

# The Voice



AFAD

The Official Publication of the Asian Federation Against Involuntary Disappearances

VOL. XIII. NO. 1 June 2013



## Keep The Faith

Sustain the Struggle Against Disappearances



## ABOUT THE COVER

Mrs. Estelita Topacio, a Filipina mother of a disappeared, is just one of the countless faces who have become victims as they bear the brunt of disappearance. Her image mirrors the stories of most victims of this global scourge who, more often than not, are women. Life after the disappearance of their loved ones is characterized by sorrow masked by smiles. The road towards a world without disappearances may be uncertain, but the boldness of

Photo and Layout by Kevin A. Mandrilla

the spirits of these women light up their faith. As we rejoice with the newly passed Philippine Anti-Disappearance Law of 2012, the first law in Asia penalizing the crime of enforced disappearance, we also look back at the long-drawn struggle of the relatives, particularly mothers and wives, in their constant search for their beloved *desaparecidos*.

## CONTENTS

- 1 **Editorial**
- 3 **Cover Story:** Campaigning for A Law Against Enforced Disappearance  
A Sixteen-year Battle Won through Resolute Patience and Collective Steadfastness
- 10 Enforced Disappearance is Now a Crime in the Philippines
- 13 The Promise of Indonesia and the Declining Condition of the Families of the Disappeared
- 19 Enforced Disappearances Are a Reality, the Immediate Adoption of the Convention is a Necessity
- 21 India: Claimant of World's Largest Democracy is Unconcerned about the Disappearances in Kashmir
- 24 Untangling The Blocks and Finding a Way out of the Gridlock
- 28 **Literary:** Prayer for Divine Help for Jonas and ALL the Disappeared
- 29 NKHR holds Strategy Seminar on abductee issues at Handong Law School
- 31 Prospects of addressing impunity and enforced disappearance under a new President
- 35 No stones returned  
Stories of victims and their families' relentless search for truth and justice
- 39 Remembering the Past, Braving the Present  
The AFAD and FIND Christmas Party
- 43 Paving the way for a local protection mechanism in Asia  
Forum-workshop on the RP's anti-disappearance law
- 46 Where are you, Uncle Bath?
- 50 Finding *Niños y Niñas*
- 53 SOA Watch Apologizes for United States Role in the Deaths of 75,000 Salvadorans
- 55 The first steps: The International Convention for the Protection of All Persons from Enforced Disappearance and its "Committee on Enforced Disappearances"
- 58 **Literary:** Senses
- 59 Seeds Planted: Inroads and Challenges in Attaining a World Without *Desaparecidos*
- 67 **Crossword**
- 68 **Cryptoquote**

Mugiyanto  
Mary Aileen D. Bacalso  
**Editors-in-Chief**

Caroliza Tulod-Peteros  
**Associate Editor**

Ed Gerlock  
**Copy Editor**

FIND  
Ester Alvarenga  
Edita Burgos  
Peachy Burgos  
Candy Diez  
Sisto dos Santos  
David Fau

Rabindra Gautam  
Rainer Huhle  
Adilur Rahman Khan  
Lillian Lee  
Darwin Mendiola  
Kevin Mandrilla  
Rosa Bella Quindoza

## Contributors

Razaile Elaine Besa  
**Graphics and Layout**

PROPRINT  
**Printing Press**

## Council Members

Adilur Rahman Khan  
Ambar Raut  
Angkhana Neelaphajit  
Boothan Verawongse  
Brito Fernando  
Janak Bahadur Raut  
Lillian Lee

Mandira Sharma  
Mary Aileen Bacalso  
Mugiyanto  
Parvez Imroz  
Sisto dos Santos  
Yati Andriyani  
Yetti Sikumbang

## Secretariat Members

Mary Aileen Bacalso, *Secretary General*  
Emilia Aquino, DMD, *Administrative Officer*  
Jose Revaldo, Jr., *Finance Officer*  
Darwin Mendiola, *Philippine Project Coordinator*  
Caroliza Tulod-Peteros, *Regional Campaign Officer*  
Candy Diez, *Research and Documentation Officer*  
Rosa Bella Quindoza, *Asst. to the Secretary General*  
Kevin Mandrilla, *AFAD-ICAED Project Assistant*  
Razaile Elaine Besa, *AFAD-ICAED Campaign Assistant*  
Rosanna Contreras, *Bookkeeper*  
Joel Abalos, *General Services Staff*

## Acknowledgement

The Asian Federation Against Involuntary Disappearances (AFAD) extends its warmest gratitude to the Families of Victims of Involuntary Disappearance (FIND) in facilitating the visits and interviews to their members.

This publication is  
currently funded by:



The year 2012 ended with the enactment of Republic Act 10353 or the Philippine Anti-Enforced Disappearance Act of 2012. It was followed by the promulgation of its Implementing Rules and Regulations (IRR) on 12 February 2013. The law signifies a moral victory for the families of the disappeared in the Philippines who, amidst many constraints, persistently campaigned for an anti-disappearance law until their twilight years, and for some, till the very end of their lives. Giving cognizance to the invaluable contribution of the authors, families of the disappeared profoundly value the law as a major form of justice. A recognition of the cruelty of this state-perpetrated crime, it gives prime importance to the *desaparecidos*; recognizes their sacrifices and the sufferings of their loved ones; seeks truth, justice, rehabilitation, reparation and non-recurrence.

For this, the AFAD salutes the Families of Victims of Involuntary Disappearance (FIND) for the grand success of its campaign - making the Philippines the first in Asia to have an anti-enforced disappearance law. Such exemplary work may not exactly be replicated in other countries, but its very process is an experience that could serve as a guide for all those who struggle to erase enforced disappearance from the face of the earth.

The universality of the pain and the struggle convinces us that we all must savor the victory garnered in the Philippines. As Marta Ocampo de Vasquez, President of the *Madres de Plaza de Mayo-Linea Fundadora* has it: “*Estamos en el mismo dolor, en la misma lucha, en la misma victoria...*” (*We are one in the same pain, in the same struggle, in the same victory...*)

This issue relishes this hard earned victory in as much as it speaks volumes of the devastating consequences of enforced disappearances in other Asian countries where AFAD is present.

The HAK Association of Timor Leste shares the emptiness in the lives of families of the disappeared and the loss of social and cultural history with the continuing physical absence of their loved ones. It expresses the families’ belief in the inability of the disappeared to move on to the next life. It stresses a reparation that necessitates re-dignification of those stripped of dignity, more than one that gives monetary compensation.

Amidst impatience and anger of families of the disappeared in Indonesia for the delay of justice, KontraS and IKOHI strive harder to dig the truth and to attain justice by breaking impunity manifested in the acquittal of high profile perpetrators of enforced disappearances seeking even the highest government position. They challenge the incumbent administration of Pres. Susilo Bambang Yudhoyono to fully implement the recommendations of the then Commission of Inquiry of the former Parliament vis-à-vis victims of enforced disappearances and their families, otherwise, the latter will be accused of committing a sin of omission before the end of its term, thus suggesting maladministration.

Despite the signing of the International Convention for the Protection of All Persons from Enforced Disappearance (Convention) and the compensation for victims' families, the Justice for Peace Foundation of Thailand leaves no stone unturned. It incessantly knocks at doors of the United Nations while making its voices heard nationally, telling the government that monetary compensation is inadequate. "Only through access to truth and justice will the dignity of the survivors be restored, leading to lasting forgiveness and reconciliation," thus wrote Ms. Angkhana Neelaphajit to Prime Minister Yingluck Shinawatra. The Relatives Committee of the May 1992 Heroes, which commemorates its 21<sup>st</sup> anniversary this month, likewise has still to experience justice.

The Advocacy Forum and the Conflict Victims Society for Justice present the vicious cycle of impunity exacerbated by the merger of the two bills of transitional justice mechanisms into one. The pronouncement to establish a Commission on Investigation of Disappeared Persons, Truth and Reconciliation in a form of an ordinance is yet another attempt to perpetuate impunity—a retrogress to what was supposedly a breakthrough in the struggle for justice in Nepal, whose long history of monarchy has claimed thousands of lives.

The Association of Parents of Disappeared Persons in war-torn Kashmir, albeit marred by never ending phenomena of disappearances, half widows, killings, mass graves, bravely tells about "Alleged Perpetrators, Stories of Impunity in Jammu and Kashmir." A real breakthrough in an atmosphere of fear, this report speaks of 214 cases of human rights violations, 75 of which are enforced disappearances. It reveals the role of 500 alleged perpetrators, identified by rank and/or name and seeks accountability for institutional criminality.

The Odhikar of Bangladesh demands the government to stop the spate of enforced disappearances even as it asserts the imperative of the government's accession to the Convention. In a high profile seminar, UN CED Member Rainer Huhle explained the benefits of the Convention if Bangladesh ratifies it.

The Families of the Disappeared of Sri Lanka, overwhelmed by cases of the past and the present, is as ever threatened in the course of its work, yet continues in many ways to cry for truth and justice, along with other civil society organizations.

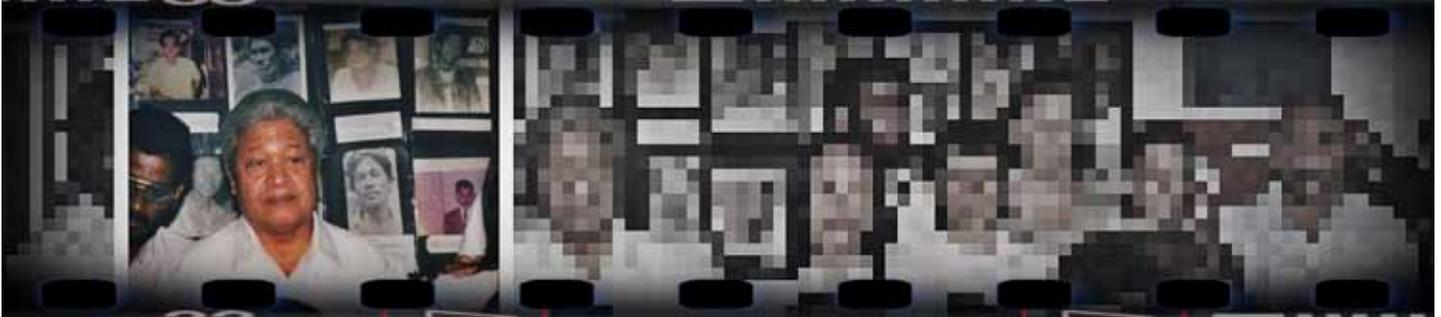
AFAD's new member, the Citizens' Alliance for North Korean Human Rights gives more life to the Federation through its contagious persistence in the search for South Korean citizens disappeared by the North Korean government. Its membership in AFAD gives more flesh and blood to the essence of solidarity.

AFAD is turning 15 on 4 June 2013. While seeds have been planted and initial fruits reaped, many tasks cry out to be done as we are continually being summoned by the *desaparecidos* to forge the struggle until the envisioned world without enforced disappearances is attained.

— MARY AILEEN D. BACALSO  
AFAD Secretary- General

# Campaigning for A Law Against Enforced Disappearance: A Sixteen-year Battle Won...

By Caroliza Tulod-Peteros\*



**Champion against all odds.** Representative Edcel Castellar Lagman, main proponent of the recently passed Philippine Anti-Disappearance Act of 2012 has been always present in the course of the battle against human injustices. He is deemed as a human rights champion, as several new human rights laws that he co-authored were passed in succession in the same year. At the end of the day, in his heart, the Filipinos are the real champions.

On 21 December 2012, while some people around the globe were anxiously preoccupied over predictions that the world would end along with the completion of the Mayan calendar, families and friends of relatives of the disappeared in the Philippines were celebrating.

Finally, after sixteen years of campaigning, the Anti-Enforced or Involuntary Disappearance Act of 2012 (RA 10353) was signed by President Benigno Aquino III. It was a momentous victory not only for families of victims and survivors of enforced disappearance in the country but for all Asian peoples as well. The law is the first in Asia, a region with the highest incidence of enforced disappearance.

For Ms. Nilda Lagman-Sevilla, Chairperson of Families of Victims of Involuntary Disappearance (FIND), the enactment of the law is a testament of her organization's collective steadfastness to pursue their dream that one day, a law criminalizing enforced disappearance would be passed.

## **A Dream that Began in the 1990s**

Early efforts to craft a bill against enforced disappearance started during the term of President Corazon Aquino. In 1990, then Nueva Ecija Representative Edgardo "Nonato" Joson filed a bill to

amend certain sections of the Revised Penal Code that would somehow address the problem of enforced disappearance, recalled Ms. Lagman-Sevilla. His bill sought to penalize summary executions and unexplained disappearances<sup>1</sup>. The initiative failed to get the support of human rights organizations because the measure imposed the death penalty - to penalize enforced disappearance as a capital offense punishable by death. Representative Daisy Avance-Fuentes of the 2nd District of South Cotabato filed a similar measure in 1995<sup>2</sup>.

During the Tenth Congress in 1996, Representatives Bonifacio Gillego of Sorsogon, Edgar Lara of Cagayan and Gregorio Andolana of North Cotabato filed the first comprehensive anti-enforced disappearance bill<sup>3</sup>. That was four years after the United Nations approved the 1992 UN Declaration on the Protection of All Persons from Enforced Disappearance. It adopted the UN definition of enforced disappearance, whose victims are *"persons arrested, detained or abducted against their will or otherwise deprived of their liberty by officials of different branches or levels of Government, or by organized groups or private individuals acting on behalf of, or with the support, direct or indirect, consent or acquiescence of the Government, followed by a refusal to disclose the fate or whereabouts of the persons concerned or a refusal to acknowledge the deprivation of their liberty, which places such persons outside the protection of the law."*<sup>4</sup> The bill proposed

1 Journal of the House, No. 15, August 28, 2007 accessed from [http://www.congress.gov.ph/legis/print\\_journal.php?congress=14&id=15](http://www.congress.gov.ph/legis/print_journal.php?congress=14&id=15)

2 Ibid.

3 Ibid.

4 United Nations Resolution 47/133. Declaration on the Protection of All Persons from Enforced Disappearance, accessed from <http://www.un.org/documents/ga/res/47/a47r133.htm>

reclusion perpetua (life imprisonment) as the highest penalty imposed on violators<sup>5</sup>.

### The long and otherwise lonely legislative journey: An uphill battle for the families of the disappeared

On 27 May 1997 - fifteen years had passed, officers of FIND and international guests from South Africa, Argentina, Sri Lanka, El Salvador and Cambodia met with Representatives Bonifacio Gillego and Edgar Lara, authors of the first anti-enforced disappearance bill during the commemoration of the International Week of the Disappeared. The guests shared their experiences on how their own countries addressed the issue of enforced disappearance. The late Rep. Gillego asked the guests to share more materials so they could use these as additions to their bill.

Separate anti-enforced disappearance bills were refiled during the 11<sup>th</sup> and 12<sup>th</sup> Congresses by Representatives Dante Liban of Quezon City and Krisel Lagman-Luistro of Albay. Not much was achieved at this time. The bills remained at the committee level.



In the halls of Congress. FIND closely links with legislators in championing the cause of the disappeared. PHOTO: FIND

In the 12<sup>th</sup> Congress, the House of Representatives' Committee on Justice consolidated the "Anti-Enforced or Involuntary Disappearance bills," among whose authors were Representatives Loretta Ann P. Rosales of *Akbayan! Party-List* and Krisel Lagman-Luistro. It was subsequently referred to the Committee on Appropriations only in 2003<sup>6</sup>. The measure saw little movement in the 10<sup>th</sup>, 11<sup>th</sup> and 12<sup>th</sup> Congresses (from 1996-2004).

To increase its lobby presence, FIND convened the Coalition Against Enforced Disappearance (CAED) in 2005 with the participation of the Asian Federation Against Involuntary Disappearances (AFAD). Composed of 13 organizations, the Coalition also had members from legislative offices which were supportive of the bill as well

as a trade union federation, *Bukluran ng Manggagawang Pilipino (BMP)*. The group organized a series of activities to draw the attention and support of lawmakers for the bill criminalizing enforced disappearance. Sadly, their voices were not heard.



Injustices. The Arroyo Administration is one of the dark nights for the Filipinos where significant number of disappearances happened within the 9-year regime.

During the 13<sup>th</sup> Congress (2004-2007), Representative Edcel Lagman, brother of a disappeared victim, Atty. Hermon Lagman, saw an opportunity to secure the support of his fellow lawmakers for a substantive progress in the bill. Many of the progressive members of Congress proposed amendments to the Anti-Terror Bill, a priority legislative agenda of then President Gloria Macapagal-Arroyo, aimed to support the global war on terror of US President George W. Bush.

Rep. Lagman moved to make the bill a companion measure of the Anti-Terror Bill. He succeeded. The anti-enforced disappearance bill went into second reading along with the Anti-Terror Bill and proceeded to third reading. While the anti-terror bill was eventually signed into law on 8 February 2007, the anti-enforced or involuntary disappearance bill remained in Congress as the Senate failed to pass its version of the bill.

In the following 14<sup>th</sup> Congress, the House again approved the bill on third reading, but the Senate failed to tackle the bill scheduled on second reading due to lack of quorum as there were many Senators who were absent. Back then, one of their colleagues, Senator Manny Villar, a Presidential candidate, was dragged into the C-5 road extension controversy (the Senator was said to have used his influence so that the road project would pass through his real estate properties (sic)<sup>7</sup>) and apparently, many of the Senators did not want to take a position on the matter.

5 Lagman, Edcel, The Campaign Against Enforced Disappearance: The Philippine Experience, accessed from <http://hronlineph.com/2012/09/01/statement-the-campaign-against-enforced-disappearance-the-philippine-experience-by-rep-edcel-lagman/>

6 Cruz, John Vincent, Anti-Enforced Disappearance Bill: The Fight Goes On in the Philippines...The Voice, Vol. III, No. 2 September 2003

It was during the 15<sup>th</sup> Congress (June 2010-2013), that legislative efforts to push forward the anti-enforced disappearance bill progressed.

On 26 July 2011, the Senate, with 15/23 votes, approved House Bill 2817 (Enforced or Involuntary Disappearance Act of 2011) principally authored by Senators Francis Escudero, Manny Villar, Miriam Defensor-Santiago, and Francis Pangilinan<sup>8</sup>.

In the Lower House, Representatives Edcel Lagman and Lorenzo Tañada III, principal authors of House Bill No. 98 entitled “Anti-Enforced or Involuntary Act of 2010,” managed to include the bill as one of the priority bills. Before the House Committee on Justice could report out the bill for second reading, the impeachment of former Supreme Court Chief Justice Renato Corona became its focus. Hence, the House passed the anti-enforced disappearance bill on third reading only on 21 March 2012. The bicameral conference committee report on House Bill 98 and Senate Bill 2817 was ratified by the Senate and the House on 16 October 2012<sup>9</sup>.



Defense for the disappeared. Representative Gillego, first proponent of the Anti-Disappearance Bill, defends the importance for the state to have a law on Enforced Disappearances. PHOTO: FIND

### Disagreement with other groups on its definition posed a problem

“*Marami ding naging problema*” (we encountered a lot of problems), Ms. Lagman-Sevilla recalled. “During our information campaigns, within and outside Congress and during public hearings, one contentious issue that continually cropped up was the definition of enforced disappearance, she further said. She emphasized that the bill sees the involvement of the State as essential to the definition. There were some groups that wanted to include in the definition, similar acts committed by non-state actors, such as political organizations and non-State

armed groups, which are covered under the definition of the Rome Statute of the International Criminal Court<sup>10</sup>. (see footnotes for the full definition of enforced disappearance).

For Ms. Lagman-Sevilla, this issue was already settled when these groups together with other human rights organizations participated in the deliberation of the Anti-Torture bill (later approved into law). In those meetings, they arrived at a consensus that it is the duty of the State to protect human rights; to protect its citizens from arbitrary actions of the State; as well as from abuses by non-State actors, including common criminals.

“*Nakakapagod sagutin*,” (I felt it was a closed issue too tiring for me to answer) was how she described her feelings when disagreements on the definition of enforced disappearance surfaced again from within human rights and supposedly like-minded organizations. They also faced resistance from the ranks of the military because they were identified as alleged perpetrators of enforced disappearances in the country.

According to Ms. Lagman-Sevilla, though these groups consider the bill a landmark effort, they consider the non-inclusion in the definition of the acts of enforced disappearance committed by non-State actors a gap against impunity.

Ms. Lagman-Sevilla thinks otherwise. There are requirements in the law which only the State can comply with such as the inspection of detention facilities, inquest by prosecutors, among others (Sections 9, 10 & 11 of the law define the role of prosecutors, require a registry of detained persons and detention facilities<sup>11</sup>). There are other salient provisions of the law that need to be appreciated. The law does not only impose criminal sanctions. It also provides for reparation that includes restitution, monetary compensation and psychosocial rehabilitation. On the view that the non-inclusion of non-State actors is a gap on efforts to break impunity, Ms. Lagman-Sevilla emphasized that it is the State’s responsibility to enforce all laws including those that penalize acts committed by non-State actors as provided for in the Revised Penal Code and other existing laws, for example acts of kidnapping and serious illegal detention. She added that there is greater impunity in crimes committed by State actors/law enforcers than in offenses

7 See “The C-5 Extension controversy: an Interactive map at <http://www.gmanetwork.com/news/story/182541/news/nation/the-c5-extension-controversy-an-interactive-map>

8 “Senate OKs bill criminalizing enforced disappearances,” accessed from <http://www.gmanetwork.com/news/story/227463/news/nation/senate-oks-bill-criminalizing-enforced-disappearances>.

9 Desaparecidos bill ok’d, accessed from <http://newsinfo.inquirer.net/291024/desaparecidos-bill-okd#xzz2SgLh3h9l>.

perpetrated by common criminals.

### **Factors that facilitated the approval of the Bill Presence of a champion inside Congress**

A big factor in pushing for the successful passage of the bill was the presence of a champion inside Congress. This person is no ordinary champion. Rep. Edcel Lagman happens to be a brother of Atty. Hermon Lagman, a labor leader who disappeared in 1977. His sister, who also works with him as chief of staff is the chairperson of FIND, an association of family members and relatives of the disappeared. Their mother Cecilia, who passed on at the age of 92 in 2012, was the first Chairperson of FIND. The issue of enforced disappearance struck very close to home. They feel what every relative of a disappeared feels from losing a loved one: anxiety, pain, anger, sadness and uncertainty. The degree and intensity of suffering may vary but they share the same psycho-emotional and social impact of disappearance. Who could better infuse substance in crafting a law that could effectively respond to the quest for justice and reparation of victims than those who experienced the inhumane consequences of the offense sought to be criminalized?

Other legislators who also filed similar bills either as principal or co-authors in various Congresses helped sustain the effort. In every Congress since the 10<sup>th</sup>, anti-enforced disappearance bills were filed in both the Senate and the House of Representatives.

**Onwards universality.** Daisy Valerio, former FIND Secretary General, speaks of the need to form an international movement against disappearance.



### **Sustained lobby efforts of families of the disappeared supported by civil society groups and friends**

Supporting the legislative efforts inside the halls



**TOP-BOTTOM: Encouraging state solidarity.** (1) Former Representatives Gillego and Lara discuss with FIND the value of the draft law. (2) Khulumani Network representative Mabel Makupe shares her group's story on the challenges on international movement vis-à-vis disappearances.

of Congress was the collective struggle of families of the disappeared that tirelessly knocked on the doors of legislators appealing for their support for the proposed bill. Fact sheets, magazines, and other published materials were distributed to inform and update legislators on the issue. Personal stories of families were shared in various media and documentaries as well as investigative reports were released concerning the problem of enforced disappearance in the country. The journey was long and winding. There were fund constraints that the families of the disappeared had to contend with. The planned room-to-room campaign to solicit co-authorship of the bill from legislators could not progress because the group had no money to fund the transportation and food of relatives who had to come from different places of Metro Manila. Sometimes many of them managed to join the public events, sometimes only very few could come.

Lobby meetings with past and current Philippine presidents were an important part of the advocacy activities of the families and friends of the disappeared.

On 29 August 2001, the eve of the International Day of the Disappeared, and seven months into then

10 "Enforced disappearance of persons" means the arrest, detention or abduction of persons by, or with the authorization, support or acquiescence of, a State or a political organization, followed by a refusal to acknowledge that deprivation of freedom or to give information on the fate or whereabouts of those persons, with the intention of removing them from the protection of the law for a prolonged period of time. Rome Statute of the International Criminal Court accessed from <http://www.preventgenocide.org/law/icc/statute/part-a.htm>.

11 See RA 10353 in the Official Gazette, accessed from <http://www.gov.ph/2012/12/21/republic-act-no-10353/>

President Gloria Macapagal-Arroyo's mid-term assumption of office, FIND and AFAD sought an audience with her to urge her to certify the bill against enforced disappearance as a priority administration measure. President Arroyo promised them that there would be no enforced disappearance cases under her term. Ironically, the incidence of enforced disappearance was at its peak during her term. FIND reported 339 victims during her 9-year administration<sup>12</sup>. Shortly before her term ended in 2010, both organizations sought another meeting. At that time, the House had already approved the bill on third reading. However, its counterpart measure in the Senate was still awaiting plenary consideration. Pres. Arroyo instructed then Secretary Eduardo Ermita to consult the matter with concerned government agencies.

