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 - 'They hear but they don't listen':
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- **Tribute to Sunila Abeysekera**
 - Real threats in cyberspace:
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sectarian strife**



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CONTENTS

| | |
|--|-----------|
| Canadian Pakistanis on Jews, Gays and Pesh Imams <i>Baseer Naveed</i> | 3 |
| ‘They hear but they don’t listen’: A reflection on the UNHRC sessions <i>Danilo Reyes</i> | 6 |
| Tribute to Sunila Abeysekera <i>Anita Pariyar</i> | 9 |
| Real threats in cyberspace: Challenges to freedom of e-xpression in Indonesia <i>Answer Styannes</i> | 12 |
| Phishing the cyber liberty in India <i>Anjuman Ara Begum</i> | 17 |
| A reflection on peace talks with the Taliban <i>Nida Nida</i> | 22 |
| Recalling an Ayodhya that was not a fountainhead of sectarian strife <i>Avinash Pandey</i> | 25 |

Canadian Pakistanis on Jews, Gays and Pesh Imams

Baseer Naveed

Recently, when sitting with friends and other Pakistanis at a gathering in Montreal, Canada a heated debate started over Jewish conspiracies against Islam and Pakistan. The Pakistanis were quite interested in talking politics, particularly in the context of USA, Afghanistan, and the past history of Islamic rulers, who have been blessed with unwritten hagiographies glorifying their remarkable rule.

Sitting in a well furnished drawing room, framed with calligraphy and numerous photos of holy places in Saudi Arabia, I learnt from loud and animated voices that Jews do not want Pakistan to prosper, as it is the only country created in the name of Islam. I put forward my questions in return to their numerous conspiracy theories, and to every question replies bounced back in anger. The conspiracies ran from Jews having infiltrated the political party of Prime Minister Nawaz Sharif and thus preventing actions against the Muttahida Qaumi Movement (MQM), a political party dominant in Karachi, to the MQM itself being run by Jews, to Nawaz Sharif increasing inflation on the dictates of the powerful international Jewry. Even the drone attacks striking Pakistan apparently stem from bad Jewish intentions.

After listening to a barrage of conspiracies and diatribe against Jews, we went for dinner. They took me to Schwartz's, where the word 'Kosher' was displayed, and ordered beef burgers. Not knowing the meaning of 'kosher', I asked if the burger was 'halal', which was affirmed in chorus. I then asked whether the shop belonged to a Muslim, to which they replied 'no, it is a famous Jewish food chain, and kosher means halal'.

This was very surprising to me, considering that for at least three hours I had heard about the numerous conspiracies of Jews against the Muslims of the world. In an irritated tone, I said that this selling of halal food also sounded like a Jewish conspiracy. Much laughter echoed in the burger shop, and one person advised, "Oh Baseer, do not look for conspiracies in everything. Leave this bad habit."

Prior to my visit, I had the impression that since a large number of Pakistanis had migrated to different parts of Canada, I would be able to listen to views different from what the Pakistani media and political parties generally force upon the local population. However, I found that the majority of Pakistanis in Canada were even more conservative than those living in Pakistan.

Through the numerous discussions I had, I learnt that the three most important concerns for most Pakistanis in Canada and the USA are: 1) Jews (every bad thing in Pakistan has a Jew behind it) 2) Ahmadis, and 3) the rights of gays and lesbians.

There are a good—and growing—number of mosques in North America. Many fundamentalist Muslim leaders have thus found a good place to settle and feel at home, encouraging Pakistani expatriates to contribute to the cause of jihad and for the implementation of shariah in the country. One Pesh Imam (a person leading prayers at a mosque) was invited to conduct a wedding ceremony in accordance with Islamic ways. He did, however he took a long time to deliver his speech, which I don't think is part of any Islamic tradition. The speech was full of dictates on how a bride is to follow her husband's instructions and how the husband has every right in this regard.

The Pesh Imam went on to state that any type of relationship between the bride and groom prior to marriage is un-Islamic (*haram*). His clear message was that if they had a love affair and met publicly, it was all *haram*. Titters and hushed laughter rippled back from the audience, as everyone was aware of the couple's long love affair. The Pesh Imam was a good friend of the bride's father.

In another meeting with friends and some Pakistanis in Tronto, jihad became the subject of discussion. The discussion began from the basis of jihad in the *madressas* (Muslim seminaries), their curriculum, to the hate messages against opposite sects of Islam, to the production of suicide attackers, and, of course, the sexual abuse of children in the seminaries. The discussants were much more interested in talking about the sexual abuse of budding Muslim fundamentalists or the homosexual stories of Muslim/mosque leaders. Some shared their experiences of youth where they were eye witness to young, poverty ridden students being groped and molested by their madressa teachers.

Everybody was very excited to exchange such stories and jokes. Suddenly, a pious Muslim said that in his absence, a gay person came and delivered a lecture about Islam in his mosque. He was very angry when he found out, and being a management committee member of the mosque, he ordered the cleaning of the mosque. Silence gripped our joyful discussion. Everyone felt he did something wrong, and tried hard to change the topic, as the mood had soured.

I broke the silence by asking why—since the Pesh Imam was present at that time—they had not stopped the gay person. There was no clear answer, save that it was not wanted that the mosque become a battleground. My next question was very irritating to the group, about the purity of Pesh Imams, as they are educated from Madressas, where, as already discussed, homosexuality is common.

Again, I was made a target, with everyone explaining the positions of their own mosques and their Pesh Imams, but not refuting my allegation that Pesh Imams were from madressas, and not quite refuting how these Pesh Imams would have been spared such acts of molestation and sexual abuse when they were recruited at a young age. One friend, in a very angry voice, questioned that, ‘you mean we are offering prayers behind gay people and that gays are leading our five prayers everyday?’

I simply replied that according to their stories and evidence, it is apparent that madressas are producing most Pesh Imams and that there is an endemic practice of child sexual abuse in the madressa, and that, therefore, there must be some truth behind the assertion that in a sizeable number of mosques Pesh Imams were abused as children and / or gay themselves. It also stood to reason to question whether our prayers were justified if we were following them in prayer five times a day.

The participants finally said to me, “Baseer, be positive. You always see the dark aspect of things.”

