



Editorial

Social Catharsis and Impunity

When people begin to feel deep regret and repentance for a wrong committed and express the same, this is said to be a catharsis. And when this is done regarding matters of social significance or by the society as a whole, then there is social catharsis. What is significant about catharsis is the owning of previously denied or hidden wrongful acts.

People's experiences in various parts of the world point to social catharsis as a mode of arriving at truth and justice. The public confessions of Argentinian generals about the "death flights" and of the former South African government officials about murders of political dissenters are clear examples.

So what does it mean to have social catharsis in relation to human rights violations?

Public confessions about human rights violations do establish the truth about the past to a great degree. The same can be said of court trials or fact-finding public hearings which extract as much information as possible.

The remaining question is how will social catharsis lead to justice? Is it necessary to punish those who admitted committing wrong and compensate those who suffered? Since impunity is not sanctioned by the principles of human rights, it follows that human rights violators must account for their actions and human rights violations victims must be compensated.

Yet in many cases in this region, neither truth nor justice is obtained. The deaths and alleged disappearances during the May 1992 events in Thailand have not been fully accounted for. The same is true with the killing fields in Cambodia, the martial law experience in the Philippines, the deaths of native East Timorese under Indonesian rule, the Bhopal tragedy in India, the Chittagong Hill Tracts case in Bangladesh. The violations of economic, social and cultural rights in this region are equally in the same situation. In the Thai and Cambodian cases, amnesty was given to people who would be the first to be held liable for the human rights violations. They were never even asked to confess or tell the truth about the violations. This is not to deny that amnesty was used to stop the violence or to obtain the surrender of an armed opposition group - certainly important in normalizing national situations. But these cases show impunity as more the rule than the exception.

Without truth and justice, the suffering of people continues.

FOCUS Asia-Pacific is designed by HURIGHTS OSAKA as a means of highlighting significant issues and activities relating to human rights in the Asia-Pacific. Relevant information and articles can be sent to HURIGHTS OSAKA for inclusion in the next editions of the newsletter.

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Crisis in the Chittagong Hill Tracts - Bangladesh

Adilur Rahman Khan

Genesis of a Crisis

The Chittagong Hill Tracts (CHT) is the most turbulent area in Bangladesh. It is also the home of ten different ethnic tribal groups who call themselves the 'Jumma' nation. A deep sense of resentment has built up in the hearts and minds of these people over the past two decades. The situation was brought about by a sustained policy of discrimination, disparity and negligence, culminating ultimately in repression, or as it is officially known, a strategy of "counter insurgency".

The building of a dam in the sixties, called Kaptai Dam, resulted in the destruction of the homes and livelihood of over 100,000 persons, all members of the Caking community. Efforts to rehabilitate more than 18,000 affected hill families were not satisfactory because of fund shortage, inadequate planning and, in all probability, bureaucratic corruption and red-tapism. The cumulative effect of all these was increased discontent and resentment among the tribals. In such a situation, the educated young people from the hills turned to Marxist political philosophy and eventually formed the Rangamati Communist Party in 1970 as an underground organization to preserve and protect the interests of the Chakmas.

The hill tracts people suffered from the wrath of the people from the plains because Chakma King Raja Tridib Roy took the side of Pakistan during Bangladesh's War of Liberation in 1971. Many lands and properties of the Chakmas were taken over by people from the plains. [1]

Following the independence in 1972, the separate identity of the ethnic tribals in the CHT was constitutionally subsumed under the concept of "Bengalee Nation" despite protests from the Chakma representative (Manabendra Narayan Larma) in the parliament. An attempt to add a new article in the Constitution that will recognize CHT as an autonomous area to safeguard the political, economic, social and religious rights of the Jumma nation was defeated on the ground of being contrary to the basic principle of Bengalee nationalism. The colleagues of Mr. Larma in the parliament failed to recognize the need to have a constitutional guarantee for the rights of the CHT people. [2]

An armed struggle that inevitably followed this failed constitutional move led to counter-insurgency measures by the state. A planned joint Indo-Bangladesh military operation against the armed struggle did not materialize due to change of government in Bangladesh on August 15, 1975. In fact, after the change over, Mr. Larma and his followers crossed over to India, from where the armed struggle has been operating since then. [3]

Successive governments of Bangladesh adopted a two-pronged policy to resolve the problem. On the one hand, counter-insurgency operations were expanded and intensified; on the other hand, massive socioeconomic development efforts were undertaken under the supervision of the military. The governments simultaneously declared CHT as a Special Economic Area, declared repeated

amnesties to facilitate the surrender of armed strugglers, offered cash awards for recovery/surrender of arms and ammunitions, made special provisions for admission of 'tribal students' in institutions of higher education including medical and engineering schools, relaxed the qualification requirements for entry of 'tribals' in government jobs, set up special local governments in the three hill tracts districts (Khagrachri, Rangamati and Bandarban), and put in place a host of similar special arrangements for the CHT and its people. [4]

Human rights situation

The overall situation in the CHT remained unchanged under the different governments of Ershad and Khaleda Zia. The military controlled the entire administration of the area and influenced political groups, social organizations, the press and other agencies. Even the national newspapers have been getting information from the press department of the armed forces every now and then.

Human rights violations occurring in the CHT have been attributed to the members of the military, paramilitary and the police. A prominent woman leader of Hill Women's Federation of the Chittagong Hill Tracts, Ms. Kalpana Chakma, was abducted recently and has not been found since then. Eyewitness points to the members of the military as being responsible for the abduction.

Government formed committees to investigate the human rights violations cases in the CHT have not gone beyond paper work.

The 20-year old armed conflict has led to the killing or capture of more than 2,000 Shanti Bahini (armed opposition group) members. Thousands of hill people have become refugees in neighboring India or deep in the forests of the CHT. Factionalism caused division in Parbotto Chottogram Jono Shonghoti Somity (PCJSS) and Shanti Bahini, and led to the assassination of Mr. Larma. The Indian government has allegedly helped and trained the Shanti Bahini in order to gain leverage over Bangladesh.