**“[The Families] were disappointed. The President only promised to study the matter.”**

During the first 100 days of President Benigno Aquino III, the relatives of the disappeared together with representatives of other human rights organizations paid him a visit. They urged him to endorse the bill as a priority administration measure and also for the Philippines to sign and ratify the International Convention for the Protection of All Persons from Enforced Disappearance (ICPAPED). But they were disappointed. The President only promised to study the matter.

There never was a point where the families felt desperate...they were always optimistic that someday, a law would be passed criminalizing enforced disappearance. They drew strength from each other. “*Laban natin ito. Para sa atin ang batas na ito*”, (this is our struggle; this law will benefit us) this proactive view of their legislative advocacy, no matter how dim the light at times, was what kept the relatives hopeful.

The signing into law of the anti-torture bill in 2009 renewed their optimism that soon, an anti-enforced disappearance law would also be enacted.

FIND, together with AFAD and CAED lobbied Congress and met with legislators. During the second



**Black, white, and hope.** FIND and AFAD meet with PNOy during his first 100 days in office. PHOTO: Malacañang Press

reading of the bill in the Senate, they learned that Senator Joker Arroyo wanted to interpellate the principal sponsor, Senator Francis Escudero, while Senator Miriam Santiago wanted to propose amendments particularly on accessory penalties. They were able to sway Sen. Arroyo not to interpellate anymore as there were no major differences in both the Senate and the House versions. They, however, welcomed Senator Santiago's amendments which are now incorporated into the law.

### **Openness of key institutions**

The openness of the human rights offices of both the Philippine National Police and the Armed Forces of the Philippines also contributed to its progress. To recall, the military had objections on the proposed law because the alleged perpetrators are also its members. Fortunately for the current leadership, they understood the importance of compliance with such a measure by security forces and law enforcers. Ms. Lagman-Sevilla thinks their participation in various human rights activities such as “Truth-telling Conferences,” where experiences of families of victims of enforced disappearance and measures to address the problem were discussed might have helped enlighten them. More importantly, the administration of Pres. Aquino promised a government



**Rainbow after the rain.** FIND, AFAD and ICAED and some of the heads of human rights offices of the Armed Forces of the Philippines and the Philippine National Police meet with Undersecretary Geron of the Office of President Benigno Aquino III to lobby the Philippine accession to the Anti-Disappearance Convention. PHOTO: FIND

<sup>12</sup> FIND, Statistical graph on disappearance, accessed from <http://find.org.ph/resources>.

that respects human rights and the rule of law.

It is also worth mentioning that the government, especially during the administration of Pres. Arroyo, was heavily criticized for the rise in extra-judicial killings especially of media persons. As there is a thin line between enforced disappearances and extra-judicial killings, the issue of enforced disappearances was likewise highlighted.

This prompted a visit of Philip Alston, Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions of the United Nations Human Rights Council in February 2007. There was a strong international pressure for the government to adhere to its commitment to international human rights treaties particularly regarding civil and political rights. Results of the said visit served to put the government into an embarrassing situation before the international community. Thus, in the first round of the Universal Periodic Review of the Philippines in 2007, the Philippine government pledged to enact an anti-enforced disappearance law and to support the International Convention for the Protection of All Persons from Enforced Disappearance.



**Women's petition.** FIND and AFAD seek support from the Philippine National Police Human Rights Affairs Office through PC/Supt. Clarence V. Guinto, former head of the office, in 2011. **PHOTO: AFAD**

It is important to note that in the same year, the Supreme Court used its extra-ordinary power to convene a National Consultative Summit on Extra-Judicial Execution and Enforced Disappearances. It was followed by a nationwide series of conferences with judges and lawyers conducted by the Philippine Judicial Academy and with the participation of the Commission on Human Rights and AFAD.

## What are the benefits of this law?

The law does not only provide for penalties but also preventive measures. *“Walang nanay na iiyak pa; walang ibang makakaranas ng naranasan nila”* (No mother will ever cry again; no one will experience what we went through”), is the greater motive of the law according to Ms. Lagman-Sevilla. The law also provides compensation along with psycho-social rehabilitation for victims and their families as well as the offenders. There are restorative justice elements in the law so that the offender does not become a recidivist.



**Strengthening organizational capacity.** Fr. Jon Cortina, S.J., founder of *Pro-Búsqueda*, shares the work of his organization in high hopes that the Philippines can adopt things which will strengthen local families' organization in the development of the campaign for an Anti-Disappearance law.

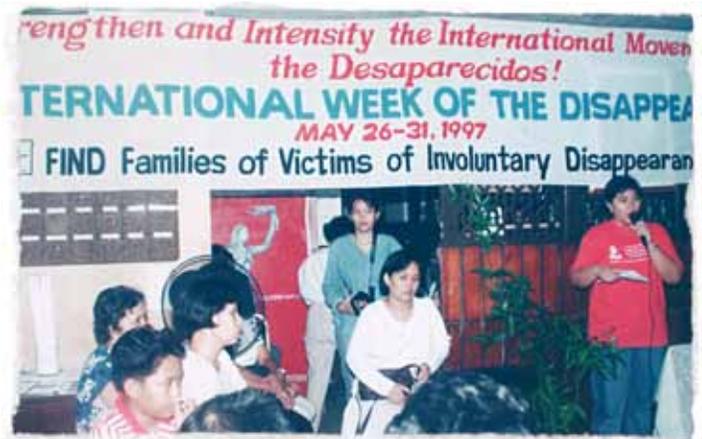
## What lessons could be gleaned from this experience?

1. It is extremely important to penetrate the legislature. If there's no law or bill crafted, draft one and find a sponsor/s and at least one champion.
2. Ensure attendance and active participation in public hearings and technical working group meetings that deliberate on and consolidate various versions of the bill. Participation should come not only from the association of families of the disappeared but also by human rights organizations and individual advocates supportive of the measure.
3. It is important for an organization with chapters all over the country to coordinate and lead lobby efforts.
4. Devise comprehensive and sustainable plans, taking into consideration the political context, recent developments, internal capability, resources needed by the organizations and their constituents. Adequate advocacy funds are indispensable.

5. Remain steadfast; be resolute despite barriers; carry on the struggle collectively and invite as much participation as possible from all sectors of society, taking into consideration that enforced disappearance is a social issue. Concentrate on the bases of unity with other organizations rather than on possible causes of division.
6. Give prime consideration to the needs of the principal actors in the campaigning and lobbying for the bill. In view of the multi-faceted effects of enforced disappearance, consider:
  - Psycho-social and other interventions to support the victims in regaining self-esteem. Bottled-up feelings are released and through sharing of common experiences and challenges encountered, victims realize that they are not alone.
  - The relatives are educated and empowered in the advocacy process. If the State is the perpetrator, how do we get justice? A law that captures the distinct elements of enforced disappearance more particularly concealment of information on the whereabouts of the disappeared, to distinguish it from the common crime of kidnapping, is needed.
7. Solicit the support of women legislators and ensure the participation of women lobbyists and negotiators in order to incorporate the gender perspective into the law. Moreover, the impact of disappearance on the mothers, wives and daughters has a touching effect on our legislators. They are open to talk to the women.
8. Give due importance to international work. The Philippines is a member of the United Nations. Like any State, it is conscious of its international image. Thus, becoming the first country in Asia to have an anti-enforced disappearance law is an incentive. Also, embarrassment before the international community is an implicit sanction on any government that continues to commit human rights violations. The new law is a measure that seeks to prevent further commission of enforced disappearance.

***The work does not end with the enactment of the law***

The jubilation must translate into more efforts geared towards disseminating the law and its Implementing Rules and Regulations (IRR) [which was promulgated on 12 February 2013]<sup>13</sup>. Through various learning materials such as primers, translated into various local languages, popular forms like comics, etc. and organization of fora and discussion groups, relatives and the public in general must be informed about the reasons why the State resorts to enforced disappearance and how the law seeks to prevent the commission of this heinous human rights violation, and the various remedies available to the direct victims and their families.



**IWD 1997.** The importance of international solidarity has been recognized since the early phase of the families' struggle given the fact that enforced disappearance is happening globally. PHOTO: FIND

For AFAD and its member-organizations, the Philippine experience is an inspiration for other groups working on enforced disappearances.

This may not be exactly replicated, but the whole process of finally having it enacted and implemented and its salient provisions can serve as guide for other organizations with the same objectives as AFAD and FIND.



*\*Caroliza Tulod-Peteros is the Regional Campaign Officer of AFAD. She is also a trainer, facilitator, mediator and student in the Doctor of Social Development Program of the University of the Philippines where she also completed her MA on Women and Development.*

<sup>13</sup> The IRR was signed by FIND, Desaparecidos for Justice, Commission on Human Rights, Department of Social Welfare and Development and the Department of Justice. It was reported in the papers to have been signed on 13 February. See <http://www.doj.gov.ph/news.html?title=CHR,%20DOJ,%20DSWD%20and%20ONGOs%20Sign%20the%20Implementing%20Rules%20Regulations%20of%20Anti-Enforced%20Disappearance%20Act&news-156>



After 16 long years of arduous struggle by the families of victims of enforced disappearances and human rights advocates inside and outside the halls of Philippine Congress, the Philippines became the first Asian country to criminalize and penalize enforced disappearances after President Benigno Aquino III signed into law **Republic Act (RA) 10353**, or the “**Anti-Enforced or Involuntary Disappearance Act of 2012**” on December 21, 2012.

The RA 10353 distinguishes enforced disappearance as a distinct and separate crime from kidnapping, serious illegal detention or murder. It subscribes to the definition of enforced disappearance under the **International Convention for the Protection of All Persons from Enforced Disappearance (ICPAPED)**, which defines the offense as “*the arrest, detention, abduction or any other form of deprivation of liberty committed by government authorities or by persons or groups of persons acting with the authorization, support or acquiescence of such persons in authority, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which places such person outside the protection of the law.*”

The Anti-Enforced Disappearance law recognizes the right not to be subjected to enforced disappearance as a non-derogable right which means that no circumstances may be invoked as a justification for its commission.

It also acknowledges that the practice of enforced disappearance constitutes a crime against humanity when it is carried out in a systematic and widespread attack against the civilian populace in order to sow fear and terror in the communities.

The crime of enforced disappearance is considered imprescriptible, or not subject to a statute of limitation with defined exemption. Under this special law,

*the prosecution of persons responsible for the enforced disappearance shall not prescribe unless the victim surfaces alive, in which case the prescriptive period (of 25 years) shall start to run from the date of his or her reappearance.*

*Furthermore, the new law holds any public officers directly involved in the commission of enforced disappearance criminally responsible, as well as their superiors. It applies the principle of command responsibility as it recognizes the presumption of knowledge of the superior for the acts of his or her subordinate and imposes the regularity of official duties to investigate, prevent, and hold accountable the persons responsible.*

Any investigation, trial, decision for any other legal or administrative process before the appropriate international court or agencies under applicable international human rights and humanitarian law is exempted from the rule of finality or double jeopardy.

Ultimately, the new penal law seeks to end impunity as it provides a penalty of *reclusion perpetua*, or life imprisonment as punishment to perpetrators who are found guilty and are barred from receiving any form of amnesty.

However, the new law is a comprehensive legislation that does not only impose penal sanctions, but

# Enforced Disappearance is Now a Crime in the Philippines

By Darwin Mendiola\*

also provides restorative justice, pecuniary compensation to victims and their families, restitution of honor and psychosocial rehabilitation for both victims and offenders.

To ensure the full and effective implementation of the law, its **Implementing Rules and Regulations (IRR)** were jointly promulgated by concerned government agencies and the organizations of victims' families on February 12, 2013, about two months after the law's enactment on December 21, 2012.

The committee responsible for the IRR is composed of the Department of Justice (DOJ), the Department of Social Welfare and Development (DSWD), the Commission on Human Rights (CHR), and the Families of Victims of Involuntary Disappearance (FIND), and Families of *Desaparecidos* for Justice (*Desaparecidos*).

The IRR serves as the guide to government agencies on how to fully and effectively apply the spirit and letter of the law especially in guaranteeing the rights of the victims of enforced disappearances and their families. These, include the right to access to information,

the right to restitution of honor and reputation and to seek and be provided with reparation, and to access appropriate medical services.

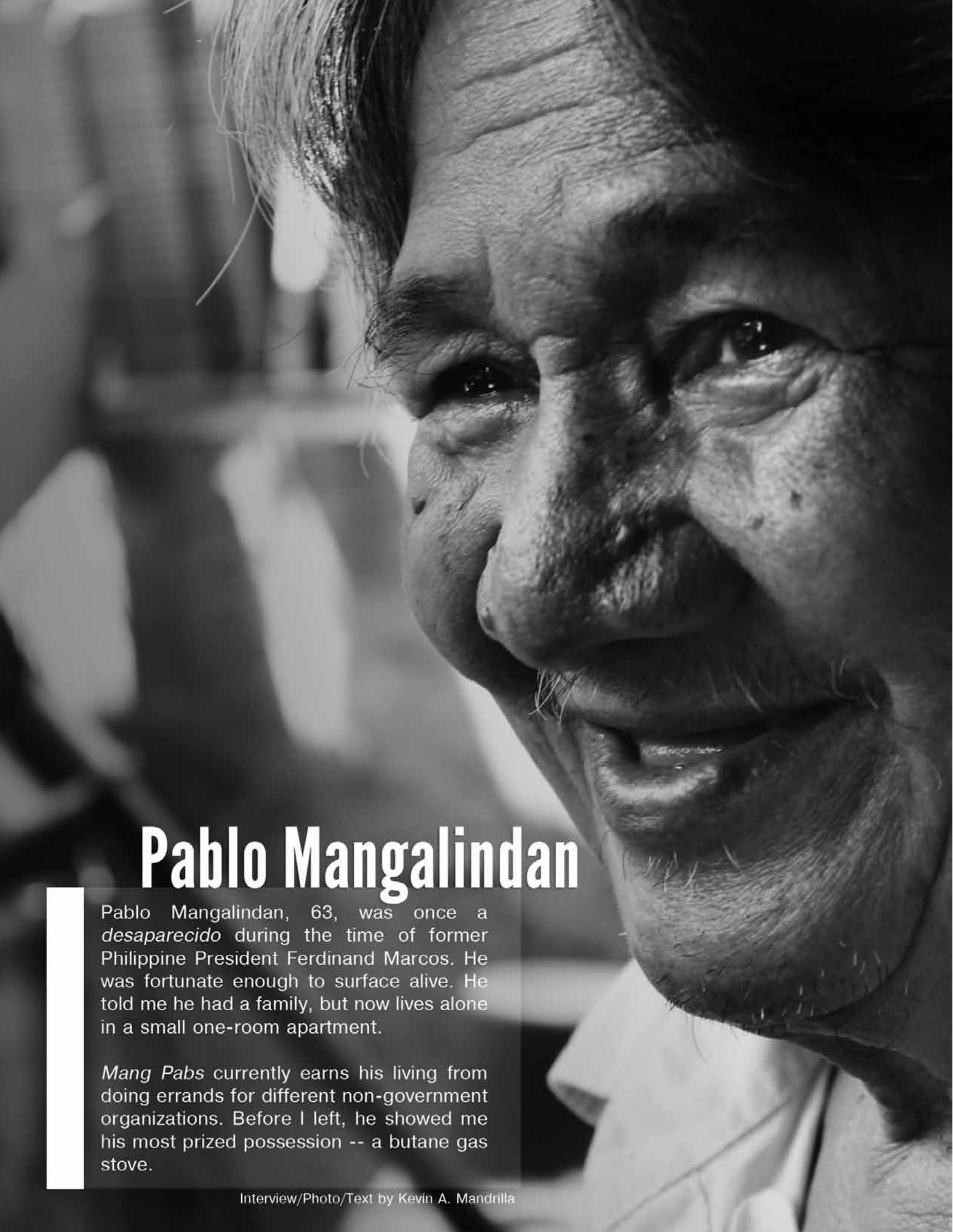
In addition, the CHR shall, within six (6) months from the effectivity of the IRR, convene a body composed of the DSWD, Department of Health (DOH) and other non-government organizations to formulate a comprehensive rehabilitation program that will cater to the specific needs and requirements of the victims under the law.

The collective efforts are now focused on the full and complete dissemination of the law and its IRR to the public. This is to show that the Philippine government and the human rights community are now one in mind and heart to make enforced disappearance finally disappear from the face of the earth.



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





# Pablo Mangalindan

Pablo Mangalindan, 63, was once a *desaparecido* during the time of former Philippine President Ferdinand Marcos. He was fortunate enough to surface alive. He told me he had a family, but now lives alone in a small one-room apartment.

*Mang Pabs* currently earns his living from doing errands for different non-government organizations. Before I left, he showed me his most prized possession -- a butane gas stove.

The year 2012 ended with a shocking event. A parking guard, 20 years of age, became a victim of enforced disappearance, arbitrary arrest and detention. The concerned family had received news of the disappearance of Wildan Saputra since 18 December 2012. The victim was taken by four strangers at night around 20:30 local time in the area of Gang Wedana, Village Maphar, Sub-district Taman Sari, West Jakarta. By its own initiative, the

family tried to determine the whereabouts of Wildan Saputra through several police offices and the Jakarta Police Headquarters (Polda

Metro Jaya). Wildan Saputra was finally found at the Police Sector Tanah Abang (Polsek Tanah Abang) on 27 December 2012.

*The Promise of  
Indonesia  
and The Declining Condition of the  
Families of the*

*Disappeared*

By David Fau\*



PHOTO: AFAD

In this case, the Police of Polsek Tanah Abang committed several human rights violations resulting in enforced disappearance. It started with the fact that there was no arrest nor detention warrant. The police also denied custody of Wildan Saputra as shown by the lack of response after the latter's family reported on the disappeared person. The victims' family members themselves were the ones who found Wildan Saputra in police custody.

### ***New Order Regime – the Occurrence of Crimes of Enforced Disappearances***

The crime of enforced disappearance as a violation of human rights came to the attention of the international community in the 1970s to the mid-1980s because of its prevalence in Latin America. The military coups in many countries of this region resulted in the disappearance of tens of thousands of people, for which the regime in power always managed to escape responsibility, both to their own citizens and to the international community. As part of "Operation Condor," prosecution and terror simultaneously occurred in the region. These were committed against those who endangered the military authoritarian regime, initially for political and ideological reasons in the context of imposing sole exercise of arbitrary power.

In Indonesia, systematic human rights violations were not always identical with enforced disappearance, which is different from what occurred in Latin America in 1970-1980. It was only almost at the end of Soeharto and the New Order Regime that the practice of enforced disappearance became a public concern. At that time, it was strongly suspected that 23 persons became victims of enforced disappearance due to their political activities. Out of that number, nine persons returned, one was found dead, and thirteen others are still missing. This number is not proportionate to the number of disappeared persons in Latin America, but still, the incident can be regarded as a trigger for political reforms in Indonesia.

The enforced disappearance of pro-democracy activists in 1997-1998 is one of the human rights violations accompanying the birth of the 1998 Reformation era. Although enforced disappearances started to occur and become a public concern during those 1997-1998 events, these happened in several human rights incidents from the time of Soeharto and in Indonesia's New Order regime which ruled for 32 years until the years after the Reformation started. It began with



Impunity at large. Eyang Lestari is one of the few women survivors of the 1965 Massacre in Indonesia . PHOTO: AFAD

the massacre in Tanjung Priok in 1984 followed by the massacre in Talangsari Lampung in 1989, the military operations in Aceh from 1989 to 1998, the kidnapping of Aristoteles Masoka, and the important witness of the murder of Theys H Eluay on 10 November 2000 in Papua, during a military operation.

Up to the present, the potential victims of enforced disappearances are regular civilians who try to speak the truth and oppose authoritarian regime. In addition, the terrorism issue has been handled with several policy-making activities in the Indonesian House of Representatives that is about to enact a bill on intelligence and national security as a secret law of the state. All these pieces of legislation potentially authorize enforced disappearances.<sup>1</sup> The criminal law in Indonesia, unfortunately, has yet to address enforced disappearances as a criminal offense. Even if the Criminal Code embodies clauses on "kidnapping," the clauses only describe an act or crime that occurs between individuals/inter-individual and does not include any element of "state/authority" in it, which is certainly different from the definition of enforced disappearance provided for in the International Convention for the Protection of All Persons from Enforced Disappearance. This matter has become

<sup>1</sup> On 23 May 2011, KontraS sent a letter to the UN Working Group on Enforced or Involuntary Disappearances (UN WGEID). In that letter, KontraS explained the matter on the Bill of Intelligence and its negative damage to human rights especially enforced disappearances.

an obstacle to the resolution of cases of enforced disappearance as well as to bringing perpetrators to justice.

**“The absence of a punishment mechanism against the perpetrators allegedly involved in cases of enforced disappearance is a major issue. The perpetrators surfaced as politicians establishing political parties and running for President and Vice President in the elections of 2009. This situation indicates that the crime of enforced disappearance is likely to continue in the future.”**

**Looking back at cases of enforced disappearances...**

On 30 September 2006, the Indonesian Human Rights Commission (hereinafter termed as *Komnas HAM*) issued its inquiry report. This investigation was carried out due to the pressure of the victims, their families and various civil society organizations accompanied the families of the disappeared. The recommendations of *Komnas HAM* include:

1. Recommending to the Attorney General to follow up the *Komnas HAM* report through a thorough investigation into the cases of enforced disappearances during the period 1997-1998, which consist of occurrences before the enactment of the Indonesian Law No. 26 of 2000 concerning the human rights court and on-going crimes;
2. Delivering the report to the Indonesian House of Representatives and the President to accelerate the process of establishing the human rights court dealing with cases of enforced disappearances in the period 1997-1998 which occurred before the enactment of Indonesian Law No. 26 of 2000 in the human rights court - this refers to justice for the victims who have been returned;
3. Seeking compensation, restitution and rehabilitation for the victims and families of victims of enforced disappearances in the period 1997-1998.

In addition, this *Komnas HAM* report also indicated the involvement of former President Soeharto who gave commands to the former Lieutenant General Prabowo Subianto to perpetrate several acts of abduction. Meanwhile, the disappearance of thirteen victims believed to be still alive involves the state and is considered a continuing crime.

New progress of advocating the case of enforced disappearances yielded good results when, at the end of its term, the Special Committee of the Indonesian House of Representatives or *Pansus* issued four recommendations to the government and to President Susilo Bambang Yudhoyono regarding cases of enforced disappearances during the period 1997-1998. These recommendations were formally submitted to the President on 30 September 2009. Interestingly, the recommendations urge the government to immediately ratify the International Convention for the Protection of All Persons from Enforced Disappearance. The three other recommendations urge the President to immediately issue the Presidential Decree on the establishment of the *Ad Hoc* Human Rights Court; conduct a search for the thirteen persons who are still missing; and to provide compensation and rehabilitation to the families of the disappeared. The insistence for the ratification of the Convention in these recommendations is proposed as a form of commitment from the Indonesian government to stop the practice of enforced disappearances in Indonesia.

**“On 16 February 2010, the families of human rights violations met with the President Yudhoyono. On that occasion, the families along with KontraS and IKOHI proposed the draft of the President’s Policy on Justice for the victims of gross human rights violations, including a follow up of the four recommendations of The Parliament on cases of enforced disappearances. President Yudhoyono promised to the families to act on the recommendation and coordinate with his ministries, presidential expert staff and the presidential advisory council.”**

Thereafter, there were positive signs from the government starting with the signature of the anti-disappearance Convention by the Indonesian Ministry of Foreign Affairs, represented by Marty Natalegawa at the UN Headquarters, New York, United States on 27 September 2010. Another step forward was the issuance of Presidential Decree No.23/2011 on the National Action Plan on Human Rights (RAN HAM) for the period 2011-2014, stating that Indonesia would ratify some international conventions including the International Convention for the Protection of All Persons from Enforced Disappearance.

In addition, President Yudhoyono has assigned the Coordinator Ministry of Politics, Law and Security to establish the Small Team in order to seek the best way to

solve the gross human rights violations and conflicts regarding natural resources.

However, these developments have yet to show implementable measures from the Indonesian government and President Yudhoyono, and are even perceived as stagnant. The year 2012 has not resulted in any action at all. The small team led by the Coordinator Ministry of Politics, Law and Security could not show any ability in drafting a relevant program for the settlement of gross human rights violations.

In fact, the National Action Plan on Human Rights 2011-2014, which mentioned the ratification of the Convention, gave no indication that the government would endorse it. A sense of restlessness continues to grow regarding this matter as actually perceived by the victims' families of the disappeared and some civil society organizations, since this matter on ratification has not been included in the National Legislation Program of 2011.

This accumulation of disappointments of the victims' families and civil society organizations was finally expressed in the report to the Ombudsman of the Republic Indonesia. As a result, the Ombudsman of the Republic of Indonesia issued two official clarification letters to President Yudhoyono. The first letter was filed on 15 May 2012 and the second on 6 August 2012. These letters stated that President Yudhoyono and his government have caused undue delay in the completion of cases of enforced disappearances of 1997-1998. Quotes from the letters state that this undue delay of services is an act of bad administration and is contrary to the principles of good governance.

### *The Condition of the Families of the Disappeared*

The families of the disappeared who are still waiting for President Yudhoyono to follow up the Parliament's recommendations, apparently still need to continue struggling. It has been more than three years



**CLOCKWISE:** (1) Coinciding with the commemoration of the 13 years of the disappearance of 13 activists from 1997-1998, the so-called G-13 or the 13 movement holds a rally in 2012 in front of the Presidential Palace demanding President Susilo Bambang Yudhoyono and the Indonesian government to follow up on the fourth recommendation of the Parliament to resolve the cases of the disappearance of the 13 activists. (2) Longingness for a father is vividly expressed as Fajar Merah, son of the disappeared poet activist Widji Widodo, poses with his father's photo. (3) In 2011, members and staff of KontraS and IKOHI visit Mami Koto in her house. (4) One of the fondest memories of student activist Petrus Bima Anugerah, Bimo or Bimpet to people close to him, prior to his disappearance in 1998 is his performance with his band, 'Lontar' in Malioboro, Yogyakarta.

