

THE HUMAN RIGHTS COMMUNIQUÉ

YOUR MONTHLY DOSE ON HUMAN RIGHTS

(NEWSLETTER FOR CENTRE FOR ADVANCED STUDIES IN HUMAN RIGHTS, RGNUL, PUNJAB)

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ISIS & SYRIA: NO EASY ANSWERS FOR THE WEST

“Only what a Takfiri state would look like: it would be harsh, mean-spirited, house of blood, where no shade would be offered, nor shelter given, to any non-Takfiri in their midst.”

- The Islamic State of Iraq and Syria

The Islamic State, varying referred as ISIS or ISIL (**Islamic State in Iraq and al-Sham; Final “S” in ISIS stems from Arabic word “al-Sham” which refers to Levant**) is a transnational Sunni Islamist insurgent and terrorist group that has expanded its control over areas of North-Western Iraq and North-Eastern Syria since 2013, threatening the security of both countries and drawing increased attention from the international community. ISIS follows an extreme anti-Western interpretation of Islam, promotes religious violence and regards those who do not agree with its interpretations as infidels or apostates. Concurrently, ISIS also aims to establish a Salafist-orientated Islamist state in Iraq, Syria and other parts of the Levant.

Formation of ISIS

ISIS began as al-Qaeda in Iraq (AQ-I), founded by Abu Mus’ab al-Zarqawi when he pledged allegiance to Osama bin Laden. It emerged from the ideology of the Muslim Brotherhood, the world’s first Islamist group dating back to the late 1920s in Egypt. With the death of Zarqawi in June 2006, AQ-I merged with some other Iraqi jihadist groups and by October 2006 had rebranded itself the Islamic State of Iraq (ISI). In this guise, ISI served as the umbrella organization for most jihadist groups and their fighters in Iraq. Although ISI nominally started as an al-Qaeda ‘franchise’, it never claimed to be part of the organization. Despite its ideological and even close operational links, ISI always maintained a formal autonomy.

After the U.S. troop surge in Iraq in 2006, AQ-I’s destructive capability reduced considerably, but they started steadily gaining fighters under the leadership of Abu Bakr al-Baghdadi. In April 2010, Abu Bakr al-Baghdadi became the leader of ISI after Abu Omar al-Baghdadi and Abu Ayyub al-Masri were killed in a joint U.S.-Iraqi operation. After the departure of US Troops in 2010, AQ-I began a bombing campaign. However it was only in 2013 that AQ-I adopted the name Islamic State of Iraq and Syria (ISIS). Further, the organization renamed itself to the Islamic State (IS) declaring its leader Abu Bakr Al Baghdadi, as the “Commander of the Faithful”—a term essentially declaring him leader of all Muslims. It also declared a caliphate in the territory it controls in Iraq and Syria.

Recent Advance of ISIS

ISIS remained largely dormant post withdrawal of US troops from Iraq in 2011. ISIS initiated attacks escalated significantly after an assault on Sunni protesters in the town of Hawija on April 23, 2013.

Thereafter, ISIS began asserting control over territory and operating some training camps in areas close to the Syria border. On July 21, 2013, the group attacked prisons at Abu Ghraib and freed several hundred purported ISIS members. By 2014, ISIS had taken control of Syria's Raqqa and Deir al Zawr provinces, Fallujah and Ramadi, Mosul, Saddam's hometown of Tikrit, Tal Afar and into Diyala Province. Once the territory was occupied and jihadist fighters were inducted into the organization, ISIS announced the creation of a caliphate that erases all state borders, making al-Baghdadi the self-proclaiming him to be an authority over the world's estimated 1.5 billion Muslims.

The IS forces have massacred Iraqi civilians, often from ethnic or religious minorities, looted banks, freed prisoners, and reportedly captured a substantial amount of US supplied military equipment. The most recent activity being the decapitating US journalist and releasing a message by way of video clip. The IS's tactics have drawn the ire of the international community, increasing U.S. attention on Iraq's political problems. Moreover, it is not a matter of the US alone being at war with the ISIS but the ISIS being at war with the Arab World. On orders of the President of the US, Barack Obama, the American Forces started air strikes on the ISIS as well as Khorasan (Al Qaida aligned group) targets in Syria. This was done in order to eliminate the imminent threat to US and the Western Society. The Kingdom of Saudi Arabia, United Arab Emirates, Jordan and Qatar also joined the US Forces in airstrikes on IS occupied territories.