Political dialogue

Peace talks during the Khaleda Zia administration resulted in a number of ceasefire agreements, started the repatriation of refugees in India numbering around 56,000 (through an agreement with that country), caused the surrender of around 3,000 Shanti Bahini members and the turn-over of huge quantities of arms. The small number of returning refugees still faced problems as lands and homes were restored only to a few of them. But a lasting political solution has not been obtained. This government move however raised hopes for a solution to the problem.

The present Hasina Wajed administration recently resumed talks with the PCJSS.

National Initiatives

Just after the Logang incident in 1992, some human rights activists, journalists and lawyers met together and decided to form a campaign group to address the issues of CHT locally and internationally. The National Committee for the Protection of Fundamental Rights in the Chittagong Hill Tracts was thus formed. On June 2, 1995, this committee organized a national seminar in Dhaka entitled "Chittagong Hill Tracts: Problem and Solution" that was attended by many concerned people for the first time in the heart of Bangladesh capital. The speakers in the seminars who were members of parliament, politicians, cultural activists, lawyers, litterateurs, NGO activists and CHT representatives called for the dismantling of 'cluster villages' and settling of repatriated refugees in their own lands. The speakers also stressed the need for continuing ceasefire and peace talks to find a solution to the problem. In this regard, they called for the talks to be held in Dhaka participated by all political parties to obtain a national consensus.

On September 26-27, 1996, the Committee organized another seminar in Dhaka on the theme "Peace, Democracy and Self-Determination of Chittagong Hill Tracts" where high level government officials, political party leaders, human rights activists, lawyers, journalists, other professionals and representatives of other South Asian countries attended. Discussed were the issues of political solution to the CHT problem, and solving the settlers and refugee problems. A call was made to the government to find a solution to the problem based on a national consensus, to establish a permanent commission to look after the human rights situation in the CHT, and for the government and PCJSS to agree to extend the ceasefire. [5]

Recommendations

The governments of Bangladesh have pursued discriminatory and oppressive policies toward the people of the CHT. Now is the time to end these policies and look for a political solution. For a comprehensive solution to this issue, the seminar participants recommend the following:

a. A consensus among all political parties in Bangladesh is a must for a solution to the problem. The political parties need to enter into an agreement keeping the issues related to the CHT outside political rivalries for the greater national interest. This would work as a necessary signal to armed strugglers that the rest of the country is totally united for a peaceful solution of the issues;

b. The Chakmas have been fighting for regional autonomy with a constitutional guarantee. But the unitary nature of Bangladesh government precludes such regional autonomy which amounts to much more than provincial autonomy. A half-way house solution may be found by detaching the three hill districts from the existing Chittagong division, and then grouping them in a separate administrative division with necessary powers. This will give the geographical area a totally separate identity;

c. With the consistent demand for constitutional guarantee of regional autonomy for the CHT ever since the birth of Bangladesh, the majority Bangladeshi population may be able to settle for a compromise by agreeing to this

demand by the CHT people. The peace issue being also a psychological matter, special status for the CHT people may be given and representation in parliament can be provided to give them (CHT people) a sense that their exclusiveness and special needs have been recognized by the majority population;

d. The issue of Bengalee settlers in the CHT also needs attention. While the entry of political settlers have stopped since 1984, there are still many settlers who entered the area as part of the natural course of migration over a long period of time. These settlers have, for a long time, faced untold miseries and hardships including reprisals by the Shanti Bahani. The majority population of the country probably would not be happy with an outright resettlement of these people. However, all future permanent entry of non-Chakmas may be stopped by law. Along with that, voluntary return of the old settlers may be encouraged by granting them lease of lands in various districts outside the CHT. International agencies may be approached for assistance to facilitate this. Such international agencies are likely willing to help as they have already expressed their views that the CHT situation is a violation of human rights and may serve as an obstruction to aid programs;

e. Land problem is one of the most serious impediments to peace in the CHT. Its resolution is also a key demand of PCJSS. The concept of individual and communal rights of the Chakmas in the CHT is totally different from the concept of land rights in the rest of the country. A mechanism will have to be found to recognize these rights of the Chakmas by identifying those who are owners and occupiers of land on the basis of hearsay evidence since documentary evidence either did not exist in the first place or was lost when they migrated to India or elsewhere in CHT as a result of the armed struggle.

Scarcity of cultivable land in the CHT is another problem. It will be necessary to make more land available for the rehabilitation of the Chakmas affected by the Kaptai project who were not covered by earlier programs. Handing over of land to the non-Chakmas in the CHT region must be prohibited and steps should be taken to return the lands already handed over.

The participants believe that the crisis in the CHT is not a conflict between ordinary Bengalees and Chakmas. It is a problem created by the then Pakistani and the present Bangladeshi ruling classes. Besides, Bengalees who fought against colonial repression as a nation can not impose the same form of colonialism on another nation. They should be held responsible for their misdeeds. So by creating an effective unity between the Bengalees and Chakmas, the whole scenario can be changed and the oppressors can be faced properly.

End Notes

1. Rashed Khan Menon, *Free the CHT of military intervention*, Dhaka Courier, 5 June 1992.
2. Abdul Mueyed Chowdhury, *Insurgency in Chittagong Hill Tracts: Modalities for Solution* (unpublished paper).
3. Ibid.
4. Ibid.
5. Abu Sayeed Khan, *How to Solve the Problem of the Chittagong Hill Tracts?*, (unpublished paper) 1996.

Bangkok Declaration on Peace in the Chittagong Hill Tracts 26 February 1997

Seventy delegates, including observers from diplomatic missions, of some twenty countries and peoples of Asia, the Pacific, the Americas, Europe, Australia, and representing over 40 organisations met in Bangkok from 23 to 26 February 1997 to review the situation in the Chittagong Hill Tracts and to explore ways of assisting in the process of peace and reconciliation between the indigenous Jumma peoples of the Chittagong Hill Tracts and the government of Bangladesh.

The conference regrets that twenty-six Bangladeshi delegates, both Bengalis and Jummas, who intended to participate in the conference were unable to travel to Bangkok.