**PHOTO: IKOHI/KontraS**

since the issuance of the Parliament recommendations; President Yudhoyono still has not shown his commitment in solving the cases. The government delays its responsibility to provide the right to know the truth, justice and reparation for the victims and families of the disappeared.

This long wait is seriously affecting the physical and psychological condition of the families. The impact is especially affecting their daily lives - their ability to earn a living and to function effectively in their social environment. Currently, the families are in a seriously difficult economic condition. Problems of higher costs of education and medical services make it difficult for them to escape from a situation of being in perpetual debt. Other matters include administrative issues related to the status of their family members who remain disappeared.

Stress, depression and psychological pressure characterize the lives of the victims' families. These can lead to psychosomatic illnesses. Physical pain caused by the psychological pressure has also occurred, manifested in such conditions as heart disease, hypertension, stroke, diabetes as experienced by Dyah Sujiraho or Mba Sipon, Mr. and Mrs. Utomo, Mrs. Paian Siahaan, and Mrs. Nurhasanah. The terrible impact can be seen in the deaths of the father of disappeared, Herman Hendrawan; the father of disappeared, Yadin Muhidin; the father of disappeared, Noval Alkatiri and the mother of disappeared, Yani Afrie. All these occurred due to the

heavy burden they bore when they were still alive.

The late Tuti Koto, fondly called as Mami, mother of disappeared, Yani Afrie could not afford to renovate her house, which nearly collapsed in 2010. A number of civil society organizations asked for help for the renovation of Mami's house. The calls of support were responded generously and some funds were collected to defray half of the cost of the house renovation.

However, Mami's physical health declined in 2012. Mami received medical assessment from the Witnesses and Victims' Protection Agency. But her condition worsened. Initially, she complained that she could not walk because she felt that her feet were paralyzed.

Finally, the acute pain caused Mami to breathe her last in the early morning after she celebrated her 76<sup>th</sup> birthday on 5 November 2012. She passed away without knowing the whereabouts of her beloved son, Yani Afrie.

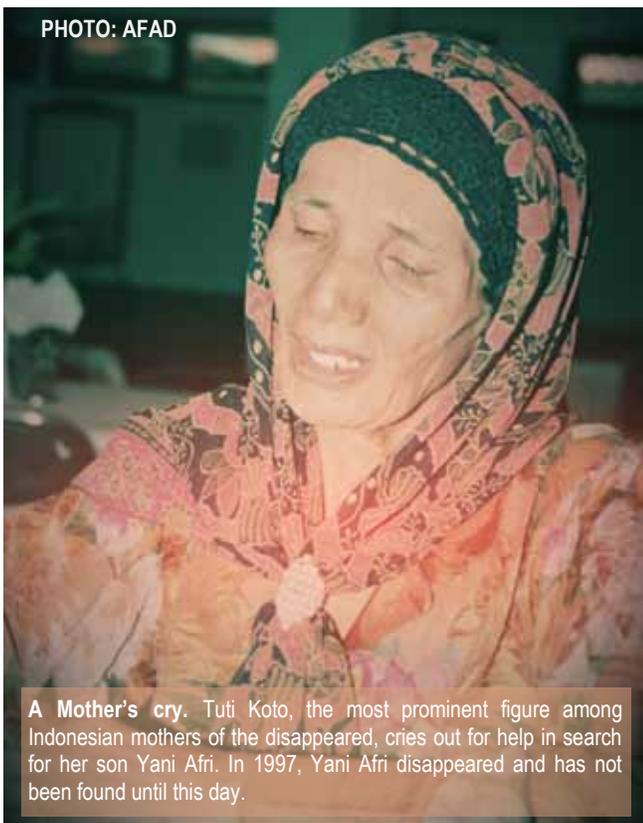
Mrs. Nurhasanah, mother of disappeared, Yadin Muhidin, complained in late 2012 that she could not walk far and could not even stand up for a long time. She was even unable to remember many things and often did things unconsciously due to her declining condition. Previously, she had been selling bread in front of her house. However, due to her conditions, she had to stop selling. She only depends on her two daughters to feed her.

Mrs. Paian Siahaan, mother of disappeared, Ucok Munandar Siahaan, has endured declining health since the time her son disappeared three years ago. She felt ill and paralyzed. Currently, she only lies in bed. Mr. Paian Siahaan's husband had to retire early from his job at Bank Exim and thus, focus on caring for his wife and his household.

Mba Sipon, wife of Wiji Widodo, more known as Wiji Thukul, lost the opportunity to avail of micro finance through the Bank loan services because of the unclear status of her disappeared husband. The credit application to the Bank was rejected because it failed to indicate the official status of her husband. Mba Sipon is now in a semi-conscious state.

Besides the changes-stagnation-developments of the cases of enforced disappearances circulating among state agencies, on 3 September 2011, *Komnas HAM* issued an official letter about the status of victims of enforced disappearances, which stated:

1. That the true, [the victim's name, place – date of birth]



is the victim of enforced disappearance during 1997-1998 based on a pro-justice investigation of the National Commission on Human Rights;

2. That all the government institutions who have responsibilities for this case, have to immediately conduct a search for the victims and ensure due legal process be made against the perpetrators.

*Komnas HAM* presented this status due to pressure from victims, victims' families, KontraS and IKOHI as a way to find solutions and achieve a breakthrough towards the fulfilment of victims' rights.

### **Last opportunity**

A civilized country — a country that claims to: be democratic; uphold the rule of law; and, protect human rights should know how to confront its past. Its denial and rejection of efforts to achieve justice is not only a serious violation of the Constitution. It is an irony amidst Indonesia's seeking for recognition as a democratic country.

Within the concept of human rights, state recognition of cases of gross human rights violations is one of the most important obligations. This can be done by respecting the rule of law and by explicitly stating those events as crimes.

From 2005 up to the present, President Yudhoyono and his government have only verbally recognized human rights violations without any concrete action. The president's term will end in 2014. Yes, there is still some opportunity for him to carve his name in history by bringing Indonesia out of the pit of its dark past.

What can we do? The will of the President and his impartiality in handling and solving cases of gross human rights violations are enough. He hopefully will take responsible political actions, show assertiveness and improve the work performance of his ministries and other state agencies and be able to create the current rapid progress in the settlement of cases of gross human rights violations such as enforced disappearances. It is also very important that the anti-disappearance Convention be ratified without further delay.

The expectations of disappeared victims' families have neither changed nor decreased through these last 14 long years. They still expect state recognition of the



She was never alone. Mami Koto's fight is not solely hers. With her in this photo is Tatty Almeida, a mother of a disappeared in Argentina and also a member of the prominent Latin American group of mothers, *Madres de Plaza de Mayo*. Along with other *madres*, Tatty Almeida visited Jakarta in 2008.

enforced disappearances as a crime and a clarification of the status and whereabouts of those who were made to disappear.

In general, the expectation of the Indonesian people is that the practice of enforced disappearances in Indonesia will no longer exist. There should be no more disappeared people like those pro-democracy activists in 1997-1998. There should no longer be another Wildan Saputra.

This year is decisive for President Yudhoyono to prove that the Indonesian Government is worthy of being called a democratic country that recognizes the rights of all persons not to be subjected to enforced disappearance.



*David Fau is the Documentation and Research Staff of AFAD for Indonesia. He is based in KontraS and IKOHI. Previously, he served as volunteer in Monitoring and Documentation Bureau of KontraS. He studied English literature in the Christian University of Indonesia. Aside from being an active human rights defender, he is also a mountaineer.*

# Enforced Disappearances Are a Reality, The Immediate Adoption of the Convention is a Necessity

By Alice Vrinat\*



Bedjo Untung Suwignyo during the 15th anniversary of KontraS.

**O**n the occasion of the International Week of the Disappeared, 27 May–2 June 2012, various activities were organized all over the world by families of the disappeared and human rights activists to remember and act on the fate of the disappeared. Initially implemented by the Latin American Federation of Associations of Relatives of Disappeared-Detainees (FEDEFAM) more than three decades ago, it is now an international event that gives the opportunity to call on non-States parties to accede to the International Convention for the Protection of All Persons from Enforced Disappearance (Convention). In Indonesia, lobbying and campaigning actions took place in Jakarta, including a national conference, discussions with Government officials, and an experts' and victims' meeting, during which Bedjo Untung Suwignyo, Chairperson of the Indonesian Institute for the Study of 1965-1966 Massacres, shared his view of the Indonesian case.

Enforced disappearances are often a component of the repression of political opposition and the media's common expression of authoritarian regimes. In Indonesia, by late 1965, the army was divided between a left-wing faction allied with the Indonesian Communist Party (PKI) and its 20 million members, and a right-wing faction that was being courted by the United States of

America.

Military units loyal to Suharto led a campaign to purge Indonesian society, government and armed forces of the communist party and leftist organizations, helped by gangs of orthodox Muslims. The purge quickly spread from Jakarta to the rest of the country.

In six months, one to three million people died. Hundreds of thousands were imprisoned, among them, Bedjo Untung Suwignyo.

Bedjo Untung Suwignyo's father was a member of a teachers' association, which was considered a leftist association. Consequently, Bedjo had to run away in 1965, but was captured in 1970. He was exiled, detained and tortured without any legal process, as were all victims of the 1965-1966 massacres. After nine years of detention, he was released.

The UN Working Group on Enforced or Involuntary Disappearances (UNWGEID), in its 2010 Annual Report, attests to the fact that enforced disappearance is a major human rights concern in 83 countries. Asia, which does not have strong regional mechanisms for redress and no domestic laws penalizing disappearances as a separate and autonomous criminal offense, is the continent with the highest number of cases reported.

One concrete measure to stop enforced disappearances is for all governments to sign and ratify the International Convention for the Protection of All Persons from Enforced Disappearance. This Convention, which provides for the right to truth and the right not to be subjected to enforced disappearance, was adopted in 2006 by the United Nations General Assembly and entered into force on 23 December 2010. To date, this international human rights instrument has 91 signatories and 38 States Parties. It is equally important for States to penalize enforced disappearance in their statute books as mandated by the Convention. Only three States in the region, i.e., Japan, Kazakhstan and Iraq, are parties to the Convention.

YPKP 65 (Yayasan Penelitian Korban Pembunuhan 1965-1966 - Indonesian Institute for the Study of 1965-1966 Massacre) was founded on 7 April 1999 by human rights activists including a famous novelist Pramoedya Ananta Toer. Most of the founders are former political detainees who have been exiled to Buru Island and detained in Java for nine to 14 years without legal process.

YPKP 65 conducts investigations, records the victims' testimonies, identifies mass graves, collects true stories and testimonies of the victims as well as looks for the disappeared. The institution has 150 branches or networks throughout Indonesia to make it work effectively.

Meanwhile, the perpetrators (military agents) continue terrorizing and intimidating the work of the Institute. For nearly 32 years, the military regime kept the massacre a secret, even modifying history which could be transmitted to students.

When asked about the strength of the movement, Bedjo answered that the main motivation of the struggle is the fact that the members have relatives who are still missing. Thus, the fight against enforced disappearances is crucial because it can lead to the relief of knowing the whereabouts of their loved ones.

One of the difficulties for Bedjo is the lack of political will from the Indonesian government to act on enforced disappearances. He reckoned that the worst difficulty is the denial of what happened, especially regarding the 1965 massacre. Since the perpetrators are still in authority, no investigation is undertaken to address this human tragedy comprehensively. He says that the military institution is afraid of the truth and is hindering the process, for instance, regarding exhumations.

Another important weakness is the age of most survivors and victims. It is crucial to have a detailed report on the victims of enforced disappearances in Indonesia and to ratify the Convention before the survivors die, Bedjo reflected.

Bedjo strongly stressed the need for the government to acknowledge the 1965-1966 victims (disappeared and families) as the victims of gross violations against humanity for which the military branch is responsible. He also emphasized the necessity to have an efficient protection system for victims and witnesses, for their health, and against discrimination, harassments and life threats.

Even though the movement needs international NGOs, Bedjo is firmly convinced that victims have to struggle by themselves. That is why he advocates for better empowerment of victims, who know their needs. In order to achieve this goal, all concerned organizations should focus on better cooperation.

Bedjo said that we have to strengthen our network, and work together with the same vision and mission for documentation on enforced disappearances and for the ratification of the Convention by the Indonesian government.

Marek Marczynski, then Manager of the International Justice team within Amnesty International took the opportunity of this international event to stress the hope that the struggle must keep on having, and on the positive outcomes it will celebrate. States are joining the Convention months after months, Thailand signed in January, Colombia ratified in July, as well as Costa Rica in February, Bosnia in March and Austria in June. Even though incomplete, these steps are in the right direction for justice, truth and reparation.

For the victims of enforced disappearances and the *desaparecidos* themselves, we have to keep fighting for the adoption and full implementation of the Convention.



*Alice Vrinat is a former intern of AFAD from France. She is a graduate of International Relations and has been exposed to different human rights issues and international organizations in Europe.*

The Indonesian government signed the International Convention for the Protection of All Persons from Enforced Disappearance in 2010, but has not ratified it yet. The ratification will lead to the implementation of the Convention, and is therefore more than important for the survivors of these massacres.

In this struggle against impunity, one crucial actor is the civil society, composed of IKOHI, KontraS, and also Amnesty International and AFAD, focal point of the International Coalition Against Enforced Disappearances (ICAED), with the support of Special Procedures from the United Nations and the Indonesian Institute for the Study of 1965-1966 Massacre.



# INDIA: Claimant of World's Largest Democracy

is **UNCONCERNED** about  
**Enforced Disappearances in Kashmir...**

by Parvaiz Mata\*

Throughout the whole of Asia, most States have taken at least some measures to investigate the phenomenon of enforced or involuntary disappearances but the Indian state, claiming to be the largest democracy in the world, has been absolutely indifferent towards this issue. In Indian-administered Jammu and Kashmir, more than 8,000 people have been subjected to enforced or involuntary disappearance and not a single case has been investigated. In Jammu and Kashmir, the government of India has failed to initiate any serious investigations into the crimes perpetrated by the military and paramilitary forces since the inception of armed conflict in 1989. To date, from the last more than two decades, not a single perpetrator has been brought to justice. The victims continue to be denied their fundamental right to truth, justice and reparation. Neither the government nor the main political parties has been serious in fulfilling their

*“There may be times when we are powerless to prevent injustice, but there must never be a time when we fail to protest.”*

*— Elie Wiesel*

commitments. The victims of human rights violations in Jammu and Kashmir continue to look to the global community to express its concern about the lack of progress in the process of investigation into cases of disappearances and mass graves in Jammu and Kashmir.

Hitherto, there has been a complete silence on the part of the government after the release of “Alleged Perpetrators, Stories of impunity in Jammu and Kashmir,” a well-documented and detailed report jointly prepared by the Association of Parents of Disappeared Persons (APDP) and the International Peoples’ Tribunal for Justice and Human Rights in Indian Administered Kashmir (IPTK). The government and its agencies are finding it difficult to label the report as propaganda or biased.

The report, prepared over two years, using information gleaned mostly from official State documents in addition to witnesses’ testimonies,



**END NOW.** APDP Members hold a monthly sit-in to call for an end to enforced disappearance in India. **PHOTO:APDP**

in cases available with IPTK/APDP, portrays the state of impunity prevalent in Jammu and Kashmir. Where identities of individual perpetrators of crimes are known, it seeks a process of accountability for institutional criminality. The State documents used range from police records, judicial and quasi-judicial records and government documents. IPTK/APDP, using the Right to Information legislation, sought information on First Information Reports, Jammu and Kashmir High Court petition numbers and others.

In the report, out of 214 cases, 75 were of enforced disappearances. Cases presented in this report reveal that there is a policy not to genuinely investigate or prosecute the armed forces for human rights violations. There is an occasional willingness to order compensatory relief, but not to bring the perpetrators to justice. On the contrary, alleged perpetrators of crimes are awarded, rewarded and promoted by the State.

The role of the judiciary in a conflict zone is a vital and the only hope available for ensuring justice. It must serve as an effective check on the executive. It must be vigilant in ensuring that human rights of individuals are not violated. Despite the occasional passing of strong orders, this report contains numerous examples of the High Court effectively condoning the continuation of violations. The general experience in Jammu and Kashmir has been that judicial and quasi-judicial authorities, such as the State Human Rights Commission [SHRC], have allowed themselves to be overwhelmed by the power and will of the executive, thereby rendering themselves subservient to the State. The impunity fostered by the judicial processes has been compounded by the existence of draconian laws such as the Armed Forces (Jammu and Kashmir) Special Powers Act, 1990 [AFSPA].

The way the state and its organs, including judiciary, is acting in Jammu and Kashmir while dealing with cases of human rights violations, particularly issues of enforced disappearances only implies its non-seriousness. The state does everything in masking the culprits and sustaining the lies. Pertinently, in the year 2010, people in the hundreds and thousands took to the streets to protest the Machil Fake Encounter expose' in which three young Kashmiri boys were first disappeared, later executed in a fake encounter and subsequently passed on as militants. Despite the months-long protests, which claimed over 100 lives and injuries to hundreds, such actions could not move the government. The government sticks to its policy of delay and denial.

The Jammu and Kashmir government, in response to a Right of Information application regarding unmarked graves in all the districts of Jammu and Kashmir, while initially rejecting the information as a "threat to sovereignty and integrity of India and also a threat to security and peace," denied the information. But then later, after the decision was challenged, the Police on 13<sup>th</sup> March 2012, issued Order No: PHQ/RTI-4/2012/76-77, the First Appellate authority of the Police Headquarters conceded to our arguments, shared 2683 FIRs numbers pertaining to 3 districts of North Kashmir.

According to Jammu and Kashmir Police, these 2683 FIRs are pertaining to those persons who, after their killing, continue to be unidentified and were buried in unmarked graves. So far, the police have not revealed the details about other districts and also have not revealed how many unidentified persons are buried in unmarked graves and have been registered in these 2683 FIRs.

On 13 August 2012, the Jammu and Kashmir government submitted the Action Taken Report to the SHRC, wherein it mentioned that the government would not carry out any DNA investigations of the unmarked and mass graves, as according to them, it would be an 'academic exercise in futility,' which has the 'potential of hurting the local sentiments' and could 'become the trigger for serious law and order disturbances.' Worthwhile to mention here is the fact that in 2011, after endorsing the findings of the Association of Parents of Disappeared Persons (APDP) regarding the presence of unmarked graves and mass graves in north Kashmir, SHRC asked the Government of Jammu and Kashmir to carry out DNA tests and investigations into the unmarked and mass graves of North Kashmir.

The Action Taken Report submitted by the government to the SHRC, states that while keeping the option available for the families of enforced disappearance

to carry out DNA tests, the government has laid out the procedure for the families to approach the Superintendent of Police of Human Rights Cell of Criminal Investigation Department [CID], who has been made the nodal officer for the DNA tests. The family members of the disappeared have been asked to identify the graveyard and the particular grave in which they suspect that their loved ones have been buried, and only then, the nodal officer would proceed with getting the DNA tests of the specific grave to be matched with the family claiming that to be their relative. It is an unfortunate statement by the government. How would the family members of the disappeared know whether their relatives are dead or alive and if they are dead, where they have been buried?



**Reaffirming the Struggle.** Families of the disappeared in Kashmir conduct a silent protest against enforced disappearance. PHOTO:APDP

In many Asian countries where enforced disappearances remain a phenomenon, the respective governments have constituted Commissions, adopted legislation to look into the cases of enforced disappearances. In the Philippines, the government passed the landmark Anti-Enforced or Involuntary Disappearance Act of 2012 in December of the same year, making it the first country in Asia to criminalize the practice of enforced or involuntary disappearances. Such an Act clearly demonstrates the political will of the Philippines and its people to prevent and dispel the appalling issue of enforced disappearances. In Indonesia, the House of Representatives, in September 2009, adopted the recommendation made by National Human

Rights Commission in order to investigate and try those responsible for abduction and enforced disappearances.

In Sri Lanka, where the enforced disappearances are as high as 60,000, four Presidential Commissions were appointed to investigate the crime. In neighboring Nepal, the Supreme Court ordered the government, in 2007, to: make known the whereabouts of disappeared persons; respond to *habeas corpus* writ petitions; to establish a high-level commission of inquiry on disappearances, and, enact a law which will criminalize enforced disappearances and provide compensation to the families of the disappeared. In addition to the Supreme Court's

active role, there have been many regular written peace agreements regarding enforced disappearances which deliberated on the issue of enforced disappearance and justice to the victims. Even in Pakistan, a state said to be ruled by dictators, the United Nations Working Group on Enforced or Involuntary Disappearances (UN WGEID) was allowed to visit the state and the judiciary which have responded positively in order to deal with cases of enforced disappearances.

Unlike other countries, the government of India is completely silent on the heinous crime of enforced disappearances. Though the Indian state has signed the UN Convention for the Protection of All Persons from

Enforced Disappearance, it has always shyed away from ratifying it. India is the only country which has always denied a mechanism's entry to the UN to investigate the phenomenon of disappearances, particularly in Jammu and Kashmir. The state is not holding any investigation so as to establish the fate of the *desaparecidos*. Therefore, the inordinate claim of democracy by the Indian state is under question. Not a single case has been granted by the Indian state to prosecute its troopers involved in violating human rights in Jammu and Kashmir. The Armed Forces (Special Powers) Act granting immunity to the Indian troopers and denying accountability is in full force in the state of Jammu and Kashmir. In ostensible perspective, the forced disappearances or extrajudicial killings attack the very foundations of judicial power. Its entire authority is cast into doubt. When the state can detain and kill people without reference to due process, the judiciary becomes irrelevant and defunct.

As a way forward, the government should impartially investigate all disappearance cases and must make progress in delivering justice, truth and reparation for past human rights violations, particularly to the victims of enforced disappearance, who have been suffering endlessly for decades in the wish for a return of their loved ones.



PHOTO:APDP



*\*Parvaiz Mata, a Human Rights Researcher from Jammu and Kashmir, believes that words are the most powerful weapon to seek for truth and justice and change for the better. He is not a writer by profession but his experiences inspired him to share his ability. Whenever he writes, he feels that he lends his hand to support the needy.*

## UNTANGLING THE BLOCKS AND FINDING A WAY OUT OF THE GRIDLOCK

*By Rabindra Gautam*



Victims of conflict in Bardia District rally to exert pressure to the local authorities to become sincere about their demand for justice. PHOTO: AF

In light of decade-long armed conflict and its corollary, there is an obligation under international and domestic law to immediately address impunity for marking the cornerstone of a successful transition to a democratic Nepal. Continuing impunity is the central issue that has been blocking the transitional justice from being consolidated.

Along with the merger of two bills of transitional justice (TJ) mechanisms into one, the anticlimax has been harbingered in Nepalese politics and that has superseded the creed of commitments expressed by the Government of Nepal for respecting and promoting human rights. Despite the palpable provisions to establish two separate commissions as set up in the Comprehensive Peace Accord (CPA), Interim Constitution and the decisions of the Supreme Court, the latest pronouncement to establish a 'Commission on Investigation of Disappeared Persons, Truth and Reconciliation' by way of an ordinance has served to increase fervor towards endeavors in establishing accountability for human rights abuses



committed during the decade of violent conflict. And, the move of the (U) CPN-Maoist led caretaker-government (as pronounced by the President of Nepal) has made commendable progress envisioned in the bills of Truth and Reconciliation Commission (TRC) and the Commission of Inquiry on Disappeared Persons (COID) merger after the dissolution of the constituent assembly. Also, the recent appointment of incumbent Chief Justice Khil Raj Regmi to the Prime Minister (the Chairperson of Council of Ministers) has even devastated the hope of justice for which the conflict victims have been struggling to hold on to. As confidence had already been established for the setting up of two different commissions to address the past abuses during the conflict period among the political parties and by the specifications of different documents concerned, the hues and cries have to be executed promptly to make the government attentive. Critically, the latest version of the ordinance, as endorsed by the President in March 2013, has made a charade of efforts carried out in materializing transitional justice in Nepal. It does not bring into being any way out of the situation.

Though the universal credence in setting up Truth and Justice mechanisms rests on addressing past human rights abuses and redress for those who suffered, the recent ordinance in Nepal, which was endorsed by the President, has many exceptions and has dragged the notion of justice into an interminable waiting. And the ordinance, similar to its three antecedents, (in 2008, 2009 and 2012), has already spurred an outcry for its failure to assimilate the minimum international standards, which is considered mandatory in the formation of such

commissions. As it has carried amnesty provisions and forced reconciliation as its dictum, the thousands of conflict victims, including families of disappeared have suffered a serious insult. And this process has further caused significant human rights violations to take place. So, the sufferings of victims and their families have continued and remain largely unacknowledged by the state.

It has been established from various reports, including that of UN-Office of the High Commissioner on Human Rights, that there were gross human rights violations which occurred during the conflict in Nepal, which cannot or should not be, in any ways, immunized from prosecution. And the crimes which occurred are attributed to international crimes referring to crimes against humanity, war crimes, torture, extrajudicial killings, enforced disappearances and rape. Nepal, as a State Party to the International Covenant on Civil and Political Rights (ICCPR) and the Convention Against Torture (CAT) and several other conventions and treaties, obliges government to remedy these violations at any cost. If not, then, the Universal Jurisdiction might be invoked and applied, as in the case of incumbent Nepal Army Colonel Kumar Lama, who was recently arrested in the UK for inflicting torture on two civilians during the conflict period.