Harsh remarks were uttered against me, such as ‘infidel’, ‘apostate’, and ‘communist’. Some labeled me a blasphemer and declared me as *Wajib Ul Qatal* (liable to be murdered). Thanks to Allah, they could not go through with the act as I was in Canada, where there is a strong rule of law, freedom of speech, and the state provides protection and security to every citizen.

All in all I thoroughly enjoyed my visit and met many interesting and intelligent people. Sometimes when people leave their homes for a foreign land they quickly give up their cultural heritage, but this was not the case with the vast majority of Pakistanis that I met. I could not help but feel however, that their belief that the Jews were behind all the evils of the world was somewhat misplaced. There was also a degree of hypocrisy in their attitude towards homosexuals, especially considering the very real possibility that many of their Imams could be gay. It was also sad and troubling for me to learn that Canadian mosques were being used, as they are in Pakistan, to raise money for jihad, which I saw as a betrayal of the country that had given them a home.

‘They hear but they don’t listen’: A reflection on the UNHRC sessions

Danilo Reyes

When I first attended the UN Human Rights Council session in Geneva in March 2010, I only had one thing in mind—I wanted to tell the ‘world’ and ‘international community’ about the violations of rights and the suffering of Filipinos at home. I wanted them to *do* something. The nearly 14-hour flight from Hong Kong and the days of jetlag—it being my first long haul flight—were a small discomfort for this opportunity.

In my mind, it was an opportunity for me to tell the stories of how and why the rights of the victims and their families were violated, and how they suffer. They themselves are not in a position to travel to Geneva; for me to have that opportunity was something I treasured dearly. The idea of being able to speak for those who could not; to talk to people who could do something for the absentee victims, was very motivating.

I was prepared to talk and discuss these issues. All the cases I documented myself flashed clearly in my mind: the extrajudicial killings of human rights and political activists, some of whom were known to me; the torture and enforced disappearance of others, and many more. These were stories I wished to share, with the hope that those who were in a position to do something, would listen and do so.

It was therefore a shock for me to realize that in reality hardly anyone was interested in speaking to you or listening to your stories. Even at the plenary session, the UNHRC would give you no more than two minutes to speak, and that too, only if you are lucky after registering to get a chance to make an oral intervention. That first visit shattered my illusions and assumptions regarding why the ‘world’ and ‘international community’ were there, and what they could do. While that was a deeply traumatic experience for me, it nevertheless gave me much food for thought for any future trips to Geneva.



During my subsequent attendance of these UNHRC sessions, in September 2012 and, recently September 2013, I was emotionally and mentally prepared. The best preparation, in my opinion, is to go not expecting anything fruitful to come from the sessions. This will, at the very least, help attendees—particularly the victims and their families—in maintaining their sanity.

My observations regarding lobbying at the UN, lead me to conclude that it is necessary to disconnect from your emotions and frustrations regarding cases and stories of human rights abuse, in order to do something. This requires training, and is known as diplomacy and international relations. It has become clear to me during my trips to UN meetings in Geneva that I can never be a diplomat and foreign relations officer; I am too emotional. I feel no shame in admitting this. Emotion is what keeps us moving, it is what makes us humans, what allows us to show compassion to our fellow men and women. A lack of emotions would be problematic in understanding the suffering of victims and families who need to be assisted, and any assistance given in such a manner could only be superficial and short lived.

One of the very frustrating experiences at the UN was the scene at break time, of NGO staff presenting victims and their families to diplomats and liaison officers, to tell their stories at an often crowded, noisy and busy basement coffee shop. How could these diplomats, including officers at the UN, pay attention to, understand and remember what the victims, their families and the NGOs have to say in a meeting that lasts for just a few minutes? It is beyond my ability or comprehension, but they apparently have figured it all out.

The coffee shop is a common meeting place for victims and families to lobby with the diplomats, UN officers and staffs, and interested NGOs. They hope these people would speak in support of the victim during the plenary, if not in support of a UN resolution and reports concerning a violation in a country. While a UN resolution could result from the victims' lobby, the arrest of the perpetrators rarely occurs.

In fact, one of the clear examples of the UN's failure was the war in Syria. In September 2012, I was present when the HRC was already debating and discussing the deteriorating situation and enormous loss of lives there; one year later, they were still discussing the same thing. Looking at Syria's experience, regardless of the severity of the violations—the targeting of civilians in war, the unprecedented scale of refugees heading to other countries—neither diplomacy nor foreign relations have saved the lives of affected Syrians.

I am not discounting lobbying at the UN; in fact, I am still convinced of its importance. Something should however, be done to improve the experience, rather than let it

deteriorate. Otherwise, attending meetings in Geneva will increasingly become a holiday—as it is already known for—rather than an opportunity for victims and their families to talk about their suffering and what could be done for them.

Politics and political interest is understandably a part of diplomacy and foreign relations, however, when politics trumps the protection of rights, then any discourse and debates on human rights become meaningless. Debates and discussion will have meaning when the person who hears really listens.

On most occasions, notably the two-minute oral interventions by accredited NGOs, persons physically present may have heard what one said, but they rarely actively listen. Everyone is eagerly awaiting their turn at the microphone to speak, practicing their speech, looking at the list of speakers to see if they are next, reading and listening to themselves, but hardly anyone listens to others.

This is a loss, not for the victims and their families, but for those lobbying and working at the UN. Unless the knowledge, insights and ideas of the victims, who are themselves evidence of suffering and of the failing systems unable to protect human rights, are heard, listened to and genuinely understood, any action taken by the UN bodies would be a superficial exercise detached from reality. The UN staff and concerned NGOs should seriously review their participation in these sessions, and work towards a more fruitful human rights outcome.

Tribute to Sunila Abeysekera

Anita Pariyar

“If one white person had been abducted or killed in Sri Lanka, then the Western countries would have reacted differently.”

...Late Sunila Abeysekera

“All the world’s a stage/And all the men and women merely players; They have their exits and their entrances,” said William Shakespeare about life.

Life is beautiful and death is inevitable. Many of us live and go from this world in an ordinary fashion, but some come with a singular purpose; these persons depart leaving tremendous markers that will impact many generations to come. Meaningful changes occur in society because of such heroic characters and their daring contribution. The world becomes more beautiful and comfortable due to their continuous effort.

