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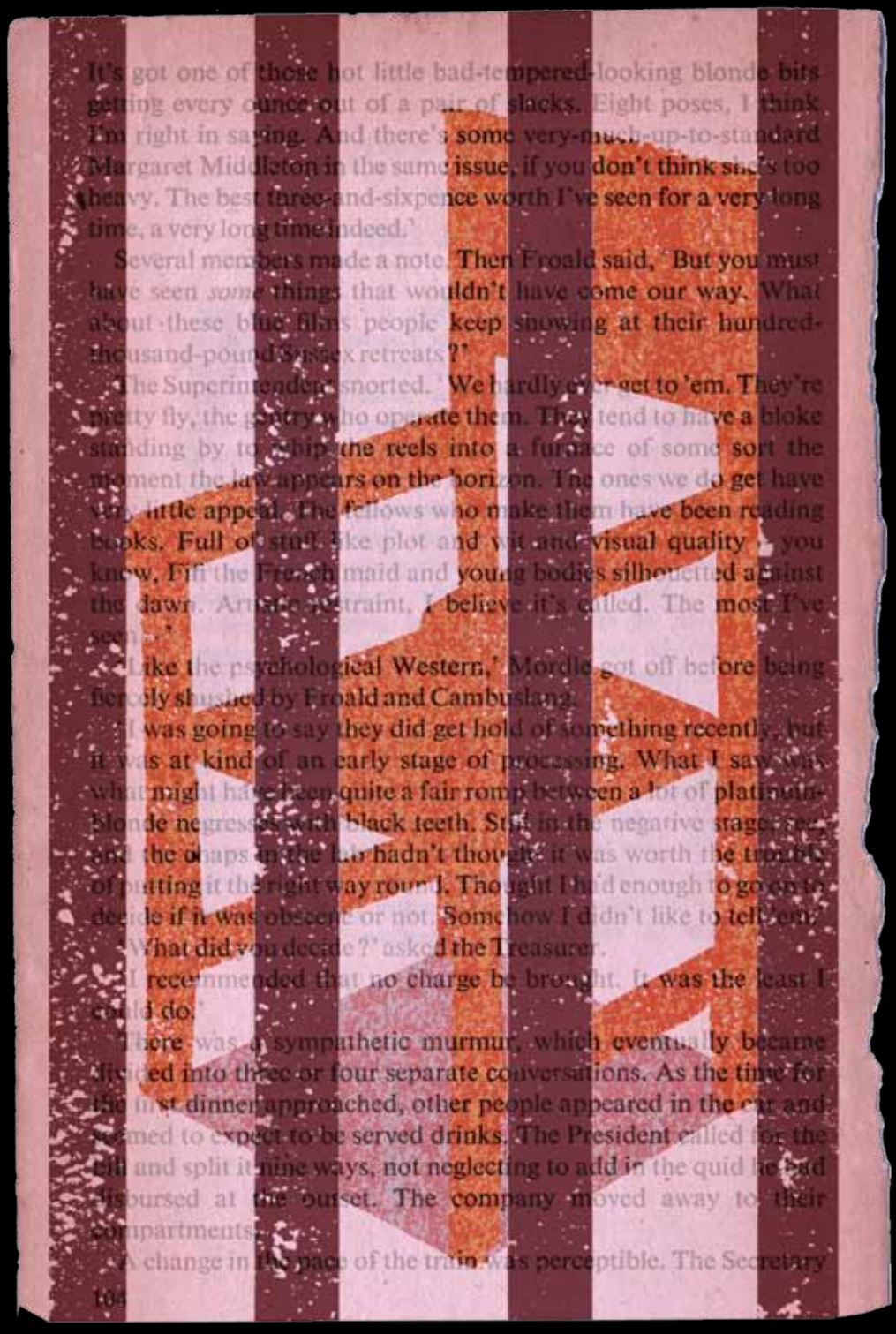

The Day of the Imprisoned Writer

- Liu Xiaobo: no force can block the human desire for freedom
- The Sydney PEN Award salutes a passion for human rights advocacy
- Promoting Indigenous literacy in Australia
- Raising Youth Awareness
- Google Book Settlement: The trials of digitising the world's books
- PEN International Congress: promoting a tradition of proactive energy
- Fethiye Cetin: Grappling with history of denial, nationalism and fears of political consequences

Writers in prison at the core of our mission

As we draw near the end of 2010, we close the 50th Anniversary of PEN International's Writers in Prison program, of which our centre has been a vigorous participant for many years.

In that time, we have established and dissolved our own Writers in Detention Committee, run by Tom Keneally and Rosie Scott; and we have been fortunate to have many tireless individuals who have devoted themselves to chairing our Writers in Prison work, including Wendy Birman, who joined Gail Jones and me at the PEN International Congress in Tokyo this year, and Gaby Naher, who has been awarded the 2010 Sydney PEN Award.

This work continues to be at the core of our mission, and this year we have tried hard to draw each of our activities back to the urgent cases of oppression and threat in our region. Sadly, these cases continue to emerge and, sometimes, to worsen.

It is almost one year since one of our Honorary Members, Chinese academic and poet Liu Xiaobo was sentenced to 11 years imprisonment on Christmas Day, 2009, after decades of experiencing detention, release, departure and return as a dissident in China. Another of our Honorary Members, Vietnamese priest and scholar Father Nguyen Van Ly, was released last summer for a brief medical reprieve from his labour camp, but we have recently learned that he is due to be returned there early next year.

In my last report, I mentioned the hopefulness that we draw from one another as we make whatever contributions we can, in whatever form, to PEN. At the International WiP Meeting held at this year's Congress, we heard from a Russian writer and former prisoner who spoke from his own experience about the importance of knowing that one has not been forgotten in prison. He used a memorable phrase: the "grains of support" that blow into the incarcerated life, and that are seen and felt. I think we would like to imagine that those grains accumulate into something like hope.

Inspired by this, we have created a national postcard campaign for the International Day of the Imprisoned Writer, which allows the Australian public to make a gesture of solidarity to five writers who are imprisoned in our region. It is our attempt to create an empathetic link between Australians who freely have access to libraries and institutions of information and education, and their not-so-distant neighbours in very different circumstances.

It is not a diplomatic campaign or advocacy petition like those we run throughout the year; it is simply a direct and collective way of saying, "we have not forgotten you". We will be liaising with Independent Chinese PEN and other relevant networks to arrange the best way to get these messages to their recipients or their families.

But as the year draws to a close, we are on the cusp of Sydney PEN's 80th birthday since its founding in 1931. Sydney PEN is anything but a grand old dame! Certainly, we have her extensive roots of memory and connections but at the same time we are always growing through new members from all walks of life, and invigorated by younger volunteers and supporters who want to spread our work further. I have no doubt that with your continuing input and interest, Sydney PEN can make the most of its vitality in 2011.

Bonny Cassidy

sydney PEN

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Tom Jellett

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Cover illustration by Tom Jellett acknowledges the Day of the Imprisoned Writer on November 15 when writers world wide join together to commemorate their colleagues under attack.

Gaby Naher: a passion for human rights advocacy

Literary agent and writer Gaby Naher has won the 2010 Sydney PEN Award. The Sydney PEN Award is presented annually to an individual who has worked especially hard to promote the Sydney PEN Centre's values and the PEN Charter. The winner is nominated and voted by Sydney PEN's management committee, and made possible by the generosity of Sydney PEN member Jane Morgan with the support of Mr Charles Wolf, of The Pen Shop, Sydney. In previous years the Sydney PEN Award has recognised Chip Rolley, Nicholas Jose, Rosie Scott and Denise Leith.

Gaby is author of the novels The *Underwharf* and *Bathing in Light* and the memoirs *The Truth About My Fathers* and *Wrestling the Dragon: In Search Of The Boy Lama Who Defied China.*

In 2008 she established the Naher Agency. It is testament to her gift for working with writers that within two years of starting the agency, the authors on her books include such high-calibre names as Peter Corris, Linda Jaivin, Gillian Mears and Mandy Sayer, as well as newcomers such as Clint Caward and Tess Evans.

Gaby's interest in human rights advocacy may have its roots in her brief period of working with the Dalai Lama, as a book publicist on his autobiography, in the early 1990s.

In 2004, on the release of *Wrestling the Dragon,* Suzy Baldwin wrote in *The Sydney Morning Herald:* "Impressed as she was with the Dalai Lama when she ran his press conference, the real turning point was the Tibetans lining the road as he left. They chanted prayers as he passed and wailed, grief-stricken, when he'd gone. She was so struck by the pain of their separation – from their country, brutally occupied by China since 1950, and their leader, in exile in India since 1959 – that she resolved to take on some of their struggle."

Wrestling the Dragon tells the story of Tibet's 17th Karmapa, a possible successor to the present Dalai Lama. Gaby's passion for the cause of the Tibetan people led her to volunteer for the Tibet Council of Australia, spending six years on its board, several as chair.

Gaby joined the Sydney PEN management committee in 2008 and immediately volunteered to lead the Writers in Prison committee.

Sydney PEN president at that time, Virginia Lloyd, says Gaby's arrival in the position immediately revitalised the group's commitment. "Gaby brought energy, focus, and leadership to a critical part of Sydney PEN's activities, motivating and encouraging PEN supporters to write letters, actively lobbying the Australian Government on behalf of detained writers in China and Burma, and most importantly putting Sydney PEN on the political radar in Canberra."

Between the demands not only of establishing a new business but also parenting two small children, during her time as WIP committee chair Gaby arranged meetings with diplomatic staff in Canberra and established important connections with ambassadorial representatives, particularly in Burma and China.

Gaby Naher

In May 2009 at her suggestion, Sydney PEN made Burmese poet, monk, comedian and activist Zargana an Honorary Member, and through Gaby the Writers in Prison Committee established direct contact with the Department of Foreign Affairs and Trade about this writer. This prompted Australia's Ambassador to Burma to take a personal, ongoing and active interest in his case.

