of both KARAPATAN and FIND, it is evident that disappearances from the past administrations to the present remain unresolved. Perpetrators enjoy the privilege of impunity.

In response to this alarming phenomenon, the government established Task Force Usig and later, the Melo Commission in order to look into cases of extra-judicial execution and enforced disappearances. Despite these bodies’ confirmation of extra-

123 The Task Force Usig was formed by the Philippine National Police (PNP) to investigate cases of unexplained killings and enforced disappearances.
124 The Melo Commission was formed by the President Gloria Macapagal Arroyo in August 2006 in order to look into the spate of politically related killings after local and international clamor, submitted the 89-page report of the commission to the president but the findings have not yet been made public. Accessed from http://en.wikinews.org/wiki/Philippine_commission_holds_retired_general_responsible_for_killings
judicial killings and enforced disappearances, President Arroyo heaped praises on General Jovito Palparan Jr. who was implicated in many human rights violations.

Notwithstanding the promulgation of the rule on the writ of *amparo* by the Supreme Court on 24 October 2007, the writ’s efficacy remains to be proven since it failed to resolve the internationally-condemned Burgos case, among others.

In an attempt to analyze the roots of enforced disappearance, it is important to note that the Philippines has the longest running insurgency in the world. Stemming from a situation of poverty and social injustice, enforced disappearance has been and continues to be used as a tool to stifle dissent. It is part of the government’s anti-insurgency campaign dubbed as the *Oplan Bantay Laya*. It is for this reason that despite government’s pronouncements that it is addressing enforced disappearances by proposing to criminalize the offense as well as supporting the Convention, enforced disappearances remain unabated. Moreover, government security forces who are held accountable for this heinous offense are the main stumbling block to the enactment of an anti-enforced disappearance law and the signing and ratification of the Convention. Were it not for the objections of these alleged perpetrators, the Philippines would have been the first Asian country to have passed an anti-enforced disappearance law and would have been the first Southeast Asian country to have ratified the Convention.

In the 2008 Universal Periodic Review of the Philippines by the UN Human Rights Council, the government boasted of its improved human rights record, unmindful of the still suffering families of the disappeared from the dark years of the Marcos dictatorship to the present GMA administration.

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125 The *Writs of Amparo* and *Habeas Data* are prerogative writs to supplement the inefficacy of Philippine habeas corpus (Rule 102, Revised Rules of Court). Amparo means protection, while habeas data is access to information. Both writs were conceived to solve the extensive Philippine extrajudicial killings and forced disappearances since 1999. Accessed from http://en.wikipedia.org/wiki/Writ_of_Amparo_and_Habeas_Data_(Philippines)

126 The main objective of *Oplan Bantay* is to destroy the NPA in 600 barangays in six regions at every given time. But the maneuver units of the Armed Forces of the Philippines (AFP) and the Philippine National Police (regional mobile units) have only been able to concentrate on less than 300 barangays nationwide at every given time, leaving open tens of thousands of barangays for the New People’s Army (NPA) to operate in. Accessed from http://www.josemariasison.org

127 In its Resolution 60/251, the UN General Assembly decided that the Council will, inter alia, undertake a *Universal Periodic Review* based on objective and reliable information of the fulfillment by each State of its human rights obligations and commitments in a manner which ensures universality of coverage and equal treatment with respect to all Member-States. The review shall be a cooperative mechanism based on an interactive dialogue with the full involvement of the country concerned and with consideration given to its capacity-building needs.
Continuing Offense, Continuing Commission: From Marcos To Estrada...

MARCOS REGIME (1965-1986)
The documentation of FIND speaks of 860 cases of involuntary disappearance during the tyrannical and rapacious Marcos regime. These are among the thousands of human rights violations during the martial law regime covered by a class suit filed by 10,000 victims against the Marcoses before the US Federal Court of Hawaii. The first case of enforced disappearance in the Philippines ever recorded by FIND was that of Professor Charlie del Rosario, Secretary-General of the Kabataang Makabayan and professor of the Polytechnic University of the Philippines who disappeared in 1971. Subsequent cases came from the ranks of the students, labor leaders, peasant organizers and plain rural folk who were made to disappear because of mere allegations of being sympathizers or members of the New People’s Army (NPA), the armed group of the Communist Party of the Philippines (CPP).

They all disappeared amidst political repression that was courageously and steadfastly resisted by militant mass organizations and individual street parliamentarians many of whom were forced to go underground when Marcos declared martial law on 21 September 1972.

The Marcos dictatorship which lasted for twenty-one years was brought to its end through a non-violent uprising, now internationally known as the 1986 People Power Revolution. The popular uprising catapulted the late President Corazon Aquino to the presidency in February 1986. The new administration implemented democratic reforms, released all political prisoners and restored the privilege of the writ of habeas corpus. It also established a national human rights institution, i.e. the Philippine Commission on Human Rights with the mandate to investigate cases of human rights violations.

128 The Marcos human rights litigation is a class action lawsuit filed on behalf of 9,539 Filipinos who were tortured, summarily executed, or disappeared during the Marcos dictatorship. This was filed in 1986 in the United States pursuant to the Alien Tort Act. The US court had jurisdiction over Marcos at that time because he had fled to Hawaii and therefore was in US territory. Conversely, the Philippine court had no jurisdiction over him at that time for the same reason. Accessed from http://www.claimants1081.worldpress.com/about

129 Kabataang Makabayan is one of the national democratic underground mass organizations under the National Democratic Front composed of students and out-of-school youths. It was at the forefront of rallies and demonstrations during the Martial Law regime before it went underground.
AQUINO ADMINISTRATION (1986-1992)

Contrary to the expectations of human rights activists, the downfall of the more than two decades of the tyrannical and rapacious Marcos regime failed to end enforced disappearances in the country. In 1991, upon the invitation of the Aquino administration, the United Nations Working Group on Enforced Disappearances visited the country. Such visit confirmed cases of enforced disappearances both during the Marcos regime and the succeeding Aquino administration. The following were the recommendations of the UNWGEID to the Philippine government.

1. Severe the national police from the army and put the police under a different cabinet minister in order to reduce the power in the area of maintenance of public order in the hands of one single body;

2. Disband the Citizen Armed Force Geographical Unit (CAFGU) – as also recommended by the International Labor Organization, the Peace Commission, the Senate Committee on Justice and Human Rights and various NGOs – or at least restrict their deployment to defensive action under the supervision of the army in which strict discipline should be enforced;

3. Introduce legislation to narrow powers of arrest by strictly circumscribing which category of public officials may arrest civilians for which offences, in case the Supreme Court has no immediate occasion to review its rulings on warrantless arrests;

4. Introduce legislation that should provide for civil action against military and police personnel for all offenses involving civilians;

5. Prosecute those responsible for disappearances and take severe disciplinary measures against officers who have failed to enforce adequate measures to prevent disappearances;

6. Fight actively against the practice of “red labeling”;

7. Establish regional and central registers of arrest in order to facilitate the search for missing persons;

8. Pursue even more vigorously the clarification of disappearances;

9. Initiate a thorough overhaul of both the law and practice of *habeas corpus*; and

10. Protect witnesses.

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The results of the visit elicited negative reactions from the Aquino administration, which, according to the UNWGEID, asked for the change of the latter’s composition. The government thought that the visit was just an ordinary one but as per its mandate, the UNWGEID conducted a fact finding mission, the findings of which also held the newly-installed Aquino administration accountable for enforced disappearances.

Despite the temporary ceasefire between the Government of the Republic of the Philippines and the National Democratic Front (NDF), the government failed to address the roots of insurgency, which, according to the late former senator and freedom fighter, Jose W. Diokno, could only be eradicated through food, freedom, jobs and justice, and to which the National Democratic Front (NDF) added land and liberation.

In fact, the restive impoverished peasants marched towards the Mendiola Plaza, close to Malacañang Palace on 22 January 1987 only to be met with a hail of bullets that killed at least twenty-one of them. This resulted in the collapse of the peace talks and the consequent resumption of hostilities.

The fragile Aquino administration was further destabilized by seven coup attempts instigated by the right-wing members of the Armed Forces of the Philippines. Instead of responding to the basic needs of the people, the late president unsheathed the sword of war against the insurgents. Thus, human rights organizations, which enjoyed relative democratic space, documented more cases of human rights violations, enforced disappearances among them. Records of FIND reveal 821 victims during the six-year Aquino administration.


Under the following administration of General Fidel V. Ramos, FIND was able to document only 87 cases of enforced disappearance. These occurred, notwithstanding his being the former chief of the Philippine Constabulary (PC), which was responsible for a large number of human rights violations during martial law.

This sharp decline in the number of disappearances could be a result of a major step in the transition from dictatorship to “elite democracy.” It is important to note that...
that Ramos initiated a long-term negotiation process with armed rebel groups such as the NDF and the right-wing Reform the Armed Forces Movement (RAM)\textsuperscript{133} and the Moro National Liberation Front (MNLF)\textsuperscript{134}. All these initiatives, however, failed to facilitate an end to the three decade insurgency of the NDF but, it expedited the reintegration of the RAM rebel soldiers and the forging of a peace accord with the MNLF.

In so far as human rights are concerned, Ramos initiated a dialogue with human rights organizations on 10 December 1992. One of the results was the creation of a body called the Fact Finding Committee on Involuntary Missing Persons under Memorandum Order No. 88 issued on 8 February 1993. The body was tasked to determine the whereabouts of all desaparecidos and identify the perpetrators. The said body was also tasked to recommend to the President an indemnification package to the desaparecidos’ next of kin.

The Committee that was headed by the Commission on Human Rights and composed of the Department of Justice, the Department of National Defense, the Armed Forces of the Philippines, the National Bureau of Investigation and FIND, failed miserably to concretize its noble intentions. It did not produce any report and its demise came sooner than expected.

**ESTRADA ADMINISTRATION (1998-2001)**

The administration of former actor President Joseph Estrada was short-lived. For reasons of corruption and malfeasance, President Estrada was ousted from Malacanang Palace by another people power revolution popularly dubbed as EDSA II. He was replaced by then Vice President Gloria-Macapagal Arroyo.

In the aborted term of Estrada, only 58 cases were documented. 42 of the victims were surfaced alive while three were found dead. Had Estrada finished his term until 2003, the number of cases during his administration might have risen.

\textsuperscript{133} In 1983, the year of crisis resulting from the Benigno Aquino assassination, members of the Philippine Military Academy class of 1971 formed the Reform the Armed Forces Movement (RAM). Notable among its leaders was the chief of Enrile’s security detail, Colonel Gregorio “Gringo” Honasan. RAM first demonstrated against corruption in the armed forces in 1985, while Marcos was president. Most RAM officers, including Honasan, have not supported a political ideology. They viewed themselves as protectors of the people against corrupt, incompetent civilians. Others espoused an agenda with a populist, or even leftist tone. By 1990, RAM was said to no longer stand for Reform the Armed Forces Movement but rather for *Rebolusyonariong Alyansang Makabayan* or Revolutionary Nationalist Alliance. Accessed from http://www.country-data.com/cgi-bin/query/r-10496.html

\textsuperscript{134} The Moro National Liberation Front (MNLF) is a political organization in the Philippines. It is accredited by the Organization of Islamic Conference, which allows it to represent Moro people with an observer status. Currently, the group is the ruling party of the Autonomous Region in Muslim Mindanao. Accessed from http://en.wikipedia.org/wiki/Moro_National_Liberation_Front
Searching for Truth and Justice

“Testimonies of families of desaparecidos, whether in small or big groups, tell that their first reaction upon knowing the disappearance of a loved one was to look for her/him at once. Not even the peak of harsh repression of the late dictator Ferdinand Marcos barred the families from their search. The effort to search speaks of hope that the missing loved ones could still be alive. But amidst the daring and untiring search for their missing kin, the families are faced with a blank wall. The skeletons inside the closet of the perpetrators of disappearances are so secretly kept that the families of the victims are helpless. Nothing was heard of many desaparecidos since the day they disappeared.”

In searching for truth and justice, FIND has implemented five basic programs: 1) Search and Documentation; 2) Organizing and Education; 3) National and International Advocacy; 4) Welfare and Rehabilitation; and 5) Livelihood Development. A children’s rights and welfare component is integrated into each of these programs.

A reliable report of a person’s disappearance which is validated by an efficient and persistent investigation during which protection is provided to the people involved in the search is a prerequisite for search work. The search is made in military camps, police stations, other detention and confinement facilities, hospitals, including morgues and funeral parlors. During the search, reports are submitted to relevant government agencies and local and international non-government organizations; personal connections with government authorities are tapped; petitions for the writs of habeas corpus or amparo are filed before the courts; and assistance is sought from the Philippine Commission on Human Rights.

If found alive, the victim is given physical, medical, legal and extra-legal assistance and psychosocial support. If perceived or suspected dead, the leads to possible burial sites are relentlessly pursued. If actually found dead, the victim is given a decent burial which also follows exhumations of skeletal remains.

One of the many ways to search for the disappeared is through forensic investigation. News that a missing relative’s gravesite has been found almost always triggers an amalgam of emotions from loved ones, relatives, friends and human rights advocates and defenders. Personal relationships with the disappeared and the final or unexpected discovery of the probable gravesites may affect the intensity of emotions. Thus, psychological preparation of all concerned individuals and groups in the whole process of the exhumation is necessary.

The process of exhumation, from data gathering to turning over of identified exhumed remains to the rightful relatives or claimants is tedious even as it is emotionally draining. The different exhumation stages require psychological preparations that may come in many ways: individualized or by group, formal or non-formal, planned or unplanned. Thus, a counselor or a health professional with experience in counseling victims and survivors of human rights violations is part of the team and is extra-sensitive to the emotions of the people involved in the exhumation, especially those of the relatives.

During pre-exhumation, the relatives of the missing victim are informed of the scheduled exhumation and their support sought. Prior to seeking their support, psychological preparation is necessary. Through this, the psychological readiness of the relatives can be gauged, whether they are prepared to join the mission and/or provide or even look for data that could help identify their missing kin. Aside from key information on the target exhumation site and relevant data about the missing victim, support groups from relatives, friends, the community including local officials are also important especially in the emotional preparation of the family.