Human Rights Violations

Public atrocities by the IS are a curious business. Brutality by the IS has been commonplace. They have used YouTube videos of mass executions to cover their enemies into surrender or flight. This is precisely what happened in Mosul, when Iraqi troops fled in fear of the consequences of capture. At least 1,420 Iraqis were killed and another 1,370 wounded in acts of terrorism and violence in August as per the U.N. Assistance Mission for Iraq. The figures do not include Anbar province due to lack of ability to verify casualties since IS took over Falluja and other towns in January. But the beheadings of western journalists and aid workers are of a different quality. These are not to scare the Iraqi troops or the other Syrian rebels. The new killings are a message to the West. IS has signaled that it simply does not care about international norms and western reaction. It recognizes that the West has its hands tied. It will bomb from the air, but this is as likely as not to bring recruits to the side of the Islamic State.

UN Security Council in its 7242nd meeting, on August 15, 2014, expressed its gravest concern that territory in parts of Iraq and Syria is under the control of IS and about the negative impact of their presence, violent extremist ideology and actions on stability in Iraq, Syria and the region, including the devastating humanitarian impact on the civilian populations which has led to the displacement of millions of people, and about their acts of violence that foment sectarian tensions. It also reiterated its condemnation of IS, ANF and all other individuals, groups, undertakings and entities associated with Al-Qaida for ongoing and multiple criminal terrorist acts aimed at causing the deaths of civilians and other victims, destruction of property and of cultural and religious sites, and greatly undermining stability. It

also urged Member States to ensure that any measures taken to combat terrorism comply with all their obligations under International Law, in particular International Human Rights, Refugee and International Humanitarian Law.

USA & ISIS: The Intended & Unintended Support

The US seems to have repeated the gross error it made by aiding Taliban years ago. ISIS was a relatively a small force when it was only a branch of the al-Qaeda in Iraq alone. The real turn in its fortunes came when it received the wherewithal to enter Syria on the side of the U.S. and its allies, Turkey and the Gulf monarchies, as a leading beneficiary of the largesse that funded the jihad to topple Bashar al-Assad.

Experts believe that the US and its Gulf allies, really decide to clip the wings of the Caliphate it will disintegrate even faster. This is a fragile alliance, opportunistic on all sides, and prone to fall apart if others find alternative channels. Armed conflict among these allies at some future date cannot be ruled out. The US, on the other hand, seeks to lead and build a multilateral coalition to try to progressively reduce the geographic and political space, manpower, and financial resources available to the Islamic State. The Administration expects different members of the coalition to employ varying means to counter the Islamic State, including but not necessarily limited to direct military action, support for partner ground forces in Iraq and Syria, intelligence gathering and sharing, and financial measures. The strategy will not involve deployment of U.S. combat troops, but will rely on strengthening local partners who are fighting Islamic State forces on the ground.

Working with international partners, the United States will seek to prevent Islamic State terrorist attacks by increasing efforts to cut off Islamic State finances and improving intelligence on the group. The U.S.-led coalition will continue to provide humanitarian assistance to those displaced by Islamic State offensives.

Concluding Remarks

Currently, ISIS is a threat to Iraqis and Syrians and offers them no viable future. But as the President Obama has conceded, a group that's more interested in controlling territory as a fantasy caliphate than al-Qaeda-style, global jihad poses no direct threat to the US, or Britain for that matter. As a result of renewed intervention, however, it could become one. The alternative to Obama's new Middle East war is concerted pressure for UN-backed agreement between the main regional powers, including Turkey, Iran and Saudi Arabia, to wind down the Syria conflict and back a genuine unity government in Iraq.

Bombing will not destroy ISIS, but win it sympathy – or even cause it to mutate into something worse. Only Iraqis and Syrians can defeat IS. But the US remains determined to keep control of the Middle East, while being unable to find a stable way of doing it. So its response to every failure of intervention is more intervention. The US and its allies are at the heart of the problem in the Middle East, not the solution.

