

American University Washington College of Law

Digital Commons @ American University Washington College of Law

Human Rights Brief Fall 2016 Regional Coverage

Human Rights Brief 2016-2019 Regional Coverage

Fall 2016

Asia & Oceania Coverage

Human Rights Brief

Follow this and additional works at: <https://digitalcommons.wcl.american.edu/hrbregionalcoverage-fall2016>



Part of the [Human Rights Law Commons](#)

Enemies of the People: A Story Behind the Cambodian Genocide

October 28, 2016

by Todd Hull

On October 12, 2016, [Washington College of Law's Center for Human Rights and Humanitarian Law](#) presented the film "[Enemies of the People](#)" by Thet Sambath and Rob Lemkin. The film gave an insight into the background of Nuon Chea, one of the masterminds behind the Cambodian genocide in the late 1970s. The story followed Thet Sambath as he spent approximately ten years building relationships with various people involved in the genocide, including spending his weekends for about three years gaining Nuon Chea's trust.

Pol Pot, also known as Brother Number One, was the leader of the Khmer Rouge, who took control of Cambodia in the late 1970s. Nuon Chea, his counterpart and co-leader of the Khmer Rouge, was known as Brother Number Two. The two leaders pledged to solve Cambodia's problems by any means necessary. As a result, the Khmer Rouge was responsible for killing almost two million Cambodian civilians when it rose to power. Thet Sambath sought the truth behind why this humanitarian crisis occurred.

The film was a personal narrative of Thet Sambath's experience growing up in Cambodia when the Khmer Rouge took power. Thet, like most Cambodians of the time, lost several loved ones in mass killings, including his father. Thet explained that a member of the Khmer Rouge killed his father while his brother was forced to watch because he would not give up resources to the organization. Thet's mother, he explained, was forced to marry a member of the Khmer Rouge after his father's death and later died when giving birth to the child of the Khmer Rouge member.

Despite Thet's negative experiences with the Khmer Rouge, he sought to gain the trust of some former members to understand why and how the members killed many of people. After gaining the trust of a couple of former members, the members led Thet to a farm in northwestern Cambodia, where the majority of the killings occurred. They explained that most of the killings were done by slitting a person's throat with a knife; one member demonstrated with a plastic knife how he slit the throats, and when his arm would get tired, how he would just thrust the knife in the neck. One member explained, "We were all wrong for following the orders, but if we did not obey, we would have been killed." The members also explained that the majority of killings occurred at night, mass graves were needed for the bodies, and only ten-to-twenty people would be killed at a time.

After learning how and where the killings took place, the only question left for Thet was why the Khmer Rouge would kill so many people. It took a while for Nuon Chea to open up to Thet, but the mastermind explained that the enemies of the Cambodians were the Vietnamese, and anyone who could potentially be a spy or work with the Vietnamese had to be punished or eliminated. Chea explained that the Vietnamese had spies that would sabotage the Khmer Rouge's plans. Thet asked Chea why they killed the suspected spies instead of imprisoning them, which Chea replied, "That's a matter of opinion."

Eventually, Thet told Nuon Chea about the effect the Khmer Rouge had on his family. When Nuon Chea was asked about his feelings regarding Thet's experience, he replied, "Since I started giving interviews, I thought your family stuck together, and I only saw your graciousness – I would like to say how deeply sorry I am."

The UN [tribunal](#) to charge the leaders of the Khmer Rouge regime with war crimes, and, thanks to Thet's discovery of the truth, Nuon Chea along with other members were held accountable for war crimes and crimes against humanity. After spending years gathering intelligence on the man responsible for the killing of his family, Thet admitted it was rather sad to see Nuon Chea put on the plane for sentencing.

The Philippines' War on Drugs Attracts International Attention

November 1, 2016
by Ericha Penzien

Over 3,500 people have [died in the Philippines' war on drugs](#) since President Rodrigo Duterte's inauguration in June. In response to this alarming number of deaths, [Human Rights Watch](#) wrote a letter calling for the Filipino government to initiate a United Nations-led investigation into President Duterte's involvement in extrajudicial killings and the lack of accountability for abuses by government security forces.

The letter also highlighted other human rights violations in the Philippines, including the rights of indigenous peoples and ethnic and religious minorities, internal displacement, reproductive health, children's rights, and the health rights implications of the worsening HIV epidemic.

[Before taking office as President](#), President Duterte was the mayor of Davao City, controversial for his support of "death squads" or men hired by the government to kill criminals, rapists, and drug traffickers. Since taking office, President Duterte has [become even more controversial](#) by [promising](#) to reinstate the death penalty and oversee a wave of extrajudicial executions in addition to intimidating journalists and human rights defenders.