It was a chilly winter morning in January 2006 in Kathmandu, when I first met the iron lady Sunila Abeysekera at a workshop organized by Asia Pacific Women, Law and Development (APWLD). The program was for women’s rights in the region, and Sunila was attending as a resource person. We spent five days together. My first impression of her was her warmth towards the young participants, who were from south Asian countries. During the workshop, which was on enabling women’s rights, she shared a few practices that she follows in her daily life, which make a broader impact.

She was a very influencing and dynamic personality. We watched the Hindi film *Water* during the workshop, and she stood strongly on the widows’ side. Even during the breaks, we mostly spent time around her. She would clarify and engage us on various issues regarding women’s rights. She worked tirelessly, and even though people requested her to rest, she would say that working with women is a comfort to me. At the workshop farewell dinner, I saw her magical dance, and I fell in love. The way she fit herself amongst a group half her age was fantastic. A purely white haired lady was on the dance floor; moreover, she was the best dancer! We danced our hearts out. This is the memory of her that will always remain in my mind.

A prominent women’s rights worker and a very good friend of Sunila, Ms Rita Thapa, visited Colombo last month from Nepal, and in a communication to me, she hoped that Sunila’s “transition should be without pain”. It was then that I realized we are going to lose her at any time. One evening her beautiful and charming face came to mind, after I had already decided that during my December visit to Colombo I wanted to meet her.

The next morning, when I read the news of her demise, I was heartbroken. I could not help updating my Facebook status with tears rolling down my cheeks:

Sri Lanka's top UN Human Rights award winner Sunila Abeysekara died at a private hospital in Colombo on Monday 9th September, 2013, afternoon after a long battle with cancer. She will be remembered for the cause she stood for, sometimes alone, sometimes in support. She will be remembered for what she did, things she said and reasons she championed, by family, close friends and colleagues and coworkers in Sri Lanka and around the globe.

She will be variously described as mother, activist, writer, critic, feminist, human rights defender and much more. We will remember her as a wonderful singer, a very good performer and a beautiful, charming lady with a kind heart. Art is something with which you can actually narrate the story of many spheres of society, a form of expressing your vision, of releasing sorrows. And Sunila was an artist who had the ability of portraying society through her art and music.

When I first visited Sri Lanka in 2003, I met hundreds of victims' families there. I also saw a picture of a butchered human from the 1980s, which was devastating to see. The culture of butchering humans came later in Nepal, as the country experienced harsh insurgencies. It was as if separating head from body is part of south Asian culture. Sunila represents the generation when human bodies were chopped into many pieces. My horrific image of Sri Lanka was totally changed after meeting this bold and dynamic lady. After dancing with her I became bolder inside; for her it was just a normal dance, but for me it was a dance of commitment within. A legend with that horrific past was releasing her sorrow, pain and agony through salsa. It was just fantastic to observe her moving. Many years later, it is still a crystal clear image in my mind.

Daughter of the late Charles Abeysekara, Sunila was a founder of Sri Lanka's feminist movement, she was a leading activist for minority rights, women's, workers' and peasants' rights. She founded Inform, a rights-based NGO in Sri Lanka. Lately, Sunila was prominent on Sri Lankan human rights issues at the UN Human Rights Council in Geneva. Sunila was also a noted Sinhala folk and opera singer.

Sunila died of cancer in Colombo, on Monday, 9 September 2013. According to the *New York Times*, Sunila had lived in the Netherlands until recently, due to the constant threats against her, as a result of her human rights work.

With regard to violence against women and the civil conflict in Sri Lanka, during which an estimated 80 000-100 000 people have been killed, the Times quotes Sunila as saying,

“There is also an element of racism and neocolonialism involved in the West’s lack of interest in the Sri Lankan situation,” she told *The Unesco Courier*, a United Nations publication, in 1999. “If one white person had been abducted or killed in Sri Lanka, then the Western countries would have reacted differently.”

A real tribute to her would be if all of her friends promise to follow her path to create a peaceful, just and equitable society in our country, in the region and in the world. May her soul rest in eternal peace.

Real threats in cyberspace: Challenges to freedom of e-xpression in Indonesia

Answer Styannes

In August 2008, the Indonesian government's enactment of Law No. 11 on Electronic Information and Transaction (the ITE law) provoked outcry from local journalists and human rights activists. Containing several vague provisions vulnerable to arbitrary interpretation, the law was viewed by Indonesian journalists and activists as a threat to freedom of expression. A group of journalists and human rights activists quickly contested the law before the Constitutional Court.

The concerns of the journalists and activists have become reality. Since its enactment, the ITE law has been used by those in power against their critics and opposition. One of the most famous cases involving the use of this controversial law was of Prita Mulyasari, a housewife reported to the police by Omni International Hospital after she complained about the unprofessional medical treatment she received there on a mailing list. Several charges were made against her¹, including distributing defamatory material as under article 27 (3) of the ITE law. The acts of distributing, transmitting or creating access to electronic information or documents containing defamatory material are punishable under article 45 (1) of the law with maximum punishment of six years imprisonment, and/or a fine of one billion Indonesian Rupiah (approximately USD 87,000 today).

Prita was not alone. Journalist Iwan Piliang was named as a suspect by police in October 2008, following his article published on www.presstalk.info, in which Iwan reports that parliamentarian Alvin Lee demanded a bribe of six billion Indonesian Rupiah from coal mining company PT Adaro Energy. Convinced that he had been a victim of an unjust law, Iwan later submitted a complaint to the Constitutional Court in 2008, requesting for the annulment of articles 27 (3) and 45 (1) of the ITE law. The judges, however, unanimously ruled that those articles are not in violation of the constitution.² A similar

1 Please see 'Criminal defamation is an unconstitutional restriction on freedom of speech', an amicus curiae brief submitted to Tangerang District Coury by ELSAM, ICJR, IMDLN, PBHI and YLBHI on the case of Prita Mulyasari v the Republic of Indonesia, p. 6, February 2010. English version of the brief is available on http://www.elsam.or.id/downloads/1341225825_amicuscuriae-ENG.pdf.

