

Forced Disappearance; An Overview of Year 2008

In the March 2008 session of the United Nations Human Rights Council, the said body expressed great concern over the situation of disappearances worldwide. Considering the internal conflicts wracking many countries today, given to have stemmed from unstable socio-political history, and now further aggravated by the global campaign against terrorism, the UNWGEID worries this will engender more human rights violations including enforced disappearances.

The Working Group noted in 2003 that Asia holds the biggest number of involuntary disappearances recorded. To date, the same situation continues. It has observed that large-scale disappearances occur in states suffering from internal armed conflict as in the case of Nepal. In 2004, the group visited the country to study the situation and formulate actions for the protection of the said state's citizens.

Following the adoption of the Convention by the UN Human Rights Council in June 2006 and by the UN General Assembly in December 2006, only four Asian governments signed the instrument on February 7, 2007 in Paris, France. These include Japan, India, Mongolia and Azerbaijan. As of this writing, not a single Asian country has been added to these few signatories. Of the ten ratifications, there is none from Asia. Asian governments remain adamant in recognizing the problem thereby continuing to turn a deaf ear to the call for action. Nevertheless, this did not stop many groups from lobbying for the Convention as well as working for the cause and protection of human rights in their particular countries.

A number of developments on the phenomenon of involuntary disappearances have happened in Asia, at least in the countries where AFAD member-organizations are based or in the case of China and Sri Lanka, used to be based. Yet, in general, while AFAD continues to project this regional phenomenon, no significant and concrete improvement has been achieved.

Disappearances in China were recorded in 1989 following the Tiananmen massacre. An estimated number of 3,000 to 4,000 people went missing. Until now the Chinese government refuses to claim responsibility for the human rights abuses done during these days of repression. Those who publicly protest and demand truth, justice, reparation and reconstruction of the memory of their disappeared loved ones are silenced. The mere commemoration of the June massacre is already a ground for arrest. Many families then fear seeking justice from the oppressive government.

Yet a band of mothers took the courage to form the Tiananmen Mothers group and gather evidences against the government as the perpetrator of the killings and disappearances. Ding Zilin, the president of the organization, demanded the Supreme People's Procurate pressing for four goals: to call for a thorough investigation of the June Fourth incident, to punish the guilty, to vindicate the wronged and to provide compensation for the victims and their family members. Their cases, however, remain unresolved. Moreover, these

people continue to face repression. On 28 March 2004, Chinese police arrested Zilin and two other mothers from their house and then took them into custody for six days.

Due to security reasons, it is impossible for the Asian Federation Against Involuntary Disappearances (AFAD) to continue communicating with the Tiananmen Mothers. The Tiananmen Mothers is no longer in AFAD's list of members. AFAD, however, continues to remember the anniversary of the Tiananmen Mothers especially so that falls within its own anniversary, i.e. 4th of June.

In the recent years, UNWGEID also reported incidences of arrest or abduction of Falun Gong practitioners.

More than just the government as an impediment, the absence of a National Human Rights Commission to address these issues is another block to contend with.

In the Indian State of Jammu and Kashmir, 8,000 people are estimated to have disappeared in the period of 1989 to 2004. Many of whom were taken into police custody under counter-insurgency and counter-terrorism operations. In 1993, the state government accounted for the 3,931 people that disappeared since 1985 but it released no more information regarding the matter. Furthermore, recent updates showed that a number of disappeared people ended up killed in "staged" or "fake encounters with militants" by the army unit called Special Operations Group (SOG). Innocent villagers were taken, killed, and then given the identities of militants in the army's hunt list. It is believed that the SOG members are generously rewarded to carry out such killings. More than that, these operations have been intended to project to the international community a dire situation of Pakistani militants causing violence in the state.

The Jammu and Kashmir State Human Rights Commission was established in 1997 to address cases of human rights abuses. However, its power to record and investigate disappearances is very much limited by lack of resources and questionable autonomy. The commission heavily depends on the central government for funding.

