



*Editorial*

## *Questions about Development*

The 1986 United Nations Declaration on the Right to Development states that "...development is a comprehensive economic, social, cultural and political process, which aims at the constant improvement of the well-being of the entire population and of all individuals on the basis of their active, free and meaningful participation in development and in the fair distribution of benefits resulting therefrom..."

As a standard, this definition deserves closer attention in today's continuing drive towards increased economic growth. Governments and international agencies are still pouring billions of dollars to accelerate economic growth by harnessing natural resources from forests to bodies of water. But there are questions that have remained unsatisfactorily answered. Are these development projects promoting sustainable use of the affected natural resources? How are people who are directly, and adversely, affected by these projects protected? Aren't the projects promoting bias in favor of the urban at the expense of the rural? Did affected people actively, freely and meaningfully participate in these projects? Are these projects the only means of attaining economic development? There are many more questions to raise.

Stories of displacement and even death of people affected by these projects in the rural areas still come out every now and then. Some stories may unfortunately remain unknown outside the affected communities.

These are the reasons why there are many questions about development.

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.

# "Development" in the Mekong Region

*Dave Hubbel*

With an area of more than 800,000 square kilometers and home to more than 60 million people, the Mekong River Basin is one of the largest and most biologically diverse ecosystems on Earth.

More than 1,200 species of fish have evolved in the Mekong River Basin over the past million years. But it was only in the mid-1970s that a group of fisheries scientists began the first basin-wide survey of the distribution of fish species in the basin. The major finding of the team was not reported until the mid-1980s, according to Dr. Walter Rainboth,<sup>1</sup>

In the mid-1970s, [we] discovered a complete change in fish species between the dry season and wet season. As physical conditions changed, the entire dry season fauna of the main channel of the Mekong migrated to numerous other parts of the basin, and a completely different wet season fauna migrated into the area. *The effect was so stunning and unexpected we had no idea what we had witnessed, or how to test and report it...At that time, for fish species in general, short-term breeding migrations were known, but the possibility of long-term multi-species trophic [feeding] migrations (as in the Mekong) were beyond the conceptual framework of most researchers, ourselves included. (emphasis mine)*

While the seasonal migrations of the fishes of the Mekong River Basin may have come as a surprise to Western scientists, had anyone thought to ask the women and men of the thousands of fishing communities in the countries of Cambodia, Lao PDR, Thailand and Vietnam, the Mekong fish migrations would have been recognized decades before the 1980s. In fact, it was not until the early-1990s that research of the fisheries-related local ecological knowledge of communities in the Mekong River Basin began. It was this research that formed the basis for an emerging movement of fishers, scientists, researchers and activists that documents and supports the efforts of local fishing communities in the Mekong River Basin to manage their fisheries, and their locally-developed systems for managing, using and conserving their forests, fields and common lands, their rivers, wetlands and lakes.

Erosion along the Mekong River (Chiang Khon district, Chiang Rai province, Thailand)  
Photo: Project for River and Community

## Reflecting on "development" in the Mekong River Basin

A casual reading of events in the Mekong River Basin over the past five to ten years would indicate that cooperation and "sustainable development" is making progress in the countries of Cambodia, Lao PDR, Thailand and Vietnam. The international agreement between the four countries is called the Agreement on the Cooperation for the Sustainable Development of the Mekong River Basin. The "mission" of the Mekong River Commission (MRC), the regional planning institution, is "[T]o promote and coordinate sustainable management and development of water and related resources" in the Mekong River Basin. The Asian Development Bank-initiated regional infrastructure planning and implementation program is called the "Greater Mekong Subregion Economic Cooperation" program.

However, all of this "cooperation for sustainable development" is cooperation between governments, international financial institutions like the Asian Development Bank (ADB), bilateral 'development assistance' agencies such as the Japan Bank for International Cooperation, and transnational corporations. As such, this cooperation includes bankers, economists, engineers, politicians, bureaucrats, 'expert consultants', and the employees of inter-governmental institutions like the MRC.

Thus, “sustainable development” in the Mekong Region is large-scale hydroelectric dams, logging of the region’s ancient forests, road-building and an emphasis on increasing transportation of commodities, massive irrigation and electricity-transmission systems, chemical intensive mono-crop agriculture, aquaculture of exotic (non-native to the Mekong River) fish species, etc.

Clearly, the “sustainable development” being implemented in the Mekong Region is nothing new. Rather, a few examples of “sustainable development” in the Mekong Region indicate that this is nothing but the old, discredited model of development that has victimized hundreds of millions of people in the Majority World, the South, the ‘Third World’, for decades.

### **The ‘Mekong rapids blasting project’**

The Navigation Channel Improvement Project on the Upper Mekong River, known locally in Thailand and Laos as the ‘Mekong rapids blasting project’, would dynamite and excavate a navigation channel through 21 rapids and shoals in the Mekong River along the Burma-Laos border and the Thai-Laos border.

According to the Environmental Impact Assessment (EIA), a joint Environmental Impact Assessment Team and a Detailed Survey Team “went to the working sites [10 rapids and one shoal] along the Upper River on April 18 and April 29, 2001 respectively for the purpose of a detailed survey and hydrological data collection.” In other words, the project EIA was based on two days of field investigations.

On the basis of this two-day-long “environmental assessment” of probably the least-studied and least-known ecosystems of the Mekong River, the EIA concluded that there would be no long-term impacts on the fisheries and fishing-based livelihoods of communities living along the Mekong River in Laos and Thailand. The fact is, the EIA does not assess these potential impacts.

As a result of a request from the Government of Laos, the MRC contracted academics in Australia and New Zealand to review the EIA. All of the academics condemned the EIA as fraudulent.

To cite just one of these independent analysts, Professor R.M. McDowall of the National Institute of Water and Atmospheric Research in New Zealand,

“Reading of the EIA makes it clear that no explicit effort has been made to determine the fish fauna and its ecology in the development zone nor to measure the potential impacts of channelization [the navigation channel improvement/rapids blasting project] on

such biological values. Put plainly, the EIA is manifestly totally inadequate.”<sup>2</sup>

The academics sent their reports to the MRC. The MRC sent the reports to the governments of Laos and Thailand. Both governments rejected the opinions of the academics and committed themselves to the project.

For whatever reason they support the Mekong rapids blasting project, these governments are willingly endangering the lives of thousands of families living along the stretch of the Mekong River that will be damaged by the project. These rapids are important habitat for fish, other aquatic animals and plants that contribute to the food security of these families. None of this was considered by the EIA for the project.

