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Kashmir

What should be done
Dr Aman M Hingorani



Unravelling the Kashmir Knot

Dr Aman M. Hingorani

Aman M. Hingorani is a lawyer and mediator in the Supreme Court of India and the High Court of Delhi. Dr Hingorani has also acted as an arbitrator and as adjunct faculty to teach law students and run training courses for young law teachers. He has taught in programmes at various institutions in India (including National Judicial Academy, Bhopal; Campus Law Centre, University of Delhi; Indian Law Institute, New Delhi) and abroad (including Keble College, University of Oxford, UK; Law School, Warwick University, UK; South Asian Institute of Advanced Legal and Human Rights Studies, Dhaka, Bangladesh).



Are Chinese Leaders Honouring Their 'Social Contract' With The People?

Dr Namrata Goswami

Dr. Namrata Goswami is one of the foremost Indian thinkers on long-term global trends, emerging security challenges, and scenario building. She is currently an Independent Senior Analyst. Dr Goswami was formerly Research Fellow at the Institute for Defence Studies and Analyses (IDSA), New Delhi where she specialized on ethnic conflicts, insurgency, counter-insurgency and conflict resolution. She was a Jennings Randolph Senior Fellow at the United States Institute of Peace, Washington, D.C., She is a recipient of the Fulbright-Nehru Senior Fellowship.



Uganda: New insights to support girls in conflict with the law

Elizabeth Harrop

Elizabeth is a freelance writer, poet and artist specialising in human rights advocacy, with a particular interest in the rights of women and children who has worked for many international organisations including Amnesty International and UNICEF, and has worked in a number of countries, where she has spoken with the victims of human trafficking. The subjects Elizabeth has worked and written on include inter-country adoption; legal reform; maternal and infant health; the sexualisation of children; and war propaganda.



The role of civil society in Sri Lanka's Universal Periodic Review

Kirsty Anantharajah

Kirsty Anantharajah has degrees in Arts and Law (Hons I) from the Australian National University. She is currently based in Sydney where she is active in refugee legal protection. Kirsty is passionate about the Sri Lankan experience of rights. Her honours thesis was titled: Game playing in human rights regulatory regimes: Sri Lanka's interactions with the Universal Periodic Review. Her writing surrounding various human rights issues in Sri Lanka has been published by OpenDemocracy, the Colombo Telegraph and Sri Lanka's Law and Society Trust Review.



Afghanistan in the balance

Heidi Kingstone

Heidi Kingstone is a freelance journalist specialising in Afghanistan. Her book, *Dispatches from the Kabul Cafe*, was published in May (Advance Editions 2015). Views expressed in the piece are that of the author, and not of Mantraya.



Rethinking the International Criminal Justice Project in the Global South

Dr. Michelle Burgis-Kasthala

Dr. Michelle Burgis-Kasthala is a Research Fellow in the School of Regulation and Global Governance (RegNet) and member of the Centre for International Governance and Justice (CIGJ). Her doctoral thesis and then book (Brill, 2009) was entitled *Boundaries of Discourse in the International Court of Justice: Mapping Arguments in Arab Territorial Disputes*. Her current project will interrogate the interrelationship between international criminal law, human rights law and transitional justice as registers of redress within the revolutionary context of the Arab Uprisings. She is also a Research School of Asia and the Pacific (RSAP) Fellow.



Keynes' Limitations and Trump's Disasters

Dr Howard Richards

Dr Richards is a philosopher of Social Science who worked with the concepts of basic cultural structures and constitutive rules. He is Research Professor of Philosophy at Earlham College; PhD in Philosophy, University of California, Santa Barbara; Juris Doctor (J.D.) Stanford Law School: Advanced Certificate in Education (ACE) Oxford University (UK); PhD in Educational Planning from Ontario Institute for Studies in Education (OISE), University of Toronto, Canada. He now teaches at the University of Santiago, Chile. Dr Richards is a Catholic, a member of Holy Trinity (Santisima Trinidad) parish in Limache, Chile, and a member of the third order of St. Francis, O.F.S.



Searching for the Divine through the camera lens

Kenro Izu

Kenro Izu (b. 1949) was born in Osaka, Japan. During his studies at Nippon University, college of art, Izu visited New York in 1970 to study photography, and subsequently decided to stay and work. In 1975, after working as an assistant to other photographers, Izu established Kenro Izu Studio in New York City. He has had numerous exhibitions of his work across the world, published books and founded *Friends Without A Border*, an NGO, which set up two children's hospitals - one in Cambodia and the other in Laos.



Visit to a Birch Grove

Mikyoung Cha

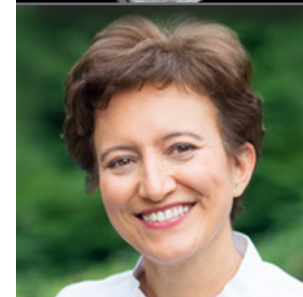
Mikyoung Cha is a graduate in Oriental Painting from Hyosung Women's University, Daegu, South Korea. She has participated in a number of group art exhibitions in South Korea and Japan. In 2016 she took up photography - the camera becoming her paint brush. This globe trotting photographer is a regular contributor to Live Encounters Magazine.



Ambigutrees

Vincent Devine

Beginning his painting practice in 2008, subconscious undertones have always been prevalent in his work and he continues to be uncategorisable as an artist of a certain style due to his constant fluctuation into new and excited styles in his painting practice. With a plethora of celebrity endorsements from huge stars such as Shakira, and J.K Rowling to name a few, he has had work commissioned by Tyra Banks, Roisin Murphy, Iggy Azalea and has had his work feature on Madonna's "Rebel Heart Tour".



Katmer - Turkish crunchy pancakes

Ozlem Warren

International cooking teacher and Turkish culinary expert Ozlem Warren is a native of Turkey, lived there and extensively travelled for 30 years. She has been teaching wholesome, delicious Turkish cookery in the US, Jordan, Istanbul and England. Her recipes have been published in the local media in England, Hurriyet and Sabah national daily newspapers in Turkey. Ozlem also took part at the "Turkish Chefs of the World", "Dünyanın Türk Seftleri" TV program aired at TRT, National Turkish TV channel and in 37 countries.



PM Narendra Modi help Kashmiri Pandits and victims of anti-Sikh riots get justice.

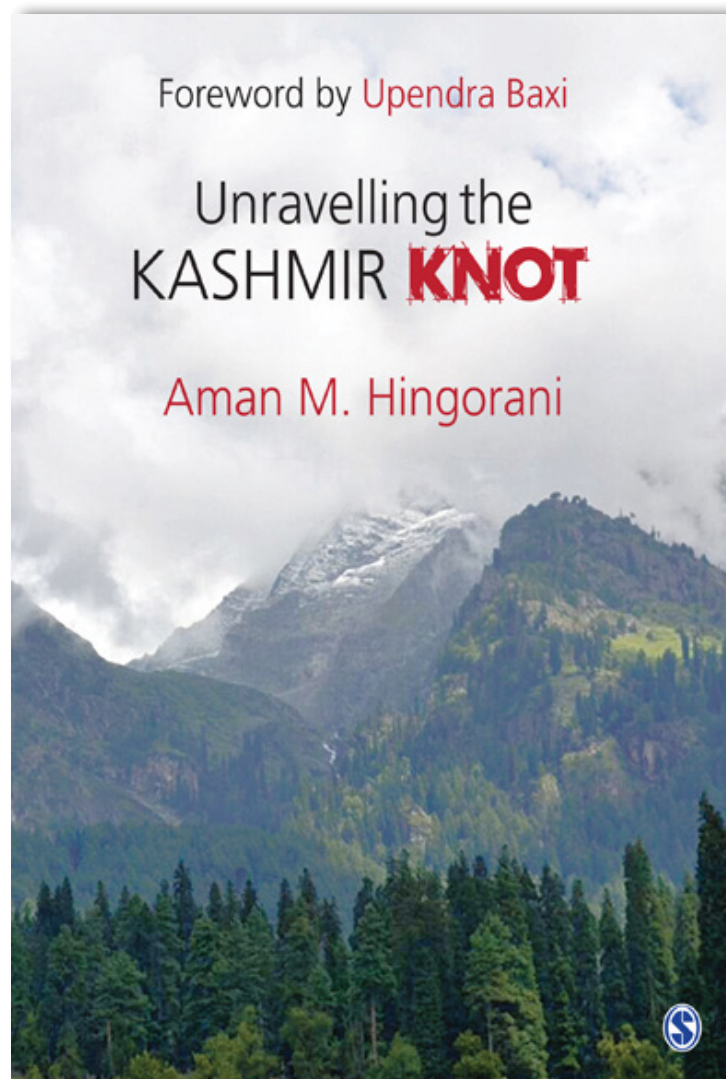
Mark Ulyseas

Ulyseas is founder and editor of Live Encounters Magazine and Live Encounters Poetry. He is the author of three books: *RAINY - My friend & Philosopher*, *Seductive Avatars of Maya - Anthology of Dystopian Lives* and *In Gethsemane: Transcripts of a Journey*. <http://www.amazon.com/author/markulyseas>

Dr Aman M. Hingorani is a lawyer and mediator in the Supreme Court of India and the High Court of Delhi. He has also acted as an arbitrator and as adjunct faculty to teach law students and run training courses for young law teachers. He has taught in programmes at various institutions in India (including National Judicial Academy, Bhopal; Campus Law Centre, University of Delhi; Indian Law Institute, New Delhi) and abroad (including Keble College, University of Oxford, UK; Law School, Warwick University, UK; South Asian Institute of Advanced Legal and Human Rights Studies, Dhaka, Bangladesh).



DR AMAN M HINGORANI, AUTHOR UNRAVELLING THE KASHMIR KNOT, PUBLISHED BY SAGE



This book suggests a completely different approach towards resolving the Kashmir issue. Let us first examine the context in which the Kashmir problem arose. British archives establish that the partition of the Indian sub-continent was scripted by the British for their geo-strategic interests during its 'Great Game' (the precursor to the Cold War) with the then Soviet Russia, and to prevent Russian influence from travelling southwards towards the oil-rich Middle East. 'Pakistan' was necessary as it formed part of the Islamic crescent from Turkey to China that served as an ideological boundary. The political agreement of partition driven by the British and the Muslim League, and eventually accepted by the Congress, was crystallized in British statutes - the Indian Independence Act of 1947, and the modified *Government of India Act of 1935*.

The British provinces were to be partitioned according to the two-nation theory, which was conceived by the British and mouthed by their hand-picked M.A. Jinnah merely to justify the creation of Islamic Pakistan. However, as per these very statutes, all the princely states were to regain full sovereignty and such sovereignty vested in the ruler, regardless of the religious complexion of the people of the state concerned.

It was the ruler alone who could decide to accede to India, Pakistan or remain independent. These British statutes were accepted by both India and Pakistan.

While scripting the partition, the British had assumed that the strategically-located and Muslim-majority princely state of Jammu & Kashmir ('J&K') would accede to Islamic Pakistan or at least be associated with it. However, J&K acceded to India on 26 October 1947. Such accession would have adversely impacted the Great Game for the British and defeated the very rationale of creating 'Pakistan'. That said, the British did not need the whole of J&K. They just needed the Gilgit region for the Great Game, and the slice of land known as 'Azad Kashmir' to protect Pakistan from liquidation should India go to war with Pakistan.

The British, in violation of every conceivable principle of international law, effected a coup of Gilgit on 30 October 1947, to hand over such Indian territory to Pakistan. 'Azad Kashmir' was captured by Pakistan-led tribals with the collusion of the British, whose officers headed both the Indian and Pakistani armies.

India remained a British dominion till 1950, with the King of the United Kingdom as its formal head. Right up to 1948, New Delhi let Louis Mountbatten formulate India's Kashmir policy as chair of the Emergency Committee and the Defence Committee of the Indian Cabinet. Mountbatten has disclosed that, at the time of accession of J&K, he told Jawaharlal Nehru that he (as Governor General) would sign the acceptance of the accession instrument only if Nehru agreed to hold a plebiscite in J&K to determine the wishes of the people. He then persuaded Nehru to commit to plebiscite before the UN under international auspices, to confer upon the international community (including Pakistan) standing with respect to J&K. The British strategy was to have the UNSC call for cease-fire without requiring Pakistan to first vacate the areas of J&K that it had occupied through aggression - which it did - and to have the UNSC look the other way when Pakistan consolidated its control over such occupied territory - which again it did. Thus, in the guise of the UNSC directed cease-fire, Pakistan (and through Pakistan, the British) would get to retain precisely those areas of J&K that the British needed for the Great Game.

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The further British strategy was to have the UNSC then bypass India's complaint of aggression and hold India to its offer of plebiscite in J&K – which yet again it did. It was a trap laid at the UNSC by the British for New Delhi, and New Delhi fell for it.

The significance of this narration is that modern day India and Pakistan are creations of the said British statutes, in terms of which only the rulers of the princely states could decide the future of their states, not the people. The question then to be asked is whether Nehru could make a promise that was contrary to the constitutional law then in force and which had been accepted by both India and Pakistan – namely, the said British statutes. It was overlooked by Nehru that once a political decision (the partition agreement) had been crystallized into law (the British statutes), the executive in the dominion created by that law cannot act contrary to the terms of that very law. It is well settled that a dominion cannot, by making promises, clothe itself with authority which is inconsistent with the constitution that gave it birth. New Delhi acted beyond the scope of its power under the constitutional law then in force (the British statutes) by promising plebiscite in J&K.

Having burnt its fingers before the international community, the Indian policy has subsequently been to disown the occupied territory of J&K and its people, and to maintain territorial status quo. New Delhi, therefore, went on to tell the UNSC on 15 February 1957 that it considered that it had 'a duty not to re-agitate matters' and had decided to 'let sleeping dogs lie so far as the actual state of affairs is concerned'. But then, is it constitutionally permissible for New Delhi to do so, as this stand implies cession of national territory. The Supreme Court had held at one point of time that Parliament could cede national territory. However, in 1973, the Court took the view that Parliament lacked power to tinker with the basic structure of the Constitution of India, which includes the unity of the country. As a result, Parliament cannot give away Indian territory. New Delhi has, therefore, been barking up the wrong tree by following its policy of territorial status quo.

It was, thus, New Delhi that created doubts about the unconditional nature of the accession of J&K to India, conferred a disputed territory status on J&K, and internationalized the Kashmir issue. As a result, New Delhi enabled the separatists, Pakistan and other countries to argue till date that it is a 'freedom struggle' that is underway in Kashmir. Pakistan feels cheated of Kashmir, and the perception in Kashmir is one of being let down by New Delhi as no plebiscite as promised has been held.

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New Delhi's response has been to follow the misconceived policy of territorial status quo so as to convert the LOC into the international border, and to crush the popular disillusionment in the part of J&K with India through emasculation of Article 370 of the Constitution and infliction of state violence through draconian laws like AFSPA.