During these last three years, Parvez Imroz, AFAD Council member in Kashmir is being heavily Parvez' already expired passport has not been renewed by the government of India, thus, he is being deprived from carrying out his international work and even from personally receiving the *Ludovig – Trarieux* International Human Rights Award in Paris. His wife received the award on his behalf.

The most recent threat to the life of Parvez Imroz occurred on July 1, 2008. According to the Association of Parents of Disappeared Persons, on June 30, 2008 at 10:00 p.m., 4 armed men, believed to be policemen, knocked at the house of Mr. Imroz. When asked of their identity by Mr. Imroz' wife, Rokhsana, the men were aggressively calling on Mr. Imroz to open the door and to come out. The latter, aware of the intimidation he received days earlier because of the work of the International People's Tribunal on Human Rights, immediately informed his brother, Sheik Mustaq Ahmad through the backdoor. Mr. Ahmad reportedly shined a torch at Mr. Imroz' door and asked the persons in front to

identify themselves only to be aggressively ordered to put off the torch. Mr. Imroz nephew came out of Mr. Ahmad's house, afraid that Mr. Imroz might have been taken away. This forced the armed men to leave, but only after firing a shot in the dark believed to be pointing towards the direction of Mr. Imroz' nephew. Worse still, they threw a grenade that exploded in Mr. Imroz' compound outside his front door. On their way back, the perpetrators beat a male neighbor. The members of the community made an announcement in the village mosque. It was later learned that the villagers stated that they saw a large armored vehicle and two gypsy cars and men wearing Central Reserve Police Force (CSRF) and Special Operations Group uniforms.

It is important to note that a week prior to the incident, the Tribunal conducted investigation into mass graves of nameless people in Baramulla and Kupwara. Together with Mr. Imroz in the Tribunal are his other co-convenors, Dr. Catenni and Advocate Desai who were likewise harassed by intelligence personnel.

The investigated on the mass graves above mentioned is based on the report that in March 2008, the APDP publication, *Facts under Ground*, indicated the existence of multiple graves in the Uri District of Jammu and Kashmir which, because of their proximity to the Line of Control with Pakistan, are not accessible without the specific permission of the security forces. The graves of at least 940 people have reportedly been found. They are believed to contain the remains of victims of unlawful killings, enforced disappearances, torture and other abuses which have occurred in the context of the armed conflict persisting in the state since 1989.

The Indian army has claimed that those found buried were armed rebels and "foreign militants" killed lawfully in armed encounters with military forces. However, the *Facts under Ground* report recounts testimonies from local villagers saying that most buried were local residents.

However locals contested the police claim and said that all the five were innocent civilians who had disappeared from various parts of the district in the aftermath of the Chattisinghpura massacre. They were later identified by the relatives as Zahoor Ahmad Dalal son of Abdul Gaffar Dalal of Moominabad, Bashir Ahmad son of Abdul Aziz Bhat of Halan, Muhammad Yousuf Malik son of Abdul Kabir Malik of Halan, Juma Khan son of Faqir Khan of Brari Angan and Juma Khan son of Amirullah Khan of Brari Angan. Locals said that they were not allowed to identify the bodies as they were charred beyond recognition and buried at Chogam, Sanglan and Wuzkhah by the troopers themselves.

The families of people subjected to enforced disappearances started fearing their dear ones might have suffered the same fate at the hands of Indian troops.

The Indonesian Human Rights community already suffered a great loss in 2004 when Munir, AFAD Chairperson and a staunch human rights defender and critic of the Indonesian government was murdered by arsenic poisoning. Strong demands for a thorough investigation to reveal the truth and bring to justice the perpetrators of this diabolical act soon followed immediately after news of his death. It has been two years

now yet the case has not progressed. Worse, the prime suspect in the case, Pollycarpus Budihari Priyanto, was released on November 2006 due to lack of evidence. A consolation to Munir's family and local human rights defenders is the recent decision to imprison Pollycarpus due to newly discovered evidences.