### **EIA: Project Justification**

Unfortunately, the EIA for the Mekong rapids blasting project continues a long-established tradition of using EIAs to justify the construction of large-scale infrastructure projects, rather than as an exercise in determining the potential environmental and social impacts of a proposed project.

The EIA for the infamous World Bank-funded Pak Mun dam on the Mun River in northeast Thailand ignored the importance of the Mun-Mekong fisheries to the economies and food security of fishing communities along the Mun River. More than 5,000 families have witnessed the destruction of their fisheries and livelihoods by this dam.

The EIA for the Yali Falls hydroelectric dam on the Sesan River in Vietnam considered the potential impacts on the river and its fisheries on an eight kilometer-stretch of the Sesan below the dam. Now, more than 50,000 people living along a 200 kilometer-stretch of the Sesan River in northeast Cambodia have witnessed deaths by drowning, abnormal flooding, and severe damage to their fisheries; all as the result of the operation of the Yali Falls dam located upstream in Vietnam.

The EIA for the proposed World Bank-funded Nam Theun 2 hydroelectric dam in central Lao PDR completely ignores the potential impacts of this project on the Xe Bang Fai River’s fisheries and fishing communities. The dam would divert millions of cubic meters of water from the Theun River into the Xe Bang Fai. This diversion would completely alter the natural flow of the Xe Bang Fai River, potentially destroying the fisheries and riverbank vegetable gardens of more than 100,000 people living along the Xe Bang Fai and its tributaries. This is how poverty is created by

“development”.

Yet the single most important threat to the economies and livelihoods of millions of people living in north and northeast Thailand, Laos and Cambodia are the massive hydroelectric dams being built on the Mekong River in Yunnan province of the People’s Republic of China (PRC). Two dams, Manwan and Dachaoshan, have already been built, and local communities in the immediate downstream countries of Laos and Thailand have reported significant alterations in the Mekong River’s natural flow during the past five years. But early this year, the Government of the PRC announced the beginning of the construction of the Xiaowan dam. At a height of 300 meters, this monstrous dam will be able to capture some 25 per cent of the Mekong’s total annual volume of water flowing from Yunnan province so as to fill the dam’s reservoir and begin generating electricity. The potential impacts on the natural flow of the Mekong River all the way down to Cambodia and its Great Lake are potentially catastrophic. The massive fish migrations of the Mekong River Basin could be disrupted, preventing the reproduction and feeding cycles of the fish. The productivity of the fisheries – and the food supply of millions of people – may decline dramatically. No EIA has been done that considers these potential impacts, which threaten the food security of millions of families living along the Mekong River and its tributaries in Thailand, Laos and Cambodia.



Residents along the Pakmoon (Pak Mun) river in Thailand protesting in Bangkok the dam built on it

governments of countries in the region have refused to listen to the concerns of their people, non-governmental organizations (NGOs), academics, and fisheries experts. International financial institutions like the Asian Development Bank and the World Bank, and agencies like the Japan Bank for International Cooperation and dozens of other foreign ‘official development assistance’ agencies, apparently prefer to continue investing millions of dollars into these so-called “development” projects rather than think about the potentially fatal impacts of these projects on the people of the Mekong River.

The people of the Mekong River are emerging from decades of violence and social disruption. They are beginning to re-establish the social and cultural institutions of their communities. Many communities are working together to try to manage and conserve their lands and forests, their rivers and wetlands, so as to ensure their food security and ways of life. They want rights to their lands, they want to work with their governments and NGOs to manage their natural resources and to develop according to their own needs and aspirations. These communities also need the help of concerned citizens in countries like Japan, Australia and the European Union to monitor and actively influence the actions of their own governments and of the international financial institutions their governments fund – the very institutions that are laying the groundwork for the “sustainable development” of the Mekong Region, and for the impoverishment of the millions of people who live with the natural wealth of the forests, lands and rivers of the Mekong River Basin.

*Dave Hubbel has been researching issues relating to development and the environment in the Mekong Region for the past 12 years. He is presently connected with TERRA.*

*For further information, please contact: Towards Ecological Recovery and Regional Alliance (TERRA), 409 Soi Rohitsuk, Pracharat-bamphen Road, Huay Khwang, Bangkok 10320; ph (662) 6910718 to 20; fax (662) 6910714, e-mail: terraper@comnet.ksc.net.th; [www.terraper.org](http://www.terraper.org)*

## From “Development” to the People

The people of the Mekong River Basin are facing huge challenges in their efforts to manage and conserve their natural fisheries, and indeed all of their natural resources, from narrow-minded development like the large hydroelectric dams described above. The

## Endnotes

1. Walter Rainboth, *Some basic information about the Mekong fishes*, unpublished manuscript (1992).
2. R.M. McDowell, *Evaluation of Report on Environmental Impact Assessment of the Navigation Channel Improvement Project of the Lancang-Mekong River from China-Myanmar Boundary Marker 243 to Ban Houei Sai of Laos: The fisheries impacts reviewed*, National Institute of Water and Atmospheric Research, New Zealand (January 2002), p.6.

# ILO Standards in Asia

*Kozo Kagawa*

The ILO Declaration on Fundamental Principles and Rights at Work (1998) addresses the issue of “social clause,” which links labor standards to international trade. According to the ILO, a “universal consensus now exists that all countries, regardless of level of economic development, cultural values, or number of ILO Conventions ratified, have an obligation to respect, promote, and realize the following fundamental principles and rights:

- Freedom of association and the effective recognition of the right to collective bargaining;
- Elimination of all forms of forced or compulsory labour;
- Effective abolition of child labour; and
- Elimination of discrimination in respect of employment and occupation.”<sup>1</sup>

The Declaration does not cover two other areas regarding minimum wage, and safety and health standards of workplaces. The exclusion of these areas was a compromise between developed and developing countries.

The Declaration is significant because countries which have not ratified or acceded to all eight ILO Conventions<sup>2</sup> have agreed to comply with the principles contained in these instruments. Although these countries will not be sanctioned for non-compliance, they are duty-bound to make the effort to comply through technical cooperation from the ILO. The Declaration seeks to promote the observance of the core labor principles with a “soft approach.”

Not all developing countries in Asia voted for the adoption of the Declaration, but since it has been adopted, it cannot be ignored. Private companies are obligated to subscribe to the provisions of the Declaration as one of the three voting-members of ILO – governments, labor, and employers. ILO provides a system where responsibility arises not only from the governments but also from labor and employers.

