HURIGHTS OSAKA

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Editorial

Working Children

How do working children look at the future? Is it a world without child labor?

Child laborers are probably wishing to be in school. But they understand that poverty and/or societal conditions give them little option other than to start earning money at a young age.

Given their early exposure to hard work, and the deprivation of childhood and education, aren't they being imprisoned in a warped idea of their own future? As they grow older, is their hope for a better future growing also? Or are they getting more engrossed with work and find life to be solely a long period of hardship?

Child labor should be eliminated. But the problem is not simple. And solutions are complex.

The human rights of child laborers will not be realized in any meaningful sense as long as they are trapped in the situation they are in. Continuing violations of their human rights take place as a matter of course.

One way out is to ask the affected children early on what can be done to improve their situation. Their view is as important as that of any expert.

FOCUS Asia-Pacific is designed to highlight 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.

FOCUS Asia-Pacific is edited by Yoshio Kawashima, Director of HURIGHTS OSAKA.

Child Labor in Asia: A Review

Edelweiss F. Silan

ILO estimates that there are about 250 million economically active children (individuals below 18 years old) worldwide. Sixty one percent or roughly 153 million of these workers are in Asia. Around half of the economically active children are working full time and 20-30%, or about 30 to 46 million are in exploitative conditions or worst forms of child labor.

In Asia, many of these child laborers, some as young as seven years old, are hidden. They work as household help, workers in farming and fishing industries, providers of sex services, workers in quarries, mines, brick kilns, construction sites, and increasingly in drug trade. A lot more in many Asian societies live in full public view as scavengers, street beggars, vendors, and workers in small scale or home-based industries. Since these types of work are considered "informal," regulation of the industries does not exist and monitoring the presence of children in the workplace is not commonly done.

The Worst Forms of Child Labor in Asia

Commercial Sexual Exploitation of Children

Exploitation of children in commercial sex trade remains the worst form of child labor in our region. UNICEF estimates that about one million children are lured or forced into the sex trade in Asia every year. More alarming is the fact that many of these children were introduced into the work by people known to them. For example, the 1995 Situation Analysis on Trafficking and Prostitution in Cambodia reveals that half of the surveyed sex workers eighteen years old and below reported that they were forced into the trade. Half of them were sold or deceived by someone they knew, forty percent were sold by parents, and fifteen percent were sold by relatives.

Trafficking of Children

The exploitation of children in the commercial sex trade is supported by increased trafficking activity in the region by organized syndicates. Trafficking for other jobs has also increased.

Trafficking of both children and adults feeds largely on the desire of poor families and many young people for economic and personal advancement through migration for work. Trafficking routes are found within countries, from rural to urban centers or to areas with large demand for unskilled labor, and across borders, usually from less developed to developing countries.

In Southeast Asia, Thailand is believed to be the receiver of a large number of children trafficked from Laos, Cambodia, Burma, and China, with the majority coming from Burma. The children are made to work as prostitutes, household help, workers in factories, farms, and fishing vessels, or couriers of drug traffickers. It is estimated that the number of children working as prostitutes in Thailand is somewhere between 27,400 and 44,900, including foreign and ethnic Thai children.

Chinese and Vietnamese children are trafficked to Cambodia mostly for prostitution. In the Philippines, there are reports of girls as young as 14 years old encouraged by parents to go to Japan to work as entertainers. They are brought to Japan with tampered passports, changing their date of birth to meet the age criterion. There are reports of Indonesian children being brought to Singapore, Malaysia, and Taiwan for domestic and farm work, or even for work in small factories.

In-country trafficking is rampant in Vietnam and the Philippines for domestic and factory work, and again for prostitution.

In South Asia, Bangladeshi children are trafficked for prostitution, forced and bonded labor, camel jockeying, marriage, and even sale of organs. Bangladeshi children can be found in the main cities of India, Pakistan, Malaysia, and Middle East countries. Maiti Nepal, an NGO based in Kathmandu, estimates that between 5,000 to 7,000 girls are trafficked to India annually for prostitution. Boys are trafficked too, for work in the construction industry, brick kilns, tea plantations, and manufacturing industry. Pakistan is seen as a receiving country for Indian and Nepali children to work in farming, fishing, and sex industries.

> "Trafficking refers to the recruitment, transportation, purchase, sale, transfer, harbouring, or receipt of persons: by threat, use of violence, abduction, use of force, fraud, deception, or coercion (including abuse of authority), or debt bondage, for the purpose of placing or holding such person, whether for pay or not, in forced labour or slavery-like practices, in a community other than the one in which such person lived at the time of the original act described." UNCHR, February 2000

Bonded Child Labor

Also referred to as child servitude and child debt bondage, bonded child labor exists in Asia. It is closely linked to trafficking of children, and more extensively rooted in socio-cultural and political structures in parts of South Asia. In many cases, bonded children are delivered in repayment of a loan or other favors given in advance, real or imaginary, usually to the parents or the guardians of the child. Children work like slaves in the process, never knowing when their debt will finally be considered paid. Where the caste system still prevails (India, Nepal, and Pakistan), there are still families and children of the *dalits*, or *kamaiyas*, or *peshgis* from the lowest castes in debt bondage to landowners and upper class caste in spite of existing laws that prohibit slavery. Bonded child labor in South Asia is found in domestic work and in agricultural, brick making, glass, leather tanning, gem polishing, and many other manufacturing and marketing industries.

Awareness of the child labor issue in the carpet and sports goods industries generated largely by activists since late 1980s helped cause marked decrease in the incidence of child labor in these industries. But it is still probable that child labor exists in new places where subcontractors have moved in.

> Bonded child labourers are children working against debt taken by themselves or their family members, or working against any social obligation (e.g., caste factor, ethnic or religious practices, etc.) without the children's consent, under conditions that restrain their freedom, making them vulnerable to physical and other forms of abuse, and depriving them of their basic rights. - CWA Task Force on Bonded Child Labour, May 2000

Child Domestic Work

Having a household help is an historically embedded practice of middle and upper class families in almost all Asian countries. Many children from poor families are engaged in this work, some as young as eight years old. While there are cases of domestic child laborers who are actually poorer relatives of the employers and provided opportunities to go to school while working, majority of them are in exploited conditions. Many are victims of trafficking, and are bonded by debt to their employers. They have long working hours, with very little opportunity for rest. They are exposed to hazards while doing heavy household work. And most of them are victims of verbal, physical, and sexual abuse. Domestic child laborers are among the most difficult to see and reach as they are of course hidden in the privacy of our homes.