2 Review of Law No. 11 Year 2008 on Electronic Information and Transaction, Case No. 50/PUU-VI/2008, Constitutional Court of Indonesia, p. 98 onwards, 5 May 2009.

complaint was lodged to the Constitutional Court by a group of human rights activists in 2009, which also did not result in the annulment of the articles at stake.³

As the vague and arbitrary provisions of the ITE law remain, so does the prosecution of those who oppose—or simply displease—the people in power. An atheist civil servant in Padang, Alexander Aan, was sentenced to two and a half years of imprisonment by Muaro Sijunjung District Court for violating article 28 (2) of the ITE law, which prohibits the act of distributing information aimed at promoting hatred or hostility against individuals or a group of individuals based on their ethnicity, religion, race or inter-group affiliation. The acts that Alexander Aan was arrested for, of ‘promoting hatred or hostility’, were sharing a comic and a note on Facebook entitled, ‘The Prophet Muhammad was attracted to his own daughter-in-law’ and ‘The Prophet Muhammad had been sleeping with his wife’s maid’.⁴

Earlier in February this year, a teacher in Makassar, Budiman, was arrested and detained by the police upon the submission of a complaint by the Regent of Pangkep who was offended with Budiman’s post on Facebook saying ‘the incumbent regent is not any better than the former. He is Indonesia’s most stupid regent’.⁵ Budiman’s comment not only led to his arrest and detention, but also to threats by the regent’s supporters, as a result of which, Budiman decided to stay in police custody despite being granted bail. No legal action has been taken against the individuals threatening him.

The threat to freedom of e-expression in Indonesia unfortunately does not stop at the prosecution of individuals who express their opinion online. Little known by the public, Internet censorship occurs in the country arbitrarily and without transparency.

In 2010, the Indonesian Ministry of Communication and Information Technology revealed the plan to enact a regulation restricting online content. The proposed regulation, known as RPM Konten, provoked countrywide protests. As in the case of the ITE law, one of the main objections to RPM Konten was its vague provisions, likely to lead to the infringement of freedom of expression, such as the proposed article 5 on the prohibition for Internet providers to distribute, transmit or enable access to any online content containing ‘acts which degrade physical state or ability, intellectuality,

3 Review of Law No. 11 Year 2008 on Electronic Information and Transaction, Case No. 2/PUU-VII/2009, Constitutional Court of Indonesia, p. 131 onwards, 5 May 2009.

4 INDONESIA: Atheist in Padang sentenced to two and a half years imprisonment, Urgent Appeal by the Asian Human Rights Commission, 15 June 2012. Available on <http://www.humanrights.asia/news/urgent-appeals/AHRC-UAU-021-2012>.

5 INDONESIA: A teacher in Makassar faces six years of imprisonment for criticising a government official on social media, Urgent Appeal by the Asian Human Rights Commission, 15 February 2013. Available on <http://www.humanrights.asia/news/urgent-appeals/AHRC-UAC-021-2013>.

service, capacity, and other physical or non-physical aspects of a party'.⁶ The regulation was also opposed by rights activists arguing that restrictions to human rights can only be prescribed by laws enacted by the parliament, instead of merely by a staff of the executive at the ministerial level.

The strong opposition posed by various elements of the society at that time ended the Minister of Communication and Technology's plan to enact the regulation. Yet this does not mean that Internet censorship is not taking place in Indonesia. In July this year, Hartoyo, the Secretary General of the NGO Ourvoice, promoting the rights of the Lesbian, Gay, Bisexual and Transgender (LGBT) community, found that his organisation's website could not be accessed by the clients of Internet Service Provider XL Axiata, a mobile telecommunication company.⁷ The blocking of Ourvoice's website by the company confirms the findings of OpenNet Initiative that the company 'focused its filtering on web sites with content related to... LGBT material', during the Initiative's Internet filtering testing on XL Axiata between August and September 2010.⁸

In response to Hartoyo's complaint to the company, he received an email explaining that the blocking was conducted upon the request of the Ministry of Communication and Technology. The email additionally mentions that Ourvoice's website is included in the Ministry's list of 'blacklisted websites'. The company's email also referred to 'Trust + Positif', which is 'a government keyword filtering system' according to Minister of Communication and Information Technology Tifatul Sembiring. The official website of 'Trust + Positif' (www.trustpositif.kominfo.go.id) does not provide detailed information on how the system works or the laws and regulations that legalize it. The limited information on the website does reveal however, that the government classifies available websites on the Internet into 'blacklisted' and 'whitelisted' categories. Whereas the 'Trust + Positif' website claims that the database is available to the general public, as of 10 October 2013 no downloadable database could be found under the website's Download Centre or Directory tabs.

Prior to the shutdown of Ourvoice's website, London-based organization Article 19 reported that the website of the International Gay and Lesbian Human Rights

6 Based on the draft of Ministry of Communication and Information Technology's Regulation on Multimedia Content uploaded by detikinet available on <http://inet.detik.com/read/2010/02/15/125757/1299704/399/1/seperti-apa-isi-rpm-konten>.

7 Based on the author's private communication with Hartoyo. The website's shutdown was also briefly reported by the Jakarta Post, 'National scene: LGBT website shut down by ministry' on 16 July 2013. Available on <http://www.thejakartapost.com/news/2013/07/16/national-scene-lgbt-website-shut-down-ministry.html>.