## **Compliance with the Core Labor Standards**

Ratification by a country of an international treaty gives rise, as a matter of course, to the responsibility of bringing its domestic laws in line with the provisions of the ratified instrument. There are countries, however, which fail to do so. Indonesia and Cambodia, for example, have ratified all eight ILO Conventions. Compared with Japan’s ratification of only six ILO Conventions, the two countries seem to be model countries regarding subscription to international labor standards. And yet, it is questionable whether both countries have taken steps to comply with the provisions of the conventions. Indonesia, still beset by the problem of slow democratization process after the fall of the Soeharto regime, is still deliberating on a bill on labor law. Strong conflicting interests seem to be delaying the enactment of the law. Cambodia, on the other hand, has enacted a labor law but is not implementing it rigorously. It seems that Cambodia ratified the ILO Conventions because it hoped to receive financial and technical assistance from ILO.

Asian countries under the so-called “development authoritarianism” often limit freedom of association. The policy of discouraging the establishment of labor unions within “development zones” as a means of attracting foreign investment is an example of this restriction. The governments in these countries would consider labor unions established against the policy as illegal entities. And foreign companies are likely to be punished if they recognize these labor unions.

ILO views freedom of association as one of the most important labor standards of universal value. ILO Conventions No. 87 and No. 98 (both on freedom of association), are given special place in its system. Even if a country has not ratified the two Conventions, complaints of violations of its provisions could be brought before the ILO Committee on Freedom of Association. Japan has used this system in the past, while developing countries in the region are doing so now. The ILO Committee, however, can only make recommendations to governments, and whether or not

governmental policies will be revised is discretionary on their part. In some cases, governments refuse to adopt the recommendations on the ground that they constitute an interference in their domestic affairs. The ILO Declaration does not have the authority to force governments to comply.

### **Foreign companies and the ILO standards**

Japanese companies operating outside Japan face the issue of applying local labor laws. Whether they set up 100% owned subsidiaries or joint venture companies with local capital, and whether or not local employees are given the task of dealing with local labor issues, Japanese companies are not exempt from the responsibilities arising from local labor laws.

In following local labor laws to acquire quality labor for the local subsidiaries, Japanese employees assigned from their head offices are bound to face some problems.

When domestic legislation infringes the provisions of the eight ILO Conventions, problems arise. Japanese companies are bound to comply with the laws of the countries where they operate. But they face the dilemma of deciding which laws to follow in case local laws do not subscribe to the ILO Conventions. In general, treaty laws take precedence over domestic laws. Thus the companies have to follow the provisions of the treaties as long as the countries have ratified them.

What happens if the countries where the companies operate have not ratified the ILO Conventions, or bound only by declarations, which have lesser binding force? Do these companies have no alternative but to follow a government policy that violates freedom of association?

Foreign companies that have corporate codes of conduct, which include respect for the freedom of association, would be placed in a difficult position.

Employees sent from the Japanese head offices to the related companies in developing countries in Asia, would find themselves likewise in a difficult position. Many of them are probably labor union members themselves. Their overseas assignment may put them into managerial positions. Some Japanese unions let them retain their union membership despite the change in their employment position. Larger unions have various measures to alleviate the anxiety of members working abroad who find themselves in this situation.

Does the promotion of union members to management position in their overseas assignment make them lose their conscience and dismiss local employees for setting up labor unions? Can attitudes change according to the situation at hand regarding respect for universal labor principles? How would the international community assess Japan with such conduct of the companies? These companies would not be facing this difficult choice, of course, if Asian developing countries adopt policies that respect universal labor principles.

### **Last comment**

Japanese labor unions should play a big role in resolving this problem. This is especially true for labor unions that have adopted a policy of respecting universal labor principles. Japanese companies likewise have the role of promoting the observance universal labor principles.

*Kozo Kagawa is a professor in Kobe University teaching labor law.*

*For further information, please contact: Professor Kozo Kagawa, Graduate School of International Cooperation Studies, Kobe University, Kobe 657-8501 Japan, ph/fax: (8178) 803 7125, e-mail: kagawa@kobe-u.ac.jp*

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### **Endnote**

1. See [www.ilo.org/public/english/standards/decl/declaration/index.htm](http://www.ilo.org/public/english/standards/decl/declaration/index.htm)
2. Following are the eight ILO Conventions (all have entered into force):
  - Forced Labour Convention, 1930 (No. 29)
  - Abolition of Forced Labour Convention, 1957 (No. 105)
  - Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)
  - Right to Organise and Collective Bargaining Convention, 1949 (No. 98)
  - Equal Remuneration Convention, 1951 (No. 100)
  - Discrimination (Employment and Occupation) Convention, 1958 (No. 111)
  - Minimum Age Convention, 1973 (No. 138)
  - Worst Forms of Child Labour Convention, 1999 (No. 182)

# Dalits in Nepal: Story of Discrimination

Anita Shrestha

Nepal retains its centuries-old caste system. Dalits, the discriminated people under this system, suffer from restriction on the use public amenities, deprivation of economic opportunities, and general neglect by the state and society.

More than twenty Dalit caste groups exist in the country at present. Identifying a caste group is problematic. It requires a study of diverse cultures of different ethnic groups and geographical areas. Thus even the government classification system is open to question.

In view of the still unsettled system of classifying Dalit caste groups, estimating the Dalit population is difficult. One estimate puts the number of Dalit people at 13.09 % out of the total population of 23,151,423.<sup>1</sup> This means that the total Dalit population is 3,030,067, with *Kami* the largest group with 29.57% and *Halkhar* the smallest group with 0.12 %. Dalit women comprise 51% of the total Dalit population.

## Discrimination against Dalits

Dalits are discriminated against on the basis of caste and “untouchability.” They are not only discriminated by the so-called higher caste people in the Hindu system, but also by people within the same caste. Dalit women suffer much more than Dalit men.

Two studies<sup>2</sup> show that most Dalits suffer from discriminatory practices involving food and drink (38.9%) and prohibition of entry into houses, temples and other public places (28.3%). Both studies show that incidence of caste-based discrimination is higher in the western region than in the eastern region of the country. It means that the form and extent of discrimination against Dalits are positively correlated with the extent of development of the area where they reside.