Use of children as soldiers

Internal armed conflicts in several Asian countries expose more children to armed groups and increase the probability of their forced recruitment as combatants. Children are not only sent to the front lines, they are also used as spies, porters, helpers in camps, and are often subjected to abusive treatment. Direct involvement of children in the armed forces are documented in Burma, Sri Lanka, India, Indonesia, Philippines, and Nepal.

Scavenger children

Children and their families work and even live in the dumpsites in many of our countries - the Philippines, Indonesia, Cambodia, Thailand, Nepal, India, and Vietnam.

Gains and Challenges in Actions on Child Labor in the Region

Harnessing political will for social policy and social attitudinal change

There are some remarkable successes in certain coun-

tries in the region in creating changes in policies and in influencing people's attitude towards child laborers in general or towards groups of child laborers, such as domestic child laborers, in particular.

In the Philippines, a law entitled "Magna Carta for Household Helpers" was passed to "institutionalize and uplift the minimum working parameters and standards of the household helper industry." The law limits the minimum age of employment to 15 years of age, increases minimum wage, provides for social security coverage, days off from work, and other protective measures for both children and adult domestic workers. The campaign to enact this law was coupled with active national education campaigns to gain respect for household help. While there is still a lot to do to attain significant attitudinal change, several initiatives from people influenced by the campaign are already felt. For example, some schools begun to allow members of the organized domestic child labor groups (such as SUMAPI) to orient students on child and workers' rights, and set-up exhibits to conscientize parents and students.

In India, the government issued an order restraining government officers from employing children as domestic workers. NGOs and civil society members are now actively monitoring the implementation of this order.

As a result of NGO and social welfare sector advocacy in Thailand, the government recognized its responsibility to provide protection not only for Thai children but also for trafficked child laborers from other countries. A Memorandum of Understanding among various government ministries requires coordination of their actions. Thus, trafficked migrant children are no longer brought by the police to the immigration detention center. They are instead housed in a social welfare center where they learn various skills while the Thai government, their own government, and international NGOs work on their return to their families.

These successes however do not mitigate the fact that many countries in our region do not put children as a priority concern. A number of these countries do not recognize child labor as a problem. For those who do, what could critically make the difference for the children are not the ratification of international agreements and the subsequent enactment of legislative measures alone but the development and implementation of effective national action programs that address the real needs of the children. There must be corresponding budgetary allocations, social reforms including changes in educational systems and practices in schools, poverty alleviation programs, and trade and employment policies. There is also a need for serious changes in our attitudes and cultural practices if we truly aim for the eradication of child labor especially the worst forms.

Child labor and regional development policies

National legislations and regional policies must be reviewed in order to protect children from adverse effects of globalization. The contractualization of labor that many companies now use as a policy makes it difficult for working class parents to ensure continuing education for their children, nor regularly afford basic needs in the family. Children out of school, belonging to families hardly able to make ends meet, are more prone to enter the job market especially the informal sector. Children of displaced small farmers and fisherfolk are in the same situation. Moreover, small industries that need to remain afloat with very small capital and almost no support from governments tend to utilize child labor in order to reduce labor costs.

The best interest of the child as the basis of actions against child labor

Increased awareness among the corporate and industrial sectors on child labor standards along with vigilant campaigns against child labor in workplaces have their downside. They may push children into worse conditions after losing their jobs. A few months back, a Hongkong newspaper reported about child labor in a toy factory in mainland China supplying promotional toys to a well-known multinational fast food corporation. Over three thousand families and children lost their jobs when the corporation immediately severed the contracts with the factory on the premise that the factory violated the code of ethics of the corporation. Where did the children go? No one knows at present but surely they are now among the easy prey for traffickers and other unscrupulous employers. Whose interest was served by the action of the media and by the response of the corporation?

Participation of the children and their families in defining the problem and their solutions

> *After quitting school, I started to help my parents financially. I collect garbage that can be sold from early morning till afternoon. I give the money I earn to my parents to buy food so we can survive and send my brother to school.*
>
> *When I see my friends go to school, I feel I want to cry. Sometimes, I daydream, imagining myself in school. I used to go to school, now, no more. I work among the garbage.*
>
> *One day, I collected trash till the sun went down. When I finally came home, my parents told me that my younger brother does not want to go to school*

anymore. I was confused. I could't do anything but pray that hopefully my little brother would again go back to school like he used to.

— a scavenger girl from Pancur Batu, Medan, Indonesia

Child labor interventions are not often designed with clear child rights and people's development perspectives. Children participation as a key element in development programs is not clearly defined and practiced. Many programs being implemented in the region at the moment seldom consider listening to the child laborers themselves. Thus, the children are often not participating in defining what actions will serve their interest best. The report on the toy factory above is one illustration.

A second case is about the large donor-driven programs existing in our region. They are designed by technocrats with hardly any input from the families and the children who live with the problem of child labor. Participation of children and communities demands process, resources, and time. Consequently, adopting such idea can mean that program target outputs are not always immediately met. Thus, donor programs that seek impact in two to three years could hardly afford participatory processes.

A participatory approach demands that we look at child laborers from a perspective of strength. Child laborers are not unthinking, passive victims of fate. They are individuals, young as they are, responding to what life offers them, according to their understanding of life. The scavenger child from Indonesia represents typical child laborers. They are persons with a strong sense of responsibility and fine human qualities. Given the opportunity, they could teach us a lot on how to better plan, implement, and monitor our programs that aim to help them.

A number of children's organizations have become effective change agents in their communities and countries across the region. In India, the Bhima Sangha (an organization of young workers) has been actively promoting child rights, defining types of work that are appropriate for children according to their level of development, and identifying key issues and proposed solutions in the communities (through participatory research). It has child leaders now sitting in village councils making policies and programs for their communities together with the adults. In Donkoi Village in Laos, a small group of former child laborers, including former migrant child laborers in Bangkok, is implementing simple child rights campaigns in their village and has succeeded in generating support for their small multi-purpose center from their families and village leaders. In North Sumatra, Indonesia, a group of

streetchildren are actively promoting information about themselves through a publication. They have had dialogues with the police, bus drivers, NGO staff, government officials, and other people significantly affecting their lives in the streets.