Nevertheless, the long awaited hope of obtaining justice has been a sheer mirage, where the instinct to hope is seen as being reversed, as the (U) CPN-Maoist-led government submits an ordinance to the President and later on endorsed, with limited objectives which is disconcerting in that its primary objective is to reconcile victims with perpetrators, regardless of the prosecution of the perpetrators even in cases of gross human rights violations. Since the commission would be formed to grant amnesty to

perpetrators, the provision of prosecution is diplomatically used in the ordinance so that political intervention can be executed in deciding cases in which one would wonder whether there would be any prosecution. As the Chief Justice-led government was formed under political influence, so, one cannot avoid serious doubts in consulting the political parties in the nomination of the commissioners, which very blatantly permits political intervention. And accordingly, the commissioners may be under the belief/influence of political ideology. And so this commission will meet the same fate as the existing National Human Rights Commission, whose recommendations are not considered seriously, let alone the implementation.

The principle of reconciliation as the ordinance intends to implement poses a difficult situation for the victims and thereby, makes the perpetrators feel glorified in subordinating the victims. In this way, the process grants amnesty to large numbers implicated in human rights abuses, regardless of gross human rights violations. And the pact of pardon in the name of truth excludes the prosecutorial measures.



**FROM TOP:**

- (1) Mr. Janak Raut, AFAD Council Member from Nepal, moderates the joint program on impunity conducted by CVSJ, AF and others.
- (2) AF Director leads a protest made by representatives of human rights communities against Nepalese government's currently introduced ordinance for TJ mechanism with provision to grant amnesty.
- (3) Mandira Sharma, Founder of AF and AFAD Executive Council Member, speaks during a program about the issues of human rights, ratifying international convention against enforced disappearances, and promulgating the new constitution.

PHOTO: Rabindra Gautam

Similarly, a sharp and obtrusive gap in Nepal's legislation is the failure to criminalize the practice of torture and enforced disappearances. And so, the ordinance does not take the gravity of the crime of disappearance into consideration. In this light, the criminals implicated in the acts of forcible disappearances committed during the conflict would be immunized from prosecution.

But both parties to the conflict have made clear and repeated commitments to address and clarify disappearances allegedly committed by them to ensure justice for victims and their families. The CPA and the Interim Constitution of Nepal clearly indicate several responsibilities in relation to conflict-era violations, including the provision of relief to the families of the disappeared. As the interim constitution requires the state to effectively implement international treaties to which Nepal is a party, Nepal is constitutionally bound to take steps to ensure the right of the victims to an effective remedy as guaranteed under the ICCPR and the CAT. Furthermore, the Supreme Court of Nepal issued a benchmark decision on 1 June 2007 on the disappearance case of *Rajendra Dhakal Vs. Government of Nepal*



**Women at the forefront.** Purnimaya Lama, a wife of a disappeared, addressing the mass protest in Kathmandu against the pronouncement of Ordinance by the Government of Nepal in 2012. PHOTO: Rabindra Gautam

and the decree requires the state to immediately initiate legal action against those who appear to be perpetrators and to provide appropriate remedies to the victims. And the verdict clearly entreats the government to enact legislation that would prevent and criminalize enforced disappearances. The political parties have also agreed to have two commissions from the very beginning without any justification for the hasty merger of bills.

Despite these and other obligations, neither party to the conflict has honored its commitments and responsibilities in relation to alleged disappearance cases. Successive governments have continued to use laws which allow them to authorize the withdrawal of criminal cases pending in the courts, including serious crimes, and a constant refrain for the setting up of transitional justice mechanisms.

clearly point out that reconciliation cannot be imposed from outside and victims' pains and sufferings should be addressed while trying to find a path to truth and justice, the government has always been inclined to granting amnesty to perpetrators via various means like case withdrawals and executive pardons and has merely legitimized amnesty on the authority of reconciliation and peace. The recent attempt of an ordinance is proof of an enormous setback after years of effort from victims and human rights defenders to form independent and competent transitional justice mechanisms. It is far more restrictive in comparison to previous bills pending in the dissolved parliament. Those pending bills, even though requiring further amendments, were far more advanced than the latest proposals. So, at the backdrop of such a promising build-up is to reduce the ordinance to a sharp fiasco.

Contrary to international best practices, which

There have been acts of enforced

disappearances committed by both warring parties which were part of a broader prototype of widespread serious human rights and international humanitarian law violations that occurred nationwide during the conflict. While Nepal has not yet acceded to the International Convention for the Protection of All Persons from Enforced Disappearance (ICPAPED), it remains under obligation to desist from enforced disappearances by virtue of its ratification of the ICCPR. As Nepal has been a state party to several other conventions and treaties which provide a framework for related violations, there is no way out without making the whereabouts of those disappeared public and bringing the perpetrators to book.

As it is well-established that there has been a lack of will by governments of all political stripes to ensure accountability, urgent steps have to be taken towards ensuring the enactment of legislation to make these offenses criminal and punishable by appropriate penalties. Legislative reforms to prosecute the perpetrators and to redress the victims as well as to guarantee the non-repetition of crimes should be made, which have not advanced far enough to date.

The resistance to accountability and participation in public life of those accused of serious human rights violations are problems that are experienced in many transitional justice contexts. Accountability for abuses from the conflict period has real significance both for the sustainability of peace, and for the consolidation of democratic institutions and the rule of law in Nepal. And, six years later, much remains to be done to bring these important aspirations to fruition.

In this way, to work a way out of this stalemate, the present ordinance should be sent back to the government of Nepal to craft more advanced amendments so that the victims are privileged with justice and which can end impunity and thereby, establish the rule of law.



*Mr. Rabindra Gautam, a citizen of Chitwan, Nepal, has been working for the protection and promotion of human rights in Advocacy Forum-Nepal since 2008. He has acquired substantive experience in the chronic concern of enforced disappearances committed in Nepal. He has carried out more than six researches in the issues of human rights and rule of law. He has completed Masters Degree in English Literature in 2007. He is also a University Lecturer (Tribhuvan University) in English Literature.*

# Prayer for Divine Help for Jonas and all the Disappeared



By Edita Burgos\*

Heavenly Father, I come before You to pray for  
Jonas and all the disappeared,

Graciously rescue them from their captors.

Come quickly, my Lord, to help them.

Confound and put to shame those who seek their lives.

Protect Jonas and the others from further harm.

And if they are ailing and in pain, let a drop of Your  
Precious Blood heal them.

Send forth Your Holy Spirit to renew the hearts of those  
who hold them that they would be filled with  
compassion.

Lord, You are kind and most loving to all who call on  
You.

Hear my prayer and listen to my cry for help.

You are a merciful and gracious God.

Have pity on Jonas and other victims of enforced  
disappearances.

Give Your strength to our loved ones,

Through the intercession of our Mother, save Jonas and  
all the victims, for they are your children.

Bring them home safely to us, we plead.

You alone are great. You alone do wondrous deeds.

You alone are God.

Amen.



*Mrs. Edita Burgos is the mother of disappeared Filipino activist Jonas Burgos. She is one of the icons of mothers of the disappeared in the Philippines. A monologue on her life titled "Mrs. B.," was produced to depict her struggle to find her son and many other desaparecidos.*

# NKHR holds strategy seminar on abductee issues at Handong Law School



NKHR submitted ten cases of abductions to the United Nations Working Group on Enforced or Involuntary Disappearances (UN WGEID) in 2012. I was in charge of this relatively new undertaking by NKHR, and I see that what seemed like a huge wave of work done over one year is actually just a small ripple in the large and stagnant abductions problem. That is because over 500 outstanding cases of post-war abductions remain to be brought to attention, and there is almost no sign of leadership from the South Korean government in working on this issue. It is clear that the abductions problem is not an undertaking for just one organization. Thus, NKHR's role is not only to appeal to the United Nations, but to engage other people -- activists, students, professors, lawyers, etc. -- to come together in this long overdue enterprise.

With this goal in mind, NKHR co-organized a seminar on abductions with Handong International Law School (HILS) in November 2012 in its

campus. We invited our friend Ms. Mary Aileen Bacalso, representative of both the International Coalition Against Enforced Disappearances (ICAED) and Asian Federation Against Involuntary Disappearances (AFAD). Based in the Philippines, Ms. Bacalso has been a domestic and international activist of the disappeared for many years. Her own husband was kidnapped by armed men from the Filipino military two months after their marriage. He was psychologically and physically tortured in detention center before the military was forced to return him.

We invited Ms. Bacalso to South Korea for several reasons: To present a case study of abductions in the Philippines; to share her expertise on the UN Convention for the Protection of All Persons from Enforced Disappearance (CED); and to brief us on her meeting with WGEID, during which she followed up on three cases NKHR submitted in 2012.



**TOP:** NKHR Board and Handong Law School faculty talk about future engagements on the issue of enforced disappearance.

**BOTTOM:** Students attentively listen to show their interest and dedication to human rights.

**PHOTO: AFAD**

In addition to Ms. Bacalso, participants of the seminar, entitled “Cases of Abductions in South Korea and Philippines: Domestic and International Resolution Strategies,” included NKHR board member, Professor Heo Man-ho of Kyungpook University; Professor Fred Ross of Handong International Law School (HILS); Professor David Mundy of HILS; researcher Inae Kim of the Korean War Abductees’ Family Union; and lastly, me. The event was moderated by HILS Professor and NKHR Board member Won Jae-chun.

The seminar took place in the law school’s mock courtroom during the last week of classes, and

the Handong professors warned us attendance would be low. We prepared for 30-40 people and were surprised when the courtroom started to slowly fill with more than 90 people. The NKHR team and Ms. Bacalso were so uplifted by the interest from the professors and the student body. Doing work on behalf of abduction victims can often be an unrewarding job -- progress is slow. It’s also a lonely job, because it’s difficult to make people understand why human rights violations from 40 or 50 years ago still need to be addressed. Our day at Handong was the first time that I felt that a community of people not personally related to South Korean abductee victims truly came together. It was an important lesson in remembering that if you insist on talking about something, people will start to listen.

Ms. Bacalso’s presence in South Korea added a great amount of energy to our overall discussions. Her experience of advocating for victims of abduction at the international level provided a bigger, broader perspective for approaching South Korean abductions. She told us that members of both ICAED and AFAD were not familiar at all with South Korean cases. She also told us that Asia submits the highest number of cases of enforced disappearances to WGEID, but that it lacks a strong regional legal instrument or procedural mechanism to protect, promote, and uphold human rights, unlike other continents like Europe or South America. In short, the NKHR team realized the need to work more aggressively domestically, regionally, and internationally to raise awareness of the widespread and systematic nature of North Korea’s abductions of South Korean citizens in the 1960s and 70s.



*\* Lilian Lee is the Program Officer of Citizens’ Alliance for North Korean Human Rights (NKHR), the newest member of AFAD.*

# Prospects of addressing impunity and enforced disappearance under a new President



by Sisto dos Santos\*

Under the Indonesian occupation, the people of Timor-Leste suffered tremendously at the hands of the brutal Indonesian military. The occupation may have ended in September 1999 but the suffering continues for many. Unknown to many, inside and outside Timor-Leste, hundreds of people remain disappeared and their whereabouts unknown. Families are still suffering, still waiting for their disappeared loved ones to return, waiting for justice. Time and time again, the government has raised the hopes of the people but still, the families continue to wait for justice.

## A history of brutality and hopes denied

Timor-Leste has a long history of struggle for independence. It was colonized for 450 years by Portugal, whose rule briefly disrupted with the invasion of the Japanese military in 1942 during World War II. Portugal continued to rule the country after the war until 1975 when its new democratic government encouraged independence.

On 28 November 1975, Timor-Leste, under the leadership of *Frente Revolucionaria de Timor Leste Independente* (Revolutionary Front of Independent East Timor or Fretilin) achieved its unilateral independence. Eleven days later, on 7 December 1975, Indonesian forces invaded the country. The occupation ended with the holding of a national referendum on 30 August 1999, where 75.8% of its people voted for independence from Indonesia.

In its last attempt to maintain its rule over the country, Indonesian military and para-military forces conducted a month-long massive military operation, following the results of the referendum where 2,000 people were murdered, hundreds of women and girls

raped, three-quarters of the population displaced, and 75 per cent of the country's infrastructure demolished (Radical Priorities, 72)<sup>1</sup>. There were as many as 4,000 children abducted and taken to Indonesia.

During the occupation period from 1975 until its brutal end in 1999, between 186,000 and 250,000 people were estimated to have been killed or disappeared and approximately 850 people remain disappeared. (Note: Government data estimate the deaths at 100,000-200,000 out of 800,000 Timorese population<sup>2</sup>. On the other hand, Amnesty International estimates that 200,000 East Timorese died from military action, starvation or disease from 1975-1999, out of a pre-invasion population of 600,000.)<sup>3</sup>.

In the aftermath of independence, the government established several mechanisms in a bid to understand and address the violations and suffering of the people. In 2002, the Commission for Reception, Truth and Reconciliation (CAVR – *Comissão de Acolhimento, Verdade e Reconciliação de Timor-Leste*) was created to uncover the truth. During its three years of operation, CAVR interviewed more than 10,000 people, including

<sup>1</sup> History of East Timor, retrieved from <http://easttimorgovernment.com/history.htm>

<sup>2</sup> Ibid.

<sup>3</sup> Amnesty International, "Indonesia: Power and Impunity: Human Rights under the New Order," 1 September 1994, ASA 21/017/1994, cited in "East Timor, Crimes Against Humanity Under the Indonesian Occupation, Center for Justice and Accountability," Retrieved from <http://www.cja.org/article.php?list=type&type=198>

victims, combatants and witnesses of the conflict and human rights abuses. This process created a strong expectation that justice will be achieved, i.e., perpetrators will be held accountable and victims' sufferings will be acknowledged and compensated. Hence, the victims demonstrated enthusiasm and enormous courage in sharing their stories with the public, regardless of whether the crime was big or small. Then in 2003, the UN Special Panel for Serious Crimes issued an indictment for ex-General Wiranto and hopes were high among the Timorese.

Shortly after, Indonesia established the almost-farcical *Ad Hoc* Human Rights Tribunal for Timor-Leste, which proved to be little more than a thinly veiled attempt by Indonesia to demonstrate to the international community that it was serious in addressing human rights violations. In 2005, the governments of Indonesia and Timor-Leste created the Commission of Truth and Friendship (CTF). The CTF, however, focused more on establishing good relations between the two countries rather than prioritizing accountability. In addition, its acknowledgment of the existing human rights violations did little as it failed to prosecute the perpetrators of such violations.

Although the final reports of both CAVR and CTF included recommendations relating to the need to gather information about the whereabouts of the disappeared, little has been done to implement these reports' recommendations as these were simply handed to the National Parliament. Victims pin their hopes on draft laws for the establishment of a Memorial Institute and a reparations system, which have been generally passed by Parliament but have not yet undergone the detailed article

-by-article consideration required before being passed.

### Victims continue to suffer...

Meanwhile, victims and their families continue to cry out for truth and justice. They want information about their family members who have disappeared but have not found even a trace of their kin. Often times, families struggle to meet their basic necessities. For many, each day is a new fight for survival, thus perpetuating their oppression and suffering.

Socially, they have lost an important connection with their loved ones which can make life empty. This affects their cultural identity because when Timorese people lose a person in their family, they lose a part of their social and cultural history. Yet, without confirmation of their loved ones' whereabouts, families are unable to say goodbye and participate in candlelight remembrance ceremonies which are an important part in the grieving process. Timorese people believe that this situation prevents the disappeared persons' spirit from moving on, leaving the victims' families in a kind of limbo with this shadow over their lives. Many are in despair that justice will ever be achieved.

### Hope for justice reinvigorated

Last year, the people once again exercised their right to participate in elections – both presidential and parliamentary. With the elections came renewed hope, particularly for the victims and their families, that finally there might be the possibility for an end to their long-standing pain and suffering. During his campaign for the presidency, Taur Matan Ruak often referred to the tears of the widows and orphans as his reason for running, saying he wanted to play his part in putting an end to their tears. And it was this connection with the people that led to his election as the fifth President of the Democratic Republic of Timor-Leste.

As the president, Taur Matan Ruak holds substantial power to push forward the legislative process to dignify the victims; this will not be an easy process. Politics and government machinery present considerable impediments to real progress. As a former veteran and head of the National Defence Force (FFDTL), he was willing to openly criticize the veterans' pension scheme that has been creating injustice and inequality in society, especially for the victims of past crimes who similarly sacrificed for the freedom of Timor-Leste. This is a positive sign. However, his criticism of the attitude of greed that the system has produced among veterans is a signal that in our advocacy, we must be clear that victims'



**Lighting the wick of courage.** The upright candles symbolize women's value of justice. Like these candles, the women illuminate and brighten dark places filled with injustices as they constantly stand together to unfold truth.

PHOTO: Sisto dos Santos



TOP On 10 June 2012, the families of victims of the 1980 Marabá Massacre, a place close to Dili, commemorate the day through a mass and solemn prayer.

BOTTOM The Association of Victims of Political Conflict (1974-1999) holds its 2<sup>nd</sup> National Congress in 26-27 October 2012 in Becora, Dili.

reparations are not just about money but about giving dignity to the victims and improving their situation. However, six months after his election, little tangible actions have been taken to change or improve the situation for victims and hope is again beginning to wane.

### What must be done

*Asosiasaun HAK (Hukum Hak Asasi dan Keadilan – Law, Rights and Justice)*, since 2001, has organized the victims of all past crimes. It has worked to support the victims, hold discussions with families of HAK, commemorate the various massacre days, take petitions to government, make statements, hold demonstrations, and make their voices heard. Aside from this, we have worked to identify the vulnerable victims, organize them with other partners, educate them, enhance their skills and establish means by which to sustain their lives through the selling of tais and other products, establishment of sewing groups and other such enterprises.

In 2009, together with the International Centre for Transitional Justice, we held a national congress of victims and from this we established the National

Association of Victims with sub-associations in every district of Timor-Leste. The purpose of this is to support victims in their advocacy efforts and help meet their everyday needs.

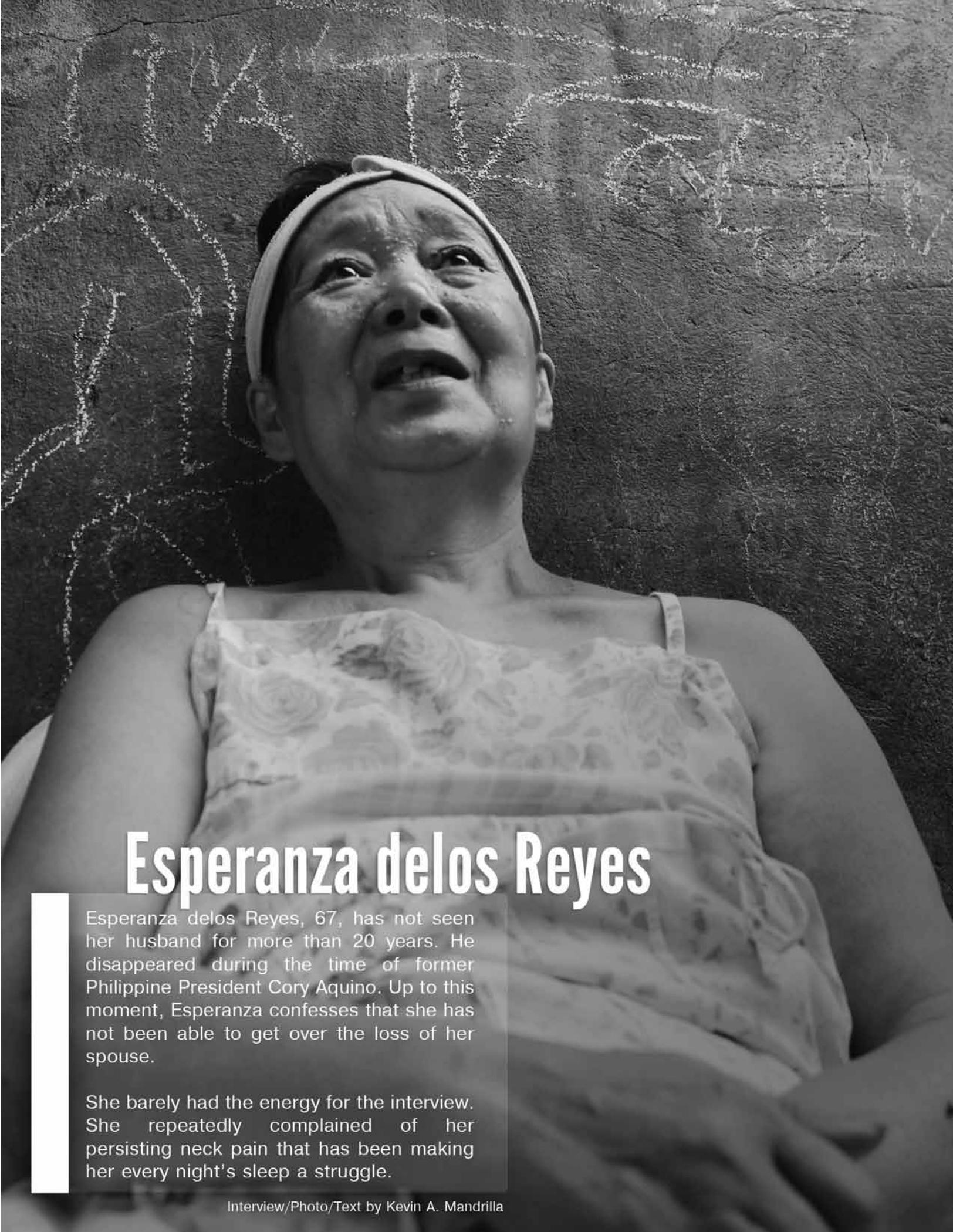
One success story is that of Eliza dos Santos from Liquiça, whose husband remains disappeared. When HAK first met her, everyday was a struggle for Eliza. But now, she serves as coordinator of the Victims' Association in her district and leads in organizing public discussions and memorials, and in lobbying parliament and religious leaders.

At the State level, we have pushed and will continue to push the political leaders to pay attention to the victims, and to follow the final report of the CAVR. From 2008 to 2009, HAK was part of the steering committee which drafted the laws for the Memorial Institute and reparations. We will continue to lobby the Department of Foreign Affairs to uphold the Memorandum of Understanding to address border security and enforced disappearances that exist between Timor-Leste's *Provedoria dos Direitos Humanos e Justiça* (PDHJ – Ombudsman for Human Rights and Justice) and Indonesia's *Komisi Nasional Hak Asasi Manusia* (Komnas-HAM – National Commission on Human Rights). We continue to lobby the Minister of Foreign Affairs because it is its responsibility to find the missing children and to lead the commitment to ratify the International Convention for the Protection of All Persons from Enforced Disappearance. We will lobby key religious leaders, including the Catholic Church, as well as the veterans who have some influence over Parliament that lacks sympathy for the victims. Most importantly, we will continue to lobby the President to use his influence to have the draft laws on the Memorial Institute and the establishment of a reparations system considered and passed by Parliament.

We are optimistic that the law for the Memorial Institute will pass this year. The stance of Parliament has always been that when it finalizes the veterans' issue, it will then deal with the victims. Now that the law on veterans' pensions has been passed and the issue is about administration, it is time for victims' needs to be addressed. The passage of the draft laws on the Memorial Institute will present a new opportunity to genuinely pursue the issue of enforced disappearances. Getting reparations for the victims, however, may take a while longer.



*'Sisto dos Santos, a Timorese human rights activist, is the Program Manager of Human Rights Advocacy. He has been with the Justice and Human Rights Organization of the HAK Association since 2006. He also works as a Coordinator and Council Member of the National Alliance for an International Tribunal from 2004 up to the present.*



# Esperanza delos Reyes

Esperanza delos Reyes, 67, has not seen her husband for more than 20 years. He disappeared during the time of former Philippine President Cory Aquino. Up to this moment, Esperanza confesses that she has not been able to get over the loss of her spouse.

She barely had the energy for the interview. She repeatedly complained of her persisting neck pain that has been making her every night's sleep a struggle.

**“SILENCE ENCOURAGES THE TORMENTOR, NEVER THE TORMENTED.”**

**- ELIE WIESEL**

### Documenting cases in Northern Sri Lanka

The heat greeted me one afternoon as I sat in a vehicle patiently absorbing the passing scenery. My mind was set on the seriousness of the task before me, strangely in contrast with the calmness of the day.

I was on my way to meet the father of one of Sri Lanka’s disappeared human rights defenders.

Lalith Kumar Weeraraj worked in the North and East of Sri Lanka as the Jaffna Coordinator of the Movement for People’s Struggle (MPS). The movement mobilizes people to stand against state repression of the Tamil community.

He devoted his time campaigning against human rights violations of civilians and human rights defenders in the North. He assisted the issue of Internally Displaced Persons (IDP) as well. But most notably, Lalith extended support and worked on the issue of disappearances. The forming of several committees of Families of the Disappeared was attributed to his efforts in the districts of Trincomalee, Mannar, Vavuniya, Killinochchi and Jaffna.

He was travelling back and forth to his home and the northern areas during the conduct of his work. His father, although expressing alarm and concern, satisfied himself with asking Lalith to call each morning at 9:00 a.m. Lalith agreed and updated his father on his work and

well-being.