According to the Commission for Disappearances and Victims of Violence ((*KontraS*), the Indonesian government continues to refuse to account for Munir's death and for about 1,266 people more disappeared between 1965 and 2002 during Suharto's "New Order" regime and Habibie's interim government. Many of the disappearances occurred in the military-controlled areas namely Aceh, Irian Jaya and the East Timor (which used to be under Indonesian control). In addition, the UNWGEID reported that majority of the cases it received allegedly occurred in 1992 and also from 1998 to 2000. It concerned students involved in anti-Government demonstrations in East Timor, Jakarta and Sumatra.

An important political development in the country is that former president Suharto died in January 2008 having escaped prosecution for abuses committed during his 32-year rule. The list of abuses is extensive, and includes anticommunist pogroms that killed half a million or more people in 1965-1966, security force atrocities in East Timor, Aceh, southern Sumatra, and Papua, and the Trisakti and Semanggi killings in Jakarta in 1998-1999. Many collaborators in Suharto-era abuses still hold positions of power. Several are candidates for the forthcoming 2009 elections, including General Wiranto and Suharto's son-in-law Prabowo Subianto, implicated in abuses in East Timor and other crimes. (*Human Rights Watch 2008 Report*)

In Indonesia, the struggle for justice, accountability, and an end to impunity are not just about the past. The clearest indication of the continued hold of Suharto-era thinking and patterns is the still unresolved murder of Munir, Indonesia's most prominent human rights activist, AFAD Chairperson and a political analyst.

Munir was crudely assassinated with a massive dose of arsenic while en route from Jakarta for studies in Holland in 2004, seven years after Suharto was forced out. From early on in the investigation, there has been substantial evidence the killing was part of a larger conspiracy involving the National Intelligence Agency but investigators have dragged their feet. In late January 2008, the Supreme Court sentenced Pollycarpus Budihari Priyanto, an off-duty Garuda Airlines co-pilot with links to the agency, to a 20-year jail term. Pollycarpus was found to have delivered Munir a poisoned drink while in a Singapore airport transit lounge. But the growing evidence that the plan to kill Munir may have been launched at high levels within the Intelligence agency months before the actual killing, has led the investigators to indict former *BIN* director Muchdi Purwopranjono.

On December 31, 2008 - An Indonesian court acquitted a former intelligence official of the murder of a prominent rights activist, in a case which was seen as a key test of state accountability and commitment to the rule of law.

In Pakistan, while democracy remains imprisoned within the garrisons, the military rule of the state wreak havoc and create fear by violating human rights in the hope of suppressing the sovereign will of the people. Enforced disappearance is a rampant phenomenon. The Truth and Justice Commission has documented 254 cases, but it is certain that there are many more undocumented others.

This phenomenon is even said to be increasing since the state took an active stance on United States' "war on terror." Pakistani security forces were reported to carry out orders of arrest from American officials. Mass arrest during anti-government protests occur as well as arrest of activists prior to scheduled rallies and then put under the so-called "preventive detention."

The UN Working Group on Enforced Disappearances transmitted two cases under its urgent action procedure to the Government of Pakistan. One case concerned Muhammad Kazim Bugti, who was allegedly arrested on 29 November 2006. It is believed that Military Intelligence agencies are responsible for his disappearance. In another case, Ghulam Mohammad Baloch, president of Baloch National Movement, was taken away from a football club by the police in December 2006.

The Working Group transmitted to the Government 29 cases under its standard procedure. The majority of these cases reportedly took place in Karachi between June 2005 and September 2006. It is believed that the police and intelligence agencies are responsible for most of these cases.