And so, if New Delhi wants to resolve the Kashmir issue today, it must aim to change the current political discourse on this vexed problem. New Delhi can keep harping about J&K being an integral part of India – the rest of the world simply does not agree. Moreover, such stand will not make Pakistan, or China, vacate the part of J&K occupied by them. For that, New Delhi needs, as a first step, to confirm, as it were, its title deeds to J&K by getting a finding that the same law that created Pakistan made J&K a part of India. The only body whose finding will be acceptable and binding on Pakistan, and all other members of the international community, is the International Court of Justice (ICJ). The book outlines such legal reference as also the position that the reference is not precluded by the Simla Agreement of 1972 or any other bilateral agreement between India and Pakistan.

If the ICJ gives a verdict in India's favour, the very presence of Pakistan and China in the territory of J&K would constitute 'aggression' under international law, and the international community would have no option but to put an end to that illegal situation as illustrated by the 1971 ICJ decision in *Namibia*. Further, should the ICJ decide against India, New Delhi could still maintain its official position that the Kashmiris have already expressed their wish, through the state Constituent Assembly, of being a part of India.

And so, the way forward on the Kashmir issue is to first depoliticize it. While the Kashmir issue is certainly a political one, it is possible for New Delhi to separate the legal from the political aspect of the issue, so that it can vindicate its claim to the entire territory of J&K based on legal rights. While a decision at the ICJ alone cannot resolve the Kashmir issue, a confirmation of the correct legal position by the ICJ will help alter the current political discourse and swing political opinion in India's favour to create a momentum for winning the confidence of the people. New Delhi must take further steps to regain the moral authority to be in J&K and to undo past mistakes as detailed in the book, its success being dependent on the character of the Indian State and of the men and women who run it.



Photograph © Namrata Goswami

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Dr. Namrata Goswami is one of the foremost Indian thinkers on long-term global trends, emerging security challenges, and scenario building. Dr. Goswami is currently an Independent Senior Analyst. She was formerly Research Fellow at the Institute for Defence Studies and Analyses (IDSA), New Delhi where she specialized on ethnic conflicts, insurgency, counter-insurgency and conflict resolution. She has been a Jennings Randolph Senior Fellow at the Congressionally Funded United States Institute of Peace (USIP) in Washington DC, where she explored long-term India-China-US scenarios in order to craft sustainable security frameworks to enable unimpeded human development and security. She was co-lead and editor of two IDSA sponsored works on long-term trends, *Imagining Asia in 2030*, and *Asia 2030 The Unfolding Future*. Her latest book published by Pentagon Press, New Delhi is on *India's Approach to Asia, Strategy, Geopolitics and Responsibility*, 2016. Article reprinted by permission of [The Huffington Post](#).

Are Chinese Leaders Honouring Their 'Social Contract' With The People?

Dr Namrata Goswami

Independent Senior Analyst, Author and one of the foremost Indian thinkers on long-term global trends, emerging security challenges, and scenario building.

I just returned from a visit to China, and it offered interesting insights. Propositions that China is collapsing from within due to [internal unrest](#); that industrial parks and stifling manufacturing hubs are everywhere; or that the People's Armed Police (PAP) is omnipresent, are at best exaggerations. While it is true that organised political dissent could have negative consequences, it is equally true that some level of individual divergence is accepted. China has a one-party system, dominated solely by the Communist Party of China (CPC) since the PRC was founded in 1949. As far as I could tell, the aim of the CPC to build legitimacy by uplifting the lives of the people seems to have had societal impact especially after Mao's death.

Deng Xiaoping, described by Mao as "[a needle inside a ball of cotton](#)", was the architect of China's path to economic recovery and poverty alleviation. For instance, China succeeded in uplifting 680 million people out of poverty during the period 1981-2000. This has been attributed to better [governance and accountability](#) despite the strain of internal corruption that China is [trying to tackle](#), especially under the leadership of President Xi Jinping. Urban poverty is more or less a thing of the past. Between 2000 and 2010, China's per capita income increased from [US\\$1000 to US\\$5000](#), making it a middle-income country. Policy measures such as [urban subsidies and rural pensions](#) were instrumental in enabling China to be the driver of poverty alleviation in the world. By 2020, China aims to eradicate poverty completely. That's a tall order, uplifting another 80 million people in four years. Yet if one examines earlier patterns of gradual and targeted reform, shifting from a centrally planned economy to a market-based one by setting up special economic zones, mobilising domestic resources and encouraging innovation, China's poverty alleviation plan appears reachable.

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So, what exactly is the idea of a "social contract" in China? In general, a social contract is based on the primary idea "that rational citizens agree to govern themselves, because they recognise that everyone's needs are met more effectively through [cooperation](#)." One of the core values that guide the CPC, post-Mao, is "[consensus building](#)", whereby varying interpretations and perspectives are expressed within the party but the ultimate result is based on consensus. Significantly, CPC leaders are not elected by the people; they, by virtue of being CPC members, are eligible to rise higher simultaneously within the CPC ranks and in public office. Factors such as patronage, merit, ideological purity, play a critical role in this process; sometimes, ideological purity and patronage may trump merit. This is not very unlike democracies, where elected Presidents and Prime Ministers routinely choose their close advisers, based, not purely on merit, but on personal loyalty and shared ideologies.

The level of commitment to China's development, and ensuring a decent life for its citizens, will thereby depend on how much importance the CPC accords to establishing an enabling environment. Or, how much it will be stifled by state-driven coercion, both visible and invisible, to serve the self-aggrandising motives of party leaders. For instance, President Xi has been accused of using his anti-corruption drive to [purge CPC leaders](#) that had historically opposed him or were not loyal enough. If true, that's a pretty bad example to set, and the Chinese political system lacks robust institutional checks and balances to limit such behaviour. On the other hand, President Xi's anti-corruption drive, which does not spare high-ranking officials if found guilty, may have resulted in discontent and factionalism, especially instigated by former corrupt officials. It is likely that there is a counter-campaign within the CPC to portray President Xi's anti-corruption drive as aimed at purging dissidents within the party, to discredit the effort. We may not know for sure.

In the next 20 years, China is expected to witness [310 million people move to its cities](#). From my visit to its cities, it is visible that China has been able to organise well with regard to community housing, roads, public spaces and transport. Unlike the off-repeated foreigner lament that if you do not know Mandarin, you are a lost visitor in China, my experience proved otherwise. My metro rides offered guidance in both English and Mandarin; waiters in restaurants used mobile apps to translate my orders in English to Mandarin; and people helped me out when I got lost. The situation may be starkly different in rural areas, but we should remember that China is urbanising rapidly.



Photograph © Namrata Goswami

Challenges that I foresee for China are high levels of pollution, income inequality, an aging population that will require social security, and its foreign policy with regard to its neighbours and the US. Debates on environment have already started in earnest within China. The CPC, instead of stifling [such debates](#), should listen to academic/civil society perspectives if it is serious about tackling environment issues. Foreign policy towards its neighbours and the US should not be opaque.

The social contracts that the CPC highlights regularly are its commitments to stability, prosperity, and upgrading living conditions for its citizens. Its legitimacy is tied to achieving these commitments. Thereby, the CPC should simultaneously work out a plan to sustain its development goals by respecting concerns for clean air and a healthy lifestyle. Otherwise, pollution could become an Achilles heel.

<https://pixabay.com/en/>

Elizabeth is a freelance project manager, communications consultant and writer, specialising in International Human Rights Advocacy – particularly the rights of women and children. She has extensive knowledge of international human rights law, and a Master's Degree in Human Rights and Social Change. Elizabeth has worked for inter-governmental, international development and advocacy organisations, such as the *Africa Child Policy Forum*, the *African Committee of Experts on the Rights and Welfare of the Child (ACERWC)*, *Amnesty International*, the *European Union*, the *Global Movement for Children*, *Oxfam*, *Plan International*, *Transparency International* and *UNICEF*.

www.libertyandhumanity.com/elizabeth/



UGANDA: NEW INSIGHTS SUPPORT GIRLS IN CONFLICT WITH THE LAW

Elizabeth Harrop

In Northern Uganda, the impacts of prolonged poverty and civil conflict forces young people to survive in a subsistence environment with little to no prospect of gaining employment. Latest figures from the Government of Uganda show that the incidence of poverty remains highest in the Northern region, with 43.7% living below the Poverty line compared to 4.7% in the Central region.

The Non-governmental Organization (NGO) Chance for Childhood has been documenting the links between poverty and the likelihood of coming into conflict with the law in the region since 2013, as well as promoting restorative justice arrangements that address the root causes of committing petty crime. In 2015, Chance for Childhood launched its four-year Right2Change initiative to help Children in Conflict with the Law (CICL) access alternatives to detention, and to pilot a model of community-based structured diversion.

Over time, it has become apparent that girls can face different reasons for coming into conflict with the law, and different vulnerabilities have a greater impact on girls than on their boy peers in this context. Girls also experience the criminal and informal justice systems differently (informal justice systems include traditional, tribal, and religious courts, and community-based systems). Girls make up almost 10% of the population of CICL in Uganda. However, the criminal justice system in Uganda is also used for the 'safe custody' of girls and girls may be detained simply because they are victims of crime, for example of forced marriages, child trafficking and commercial sexual exploitation. Other forms of discrimination encountered by girls in the criminal justice system include blaming the victim for her own rape, or being sexually assaulted by the Police when reporting a crime.

The UN Committee on the Right of the Child notes in its General Comment No. 10 (2007) that “criminal codes contain provisions criminalizing behavioural problems of children, such as vagrancy, truancy, runaways and other acts, which often are the result of psychological or socio-economic problems. It is particularly a matter of concern that girls and street children are often victims of this criminalization”.

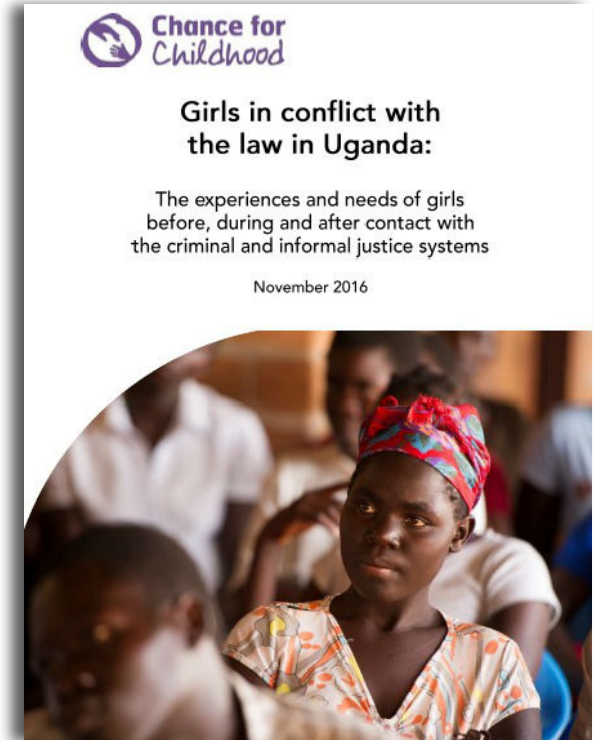
International legal frameworks demand that juvenile justice systems should be directed at rehabilitation and reintegration. These legal frameworks also place emphasis on the unique risks and vulnerabilities faced by girls and the significance of diversion programmes, so that children are not processed through (and stigmatized by) the criminal justice system.

A criminal response to welfare needs

A key concern affecting CICL of both sexes is the misallocation of state resources, which are used to criminalize instead of protect vulnerable children. If funding and services were instead used in a more humane and just way, then the rights violations children suffer, which can lead to their social exclusion and vulnerability to criminality, could be redressed and a child’s pathway into coming into conflict with the law could be arrested. However, the present situation means that the needs of a child in conflict with the law remain unmet, and the child is instead stigmatized as a criminal, and blamed for the wider failure of society and the government, with all its consequences.

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The criminalization of children and young people with welfare needs and the reliance on imprisonment is unable to address the causes of offending. The tragedy is one for the individual child as well as society. For example, in England, better cooperation between courts and Youth Offending Teams and increased diversion from courts, was found capable of reducing imprisonment and delivering total savings of over £60 million. Many studies worldwide cite the harsher treatment of women and girls in the criminal justice system due to contravening gender norms. This includes for non-violent crime such as status offenses and acts such as theft and prostitution. Status offences (such as truancy, running away from home, violating curfew laws or possessing alcohol or tobacco) are often used against girls to control their behaviour. Meanwhile, girls who have turned to sex work as a survival strategy or who are victims of trafficking for sexual exploitation are prosecuted, instead of the adults who are exploiting them. There are calls for status offences to be identified as welfare issues, for these offences to be abolished and for the conduct addressed through child protection mechanisms.



Risk factors

Studies on the background characteristics of women in the justice system in Uganda could not be found. However, a history of trauma is almost universal among incarcerated adults in the USA (over 85%). Post-traumatic stress disorder (PTSD) is four to 10 times more prevalent among incarcerated women than in community samples. Another study in the USA found that crimes that women are convicted for “are closely related to the structural situation of women in this society. The characteristics are histories of abuse, of being responsible for children, and being limited to low skill/low income jobs. Incarcerated women grew up in abusive families to a much higher extent than men and a majority of them had experienced domestic violence... as single parents with usually low skills it is for most difficult or impossible to support their children”. Girls may be susceptible to peer pressure in different ways to boys. Girls experience more emotional stress from problem relationships because they are socialized to focus on relationships. This is particularly true in adolescence when relationship conflict can result in feelings of rejection and depression in girls. The resulting insecurity “can lead girls to associate with antisocial peers and romantic partners, increasing their vulnerability to delinquent behaviours”.

Poverty

For both boys and girls in Uganda, theft and other crimes can be a response to poverty. One study revealed that the majority of offences committed by children and young people in Uganda are related to their very survival and many had been forced to steal in order to eat. Young people aged 18-30 account for 64% of the total unemployed population in Uganda. The unemployment rate is higher among the better educated and among young women. However, even where youth are employed, 60% of paid young employees take home less than the average monthly wage/salary. The disparity in median monthly wages by gender is significant at Shs 66,000 (USD \$20) for females and Shs 132,000 (USD \$40) for males.

Criminalization as a result of poverty or other factors further prohibits livelihood options and children are caught in a vicious cycle. Young people in Uganda said they are denied jobs after being released from prison because they lack skills and are burdened by social stigma. In addition to being a push factor in causing criminality, poverty can also negatively affect children’s experiences from within the criminal justice system. Where police corruption is prevalent and bribes are needed, for example for early release from detention, juveniles may be unable to pay and secure their freedom.