In May 2000, former sexually exploited children and their peer advocates from twenty-nine countries all over the world gathered in Manila to express the youth's voice in the fight against commercial sexual exploitation of children (CSEC). They said:

> We do not believe that this problem can be eradicated without our full involvement.
>
> We implore that all measures be taken to guarantee the rights of children and youth everywhere to participate on local, national, and international levels to end CSEC.
>
> We demand that young people be empowered to take an active role in decision-making, development, and implementation of strategies against CSEC.

If we begin our understanding of the situation of child labor in our region from what these young people are saying and doing, we would be in a better position to define what we adults have to do to completely address the situation. The solution lies in a genuine partnership between the young and the adults.

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Child Labor and India's Football-making Industry*

India Committee of the Netherlands

India is the world's second (following Pakistan) largest producer of footballs and other inflatable balls. Between April 1999 and February 2000, India's production reached almost US$ 18 million (Rs. 7,854.76 lakhs).[1] United Kingdom imported a total of US$ 6.86 million for the same period.[2] Other important European importing countries are France, Germany, Spain, Italy and The Netherlands. Besides inflatable balls, badminton rackets, shuttle cocks, cricket balls and bats, hockey sticks and different kinds of gloves and protective equipment are also manufactured. There are 364 sports goods exporters registered with the Sports Goods Export Promotion Council (SGEPC) in India.

According to the Sports Goods Manufacturers and Exporter's Association in India, the total number of persons working in the industry is about 30,000. A report by Christian Aid however gives a figure of around 300,000 people working in the industry, "either in the 1,500 factories and smaller manufacturing units or as subcontracted home-workers".[3]

It is not fully clear how this large difference can be explained, but it can be assumed that the former figure does not include the home-based workers who are working for the manufacturers/exporters via the contractors. The number of home-based workers can only be roughly estimated as there are no reliable data on them yet. If the figure of 300,000 is correct this would mean that nine out of ten workers in the sports goods industry are in the informal, unorganized sector.

The V.V. Giri National Labour Institute of India (NLI), as commissioned in 1997 by the Federation of Indian Chambers of Commerce and Industry, studied the child labor situation in the Indian sports industry. Its report gives a detailed account of the child labor issue.[4] Being the most comprehensive survey on the issue thus far, although only limited to the Jalandhar area,[5] the report estimates that about ten thousand children are working in sports goods production. Of these about 1,350 are only working (and not going to school) while the rest are

both working and school going. While 92% of the working children are stitching footballs, 8% of the child laborers in Jalandhar and its surrounding villages make other sports goods such as shin pads, cricket balls, rackets and shuttles.[6]

The report makes a distinction between children who are only working (OW) and not going to school, children who are working and school going (WSG), children who are only school going (OSG) - although they might be doing households chores - and not working and not school going children (NWNSG).

The survey found that three out of four families reported children who are either only working or combining education with work.

Footballs are stitched by children from five years and older. However, 'only' 11% of the OW children are between five and nine, while 26% are between ten and twelve. The rest (63%) are thirteen or fourteen years old. Two-thirds of the WSG children are between five and twelve, indicating that most children start to stitch footballs when they are quite young. The work participation of boys and girls in stitching balls is almost the same.

The work intensity of the stitching children is high. A six-year-old 'only working child' spends on average seven and a half-hours stitching balls, while a thirteen-year-old child spends nine hours of work. Children who go to school and work have to shoulder a bigger work burden: nine hours when they are six and almost eleven hours when they are thirteen. It is also striking that a quarter of the OW children work at night, while 14% of

* This is an edited excerpt of the report *The Dark Side of Football: Child and adult labour in India's football industry and the role of FIFA* (June 2000, India Committee of the Netherlands). The full report is available at: www.indianet.nl/iv.html

the WSG children do so.

Most children leave school from ten years of age onwards. There is a relatively high rate of school attendance of children between five and nine years old. However, with the average number of working hours (besides school work) being more than three hours each day after the age of ten, the pressure builds up to leave school: "The work pressure finally leads to dropping out of school. The data suggests that 90% of drop-outs have turned into full-time workers."[7] The NLI report states that more than half of the respondents say that financial problems or the need to assist in family work forced the children to leave school and start working full-time. More than a quarter of the respondents reported lack of interest in school as the main reason for dropping out. The NLI report sums up the impact of child work on education as follows: "Child work renders school education futile in the perception of both parents and children. Parents do not insist and children lose interest."[8]

There are many factors to consider in this issue. The quality of schooling combined with the lack of school-going tradition (especially for girls), the pressure of work once started and the fact that most stitchers are socially discriminated 'Dalits' might ultimately be more important than the often, and perhaps more easily voiced, financial reasons to drop out.[9]

Earning money is not the only reason why children are working. Even in the lowest income category children go to school, while at the same time there is a very high incidence (67% or more) of child labor in the households earning more than Rs. 600 per capita per month. The NLI report concludes: "Though income may be an important condition for a household to make the child work, it is not the essential condition...on the part of the family to involve children in wage employment."

According to representatives of the sports goods industry, the problem of child labor has been substantially reduced since the research was done by the NLI. In 1998, sports goods exporters formed the Sport Goods Foundation of India (SGFI). It now has thirty-two members. The members contribute 0.25% of their earnings from manufacturing footballs to support an inspection and child labor rehabilitation program.[10] Mr. S. Wasan, the SGFI secretary, said that the foundation expected an external monitoring group (Societe Generale de Surveillance or SGS) to find only a few working children, because of the increased awareness on the issue.[11] This expectation is not surprising because SGS found only one child after the first round of monitoring almost 200 stitching locations,[12] and 70 children after covering almost 75% of the stitching locations in June 2001.[13] Another SGFI official felt that the problem is now much less compared to two years ago. He particularly expected the number of 'only working children' to be very small now. [14]

Sangal Sole Colony in Jalandhar and surrounding areas [15]

"A mother and daughter are stitching the 32 separate panels of a football together. For a long working day of twelve hours they earn around Rs. 35. Two girls of around 15 or 16 years together stitch three or four balls a day and earn Rs.15 a ball. 'This is the general picture' according to Mr. Jai Singh, coordinator of Volunteers for Social Justice, an NGO based in Punjab. Two young women tell us that they stitch four balls a day and together earn Rs. 60. A boy and his father also tell us they earn roughly Rs. 30 a day each.