Continuing psychological processing is required during the exhumation proper. The relative’s cultural practices vis-a-vis the dead are respected. Sharing words of remembrances about the missing by relatives and friends is encouraged. During the whole process of the exhumation, reactions of the relatives are keenly observed. Daily updating by the exhumation team is shared, especially with the relatives. Debriefing is conducted if necessary. Exhumation could have a devastating psychological effect on the relatives that needs proper evaluation and management. The entire exhumation process is discussed with the participating relatives. Culture-based decisions and preferences of the relatives more particularly with respect to interment practices are respected.

At the end of the retrieval process, a closing ritual is again observed. Participation of the local leaders and people in the community is encouraged, especially if they had personal relations with the victim or if they took pains or assisted in burying the extra-legally killed disappeared.

Final processing of the retrieved remains may last for weeks or months. This is another anxious waiting period for the relatives for which they are again prepared. The result may be different from their expectations as some remains may not be positively identified as those of their missing kin. Thus, during the post-exhumation process, the presence of some of the relatives, especially those who could provide data that might help in the identification process is required. If they cannot be physically present, communication lines are kept open.

After the laboratory process, whether with positive or negative identification, post-mission activities are engaged in with the waiting relatives and relatives of the still
missing victims. These activities are designed not only to facilitate the assessment of the mission but also to determine the psychological status of the relatives and other people involved in the mission itself. Debriefing is encouraged. This also helps psychologically prepare relatives of other missing victims who are waiting for reliable leads to the whereabouts of their loved ones.

Healing the Wounded

The spontaneous idea of the core group members of FIND in banding themselves into an organization of families of the disappeared two decades and a half ago was in itself an openness to eventual healing. Psychosocial work through therapy sessions for sub-groupings of family members, e.g. wives, children, and elderly parents of the disappeared was later adopted. Another sub-group of FIND is the surfaced disappeared – those who were found alive and who are the living testimonies to the cruelty of enforced disappearance.

Families of victims of enforced disappearance experience losing their loved ones much differently from those whose loss is brought about by death. The latter are able to grieve immediately even in public, and after laying the dead to rest gradually, albeit not easily, recover from the pain of loss. Unlike these families, families of desaparecidos are tormented by the uncertainty of the fate and whereabouts of their missing kin – whether they are still alive but are relentlessly subjected to inhuman and degrading treatment or have already been tortured to death and unceremoniously dumped in unmarked graves they know not where. Yet their anguish may swing to hope that their loved ones may miraculously surface and be reunited with them. The families’ crucifixion between hope and despair may eventually veer more toward the latter as the period of disappearance lengthens into weeks, months and years. In a number of cases, this anxiety may degenerate into clinical depression or worse psychosis that may require psychiatric intervention. This is the case of an Aeta mother of a disappeared who is now under psychiatric care.

Coping mechanisms of families vary. There are those who are able to accept the loss in a relatively short period of time. Others, who are not resilient, suffer from unresolved grief and exhibit the following post-traumatic manifestations:

• Prolonged inability to accept the disappearance of their loved ones;
• Continuous yearning for the disappeared;
• Persistent flashbacks, recurrent nightmares, intrusive memories;
• Constant feeling that the disappeared is always present and watching over their family;
**Guilt over acts and omissions concerning the disappeared;**

**Extreme anger, sadness, depression or anxiety manifested by:** impaired functioning or inability to perform daily routines, sleep disturbance, apathy, loss of interest in one’s work or in living, chronic tiredness, feelings of worthlessness or hopelessness, isolation, paranoid thoughts; and

**Psychosomatic ailments**

There are family members who cannot move on as they continue to wait and hope that the disappeared would come back. Others rage over the elusiveness of justice as the perpetrators (of the disappearance) remain unpunished.

Most families of the disappeared suffer economic dislocation more particularly if the disappeared person was the sole breadwinner of the family. Wives are suddenly burdened with raising their children alone; parents, especially the elderly are deprived of children who will take care of them as they grow older; and the children are denied of the love and care that the disappeared parent used to shower them with. Most of these children are forced to quit schooling and look for odd jobs to enable them to augment the family’s meager resources.

In view of these tremendous impacts of disappearance on the family, FIND had to devise psychosocial interventions that are appropriate to the unique situations of individual families or aggregates of family members on the basis of positions in the family, i.e. wives, parents/elderly, or children.

The various psychosocial interventions seek to:

- Enable family members to release feelings associated with grief;
- Overcome lingering pain;
- Prevent psychological trauma or prolonged grief;
- Create a support group;
- Learn and acquire tools and exercises to promote well being of “self”;
- Develop the habit of tapping inner resources; and
- Energize and empower themselves.

Among the techniques/activities employed are:

- Self-awareness activities such as personality types and temperament seminar-workshops;
- Expressive therapy, e.g. drawing, poetry reading, essay writing, painting, role playing, various techniques using symbols as tools for self-awareness;
- Relaxation exercises and guided visualization;
• Value formation and visual (painting, drawing) and theater arts therapy for the children of the disappeared;
• Writing letters to the disappeared;
• “Empty chair exercise” wherein the disappeared is imagined to be sitting on the chair and talked with by the family members;
• Group-sharing of experiences and expression of feelings about the kin’s disappearance; and
• Group-sharing focusing more on present situation than on past experiences according to the preference of family members.

Among the results of the above psychosocial activities are:
• “Letting go” or feeling of relief, absence of or reduction in the “heaviness in their hearts”;
• Ability to cry freely;
• Better understanding of oneself and others;
• Deeper understanding of and determination to pursue the causes fought for by the disappeared;
• Openness or ease in communicating with others, even cheerfulness;
• Drawing strength from other families.

A separate psychosocial work is employed on survivors or reappeared victims. This is designed primarily to help them overcome the chilling and debilitating effects of various forms of torture. These cruel and degrading acts have traumatized some victims and others become perpetually fearful even as they ironically develop distrust on government security forces. Others bear permanent physical marks of torture. A number have deepened their involvement in the movement for social change and have in fact actively involved themselves in the campaign to end torture and enforced disappearance.

From 31 May to 02 June 2005, FIND gathered eighteen survivors from different parts of the country to a psychosocial conference. The following are excerpts from the conference’s narrative documentation:

“...but it was especially so for the victims, who for a certain period have “disappeared” even from themselves and have since struggled to move on with their lives, some successfully but most with tentativeness signifying unresolved issues hanging specter-like from their past.

“It was an intensive three-day gathering of storytelling and fellowship done through rituals, group dynamics, small-group sharing and workshops towards that sought-after healing into which all the participants enthusiastically poured their
creative and practical energies. It was the beginning step towards understanding that one defining moment in their lives so that acceptance and healing might eventually occur.

“FIND invited two experts, Rev. Fr. Ben Moraleda and Ms. Lally Abainza, in the field of trauma counseling and therapy. They enjoined the participants to create through this gathering a “safe space” with which to face up to their experiences while accepting each other as companions in this journey of self-discovery. They were also reminded that there are lessons that may be plumbed from their well of pain, lessons that will enrich others not only themselves. The facilitators were on hand to explain in theory the process of self-discovery. However, they, the participants, will eventually be the ones to heal themselves that they may go forward with their lives.

“The facilitators introduced the novelty of this activity by explaining that the most important objective of the group is for all the participants to be able to accept the gathering as a “safe place” to tell their stories, and each other as companions in the journey of remembering, and, hopefully, understanding and moving on.

“The main processes were divided into two: the deepening of the individual and group processes and the integration of the individual and group processes. The activities were not strictly structured but were free-flowing to a point to allow the participants to feel comfortable enough to share, not only their experiences but more importantly, the feelings and emotions that accompanied the experience. Small-group workshops and group plenary sessions were held for individual re-telling of stories. Creative activities such as clay art workshops and freestyle drawing were adapted to aid the participants in the process of remembering and identifying “defining moments” of their experiences. Questions such as

What do I remember of the experience?
What were my emotions at the time?
What are the important things in my life now?
What are my strengths and positive qualities?
What are the symbols of my life?
What are my hopes and visions for the future?
What can FIND do for me and what can I offer to the group?

These helped to guide the participants in their creative workshops. These were interspersed with community singing and centering exercises such as body prayer, chi gong and meditations. The participants also relaxed through shiatsu massage in-between sessions given by some of their colleagues.
“Fr. Ben Moraleda spoke about psychological trauma that he defined as the impact of an extreme stress or critical incident on an individual’s psychological and biological functioning and the resulting helplessness and isolation are the core experiences of trauma. An individual affected by such needs to effectively reconnect with society and feel empowered to take charge of his/her life in order to successfully recover from trauma. He further explained that three stages constitute recovery: one, re-establishment of safety; two, remembrance and mourning; and three, reconnection and empowerment. The gathering is supposed to create the “safe place” for remembering and through the process of re-telling their stories, meaning-giving to the experience will ensue, thus renewing relationships and planning for the future will occur.”

The Samahan ng Mga Anak ng Desaparecidos (SAD) or Association of Children of the Disappeared formed a theater group, both for the purpose of rehabilitation as well as for projecting the phenomenon of enforced disappearances to the general public. During the 1993 campaign of Amnesty International Against Political Killings and Disappearances, the SAD theater group toured eight European countries to tell their stories through the power of theater. This was followed by a series of performances in The Netherlands two years later during the World Scouts Jamboree. To date, children have grown up and have been replaced by younger children, some of whom are grandchildren of the disappeared. It should be borne in mind that the children and the children’s children are potential actors in this long-drawn struggle against impunity.

The families of the disappeared in the Philippines also participated in the regional effort of the AFAD towards integral healing and empowerment. Thus, both on the regional and national levels, in the spirit of friendship and solidarity, selected members of FIND underwent collective healing with other Asian family members of the disappeared through the AFAD-sponsored therapy program – “Healing Wounds, Mending Scars.”

And they shall cry no more...

So deep is the wound that healing takes time. Integral healing comes with the much-desired social transformation which facilitates truth, justice, redress and the reconstruction of the historical memory of those who shall never ever be forgotten. May the families of the disappeared live to witness the day when they shall cry no more.


137 Healing Wounds, Mending Scars. Quezon City: Asian Federation Against Involuntary Disappearances, 2005
ENFORCED DISAPPEARANCES AS A LEGACY OF DICTATORSHIP OR OCCUPATION
Indonesia
Disappearances, Exhumation and Psychosocial Intervention
Caught between looking to the Future and remembering the Past
By Ari Yurino, Bedjo Untung, Putri Kanesia and Rini Kusnadi

The history and political background of disappearances
Forced disappearances are politically motivated and perpetrated by the state\textsuperscript{138}. Historically, it was Adolf Hitler who committed this crime for the first time by issuing the Night and Fog Decree (\textit{Nacht und Nebel Erlass}) on December, 7th, 1941. The decree became the basis for kidnapping those “endangering the security” in German occupied territories. People were taken in secret and vanished without a trace. After World War II, it became the (secret) policy of governments, which was carried out systematically in order to silent political opponents.\textsuperscript{139}

In Indonesia, the practice started in 1965, when the purge against the PKI (Communist Party of Indonesia) killed between 1 and 3 million. The number of people disappeared also increased along with the number of agrarian conflicts, which provided the background for agrarian reform in 1983-1984. Subsequently, other cases that involved disappearances include the Tanjung Priok incident in 1984, the Talangsari shooting in Lampung in 1989, and the attack on PDI’s (Partai Demokrasi Indonesia/the Indonesian Democratic Party) head office in 1996. The years 1997-1998 saw the growth of the struggle against an authoritarian government and also the disappearance of several pro-democracy activists.

In conflict areas, such as Aceh, Papua and Maluku, hundreds were forcefully disappeared. After DOM (Daerah Operasi Militer/Military Operations Area) status was declared in Aceh in 1989 until it was revoked in 1998, the record says 392 people were disappeared. In Papua, from 1971 to 2001, 23 were disappeared by the military for suspicion of affiliation to the Organisasi Papua Merdeka (Independent Papua Orga-
nization). In early 2001 in Maluku, 2 members of the Bantuan Komunikasi Swadaya were taken in a military sweeping.

All of the disappearances occurred because of the political condition of the time. In addition to eliminating the communist ideology in 1965-1966, the New Order regime also carried out the practice after 1966 to maintain security and stability. Relevant to this is the regime’s effort to create a favourable condition for foreign investment, as part of the shift to economic liberalism. This system brought Indonesia poverty and inequality and resulting protests made the New Order respond by committing human rights violations. Every “disturbance” to the consolidation or distribution of capital under this system was dealt with and then “disappeared” by the military.

The government then denied the acts and any responsibility thereof. The incidents were covered up and horrific details were never found in history books even after the fall of the New Order. If ever mentioned, the victims were portrayed as people that deserved the inhumane treatment. As a result, the victims and their families are still experiencing discrimination to this day, but the perpetrators are free and exempt from punishment.

The effort to bring back the memory is hampered by the government’s “look to the future and put the past behind” campaign. Every “settlement” is unfair and justice is still far from the victims’ reach.

**Political Background**

Many disappearances took place between 1965 and 1998. Those disappeared were victims of the political circumstance, although not all of them were activists or politically active.

**THE 1965-1966 MASSACRE**

*Background: the uprooting of communism.*

The 1965-1966 mass violence not only resulted in millions killed, but also many people were forcefully disappeared. The victims, who were mostly suspected members or supporters of PKI (Partai Komunis Indonesia/the Indonesian Communist Party), were taken by the army or army supported civilian groups in many operations, and their whereabouts were not known afterwards. This was done to uproot the PKI and to eradicate the communist political ideology in the transition to the New Order.

140 “New Order” was the term used by Soeharto to characterize his rule in contrast to the “Old Order” regime of Sukarno. The term “New Order” with time has become synonymous with the Suharto years (1965–1998).
Millions of civilians were arrested and tortured. The death toll can only be estimated and lies between 1-3 million. The reason for the wide range is that there was little record keeping at the time and no serious attempt afterwards to reconstruct what had happened. Organizations like the YPKP 1965/66 (Indonesian Institute for the Study of 1965/66 Massacre) are documenting locations of mass graves and former detention camps, and collecting the names of victims and survivors in order to find facts and evidence on what happened. Indonesians were affected during this period. Some of these people were not in fact involved with the PKI or its affiliate organizations. Many were arrested and then set free, without understanding why they were taken in the first place.

The 1965-1966 Massacre as a gross violation of human rights is still under the investigation of Komnas HAM, but because of the image that the New Order planted into the minds of the people, it is still a sensitive subject to talk about, and investigation have not been easy. The victims were considered deserving of the treatment that the military and the New Order subjected them to because they were atheistic communists and anti-Pancasila. This image is hard to alter and is even passed down to students in school.