The Working Group received three communications from the Government dated 22 December 2006, 11 and 16 July 2007. In the first communication, the Government sent information concerning 10 outstanding cases. In one case, the Working Group found that the response did not contain sufficient information to clarify the fate or whereabouts of the disappeared persons. For nine cases, the Working Group decided to apply the six-month rule. The majority of the responses stated that the victims had been released. In one case, the victim's body was given to his family for burial; one family received compensation from the Government for his disappearance; and one man left the country. In a communication dated 16 July 2007, the Government replied on one case which had been previously clarified by the source. The Government reported that the Pakistani authorities had confirmed that he was living at his residence.

The Working Group received new information from the sources on two cases, stating that the victims had been released and handed over to their families. Based on information received from the Government, the Working Group decided to clarify 14 cases following the expiration of the six-month rule. In most cases, the current addresses of the subjects were provided. Two cases were clarified based on information provided by the sources.

Information was submitted by NGOs to the Working Group concerning obstacles reportedly encountered in the implementation of the Declaration. This information was transmitted to the Government. According to reports, the higher courts are unable to trace the whereabouts of disappeared persons, since they lack the power to search places of

detention controlled by the military. It is also alleged that the right to habeas corpus has been systematically undermined, and in some cases, the courts have ordered that the disappeared persons be produced before the courts, but these orders have reportedly been ignored by the military. In addition, those released are warned not to speak publicly about their experiences in detention. No response was received from the Government regarding this general allegation.

The Working Group received reports referring to the state of emergency and the potential obstacles that this situation could pose for the implementation of the Declaration. A summary of the general allegation was sent to the Government after the eighty-third session and will be included in the 2008 annual report, as well as any comments received by the Government.

In previous years and during the year under review, the Working Group has transmitted 116 cases to the Government; of those, 6 cases have been clarified on the basis of information provided by the source and 18 cases have been clarified on the basis of information provided by the Government. There are eight cases under the six-month rule for which the time limit has been temporarily suspended by decision of the Working Group. For two cases, the Working Group decided to suspend the six-month rule. A total of 92 cases remain outstanding.

The Working Group expresses concern over the fact that during the period under review, it received reports on 32 recent cases. On the other hand, the Working Group notes that 14 outstanding cases were clarified, and thanks the Government for its cooperation. *(Source: UNWGEID Report on Enforced Disappearances dated January 2008)*

Prior to the February 2008 elections, the government of Pervez Musharraf consistently denied subjecting anyone to enforced disappearance or knowing anything of their fate and whereabouts, despite evidence to the contrary contained in affidavits, witness testimonies and cases documented by Amnesty International and other human rights groups. Attempts by the Supreme Court to trace the disappeared persons were repeatedly obstructed by government officials, including by moving disappeared persons to other secret locations and failing to comply with court orders.

Terrorism suspects are frequently detained without charge or, if charged, are often convicted without proper judicial process. Human Rights Watch has documented scores of illegal detentions, instances of torture, and “disappearances” in Pakistan’s major cities. Counterterrorism laws also continue to be misused. It is impossible to ascertain the number of people “disappeared” in counterterrorism operations because of the secrecy surrounding such operations. Pakistan’s Interior Ministry, now controlled by the elected government, has estimated the total at 1,100. However, the government has not provided details of how many were suspected of links to al Qaeda and the Taliban and has made negligible progress in resolving cases and recovering victims. *(Human Rights Watch 2008 Report)*

There are at least 563 unresolved cases, according to the Defense of Human Rights, an organization campaigning on behalf of disappeared persons. However, the clandestine nature of the arrest and detention of individuals makes it impossible to know exactly how many people have been subjected to enforced disappearance. People who have disappeared include foreign and Pakistani nationals suspected of links to terrorist groups and political opponents of the Pakistani government pushing for greater rights for their communities, including Baloch and Sindhis. Baloch groups put the number of persons disappeared in Balochistan in the thousands.

(Source: <http://www.ediec.org/library/item/id/390/>)

The Supreme Court heard petitions of more than 400 people subjected to enforced disappearance in the context of the government's "war on terror" and other national security campaigns. Almost 100 of the disappeared were subsequently located. Some of those who reappeared had been detained on apparently false charges.