Having discussed the current situation in the Chittagong Hill Tracts and the status of negotiations between the Bangladesh government and the Jana Samhati Samiti (JSS), and having studied the views expressed and the stance taken by the parties in recent rounds of negotiations and heard reports of the situation on the ground,

The participants to the conference,

1. welcome the resumption by the government of Bangladesh and the JSS of peace talks and their declared intention to resolve the issue by peaceful means through negotiations;
2. concerned about the continuation of the conflict in the Chittagong Hill Tracts and the resulting suffering of the civilian population;
3. alarmed about persistent violations of human rights; including the high incidence of rape and other sexual violations;
4. concerned at reports that despite a decision by the government of Bangladesh to stop the transfer of new settlers to the Chittagong Hill Tracts, settlers continue to arrive because no measures have been taken to prevent this from occurring;
5. aware of the great cost to Bangladesh and all its peoples of this conflict;
6. convinced that the human rights violations which occur in the Chittagong Hill Tracts will not cease unless and until the fundamental causes of the conflict are removed;
7. note that the fundamental causes of the conflict are:

i. denial by the Bangladesh constitution of recognition of the distinct identities of the indigenous peoples of Bangladesh, in particular those of the Chittagong Hill Tracts;

ii. the presence of a large number of Bengali settlers in the Chittagong Hill Tracts as a result of the population transfer policy of the government of Bangladesh;

iii. the militarisation of the Chittagong Hill Tracts;

iv. the lack of recognition or implementation of meaningful autonomy for the Chittagong Hill Tracts;

8. note that the 16-point package for repatriation of the Jumma refugees from Tripura, agreed to in 1993 has not been faithfully implemented and that consequently the refugees have stopped returning;

9. concerned about conditions in the refugee camps in India;

10. welcome the positive contributions of some sectors of Bangladesh civil society in efforts of reconciliation;

11. note that despite the resumption of the peace talks important obstacles remain, in moving closer to a solution;

Therefore, with a view to achieving lasting peace and reconciliation the conference participants,

CALL FOR

1. recognition of the distinct cultural and national identities of the indigenous Jumma peoples of the Chittagong Hill Tracts and the implementation of effective measures to protect and promote them through organs of regional autonomy with constitutional guarantee;

2. an effective end to the movement of settlers into the Chittagong Hill Tracts and agreement by the parties on a programme for the withdrawal of settlers from the Chittagong Hill Tracts.

Such a programme should respect the human rights of all concerned, and could include financial incentives or compensation for the persons who are being relocated;

3. the development of a legally protected system of land titles consistent with their customary rights which ensures that land ownership reverts and, in the future, remains in the hands of the Jumma peoples;

4. recognition and the safeguarding of the customary rights of the Jumma peoples to use and control the land and the natural resources of the Chittagong Hill Tracts;

5. adoption of a time table for the de-militarisation of the Chittagong Hill Tracts;

6. recognition of an administrative region with organs of self-government, having powers that are constitutionally guaranteed so that no modification thereof is possible without a constitutional amendment and without informed agreement by the representative bodies of the indigenous Jumma peoples of the Chittagong Hill Tracts. The creation of a regional council, elected democratically by the indigenous Jumma peoples and containing safeguards for the representation of all the indigenous Jumma peoples of the Chittagong Hill Tracts, women, and minority residents of the Chittagong Hill Tracts. The council should have real political powers - including budgetary powers - to make and execute decisions;

7. respect for human rights including the rights of women

as stipulated in the UN convention on all forms of discrimination against women.

RECOMMEND to the government of Bangladesh and the JSS;

1. to invite a facilitator/s acceptable to both the government of Bangladesh and the Jana Samhati Samiti to act in the service of the parties and help them resolve any differences.

2. to establish a joint commission consisting of representatives of the government of Bangladesh, of the Jana Samhati Samiti and international experts in the field of resettlement to be agreed by both parties to research, design and administer a rehabilitation programme of settlers outside the Chittagong Hill Tracts;

3. to extend the cease fire already in effect between the two parties;

4. to respect common Article 3 of the Geneva Convention 1949;

to the government of Bangladesh

1. to act on its stated acceptance to resettle and rehabilitate the settlers outside the Chittagong Hill Tracts, making full use of the recommendation of the European Parliament to make European Commission funds available for this purpose;

2. to initiate an incremental demilitarisation of the Chittagong Hill Tracts as a confidence-building measure prior to the conclusion of on-going peace negotiations;

3. to dismantle the cluster villages of the Jummas and to extend an invitation to the Representative of the United Nations Secretary General on Internally Displaced People to study the full problem of internal displacement of Jumma peoples within the Chittagong Hill Tracts;

4. to provide un-restricted access to the Chittagong Hill Tracts for all national and international media and international human rights organisations and to invite the United Nations Thematic Rapporteurs and Working Groups;

5. to provide unrestricted access to humanitarian organisations, including the International Committee of the Red Cross, to the Chittagong Hill Tracts to undertake its programme of work;

6. to establish a commission of inquiry, to include Jumma women and men members, into the human rights violations in the Chittagong Hill Tracts and to make its reports public. Earlier inquiries into human rights violations, including that concerning the disappearance of Jumma leader, Kalpana Chakma, should also be made public;

7. to bring perpetrators of human rights violations in the Chittagong Hill Tracts to justice through the civilian courts;

8. to implement constitutional safeguards against religious persecution including forced conversions;

9. to ratify ILO Convention 169 concerning indigenous and tribal peoples;

to the members of the international community:

1. to urge the government of Bangladesh to act on these recommendations; to take up the issues contained in this statement bilaterally with the government of

Bangladesh and in international fora, including in the United Nations Commission of Human Rights.