141 McGregor (2009).
142 The National Commission for Human Rights: www.komnasham.go.id
143 The Five Pillars national philosophy, the official foundation of the Indonesian State: 1. Believe in the one and only God; 2. Just and civilized humanity; 3. The unity of Indonesia; 4. Democracy guided by the inner wisdom in the unanimity arising out of deliberations amongst representatives; 5. Social Justice for all the people of Indonesia.
Some of the victims have established organizations, such as YPKP 65, LPKROB, LPKP 65 and Pakorba to unite the victims and to fight against legal discrimination as it is still forbidden to study and spread information about Marxism and Leninism. Family members of alleged communists cannot become government officers or join the armed forces, or even marry a member of the armed forces. They get a special code on their identity card and are not allowed to work as teachers, doctors, shadow play artists or members of the legislature. Former political detainees also have problems retrieving their pensions and accessing banking facilities. And they still face the intimidation of military officers, the police and religious organizations. Of course this has to do with the stigmatization of the victims as mentioned above.

THE PETRUS OPERATION

Background: the necessity of stability and a good investment climate.

During 1983-1984, the operation ‘Petrus’ (Penembak Misterius/Mysterious Shooter) was responsible for summary executions of suspected criminals and claimed more than 300 lives. Others were also disappeared. They were taken without warrant by uniformed military/police personnel to military district offices, and then disappeared. During these years the government was implementing the Trilogy of Development, which consisted of security stability, economic development and equal distribution, with the notion that development requires foreign investment which in turn requires security stability. Therefore, the criminals had to be eradicated, which included killing and disappearing people as a form of ‘shock therapy’. In this case, “development” provided
the justification for arbitrary killing and forced disappearances. A lot of people have forgotten about the Petrus operation or didn’t even know about it at all. Information about it is limited and it is never mentioned in school. This case is also being investigated by Komnas HAM who has formed a study team.

**THE TANJUNG PRIOK AND THE TALANGSARI CASES**

*Background: the single ideology policy.*

On September 12, 1984 the military was involved in the shooting of civilians in Tanjung Priok, Jakarta, which resulted in a number of people killed and wounded, as well as ten people disappeared. In 1989, another shooting of civilians by the military happened in Talangsari, Lampung, and 218 people were declared disappeared. In those years, the government was strengthening the single ideology policy of Pancasila to ensure political stability and sustainability of development. The victims were Muslims that were accused of being right wing extremists and opponents of Pancasila.

The incident occurred after a series of meetings of Qur’anic recitation and study that also discussed the dictatorship of then President Soeharto and the totalitarian nature of the single ideologic policy. They saw that many policies were established for political and financial gain, but the government claimed that Pancasila was the justification. The Muslim clerics preached against and criticized Soeharto in meetings.

The Tanjung Priok case has been “settled” through an ad hoc human rights court, which ended up ruling that no human rights violations had occurred and freeing all of the alleged perpetrators.

The Talangsari case is also being investigated by Komnas HAM, but the prolonged process is difficult to bear and in both cases the victims are left alone with no solution to their problem.

**THE DOM STATUS IN ACEH AND PAPUA**

*Background: the defence against separatists.*

From 1989-1998, the time that DOM (Daerah Operasi Militer/Military Operations Area) status was declared in Aceh, there were 874 recorded cases of disappearances. In Papua, from 1971 to 2001, 23 persons were forcefully disappeared. The victims were allegedly taken by military or police personnel from their homes or other locations and subsequently disappeared. They were accused of being part of the respective separatist movement.

The movements for independence and resistance of the people of Aceh and Papua against the central government arose due to their discontent of how natural resources in Aceh and Papua were extracted. The movements felt that the profits from there were
unfairly distributed. The land of Aceh and Papua are rich in resources, especially gold, oil and gas, but ironically their people are poor. The people rose up but the New Order suppressed them with the DOM status. Even after the DOM status was revoked, the trauma of economic injustice and military repression remains.

THE ATTACK ON 27 JULY, 1996 AND THE CASE AGAINST PRD

Background: the elimination of political dissenters and the sustainability of national leadership under Soeharto.

The population’s discontent with the dictatorship of Soeharto’s administration lead to a mass movement demanding his resignation. On July 27th, 1996, a rally was held in front of PDI’s (Partai Demokrasi Indonesia/Indonesian Democratic Party) head office in Jalan Diponegoro, Jakarta. But the response was a violent attack that resulted in five dead, 149 wounded and 23 people missing until today. The attack was part of the state’s effort to control and dominate the political elements and the civil society under the slogan of “national unity and oneness”.

The government considered the PRD (Partai Rakyat Demokratik/the Democratic People’s Party) as one of the organizations most responsible for the July 27th, 1996 rally. As a consequence, the PRD activists were persecuted and forcefully disappeared. In 1998, the year when the National Consultative Assembly held its General Session to re-elect Soeharto, a total of 14 PRD activists were captured by the “Rose Team” of the Army’s Special Forces. Some of them came back; others remain missing to this day.

THE MAY 1998 RIOTS.

Background: the sustainability of national leadership under Soeharto.

From 13 to 15 May of 1998, riots erupted in several cities in Indonesia that resulted in the death of 1,190 people from gunfire, 27 died of other wounds and 91 people were wounded. The data was obtained from Tim Relawan Kemanusiaan (The Humanitarian Volunteers). Some government agencies issued conflicting reports. During the riots, YLBHI/KontraS received reports of 4 missing persons.

The riots erupted after an escalation of political pressure. At the time, demands were coming from the people, especially the students, for the resignation of Soeharto

145 The regional police had 451 dead, with no record of those wounded; the Military Area Command had 463 dead, including security personnel, and 69 wounded; The Jakarta Special Capital Administration reported 288 dead, and 101 wounded.
146 http://www.kontras.org/
from his presidency. However, the riots showed a pattern of planning and organization. In fact, they were incited and arranged to distract the people from voicing their demands and to condition others to demand, on the contrary, a stronger presence from the authorities to restore order and stability.

Interestingly, almost all of the people that were disappeared had no political background nor were they involved in any political activity. They were watching malls and markets being burned down when they were told to board military trucks never to return.

**Exhumations of victims of disappearances**

**The History of Excavations of Burial Sites**
Since the incidents mentioned in the previous chapter, many locations were identified as mass burial sites for victims of murder and forced disappearances. For example, the report of the KP3T found seven unidentified people buried at a Muslim cemetery in Pondok Rangon and seven others in the public cemetery of Condet.

Unfortunately, even though many sites have been identified, excavation could not be easily carried out. This is because the exhumation of the body of a victim of human rights abuse cannot be conducted in the same manner as the exhumation of a victim of a common crime. However, despite the difficulties, several excavations did take place.

The first instance was in 1998-1999 at the burial site of victims of the DOM in Aceh. The exhumation was carried out by Baharudin Lopa who was at that time the Secretary General of Komnas HAM. The process that was carried out in five graves in Bukit Seuntang (approximately 41 km from the city of Lhokseumawe) found, at the depth of 3 meters, 5 intact skulls, 12 pairs of femurs, and jaws, which were assumed to have belonged to 12 victims. Komnas HAM also excavated one of several suspected mass burial sites in Desa Jeumeurang, Kecamatan Kembang Tanjung, Aceh. The excavation found two fertilizer sacks bound by roots, which contained two complete human skeletons. The remains were then sent to the forensic unit of the North Sumatera Police that accompanied Komnas HAM.

148 (Komisi Penyelidikan dan Pemeriksaan Pelanggaran Hak Asasi Manusia di Tanjung Priok/The Committee for the Investigation and Examination of Human Rights Abuse in Tanjung Priok)
149 See the Complete Report of KP3T (The Committee for the Investigation and Examination of Human Rights Abuse in Tanjung Priok), 12 June 2000
In November 2000, YPKP 65 together with the families of victims and the Sulidaritas Nusa Bangsa NGO, an excavation of a suspected site in Hutan Situkup, Wonosobo, Central Java was conducted. This was done after information was obtained from the victim’s family members and witnesses that the victim was buried on that site, as well as from witnesses.

The people excavating the Situkup mass grave only had written permission from the victim’s family members given to YPKP 65, a letter of recommendation from Komnas HAM and verbal permission from several agencies. The families did not formally involve the police in the exhumation, although they did come to the site, but only to observe from a distance. To assist in providing security during the exhumation, a contingent of 15 people was sent by an Islamic youth organization (Banser), as well as 15 people from a youth guard of the Indonesian Democratic Party (PDI-P).

The exhumation process was done by a team of forensic scientists, led by Dr. Handoko of the Medical Faculty of the University of Indonesia in the presence of the family members, lawyers, members of YPKP 65 and members of the local community.

The exhumation found remains of 24 people, different personal belongings such as a comb and a wedding ring, as well as several bullets.

The exhumation was carried out solely based on the family’s wish to transfer the remains of the victim to a better location. As part of their faith and custom, the dead

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152 http://www.kontras.org/tpriok/index.php?hal=berita&id=767
must be buried properly and in a proper place. The families carried out this process themselves because the government did not show any willingness to do it.

In the end not all the bones and skeletons were taken by the relatives of the victims. In order to show honour and respect to the dead bodies, the YPKP65/66 wanted to re-bury them properly on a piece of land in Temanggung Regency, Central Java, that had been contributed by a member of the organization. They also planned to use the site for commemoration of the tragedy later on. They asked the local public and religious authorities – Muslims, Christians and Buddhist – the police and even the military for permission. Unfortunately some Muslim fundamentalists opposed the ceremony openly and violently. The situation escalated to such extend, that the ceremony of reburial had to be postponed. But even after the cancellation, a mob of more or less 50 people attacked the house where the attendants gathered before the ceremony. The mob also attacked the cars as they tried to leave with the remains after the announcement of the suspension. The presence of the police prevented further damage and violence.

Those bitter experiences that occurred during the process of reburial in Temanggung, hopefully won’t happen again. In order to avoid them, suitable and elaborate preparation of the ceremony is necessary. Here psychosocial work could play a mediating role and help to manage possible conflicts between the different actors (victims, families, relatives, guests, human rights defenders, perpetrators, government officers, legislators, religious community, etc.)

Another exhumation was carried out in the year 2000 for the victims of the Tanjung Priok incident. The exhumation was done by KP3T Komnas HAM on two suspected sites: the public cemeteries of Mengkok Sukapura and Kramat Ganceng.

In the Mengkok Sukapura public cemetery, the excavation was done on selected locations based on the tombstones and information from the victims’ families. The grave of Kembar Abdul Kohar was found, but two others belonging to Kastori and M. Sidik were not.153

In the Wakaf Cemetery of Kramat Ganceng, Pondok Ranggon, East Jakarta, eight graves were found with the remains of one person in each. This was contrary to the information given by Rohisdam and Try Soetrisno that seven victims were buried in the cemetery.154

What Komnas HAM did in Aceh, the victims’ families did in East Java and KP3T Tanjung Priok at the two cemeteries: Try to uncover the truth and facts about forced disappearances. However, the results of the excavations could not be admitted to court.

154 Ibid.
This is because the excavations were not done as part of a judicial process and therefore any evidences found are rendered inadmissible.

Moreover, there is a law against destroying burial grounds. In some cases, carrying out an illegal exhumation can be considered destroying evidence, which is a criminal offence. Furthermore, the act can even be considered obstruction of justice.155

LEGAL EXHUMATION IN INDONESIA

Excavation of mass burial sites is uncommon in Indonesia. Legally, the provision for such a procedure in cases of gross violation of human rights is non-existent. For these reasons, any exhumation process is difficult.

It is different in criminal procedures where the police can ask a forensic expert to carry out the exhumation of human remains for autopsy. The provision is found in Article 184 (1) of the Criminal Procedure Code. The forensic expert can also be asked to testify in court, pursuant to Article 133 of the Code.

The request for an expert to do so would be filed in writing, with an elaboration of the type of examination or procedure requested.156 Therefore, only those that are permitted by law can legally carry out an exhumation.

However, the provision is inapplicable in cases of human rights violation because the pre-investigation authority for such cases is Komnas HAM and not the police. Article 18 of the Human Rights Court Law states that “The investigation of gross human rights violations is conducted by the National Commission of Human Rights”. The investigation rests on a different legal basis than that of an ordinary criminal investigation.

OBSTACLES IN EXHUMATION

Based on the above-mentioned provision, every exhumation of victims of human rights violations must be done or must involve Komnas HAM as the only state agency mandated to carry out investigations of gross human rights violations. This had been done for the 1965-1966 massacre. In this case the Chairperson of Komnas HAM issued Resolution No. 21/KOMNAS HAM/V/2008 dated 28 May 2008 on the formation of an ad hoc gross human rights violation investigation team for the 1965-1966 massacre, as well as subsequent extension resolution on January 5, 2010.

Unfortunately, this agency faces many obstacles. Firstly, even though many have pushed for the truth to be exposed and the perpetrators to be brought to justice, the government has been unresponsive. The reports sent by Komnas HAM to the Attorney

156 Dahlan, Sofwan, Ilmu Kedokteran Forensik (Pedoman Bagi Dokter dan Penegak Hukum), Badan Penerbit Universitas Diponegoro, Cet.VI, 2008
General’s Office to follow up on findings in human rights abuse cases such as the 1965 massacre, the Talangsari case, the 1997-1998 forced disappearance of activists, the May Tragedy, the Semanggi I and II incidents and the Wasior-Wamena Papua cases, were returned repeatedly with the same note saying that there was insufficient evidence. The agencies responsible in issuing permits to carry out exhumations, the court and the Attorney General, were silent and the development of the cases became stagnant. The situation is a result of the strong hold that the perpetrators still have on the government. Those involved in the 1965 massacre and Talangsari cases are presently holding various important positions in the current administration.

In the Talangsari case, for example, the exhumation process could not be carried out because the Attorney General’s Office would not issue the permit allowing Komnas HAM to excavate the crime scene. The Attorney General at that time said that an ad hoc human rights court must be set up before a permit can be issued.

Secondly, there is no political support from the government for Komnas HAM. It appears as though Komnas HAM is the only agency concerned, as other agencies whose involvement is required have shown no support, not to mention the lack of support from the general public due to their lack of understanding of such cases.

Additionally, in Indonesia the stigmatization of victims, especially of the 1965/66 massacres, is still very strong, due to many years of misinformation and anti-communist propaganda by the authoritarian regime of Soeharto. That means that the public opinion is against the victims and against exhumation processes and it is very necessary to influence the community to stand up against the wrong paradigm of stigmas against victims.