As part of the 2009 Sydney Writers Festival Empty Chair campaign, once again at Gaby's instigation, festival goers signed hundreds of letters about PEN's imprisoned writers to be forwarded to the relevant ambassadors, bringing into potent focus the plight of writers in prison in the Asia-Pacific region.

Bonny Cassidy, current president of PEN, says this intensification of the organisation's regional focus remains one of Gaby's major contributions.

"There are so many cases that PEN International confirms and updates that it is imperative for a very active centre like Sydney to find a productive point of focus among them. Gaby established regular communication between PEN and the diplomats of our region, specifically Ambassador Geoff Raby in China and Ambassador to Burma, Michelle Chan," she said.

Gaby stepped down as Writers in Prison chair in February this year, leaving a vibrant model of effective advocacy work for those coming after her.

Sydney PEN thanks Gaby Naher for her compassion, drive and purposeful commitment to the human rights of imprisoned writers throughout the world, and especially in our region.

The 2010 Sydney PEN Award was presented to Gaby at Sydney PEN's International Day of the Imprisoned Writer event at the State Library of New South Wales, November 19.

Charlotte Wood

Pride in tradition of proactive energy and reputation for taking a democratic approach

Tienchi Martin (Independent Chinese PEN Centre) translates for a Tibetan dissident at the Writers in Prison Committee meeting

We stood in the centre of the hotel foyer, as humming groups of delegates gathered in various nooks. Some of them were small like ours; others expanded before our eyes. We had already missed our scheduled meeting with Independent Chinese PEN Centre (ICPC), and now we were wondering where to begin our Congress business. Waiting for ICPC at one of the university venues earlier in the day, we'd failed to find them in the swarming crowd that had come to see keynote addresses by Margaret Atwood and Gao Xingjian.

At last, vice president Patrick Poon emerged from the audience, and graciously presented printed copies of the last two ICPC journals that Sydney PEN had helped to edit and proofread. Our lost meeting was forgotten as we learned that their centre had valiantly succeeded in flying two representatives from Hong Kong, an exiled member from Sweden, and one mainland writer who was coming especially to address the Writers in Prison Committee.

Now back at the hotel the ICPC president, Tienchi Martin, whirled through the growing throng. After greeting us distractedly, she led a huge dinner group toward a bus. Following the party with hopes of further meetings over a meal, we found ourselves in a tiny, lively Uyghur restaurant in a Tokyo alley with delegates from Nepal, Afghanistan and the Philippines, alongside International PEN treasurer, Eric Lax, and president, John Ralston Saul.

Our first lesson: at the Congress, the best-laid plans turn into light autumn rain.

Outside the Congress, time seemed to move more slowly. Divided between participating in the WiP Committee meeting and keeping our appointment with the Australian Ambassador to Japan, Murray McLean, we decided to split up.

Gail headed to the embassy, where she consolidated our connections with the Australian Japan Foundation and introduced our work and vision to the Ambassador and his cultural officer. Gail presented the *Macquarie PEN Anthology* as a new addition to the Embassy library, and described the nature of our work and our vision for undertaking a future literary project with Japan.

Clearly an advocate of literature and literacy, the Ambassador offered generous and encouraging links and support for Sydney PEN to pursue a translation project in Japan in future. At the very least, logistical assistance will be provided and the embassy is happy to help broker conversations between interested partners and facilitate a meeting.

Meanwhile at the WiP meeting, I moderated the Asia-Pacific resolutions concerning imprisoned and threatened writers in Xinjiang Uyghur Autonomous Region, Nepal, Vietnam, Sri Lanka and China. We were called to do this just a day before the meeting but – despite the confusion of many delegates about how things were to run – it was a good opportunity to make initial contacts with these countries' centres and delegates from elsewhere including German PEN.

I talked the group through technical amendments to the resolutions, which had been made by our own WiP Chair, Dr Christopher Michaelsen; all of these resolutions were accepted by the assembly. One of the most significant results of this workshop was a discussion of the urgent need for an Asia-Pacific communication network, which was enthusiastically taken up by PEN International's regional researcher, Cathy McCann.

Generally speaking, there seems to be a stronger push by centres toward regional ties rather than ties with the PEN International office in London: later in the Congress, a similar network would be suggested by Malawi PEN on behalf of African centres; and a resolution would be passed by all centres approving the International Board to consider more efficient ways of organising congress travel and networking, including localised meetings.

On display in the WiP Committee meeting room were four artist portraits that we had selected from the series of 15 created by photographer Stuart Spence for our Painted Chairs project at the Sydney Writers' Festival this year. Alongside these were a "bonsai" version of Scottish PEN's own painted chair, crafted especially for the Congress, and a new painted chair made for the event by Japan PEN Club. Together with Scottish PEN, we presented The Painted Chairs project in detail to the WiP Committee, giving a brief summary of the project and its outcomes.

However, the heart of the meeting was the appearance of three dissidents from Tibet, China and Cambodia, who spoke through translators about their recent experiences. These stories brought gravity to our collective ideas about awareness and promotion of PEN, and returned all of us to the importance of meeting one another in person, no matter how rushed or scattered, to bear witness and to understand why we do this work.

Our second lesson: little happens at the Congress but a lot goes on at the fringes.

Our second lesson became more apparent to us as we entered into three days of delegate assembly, chaired by the International Board. This year, PEN International experimented with a new structure for the assembly, following the plenary speeches with open discussion.

The speeches from the Board focused on fundraising; a new publicity approach including the new logo and name (see our website for more details), and increased centre agency and power. John Ralston Saul emphasised his vision of a receding presence for the London headquarters of PEN International, which is not, after all, a centre but an administrative and logistical hub that best acts as a connector of centre networks and projects. Eric Lax reiterated a message familiar to many centres – of the need to bring in greater support through donations and fundraising.

For first-world centres like Sydney PEN, English PEN, American PEN and Canadian PEN, funds are needed to generate projects; for smaller centres with a lower profile, such as Kurdish PEN and some African centres, funds are needed to send delegates to Congress where their voices can be heard by neighbouring centres and the International Board.

The floor was opened to all centres to respond to these themes with any points of concern they felt ought to be heard and discussed further. We raised the suggestion that PEN International might more actively encourage centres to open membership to readers and non-writers in an attempt to raise the profile of PEN's work, increase membership and fundraising income, and promote solidarity and inclusiveness as part of its mission.

Delegates were then drawn into four discussion groups: *Connecting* (forming regional networks and new ways of communicating); *Mental sloth* (encouraging interest in language and literature); *Diversity* (looking at communities, membership strategies and profile-raising); and *Challenges* (how to deal with global concerns such as environmental instability).

We followed our point into the Diversity workshop, and also supported useful points raised by New Zealand PEN and Jordanian PEN concerning their books-in-the-home literacy projects. Unfortunately, however, the assembly schedule was so late that our group had only 30 minutes to discuss a range of related issues among a wide spectrum of centres. While the loosening of discussion was a noble idea, we needed a proper amount of time to delve into meaningful roundtable conversation rather than a series of fired exchanges.

Ultimately, Sydney PEN's point received some applause and generated much informal discussion through the following days. We feel that this point did raise some useful ideas for other centres. At the same time, its discussion revealed divisions between the ways that various centres view PEN's mission, which was very interesting to us.

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Pride in tradition of proactive energy and reputation for taking a democratic approach

Gail Jones and Bonny Cassidy (Sydney PEN) with Judith Buckrich (Melbourne PEN) at the Delegate Assembly

A display featuring information about Sydney PEN and Scottish PEN Painted Chairs projects, with a chair created for the Congress by Japan PEN Club

A visitor to the Congress reads the list of 75 emblematic Writers in Prison cases, mounted by Japan PEN Club in celebration of 50 years of the WiP program

As most of our members know, Sydney PEN is a broad church – we take advantage of our prerogative to interpret the PEN Charter by understanding "writers, editors and translators" to include those who support and benefit from the work of those professions. It is vital to our centre's survival and regeneration that we reach as broad a membership and supporter base as possible.

We do not see PEN as an exclusive writers' club or representative body: this is a job performed well by guilds and associations around the world. We see the freedom to write as inextricably linked to the freedom to read. In doing so, we at home may not realise that this understanding of PEN is not universal.

On the final day of the assembly, we played a small role in negotiating how the WiP resolution on China – which highlighted a number of cases and called upon China to reform its observation of human rights – should be presented to the Chinese Embassy in Tokyo. With Japan PEN Club's consent, members of the International Board delivered the resolution to the Embassy on the final day of the Congress.

By that time, the assembly had voted in the new Board members, which saw former secretary Eugene Schoulgin move to vice president, Eric Lax remain as treasurer, Hori Takeaki step up as secretary, and four new Board members, Philo Ikonya (Kenya), Haroon Siddiqui (Canada), Jens Lohmann (Denmark) and Lee Gil-won (Korea).

From interactions in meetings and from their presentation speeches, Sydney PEN felt that Philo Ikonya and Haroon Siddiqui were very strong candidates, and voted accordingly. We would not have felt confident casting votes for these roles had we not been able to meet the nominees in person, and we were very pleased to see the ascendancy of a highly multicultural and multi-linguistic Board. The inclusion of board members from Asia and Africa was also greeted as timely and progressive by many at the Congress.

In these final hours in the company of so many languages and nations, we struck up friendships with Afghan PEN and also Zambian PEN, whom we hope to support by publishing translations of their writers' work in future issues of the *Sydney PEN Magazine.* We also talked with Melbourne PEN about opportunities for collaboration.

Framing the difficult management of time within the core Congress agenda, Japan PEN Club structured a full program of banquet dinners and parties, where informal connections and conversations often provided the most interesting and insightful moments of connection with other delegates and guests. Japan PEN was heartily thanked at the close of the Congress, and Tokyo was a great spot to meet with a history of congress hosting and a long and proudly supported PEN tradition.