During the time of the visit, several children, varying in age from approximately ten to fifteen years, were assembling footballs. At that time however children are not massively at work. At busy times, when orders pour in, the picture is very different. 'It's off season now, so relatively few children are engaged', tells Singh. Many inhabitants confirm this statement. But apparently there is something to hide even during off-season. Just after meeting a contractor, he rushed off on his scooter to the next village to warn the people about 'unexpected guests'. Everywhere doors were being closed.

Other villages around Jalandhar and Batala[16] do not instill the same kind of optimism prevalent in SGFI. Awareness that child labor is not to be employed in the industry seemed to result mainly in children hiding or running away as soon as they, their family members or their neighbors spot outsiders.

In the April 2000 visit, most adults in villages admitted straight away that children also stitch footballs. Some contractors did the same. They felt that little can be done about it because of the poverty of the families concerned. Asked if they received instructions from their company on avoiding child labor, they answered no.[17]

Visits to, among other places, Sangal Sole Colony in Jalandhar and Gandhi Camp in Batala further reinforced our impression that the conclusions of the NLI report are still valid to a large extent. In fact the number of stitching children in Punjab might be much larger than 10,000.

Legal work

Football stitching by children, at whatever age, is not illegal. The Indian Child Labour (Prohibition & Regulation) Act of 1986, which bans child labor in certain hazardous industries or occupations like carpet weaving or matchmaking, does not consider stitching of footballs a hazardous occupation for children. But even if it did, it still would not affect child labor in the football industry since the law allows homework in all

occupations, without any restrictions.

Almost five years ago FIFA agreed on a 'Code of Labour Practice' with the International Federation of Trade Unions (ICFTU) for FIFA licensed products, particularly footballs. The code however was never signed or implemented. Instead, programs in Pakistan and recently in India were started to eradicate child labor from the industry. In addition, the contracts signed by the football importing companies with FIFA,[18] contain clauses on labor conditions that are based on the Code of Conduct of the World Federation of Sporting Goods Industry. These clauses are less stringent than those in 'the original FIFA Code'. For example, provision on 'fair wages' is missing. Even these contracts however are violated in India on several points.[19]

Concluding statement

The SGFI and its Steering Committee, in consultation with local communities, NGOs, unions and others, should find ways to implement the important conclusion of the NLI report. It is recommended that the contractor system be replaced by a system with effective monitoring and regulation by the State, employers and trade unions. In addition, the idea to form labor co-operatives should be further studied, and implemented with the help of NGOs and unions.

Bringing an end to the use of child labor and guaranteeing basic labor rights in the sports goods industry of course go beyond the influence of FIFA and other football associations. Therefore all companies, regardless of their relation to FIFA, should have a code of labor practice which is at least as good as the original FIFA Code and is independently monitored and verified.

For further information, please contact: India Committee of the Netherlands, Mariaplaats 4 3511 LH Utrecht, The Netherlands, ph 00-31-30-2321340; fax 00-31-30-2322246; e-mail: liw@antenna.nl; website: www.antenna.nl/liw.

Endnotes

1. Forty-seven Indian rupees are roughly equivalent to one US dollar.
2. Figures from the Sport Goods Export Promotion Council, New Delhi. Other important importers of Indian inflatable balls, mainly footballs, are Australia (Rs. 98 million), France (Rs. 52 million), South Africa (Rs. 51 million), Germany (Rs. 43 million), USA (Rs. 41 million), Italy (Rs. 38 million), New Zealand (Rs. 24 million), Spain (Rs. 21 million) and The Netherlands (Rs. 20 million).
3. Christian Aid, *A sporting chance - Tackling child labour in India's sports goods industry*, May 1997, page 3.
4. V.V. Giri National Labour Institute, *Child labour in the sports goods industry: Jalandhar, A Case Study*, Noida, September 1998. This survey was jointly supported by FICCI and ILO-IPEC.
5. Jalandhar is now the major center of India's sports goods industry. It is located in Punjab state. Other centers are Meerut in Uttar Pradesh and Gurgaon in Haryana. There is a traditional stitching community called Mahashak found in Jalandhar, Batala and Ludhiana in Punjab. It migrated from Sialkot in Pakistan during the partition between India and Pakistan in late 40s. Sialkot has traditionally been the center of sports goods industry.
6. It can of course be questioned whether or not more than 30 villages and urban localities in Jalandhar area are involved in producing sports goods. Discussions between the NLI researchers and the trade unions led to the identification of 21 areas where there are large concentration of child labor for the sports goods industry. It was assumed that these areas constituted roughly 75% of the 'child labor' areas. A sample of 10 areas (five urban and five rural) out of 21, have a total of 2,993 households engaged in production of sports goods. Of these households, 1,292 were interviewed intensively. In total, 225 full-time and 1,492 part-time working children were found. Multiplying these figures by six brings the number of working children to 10,000.
7. *Child labour in the sports goods industry*, op cit., page xi.
8. *Child labour in the sports goods industry*, op cit., page 42.
9. This is supported by the experiences of MV Foundation in Andhra Pradesh which mainstreamed more than 100,000 poor rural children, including formally bonded children and girls, into formal education. Visit: www.antenna.nl/liw/index_e.html
10. "Missing goals", *India Today*, 9 July 2001.
11. Interview with Mr. S. Wasan in magazine *India Nu*, May 2000.
12. Sports Goods Foundation of India, *The Realistic Approach* (Part 2), 2000.
13. "Missing goals," op cit.
14. Interview with Mr. Purewal, manager of SGFI, April 2000.
15. Report of visits by Mr. Jai Singh, Volunteers for Social Justice, and Gerard Oonk, India Committee of the Netherlands, April 2000.
16. Report of Gerard Oonk, November 1999.
17. Report of visits by Singh and Oonk, op. cit.
18. The contracts were originally signed with International Sports and Leisure (ISL), the licensing company operating on behalf of FIFA. ISL went bankrupt in the early part of 2001.
19. Press Report of the India Committee of the Netherlands, Utrecht, June 23, 2000, page 13.