On 5 October, then Chief Justice Iftikhar Choudhry asserted that there was "irrefutable proof" that the missing people were in the custody of secret agencies and that those responsible would be prosecuted. He ordered all those still unaccounted for to be brought before the Court. Hearings continued until 2 November, when the Court adjourned proceedings until 13 November. However, following the imposition of emergency on 3 November and the dismissal of several Supreme Court judges, no further disappearance hearings were held.

Philippine history opens its chapter on disappearances on a tyrannical regime and the movement of dictatorial Marcos to create his "New Society." The Task Force Detainees of the Philippines (TFDP) recorded 850 cases of enforced disappearance during Marcos' Martial Rule. The People Power Revolution staged in 1986 led to the ouster of Marcos and revived the democracy in the country. Sadly, however, the succeeding administrations failed to guarantee an end to disappearances.

As of June 2007, the Families of Victims of Involuntary Disappearances (FIND) has documented 1,767 cases of disappearances nationwide (1,115 missing, 399 surfaced alive and 253 found dead). The Marcos regime holds the highest number of disappearance cases with 855; Aquino with 612, Ramos with 87, Estrada with 58 and Arroyo with 202.¹

Another human rights organization, *Karapatan*, has documented 201 cases of enforced disappearances from 2001 up to December 2008. To date, the still most highly publicized case which occurred was the disappearance of Jonas Burgos, son of press freedom fighter, the late Jose Burgos. Investigation reports traced the involvement of the Intelligence Service of the Armed Forces of the Philippines (ISAFP). It has been more than a year since Burgos' disappearance, yet, despite national and international pressures, the victim still remains missing. The Writ of Amparo filed by the court of appeals failed as the case was dismissed by the Court of Appeals who ruled the dismissal of the case

saying that the plate number of the military car which was used to abduct the victim was not an adequate evidence to point out that it was the military who took him

Human rights violations have been carried out by the Arroyo administration in its pursuit of supporting the United States' war against terror as well as its own war against local insurgents, i.e. Abu Sayyaf, MNLF and NPA. Government paranoia has casted suspicions on innocent people consequently subjecting them to torture, disappearance and killing. In what has been deemed as a betrayal of human rights, Arroyo approved the Human Security Act or Anti-Terrorism Law and was implemented on July 15, 2007. This has caused much alarm amongst the national and international human rights organizations as extra-judicial means of acting upon government suspicions can now be legalized under the law. Members of the international community share similar concerns. The European Parliament has already sent its warning that the Human Security Act would be "liable to further increase the incidence of human rights violations by the Security Forces because it will allow arrest without warrant and arbitrary detention."

More, with the absence of human rights safeguards such as the anti-disappearance bill, seeking justice by filing cases in court will be very difficult. The bill criminalizing enforced disappearances which was filed 15 years ago is still trying to fight its way for approval and enactment. As of now, the police refuses to consider that disappearance is a crime. They require evidences of kidnapping or killing before proper charges can be rendered.

The February 2007 visit of the United Nations Special Rapporteur on Extrajudicial Execution, Mr. Philip Alston had reaffirmed the phenomenon of extrajudicial killings and enforced disappearances in the country. The result of the visit was reported to the UN Human Rights Council which, in March 2007, coincided with the Philippine government being subjected by the UN Human Rights Council to a Universal Periodic Review. The Philippine government, however, dismissed the Alston Report and instead, boasted of its positive performance in the field of human rights.

The Philippine government was requested an official invitation by the UN Working Group on Enforced or Involuntary Disappearances to visit the country, however, the Philippine government did not even have the courtesy to respond to the request for invitation. Furthermore, it failed to comprehensively respond to the UN Working Group on Enforced or Involuntary Disappearances' question on how far the Philippine government has implemented the latter's recommendations during its visit to the country in 1990.

