



Editorial

Our Minorities

Distinctions between peoples are sometimes dictated by myths and biases. Be they in remote places or in the midst of towns and cities, those designated as different constitute the minorities. The minorities' histories are likely little understood, much less appreciated by the rest of the "non-minorities".

It is unfortunate that the minorities suffer from discrimination and other human rights violations. In times of crisis, they even get murdered or otherwise physically harmed.

The riots that occurred in Southeast and South Asia during the last decade are reminders of the seriousness of the problems faced by minorities. While the situation of minorities in some countries in the region, where various forms of discrimination occur, reminds us of the persistence of the problems despite economic development.

The existence of people who are considered different is not an aberration in society - it is a normal feature of a society that is vibrant and appreciative of diversity. Some societies refuse however to accept diversity, regardless of its reality. Distinctions among peoples, be they apparent or hidden, are sources of ideas better used for the benefit of society as a whole.

The issue of "minorities" is best resolved by understanding their histories and role in society, in the process redefining the character of society itself. Respecting their human rights will not harm anyone. Violating their rights is simply oppression. Is it not appropriate to see minorities not as "them" but as part of "us"?

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.

Discrimination against Ethnic Chinese in Indonesia

Indonesian Legal Studies Foundation

Chinese-Indonesians comprise 3% of the total population of Indonesia, or approximately 7 million. As a minority group, they still suffer from discrimination.

It is a fact that most Indonesians consider the Chinese-Indonesians as a separate group from the majority indigenous Indonesians due to different "ethnicity". The Chinese-Indonesians are not considered part of the nation in violation of the principle of equality before the law enshrined in the 1945 Indonesian Constitution.

Arrival of the Chinese

Long before the arrival of the Dutch colonialists the Chinese had been an integral part of what was then Indonesia. They integrated into the then Indonesian society in the same way that the Chinese in other parts of Southeast Asia (Thailand, Malaysia, Singapore, the Philippines, and Vietnam) did. While the first Chinese are believed to have arrived in Indonesia in the fifth century, people from southern China came much earlier (prehistoric era) to the then Southeast Asian region to comprise the so-called Malays. The latter Chinese and the Malays are thus considered to belong to, or share, the same racial genealogy.¹

Admiral Cheng Ho, a Chinese, introduced and spread Islam in Java island and some parts of Southeast Asia more than 600 years ago. He arrived in Semarang, Central Java from China with his followers and taught Islam to the indigenous Indonesians. He used the traditional gamelan music to support his teaching of Islam. Java was at that time a Hindu-Buddhist kingdom. The nine respected Islamic saints (*Wali Songo*) in Indonesia² are considered followers of Admiral Cheng Ho. They are considered the pioneer missionaries in teaching Islam in Java island and believed to have Chinese blood.

Despite the fact that Java was a Hindu-Buddhist kingdom, the mission was considered successful, with 80% of the population having been converted into Islamic religion. Gujarati traders, on the other hand, introduced Islam in other parts of Indonesia such as Sumatera, Kalimantan and Sulawesi.

The integration of the Chinese into the society was disrupted when the Dutch colonialists came to Indonesia in the seventeenth century for trading purposes. They eventually colonized Indonesia for political reason, and ruled for about 350 years. To maintain its existence, the Dutch colonial government employed the divide and rule strategy (*divide et impera*) and divided the people in *Netherlands Indisch* (the Dutch colonial name of Indonesia) into several categories. Under State Regulation/Indische Staatsregeling No. 163 IS/1854, the population was divided into 3 categories:

1. Europeans or Westerners
2. Foreign Easterners (Chinese-, Indian-, and Arab-descent)
3. Indigenous people.

The division of the population caused tension among the groups particularly between the Foreign Easterners and the Indigenous groups due to their socio-economic differences. Religious and cultural backgrounds were highlighted in the Dutch colonial legal system by having a dual legal system, i.e., Western law mainly for the Europeans or Westerners and Customary Law for the indigenous people. The indigenous Indonesians were further segregated into Moslems who were bound by Islamic legal system, and the non-Moslems who were bound to the Western legal system. The ethnic Chinese were caught in between the two legal systems, each having a different court.

At the beginning of the Dutch colonial rule, the political rights of the ethnic Chinese were recognized. But the 1740 Chinese rebellion (with 10,000 Chinese getting massacred, killed and slaughtered in Batavia [Jakarta]) changed the situation. Since that incident the Dutch colonial government denied political rights to the Chinese. They were only allowed to engage in trade and business. The Dutch controlled agricultural plantations, mining, oil, finance, banking and other activities. Most indigenous people were marginalized as peasants and lower rank government officials. This structure of society and the legal system under the Dutch colonial rule was maintained and continued by the Indonesian government.

Independent Indonesia

When Indonesia declared independence on 17

August 1945 the two-part legal system was maintained, but the political rights of Chinese-Indonesians were acknowledged. Some Chinese-Indonesians were involved in the drafting of the 1945 Indonesian Constitution and in the preparation for the birth of an independent Republic of Indonesia. Some became legislators, politicians and ministers during the Soekarno administration (1945-1966). But this changed during the Soeharto era.

The 1965 failed communist coup d'etat heightened the anti-Chinese sentiment in Indonesia. The military and the "New Order" government of Soeharto accused the People's Republic of China of supporting the failed communist coup. The anti-Communist sentiment linked the negative view of the People's Republic of China to the sentiment towards the Chinese-Indonesians.

Most of the Chinese-Indonesians are Indonesian citizens. The people and the government do not distinguish between ethnic Chinese-Indonesians who are mostly Indonesian citizens and Chinese of non-Indonesian citizenship. This is due to the segregation policy during the Dutch colonial rule that Soeharto continued even more severely with the issuance of more than 60 anti-Chinese laws and regulations. Presidential Decrees, Ministerial Decrees, Cabinet circular letters and the People's Assembly Decrees were all issued based on ethnic, linguistic, and religious discrimination. They, among others limited the Chinese Lunar New Year celebration and Tao worship activities, prohibited the use of Chinese language and writing system, and the establishment of schools. All of these are considered discrimination by the state against individuals or citizens.

