



Editorial

Peasants and their Human Rights

Peasants/subsistence farmers comprise one of the most marginalized sections of society. Though their plight has long been recognized, their situation has largely remained unchanged. Their poverty has not been addressed and their human rights hardly respected. They do not only suffer from poverty, they also get harassed, arrested, or worse killed in trying to get out of it.

Measures designed to address their situation seem to be failing. Agrarian reform programs have not improved their situation. Private corporations are preferred over them on the use of land. Support services including infrastructures such as irrigation systems and farm-to-market roads do not reach their areas.

Government administrative and judicial processes are too slow and too late in bringing relief to their suffering. National economic policies tend to go against their interests. And so on ...

Governments have to be reminded of the state obligation to "...undertake steps ...especially economic and technical, to the maximum of [their] available resources, with a view to achieving progressively the full realization of ...[the human] rights..." of the peasants.

Programs that helped the peasants (such as the agrarian reform experience in Japan immediately after the second world war ended) show that government resolve is essential to make things work.

Peasants/subsistence farmers are capable of improving their own situation if only the systems in society are not against them.

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.

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Peasants Situation and Human Rights in Sri Lanka

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Seventy per cent of the nineteen million population of Sri Lanka still live in rural areas with livelihood largely related to peasant farming. With about 1.8 million small farmer families (averaging five members per family), there are about nine million small farmers in the country. About one million of them are small-scale paddy farmers, cultivating an average land area of less than half a hectare.¹ About 1.2 million families have received land from the government since the introduction of the Land Development Ordinance in 1935² with restriction against selling the land outside the family.

A brief history

Sri Lanka is considered to have over 2,500-year-old system of small scale, domestic food-producing agriculture. Throughout this history the rulers supported and encouraged small-scale agriculture through irrigation development and relatively easy access to land for new settlements. Village communities were permitted to build their own small-scale irrigation reservoirs and settle down as and when village expansion was necessary.

Before the British rule introduced legislations such as the Waste Lands Ordinance in early 1800s, all lands were considered owned or under the custody of the king and the regional feudal leaders. However, people were free to settle down and develop their own forms of cultivation on any available land. The British colonial rulers introduced private ownership of land as a means to acquire land for plantations (coffee and later tea plantations in the hill country, rubber and coconut plantations in the mid-country and the plains).

The ancient food-producing agricultural and irrigation systems were ecological and adopted a systemic approach that made the best use of the natural conditions, the gifts of nature, in a manner that did not destroy the regenerative capacity of nature's resources.³

Three phases of destruction

The problems facing agriculture and domestic food production and the emerging situation of food insecurity among people, including the small scale rural farmers, were brought about by three important inter-

ventions.

Plantation agriculture completely denuded the forests in the central hills. These hills have the highest rate of rainfall in the country and the starting point of all major and many smaller rivers that provide irrigation to the rest of the country.⁴ Over one hundred fifty years of erosion and agrochemical pollution caused serious damage to the land. Although tea, rubber and coconut plantations were the main income earners for the country for nearly one hundred fifty years, the plantation workers have remained the most exploited and deprived people in the country. Even today they are compelled to work under conditions of near slavery, receiving wages of only Rs. 170 (around one and half US dollars) per day when agricultural labor in other sectors receives a daily wage of about Rs. 350 (a little over three US dollars).

Green Revolution, introduced throughout the country since mid-1960s and helped increase production in the early periods, contributed to the destruction of the natural fertility of the soil and made agriculture heavily dependent on external inputs. The combined impact of plantation system and Green Revolution led to serious destruction of the regenerative ability of nature's resources. The government admitted that heavy dependence on imported agrochemicals (such as fertilizers) and food was an unaffordable burden on the national economy.⁵

The third intervention that further worsened the situation of small farmers was the introduction of "free and open market" policies, under the guidance of the World Bank (WB) and other international financial institutions (IFIs) since 1977.⁶

The policies adopted by all governments since 1977 aimed at economic transformation based on an export-oriented growth model. All government support services, helpful interventions and protection given to small-scale farming and domestic food production were withdrawn, largely on the recommendations and

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dictates of the WB and other IFIs. This situation resulted in a near complete breakdown in the agricultural livelihoods of the small farmers and caused the unbearable increase in food prices for the relatively poor consumers.