### a. Social and cultural discrimination

Dalits are discriminated in the religious and cultural spheres. They are not allowed to practice Hindu rituals, norms and values in the same manner as other castes. To escape from this discrimination, they converted into Christianity. And yet even within their Christian communities only those belonging to higher

Table No. 1: Disaggregated Dalit Population by Sex

S.N.	Caste	Total Dalit		All Total	Percentage %
		Males	Females		
<b>A. Hill and Mountain Dalit</b>					
1	Kami	432,937	463,017	895,954	29.57
2	Damai	188,329	201,976	390,305	12.88
3	Sarki	153,681	165,308	318,989	10.53
4	Badi	2,152	2,290	4,442	0.15
5	Gaine	2,857	3,030	5,887	0.19
6	Sunar	72,331	72,757	145,088	4.79
7	Chunar	NA	NA	NA	NA
<b>B. Terai Dalit</b>					
8	Bantar	563,017	532,984	1,096,001	36.17
9	Chamar	18,139	17,700	35,839	1.18
10	Chidimar	138,878	130,783	269,661	8.90
11	Santal/ Saitar	6,516	5,780	12,296	0.41
12	Doom	21,515	21,183	42,698	1.41
13	Dushadha/Paswan	4,631	4,300	8,931	0.29
14	Dhobi	82,173	76,352	158,525	5.23
15	Halkhor	38,350	35,063	73,413	2.42
16	Jhangar	1,848	1,773	3,621	0.12
17	Khatwe	20,892	20,872	41,764	1.38
18	Khatwe	38,643	36,329	74,972	2.47
19	Lohar	42,270	40,367	82,637	2.73
20	Mushar	88,041	84,393	172,434	5.69
21	Saitar	21,515	21,183	42,698	1.41
21	Tatma	39,606	36,906	76,512	2.53
<b>C. Newar Dalit</b>					
22	Chyame				
23	Kasai	NA	NA	NA	NA
24	Kuche				
25	Kusule				
26	Podi				
<b>D. Unidentified Dalit</b>					
		85,063	88,338	173,401	5.72
<b>Total Dalit Population</b>		<b>1,500,367</b>	<b>1,529,700</b>	<b>3,030,067</b>	<b>100</b>

Source: National Census, CBS, 2001 (Based on Table 16).

Note: NA=Data not available

castes can become religious leaders or occupy key positions in the church.

### b. Traditional caste-based occupation and forced labor

Dalits have been relegated to do caste-based work as

black/goldsmith, tailors, shoemakers and street cleaners, all are considered of low social status. Poverty and lack of other means of livelihood force the Dalits to continue their traditional occupations. Dalit women and children are also forced to work in the households of their landlords. They do not get justifiable wage for their labor. If they do not work for others, they work as help of their husbands in the traditional jobs of Dalits. Those working in *Haliya Pratha* (bonded labor) or *Khala Pratha* (forced labor) are not even earning from their work. They may get food grains.

Dalits who are able to get a wage-earning job suffer from unfair wage system. They get much less than their non-Dalit counterparts. Dalit women, on the other hand, get lesser wage than Dalit men.

Lack of modern technology skills and financial resources prevent them from getting employed in new industries or trade in the market.

Dalits who change from traditional occupation to wage labor do not therefore necessarily improve their economic conditions.

#### *c. Discrimination in education*

Untouchability is practiced in schools, be they government- or NGO- supported schools. Teachers do not take care of their Dalit students. In remote areas of Nepal, Dalit students could not sit beside the so-called high-caste students. There are documented cases in NGO-supported schools of isolating Dalit students when eating school-supplied food, and treating them badly. Scholarships for Dalit students are inadequate if not irregular.

Likewise, the so-called high-caste teachers do not want Dalits to become teachers because they do not want to do the traditional gesture of giving respect to them. They also do not want to eat and drink together with them as is the custom among teachers.

Competent Dalit teachers are discouraged from occupying higher executive positions in schools.

#### *d. Denial of entry*

Dalits are denied entry into the houses of higher castes, temples, hotels/restaurants, teashops, food factories, dairy farms and milk collection centers, among others. They can go to schools, offices and work places. However, there are newspaper reports that in some schools in Jumla region, Dalit students sit outside the classrooms.

The denial of entry into private houses of higher caste

people extends to their cowsheds in the case of the far western Nepal. They have a belief that if a Dalit enters the cowsheds and touches the rope of cows or buffaloes and the water pot, the animals will die or will give less quantity of milk.

The prohibition on entering temples prevents the Dalits from participating in the religious activities inside the temples. They have to be content with worshipping outside the temple building. Dalit women who enter the temple are humiliated by the temple priests as well as by higher-caste people.

A Dalit who drinks tea in a teashop has to wash the cup used otherwise the proprietor will beat him/her up.

#### *e. Low participation in activities of the government, non-governmental organizations and donors*

Government officials generally ignore, and at times ill-treat, Dalits seeking services from the government. Treated like second-class citizens, services are generally delayed. They are also abused by addressing them with disrespectful words (such as using the word *tan* instead of *Hajur* or *Tapain*).

Dalit women development programs of the government or donor agencies are elaborated without the participation of the Dalit women themselves. This leads to the implementation of development programs that are not applicable to the Dalits.

#### *f. Social boycott*

The so-called “social boycott,” a practice of exclusion of people from their families and group, is normally resorted to in cases of

- i) Inter-caste marriages, where a higher-caste man marries a lower-caste woman. It also happens when non-Dalit women marry Dalit men. In both cases, the women bear the brunt of the disapproval of the marriage;
- ii) Failure to follow traditional norms and values (applicable to Dalits and non-Dalits);
- iii) Refusal of the Dalits to undertake their traditional caste-based occupation, such as disposal of dead animals.

#### *g. Weak exercise of political rights*

Key positions in political parties are mostly held by higher-caste people. Dalits, prevented from holding these positions, are always discouraged from exercising their political rights. Political leaders pay “lip service” to Dalit communities in order to collect votes. Political parties mobilize the Dalits only to serve the



interest of the party. Political parties, like *Nepal Dalit Sang* (Nepali Congress) and *Nepal Dalit Jatiyal Mukti Samaj* of the Communist Party of Nepal/United Marxist League, are considered pro-Dalits. But these parties never encourage Dalits to become candidates themselves, resulting in few Dalit representatives in the National Assembly. There are only four Dalit representatives nominated in the parliament. The voices of the Dalits are hardly heard, and the representatives are instead used by different political parties.

Representation of Dalit women in party politics is almost negligible. Though the constitution of Nepal has reserved seats for women, which is limited to 5% of the total seats for national and local elections, political parties deny any seat to Dalit women. At the same time, Dalit women are not empowered to use the opportunity granted by the Constitution.