8 Indonesia Country Profile by OpenNet Initiative, available on <https://opennet.net/research/profiles/indonesia>.

Commission (IGLHRC) had also been blocked by several Internet Service Providers in Indonesia.⁹

Internet censorship in Indonesia is conducted not only by the government but also by private entities. Through its DNS Nawala project, Nawala Nusantara Foundation claims to provide 'access to clean and safe Internet'. It 'filtrates negative contents which are not in accordance with Indonesian norms of decency and cultures, such as those on porn and gambling'.¹⁰ By simply changing the DNS setting with the IP address provided by Nawala, Internet users can ensure that any device using their Internet connection will not be able to access websites 'violating Indonesian norms and cultures'. Internet users can also submit an online complaint to Nawala should they find such websites that have not been blocked by the foundation.¹¹

Whereas the service provided by Nawala *may* be useful and *arguably* necessary for private Internet use (for example, parents using the service can prevent their underage children from accessing porn sites), it is clearly problematic when used on a public scale, as proven by the cases of Ourvoice and IGLHRC websites. Unfortunately, this is no longer unusual or scandalous in Indonesia. In fact, the Association of Indonesian Internet Service Providers (APJIII) in August 2012 stated that it works together with Nawala in filtering negative contents on the Internet.¹² The state-owned telecommunication enterprise TELKOM was one step ahead of APJIII by signing an agreement with Nawala much earlier, in 2009.¹³

In his 2011 report, the UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression Frank La Rue, points to the problems with imposing the liability and responsibility to private entities acting as intermediaries:

Lack of transparency in the intermediaries' decision making process also often obscures discriminatory practices or political pressure affecting the companies' decision. Furthermore, intermediaries, as private entities, are not best placed to make the determination of whether a particular content is illegal, which requires careful balancing of competing interests and consideration of defences.¹⁴

9 Navigating Indonesia's information highway, p. 35, Article 19, March 2013.

10 As claimed on <http://www.nawala.org/>.

11 <http://www.nawala.org/form-pengaduan>.

12 'Filter konten negatif APJII tanamkan DNS Nawala', Antara News, 8 August 2012. Available on <http://www.antaraneews.com/berita/326227/filter-konten-negatif-apjii-tanamkan-dns-nawala>.

13 Article 19, supra note 11.

14 Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Frank La Rue, para. 42, A/HRC/17/27, 16 May 2011.

While the two main threats faced in Indonesia's cyber world, as described in this article, share the denominator of being related to the freedom of expression, they require two rather different approaches to be undertaken by the Indonesian government. For the prosecution of individuals expressing their opinion online, the government should withdraw the vague criminal provisions which arbitrarily and unnecessarily restrict freedom of expression. For the issue of Internet censorship, clear regulations prescribed by a law should be enacted. The current status quo, where there is no clarity on who performs the censorship or how, does not enhance freedom of expression, but rather provides space for abuse and arbitrariness. Regulating censorship in a law alone is not enough to guarantee freedom of expression; the content and procedural aspects of the law should also be in compliance with international human rights standards.

Phishing the cyber liberty in India

Anjuman Ara Begum

With the unprecedented development of information technology, the Internet gave birth to the modern information economy and has become an essential part of everyday life. Cyberspace has created room and audience for the sharing of information and ideas—thus helping wealth growing and intellectual property—which enhances freedom of speech and expression. Social conditions of speech and expressions of opinion have changed with the development of information technology, particularly in the enabling of widely accessible and anonymous privileged communication. As a result of popularity and importance, information flows attract government surveillance and control, often resulting in restrictions of the right to freedom of speech and expression.

India today has 900 million mobile subscribers, 160 million Internet users and close to 85 million citizens on social media. Internet and social media users are expected to double by 2015. India ranks third in the list of netizen population. This rise of internet users in India has simultaneously led to wide ranging restrictions and surveillance by the government.

Internet rights are a part of human rights. Today, access to high speed internet is instrumental in accessing information worldwide to participate in public life. In his April 2013 report, the UN Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression opined that innovations in technology have increased the possibilities for communication and protection of free speech, expression and opinion enabling anonymity, rapid information sharing and promoting cross-cultural dialogue.¹ He further noted that multiple measures taken by states to control this digital freedom are a matter of great concern, as are the inadequate measures for protecting the right to privacy online.

Legal mechanism for protection of free speech and opinion

The right to freedom of speech and expression is guaranteed under article 19 of the Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR). Article 17 of the ICCPR also refers to protection from interference with these rights, both online and offline. The Human Rights Committee has voiced concerns at allegations of state monitoring Internet usage and blocking access

¹ Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Frank La Rue, April 17, 2013.

to some websites, and has recommended that legislation providing the executive with wide powers of surveillance in respect of electronic communications be reviewed. In this year's report, the Special Rapporteur further concluded that apart from increasing public awareness of threats to privacy, states must 'regulate the commercialization of surveillance technology'.

In India, freedom of speech and expression is enumerated as a fundamental right under article 19.1a of the Indian constitution. Moreover, for any breach of this right, citizens can legitimately claim redress from the authority. Liberally interpreted by the Indian Supreme Court, this right also includes freedom of press, freedom of information, the right to know and the right to travel and many more rights required for a life of 'human dignity'. The judiciary has also incorporated the right to privacy as part of the right to life under article 21 of the Constitution (Govind vs. State of Madhya Pradesh, AIR 1975 SC 1378). It was also held that telephone tapping would infringe article 21 of the Constitution unless it is permitted 'under procedure established by law'. The Court also issued guidelines for the exercise of power of interception of telegrams under section 5(2) of the Indian Telegraph Act, 1885 (People's Union for Civil Liberties vs. Union of India, AIR 1997 SC 568).

The Constitution does, however, allow imposing 'reasonable restrictions' over the enjoyment of the right to freedom of speech and expression. Such restrictions can be imposed in the interest of the sovereignty and integrity of the country, the security of the state, friendly relations with foreign states, public order, decency or morality or in relation to contempt of court, defamation or incitement to an offence as enumerated under article 19 (2) of the Constitution.

Internet governance in India

The use of cyberspace in India is regulated through the Information Technology Act 2000, amended in 2008 and 2011. The Central Monitoring System is the surveillance machinery active to meet the 'need' for better, faster and real time interception, surveillance and monitoring.

Surveillance in India is not monitored by an independent judicial authority, as recommended by the Special Rapporteur. Section 5 (2) of the Telegraph Act 1885, and rule 419 (A) of the Indian Telegraph Rules 1951, allow restriction of communication transmissions over electronic devices for public safety purposes. Meanwhile, section 66A of the Information Technology Act (Amended), 2008 prescribes 'punishment for sending offensive messages through communication service,' which is widely held by lawyers and academics to be unconstitutional. This section criminalizes the 'sending' of an offensive message which may not constitute 'publication' as per the Indian Penal Code. Furthermore, its vague nature will allow for wide discretionary power to abuse, which in

fact is already evident in several cases reported recently. It should also be noted that there is no similar clause or law for offline communications; books or posters that are deemed 'offensive' or 'annoying' do not carry the same criminal charge or punishment.