Only after the fall of the Soeharto government in 1998 that the Chinese-Indonesians were able to again celebrate the Lunar new year, teach the Chinese language, use again Chinese characters in public, etc. This change was pioneered by President Habibie, and maintained by Presidents Abdurrahman Wahid, Megawati Sukarnoputri and Soesilo Bambang Yudhoyono, who are supportive of human rights.

The Chinese-Indonesians

The Chinese-Indonesians are mostly economically better off compared to most Indonesians although in some regions they are also poor and mainly peasants. Three decades ago they were required to obtain a certificate of citizenship (SBKRI), a discriminatory

requirement. They have to pay an unofficial price ranging from US\$ 200 to US\$ 700 to obtain the document. Most Indonesians do not have this kind of document. It is only applied to the Chinese-Indonesians. The obligation to possess SKBRI has provided an avenue for blackmailing Chinese-Indonesians. This system remains at present.

Human rights treaty obligations

Indonesia recently ratified a number of United Nations human rights instruments in response to national and international pressures. The following instruments were ratified:

1. International Covenant on Economic, Social and Cultural Rights (ICESR)
2. International Covenant on Civil and Political Rights (ICCPR)
3. Convention on the Elimination of All Forms of Racial Discrimination (CERD).

As a state party to ICESCR, ICCPR and CERD, Indonesia must faithfully report to the respective treaty monitoring bodies in the United Nations on the state of human rights in Indonesia.³

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Endnotes

1. Christian Drake, *National Integration in Indonesia - Patterns and Policies* (Honolulu: University of Hawaii Press, 1989), page 17.
2. See Slamet Muljana, *Runtuhnya Keradjaan Hindu-Djawa Dan Timbulnja Negara-negara Islam Di Nusantara* (The Fall of the Hindu-Jawa State and the Occurrence of Islamic States in Indonesia) (Jakarta: Bhratara, 1968), pages 102-107 and Sagimun M. D., *Peninggalan Sejarah Masa Perkembangan Agama-agama di Indonesia* (The Heritage of the History of Development of Religious States in Indonesia) (Jakarta: CV Haji Masagung, 1988), pages 62-65.
3. Wiwiek Setyawati Firman, "Arti Ratifikasi Dua Konvensi HAM (International Covenant on Civil and Political Rights dan International Covenant on Economics, Social and Cultural Rights) Bagi Penegakan Hukum Di Indonesia", paper presented in a seminar organized by National Law Commission of Indonesia, (Jakarta, 9 March 2006), pages 3-4.

Minorities and Human Rights: An Asia-Europe Dialogue

The 7th Informal ASEM Seminar on Human Rights that took place in Budapest on 23-24 February 2006 focused on "Human Rights and Ethnic, Linguistic and Religious Minorities".

This seminar is the latest in a series initiated on the occasion of the first meeting of ASEM Foreign Ministers in Singapore in February 1997.

The multidisciplinary spirit and the variety of backgrounds of participants are among the most important aspects of this series. For the past seven seminars an academic, an NGO activist or trade unionist and an official from the relevant ministries of each ASEM country participated in the meetings.

Following is the full text of the brief memorandum on the outcomes of the Seminar. A comprehensive report on the Seminar will be prepared based on this memorandum.

Conclusions of the 7th Informal ASEM Seminar on Human Rights

ASEM member states should pay more attention to the importance of the "rights of minorities". This was one of the outcomes of a two-day, intensive seminar on "Human Rights and Ethnic, Linguistic and Religious Minorities". The **7th Informal ASEM Seminar on Human Rights took place in Budapest on 23-24 February** at the premises of the Central European University and brought together delegations of 36 out of the 38 ASEM Member States and the European Commission with representatives from the governments and various sectors of civil society. The seminar resulted in intensive discussions of high quality on many aspects of this important topic.

* Most intensive, informal discussions took place in the two working groups, which paid attention to civil and political rights and economic, social and cultural rights of minorities.

* A thorough discussion took place about the aim of the developing international regime on minority rights. There was a strong sense that a main goal for protecting minority rights is conflict prevention (both internationally and domestically). However, the minority rights regime is also part and parcel of human rights and aims at promoting social justice,

social cohesion and national unity. It was strongly emphasized that a proper implementation of minority rights is a vital and common interest of the state itself, of the majority population and of the minorities themselves.

* The effectiveness of the protection of rights of minorities depends upon appropriate legislation, national institutions dedicated to them and implementing mechanisms. Different measures such as decentralisation and empowerment on certain matter have already been put in place both in Asia and in Europe. It was emphasized by a majority of participants that a regional mechanism to deal not only with minority rights, but with human rights in general, was lacking in Asia. This particular issue needs further examination.

* A widely-discussed issue concerned the 'new minorities' which usually are identified in terms of migrants (in particular, migrant workers). These migrants, who are not properly minorities according to international law, over time may inevitably become minorities at the second or third generation and governments will have to provide proper protection of their rights in order to maintain social stability within society.

* Although the role of states is essential for minority rights' protection, the seminar also noticed that civil society as well as corporations and international financial institutions (World Bank notably through financing infrastructures) also play an essential role.

* Since human rights and minority rights are about relationships between states and individuals, it is essential to find the right balance between minority rights and state interests. For a large majority of the participants, it is, however, important to bear in mind that state interests and state sovereignty should not be promoted at the expense of minority rights.

The Seminar concluded with four main recommendations to ASEM and its member states:

1. Member states should make more use of ASEM to discuss this sensitive issue of minority rights more intensively, as its informal character allows for more open and intensive debates. Moreover, the Seminar clearly showed that both Europe and Asia can learn from each other's experiences in this area. Therefore, it was recommended to consider organ-

ising more workshops focused on such issues as the land rights, the right to education and political participation, among others.