At last, too, we set our lost meeting with ICPC, which enabled us to talk about a small project that could be enlarged with Japan in coming years: a project by which new short pieces of Australian and Chinese writing could be translated by emerging talents in each country, and published in our mutual outlets; thus promoting new work from both countries and keeping up the linguistic exchange in our region. This was received well and we hope to foster this exchange to occur in 2011.

And, as swiftly as they had gathered, the hundreds of faces and voices dispersed once again to all parts of the globe. This had been the largest PEN Congress ever held. Apart from stacks of name cards, promised connections, new friends and some inspired ideas, we were left with great pride in our centre, particularly its tradition of proactive energy and its reputation for taking a democratic approach to what PEN stands for.

Bonny Cassidy

Promoting Indigenous literacy in Australia

For most of us, it begins when we are toddlers, curled up in a parent's lap, listening to stories, soaking up new words and pictures and bonding through the magical process of reading.

On September 1, Indigenous Literacy Day, poet and author David Malouf reminded his audience at the NSW State Library how, for most of us, learning to read was a slow process, which continued in the school room, yet was for the most part "actually prepared for in the home".

But in remote Australian Indigenous communities, many children's first contact with a book, and words on a page, doesn't happen until they reach primary school.

Children then struggle through the arduous process of learning to read in what amounts to a foreign language – English usually being their third or fourth language – while reading stories that have little to do with the reality of their lives.

Only one in five children living in very remote Indigenous communities could read at the accepted minimum standard in the Northern Territory in 2006. By Year 7, just 15 per cent achieved this benchmark.

As an Ambassador for the Indigenous Literacy Project, in partnership with The Fred Hollows Foundation, David Malouf hopes books will become familiar objects to mothers and children in their homes.

"Reading is so widespread in the society we live in, even universal, we simply take reading as being something that is natural, and we therefore think that our coming to reading is also natural, the way walking is and talking is. And of course, it is not," he said.

The Project's Literacy Development Facilitator, Debra Dank, grew up on a cattle station in the Northern Territory, in "the outback". Her mother schooled her by correspondence until the family moved to Mt Isa so she could go on to high school.

Ms Dank said she was "incredibly privileged" to have had a father, who despite barely speaking Standard English, had the foresight to make sure she learnt to read and write and pursued tertiary studies.

"Aboriginals are used to reading the environment, people's character and body language," she said. "But the reading format is different, and when we don't have access to books, we don't have the ability to practise those skills, or to internalise them within the family's activities."

These days, Ms Dank is based in Darwin and is again spending much of her time in "the outback", gently coaxing mums and aunties to believe in the literacy project and take ownership of it.

Since it started in 2005, the Indigenous Literacy Project has distributed thousands of books – 15,000 just in 2009 – all with high Indigenous content, into more than 500 community groups across remote Australia.

The books are in English, but come with a translation in indigenous languages when requested. Communities choose

David Malouf, David Gaunt, the Chair of Indigenous Literary Day, and Debra Dank

the most appropriate books to suit their context.

Children may not otherwise have access to books for a variety of reasons.

"When it is really difficult to get hold of food, when it's the wet season and you have been cut off for up to three months, when crocodiles are literally swimming past your front door and you have to get past them to go to school, when you have 20 to 25 people living in your house, survival and welfare become more of a priority," Ms Dank said.

High teacher turnover in the bush adds to the literacy challenge, and while teachers are often warned that Aboriginal children need longer "think time" to answer questions, they may not be told why.

Ms Dank explained a child will mentally translate the question into indigenous English, then into her own language, make sense of it, formulate an answer and start all over again in reverse. This takes time.

"But it is not because someone is not articulate in English that their intellectual ability is diminished. Being different does not mean being deficient.

"When, as teachers, we go into classrooms with children from non-English speaking backgrounds from outside of Australia, we automatically start looking for strategies that allow us to teach English as a second language, but we don't do that for Indigenous kids," Ms Dank said.

While English operates under a binary opposition system, where the relationship between words governs their meaning, for example "good/bad", and our way of seeing the world, Indigenous languages operate using a matrices system.

It is the context that governs the choice of vocabulary, and therefore the children's way of making sense of their environment and the way they learn.

"Indigenous Australians recognise absolutely that standard Australian English is the language that allows participation," Ms Dank said. "There are no issues around engagement or the need to learn it, but it is about how we can build ownership."

Nicole Gooch

Long struggle for the right to free speech in Vietnam

Father ly

Man-handled in court

Viet Tan is an organisation committed to establishing democracy in Vietnam through peaceful and nonviolent measures. Viet Tan has members and supporters throughout Vietnam and among most Vietnamese communities overseas.

Viet Tan is currently campaigning for Internet freedom, raising public awareness on the risks of bauxite mining in the central highlands of Vietnam, and freedom for prisoners of conscience.

Viet Tan members include well-known prisoners of conscience and individuals who have sacrificed their lives for a free Vietnam. In recent months, the Vietnamese authorities have quietly arrested and detained five Viet Tan members – Melbourne social worker Vo Hong, lecturer and French citizen Pham Minh Hoang, Pastor Duong Kim Khai, merchant Tran Thi Thuy and farmer Nguyen Thanh Tam The whereabouts of the last three remain unknown.

This article was written and translated by members of Viet Tan in London and Sydney.

Father Thaddeus Nguyen Van Ly: Campaign for religious freedom

Every time the issue of religious freedom in Vietnam is mentioned, the world instantaneously thinks of two well-known activists: Father Thaddeus Nguyen Van Ly, a priest belonging to the Hue Archdiocese of the Roman Catholic Church, and the Most Venerable Thich Quang Do, of the Unified Buddhist Church of Vietnam.

Father Ly was born on 15 May, 1946, in Vinh Linh, Quang Tri Province, Central Vietnam. When he was 17, he entered the Hoan Thien Minor Seminary in Hue and in 1974, he was ordained a priest at the Cathedral of Phu Cam, Hue. Soon afterwards, he joined the Vietnamese Missionary Association (VMA) which, at the time, was headed by Archbishop Philip Nguyen Kim Dien. Later, he was appointed Secretary of the Archdiocese of Hue.

In September 1977, Father Ly released two popular papers written by Archbishop Dien denouncing Vietnamese authorities for holding the objective of eliminating religious freedom. He was arrested and sentenced to 20 years imprisonment for being "anti-revolutionary".

Throughout the next 30 years, from September 1977 to February 2007, Vietnamese authorities arrested and imprisoned Father Ly five times. The last time was on 18 February, 2007; in the trial in Hue on 30 March Father Ly was physically "gagged" by government officials. He was sentenced to eight years imprisonment followed by five years of house arrest.

Despite such treatment, Father Ly has been steadfast in his commitment to the right to religious freedom in Vietnam.

On 26 June, 2004, while under a two-year administrative probation at Phu An Village, The Shalom 2004 Human Rights Award was given to Father Ly in his absence via an empty chair in a ceremony held at Eichstaett-Ingolstadt College in Germany. On 13 October, 2007, when serving a prison sentence at Thanh Cam, *The Wall Street Journal* suggested that Father Ly was more worthy as the recipient of the 2007 Nobel Peace Prize than Al Gore. More recently, Sydney PEN accepted him as an Honorary Member.

In a short interview in July, Father Ly briefly described his latest medical and living conditions under house arrest:

"Thank you very much to you and your friends for actively campaigning to support me. My sincere thanks to International PEN and Sydney PEN which showed much concern and offered me great support throughout the past years.

"On 25 May 2009, I suffered a stroke for the first time. On 12 July 2009, hemiparesis of my right side occurred for the first time. Then on 14 November 2009, I suffered a second hemiparesis of my right side, this time more severely; there was no motion in my right arm or leg. Until recently, I recovered 50 to 60 per cent motion in my right arm and 40 to 50 per cent in my right leg.

"I am currently under house arrest at the General Retirement Common Home Archdiocese of Hue, at 69 Phan Dinh Phung, Hue, Vietnam. Please let us always unite and sacrifice ourselves, praying day and night for our country and for each other."

On 23 September this year, Father Ly was nominated by the European Parliament for the 2010 Sakharov Hyman Rights Award along with eight other activists.

Le Thi Cong Nhan: the struggle for democracy and pluralistic society

Dissident Le Thi Cong Nhan was born on 20 July, 1979 in Go Cong, Vietnam. She graduated with a law degree from the University of Hanoi in 2001. In 2004, she completed an advanced lawyer's course and began working in the secretariat department of international relations, the Lawyers' Association Office in Hanoi. In 2005, she resigned from the Lawyers' Association Office in Hanoi to work for Thien An law firm. She became a spokesperson for the Vietnam Progression Party, established on 8 September, 2006, with the aim of promoting democracy, diversity in politics and a pluralistic society in Vietnam.

She was arrested and detained in Hanoi on 6 March, 2007, apparently for "spreading propaganda against the Socialist Republic of Vietnam"; her name was permanently removed from the Lawyers' Association of Hanoi by the Communist State of Vietnam. On 11 May, 2007, after more than two months of detention, she was sentenced to four (later reduced to three) years imprisonment followed by three years of house arrest.

On 6 March 2010, after serving three full years, she was released from prison but remained under local house arrest. She has written speeches to denounce the Federal Trade Union of Vietnam for its inadequate protection of the rights of workers in present-day Vietnam, and she has appealed to the world to support the establishment of independent unions for workers in Vietnam.

She was invited to the Free Trade Union Conference in Warsaw in 2006 however, she was unable to attend because the Public Security Police detained her as she was about to leave the country.

Father Ly is gagged by a court official

From December 2006 to February 2007, Le Thi Cong Nhan worked with lawyer Nguyen Van Dai to hold classes on democracy and human rights.

Shortly after her arrest in 2007, a number of international organisations including the US Congress, European Union, Amnesty International, Human Rights Watch, Reporters Without Borders and PEN have voiced their opposition to her arrest and unjust trial.