2. to offer development cooperation aid and special funds for the financing of relocation and rehabilitation of settlers outside of the Chittagong Hill Tracts;

3. to support organisations that help women in the Chittagong Hill Tracts and to undertake research into the impact of the violations and military presence on women. To support the provision of counselling and rehabilitation for victims of rape, sexual abuse and torture;

4. to monitor and ensure that aid to Bangladesh, including food aid, is not directly or indirectly diverted to the military and to make aid conditional on its proper usage;

5. to prohibit the sale of arms, including instruments of surveillance and crowd control, which could be used for internal repression, in order to prevent the violation of human rights. To suspend the training of the Bangladesh military by foreign governments until the conflict in the Chittagong Hill Tracts is resolved;

to the government of India:

1. to provide to the Jumma refugees in Tripura essential resources including shelter, rations, medical facilities, water supply, education facilities, electricity, fuel and all other basic facilities;

2. to withdraw restrictions on the freedom of movement and of association of the Jumma refugees, including the right to set up camp committees; and to grant international travel documents to the Jumma refugees;

3. to provide full access to national and international NGOs including women's organisations, United Nations High Commissioner for Refugees and the International Committee of the Red Cross to provide assistance to the Jumma refugees;

4. to facilitate the provision of support amenities for women including maternity centres and health care provision as well as counselling for survivors of rape and all forms of violence;

5. to implement the provisions of the UN Convention on the Rights of the Child and in particular the UNHCR guidelines on The Treatment of Refugee Children and Women;

6. to invite the UNHCR and ICRC to assist the Jumma refugees in determining a process for the voluntary repatriation of individual Jumma refugees, on the basis of their informed consent, following the settlement of the conflict in the Chittagong Hill Tracts.

This conference was organized by a number of international, regional, sub-regional and national organizations. For further information contact: Asian Cultural Forum on Development (ACFOD), P.O. Box 26, Bungthonglang, Bangkok, 10242, Thailand. Tel. (66 2) 370 2701, 377 9357; fax. (66 2) 374 0464; e-mail: acfod@ksc15.th.com

Bangladeshi Child as Camel Jockey: An Inhuman Joke

Bangladesh Environmental Lawyers Association

Voices of three children joined the silent cries of the little Bangladeshi children working as camel jockeys in the Gulf countries. Camel racing is one of the most popular traditional sport in the Gulf especially in the United Arab Emirates (UAE) and given encouragement by the President of the country. In the camel race, the Arabs use children and/or minors as jockeys to spur the animals into coveted winning positions or to enhance their racing efforts. Since 1989 reports have been appearing in the national and international news media that children and/or minors were being smuggled out of Bangladesh illegally to some Gulf countries specially the UAE.

Although using children as jockeys was banned at the beginning of 1993, after a number of children fell from the camels during the races and died, several visual reports including the BBC exposed the reality to be far away from what is officially claimed. The piercing screams of child jockeys penetrated the television screens horrifying the innocent viewers and psychologically affecting them. National reports also have pointed out that no real effort has been made to trace offenders.

Questioning the failure of the Bangladesh government to prevent camel race using Bangladeshi children as jockeys in UAE, three children served notice demanding justice upon the Ministries of Foreign Affairs, Home Affairs, Social Welfare, and the Women and Children Affairs.

The Notice for Demand of Justice states that they being minors are expressing their grievances and concerns by demanding justice through their guardians. The Notice alleges that the incidents are threats to the children in Bangladesh and are clear manifestation of the government's inefficiency in discharging duties and obligations under various laws of the country and the Constitution of Bangladesh. The Convention on the Rights of the Child, ratified on August 3, 1990, binds the Bangladeshi government to promote and implement its provisions. But the inaction of the authorities made the future generation panic-ridden, unsafe, vulnerable, and commodities for sports of the rich nations.

The children, therefore, demanded from the authorities to a) ensure that no more children are smuggled out of Bangladesh; b) ensure that no such camel race takes place with Bangladeshi children anywhere in the world; and c) take immediate measures to bring back all Bangladeshi children smuggled illegally for inhuman and immoral purposes especially those from UAE being or purported to be used as camel jockeys.

When the Bangladeshi government failed to respond to the notice at the stipulated time, the children filed a petition before the High Court Division of the Supreme Court of Bangladesh. Upon hearing the petition, the court directed the Ministry of Home Affairs to

submit a report on kidnapping, abduction and trafficking of Bangladeshi children outside Bangladesh specially regarding their engagement in the Middle East countries as camel jockeys contrary to the provisions of the Constitution and the Convention on the Rights of the Child. The Ministry was also asked to inform the Court of the measures taken by the government to ensure the safety of the children of Bangladesh within three weeks from the date of receipt of the court's notice.

In the report submitted to the court, the Ministry stated that stringent measures would be adopted regarding issuance of passports. Such measures will cover cases of minor children being included in the parent's passport. Individual interview of children to verify relationship with the applicants will be done. Police verification in cases of separate passports for children will be required. Minors leaving Bangladesh will be questioned individually at all outgoing checkpoints to determine their relationship to their escorts. The Bangladesh Land Border Security (Bangladesh Riels) has been instructed to keep strict observance of this measure. Efforts have been made to increase mass awareness to stop child trafficking. The Ansar and the Village Defence Programme (VDP) have been engaged to instruct every village to inform the nearest police station regarding child trafficking. Finally, the Bangladesh High Commission in Abu Dhabi, Dubai, Bahraini, and other countries in the Gulf have been informed to take measures to repatriate any child taken to those countries as child jockey.

The report was criticized by the children's counsel for being vague, focused on steps that will be undertaken, and silent about the government's position in getting back the children already trafficked and its admission of failure in this regard. The court then ordered the Ministries to explain why they should not be directed to perform their respective and collective duties in preventing the kidnapping, abduction and trafficking of Bangladeshi children outside Bangladesh specially to engage them in the UAE as camel jockeys; and why they should not be further directed to take all necessary measures to repatriate all Bangladeshi children engaged as camel jockeys in the UAE to Bangladesh and rehabilitate them with their parents and/or guardians. The court also stated that the kidnapping, abduction and trafficking of Bangladeshi children is against the law, the Constitution and the Convention on the Rights of the Child.

The case is still being heard in the court. But the immediate concern of protecting the lives and limbs of Bangladeshi children used as camel jockeys is yet to be addressed by the government.