TRIVIA

- As per the UN disconnecting people from internet is a violation of human rights and international law.
- Navi Pillay, ex – UN High Commissioner for Human Rights, completed her tenure on August 31 after 6 years which is the longest term ever for top human rights official.
- According to the reports, 2 million girls each year are at risk of genital mutilation – approximately 6,000 per day.

DAYS OF MONTH

- The United Nations Day – October 24

UPCOMING EVENTS

- Indian Social Institute, New Delhi organizes Para Legal Training on Human Rights and Law – November 2 to November 8, 2014
- Osmania University Centre for International Programmes, Hyderabad organizes International Seminar on Human Rights – December 17 to December 19, 2014

DID YOU KNOW?

UN Declaration of the Rights of Indigenous People was adopted by the United Nations in 2007.



It is because seva-dharma is dear to my heart that the Bhangi is dear to me. I may even sit at my meals with a Bhangi on my side, but I do not ask you to align yourselves with them by inter-caste dinners and marriages.

- Mahatma Gandhi

MANUAL SCAVENGING: VIOLATION OF HUMAN RIGHTS

Human Rights Watch released a new report titled “Cleaning Human Waste: ‘Manual Scavenging,’ Caste, and Discrimination in India,” stating that the Indian government should end manual scavenging – the cleaning of human waste by communities considered low-caste. The same can be done, as suggested by the authorities, by ensuring that local officials enforce the laws prohibiting this discriminatory practice. The 96-page report documents the coercive nature of manual scavenging. Across India, castes that work as “manual scavengers” collect human excrement on a daily basis, and carry it away in cane baskets for disposal. Women from this caste usually clean dry toilets in homes, while men do the more physically demanding cleaning of sewers and septic tanks.

The report describes the barriers people face in leaving manual scavenging, including threats of violence and eviction from local residents but also threats, harassment, and unlawful withholding of wages by local officials. This practice is considered one of the worst surviving symbols of untouchability because it reinforces the social stigma that these castes are untouchable and perpetuates discrimination and social exclusion.

National Human Rights Commission has been periodically reviewing the steps taken by the Central as well State Governments for implementation of the provisions of The Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013. The 2013 Act also recognized a constitutional obligation to correct the historical injustice and indignity suffered by these communities by providing alternate livelihood and other assistance. Rehabilitation provisions are left to be implemented under existing central and state government schemes – the same set of programs that have not thus far succeeded in ending manual scavenging. Some recommendations are also made by the Commission like periodic comprehensive survey, at least once in three years, should be conducted in collaboration with credible NGOs. It should cover dry latrines, manual scavengers and alternative livelihood options for rehabilitation.

The Government both at Centre and State level must ensure that entitlements under the 2013 Act – including financial assistance, scholarships, housing, alternative livelihood support, and other important legal and programmatic assistance – are available to manual scavenging communities. In March 2014, the Supreme Court of India ruled that manual scavenging violates international human rights law.

NELSON MANDELA

Rolihlahla Mandela was born into the Madiba clan in the village of Mvezo, Transkei, on 18 July 1918. Nelson Mandela never wavered in his devotion to democracy, equality and learning. He was South African anti-apartheid revolutionary, politician and philanthropist who served as President of South Africa from 1994 to 1999. He was South Africa's first black chief executive, and the first elected in a fully representative democratic election. His government focused on dismantling the legacy of apartheid through tackling institutionalised racism, poverty and inequality, and fostering racial reconciliation. Despite terrible provocation, he never answered racism with racism. His life is an inspiration to all who are oppressed and deprived; and to all who are opposed to oppression and deprivation.

HUMAN RIGHTS NEWS.....

HINDRAF ASKS INDIA TO ADDRESS DIASPORA ISSUES

Kuala Lumpur, Malaysia, 26 August, 2014

HINDRAF, a coalition of 30 Hindu NGO in Malaysia wrote to the Indian Government asking it to include the issue of human rights violations affecting the Indian Diaspora within the agenda for next year's Pravasi Bharatiya Divas. It is worthwhile to note that the Indian Government celebrates Pravasi Bhartiya Divas every year on 9 January, the day marks the return of Mahatma Gandhi to India from South Africa in 1915, in order to recognize the contribution of non – resident Indians and persons of Indian Origin in the development of India.