2. Asian ASEM members could consider the drafting and adoption of some kind of regional instrument (political declaration or charter) relating to the protection of human rights, in general, and minority rights, in particular. Although the discussion about this topic was far from conclusive, the general opinion was that ASEM could provide an effective framework for paying more attention to the issue of a regional instrument. It became clear that most participants favoured a careful and step-by-step approach in this area.

3. A more intensive use of the ASEM framework could be utilised for consultations about minority rights issues, for instance intergovernmental consultations prior to, or at the sidelines of, specialised meetings of the United Nations Organisation and relevant ASEM ministerial meetings about such

issues.

4. ASEM is encouraged to consider becoming more active in the area of training and awareness-raising on minority rights issues, as it was obvious from the discussion that lack of knowledge and public awareness is an issue that deserves more attention from ASEM and its member states. In this context ASEM was also mentioned as the framework for establishing a specialized database on good practices relating to minority rights protection in general and specific government programs and affirmative action in particular.

For further information please contact: Asia-Europe Foundation, 31 Heng Mui Keng Terrace, Singapore 119595; ph (65) 68749700; fax: (65) 68721206; e-mail: info@asef.org; www.asef.org

About ASEM

Asia-Europe Meeting (ASEM) is a biennial Summit Meeting of thirty-nine partners consisting of thirteen Asian nations - Ten of the ASEAN countries plus China, Japan and South Korea - , the twenty-five member states of the European Union, and the European Commission. It has broad scope beyond the economic dimensions to embrace the political, social, environmental and cultural areas. ASEM is an informal, open and evolutionary dialogue process without a formal agenda or a permanent secretariat (www.aseminfoboard.org). The only permanent institution within the ASEM process is the Asia-Europe Foundation formed in 1997 and based in Singapore.

ASEM Summit gathers the head of states and governments of the 25 European countries & the European Commission, with their counterparts from 13 Asian countries. The dialogue addresses issues concerning the three main pillars of ASEM and serves as the highest level of decision making in the ASEM process.

It is held every other year in Asia and Europe alternatively starting in 1996 when Bangkok held the first Summit. London then took the honour in 1998 to host the second Summit. The Summit was brought back to Asia in 2000, in which South Korea made Seoul as the venue. The baton was then passed on to Denmark to organise the 4th Summit in 2002.

The commemorative 5th Summit took place in Hanoi, 8 & 9 October 2004, where 13 new members joined ASEM (ten European and three Asian countries). The next Summit will take place in Finland on 10-11 September 2006.¹

Endnote

1. For more information please visit www.aseminfoboard.org/Summits

The Informal ASEM Seminar on Human Rights Series

On the occasion of the first meeting of ASEM Foreign Ministers in Singapore in February 1997, Sweden and France had suggested that informal seminars on human rights be held within the ASEM framework. The aim of this initiative was to promote mutual understanding and co-operation between Europe and Asia in the area of political dialogue, particularly on human rights issues.

Six seminars were held successively in Lund (Sweden) in December 1997, in Beijing (China) in June 1999, in Paris (France) in June 2000, in Bali (Indonesia) in July 2001, in Lund (Sweden) in May 2003, and in Suzhou (China) in September 2004.

The **formula** chosen is as follows: the participation of two representatives from universities and NGOs invited by the organisers and one official representative for each of the 13 Asian ASEM countries, and in order to have a balance representation between Asia and Europe, 1 representative from the civil society and 1 official from each of the 25 European ASEM countries; an agenda structured around the 2 main topics related to the subject of the seminar, with discussions held in two working groups; closed room debates to allow free and direct exchanges of view; a set of recommendations elaborated collectively to be sent to the relevant institutions in ASEM countries as informal contribution to the official Asia-Europe dialogue.

Supervision of the seminar is entrusted to a **Steering Committee** made up of the following partners: France, Sweden (the Raoul Wallenberg Institute), China, Indonesia, the Asia-Europe Foundation (ASEF), and the European Commission. This Committee sets the seminar's guidelines and how it should be organised. The technical preparation is delegated to three coordinators (Mr. Frederic Tiberghien, State Counsellor, France, Mr. Rolf Ring, Assistant Director, Raoul Wallenberg Institute, Sweden and Mr. Bertrand Fort, Deputy Executive Director and Director for Intellectual Exchange, ASEF, Singapore), in liaison with the host country's partners. The funding of meetings is divided into three equal parts among France, the Raoul Wallenberg Institute and the Intellectual Exchange Department of the Asia-Europe Foundation (which holds the secretariat of the Series). The experience of the first series of six seminars has shown the usefulness of the chosen formula: a climate of confidence and mutual understanding, in accor-

dance with the ASEM spirit, has grown stronger during this seven year process; the topics selected by the Steering Committee, which focus on issues of common interest to the two regions, have made high quality discussions possible; the high level of participation of the ASEM partners shows the strong interest of the partners for these meetings.

Topics debated in the six Asia-Europe seminars already implemented were:

- Lund (December 1997): Access to justice; regional and national particularities in the administration of justice; monitoring the administration of justice.
- Beijing (June 1999): Differences in Asian and European values; right to education; rights of minorities.
- Paris (June 2000): Freedom of expression and right to information; humanitarian intervention and the sovereignty of States; is there a right to a healthy environment?
- Bali (July 2001): Freedom of conscience and religion; democratisation, conflict resolution and human rights; rights and obligations in the promotion of social welfare.
- Lund (May 2003): Economic Relations: Human Rights and Multinational Companies, Human Rights and Foreign Direct Investments.
- Suzhou (September 2004): International Migrations: Protection of Migrants, Migration control and management.

After each conference, the outcomes of the discussions are gathered in a publication that may be used by governments and civil society as a reference on the state of play of the debate on Human Rights in ASEM countries.