President Duterte [described his country's drug addiction](#) as a pandemic and is committing his presidency to ridding the country of its 3,000,000 drug addicts in order to bring about prosperity. In an interview with Al Jazeera he said, "[You destroy my country, I'll kill you](#). And it's a legitimate thing. If you destroy our young children, I will kill you...There is nothing wrong in trying to preserve the interest of the next generation." Despite how shocking these statements sound to an international audience, however, [President Duterte's approval rating is at eighty-three percent](#).

President Duterte's overt support of the killing of drug dealers and drug users gives both the Philippines police and vigilantes a "'license to kill' without any fear of accountability for their actions," [says Human Rights Watch](#). This period of turmoil [within the country's legal system](#), allows police officers to kill suspects on the spot, later claiming the suspects were resisting arrest and that the police officers had to respond to the suspects' shots out of self-defense. The Secretary General of FLAG, an organization offering assistance to citizens who are victims of President Duterte's war on drugs [condemned President Duterte's](#) war on drugs: "By undertaking tactics ... such as killing rather than arresting suspects and bringing them before the bar of justice, law enforcement officials are betraying public trust."

The steadily increasing number of deaths in the Philippines war on drugs, in combination with President Duterte's [offensive comments](#) directed at various religious and political groups around the world, and growing [concerns from within the Philippine government](#) itself have attracted the concern of the International Criminal Court (ICC).

[The ICC](#), to which the Philippines is a party, is an international court that investigates and prosecutes crimes of genocide, war crimes, and crimes stemming from human rights violations. In a recent [statement from ICC Prosecutor Fatou Bensouda](#), the extrajudicial killings occurring in the Philippines may fall under the jurisdiction of the ICC, if it can determine the killings are being carried out in accordance with a policy established by the State.

The Philippines is also a party to the [Geneva Conventions of 1949](#) and the [ICCPR](#). Both conventions protect the interests of civilians, prevent mistreatment of suspects taken into custody, and require fair and impartial trials for any person accused of a crime. However, as Human Rights Watch [emphasizes in its letter to President Duterte](#), since 2001, the Philippines has only convicted one soldier of a human rights abuse case, despite the hundreds of cases of human rights groups have documented.

President Duterte [acknowledges](#) that many innocent lives have been lost because of his campaign against drugs, but justifies these deaths as “collateral damage”. In the above-mentioned interview with Al Jazeera, President Duterte likened the innocent victims of his war on drugs to the civilian deaths of United States’ war on terror. President Duterte said, “When you bomb a village, you intend to kill the militants, but you kill in the process the children there.”

President Duterte [rejected the responsibility](#) of honoring human rights in his country with respect to drug users and drug dealers. In a derogatory comment condemning human rights as a priority of his presidency, President Duterte said, “[i]f the criminals are killed by the thousands, that’s not my problem. My problem is how to take care of the law-abiding, God-fearing young persons of this Republic because they are our resources.”

President Duterte’s war on drugs is undoubtedly claiming a staggering number lives; however, Filipinos elected President Duterte because many citizens believed in his end goal, even if not in total agreement with his way of getting there. A [supporter of President Duterte](#) said: “The people killed are the dirt of society. What Duterte’s doing, his war on illegal drugs, is right.” Only time will tell where the President Duterte’s lead will take the country in the next six years of his term as President of the Philippines and how both domestic and international human rights groups will respond.

Honor Killings in Pakistan: From Forgiveness to Mandatory Life Sentences

November 3, 2016

by Maleeha Riaz

Gender dynamics vary in Pakistan based on socioeconomic status, region, and the [rural/urban divide](#). Generally, women in Pakistan still struggle to assume their rights as full citizens due to both social and legal barriers. The community-based honor system is a hurdle that continues to victimize women across the nation.

Honor is an [abstract concept](#) that permeates the structure of familial, societal, and gender relations within communities in Pakistan. The honor of a family or community is largely contingent on the perception of society, and whether a person's actions fall within the scope of "acceptable" social behavior. The community largely places the burden of honor on the shoulders of women, and though abstract, honor can have tangible and harrowing consequences for them. Under the system of honor, relatives or community members can kill women, and less frequently men, for deviating from what the community considers "appropriate" behavior in order to restore honor to their families or to the communities.