Pravasi Bhartiya Divas Conventions are an annual affair since 2003 organized by Ministry of Overseas Affairs under the Government of India. This year's Pravasi Bharitya Divas was organized from 7 January to 9 January 2014 on "Engaging Diaspora: Connecting Across Generations." The chief guest of the event was Mr. Rajkeswur Purryag, President of Republic of Mauritius.

In a letter to the Indian Foreign Minister Sushma Swaraj, HINDRAF Chairman P. Waythamoorthy stated that it was imperative for the conference to hear the complaints of overseas Indians with regard to human rights abuses affecting them. He pointed out that the current government in power should give the Indian diaspora a platform to be heard at the conference. Waythamoorthy said that the violations of human rights, discrimination and marginalisation of Malaysian Indians were well documented. Similarly, he added, discrimination and marginalisation of Indians was happening in Fiji, Bangladesh, Pakistan, Afghanistan, South Africa, Trinidad and Tobago, Guyana and Surinam.

CIVIL SOCIETY CALLS ON GOVERNMENT FOR ESTABLISHMENT OF REGIONAL HUMAN RIGHTS MECHANISM

New Delhi, 31 August, 2014

The Regional Initiative for a South Asian Human Rights Mechanism along with one hundred civil society organisations and individuals from twenty States across India called on the government to work with other South Asian States towards the establishment of an independent and effective inter-state South Asian Regional Human Rights Mechanism.

The participants at a national consultation jointly organised by the Asian Forum for Human Rights and Development (FORUM-ASIA) and the Working Group on Human Rights in India and the UN (WGHR) expressed their deep dissatisfaction with the current state of human rights in the region especially India. The participants drafted and adopted a Delhi Declaration expressing their resolution pressing for and to work towards establishment such a mechanism.

With preparations for the SAARC summit in Kathmandu in progress, the participants emphasised the need for proper implementation of human rights instruments adopted by SAARC and its member States. Ms. Gayatri Khandhadai, South Asia Programme Officer, FORUM-ASIA, insisted that regional cooperation is incomplete and meaningless without committing to protection of human rights at the regional level. SAARC will continue to be a muted organisation unless it takes a proactive role in the promotion and protection of human rights in the region.

H.S. PHOOLKA WRITES TO NHRC SEEKING JUSTICE FOR VIKRAM SINGH

Amritsar, 01 September, 2014

Senior leader of Aam Aadmi Party (AAP) Adv. H.S. Phoolka has written to the Chairman of National Human Rights Commission (NHRC) alleging that the detention of Vikram Singh amounted to a clear violation of human rights. Vikram had hurled a shoe at Chief Minister Parkash Singh Badal during a rally held recently. In his letter, the lawyer turned politician stated that Vikram Singh was taken into custody by the police in Khanna on 15 August u/s 101 and 151 of the Code of Criminal Procedure, 1973, both of which are bailable offences. By the mandate of law the accused should have been released when he was ready to furnish the bail bond, but instead the police kept him in custody the whole night.

NHRC PREPARING TO GRAPPLE WITH ISSUES LIKE DISPLACEMENT, UNHEALTHY ENVIRONMENT

New Delhi, 04 September, 2014

NHRC is preparing to grapple with issues such as displacement, unhealthy environment and violation of labour laws by business houses and proprietors as it seeks to sharpen its focus amid rapid industrialization and increased economic activity. Besides, the Commission plans to critically examine government policies framed for promoting business to ensure that these are not in conflict with human rights.

Protests over major nuclear, steel, power and other projects in various parts of the country drove the commission to alter its approach, officials said, adding that the NHRC had been receiving several complaints alleging that industries had created environmental problems, violated labour laws and displaced people.

The Commission has traditionally acted on a case-by-case basis without a broad framework for dealing with business-related human rights violations. Now the Commission plans to examine the impact of government policies on public health, business practices, industrial processes and products as pointed out in a report titled "NHRC India on Business and Human Rights" submitted to the International Coordinating Committee for National Human Rights Institutions, an international association of national human rights institutions across the world.

AROUND THE GLOBE...