In the exhumation in Wonosobo, YPKP 1965/66 conducted information meetings in the local community to provide a space to discuss the upcoming exhumation process and to reflect upon the history, especially about the 1965/66 massacres and the present situation on a local, national and international level. The focus of the meetings was to identify common points of departure and the advantages of an exhumation for a better future together. Understanding what has happened is also part of the public support campaign, as well as the process of healing trauma of victims, of survivors and of their families.

In these meetings it was necessary to communicate the importance of community support for the families. An analysis of the public needs and opinions was carried out in order to meet them and integrate leaders and representatives into the community. This integration served as a manifestation of their support.

Nevertheless government support is important for a successful exhumation process. In the political context of Indonesia, the state does not work for the victims. An alternative dialogue based on politic and law is needed. Psychosocial work could operate in
this context as a bridge between the opponents. Furthermore the role of the National Human Rights Commissioner has to be strengthened and it’s position facing the central government, improved.

In addition to the preparation of the community and the institutions, the victims also need preparation. Forensic experts have to meet with the victims’ families to explain about the procedure, the finding or not finding of the dead bodies and also about the possibility of finding traces of torture and other violations. Of course, this may have consequences for the psychological and emotional state of the family.

Also the necessity to understand the psychological condition (rational and emotional) of the victims families, the mythology, dreams, the role of the spirit of the disappeared person, fears, hopes, etc. should go without saying. This preparation, together with psychosocial support is crucial for the collection of Ante-Mortem-Data, and in the process of preparing the family to remember the violation in order to continue the legal process after the exhumation is complete.

CIVIL SOCIETY PARTICIPATION

The drawbacks of carrying out exhumations are indeed a disadvantage in exposing the truth of gross human right violations. Nevertheless, this has not discouraged the victims’ families and CSO to search for the truth for them selves.

The lack of political will from law enforcement officials, especially the Attorney General’s Office, as well as the limitations of Komnas HAM, has forced the CSOs to lead an independent and non-intrusive effort to search, gather and document information about the mass burial grounds.

In 2008, KontraS’ investigation team went out to search for the burial grounds of the victims of the 1965-1966 Massacre in Central Java. This was done after its local partner organization in Solo, Central Java received information from several witnesses about the mass murder and subsequent burial.

Based on that initial information, the team visited the witnesses and documented their testimony. The team carried out extensive documentation and measurements of the location of the suspected mass burial of those killed 1965-1966 massacre.

Based on the findings, the KontraS investigation team then recommended that Komnas HAM conducts a follow up investigation and exhumation of those sites.

In Talangsari, Lampung, a local community that claimed to know for sure the location of a mass burial site in their territory, proceeded to document the location and marked the perimeter with wooden stakes so that it would be noticeable. They also held activities of social reconciliation and clarified the distorted information that has spread regarding the incident.
What KontraS, the victims’ families and other CSOs have done, is part of the effort to expose the facts and an effort to fight forgetfulness in cases of human rights abuses. They also continually remind the government of its unfinished duties in resolving those cases.

**Psychosocial intervention for victims of human rights abuses**

**BACKGROUND**

The term “psychosocial support” became recognized in Indonesia especially after the Aceh tsunami disaster on December 26th, 2004. At that time, many humanitarian organizations, both domestic and international, were present in Aceh. Many organizations implemented psychosocial support programs in various forms. Consequently, “psychosocial support” had many faces, from the more psychological leaning programs, such as counselling, to more community-based development programs. Programs varied from the simplest to the most sophisticated therapies such as EMDR (Eye Movement Desensitization Reprocessing) and EFT (Emotion Freedom Technique) and even income generating, clean water and sanitation programs fell under the “psychosocial support” heading. The diversity was very much influenced by the type of resources available and the expertise of the aid organization.

In practice, psychosocial intervention are activities that would fulfil the psychological and social needs of the individual and the community, including the needs of specific groups of people (women and children) that could not be met by the same way as the needs of the larger group. The word “psychosocial” signifies a dynamic, interdependent relationship between psychological and social factors. The psychological effects are those seen in the changes of emotion, ability to learn, perception, understanding, reasoning and behaviour. A person’s psychological problem can affect the social aspect of his/her life, e.g. relationship with family, friends and community.

The “psychosocial support” method that was used for victims of the tsunamis is also increasingly used for victims of human rights abuses in Indonesia. One organization that applies this method for victims of human rights abuses is **IKOHI** (Ikatan Keluarga Orang Hilang Indonesia/Association of the Families of the Disappeared).

Psychosocial support in terms of assistance provided during the exhumation process is not the focus of any organization in Indonesia. It has not gained sufficient attention because exhumations are very uncommon.
ORGANIZATIONS PROVIDING PSYCHOSOCIAL SUPPORT FOR VICTIMS OF HUMAN RIGHTS ABUSES IN INDONESIA

On the national level, there are several organizations that are actively involved in carrying out psychosocial programs for human rights victims. They include: IKOHI\textsuperscript{157}, Yayasan Pulih\textsuperscript{158}, RATA\textsuperscript{159}, Aliansi Demokrasi untuk Papua\textsuperscript{160}, K2HAU\textsuperscript{161} and SPKP HAM\textsuperscript{162}.

Between 2005 to 2008, IKOHI has carried out community based psychosocial interventions for victims of human rights abuses in Jakarta, including of the Tanjung Priok incident, the 1965 massacre, the 1998 tragedy, and the families of 1997/1998 disappeared activists. The total number of beneficiaries are 308 people, 179 of them are women.

IKOHI is now carrying out a similar program for victims of conflict in West and North Aceh together with K2HAU and SPKP HAM. This is an 18-month program, starting in May 2009 to October 2010. The total number of beneficiaries for the first semester in West Aceh is 45 people, 30 of them are women, and 46 people for North Aceh, 36 of them are women.

IKOHI considers community-based psychosocial assistance important for the following reasons:

- It is difficult to experience a disaster collectively.
- The community is the closest to the individual and the first to provide help.
- It is the community itself that could suggest reliable resources to solve a problem.
- Involving the community maintains the sustainability of restoration and empowerment efforts.
- The community cannot depend on external aid/intervention for an extended period of time.

\textsuperscript{157} Ikatan Keluarga Orang Hilang Indonesia: http://www.ikohi.org or http://www.ikohi.blogspot.com
\textsuperscript{158} Pulih Foundation: http://pulih.or.id/english.php?lang=2
\textsuperscript{161} Komunitas Korban HAM Aceh Utara/Communities with victims of human rights violations in the North of Aceh: http://k2hau.wordpress.com/
\textsuperscript{162} Solidaritas Persaudaraan Korban Pelanggaran HAM/Solidarity for Victims of Human Rights Abuse
Below is a description of the type of psychosocial support that is implemented:

- Counseling model used
  - Focusing on “here and now”
  - Problem Focused
  - Client Centered
  - Support Groups (building a support system)
  - Resilience oriented
  - Culture sensitive
  - Short term

The steps to provide the assistance are as follows:

1. Introduction to the Community
2. Intake I
   - Intake I is carried out before the victim attends the group support session, to see whether the victim needs it or not.
   - Session 1: introduction, rules setting.
   - Session 2: exploration of problems.
   - Session 3-6: thematic problem sharing and coping mechanism.
   - Session 7: evaluation.
   - Session 8: termination, next step.
3. Group Support Sessions
4. Intake II
   - Intake II is carried out after the victim attended the group support session, to see whether psychologically the victim has improved or not.
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**Film:**

“*Mass grave; Indonesia*” (2001), directed by Lexy Junior Rambadeta and Goeng Wijayanto
East Timor
Working with Families of the Missing
A Case Study from East Timor

By Soren Blau, Luis Fondebrider and Gregorio Saldanha

Introduction
There is much written on the importance of psychological support for survivors of mass disasters, those impacted by crime, and victims of torture (e.g., Young et al. 1995). Since the 1970s increasing attention has been paid to the psychological effects of complex humanitarian emergencies on communities and individuals (Flynn 1999). Studies have demonstrated strong associations between traumatic experience of conflict survivor groups and physical illness, functional limitations and psychiatric symptoms including post-traumatic stress disorders (PTSD) depression, acute stress disorders and anxiety (Mollica 1999).

Increasingly, the need for psychological support in the exhumations process associated with the investigation of cases of political violence has been identified. Over the past 25 years forensic archaeology and anthropology have been effective forensic science tools (Blau and Ubelaker 2009). These disciplines have provided evidence for the location of clandestine graves and information pertinent to the identification of deceased individuals in cases of political violence in more than 40 countries worldwide. In countries such as Guatemala programs of psychological support in the exhumations process has been successfully implemented (Anon. ND). While the importance of psychological support for relatives (and sometimes forensic specialists, e.g., ICRC 2003) cannot be overstated, another vital aspect of working with families of victims is the trust and confidence that has to be established between the forensic specialists and relatives of the victims.

While the offer of psychological support is important, in order to meet family expectations an effective communicative relationship between forensic practitioners and families of the missing is vital. Working with families who have relatives missing as a consequence of political violence (that often occurred several decades prior to any investigations commencing) is not an easy task and in many aspects quite different to
working with daily cases of criminal violence. Establishing credibility and developing trust is crucial as in many cases people with missing relatives have been waiting years for an answer. It is essential to address any doubts and questions families of victims may have both before and during the investigation process.

Since 1984, when different scientific disciplines began to be applied to investigate cases of political violence, the role played by relatives of the victims and human rights organizations has been increasing and transforming to become a central element of the investigation and identification and therefore the recovery processes. Experience has shown that the excavation and exhumation of remains is a very important stage of the investigative process for the families, as very often it is the first time after the disappearance that they see the possibility of finding the remains of their loved ones. In that sense, the relationship between forensic practitioners and families at the exhumation site is relatively new for many forensic experts. While the changing role of, for example, the forensic anthropologists has been noted (Skinner et al. 2003: 82), those practitioners based in a city forensic institute rarely have direct contact with families as typically a separate family counseling service exists. Increasingly, however, the psychosocial benefits for families of being included in the exhumation process are being acknowledged (Blaauw and Lahteenmaki 2002: 777; Fondebrider 2002: 887; McEvoy and Conway 2004: 560; Hunter and Cox 2005: 221; Tidball-Binz 2006: 402-405).

There are two vital aspects required to ensure effective outcomes when working on projects involving sensitive, typically emotive issues: firstly, the trust and confidence that has to be built between the forensic specialists and relatives of the victims; and secondly, the importance of the psychological support for relatives and forensic specialists. In this paper, we will focus on the first point, which in the case of Asia, specifically East Timor, has received little attention in the literature in the context of the missing. The aim of this paper is to present a case study detailing the process of working with families in an investigation of a human rights violation involving exhumations in East Timor.

**Background**

It is estimated that some 200,000 people were killed during the 24 years of Indonesian occupation, whether as a result of starvation, following displacement, interpersonal fighting in the mountains, following arrest by Indonesian forces or as a result of mass violence such as massacres (e.g., Kleemeyer 1997; Chega Report 2005). Since obtaining independence in May 2002, there have been various attempts to understand the circumstances of these deaths. These include work undertaken by the Serious Crimes Unit established in 2000 which was replaced by the Serious Crimes Investigation Team (SCIT) in 2006 established by the United Nations (UN). This unit which includes a
forensic team is tasked to deal only with deaths that occurred in 1999 (Anon. 2002). There was also a widespread exhumation programme conducted by the Timor Leste Defence Force (F-FDTL) to retrieve the bodies of those who died fighting during the Indonesian occupation. For example, in August 2009, the remains of 443 individuals (referred to as “martyrs”) were buried at the Cemetery of National Heroes at Metinaro, east of Dili (Anon. 2009). Based on information from families about the location of their relatives, exhumations were carried out without any scientific methodology or formal identification, and were essentially a transfer of bodies from graves to the cemetery with little thorough documentation. Further, the Metinaro cemetery is often used as a form of propaganda, for example, as part of the East Timor, 10th anniversary since the referendum, a symbolic funeral was held at the cemetery.

More recently, a series of exhumations have been undertaken by the International Forensic Team (IFT164) as part of an AusAID funded capacity building program165 for police and hospital mortuary staff in aspects of human identification. The relationship with the relatives of the victims as well with a local human rights organization has been a focus of the IFT’s work.

Case Study: The 12th November 1991 Santa Cruz Massacre

In 2005 the IFT signed a Memorandum of Understanding (MoU) with the Government of Timor-Leste to facilitate the investigation of a massacre of unarmed East Timorese youths that occurred on the 12th November 1991 at the Santa Cruz cemetery, Dili. Several unverified lists of victims exist and estimations of numbers of people killed or who went missing following the massacre vary from 19 up to over 400 (Blau and Skinner 2005). Information about the possible location of victims of the massacre referred to two sites: Tibar and Hera.

The IFT undertook detailed investigations involving excavation and exhumations at Tibar in July-August 2008 and at Hera in March 2009. While no evidence of human remains and/or graves was found at Tibar, the remains of 16 individuals were recovered from Hera. To date, 11 of these individuals have been positively identified based on the matching of post-mortem and ante-mortem DNA and anthropological results and associated clothing and property (Blau and Fondebrider Forthcoming).

164 The International Forensic Team (IFT) is formed through collaboration between the Victorian Institute of Forensic Medicine (VIFM), a statutory body created by the Coroners Act (1985) in the State of Victoria in Australia, and the Argentine Forensic Anthropology Team, Equipo Argentino de Anthropolgia Forense (EAAF), a non-governmental organization existing under the laws of the Republic of Argentina.

165 The views in this article do not reflect those of AusAID or the Australian Government.
Working with Families in East Timor

The training/investigation project was undertaken for humanitarian purposes with the aim of locating and identifying human remains. While the Timorese authorities expressed no intention to pursue criminal charges based on the findings, the exhumation process included the complete recovery and preservation of all evidence, following international forensic standards, in addition to taking into account the needs of the families as expressed to the IFT during several meetings (Fig. 1).