A woman's so-called deviant behavior can include anything from marrying someone her family does not approve of, to running away from an abusive husband. [On May 31, 2016](#), a nineteen-year-old schoolteacher in Murree, Punjab was tortured and burned by family members for rejecting a marriage proposal. On May 5, the body of a sixteen-year-old girl, Amber, was found in a burnt vehicle. The local tribal council, consisting of 15 men, [ordered her death](#) after she assisted a friend in marrying someone of her choice. Amber was kidnapped, sedated, and strangled. Allegedly, her body was burnt in the vehicle, but other sources report she was still alive when the vehicle was burnt. These cases represent only a few examples of the [approximately 500 women](#) who die each year from honor killings.

Pakistan did not criminalize honor killings until December 2004, but The Criminal Law (Amendment) Act of 2004 still contained an important loophole. Under the forgiveness provision of the law, families of victims could waive punishment for the murderer. [About eighty percent of honor killings](#) are committed by relatives of the victim, so family members are more likely to forgive their relatives for their actions under the law to prevent them from suffering punishment. This made the practice of forgiveness under the law commonplace. In some cases, the community pressured the surviving victims to [forgive the perpetrator](#) even if they did not want to. The forgiveness provision ultimately granted most people who committed these crimes impunity, making the law ineffective.

Furthermore, [police and lawyers were not aware](#) of the 2004 Amendment, so the law could not be effective in practice. Even in cases where the police did have knowledge of the law, oftentimes, the perpetrator's and victim's families would [conspire](#) to weaken the case to prevent prosecution. The community posed another barrier to the law's effectiveness. The community's role in these

killings largely stems from the overwhelming acceptance of the practice, and [its condemnation](#) of women who act outside of the social code.

This year, Pakistan's federal government faced significant pressure to remove the forgiveness provision. It began with the Oscar award-winning documentary, "A Girl in the River," which portrayed the [story](#) of an honor crime survivor. The public outcry compelled Pakistani Prime Minister Nawaz Shareef to [make a statement](#) on the matter. Then, the murder of Pakistani celebrity, Qandeel Baloch, caused widespread anger within the country and around the world. Her brother strangled her after his friends ridiculed him, saying her publicity and work were bringing their family dishonor.

In the wake of this unrest, [Pakistan passed reforms](#) to the law on October 6, 2016. The law now provides a mandatory life sentence for perpetrators of honor killings. It still maintains a forgiveness provision, which allows the victim's family to waive the death sentence, but the sentence to life in prison is automatic when the court finds the perpetrator guilty of an honor crime.

Honor killings are condemned under [United Nations](#) General Assembly Resolution A/RES/59/165, entitled "Working towards the elimination of crimes against women committed in the name of honour." This resolution directs states to reduce honor-based violence by properly investigating cases and prosecuting perpetrators, and making efforts to prevent crimes against women by using legislative measures. Pakistan's removal of the forgiveness provision from the penal code demonstrates this. With the removal of the forgiveness provision, Pakistani law now partially complies with the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)'s standards. Under [Article 2\(g\)](#), states are required to repeal penal provisions that discriminate against women. The forgiveness provision inherently discriminated against women because they are the primary victims of honor-based violence.

However, Pakistan will remain incompliant with CEDAW under [Article 5\(a\)](#), which requires states to take measures to eliminate cultural patterns and practices that are based in the idea of the inferiority of women. Gender inequality permeates the social fabric of Pakistan, and it manifests itself in extremes on both the civilian level and within the government. Baloch's brother [does not express any shame](#) for killing her, and a conservative senator argued that the legislature should be more concerned with [women's behavior that leads to their murders](#) when Parliament debated the recent reforms. Failure of the Pakistani government to address these issues of bias means that it will [fail to act with due diligence](#) in addressing the violence that women face.

The failure of the Pakistani court system to interpret the law to bring about justice for women may also make the state incompliant under CEDAW [Article 2\(c\)](#), which requires legal protection for women against discrimination through competent national courts. Proper enforcement by the justice system is necessary because communities can be biased due to their acceptance of the practice, and they may want to protect the murderers. Women's rights activists in Pakistan express concern over the way [courts will define honor killings](#) and rule on the issue. The bill still allows a judge to decide [whether a murder qualifies](#) as an honor killing, and in trial courts, the judges may be biased towards the perpetrator as they are members of the community. The courts may define honor killings narrowly, making conviction for an honor killing difficult; thus, they may prevent justice from being administered. Better judicial oversight or removal to the federal courts could help to curtail this problem.