YEMINI GOVERNMENT AND REBELS CLOSE TO PACIFYING

Sanaa, Yemen, 22 September, 2014

Shiite rebels, a minority in the mostly Sunni nation but the majority community in the northern highlands, including the Sanaa region, seized the Yemeni government headquarters during the last few weeks to demand key posts in key state institutions as part of a push for greater political clout. The Yemeni government has recorded the killing of 200 people on the outskirts of the Yemeni capital. Rescue teams retrieved 53 bodies during the day, bringing the total pulled by ministry teams since September 16 to 200 bodies, as per the official statement released by the health ministry.

Meanwhile, the Prime Minister Mohamed Basindwaw stepped aside but accused the President Abdrabuh Mansur Hadi of being autocratic who denied such allegations and agreed to involve rebels in the formation of a new government to replace the existing unpopular government. An accord has been reached to end the crisis in Yemen after a week of deadly fighting between rebels and pro-government forces, according to a United Nations envoy. He said the deal came after “intense consultations”, although the deal has not been signed yet, it is expected to be executed soon.

MILITANT UPEHAVAL IN LIBYA BRANDED AS “WAR CRIME”

Tripoli, Libya, 08 September, 2014

Libya militias which fought a fierce five-week battle in the Libyan cities of Tripoli and Benghazi, with disastrous consequences for civilians, for control of Tripoli's international airport committed “war crimes” against civilians. As per Human Rights Watch, Libyan militia forces battling for control of Tripoli and surrounding areas have engaged in attacks on civilians and civilian property that in some cases amount to war crimes.

The war for control of Tripoli airport took place on 22 August 2014 and was seized by Fajr Libya within three days. The UN Support Mission in Libya (UNSMIL), reported grave human rights violations during the clashes between mostly Islamist fighters and a nationalist militia which included attacks on journalists, government officials and ordinary citizens suspected of siding with the nationalist forces, shelling of hospitals, and abduction of civilians, torture and unlawful killings. Estimating the displacement of at least 100,000 people, and another 150,000 who have fled the country, UN appealed that all warring parties to respect their obligation to protect civilians at all times and to hold their forces accountable when they commit crimes.

Contributions are invited for further issues till 15th of every month which can be mailed us at casih@rgnul.ac.in.

AMENSTY'S REPORT ON HUMAN RIGHTS VIOLATION IN THAILAND RELEASED

Bangkok, Thailand, 11 September, 2014

Post the military coup in May, Thailand's military has been in control of the government. Amnesty International's report, “Attitude adjustment- 100 days under Martial Law” is the first comprehensive investigation into Thailand's human rights situation since the military imposed Martial Law on 20 May 2014 and seized power two days later.

The Report documents the acts which indicate clear human rights violations committed by Thailand's military government, called the National Council for Peace and Order (NCPO). As per the Report, there are hundreds of detentions, cases of torture, and inhibitions of expression are creating a climate of fear in Thailand, and there are no signs of a let-up. Richard Bennett, the director for the Asia-Pacific region of Amnesty International, said, “The Thai authorities should end this disturbing pattern of repression, end human rights violations, respect its international human rights obligations and allow open debate and discussion - all of which are vital to the country's future.”

Most of the detained individuals were affiliated with the former government. Although most of them were released within a week of detainment, they were not allowed legal counsel nor were they given charge or trial. In addition, the NCPO has been censoring media, blocking numerous websites, and even monitoring universities. Violations also include prohibition of political gatherings.

EUROPEAN UNION CRITICAL OF HUMAN RIGHTS VIOLATION IN ERITREA

Brussels, Belgium, 19 September, 2014

The European Union has expressed concerns over continued human rights violation in Eritrea especially arbitrary detentions, and restrictions on right to freedom of religion and expression. Grave concerns were expressed over the detention without charge, trial or offering any legal assistance of 11 leading politicians of the country. Those detained, includes former cabinet ministers who have been under detention since 18 September 2001 and 10 independent journalists including Eritrean – EU Citizen Dawit Isaak, since 23 September 2011.

The bloc stressed that this conduct of the Eritrean Government is in clear violation of obligations established in the UN International Covenant on Civil and Political Rights (ICCPR), ratified by Eritrea, such as the prohibition against arbitrary detention.