It came as a shock one day when an unidentified person called and threatened Lalith’s father. His message was clear. Lalith should leave Jaffna or else he would be forcibly removed.

Lalith travelled to Jaffna on 9 December 2011 and needed to organize a press conference for the MPS for the International Human Rights Day on 10 December. He was with Kugan Muruganandan, a close colleague. Both were seen to have left Muruganandan’s place at Avarangal around 5:00 p.m. They have not been seen since.

Allegations that the Sri Lankan army was behind the disappearances increased when Lalith’s engagements with the army were made public –these started before he went missing. The threatening call to his father was actually part of a series of threats Lalith suffered from both the military and the police in the North.

He was previously abducted by men claiming to be members of the army as he was putting up posters on 25 March 2011 in Mannar town. The posters demanded the Government release information on Sri Lanka’s disappeared. He was then blindfolded and detained overnight.



## No stones unturned

**STORIES OF VICTIMS AND THEIR  
FAMILIES’ RELENTLESS SEARCH FOR  
TRUTH AND JUSTICE**

By Candy Diez\*



### The cost of witnessing the 1998 Riot in Indonesia

Another incident occurred on 10 April 2011 when the Vavuniya police arrested him and a friend for putting up the same posters.

Two months later, the officers of the Killinochchi Army (Depo Junction) abducted him and he was interrogated for six hours. On 14 November in Jaffna, he was severely injured due to extensive beatings by unidentified men at a rally with the families of the disappeared.

Lalith attempted to file complaints and reported the incident. In his first attempt, the Mannar police refused to accept the case for the reason that he could not identify the persons involved in the act. The last incident of beating was filed at the Jaffna police station, but there was still no news on the progress of the case.

Lalith's father shared that once, Lalith had asked him to come to Jaffna and see the pain of the Tamil families searching for their loved ones. He replied then that there is no need, for just the thought of the dangers associated with Lalith's work and the possibility that he might disappear himself already brought him the same unbearable pain.

Aside from the emotional trauma, the family's financial capacity was affected. The tea estate where the father works only pays 385 LKR (3 USD) each day. Before Lalith disappeared, he was helping the family in buying medicines, food, and paying for electricity bills.

The rain was pouring when I met Nurhasanah.

Nurhasanah is the mother of Yadin Muhidin, an Indonesian youth who disappeared in 1998.

In the morning of 14 May, Yadin was eager to watch the riot taking place in Griya Inti Sunter Agung. He soon returned home to eat lunch and to pray. At 1:00 p.m., however, a friend came and invited him again to witness the riot. He asked his older sister if he could still go. She responded positively and cautioned him to wear shorts instead of pants so he could move faster in case the mob would be dispersed and chased by the police.

By 2:00 p.m., Nurhasanah returned home and asked for Yadin. Upon learning that he was at the riot, she instructed the family to search and bring him back. For the next hours, the family scoured the area for Yadin, but he was nowhere to be found.

They later learned from one of Yadin's friends that he was seen around Griya Intiso. They sent a message through the friend instructing Yadin to return home. The friend named Rudi was able to speak to Yadin and relay the message. Shortly after, Rudi saw how a group of army members started arresting the people around the area.

After waiting for several hours, the father began checking with the local police at Gorontalo for news of their son. The police officer confirmed that Yadin was arrested but he was already released. When asked

whether there was any official document about the arrest and release, the police officer denied his responsibility on the matter.

Still without Yadin, Nurhasanah and the rest of the family resumed their search. However, in spite of their efforts, he remains disappeared to date, his fate unknown to his family.

She was retelling this story the afternoon I came to see her. And unlike the rigid hard facts by which the incident was summarized, Nurhasanah was crying when she spoke of Yadin and how she longed to see her only son again.

She struggled and tried to keep her voice firm, her hands steady, as she recounted how her husband eventually became sick and broken with their son's disappearance. He passed away without ever finding out what happened to Yadin. She spoke of how she remembers Yadin every night, and prays that if indeed he is dead, that he may be in peace, and that Allah may forgive his sins and bring Yadin to his side.

She told me how, in spite of extensive efforts to search and demand the Indonesian government's attention and action on the disappearance cases, no positive action has been undertaken.

As we bade our farewells, she drew me to her and embraced me. In the midst of such grief, one always seems to be at loss for words. She whispered, *"Please don't forget us. Come back and don't forget us."*

### Despairing for decades

He is Thai and gradually became a friend last year. I knew his father was a victim of enforced disappearance. He had told me so



himself, but still it surprised me that the case that happened way back in the 70s, has not been documented. I asked him again to be sure, and he replied with the same statement, that it has never been documented.

So then, we began the process of our work. He was briefed about how we assist the families in our capacity to document, monitor and report cases of enforced disappearances and he told me how his father disappeared.

He was a young kid in school, when he came one day to find his mother crying and telling them that their father had gone. It was striking and heartbreaking to see, for he had never seen his mother cry and look so broken.

Earlier that day, his mother was with the father accompanying him to a bus stop, for he was on his way out of town. Suddenly, two men from the bus stop approached her. Their words sounded menacing and she was told that the husband would be brought to the provincial administrator's office for questioning. She protested and told them the village chief should first be informed, but the incident happened very fast. Two other men came out of a pick-up truck, handcuffed her husband and took him into the truck.

She was about to board the vehicle as well, when one of the men assured her that there was no need to come with them and she could follow them to the provincial administrator's office later.

When she did go, there was no evidence of her husband, no information about the arrest and where he was taken. She didn't realize then, that the incident at the bus stop was the last time she would lay eyes on her husband – handcuffed and brought to the pick-up truck.

She searched relentlessly, went to various police stations and spoke to different people – civil society, neighbors and others who would have knowledge of her husband’s whereabouts. But the search did not result in positive leads. Devastated, she suffered a breakdown after that but was forced to resume her work, her life for the sake of her three children.

Life took a seemingly normal course, until my friend resumed her mother’s search. He searched long and hard but similar to his mother’s experience, he soon faced a blank wall.

Then, he told me how empty it was growing up without a father to teach him things-no father to help in his education, no father to guide him in his early adolescent stages and towards adulthood. It brings him pain, he said whenever he remembers. This was something I could sense. But he has been strong and in the years without any word, evidence or support, he has made peace with the situation. If in case he comes into contact with the person responsible for his father’s disappearance, he will tell him that he was already forgiven.

He told me as well, that the documentation was welcomed by him and his family. And it brings him peace knowing the search would continue and the incident be put in writing.

He also wished to keep certain identities confidential, thus the lack of names for the persons mentioned in the incident.

-----  
Recalling these stories and remembering each of these people I have met, I thought of how one cannot help but bleed - a little and then some more, when hearing about the families’ stories. From how they learned of their beloved’s disappearance, the denial soon followed by anger and frustration with the endless search to locate their disappeared loved ones, coupled with that wave of grief, seemingly stretching out from every waking hour and towards the rest of their lives.

But as one colleague frankly phrased it, perhaps it is not enough for people to feel sad. While never forgetting the capacity to forgive and be at peace, one should allow one’s self to be angry – mad at how loved ones were snatched from families, never to be seen again.

As I was bringing the interview with Lalith’s father to a close, I asked for Lalith’s photograph – a standard practice in documentation work. His father was quick to

say that they have no recent picture of him. I was prepared to accept that perhaps, I could manage with an old photo, when suddenly one of Lalith’s sisters came up to me and handed me his picture.

It was a clearer copy, a recent one, the sister told me. She spoke of how, in one of Lalith’s visit, he took her aside and gave the photo to her. Lalith had purposely gone to a photo studio to have his picture taken so that he could leave it to her with instructions, that in case something happens to him, people might come searching. And that she should give the photo to whoever would come.

Perhaps it was that certainty in Lalith’s actions that left an ache. He knew that soon, the consequences of his extensive documentation work and organizing of the families in the North would catch up with him. And with that inevitable fate, he knew with the same certainty and hope that is humbling, that other human rights defenders would come searching, demanding for government action and continuing the struggle to stop enforced disappearances from further robbing a family of a loved one.

I came across a copy of Elie Wiesel’s writings recently. He was a survivor of the holocaust and was awarded the Nobel Peace Prize in 1986. Reading his speech about the lessons from the holocaust, a particular paragraph stood out from the rest...

*“...the world did know and remained silent. And that is why I swore never to be silent whenever and wherever human beings endure suffering and humiliation. We must always take sides. Neutrality helps the oppressor, never the victim. Silence encourages the tormentor, never the tormented. Sometimes we must interfere. When human lives are endangered, when human dignity is in jeopardy, national borders and sensitivities become irrelevant. Wherever men or women are persecuted because of their race, religion, or political views, that place must – at that moment – become the center of the universe.”*

It still rings true to this day.



*“Candy Diez is the Research and Documentation Officer of AFAD. She served as the Campaign Officer of the Philippine Alliance of Human Rights Advocates (PAHRA) and is currently studying for a Masteral degree on Asian Studies at the University of the Philippines-Diliman.*”



# Remembering the Past, Braving the Present

## The AFAD & FIND Christmas Party

By: Kevin A. Mandrilla\*

I greeted the morning of December 18, 2012 with a powerful stretch and an optimistic yawn. It was the day of our Christmas party with the families of the disappeared in the Philippines. A 20-year old fresh graduate, roughly 4 months in the office, I am AFAD's newest and youngest employee. I am easily excited, to say the least. I will have my first Christmas party as a working adult, how amazing is that?

I went on with my daily rituals more relaxed than the usual and took the usually stressful public transportation with a smile. Thankfully, I arrived at my destination with my enthusiasm still intact. The venue for the party is the Titus Brandsma Center in New Manila, Quezon City, a seminary managed by the Order of Carmelites. It was serene, as expected of a seminary. Although quiet, this abode in the middle of a bustling metropolis provides a warm and motherly atmosphere, like that of a kind lady's mansion that as a child, I see in our province.

The event was agreed upon by the FIND (Families of Victims of Involuntary Disappearance) and AFAD (Asian Federation Against Involuntary Disappearances) leadership when they realized that the generation of elderly members of FIND was fast diminishing. It was deemed important that while they are still alive, we pay due tribute to them who spent their lives for the cause of their beloved *desaparecidos* so that the generations of today and tomorrow will not suffer the same fate.

Its organizing was headed by the Administrative and Finance department of AFAD in cooperation with FIND. I arrived as the team prepared the venue for the party, arranging the chairs and setting the designs. I saw the big pile of gifts in bright red, gold and green. After a quick stroll around the compound, I immediately approached the organizers to accommodate any task at hand. At 2:00 pm, everything was almost ready, the caterers started to set-up the buffet and our special guests are starting to arrive.

Topping the attendance sheet was Mrs. Perina Fajardo, a 66-year old mother of Noel Fajardo, a disappeared person who was found dead. A colorful early bird, she donned a blouse in bright colors topped only by her wide and warm smile. She brought with her gifts for the organizers, little cute key chains she made with her own hands. This simple gesture and a little chit-chat with our first guest provided much needed smiles and an opportunity to exhale the exhaustion of half-a-day's work. The day was just starting and everyone was excited.

The families started to arrive in groups as FIND arranged a van service to fetch our guests from a certain pick-up point. It was my first time meeting with the families of the disappeared. As they arrived, I stood there silent and smiling while scanning their faces. I realized that these were people whose stories I have been hearing and reading since I started my work in AFAD. I felt warm. I knew then that the day would not end without a message.

### Special Guests

As I expected, most of our guests were elderly women who are commonly the mothers, wives, or sisters of the disappeared. They came in all shapes and sizes. One lady in particular caught my eye, Mrs. Estelita Topacio, 82, who was the eldest of the bunch. She came in an elegant terno and a fashion statement - age is but a number. She is the mother of Renato Topacio who disappeared on June 20, 1988. There was Mrs. Teresita Del Rosario, sister of Professor Charlie del Rosario, the first documented Filipino *desaparecido*. Her elegant looks and statuesque figure resembled that of a beauty queen. A guest who caught my attention was wife of disappeared worker, Cesar Buenaventura, Mrs. Norma Buenaventura. She had difficulty walking but carried a warm and radiant smile so apt for the Yuletide. Mother of *desaparecido*, Gerry Faustino, Mrs. Leonor Faustino is cute and regal.

“As they arrived, I stood there silent and smiling while scanning their faces. I realized that these were people whose stories I have been hearing and reading since I started my work in AFAD. I felt warm. I knew then that the day would not end without a message.”

There were thorns among the roses, too. With his prominent height and active participation in the program, Mr. Xzy Ybañez brother of *desaparecido*, Levi Ybañez, was hard to miss. Mr. Pablo Mangalindan may be getting on in years, but he exudes a youthful smile with an attitude as cool as a cucumber. They all looked happy. I observed



AFAD, FIND & families of the disappeared join in prayer before starting the celebration. (Photo by: AFAD)

how close they were to each other. I guess that should not come as a surprise since they have been together in struggle for decades.

### And the Christmas Party Begins

The program started with a prayer and a welcome message from the AFAD Secretary-General, Ms. Mary Aileen D. Bacalso. She delivered a short and warm message with a smile, maybe to serve as a reminder that the event is different from the seminars and fora that our dear guests usually find themselves soaked in. The welcome message set the tone for the next activity, a video presentation from FIND featuring photos of its members in their long-drawn struggle for justice and a world without *desaparecidos*. The 5-minute video had drawn an intermix of emotions which I curiously pondered upon.

I saw people smiling, heard sporadic chuckles here and there, but I noticed something common from most, if not all, of our guests while the video was playing; there was a certain aura of uneasiness in their faces. I am not sure if it was sadness or overwhelming feelings of joy, but I saw that they were holding back, possibly using every inch of their core to ensure that tears remain within walls.

### Recognizing Courage

The fight against enforced disappearance in the Philippines has been long and arduous. Taking root from the brutal years of the Marcos regime, it galvanized into a unique movement driven mostly by the relatives,

especially the mothers and wives of the disappeared. These victims-turned-advocates, refusing to be defeated by grief and anger, have dedicated their lives to this challenging cause. As years and decades unfold however, this generation of brave souls slowly succumb to their last breath one after another, often without closure. The only consolation for their pain, as they lay in their death beds, is the thought that they fought, did not forget and never gave up. The likes of Mommy Lagman, Mommy del Rosario, *Nanay* Acebedo who just recently passed away will always remind us of courage, strength and hope. They will serve as great inspirations as we continue on building and strengthening the pillars of hope for a world free from enforced disappearances.

In recognition of the great role that they play in the fight against enforced disappearance, AFAD and FIND sought Christmas as an opportunity to pay tribute to the families of the disappeared in a concrete expression of gratitude. Along with sharing joy and celebrating the birth of the Savior, the Christmas party was aimed at honoring the strengths, sacrifices and contributions that they have given to seek justice and stop the scourge of enforced disappearance. Both those who are still with us and those who had embraced their Maker were given plaques of recognition. This simple salute was made more meaningful as the anti-disappearance bill at that time was just a presidential signature away from enactment.

While receiving the award, some cried, some laughed and some tried not to shed any emotion at all. But no matter the facial expression, I know that beyond it is a sense of pride they all share. Their stories, however tragic, had become instruments to educate and move people. Their grief, however intense, had been transformed as energy to combat injustice and stop the further spread of

the heinous crime of enforced disappearance.

## A Happy Party

Next to the awarding of the plaques, the event moved into a lighter tone as guests enjoyed the food, the raffle and the games. The buffet was set up beautifully in the venue. The tables were placed in the lawn of the compound surrounded by old trees that provided a cool shade. The catch up chat, laughter, novelty Christmas songs in the loop and the delightful food made for a perfect afternoon meal. Afterwards, guests were invited back inside for the exciting raffle and the games. What was funny about the raffle was that there were enough prizes for everyone to win. I remember *Kuya* Pablo saying that at his age, he never thought that he will ever win in a raffle.

“ *These victims-turned-advocates, refusing to be defeated by grief and anger, have dedicated their lives to this challenging cause. As years and decades unfold however, this generation of brave souls slowly succumb to their last breath one after another, often without closure.*”

At least it made someone’s wish come true. The games were so fun that I cannot remember any dull moment. My favorite was the Trip To Jerusalem: *Lola* Version, a game where participants battle out for seats while dancing. It was the happiest moment of the party.

## Continuing The Struggle

After the eating and merry-making, came the activity that touched me the most. FIND arranged for a Passing of Torch activity where the old transfers the torch of responsibility to the young. It was the perfect event to do it since the families brought with them their sons and grandsons, daughters and granddaughters. A young girl, barely 10 years old, was chosen to read a message of acceptance. I listened to it very carefully. The speech was in Filipino. In the next 3 minutes, she gave wonderful words which the audience, myself included, were so delighted to hear. It was a heart-warming moment and she was given the applause that she rightly deserved. But then, I was put in a pause. I thought of her words and realized that this pledge is a challenge for me — actually, a challenge for my generation.

At that very moment, I was surrounded by people who have worked tirelessly, sometimes risking their lives just so justice can be achieved, just so our generation can



Estelita Topacio, 82, accepts a plaque in recognition of her decades-long struggle as a wife and mother of desaparecidos. (Photo by: Kevin Mandrilla)

be spared from the atrocities that they had suffered. I asked myself, how do we take on this huge responsibility? Can we do it? Are we ready? Considering how the youth of today live in such convenience of not having to live under a dictatorship and enjoying relatively more freedom, how is this relevant to us? And in the first place, are we even willing? Such questions lingered in my mind.

As the youngest AFAD employee, I thought maybe I can or must share what I think about these questions. Honestly, it was only upon the writing of this article that I got to dig deeper for answers. It might not be sufficient but at least, it is a start. I am speaking now to my fellow youth.



*After gift-giving, games, and picture-taking, the day ended with everyone smiling. (Photo by: Kevin Mandrilla)*

First, yes continuing this struggle is indeed a huge responsibility but, it is achievable. Our primary task is to simply remember. We should always remember the hardships, the pain and the struggle. Enjoying the fruits of the victories while forgetting the battle is betraying those who were brave enough to fight for us. Further, perpetrators disappear individuals to render them invisible, to erase them from the memory of the world. In forgetting the victims and their families, we are in effect helping in achieving this ruthless goal. Let us keep in mind that what makes and keeps us free is consciousness. If we value our rights, then protecting them means knowing and appreciating what it took to achieve them.

Second, we do not need a dictator to care or to be alarmed. Tyrants can appear anywhere and anytime,

“I asked myself, how do we take on this huge responsibility? Can we do it? Are we ready? Considering how the youth of today live in such convenience of not having to live under a dictatorship and enjoying relatively more freedom, how is this relevant to us? And in the first place, are we even willing?”

let us not get too comfortable. Disappearances and other human rights abuses, contrary to what many of us know, are not a thing of the past. They are real and here with us, happening as we go on with our daily lives. Let us not waste the gifts of our forbearers into complacency.

Third and last, this should not be a question of willingness, but a question of our humanity. If we let such atrocities to ever occur again, then we are committing the biggest mistake of our generation. It took the generation before us a lifetime to combat this crime and ensure that it is not passed unto us. We should return the favor by doing the same for the next.

We must collectively stand as young Filipinos and declare that disappearances and other injustices do not belong in the present and most certainly the future. We can be that one generation to end these all. Every single one of us is important, every single voice is loud enough to matter. We care and we are capable.

*Greeting of Love & Merry Christmas!*



\*Kevin A. Mandrilla works as a Project Coordinator in AFAD. Representing a "new breed" of human rights advocates, he is very active in social media and constantly experiments with writing and graphic arts to effectively communicate advocacies. After graduating AB-International Studies from University of the East-Manila in 2012, he is now taking Masters in Asian Studies at the University of the Philippines - Diliman.

# Paving the way for a local protection mechanism in Asia

## Forum-workshop on the RP's anti-disappearance law

March 6, 2013 at the GT Toyota Auditorium of the University of the Philippines Asian Center (UP-AC) in Diliman, Quezon City, Philippines--- Some 176 individuals and representatives from the government, diplomatic community, academe, media, sectoral and civil society organizations attended the **“Forum-Workshop on Effective Implementation of Republic Act 10353: A Collective Endeavor”**.



**First in Asia.** The continent that submitted the highest number of disappearance cases to the UN, ironically, has the lowest rate of accession to the Anti-Disappearance Convention, lacks strong regional protection mechanism and, before R.A. 10353, had no domestic protection mechanisms in place.

The Philippine Republic Act (R.A.) 10353 otherwise known as “An Act Defining and Penalizing Enforced or Involuntary Disappearance,” the first domestic anti-disappearance law in Asia, is a product of 16 years of a hard-fought struggle of human rights advocates and families of the disappeared. The law was signed on December 21, 2012; while its Implementing Rules and Regulations (IRR) were promulgated on February 12, 2013. As aptly reflected in the forum theme, the prospects of R.A. 10353 in combating impunity will be significantly realized through a strong political will and the concerted efforts of relevant stakeholders.

Jointly organized by the Asian Federation Against Involuntary Disappearances (AFAD), Families of Victims of Involuntary Disappearance (FIND), and the International Coalition Against Enforced Disappearances (ICAED), the forum-workshop was supported by the Embassy of Canada in the Philippines, and co-hosted by the UP Asian Center. The activity formed part of the efforts to disseminate to various stakeholders and to the general



**Collective endeavor.** Key representatives from the government, diplomatic community, civil society and the academe address relevant issues in the implementation of the anti-disappearance law. (L-R): Ms. Mary Aileen D. Bacalso, (AFAD); Dean Carolyn I. Sobritchea (UP Asian Center); Sec. Leila De Lima (DOJ); Rep. Edcel C. Lagman (HOR); Comm. Cecilia Rachel V. Quisumbing (CHR); not in photo: Ambassador Christopher Thornley (Canadian Embassy) and Dir. Dulfie Tobias-Shalim (DSWD).

public the issue of enforced disappearance and the value of the special penal law to address it.

The program featured a combination of speeches, workshops, cultural presentations, and solidarity and networking opportunities among the families of the disappeared, organizing partners, speakers and participants.

Representatives from the partner and host institutions delivered welcome messages. In his speech, H.E. Christopher E. Thornley, Ambassador of Canada to the Philippines, said the enactment of R.A. 10353 and other mechanisms such as the establishment of the government’s inter-agency committee on grave human rights abuses are positive steps in the protection and promotion of human rights, democratic governance and the rule of law. He recognized that there is still much to be done and assured that the Government of Canada will monitor and support relevant efforts. Dr. Carolyn I. Sobritchea, Dean of the UP Asian Center stated that the programs and services of various implementing agencies should be examined for the law to have its most positive impact on people, particularly women, who are at risk of and vulnerable to the misuse of state power. She appealed to her colleagues in academe and civil society organizations for continued vigilance in monitoring the law’s implementation and in ensuring that critical engagement with all stakeholders will be pursued in the most ethical, respectful and responsible manner.

Hon. Edcel C. Lagman, a member of the Philippine House of Representatives and the principal author of the law, delivered the Keynote Speech which

centered on the historical background of legislative deliberations and passage of the now Republic Act 10353 as well as the objectives, guiding principles, and salient provisions of the law. He called on everyone “to uphold human dignity and the rule of law” specifically in collectively ensuring the effective implementation of the law. He further stated that the 2013 midterm election is an opportune time to challenge the candidates “to commit to a human rights-based approach to governance.”

Key executive officials from the government provided Input Presentations on various issues that relate to the implementation of the law.

From the Department of Justice (DOJ), no less than the Hon. Secretary Leila de Lima dwelled on the Prosecution of the Crime of Enforced Disappearance, which, she noted, would be guided by the law which understands disappearances as a continuing crime. She noted that the DOJ intends to devise priority cases which can be opened and which have strong prospects for successful prosecution. She further reported a parallel government mechanism, the Administrative Order (AO) No. 35, which created an inter-agency committee on extra-legal killings, enforced disappearance, torture and other grave violations of the right to life, liberty and security of persons.

Hon. Commissioner Cecilia Rachel V. Quisumbing of the Commission on Human Rights discussed the Role of the Commission in the Implementation of R.A. 10353. She cited that a human rights based-approach to justice focuses not only on identifying and punishing/disciplining the perpetrators but also on helping victims and their families receive assistance, compensation, rehabilitation and reparation. Comm. Quisumbing called for continued advocacy for the signing and ratification of the anti-disappearance Convention, along with the efforts to train and educate people and agencies on this new law.

Representing the Department of Social Welfare and Development (DSWD), Director Dulfie Tobias Shalim from DSWD’s Protective Services Bureau stressed on the Reparative Remedies and State Protection for Victims of Enforced Disappearance. She reiterated DSWD’s mandate to develop a comprehensive rehabilitation program, projects and services for the families, in close coordination with the CHR. She stated that consultations will be conducted for stakeholders to collectively design responsive programs and interventions for the victims and their families, which will be forwarded to the Department of Budget and Management (DBM) for appropriations.

The academe, the government enforcement

agency and the families of the *desaparecidos* were also invited to serve as reactors to the presentations

Atty. Ricardo Sunga III, a professor and law reform specialist from the University of the Philippines Law Center, elaborated on the prospects of the definitions and coverage in the provisions of the law and its IRR as well as the complementary significance of the law and the International Convention. Mr. Louie G. Crismo, brother of Romeo G. Crismo—a *desaparecido*—narrated the years of struggle of the families for the law’s passage. While acknowledging the importance of justice, he emphasized the preventive value guaranteed by the law. From the ranks of the Philippine National Police (PNP), P/Supt. Henry Q. Libay spoke of the investigative role of the PNP as an important requirement for prosecution of crimes of enforced disappearance.