Section 69 and 69 B of the Information Technology Act prescribes the procedure and safeguards for the government to request user data from corporations. According to section 69, authorized officers can issue directions to intercept, monitor or decrypt information to protect the country's sovereignty, integrity, defence or public order, as well as preventing incitement to the commission of any cognizable offence relating to the above, or for the investigation of any offence.

Section 69 B empowers authorized agencies to monitor and collect information for cyber security purposes, including 'for identification, analysis and prevention of intrusion and spread of computer contaminants'. Additionally, there are rules under section 69 and 69 B that regulate interception under these provisions.

Information can also be requested through the Controller of Certifying Authority under section 28 of the IT Act, which circumvents the stipulated procedure. If the request is not complied with, then the intermediary may be penalized under section 44. In 2011, the government amended the IT Act to include identification of the person before accessing Internet at a public cyber cafe.

As noted above, freedom of speech and expression is constitutionally guaranteed in India. However, this protection ceases when the opinion is expressed through cyberspace. If an opinion is published in a newspaper, then it is covered by article 19 (1) (a) of the Constitution. However, if the same is posted online, it will be covered by the IT Act.

Shrinking freedoms in cyberspace

Several incidents of unreasonable restrictions on freedom of expression via the Internet have been reported recently, all under section 66 of the IT Act. A young girl was arrested in November 2012 for expressing her opinion about the economic blockade after the death of a political leader together with her friend, who 'liked' the statement made over Facebook. In West Bengal, a professor was arrested in April 2012 for sending an email containing a cartoon of the state chief minister. In August 2012, the government blocked more than 300 web pages, including those of news websites, claiming that they contain 'incendiary' material that may spread panic and violence due to some ethnic violence prevailing in Assam at that time.

Tweeting that the finance minister's son, Karti Chidambaram, had amassed a large amount of wealth, led to the arrest of Pondicherry businessman and India Against Corruption volunteer Ravi Srinivasan in October 2012. Ravi was later released on bail.

Also in October, an associate professor of the National Institute for Fashion Technology in Chennai was arrested after a complaint of Internet harassment by a singer.

Restrictions over mobile phone use also came into light. In August 2012, economic migrants to South Asia, especially those hailing from Assam, started heading home after apparently receiving threatening messages over the phone, warning of dire consequences over the mass displacement of Muslims and Bodos after an ethnic clash in Assam. The Indian government restricted mobile phone usage by capping the number of SMS' to be sent over cell phones at five.

There are several modalities used for internet surveillance in India, including communication surveillance, communication data, internet filtering and internet site blocking. According to Google's latest Transparency Report, India generated the second highest number of user information requests, with the number increasing annually. The report notes that between January to June 2012, Google complied with a court order and removed 360 search results linking to pages with adult videos that allegedly violated individual personal privacy.

Corporations were also targeted in India, apparently in an attempt to impose greater control over online communication. In 2011, Yahoo! was slapped with a penalty of 11 lakh INR (18 thousand USD approx) for not complying with requests calling for email information of a person on the grounds of national security. However, this decision was subsequently stayed by the court.

Google informed that between July to December 2011, the number of content removal requests by the government of India increased by 49 percent compared to the previous reporting period. Law enforcement agencies also made requests to Google to remove videos displaying protests against political leaders and to remove 236 communities and profiles from social network site Orkut that were critical of a local politician. The number of content removal requests received increased by 123 per cent compared to the previous reporting period.

In December 2011, the government instructed internet sites like Facebook, YouTube, Twitter and Google to screen and remove offensive content about religious figures and political leaders as soon as they learn about it, which was denied by the companies. The neutrality of service providers operating in India remains grim however; the popular BlackBerry services compromised with the Indian government and gave access to monitor messages sent over its server. The right to privacy is compromised in this process.

In August 2013, Facebook released its first report on requests made by governments around the globe to access user information. Covering the first six months of 2013,

ending June 30, Facebook's 'Global Governments Requests Report' reveals the U.S. had made the highest number of requests (over 11,000) about users, with India ranking second, having made 3,245 requests for information.

In recent times, worldwide movements for human rights issues have been made possible through the Internet, including the anti-austerity protests in Greece, Italy and Spain; "Occupy" protests; 'Arab Spring'. Citizens and netizens have benefited tremendously from access to Internet, which has enabled them to promote democratic values through the online formation of associations and communities, and through the exchange of opinions. Human rights defenders used social media to promote and defend human rights worldwide. In India electronic surveillance is not monitored by the judiciary, and several sections of the IT Act have been proving barriers to the realization of the fundamental rights to freedom of speech and expression. It is high time that India reviews its Internet governance policies, particularly with regard to the Special Rapporteur's recommendation that surveillance must occur under, 'the most exceptional circumstances and exclusively under the supervision of an independent judicial authority', and that 'surveillance techniques and practices that are applied outside the rule of law must be brought under legislative control'.

The freedom of speech and expression are essential to a vibrant democracy and India should strive towards such an ideal.

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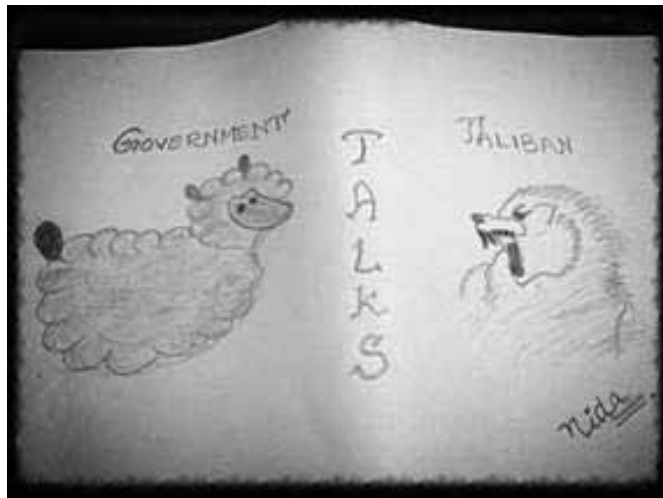
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A reflection on peace talks with the Taliban

Nida Nida

“It is madness for sheep to talk peace with a wolf,” said British historian and clergyman Thomas Fuller. In other words, we cannot change the nature of wild creatures. We cannot predict when snakes, lions, wolves or any other wild animals will attack, and without protecting ourselves we cannot sit calmly. In the context of Pakistan, the sheep is the government, and the wolf is the Taliban. It is



madness on the part of the government to want peace talks with the Taliban, who only understand the language of weapons and violence.