While girls in Uganda are generally vulnerable to human rights abuses due to gender inequalities, specific groups of girls are more greatly affected. These include girls with disabilities, girls in conflict affected areas, girls who are out of school, victims of child marriage and defilement and SGBV, child mothers, orphans, girls affected by HIV/AIDS, girls who have been trafficked for exploitation, lesbian, gay, bisexual, transgender and/or intersex (LGBTI) children, and girls in street situations.

Poverty *contd...*

A lack of livelihood options mean many young women resort to sex work and subsequently become more vulnerable to HIV, other sexually transmitted diseases, to abuse, and to coming into contact with the law. A major issue affecting young women and financial sustainability is access to land in Uganda. Lack of land ownership and economic insecurity increases the dependence on and subordination to men, and makes women and girls vulnerable to the high rates of sexual and gender-based violence (SGBV) and to other abuses such as child marriage, which in turn impact a girl's right to education and her future prospects.

Interrelated vulnerabilities

Various vulnerabilities cause children to abandon their childhood and seek coping strategies to ensure their survival. Or children are forced into deplorable situations of abuse and neglect, for example by being trafficked for sexual exploitation. The common root of this lack of agency and choice in a child's life and the subsequent violation of their human rights is vulnerability caused by a range of factors – many of which coexist and are interrelated. For example substance abuse to cope with violence and hunger; children in street situations linked to poverty, to witchcraft accusations or to conflict at home; SGBV both resulting from child marriage and causing it, when a girl feels that it is her only option to escape from an untenable home life.

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Girls in custody are more likely to self-harm than boys. International guidelines note that girls placed in an institution deserve special attention as to their personal needs, and that they are especially vulnerable due to their small numbers as well as their gender, including to abuse from officials such as the police. According to the Uganda Bureau of Statistics, of the 42,000 individuals in prison in 2014, 23,000 are on remand awaiting trial (55%).

Orphans and vulnerable children (OVCs) in Uganda are more likely to engage in child labour. However, many such children end up resorting to theft and street begging. A child's coping strategies and livelihood options on the street are likely to result in coming into conflict with the law as a child is forced to "choose" between stealing and going hungry; having sex with a policeman or being arrested.

Children and girls in detention

Girls in custody are more likely to self-harm than boys. International guidelines note that girls placed in an institution deserve special attention as to their personal needs, and that they are especially vulnerable due to their small numbers as well as their gender, including to abuse from officials such as the police. According to the Uganda Bureau of Statistics, of the 42,000 individuals in prison in 2014, 23,000 are on remand awaiting trial (55%). Women and girls may be disproportionately given pre-trial detention as most female offenders have a low income and may find it hard to provide a financial guarantee, or to evidence secure employment or secure accommodation. Female pre-trial detainees are more likely than their male counterparts to be held with convicted prisoners because there are fewer facilities for detaining women.

Yet the incarceration of children is proven to be ineffective. In the UK, 72% of children released from custody go on to re-offend within one year. In France, recidivism figures rise to 90% for children incarcerated a second time. Girls in custody are more likely to self-harm than boys. International guidelines note that girls placed in an institution deserve special attention as to their personal needs, and that they are especially vulnerable due to their small numbers as well as their gender, including to abuse from officials such as the police.

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However, informal justice systems, especially custom and religious-based, are likely to uphold rather than to challenge the harmful norms and values of the society around them, including attitudes and patterns of discrimination. It is important that rape and sexual violence should not be dealt with by community justice systems, but referred to ordinary courts.

Girls' treatment within the community justice system

UN agencies note a "justice vacuum" in Uganda caused by inaccessibility of the formal justice system in much of the country. Informal justice mechanisms have filled a large space in this vacuum and can therefore be capitalized on as existing systems for encouraging diversion and other community responses to juvenile offending.

However, informal justice systems, especially custom and religious-based, are likely to uphold rather than to challenge the harmful norms and values of the society around them, including attitudes and patterns of discrimination. It is important that rape and sexual violence should not be dealt with by community justice systems, but referred to ordinary courts.

Girls may receive less support in the community or family, and be less willing to ask for help. In the UK, girls are less likely than boys to have the support of their family, leaving them isolated or dependent on the support of the local authority, their "corporate parent". In addition, due to a lack of sufficient facilities for girls, their placement a significant distance from a child's home area decreases the chances of maintaining family and community links.

Responses

A common theme for girls in conflict with the law, is their limited choices and survival strategies. Expanding the choices available to a child is therefore vital. As there may be fewer choices available to girls than boys, particular efforts should be made to promote gender equality in programming. This may include supporting a girl's choice to remain in education during and after a teenage pregnancy, or for the perpetrator of sexual violence in the home to be forced to leave through the application of the rule of law, instead of the girl child running away or becoming dependent on another abusive relationship as a way out. A key point is that girls and boys need to be empowered to make different and expanded choices made available to them, rather than having these choices made for them.

Meanwhile research on the protective factors associated with females and offending, identifies factors such as high self-esteem, assertiveness, healthy lifestyles, supportive and enduring relationships with families and peers, access to services, positive female role models, and alternative education provision.

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Particularly important for girls is recognizing the significance of relational ties for girls' development. The fostering of positive relationships, including with family members, peers, romantic partners, therapists, and juvenile justice professionals, can play a significant role in helping girls heal from trauma and resist delinquency.

Research on some of the most vulnerable young people in Uganda in conflict affected areas urges that development efforts should acknowledge their significant potential and seek to create substantive roles for youth to engage in peace-building and civic activities, allowing them to build confidence, leadership skills, and empowerment.

Examples of best practice in diversion include the Uganda Fit Persons model which provides community support for children who have either been diverted, given a community sentence or reintegrated into their families and communities. Fit Persons are trained and respected individuals who support and follow the child in their reintegration process. In cases where families are unable or unwilling to be a guarantor for the child, the Fit Person is able to step in and even provide temporary foster care while searching for longer-term care options.

The model recognizes the significance of care and protection issues: that diversion and community-based alternatives need to be provided to children facing care issues; and that addressing care and protection issues is integral to solutions for children who have come into conflict with the law.

An emphasis on diversion is prevalent within the juvenile justice sector worldwide, and awareness is raising on the issue in Uganda, with the drafting of *National Diversion Guidelines for Juvenile Justice*. However, diversionary measures can only be successful when part of a holistic system that addresses all the needs and vulnerabilities of the girl (and boy) child including a continuum of care and protection interventions that address multiple challenges and risks before a child comes into conflict with the law, and expanding the choices available to the child.

Further information:

Girls in conflict with the law in Uganda: The experiences and needs of girls before, during and after contact with the criminal and informal justice systems, November 2016 <http://libertyandhumanity.com>

PDF (2MB): <https://chanceforchildhood.org>

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The role of civil society in Sri Lanka's Universal Periodic Review

Sri Lanka's game playing at the [Universal Periodic Review](#) (UPR) during its first two reviews in 2008 and 2012 tested the ability of this human rights mechanism to achieve its aims and maintain the integrity of its [principles](#), including objectivity and transparency. This post explores how the proactive participation of civil society pushed back against the rights ritualism displayed by the Sri Lankan state at the UPR.[i]

Narrating history

In both its reviews, Sri Lanka attempted to gloss over and conceal aspects of the nation's recent experience of civil war, an ongoing rule of law crisis, and its peoples' experience of human rights violations. The contributions of civil society through stakeholder submissions to the UPR provided a much needed alternative perspective. Sri Lanka's first review occurred in the temporal landscape of civil war that raged from 1983-2009 between Sri Lankan forces and the Tamil militant group the Liberation Tigers of Tamil Ealam (LTTE). In its [national report](#), Sri Lanka discussed constitutional and legislative measures facilitating racial equality, however, it avoided detailing the human rights situation on the ground. The [stakeholder submissions](#) stepped into this void, and laid the foundations for a more transparent review. According to the stakeholders, this temporal landscape was characterised by violence and discriminatory practices that targeted the nation's ethnic Tamil minority. An increasingly endemic culture of 'disappearances,' torture and extra-judicial killings combined with growing state impunity [marked the human rights situation](#) during this period. Sri Lanka's first UPR cycle occurred in the later stages of this conflict. In [its submission](#), a stakeholder expressed its fears, cautioning worse times ahead for Sri Lankan peoples:

...violations are likely to escalate further given [the] government's failure to address impunity, increasing political interference of the government in the judiciary and other organs of the state, repression of dissent and ever more excessive powers to the security forces.

These concerns came to fruition during the final offensive of the civil war. This began only months after Sri Lanka's initial review and concluded in May 2009. According to [many stakeholders](#), this short period saw over 40 000 civilian deaths, and grave breaches of human rights law, humanitarian law and international law. A [stakeholder's submission](#) reflects the indiscriminant nature of the military offensive: 'it made no difference between combatants and civilians.' Another [key feature](#) of this offensive was 'the repeated military action against Tamil people in the "no fire zones" established by the Government.'

Referring to this same offensive in its [second national report](#), Sri Lanka congratulated itself for its victory over the LTTE. The final offensive was termed a 'humanitarian operation,' and the state detailed the 'human rights focus' of this military offensive. The report declared that 'the humanitarian operation ensured for the people of the North and East their right to live in dignity and restored democratic freedoms. Sri Lanka blandly asserted that it had maintained a 'zero civilian casualty policy.'

Sri Lanka's second review occurred in the aftermath of its civil war. [Submissions to Sri Lanka's second review](#) noted a continuing deterioration of human rights following the war. Torture and sexual violence against women by Sri Lanka's security forces occurred against a backdrop of state impunity; enforced disappearances persisted; freedom of speech and human rights defenders were under serious attack; and discriminatory practices continued.

In its [second report](#), Sri Lanka declared that the state had 'achieved peace and social tranquillity'. In response to the [international community's concerns about disappearances perpetrated by the state](#), Sri Lanka declared: 'the Police report a relatively good rate of success in tracing missing persons.'

Sri Lanka maintained a consistently self-congratulatory narrative in its provision of information to the UPR, and it was predominantly the UN and civil society organisations that provided the mechanism with a counter-narrative and information capable of shining a light into the '[darkest corners of the world](#).'

One powerful moment of truth telling occurred during the plenary session following Sri Lanka's second review. Dr Manoharan, a Sri Lankan citizen, was given the opportunity by Amnesty International to address the UPR and the Sri Lankan delegation. He gave an account of the brutal extra-judicial killing of his son and his friends in Trincomalee. Dr Manoharan was visibly emotional; his loss of composure provided voice to other accounts of indignity and suffering experienced by many Sri Lankans.

Follow up

The ongoing monitoring of the human rights situation in Sri Lanka by civil society highlighted the state's inflated or false declarations of achievement.

Sri Lanka's practice of demonstrating human rights progress by gesturing towards its complex bureaucracy and various special administrative bodies in its reports was [confronted](#) by civil society:

the standard response of the Government in the face of criticism of human rights abuses has been the creation of a multiplicity of ad hoc institutions, committees and commissions of inquiry, which...have done nothing to deter violations.

As a further example, Sri Lanka's [second national report](#) made claims of successful de-militarisation:

with the...gradual restoration of normality, the strength of the military in the North has been reduced considerably. The present strength in the Jaffna Peninsula is approximately 15,000... The military is no longer involved in civil administration in the North and East.

These proclamations were directly contradicted in the [stakeholders' report](#):

[the] Northern province of Sri Lanka was under intense militarization...in the Jaffna peninsula, there are some 40,000 army personnel, a ratio of approximately 1:11 of military personnel to civilians. The situation in Vanni is much worse with the ratio reportedly being 1:3. The military has been given key civilian administrative positions, including the Governors of the Northern and Eastern Provinces.

Truth telling

Sri Lanka's adherence to a self-congratulatory narrative that was littered with jargon and falsities challenged the UPR's principles of transparency and objectivity. But several instances of 'truth telling' by NGOs provided powerful support for these principles. Sri Lanka's review highlights the ability of the UPR to empower and give voice to civil society, even in situations where its voice is not encouraged domestically.[ii]



Image: Sri Lankan civil war - Andy Freifield - Pinterest

The truth telling facilitated by civil society at the UPR somewhat countered the ritualistic participation of the Sri Lankan state. By comparison with the cynicism behind ritualistic engagement, truth telling can be a powerful public ritual with 'the potential to curb the scourge of impunity, restore dignity to survivors, and contribute to the elusive possibility that such crimes will never happen again.'[iii] This role of truth telling is endorsed by survivors of the violence in Sri Lanka. A resounding theme in the [testimonies of victims](#) of human rights abuses in Sri Lanka is the desire to have their experienced recognised: 'I want the UN to know ... what I have gone through.'

One powerful moment of truth telling occurred during the [plenary session](#) following Sri Lanka's second review. Dr Manoharan, a Sri Lankan citizen, was given the opportunity by Amnesty International to address the UPR and the Sri Lankan delegation. He gave an account of the brutal extra-judicial killing of his son and his friends in Trincomalee.[iv] Dr Manoharan was visibly emotional; his loss of composure provided voice to other accounts of indignity and suffering experienced by many Sri Lankans. He was able to address his account to not only the international community but also to high-ranking state officials: this is not a situation that could have conceivably occurred domestically. Dr Manoharan's personal account invigorated the UPR's rituals and formalities, highlighting the importance of truth telling in human rights forums.

The civil society push back against Sri Lanka's game playing at the UPR demonstrates that this mechanism has the potential to facilitate truth telling. This should instill a level of optimism in early assessments of the capacity of the UPR to promote transparency and objectivity.

[i] For a discussion of 'rights ritualism', see Hilary Charlesworth, 'Swimming to Cambodia: Justice and Ritual in Human Rights after Conflict', Australian Yearbook of International Law, Vol. 29 (2011), 1-16, and Hilary Charlesworth and Emma Larking, 'Introduction: The Regulatory Power of the Universal Periodic Review' in Charlesworth and Larking (eds), Human Rights and the Universal Periodic Review: Rituals and Ritualism, Cambridge: Cambridge University Press, 2014, 1-21.

[ii] The UPR has exposed a culture of intimidation and violence against human rights defenders, journalists, etc.: Human Rights Council, Report of the Working Group on the Universal Periodic Review Sri Lanka, 8th sess., UN Doc. A/HRC/8/46 (5 June 2008)

[iii] Nicola Henry, 'The Impossibility of Bearing Witness: Wartime Rape and the Promise of Justice' (2010) 16 Violence Against Women 1098, 1098.

[iv] UN Web TV, Consideration of Sri Lanka UPR Report 38th Meeting 22nd Regular Session Human Rights Council <Http://webtv.un.org/search/consideration-of-sri-lanka-upr-report-38th-meeting-22nd-regular-session-human-rights-council/2227262871001?term=sri%20lanka>

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AFGHANISTAN IN THE BALANCE

Heidi Kingstone

Afghanistan may no longer command the front page but somehow our fascination with the country is like an addiction to heroin, and we keep going back for one last hit.