Consequences and problems faced by farmers and the poor in general

The thirty-year application of the neo-liberal economic model in Sri Lanka made the situation of small farmers extremely difficult.

Rural poverty increased very rapidly over this period. In the early 1990s, the International Fund for Agricultural Development (IFAD) identified Sri Lanka as having the sharpest increase in rural poverty among 114 countries surveyed.⁷ The WB's own recent studies confirm the continuation of this trend. WB's Country Director said in August 2007 that "even if real per capita GDP in Sri Lanka grew at a healthy rate of 3.1 percent, it is still lower than" those of China, Korea, Malaysia, Thailand and Vietnam. These countries also are "much more successful in terms of poverty reduction than Sri Lanka." She further observed that "a key factor behind the low growth [in provinces other than the Western province] is the stagnation in the rural economy-both the farm and non-farm economy-over the past decade."⁸

Rural poverty and large income disparities were some of the main contributory factors to the armed uprisings by the youth. Armed youth uprising in 1971 resulted in 10,000 deaths and repeated youth uprisings during 1987-1990 period led to thousands of disappearances of youths.⁹ A report by the United Nations' Working Group on Enforced or Involuntary Disappearances noted that the number of cases of disappearances recorded by it in 1991 was the highest figure ever for a single country.¹⁰ Farmer indebtedness kept increasing, resulting in suicides that continued from 2004 till the present. About a million paddy farmers had to sell their paddy at prices considerably less than the cost of production. Studies done by the Movement for Land and Agricultural Reform (MONLAR)¹¹ over the last few years in the five major rice producing districts show that farmers spending over Rs 12 or 13 (about a quarter of a US dollar) to produce a kilogram of paddy have been compelled to sell between Rs 11 to 13 per kilogram.

Although the present government has promised to buy paddy at Rs 16.50 - Rs 17.50 per kilogram the amount of money allocated for the purpose every season is sufficient only to buy less than five per cent of the produce. Monopoly traders buy and stockpile imported rice and keep the rice market prices very high, putting consumers in very difficult situation.

The WB has been proposing to the government since 1996 the issuance of freehold titles to all farmers to encourage them to sell their land and move out of agriculture.¹² The 2003 economic strategy plan of the Government (adopted in collaboration with the WB) expected the decrease of rural population from seventy per cent to fifty per cent by year 2015.¹³ This in fact is the planned strategy of the WB to create a free land market by making rural small-scale farmers leave their villages. The urban areas, however, do not provide new opportunities for such a large migrant population. Thus this strategy can only result in creating a much larger population of landless, unemployed destitute.

Farmer resistance

While a strong and consistent farmer's movement does not yet exist, the farmers have strongly resisted tendencies to invite foreign companies to take control of land and agriculture. They have also been fighting for higher prices for their produce and for supportive government intervention in marketing and agricultural subsidies. These struggles have been suppressed from time to time. While the government made promises to adopt supportive policies, the promises have not been seriously kept due to pressures from the WB and other lending institutions as well as big domestic traders who have a great influence on whoever political leaders were elected.¹⁴

Proposed solution

It is clear that the only way out of this crisis is to strengthen rural agricultural economy, adopting approaches that would make it possible for the rural small-scale farmers to continue their agricultural livelihood. This requires adjusting agricultural methodologies to suit the situation of farmers and make them viable. Domestic food availability at affordable cost is essential. This can easily be done by promoting ecological agriculture, making the best use of the helpful natural conditions and the knowledge and experience that Sri Lanka has in such low cost,

ecological agriculture.¹⁵ This should be planned with a vision of restoring the regenerative capacity of nature's resources that are available as free gift of nature.

This approach has the potential for giving better livelihoods and better food sovereignty to the plantation workers,¹⁶ the urban poor and also to the rest of the low income earning population in the country.

In September 2007, the government declared a new agricultural policy that gives higher emphasis to domestic food production and also declared a program of growing domestic food throughout the country, utilizing the capacity of small-scale farmers, and adopting home gardens. This is an admission by the government that the export-oriented growth model has failed to reduce poverty and hunger. However, the commitment of the government to implement this approach, facing the pressures of the international lending institutions and proponents of neo liberal economic policy, is still to be seen.

The farmer's movement in the country has to take the task of supporting the new policy. It has to mainstream the growing trend among rural people to move into affordable and viable agricultural approaches.