The strategy defined by the IFT was first to meet with the relatives of those missing during the events, and to listen to their wishes and expectations. As foreigners, it was essential to find a local organization to establish that link, and that was achieved through collaboration with 12th November Committee, a Timor-Leste NGO formed on 12th November 2008 by survivors of the Santa Cruz Massacre. Directed by Gregorio Saldanha (one of the young men responsible for organising the peaceful demonstration who was subsequently arrested, tortured and sentenced to life imprisonment in June 1992\textsuperscript{166}), the main aims of the Committee are to register and verify victims and survivors of the Massacre; locate, exhume, identify and re-bury victims of the 12th November Massacre in collaboration with families and the IFT, and assist survivors with social services in the areas of health, study and employment. The Committee also advises the government on the formation of a memorial and collection of historical information (Ramos Horta 2009).

\textsuperscript{166} On the 10th December 2009, Gregorio Saldanha and the Committee received the Sergio Vieira Mello Award for Civil and Political Rights (Ramos Horta 2009).
Staff from the IFT were very aware of the “interview fatigue” experienced by families of the missing in Timor-Leste: many have provided information about their experiences and missing relatives to different authorities on countless occasions but have, until recently, failed to obtain any results. Consequently, the meetings held by the IFT provided the opportunity for the forensic staff to brief the families on the progress of the investigation with the intention of not raising expectations. The fact that the meetings were held regularly (that is each time the IFT returned to Dili) provided the opportunity for the families to ask questions and provide additional information as well as giving the IFT staff information about the important cultural-religious aspects of the process. An important aspect for the IFT, it was to respect local cultural traditions about the dead (Robins 2010) and in that sense, families were invited to come out to the exhumation sites, perform rituals, see the work and be regularly briefed on the progress of the work.

While the IFT had shown there was no evidence of a grave in the areas of interest at Tibar, the families needed to follow their own line of enquiry. This involved using a medium to facilitate the finding process by calling the spirits of the dead to guide them to potential locations of graves. With information about possible grave locations the families obtained mechanical excavators and paid for the fuel to dig (even at night) numerous enormous holes without positive results. Despite the efforts of a generation of forensic anthropologists and archaeologists to promote careful excavation of large-scale crime scenes, the need for families to obtain answers resulting in vain attempts to locate family members is not without precedence (e.g., Farrell 2003). While respect for the needs of the families is necessary, the above scenario highlights the requirement for the forensic specialists to have an open mind, and to make an effort to explain to the relatives as clearly as possible why, for example, an excavation stops at the point when sterile soil is found, resulting in no need to excavate any deeper.

In contexts where the rule of law and the State are still in construction, and religion/traditional beliefs continue to permeate all aspects of people’s lives there may be challenges mounted against the methods implemented by forensic science and the subsequent results yielded via scientific techniques. The use of science, often perceived as being rigorous, independent, and objective, is seen as an important part of “being modern”. However, in contexts where traditional faiths remain prominent, the concept of scientific knowledge and proof may collide with traditional spiritual beliefs (cf. Fuller 2007). In order to meet family expectations an effective communicative relationship between forensic practitioners and families of the missing is vital. Such relationships potentially provide important psychosocial support for families of victims.
Just as Western medicine was seen to have a role in the pursuit of colonialism providing “credibility” to Europe’s claim to moral superiority and to the perceived legitimacy of colonial rule in the name of the civilizing mission (Ernst 2004), it is vital that forensic science does not perpetuate and/or reinforce a colonial legacy in the name of justice and democracy. The relationship between science and religion in the contexts of identification of deceased individuals must be one based on respect and open frequent communication. The ability to transfer knowledge within specific cultural contexts is paramount.

Another example of the collision between science and belief are the dreams that very often families mention in the interviews undertaken to collect ante-mortem information. In one example from the IFT’s work in East Timor, a family reported two brothers missing. While one skeleton recovered by the IFT produced a DNA profile, the lack of discrimination power of DNA and the limited anthropological data meant it was not possible to determine which of the family’s sons had been recovered. A final conclusion was made by the father, who indicated his eldest son had come to him in a dream indicating his remains would be found.

Conclusion
The need to build a relation of trust and confidence with relatives of the missing before and during missing persons investigations is a relatively new and challenging process for forensic practitioners. In referring to psycho-social support for “families” it is inevitable that there will be different concerns and needs for individuals depending on specific circumstances, for example, the amount of information a particular family has about the circumstances when the person went missing and the subsequent fate of their relative; if a body has been returned to a family thus confirming death and whether or not retrieving the physical body is actually important, and/or the extent to which religion plays a part in the person’s life in contemplating the loss of a family member. While exhuming remains may provide closure for some, others are less than content with the knowledge that, in addition to disturbing the dead, the analysis of remains may result in confronting the reality that a relative is actually dead and no longer “missing” (see for example, Blaauw and Lahteenmaki 2002: 776; Williams and Crews 2003: 256). Thus, it is vital when working with families that forensic experts are mindful not to provide unrealistic expectations for example, on predicted success for identification (Williams and Crews 2003: 225). While it can be argued that at one level the ability to talk to someone and/or be present during an exhumation is in itself cathartic, in the case of East Timor there has been no formal discussion about how effective such processes have or continue to be.
The close working relationship with some of the families with missing relatives established by the IFT has set a solid foundation for future good practice and has resulted in increased recognition by the Government of East Timor of the importance of support for families of victims. This is illustrated by the recent approval by the Government of East Timor to provide funds to the 12th November Committee for their future work with families in the attempted positive identification of individuals recently recovered from mass graves at Tacitolu by the IFT and Policia Nacional de Timor-Leste (PNTL) (Goulart 2010).

It is important that investigations into the missing in East Timor are given ongoing financial and political support. However, it is equally important that attention is also given to appropriate mechanisms to provide psycho-social support to allow families to process, what is in many cases, extremely difficult information to digest with significant long term impacts on their lives (Robins 2010).
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Cambodia
Engaging Communities – Easing the Pain
Outreach and Psychosocial Interventions
in the Context of the Khmer Rouge Tribunal

Judith Strasser, Julian Poluda, Mychelle Balthazard, Om Chariya, Yim Sotheary, Im Sophea,
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The search for the Enforced Disappeared after the Khmer Rouge regime in Cambodia
Cambodians experienced appalling atrocities committed by the Khmer Rouge regime from 1975 to 1979 when nearly 2 million Cambodians, a full one quarter of the population, died, from execution, starvation, forced labor, malnutrition and torture. Many Cambodians refer to the period of Democratic Kampuchea as “the regime of three years, eight months and twenty days”, as if every single moment of that period has been permanently seared into their memories.

The Khmer Rouge (KR) leaders turned Cambodia into a killing field. Throughout the regime, they purged their own ranks and carried out brutal executions against perceived “enemies” – politicians or soldiers of the former government, “intellectuals” such as teachers, doctors or artists, and any other Cambodian perceived to be dangerous to the regime – depleting Cambodia of its social capital.

They also implemented radical social transformations destroying the way people made sense of their own existence through their relationships to others and to the spiritual world. The family, Cambodians’ social unit that offers emotional support, was destroyed and supplanted by ‘collectives’; husbands and wives were separated and children were put into children units. Numerous survivors report that adults were forced to marry in mass ceremonies. In order to spread fear and terror people were systematically taken away from their homes (“Yok Tou”), sent to education camps (“Ab Rum”) or evacuated to new locations (“Bdaur Phum”). For most, this usually meant death.

169 There is anecdotal evidence substantiating that rape and other sexual abuse including forced marriage happened frequently during the KR regime; most of the victims were executed. See: Nakagawa Kasumi (2007). Gender-Based Violence During the Khmer Rouge Regime. Stories of Survivors from the Democratic Kampuchea (1975-1979). Phnom Penh
On January 7 1979, the KR regime collapsed overthrown by the Vietnamese. The KR leaders and some 30 to 50 thousand supporters, fled to remote areas in north and west Cambodia. Throughout and after the KR regime more than 300,000 Cambodian fled to Thailand or Vietnam. Countless Cambodians live in the US or are scattered around the world.

Today, examples of the torture methods used under the KR can be seen at “S-21”, a former school, which was turned into a national torture centre operated by “Comrade Kaing Guek Eav”, (alias Duch) during the KR regime. It is estimated that at least 12,000 people passed through this centre. They were then taken to a site outside of Phnom Penh, called “Choeung Ek” also known as the “Killing Fields”, executed and buried in mass graves.

In 1980, the pro-Vietnamese government of Cambodia turned S-21 into a museum. The same year, “Choeung Ek” was excavated with the help of Vietnamese forensic specialists. As of today, at least 8,985 bodies have been exhumed. Scientific exhumations in most other killing sites received less attention and were generally not conducted for lack of expertise.

In October 1983, the People’s Republic of Kampuchea’s Ministry of Culture directed municipal and local authorities to “inspect local genocide sites, prepare statistical data on the sites, create a file of evidence on genocidal crimes committed in their locality and to report this information to the ministry.” Over the years, local authorities continued

to identify and excavate mass graves in Cambodia; survivors stumbled over mass graves gathering remains, but unfortunately a large number have also been opened by local grave robbers.\textsuperscript{173} Based on the Documentation Center of Cambodia’s experience,\textsuperscript{174} many survivors participated in the exhumation process seeking for clarity about the destiny of their relatives and helping to build stupas in local pagodas to preserve the human remains. Throughout that period very limited mental health services were available to help survivors alleviate the trauma of the KR era.

**EXPERIENCES FROM THE FIELD:**

**THE DOCUMENTATION CENTER OF CAMBODIA’S (DC-CAM) MASS GRAVE MAPPING PROJECT**

From 1995 to 2005, DC-Cam conducted two major research studies on the Khmer Rouge prison system and the mass graves. This ten-year project involved seeking out and mapping mass graves, former Khmer Rouge prisons, and genocide memorials throughout the country, (See map on the left by courtesy of the DC-Cam). The initial information on the locations of these sites was generally obtained through interviews with villagers. The sites uncovered during the project included 390 killing sites with 28,833 mass graves, 196 former Khmer Rouge prisons, many of them schools and pagodas, and 81 genocide memorials constructed by survivors of the Khmer Rouge regime. The Center also marked each location with a global positioning system device. Almost all Khmer Rouge prisons and killing sites were found in the central plain area of Cambodia, in particular around the Tonle Sap lake, along the Mekong river system and the coastline. DC-Cam produced a 297-page field report on this project with 180 photographs.\textsuperscript{175}

In March 2010, the newly formed Association of Victims of Democratic Kampuchea (Ksaem Ksan) headed by S-21 survivor Chum Mey, declared that all bones of KR victims should be preserved and not cremated. The association hopes that advanced DNA techniques could allow future identification of the remains at S21 and Choeung Ek. One of the most prominent opponents of this idea is Cambodia’s King Norodom Sihamouk. On April 17, 2004, he called for the cremation of all remains from the KR era: “We are Buddhists whose belief and customs since ancient times have always been to cremate the corpses and then bring the remains to be placed in stupas at pagodas.”\textsuperscript{176}

However, Cambodians have always treated the remains of their deceased in many different ways. For instance, many families bury their dead relatives near a pagoda or

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\textsuperscript{174} The Documentation Center of Cambodia (DC-CAM) is a non-profit organization aiming at documenting the crimes committed during the KR era. See DC-CAM, History and description of DC-CAM, available at http://www.dccam.org/Abouts/History/Histories.htm

\textsuperscript{175} Documentation Centre of Cambodia: Mapping Project, available at http://www.dccam.org/Projects/Maps/Mapping.htm

\textsuperscript{176} The Cambodia Daily, April 19, 2004.
even in the backyard of their homes and many Sino-Cambodians believe that inhumation burials are vital to ensure the happiness and prosperity of the family. Today, it is common practice to enshrine excavated bones in stupas at pagodas and memorials. This has been supported by the government as well as by the majority of Buddhist monks.¹⁷⁷

**Victim participation at the ECCC**

After a decade of negotiations leading to the adoption of its internal rules in June 2007, the Extraordinary Chambers in the Courts of Cambodia (ECCC) is the first serious international effort to prosecute the senior leaders of the Khmer Rouge and those most responsible for crimes committed between April 17 1975 and January 6 1979.¹⁷⁸ In 2007, the ECCC arrested 5 people. The trial of “Comrade Duch” began

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in February and ended in November 2009 (Case 001). The verdict is expected in the summer 2010. The investigation against the four additional suspects, Ieng Sary, Khieu Samphan, Nuon Chea and Ieng Thirith\(^{179}\) (Case 002) closed in January 2010. The trial is expected to commence in the first quarter of 2011.

In contrast to other international tribunals, to the exception of the International Criminal Court, the ECCC offers a unique and unprecedented mechanism for victims to participate in the trial. In addition to be called as witnesses, victims can apply as complainant or as a civil party. Complainants provide information to support the prosecution whereas civil parties are an independent party to the judicial proceeding like the prosecution or the defence. In Case 001, 90 Khmer Rouge victims applied as civil parties. As of March 12, 2010, 8202 victims had applied either as complainant or civil party. Out of that number, 4003\(^{180}\) are civil party applicants indicating an enormous interest by Khmer Rouge victims to participate into the trial process.

It is only with the adoption of the Internal Rules in 2007 that victim participation was introduced into ECCC’s proceedings. Thus, the original ECCC’s budget did not include any provision to inform of or support victims’ participation. To fill in the gap, several local non-governmental organizations, such as the Cambodian Human Rights and Development Association (ADHOC), Khmer Institute of Democracy (KID), Centre for Social Development (CSD), Cambodian Defenders Project (CDP), Legal Aid of Cambodia (LAC) and DC-Cam, established programs to facilitate the application and secure the legal representation of civil parties, as well as to advocate – through their lawyers and the human rights umbrella network Cambodian Human Rights Action Committee (CHRAC) – for victims’ rights during the proceedings. For example, ADHOC facilitate half of all civil party applications in Case 001 and 002.

\(^{179}\) During the DK regime, Ieng Sary was Deputy Prime Minister and Foreign Minister; Khieu Samphan was DK Head of State; Nuon Chea, also known as “Brother No 2”, was former Deputy Chairman of the Communist Party of Kampuchea, second in command; Ieng Thirith was Minister of Social Affairs.