Trafficking in Persons and the Filipino Entertainers in Japan

*Nobuki Fujimoto**

The 2004 and 2005 *Trafficking in Persons Report* of the United States describe Japan as a "destination country for a large number of Asian, Latin American, and Eastern European women and children who are trafficked for the purpose of sexual exploitation." The reports also mention the trafficking of Asian and Latin American men to Japan for "criminal, labor and/or commercial sexual purposes." The reports cite the involvement of Japanese organized crime groups (*yakuza*) in trafficking, and the failure of the Japanese government to "fully comply with the minimum standards for the elimination of trafficking...[while] making significant efforts to do so."

Trafficking in women and children has been recognized since the late 1980s by Japanese non-governmental organizations (NGOs), the mass media and government agencies. While the word "trafficking" was not yet commonly used at that time, several Japanese NGOs (like HELP and SAALAA) have already been assisting victims of forced prostitution by providing shelter and other services. They addressed the trafficking issue by coordinating their work with NGOs in the countries where the victims come from. At that time, most of the women victims were from the Philippines and Thailand.

The government of Japan, on the other hand, neither took effective and comprehensive measures to penalize the traffickers nor protected the victims. Instead, the victims were usually treated as criminals' violating the Immigration Control and Refugee Recognition Act or Immigration Act (for overstaying) and/or the Anti-Prostitution Law (for sex solicitation). They were deported back to their own countries without having an opportunity to seek justice and rehabilitation in Japan.

During the 1990s, the call from the Japanese and international NGO communities and United Nations human rights bodies for measures to address trafficking in Japan continued to grow.

Government measures

In response to the domestic and international concern and criticism on the trafficking issue, the Japanese government started in 2004 to seriously take steps for the prevention and elimination of trafficking within a few years time.

In April 2004, the government established the Inter-Ministerial Liaison Committee (Task Force) on measures to combat trafficking in persons. In December 2004, after a Task Force consultation with institutions and NGOs in Japan, the Philippines and Thailand, the government adopted the *Japan's Action Plan of Measures to Combat Trafficking in Persons* (Action Plan).¹

The Action Plan stresses three main aspects: (1) the importance of measures to combat trafficking in persons, (2) thorough understanding of the current situation of trafficking in persons, and (3) general and comprehensive measures to combat trafficking in persons.

In line with the Action Plan, the Japanese parliament revised the Penal Code and the Immigration Act on 16 June 2005 in order to punish people involved in human trafficking, and grant victims special residence status even if they have overstayed. The law revisions took effect on 12 July 2005.

Under the revised Penal Code, purchasing a person and putting him or her under control is punishable with imprisonment ranging from three months to five years. The maximum punishment increases to seven years if the victim is a child. In cases of human trafficking for profit or sexual purposes, the prison term is from one year to 10 years.

Under the revised Immigration Act, the Justice Minister has the discretion to allow the trafficking victims to stay in Japan for sometime before returning to their country. During their stay, they will be asked to

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cooperate with the police in the investigation of their case. Foreign nationals found to be involved in trafficking will be deported, while those who provide forged travel documents to others with the intention of sending them to Japan face a prison term of up to three years or a fine of up to 3 million Yen.

The government, so far, does not intend to enact a law on necessary and effective measures to protect and assist the trafficking victims.

The Action Plan however provides concrete measures to protect the trafficking victims such as (1) recognizing them as victims, (2) providing shelters, (3) providing counsel and consultation services, etc., (4) assisting those who seek shelter at police precincts, (5) helping them obtain residence status, (6) assuring their safety, and (7) assisting in their repatriation.

While the government says that it will implement these measures, the Action Plan itself is not a legally binding document and has insufficient budget allocation.

Filipino Entertainers in Japan

While many women trafficking victims entered Japan with tourist visa, there are women who came to the country as entertainers (using entertainer visa that is valid for 6 months at most).

Among the foreign entertainers' in Japan, Filipinos constitute the largest number. The number of female entertainers from the Philippines gradually increased from late 1970s. There were 80,048 Filipino entertainers, including some male entertainers, in 2003 and 82,741 in 2004. They comprised 60 % of the total number of entertainers from all over the world.

Instead of singing or dancing in entertainment halls, Filipino entertainers are mostly working in nightclubs as "hostesses" - serving drinks, talking and singing with customers.

Filipino entertainers are usually forced to work under conditions that do not comply with their employment contract with the recruiting agency in the Philippines and promoters in Japan. They get low wages, and are obliged to date customers during daytime (*dohan*). Club owners impose penalties if they fail to meet the

target number of customers. In some cases, they are forced into prostitution.

Foreign entertainers are not allowed to work as hostesses under the Immigration Act. But the government has long overlooked violations by employers or nightclub owners.

The Action Plan includes a review of the system of issuing visa for "foreign entertainers". It recognizes that many people who entered Japan with entertainer visa have become trafficking victims. Many of them are Filipinos who obtained certificate as artist from the Philippine government, without proper qualification as entertainers.

The Ministry of Justice provided new requirements for applicants of entertainer visa in early 2005. The applicants are now required to show that they have at least 2 years of study in an educational institution on the entertainment work they are applying for, or at least 2 years of experience in this work outside Japan. In this case, the so-called Artist Record Book (ARB) and Artist Accreditation Certificate (AAC) issued by the Philippine government are no longer honored.

On 13 March 2006, the Ministry of Justice issued the requirements for business establishments that want to hire foreign entertainers. They (nightclub operators or any of their staff members) should not have any record of involvement in trafficking. If they are found to have been involved in illegal employment or falsified immigration documents during the last 5 years, the visa issuance will be withheld. They are required to pay at least the minimum wage of 200,000 Yen per month to the entertainer visa holders, which should be part of a written contract. And they have to provide documentary proof of making such payment regularly during the last 3 years of operation.