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Endnotes

1. "Official Poverty Line for Sri Lanka," The Department of Census and Statistics Bulletin, June 2004, in www.statistics.gov.lk/poverty/OfficialPovertyLineBuletin.pdf
2. See Government of Sri Lanka, *Regaining Sri Lanka: Vision and Strategy for Accelerated Development*, Colombo, 2002.
3. See Siran Deraniyagala, "A Note on Man and Water in Sri Lanka: From Prehistory to History" in Mendis, D.L.O., *Water Heritage of Sri Lanka*, Colombo: Sri Lanka Pugwash Group, 2002.
4. See Mendis, D.L.O., "Ancient Water and Soil Conservation Ecosystems of Sri Lanka" in Mendis, *ibid.*
5. See *Declaration of New Agriculture Policy, Ministry of Agriculture Development and Agrarian Services*,

Colombo, 2007.

6. World Bank, *Sri Lanka: Non Plantation Crop Sector Policy Alternatives*, World Bank Report, March 20, 1996 in www-wds.worldbank.org/external/default/main?pagePK=64193027&piPK=64187937&theSitePK=523679&menuPK=64187510&searchMenuPK=64187283&theSitePK=523679&entityID=000009265_3961019111321&searchMenuPK=64187283&theSitePK=523679.
7. See Jazairy, Idriss and Stanier, John, *State of World Rural Poverty: An Inquiry into its Causes and Consequences*. New York: Published for International Fund For Agricultural Development by New York University Press, 1993.
8. See keynote address of Ms. Naoko Ishii, World Bank Country Director for Sri Lanka, before the Sri Lanka Economics Association in August 2007 in www.monlar.org/toplink/archives/sessionwb/
9. There is still no confirmed total number of disappeared through the years. Estimates range from official count of more than 20,000 cases to unofficial count of around 60,000 cases. See footnote 3, pages 11-12 in Romesh Silva, Britto Fernando and Vasuki Nesiah, *Clarifying the Past and Commemorating Sri Lanka's Disappeared: A Descriptive Analysis of Enforced Disappearances Documented by Families of the Disappeared*, Human Rights Data Analysis Group, Families of the Disappeared (FoD) and the International Center for Transitional Justice in www.hrdag.org/about/sri_lanka.shtml.
10. Paragraph 192, *Report on visit to Sri Lanka of three members of the Working Group on Enforced or Involuntary Disappearances* (7-18 October 1991), E/CN.4/1992/18/Add.1 (8 January 1992).
11. See MONLAR, "Solving the paddy crisis, fighting the World Bank..." in www.geocities.com/monlarslk/news/rice_campaign.htm.
12. World Bank, *op. cit.*
13. See Government of Sri Lanka, *op. cit.*
14. See MONLAR, *Regaining Sri Lanka and PRSP: Compelling the poor to subsidize the rich, 2003* in www.geocities.com/monlarslk/publications/publications.htm
15. See MONLAR, *Proposals of People's Organisations for Another Development: Observations And Alternatives on the Sri Lanka Budget 2005* in www.geocities.com/monlarslk/publications/publications.htm.
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Struggle for Land in Kerala

On 4 August 2007 thousands of poor farmers started occupying part of the Chengara Harrison Malayalam estate (also called as Laha estate and operated by Harrison Malayalam Plantations Ltd.) in Chengara, Pathnamtitta district, Kerala state in India. The poor farmers are composed of landless Dalits and Adivasis as well as scores of families from other marginalized communities, Muslim communities, etc. from all parts of Kerala. They are seeking ownership of cultivable land for five thousand poor families (with more than twenty thousand family members). They aim to re-claim ownership of the land that has been part of a long-standing promise of the State government for land distribution.

They would like to become permanent owners of the land since the company's possession of the estate has become illegal when its lease agreement lapsed in 1996. They also allege that the company possesses much more area than what is included in the lease agreement, and they (poor farmers) occupy the land in excess of the area leased.¹

Since the start of the land occupation, arrests and illegal detentions have become common in the areas near the estate. The occupying poor farmers have been facing threats from the local communist party (Marxist) members as well as workers of the estate. The party members and estate workers are claiming that the occupation of the land by the farmers has been affecting plantation activities, yet the rubber trees in the estate are already too old for tapping.

A Kerala High Court issued, in favor of the plantation company, an order to evict the poor farmers from the estate.