Further EU has urged Government of Eritrea to release these prisoners immediately and unconditionally, along with other prisoners detained for their political views. The bloc also requested the Eritrean government to release information on the whereabouts of these prisoners, and to ensure that they are given access to their families and lawyers.

SAHELI, A WOMEN'S RESOURCE CENTRE

V.

COMMISSIONER OF POLICE



The *Saheli* case [AIR 1990 SC 513] is an example of the blatant human rights violations in collusion with the police authorities, the very people that we trust to protect us from such atrocities. The police are supposed to be our saviors but this case along with the case of *Peoples Union for Democratic Rights through its Secretary and Anr. v. Police Commissioner, Delhi Police Headquarters and Anr.* [(1989) 4 SCC 730] shows us the true facet of the police force.

Facts of the case: On 12 November 1987, the S.H.O. called one Kamlesh Kumari and threatened to lock her up if she refused to vacate the room, she has been living in. On 13 November 1987, Kamlesh Kumari went to Tis Hazari Court to consult her lawyer. On coming back, she found her children missing and her neighbor Maya Devi was standing outside with all her belongings thrown out. Maya Devi told Kamlesh Kumari that the Sub-Inspector of Police, K.L. Nanda of Anand Parbat Police Station had come and had taken away her children. Kamlesh Kumari immediately went to the Police Station and met the S.H.O. Lal Singh and asked him about her children. The S.H.O. said that her children had been kept in the lock up and she would not be allowed to see her children unless she vacates the room. With a lot of difficulty, with the help of a lawyer, she got her children out.

On 14 November 1987, Kamlesh Kumari was attacked by Shambu Dayal, his brother Prakash Chand accompanied by Lal Singh in civilian clothes and Sham Lal, Sub-Inspector in uniform accompanied by two others. They beat Kamlesh Kumari badly and molested her. Her nine year old son clung to his mother to protect her when the defendant took him away and beat him badly. Kamlesh Kumari was dragged away to the police station and a criminal case was imposed upon her for trespass. Thus, the victim was portrayed as the perpetrator. When she was finally released two days later, her son was in a bad condition and needed immediate hospitalization. The son succumbed to his injuries two days later and though she tried to get a case against the doctor for medical negligence. The police authorities refused to do so as they knew it would lead to an investigation in their role in his injuries.

Analysis: This case was a landmark in the assessment of compensation jurisprudence in writ courts. The significance of this case is that the Delhi Administration was allowed to recover money from those officers who are held responsible for this incident. It is further generally accepted that when the court awards compensation, it is ultimately the taxpayer's money which is being expended to make up for inaction or wrongful action, on the part of government officials, and in such cases, though immediate payment should be made from the public funds, the same should be recovered from the errant officer. The Court held that an action for damages lies for bodily harm, including battery, assault, false imprisonment, physical injuries and death, since damages represented a solatium for mental pain, distress, indignity, loss of liberty and death.

It was only with the help of the NGO that filed a writ petition to get justice for a mother that finally some closure was achieved. Since it is a well settled law now that the State is responsible for the tortious acts of its employees, respondent No. 2, i.e. Delhi Administration is liable for payment of compensation to Smt. Kamlesh Kumari for the death of her son due to beating by the Police. It is convenient to refer in this connection, the decision in *Joginder Kaur v. The Punjab State and Ors.* [(1969) 71 PLR 85] wherein it has been observed that: "In the matter of liability of the State for the torts committed by its employees, it is now the settled law that the State is liable for tortious acts committed by its employees in the course of their employment."

A mother's agony was not even acknowledged by the police who are supposed to protect the civilians and not tie up with the perpetrators of crime and abuse the use of their power. It has also been an observation in the 113th Law Commission Report on Injuries Sustained in Police Custody that the Police power needs to be amended, they are not able to appreciate the extent they have over solving crime rather focus on the aspect of increasing crime so that they can fill their pockets under the table. It is high time that the police actually performed the duty that it was constituted to do otherwise the day is not far when people will lose confidence in this organ of the government and start taking matters into their own hands. The life of a son was lost but it was the mother who lost her faith that day. Her son was beaten in front of her eyes and sustained the injuries that ultimately claimed his life. A family will learn to live without one member but will never again have faith in the police for the horrendous acts that it committed against them.

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