International Criminal Court and Asia

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When the Rome Statute for the International Criminal Court (popularly known as the Rome Statute) was adopted in July 1998, one hundred twenty States voted in favor (out of one hundred sixty participating States). Several Asian States voted against. When the signing of the treaty was closed on December 30, 2000, less than twenty Asian States have signed. As of the present (September 2001) only one Asian State has ratified the treaty.

A campaign for the ratification of or accession to the Rome Statute by a significant number of States in Asia is daunting. It is the only region in the world where the rate of ratification/accession to the Rome Statute is very low (one ratification out of more than thirty countries). The global rate of ratification/accession, however, is high with thirty-seven States already parties to the Rome Statute within a period of three years. Twenty-three more ratifications/accessions are needed to make the Rome Statute enter into force. The prospect of a significant number of Asian states being able to join the first sixty States to become State Parties to the Rome Statute does not seem so bright.

Will the Rome Statute enter into force without Asia?

This is the question discussed in the Northeast Asia Workshop on the International Criminal Court and its Implications to East Asia. The workshop was held from 11 to 14 August 2001 in Hong Kong. Participants from Hong Kong, Taiwan, mainland China, South Korea and Japan attended the workshop, which aimed to launch a campaign for the ratification/accession to the Rome Statute of the International Criminal Court (ICC) in Northeast Asia.

The workshop opened with the remarks from the Consul Generals of Netherlands and Norway. They emphasized the need not only to support the establishment of the ICC but also to help strengthen it. The Rome Statute is the best that can be had at present, but there is still room for improvements. What is important is putting up a system that will not allow impunity to reign as it did during the Cold War era.

Invited resource persons presented the main features of the Rome Statute. They explained the background of the provisions of the treaty. They emphasized that the drafters of the treaty took into consideration the experiences of the Nuremberg and Tokyo trials as well as the International Criminal Tribunals for Rwanda and the former Yugoslavia.

The Rome Statute

The Rome Statute contains numerous principles that address the need to make individuals accountable for committing serious crimes, and provide reparation to the crime victims. It establishes a permanent international criminal court. Netherlands will host the court though its trials may be held elsewhere.

The serious crimes covered by the Rome Statute refer to the:

a. crime of genocide;
b. crimes against humanity;
c. war crimes; and
d. crime of aggression.

With the exception of the crime of aggression, the Rome Statute identifies the acts that constitute the serious crimes based on existing international treaties and international customary laws. The definition of the crime of aggression is still subject to agreement by the State Parties. The Rome Statute will be accompanied by "collateral documents" on elements of the crimes, rules of procedure and evidence, and administrative matters. Final drafts of these documents are either finished or on final stages of drafting. The sixty or so State Parties that ratify or accede to the Rome Statute will adopt the collateral documents as soon as the treaty enters into force.

The ICC is independent from the UN. But it will enter into an agreement with the UN to establish formal relationship.

Several features of the Rome Statute are worth mentioning:

1. As a general rule, the ICC will not take jurisdiction of a case unless either the accused is from or the crime is committed in the territory of a State Party or State that consented to the treaty;
2. National remedies are respected and thus only when the national remedies are unavailable or inadequate that cases may be brought to the ICC. An act that has been tried in a national court will not be covered unless the proceedings of the court violate the due process principles of international law;

3. Only crimes committed after the treaty entered into force are covered;
4. Gender crimes (such as rape) are included in acts constituting the serious crimes;
5. Complaints maybe filed by governments, victims and NGOs. The Prosecutor's decision (whether to investigate or not) is subject to review by a pre-trial chamber (whose decision is not subject to appeal);
6. The accused will not be tried in absentia, will be afforded defense counsel, and exercise other rights;
7. Death penalty will not be imposed;
8. Children will not be prosecuted as provided for in the Convention on the Rights of the Child;
9. Victims are entitled to reparation. The court has the power to issue necessary orders to compensate and rehabilitate the victims.

States that become party to the Rome Statute are obliged to cooperate with the ICC. They may be asked to provide information on the cases.

Northeast Asia scenario

Among the countries in Northeast Asia, only Mongolia and South Korea have signed the Rome Statute. It is reported that a bill for ratification of the treaty has already been filed in the Korean legislature.

China and Japan, on the other hand, voted against the treaty. It is not likely that China will reverse its stance in the near future. Japan, however, is reviewing the treaty at present.

With this background, the campaign for the ratification or accession to the Rome Statute in Northeast Asia faces a difficult situation.

A few NGOs in Japan have started their campaigns. Two initiatives are known to exist. One is the Japanese Network on International Criminal Court (JNICC) organized by the Japan chapter of the World Federalist Movement in 1997. It held public meetings, published leaflets, created a website on ICC and sought media coverage of the Rome Statute. It also lobbied high officials in the Ministry of Foreign Affairs of Japan to support their petition for Japan to become a party to the treaty.

Participants in the Hong Kong workshop on ICC

The Japan section of Amnesty International held study meetings on the Rome Statute, and circulated information on ICC through its publication. It also launched a media campaign on the issue.

Both initiatives are in Tokyo. No other initiatives are known to exist in other major cities of Japan.

In South Korea, the ICC seems to be largely unknown. There is no report of any organized campaign to lobby the government to hasten the process of ratifying the Rome Statute.

While there is no campaign so far in China regarding the ICC, campaigns are being planned in Hong Kong.

The Taiwan section of Amnesty International launched a "second-country lobby." It adopted some countries to which it directed petitions for ratifying the treaty. It sent representatives to the embassies of these countries in Taipei to lobby for the ratification of the treaty by their respective States.