The broader context

Kerala is not known for land struggles until the historic land agreement in October 2001 signed between protesting Dalits and Adivasis of Kerala and the State government. The agreement, among others, committed the State government of Kerala to distribute fertile land to Dalits and Adivasis. This "immediate measure" along with other provisions of the agreement were unjustifiably delayed for years. At the same time, state lands were being alienated to private parties and their inhabitants forcefully displaced.

Since then, Dalit and Adivasi land struggles in Kerala attained a new order of practice. For the first time ever, a large-scale mass occupation of land happened in Muthanga. But it was met with violence like in other states in India. Many other places where the

people have tilled the lands for generations also suffered from state violence. The poor farmers in the Chengara estate pledged to fight for their right to land without using violence.²

The Kerala State government enacted a Land Reform Act in 1963. But its implementation was delayed for fifteen years. And the law only covers tenants, which therefore excludes Dalits and Adivasis who in "Kerala's context the caste and cultural hierarchy, with strong oppressive segregation of these communities, did not allow them to be tenants."³

The lead organization of the land struggle, Sadhu Jana Vimochana Samyuktha Vedi (SJVSV), has opted for the land occupation as the strategy, remembering the tradition of the great leader Ayyankali, the militant dalit leader whose mission was to ensure the liberation of dalits from various forms of slavery, and ensure their right to agricultural land as well as right to education in Kerala. SJVSV sees the Chengara struggle as an example of government double standards in favor of big private corporations.⁴

According to SJVSV there are 12,500 dalit colonies and 4,083 adivasi colonies where tens of thousands of families live in extreme lack of basic amenities facing civil, political, economic and cultural rights violations.

(This article is mainly based on Peoples' Movements Solidarity Team, A Report on Chengara Land Struggle in Kerala, c/o ADVOCACY-Indian Social Institute, November 29, 2007 advocacy@isidelhi.org.in. Other sources provided additional information, see Endnotes.)

Endnotes

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2 Chengara Pledge in Peoples' Movements Solidarity Team, A Report on Chengara Land Struggle in Kerala, c/o ADVOCACY-Indian Social Institute, November 29, 2007, advocacy@isidelhi.org.in

3 "Chengara Land Struggle in Kerala" in *The South Asian*, 2 December 2007, www.thesouthasian.org/archives/2007/chengara_land_struggle_in_kera.html

4 KA SHAJI, The Meek Shall Inherit The Earth?, *Tehelka Magazine*, Vol 4, Issue 47, 8 December 2007, www.tehelka.com/story_main36.asp?filename=Ne081207THE_ME EK.asp

Sumilao Land Struggle

PAKISAMA*

The Higaonons are indigenous people of southern Philippines. Their ancestral land stretches across the valley of Sayawan and Palaopao mountains in Bukidnon province. But people who did not belong to their community obtained the legal ownership of the land. In the 1930s, there were forcibly evicted from their *balaang yuta* (holy land). They returned as farm workers to the land that had become a cattle ranch.

The legally registered owners of the cattle ranch changed through the years, and subsequent owners divided the land into smaller pieces. In 1984, one hundred forty-four hectares of the land owned by the Quisumbing family and located in Sumilao town were leased to Del Monte Philippines, Inc. (DMPI) for ten years. The adjacent other portion of the land became the estate of the Carlos family.

With the advent of the Comprehensive Agrarian Reform Law in 1988 (CARP), the one-hundred-forty-four-hectare ancestral land in Sumilao town was declared in 1990 as subject to the agrarian reform program. One hundred thirty-seven *Mapadayonong Panaghiusa sa mga Lumad Alang sa Damlag* (MAPALAD) farmers (later known as Sumilao farmers), all of Higaonon lineage, were declared beneficiaries of the program. The government issued in 1995 Certificates of Land Ownership Award (CLOAs) in their names. For the first time in decades, the Higaonons regained their lost ancestral land.

Struggle continues

The registered landowner (Norberto Quisumbing, Sr. Management and Development Corporation or NQSRMDC) opposed the government move of putting the land under the agrarian reform program from the very beginning. With a series of legal actions, NQSRMDC was able to suspend the actual distribution of the land to the Sumilao farmers in 1992.