Members of Vietnamese communities around the world have published poems and written in her honour, describing her as a "heroine of present-day Vietnam", and the well-known composer Truc Ho has written the song *Angels in the Dark* for her.

Le Thi Cong Nhan was one of eight Vietnamese recipients of the 2008 Hellman/Hammett Award presented by Human Rights Watch.

In February 2007, thanks to an internet network of overseas Vietnamese, she made a public plea: "I would like to affirm with all my conscience, responsibility and affection for the country and people of Vietnam, I will fight to the very end, even if I was the last one standing. First, in the struggle for human rights for myself; then campaign for human rights, democracy and freedom for all Vietnamese citizens. The Communist State of Vietnam (CSVN) should not expect anything, even a small compromise, let alone surrendering on my part."

On her release in March, she said: "I

Le Thi Cong Nhan in court (Lao Dong)

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Long struggle for the right to free speech in Vietnam

Le Thi Cong Nhan is hustled along by government officers

Le Thi Cong Nhan: bashed in prison

am able to recognise one fact, that is the knowledge I had which led to the intense feeling, prompting the need in me to strongly advocate for freedom, democracy and human rights was only a small fraction; the rest I learnt whilst in prison."

According to Le Thi Cong Nhan, her incarceration in the recent past has only helped her to "become more confident and have stronger faith" in the struggle. She also told the BBC of the "extremely poor and unbearable" living conditions in prisons throughout Vietnam as well as the common practice of torture and other routines which "lowered the dignity" of prisoners.

Tran Khai Thanh Thuy: a voice for victims of injustice

Tran Khai Thanh Thuy is a former school teacher, journalist, writer, member of the Hanoi Association of Letters and Arts, and honorary member of PEN UK 2007.

She was born on 26 November, 1960 in Hanoi. She graduated from the Teachers' College of Hanoi in 1982 and taught at a local school in Ha Tay province for the next 10 years. In 1993, she retired from teaching to embark upon a new career as a journalist however six years later, she was forced to abandon journalism because she refused to write in favour of the communist regime.

From then onwards, she began her journey as a freelance writer. From 2005, she used various pseudonyms including Thai Hoang, Vo Que Duong and Nguyen Nai Duong to write newspaper articles on politics, culture and society for the Vietnamese community overseas. In 2006, she was arrested while preparing documents to send overseas.

The following year, she received the Hellmann/Hammett Award from Human Rights Watch. "This is an especially important year to recognise dissident writers in Vietnam," said Sophie Richardson, deputy director of the Asia division at Human Rights Watch. "Vietnam's emerging democracy movement has become bolder, more outspoken and public, making activists more vulnerable to government reprisals. The Hellman/Hammett awards give these writers international attention and some protection."

Ms Richardson continued, describing the winners of this prestigious award: "These writers' works and lives embody the Vietnam that the government wants to hide, the one in which there is free speech, independent media, and open access to and use of the internet. Those who think that Vietnam's booming economy means it is loosening up politically should look below the surface, at the plight of writers such as these."

As a talented writer, Tran Khai Thanh Thuy has written numerous novels and political essays. She was one of the editors of the underground newspaper *To Quoc* (Fatherland), published clandestinely in Hanoi, Hue and Ho Chi Minh City as well as on the Internet. She has been repeatedly denounced by the Vietnamese authorities.

On 21 April, 2007, the Ministry of Public Security and Investigations in Hanoi abruptly arrested her for "spreading propaganda against the state of the Socialist Republic of Vietnam". In February this year, she was sentenced to three and a half years imprisonment. In a desperate cry for help, her husband Do Ba Tan asked Viet Tan to help publicise her situation:

"My wife was a member of the Hanoi Association of Letters and Arts. As a sensitive, subtle and straightforward writer, she defended victims of injustice in society. She wrote about cases in which government officials embezzled and abused power to steal land and houses from hundreds of farmers who do not have the ability to fend for themselves or protest. Therefore, she became the prime target of many violent extortions; she was arrested and interrogated by the public security police on numerous occasions.

"Presently, my wife is confused, worried and lives in great fear for her health and life. I, together with my wife, would like to plead with international organisations, associations, Members of Parliament, Congressmen and other representatives of the people to voice your concern by actively raising the issue of inhumane and brutal treatment of political prisoners and prisoners of conscience, condemning the current situation in communist Vietnam."

Pham Thanh Nghien: incarcerated for expressing patriotism

Democracy activist and the 2009 recipient of the Human Rights Watch Hellman/Hammett Award, Pham Thanh Nghien was born on 24 November, 1977.

In 2007, when the wool company where she worked went bankrupt, Nghien began advocating on behalf of landless farmers and writing articles calling for human rights and democracy. Vietnamese authorities banned her from attending the trial of her close friend, democracy campaigner and lawyer Le Thi Cong Nhan.

Nghien was repeatedly harassed by the Public Security Police who regularly summoned her for intensive interrogations.

In 2008, Nghien was arrested in Hanoi along with several other activists while peacefully protesting during the Beijing Olympic Torch Relay. She was detained for several days without charge. Later, she wrote an official request to organise a protest which was rejected by the Vietnamese government. She and her family were continuously harassed.

Disappointed by this action and indignant at the Public Security Police for arresting pro-democracy activists who publicly expressed their views that Vietnam holds sovereignty over the Paracel Islands and Spratly Islands, Nghien decided to hold a sit-in protest in front of her house in Hai Phong in September, 2008.

A day before the sit-in protest, Nghien wrote a letter, appealing to the people of Vietnam to express their patriotism:

"In the struggle for democracy, I have elected to campaign peacefully by holding a sit-in protest right in front of my house to affirm the right to freedom of expression, as specified by the state constitution under Clause 69. This time, if the government of Vietnam represses, harasses, incarcerates or uses violence against me, I am willing to risk my own safety and security to prove to the entire world the reality of this nation under communist rule – freedom of speech does not exist even within my own home."

Tran Khai Thanh Thuy

The letter and sit-in protest led to Nghien's arrest. In a closed trial in Hai Phong on 29 January, 2010, she was sentenced under Article 88 of the Penal Code of Vietnam for "conducting propaganda against the government" to four years imprisonment followed by three years house arrest. Nghien is currently serving her sentence at Prison Camp 5 in Thanh Hoa, Vietnam.

In a recent *Chan Troi Moi* (a subsidiary of Viet Tan) radio interview with Nghien's mother, Mrs Nguyen Thi Loi choked with emotion as she described her daughter's deteriorating physical health after almost two years of imprisonment.

"Nghien is not very well in physical terms. She suffers from kidney problems, chronic stomach pain and blurry vision. However, mentally she is managing. Her family is only allowed a short visit once a month. Nghien is not free to speak her mind during the visits as our conversations are constantly monitored by prison guards. A communist prison differs from those in a democratic country.

"As for Nghien expressing her patriotism regarding the sovereignty of the Paracel Islands and Spratly Islands, I still do not think there was any wrongdoing on her part. The Communist State of Vietnam has all the power to arrest and detain people, we as normal citizens have no other option but to accept our unfortunate fate. Nghien, myself and our whole family would like to make a plea to the world, especially to human rights organisations, to assist by pressuring the government of Vietnam to release all dissidents."

Tran Khai Thanh Thuy: bashed in prison

Pham Thanh Nghien

Raising youth awareness

In the first weekend of October, Sydney PEN established a Silenced Writers Exhibition at the National Young Writers' Festival to raise awareness of the role of PEN. The Festival was held throughout Newcastle as part of the umbrella 'This is Not Art' (TINA) independent arts festival.

With the help of TINA festival organisers, Sydney PEN set up a number of large posters showcasing different writers who were exiled or imprisoned. They were very visually effective and were placed at prominent festival locations.

Writers showcased included Chinese poet and journalist Shi Tao, Vietnamese priest Father Thaddeus Nguyen Van Ly, Chinese poet and human rights campaigner and Nobel Peace Prize winner Liu Xiaobo, Burmese political satirist Zargana, and Tibetan writer and university student, Tashi Rabten. PEN has been involved in advocating for the freedom of each of these courageous men who have suffered tremendously for choosing to exercise their freedom of speech.

Sydney PEN was also represented at the Festival by Debra Adelaide at 'No Man's Land', a festival event discussing the role of war correspondence and journalism in conflict. It was a popular event and a number of questions were raised concerning the legitimacy of the information that the outside world receives about conflicts via the press. The popular turnout suggests that many young artists and writers are interested in suffering that occurs beyond the borders of their own country.

Sydney PEN also set up a stall at the Festival's Zine Fair, to give people a chance to ask questions and discuss the role of PEN. Many we talked to were keenly interested in an organisation that facilitates their ability to freely read and write in Australia. They were generally concerned about human rights issues and compassionate towards those overseas who suffered for trying to exercise the same freedom.

The weekend highlighted the importance of promoting the values of Sydney PEN to a young audience. The Festival attendees were generally passionate about reading and writing and earned their livelihood from their ability to do so freely, and as such were interested to hear about an organisation that was directly involved with this cause. Hopefully as a result of the Festival an awareness of the important work of PEN will begin to reach a wider audience.

Rachel Arthurell

Rachel Arthurell represented Sydney PEN at the National Young Writers' Festival.

Rachel Arthurellt

Media muzzled in Fiji

Fatemeh Moosavi is an Iranian journalist who is currently completing postgraduate studies at the University of New South Wales. As part of her studies, she is participating in the Human Rights Internship Program offered by the UNSW Faculty of Law in co-operation with Sydney PEN. This article is based on a report examining freedom of expression and censorship in Fiji since 2006.

Fiji's private press, long known for its vigorous reporting, came under strict official censorship in April 2009 when the Government of Commodore Voreqe (Frank) Bainimarama adopted public emergency regulations giving unprecedented powers to the Permanent Secretary for Information, Lieutenant Colonel Neumi Leweni, to revoke the license of any media outlet that prints, publishes or broadcasts anything that portrays the government in a negative light. In addition, there have been numerous reports of intimidation of reporters, deportation of foreign-born newspaper executives and imposition of censors into newsrooms to ban "negative" stories.