Though the removal of the forgiveness provision is monumental for the women of Pakistan, [laws alone will not protect them](#). If it is enforced properly by the justice system, the law may create an effective deterrent to perpetrators of honor crimes. The threat of honor crimes has stifled the women of Pakistan for generations, and has presented a major obstacle to their freedom and rights. Potential exists for the rate of honor killings to drop significantly, and for a great barrier to women's freedom to crumble.

China: Simultaneously Committed to Improving Human Rights and Hindering Efforts of Lawyers and Human Rights Activists

November 22, 2016

by Ericha Penzien

Historically, China has had tenuous relations with the United Nations and other human rights groups.

But now, China is beginning to open its doors to the United Nations for assistance in addressing human rights issues within the country. In September, the Chinese government released a policy paper, [New Progress in the Judicial Protection of Human Rights in China](#), addressing country-wide human rights concerns and suggesting improvements aimed specifically at the judicial system. In this policy paper, the Chinese government [invited United Nations representatives](#) to visit China under full support of the government. The United Nations welcomed the invitation, as it has faced [setbacks caused by the Chinese government](#) on previous visits. Conflicting immediately, however, the “selective statistics and unsubstantiated claims” regarding human rights improvements within the country in the policy paper [raised questions over China’s dedication](#) to its commitments to the United Nations and its interest in improving human rights conditions within the country. Furthermore, the policy paper was criticized for [ignoring the numerous arrests and detentions of human rights](#) activists who have spoken out against oppression over the past several years.

Currently, China is party to [six conventions of the United Nations](#). In addition, China was elected to membership on the [Human Rights Council](#) in 2013, to serve until 2016. As a member of the Human Rights Council, China [promised to strengthen democracy](#) and promote the protection of civil and political rights; to pursue progress for its peoples’ economic, social and cultural rights; to address and encourage adherence to the policies set forth by the committees of the United Nations; and to protect the rights of all its people, including minority ethnic groups, women, children and persons with disabilities. Despite China’s active involvement in many international committees and treaty bodies, persecution of human rights defenders is a significant concern.

Under the CAT, [China has agreed to investigate, prosecute and punish](#) acts of torture and other cruel punishment. This agreement extends to the fair treatment of lawyers and human rights activists. Over the past several years, however, the Chinese government has [arrested and detained human rights lawyers and activists](#). Since July 2015, the Chinese government has [arrested or detained at least 317 lawyers](#), several of whom remain in custody.

In September 2013, human rights activist [Cao Shunli was detained](#) in Beijing before leaving the country to participate in a conference in Geneva led by the United Nations addressing human rights issues. Shunli was detained for alleged “unlawful assembly.” After two years in custody, Shunli

died of pneumonia, among other illnesses. Her family and other human rights activists were left questioning the treatment she received from the Chinese government while in custody. In May 2014, a prominent Beijing lawyer [Pu Zhiqiang](#) was arrested for allegedly “picking quarrels” and creating unrest by [commemorating the victims of the Tiananmen Square Protests](#) of June 4, 1989. Additionally, another prominent human rights lawyer, [Tang Jingling](#), was given a five-year prison term for promoting the ideas of non-violent civil disobedience. Under the [International Covenant on Civil and Political Rights](#), a covenant signed by China, arbitrary arrests or detention are prohibited. In addition, the covenant requires that all arrestees are informed of their offenses and entitled to trial within a reasonable time.

In November of this year, the [Chinese Ministry of Justice released revisions](#) to its Management Methods on Law Firms and Management Methods on Lawyers. Through these Management Methods, the Chinese government has attempted to show its support of lawyers and activists; however, the new revisions undermine the role lawyers and activists play in advocating for marginalized persons within the country. These revisions require law professionals to “support the leadership of the Chinese Communist Party” and are forbidden to express any thoughts or options contrary to the political system or officials of China. Human Rights Watch cautions that these revisions weaken and frustrate the role of lawyers in advocating for and protecting the citizens of China. According to Sophie Richardson, the China Director at Human Rights Watch, the revisions severely limit the role of human rights layers, “the new Justice Ministry rules basically [tell human rights lawyers that their successful legal tactics are now prohibited](#). People’s rights can’t be robustly defended when their lawyers can’t draw attention to, or even publicly discuss, their cases.”

China’s stance against lawyers and human rights activists seems to undermine the goals laid out in China’s [New Progress in the Judicial Protection of Human Rights in China](#). By 2020, China [aims to help 60 million people](#) out of poverty by improving health standards, decreasing air pollution, putting forth efforts to prevent interrogation by torture and continuing to improve the Chinese judicial system. Without allowing lawyers and activists to advocate for the marginalized groups within Chinese society, however, the outlook for advancement proposed in China’s new policy plan seems grim.