The municipal and provincial governments, on the other hand, approved in 1993 the conversion of the status of the land from agricultural to agro-industrial. Within the same year, NQSRMDC applied for the permission to convert the use of land into agro-industrial purpose, and thus exempt it from the agrarian reform program. NQSRMDC justified the land conversion

application with promises of economic development consisting of the establishment of a Development Academy of Mindanao, a cultural center, Institute for Livelihood Science, a museum, a library, a golf course, a Mindanao Sports Development Complex, a Bukidnon Agro-Industrial Park, Forest Development and Support Facilities including the construction of a 360-room hotel, restaurant and housing projects, among others.

But the Philippine Department of Agrarian Reform (DAR) denied in 1994 the land conversion application on the ground that agrarian rules do not allow such conversion of prime agricultural land.¹ The land title of NQSRMDC was cancelled and DAR awarded to the Sumilao farmers their certificates of land ownership in 1995. NQSRMDC filed a court petition to nullify this decision of DAR. At the same time, it appealed the DAR decision to the Office of the President. The then Executive Secretary Ruben Torres issued in 1996 the infamous "Torres Decision" approving the application for conversion, and nullifying in effect the certificates of land ownership of the Sumilao farmers. The "Torres Decision" considered the Sumilao farmers as "outsiders" who have no right to the land. NQSRMDC then moved for the judicial cancellation of the certificates of landownership issued to them.

In response, the Sumilao farmers went into a hunger strike for twenty-eight days in 1997 in front of the DAR offices in the cities of Quezon and Cagayan de Oro. Their peaceful protest caught the interest of the public, including national personalities such as a Cardinal of the Catholic Church (Jaime Sin), and the then candidates for the election of the President, Senators, members of the House of Representatives and local legislative bodies.

Due to huge public pressure, then President Fidel V. Ramos overturned the "Torres Decision" and issued the so-called "Win-win Resolution" by providing for one hundred hectares of the land to the Sumilao farmers and forty-four hectares to NQSRMDC. It was a pleasant victory for the Sumilao farmers and the

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whole peasant sector. However, their victory was short lived.

NQSRMDC filed a petition against it before the Supreme Court. MAPALAD, representing the farmer-beneficiaries, filed an intervention to raise novel questions such as the validity of conversion of a prime agricultural land for other purposes, the power of local governments to reclassify lands in relation to DAR's authority to approve conversions, and the validity of the comprehensive agrarian reform law itself.

Unexpectedly, the Supreme Court decided against the Sumilao farmers. It refused to answer the constitutional issues and focused its decision on DAR's failure to question the "Torres Resolution" on time.² It thus skirted the substantial issues of the case and limited its attention to technical questions. The "Torres Decision" was reinstated while the "Win-win Resolution" was invalidated. Worst, it denied MAPALAD's intervention by equivocally saying that being merely "recommendee farmer-beneficiaries", the MAPALAD members have no real interest over the land. MAPALAD's dream of regaining the ancestral land vanished in an instant. That was in 1998.

Idle land and endless appeals

Several years passed and the land remained idle. Not one of the proposed projects of NQSRMDC ever materialized. The "promises" of economic vitality, employment and increased income remained promises. NQSRMDC sold the land instead in 2002 to San Miguel Foods, Inc. (SMFI), the biggest conglomerate in the country, which planned to put up a piggery farm.

Meanwhile, in 2003, the adjacent Carlos estate was distributed to some of the Sumilao farmers under the agrarian reform program with the full agreement of the registered landowner, the Carlos family. The farmers received their land ownership certificates.

With the conditions for land conversion remaining unfulfilled in violation of rules,³ the Sumilao farmers filed a petition in 2004 to cancel the conversion order, and to award the land to them. They also argued that the planned piggery farm was not one of the agro-industries proposed by NQSRMDC in its land conversion application. In 2006, the DAR dismissed their petition.

The Sumilao farmers appealed to the Office of the President to reverse the DAR decision. On 18 December 2007, the Office of the President issued an order granting the petition to cancel the land conversion order.⁴ Now a new process of legally distributing the land to the Sumilao farmers has to begin.

Ending of funding for CARP

The agrarian reform program continues until its "original scope and mandate" has been completed.⁵ But by 2008, the law that allotted funds for its implementation will expire.⁶ Without a new law providing the funds, the implementation of the program will virtually stop. In this case, while private agricultural lands will still be subject to agrarian reform, a more tedious process of judicial expropriation will have to be employed.