In London, I went to a play called Pink Mist about what happens to three British soldiers who go off to Afghanistan. None of it is good. That same day I saw the excellent Danish film, A War, about the complexities of the chain of command in combat, also in Afghanistan. Then I read two recently published books. The Lovers is by the former New York Times Kabul bureau chief and tells the story of two young Afghans who marry against their parents' wishes. Through the exploration of Zakia and Ali's love, Nordland looks into the dark heart of Afghan culture and society. Afghan Modern, by Robert D. Crews, a Stanford University history professor, believes the country has always been globally connected and was never the romanticized 'hermit kingdom' of modern lore. For a topic we are no longer interested in, we clearly still seem to need our fix.

One of the reasons is that we can't quite answer the question of what the future holds for Afghanistan. After so much time and treasure spent, we still don't know whether the nation is being dragged back to the stone age to be condemned to the dustbin of history or if it will emerge as a stable state with viable prospects. The safest and most realistic answer might be this: the future is in the balance.

All the issues that have dogged Afghanistan, such as corruption, warlordism, increasing insecurity, and the struggle for women's rights, remain. These problems have been around for decades, before the Taliban, before the civil war, and before the Soviets. And drugs. The U.S. has spent seven billion pounds on counter-narcotic strategies in what is basically a narco-state, but since 2007, the year of the 'tipping point', production has grown exponentially. In 2014, Afghanistan cultivated an estimated 6400 tons of opium poppy, seven percent higher than the year before, yet the first laws to outlaw cultivation were passed in 1946.



Since the death of Mullah Omar was confirmed, infighting over power and resources in the Taliban ranks has left a vacuum, which Daesh is trying to fill.

About ninety senior army positions remain vacant, which has had a profound effect on the Afghan Army's ability to operationally plan and has left massive holes in logistical resupply chains, a boon for the Taliban whose goal is to defeat the government.

Crews writes about the fifties and sixties and seventies when Americans, Japanese, Germans, and Russians rushed to Afghanistan desperate to invest. It's no wonder Afghans developed a dependence on foreign aid when the country was awash with technocrats, expat advisors, and crazy aid schemes. A brilliant recent representation of this was a USAID grant given to a European woman so she could teach yoga to Afghan prisoners, including the Taliban, and politicians, in an attempt to bring inner harmony and world peace. When I heard this I remained in a state of shock longer than I did the lotus position. Being cynical about Afghanistan's future is de rigueur for most foreign correspondents and commentators for good reason. Even Lt. Gen. John W. "Mick" Nicholson Jr, the newly appointed U.S. commander in Afghanistan, believes the security situation is worsening. On aggregate, it's pretty tough to find anyone who is positive.

Explosions have become much more frequent in the capital and kidnappings have also increased. Afghans, in a desperate attempt to leave, are selling their possessions and the second-hand furniture shops are overflowing. To complicate matters, USAID has offered any Afghan who has worked for them over the past decade the opportunity to apply for a US immigrant visa, which many are accepting. These are the same Afghans who have the invaluable skills needed to develop the country. Aid workers are also finding it increasingly difficult to do their job with the rapidly declining security situation, coupled with the added pressure from worried family and friends back home who want them to leave.

The emergence of Daesh in eastern Afghanistan, with their brutal tactics, has not helped. Since the death of Mullah Omar was confirmed, infighting over power and resources in the Taliban ranks has left a vacuum, which Daesh is trying to fill, although it is unlikely that the Taliban will allow them to take root. A few of the more mercenary will ultimately sell themselves to the highest bidder. These days the Taliban are better equipped, more motivated, emboldened and convinced they can win. In 2015, the Taliban became stronger. It is the first time in over a decade that they have become so powerful and taken so much territory. They have established a presence in Jalalabad, Takhar and Faryab since the election in 2014 and are gaining ground in Kunar. Some believe the Taliban has become stronger not because they are inherently more capable but because of the weaknesses in Ashraf Ghani's administration, which came into power in 2014. The Unity Government of Ghani and Abdullah Abdullah has not worked effectively to bring the strategic changes needed to grow the economy and sustain stability and security. The president's lack of strong leadership and practical support to the ANDSF, where morale is low, has helped the Taliban to seize their chance. When Ghani was elected, he vowed to fight corruption. Afghanistan still ranks 166 out of 168 countries on Transparency International's index. In Badakhshan, once the most resistant province to Taliban incursion, they have made inroads. The active insurgency is fuelled and funded by the trade in lapis lazuli from the mines. Trade in marble in Helmand is the second largest source of funding for the Taliban.

It is estimated that it will take 13 to 17 years to eradicate this kind of endemic corruption, which is now a regional problem, not just a local one. And corruption is directly related to lack of state or nation-building and lack of security is a direct result of corruption. Which begs the question of what have the allies been doing over the past decade and a half? Afghanistan, which used to be food self-sufficient, now produces nothing. Only ten percent of aid ever reaches its target. Ghani, a difficult-to-work with technocrat, wanted to address this. He wiped the clean the Cabinet and began the task of constructing his own team, which included looking for a defense minister. Two years on, he has not been able to nominate a candidate who has been confirmed by Parliament or agreed to by the country's CEO, Dr. Abdullah. About ninety senior army positions remain vacant, which has had a profound effect on the Afghan Army's ability to operationally plan and has left massive holes in logistical resupply chains, a boon for the Taliban whose goal is to defeat the government. For many Talibs conflict is a business, and as long as they are paid by Arab sheiks and Pakistan, it is very lucrative, and often done in collaboration with government officials. On a positive note, power rivalries and battles over resources could be their undoing.

On the other hand, and there is always, on the other hand, Afghanistan is also too easy to write off and a generation of young Kabulis feel there is hope. The internet and social media have connected them to the world the Taliban shut out. Young people want to invest in Afghanistan's future because, of course, it is their future. Take the example of Suleman Fatimie and Shakib Noori. These two young men, management graduates educated in Pakistan, pooled their life savings to open a bakery in central Kabul rather than emigrate abroad. Uniquely, they use whole grain for their bread, employ locals and make home deliveries. But not all of the new generation have hope, and I remember an interview I did with a liberal young man in 2009 shortly before the presidential elections. I asked him how likely he thought real reform was in his country. "Oh, yes," he said, "it's possible. You just have to wait two hundred years."

As the new NATO general takes over he might be well advised to avoid the mistakes of his predecessors who focused on military strategy and operations when the real problem is fundamentally about the non-military part of the equation, such as fixing poor governance, resuscitating the economy, reconciling with the Taliban and dealing with Pakistan. Success will in part be down to honing his people skills and engaging with the Afghans. As NATO runs as fast as it possibly can for the Hindu Kush desperate to leave the debacle of Afghanistan behind, Crews cautions that we ignore the country at our peril. "Indeed, the world would be well advised to listen to this strand of Afghan globalism and to recognize the many ways global processes have made Afghanistan what it is today, a place that occupies a pivotal position in the highly interconnected world we all share." Whatever the future does hold, Afghanistan's is still in the balance.

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Dr. Michelle Burgis-Kasthala,* Centre for International Governance & Justice, RegNet

Rethinking the International Criminal Justice Project in the Global South



ICC in Ivory Coast in 2013. Image: [BBC News](#)

Concerns about the International Criminal Court's (ICC) [continuing relevance in Africa following exit announcements](#) by Burundi, South Africa, and Gambia are widespread. But the picture across the continent is more complex. While some African states have clearly rejected the Court, the majority remain members. How can we explain the fracturing of the Court's support in Africa? More fundamentally – what is the best way of studying international criminal justice and its effects in the Global South – whether in Africa or elsewhere?

Here I set up a dialogue about methodology between mainstream International Criminal Law (ICL) scholarship and Third World Approaches to International Law (TWAIL). While both are concerned with ending injustice, I argue that a TWAIL emphasis on structural violence is a necessary step towards understanding how ICL might help or hinder the realisation of justice and development across Africa, and beyond.

Why Methodology?

Reflections on methodology are rare in international law. But interrogating dominant approaches reveals not only how scholarship is conducted, but the assumptions behind the very questions being asked. For the bulk of ICL scholarship, there is agreement about the purpose of ICL as a practice: to end impunity, and ultimately, injustice. There is less discussion about the [liberal worldview](#) underpinning the ICL project of *juridification*, *criminalisation* and *individualisation*. A liberal perspective informs positivist, doctrinal methodologies centred on jurisprudential analysis. These are ill-equipped for reflecting on the way in which criminal trials narrow our very understanding of 'justice',[i] for example, by requiring the attribution of individual guilt.

Thinking about ICL's purposes through its methodology highlights the way this field of practice and scholarship is radically overambitious in its goals and yet radically narrow in the way it seeks to realise them: criminal trials of individuals for extreme and direct violence.

Why Methodology? *contd...*

One reason for the lack of careful, theoretically informed discussion about methodology has to do with law's normative character. This encourages scholarship that builds consensus at the cost of the demand for external, empirical testing. This explains why, although ICL's purposes are clear – to end impunity through trials and end injustice through deterrence – these outcomes are rarely tested using standard social science methodologies (whether qualitative or quantitative). Thinking about ICL's purposes through its methodology highlights the way this field of practice and scholarship is radically overambitious in its goals and yet radically narrow in the way it seeks to realise them: criminal trials of individuals for extreme and direct violence.

Talking Across the Divide: Bringing ICL into conversation with TWAIL

On the fringes of ICL scholarship as well as within general TWAIL scholarship, there is greater reflexivity about how research agendas are formulated. This is valuable for unpacking the effects of ICL as scholarship and practice – whether in the Global South or the Global North. More critical ICL perspectives – often working on the disciplinary fringes of legal research – can broaden the methodological lens of traditional ICL questions. These perspectives include feminist, anthropological, criminological, and sociological voices.

Such critical voices can serve as a bridge between mainstream ICL methodologies and a TWAIL-informed approach, both for ICL research and for international law more broadly. Although TWAIL is a broad church, four key approaches point to [how we could 'TWAIL ICL'](#). These approaches would foster:

1. Interdisciplinary or transdisciplinary scholarship;
2. A global historicisation of law that is particularly concerned with subaltern perspectives;
3. Examination of the day to day effects of global governance in the Global South. Such examination would be informed by anthropology and sociology, and might look at such things as ICL practices beyond the courtroom;
4. Forms of discourse analysis that are intent on exploring marginal voices and are suspicious of universalising narratives.

How many African leaders fall within the jurisdiction of the ICC is largely irrelevant for the ability of ICL to respond to and redress slow violence. TWAIL reminds us that we cannot speak of one justice, nor one violence. We need to be humble in thinking about solutions. International criminal trials can only ever play a minor role in resisting colonial and neo-colonial governance projects across the Global South.

Methodological approaches like these would help make sense of how the ICC is being received and rejected in Africa. We can't simply speak here of Africa as a monolith and nor can we think of states speaking for their people.

A keen historical awareness of past and continuing forms of colonial imposition and indigenous repression exposes how ICL often works both for and against those in the Global South. Champions of ICL point to the way it is supposed to redress the most egregious forms of violence by ending impunity (understood as genocide, war crimes, aggression, and crimes against humanity in the ICC Statute), but [Tor Krever reminds us](#) that its application is so selective that it in fact reinforces impunity.

Rather than focussing on impunity, a TWAIL account would analyse ICL's dependence on trials that rely on a violence/justice binary and assume that an international criminal trial is the best way to cleanse societies of violence and deliver justice. Such trials are selective in relation to suspects and locations. More importantly, they usually fail to recognise structural, every day forms of violence. Unlike the shocking violence of a machete blow or a bomb blast, slow forms of violence such as racism, apartheid, and colonialism are hard to pin down in a criminal trial. Perhaps recognising this, the ICC has [recently turned its attention to](#) destruction of the environment, illegal exploitation of natural resources, illegal dispossession of land, and the protection of cultural property. TWAIL methodology is crucial for thinking through such forms of structural, historical violence.

How many African leaders fall within the jurisdiction of the ICC is largely irrelevant for the ability of ICL to respond to and redress slow violence. TWAIL reminds us that we cannot speak of one justice, nor one violence. We need to be humble in thinking about solutions. International criminal trials can only ever play a minor role in resisting colonial and neo-colonial governance projects across the Global South.

* This post is based on an article published recently in the *Journal of International Criminal Justice*: ['Scholarship as Dialogue? TWAIL and the Politics of Methodology'](#).

[i] Kamari Clarke, *Fictions of Justice: The International Criminal Court and the Challenge of Legal Pluralism in Sub-Saharan Africa* (Cambridge University Press, 2009).

DR HOWARD RICHARDS

KEYNES' LIMITATIONS AND TRUMP'S DISASTERS



Photograph of Lord John Maynard Keynes [LINK](#) and US President-elect Donald Trump [LINK](#)



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In this note I will review some ways John Maynard Keynes exposed fallacies in classical economics, especially the fallacy that supply creates its own demand. Today the same fallacies have made comebacks in theory and in practice. On my view the failures in practice of social democratic and New Deal policies associated with Keynes' ideas –in spite of the accuracy of his diagnosis of the problems to be solved-- led to the rise of today's neoliberalism and neo-conservatism.¹ The failures and the reactions that followed them produced and are producing (with important assists from other factors) what I will call three kinds of Trump disaster: (1) the disasters Donald Trump has been denouncing, such as the North American Free Trade Agreement (NAFTA); (2) the disasters Trump will aggravate, such as global warming; (3) the racial, ethnic, and gender conflicts that threaten to end in chaos and repression. My recommended way forward will be to deepen Keynes' macro-economic analysis to make it an historical analysis of social structure leading to a communitarian reformulation of social and economic democracy. This theoretical move supports a flexible approach to practice called "unbounded organization."

Near the beginning of his General Theory (1936) Keynes lists three fallacies of classical economics that his book will be devoted to refuting:²

1. Wages are equal to the lowest amount the last worker hired is willing to work for.
2. There are jobs for everyone, or would be if workers were willing to accept lower wages. There is no such thing as involuntary unemployment.
3. There is no such thing as overproduction. Supply creates its own demand. If some goods produced remain unsold, it is because the producer has made a mistake and produced what people do not want instead of what people do want. People in general never stop desiring more things, and never run out of money to buy them with.

Keynes writes that these three fallacies logically imply each other and stand or fall together. In what follows I will consider only the third, the fallacy that economies never falter for a general lack of demand.



<https://pixabay.com/en/city-street-food-street-outdoor-1737281/>

Keynes has this to say about it: “The celebrated optimism of traditional economic theory, which has led to economists being looked upon as Cándides, who, having left this world for the cultivation of their gardens, teach that all is for the best in the best of all possible worlds provided we will let well alone, is also to be traced, I think, to their having neglected to take account of the drag on prosperity which can be exercised by an insufficiency of effective demand.”³ Since the insufficiency of effective demand undermines profits, Keynes often also writes frequently of a parallel insufficiency of inducement to invest. These are not minor matters, since the dynamic that moves a capitalist economy –without which it does not move—is investment in the expectation of profits from sales. The arguments Keynes advances to prove that classical economics is mistaken and his approach is superior rely on adjusting the definitions of key terms to empirically observed realities, on proposing mathematical models, on history, on observations about the psychology of human behavior, and especially on accounting identities. I will comment on accounting identities.