While the number of cases had decreased after the Alston visit, nothing was done to resolve past cases, especially the recent ones and cases still continue to happen. The Supreme Court, which convened a summit on extrajudicial killings and enforced disappearances, continue to educate, through the Philippine Judicial Academy, the members of the judiciary.

Similar to the Philippines, the Thailand government is also embattled by insurrection from the opposition as well as the urban elite population of the country. In an article written by Thitinan Pongsudhirak, a Political Science professor from the Chulalongkorn University, former Prime Minister Thaksin Shinawatra was accused of corruption and treason for the tax-free sale of his family owned Shin Corporation to the Singapore government's Temasek Holdings for \$1.9 billion. Shinawatra's good leadership performance during his first term was then washed off in this reelected administration as he was made to face the public for his accountability to the perceived rampant corruption in the government and the separatist violence in the Muslim-dominated south of Thailand. For this reason as well as interference with state agencies and the creation of social divisions, the military junta staged a *coup* on September 19, 2006. While Thaksin was in New York attending a UN Summit, the junta took over Bangkok and declared highly-revered King Bhumibol Adulyadej as head of state.² Thaksin was thrown to live in exile in the United Kingdom.

Reviewing a part of Thaksin's government, the former president declared Martial Law on January 5, 2004 in the southern provinces of Narathiwat, Pattani and Yala following a deadly arms raid and arson attack in the region. Warrantless arrests and searches of property were being carried out by the military. These had resulted in the disappearance of prominent human rights lawyer Somchai Neelaphaijit on the eve of 12 March 2004. Somchai's disappearance is believed to be linked to his involvement in the defense case of nine Muslims accused of perpetrating the violent attacks against security forces in the south. Five years had passed and Somchai remains missing despite actions of his family and concerned national and international non-government organizations in pursuit of truth and justice, reparation and recuperation of memory. More than 90 recent cases of enforced disappearances have recently been submitted to AFAD by its member-organization working on the Southern Thailand Situation, i.e. the Working Group on Justice for Peace.

Somchai's case is but only one of the many cases in the country. There are still about 293 cases of disappearances, which occurred during the brutal suppression of the May 1992 demonstration against Army General-turned-Prime Minister Suchinda Kraprayoon. While some of the families of the victims have received relief assistance, still, they are demanding for the return of at least, their loved ones' remains for proper cremation. The government, on the other hand, is giving the burden of finding the possible location of graves of missing persons to the families of the victims. Furthermore, they continue to press the Thai government to build a monument in honor of the victims of the Black May Event.

Starting on May 25, 2008, the People's Alliance for Democracy (PAD) staged protracted protests in Bangkok and other cities to express opposition to the new government. Labeling Prime Minister Samak and his successor, Somchai Wongsawat (former prime minister Thaksin's brother-in-law), as surrogates of Thaksin. The PAD accused the government of corruption, abuse of power, and of being unpatriotic. Protesters blocked roads and traffic in the capital, in some cases for months at a time. Pro-government groups often violently attacked PAD rallies while police stood by. On August 26, 2008,