Asian Forum on International Migration Launched

A regional consultation on "The Impact of Trans-boundary Migration on Urbanization" held late last year led to the launching of an Asian Forum on International Migration. The consultation likewise came up with the following recommendations on potential areas of work:

a. promotion of human rights element and responsibilities towards migrant workers and trafficked migrants as a result of urban development, particularly in the areas of entertainment;

b. in-depth examination of existing instruments which govern the treatment of migrants and potential use of them. This should include research on a broad code of practice/guidelines for the treatment of migrant workers in respect of the provision of housing, health and social services;

c. promotion of cross-country information dissemination and campaigns on bilateral or regional basis, including research and documentation on trends of migration and economic impacts in the region. Therefore, there is a need for the establishment of an up-to-date database information on the subject of regional and intra-regional migration through country reports and information sharing;

d. support for empowerment of the migrant workers by creating a climate that will encourage self-reliance such as through savings and credit schemes, and skills development;

e. use of community-centered approach both at local and global levels to breakdown misunderstanding and xenophobic approaches in dealing with migration situation;

f. addressing the issues and problems of undocumented migrants including trafficked persons;

g. provision of training and education for NGOs, semi and governmental agencies on specific issues affecting migrants. And creating partnerships between inter-governmental, governmental and non-governmental organizations working on migration and human settlements for service delivery;

h. strengthening advocacy on the subject by incorporating and addressing the challenges through multi-dimensional and multi-sectorial approach. This should encourage partnership will all sectors of the community and government; and

i. strengthening the existing networks of individuals, NGOs, CBOs, regional and international agencies working in the area of migration and migrants and enabling them to link-up with the broader community.

More than 40 participants from 15 countries representing national and

The Pacific Charter

The Third Pacific Dialogue issued a document entitled "The Pacific Charter" that promotes three main points: Pacific Peace; Pacific Prosperity; and Pacific Celebration of Civilizations.

On Pacific Peace, the charter states that peace is a prerequisite for all progress. Whatever causes domestic tension, all states in the Pacific must commit themselves unequivocally to the struggle for social justice. Opportunities cannot be reserved for the favored few. They must be shared by all. The struggle for social justice is at the core of the unfinished agenda of every country in the Pacific.

The Pacific nations must find the golden mean between the individual's rights and obligations and the community's concerns; and in the economic realm, they must find the means pragmatically and effectively to develop markets that are ever more productive.

One of the basic imperatives is to ensure the dignity of the human person and the opportunities to realize his or her potentials. It is every government's duty to advance all the social, economic, cultural, political and civil rights of the human person - even as they must contribute to the creation of societies where the responsibilities of citizens are fully recognized and properly discharged. All nations of the Pacific must champion human rights and responsibilities.

One of the norms for attaining peace in the region is the respect for the rights of peoples freely to determine their own political, economic and social system.

On Pacific Prosperity, the charter states:

"We need a change of mindset, We must not be narrowly nationalistic. In this Pacific age of deep interdependence and globalisation, and given our aspiration to create a Pacific of friends, it is a 'prosper thy neighbour' attitude that will serve our vital economic interests and the vital interests of our own citizens. In the new age of increasingly borderless cooperation and interdependence, neighbours are partners in prosperity, to be embraced and empowered."

"The market economy, which has shown its ability to unleash the spirit of entrepreneurship in ordinary people

and to bind our economies in networks of mutual benefit, needs to be widened and deepened. In its finest form, it combines the creativity and vitality of individual enterprise with a balanced care for the interests of the larger community."

"We believe not only in a Pacific that is open to the economies of the Pacific, but also in a Pacific open to the economies of the rest of the world."

On Pacific Celebration of Civilizations, the charter emphasizes the need for more understanding among the different peoples in the region through dialogue. And in order to have a good dialogue, genuine exchange and mutual learning, "...we need to leave our bigotries at the door, to examine our prejudices, to check our arrogance, to enhance our humility and to declare a ceasefire on the hectoring that generates heat but little light and the intimidation that extracts not concession but fierce retort."

But the mere absence of war of words and clash of civilizations is not enough. And coexistence is not enough. The charter believes in

"...celebration of civilizations where we value diversity whilst seeking unity within that diversity, where we each fortify the values and the ways which make us strong and that make us civilised in our own light, while partaking of the values and the ways of all our Pacific partners which will enrich us, which will make us stronger and which will take our civilisation to new heights."

The dialogue was organized by the Pacific Charter Group. It was held in Kuala Lumpur in November last year. The group is composed of government officials, legislators, academics and military officer from Malaysia, China, the US, Japan, Thailand, the Philippines and south Korea. The host for this meeting was Deputy Prime Minister Anwar Ibrahim of Malaysia.

For further information contact: Office of the Deputy Prime Minister, Kuala Lumpur, Malaysia.

regional NGOs and NGO coalitions working on the issue of migration and migrant workers, child labor, human trafficking, urban development, housing and human rights attended this consultation.

The consultation was organized by Asia-Pacific 2000/United Nations Development Program, Asian Migrant Centre and the Asian Cultural Forum on

Development. It was held on December 13-15, 1996 in Bangkok, Thailand.

For more information, contact: Asia-Pacific 2000, UNDP - Wisma UN Block C, Kompleks, Pejabat Damansara, Jalan Dungan, Damansara Heights, 50490 Kuala Lumpur, Malaysia. Tel. (603) 255-9122/255-9133, fax (603) 255-2361, e-mail: ap2000@umpap.po.my

UN Workshops on Regional Arrangement for Human Rights in the Asia-Pacific

Since 1990 [1] the United Nations has been organizing regional workshops to discuss the possibility of establishing a regional human rights institution for Asia-Pacific. Workshops had been held in Manila (1990), Jakarta (1993), Seoul (1994), Kathmandu (1996) and recently in Amman.

In the Jakarta workshop, the objectives of the gathering were identified as follows:

- a. To increase awareness among countries in the region of international human rights standards and procedures and of the role of States in implementing human rights norms;
- b. To inform participants of the mechanisms which are available to assist States in fulfilling their obligations under the various international instruments;
- c. To promote bilateral cooperation in the field of human rights between countries in the region;
- d. To foster development of national human rights institutions in the region;
- e. To provide a forum for discussion of questions relating to the establishment of regional arrangements for protection and promotion of human rights.