The situation further deterioated in 2010. In June, the military government legally enshrined and tightened existing controls on local newspapers, radio, TV and internet outlets with the "Media Industry Development Decree 2010". The Decree imposes fines and prison terms of two years for journalists and editors and orders whose publications are deemed to disturb "public order". Moreover, it requires that all media outlets are 90 per cent locally owned. As well regulating media ownership, the Decree provides for the establishment of a Media Industry Development Authority (MIDA) to "encourage, promote and facilitate" news media organisations and services at a "high standard" and sets up a statutory Media Tribunal to deal with complaints against media.

There will be no recourse to the courts and conventional rules of evidence will not apply. Any broadcaster or publisher must submit to the media authority's minister in advance all material that may be deemed to "give rise to disorder" or undermine the government.

Prior to adopting the Decree, the Government carried out a brief consultation with media representatives on a draft media bill. However, stake-holders were given only two and a half hours to read the 50-page document before they were asked to make comments and submissions, and they were not permitted to take away copies for circulation. While the Fijian Government has considered the Decree as striking a "balance" between "the interests of the media industry" and "the public interest", other governments in the Asia-Pacific region have expressed concerns. The then Australian Foreign Minister, Stephen Smith, for instance, has stated that the adoption of the Decree was another example of the Fijian government impinging on the democratic rights of its people.

The reaction among civil society organisations has been equally critical. Sydney PEN issued a press release condemning the repeated attempts by the Bainimarama government to silence the voices of journalists and to intervene in the Fijian people's reception of news. Similarly, Reporters Without Borders said the ownership rules threatened the *Fiji Times*, "the only newspaper that has resisted government control". The *Fiji Times* – the oldest (founded in 1869), and largest of the country's newspapers and one of the oldest newspapers in the Asia-Pacific region – was wholly owned by Rupert Murdoch's News Limited, publisher of *The Australian*, and had been given three months to sell its shares or face being shut down. Eventually, the *Fiji Times* was recently sold by News Limited to the Motibhai group chaired by local businessman Mahendra "Mac" Patel.

The Media Decree is also incompatible with Fiji's Constitution of 1997, albeit the Constitution was abrogated in 2009 with all judges dismissed after the Court of Appeal had ruled the military coup from 2006 illegal. Article 30 of the Constitution provides for freedom of speech and of the press and states that "every person has the right to freedom of speech and expression, including: (a) freedom to seek, receive and impart information and ideas; and (b) freedom of the press and other media." Yet, even before the 2009 abrogation of the Constitution in 2009, this constitutional guarantee had rather limited application in practice.

As Fijian writer Rahul Raju put it in his book *The Death of Democracy in Fiji*, "in Fiji, media freedom is only documented in the Constitution, but in actual practice, it is the media that is often subjected to abuse, threat and at times violation of the fundamental human rights of freedom of expression."

Issues of media freedom were also not taken up by the Fiji Human Rights Commission, a body established under section 42 of the 1997 Constitution. This is somewhat unsurprising as the lack of independence of the Commission has repeatedly been reported since 2006. For instance, the Commission was supportive of the military coup in December 2006 and published a report in January 2007 defending take-over and accusing the deposed government of crimes that were tantamount to "crimes against humanity". The report was criticised by human rights defenders in Fiji and the Commission has subsequently been suspended from both the International Coordinating Committee for National Human Rights Institutions and the Asia Pacific Forum. Furthermore, on 20 May 2009, the Fijian President promulgated a decree which limited ability of the Commission to receive and investigate complaints and to challenge the legality or validity of decrees made by the President.

In 2009, Banimarama announced his government's roadmap for democracy and social and economic development. According to that roadmap, Fiji's new constitution will be in place by September 2013. The roadmap also envisages that political rather than military leaders will form the government by 2014. At this stage it is unclear whether, and to what extent the new constitution will guarantee freedom of expression including freedom of the press. The recent crack-down and the adoption of the Media Decree do not suggest that one can be optimistic in this regard.

It is thus doubly important that the Australian government as well as other governments and international organisations encourage the Fijian government more effectively to achieve practical reforms in national legislation to ensure that media freedom is protected by domestic law effectively and that the Fiji Human Rights Commission can operate in full independence.

Fatemeh Moosavi

Grappling with history of denial, nationalism and fears of political consequences

Turkish lawyer Fethiye Çetin's book about the experiences of her grandmother, who witnessed the mass killings of Armenians during a death march of women and children in 1915 as a little girl, is part of a genre in modern Turkish literature that tries to make amends for the gaping hole left by the Armenians in the country's public history. The theme is dominant in both Orhan Pamuk's recent *Snow* and Elif Şafak *The Bastard of Istanbul*. The pain of the Turkish Armenians is not yet over. As a lawyer, Fethiye Çetin represents the family of Turkish-Armenian newspaper editor Hrant Dink who was murdered in January 2007. Hrant Dink was supported by PEN centres globally in his quest for the right to freedom of expression and association in the face of virulent official opposition.

Turkish lawyer, human rights advocate and writer Fethiye Cetin.

One day in 1975, when she was staying with us in Ankara, she said, `If you're not busy, come sit with me, why don't you, I have something to tell you.' I went to sit with her and she took my hands between hers and said, `Did you know? My mother, father and brother are all in America, and your uncle lost their address. If anyone can find them, you can. Find them for me, will you?' I could tell from her monotone and her choice of words that it been a very difficult decision to speak to me. First I couldn't quite understand what she was saying.

`What are you saying, Grandmother? Do we now have relatives living in America?' I asked, mistakenly assuming she was joking. But my grandmother was very serious. `I don't know their address, but I do know that they live in America, in New York,' she said.

`So why did they go to America, Grandmother?'

`They just went, that's all.'

`When did they go there?'

`When I was a child.'

`Okay, then, why didn't they take you with them?'

`I was going to go later, but your Uncle Mahmut broke off relations. He lost their address.'

I was utterly bewildered. My head was full of questions but her answers made no sense to me. For days I tried to get her to tell me more, but I was not able to find out much beyond the fact that her real parents lived in America. We had always been told that my grand- mother and grandfather were cousins. This wasn't true. We'd always been told that my grandmother was from Cermik. This wasn't true either. Much of what we had thought to be true turned out to be false.

But as I went in search of my grandmother's family, I was to learn many facts. I kept pressing my grandmother for more information, always making sure that I only did so when we were alone. At the time, I didn't discuss what she told me with anyone else, and neither did I discuss the shock waves it sent through my own life. I cannot say if this was because my grandmother wanted it this way, or if it came from my own shame, but I, too, hid what I was hearing from all others: my world had been turned upside down, my distress ran very deep, and I was trying to pull through it alone.

We formed a special and very secret alliance. I sensed her longing to rid herself of the burden she had been carrying all these years ± to open the curtains that hid her secret, to tell this story she had never shared with a soul ± but I think she also knew that, having gone through life knowing none of it, I would find it deeply upsetting. She was protecting me.

I did everything I could to encourage her. At last she began to speak. As she told her story, her voice would tail off, and it was only after my insistent questions that she would take her story up again. Though she related the events, she made no attempt to explain them, and she was especially reluctant to describe her thoughts or feelings.

`My name was Heranus. My mother's name was Isguhõ, and my father's name was Hovannes; he was living in America with my two uncles at the time. I had two brothers. They called my grandfather Hayrabed Efendi. His word was valued not just in our own village but throughout the area; everyone sought out his advice, that's the kind of man he was. Our village was a good size; it had three muhtars. This was how she began.

She went on to tell me how the gendarmes had come to the village one day and taken away all the men, including her grandfather and her uncles; how her mother had taken refuge with her children in her sister-in-law's village; how the gendarmes had then come to that village, rounded up everyone, the women as well as the men, and taking them to Palu; how they'd cut the men's throats and thrown them into the river; how the river had run with ❯

❯ *Continued from page 17*

Grappling with history of denial, nationalism and fears of political consequences

blood for days on end; and how the women and children had been marched away from their homes and into exile.

`During the march, my mother was so anxious to avoid the back of the line that she walked very fast, and because we couldn't keep up with her, she pulled us with her hands. At the back of the line we could hear people crying, screaming, pleading. Every time this happened, my mother would walk a little faster, to keep us from looking over our shoulders. On the evening of the first day of the march, two of my aunts came running from the back to catch up with us, and they were crying hysterically.'

My grandmother stopped here. She took a deep breath. I kissed her hand. She continued.

`My aunt – my uncle's wife – was ill, and she couldn't walk, so the gendarmes killed her with a bayonet. They threw her body to the side of the road.'

`Grandmother, was she the wife of your father's brother?'

`No. She was the wife of my mother's brother, and she was pregnant.'

`The elderly, the infirm, the ones who couldn't walk – throughout the march they'd kill them with their bayonets and leave them lying there, just where they fell. They left them lying there, unprotected, on the mountaintops.'

As she told me this agonising, barely believable story, I noticed that my grandmother would not look me in the eye, that instead she fixed her eyes on a point on the carpet; that while she held my left hand tight she kept making the same movement with her right hand, passing over her thigh, as if she were ironing her dress, smoothing out the wrinkles, over and over, without realising she was doing so.

Realising that it must be very tiring for her to tell this story, I tried to think how I might give her a break. She was very fond of frothy coffee. So I asked, `Grandmother, would you like me to make you a coffee?' She didn't hear me. She kept doing this thing with her hand, as she rocked very gently back and forth. I took her right hand in mine and kissed it. I asked again. This time she heard me. `Your coffee is good and frothy, so yes, why don't you make me some.'