PAD protesters besieged many government buildings in Bangkok, including the National Broadcasting of Thailand (NBT) building and Government House, where the prime minister and cabinet members have their offices. The government obtained injunctions and arrest warrants from the courts against PAD leaders, but could not end the siege of Government House. After clashes between police and PAD protesters on 29 August, the PAD closed international airports in Thailand's southern provinces and imposed worker strikes on train services across the country. Violence escalated when the pro-government Democratic Alliance against Dictatorship (DAAD) engaged in street fighting with the PAD on September 2, resulting in one death and more than 40 injuries. Prime Minister Samak declared a state of emergency in Bangkok, but army chief General Anupong Paochinda refused to use the emergency powers to crack down on the PAD and suppress basic freedoms. After Samak was removed from office by the Constitutional Court—the court ruled he had violated the constitution by accepting payment for appearances on a cooking show—the new prime minister, Somchai Wongsawat, approved General Anupong's proposal to lift the state of emergency on September 9. On October 7, thousands of PAD protesters surrounded the parliament in an attempt to block Prime Minister Somchai from delivering a policy statement. To clear the area, police riot units and BPP units used tear gas and rubber bullets, in some cases firing tear gas from close range directly at the protesters. PAD protesters responded by firing guns, shooting slingshots, throwing bricks and metal pipes, trying to run over police officers with pickup trucks, and stabbing police with flagpoles. According to the Public Health Ministry, two PAD supporters died and 443 were injured, including four cases of amputation. About 20 police were injured. On October 13, Thailand's National Human Rights Commission concluded that Chinese-made tear gas canisters and grenades used by police on 7 October may have caused many of the deaths and severe injuries. To date, there has been no independent and impartial investigation into politically motivated violence and human rights abuses committed by the PAD. At this writing, the PAD was still occupying Government House. PAD leaders were demanding that the military have the right to intervene in politics to check corruption and to protect the monarchy and national sovereignty. They also were proposing that the number of elected MPs be reduced to 50 percent of the total—with the remainder filled through appointment.

Attacks on civilians by both Thai security forces and armed separatist groups in Thailand's southern border provinces continued in 2008. Soldiers from the Army's 39th Taskforce in Rue Soh district of Narathiwat province were implicated in the highly publicized torture and murder of imam Yapa Kaseng on March 21. On June 21, armed insurgents stormed a passenger train in Ra Ngae district and executed a Buddhist Thai train police officer and three Buddhist train workers. Car bombs were used in a March 15 attack on CS Pattani Hotel in Pattani province and an August 21 attack in Su Ngai Kolok district of Narathiwat province. Some insurgents aimed to spread terror among the Buddhist Thai population, most notably by beheading victims or setting their bodies on fire. Insurgents burned down government schools and continued to engage in roadside ambushes and targeted assassinations of teachers and students. Although the government and General Anupong vowed to deliver justice to the ethnic Malay Muslim population, Thai security forces still faced little or no consequences for extrajudicial killings, torture, and arbitrary arrests of suspected insurgents. After a sharp decline in 2007, new cases of

enforced disappearances emerged again in 2008. Deaths and disappearances in Thailand's southern border area remain a concern for rights groups, with at least four disappearances reported this year by the Working Group on Justice for Peace (WGJP). The NHRC recently discovered graveyards with more than 300 unidentified bodies in southern Pattani Province, which they suspect could be forced disappearance victims, and are trying to identify the bodies. Referring to efforts to establish a missing persons centre and to pursue cases, Pornthip Rojanasunan, director of the Forensic Science Institute at the Ministry of Justice, said that " no one really pays attention to this matter, therefore it hasn't been carried forward properly". Pornthip added that tracking evidence in the south has been constantly obstructed by the police department and that while the scale of disappearances is still unknown, anecdotal evidence suggests it is extremely high. (*IRIN*, 24 November, 2008)

Moving on to Sri Lanka, the UNWGEID reported that many cases of disappearance occurred during two major conflicts in the country: the confrontation between the Tamil militants and the Government forces in the North and Northeast of Sri Lanka and then between the Janatha Vimukthi Peramuna (People's Liberation Front-JVP) and the government forces in the south.

Amnesty International reported that more than 60,000 persons had been made to disappear, 90 percent of which occurred between 1988 and 1989. Considering the internal conflict as well as the *tsunami* which devastated the region the present situation of the families have become more deplorable. Violations of these families' fundamental human rights have been raised before former President Chandrika Bandarnayake but were ignored. With regards to the prosecution of the offenders, families of the disappeared stated that out of over 3,000 individuals identified as possible perpetrators, the Attorney-General only filed 334 indictments against 597 persons. The organization claims dissatisfaction with this judicial proceeding as 99 per cent of the accused get acquitted owing to investigations done by "fellow police officers."