#### *h. Atrocities against Dalits*

Dalits suffer from a number of atrocities such as battering, mental torture, rape, break-up of inter-caste marriage, false allegations, etc. Higher-caste people do not hesitate to beat Dalit women in public places, if they are found to break laws, or norms and values of the Hindu tradition.

#### **Obstacles**

The struggle of the Dalits in Nepal against discrimination suffers from a number of obstacles.

Unity among the Dalit organizations is a big obstacle. They all share a common vision: equitable and just society for the Dalits. But with Dalit caste hierarchy and intra-caste discrimination, they lack unity to be able to achieve the goal.

Coordination between the Dalit movement and other movements like women's movement and the indigenous people's movement is lacking. Without solidarity among them, the Dalit movement cannot be strengthened.

Communication gap between local communities and central government is another obstacle. The eight-point program, launched by the previous Prime Minister in June 2001 supposedly meant to eliminate untouchability by helping the empowerment and economic upliftment of the Dalits, is an example. Punishment for caste-based discrimination is highlighted in this program. But since the Dalit communities are unaware of this program, the Dalits do not benefit from it.

The 1990 Constitution of Nepal prohibits any form of discrimination on the basis of caste, race, sex and religion. Such forms of discrimination are punishable by law. But the reality is that all these forms of discrimination are still in practice. Ex-Minister Padma Narayan Chaudhary's adverse reaction in the case of the *Chamar* social boycott in the Terai district regarding the *Chamars'* collective decision to stop disposing animal carcasses, a dirty and stigmatized occupation, is an example. If the leaders or policymakers themselves prevent the implementation of laws, how can they make proper laws with appropriate punishment in case of violations?

#### **Conclusion**

The Dalit problem cannot be resolved overnight. Its solution requires a combination of action on the part of the Dalit communities, the government, and the political parties. The Dalit issues should now be treated as political issues that deserve the attention of government bureaucrats and politicians. Laws against the discrimination of the Dalits should be properly enforced, and government programs for uplifting the economic and social status of the Dalits should be fully implemented.

*Anita Shrestha is a staff of the Feminist Dalit Organization (FEDO).*

*For further information, please contact: Feminist Dalit Organization, P.O.Box 4366, Kathmandu, Nepal, ph 0977-01-520982 or 543986, fax 0977-01-520982, e-mail dms@fedo.wlink.com.np*

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#### **Endnotes**

1. This is based on an estimate using the official 2001 Census made by the Feminist Dalit Organization (FEDO). This estimate does not include the Newars. They are considered to be part of the indigenous population.
2. See Sharma, Khagendra, Gyanu Chetri and Sita Rana, *A Modest Study of the Current Socio-Economic Situation of the Lowest Status Caste and Tribal Communities in Nepal*, Save the Children (Kathmandu: Save the Children-US, 1994), and Bhattachan, Krishna B., Kamala Hemchuri, Yogendra B. Gurung, Chakraman M. Bishwokarma, *Existing Practices of Caste-Based Untouchability in Nepal and Strategy for a Campaign for its Elimination* (Final Report), Action-Aid Nepal (Kathmandu: Action-Aid Nepal, 2001).

# The 7th Annual Meeting of the Asia Pacific Forum of National Human Rights Institutions

*Kimiko Okada*

The Seventh Annual Meeting of the Asia Pacific Forum of National Human Rights Institutions (Forum) was held in New Delhi on 11-13 November 2002. The first day was a closed meeting attended only by representatives of Forum Members from Australia, Fiji, India, Indonesia, Mongolia, Nepal, New Zealand, Philippines and Sri Lanka. In the 12-13 November meeting, representatives of new Forum Members from Malaysia, Thailand and South Korea, other human rights commissions from the region, the Forum's Advisory Council of Jurists, NGOs, government's and UN specialized agencies were in attendance.

The Forum's Advisory Council of Jurists had a separate meeting from 11-12 November also in New Delhi. The NGOs, on the other hand, had a two-day meeting on 10-11 November.

There were representatives from the human rights commissions of Afghanistan, Iran and Palestine. The Afghan and Iranian commissions are considering applying for membership while the membership application of the Palestinian Independent Commission for Citizen's Rights is pending approval. The representative of Timor Leste government announced the plan to establish a commission in the country in 2003.

## Discussions

The Forum Members reported on their activities, and discussed the issues of trafficking in women and children, the proposed convention on the rights of persons with disabilities, death penalty, and child pornography.

They also reported on their activities on death penalty and child pornography in response to the recommendations contained in the interim report by the Advisory Council of Jurists on these issues submitted during last year's Forum meeting.

The Advisory Council of Jurists submitted an interim report on trafficking of women and children, which included an analysis of the current state of international law regarding trafficking, and recommendations on



Opening ceremony of the Forum

measures human rights commissions should take. The representatives from UNIFEM and the Joint Women's Programme, an NGO, reported activities in combating and assisting victims of trafficking of women and children in South Asia. The human rights commissions of India and Nepal spoke on their cross-border cooperation activities.

The Forum members discussed the proposed convention on the rights of persons with disabilities, and the New Zealand Commission proposal recommending, among others, the involvement of the human rights commissions in the process of drafting the convention. The UN Office of the High Commissioner for Human Rights Special Advisor on National Institutions, Mr. Brian Burdekin, also emphasized the importance of human rights commissions taking part in the process on their own, or as a region, or as the Forum, noting that there were very few human rights commissions present at the first UN Ad Hoc Committee meeting on the convention. The Forum members expressed their interest in considering the matter.

They also discussed the operations and functions of human rights commissions. They reviewed the Forum's workshops for commission staff and the staff exchange programs, as well the assistance program for other national institutions by the New Zealand and Australian commissions.

To address the issue of cooperation and assistance among the Forum Members, one of the objectives of the Forum, their Senior Executive Officers met for the first time on 10 November 2002.

### **NGO representatives**

The NGOs held a pre-Forum meeting to prepare recommendations and proposals to the Forum. They made oral presentations on the issue of trafficking of women and children and the convention on the rights of persons with disabilities. They also proposed to refer the issue of anti-terrorism laws and human rights to the Advisory Council of Jurists. The emergency and anti-terrorism legislation, being enacted and strengthened in many parts of the region, came up frequently in the discussions, including the Opening Ceremony speeches. Some speakers voiced concern about the respect for human rights under these legislations. The Forum Members decided to refer to the Advisory Council the issue of primacy of the rule of law in countering terrorism worldwide while protecting human rights.