When I brought back her coffee, I saw that she had raised her head, looking up at the ceiling in the way people do when they are trying to remember something. When she saw me, she at once beckoned to me to sit down next to her. What this woman had lived through defied belief and after burying these memories for so many years, it taxed her brain to put them into words, to tell the story. I put the coffee cup into her hands and she continued:

`After crossing the bridge at Maden – at Havler – my grand- mother threw two of her grandchildren into the water. These were my uncle's daughters. They'd lost both their mother and their father, and they couldn't walk. One of the children sank right away but the other child's head bobbed up in the water. My grandmother – my father's mother – pushed her head back underwater. The child's head popped out of the water again, and this was the last he saw of the world, for my grandmother pushed him back under again. . . Then she threw herself into the madly rushing water and disappeared from sight.'

Here my grandmother stopped. That this part of the story had affected her deeply was clear from the way she kept returning to it to tell it again. In the coming years, she would refer to this incident many times, and each time the story would end with a deep silence.

Reproduced from Fethiye Çetin's My Grandmother: A Memoir. Out now from Spinifex Press, www.spinifexpress.com.au.

An inspired fundraising model

Journalist and former Sydney PEN Management Committee member, Susan Wyndham could only have dreamed that her concept for The Painted Chairs would come to life in such a way: traversing three continents, three writers' festivals and two fundraisers – so far.

Sydney PEN's public auction of the original 15 Painted Chairs took place in June this year, following their exhibition at the Sydney Writers' Festival and the Ken Done Gallery. We raised over $23,000 from many generous individual buyers, and we thank the artists' for their spirited donation of the proceeds to our work.

Inspired by this model of awareness raising and fundraising, Scottish PEN worked with school students in July to create a chair for International PEN's festival, 'Because Writers Speak Their Minds', which celebrates the 50th anniversary of the Writers in Prison Program.

Back at home, the Byron Bay Writers' Festival, long-time supporters of our Empty Chair campaign, decided to emulate the auction model and commissioned four Painted Chairs by local artists. These were displayed in the four marquees of the Festival in August, and sold by silent auction to audience members, raising over $2,000 as a donation to Sydney PEN.

Former Festival director Jeni Caffin remarked on the impact of these unique empty chairs. "Many people said the reading of biographies at each session and presence of the chair gathered poignancy across the three days of the event." These included secondary school students attending workshops, who told Ms Caffin "how shocked and moved they were by the hardships suffered by so many writers and thinkers".

The northward trend has continued, with The Painted Chairs concept taken up by the National Young Writers' Festival, held annually in Newcastle in concert with This Is Not Art (TINA). Finally, once again crossing the seas, the project was workshopped by Gail Jones and me at the recent International PEN Congress held in Tokyo. Representing Sydney PEN among over 40 centres from around the globe, our delegation presented The Painted Chairs as a template for promotion of PEN's mission. We argued that the project was not only a way of raising funds, but first and foremost an engaging, interactive approach to the Writers in Prison program that speaks beyond literary communities – to arts and student communities, and to the broader public on both aesthetic and political levels.

At this rate, we don't expect that the popularity and versatility of The Painted Chairs (or its puns) are going to take a back seat yet.

Bonny Cassidy

Artist Garry Shead with his Painted Chair.

The Painted Chairs: artworks still for sale

At the time of going to press, we still have three fabulous Painted Chairs for sale, open to all offers from the public. To find out more, see an image or arrange a viewing of a Chair, contact Natasha Ferguson on 1300 364 997. Please note that buyers will need to arrange collection of their Chair from our Chippendale office. Own a part of this legendary project!

Bonny Cassidy

The trials of digitising the world's books

The past several months have proved hectic for Google. Its widely publicised settlement known as the 'Google Book Settlement' has been the subject of much debate, in particular among worldwide copyright researchers and analysts.

In 2004, Google announced that it would attempt to digitise the entire world's books, which is estimated to be around 65 million titles. Google began by obtaining the permission and cooperation from various public libraries, in conjunction with Columbia University, and by January 2009, it was estimated it had digitised 10 million books. While undertaking this process, Google made 'snippets' of the books available online when users would conduct searches through Google Book Search.

In 2005, various authors and publishers, namely, the US Author's Guild (AG) and the Association of American Publishers (AAP) filed independent class-action lawsuits against Google. While they alleged that Google was guilty of "massive copyright infringement", Google maintained this was lawful under the "fair use" provisions in United States legislation. After several years of negotiations, Google signed a $125 million settlement with the AG and AAP in October 2008.

The settlement has two key features, primarily affecting out-of-print rights-holders.

First it is an "opt-out" type settlement. Consequently, every work that was digitised since 2005 is automatically included by default, and unless the author specifically opts-out of the settlement, he or she will be bound by it. If left untouched, the settlement pays out fixed amounts of money depending on the number of works digitised – $60 per work.

On the other hand, if the rights-holder decides to opt-out of the settlement, he or she retains all rights to bring an action against either Google or any collaborating library or other institution. In addition, it neither authorises nor prohibits Google from making use of the books.

The settlement dictates that rights-holders had until January 2010 to claim a cash payment for their book, or until April 2011 to have the book removed from the Google Book Search database.

Second, it provides for the creation of the Book Rights Registry (BRR) which is modelled after the Reproduction of Rights Organisations (RROs). In lay terms, RROs are not-for-profit organisations governed by authors and publishers to administer collectively their rights in their works. Essentially, the BRR will serve to pay copyright owners dividends of what Google will make from the future use of their works with Google Books (or in any other way Google derives profits from the works).

One of the most contentious parts of the settlement is the use of 'orphan' works. Simply put, orphan works are copyright works where the rights-holder cannot be found. As every single rights-holder is by definition included in the settlement (and has a finite amount of time to opt-out), most – if not all – orphan works will undoubtedly remain part of the settlement. As such, Google will retain certain rights to any future use of their work. Ultimately, when the rights-holders of these orphan works become Settlement Class members, they will have waived their right to file an independent lawsuit against either Google or any participating library.

Despite this outcome, the settlement does allow for subsequent compensation of such rights-holders. Specifically, Article 6.3 states that any "revenues paid to the Registry and due to Rights-holders of Books...that are unclaimed by such Rights-holders within five years of the last date of the reporting period...will be distributed by the Registry in accordance with the Plan of Allocation".

Two consequences flow from this proposition: first, if a rights-holder comes forward in the future, he or she will only get indemnified starting from five years earlier. As a result, profits made from the orphan work prior to the five year period will no longer be recoverable and will be deemed to have been forfeited by the rights-holder; second, the forfeited profits derived from the orphan work will be dispensed according with Google's Plan of Allocation. The plan dictates that the unclaimed revenues will primarily go back into the BRR. This poses yet another problem as the parties who sued Google in the first place will end up benefiting from unknown rights-holders through the BRR.

There are even more problems that arise out of the settlement. By granting itself certain rights over digitised orphan works, Google circumvents specific measures implemented in several countries around the world that require a reasonable or diligent search to be conducted before utilising such works. Although the settlement states that the BRR will make an effort to locate orphan works holders, one can only guess as to whether or not this effort will amount to the standards of a reasonable search.

In September 2009, the United States Department of Justice (DOJ) released a Statement of Interest1 asking the court to overrule the settlement. The DOJ raised the issue of orphan works, and suggested that the settlement pits the interests of known rights-holders against the interests of orphan works rights-holders. It pointed out that "the [BRR] and its registered rights-holders will benefit at the expense of every rights-holder who fails to come forward to claim profits from Google's commercial use of his or her work".

Apart from orphan works, the DOJ also alleged that it believes the settlement could be illegal as it may violate current American antitrust laws.

In November 2009, Google filed its new book settlement proposal. This new settlement dealt with several major issues. First, it now excludes foreign-language works (with the exception of English-speaking Canada, Australia and Britain). Second, in relation to orphan works, the BRR will now make a proactive attempt to track down rights-holders to compensate them. Third, they will hold funds in escrow for 10 years as opposed to the originally proposed five for such rights-holders. After this period has elapsed, funds will no longer revert back to the BRR but will be distributed to charities across the US, Canada, Australia and the UK.

Shortly after Google released the revised settlement, the court issued its own preliminary approval and set February 2010 in order to conduct a fairness hearing.

At Google's fairness hearing, the court received over 500 amicus curiae (filed with the court by someone who is not a party to the case) briefs and statements filed by interested parties. Among those present approximately 26 spoke in front of the judge, 21 of them being against the settlement and the remaining 5 for it.

What happens next? The future remains unclear. As of October 2010 – eight months after the fairness hearing – the court has still not issued a ruling. In fact, there appears to be very little information available as to the current progress of Settlement 2.0. With such heavy criticisms of both the old and the revised settlements, one can only wonder whether or not the court will issue its ruling before the end of the year. Authors and publishers of these digitised works can only hope.

Alessandro Colonnier

Finding words to turn a soul-destroying experience into something positive

Australian author and poet Maree Giles was a Royal Literary Fund Fellow at Kingston University, London, in 2009 and 2010, and is currently a dissertation supervisor on its Creative Writing MFA. Injustice, family relationships and parenting, friendship, politics, the arts, people and places, all motivate her to write. Here she recalls her struggle to tell her stories.

I first learned about censorship of the written word while confined at Australia's most notorious juvenile detention centre for girls under 18, Parramatta Girls' Home.

The year was 1970. For most, that summer lingered sweetly and remains a happy memory. For me it ended abruptly and the memory was irretrievably tainted. Three months after defying my mother and stepfather and hitch-hiking north from Sydney to the Ourimbah pop festival, I was arrested. The police found me at the room I shared with a young man I met at the music festival. I was taken to Manly Police Station and charged with being 'exposed to moral danger'.

At 16, I had been over the age of consent when arrested. Nearly 30 years later, during the writing of my first novel *Invisible Thread* (Virago, 2001), which describes the impact of that fateful day, I discovered the motive behind the charge. 'Exposed to moral danger' implied 'risk of rape'. It did not consider choice of lifestyle nor mutual consent. I chose to leave home and live with my boyfriend. The decision was reciprocal.