The workshops had repeatedly expressed support for the idea of having a regional institution similar to the ones established in other regions (America, Africa and Europe). In the Kathmandu workshop, it was stressed however that it is vital that the rationale for any regional arrangement should emerge from within. And that it should be based on the needs and priorities of the region. Thus "... the roles, functions and tasks of a regional arrangement in the Asian and Pacific region should be identified by the Governments in the region, which would develop consensus as to what the outcomes and achievements of a regional arrangement would be."

Arriving at a consensus through extensive consultation among governments in establishing a regional arrangement is required by the diversities and complexities of the region (Kathmandu workshop) specially citing cultural and religious diversity (Amman workshop). The Chairperson of the Seoul workshop even declared that these "... same differences give the region its unique character and, in recognizing this, and in mutual respect therefore among Asian and Pacific nations, lie the foundation and opportunity for regional cooperation in the field of human rights. Indeed, in the very diversity of the region lies its strength."

It should be noted that the workshop's reach widened with the participation of West Asia for the first time in the Kathmandu workshop. And thus explains the reason why the latest workshop was held recently in Amman, Jordan.

The Amman workshop reaffirmed the so-called "step-by-step", "building block" approach in establishing any regional arrangement in the Asia-Pacific. According to the Kathmandu workshop the steps or building blocks will include:

- a. conduct of human rights education and development of national human rights education plan in support of the UN Decade for Human Rights Education, and sharing of experiences at the regional level;
- b. ratification of international human rights instruments;
- c. development of national action plans on human rights whereby States identify steps by which they will improve the promotion and protection of human rights at the national level;
- d. strengthening/establishment of national human rights institutions in accordance with the national legislation

and Paris Principles;

e. sharing of national experiences and expertise at the regional level through bilateral and regional consultations, staff exchanges, regional conferences, joint projects and other appropriate programs.

The Seoul workshop Chairperson also mentioned that the "step-by-step", "building block" approach means that the establishment of a regional institution will build on the subregional initiatives such as that of ASEAN and SAARC. This relates to an initiative taken by representatives of the national institutions in Indonesia and the Philippines and a member of Parliament in Thailand lobbying the ASEAN countries to support the establishment of a human rights mechanism for the subregion. This lobby however has largely been ignored by ASEAN. [2]

The Amman workshop went one step further in implementing its conclusions by deciding to form a working group which will design a regional cooperation program focusing, among other matters, on:

- a. strengthening the role of national human rights institutions in promoting the progressive realization of economic, social and cultural rights;
- b. realizing the right to development;
- c. developing methodologies for effective implementation of human rights education;
- d. elaborating guidelines for national action plans in the field of human rights; and
- e. developing strategies for cooperation on common shared problems.

The program design will be developed by drawing upon the expertise within the region to the fullest extent.

It may be asked whether there is an attempt at advocating for concentration on economic, social and cultural rights by the national institutions and thus violate the professed adherence of the participating governments in the workshop to promoting the principles of indivisibility and interdependence of human rights or, in the words of the Amman workshop conclusion statement, "... ensuring the universality, objectivity and non-selectivity of the consideration of human rights".

The Amman workshop particularly called on the UN human rights mechanisms to continue to take note of the human rights impact especially on vulnerable groups, children and women of unilateral measures taken by States that create obstacles to trade relations among States and impede the full realization of human rights. It also reiterated that the important UN technical cooperation activities in the field of human rights should not be amalgamated with UN human rights monitoring activities.

The regional workshops have somehow kept alive the prospect of having a regional human rights arrangement in the Asia-Pacific. But the approach being taken, though may be appropriate to the character of the region, will take years before any concrete result is obtained.

End Notes

1. The first UN regional workshop for this purpose was actually held in 1982 in Colombo. But it was only since 1990 that the workshop is held almost regularly.
2. See Frank Ching, *Asean's Unkept Promise*, Eye on Asia, Far Eastern Economic Review, August 22, 1996, page 31. In 1994, the Institute of Strategic and International Studies of ASEAN held a colloquium to facilitate, among other issues, the process of developing a sub-regional human rights body in ASEAN in support of the latter's decision to consider the establishment of an appropriate mechanism on human rights. 58th Meeting of the Commission on Human Rights, 23 April 1996 (C/CN.4/1996/64) A lobby for ASEAN human rights mechanism has also been initiated by LAWASIA recently.

Right to Human Rights Education

Human rights education is itself a human right. Thus declare the participants in the Asia-Pacific Human Rights Education Workshop that was held in Sydney, Australia last year.

With the UN Decade for Human Rights Education entering its second year, a call was made in this workshop for a more effective implementation of human rights education programs by the NGOs, government agencies and the UN bodies.

The statement of the workshop proclaims that human rights education is "...a right of all individuals and groups, irrespective of class, gender or national, ethnic, religious or linguistic background. So too is the right to impart human rights education."

Human rights education is also seen as tool for social/structural transformation and therefore linked to significant issues confronting society - poverty, illiteracy, discrimination based on various grounds, environmental degradation, absence of democratic systems, ineffective government structures for securing justice, among others. Human rights education must be able to equip people with the capacity to confront the problems that currently hinder the promotion and protection of human rights. Human rights education must likewise be participatory, creative, innovative, empowering at all levels of society (quoting the 1993 UNESCO World Plan of Action for Human Rights and Democracy).

Considering the obstacles to the promotion of human rights in the Asia-Pacific region, the participants call on the UN to:

a. stress the importance of the role of NGOs in the tasks of the Decade and avoidance of their marginalization through the undue reliance on governments in implementing national human rights education programs;

b. establish a voluntary fund for human rights education with a special provision for support to the activities of the NGOs;

c. convene regional meetings (through the High Commissioner for Human Rights) so that Asia-Pacific priorities, needs and experiences are reflected in the documents of the UN Decade;

d. sensitize UN personnel on human rights such as those in the UN High Commission for Refugees;

e. adopt comments (through its treaty bodies) on the States' obligation on human rights education and

public information;

f. monitor (through UN bodies and affiliated agencies) the impact of development on human rights and foster technical and financial cooperation in human rights education and literacy programs;

g. accord (through ESCAP) higher priority and allocate adequate resources to human rights education in promoting economic and social development in the region.