It is crucial at several points in Keynes’ reasoning to bear in mind that total purchases must equal total sales. A sale from the seller’s point of view is a purchase from the buyer’s point of view. Therefore, it is impossible for everybody to take in more money than they pay out. It is impossible for everybody earn more from sales than they spend on purchases. It is impossible for all firms simultaneously to have bigger accounts receivable than accounts payable. Once the accounting identity TOTAL SALES EQUAL TOTAL PURCHASES is appreciated, it is only a short step to the conclusion that classical economists (and therefore the supply side economists who advise Trump) underestimate the insufficiency of effective demand. Keynes quotes Hobson: “But though men have the power to purchase, they may not choose to use it.” “But”, Mr. Hobson continues, “he fails to grasp the critical importance of this fact, and appears to limit its action to periods of ‘crisis.’”⁴

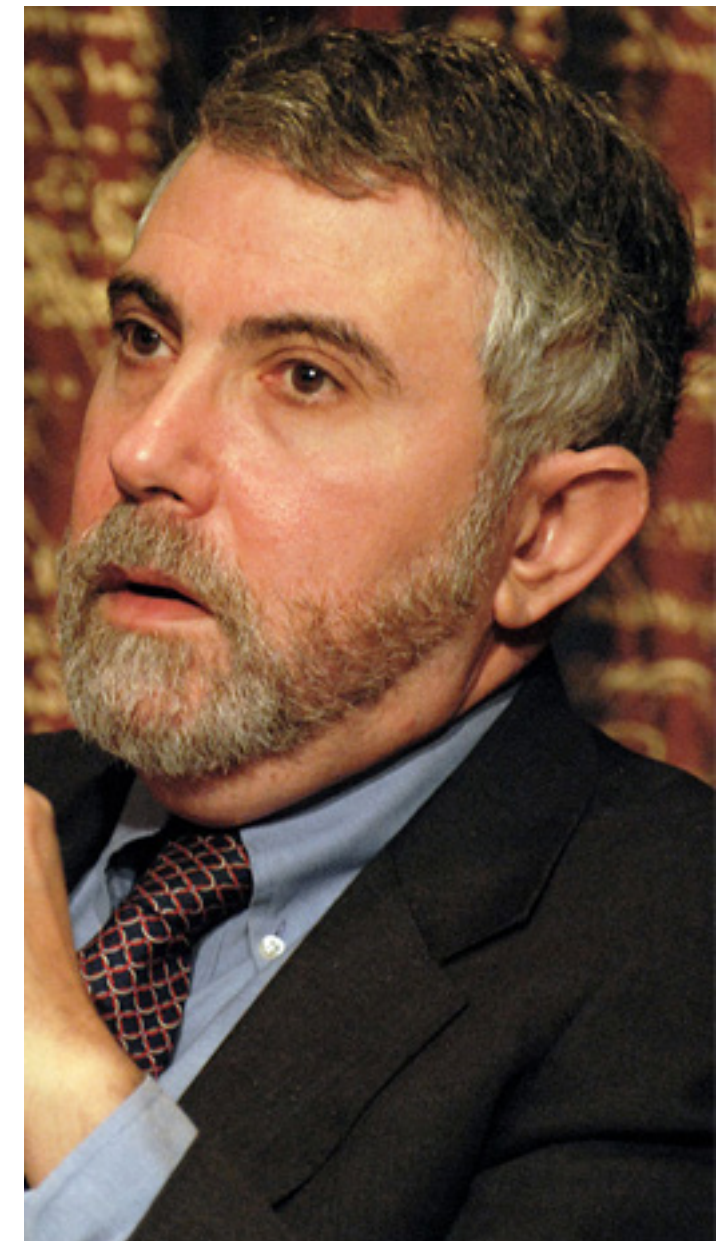
Keynes baptizes the institutional fact⁵ that one person’s desperate need to sell something to get money to live on does not impose on any other person a duty to buy as “liquidity preference.” People, firms, and governments have good reasons for keeping cash in reserve, not spending it. (Keynes makes lists of those reasons.) The concept of “liquidity preference” implies that capitalist economies are inherently unstable. It implies that there is a constant tendency for sales to lag behind the levels needed to induce enough investors to invest in the expectation of profits. Investment, to repeat, is what keeps the system going. The capitalist world is moved by the profit motive and without the profit motive it does not move. Not surprisingly, Keynes’ “liquidity preference” concept has given rise to endless academic debates. Conservatives argue that the system is after all inherently stable (provided that wages are not distorted by unions, prices are not distorted by “tax wedges” etc.) because when people keep cash in reserve they do not just put it under a mattress.

Nowadays most people acquire the necessities of life most of the time by market exchange. In a market, it is not possible to have a sale without a purchase. Purchases are voluntary. Purchases may or may not happen. There can be no general guarantee that there will be enough sales to induce investors to invest sums sufficient to create full employment or general prosperity. There can be no general guarantee that there will be enough sales to enable all the poor people who need to sell something to make a living to get by.

They put it in a bank. The bank then lends it out again to someone who spends it. So, conservatives argue, if only the leftists would get out of the way and let the free market do its thing, there would, after all, be plenty of effective demand to induce investors to keep investing and to keep creating wealth. Paul Krugman has persuasively argued that whatever may be the practical outcome of the crisis that began in 2008, at the level of academic economics the theoretical outcome is that Keynes has been proven right by history.⁶ There really is a chronic insufficiency of effective demand. It is the conservatives, not Keynes, who were dreaming.

Whether or not conservatives admit defeat on the battlefield of economic theory, as Krugman says they should, if one steps back to take a wider view of historically evolving social structures, it can be seen that Keynes’ insight into the chronic insufficiency of effective demand, or something very like it, must be true.

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Paul Krugman [LINK](#)

Keynes and Wray deduce important conclusions from accounting identities. They shatter the common-sense dreams of business people who imagine a United States where business people as a whole will pay fewer taxes and be hampered by fewer regulations; and therefore, will in the aggregate invest more, create more wealth, and create more employment; while the government simultaneously will cease profligate spending, and pay down its old debts. The stage is set for a Trump disaster type two. What seemed true when seen from points of view derived partly from bogus supply side theory but mainly from the personal experience of Donald Trump and his supporters, is false.

Given that there must be something basically right about Keynes' diagnosis of the chronic insufficiency of effective demand, at this point in history it is clear that Keynesian prescriptions do not cure the ills Keynes' diagnosed. He never thought they would. He died prematurely at age 62. If he had lived longer he might have pursued his own advice to pursue an historical analysis of social structure and seek communitarian alternatives. Such advice is implicit in passages in his General Theory like these: "It is certain that the world will not much longer tolerate the unemployment which, apart from brief intervals of excitement, is associated— and, in my opinion, inevitably associated— with present-day capitalistic individualism. But it may be possible by a right analysis of the problem to cure the disease whilst preserving efficiency and freedom."⁷ And: "But we must not conclude that the mean position thus determined by 'natural' tendencies, namely, by those tendencies which are likely to persist, failing measures expressly designed to correct them, is, therefore, established by laws of necessity. The unimpeded rule of the above conditions is a fact of observation concerning the world as it is or has been, and not a necessary principle which cannot be changed."⁸

The limitations of Keynes are, in short, that although he showed that a system that runs on profits that depend on sales, where sales are not reliably sufficient to keep it running well, does not succeed in effectively mobilizing resources to meet human needs; and although he was aware that satisfactory solutions to the problems of such a system would require modifying capitalist individualism, he did not propose sustainable solutions. The partly satisfactory "Keynesian" solutions of the pre-and-post-World War II years proved to be unsustainable. They were followed by reversions to neoliberalism and to neo-conservatism.

"Unbounded organization" is an umbrella name for an open-minded and flexible search for the sustainable satisfactory solutions that Keynes felt a need for.⁹ It regards the number of possible solutions as potentially infinite, and the ultimate goal as a fully nurturant society that meets human needs in harmony with the natural environment.¹⁰ It calls for the alignment of all sectors in pursuit of the common good, and it expects satisfactory large solutions to be sums of many small solutions.

As a transition to making a case for unbounded organization, let us consider another researcher who also takes a short cut temporarily bypassing the need for empirical data by demonstrating what must be true because of accounting identities. Randall Wray demonstrates that it is logically impossible for the private sector and the public sector (considered as two wholes) to run a surplus simultaneously. If the private sector is piling up aggregate net profit, then the public sector must be sinking deeper into net debt; and vice versa.



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Having demonstrated that this result must be true because of accounting identities, Wray produces data showing that in the "Goldilocks" years of the Clinton administration when the federal government was taking in more money each year than it paid out, the public surplus was in fact exactly matched by private debt; while in normal years aggregate private surpluses exactly match aggregate public deficits.

Thus, two scientists, Keynes and Wray, deduce important conclusions from accounting identities. They shatter the common-sense dreams of business people who imagine a United States where business people as a whole will pay fewer taxes and be hampered by fewer regulations; and therefore, will in the aggregate invest more, create more wealth, and create more employment; while the government simultaneously will cease profligate spending, and pay down its old debts. The stage is set for a Trump disaster type two. What seemed true when seen from points of view derived partly from bogus supply side theory but mainly from the personal experience of Donald Trump and his supporters, is false.

One might ask what more can science do? If the purpose of science is to discover truth, then its purpose might seem to be fully achieved when an economic principle is proven to be an accounting identity. There is nothing more true than a tautology. A tautology is logically true by the definitions of its terms. An accounting identity is a tautology.

This is not a happy conclusion because after science knows that because of accounting identities, there must be a chronic insufficiency of effective demand, and that not all businesses can have more receivables than payables, and that a balanced public budget necessarily impedes growth in the private sector; the world goes on as before. The mendacious poor continue to turn to begging, the audacious poor continue to turn to stealing, little children continue to watch terrified while their parents quarrel about money; lack of profit opportunities and lack of employment opportunities elsewhere continue to make the millions who cash its paychecks want to believe that the military sector is not just *de facto* where their bread and butter comes from, but also *de jure* a force for good and an antidote to evil.

Ludwig Wittgenstein faced a similar question in his later philosophical work -- similar in that he also considered a tautology where it might seem that once pure truth is found, science is over. Having in his early work gone about as far as you can go in purely logical analysis of what must be true at all times and places, in his later work he embarked on a different approach he called "more anthropological." He took a close look at what actually happens when words and numbers are used.

Trump disasters of type one (disasters Trump denounced) can be understood as consequences of successive efforts to cope with the chronic insufficiency of effective demand and the chronic insufficiency of inducements to invest. Trump disasters of type two (disasters waiting to happen): These too can be understood in the light of Keynes' insights into how the system works.

But when he came to consider the proposition that a thing is identical with itself¹¹, as in $A = A$, as in Total Sales Equal Total Purchases, he appeared to confront what he was trying to get away from: a perfectly general truth that required no interpretation and no context.

It turns out that Randall Wray responds in a manner similar to the response of Ludwig Wittgenstein, and similar to Keynes' questioning whether what is logically inevitable within individualistic capitalism must be inevitable everywhere and always. Having discovered some truths about money that could not possibly be false, Wray says too that our lives are too monetized, and that we should be thinking about what social purposes are served by buying and selling with money.¹² In Wittgenstein's terms, the language games we play by buying and selling things with money are language games we should play less often and play differently.

This is the cue for unbounded organization to come on stage. The human species has existed on planet earth for perhaps two hundred thousand years. For most of that time humans lived in clans and tribes that did not do market exchange. For most humans throughout most of prehistory and history a necessary truth like it is impossible for every business to have more receivables than payables was not true. It was not even meaningful. What is necessarily true inside the rules of a language game is not necessarily true where and to the extent that the game in question is not being played.



<https://www.bostonglobe.com/news/>

Think unbounded. Think with Amartya Sen and Jean Dreze: market exchange is only one way to get human needs met. It is not always the best way. There are many others.¹³

To sum up:

Trump disasters of type one (disasters Trump denounced) can be understood as consequences of successive efforts to cope with the chronic insufficiency of effective demand and the chronic insufficiency of inducements to invest.¹⁴ Jimmy Carter gave up on fighting insufficient demand with low interest rates when he appointed Paul Volcker to head the Federal Reserve. Ronald Reagan reversed the Keynesian policy of stimulating demand by backing organized labor and promoting high wages; he went back to the old-fashioned method of stimulating investment by tilting the scales in favor of capital and boosting consumer spending by lowering taxes (and by the same token ballooning government borrowing). Bill Clinton went one better: he made all of North America into a single free trade area, with neoliberal rules of the game obligatory both north and south of the border. With new opportunities to earn greater profits by moving operations abroad and hiring cheaper labor, investment got a boost for a while.

Under G.W. Bush and Barack Obama globalization ran amok, with every round of it inducing new investments while it pitted domestic workers against foreign workers. Wages sank and job security evaporated as 196 nation-states competed with each other to attract capital. The rust belt workers of America were not only impoverished by free trade, runaway industries, weakened unions and porous borders, but also humiliated. They were cast in the role of the uneducated, the xenophobic, the prejudiced, the homophobes, the sexists and the racists. The new world order sells free trade as a humanitarian ideal not only by packaging it as impeccable rationality which only the stupid fail to understand,¹⁵ but also by packaging it as love for neighbor on a global scale that only the hard-hearted fail to appreciate. The flipside is that American workers are cast in the role of the stupid and the hateful. The losers become the deplorables.

Trump disasters of type two (disasters waiting to happen): These too can be understood in the light of Keynes' insights into how the system works. For example, the ecological Trump disaster waiting to happen can be understood in the light of Keynes' insight that the economy always tends toward stagnation. This tendency is always at work even when it is not empirically observable because its effects are masked by countervailing causal powers.¹⁶ In the absence of the different economy Keynes demonstrated the need for but did not design, there will necessarily tend to be pressure to sacrifice the earth to save jobs and profits.



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The chronic insufficiencies of demand and inducement to invest are also the context and the background for the exotic steps recently taken to prevent the system from collapsing such as bailouts, quantitative easing, and negative or nearly negative interest rates. The chronic need for sales explains why cash sales are never enough, why insufficient cash sales need to be augmented by credit sales, why ever higher mountains of debt are needed to keep effective demand strong enough to avoid a descent into debt deflation.¹⁷ Keynes helps us to see that the system is fragile. It depends on many kinds of confidence. I fear that a businessman whose economic advisers are supply siders with dubious professional credentials will sooner or later do something or other to provoke a collapse of confidence. The system is already tenuously shored up by exotic shenanigans, and already burdened by astronomical levels of public and private debt higher than anything history has seen before. It is probably already so fragile that it is on its way toward collapse anyway, with or without Trump.