At the Albion Street Children's Court in Sydney the magistrate sentenced me to Parramatta Girls' Home for a period of six to nine months. The shock of that moment changed me forever. Parramatta, as it is now universally known, was a brutal institution where humiliation, degradation and harsh punishment for small transgressions were customary.

While at Parramatta, I began to write poetry, encouraged by my teacher, who recognised my talent with words.

Everything we did was closely monitored. There was no privacy, no doors on the toilets or showers, and every small task was performed as a drill. Silence was strictly enforced. In an attempt to pacify a girl whose attentions frightened and created problems for me, I smuggled a few of my poems out of the classroom and gave them to her as a gift. An officer confiscated them. Until then I had been overlooked. I realised from the beginning the only way to survive and get out within the court's six to nine month time-frame, was to conform and become invisible.

I always knew I would write about my experience at Parramatta again, but I had no idea it would be an entire book. The experience shaped, haunted, and shamed me. It was buried deep inside and had to be freed.

In 1997, I won the SHE/Arvon Little, Brown annual short story competition in London. Here was my chance to expose what had gone at the institution; it was a story had not yet been told. But fear overwhelmed me. I struggled to believe anyone would be interested in reading my story. Because of my fear, I self-censored my own writing, changing the name of the home to 'Gunyah', Aboriginal for 'shelter'. A deliberately cynical choice, for in hindsight I realised that while wars were being fought in other countries, Australia was waging its own war against its own people, an enormous human machine powered by the state that had its roots in our convict past, which in fact 'sheltered' the perpetrators of a brutal state-sanctioned 'care' system. We were meant to be 'protected', but in truth were the innocent targets of institutional bullying.

After my release from Parramatta I felt so persecuted by the policewoman who had originally arrested me that I was compelled to leave the country to make a new life in New Zealand. I was only 17. Eight years later I moved to the UK and have lived there ever since.

In 1998, I began to write the book but felt it would never be published. A few months into it, I stumbled on a small news item in *The Guardian* newspaper, about the Stolen White Baby Adoption scandal in Australia. One of the founding members of Origins, a support group for women affected by forced adoption, was in the UK attending a seminar for local birth mothers. I knew immediately that I could weave their story with the Parramatta story. I had known pregnant girls in Parramatta who disappeared towards the end of their pregnancy, and when I began my research it did not take long to unearth the evidence.

Thousands of these forced adoptions involving young, vulnerable, unmarried mothers took place at the Crown Street Women's Hospital in Paddington. Many had been arrested and sent to Parramatta. The babies were taken by force immediately after the birth and removed to another location. The mothers did not have a chance, let alone a choice.

Invisible Thread is written as a work of fiction but is based on true events. I was afraid of possible legal ramifications, and chose the fiction form as a safeguard.

Last year the former Prime Minister Kevin Rudd made a national apology to victims of the Australian care system, now known as the Forgotten Australians. Girls from Parramatta Girls' Home and the Hay Institution, its sister home, were among those in Canberra for the apology. Children directly affected by the Australian care system up until the 1970s, when many of these homes, including Parramatta and Hay, were closed, number more than 500,000. In contrast, the Stolen Generation numbered approximately 100,000. Statistics are hard, cold facts. What interests me is the human story behind these statistics and the life-long mental and emotional scars that reverberate in thousands of families across the country. At last the truth is out.

under a lucky sky

Maree Giles

you'd never believe under this blue sky
this cloudless sky with its cheerful eye
that girls and boys like you and me
could be locked up in a place
Like Parramatta, Reiby or Mt Penang

where normal things like posters of Elvis
The Beatles
Mick Jagger
were strictly banned by tight-fisted
thin-lipped shrews

Needless to say our favourite dolls
never set foot in the place
and photographs of family were
banished from sight
anything personal stripped away
including our name and underwear

We were known simply by our number
and silence was the golden rule
unless given permission to speak -
even then you could easily say the wrong thing
and be thrown into a cell
the smell of your own skin
anonymous

bread and water chucked in with
a scrubbing brush
tin potty
and no light
to scratch your name in the bricks
with a white stone

The officers in charge of our welfare
had problems themselves
it was obvious to a girl
with an eye for such things
those big women with keys on their hip
and toxic tongues
venting their anger and frustration
on innocent children
it was simply a joke but
with a very sad and very dark punchline.
To survive being bashed by the girls you had to
tattoo yourself
with ink from a smuggled biro
or pencil
or scour your flesh
with a stolen needle
or sharp stick picked up at muster
under the midday sun
where Percy stood on a platform
shouting our numbers.

Years later when the tattoos are removed
by some hapless nurse
the scars remain
shabby craters impossible to hide
creating gossip and frowns.

The men and women in charge set the tone
their goal: total disposition of inmates
they held the power to make our lives bearable
or not.
No one believed the stories then
of beatings and rapes
nights on bare knees
scrubbing concrete till it shone
and you could see your own face.

The 'really bad girls'
the ones with the guts to
speak up
lash out
and object
were locked in dungeons
in the dark
and a voice through the door
told them they were worthless
and would remain there until
a lesson was learned.

The deaths in custody were hushed up too
of children in orphanages
too young to run
a boy seeking fun pushed down the stairs by a Brother
who never came back from the infirmary
a three year old girl hit over the head by a nun
bad enough that someone – the head matron usually –
cut away your hair privately with black shears
then told you to shut up, you dirty slut
and slapped you across the face
before making you undress and step into a cold shower
in front of the other officers and girls

all this
and then, years later
when it comes back unexpectedly
and you try to share it
share the reasons why you were sent there
in the first place
the reasons why you are sometimes anxious
people try to stifle or re-shape you
and expect you to have moved on
they object when you speak the truth
and can't understand
why you would even want to discuss it now
as though you have no right to be affected in any way.

Don't, whatever you do,
tell them you are insecure or paranoid
they love to hear that
they latch on to those words
with tiger's claws
and watch you lick your wounds
they don't like to hear of your pain
it disgusts them
they think you are maladjusted, obsessed or insane
and tell their friends you are nuts.

It has been proven now
the evidence is in
the Senate made their Inquiry and
discovered the people who worked in those places
were
unfit, anti-social, deviant
people like that told innocent children they were 'bad'
and got away with it because we were children
no one else would tolerate them
so they applied for positions of authority
in these Homes
that were not homes at all but gaols for kids
who were simply lost -

Oh it was all bullshit
and you couldn't say Boo
or you'd be shut up, locked up or beaten
depersonalisation was the aim
no consideration given to the child's dysfunctional family
the absent fathers who turned their backs
the fathers who raped, beat or tortured their own
mothers who couldn't cope
and were given no help
it was all a slippery slope to nowhere.

Sweet-smelling frangipanis
driven into a silence of their own
bouncing about in the back of a van
all the way from the train station at Narrandera to Hay
in the dead of night
then, 'settled' at Hay
Mr Green shoved girls into the garden shed
and silently raped them
the breaking up of paths with a pick-axe
and removal of paint with a brick
reinforced his power

he lorded it over
those sweet sweet girls
and after it was over
they stared at the walls in salty silence
unable to turn over or move
because they could be punished for that.

At night the townsfolk heard screaming
and howling
from the gaol for children
illuminated by a full outback moon
where a host of nameless stars
sparked in the sky.

Status offenders 'exposed to moral danger'
above all else -
we had to be shown.

Maree Giles September, 2010

Liu Xiaobo: no force can block the human desire for freedom

PEN centres around the Asia Pacific region call on the People's Republic of China to release the writer and academic Liu Xiaobo, winner of the 2010 Nobel Peace Prize.

Liu, currently serving an 11-year sentence in China, is a former president of the Independent Chinese PEN Centre and is an Honorary Member of Sydney PEN Centre. Over the past year, many PEN centres in the region have campaigned for public awareness of his case, and for diplomatic action on his sentence. He is one of more than 40 writers, journalists and intellectuals detained in Chinese prisons at present.

In December 2008, Liu was a signatory to an open letter to the Chinese authorities calling on the National People's Congress to ratify the International Covenant on Civil and Political Rights. Liu was also instrumental in launching Charter 08 on 9 December, 2008, a declaration calling for political reforms and human rights, which was initially signed by over 300 scholars, journalists, writers and activists.

Liu was arrested in December 2008 and detained until he was formally charged in June 2009 with "spreading rumours and defaming the government, aimed at subversion of the state and overthrowing the socialism system in recent years". He was convicted and imprisoned for 11 years on 25 December, 2009.

PEN centres including those in Sydney, Melbourne, the Philippines, Korea, Hong Kong and New Zealand have supported the recognition of the work and profile of this brave writer and academic at the highest international level, the Nobel Peace Prize. Melbourne PEN president Arnold Zable recently commented that, "Liu Xiaobo is a man of extraordinary courage, who continues to pay a high price for his enduring commitment to freedom of expression and the written word."

Liu's case is one of the better known of hundreds of such cases compiled to date by PEN. The Nobel Committee's awarding of this Prize to him is a blaze of hope for Liu Xiaobo, his peers, and all of us working for freedom of expression.

Liu Xiaobo is worthy of this Prize not only for his work on Charter 08, but also for his long history as a peaceful dissident, for his ongoing strength as a poet within prison, and for his role as a philosophical and moral compass for those who continue to encourage awareness of oppressed writers, editors and publishers - and of human rights more generally. PEN will continue to campaign for his release, and for the release of those gaoled in China for the simple act of freely writing and reading.

The following is an abridged statement by Liu Xiaobo, co-author of the Charter 08 campaign for constitutional reform, given in his trial on December 23, 2009.

Bonny Cassidy

June 1989 was the major turning point in my 50 years on life's road. Before that, I was a member of the first group of students to take the newly restored college entrance examinations following the Cultural Revolution; my career was a smooth ride, from undergraduate to grad student and through to PhD. After graduation I stayed on as a lecturer at Beijing Normal University.