They also call on the governments in the region to:

a. consult the NGOs and people's organizations in making action-oriented national plans for human rights education;

b. adopt non-discriminatory participation of NGOs in the planning and implementation of human rights education activities;

c. develop as a priority cooperative human rights education programs with the NGOs (through the national human rights institutions);

d. prevent preempting the human rights education activities of NGOs.

The participants also stress the need for human rights education to promote values of tolerance, respect for democratic processes, recognition of pluralism; promote education for just ethnic relationships and for conflict resolution and peace-building, and awareness of "human rights history and human rights truths".

The UN Decade is seen as an opportunity for enhancing the capacity of human rights programs through the:

a. provision of human rights education to people in difficult situation;

b. contribution to sustainable capacity-building through the further education of human rights educators;

c. development of strategies for human rights education which address the diverse conditions of learners and build on local concepts and cultural sensitivities;

d. provision of public access to primary human rights documentation in relevant forms and languages;

e. provision of information about international human rights supervisory procedures, including information about opportunities for NGOs and individuals to participate in those procedures.

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HRE through Community Education

Education programs constitute a major component of most non-governmental organizations. These programs are hardly known to be related to human rights education. Yet a better understanding of these programs, especially those that refer to community education, reveals a wealth of experience on issue and action-oriented human rights education work. It likewise shows extensive grassroots level human rights education programs that have been in place for years.

This reality is confirmed in a national conference on human rights education and community educators held in the Philippines recently. What came out of the conference reflect experiences on human rights education in other countries in the region. Several key issues are the following:

a. new grounds - with expressed reservations in working with government, some groups have aimed at changing perspectives on human rights education in government programs, and introducing new educational methods and systems;

b. curriculum development - there is a growing trend toward the adoption of principles of liberative education framework in developing the content of human rights education activities;

c. use of theatre - theatre seen as an experiential form of understanding human rights helps the communities articulate their problems better;

d. paralegalism - paralegal training, using the skills and resources of members of the community, forms a significant aspect of human rights education as it dwells not only on the knowledge of human rights but also in the exercise of rights.

The conference also revealed the weaknesses found in many community education programs such as:

a. deficient employment of human rights concepts as when issues are not always explicitly linked to human rights standards;

b. ambivalence in the meaning of human rights and human rights education as in the seemingly different perception of rights under the UN standards and the grassroots concept;

c. limitation of human rights content to specific needs and issues

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Dynamics of Cultural Values and Human Rights

Human rights and cultures when seen as ideas in the process of continuing development find appropriate links with each other.

In a current research being done on the relationship between cultural values and human rights in Asia, it is shown that there are elements in cultures/cultural values which change due to espousal of better ideas (as in the rejection of inequality and discrimination in the caste system, or the change of political order brought by independence of colonized states) or external influences (as in the introduction of new religion) which bring ideas closer to human rights principles. These changes are in turn reflected in laws as in the case of the Constitution of India and in the modern laws in south Korea.

There are cultural values in some Asian countries (India, south Korea, Indonesia and the Philippines) that show common areas of importance. Family-centeredness figures prominently in most of these cultural values. Good inter-personal relationship also comes out as a common element that finds meaning in relation to maintaining social order, and performing duties to the family and to society.

There are also instances when values very much akin to human rights had actually taken root in some countries in Asia. The equality, freedom and peaceful coexistence principles in Buddhism, the Baul movement and the Bhakti movement in India, and the Tong Hak movement in Korea are examples. They also show a process of change in culture - process of reacting to the oppressive features of the older, mainstream cultures mainly done by the marginalized members of society.

It is noticeable that in each of the countries under study, there exists a basic culture on which new ideas and values are added on or set against. This can be the basic Javanese culture in Java island in Indonesia, the Malay culture in the Philippines, the



Meeting of the research partners, Osaka, Japan

Confucian-influenced culture in Korea, and the Hindu culture in India. And historically speaking, the trend among these cultures is toward having freedom, equality, and other positive values.

The challenge being posed by the research is in discovering more elements in cultural values and in human rights that can be bases of mutual enrichment. Needless to say, there can be cultural values in Asia which can contribute to the prevailing international thinking on human rights.

The research result is planned to be published later on as a material that will initiate further debate/discussion on the issue of culture and human rights in Asia-Pacific. This research is related to the effort at looking at ways and means of understanding human rights in the context of today's society.

For more information contact HURIGHTS OSAKA.

Collective Rights in Asia

Communities articulating the concept of collective rights they possess and exercise have much to contribute to the human rights discourse in Asia.

While collective rights have been mentioned quite frequently as a feature of the perception of rights in societies in Asia, there are not so many discussions on how communities actually define and practice them in their own contexts and perspectives.

A study on collective rights aims to look at this issue. The study is part of a bigger program that looks at positive experiences on indigenous mechanisms and cultural dynamics of harmonious multi-ethnic co-existence at the community-level in Asia. It also looks at ways in which ethnic diversity is accommodated at the larger social or State level.

Several countries are covered by the collective rights project, namely, India, Sri Lanka, Bangladesh, Thailand, Indonesia and the Philippines. Each country study focuses on specific group of people belonging mainly to the minority/ indigenous peoples. The India study focuses on the Goms tribal group in Madhya Pradesh, Bangladesh on three minority groups (the Santals, Garo and Chakmas); Thailand on various hill tribes; the Philippines on an indigenous Filipino community; and Indonesia on Indonesian Chinese and the former political prisoners.

The collective rights project will hopefully be able to provide some answers to tough questions such as:

a. is there a collective right to customary law and the institutions of customary legal system? If so, are there other human rights frameworks that ensure that customary

law systems do not themselves violate the laws of the individual within the context of the collective?

b. are there competing claims of collective rights? If yes, how are they resolved? Can national, constitutional and international norms be applied?

c. how are collective rights asserted? Does it lead to a demand to be discriminated in favor of the community asserting its rights?

d. what makes collective rights collective? [1]

The importance of this project lies in its subscription to the over-all theme of presenting successful experiences in Asia on multiculturalism, management of diversity, and maintenance of peaceful coexistence. This links directly to the Declaration and Program of Action of the World Summit on Social Development which offers a key priority of promoting social integration based upon the principles of tolerance, harmony, diversity and pluralism. [2]

For further information, contact: The Sasakawa Peace Foundation, The Sasakawa Hall, 3-12-12 Mita, Minato-ku, Tokyo 108 Japan.