\(^{180}\) See “Victim Information Forms Received Per Intermediary Organizations”, Victims Support Section, Extraordinary Chambers in the Courts of Cambodia
Mental health challenges and psychosocial interventions in the context of the ECCC

In a nationwide survey conducted in 2007, results have demonstrated that 11.2% of the overall Cambodian adult population presented probable Post Traumatic Stress Disorder (PTSD).\textsuperscript{181} An additional study, conducted in 2008, non-random sample of direct Khmer Rouge victims, indicated similar prevalence of PTSD, as well as approximately 30% of depression and 37% of anxiety among respondents. Civil parties, in particular, experienced more traumatic events than other KR victims and had higher rates of posttraumatic stress symptoms.\textsuperscript{182}

There are claims that active participation in a criminal court for perpetrators of mass atrocities or any other transitional justice mechanism could have a highly empowering impact on victims of mass atrocity.\textsuperscript{183} Some authors argue that transitional justice mechanisms dealing with legacies of violence – such as tribunals – may also reduce mental health symptoms and associated impairment.\textsuperscript{184} In addition, facing the past and seeking for truth and justice are seen as crucial processes to recover from traumatization as they provide recognition of the victims’ suffering.\textsuperscript{185} Moreover, by contributing to the ECCC’s historical record, victims can help improving the understanding of the Khmer Rouge period and create a valuable resource for future generations.

However, the participatory engagement of Khmer Rouge victims is not without dangers. Trauma clinicians point out that painful memories may resurface during the course of a tribunal.\textsuperscript{186} Additional dangers for the mental well-being of civil parties and witnesses in the ECCC include potential frustration as the trial may not allow to fully recount traumatic experiences, the need to provide criminal evidences to the defense, the confrontation with complex legal procedures and the unfamiliar surroundings of the courtroom, a lack of logistical support such as inadequate subsistence allowances,

\textsuperscript{181} Jeffrey Sonis et al. (2009). \textit{Probable Posttraumatic Stress Disorder and Disability in Cambodia Associations With Perceived Justice, Desire for Revenge, and Attitudes Toward the Khmer Rouge Trials}. \textit{JAMA} 302/5 (p. 527-36).
\textsuperscript{182} Nadine Stammel et al. (2009). \textit{Readiness to reconcile and mental health in the context of the Khmer Rouge trials in Cambodia}. Conference on Mental Health Phnom Penh, Cambodia, December 3 2009. Files with authors.
\textsuperscript{183} For discussion on that point, see Laurel E. Fletcher and Harvey M. Weinstein (2002). \textit{Violence and Social Repair: Rethinking the Contribution of Justice to Reconciliation}. Human Rights Quarterly 24/3 (pp 593).
\textsuperscript{184} For a review of the literature on that topic, See David Mendeloff (2009), “Trauma and Vengeance: Assessing the Psychological and Emotional Effects of Post-Conflict Justice” Human Rights Quarterly, 31 (pp 592-623).
\textsuperscript{185} See for example, Judith Herman (1997). \textit{Trauma and Recovery}. Basic Books, New York (Part II)
and no full coverage of transport costs and accommodation, the encounter with and denial by the accused and, last but not least, the possibility that the accused will be acquitted.

Thus, civil parties and witnesses are under special threat of secondary traumatization, retraumatization and revictimisation. As stated by Eric Stover, “war crimes trials, like most criminal trials, have the potential for producing the unexpected at any stage of the proceedings. [...] This constant state of uncertainty places witnesses in an intimidating position and throws into doubt the very idea that bearing witness can be therapeutic.”

EXPERIENCES FROM THE FIELD:

PSYCHOLOGICAL SERVICES OF THE TRANSCULTURAL PSYCHOLOGICAL ORGANIZATION (TPO) AT THE ECCC

Working in close cooperation with the Witness and Expert Support Unit (WESU) as well as the Victims Support Services (VSS) of the ECCC, the Transcultural Psychosocial Organization (TPO) provides a variety of psychological services through its Cambodian mental health experts. Those services range from preparatory psychological interventions to on-site psychological support during the ECCC proceedings to intense psychological and psychiatric follow-up care.

On-site psychological support services include reducing anticipatory anxiety through psychological briefing prior to the proceedings, monitoring participants’ mental health condition and offering emotional support during the trial and debriefing after the proceedings.

Psychological services outside the courtroom include the assessment and, treatment of psychological/psychiatric disorders if necessary, supportive psychotherapy by trained psychiatrists and psychologists and follow-up counseling services after the proceedings.

Additional services consist of sharing information, education and training on trauma and its aftereffects to staff for the ECCC Victims Support Services, civil party lawyers and NGO staff.

In response, the Transcultural Psychosocial Organization (TPO) provides direct psychological support to civil parties and witnesses at the tribunal.

In their communities, civil parties and witnesses face additional potential threats to their mental well-being. These include the confrontation by community members after appearance in the court, concerns about safety and security, limited awareness of trauma symptoms by outreach staff, limited access to legal and psychosocial counsel-


ing in preparation and after the trial, or a lack of follow-up information on ECCC proceedings.

Some of the potential mental health dangers originate from shortcomings during outreach work and may generate disappointment with the ECCC and potentially cause psychological distress among victims. Mental health practitioners emphasize that greater efforts are needed to identify severely traumatized KR survivors and provide them time and support so they can join in the ECCC’s proceedings.

In response, TPO and other non-governmental organizations implemented a series of psychosocial activities during and after outreach activities conducted by the ECCC Victims Support Section and other partner organizations. Examples include the showing of a participatory film on trauma coping strategies, phone counseling for civil parties, the introduction of new psychological treatment schemes culturally adapted to the Cambodian context, the construction of local memorials and reconciliation events such as public ceremonies.

EXPERIENCES FROM THE FIELD:
TPO – A CULTURAL ADAPTED TRAUMA TREATMENT APPROACH

The Transcultural Psychosocial Organization (TPO) has developed and implemented an innovative trauma treatment approach derived from the “Testimonial Therapy” that takes into account the cultural and human rights dimensions of mental health in Cambodia. KR survivors are invited to talk about their traumatic experiences. In cooperation with a counselor they can restore their painful memories and convert them into a written document: a testimony. The testimony is read aloud and delivered to the survivors during a Buddhist ceremony in presence of other survivors and/or community members. This practice allows victims to express and process traumatic experiences, to honor the spirits of the dead and document human rights violations.
EXPERIENCES FROM THE FIELD:

KID – A PARTICIPATORY FILM PROJECT

The film “WE WANT (U) TO KNOW”, produced by the Khmer Institute of Democracy in collaboration with TPO, reveals through artistic engagement, how Cambodians are struggling with painful memories and cope with them at the time of the Khmer Rouge Tribunal\textsuperscript{189}. It is a participatory film: villagers from around Cambodia took the camera in their own hands to document what they have gone through during and after the Khmer Rouge era. Through sharing their stories with the young generation, survivors are breaking 30 years of silence. Film screenings in villages across the country offer a public space for dialogue about the past and challenges of the present.

EXPERIENCES FROM THE FIELD:

YOUTH FOR PEACE – FROM MASS KILLING PLACES TO PEACE BUILDING PLACES

Youth for Peace (YfP) works with Khmer Rouge survivors and the youth on how to transform mass killing places into vivid historical sites and places of remembrance. YfP invites both older and young generations to local mass killing sites and facilitates intergenerational dialogue. In some of the sites, “Memory Culture Committees” and “Peace libraries” have been set up in cooperation with local communities. Through a participatory and artistic approach, participants create wall paintings and maps indicating former killing places and install information signs and boards at the sites. Moreover, stories of survivors are collected and published by local youth in cooperation with young Cambodian journalists. Those stories reveal insights into the unknown history of former mass killing places in Cambodia\textsuperscript{190}.

EXPERIENCES FROM THE FIELD:

TWO PSYCHOLOGISTS DESCRIBE THE TRAUMA RELATED ASPECTS IN THEIR WORK

During three years, the Center for Social Development (CSD) organized public forums in several provinces in Cambodia. At least 150 participants attended each forum including a wide variety of participants. The “Emotional Support Team” supported forum participants and develop strategies so that the Public Forums can help individual coping and healing.

During the preparation phase, the “Emotional Support Team” explained the concept of trauma and its after-effects and supported participants who wished to speak about their experiences under the Khmer Rouge regime. For many, it was the first time in 30 years that they talked about their experiences, opening their “unhealed wounds”. As a second step, the team brought some participants to visit S-21 museum and the killing fields, providing people an opportunity to find out about the destiny of their deceased relatives. In three years, at least 15 participants found the picture of a killed relative in the photo gallery of S-21. One lady who discovered the photo of her disappeared nephew recalled: “At First, it was really bad for me to find out that my ‘son’ died, but later I realized that it helped me to overcome the uncertainty of not knowing whether he has survived or not.” At the public forum, the “Emotional Support Team” provided the support of psychosocial counselors and of a counseling room so that participants who wanted to recount how they were treated and how they suffered during the Khmer Rouge regime could do so. Unsurprisingly, many were anxious to tell their story and felt more comfortable in a secure and respectful environment with professional psychological support.

189 See: http://www.we-want-u-to-know.com/
190 Stories from the Ground – Memorial Sites in Cambodia, 2010. Available at Youth for Peace
Outreach and its impact on dialogue processes about the Khmer Rouge era

The first mandate of the Extraordinary Chambers in the Courts of Cambodia (ECCC) is to trial Khmer Rouge senior leaders and those most responsible for the crimes committed during the KR regime. However, activists and observers also hope that the court could contribute to the rule of law and the healing and reconciliation processes of the communities. One of the challenges is to ensure that the tribunal and its judicial process are meaningful to Cambodians. In that respect, outreach is crucial.

Outreach has many layers. It could be associated to a public information program aiming at informing the population about and increasing its understanding of the work of the court. But it could also be viewed as an opportunity to strengthen the national justice system, and involve the population and civil society into a reflection on the justice system, the law and its civil rights. For that to be achieved, “[I]t necessitates a consistent and interactive dialogue, or real conversation, between the court and a wide network of target audiences.”

Similar to most international tribunals, the ECCC Public Affairs Section (PAS) and Victims Support Section (VSS), respectively responsible of reaching out to the general public and the victims, have adopted a public information strategy aiming primary at informing the population about court’s activities and increasing its understanding of the court’s processes. This outreach program had a difficult start, hampered by lack of funding and resources. Consequently, in 2008, despite awareness of the existence of the court, many Cambodians in rural areas had limited knowledge of the ECCC proceedings and the opportunity to act as civil parties, complainants or witnesses for the tribunal.

PAS has distributed information material and conducted field trips in all provinces in Cambodia, participated in public forums organized by NGOs, and received more

191 Wanda Hall. Presentation of various perspectives of outreach and the need to understand each and choose priorities and goals. ICTJ Workshop on Outreach, Phnom Penh, Cambodia, March 4 2010. On file with authors.
192 Ibid.
193 Based on civil law system, the Internal Rules of the ECCC allow victims to participate in its proceedings as complainants or as civil party. See Internal Rules, (Rev. 5), February 9, 2010, Rules 49, 23; In the ECCC internal rules, “victims” refers to a natural person or legal entity that has suffered harm as a result of the commission of any crime within the jurisdiction of the ECCC, and “civil party” refers to a victim whose application to become a civil party and participate in the proceedings against an accused has been declared admissible by the court. See Glossary to Internal Rules, Rev. 5, February 9, 2010.
than 65,000 people visiting the court. The VSS focuses its outreach on victims, and through its regional forums has assisted a countless number of people to participate in the legal proceedings.196

NGOs have long been at the forefront of outreach related to the ECCC. They work independently but in collaboration with the ECCC. They usually have a mixed approach but each organization has its specific focus. Several NGOs concentrate on activities such as distribution of newsletters and other publications, radio call in shows, films and village-based information sessions. These activities clearly aim at informing and updating Cambodians about the Court’s events and provide some opportunities to facilitate victims’ participatory engagement into the tribunal process. For example, ADHOC provided information to 103,000 women and men from 171 districts who participated in their outreach training sessions. Other organizations such as DC-CAM, International Center for Conciliation, Youth for Peace and the Centre for Justice and Reconciliation, focus more on national and community-based truth finding processes, such as public forums, leading to progress in the field of dialogue and engagement.

EXPERIENCES FROM THE FIELD:
OUTREACH ACTIVITIES BY THE CENTRE FOR JUSTICE AND RECONCILIATION (CJR)

The Center for Justice and Reconciliation’s (CJR) Khmer Rouge Victims’ Participation Program aims to engage survivors of the Democratic Kampuchea Regime (1975-1979) in active and meaningfully participation in the criminal proceeding of the court. Activities by CJR include: organizing public forums on the functioning and meaning of the tribunal, organizing workshops on what it means to be and how to apply as a civil party, providing psychosocial/emotional support before, during and after the public forum, collecting stories of Khmer Rouge victims and strengthening the independent Association of Khmer Rouge Victims in Cambodia (AKRVC). CJR further facilitates victims’ participation in the ECCC by advocating for and communicating victims’ demands to the court.

CJR has a sustained presence and impact on each community where it holds a public forum. CJR conducts an initial fact-finding mission, two ground preparation meetings and a follow-up mission. It further disseminates information in the community through the regular broadcast of a radio show. During the forum, participants receive updates on the ECCC proceedings through guest speakers and can ask questions and engage in discussions. They also learn about opportunities to participate in the proceedings, the work of the AKRVC and mental health issues. Moreover, psychosocial staff offers counseling for participants. Before and after each forum, CJR monitors the level of knowledge on the ECCC. All forums are recorded and broadcasted bi-weekly through the radio in order to reach a wider audience.
After more than three years into the judicial process, it could be argued that Cambodians know of the existence of the tribunal. Results of the International Republican Institute’s survey conducted in 2009 indicate that 82% of the respondents were aware of the Khmer Rouge tribunal, an increase from 71% in 2008. Facilitated by PAS, more than 27,700 Cambodians attended the public hearings in Case 001.

However, has outreach to the ECCC engaged in a real dialogue with victims and the Cambodian society? The response could be “some”. Clearly, important initiatives by many NGOs and the Court have led to progress in this area. However, in large parts of rural Cambodia, long-term, community-based dialogue processes still remain the exception. Some observers have therefore questioned the extent to which the ECCC can contribute to national reconciliation and suggest more emphasis on de-centralized dialogue and truth finding processes. They hope that by creating opportunities to see the past in terms of shared suffering and collective responsibility, community-based dialogue processes may contribute more effectively to healing and societal reconciliation.

**A holistic approach to outreach**

The Trial Chamber is about to pronounce its verdict on the first trial and the second trial, even more complex and complicated, is expected in 2011. Those events are likely to raise questions, comments, and concerns from the Cambodians. In a nationwide survey conducted in the fall 2008, among respondents who had some knowledge of the tribunal, 26% and 20% believed respectively, that the ECCC would bring justice
or punish those who committed atrocities during the KR regime. Making sure that the Cambodian population understands and has access to the tribunal will continue to be a priority for future outreach programs set up by the ECCC and civil society organizations. However, it is also necessary to go beyond the judicial process. As such, the ECCC’s Victims Support Section (VSS) extra funding and enlarged mandate to engage in the implementation of “restorative measures” for victims of KR are timely.