I was a popular teacher, well received by students. I was also a public intellectual: in the 1980s I published articles and books that created an impact. I was frequently invited to speak in different places, and invited to go abroad to Europe and the US as a visiting scholar. What I required of myself was to live with honesty, responsibility and dignity both as a person and in my writing.

Subsequently, because I had returned from the US to take part in the 1989 movement, I was imprisoned for "counter-revolutionary propaganda and incitement to crime", losing the platform I loved; I was never again allowed to publish or speak in public in China. Simply for expressing divergent political views and taking part in a peaceful and democratic movement, a teacher lost his podium, a writer lost the right to publish, and a public intellectual lost the chance to speak publicly. This was a sad thing, both for myself, and, after three decades of reform and opening, for China.

Thinking about it, my most dramatic experiences after June 4, 1989, have all been linked with the courts: the two opportunities I had to speak in public have been provided by trials held in the People's Intermediate Court in Beijing, one in January 1991 and one now. Although the charges on each occasion were different, they were in essence the same, both crimes of expression.

Twenty years on, the innocent souls of June 4 are yet to rest in peace, and I, who had been drawn into the path of dissidence by the passions of June 4, after leaving the Qincheng prison in 1991, lost the right to speak openly in my own country and could only do so through overseas media, and hence was monitored for many years; placed under surveillance (May 1995 – January 1996); educated through labour (October 1996 – October 1999), and now once again am thrust into the dock by enemies in the regime.

But I still want to tell the regime that deprives me of my freedom, I stand by the belief I expressed 20 years ago in my hunger strike declaration – I have no enemies and no hatred. None of the police who monitored, arrested and interrogated me, the prosecutors who prosecuted me, or the judges who sentence me, are my enemies. While I'm unable to accept your surveillance, arrest, prosecution or sentencing, I respect your professions and personalities. This includes the prosecution at present: I was aware of your respect and sincerity in your interrogation of me on December 3.

For hatred is corrosive of a person's wisdom and conscience; the mentality of enmity can poison a nation's spirit, instigate brutal life-and-death struggles, destroy a society's tolerance and humanity, and block a nation's progress to freedom and democracy. I hope therefore to be able to transcend my personal vicissitudes in understanding the development of the state and changes in society, to counter the hostility of the regime with the best of intentions, and defuse hate with love.

I firmly believe that China's political progress will never stop, and I'm full of optimistic expectations of freedom coming to China in the future, because no force can block the human desire for freedom. China will eventually become a country of the rule of law in which human rights are supreme. I'm also looking forward to such progress being reflected in the trial of this case, and look forward to the full court's just verdict – one that can stand the test of history.

Ask me what has been my most fortunate experience of the past two decades, and I'd say it was gaining the selfless love of my wife, Liu Xia. She cannot be present in the courtroom today, but I still want to tell you, my sweetheart, that I'm confident that your love for me will be as always. Over the years, in my non-free life, our love has contained bitterness imposed by the external environment, but is boundless in afterthought. I am sentenced to a visible prison; you are waiting in an invisible one.

Nobel Peace Prize winner, Liu Xiaobo

Your love is sunlight that transcends prison walls and bars, stroking every inch of my skin, warming my every cell, letting me maintain my inner calm, magnanimous and bright, so that every minute in prison is full of meaning. But my love for you is full of guilt and regret, sometimes heavy enough to hobble my steps. I am a hard stone in the wilderness, putting up with the pummelling of raging storms, and too cold for anyone to dare touch. But my love is hard, sharp, and can penetrate any obstacles. Even if I am crushed into powder, I will embrace you with the ashes.

Given your love, my sweetheart, I would face my forthcoming trial calmly, with no regrets about my choice and looking forward to tomorrow. I look forward to my country being a land of free expression, where all citizens' speeches are treated the same; where different values, ideas, beliefs, political views . . . both compete with each other and coexist peacefully; where, majority and minority opinions will be given equal guarantees, in particular, political views different from those in power will be fully respected and protected; where all political views will be spread in the sunlight for the people to choose; [where] all citizens will be able to express their political views without fear, and will never be politically persecuted for voicing dissent.

I hope to be the last victim of China's endless literary inquisition, and that after this no one else will be jailed for their speech.

Freedom of expression is the basis of human rights, the source of humanity and the mother of truth. To block freedom of speech is to trample on human rights, to strangle humanity and to suppress the truth.

I do not feel guilty for following my constitutional right to freedom of expression, for fulfilling my social responsibility as a Chinese citizen. Even if accused of it, I would have no complaints.

Upholding right to freedom of expression

This year marks the 50th anniversary of the International PEN Writers in Prison Committee as well as the 30th anniversary of the PEN's International Day of the Imprisoned Writer which is celebrated on November 15 each year. It has also been a very active year for Sydney PEN's Writers on Prison program; we have made representations to the Australian Government as well as diplomats in Australia of countries in which writers and journalists have been killed, imprisoned or persecuted for exercising their right to freedom of expression as enshrined in the Universal Declaration of Human Rights and key international treaties such as the International Covenant on Civil and Political Rights.

Some key intervention efforts by the Writers in Prison program have focused on cases in Vietnam and China. In Vietnam, we have been particularly concerned about the cases of Le Thi Cong Nhan, Tran Khai Thanh Thuy and Pham Thanh Nghien. All three women have been persecuted for expressing support for dissidents and/or publicly criticising the Vietnamese authorities. Another case which has captured our continuing attention is the case of Father Ly. Although temporarily released from detention for one year for medical treatment after suffering from three strokes, Ly is still under house arrest and due to return to prison in March 2011.

In the case of China, we have made interventions in support of Nobel Peace Prize Winner Liu Xiaobo throughout the year. We also took up the cases of several Uyghur journalists and webmasters. In particular, we communicated our serious concerns about the 15-year prison sentence handed down to journalist and editor Hailaite Niyazi (aka Hairat or Gheyret Niyaz) on 23 July, 2010. Niyazi, who was arrested in October 2009, was convicted on state security charges for his reporting on the July 2009 riots in Urumqi. He was taken from his home in Tianshan District, Tacheng Prefecture, Xinjiang Uyghur Autonomous Region (XUAR), on 1 October 2009.

It is believed his arrest stems from critical interviews given to foreign media following the unrest which broke out in Urumqi. The prosecution reportedly used as evidence essays written by Niyazi highlighting mounting ethnic tension in the region prior to the riots, and interviews he gave to Hong Kong media after the violence. Niyazi was convicted by the Urumqi Intermediate People's Court on charges of "endangering national security" on 23 July 2010 and is currently detained in Tianshan Detention Centre, Urumqi, XUAR.

Three other Uyghur webmasters arrested in August 2009 were also reportedly given lengthy sentences in late July 2010 for material published on their Uyghur-language websites following the July 2009 unrest. They are Dilsha Perhat, webmaster and owner of Diyarim, Nureli, webmaster of Salkin, and Nijat Azat, webmaster of Shabnam. The men were sentenced to five, three and ten years respectively for "endangering national security" in closed trials at the Urumqi Intermediate People's Court. All three websites have been blocked.

Other cases that have led to an intervention with the Chinese Ambassador to Australia include the detention of Zuo Xiaohuang, Liu Xianbin and Fan Yanqiong. Zuo Xiaohuang has already spent two years (2006-08) in a detention centre ("re-education through labor") on charges of "inciting subversion of the state power" for his online writings and reports on local rights defenders. He was formally arrested again on 28 May 2010 on suspicion of "inciting subversion of the state power" and has since been held in the Detention Center of Santai County, Mianyang City, Sichuan Province.

Liu Xianbin, a freelance writer and honorary member of the Independent Chinese PEN Centre, was detained in late June 2010 on suspicion of "inciting subversion of the state power". A week later, he was formally arrested, and on 21 July 2010, his case was handed over to the Procuratorate with a police recommendation for prosecution on inciting subversion of the State power. The accusation was based only on his alleged publication of eight articles on several overseas e-journals.

Fan Yanqiong has been detained since 26 June 2009. She was recently sentenced to two years imprisonment for writing and posting online an article based on a testimony of a petitioner Lin Xiuying that highlighted the efforts of local police officers and prosecutors to cover up the criminal acts related to the death of her daughter, Yan Xiaoling, in Mingqing County, Fujian Province. Yan Xiaoling had allegedly been gang-raped before her death.

Among eight suspects detained for defamation, Fan and two activists were prosecuted for the same charge of false accusations, but convicted on defamation. Fan has been held at No. 2 Detention Centre of Fuzhou City, Fujian Province. It has been reported that she was tortured while in detention. Fan also suffers from kidney, high blood pressure and heart diseases but has been denied medical parole and forced to appear in court in a wheelchair and with oxygen supply.

Other campaign efforts have focused on cases in Mexico, Nepal, Syria and Kyrgyzstan. We have made representations to the Mexican Ambassador to Australia in relation to the killing and disappearance of several Mexican journalists. Similarly, we have contacted the Nepalese Ambassador regarding the death of publisher and media entrepreneur Arun Singhaniya who was shot dead on 1 March 2010. Singhaniya was one of several journalist to be killed in Nepal this year, and many others have reportedly received death threats.

We have also expressed our concern about the detention in Syria of writer Raghdah Sa'id Hassan, on 10 February 2010, after writing her critical first novel entitled *The New Prophets*. Finally, we sent interventions to the Kyrgyz authorities in relation to the prisoner of conscience Ulugbek Abdusalamov. In his case we were particularly alarmed that the authorities were not providing Abdusalamov with adequate medical assistance.

Dr Chris Michaelsen

We are grateful for the ongoing and very generous support of Dr Gene Sherman and Brian Sherman AM.

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Buy a Sydney PEN annual or multi-year membership for someone you care about.

Your membership allows PEN to raise awareness and campaign governments about imprisoned writers in our region.
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Photograph: Stuart Spence