**HARINAWA.** Ms. Cooky Chua and Bayang Barrios (left) and the Samahan ng mga Anak ng Desaparecidos (SAD) (above) present inspirational and solidarity performances for the *desaparecidos*. *Harinawa*, title of a song of Ms. Barrios, is a local expression which roughly translates to "hopefully," a fitting reminder of the fervent prayer to the disappeared victims and their families.

During the Open Forum, questions and discussions focused on the following issues: the period of time for cases to be decided upon; prospect of a preventive law for attaining justice and closure for victims and families; and more importantly, prospects for convictions.

Divided into two Workshop Groups, the participants discussed three main topics in relation to the implementation of the law: INVESTIGATION; PROSECUTION and REHABILITATION. Based on their respective mandates, representatives from various government agencies reiterated the roles of their agencies/units in the implementation of the law. Workshop participants also discussed possible difficulties and challenges in carrying out the provisions of the law. Finally, the groups laid out concrete and doable actions that respective offices or organizations can offer to facilitate the dissemination and implementation of the new law. The results of the forum-workshop are important

bases of campaign and advocacy plans for information dissemination and engagement with government agencies especially tasked in the enforcement and implementation of the anti-disappearance law.



**Effecting full implementation.** Workshop groups discuss some doable actions in ensuring the dissemination and implementation of R.A. 10353.



In the synthesis given by Ms. Mary Aileen D. Bacalso, AFAD Secretary General, she drew attention to the following themes underscored in the speeches and presentations:

- the existing phenomenon of enforced disappearance;
- the comprehensive nature of the law which encompasses all elements of disappearances as enunciated by the Convention;
- the multitude of violations and the pain suffered by the disappeared and their families which necessitates a distinct law for the purpose of imposition of sanctions, prevention, restitution of honor, rehabilitation, and other relief assistance;
- the conscientious efforts of families and civil society organizations and the indefatigable work of the authors and supporters in the government in the passage of the law; and,
- the complementary value of the domestic law and the International Convention in providing stronger protection mechanisms.

The activity was also utilized as a venue for further solidarity and awareness-raising. Various information material including a Primer on the Convention, published by AFAD and a Primer on the Law and its IRR, published by FIND were distributed while audio-visual materials, such as the documentary film entitled

“Unsilenced” and AFAD’s MTV entitled “*Desaparecidos*,” were shown. Joint statements, press releases and media coverage merited a number of online, print and broadcast media hits on issues tackled during the forum. The Prayer for *Desaparecidos* written by Mrs. Cecilia Castellar Lagman, a mother of a disappeared and a founding member of FIND was read during the invocation. The forum also featured cultural presentations. Two prominent female artists, Ms. Cooky Chua and Bayang Barrios performed inspirational songs, while the theater group of the *Samahan ng Mga Anak ng Desaparecidos* (SAD) or the Association of the Children of the Disappeared presented an intermission number. As a joint undertaking, the forum was coordinated by AFAD and FIND leadership under their respective programs, AFAD’s Philippine Project through its Coordinator, Mr. Darwin B. Mendiola and FIND’s National and International Advocacy Program. The forum was moderated by Mr. Jose Marie Faustino, FIND Secretary General, and Ms. Candy Diez, AFAD Research and Documentation Officer.

The conduct of the forum-workshop was consciously scheduled during the week of the International Women’s Day to underscore that the victims’ surviving families, many of whom are women, are deeply affected by the global scourge of enforced disappearance and have been in the forefront of the search for truth, justice and protection mechanisms. Hence, the enactment of a domestic law ought to provide the much-needed protection from the ills of this crime.

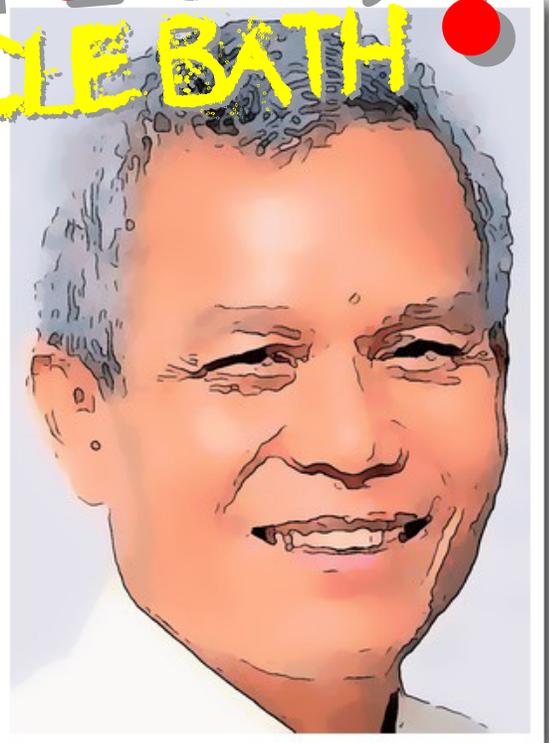
The forum-workshop results offered initial concrete recommendations for post-activity action and cooperation particularly on further information dissemination and effecting broader public support in monitoring the law’s implementation in the deepest desire that they can be synchronized with other relevant strategies for the forum organizers and their network in policy and action advocacy at the local, regional and international levels.

Ultimately, the effective implementation of R.A. 10353, in itself, a major leap in human rights legislation, will hopefully serve as an important example to pave the way for Asian governments to enact local protection mechanisms against enforced or involuntary disappearance as well as accession of more Asian states, including the Philippines, to the International Convention.  
— *Rosa Bella Quindoza*\*

\*Rosa Bella M. Quindoza currently works as Assistant to the Secretary General of the Federation. Prior to this assignment, she has been involved in various AFAD publication projects.

# WHERE ARE YOU, ? UNCLE BATH

## ASEAN ACT NOW: SURFACE SOMBATH SOMPHONE AND ALL *DESAPARECIDOS*!



In front of the Department of Foreign Affairs—Manila, the Asian Federation Against Involuntary Disappearances (AFAD), Families of Victims of Involuntary Disappearance (FIND), International Coalition Against Enforced Disappearances (ICAED), Philippine Coalition for the International Criminal Court (PCICC) and Focus on the Global South led a cultural activity in the form of Choral Reading with Music and Interpretative Dance on 12 April 2013 in support to the global campaign to Surface Sombath Somphone and All *Desaparecidos*.

Four months have passed since Mr. Somphone, fondly called by his students as Uncle Bath, disappeared. The Asian Federation Against Involuntary Disappearances (AFAD), being the sole regional organization of families and relatives of the disappeared in Asia, conveys intense concern over the limited progress of investigation and gathering of information regarding the fate and whereabouts of a prominent Lao human rights defender and Ramon Magsaysay Awardee.

Allegedly, Uncle Bath was kidnapped for personal and business reasons. The Laotian government refuses to acknowledge its responsibility to surface Uncle Bath which increased everybody's fear for his safety. Being a signatory to the International Convention for the Protection of All Persons from Enforced Disappearance (the Convention), the government of Lao is obliged to enact all preventive and protective mechanisms in accordance to the treaty.

The said activity was one among the contributions of major non-governmental and civil society organizations in the Philippines to inform the general public of their right not to be subjected to enforced disappearance. It exhorted the Philippine Government and the Association of South East Asian Nations to ensure that this right is guaranteed to their peoples. According to the conveners, the aforementioned cultural activity sets a distinct action apart from other forms of initiatives from other countries the same way the Philippines stands out to be the strongest of the champions of human rights in Asia.

Asia remains to be the region with the most number of cases of disappearance submitted to the United Nations Working Group on Enforced or Involuntary Disappearances until this very writing. Ironically, the region also has the least number of states that acceded to the Convention. As a matter of fact, not a single ASEAN state is a state-party. The activity is intended to pressure the Philippines, even as it takes pride as the first in the region to enact a domestic law criminalizing enforced disappearances, to genuinely translate this law through its foreign policies by immediately acceding to the Convention and thus setting a better example among ASEAN nations.

The transcript of the Choral Reading penned by Rebecca Desiree Lozada (BEC) with inputs from the following fellow readers: Armando Paragat (BIM), Clarissa Militante (CL), Darwin Mendiola (DAR), Lorena Lenin Castillo (LEN) and Ruben Felipe (RUB) is found on the next page. The whole performance is documented and uploaded in Youtube and on the following websites: [afad-online.org](http://afad-online.org) and [hronlineph.com](http://hronlineph.com).

# TRANSCRIPT OF CHORAL READING

**BEC:** Because silence feeds the darkness.

**CL:** We are here to ask: Where is Sombath? Speak up.

**LEN:** We are searching for answers to our question – Where is Sombath Somphone?

**ALL:** We are searching for Sombath.

**DAR:** You may be asking, Where is Sombath?

**CL:** Sombath is a loving husband and a devoted son.

**LEN:** Sombath is the reason why many Lao youth volunteered to be rural workers and teach sustainable agriculture.

**RUB:** A champion of learner-centered education ,

**BIM:** Head of the Participatory Development Training Center (PADETC), an NGO dedicated to community-based development training.

**RUB:** Convenor of national meetings on development and participation held last year

**DAR:** A Ramon Magsaysay Awardee for Community Leadership in 2005.

**RUB:** He was last seen on December 15, 2012.

**BEC:** Yes, a CCTV captured what happened. Police stopped his vehicle in a street in Vientiane. He was immediately taken by men in the vehicle behind him. He has not been seen since.

**CL/RUB:** There has been no news on Sombath.

**CL:** This is the fourth month since the enforced disappearance of Sombath.

**ALL** (in sequence/ left to right): Where is Sombath?

**LEN:** Lao officials deny arresting Sombath and any responsibility for his disappearance. They say a private dispute may be at the bottom of the abduction.

**RUB:** His family and friends have searched for him in hospitals.

**BIM:** His wife has written authorities for help.

*(Dance by the Samahan ng mga Anak ng Desaparacido or Children of the Disappeared to Noel Cabangon's Song for the Disappeared)*

**CL:** A month after the disappearance, Amnesty International enjoined Urgent Action.

**DAR:** And I quote: “Amnesty International is concerned that the investigations undertaken so far have lacked transparency and may have been inadequate...”

(We are) Calling on the Lao authorities to undertake prompt, transparent and thorough investigations into the abduction and disappearance of Sombath Somphone, in accordance with their obligations under international human rights law...”

**CL:** In the second month, The Nation was among those that challenged ASEAN that it is time to act..

**LEN:** I quote the editorial: “The time has come for ASEAN to speak up. Secretary General Le Luong Minh needs to display his leadership... How can ASEAN become one community when its leaders continue to turn a blind eye to assaults on the human dignity of their own citizens?”

**CL:** On February 6, 2013, the European Parliament passed a resolution on behalf of Sombath. Last March, a delegation from the European Union presented the Resolution to the Lao National Assembly.

**BIM:** The delegation head, Dutch Senator Tuur Elzinga, stressed: ‘If Lao officials think the issue of Sombath’s disappearance will go away, they are wrong. It will be the first item on any agenda in bi-lateral, multi-lateral and international discussions with and about Laos, until Sombath is safely returned to his family.’

**CL:** Many more spoke out on the 100<sup>th</sup> day of the disappearance. US Secretary of State John Kerry released a statement.

**BEC:** Quote: “Mr. Sombath’s disappearance resurrects memories of an earlier era when unexplained disappearances were common... the unexplained disappearance of Mr. Sombath, a widely respected and inspiring Lao citizen who has worked for the greater benefit of all of his countrymen, raises questions about the Lao government’s commitment to the rule of law...”

**CL:** But Lao officials have nothing new to say.

**BEC/ DAR:** We do not know.

**ALL:** He is not with us.

**CL:** It is now the fourth month since the disappearance.

**BEC:** The United Nations has spoken. The United Nations High Commissioner for Human Rights has identified it as an enforced disappearance that could be related to his human rights work.

**BIM:** Philippines, pursue the case.

**DAR:** ASEAN, speak out loud!

**LEN:** Because silence feeds fear.

**DAR/CL:** Because silence is fearsome in the darkness.

**BIM/ BEC:** Because to be silent in this darkness conceals a crime.

**RUB:** Awake and struggle, speak loud, cry out: Where is Sombath?

*(SONG: Asia’s Disappeared Performed by Armando Paragat)*

**ALL** (sequence /left to right): We are searching for Sombath!

**CL:** A husband

**LEN:** Teacher

**RUB:** Human rights defender

**BIM:** Proponent of democracy

**DAR:** Advocate for an ASEAN that upholds human rights

**BEC:** Fellow builder for a better world

**ALL:** Let us search for him.

**BEC:** Philippines, DFA, let us search for him.

**BIM:** ASEAN, let us search for him..

**CL:** Say that we will search for him.

**CL/RUB:**

**Sombath, we are searching for you.**  
**Sombath, we are searching for you.**

Because you are our comrade.

Because you are a person with rights.

Because this is our duty.

Because we cannot be quiet.

Sombath , we are searching for you..

Sombath , we are searching for you..

Because you are our comrade.

**LEN/BEC:**

Sombath, we are searching for you.  
**Because you are our comrade.**

**Because you are a person with rights.**

Because this is our duty.

Because we cannot be quiet.

Sombath , we are searching for you..

Sombath , we are searching for you..

**Sombath , we are searching for you..**

**BIM/DAR:**

Sombath , we are searching for you..  
Sombath , we are searching for you..

**Because this is our duty.**

**Because we cannot be quiet.**

Because you are our comrade.

Because you are a person with rights.

**Sombath , we are searching for you..**

**BEC:** We cannot be quiet. We are looking for answers. We are searching for the light.

**LEN:** Sombath, you have rights.

**RUB:** You are a human being with inherent rights.

**DAR:** You are a person with the right to live in peace.

**ALL:** Sombath, we are searching for you.

**CL:** We will not be silent.

**DAR/LEN:** We will stand for you.

**CL/DAR/LEN:** We will speak.

**BIM/ BEC/RUB:** We will shout out.

**ALL:** We will be heard.

**BIM:** We will all be free.

**CL/DAR :** Sombath, you are a person with rights.

**LEN/CL/DAR:** You were born free.

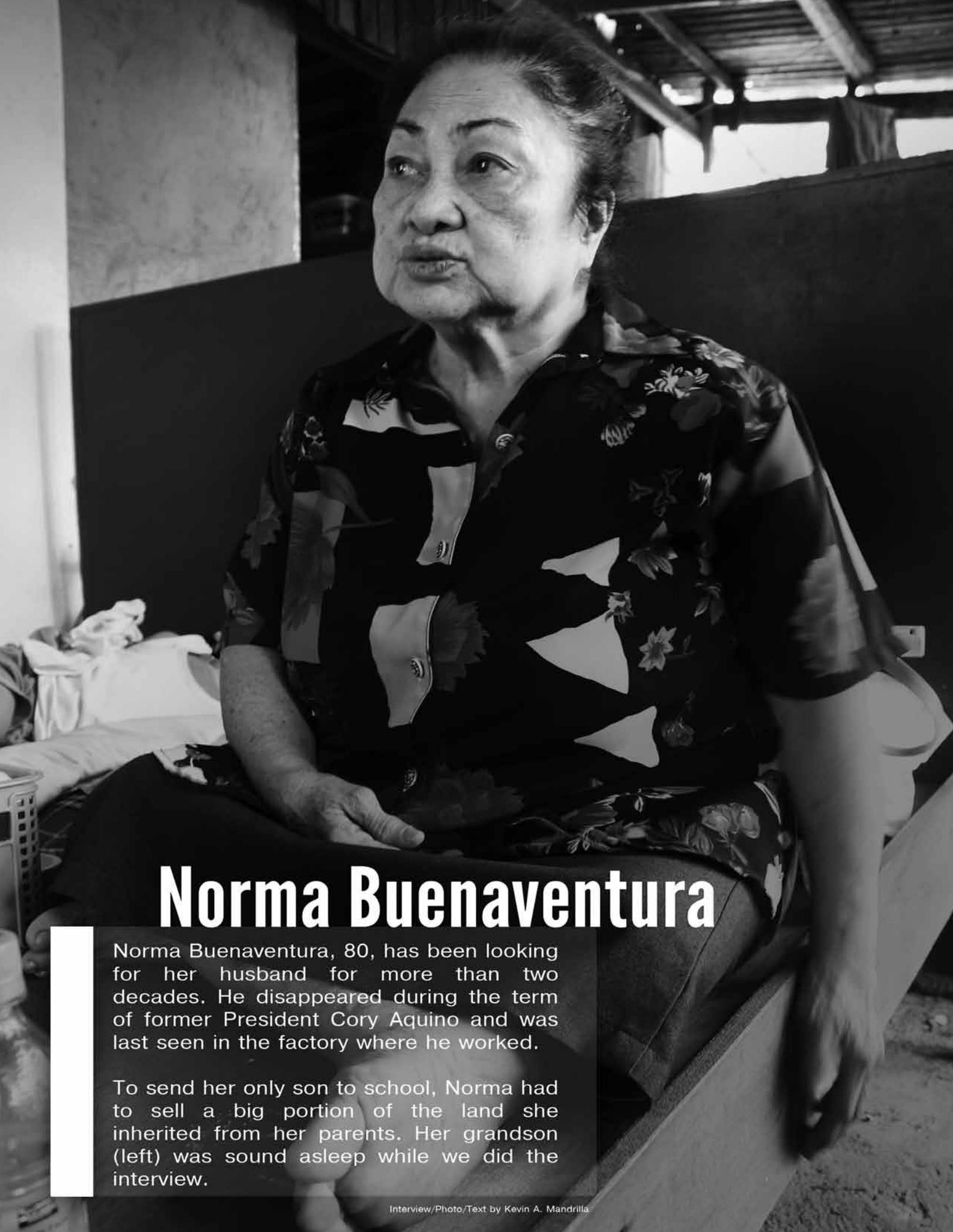
**BIM/LEN/CL/BEC:** Justice cries out your name.

**ALL:** Sombath, we are searching for you.



**ASEAN Act Now.** Pinoy advocates search for Uncle Bath and call on the ASEAN to surface all disappeared. Voices from several organizations who represent those who are searching for their beloved *desaparecidos* are heard by a representative from the Philippine Department of Foreign Affairs (DFA).

PHOTOS: AFAD



# Norma Buenaventura

Norma Buenaventura, 80, has been looking for her husband for more than two decades. He disappeared during the term of former President Cory Aquino and was last seen in the factory where he worked.

To send her only son to school, Norma had to sell a big portion of the land she inherited from her parents. Her grandson (left) was sound asleep while we did the interview.



# Niñas Y Niños

The contribution of *Pro-Búsqueda* in the search for truth, justice, reparation for children victims of enforced disappearance during the past conflict that occurred in El Salvador in the decade of the 80s.

By Ester Alvarenga\*

(Original text translated from Spanish by Mary Aileen Bacalso)

The recent armed conflict in El Salvador generated grave violations of human rights, meaning that it has closed political and peaceful spaces for the channelling of social, political and economic demands prompted by organizations of students, peasants, labor unions and religious before the Salvadorean state which has regularly become more totalitarian and repressive, and practically controlled by the military.

The sad reality has resulted in the weakening of the judicial system which emerged from a corrupt<sup>1</sup> system and the enthronement of a regime of impunity which still persists to this day. Basically, the system was submitted to the Salvadorean society on the margins of the principles of the States Rights, but the government<sup>2</sup> has reached the point of committing a very aberrant form of terrorism against the defenseless civilian population and organized social groups, considering them as “suspects or allies” of the insurgent forces.

In this logic of terror, the present government, through the soldiers and paramilitary groups, imposed the strategy against insurgents “*Tierra Arrasada*”<sup>3</sup> or demolished earth policy. The said strategy was imposed in rural areas and had as objective the elimination of all



**Marcha contra impunidad.** In commemoration of the Week Against Impunity, *Pro-Búsqueda* launches a walk to show their protest against the government of El Salvador for the lack of investigation on the missing children. PHOTO: *Pro-Búsqueda*

the residents. From 1980, the military forces imposed military operations in a systematic manner against the civilian population, committing grave human rights violations, among the most vulnerable are children victimized by enforced disappearances, many of them aside from being victims of enforced disappearance, were later also victims of irregular and false adoption committed by lawyers, public servants and State institutions.

1.- Truth Commission: “*De la Locura a la Esperanza: La guerra de 12 años en El Salvador*”. Recommendations, page 185.

2.- With the advice of the government and military aid from the United States.

3.- Counterinsurgency doctrine taught at the School of the Americas, known as “Dry the water in the swamp”.

The enforced disappearance was the occasion for the creation of the Association for the Search of Missing Children (*Pro-Búsqueda*), which originated a little after the government and the insurgent forces ended the armed conflict through the signing of the Peace Accords.

The firm conviction of the families to obtain justice and to know the whereabouts of their sons and daughters who disappeared during the armed conflicts inspired a group of families, Rev. Fr. Jon de Cortina and other persons committed to human rights to form the Association for the Search of Missing Children on 20 August 1994 in Guarjila, Department of Chalatenango. The group's principal objective was to search for disappeared children. As part of this mandate, it initiated the process of receiving and documenting hundreds of cases of disappeared children from 1980-1991.

*Pro-Búsqueda* is a non profit association, formed approximately by 900 family members of disappeared children and young people who were found in the process of search efforts made by volunteers and professionals committed for the defense of human rights.

*Pro-Búsqueda* has as its principal objective the search for disappeared children, of which it has developed methods and techniques in the field, institutional and scientific investigation and documentation. From 1994, it



*Dónde Están?* Families of the disappeared children in El Salvador raise their placards with the details of their missing children with the hope that they can claim them back. PHOTO: *Pro-Búsqueda*

has acquired experience in this type of investigation and from the nature of this investigation, it is important to develop other aspects of investigation that are not necessarily learned from the academe, but from sagacity, intuition and common sense, which are important in order to obtain relevant information necessary to determine the whereabouts of the disappeared child.

Furthermore, the aspects earlier mentioned are not the only necessary elements. In investigations, many other fundamental elements need to be in place in dealing with enforced disappearance perpetrated by the military with the consent of state structure. Thus, the investigation



in this type of cases becomes complicated in view of the fact that the perpetrators of other crimes resist giving testimonial and documental information.

Notwithstanding these obstacles, *Pro-Búsqueda* has a total of 921 registered cases, *Pro-Búsqueda* has resolved 382 cases of children who disappeared. We are aware that much remains to be done in order to know the truth about the 539 pending cases. These are figures that can change as other families are also approaching to present their cases. In 2012 alone, we have received 31 new cases filed.

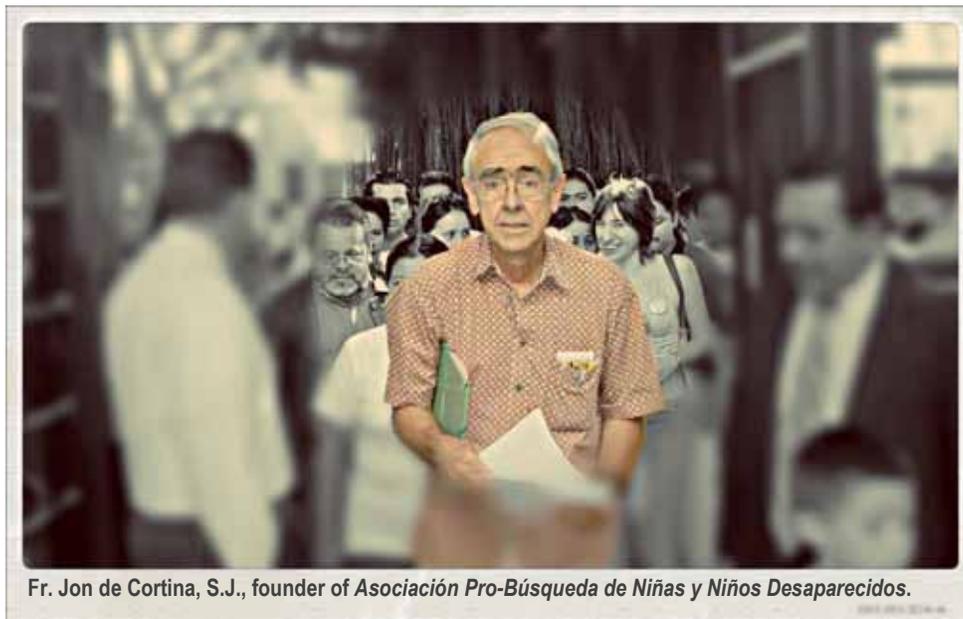
In addition to the cases presented by families, we also speak of 275 requests from children who were adopted outside the country during the period of the armed conflict. *Pro-Búsqueda* has had the experience of finding the families of these young people who were adopted in the context of the conflict.

In the search for justice, *Pro-Búsqueda* has generated historical precedents in the country, through forty cases and judicial demands presented before internal and inter-american mechanisms. With this effort, the first condemnation was achieved against the state of El Salvador on the enforced disappearance of sisters, Ernestina and Erlinda Serrano Cruz, who, together with fifty other children, disappeared in a military operation conducted by soldiers in June 1981. This sentence, made by the Inter-American Court of Human Rights, obliges the State to comply with 11 means of reparation in favor of the victims. In August 2011, the State was once again condemned by this important international body for the disappearance of six children in different parts of the country.