On 9 September 2013, Pakistan’s newly elected Prime Minister Nawaz Sharif called an All Parties Conference, in which state institutions had a discussion together with military officials regarding the peace situation in the country. All the parties at the conference agreed to have peace talks with the Taliban, and this decision is being criticized throughout the country. In its opposition to this decision, civil society noted that the newly elected government is confused and has no effective policies or strategies to fight terrorism, while being blind to the reality of the Taliban. Most ordinary Pakistanis will tell you that it is not a good idea to have talks with the Taliban as they have nothing to give, knowing only their weapons, not peace. In fact, peace means death for them.

The Taliban are a remnant of Zia’s dictatorship, created to push out Russian forces from Afghanistan. Since the birth of Pakistan, it was at the hands of wolves like Zia and now his offspring, the Taliban, that Pakistan lost its image as a peaceful country on the world map. Glancing through history, not a single progressive development by the Taliban can be found, only suicide bomb attacks, illegal demands, brainwashing of youth, discrimination against women and minorities, killing of liberals.

Keeping this in mind, many questions arise and should be answered, before adhering to any talks with the wolves: Is it possible for a wolf who picked up weapons and killed dozens of people without any shame, to truly understand peace? Is it possible for a wolf to have peace talks with sheep, when he does not believe in the laws of the sheep? How will people for whom democracy is synonymous with infidels, live within a democratic government? How will they serve justice and compensation one week after the peace talks, for the thousands of innocents they have killed and the numerous families who are now suffering from grief and trauma? Will they have any positive demands from the government, apart from the releasing of their commandos, implementing Sharia laws, and so on?

The above questions will definitely meet with a lot of fear and distrust. Ordinary citizens are sure of the Taliban's intentions regarding peace talks, so why is the government closing its eyes? The recent bomb attacks in Khyber Pakhtunkhwa are proof of the mockery of the talks.

An emerging political party in Pakistan, Pakistan Tehreek-e-Insaaf (PTI), and part of the coalition government in the province of Khyber Pakhtunkhwa, demanded for the removal of the ban against the Taliban and the provision of offices for them to have talks with the government. PTI chairman (and former cricket captain) Imran Khan is apparently under the impression that the government and nation is his cricket playground, where the Taliban have performed three suicide bomb attacks within one week. The first attack occurred on September 22, in a church, with two bombs blowing up one after another, causing 84 people to die; the second attack was on a bus of government employees on September 26 near Gulbela area, causing the death of 18 persons; and; the third bomb blast occurred on September 29 in the famous market known as Kisa Khawani Bazaar, in which 42 people were killed. Hundreds of people were also injured in these blasts. Despite these grave incidents, Imran Khan is still keen on giving space to his opposite team to win the game. He should rather understand that providing the Taliban even a single room will soon lead it to control the entire house.

It seems to me that these three attacks by the Taliban, coming after a negotiation demand from the government, indicate that they see any peace talks as mere mockery. If the Taliban come for negotiations, their demands will be to restrict women from markets, keeping them limited to the four walls of their homes, ending relations with the USA, releasing of Taliban members from prisons and the implementation of Sharia laws. They will continue with their repression and violence; taking bribes from traders, brainwashing children, destroying girls' schools, murdering liberals and minorities in the name of blasphemy, and so forth.

The government should understand that talks with the Taliban mean the release of all terrorists from prison, no law and order in the country and more terrorism. Rather than talks with the wolves, unity between the sheep should be the government priority, which will lead towards the defeat of the wolves.

All parties should work towards collective actions in the government to stop militant operations in Pakistan for the restoration of peace. Any procrastination to this end can only lead to further dire consequences.

Recalling an Ayodhya that was not a fountainhead of sectarian strife

Avinash Pandey

Once again, Ayodhya was in the news during July 2013, and again, for all the wrong reasons. The Vishva Hindu Parishad (VHP), a venomous organization with equal hatred for the minorities and the nation, had tried to infiltrate Ayodhya yet again, but was stopped by the state government. It was a game well played: a communal organization attempted to regain lost ground by undertaking a *Parikrama* (journey of faith) that is not allowed in the inauspicious rainy season, according to the Hindu calendar. In stopping the yatra, the state government had made a badly needed cosmetic move to hide its rabidly communal character, evident by its handling of riots against minorities. The game was played at the cost of Ayodhya and all that it has stood for, for centuries.

Ayodhya no longer remains a quaint kasbah on the bank of the Sarayu river. Instead, it is the name of a fear, the mere mention of which sends shivers down minority spines. In fact, Ayodhya scares minorities across South Asia, be they Muslims in India or Hindus in Pakistan and Bangladesh. When something untoward happens here, the poor Hindus of Bangladesh are made to pay for that with their life and property. When a centuries-old building is torn down here by fanatic Hindu mobs, a thousand temples are razed in Pakistan by equally fanatic Muslim mobs.

Ayodhya was not always a fountainhead of communal violence and hatred. It still is not, perhaps. I know this because I am from there, from a village 28 kilometers to its east. I know, because it has always been a part of my growing up. I know, because my father not only went to school there, but also went on to become president of the student union of the (then) only post graduate college in town.

I know, because it was always there when I went to university or returned. I know, because it was there, when I used to visit my maternal grandmother and aunts as they all lived on the other side of the river. I know, because I have stayed with my relatives in Ayodhya a hundred times. I know, because it was always present in the conversations of my parents, friends and others of my acquaintance.

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That Ayodhya is very different to the Ayodhya of the Rashtriya Swayamsevak Sangh (RSS) clan. That one was a town known for its temples and Parikramas. It was an idea that lived far beyond its boundaries. It was where ‘Ram Ram’¹ was the general salutation, with no chants of ‘Jai Shri Ram’. In this Ayodhya, all the *Ramnamis* (scarves with Ram written on them, used as offerings to Hindu gods) and the *khandau* (wooden slippers) necessary for performing religious rituals were made by Muslims.