The new requirements, which will take effect on 1 June 2006, are intended to eradicate the vicious cycle of exploitation as well as to reduce the number of trafficking victims. However, considering the high number of Filipino women yearning to work as entertainers in Japan, stricter requirements may lead to underground operations that make the problem invisible.

The Japanese and the Philippine governments and the

NGOs should closely monitor the implementation of the new requirements on entertainers, and the situations they actually face.

Increased number of trafficking victims

The National Police Agency records on 2005 trafficking cases show an increase in the number of trafficking victims, compared to 2004. Out of 117 women victims, there are 44 Indonesians, 40 Filipinas, 21 Thais, 4 Taiwanese, 4 Romanians and one each from Columbia, Korea, Australia, and Estonia. On the other hand, 83 persons have been arrested for trafficking.

The Immigration Bureau, for the first time, released information on trafficking cases it handled in 2005. The record shows 115 foreign women trafficking victims, including 6 children (under 18 years old). It also reports that 20 women were forced into prostitution by the traffickers. The Immigration Bureau granted special visa to the victims for their temporary stay in Japan.

The recording of trafficking cases by the government (through the National Police Agency and the Immigration Bureau) indicates the seriousness of its effort to combat trafficking after the Action Plan was adopted in December 2004.

Remaining Issues

While the recent anti-trafficking efforts by the Japanese government are noteworthy, there are remaining issues that should be addressed.

1. Legal status of victims

In order to protect and rehabilitate trafficking victims, the special permission to stay in Japan under the revised Immigration Act should not be subject to the discretion of the Justice Minister. Instead, it should be considered as a right in order that victims can seek justice. Consequently, a trafficking victim recognition system should be established which would grant not only temporary stay in Japan but also 'Long Term Residence' status.

2. Protection and support

a. Specialized facility

In order to provide effective protection of, and support for, the victims, the government should establish a Support Center for Human Trafficking Victims. This is a facility with resources and programs for the protection and counseling of trafficking victims. The government should allocate the necessary budget for professional staff and operations of the facility.

The government should provide financial assistance to the non-governmental shelters for trafficking victims. These shelters have been playing a vital role since 1980s, despite many difficulties including inadequate fund and staff who understand the native languages of the victims. The government support will strengthen their activities that in turn could lead to further collaboration between the government and civil society sector.

b. Law for the protection and support of the trafficking victims

While trafficking has become a crime by revising the Penal Code, protection and support for the trafficking victims still have no legal support. There is a need for a law for the protection and support of the trafficking victims.

3. Demand for the sex industry

Trafficking is closely related to the demand from the sex industry. The Japanese sex industry, including the internet-based, is huge. It is estimated to be a 10 trillion-Yen industry (approximately US\$ 85 billion). Controlling the sex industry is crucial to the elimination of trafficking. The question is how can this demand be suppressed?

For further information, contact HURIGHTS OSAKA.

Endnote

1. For the full Action Plan document visit: www.mofa.go.jp/policy/i_crime/people/index.html

Forum on Human Rights in Asia

*Koonae Park**

A regional forum for dialogues among peoples and governments in Asia on the development of an Asian regional human rights mechanism was recently inaugurated in Seoul. Dubbed "Asia Human Rights Forum", it aims to provide a venue for exchange of ideas on human rights issues. It also aims to support the development of subregional human rights system for Northeast Asia to complement similar efforts in South and Southeast Asian subregions.

The first forum, held on 6-7 February 2006, focused on child labor and trafficking. More than 200 participants (including guests from 8 countries and several international organizations) attended the 2-day forum. Representatives of non-governmental organizations working on the child labor and trafficking issue, and members of academe gave presentations.

Mr. Man-ho Heo, Director of Asia Human Rights Center (ACHR), one of the forum organizers, emphasized the importance of addressing the child labor and trafficking issue. Mr. David Oud, Director of Anti-Slavery International, another forum organizer, stressed that child labor is a contemporary form of slavery. The organizers urged the use of the forum as means to help governments seek solutions to child labor and trafficking and foster regional cooperation to protect the victims.

Child labor and trafficking in Asia

Several presentations reviewed international human rights instruments, the different situations of child labor and trafficking, and the measures being taken to prevent child labor and trafficking and help the victims.

The keynote speech by Professor Vitit Muntarbhorn of Chulalongkorn University dwelled on the international instruments governing child labor particularly the International Labor Organization (ILO) conventions, as well as the complicated and changing nature of child labor and trafficking. He also cited the existence of domestic laws in many countries regarding the issue and the problem of law enforcement. He stressed the need for "effective implementation [of the laws], responsive and gender-sensitive programmes and practices, quality personnel and mechanisms, adequate

resources, extensive information and education, and broad-based cooperation and empowerment both within the countries and across borders."

Panel presentors focused on the general situation of child labor in Asia and the proposed concrete measures to counter the problem; the situation of domestic workers (Philippines), child rugmakers (Nepal), bonded child laborers (India) and the children in North Korea. Mr. Jonathan Blagbrough of Anti-Slavery International, cited the measures to address the issue proposed by the child laborers themselves including

- provision of opportunities for education and training which allow them to move on from domestic work
- assistance in seeking redress from abusive and/or exploitative employers
- provision of more services that cater specifically to their needs
- not alienating the employers so that they become part of the solution
- developing interventions that are long-term and also address particular problems such as early pregnancy and HIV/AIDS.

Ms. Norma Kang Muico of Anti-Slavery International presented the plight of 40,000 North Korean children who could die from poor diet and related illnesses. She also presented cases of North Korean children who, as undocumented migrants in China, are facing many difficulties including trafficking, and severe punishment if deported back to North Korea. She called for more attention on the plight of North Korean children by the international community.

Professor Akio Kawamura of Kobe College (Japan) briefly introduced the Japanese experience regarding the Japanese government's attitude and policy on trafficking and the support for trafficking victims by Japanese NGOs since the 1980s.