It is important to stress that for *Pro-Búsqueda*, the struggle for justice is another fundamental key for its action, and with it, to vindicate the rights violated against the victims. In order to institutionalize this effort, it needs to be based on a politics for access to justice. By means of the presentation of more cases and demands, *Pro-Búsqueda* has generated jurisprudence in El Salvador by means of *Habeas Corpus*. With its struggles and victories, it has opened steps for other organizations to also use the international justice system as the only way to insist on the El Salvadorean State to assume

responsibility for the crimes committed during the internal armed conflict.

*Pro-Búsqueda* also promotes the generation of public opinion and politics, thus maintaining on the national agenda the problem of disappeared children, with the objective of educating and sensitizing civil society so that it would consider the work done by the institution and include in the structure of State to comply with the obligations decided upon by the court.



Fr. Jon de Cortina, S.J., founder of *Asociación Pro-Búsqueda de Niñas y Niños Desaparecidos*.

On the 18th anniversary of the birth of *Pro-Búsqueda*, we continue in the struggle with the conviction that the truth be established, justice be rendered to the perpetrators and the victims be redignified. Such conviction to continue the struggle is the only means to attain reconciliation and social peace in El Salvador. We can affirm that we honor the legacy of Fr. Jon de Cortina, founder of *Pro-Búsqueda* and that we maintain the memory of the more than thirty families who died in their journey to realize these dreams and for all those children who remain disappeared. With determination, we firmly commit in our struggle.



\*Ester Alvarenga is the Director of *Asociación Pro-Búsqueda de Niñas y Niños Desaparecidos* (*Pro-Búsqueda*), an Association of Salvadoran families who have suffered – and in some cases continue to suffer – from the forced disappearance of their sons and daughters due to the civil war in El Salvador. *Pro-Búsqueda* is a member of the International Coalition Against Enforced Disappearances (ICAED).

# SOA Watch Apologizes for United States Role in the Deaths of 75,000 Salvadorans

Parque Cuscatlan, San Salvador

March 19, 2013

*“On March 19, 2013, in Parque Cuscatlan, San Salvador, friends from the School of the Americas Watch apologized on behalf of U.S. citizens for the complicity of our government in the deaths of 75,000 victims during the war in El Salvador. It took place in front of the memorial wall in San Salvador that bears the names of 75,000 victims, and mothers of the disappeared were present. It was a moving day, according to friends who took part, both for them and for the Salvadorans present. It was a real privilege to work with the delegation to draft the apology... “*

**-Scott Wright, Pax Christi USA National Council member, <http://paxchristiusa.org/tag/soa-watch/>**

**Today, we stand on Holy Ground**, before this historic memorial to the victims and martyrs of the war, to humbly ask pardon for the complicity of our nation in bringing so much sorrow, so much destruction, so much death to your people.

We come representing the movement to close the School of the Americas (SOA), the military base that trains Latin American armies to kill their people. We come representing the tens of thousands of North Americans who gather every year at the gates of the SOA, to nonviolently resist and shut down this school of assassins. We come representing the more than 170 women and men – some of whom are standing before you today – who have crossed the line onto the military base in the U.S. in nonviolent protest, and who collectively have served more than 300 years in federal prisons for their actions.

For more than 12 years, our country sent \$6 billion in military aid and support – a million dollars each day – to arm and train your soldiers and security force personnel to detain, torture, disappear, and brutally kill more than 75,000 men, women, and children, persons whose names appear on these memorial walls.

We come in sorrow, to ask pardon, to accept responsibility, and to renew and deepen our commitment to solidarity in reparation to the victims and their families, and to the Salvadoran people.

We come also in joy, knowing that the blood of the four North American church women – Maura, Ita, Dorothy, and Jean – whose names are also inscribed on these walls – was mixed with the blood of your people in a bond that seals our solidarity forever with the Salvadoran people.

**Every year, in November**, as we commemorate the martyrdom of the six Jesuit priests, a young Salvadoran mother and her daughter, tens of thousands of our fellow citizens gather at the gates of the School of the Americas in Ft. Benning, Georgia to close it down, as we remember the names of the victims killed by soldiers and officers trained at this school of assassins.

We remember in a special way, Rufina Amaya, who joined us at the gates on many occasions. We remember the committees of mothers who have so courageously spoken truth to power. We remember your human rights defenders, especially Herbert Anaya, at whose home I stayed so many years ago.

The Salvadoran military who were responsible for the assassination of Archbishop Oscar Romero, the four North American church women, the six Jesuits and their housekeeper and her daughter, as well as the massacre of thousands of precious Salvadoran men, women, and children who perished at the Sumpul River, in La Quesera, in El Mozote, in El Calabozo, in Los Llanitos, at the Gualsinga River – these Salvadoran military were all trained at the School of the Americas.

The lives of each of these Salvadoran victims have a claim on our lives, that we never forget them, nor the circumstances in which they were killed, nor the responsibility we bear as North Americans, for their deaths.

It is for that reason that we are here today, to remember them, to ask for pardon, and to offer reparation – by our words here today, but also by our lives and commitment to solidarity.

**The reparation to which we pledge ourselves is first of all moral reparation** – a commitment to divulge the truth about the role and responsibility of our nation in the deaths of these victims.

We pledge ourselves to make economic reparation by supporting with our solidarity the projects that truly favor the education, health, nutrition and welfare of the majority poor in El Salvador.

We pledge ourselves to make political reparation by standing in solidarity with your loved ones in the U.S., who deserve a legal immigrant status in order to work and support their families.

And we pledge ourselves to protect, in Eduardo Galeano’s words, “the right to dream,” – yours and ours – that “another world is possible,” and to defend, in Victor Jara’s words, “the right to live in peace.”

We will continue to struggle, to hope, to cross borders, and to tear down the walls – like those of the SOA and the U.S-Mexico border - that divide us and that have no right to exist because they only oppress, and exclude, and bring suffering and death to the poor. We will not be silent, we will resist nonviolently, we will stand in solidarity with the people of El Salvador.

Finally, we call on President Obama, on our Senators and Congresspersons, to offer their own official words of apology and deeds of reparation; and we call on our fellow citizens to make this pledge of reparation and solidarity their own.

**Yes, we stand on Holy Ground today.** All of El Salvador is Holy Ground, as one of your theologians said, because wherever great suffering and great love converge, we are on Holy Ground.





# The first steps

## The International Convention for the Protection of All Persons from Enforced Disappearance and its “Committee on Enforced Disappearances”



*by Rainer Huhle\**



*The views expressed in this essay are personal and do not represent the positions of the Committee on Enforced Disappearances.*

**I**n December of 2010, the **International Convention for the Protection of All Persons from Enforced Disappearance** (Convention) entered into force. Almost all Latin American countries, most European and some African countries, but few from Asia have ratified the Convention thus far. This Convention is an international instrument that asks for a series of measures that can, if duly implemented by the States-Parties, effectively contribute to eradicate the crime of enforced disappearance. By February 2013, 37 States had become Parties to the Convention, while a total of 91 have signed it, thereby declaring their will to adhere to the principles expressed in the Convention. It is hoped that not only the States that have already signed but also the other half of the UN Member States will soon proceed to ratify this important new instrument for the protection of human rights.

The Convention is the apogee of a long and fascinating story of how resistance towards enforced disappearance produced a worldwide mobilization against the heinous practice of enforced disappearance. Shortly after the *coup d'état* of Pinochet in Chile, families of disappeared persons, human rights lawyers, church representatives and other concerned people joined forces to denounce, nationally and internationally, the practice of detaining people and consequently concealing their fate. The same occurred a few years later in Argentina where the famous mothers with their white headscarves bearing the names of their disappeared sons and daughters did not stop demanding the reappearance of family members. "Alive they were taken, alive we want them back," was their shout into the face of the government.

It was there that the term "enforced disappearance" or "detention-disappearance" had its origin. It was not only a name. Out of the suffering of these victims of enforced disappearance, we all came to understand that this was a crime beyond simply killing opponents or detaining them under arbitrary conditions, or beyond denying the truth and even beyond the torture that normally was part of this multi-faceted crime.

Fortunately, their clamor was heard around the world, in the Inter-American Human Rights system and also in the United Nations. Even so, it took more than 30 years for this clamor to be transformed into the Convention which now is a binding treaty that embodies an organ to oversee the States-Parties' compliance with the treaty, the "Committee on Enforced Disappearances."

This Committee meets twice a year on the UN premises in Geneva with its first session in November 2011 and is now preparing for its fourth meeting in April of 2013. Its functions and competencies are similar to those of other Committees, receiving and analyzing States Reports, and redacting concluding observations on the respective countries based on these reports. It can also interpret authoritatively the Convention, for example through General Comments.

But the Committee has also competence for urgent requests from member-states to help find disappeared persons and follow these individual cases

until the fate of the disappeared is clarified. It can furthermore deal with communications by individuals or other States-Parties about any kind of violation of the Convention. However, these latter functions of the Committee under Articles 31 and 32 of the Convention require a separate declaration from the concerned States. Finally, the Committee can also carry on visits to Member-States.

From the beginning, the Committee has taken the effort to promote more adherences to the Convention among States, through ratification. In accordance with the history of combating the crime of enforced disappearance, the regional distribution of ratifications is still very uneven. While almost all of Latin American States and about half of Europe have already become parties to the Convention, Africa and especially Asia still lag behind.

A regional meeting in Bangladesh in September 2012, convoked by the Bangla NGO Odhikar and AFAD, produced some encouraging signs, but still yielded no major results with respect to ratifications. The Committee considers that enforced disappearance is a concern for all regions of the world and therefore tries to support any activity on a national or regional level to prevent this crime and to establish measures to combat and prosecute it. Adequate legal dispositions in every country are an important step in this direction. The recent Philippine law (Act Defining and Penalizing Enforced or Involuntary Disappearance) is an example, and hopefully will also lead to the ratification of the Convention by this country.

Under the Convention, two years after the Convention has entered into force, every State Party has to present to the Committee, a report explaining the way in which it complied with the obligations of the Convention. Since the Convention entered into force on December 23, 2010, with the ratification of the first 20 States, by the end of 2012, there were a total of 21 State Reports due. At the time of this writing, the Committee has received the State reports from Uruguay, France, Spain and Argentina. Thus, the process of reviewing State Reports, one of the primary tasks of every treaty body, has started, albeit slowly, and at its April session, the Committee will proceed to review,

**“Under the Convention, every State Party has to present to the Committee a report explaining the way in which it complied with the obligations of the Convention.”**

in the presence of the respective states and NGO delegations and victims' organizations' representatives, the first two reports and adopt its Concluding Observations. This will be a transparent procedure within a public session.

One of the problems that most treaty bodies face is the delay in treating reports, due to an overload of work. The Committee is considering strategies to avoid these delays as best as it can. One feature in the Convention that is different from most other Conventions is that there is no requirement for complete periodic reporting to the Committee. The Convention demands a report two years after entry into force, leaving all further procedures up to the judgment of the Committee. In other words, the reporting after the initial report will hopefully be much more flexible, according to the lacunas that the Committee identified in its first Concluding Observations and also according to further developments in the situation of the country. Thus, repetitive statements on issues that do not raise major concerns might be avoided, and both sides can concentrate on those issues that present a genuine problem. This is the hope, and only practice will demonstrate if it can be fulfilled. This concentrated procedure may also be considered a step towards the reform of the treaty body procedures that has been under debate in the United Nations for quite some time.

Nevertheless, the somewhat delay of the first State reports could feasibly create a backlog in the treatment of the reports right from the beginning, even more so since the Committee has no more than four weeks of session in 2013, and it is unclear whether there will be more working time available in 2014. Trying to devise solutions for this troublesome situation, the Committee has decided to do a good deal of the reviewing process inter-sessionally, in spite of all the constraints, communication and translation challenges, and problems of transparency that this might entail.

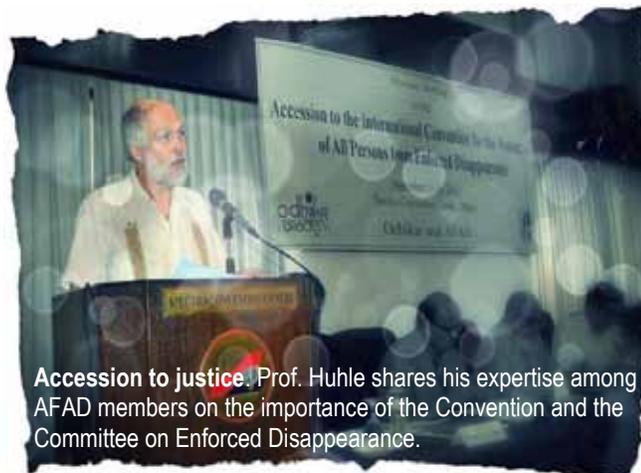
The other important function of the Committee that has already been put into practice is the urgent request procedure. This is basically a confidential procedure under which the Committee, according to Article 30 of the Convention, tries to support victims' representatives in their search for a disappeared person. The Committee has established, with the Secretariat of the High Commissioner for Human Rights in Geneva, a workable way to receive and swiftly process such requests. It is an easily understood, clearly communicated procedure with very low thresholds for the applicants. The outcome depends, of course, on the circumstances of each individual case and, decisively, on the good will and the administrative capacity of the authorities of the country in which the case occurs.



An important novelty of the treaty is that this urgent request procedure is an integral part of the Convention and thereby obligatory for all States-Parties. Its purpose is above all humanitarian, but even if there are no results, that is, as long as the disappeared person is not found, there will still be a follow-up process between the Government and the Committee. This makes the urgent request a potentially effective tool for victims. However, there is no sufficient basis, at the moment, to evaluate how this will work out in practice.

The other individual communications procedure, defined in Article 31, does require a special declaration by Member-States. So far, only 14 states have made this declaration which allows persons to file a complaint about any violation of their rights under the Convention with the Committee. The Committee has not yet received any such communication. It would seem logical that by ratifying the Convention, States declare their will to comply with its stipulation and accept a review of their compliance through the Committee under the procedure established by Article 31. Any such violation could eventually be part of the normal reporting procedure

or its follow-up. The only difference, and this could be an important difference in humanitarian terms, is that the Article 31 procedure can start at any moment once the domestic remedies are exhausted, without having to wait for the case to be introduced within the normal reporting procedure by one of the parties participating in it.



**Accession to justice.** Prof. Huhle shares his expertise among AFAD members on the importance of the Convention and the Committee on Enforced Disappearance.

The scourge of enforced disappearance has not yet disappeared from the world. The Convention that tries to define it as a crime, to prevent it and to have perpetrators prosecuted by States, is an instrument that in principle

asks nothing more from Member-States than to do what is already their obligation under international human rights law. It adds some specific measures that hopefully can be helpful for States in fulfilling their obligation to eliminate the crime of enforced disappearance. There should be, therefore, no impediment for any State of good will to ratify this Convention, including the individual complaint mechanism of its Article 31.

If Latin American governments have learned a lesson from the terrible dictatorships of the past, or consider it even an opportune tools for confronting a present that still manifests cases of enforced disappearance, there should be no reason why Asian governments cannot do likewise.

The Convention, as any other Human Rights Treaty, is not an instrument against governments but an instrument in support of human beings that fall victims to a violation of their basic human rights to life and integrity. It is a goal worthwhile to struggle for wherever we are placed, be it in government, in a local community – or within the UN Committee on Enforced Disappearances.

*Senses* by Peachy Tronqued Burgos\*

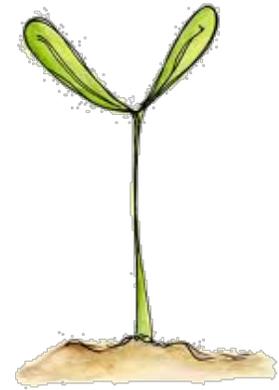
*hold on to good memories  
hold still the images of the rain and the sunset  
keep listening to the laughter and the music  
remember the sweet smell of the morning dew  
and the evening mist  
feel the smooth, warm, silky skin against your  
cheeks  
allow the taste of success to linger until it hurts  
but shove the pain into oblivion  
for life is too short  
and memories remain memories  
until your next life begins*

*\*Peachy Tronqued Burgos is the sister of Jonas Burgos, a Filipino activist who was picked up by government agents while having lunch in a fast food chain and has been missing for more than six years now.*

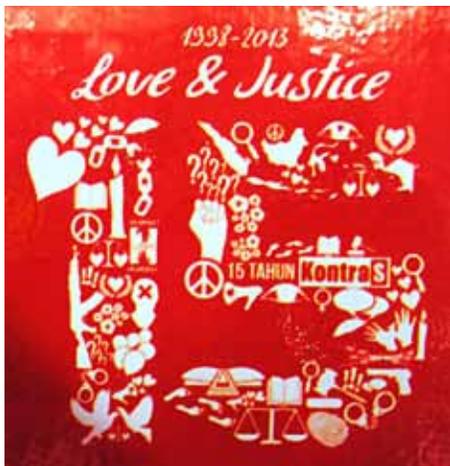
.....

*\*Rainer Huhle is a political scientist based in Nuremberg, Germany. He is a founding member of the Nuremberg Human Rights Centre and vice-chair of the German Institute for Human Rights in Berlin. In May 2011, he was elected member of the Committee on Enforced Disappearances.*

# Seeds Planted: Inroads and Challenges in Attaining a World Without *Desaparecidos*



By Mary Aileen D. Bacalso\*



On the 15<sup>th</sup> anniversary of KontraS on 14 March 2013, families of the disappeared in Indonesia from different periods of enforced disappearances in the country rallied in front of Indonesia's Presidential Palace. Themed, "Love and Courage," the commemoration coincided with the 296<sup>th</sup> Thursday since families of the disappeared and civil society organizations gathered in front of Indonesia's Presidential Palace to demand truth and justice for all *desaparecidos* who were disappeared at different periods of the country's history.



I go to Indonesia yearly, hence, the absence of a regular participant, Tuti Koto did not escape my notice. Every time I was in Jakarta, Mommy Tuti was oftentimes present in many of our meetings with government agencies. In her emphatic tone, she dared question the Commission on Human Rights and the Ministry of Law and Human Rights for being slow in responding to the cause of the families of the disappeared. This time, her absence was indeed conspicuous, for after more than a decade and a half of indefatigable search for the truth, the woman who had generously helped give life to the struggle against enforced disappearances in the country, succumbed to death on that fateful dawn of the 5<sup>th</sup> day of November, the day after celebrating her 75<sup>th</sup> birthday.

The death of one of the pillars of IKOHI and KontraS came at a time when in the Philippines, there were also series of deaths of elderly members of the

Families of Victims of Involuntary Disappearance (FIND). Mrs. Cecilia Lagman, founding Chairperson of FIND died on 13 August 2012. Mrs. Andrea Acebedo followed on 14 October 2012 and Mrs. Geronima del Rosario on 5 November 2012.

There could also be more deaths of elderly family members of the disappeared in other countries. In this struggle against enforced disappearances, there is no more painful event with families of the victims than to say goodbye to them forever. Knowing that they closed their eyes not knowing the truth and without experiencing justice, one cannot but feel an even more acute pain.

These sad stories signify that the struggle against enforced disappearances has dragged on for years, which took families of the disappeared decades of finding, without success, the whereabouts of their loved ones. The

deaths of elderly family members of the disappeared also signify dedication and perseverance to fight for truth and justice. These sad life events tell us that this long-drawn struggle against enforced disappearances necessitates the participation of the young generation in order to bring it to its victorious end.

That there were some small and great victories in the course of the struggle is evident. But what is more obvious, especially in Asian countries, is that much remains to be done to achieve concrete breakthroughs – to find the truth, to attain justice, to obtain reparation and redress and to guarantee non-recurrence. There are various contexts, though, making situations of enforced disappearances in Asia beyond compare with those of other regions. However, seeing situations such as the ongoing trials in Argentina, the finding, identification and reunification of disappeared children in El Salvador and in Guatemala with their biological parents, the trials of military generals in Argentina for the disappearances they committed – these are what every human rights defender working on the issue of enforced disappearances dreams to experience. Human efforts, after all, need gratification seen in various creative ways of realizing the struggle closer to AFAD’s vision - the attainment of a world without *desaparecidos*.

against enforced disappearance is a noble tribute to the disappeared and to their suffering family members in their quest for truth and justice. It is also a contribution to human rights promotion, protection and defense. As the work against enforced disappearances entails confrontation with the powers-that-be, associations of families of the disappeared need all the strength that it can muster to reach the finish line victorious.

Space is inadequate to mention inroads as well as challenges in Asia. What follows are attempts to mention some developments vis-à-vis the fight against enforced disappearances in some Asian countries.



For those neither dead nor alive. AFAD networks from Asia and Latin America unite as one voice to lobby for the law. PHOTO: FIND



Mami’s labor of love. Tuti Koto shared her love for the Federation through her skills and talent. This work of art will always be a reminder of her unfaltering support to the cause. PHOTO: AFAD

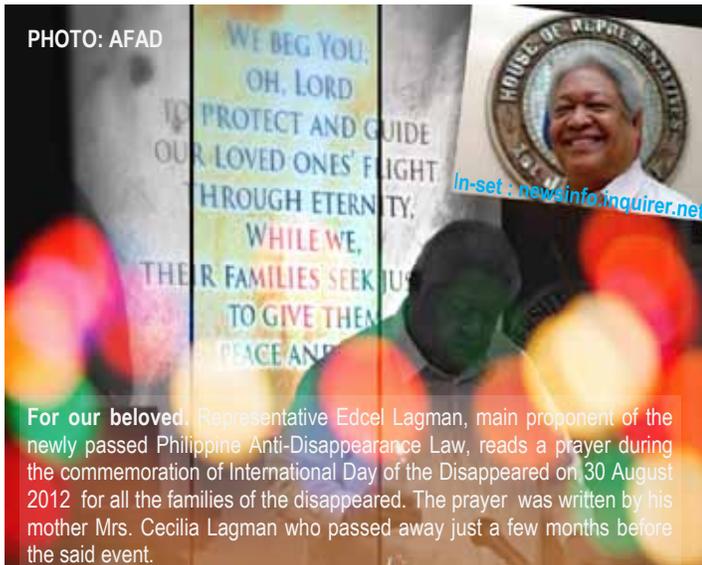
### Humble gains and challenges in some Asian countries...

In this long-drawn struggle against enforced disappearances, counting even the smallest fruits of the work is important to sustain the struggle and bring it to its victorious end. When the road seems too long and the journey, endless, exhaustion is a normal consequence. An important consolation is that the day to day work

### Philippines

The year 2012 ended with the signing by President Benigno Aquino III of the Republic Act 10353 or the Anti-Enforced or Involuntary Disappearance Act of 2012 on 21 December. The more than 16 years of indefatigable struggle in the context of the continuing phenomenon of enforced disappearances in the country yielded such a major victory. Families of the disappeared in the Philippines received the most precious Christmas gift ever – the enactment of the anti-enforced disappearance law. It is the first of its kind in Asia, whose record of enforced disappearances in the UN Working Group on Enforced or Involuntary Disappearances (UN WGEID) during the last decade is the highest.

The law has adopted the definition of enforced disappearance from the Convention. It defines enforced disappearance as “ *the arrest, detention, abduction or any other form of deprivation of liberty committed by government authorities or by persons or groups of persons acting with the authorization, support or acquiescence of such persons in authority, followed by a refusal to*



**For our beloved.** Representative Edcel Lagman, main proponent of the newly passed Philippine Anti-Disappearance Law, reads a prayer during the commemoration of International Day of the Disappeared on 30 August 2012 for all the families of the disappeared. The prayer was written by his mother Mrs. Cecilia Lagman who passed away just a few months before the said event.

*acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which places such person outside the protection of the law.”* Also, like the Convention, the law provides that enforced disappearance is a continuing offense for as long as the fate and whereabouts of the disappeared persons remains unknown. Moreover, the law states that *“the prosecution of persons responsible for the enforced disappearance shall not prescribe unless the victim surfaces alive, in which case the prescriptive period (of 25 years) shall start to run from the date of his or her reappearance.”* In addition, the law rules out the death penalty as a form of punishment and provides reclusion perpetua or life imprisonment to perpetrators found guilty. It is explicit in its provision against any form of amnesty.

The law also provides restorative justice, compensation to victims and their families, restitution of honor and psychosocial rehabilitation for both victims and offenders.

Less than a couple of months later, on 12 February 2013, the law’s Implementing Rules and Regulations (IRR), formulated according to inputs of organizations working on the issue of enforced disappearances, were promulgated. In view of skepticisms that the Philippines is good at enacting laws but poor in implementing them, the IRR, drafted from the victims’ perspective, is a tool to ensure the law’s implementation. A Committee, composed of pertinent government agencies, FIND and *Desaparecidos* has been formed to plan out steps to ensure the implementation and dissemination of the law to various government agencies, including the security forces. The AFAD participates in this committee. Such steps would be highlighted by a national summit on enforced disappearances aptly planned to be convened on 30 August 2013, International

Day of the Disappeared. It is hoped to give further visibility to the continuing phenomenon manifested in the non-resolution of past cases and commission of new cases of enforced disappearances which have now numbered 18 under the present administration. Expected to grace the occasion is no less than Pres. Benigno Aquino III himself, whose signature has made the R.A. 10353 a landmark piece of legislation against enforced disappearances. The envisioned summit also hopes to remind the Philippine Government of the imperative of signing and acceding to the Convention that complements what is now the anti-disappearance law.

This momentum of ensuring the law’s implementation, through information dissemination, a review of documented cases for filing in court, discussions on rehabilitation for the families and surfaced disappeared, and convening a national summit, must be maximized to ensure that the government will not forget its earlier pledge during its first UPR in 2007 to support the Convention. These are two complementing mechanisms which, if ratified by the Philippine government, will ensure that all mechanisms for protection are in place.