Two unique campaigns

There are two types of ICC campaigns that have unique characteristics. The participants from Taiwan stressed that since Taiwan is not a member of the United Nations, there is no possibility for it to become a party to the Rome Statute. But they still would like to campaign on the ICC because they want Taiwanese laws to follow the principles of the Rome Statute. They still find the need to make the laws in Taiwan compatible with international human rights standards. Their "second-country lobby" helps the Rome Statute ratification campaign in general. They have been receiving official responses on their petitions sent to various governments. Though they do not necessarily bind governments, the official communications can still be used to pressure for ratification.

Hong Kong, being a special administrative region of China, cannot also become a party to the Rome Statute. It may however be given a special permission to become a party to or consent to be involved in the treaty by China. In any case, participants from Hong Kong stressed the need for China to become a State Party to the Rome Statute, or let Hong Kong be a party to the treaty in some way. Hong Kong, being a financial and commercial center in the region, is most likely to have visitors who are being investigated by the ICC Prosecutor for committing serious crimes. They may also have funds in banks based in Hong Kong. In those cases, the cooperation of the Hong Kong government

(Continued on page 12)

Psycho-social Rehabilitation Towards Development

Tahirih Q. Ayn

Sri Lanka is a country torn apart for almost two decades between the government and the Liberation Tigers for Tamil Eelam (LTTE) who are fighting for a Tamil "homeland" in the northern and eastern parts of the country. The people of Sri Lanka have witnessed social, political and economic upheaval throughout the whole country. The conflict has caused mass destruction, death, displacement, injury and trauma to countless number of people. Women suffered a lot in this situation. Apart from facing mental stress because of the loss of their husbands, women also face economic stress. Additionally, traditional social-cultural rules and values, sanctioned by the government and the community, make life for an unsupported mother extremely difficult.

The government, NGOs (domestic and international), and other professionals have demonstrated concern for the well-being of groups such as unsupported mothers. The Institute of Human Rights (IHR), based in Colombo, is one of the NGOs working with people affected by the war.

IHR seeks to promote greater awareness and realization of human rights, and to obtain relief and redress for human rights violation victims through legal assistance, advice and rehabilitation. IHR designed workshops with a holistic approach, including human rights education and psychosocial awareness. They deal with coping mechanisms on a practical and emotional level. The concept of the workshops is based on the belief that people's mental well-being is always affected by outside factors, such as environmental destruction caused by natural disasters (like floods and cyclones) and war, in addition to biological and physical deficiencies.[1] The workshops give importance to the mental health and well-being of the individual and the society by sharing, in a positive manner, knowledge and skills that are needed for their development.

The Rehabilitation Unit of IHR holds two-day workshops for different participants in different timeframes. They invite internally displaced people, police officers, village heads (Grama Sevekas), high school students, teachers, and members of fishing and farming communities to attend the workshops.

The workshops prove that groups working together increase their insight and understanding. They (workshops) are a tool to express mutual understanding and support. They help gain greater understanding of social problems, legal rights, and means of coping with psychological issues.

The workshops therefore highlight the strength of unity among several sections of the community in looking at problems faced and in understanding how to deal with them socially, legally and psychologically.

Discussion and problem-solving are some of the activities used in the workshops.

Focusing on the psychological/psychosocial aspect, the workshops employ the "Me, We and Us" approach. Participants are asked to look into the self, the community and the social institutions. Several themes are covered such as:

- Feeling good about one' self so that he/she can be a useful person
- Enjoying Life even when facing different and difficult situations
- Empowering one's feeling, sometimes taking important steps
- Stress release, coping mechanisms and relaxation exercises
- Uplifting one's self-esteem.

IHR started in 1998 the workshops for unsupported women in southern Sri Lanka, an area where many husbands and sons were lost during the 1988-1989 conflict. It designed a program on making women become aware of their rights. Women are made aware of their right to own land/property, and of the value of economical use

of property to secure the future. Women are also made aware of their children's right to education and right to be protected from harm (sexual violence and exploitation).

It also started to involve caregivers since their increased awareness has a direct impact on the underprivileged groups. Limitation of resources, frustration and burn out often limit the caregivers in assisting and providing needful guidance to the underprivileged in the community.

Women gain greater understanding of their rights that empower them to take important steps, such as seeking legal advice and not being dependent on the legal processes. The workshops also started to look into their coping mechanisms, enabling women to gain control over their lives. The workshops encourage active participation. Applied Theatre Tools are used. These tools enable all participants to have an equal say in the workshops, and make the workshops more powerful as the participants learn through play and enjoyment. They can also act as a natural healing process that eases psychological trauma.

Lectures about rights are often less effective. Participatory/activity oriented approach where participants examine how to realize rights through sharing of concrete experiences (case studies) is more effective. People who feel disempowered and useless suffer from a low self-esteem. The philosophy of empowering disadvantaged people through programs that encourage active community participation can assist community education and awareness. It can also help reduce conflict and be a way forward to peace.

Evaluation of the workshops by participants shows that the vast majority not only enjoyed the workshops but found the information given and the therapeutic approaches used helpful in overcoming traumatic situations in day-to-day life. It also helps us gain an insight about how we could contribute in reducing conflict and move forward to peace.

Endnote

1. Sociologists have long been interested in the problematic aspect of social life, out of deep concern over social conditions caused by industrialization, urbanization, etc. They use two approaches: social pathology and social disorganization approaches. The social pathology approach is largely concerned with the individuals' behavior caused by biological or psychological deficiencies. The social disorganization approach, on the other hand, is concerned with deviant behavior of individuals that are influenced by the social environment. Social science thinkers believe that important social problems affect the behavior of individuals, causing psychological problems to individuals and society. Thus social and cultural issues should be given importance in today's world. Psychologists, on the other hand, think that individual behavior contributes to the social issues. Thus mental health and well-being should be given more importance in a scientifically developing world.

Tahirih Q. Ayn is the Rehabilitation Officer of the Institute of Human Rights.

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International Criminal Court and Asia

with the ICC is important.

The cases of Taiwan and Hong Kong show two variations of the ICC campaign. They illustrate the value of subscribing to the Rome Statute principles even though one cannot become a State Party to the treaty. They also stress the importance of incorporating the Rome Statute principles into the domestic legal system in order to make any person who commits serious crimes accountable.