Initiatives to address the issue

Other presentors shared good experiences in dealing with children domestic workers, rugmakers, and bonded laborers.

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OSAKA

Mr. Hans van de Glind of ILO presented the projects supported by ILO for the prevention of child trafficking. He mentioned the Mekong subregional project and the project in China. He cited preventive measures at the sending areas such as identification of areas and youth at high risk, community mobilization, provision of services (education and skills training, awareness raising and empowerment), and informed and safe labor migration and job placement. At the receiving cities, the measures can be identification and analysis of "bad demand" areas and sectors, community mobilization to support the needs of migrants, improved access to services by incoming migrants and victims, review of inspection practices and monitoring of the informal sector, mobilization of workers to campaign against trafficking, and mobilization of employers for decent work.

Mr. Severino Gana, Chairperson of Task Force on Anti-Trafficking in Person (Philippines), presented the features of a 2003 national law on anti-trafficking.¹ He mentioned some results because of the law: adoption of the *National Strategic Action Plan against Trafficking in Persons* (2004-2010), the deployment of police and prosecutors for trafficking cases, and the arrest and prosecution of a number of suspected traffickers (as well as rescue of victims). A number of complaints are either under investigation prior to filing charges in court or are already pending court cases. Two cases against suspected traffickers have already led to their conviction.

Participants' reactions

The participants recognized the fact that the globalization process has been worsening the child labor and trafficking situation. The problem is now occurring all over Asia. They emphasized the need to make the citizens' understanding of, and concern for, human rights grow, and to strengthen international networking for the establishment of appropriate human rights protection system in Asia.

Among the participants were many students who participated actively in the sessions. They asked questions to the panelists. There were also Korean government officials, NGO workers, and representatives of embassies of 18 countries. The number and variety of participants show the high level of concern for this kind of forum in Korea at present.

The situation in South Korea

South Korea is already a destination country of trafficked women (mainly from Southeast Asian countries) and a sending country (to North America and Japan) as well. Recently, a Korean woman who was trafficked to Japan and forced into prostitution sued the broker and the owner of the night club with the support of NGOs. Trafficking issues outside Korea however have not yet become a major concern for Korean citizens. They say that the struggle against trafficking at the international level has just begun in Korea.

After the forum, the Second Annual Workshop for Young Activists was held at the same place. 80 young activists attended the forum, 75% of them were females.

The organizers

Mr. Benjamin H. Yoon, President of ACHR has been a human rights activist for long time. During the 1970s-80s period when South Korea was under military dictatorship, he devoted his time to protecting the human rights of political prisoners. Since 1996, when the NGO Citizens' Alliance for North Korean Human Rights was established, he has been involved in the human rights issues in North Korea. Actually, there are debates among Korean NGOs on how to treat the human rights situation in North Korea.

The forum, held at the Korea University in Seoul, was co-hosted by the ACHR, Anti-Slavery International, the Graduate School of International Studies of Korea University, the Institute 21 for Peace Studies, and sponsored by the *Dong-a Ilbo* newspaper, the National Human Rights Commission of Korea, the Ministry of Labour, and other institutions.

For further information, please contact: The Asia Center for Human Rights (ACHR), 4f, Simji Bldg, 10-22 Gyobuk-dong, Chingno-gu, Seoul, Korea 110-090; ph (822) 723-1673; fax (822) 723-1671; e-mail: achr@achumanrights.org; www.achumanrights.org

Endnote

1. This law is known as Anti-Trafficking in Persons Act of 2003 (Republic Act No. 9208, 26 May 2003).

2005 International Forum on Legal Aid

Legal Aid Foundation

The 2005 International Forum on Legal Aid (IFLA 2005) held on 15-17 October 2005 in Taipei focused on the theme "Legal Aid Fundamentals and Future Developments". IFLA 2005 examined the existing legal aid systems in the world by discussing issues relating to need assessment, access to legal aid, quality of legal aid, and legal aid lawyers. It also addressed the promotion of legal services worldwide, the status of the international legal aid system, and the challenges facing legal aid.

Global trend

One of the keynote speeches summarizes the general situation of legal aid globally:¹

1. Making a reality of 'rights' - The need for an effective legal aid system in protecting human rights and a fair trial

There is an international awareness that access to justice is a fundamental human right in relation to criminal law. People should not be prevented from obtaining justice - especially where their life or liberty is threatened - by lack of the means to pay for a lawyer to represent them.

A number of countries have constitutions which apparently guarantee access to justice for people who cannot afford to pay for their own lawyer, particularly in criminal cases. However, this constitutional right is not always enforceable in practice, for a number of reasons, such as a shortage of lawyers or lack of public funds to pay them. There is a growing movement, (for example, in Russia and Brazil) to identify these inadequacies and then develop the means to make the constitutional guarantees a reality.

2. Increasing state involvement in the provision, administration and delivery arrangements for legal aid services

A number of countries have had - or have - legal aid systems which are run by the legal profession. This seems to be less common, as governments increasingly fund and establish a legal aid system, then continue to develop strategic plans for its delivery.

For many countries with established legal aid sys-

tems, the state decides the main principles on which they operate, though it often delegates arrangements for operational management to a separate body.

3. Researching the need for advice and legal services - a move towards evidence-based policy

There is increasing interest in researching the need for legal advice and assistance. In England, Professor Hazel Genn at University College, London, carried out some ground-breaking research.² This [research] showed that far from us having a 'compensation culture' and looking to litigation to resolve problems, one in twenty people surveyed had some sort of legal problem but took no steps to resolve it, mainly because they did not think anything could be done, or did not know how to get help. A further 35% tried to solve the problem themselves, without seeking help. The research also showed that having one sort of problem - for example, an employment problem - was related to a cluster of other problems (with money, consumer or property).

4. The development of quality standards and systems

Looking for ways to ensure that public funding for legal aid results in high quality services by lawyers has emerged as a clear trend over recent years. Many countries have devised their own systems for this, and there are a number of interesting initiatives. In some countries, quality systems are professional (run by the Bar Associations for example) and in others they are imposed by government or the legal aid administration body.