This was an Ayodhya where not a single riot took place despite all the venomous attempts of the RSS clan. In fact, Ayodhya remains the same in that much at least; not a single riot has taken place here locally, barring those conducted by outsiders (read: fanatic Karsewaks).

Not that everything was fine in that Ayodhya. On the contrary, it reflected everything wrong in broader Hindu society. It was as much a hotbed of caste discrimination as any other place in India. Its *khandaus*, made by Muslim artisans, never adorned the feet of Dalits (I find this to be a blessing in disguise really, as who would want to wear those uncomfortable slippers.)

This was the Ayodhya that I grew up with, at least until the RSS clan came into the picture during the 1980s. It was the hinge upon which the life of people in eastern Uttar Pradesh rested. It gave them their joys and their sorrows. Its *Parikramas* gave people the opportunity to escape from their mundane lives, often the only opportunity they ever had. This Ayodhya reminds me of my grandfather, who kept inventing excuses to visit the town. This Ayodhya reminds me of all those sad evenings when people took the dead bodies of their near and dear ones to be cremated at the Ghats of Ayodhya. This was the town with which I could never break off emotional and cultural ties, despite having largely turned into an atheist by then.

And then, it all started changing. The RSS clan had started spreading its venomous fangs with its Ram Janmbhoomi movement² in 1984. Unfortunately for the nation, the RSS found a silent supporter in the then invincible Congress party, the self designated custodian of secularism in India. In 1986, Congress allowed a district court judge to order the Mosque be opened for Hindus. Having drawn the first blood, they started a ‘Shilapujan’ (worshipping the bricks to be used to build the Ram Temple) campaign. The Congress allowed that too.

1 ‘Ram Ram’ was a regional greeting that had transcended religion; even Muslims of eastern Uttar Pradesh used it until the 1980s, when it was replaced by ‘Jai Shri Ram’, an aggressive Hindu chant.

2 The movement was to build a Ram Temple at the site of an existing Mosque, as this is the alleged birthplace of Rama. From 1853 to 1949 separate areas were marked for Muslims and Hindus to worship. In December 1949, after Hindu idols were placed in the Mosque, a serious dispute arose between the two communities, which led to the locking of the Mosque by the government, on grounds of a ‘disputed area’.

I still have frightening memories of the 'Shilapujan', which was perhaps the first yatra of faith that insulted faith itself. I remember, with horror, the trucks that came amidst anti-Muslim chants. Communal relationships had started to change. Distrust had begun to seep in. Age-old friends had started getting uncomfortable. The jinni of hatred was out of the bottle.

The RSS clan had successfully changed the image of a peaceful, profound Ram, going to the jungle with Sita and Lakshman into one with a raised bow ready to raid the towns. What happened subsequently is well known. L. K. Advani, who has now quite unbelievably turned into a secular leader, went on a Rathayatra that left a trail of blood behind. He succeeded in dividing India once again; for those affected by the mayhem, it was the return of Partition. Babri Mosque was razed to the ground, and the criminals responsible for this were in power in Uttar Pradesh instead of being in jail for their crime. The Bhartiya Janata Party, the political arm of the RSS clan, was on its way to power in New Delhi.

Once in power, they happily forgot both Ayodhya and Ram, a telling comment on the real character of the RSS clan: they were never fighting for Lord Ram or his temple, and they knew it. They had, in fact, turned the faith into a begging bowl for votes. They had turned the *Parikramas* into poll planks. They had turned Ayodhya, a town we love, into a living hell.

It is just that they had done all this with a little less insult to the Hinduism that they claim to be champions of, than this time around. At that time, they had firmly stuck to the rituals and beliefs a vast majority of the country adheres to, in order to assault Islam. They had used tradition to polarize people for electoral gain.

This time however, they seem to be assaulting Hinduism itself. All the *Parikramas* of Ayodhya take place according to their stipulated times in the Hindu calendar. This one, 84 Kosi, takes place in Chaitra (roughly April) and begins in Makhanda, in the neighbouring Basti district and not Ayodhya. For the uninitiated, Makhanda is believed to be the place where Raja Dashrath, the father of Lord Ram had conducted Putreshti Yagya (worship for getting a son) and gave his sister as Dakshina (ritual gift) to Rishi Shringi. (Did he ask her willingness and how could a human being be gifted to someone, remain amongst the early questions leading me on my journey to disbelief, but that is besides the point.)

Makhanda is very close to my village and I have seen the yatra year after year. Like many others, I stood against the assault upon Islam. **It is the turn of those who did not stand up then, allowing these perpetrators to get so emboldened, to do so now.** It is time

for all the faithful to save their religion from its self-appointed custodians. Otherwise, Hinduism will face further insults for their petty interests.

Do not delude yourselves that the state government is going to stop this communal charge. They are playing this game together; polarization will help the state equally in the upcoming Lok Sabha elections. If you are not prepared to announce that faith is not sellable for electoral gain, then you should prepare for another round of mayhem.

An atheist calling upon the faithful to save their religion is perhaps absurd. It is less absurd however, than the insults the VHP has thrown at the faithful. Moreover, a little absurdity can be indulged if my Ayodhya can be regained from violent clutches.

Practicing Ethics in Action

Ethics in Action begins with the realization that both law and morality have failed the people of many countries, who are today facing incredible forms of cruelty that they have little power to eradicate. Despite all the rhetoric of empowerment, the reality witnessed in most Asian countries is desperation and powerlessness. The two ingredients necessary for any real empowerment of ordinary people are law and morality. If living conditions are to improve, defective legal systems and the failures of upholding ethics and morality cannot be ignored. *article 2*, a publication of the Asian Legal Resource Centre, sister organization of the Asian Human Rights Commission, is devoted to discussing matters relating to defective legal systems obstructing the implementation of human rights. *Ethics in Action* will be devoted to discussing how movements and leaderships claiming to uphold ethics and morality have failed to promote and protect human rights.

The AHRC invites submissions to *Ethics in Action* by individuals and organizations interested in issues of human rights, ethics and morality in Asia. Submissions can include articles, poetry, fiction and artwork. For more information, please write to eia@ahrc.asia.

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