Prospect of a Northeast Asia campaign

There is still a lot of work to do before Japan and hopefully China become parties to the Rome Statute. South Korea and Mongolia still need pressure to assure speedy ratification of the treaty. Thus a northeast Asia campaign is as important as in other subregions of Asia.

Similar campaigns have been launched in South and Southeast Asia.

It is noted in the workshop that the Rome Statute is basically agreeable to many governments. The main issues may lie on the revision of existing laws or enactment of new ones to make them adhere to the Rome Statute. Thus an ICC campaign will mainly be aimed at making States agree to do the necessary legislative measures in order that they will become parties to the treaty.

The workshop was jointly organized by the Asian Human Rights Commission (AHRC), the Asian Forum on Human Rights and Development (Forum-Asia), and the Hong Kong Human Rights Monitor. For more information contact: Asian Human Rights Commission (AHRC), Unit 4, 7 Floor, Mongkok Commercial Centre, 16 Argyle Street, Kowloon, Hong Kong, ph (852) 26986339; fax (852) 26986367; e-mail: ahrchk@ahrchk.org

ASEAN Writeshop

Twenty-six participants composed of teachers, education researchers, curriculum developers and NGO workers from Cambodia, Indonesia, Malaysia, Philippines, Thailand and Vietnam gathered in the Philippines on June 19-27, 2001 for a writing workshop (writeshop). The participants wrote human rights curricular frameworks and lesson plans.

The idea of an ASEAN writing workshop was agreed upon in the 1999 Southeast Asia Pilot Teacher Training Workshop organized by the National Human Rights Commission of Indonesia, the Center for Human Rights Studies (PUSHAM) of Universitas Surabaya and HURIGHTS OSAKA. It was held in Bali, Indonesia. At that time, only the Philippines seemed to have undergone writing workshops to develop lesson plans on human rights. It was therefore agreed that this Philippine experience should be shared with educators in the ASEAN countries through a writeshop.

By 2001, Indonesia and Thailand have produced their own human rights lesson plans on various subjects. Vietnam added more modules in its set of modules on civics education that cover human rights. The Malaysian human rights commission, on the other hand, shows keen interest in developing materials for human rights education in schools.

The ASEAN writeshop therefore is as much a training on writing human rights lesson plans as a sharing of experiences in making them.

Objectives

This writeshop had the following objectives:

General Objectives:

It aimed at developing human rights teaching guides for ASEAN schools. Participants were expected to draft sample teaching guides for elementary and high school levels focusing on basic concepts and principles of human rights and contextualized in each country's culture, beliefs and practices. In this regard, the principle of universality of human rights was emphasized.

The writeshop also aimed to serve as a venue for ASEAN human rights educators to share and exchange experiences in teaching human rights in the formal basic education system.

Specific Objectives:

- To formulate ASEAN Human Rights Education Vision and Mission;
- To review human rights standards and principles in order to identify core human rights concepts for basic education;
- To reexamine linkages between human rights and Southeast Asian cultures in order to help translate human rights concepts into educational materials;
- To train on how to relate human rights lesson plans to the existing school curriculum;
- To identify various strategies for infusion of human rights in the formal education curriculum;
- To identify programs for extra and co-curricular activities and/or human rights community-based activities;
- To prepare an action plan regarding strategy in regional lobby for human rights education; and
- To strengthen linkages among educators in Southeast Asia involved in human rights education in schools.

Program

The writeshop had a nine-day program comprising of the following major components:

1. Review of human rights education programs, human rights principles, human rights education approaches, strategies and methods; and formulation of ASEAN Vision and Mission for human rights education;
2. Writing of human rights teaching guides;
3. Teaching demonstration using the teaching guides developed; and
4. Planning for follow-up activities.

Process of writing materials

It has been observed that there are various interpretations of the concept of integrating human rights into

the existing school curriculum. On one hand, it can be the citation of human rights concepts in civics education subjects while emphasizing the duty to serve one's country rather than the fulfillment of one's rights. On the other hand, it can be straightforward discussion of human rights in the context of issues facing the children.

It was thus agreed that a better way to make the writeshop meaningful is to consider the following factors:

a. There is an assumption that school curriculums are already set and cannot be easily amended to accommodate human rights education as a separate subject;
b. There is a need to review the curriculums and teaching materials to find out how human rights concepts can be discussed within the existing subject areas;
c. It is preferable to use a common framework in developing materials to allow a better understanding by the participants of the materials developed;
d. Testing of the drafted materials can be done in the respective countries to determine how they suit the existing school curriculums.

Two types of documents were drafted during the writeshop. The first is the human rights curricular framework. The following elements comprise the framework:

a. Human rights issues affecting people at various levels - personal, community, country, regional and international levels;
b. Core values to be taught per subject and year level; and
c. Human rights concepts that relate to the core values.

The second document is the lesson plan. A common format for lesson plans was also adopted. This format, while following standard lesson plan format, has additional elements that integrate human rights concepts into the subject.

The drafted documents were then presented to all participants and commented on by a panel of educators. The members of the panel gave observations on the objectives, materials for use by the teachers and students, the procedure for teaching, and the core values and human rights concepts involved. Each member of the panel was later on assigned to assist a country delegation in improving the drafted lesson plans.

After the initial set of human rights curricular framework and lesson plans were developed, the participants went on to make more lesson plans for other subject areas in their curriculum. Each delegation was requested to make eight lesson plans as final output. But due to time constraint, some delegations were not able to develop all the eight lesson plans. At the end of the writeshop, forty-two lesson plans were prepared.

The lesson plans were still in draft form. They were subject to review, revision and testing in the respective countries. The delegations that have not developed eight lesson plans submitted the remaining lesson plans after the writeshop.

Teaching demonstration

To allow interaction between the participants and the students and teachers, a teaching demonstration was held in primary and secondary schools in Manila. Some delegations prepared a lesson plan for the teaching demonstration exercise.

There was an initial apprehension about language. Participants thought that their English might not be understood due to their accent. As the teaching demonstration experience showed, the students interacted very well with the participants. Language was not a problem.

All participants appreciated the teaching demonstration experience. They were happy to find out that the students were enthusiastic in discussing human rights. They also realized that human rights, as a subject matter, is not new for the students.