End Notes

1. See minutes of the meeting on collective rights project held on October 22, 1996 in Tokyo, Japan.

2. See Dr. Clarence J. Dias, *Management of Ethnic Relationships in Asia*, paper presented in a panel discussion held in Berlin, Germany on the occasion of the Founding Anniversary of the International Peace University, Berlin, Germany (September 16-18, 1995). Dr. Dias is the head of the research group on collective rights.

Unforced Consensus and Dialogue: Modes of Human Rights Understanding

Is it be possible for countries and peoples in Asia to have an unforced consensus on human rights? Can dialogue be a means of achieving this objective?

The idea of unforced consensus is attributed to a Canadian philosopher Charles Taylor who believes that "...different groups, countries, religious communities, civilizations, while holding incompatible fundamental views on theology, metaphysics, human nature, etc. would come to an agreement on certain norms that ought to govern human behaviour. Each would have its own way of justifying this from out of its profound background conception. We would agree on the norms, while disagreeing why they were the right norms." [1] Dialogue, on the other hand, is premised on the existence of openness to exchange of ideas among equals.



Public forum in Seoul, Korea

There is a certain attraction to these ideas in the context of Asia-Pacific considering the diversity of the social, cultural, political, and even economic characters of the countries in the region. This is also the region where strong proponents of the so-called Asian concept of human rights are actively opposed by the region's NGO community.

A series of workshops was organized touching on

the ideas of unforced consensus and dialogue. Focused on East Asia, the workshops provide "...opportunities for constructive dialogue and scholarly exploration of the realities of human rights across cultures". [2] The workshops participated mainly by East Asian and American social scientists dwelt on the issues of culture and human rights, "intercivilizational", concept of human rights, and new issues on human rights.

The third workshop held in Seoul in October last year "...reaffirmed the need to move away from an exclusive focus on civil and political rights and to address the very real social, economic and cultural human rights issues in the region." [3]

There are very real problems of getting human rights appreciated in the present context of East Asian societies. Human rights will have to be defined in the context of the so-called modernization and globalization processes. At the same time, cultural factors that exist alongside these processes which relate directly to (either in support of or against) human rights will have to be considered.

The remaining question is: who should be the dialogue partners?

The workshops mentioned were organized by the Carnegie Council on Ethics and International Affairs under its project named "The Growth of East Asia and Its Impact on Human Rights."

For further information contact: Human Rights Initiative, Carnegie Council, 170 East 64th Street, New York, NY 10021-7478 USA.

End notes

1. Charles Taylor, "Conditions of an unforced consensus on human rights", monograph, Department of Philosophy, McGill University, Canada (undated and unpublished), page 1.
2. Joanne Bauer, "About the Human Rights Initiative", Human Rights Dialogue, volume 2, September 1995, New York, USA, page 1.
3. Kevin Tan and Tonya Cook, "New Issues in East Asian Human Rights - A Conference Report", Human Rights Dialogue, volume 7, December 1996, New York, USA, page 1.

Right to Human Rights Education...

Addressing the NGO community in the region, the participants urge it to:

- a. safeguard the integrity of all human rights education activities;
- b. undertake evaluation of the impact of human rights education activities;
- c. forge solidarity alliances to address the human rights education needs in particularly different country situations;
- d. enhance the exchange of experiences, knowledge and skills in the area of human rights education; and
- e. prevent monopolization of human rights education activities by national governments and human rights commissions.

For more information contact: Diplomacy Training Program/Australian Human Rights Information Centre c/o Faculty of Law, The University of New South Wales, Sydney NWS 2052 Australia, tel. no. (612) 9313-6563; fax no. (612) 9385-1175, e-mail: dtp@unsw.edu.au

Community Education...

that leaves out the general understanding of human rights;

- d. lack of link with other NGOs with human rights programs to better address other needs of the community;
- e. limited knowledge on the different human rights education activities; and

f. lack of convergence of two approaches of human rights education - community issues to human rights concept approach, and human rights concept to community issues approach. In most cases, community education starts with the analysis of problems affecting the community before discussing relevant human rights standards. But no effort has yet been done to see how the two approaches can be both employed in a program.

The conference called "Lundayan ng Karapatan" was held in the Philippines on December 7-10, 1996 by several NGOs led by PROCESS and supported by the People's Decade for Human Rights Education.

For further information, contact: PROCESS-Women's Desk, Room 301 PSSC Building, Commonwealth Avenue, Diliman, Quezon city, Philippines. Tel. (632) 928-97-45.

HURIGHTS OSAKA ACTIVITIES

Two main activities were held by HURIGHTS OSAKA in January this year. The first is the meeting on the project "Asia's Cultural Values and Human Rights" where research partners from India, Indonesia, the Philippines and south Korea presented their initial research reports. Final reports will be available in a few months along with other research reports from a couple of countries.

The second activity is the Leaders' Training seminar. 56 participants from various prefectures of Japan, and working for the local government, non-

governmental organizations, private corporations, and schools discussed human rights issues in Japan and other Asian countries, the concept of human rights education, and basic international human rights law. Most participants like the informal discussion sessions and other participatory learning methods. They also expressed demand for a deepening of their knowledge of human rights. The Leaders' Training seminar is a regular activity of HURIGHTS OSAKA under its domestic human rights education program. The recent seminar was held for three days in January in Osaka.



AIR MAIL

PRINTED MATTER

HURIGHTS OSAKA, inspired by the Charter of the United Nations and the Universal Declaration of Human Rights, formally opened in December 1994. It has the following goals: 1) to promote human rights in the Asia-Pacific region; 2) to convey Asia-Pacific perspectives on human rights to the international community; 3) to ensure inclusion of human rights principles in Japanese international cooperative activities; and 4) to raise human rights awareness among the people in Japan to meet its growing internationalization. In order to achieve these goals, HURIGHTS OSAKA has activities such as Information Handling, Research and Study, Education and Training, Publications, and Consultancy Services.



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