5. Financial constraints on legal aid provision

This is an issue for many countries, some of which have capped (limited) legal aid budgets. However much is spent on legal aid services, it is often insufficient to meet demand, let alone need, and the requirement to control costs often limits the range, nature and extent of services provided.

6. Developing new methods of delivering advice and legal services

Research in the UK and elsewhere has indicated that there is more need for advice and legal services than

the current supply of advisers and lawyers can meet. In England there are areas of the country where there are 'advice deserts' and people are not able to find a local legal aid lawyer who is a specialist in the appropriate category of law.

The Chairperson (Tsai Tun-Ming) of the local host, Legal Aid Foundation, cited the important role of legal aid in human rights advocacy. He stressed its role in promoting human rights, rule of law, and social justice. The President of Judicial Yuan (Weng Yueh-sheng) stressed the need to ensure access to justice by the poor and the weak. He explained the enactment of Legal Aid Act in 2004 that established the Legal Aid Foundation as a response to this need.

The Legal Aid Foundation opened on 1 July 2004 and established branch offices all over Taiwan. In a short period of time (as of December 2005) more than 7,000 cases have already been accepted out of more than 17,000 applications.

Joint Statement

The conference ended with a joint statement on legal aid and how to better develop it worldwide. The joint statement was agreed upon by representatives of legal aid organizations and related experts from Australia, Cambodia, Costa Rica, the Czech Republic, Germany, Hong Kong, India, Indonesia, Japan, Republic of Korea, Malaysia, Philippines, South Africa, Taiwan, Thailand, the United Kingdom, the United States and Vietnam.

2005 IFLA Joint Statement

Access to justice is a universal human right, as reflected in the Universal Declaration of Human Rights and many international and regional human rights instruments, as well as the United Nations 1990 Basic Principles on the Role of Lawyers. Based on this firm conviction, we believe that access to lawyers and legal services should be guaranteed and made available to all, especially to the poor and other disadvantaged persons, when necessary to achieve a just and fair result. Therefore, we agree on the following conclusions.

I. Organization

- a. All societies should strive to establish effective legal aid systems; governments, professional legal organizations and non-governmental organizations have a critical role to play in this process.
- b. Governments should ensure that such systems are

provided with sufficient resources.

- c. Legal aid institutions should be independent in structure, operation and in delivery of services.

II. Need Assessment and Access

- a. Legal aid as well as relevant information on legal aid should be readily accessible to the poor and other disadvantaged persons.
- b. Legal aid systems and services should flexibly respond to the needs of the individual and the changing conditions of society.
- c. Legal aid should be provided in a timely and efficient manner.

III. Quality

- a. Legal aid services should be professional and effective.
- b. Persons providing legal aid should be respectful, approachable and proactive.
- c. Systems should be established and implemented to ensure the provision of high-quality services which promote the rule of law.

IV. Role of Lawyers

- a. Lawyers should be encouraged to participate in legal aid work.
- b. When providing legal aid, lawyers should act professionally and without fear or favor.
- c. Professional associations of lawyers should fully support legal aid.

V. International Cooperation

- a. We will promote international exchange of legal aid experience and information.
- b. Another international legal aid conference should be held in two years.
- c. We will study ways of establishing a framework for international co-operation in legal aid.

For further information, please contact: Amy Hsieh, Coordinator, 2005 International Forum on Legal Aid, Legal Aid Foundation, 200 Jin Shan South Rd Sec. 2, 5F, Taipei 106 Taiwan; ph (886-2) 23225255 ext. 139; fax (886-2) 23224088; amy@laf.org.tw; www.laf.org.tw

Endnotes

1. Alison Hannah, *Global Trends in Legal Aid, Legal Action Group*, in www.lag.org.uk/Templates/Internal.asp?NodeID=88869
2. *Paths to Justice* (London: Hart Publishing Co., 1999).

Human Rights Education for ASEAN

The Association of Southeast Asian Nations (ASEAN) has placed human rights education on its agenda, by way of its inclusion in a list of human rights concerns in the Vientiane Action Programme (VAP) 2004-2010¹ to promote "education and public awareness on human rights."²

In July 2005, the ASEAN Senior Officials requested the Working Group for an ASEAN Human Rights Mechanism (Working Group) to help implement the human rights program areas of the VAP.

Consequently, the Working Group, in coordination with the Asia-Pacific Regional Resource Center for Human Rights Education (ARRC), organized a Roundtable Discussion on "Engaging ASEAN Governments on Human Rights Education" on 23-25 March 2006 in Bangkok. Representatives of national human rights commissions, non-governmental organizations, the academe, and United Nations institutions (UNESCO, ILO, Office of the United Nations High Commissioner for Human Rights) attended the meeting.

The meeting

- a. Took stock of human rights education programs/initiatives in ASEAN, including engagements with governments and the challenges they entail;
- b. Identified strategies or possible engagements with governments; and
- c. Recommended possible human rights education initiatives for ASEAN.

The participants presented the human rights education programs and activities in formal and non-formal education fields in Southeast Asia, including those being undertaken by UNESCO. They also raised the challenges and difficulties facing human rights education due to negative perception of human rights, problem of either failure of government to commit to human rights education or the red tape in government bureaucracies, lack of resources, and compartmentalization of existing human rights education programs.

They suggested the following goals for a human rights education program for ASEAN:

- a. Implementation of international human rights education standards such as those provided in the United Nations (UN) World Programme for Human Rights Education
- b. Strengthening of dialogue or engagement between ASEAN, the UN and other partners on human rights, the rights-based approach and human rights education
- c. Establishment of an ASEAN Regional Human Rights Education Training and Resource Center
- d. Development and implementation of joint projects on human rights education.

- e. Creation of an ASEAN Committee on Human Rights Education.