The schools involved (Aurora Quezon Elementary School and Manila Science High School) are "effective" or highly rated public schools in the Philippines. The students were found to be smart and able to interact easily with the participants. Thus the future challenge is in testing out the lesson plans in less "effective" schools or with "ordinary", underprivileged students.

Report on the writeshop results

A report on the proceedings of the writeshop will be published in the fifth volume of *Human Rights Education in Asian Schools*. This report will include some of the human rights teaching guides developed.

A separate compilation of the human rights teaching guides will also be published. This publication will be used in the follow-up activities under the project.

The Philippine Department of Education, Culture and Sports (DECS), the Philippine Commission on Human Rights (CHR) and the Asia-Pacific Human Rights Information Center (HURIGHTS OSAKA) jointly organized this writeshop. Financial support was provided by the Southeast Asia Fund for Institutional and Legal Development (under the Canadian International Development Assistance program), and the organizers.

Events

Recently-Held Events

1. The Asia-Pacific Workshop on Legal Aid was held in Manila on 22-24 June 2001. The workshop discussed four themes: a) Human Rights Challenges in the Asia-Pacific Region and the Role of Lawyers; b) Protecting the Rights of Migrants, Women and Children; c) Existing Legal Aid Programs in the Asia-Pacific: Issues, Challenges and Possible Solutions; d) Establishing Legal Aid Arrangement. The workshop was jointly organized by LAWASIA Human Rights Committee, LAWASIA – Philippines, and the Integrated Bar of the Philippines. For further information please contact: LAWASIA Human Rights Committee, c/o Ateneo Human Rights Center, School of Law, Ateneo de Manila University, Rockwell Center, Rockwell Drive, Makati City, Philippines, ph (632) 729 6583, 7296585, 729 2002, fax (632) 899 4349, e-mail: lawasia@acc.aiti.admu.edu.ph

2. The World Youth Foundation held the Asia-Pacific Regional Workshop on Racism: Youth Tolerance in the New Millennium in Melaka on 27-29 July 2001. The workshop was organized with the cooperation of the Office of the UN High Commissioner for Human Rights, Ministry of Youth & Sports in Malaysia and the World Assembly of Youth. For more information, please contact the World Youth Foundation at wyf@po.jaring.my

3. The Fourth National Forum in Solidarity with Migrant Workers was held on 11-12 August 2001 in Osaka by a network of Japanese NGOs working on the migrant workers issues in Japan. The forum was attended not only by NGO workers but also by the general public. For further information please contact: RINK, 1-2-13-602 Uchihonmachi, Chuo-ku, Osaka-shi 540-0026, ph (816) 6910-7103; fax (816) 6942-0278; e-mail: rink@lion.zero.ad.jp

4. A Regional Experts' Meeting on the International Criminal Court was held in Bangkok on 11-12 September 2001. This meeting reviewed the status of international human rights treaties in Asia, some initiatives in addressing the problem of impunity in the region, and the regional campaign for the ratification of the Rome Statute. For further information, please contact: Ms. Niza Concepcion, Forum Asia Coordinator for the Project on ICC Promotion, Asia Forum on Human Rights and Development (Forum Asia) c/o Union for Civil Liberty, 109 Suthisanwinijchai, Samsen-Nok, Huaykwang, Bangkok 10320 Thailand; ph (662) 267-9846-7, 693-4940; (662) 693-4939; e-mail: info@forumasia.org

Events

1. The Second Lawyer's Collective Colloquium on "Justice for Women - Empowerment Through Law" will be held on 20-21 October 2001 in New Delhi, India. The Colloquium will discuss laws that are discriminatory to women. It aims to develop a feminist approach to the problem of plural legal systems governing family laws. For further information please contact: Ms. Leena Prasad, Lawyers Collective – WRI, 63/1 Masjid Road, Jangpura Extension, New Delhi 110014 India, ph (9111) 432-1102, fax (9111) 432-1101, e-mail: wri@vsnl.net

2. The Third Youth Summit Towards A Youth Action Network on Human Rights (Philippines) will be held on 26-30 October 2001 in Baguio city. With the theme "A Conspiracy of Hope:Human Rights Culture, Human Rights Future!" this national activity features a series of lectures, workshops, outdoor activities, debates and negotiations, and cultural presentations. All are aimed to let young people speak up and get actively involved in the promotion, protection and fulfillment of human rights. For further information please contact: Amnesty International Pilipinas Human Rights Youth Action Network (AIP-HRYAN), Unit 305, CRM Building, 116 Kamias Road, Quezon City, Philippines 1101, fax: (632) 9276008; e-mail: aiphryan@givepeaceachance.com

3. A conference on legal aid entitled "Multi-Dimensional Needs for Legal Services Pan-Pacific Legal Aid Conference" will be held in December 2001 in Tokyo. This conference is being organized by the Japan Legal Aid Association. For further information please contact: Japan Legal Aid Association, Bengoshi Bldg. 14Fl. 1-1-3 Kasumigaseki, Chiyoda-ku, Tokyo 100-0013, ph (813)3581-6941 fax (813)3581-6943; www.jlaa.or.jp

4. The 12th Annual Training for Human Rights Defenders from the Asia-Pacific and Indigenous Australia will be held on 25 February-15 March 2002 in Sri Lanka. The training program entitled "Human Rights and Peoples' Diplomacy" will be held in cooperation with the Lawyers for Human Rights and Development (LHRD). For further information please contact: Ms. Joan Staples, Executive Director, Diplomacy Training Program, Faculty of Law, University of NSW Sydney, NSW 2052 Australia; ph (61-2) 9385-2277; fax: (61-2) 9385-1778; e-mail: dtp@unsw.edu.au

HURIGHTS OSAKA ACTIVITIES

HURIGHTS OSAKA started in September 2001 a series of consultation meetings for the development of its regional human rights education program. The meetings concentrate on three areas: research, training and material development. A few educators from several countries in Asia have been invited for consultation.

The fifth (2001) issue of the *Asia-Pacific Human Rights Review* (in Japanese language) is now available. This issue focuses on domestic violence and the legal responses in several Asia-Pacific countries. A new publication on human rights education (in Japanese language) is due to come out in the last quarter of 2001.

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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 in meeting 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.

HURIGHTS OSAKA

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