There were very few NGOs present in the meeting, perhaps because of the short notice due to the sudden change in venue. There were 15 organizations listed, compared with the 36 out of 100 observer organizations, as quoted from the previous meeting's Concluding Statement. The NGOs were given an opportunity to make oral presentations, but NGOs were sometimes critical of the limits that were occasionally placed on their time to speak. On the other hand, when information and comments from NGOs were specifically asked for, such as on the issue of trafficking in women and children, there were times, when none of the NGOs present could respond. This was regrettable, considering the numerous NGOs working on this issue in India and in other parts of the region.

The Forum adopted the Concluding Statement summarizing the discussions during the meeting, and decided to hold the next Annual Meeting in Nepal.

*Kimiko Okada is a staff member of HURIGHTS OSAKA.*

## Asian Civil Society Forum 2002

*Nobuki Fujimoto*

The "Asian Civil Society Forum 2002" (ACSF 2002) was held from 9 to 13 December 2002 in Bangkok. The conference, convened by the Conference of NGOs in Consultative Relationship with the United Nations (CONGO), had the theme "UN/NGO Partnership for Democratic Governance in Asia." More than 500 people attended ACSF 2002, representing 200 NGOs from 33 countries, and several UN agencies including the Office of High Commissioner for Human Rights, UNDP, UNESCO, UNICEF, and UNIFEM.

The discussions (in plenary and workshops) focused on several issues such as the UN system and NGOs, role of civil society in global governance, impact of September 11 on human rights in Asia, gender equality, migration, and national human rights institutions.

The participants adopted a Statement stressing the importance of implementing the commitments made at the recent UN conferences, such as Millennium Development Goals of the UN Millennium Assembly (2000), Declarations and Programmes of Action of World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance (2001) and World Summit on Sustainable Development (2002).

They also adopted a General Guidelines for Action that calls on the UN, governments and civil society actors in Asia to take action on the issues discussed. It encourages civil society, in particular, to develop genuine partnership with the UN and governments, in addition to building coalitions across sectors. It also advises civil society actors to maintain their independence from governments and private corporations.

Korean NGO representatives participating in the conference proposed the setting up of a 'Northeast Asian Civil Society Forum.' A meeting on this idea was tentatively set in November 2003 in Seoul.

(See the next page for the excerpt of the General Guidelines for Action.)

*For more information, please visit: Asian Civil Society Forum 2002 <http://www.acsf.net/>*

# Asian Civil Society Forum 2002

UNCC, Bangkok / December 9 to 13,  
2002

## *UN/NGO Partnerships for Democratic Governance: Building Capacities and Networks for Human Rights and Sustainable Development*

### **General Guidelines for Action**<sup>1</sup>

Special call from the Youth Workshop

We call upon all the governments, inter-governmental organizations and civil society to acknowledge the necessity of youth participation and interventions in decision-making processes that affect the life of youth at local, national, regional and global levels.

To All Governments in Asia

*Democratic Global Governance begins at home*

We urge all governments in Asia to:

1. ratify the core human rights treaties, optional protocols, and other relevant conventions, and multilateral environmental agreements, and especially, the UN convention on migrant workers and the Rome Statutes of the International Criminal Court, and the Kyoto Protocol, without any reservation, where they have not done so, as soon as possible;
2. support draft treaties such as the draft Convention on the Protection of all Persons from Enforced or Involuntary Disappearances, or the draft Declaration on the rights of Indigenous peoples as adopted by the UN Sub-Commission on the Promotion and Protection of Human Rights;
3. promote cooperation within the region in the realization of the Millennium Development Goals and other major commitments made at all UN world conferences;
4. ensure that their line ministries and decision-making bodies, in particular those dealing with trade, finance, justice and security, act in coherence with UN human rights, health, labour and environmental standards and obligations;
5. reverse the current growing militarization of our region and, in the process, ensure the full protection of human rights and the environment in and around military bases and sites related to military activities;
6. repeal national security and anti-terror laws and policies that undermine human rights in the region;
7. respect and be more open to partnerships with NGOs in pursuing the ideals of democratic governance based on the principles of human rights, human security, sustainable development and gender equality;
8. make more efforts to integrate a gender perspective at all levels from policy formulation, budgeting, implementation to monitoring and evaluation;
9. collaborate actively in promoting the development of legally-binding corporate accountability agreements

*\*This is an excerpt of the document.*

1. *The more specific recommendations coming from the various sessions will be included in the final report of the meeting which is due in January or February in 2003.*

based on international human rights and environmental standards with the appropriate monitoring mechanisms for transnational corporations;

10. integrate into school curricula the nurturing of values related to human rights, peace and human security, sustainable development and gender justice.

We request the ESCAP and UN bodies' regional offices in Asia to:

10. provide more resources, political space and access for grassroots organisations and all NGOs, particularly those working in the fields of human rights, sustainable development and women's empowerment, to participate in their meetings and programmes;
11. integrate a holistic and values-based approach in the planning and implementation of their policies and programmes in accordance with the principles of human rights, human security, sustainable development and gender equality;
12. take the necessary steps towards the creation of a regional mechanism for human rights.

To Civil Society Actors in Asia

*Democratic participation is a prerequisite for genuine global governance.*

We invite all civil society actors in Asia to:

1. make more efforts in developing genuine partnerships with the UN and governments in implementing the MDGs, based on mutual respect and trust and with a common commitment to upholding human rights;
2. be more active in making use of UN instruments and mechanisms in advocating the cause of human rights, human security, sustainable development and gender equality and, towards this end, undertake training and capacity building programmes to enhance our advocacy skills;
3. be more active in building coalitions and alliances across sectors towards democratic global governance in solidarity with the people, particularly the most marginalized and vulnerable groups and sectors;
4. be more vigilant about our own values, practices and behaviours, and our independence from governments and the corporate sector, in order to ensure transparency and accountability of our organizations to our people whom we serve.

We commit ourselves to undertake the tasks we have set before us at this Forum. We believe it has provided a space for building networks and capacities for upholding human rights and working for sustainable development, peace, justice and human security with a commitment to gender justice and equality. We are convinced that the organization of this Forum is one step to the realization of the vision of creating a Global Civil Society Forum, as agreed at the NGO Millennium Forum which took place at UN Headquarters in New York in May 2000.