Other Trump disasters waiting to happen cannot be fully understood without acknowledging that on a crucial issue the simplifying Keynes of 1936 has become a wholly misleading Keynes of 2016. Keynes simplified his analysis by assuming that employment was a function of investment. In 1936 investment tended to mean more production and more jobs. Today that simplification is not valid partly because today, as Keynes in 1936 feared, “enterprise becomes the bubble on a whirlpool of speculation.”¹⁸ It gets worse: Think of robots, of 3D printers, of artificial photosynthesis replacing agriculture as we know it; think in general of an exponentially growing trend toward labor-saving technologies.¹⁹ Human labor is fast becoming obsolete as a factor of production. Do I exaggerate? I wish I were exaggerating, but I fear I am not. My immediate point is that Trump’s plan to create good jobs by tilting the balance of economic power even farther in the direction of capital is a disaster waiting to happen. There is no reason today to equate having more money with investing it in the real economy. There is no reason today to equate increased production with hiring more humans at higher wages. There never has been any reason to equate the availability of more funds to invest with the appearance of customers willing and able to buy the products. My larger point is that nothing short of unbounded organization can cope with the future. Economics and law as we know them ought to be bracketed in parentheses, while the human family rethinks its relationships to each other and to the earth. This crying need to rethink the basic social structure in the light of disappearing jobs and dying nature in the 21st century collides with another Trump disaster waiting to happen. He will appoint to the Supreme Court judges hell-bent on preserving intact with no concessions to present-day reality the Constitution’s 18th century principles of property rights and limited government. With respect to what I have been calling Trump disasters of a third kind: Both the achievements and the limitations of Keynes *General Theory* reveal causal powers of underlying social structures that together with intentional human actions and the laws of nature act to move history.²⁰

Meanwhile, as I write this, Congressman Tim Ryan of Ohio is challenging Nancy Pelosi for the post of Minority Leader of the House of Representatives. Ryan argues that if the Democratic Party is to have any hope of retaking political power it must communicate to the American people a “deep economic message.” Truer words were never spoken.

Some fear that Trump’s electoral victory signals that American history is at the beginning, or is at a mid-point, of a downward spiral descending into fascism.²¹ Keynes’ achievements explain the *why* of the stagnation, exclusion and inequality behind the unfolding drama of social conflict. They explain the underlying structures that set the stage for the economic frustrations behind the *angers* that engulf not only white nationalists, but also blacks harassed and sometimes killed, local police, the global military, immigrants and anti-immigrants, Muslims and other embattled minorities, workers suffering year after year the erosion of the economic security they or their parents used to have, drug gangs, evangelists announcing the imminent end of the world, intemperate conservative talk show hosts, blacks who fight back, and whoever may feel dissed, betrayed, and threatened. As I write this, my granddaughter writes me that she is scared because the new president is anti-woman and anti-latino and she is a latina. She reports that in her town some fascist types already have the attitude “we won” and “we’re taking over.” They express their prejudice against her more openly than they did before the election.

Meanwhile, as I write this, Congressman Tim Ryan of Ohio is challenging Nancy Pelosi for the post of Minority Leader of the House of Representatives. Ryan argues that if the Democratic Party is to have any hope of retaking political power it must communicate to the American people a “deep economic message.” Truer words were never spoken.



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In this note I have argued that the new deep economic message should not be a warmed-over Keynesian New Deal. Instead it should be an open-minded and flexible search for the sustainable satisfactory solutions Keynes felt a need for. It should follow Amartya Sen and Jean Dreze in regarding market exchange as only one way to meet human needs and often not the best way. Instead of acting over and over like a horse with blinders on stubbornly trying to force itself forward in the same direction even when it runs into a brick wall; that is to say, instead of looking over and over for one way or another to stimulate an economy that depends on sales to generate profit to induce investment; hearers of the new deep economic message should constantly bear in mind the ultimate goal of a fully nurturant society that meets human needs in harmony with the natural environment. Keeping the ultimate goal in mind, it will be seen that there is more than one way to serve it. The new deep economic message should call for the alignment of all sectors in pursuit of the common good. It should expect satisfactory large solutions to be sums of many small solutions.²²

Suggested Further Reading

- Gavin Andersson and Howard Richards, *Unbounded Organizing in Community*. Lake Oswego, OR: Dignity Press, 2015.
- Riane Eisler, *The Real Wealth of Nations*. San Francisco: Berrett-Kohler, 2007.
- Catherine Hoppers and Howard Richards, *Rethinking Thinking*. Pretoria: University of South Africa, 2012.
- Evelin Lindner, *A Dignity Economy*. Lake Oswego, OR: Dignity Press, 2011.
- Michael Porter and Mark Kramer, "Creating Shared Value," *Harvard Business Review*. January-February 2011, pp. 62-77.
- Howard Richards and Joanna Swanger, *Gandhi and the Future of Economics*. Lake Oswego, OR: Dignity Press, 2013.

Foot Notes

1. Howard Richards and Joanna Swanger, *Dilemmas of Social Democracies*. Lanham MD: Rowman and Littlefield, 2006.
2. For Keynes' exact words see John Maynard Keynes, *General Theory of Employment, Interest, and Money*. New York: Macmillan, 1936. pp. 21-22. I have restated what I take to be the essence of his meaning in what I take to be words that are easier to understand.
3. Keynes, *General Theory*. p. 33.
4. Keynes, *General Theory*, p. 19 in a footnote. In this passage Hobson is quoting Alfred Marshall who is commenting on John Stuart Mill.
5. I adopt John Searle's distinction between institutional facts, which are facts only because of human conventions (like property rights and money) and brute facts of nature (sometimes called "brute-relative" because even though natural reality in the last instance limits what humans can do, any "fact" stated by a human is a description using words with conventional meanings). John Searle, "How to Derive "Ought" from "Is," *Philosophical Review*. Vol. 73 (1964 pp. 43-58.

As I write this, my grand-daughter writes me that she is scared because the new president is anti-woman and anti-latino and she is a latina. She reports that in her town some fascist types already have the attitude "we won" and "we're taking over." They express their prejudice against her more openly than they did before the election.

6. Paul Krugman, *The Return of Depression Economics*. New York: Norton, 2009.
7. Keynes, *General Theory*. p. 381.
8. Keynes, *General Theory*, p. 254.
9. www.unboundedorganization.org
10. Frédéric Mathieu, *Les valeurs de la vie*. Paris: Book Edition, 2014. This little book provides an example of ethical realism, the view that the bottom line criterion for evaluating and working with the many moral codes human cultures have created is whether they serve life. A similar view is suggested in English at the end of Abraham Maslow, *A Theory of Human Motivation* (1943) which is easily available on line
11. Ludwig Wittgenstein, *Philosophical Investigations*. Oxford: Blackwell, 1958. Paragraphs 215 and 216.
12. L. Randall Wray, *Modern Monetary Theory*. London: Palgrave Macmillan, 2015. p. 62, p. 292.
13. Amartya Sen, "Sraffa, Wittgenstein and Gramsci." *Journal of Economic Literature*. Vol. 41 (2003). pp. 1240-1255. P. 1247; Jean Dreze and Amartya Sen, *An Uncertain Glory*. Princeton: Princeton University Press, 2013.
- 14 "The weakness of the inducement to invest has been at all times the key to the economic problem." Keynes, *General Theory*. pp. 347-348.
15. Keynes was among the stupid incapable of grasping the airtight logic of the case for free trade. John Maynard Keynes, "National Self-Sufficiency," *Yale Review*. Vol. 22 (1933) pp. 755-769.
16. Tony Lawson, *Economics and Reality*. London: Routledge, 1997. Lawson's recommendation to study the causal powers that generate phenomena more than the patterns of observed data survives the criticism that economists already do what he recommends more than he acknowledges.
17. Irving Fisher, *The Debt Deflation Theory of Great Depressions*. New York: Important Books, 2012. (1933)
18. Keynes, *General Theory*. p. 159.
19. Peter Diamandis and Steven Kotler, *Abundance*. New York: Free Press, 2012.
20. See Margaret Archer, *Realist Social Theory*. Cambridge: Cambridge University Press, 1995. For Archer, it is important to keep the social and the cultural levels of analysis distinct in order to be able to study their interaction. I do not disagree; I just use the word "culture" in a different sense for different purposes.
21. For a cultural-structural account of the descent of Italy into fascism in the 1920s see Howard Richards, *Letters from Quebec: A Philosophy for Peace and Justice*. San Francisco and London: International Scholars Press, 1995. Chapter 47. For Spain in the 1930s see Howard Richards and Joanna Swanger, *The Dilemmas of Social Democracies*. Lanham MD: Rowman and Littlefield, 2006. Chapter 3. For Chile before, during and after the Pinochet coup of 1973 see the novel by Caroline Richards *Sweet Country*. New York and London, Harcourt Brace Jovanovich 1979.
22. For more details see Howard Richards, *The Impossibility of Politics and How to Make Politics Possible*, which is easily available on line and other works by the same author available on Amazon and on Google, while also reading insofar as possible all other authors. So many books. So little time.

Kenro Izu (b. 1949) was born in Osaka, Japan. During his studies at Nippon University, college of art, Izu visited New York in 1970 to study photography, and subsequently decided to stay and work. In 1975, after working as an assistant to other photographers, Izu established Kenro Izu Studio in New York City. He has had numerous exhibitions of his work across the world, published books and founded *Friends Without A Border*, an NGO, which set up two children's hospitals - one in Cambodia and the other in Laos. www.kenroizu.com



KENRO IZU

PHOTOGRAPHER AND PHILANTHROPIST
WHO IS SEARCHING FOR THE DIVINE
THROUGH THE LENS OF HIS CAMERA.

In this article we come face to face with the artist
who shares a glimpse of his life and works
in a candid conversation with Mark Ulyseas.

Several years on my studio was doing well and I started to make money. At this stage I realised that I had not come to New York to just make money. I wanted to create fine art with my photography. So I began set out to do just this. In 1979 I decided to pack my equipment and visit Egypt. The visual and spiritual impact of the pyramids inspired me to begin the series – *Sacred Places*.

Why did you become a photographer?

When I was in school I wanted to be a medical research doctor. So my first camera, Minolta, was purchased to photograph micro-organisms. I attached it to a microscope.

As a kid I read the story of Louis Pasteur, Robert Koch and Hideyo Noguchi – who was involved in making discoveries and finding cures to incurable diseases. I wanted to be that kind of doctor...not a surgeon or anything else...but to research and find cures – so I was doing my own study when I was in high school. But when it came time to enter medical college I realised I was not really suited for such study as I possessed rather an artistic brain. And since I was already photographing small objects under the microscope I thought...why not photograph landscapes or flowers or people - I had become good at it. So I decided to become a fine art photographer. I joined Nihon University, College of Arts, in Tokyo in 1969. Unfortunately, in those days there was no fine art photography in Japan. The only option was commercial photography, journalism or portrait photography.

I had read a number of magazines, art magazines, that in New York there was a museum that ‘treated’ photography as an art form. They displayed photography on the same level as paintings, sculptures and also there were art galleries that handled photography as objects of art...buy, display, sell. New York beckoned me and so I decided to take a few months break from college and travel to this city in 1970. And in this process my life changed forever. I fell in love with New York. I was 21 years of age. I think the city was really addictive. Soon I ran out of money. My mother refused to help me because I had left college without graduating. She was quite upset. So I took to doing odd jobs, mostly dish washing and working as a mover’s assistant. Fortunately, in a matter of three months, I found a job as a commercial photographer’s assistant.

Of course I was continuing to create my fine art photography but at the same time realised that that kind of work was not going to support me and that it would take at least ten years to reach such a level. So I learned the skill of commercial photography. Soon I opened my own studio to do still life photography – because I was better at photographing objects than people...fashion models...partly because of my language. That was the beginning of my career as a commercial photographer.

Several years on my studio was doing well and I started to make money. At this stage I realised that I had not come to New York to just make money. I wanted to create fine art with my photography. So I began set out to do just this. In 1979 I decided to pack my equipment and visit Egypt. The visual and spiritual impact of the pyramids inspired me to begin the series – *Sacred Places*.

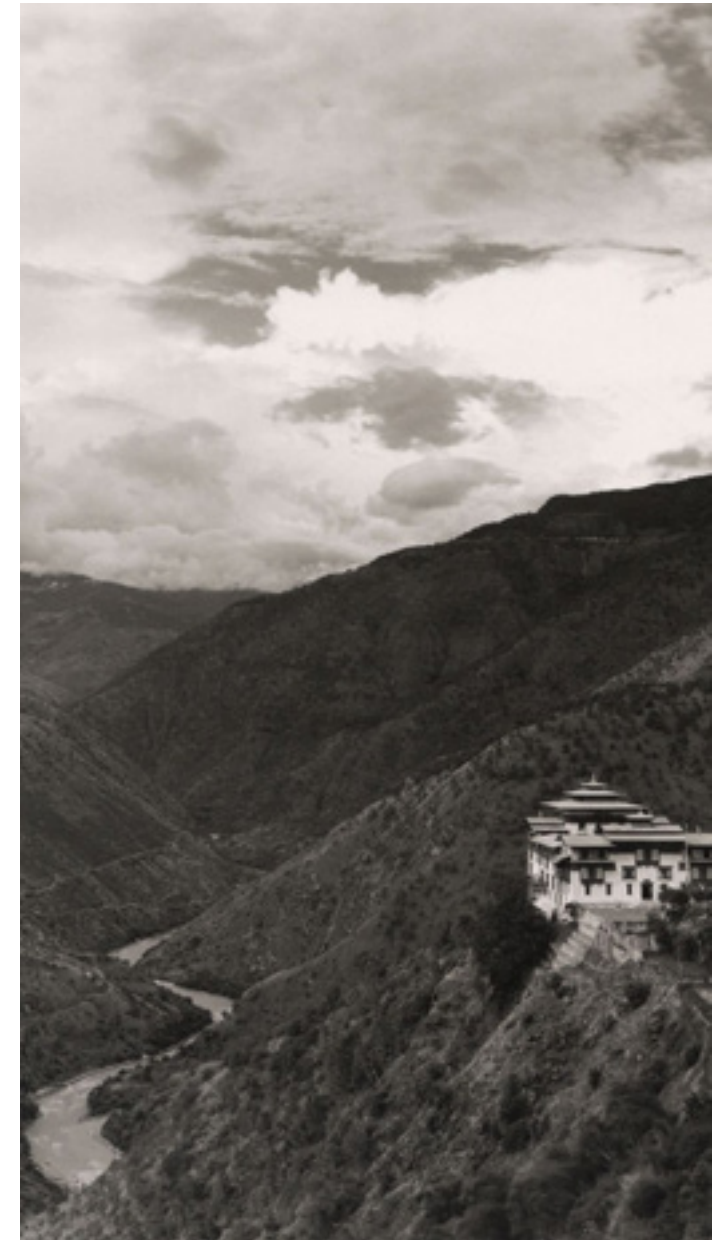
The income from a single advertising campaign, on which I would spend about a week, could support me for several months! Whereas with fine art photography I could never do this. So until recently, I think about two years ago, I finally stopped commercial photography when I passed the age of 65 years... now I collect pension and focus only to fine art work. I am 67 years of age.