Additionally, the experiences of outreach work during Case 001 highlight the advantages of a more participatory approach to outreach in which the population actively engages in long-term dialogue and truth-telling processes at the community level. The value of outreach activities by the ECCC and non-governmental actors could be further enhanced by additional supportive psychosocial interventions. Other important transitional justice measures could include the construction of local and national memorials and reconciliation events such as religious or other memorial ceremonies. They appear to be important elements in reconciliation and healing by providing frameworks wherein victims can begin to understand, create and integrate new meaning. Ultimately, this will lead to more participation and an increased sense of ownership of the ECCC’s work.

**Conclusion**

In order to transform Cambodian society, a more holistic vision of social reconstruction is required; one that includes restorative, socioeconomic, political and psychosocial aspects among others. At the individual level, the psychological aspect is especially important as many Cambodians are still struggling with personal and social history of human rights abuses.

The Court could contribute to achieve that vision. NGOs, with their local perspective and technical experience, are also well-suited to take on a major role. However, taken separately, the ECCC and NGOs are still underfunded and lack expertise in aspects such as psychological support. Thus they are limited in their ability to fully satisfy the needs of justice for the Cambodian people. Moreover, beyond the ECCC, the government has a role to play in ensuring that the population has access to, for example public psychological services to heal the wounds of the past. Therefore, for transformation to
be fully attained, all actors including the ECCC, the NGOs, and the government need to work in concert multiplying activities in order to implement an integrated program. That also means that a broader vision of outreach needs to be implemented ensuring that the Cambodian population as a whole is not only aware of, but also participates in the judicial process and is involved into a more community-based process of truth-telling and education outside the courtroom.

Ultimately, the voices of the victims need to be heard. As a first step, two victims’ associations are now active and have taken initiative to present their interests more effectively. Their work is essential to ensure victims’ participation in the court proceedings and to contribute to non-judicial measures. But more importantly, their involvement could contribute to a culture of peace, memory, healing and reconciliation beyond the mandate of the court.
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A film by Ella Pugliese, Nou Va and Survivors of the Khmer Rouge Regime. More information at: http://www.we-want-u-to-know.com/
REGIONAL PERSPECTIVES
It was AFAD that first introduced in the region a more organized, structured and sustained psycho-social program for the families of victims of the disappeared to its member countries. Before then, there had only been a very limited and case-to-case response to this urgent need, and only in some member-countries of AFAD, e.g. Philippines and Indonesia. It was in 2004 that 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 December 6-10, 2004. The participants were selected family members of disappeared victims from AFAD member-countries (Thailand, Philippines, Sri Lanka, Pakistan, Kashmir-India, and host country, Indonesia). At that time, Nepal was not yet an AFAD member-country. The AFAD regional leadership was present, and invited guests from Latin America, Africa, Guatemala and the Netherlands (whose organization was one of the funders of the workshop) also participated. All in all there were more or less 50 participants in this pilot-workshop.

Two facilitators from the Philippines had been commissioned by AFAD regional leadership 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 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 not willing nor able to get the ‘space and opportunity’ to look back at 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’d 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’d 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 lain 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 need to use words, we employed direct translations to facilitate understanding between the varied 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 became an AFAD member-organization in 2007). The two of us, Ms. Callejo and Fr Moraleda, facilitated most of these 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 others: one, that there were countless other families of victims in the member-countries 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-countries 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 November 27-29, 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.
Ari Yurino was born in 1977. Active in CS Organizations since student days, he was a member of the Student and Youth Committee against Violence (KOMPAK), the Student Movement of the University of UPI YAI, the Student Executive Body of the Psychology Faculty of UPI YAI and the Jakarta People Association against Corruption (Berantas). He supervised several tabloids and was and is writing for online media. After working for KontraS Aceh in 2009 he is now engaged again with IKOHI, where he worked already for 3 years. Since 2004, he is a very active member of the Working People Association (PRP) and continues to publish articles about Human Rights Issues.

Bedjo Untung was born in Sarwodadi, District of Comal, Central Java. When the Humanitarian Tragedy of the 1965/1966 Massacre happened, he was 17 years old and a student of Teacher High School. His father, a basic school teacher, was detained, his uncle disappeared and killed. He himself ran away but was captured too in 1970. For nine years, till 1979 he was detained without legal process, interrogated, tortured and subjected to forced labour without getting good food in the Salemba Concentration Camp and the Tangerang Prison. Only because of international pressure on the military regime he was released and since 1999, for the sake of truth and justice, he is dedicating himself to the victims’ organisation YPKP 1965/66, whose chair he currently is.

Dr. Benito Molino, M. D., is a forensic expert and a medical consultant from the Philippines working with non-government health and human rights organizations for 25 years. In his country, he exhumed the most number of victims of desaparecidos and examined and documented the most number of victims of torture since the mid 1980s. His work in documenting the case of torture against the Manalo brothers was cited by the Philippine Supreme Court in their landmark Writ of Amparo decision for
the brothers. He serves as forensic and medical consultant to various human rights organizations and provides lecture on forensic investigations. He organizes the Asian network of forensics. He co-authored the first published book on forensic review in the Philippines on the assassination of the late Senator Benigno Aquino Jr. “Death on the Tarmac…”.

Fr Juvenal (a.k.a Fr Ben) Moraleda, is a Catholic missionary priest who has worked consistently with various Human Rights Organizations from both the church and civil society sectors, like the Task Force Detainees of the Philippines (TFDP), the Ecumenical Forum for Church Response (EFCR), the Freedom from Debt Coalition (FDC), among many others. He is currently based in the Center for Family Ministries (CEFAM) where he is one of the senior marital and family counsellors and faculty member. He has also involved in the work for the families of the victims of involuntary disappearances in both the regional (Asian Federation of Families Against Involuntary Disappearances, AFAD) and the national (Families Against Involuntary Disappearances, FIND) bodies working for this cause. With a Filipino psychologist, Ms. Josephine Callejo, Fr Ben was instrumental in drawing up and implementing a Psycho-Social Programme for the families of victims of Involuntary Disappearances in the Asia-Pacific Region, and later on in the training of other rehabilitation workers in the Region.

Christoph Sperfeldt, MA Political Science. Since 2007 Advisor at the Cambodian Human Rights Action Committee (CHRAC), Phnom Penh, Cambodia.

Daya Somasundaram was a Senior Professor of Psychiatry at the Faculty of Medicine, University of Jaffna and Consultant Psychiatrist working in Northern Sri Lanka for over a decade. He has also worked in Cambodia for two years in a community mental health programme with the Transcultural Psychosocial Organization. Apart from teaching and training a variety of health staff and community level workers, his research and publications have mainly concentrated on the psychological effects and treatment of disasters. He headed the psychosocial rehabilitation effort after the Tsunami in Northern Sri Lanka. He is currently on sabbatical in Australia working on a book, scarred communities.

DESAPARECIDOS or Families of Desaparecidos for Justice is an association of the families and close friends of victims of enforced or involuntary disappearance in the Philippines. They came together in March 1995 to form their own organization. Together and drawing strength from one another, they search for their loved ones never
giving up hope for justice. They campaign against abduction and enforced disappearance which they believe are being perpetrated in line with the government’s political suppression of its critics. Through advancing human rights, Desaparecidos strives to effect positive changes in Philippines society.

Dianne Reyes

ENG Kok-Thay is a Deputy Director of the Documentation Center in Cambodia (DC-Cam). He is currently responsible for museum exhibition, research, digitalization and documentation activities. ENG Kok-Thay is a PhD candidate at Rutgers University, researching and writing his dissertation on Cambodian Muslim identity after the Khmer Rouge.

Gregorio Saldanha was one of the young men responsible for organizing the peaceful demonstration that led to the Santa Cruz Massacre on 12th November 1991 in Dili, East Timor. He was subsequently arrested, tortured and sentenced to life imprisonment in June 1992. Now he is the coordinator of the 12th November Committee.

Harihar Wasti, Dr., M.D., M.Sc.F.M., B.L.; Medico-Legal Expert for the Nepali Government. Presently working as Associate Professor in Forensic Medicine at the Forensic Medicine Department of the Medicine Campus Maharajgunj and the Institute of Medicine Tribhuval University Kathmandu Nepal. Mailing Address: wasti@enet.com.np; drhwasti@yahoo.com; Working experience: 18 years working in the forensic Medicine field.

IM Sophea is the National Co-Director of the Center for Justice and Conciliation (CJR). IM Sophea holds a B.A. in education in English from the Royal University of Phnom Penh’s Institute of Foreign Languages and a Master in Public Administration from the University of Cambodia. For the past three years before helping to found CJR, he served as Deputy Director at the Center for Social Development.

Induwara Goonerathne, Dr.: Head of Department of Forensic Medicine, University of Peradeniya- Sri Lanka; Incharge: Forensic Anthropology and Human Identification Laboratory; Visiting Lecturer and Examiner in Human Rights, Human Rights Centre, University of Peradeniya; Visiting Lecturer in Law, Department of Law, University of Peradeniya; Interests: Forensic Anthropology, Odontology, Identification, DNA and Human Rights Law; email: induwarag@yahoo.com
International People’s Tribunal on Human Rights and Justice in Indian-administered Kashmir (IPTK) is a civil society coalition, that aims to raise conscience about human rights violations in the Kashmir region.

Ms. Josephine Callejo is a Filipino Counseling Psychologist who received her Masters Degree from the Ateneo de Manila University, Philippines, and Bachelors of Arts in Psychology at the University of the Philippines. She is currently involved in providing psycho-spiritual counselling and training of religious priests, sisters of different congregations in the Philippines and abroad as well as lay missionaries and staff development of the different Non-governmental organizations whose work involved providing psycho-social support to the different institutions and organizations like BALAY, TFDP (Task Force Detainees of the Philippines), Philippine Misereor, Inc (PMPI) . She is also a consultant of Asian Federation of Families Against Involuntary Disappearances (AFAD) and has conducted Psycho-social trauma rehabilitation work with the families of the member countries of AFAD in the Asia-Pacific Region.

Judith Strasser is a clinical psychologist and presently associated with the Transcultural Psychosocial Organization Cambodia (TPO Cambodia). She develops and supervises psychological interventions to address post-conflict related trauma and to support witnesses and civil parties of the Khmer Rouge tribunal.

Julian Poluda holds a Diploma in Tropical Medicine & Public Health and a Master Degree in International Health from Humboldt University, Berlin. He works as a freelance consultant in Cambodia focusing on evaluations and programme development in the fields of psychosocial interventions, justice and reconciliation.

Kok-Thay ENG is a Deputy Director of the Documentation Center in Cambodia. He is currently responsible for museum exhibition, research, digitalization and documentation activities at DC-Cam. Mr. ENG is also PhD candidate at Rutgers University, researching and writing his dissertation on Cambodian Muslim identity after the Khmer Rouge. Mr. Eng was a Fulbright fellow in 2005.

Lorena P. Santos – Deputy Secretary General of Families of the Disappeared for Justice (DESAPARECIDOS). “Aya” is the daughter of Leo Velasco who is a victim of enforced disappearance under the Arroyo Regime in the Philippines. Her mother, Elizabeth Principe is also a victim of abduction eight months after Leo’s abduction but was surfaced by the Philippine Military and Police after three days of being incommunicado. Aya is
currently working for Desaparecidos to continue the search for her father and other victims of enforced disappearances.

**Luis Fondebrider** is a forensic anthropologist, founding member of the The Argentine Forensic Anthropology Team (Equipo Argentino de Antropología Forense, EAAF) and currently its president.

**M.C.M. Iqbal** is a retired senior civil service officer from Sri Lanka. He had been a secretary to four commissions of inquiry appointed by the government of Sri Lanka, two of which had been on disappearances of persons. After retirement he had been a consultant to the National Human Rights Commission and later one of the advisers to an International Independent Group of Eminent Persons who had been invited to oversee the work of a Commission of Inquiry into serious human rights violations. He now lives in The Netherlands.

**Ma. Esmeralda de la Paz-Macaspac** holds a Bachelor of Arts Major in Psychology graduate from the University of the Philippines and had units in Master of Arts in Anthropology from the same University. She started working with the CRC in 1985 as a volunteer and subsequently became one of the child psychologists. In 2000 she left to join women’s organizations to help in their advocacy. She eventually went back to children’s work as staff of the Association for the Rights of Children in Southeast Asia in 2005 and in 2007, she returned to the Children’s Rehabilitation Center as its Executive Director.

**Mary Aileen Bacalso** graduated with the degree of Bachelor of Arts Major in Mass Communication in St. Theresa’s Collage, Cebu City, Philippines. She is finishing her Master’s Degree on Philippine Studies Major in Foreign Relations in the University of the Philippines, Quezon City. She is currently the Secretary General of the Asian Federation Against Involuntary Disappearances (AFAD). She has worked on the issue of enforced disappearances since 1992, first as Secretary-General and later, Co-Chairperson of the Families of Victims of Involuntary Disappearance (FIND). Her most outstanding contribution 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.

**Mychelle Balthazard** is a PhD candidate in International Development at the Payson Center of Tulane University. She is also the in-country coordinator in Cambodia for the Human Rights Center at the University of California, Berkley.
OM Chariya studied psychology and obtained a B.A. at the Royal University of Phnom Penh. She has been interested in trauma transmission since she conducted her Bachelor thesis on second generation of Khmer Rouge survivors. She developed and implemented outreaching activities in the context of the Khmer Rouge Tribunal working with the psychosocial support section of the Center for Social Development (CSD) and the Center for Justice and Conciliation (CJR). Currently she is working as a Clinical Assistant at the Transcultural Psychosocial Organization Cambodia (TPO Cambodia).

Pashupati Mahat, Ph.D is a Clinical Psychologist. whose experience range from ten years working experience in the field of mental health and psychosocial support work, teaching for graduates and post graduates in psychology and psychiatry at the Tribhuvan University and research work on mental health to psychological support activities. He is currently working at the Centre for Mental Health and Counselling Nepal, Thapathali Kathmandu, that has a psychosocial support program focusing on war affected families including families of disappearance in highly war affected parts of the country.