Bangkok, 13 December 2002

*[Adopted by acclamation at the final plenary session of ACSF2002, further to amendments proposed by the floor]*

# The National Human Rights Education Program in Japan: Some Notes

*Kenzo Tomonaga*

On 15 December 1995, in response to the UN Decade for Human Rights Education (1995-2004), the Japanese government established the Promotion Headquarters for the Decade (HQ). The HQ is chaired by the Prime Minister, vice-chaired by the Cabinet Chief Secretary and 4 other Cabinet ministers.<sup>1</sup> It also designated the vice-ministers of 222 ministries and government agencies as senior staff. The HQ Secretariat is stationed at the Cabinet Councilors' Office on Internal Affairs.

On 4 July 1997, the HQ announced the adoption of a National Plan of Action on Human Rights Education (1997-2004). This plan was finalized after getting comments from the public, though not all comments were incorporated in the final version. The plan pays special attention to the promotion of human rights education not only in schools but also in private corporations and the civil society in general. It provides for the development of human rights programs for professional groups such as public servants, teachers, members of the police, personnel of the Self-Defense Forces, medical professionals, social care workers, and journalists. It highlights the rights of women, children, the aged, persons with disabilities, Buraku people, Ainu people, foreigners, persons with HIV/AIDS, and former convicts. It also emphasizes the need to support the work of the UN in assisting the development of human rights education programs in developing countries.

In December 2000, the Japanese parliament enacted "The Law on the Promotion of Human Rights Education and Human Rights Awareness-raising." This law defines human rights education as educational activities aimed at nurturing the "spirit of respecting human rights," and human rights awareness-raising as public relations and other activities aimed at popularizing and deepening respect for and understanding of human rights. This law makes the national and local governments responsible for carrying out human rights education/awareness-raising activities. As required by this law, the "Basic Plan for the Law on the Promotion of Human Rights Education and Human Rights Awareness-Raising" was adopted in March 2002. This new plan is meant to supplement

the 1997 plan.

While these developments are laudable, the Japanese government has to deal with the following issues:

- a. inadequate dissemination of information to the general public using the mass media (television, newspapers and magazines) about the Decade;
- b. lack of provision in the national plan about human rights education program for members of national and local assemblies, judges and lawyers, and members of the religious sector;
- c. lack of textbooks on human rights specifically for professional groups and non-integration of human rights education into their training courses;
- d. lack of national focal point for human rights education as suggested in the Decade guidelines. The seriously understaffed HQ Secretariat cannot fully implement a national plan;
- e. non-incorporation of human rights into the policies and programs of all the Ministries and Agencies;
- f. lack of explicit statement on inclusion of human rights education in the "Integrated Learning Program" subject under the new school curriculum (April 2002).

It is also necessary to keep the momentum started by the Decade to continuously increase at the international level. For this purpose, a second Decade is highly recommended. The existing national plan of Japan can be further improved in the context of the second Decade.

*Kenzo Tomonaga is the Director of Buraku Liberation and Human Rights Research Institute (BLHRRI).*

*For further information, please contact: BLHRRI, 1-6-12 Kuboyoshi, Naniwa-ku, Osaka, 556-0028 Japan, ph (816) 6568-7337, fax (816) 6568-0714, e-mail: [udhr@blhrri.org](mailto:udhr@blhrri.org), URL <http://blhrri.org>*

## Endnotes

1. Under the January 2001 Cabinet reorganization, the four Cabinet Ministers are from the Ministries of Education, Culture, Sports and Technology; Justice; Foreign Affairs; and the Public Management, Home Affairs, Posts and Telecommunications.
2. The number of Ministries since January 2001 has been reduced to 15.

# Human Rights Education Study Tour: Delegation from China



Chinese delegation members talking with students at the Aurora Quezon Elementary School in Manila

The UN Office of the High Commissioner for Human Rights (OHCHR) organized on 16-24 September 2002 a study tour to the Philippines for a Chinese delegation. This study tour is part of the technical assistance of OHCHR to the People's Republic of China for the development of human rights education programs for the police, judges, teachers and other professionals. This is also a follow-up to the recommendations made by Chinese educators for primary and secondary schools in a human rights education seminar held in Beijing on 8-9 November 2001.

The recommendations for primary and secondary schools include the development of a national human rights education in schools program by adding the international human rights standards to the existing curriculums on legal education and moral education; review of human rights curriculum, textbooks, and teaching methodologies in other countries; development of materials; and strengthening of teacher training.

## Study tour program

A ten-member Chinese delegation went to the Philippines for the study tour. It was composed of four officials from the Ministry of Education, one official from the Ministry of Justice, two officials from the Ministry of Public Security, two officials from the Ministry of Foreign Affairs, and the Vice Dean of a university law school.

The nine-day study tour consisted of the following:

- a. Briefing on government programs on human rights education in schools by officials of the Philippine Department of Education, and the Commission on Higher Education (for the teacher training curriculum);
- b. Briefing on programs on human rights education in schools of other institutions - the Philippine Normal University (with observation of two classes on human rights), and the Institute of Government and Law Reform (in the University of the Philippines' Law Center) on Popularizing the Law Program which includes teaching of human rights to school children;

- c. School visits to observe human rights classes in a primary school (Aurora Quezon Elementary School), and a high school (Manila Science High School) in Manila city. An additional demonstration class with Grade Six students was held in the University of the Philippines' College of Education;
- d. Workshop with education officials from Thailand, Indonesia and Sri Lanka.
- e. Session on the synthesis of the Chinese delegation's learnings from the study tour program, as well as ideas on how to develop a program on human rights education in Chinese schools.

The Chinese delegation presented China's program on legal governance and moral education subjects, as well as the general school curriculum which contains subjects mentioning human rights principles. A soon-to-be published teaching material for secondary school, containing discussions on the Convention on the Rights of the Child, was also presented. The delegation also mentioned that other publications for primary school, teachers, and school administrators will be developed soon.

## Last note

The recommendations of the Chinese educators in the 2001 Beijing seminar regarding human rights education in Chinese primary and secondary schools deserve support. Since the study tour to the Philippines is a follow-up to the Beijing seminar, the members of the Chinese delegation who joined the study tour to the Philippines have the responsibility of supporting the fulfillment of the recommendations. How they will carry out this responsibility is still to be seen. The most awaited development, in any case, is the final form of the Chinese national human rights education program in primary and secondary schools.