Why Egypt?

It was one of the Seven Wonders of the World. From childhood the Seven Wonders of the World always fascinated me. I randomly selected Egypt...maybe Giza Pyramid was more attractive to me than others. From the trip, one photograph became my debut piece. It was featured in a book produced by The Metropolitan Museum, the curator of photography. At about the same time Howard Greenberg, who was about to open a fine art gallery for photographs, saw my debut photograph in a charity auction where I donated the piece, and approached me with an offer to exhibit my work in his soon to open gallery. Since then Howard Greenberg has become one of the major dealers in fine art photographs. I was kind of moved up with him, thanks to Howard, he always supported me... he exhibited my work regularly and helped in publishing my books. (see [LINK](#)) The reality is that the financial returns from my fine art photography cannot compare with that of my commercial assignments. The income from a single advertising campaign, on which I would spend about a week, could support me for several months! Whereas with fine art photography I could never do this. So until recently, I think about two years ago, I finally stopped commercial photography when I passed the age of 65 years... now I collect pension and focus only to fine art work. I am 67 years of age.

But you don’t look 67 years old.

People say that when you do something you love then you don’t age.



Bhutan. Photograph © Kenro Izu

For example – Angkor Wat – this is a positive side of Cambodian society...aesthetic beauty carved in stone, the exquisite architecture, the shapes and how light plays across the surface and the shadows that lurk between the shapes. This series was titled *Light over Ancient Angkor*. The light was Angkor Wat and the shadows being what ails Cambodian society – the landmine victims and poverty. For me this was photography of *Life*. For it resonated with the senses and forced one to acknowledge the paradoxes in which we live.



Angkor Wat, Cambodia. Photograph © Kenro Izu

It would appear that with your camera you are making a spiritual journey. Could you elaborate?

I view myself as a pilgrim seeking a path towards the meaning of human existence with my camera. I am not that kind of person, like a philosopher, who sits and think at a desk for long hours. I am born a photographer. When I see something I respond to it. I begin to find a meaning. So my camera is a tool, perhaps a vehicle to transport me from one atmosphere to another.

Also, it is good excuse to travel to the other side of the world where I learn different culture and sense of beauty through the camera recording images of the wonders of life.

Whenever I travelled to different countries I often came across very poor people, destitute and sick children, much suffering. And this disturbed me. And so I would put a donation in the box of the Red Cross or UNICEF at different airports and at Christmas I would send \$100 or 200 to my favourite cause, *Doctors Without Borders*, and then I would forget about it. I thought I had done my bit. Many people also give money to charity and are done with it.

But my photographs always reminded me of what I had seen and confronted me with a reality I would have probably forgotten if I had not recorded the images with my camera.

Eventually it dawned on me that as a photographer I am privileged to be able to go to many places, to do so as part of my work, get paid for it, and have the honour of exhibiting my work at galleries and museum shows. But on the flip side I have obligations to record for posterity what I had seen... the external view of a society and the internal aspects of the same society that is often overlooked. For example – Angkor Wat – this is a positive side of Cambodian society...aesthetic beauty carved in stone, the exquisite architecture, the shapes and how light plays across the surface and the shadows that lurk between the shapes. This series was titled *Light over Ancient Angkor*. The light was Angkor Wat and the shadows being what ails Cambodian society – the landmine victims and poverty. For me this was photography of *Life*. For it resonated with the senses and forced one to acknowledge the paradoxes in which we live.

This prompted me to narrate a story, the story of my journey. Perhaps it was at this time that I was confronted with many soul searching questions about the purpose and sanctity of life and the futility of mindless violence.

I am known for my platinum prints. A platinum print is made with a hand coated paper. You cannot buy printing paper for this camera, you have to make it by hand...coat the paper by hand. Platinum prints need a big negative. You cannot enlarge the image. As the platinum paper senses only ultra violet light it captures the tonality... infinitive shades of gray, unlike a plain black and white print, it is fine gradation from black all the way to white. I was drawn to this process for the quality I could get when creating the series *Sacred Spaces* because at holy places I am not photographing the architectural sites, I am trying to capture the aura, air surrounding Angkor Wat...the atmosphere.

In 1983 you bought a Deardorff camera which produces a 14" x 20" image/print. Why? What did you hope to achieve with this camera?

Initially I used 4" x 5" and 8" x 10" formats. I tried numerous ways to enlarge the photograph, regardless of the negative size to only depict the architecture but the space, aura, around the object. Though the architectural aspects were sharp the aura was lost during enlargement...the air or atmosphere.

I came across the works of Paul Strand (October 16, 1890 – March 31, 1976) who produced platinum prints using an 8" x 10" camera. Hence, the print was small. I viewed his photographs at a Sotheby's auction. I observed that the aura, air, around the subjects in his photographs. He had captured the very essence of the object. I learned that this image was a contact print using platinum process. A platinum print is a contact print...it can be reproduced only in the size of the negative. It cannot be enlarged. Hence, I needed a large format camera. That is why I ordered to build a 14" x 20" Deardorff camera. The subsequent prints would be in a large enough size for my fine art photographs of my series *Sacred Places* which captures the aura, air, around the architecture in holy places.

I am known for my platinum prints. A platinum print is made with a hand coated paper. You cannot buy printing paper for this camera, you have to make it by hand...coat the paper by hand. [LINK](#) Platinum prints need a big negative. You cannot enlarge the image. As the platinum paper senses only ultra violet light it captures the tonality... infinitive shades of gray, unlike a plain black and white print, it is fine gradation from black all the way to white.

I was drawn to this process for the quality I could get when creating the series *Sacred Spaces* because at holy places I am not photographing the architectural sites, I am not photographing pyramids, I am not photographing Stonehenge, I am trying to capture the aura, air surrounding the pyramid, the air surrounding Stonehenge, air surrounding Angkor Wat...the atmosphere.

You pioneered a technique called Cyanotype over Platinum Print. What is this?

Cyanotype is the simple process of making blue prints. I have combined the cyanotype with the platinum print. At one stage in my career I experimented with deep blue images. This was between 2001-2004. It happened coincidentally exactly one hundred years after Picasso finished the Blue Period (1901 and 1904). My work was a little bit of a mutation of Picasso's.

From my experience I have felt that the Spirit comes to earth only certain hours of the day. He is here for a while before the sun rises and as the sun gets brighter departs from whence He came. During broad daylight humanity takes over. He returns once again after sunset in the twilight hours and departs again when darkness falls. And because I am aware of this I do not photograph holy places at times when He is not present. Sometimes, I have to wait for as long as three days to sense His presence. And then, when the time comes, I take two photographs and leave.

I was researching a technique to produce a deep blue image over mainly nude and some still life photographs. Finally I came up with a combination of platinum print as a base print with layers of cyano chemicals and negative over the exact position i.e. one image of platinum and four layers of cyano- type. The resultant blue image becoming infinitively close to black, which can express the inner emotion of person.

When you visit a place do you see the photograph in your mind before you actually shoot it?

Both. When I set my tripod, because my camera is so big, I cannot casually move it around as it weighs 120 kgs (including the lens etc., with which I travel around the world for nearly forty years). So it's not easy to shoot this way or that way. I have to set up the camera and take just one shot. That's it for one day!

I can take only about 100 sheets of film for one trip (average of 25-40 days in India, Tibet, Nepal and other travels) – when I click 100 times, it's over. No more photographs are possible. So I have to be very careful, each day or at each given site how many sheets I allocate. So I'm very cautious about when to shoot. Basically when I see the place, I wait patiently to feel it in spirit and to visually observe its physical beauty. And I wait for something to happen...the awakening of the spiritual atmosphere. From my experience I have felt that the Spirit comes to earth only certain hours of the day. He is here for a while before the sun rises and as the sun gets brighter departs from whence He came. During broad daylight humanity takes over. He returns once again after sunset in the twilight hours and departs again when dark- ness falls. And because I am aware of this I do not photograph holy places at times when He is not present. Sometimes, I have to wait for as long as three days to sense His presence. And then, when the time comes, I take two photographs and leave.

After you take the photograph do you process the print immediately?

No. I bring them back to New York because the film is too big to process.

Is it true that these prints last for a thousand years?

History can prove only 170 years. No one can prove beyond this at this time...

I felt a presence, it was strong but I couldn't see anything – and the next moment I started to feel emotional for no reason – not sad – I just felt a warm feeling embracing me. I do not remember when I was a baby but I can imagine if a baby is held in a mother's bosom – that kind of feeling. I burst into tears, I felt an immense love.

When you visited sacred places did you have a spiritual experience at any point, like an epiphany?

I visited Mount Kailash three years in a row and one trip it was snowing so I could not do any photography for one whole week. I could not see Mount Kailash and I was so frustrated lying in the tent and every morning I couldn't even see where our kitchen or staff tents were...the weather was so bad. When I was lying in the tent looking at the ceiling of the tent, I noticed condensation, a droplet of water running on the fabric of the tent above me and I kept looking at it and at one moment when I was watching I felt frustrated because I had come here to take a picture but in the process I had forgotten that my journey was a pilgrimage, my purpose, my existence... so I thought to myself that I did not have to use my eyes nor my camera and it would be better to simply close my eyes. And when I did, it was an epiphany. From that moment on I was a different person. Perhaps it was the spirit of Mount Kailash.

I have narrated this incident more carefully in my essay (*see* [LINK](#)).

The other time was in Angkor Wat, before the tourists hordes, in 1993-94. I was all alone in the monument and I wandered in the ruins and began to acclimatize myself, which is my regular routine. First day I walk around without the camera and try to absorb the spiritual air because when I arrive in a new place my body is filled with the New York air, New York pace of the time, everything alien to the place. So if I go to Cambodia, Cambodian pace of the time, Cambodian air is different so I have to acclimate. To take a picture one needs to acclimate to sense the feeling of a particular place. So I started walking through the complex viewing the stones, flowers and ivy. Suddenly I started to feel a presence. I looked around. Of course there was nobody. There were corridors running north, east, west...I was at an intersection of a corridor near the statue of Shiva without a head, behind it was a Buddhist stupa. You probably know that Cambodia's witnessed the reign of two kings – one Buddhist and the other Hindu. I felt a presence, it was strong but I couldn't see anything – and the next moment I started to feel emotional for no reason –not sad – I just felt a warm feeling embracing me. I do not remember when I was a baby but I can imagine if a baby is held in a mother's bosom – that kind of feeling. I burst into tears, I felt an immense love.

The following year another experience followed, which led me to set up the children's hospital in Cambodia.



Mount Kailash, Tibet. Photograph © Kenro Izu

In 1999, *Angkor Hospital for Children* opened. Since then it has provided medical care and health education to over 1.6 million children across Cambodia. The *Lao Friends Hospital for Children* (LFHC) treats over 20,000 children annually, educates hundreds of local medical professionals, and prevents thousands of diseases through its Outreach Program.



Lao Friends Hospital for Children. Photograph © Kenro Izu

Do you think the spiritual experience you had in Angkor Wat in 1993-94 was the force that guided you to build the hospital?

Yes, that experience taught me about love, a very big love that had embraced me. So in the next year when I returned I was interested in visiting the local hospital. In between a photography trip I stopped by the Provincial hospital.

My guide acted as a translator and got me permission to visit the children's ward. I stopped at the bed of a child patient with her father in attendance. And while I was enquiring about the girl's illness, she died in front of me.

My guide translated...that the father had brought her from a remote village for treatment by truck. His money was spent on the fare and he had no more money to pay for medicines. The doctor permitted the child to use a hospital bed but did not treat her. So she died. It was at this point that I decided to set up a children's hospital in Siem Reap for free to all Cambodians. (see [LINK](#))

How did you go about setting up the children's hospital in Cambodia?

I had a clear vision. I made a proposal and circulated it among my friends. In the beginning we didn't have an organization. I found out that we would have to create a NGO to avail of tax benefits so my money and those of donors is exempt from tax. I went on field trip to Cambodia and met the UNICEF rep and met other NGO reps to seek their advice, and finally I went to the Ministry of Health.

I set up *Friends Without A Border* (see [LINK](#)) in 1995. In 1997 we raised enough money to start the building of the hospital, which was for landmine victims and the poor, like the child who died in front of me. In 1999, *Angkor Hospital for Children* opened. Since then it has provided medical care and health education to over 1.6 million children across Cambodia. (see [LINK](#))

Why did you set up the children's hospital in Laos?

In 2013 when we handed over the Cambodian hospital to the locally established NGO, which was centered around the local staff of the hospital, the *Friends Without A Border's* financial burden was reduced drastically because we no longer have to full-fund the hospital in Cambodia. So we conducted a retreat where the Board members discussed the future of *Friends Without A Border* – whether we would dissolve the NGO or look for another project.

With my photography the message is - in the most recent series titled *Eternal Light (of India)* – about the dignity of people whether they are poor, outside the caste, orphans, street children or those who are dying. These people possess a dignity that reflects an inner beauty. You know in western countries, maybe in Asia too, people tend to think being rich and famous is “The success”.

The outcome of this meeting was that we would look for another project either in Myanmar or Laos. We travelled to Myanmar and Luang Prabang (Laos) in a group consisting of board, donors and a medical advisor.

We settled on Luang Prabang because the authorities were very helpful and welcoming. Also, it was a safer place for our staff and volunteers. Unlike Myanmar which had a democratically elected government but ruled by the army. The ground realities there not conducive to setting up the hospital as we couldn't risk the millions of dollars of our donors nor the safety of our staff.

We found that there was an existing relationship between Laotian and Cambodian doctors in our hospital in Siem Reap Cambodia. So there was already a connection. Also, *Friends Without A Border* had a good reputation with the Cambodians, hence the officials at the Lao Ministry welcomed us.

Finally we took the Head of Health Department, Governor and Head of Provincial Hospital on all-paid tour to Cambodia to show the hospital at Siem Reap. After the tour the Laos official gave us permission to set up the hospital in Luang Prabang because we were not trying to own or run a business but only to set up hospital, educate the staff, which would then be handed over in due course to the people of Laos. (see [LINK](#)).