There are also other significant developments related to enforced disappearances in the country. On 22 November 2012, under Administrative Order (AO) #35, the president created a Superbody to investigate old and new cases of extrajudicial killings, enforced disappearances, torture and other grave human rights violations, giving priority to those committed during the Arroyo administration. Chaired by the Justice Secretary, the Committee is composed of the Chairman of the Presidential Human Rights Committee, the Secretaries of the Department of Interior and Local Government, the Department of National Defense, the Presidential Adviser on the Peace Process, the Presidential Adviser of Political Affairs, the Chief of Staff of the Armed Forces of the Philippines, the head of Philippine National Police and the head of the National Bureau of Investigation.

The committee is expected to submit a report to the president six months from its creation and every six months thereafter. The AO supersedes AO 211, dated 26 November 2007, which created the Task Force on Political Violence tasked to undertake the prevention, investigation, prosecution and punishment of political violence. Its effectiveness, though, remains to be seen.

Much remains to be done though, in resolving past cases using the new law. Further, the government has still to respond to the repeated requests for official invitation by the UN Working Group on Enforced or Involuntary Disappearances (UN WGEID) to visit the

country. In the recent visit of AFAD to Geneva in March 2013, the UN WGEID spoke to the Permanent Mission of the Philippines to the UN in Geneva to follow up the invitation, among other things. One of the very important agenda of the UN WGEID in its meeting with the Philippine Mission was the signing and ratification of the Convention.

## Indonesia

In response to the series of lobbying activities by KontraS, IKOHI, Indonesian civil society, AFAD, FEDEFAM and the whole International Coalition Against Enforced Disappearances, Indonesia signed the Convention on 27 September 2010. The historic signing occurred a few weeks after the series of international activities held in Indonesia. To recall, during the International Week of the Disappeared in May 2010, the whole ICAED Steering Committee held its meeting in Jakarta, which was immediately followed by the 4<sup>th</sup> AFAD Congress and the AFAD regional training on forensic anthropology in cooperation with the Argentinian Forensic Anthropology Team.

In earlier years, both AFAD and FEDEFAM conducted series of lobbying activities for the Convention, complementing local efforts – considered as important factors towards the government’s eventual signing.

On the resolution of cases, Komnas HAM or the National Commission on Human Rights of Indonesia submitted inquiry reports of the 1965-1966 massacre and mysterious shooting in 1982-1985 to the Attorney General in 2012. However, these reports were returned to the Komnas HAM for lack of information. With this, an in-depth investigation was not possible. On the contrary, Co



-Ministry of Politics, Law and Defense, Mr. Djoko Suyanto, stated that the 1965-1966 massacre occurred in the context of redeeming the country from the *Partai Komunis Indonesia* (PKI) or the Communist Party of Indonesia.

The case of the Tanjung Priok Tragedy, which was brought



to the *Adhoc* Human Rights Court, resulted in the conviction of some of the alleged perpetrators; but they were all eventually acquitted.

An important breakthrough in the struggle of the victims’ families was Komnas Ham’s issuance of official certificates on the status of victims of enforced disappearance, submitted to the 13 families of the disappeared on 3 November 2011. The handing of certificates was attended by families of the disappeared; other families of human rights violations who joined IKOHI; KontraS activists and government representatives. The said certificates contain the following:

1. That (true victim’s name, place and date of birth) is a victim of enforced disappearance in 1997-1998 based on pro-justice investigation of National Commission on Human Rights;
2. That all the government institutions responsible for the commission of the victims’ disappearance have to immediately search for the victims and ensure the punishment of the perpetrators.

These certificates, which are part of the fulfilment of the victims’ rights, were issued due to pressure from the families of the disappeared. These are helpful for the families in handling problems related to their legal status. Further, the certificates give opportunities to the families of the disappeared to have access to medical and physical assessments by the Witnesses and Victims’ Protection Agency. Some families have already received medical and physical assessments.

On the aspect of prosecution, a semblance of justice processes is evident, however found wanting. The High Military Court II sentenced the 11 members of Rose

Team of Kopassus involved in abduction and enforced disappearances in 1997-1998 disappearances of student activists in April 1999. They were imprisoned for the kidnapping of nine surfaced activists. Perpetrators were sentenced to 12-22 months imprisonment and dismissal from military service. However, the military Court of Appeals reversed the verdict of dismissal from military service for the seven members of the Rose Team. Ironically, four of them were promoted. To date, the search for the 13 disappeared activists continues, an issue unopened by the court.

Moreover, high ranking officers, Gen. Prabowo Subianto, Gen. Muchdi Purwopranjono and Col. Chaerawan were sanctioned. Prabowo was permanently dismissed from military service. Muchdi and Chaerawan were temporarily transferred to another unit and both retired from military service with the ranks of major general. Prabowo and Muchdi are running under the banner of the Gerindra Party. Worse still, Prabowo Subianto will join the presidential elections in 2014.

Impunity prevails. But families of the disappeared, hand in hand with civil society, will never allow a repetition of the horrors of the past. In black t-shirts and black umbrellas, they have, as of this 2013 commemoration of the International Week of the Disappeared, gathered for their 307<sup>th</sup> rally in front of Indonesia's presidential palace every Thursday – imitating the *Madres de Plaza de Mayo* who, in their white scarves rally every Thursday for the last 30 years, around the square fronting Casa Rosada to demand for truth and justice for the 30,000 *desaparecidos* during Argentina's Dirty War.

In March 2013, on the occasion of KontraS' 15<sup>th</sup> anniversary, for the first time, KontraS, IKOHI and AFAD were given an audience by Indonesia's Minister of Foreign Affairs Marty Natalegawa who assured us that all papers had been prepared to be submitted to the president in



**Epitome of strength.** Angkhana Neelaphaijit, wife of the Thai disappeared Somchai Neelaphaijit, is an epitome of wives and all women who want justice for their disappeared loved one. PHOTO: Angkhana Neelaphaijit

order to expedite the Parliament's ratification process of the Convention.

### Thailand

The year 2012 started with the government of Thailand signing the International Convention for the Protection of All Persons from Enforced Disappearance (the Convention) on 9 January. The signing could be attributed to the tireless efforts of Ms. Angkhana Neelaphaijit in championing the cause of her disappeared husband, lawyer Somchai Neelaphaijit and all other victims of enforced disappearances in Thailand. The two decades of search for truth and justice of the Relatives Committee of the May 1992 Heroes (RC), likewise, contributed to this. Both are members of the Asian Federation Against Involuntary Disappearances (AFAD), which, at home and abroad, lobbied the Thai government to sign and ratify the Convention.

After the signing of the Convention, the Justice for Peace Foundation (JPF) discussed with other organizations the need to harmonize the international treaty with the Thai domestic law and the possibility for a new piece of legislation criminalizing enforced disappearances. The Ministry of Justice has commissioned a study group composed of academicians to draft a piece of legislation criminalizing enforced disappearances in order to facilitate the Convention's ratification process.

In addition, the Thai government formed a sub-committee on "investigation and compensation for the disappearance cases" under the Ministry of Justice. This



**Thai mothers are Asian mothers.** Just like all mothers in Asia who lost their children due to enforced disappearance perpetrated by the state, Thai mothers hold hands together and seek justice. PHOTO: AFAD

body is expected to recommend compensation to victims of enforced disappearance in Southern Thailand. The government of Thailand then decided to give compensation in the amount of 500,000 Baht to 7.5 Million Baht to 30 families of the disappeared in the southern part of the country. So far, in September 2012, the family of Mr. Somchai Neelaphaijit was given compensation amounting to 7.5 Million baht. The JPF also conducted efforts to bring families of the disappeared to Mecca, which is every Muslim's dream to attain spiritual well-being before death. Two family members, so far, travelled to Mecca in the last quarter of 2013.

However, while Angkhana Neelaphaijit, in a letter to Prime Minister Yingluck Shinawatra praised the Thai government for signing the Convention and for providing compensation, she emphatically noted: "Monetary remedies are not enough to erase the trauma and wounds in the hearts of survivors. I believe that only through access to truth and justice will the dignity of the survivors be restored leading to lasting forgiveness and reconciliation."

At the international level, the case of Somchai Neelaphaijit and other cases of enforced disappearances in the Southern part of the country were once again brought to the attention of the UN WGEID during its 99th session in March 2013. As always, the UN WGEID committed itself to do something about the cases in Thailand in as much as it commits itself to exercise its humanitarian mandate to bring governments' attention to cases of enforced disappearances.

The AFAD Executive Council, in coordination with the JPF and the RC, will once again knock on doors of Thai authorities to remind them of the fulfilment of its promise sooner than later.

How to sustain the work and produce concrete results is a real challenge.

### Kashmir, India

In this disputed state of Jammu and Kashmir, with 8,000 cases of enforced disappearances and the consequent phenomenon of half-widows; the situation of unmarked mass graves of victims of human rights violations, the atmosphere of fear and the continuing human rights violations, there seems to be no light at the end of the tunnel in this paradise lost.

But in response, the Association of Parents of Disappeared Persons (APDP), in its struggle for truth and justice, was established in 1994 as an expression of

collective protest against the continuing injustices and human rights violations and as a vehicle for truth and justice. It conducts research and documentation and campaign against the continuing atrocities through public events.

In collaboration with the International People's Tribunal for Human Rights, it issued two reports on the mass graves phenomenon: *Facts Underground* and *Buried Evidence*.



**Facts Underground** is a study of a thousand unnamed mass graves across the northern district of the Indian administered Kashmir, which contains bodies alleged as foreign militants by the police. The APDP suspects an estimated 10,000 disappearances in the state.

Findings of **Buried Evidence** state that "the graveyards investigated by the International People's Tribunal of Kashmir entomb bodies of those murdered in encounters and killings between 1990 – 2009. These include bodies of extra-judicial, summary and arbitrary executions as well as massacres committed by the Indian military and para-military forces. Of these graves, 2,373 (87.9%) were unnamed. Of these graves, 154 contained two bodies each and 23 contained more than two cadavers. Within these 23 graves, the number of bodies ranged from 3-17."

These reports, written to reveal India's skeletons inside the closet, prompted the government to admit this phenomenon, but did not convince its calloused conscience to facilitate DNA investigation to ferret out the truth behind the mass graves despite pleas from families of the disappeared.

As Indian writer, Arundhati Roy aptly puts it, "truth

in Kashmir is probably more dangerous than anything else. The deeper you dig, the worse it gets.” Indeed, it was the value of both reports that helped unveil the real situation characterized by enforced disappearances, extrajudicial execution, torture, and violent protests camouflaged by the world’s greatest democracy.

**Half-Widow, Half-Wife**, an APDP report on the phenomenon of half-widows in Kashmir, speaks of the difficulties of wives of the disappeared as a consequence of their husbands’ disappearance. Enforced disappearance deprives half-widows, already burdened with economic dislocation due to the disappearance of their husbands, of inheritance. Worse still, they are left to take care of children without resources. They are stigmatized by society as wives of subversives and disowned by their parents and parents-in-law, who are likewise incapable of responding to the economic needs of their daughters-in-law and grandchildren.

An important breakthrough of the APDP in its relentless search for the truth is the report, entitled, “**Alleged Perpetrators, Stories of Impunity in Jammu and Kashmir**,” which examines 214 cases of human rights violations, 75 of which are enforced disappearances. The report reveals the role of 500 alleged perpetrators [identified by rank and/or name] in these crimes. Prepared over a period of two years using information gathered mostly from witness testimonies and official State documents, it portrays the prevalent state of impunity in Jammu and Kashmir. Where identities of individual perpetrators of crimes are known, it seeks a process of accountability for institutional criminality, thus breaking impunity.

Out of 214 cases, there are 500 individual perpetrators, 235 of whom are army personnel; 123 paramilitary personnel; 111 Jammu and Kashmir Police personnel and 31 government-backed militants/associates. Among the alleged perpetrators are two Major Generals and three Brigadiers of the Indian Army, in addition to nine Colonels, three Lieutenant Colonels, 78 Majors and 25 Captains. Moreover, there are 37 senior officials of the federal paramilitary forces, a recently retired Director General of the Jammu and Kashmir Police and a serving Inspector General.

As APDP has it, “This report seeks to turn the focus on the identities of alleged perpetrators of crimes and atrocities. This stems from the understanding that despite a culture of systemic impunity that exonerates perpetrators, it is individuals who commit violations, and they must bear responsibility for their acts. By naming names, the report seeks to remove the veil of anonymity

and secrecy that has sustained impunity. Only when the specificity of each act of violation is uncovered can institutions be stopped from providing the violators a cover of impunity. “

These reports and the many efforts being done by the APDP are steps that contribute to the betterment of the future of the people of Kashmir. They speak volumes of the cruelties of the “world’s biggest democracy,” of impunity starting from the commission of the crime to its ultimate cover up. It urges the international community to take action and not tolerate impunity and the vicious cycle of human rights violations.

While there seems to be no light at the end of the tunnel, the uphill struggle of APDP to see a Kashmir without *desaparecidos* and to regain its paradise lost shall bear good fruits in the not-so-distant future.

### **A Global Scourge, A Global Struggle**

While Asia is the continent that submitted the highest number of cases to the UN WGEID, the latter’s 2012 Annual Report speaks of 84 countries having outstanding cases of this most heinous of human rights violations. For this reason, the United Nations unanimously adopted the Convention on 20 December 2010, which, to this date, has been signed by 91 States and ratified by 38. The Convention provides, among other things, the right to truth and the right not to be subjected to enforced disappearances. Drafted and negotiated at the United Nations in Geneva from 2003-2005 with the participation of the members of the former UN Commission on Human Rights, federations and associations of families of the disappeared and international non-government organizations, this treaty aims to defeat impunity, prevent recurrence of new cases and defend the rights of the disappeared and their families.



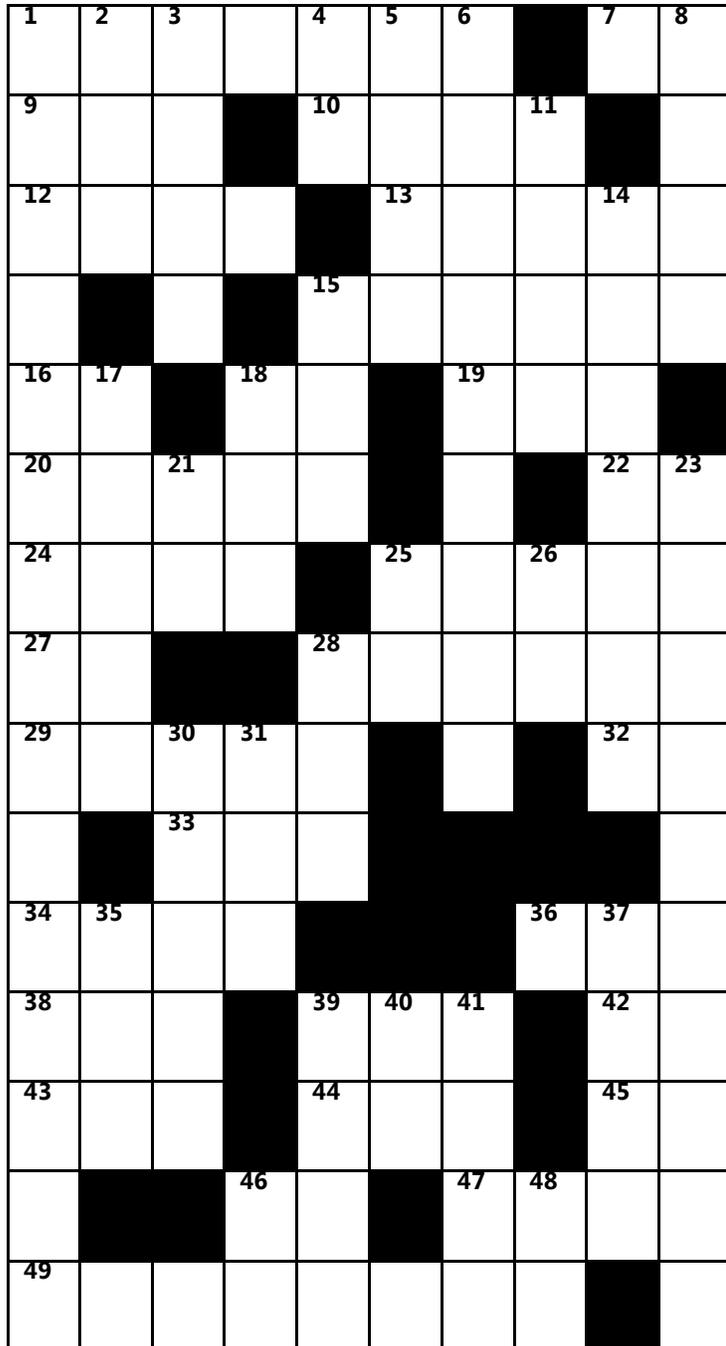
Lobbying at the International level. Side event on abductees taken by the North Korean government sponsored by Citizens' Alliance for North Korean Human Rights and Human Rights Watch.

To ensure universal accession and implementation of the Convention, the ICAED was established shortly after the historic signing of the Convention at the Ministry of Foreign Affairs in Paris,



# CROSSWORD

by Darwin Mendiola



- by Mike Baab  
 20. without a \_\_\_\_\_; missing  
 22. Mr. Piron, author of Rights-Based Approaches to Social Protection  
 24. Mr. Relva, Amnesty International Legal Adviser International Justice Team, Law and Policy Program  
 25. recent state-party of the ICPAPED which ratified on November 27, 2012  
 27. Street, abbr.  
 28. leave quickly  
 29. UN office that represents the world's commitment to universal ideals of human dignity.  
 32. \_\_\_\_ facto; concerning fact  
 33. \_\_\_\_ de Janeiro  
 34. \_\_\_\_\_ and proper; very formal  
 36. \_\_\_\_\_ whom the bell tolls  
 38. Ms. Sharon, Executive Director of Hong Kong- and New York-based group Human Rights in China  
 39. \_\_\_\_\_-fi: futuristic  
 42. Protection International  
 43. lyrical stanza  
 44. Evangelischer Entwicklungsdienst  
 45. printer's measure  
 46. Medical Examiner  
 47. In the \_\_\_\_\_ of Fire  
 49. Mr. Decaux, first Chairperson of the Committee on Enforced Disappearance (CED)

- disappeared on December 15, 2012  
 2. fuss  
 3. Ms. Pillay, current UN High Commissioner for Human Rights  
 4. His or Her Excellency  
 5. suppose in Sanskrit  
 6. *Jana* \_\_\_\_\_, Sri Lankan for People's Struggle  
 8. evergreen trees  
 11. Newest member of AFAD based in South Korea  
 14. \_\_\_\_ nine; elation  
 15. feel remorse  
 17. March 24, UN Declared Day for the Right to the \_\_\_\_\_.  
 18. Italian essayist Umberto  
 21. Attorney General  
 23. acts committed against any person because of race, religion, sexual orientation or gender, etc.  
 25. Author Groseclose, "In Public Health and Human Rights: Evidence Based Approaches"  
 26. *Modus Operandi*  
 28. to and \_\_\_\_\_; here and there  
 30. Enforced Disappearance constitutes a \_\_\_\_\_ against humanity.  
 31. that man  
 35. a thin straight piece or bar of material  
 37. not closed  
 39. noticed  
 40. Common Era  
 41. inactive  
 46. Ms. Sandar, ailing Human Rights Defender being detained in the Putao prison, Kachin State, northern Myanmar  
 48. Mare means "The Sea" in Italian

## ACROSS

1. Ms. Ekneligoda, wife of disappeared Sri Lankan journalist  
 7. Advocacy Forum  
 9. It means song in Nihongo.  
 10. yield  
 12. on the \_\_\_\_\_; active  
 13. capital city of a state  
 which ratified the ICPAPED on December 11, 2008  
 15. Human \_\_\_\_\_ are universal.  
 16. preposition  
 18. European Union  
 19. The \_\_\_\_\_ of Human Rights Priorities

## DOWN

1. Lao Development worker who

# CryptoQuote

By Darwin Mendiola

(CryptoQuote is a puzzle where one can decipher a phrase or a quote by using simple numerical substitution.)

Directions: One number stands for a letter.

In this CryptoQuote, 7 = A, 8 = N, and 13 = E.

“

1	2	3	4	5	6	7	8	9
---	---	---	---	---	---	---	---	---

10	5	8	11	12	7
----	---	---	----	----	---

3	13	7	9	14	10	8	13
---	----	---	---	----	----	---	----

,

3	13	10	5	7
---	----	----	---	---

15	13	16	5	11	8
----	----	----	---	----	---

.”

— **NG SHUI MENG**  
**WIFE OF DISAPPEARED LAO HUMAN RIGHTS DEFENDER,  
SOMBATH SOMPHONE**

# MEMBER-ORGANIZATIONS



**Odhikar (Bangladesh)**  
House No. 35 (3rd Floor), Road No. 117  
Gulshan Dhaka 1212, Bangladesh  
Phone: 008802 9888587  
Fax: 008802 9886208  
E-mail: odhikar.bd@gmail.com  
Website: www.odhikar.org



**Perkumpulan HAK (Timor Leste) The HAK Association**

Jl. Gov. Serpa Rosa, Farol, Dili, Timor Leste  
Phone: 00670 390 313323  
Fax: 00670 390 313324  
E-mail: direito@yayasanhak.minihub.org  
Website: www.yayasanhak.minihub.org  
PO Box 274 (via Darwin-Australia)



**KontraS (Indonesia)**

**The Commission for the Disappeared and Victims of Violence**  
Jl. Borobodur No. 14, Menteng Jakarta, 10320, Indonesia  
Phone: 0062 213926983/ 3928564  
Fax: 0062 21 3926821  
Email: kontras\_98@kontras.org  
Website: www.kontras.org



**AF (Nepal) Advocacy Forum**

Shantiniketan Marg 94/14, Gairidhara, Kathmandu, Nepal  
Phone: 00977 1 4415789, 4004007, 4004008  
Fax: 00977 1 4426698  
E-mail: info@advocacyforum.org.np  
Website: www.advocacyforum.org



**APDP (Jammu and Kashmir, India) Association of Parents of Disappeared Persons**

The Bund, Amirakadal, Srinagar-190001 Jammu & Kashmir, India  
Phone: 0091 8803929741/0091 9419013553  
E-mail: p\_imroz@yahoo.com.in



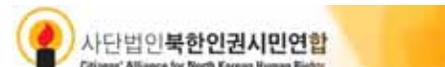
**IKOHI (Indonesia) Indonesian Association of Families of Disappeared**

Jl. Gugus Depan No 2, RT/RW: 003/02, Palmeriam, Jakarta 13140 INDONESIA  
Tel/Fax: +62-21-8502226  
Email: kembalikan@yahoo.com  
Web: www.ikohi.or.id, ikohi.blogspot.com



**CVSJ (Nepal) Conflict Victims' Society of Justice**

Naxal, Kathmandu, Nepal  
E-mail: conflictvictimssociety@gmail.com



**NKHR (South Korea) Citizens' Alliance for North Korean Human Rights**

3F Gyemyeong Bldg, 186 Migeun-dong, Seodaemun-gu, Seoul, 120-020, Korea  
Phone: 0082 2 723 1672  
Fax: 00 82-2-723-1671  
E-mail: Citizens.nkhr@gmail.com, Citizens.nkhr2@gmail.com, Citizens.nkhr3@gmail.com  
Website: www.nkhumanrights.or.kr



**FOD (Sri Lanka) Families of the Disappeared**

No. 555, Negombo Road, Katunayake, Sri Lanka  
Telefax: 0094 312221604  
E-mail: fodlanka@gmail.com  
Website: www.right2lifelanka.org



**JUSTICE FOR PEACE FOUNDATION**  
มูลนิธิเพื่อสันติภาพ  
www.justiceforpeace.org

**JPF (Thailand) Justice for Peace Foundation**

24/158 Ladprow, Jatujak, Bangkok, Thailand  
Phone: 0066 29759975  
E-mail: angkhana\_nee@hotmail.com / tubjit\_moi@hotmail.com  
Website: www.wgjp.org



**RCMH (Thailand) Relatives Committee of the May 1992 Heroes**

43/29 Moo7 Tambon Kookot, Lulooka Pathumdhani 12130 Bangkok, Thailand  
Phone: 0066 29948513  
Fax: 0066 29948517  
E-mail: kongkanit@kongkanatat.com



**AFAD Secretariat Office**

Rms. 310-311 Philippine Social Science Center Building, Commonwealth Avenue, Diliman, Quezon City 1103, Philippines  
Phone: 00 632 4907862  
Telefax: 00 632 4546759  
E-mail address: afad@surfshop.net.ph  
Website: www.afad-online.org  
Facebook Page: Asian Federation Against Involuntary Disappearances  
Twitter: AFAD\_updates

The Asian Federation Against Involuntary Disappearances (AFAD) is a regional federation of organizations working directly on the issue of involuntary disappearances in Bangladesh, Indonesia, Jammu and Kashmir-India, Nepal, Philippines, South Korea, Sri Lanka, Thailand and Timor Leste. Founded in 1998 to promote solidarity, lobby, communications, networking and advocacy among its member organizations and network, the Federation works with international, regional and national formations from other countries.

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



# AFAD NEEDS YOUR SUPPORT!

## What YOU Can DO...

- Share our posts on [facebook](#) & [twitter](#) • Be an AFAD Intern •
- Volunteer your precious  • Donate some  to AFAD •
- Arrange ctivities with us in your community and schools •
- Distribute our campaign materials • Attend our events •

**And a lot more!**