But there is much to be done under the agrarian reform program. One report states the following unfinished tasks under the program:⁷

According to DAR estimates, there will still be some 1,077,538 hectares of private agricultural lands and 581,813 hectares of public alienable and disposable lands that will still have to be distributed after 2008. These do not include the areas also still to be covered under leasehold and the differential between the DAR targets from 10.3M hectares in 1988 to 8.1M hectares in 1996.

The DAR also estimates that there will still be some 132,620 agrarian cases pending after 2008.

The recent moves of the government under President Gloria M. Arroyo and the Philippine legislature (House of Representatives) indicate that the implementation of CARP may come to a halt. The lumping of agrarian reform with other "asset reform programs" of the government such as on urban land and ancestral domain instead of the usual separate chapter in the recent Medium-Term Philippine Development Plan (MTPDP), the reduction of target for land acquisition and distribution (LAD) of private agricultural lands to only 100,000 hectares per year, the legislative proposals to exempt big prawn farms, fish ponds and aquaculture areas from CARP coverage, foreign investors' leasing of private lands for up to seventy-five years, and the proposed twenty-five-year moratorium on CARP implementation in the

Mindanao region are all veering away from the duty of the government to fully implement the constitutional mandate on agrarian reform (Section 4, Article XII of the 1987 Constitution).

No clear land use policy

Massive land conversions all over the country led to establishment of industrial zones and residential areas on agricultural lands. Such land conversions pose a serious problem in light of growing population, perennial problem of food security, and threat to the ecology.

The absence of national land use policy complemented by inconsistent land reform policies, inefficient land administration bureaucracy, a highly politicized land tax system, and inefficient agrarian reform and housing development programs affect the efficiency of land markets, and thus the country's economic growth potential and equity.

The future of the Sumilao farmers

The Sumilao farmers were robbed of their ancestral land through the current system of land ownership. They tried various ways to recover it. They suffered forced eviction, violent actions by the police, and harassment by security staff of the landowners. Some of them died in the process.

They marched during October-December 2007 period from Mindanao to Manila (1,700 kilometer distance) to make their plea to the government once more. They demanded that their right to land be respected. The government finally cancelled its own decision allowing the conversion of their land for agro-industrial purpose. But the legal process of distributing the land to them is still to be undertaken.

The one-hundred-forty-four-hectare ancestral land in Sumilao remains fertile. Its rich soil awaits cultivation. Mt. Sayawan and Mt. Palaopao still protect the land from unwanted weather conditions and the Culaman river runs through the land providing water. The Sumilao farmers may finally return to their ancestral land.

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Endnotes

1. The rules provide that lands already covered by the agrarian reform program, or with irrigation facilities, among others, are prime agricultural lands that cannot be converted to other uses. The Sumilao land has been certified in 1994 as having irrigation system by Presidential Agrarian Reform Council (PARC), the Provincial Agricultural Officer and the National Irrigation Authority (NIA).
2. Carlos O. Fortich, et al. vs. Renato C. Corona, et al., G.R. No. 131457, April 24, 1998, 289 SCRA 624 in www.supremecourt.gov.ph/jurisprudence/1998/apr1998/131457.htm
3. DAR Administrative Order No. 1, series of 1990 in relation to DAR Administrative Order No. 2, series of 1990, DAR Administrative Order No. 12, series of 1994 (Consolidated and Revised Rules and Regulations Governing Conversion of Agricultural Lands to Non-Agricultural Uses), and DAR Administrative Order No. 1, series of 2002.
4. Lira Dalangin-Fernandez, "Palace restores Sumilao land to agricultural use," *Philippine Daily Inquirer*, 18 December 2007, http://newsinfo.inquirer.net/breakingnews/nation/view_article.php?article_id=107507
5. See Department of Justice Opinion No. 9, series of 1997.
6. Republic Act 8532, which amended Republic Act 6657, or the Comprehensive Agrarian Reform Law (CARL), provided additional 50 billion Philippine pesos (roughly 1.2 billion US dollars) to the Agrarian Reform Fund (ARF).
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Indonesian Peasants Today

*Aliansi Petani Indonesia**

The peasants are the backbone of the agrarian sector in Indonesia. They have that status since the colonial period till the present. And yet since colonial period, they have largely been deprived of freedom - freedom from oppression and poverty. While they produce the food for the people, they have not been recognized as heroes/heroines who could share the prestige of the country before the global community. Rather than allow them to suffer in poverty, their prosperity should be considered a national priority.