Lao Friends Hospital for Children (LFHC) provides free medical care and health education to children in Luang Prabang, Laos. Through the model of *Treatment + Education + Prevention*, the hospital treats over 20,000 children annually, educates hundreds of local medical professionals, and prevents thousands of diseases through its Outreach Program. LFHC's guiding motto is “*treat every patient as if your own child.*”

With the advent of the digital camera do you think we have gone the wrong way?

I don't think it is right or wrong. The convenience and speed is unbeatable by old-fashion film photography. I think this is a kind of phenomenon. People of late have developed very strong egos. Many loudly announces... *me, me, me...* The selfie is symbolic of runaway egos.

If you travel to Luang Prabang and visit Wat Xiang Thong Temple you will observe swarms of tourists taking selfies with the beautiful temple in the background. Instead of admiring the exquisiteness and absorbing the sanctity of the place the tourists are admiring themselves in their camera lens.

It makes me think about the meaning of “success”. And I believe those who exist on the threshold of society, the dispossessed, and the poor also have beauty in their life. They have a faith which guide their life. They also know how to share their things with others despite their poverty (in the material world).

When I was in Pompeii, Italy, at the archaeological site, where I am presently working on a new project, hordes of tourist descended on the site...everyone had a stick with a mobile-camera attached to it. They were obsessed with taking photos of themselves with the artifacts in the background... beautiful mosaic and frescoes. The ancient artefacts being of no consequence to these tourists posing in front of their own cameras. This is the bad side effect of the digital camera and the phone camera. I shall also add Facebook to this...the posts are all about *I, I, I* and *I*...everything I did today...eat, work, play etc. etc. They listen to others only when others listen to them

When you go to exhibitions of Contemporary Art you see art screaming ‘*look at me*’, ‘*listen to what I think*’, ‘*listen to what I believe*’. They are about ‘*me*’ and many are about what they think, they concerned only with themselves and their ideas, instead of the art itself – Though occasionally there are great ideas and works...

Sometimes I question – is that art showing at the museum... visitors paying 20\$ entrance fee to view an artist's work that is more about the artist than about his or her artwork? The ‘*I*’ has displaced the art.

I have stopped going to the Modern Art Museum in New York lately. In the 70s it was different. Artists, then were isolated from their work, removed from the subject so the viewer could enjoy the beauty and complexities of the theme. Now it is the artist first and their work as a backdrop. Bit like the selfie.

What is your message to the readers of Live Encounters?

I often receive emails from young people who say they want to be like me – saving the children – they ask for advice. I just tell them to believe in themselves, move one step at a time and to get out of their comfort zone. As long as they are staying in their comfort zone they are not going to achieve anything new. It's the same with photography. One has to step out.

With my photography the message is - in the most recent series titled *Eternal Light (of India)* – about the dignity of people whether they are poor, outside the caste, orphans, street children or those who are dying. These people possess a dignity that reflects an inner beauty. You know in western countries, maybe in Asia too, people tend to think being rich and famous is “The success”. It makes me think about the meaning of “success”. And I believe those who exist on the threshold of society, the dispossessed, and the poor also have beauty in their life. They have a faith which guide their life. They also know how to share their things with others despite their poverty (in the material world).

Mikyoung Cha is a graduate in Oriental Painting from Hyosung Women's University, Daegu, South Korea. She has participated in a number of group art exhibitions in South Korea and Japan. In 2016 she took up photography – the camera becoming her paint brush. This globe trotting photographer is a regular contributor to Live Encounters Magazine.



VISIT TO A BIRCH GROVE

PHOTOGRAPHS BY MIKYOUNG CHA

Before I reached Chilhyeon Mountain on my way from Gwanghyewon one February,
I found myself approaching a broad valley thick with white birch trees.
Someone said: Go on! and gave me a push in the back.
I turned to see who it was. There was no one there. But look!
How honestly the cast-off boles of the white birch grove confront the world!
They are altogether indifferent to the distant hills that are fully accustomed to snow.
The winter trees alone know nothing of depravity.

- Excerpt from *Visit to a Birch Grove* by **Ko Un**, well-known South Korean Poet.

The following photographs are of the largest birch forest located in Inje-gun Taebaek-si Gangwon-do Province. Birch are called 'jajak' tree because when the wood is burnt it makes a 'jajak jajak' sound.

The wood of the ancient 81,258 wooden printing blocks of the *Tripitaka Koreana* (Buddhist scriptures) is from the birch tree. They remain stored in pristine condition for over 750 years in Haeinsa, the temple in Gaya Mountains, South Gyeongsang Province South Korea.

Translation of poem by Brother Anthony of Taizé, anthony.sogang.ac.kr









Beginning his painting practice in 2008, subconscious undertones have always been prevalent in his work and he continues to be uncategorisable as an artist of a certain style due to his constant fluctuation into new and excited styles in his painting practice. Vincent seeks to find answers to the subconscious undertones that have always informed his work yet eludes understanding on a conscious plane. His new work will be explored under the umbrella term "Dimensionism" and seeks to visually explain the inexplicable, paint the unpaintable. www.vicentdevine.com



AMBIGUTREES

VINCENT DEVINE

While his Grandmother (Phylis Mooney) was terminally ill, Vincent decided to paint a symbolic piece to commemorate his Grandmother. Using his signature skies and colour scheme he then painted thirteen trees to represent all his Grandmother's children. Surmising that red foliage would work in a visually dynamic way with the turquoise background, he began to paint. Upon leaving the piece and returning he noticed he had, subconsciously, painted the foliage in the shape of a body. Using this as a springboard, the idea for his hugely successful "AMBIGUTREE" series was born. Nearly all of this series contain hidden shapes in the tree or branches. Some are symbolic and some literal.

What do you see in the shapes of the trees?



APOLLO
ACRYLIC ON CANVAS BOARD



FACING
ACRYLIC ON CANVAS BOARD



FACE UP
ACRYLIC ON CANVAS BOARD



KISSING TREES
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KATMER TURKISH CRUNCHY PANCAKES WITH PISTACHIO AND CLOTTED CREAM

This delicious and easy to make Turkish crunchy pancakes with pistachios and clotted cream, Katmer, hails from Gaziantep, one of the must visit gastronomic regions in Turkey. The crunchy, flaky Katmer is traditionally the first meal eaten by the bride and groom after their wedding night in Gaziantep. It tastes absolutely heavenly with Gaziantep's world famous pistachios and the thick Turkish clotted cream, kaymak.

My version of Katmer here uses filo pastry sheets (you can use the fresh, paper thin Turkish yufka pastry sheets in Turkey) and thick clotted cream instead of kaymak, as it is not easy to find kaymak abroad (mascarpone cheese also gave good results). The substitution worked well in Katmer and made a lovely, light dessert with with fresh fruit by the side. You can serve Katmer as part of breakfast, dessert or as a tea time treat.

I hope you enjoy Katmer, Afiyet Olsun,

Ozlem





Place little dabs of the clotted cream, mascarpone cheese or Turkish kaymak, all around the filo sheet. © Ozlem Warren

This delicious and easy to make Turkish crunchy pancakes with pistachios and clotted cream, Katmer, hails from Gaziantep, one of the must visit gastronomic regions in Turkey. It is delicious as part of breakfast, tea time treat or a light dessert with fresh fruit aside.

Serves: 4

Ingredients

- 4 sheets of filo pastry, thawed (each sheet about 30 cm x 27 cm – 11 in x 12 in)
- 30 ml / 2 tbsp. melted unsalted butter
- 55 gr / 2 oz. clotted cream, Turkish kaymak or mascarpone cheese
- 60 gr / 4 tbsp. finely crushed, unsalted pistachios
- 30 ml / 2 tbsp. sugar (brown sugar works well too)
- Honey and fresh fruit to serve (optional)

Instructions

1. Take the filo sheets out of the fridge 30 minutes prior using to bring to room temperature. If filo sheets are frozen, it is best to thaw in the fridge overnight and take out 1 hour prior using to bring to room temperature. Alternatively, you can take out the frozen filo sheets 2 hours prior using to bring to room temperature.
2. Place two filo sheets on top of another on a dry surface (keep the rest of the filo sheets under damp towel so that they won't dry out).



Katmer; Turkish crunchy pancakes with pistachios and clotted cream © Ozlem Warren

3. Leave a margin of about 4 cm (1.5 in) around the edges and place little dabs of the clotted cream, mascarpone cheese or Turkish kaymak, all around the filo sheet.
4. Sprinkle the finely crushed pistachios and sugar evenly over the cream.
5. Place the remaining 2 filo sheets on top. Brush the edges of the top filo sheet with 1 tbsp. of melted butter. Wet your hands and fold over each side of the pasty (about 2 cm / 1 in) to make a parcel. Seal the edges with your wet hands and the brushed melted butter.
6. Coat the remaining 1 tbsp. melted butter around a large, non-stick frying pan, over medium heat.
7. Place the filo parcel into the pan (with the wrapped edges down) and cook for 2 minutes, as it will get golden.
8. Turn the pancake over gently (large spatulas help) and cook for another 1,5 minutes or until golden.
9. Serve katmer warm, drizzled with a little honey (if you wish) and crushed pistachios over. Bowl of fresh fruit aside complements katmer beautifully too.

Ulyseas is founder and editor of Live Encounters Magazine and Live Encounters Poetry. He is the author of three books: *RAINY – My friend & Philosopher*, *Seductive Avatars of Maya – Anthology of Dystopian Lives* and *In Gethsemane: Transcripts of a Journey*.
<http://www.amazon.com/author/markulyseas>



**Help Kashmiri Pandits
and victims of anti-Sikh riots get justice.**

AN OPEN LETTER TO THE HONOURABLE PRIME MINISTER OF INDIA NARENDRA DAMODARDAS MODI

Namasker Pradhanmantriji,

I am writing this letter of appeal to you on two issues that remain bloodstains on the national flag of India:

1. *The slaughter and ethnic cleansing of tens of thousands of Kashmiri Pandits in Kashmir.*
2. *The slaughter of thousands of innocent Sikhs in New Delhi and across the rest of India in the aftermath of the assassination of Prime Minister Indira Gandhi.*

Kashmiri Pandits – From the Valley of Death – Ethnic and religious cleansing...

Twenty six years ago (1990) the ethnic cleansing of Kashmiri Pandits began in the Kashmir valley. Tens of thousands of Hindus were slaughtered whilst others were driven from their ancient homeland by people hell bent on the Islamisation of Kashmir. The systematic slaughter of these Hindus has been, in more ways than one, glossed over by the killings committed by present day terrorists who are well equipped mercenaries from Pakistan screaming *Allahu Akbar*; and the omissions and commissions by elements of the Indian State. It is as if there is a deliberate attempt to delete the memory of the Kashmiri Pandits plight.

Why were successive governments (in the past) unable to stand with the Kashmiri Pandits?

A wide section of the Indian media appears to be tripping over their own self-importance while breathlessly reporting present day violence in Kashmir, while clearly ignoring the elephant in the room – the Kashmiri Pandits. Are journalists afraid to be seen as supporters of the Kashmir Pandits' cause because they (Pandits) are Hindus or are they succumbing to political pressure from politicians pandering to a section of society?

The following is an excerpt about the Kashmiri Pandits that is known to the outside world:

They began to leave in much greater numbers in the 1990s during the eruption of militancy, following persecution and threats by radical Islamists and militants. The events of 19 January 1990 were particularly vicious. On that day, mosques issued declarations that the Kashmiri Pandits were Kafirs and that the males had to leave Kashmir, convert to Islam or be killed. Those who chose to the first of these were told to leave their women behind. The Kashmiri Muslims were instructed to identify Pandit homes so they could be systematically targeted for conversion or killing.

According to a number of authors, approximately 100,000 of the total Kashmiri Pandit population of 140,000 left the valley during the 1990s. Other authors have suggested a higher figure for the exodus, ranging from the entire population of over 150,000, to 190,000 of a total Pandit population of 200,000, to a number as high as 800,000. The nature of the planned exodus was controversial, with the involvement of then Governor Jagmohan in organizing a clandestine exodus. Many of the refugee Kashmiri Pandits have been living in abject conditions in refugee camps of Jammu. The government has reported on the terrorist threats to Pandits still living in the Kashmir region - [LINK](#)

I am sure you have the present updates on the plight of the Kashmiri Pandits.

A wide section of the Indian media appears to be tripping over their own self-importance while breathlessly reporting present day violence in Kashmir, while clearly ignoring the elephant in the room – the Kashmiri Pandits. Are journalists afraid to be seen as supporters of the Kashmir Pandits' cause because they (Pandits) are Hindus or are they succumbing to political pressure from politicians pandering to a section of society?

The Kashmiri Pandits must get justice because they hold the key to the future of this State. No peace, no deal can ever be achieved without their active involvement because this is their home land for thousands of years.

Anti-Sikh riots in India – The slaughter of thousands post assassination of Prime Minister Indira Gandhi.

Thirty two years later (1984) the Sikhs wait for justice. Thousands were beaten to death by rampaging mobs, their houses burnt and women raped.

2017 belongs to you. Let the world know this by doing what is just for the Kashmiri Pandits and Sikhs. You have the power of hundreds of millions of Indians behind you who believe that the 'old manner of functioning' must be done away with, that the mindset must change for a brave new India to emerge.

Many commissions were ordered by past governments. The result?

In 2014 [Cobrapost](#) conducted a sting operation in which it reported that the then government did not permit the Delhi Police from carrying out its duties of protecting the Sikhs.

“Messages were broadcast directing police to not take action against rioters who were shouting slogans of ‘Indira Gandhi zindabad’,” [LINK](#)

From evidence given to various commissions instituted by past governments it was not “Hindus killing Sikhs” but, as many claimed, politicians and their followers carrying out the carnage. Claims and counter claims have obfuscated the truth. The relatives of those Sikhs killed must get justice.

This letter, Pradhanmantriji, is an earnest appeal. An appeal to you to help the Kashmiri Pandits and Sikhs in getting justice and compensation.

India is a land that gave the world Hinduism, Buddhism, Sikhism, Jainism...and offered shelter to Jews, Tibetans, Iranians, Armenians, etc. Remind the people of India that it is still the same country. A country that is the largest democracy in the world and that every citizen has a right to protection by the State.

Your wisdom, your leadership in these two matters which are legacies of past governments, is required now to show the world that India can and will get itself out of the 'old ways of functioning'. More importantly politicians must be made accountable for their actions. The recent blockading of parliament's winter session by self-serving politicians who did not permit the house to conduct the business of running the country is an insult to those that voted them into power. It prompted even the President of India to show his displeasure. India cannot afford to be held to ransom by such self-serving politicians.

2017 belongs to you. Let the world know this by doing what is just for the Kashmiri Pandits and Sikhs. You have the power of hundreds of millions of Indians behind you who believe that the 'old manner of functioning' must be done away with, that the mindset must change for a brave new India to emerge.

Dhaniyavad

Live Encounters celebrates 7 years 2010-2016

Live encounters

Free online magazine from village earth
January 2017