At the national level, the proposed goals are meant to support the development of national human rights education action plans, adoption of human rights education policies by governments, allocation of resources to implement the action plans and policies, pooling of existing resources (non-formal education programs, materials, and resource persons), the holding of regular dialogues between government and civil society representatives on the issue, and also the establishment of national human rights institutions in countries that do not have them yet. The participants suggested the establishment of human rights education centers, inventory of human rights education initiatives and resources, holding of training (for teachers, teacher-educators, government officials, etc.) designation of focal person/agency within the government ministries for human rights education, and the holding of periodic review of human rights education activities jointly by government and civil society representatives.

The proposed ASEAN Regional Human Rights Education Training and Resource Center is meant to facilitate capacity building on human rights education. It can get the support of existing education networks (focusing on human rights and otherwise), and organize meetings of university representatives to discuss human rights education.

Joint projects between ASEAN and the civil society institutions can focus on an ASEAN-level training (for teachers, teacher-educators, government officials, etc.) and research activities, and a system of giving recognition to best practices in, and practitioners of, human rights education.

These proposals will be submitted to ASEAN for its consideration.

For further information, please contact: Mr. Ray Paolo Santiago, or Ms. Maita Chan-Gonzaga, Working Group for an ASEAN Human Rights Mechanism, Ateneo Human Rights Center, 20 Rockwell Drive, Rockwell Center, Makati City 1200 Philippines; ph (632) 8997691 loc. 2109; fax (632) 8994342; e-mail: rsantiago@aseanhrmech.org or mcgonzaga@aseanhrmech.org; www.aseanhrmech.org

Endnote

1. For the full document of the Vientiane Action Programme, please visit: www.aseansec.org/16474.htm
2. See reference number 1.1.4, Political Development, ASEAN Security Community, Annex 1 of the Vientiane Action Programme.

ACCU-UNESCO Asia-Pacific Programme for ESD

The Asia/Pacific Cultural Centre for UNESCO (ACCU) announces the **ACCU-UNESCO Asia-Pacific Innovation Programme for Education for Sustainable Development (ESD)**. This programme is to be implemented, within the framework of the ACCU-UNESCO ESD Programme, jointly with the UNESCO Member States in the region and in close co-operation with UNESCO Asia and Pacific Regional Bureau of Education in Bangkok, Thailand (UNESCO Bangkok), and with other UNESCO Field Offices.

1. Overall objectives

The overall objective of the Programme is to initiate and support projects to serve as good examples for the implementation and promotion of ESD in the Asia-Pacific Region. The Programme is to facilitate ESD teaching/learning opportunities of quality in all forms of education to be developed, with a special emphasis on the Non-Formal Education (NFE) approach, implemented and promoted in the UNESCO Member States of the Asia-Pacific Region.

It aims to accumulate and share the experiences of various countries working for the principles of sustainability, thus contributing to the achievement of the goals of United Nations Decade of Education for Sustainable Development.

2. Specific objectives

The specific objectives of the Programme are to:

- (1) Support, technically and financially, innovative projects to be implemented at the community level/sub-national level/national level in UNESCO Member States in the Asia-Pacific Region for the realization of principles of ESD; and
- (2) Reinforce the concepts of ESD through the implementation of projects in different parts of the Asia-Pacific Region and share the experiences of various projects to further strengthen the regional efforts for ESD.

3. Programme areas

The Programme aims to support innovative projects, at community level, sub-national, or national level in the fields of:

- o Non-Formal Education (NFE)
- o Primary and Secondary Education
- o Media.

4. Eligible countries

The following 40 UNESCO Member States in the Asia-Pacific Region are invited to send application(s) for this Programme:

Afghanistan, Bangladesh, Bhutan, Brunei Darussalam,

Cambodia, China, Cook Islands, Fiji, India, Indonesia, Iran, Kazakhstan, Kiribati, Kyrgyzstan, Lao PDR, Malaysia, Maldives, Marshall Islands, Micronesia, Mongolia, Myanmar, Nauru, Nepal, Niue, Pakistan, Palau, Papua New Guinea, Philippines, Samoa, Solomon Islands, Sri Lanka, Tajikistan, Thailand, Timor-Leste, Tonga, Turkmenistan, Tuvalu, Uzbekistan, Vanuatu, Viet Nam, Tuvalu, Uzbekistan, Vanuatu, Viet Nam.

5. Role of National Commissions in each country

National Commissions for UNESCO of the above mentioned countries are kindly requested to play various roles in coordination with ACCU and UNESCO for the implementation of this Programme. They will be making the final selection of projects for application(s) from the country, after due discussion and coordination with related organizations/institutions, governmental and non-governmental.

6. Expected themes and features of the project

This Programme is to support “innovative projects” in each country which meet the objectives of the Programme. Therefore, innovation can be freely interpreted at the discretion of each country.

The project may be one already being implemented in the country or a totally new project to be designed for this Programme by a newly set-up consortium/network for the project, for example.

ESD consists of three pillars; environmental perspective, socio-cultural perspective, and economic perspective unified by an underlying dimension of culture. A project which deals with one of the pillars as a main theme will be given higher priority in the selection process for the 2006-2007 Programme. As most of ESD projects will be cross-cutting, sub-themes can freely be identified and incorporated in the project.

Under the socio-cultural perspective, the following can be the themes: Human Rights, Peace and Human Security, Gender Equality, Cultural Diversity and Intercultural Understanding, Health, HIV/AIDS, Governance.

The National Commissions for UNESCO will have to submit all applications to ACCU on or before 8 May 2006.

For further information, visit www.accu.or.jp/en/ or contact: Asia/Pacific Cultural Centre for UNESCO (ACCU), 6 Fukuromachi, Shinjuku-ku, Tokyo, 162-8484 Japan; ph (813) 3269-4559; fax (813) 3269-4510; e-mail: educa-tion@accu.or.jp

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