# Events

## Events Held

1. The Third Asia-Pacific NGO Human Rights Congress was held in New Delhi from the 8-10 November 2002. The congress' member-NGOs took up the following agenda: a. Regional arrangement for the protection and promotion of human rights and fundamental freedoms; b. Human rights and anti-terrorist legislation; c. Re-examining the Paris Principles on National Human Rights Institutions; d. Mainstreaming human rights in development programs; and e. Follow up to the World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance. For further information, please contact: South Asia Human Rights Documentation Centre (SAHRDC), B-6/6, Safdarjung Enclave Extension, New Delhi 110029, India; ph (9111) 619 1120; 619 2717, 619 2706, fax (9111) 619 1120; e-mail: secretariat@aphrn.org

2. The Global Alliance for Justice Education (GAJE) held a regional conference entitled "Social Justice in the Asia-Pacific: Refugees, HIV/AIDS and Indigenous Peoples" at the University of Sydney on 9 -11 December 2002. The first GAJE Australasia regional conference brought together legal academics, law students, jurists, community workers, advocates and legal practitioners from around the world with the common goal of achieving justice through legal education. It discussed the following issues: a. Asylum seekers and refugees; b. HIV/AIDS and access to justice in developing countries; and c. Indigenous justice. This regional conference was organized by members of GAJE Australasia, in partnership with Kingsford Legal Centre, staff and students at the Law Faculties of the University of Sydney and University of New South Wales, and the Jumbunna Indigenous House of Learning, University of Technology, Sydney. For further information, please contact: Edwina Kobus, GAJE Regional Conference c/o Faculty of Law, University of Sydney, 173-175 Phillip Street, Sydney NSW 2000, Australia, email: gaje@law.usyd.edu.au; www.gaje.net.au

## Events to be Held

1. The Asian Social Forum, a follow up to the World Social Forum held in Porto Alegre, will be held in Hyderabad, Andhra Pradesh on 2-7 January 2003. Representatives of NGOs from India, other Asian countries, and other regions will be attending the event. The Human Rights Law Network (HRLN) / India Centre for Human Rights and Law/ Socio-Legal Information Center (SLIC) is organizing a series of meetings on the following topics: a. Rights of women, labor, disabled people, and refugees; b. Housing rights; and c. Criminal justice. The Forum will have seminars, workshops, testimonials, "open spaces" for mobilizations, youth camp, cultural events and film festival. For further information please contact: Ms. Deepika D'Souza, Director, Human Rights Law Network (HRLN), e-mail: huright <huright@vsnl.com>

2. The 11th Workshop on Regional Cooperation for the Promotion and Protection of Human Rights in the Asian and Pacific Region will be held in Islamabad on 25-27 February 2003. The workshop will review the activities held during the preceding 12 months, the activities under the 4 pillars of the Tehran Framework, and updates on the next activities. The workshop organizers would like to have the participation of relevant senior government officials and policymakers, members of the national human rights institutions, NGO workers, and representatives of the UN specialized agencies and subregional organizations. For further information, please contact: Ms. Sandra Shibata, OHCHR (Geneva), ph (4122) 917-9118; fax (4122) 917-9014.

3. YUVA Centre, in partnership with the People's Movement for Human Rights Education (PDHRE), is organizing the Human Rights Educators' Training Programme from 24 February to 5 April 2003. The program aims at developing a comprehensive experience by equipping potential human rights educators with the skill and understanding to: a. Integrate knowledge in the fields of politics, economics, socio-psychology and cultural diversity in the context of human rights; b. Strategize the training and methodology required in promoting human rights education in various South Asian countries. For further information, please contact: South Asian Learning Institution for Human Rights Education (SALIHRE), YUVA Center Plot no 23, Sector 7, Kharghar Sector 7, Kharghar, Navi Mumbai- 410210, India, ph (9122) 24116393 to 94, 2756-0990 to 99; fax (9122) 24135314/2756-0970; e-mail: hreducatorstraining@yuvaindia.org; www.yuvaindia.org

4. The Indian Social Institute (New Delhi) is organizing the "South Asia Convention on Human Rights Concerns – Today and Tomorrow" in New Delhi in mid-2003. The subregional convention will discuss a number of issues such as a. State, Law and Human Rights: Revisiting South Asia; b. Societal violations and human rights movements in South Asian countries; c. Globalization and its impact on the basic rights of the people of the region; d. Political institutions, political parties and human rights : Focus on South Asia; e. Enforcement of United Nations resolutions and international human rights laws in South Asia: Constraints and Prospects; f. Militarization and nuclearization in South Asia and threat to right to life; g. Traditions of dissent and their changing pattern in South Asia; h. Challenges for South Asia in achieving a human rights regime. Participants, coming mainly from South Asian countries, will include academics, human rights lawyers, activists, researchers, representatives of the social movements, and representatives of state institutions. For further information, please contact: Mr. Prakash Louis, Executive Director, Indian Social Institute, 10, Institutional Area, Lodi Road, New Delhi 110003 India, ph (9111) 4625015, 4622379, 4611745, fax: (9111) 4690660, e-mail: prakash@unv.ernet.in; prakashlouis@hotmail.com

## HURIGHTS OSAKA ACTIVITIES

On 11 October 2002, a seminar on labor issues and laws in Asia was held in HURIGHTS OSAKA. Prof. Kozo Kagawa of the Kobe University gave a presentation in the seminar based on the proceedings of the recent Asia-Europe Foundation (ASEF) workshop.

On 14 October 2002, a study meeting on Dalits in Nepal (with a major focus on women) was held with Ms. Anita Shrestha of the Feminist Dalit Organization (FEDO) as the speaker.

On 9 November 2002, a human rights education seminar on gender equality education in Japan and south Korea was held in HURIGHTS OSAKA. Three panelists, a researcher and a teacher from south Korea and a teacher in Osaka, gave presentations. The seminar is related to the publication by HURIGHTS OSAKA of a booklet entitled *Gender-equal Education in East Asia* (Japanese language).

On 11 December 2002, Dr. Suthin Nophaket, commissioner in the Human Rights Commission of Thailand, and Prof. Dong Hoon Kim, former Director of HURIGHTS OSAKA, gave presentations in a study meeting about national human rights commissions in Thailand and south Korea.

On 18 December 2002, HURIGHTS OSAKA and the Osaka prefectural and city governments held the fourth human rights public symposium. Mr. Jiro Hirano, a well-known media personality in Japan, was the featured speaker.



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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**

**HURIGHTS OSAKA**

**(Asia-Pacific Human Rights Information Center)**

1-2-1-1500, Benten, Minato-ku, Osaka 552-0007 Japan

Phone: (816) 6577-3578 Fax: (816) 6577-3583

E-mail: [webmail@hurights.or.jp](mailto:webmail@hurights.or.jp)

Web site: <http://www.hurights.or.jp>