On a positive note, the President of Sri Lanka appointed a Commission of Inquiry (CoI) to investigate and inquire into the commission of serious violations of human rights arising since August 1, 2005 caused by various persons in the context of '(a) the ongoing terrorist activities against the government of Sri Lanka, its security forces and its people, and (b) the countermeasures adopted by the security forces and the police, to arrest, suppress, or terminate such terrorist activities'. The Commission was given the mandate to specially inquire into 15 serious violations specified in the Schedule to the warrant.³

Yet, peace talks once again collapsed, leading to untold human rights violations in the country, part of which are cases by enforced disappearances. To note, Sri Lanka, who aspired for renewal of seat in the UN Human Rights Council, did not get the seat in view of its bad human rights record.

In the continuing conflict between the Sri Lankan government and the Liberation Tigers of Tamil Eelam (LTTE), both sides show little regard for the safety and well-being of civilians—and violate international humanitarian law—by indiscriminately firing on

civilian areas and unnecessarily preventing the delivery of humanitarian aid. Since the breakdown of the ceasefire and the resumption of major military operations in mid-2006, hundreds of civilians have been killed and over 208,000 persons remain displaced as of October 31. (*Source: Human Rights Watch 2008 Report*)

There is a widespread pattern of enforced disappearances in Sri Lanka with several hundred cases reported in the last 18 months alone. In June 2008 the United Nations Working Group on Enforced or Involuntary Disappearances (WGEID) noted that in two months 22 people had disappeared, 18 of them in May. Families complain that fear of reprisals prevents many from reporting cases to the official bodies. By the end of 2007, 5,516 cases of enforced disappearances remained unresolved according to WGEID.

Perpetrators of enforced disappearances continue to walk free. Three Presidential Commissions of Inquiry into the Involuntary Removals and Disappearances of Persons were established in the 1990s. They received about 30,000 complaints. The proceedings of the Commissions were not made available to the public and the main recommendations, including the repeal of emergency regulations, were ignored. The Commissions submitted lists of suspected perpetrators but this resulted in only a handful of convictions. No independent body has been established to investigate these violations, giving perpetrators the confidence of impunity. (*Source: <http://www.ediec.org/library/item/id/390/>*)

The Human Rights Council's Working Group on Enforced or Involuntary Disappearances expressed concern about the high number of such cases in Sri Lanka.

In Nepal, UNWGEID reported that many of its disappearance cases occurred between 1998 and 2003 as a result of the counter-insurgency operations the security forces waged against the members and supporters of the Communist Party of Nepal (CPN-Maoist). The said communist party, who recently won the national elections, declared a "people's war" in February 1996. Heightened security operations caused an increase in the number of enforced disappearance incidents especially in 2001 when state of emergency was declared and more military men were deployed in the area. Moreover, the Working Group observed the pattern that unidentified and plainclothes security officers arrest people suspected of CPN (Maoist) involvement and then detain them incommunicado.

These isolated detention centers along with the Terrorist and Disruptive Activities (Control and Punishment) Act 2002, the Public Security Act, absence of a law criminalizing disappearances, a weak *habeas corpus* procedure and failure to ensure the victim's rights to information or to reparation provided the breeding ground for rampant human rights abuses. The Working Group and the civil society has persistently asked the Government to rectify and strengthen its institutional and legal frameworks particularly the National Human Rights Commission.

A law, in a form of ordinance criminalizing enforced disappearances was approved in November 2008, however, the law was promulgated in a form of an ordinance and not as

an act of Parliament. Thus, the process is being questioned by human rights organizations who are also working on the substance of the law which still is found wanting in terms of responding to the needs of the victims and their families.

Of the countries above-mentioned, only India has signed the Convention and the rest have not. Indonesia, in a high level segment session of the United Nations Commission on Human Rights in 2007, promised to sign the Convention in June 2007. Yet, to this date, there is no implementation and the promise still remains.