Pratubjit Neelapaijit: B.A. (Political Science), Chulalongkorn University, Thailand since 2004. The second daughter of Mr. Somchai Neelapaijit is now working as the project manager of The Justice for Peace Foundation, focusing on the project on enforced and involuntary disappearance in Thailand. She is the focal person of the AFAD.

Putri Kanesia was born in Bandung, West Java, in 1984 and holds an undergraduate degree from the Faculty of Law at the Atma Jaya Catholic University Jakarta. She served as assistant to the Public Attorney at the Jakarta Legal Aid Institute before she graduated and became an advocate in 2008. Currently she works at the Division for Political, Legal and Human Rights of KontraS, providing legal assistance and human rights education to victims and families of victim of human rights abuses and, among other activities, was part of an investigation team of KontraS and YAPHI Solo that documented dozens of mass graves of victims of massacres in 1965-1966 in Central Java and Yogyakarta. She is also active in the Indonesian Torture Network and the Security Sector Reform Working Group.

Ravindra Kumar Karn is a Human Rights Officer for the Advocacy Forum in Nepalgunj. Educated as a teacher, having worked for various international organizations as translator (he speaks six languages) and having conducted HR-trainings all over the country, he knows the situation in which people in Nepal and specially in the Midwest-
ern region live very well. He is also an active member of the Peace Alliance, was the Convention Director of the National Convention of Human Rights Organizations in Nepalgunj in 2005 and worked as coordinator for Human Rights in the regional office of the Nepal Jaycees. ravindra_hrd@yahoo.com

**Rini Kusnadi** was born in Jakarta in 1985. She joined IKOHI (the Indonesian Association of Families of the Disappeared) in 2006 and was in charge for the Psychosocial Services Program for victims of human rights abuses in Jakarta and Aceh (particularly in West and North Aceh districts). She is currently pursuing her undergraduate degree at the Psychology Faculty of the State Islamic University of Syarif Hidayatullah, Indonesia.

**Simon Robins** is a humanitarian practitioner and researcher with an interest in transitional justice, humanitarian protection and human rights, having worked with the International Committee of the Red Cross since 2003. He is finishing a PhD at the Post-war Reconstruction and Development Unit at the University of York in the UK, studying the issue of persons missing in conflict in Nepal and Timor-Leste.

www.simonrobins.com

**Soren Blau** is a forensic anthropologist at the Victorian Institute of Forensic Medicine. She is also an honorary Senior Lecturer in the Department of Forensic Medicine at Monash University. Soren has been working with families of the missing in Timor-Leste since 2005.

**The Asian Federation Against Involuntary Disappearances (AFAD)** is a federation of human rights organizations working directly on the issue of involuntary disappearances in Asia. Envisioning a world without desaparecidos, the Federation was founded on June 4, 1998 in Manila, Philippines. It has nine members in seven different Asian countries. http://www.afad-online.org/

**The Families of Victims of Involuntary Disappearance (FIND)** is a family association or organization founded on November 23, 1985 through the effort of eight (8) families who had family members who were victims of involuntary disappearance. At present, FIND has 833 individual members coming from 451 families. There has been 1,717 reported cases of involuntary disappearances, of which 1,531 has been documented by FIND. Also, FIND was able to exhume 55 remains of desaparecidos. http://www.find.org.ph/index.php
Visaka Dharmadasa is the founder and Chair of Association of War Affected Women and Parents of Servicemen Missing in Action. Struggling to end the civil war, she was able to bring women together across the conflict lines, to train them and to educate soldiers and community leaders about international standards of conduct of war and the content of UN resolution 1325 on women, peace and security. She was awarded for several prizes and is part of several global networks of Women for Peace, one of them, the “1000 Peace women across the globe” was nominated for the Nobel Peace Prize in 2005, as well as the National Peace Council of Sri Lanka. She and holds relevant degrees from the US Institute for Peace, Washington, and Harvard University, Cambridge, USA.

W.P. Tanuja Rangani, Dr. MBBS (Sri Lanka), MSc Community Medicine, was born in 1976. She was trained at the Faculty of Medicine at the University of Sri Jayewardenepura, and finished her Master’s degree at the Post Graduate Institute of Medicine, University of Colombo in 2008. Her interests lay in community health projects, especially in epidemiology related issues. Currently she is working for the Department of Community Medicine at the Faculty Of Medicine of the University Of Sri Jayewardenapura. She is married.

YIM Sotheary obtained a Bachelor of Education at Build Bright University of Phnom Penh and a Master of Clinical Psychology and Counseling at the Royal University of Phnom Penh. She worked with victims of sexual and domestic violence before managing the psychosocial support section of the Center for Social Development (CSD). At the Center for Justice and Conciliation (CJR) she developed and implemented psychosocial services for Khmer Rouge survivors in the context of the Khmer Rouge Tribunal.
ANNEX
### Country facts

#### Cambodia

<table>
<thead>
<tr>
<th>History and dates</th>
<th>Legal framework</th>
<th>Graves and Exhumations</th>
<th>Disappearances</th>
</tr>
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<tbody>
<tr>
<td>1953: Independence from France</td>
<td>Ratified Rome statute</td>
<td>Government authorities have authority to exhume; Many graves opened by grave robbers; Mass grave survey of DCCam: 28,833 mass graves detected</td>
<td>Nearly 2 million died from starvation, forced labour, malnutrition and torture between 1975 and 1979</td>
</tr>
<tr>
<td>1953-1975: Intensifying civil war (government against communist guerrilla, later Khmer Rouge)</td>
<td>ECCC: Extraordinary Cambers in the Court of Cambodia; Trials to judge former Khmer Rouge officials, responsible for severe crimes against humanity. Victims of the former Khmer Rouge Regime have the opportunity to file complaints or participate as Civil Parties (CPs). In this capacity, they are recognized as parties to the proceedings and are allowed to claim “moral and collective” reparations. Policy of amnesty for most former Khmer Rouge high cadre in exchange to lay down their weapons</td>
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<td>1973: US-bombings</td>
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<td>1975: victory of the Khmer Rouge</td>
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<td>1975-1979: Democratic Kampuchea, cities were evacuated, forced labour, famines – war had destroyed rice plantations and animal stock, starving was a disciplinarian measure systematically applied</td>
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<td>1978: Vietnamese invaded Cambodia</td>
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<td>1989: Peace agreement till 1999: Khmer Rouge was active in some areas in the North West of the country</td>
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<td>1993: Restoration of a constitutional monarchy with a multi-party system</td>
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#### Indian Administered Kashmir

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<td>1947/48, 1965 and 1999 Indian-Pakistani wars about the control of the region Since 1989: Armed insurgency against Indian rule 8.10.2005: Earthquake leaves 1,400 dead, 6,000 injured Since 2006: Numbers of people killed by the insurgency are declining</td>
<td>Signed: Convention for the Protection of All Persons from Enforced Disappearance Compensations: sporadically given to families with the precondition of no further legal steps Place 14 on the CPJ Impunity Index 2009</td>
<td>Documented: 2700 unidentified graves containing up to 2943 bodies, Some exhumations have been done by local authorities</td>
<td>Documented: 1671 (till 2008; APDP); Total estimated: 8.000-10.000 (APDP) since 1990;</td>
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### Annex

#### Cambodia

- Independence from France
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- US-bombings
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#### Indian Administered Kashmir

- Indian-Pakistani wars about the control of the region
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**Ratified Rome statute**

**ECCC: Extraordinary Cambers in the Court of Cambodia; Trials to judge former Khmer Rouge officials, responsible for severe crimes against humanity.**

**Victims of the former Khmer Rouge Regime have the opportunity to file complaints or participate as Civil Parties (CPs). In this capacity, they are recognized as parties to the proceedings and are allowed to claim “moral and collective” reparations.**

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**Compensations: sporadically given to families with the precondition of no further legal steps**

**Place 14 on the CPJ Impunity Index 2009**

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### Indonesia

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<tr>
<td>1965: Abortive coup against military establishment – two conflicting versions: internal army affair vs. Communist conspiracy; as a consequence: anti-communist purge 1965/66, between 1-3 million killed</td>
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<tr>
<td>1966: General Suharto took the power and launched “New Order” From 1971 onwards: elections were conducted, but far from democratic, opposition and political participation was restricted and silenced</td>
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<td>1971 &amp; 1989: Tanjung Priok and Talangari massacre on Muslim demonstrators</td>
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<td>1978 &amp; 1989: Student killings, May riots, Suharto resigns</td>
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<tr>
<td>1998: East Timorese referendum of Independence 26.12.2004: Tsunami disaster, approx. 226,000 Indonesians were killed or went missing 2005: Signing of peace agreement between government of Indonesia and Free Aceh Movement after nearly 30 years of violence</td>
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### Nepal

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<td>1989: Large protests – “Jan Andolan” (People’s Movement) – called for constitutional reforms and a multi-party system, then King Birendra had to concede 1990: First free elections 1996: Maoists launched their insurgency 2001: Massacre in the palace killing ten members of the family, including king and queen. Alleged perpetrator: the crown prince who commits suicide; Gyanendra inherits crown. Intensifying civil war in the following years 2006: comprehensive peace accord and interim constitution 2008: newly constituent assembly abolishes monarchy</td>
<td>Comprehensive Peace Accord: Commitment to create mechanisms of transitional justice as a Truth and Reconciliation Commission and a Disappearance Commission Place 8 on the CPJ Impunity Index 2009</td>
<td>29 exhumations, done by national and international experts</td>
<td>Documented: 529 (Advocacy Forum, 2008) 933 (INSEC, 2008) 998 (NHRC, 2008) 1300 (ICRC, 2009)</td>
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### Philippines

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<tr>
<td>From 1960’s: Muslim insurgency in Mindanao</td>
<td><strong>Place 6 on the CPJ Impunity Index 2009</strong></td>
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<tr>
<td>1969: with the foundation of the New Peoples Army (NPA) the communist insurgency started</td>
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<td>1972-1981: Marcos declares Martial Law</td>
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<tr>
<td>1983: Benigno Aquino is assassinated</td>
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<tr>
<td>1986: People Power Revolution, Corazon Aquino is installed as president</td>
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<tr>
<td>2001: President Joseph Estrada has to resign, his Vice-president Gloria Macapagal-Arroyo is sworn in as new president</td>
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<tr>
<td>From 2002: Oplan Banta Laya (OBL) 1 and 2</td>
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### Sri Lanka

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<tr>
<td>1983 Riots: Tamil militants marginal until 1983 ambush killed thirteen soldiers in northern town of Jaffna, provoking Sinhala nationalists to unleash pogroms in Colombo and other Sinhala majority areas. Over 1,000 Tamils killed and tens of thousands fled homes; state failed to stop violence. from 1980’s onwards,Disappearances used as a strategy in civil war from both sides, Tamil and Sinhala militant organisations</td>
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<tr>
<td>late 80’s: Indian Peace Keeping Force in the North were responsible for violence against civilians in the South: second JVP insurgency</td>
<td>Compensations: Between 1995 and 1999, with the issuance of more than 15,000 death certificates, more than 12,000 families received compensation</td>
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<td><strong>Place 4 on the CPJ Impunity Index 2009</strong></td>
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</tbody>
</table>
### Thailand

**History and dates**
- **May 1992:** Peaceful protests against military junta, military was shooting at the crowd (22 dead, 293 disappeared)
- **2001-2006:** Mandate of Thaksin Shinawatra as president
- **Since 2001:** Violence and independence insurgency in Southern provinces
- **2003:** Start of the “war on drugs”
- **2004:** Escalation of violence in the South
- **12.3.2004:** Lawyer Somchai Neelaphajit disappears
- **28.4.2004:** Krue Se massacre (105 militants and 1 civilian died)
- **25.10.2004:** Tak Bai protest (6 persons killed outside police station, 78 died during transport to army base)
- **19.6.2005:** PM Shinawatra enacted Emergency Decree in the three Southern Provinces
- **2005:** National Reconciliation Commission is formed
- **19.9.2006:** PM Shinawatra ousted through coup d’état
- **2004-2008:** Death toll in the South approx. 3,000

**Legal framework**
- Signed: Rome Statute
- Amnesty for May 1992 perpetrators and military involved in Tak Bai
- National Human Rights Commission Thailand (NHRC)
- National Reconciliation Commission on situation in the South conceded compensation to 17 families

**Graves and Exhumations**
- Institutions: Central Institute of Forensic Science (CIFS), NHRC, Department of Special Investigation (DSI), Forensic Department of the Police
- Around 500 unidentified graves in the South

**Disappearances**
- Documented: 93 (Relatives Committee, WGJP, 2008), 23 (National Reconciliation Commission)

### East Timor

**History and dates**
- **28.11.1975:** Independence from Portugal
- **7.12.1975:** Invasion of Indonesia
- **17.9.1983:** Kraras Massacre (nearly 300 killed in army attack on village)
- **12.11.1991:** Santa Cruz Massacre (between 250-400 killed in cemetery in Dili)
- **1999:** Independence referendum
- **1999-2002:** UN-mission (UNTAET)
- **2002:** Independence as a sovereign state
- **2006:** Outbreak of violence

**Legal framework**
- Ratified: Rome Statute
- Commission for Reception, Truth and Reconciliation (CAVR)

**Graves and Exhumations**
- SCIT (UN Serious Crimes Investigation Team)
- IFT (International Forensic Team, formed by VIFM and EAAF)

**Disappearances**
- Approx. 18,600 unlawful killings and enforced disappearances of East Timorese non-combatants (1974-1999) CAVR: Chega report 2005
Map

As a worker, it is necessary to understand the cosmology of the groups the families of the disappeared belong to. Especially the way they think about life, death and being disappeared, the way they respond to the situation, and the way they express their feelings.

Pratubjit Neelapaijit

Those most targeted by the state during the conflict were the poor and the marginalized, and since 92% of those missing are men the loss of breadwinners has left families struggling with livelihoods, particularly those now headed by women or the elderly whose ability to work is limited.

Simon Robins

Disappearances are often denied rather than acknowledged. At present there is resistance in accepting the realities of disappeared persons and their families’ dilemma on a wider level and at the political level. They have become the ‘lost reality’ of the society.

D. Somasundaram, I. Gooneratne, T. Pathirane, V. Dharmadasa, Anonymus Author

The need to build a relation of trust and confidence with relatives of the missing before and during missing persons investigations is a relatively new and challenging process for forensic practitioners.

(L. Fondebrider, S. Blau, G. Saldanha)