The Indonesian peasants today are struggling, much like in the past. The Indonesian military inflict violence on them regarding land disputes. Indonesian agri-business companies patent their seeds and force them to respect it. They face legal prosecution for breeding their own seeds.¹

Just like other countries that were former colonies, agrarian reform was used as the means to address the plight of the peasants. But their situation has not changed.

Land disputes

Agrarian conflicts occur in the country to the prejudice of the peasants. With a law on agrarian reform largely unimplemented, the lands tilled by peasants are not protected from take-overs by agricultural plantation companies.

In one case in Lengkong district, West Java province, peasants suffered from violence inflicted by company security forces and members of the military. They were arrested, detained, intimidated, forced to leave their homes, and their farms destroyed.

The company has been enjoying the protection of the law on plantations (Law No. 18, 2004). This law became an easy tool for big private companies to intimidate and remove the peasants from the land in order to establish agricultural plantations. The Indonesian peasants rightly denounce this law for being biased against them.

The law's provisions on lease agreements are proof of the support that the government gives to plantation companies, at the expense of the peasants who become victims of human rights violations.

Peasants likewise suffer from the increasing number

of conversion of agricultural lands into non-agricultural purposes. These land conversions affect agricultural production to the point that Indonesia may face food crisis in the next decade.² The alarming rate of conversion of paddy fields into non-agricultural use affects not only rice production but production of secondary crops (peanuts, soybeans, corn, and vegetables) that farmers produce during dry season.³

With the liberalization of the agricultural market, Indonesia became a big rice importer. It also has to import corn, soya, sugar, orange, shallot, cattle and many other commodities because the agricultural sector could not meet the demand. If the conversion of agricultural lands to other purposes continues, agriculture and its produce will become history.

But the peasants know that their survival entirely depends on their own efforts.

The case of Pasir Randu⁴

Peasants tilled the land of Pasir Randu in Cianjur town, West Java province until a Dutch company controlled the area during the Dutch colonial period. While the Second World War disrupted the operation of the company, it returned to the area after the war ended. In 1965, another company (PTPN VIII Pasir Nangka) entered the area and established a clove plantation with the peasants as workers. With low price for cloves, the company did not do well, and the clove trees were subsequently abandoned and workers laid-off. Twenty people were left working in the plantation in the 1980s. In the 1990s it was down to four people. The area has turned into a forest as a result. The company clearly failed to fulfill its obligation to turn the land it was leasing into commercial use. In 1997 the peasants decided to reclaim the two-hundred-ninety-hectare land and to till it for their livelihood.

Through their own organization, the peasants petitioned the government to recognize their right to the land. They argued that since the company was no longer in a position to operate a plantation, its lease agreement should be cancelled and the land given to them.

Because the government was taking time to decide on their petition, and with the approval of the plantation

⁴Aliansi Petani Indonesia (API) is a national organization of peasant federations in Indonesia.

company, the peasants improved the facilities on the land (irrigation system and roads) using their own resources and started to till it.

While their right to the land had not yet been recognized by the government, the peasants knew that if they did not take action their situation would be even worse. They now benefit from tilling the land again.

Causes of the problems

Land disputes arise because long-term land leases unjustifiably displace peasants who till the land. The law on foreign capital investments (Law No. 25, 2007) allows multinational companies to use agricultural land to the prejudice of the peasants. Agricultural plantation companies compete with the peasants on unequal terms.

The government resorts to importation to satisfy the demand for agricultural products in the domestic market instead of optimizing the use of good agricultural system. It prioritizes the importation of agricultural products rather than aim at increasing the income of the peasants by helping them improve agricultural production, supporting their training in agricultural skills and new technology, and repairing/building agricultural infrastructures .

This situation leads to a number of human rights violations, namely:

1. *Obligation to respect*

The government tolerated the intimidation, expulsion, torture and other human rights violations suffered by Indonesian peasants. This government stance violates the human rights law (Law No. 39, 1999) particularly the provision on the obligation of the government to protect the right of people to freedom from torture or cruel, inhuman or degrading treatment or punishment. It likewise violates the obligations of the state of Indonesia under the International Covenant on Civil and Political Rights.

2. *Obligation to protect*

The government failed to protect the peasants from being deprived of water and other publicly-owned natural resources by big plantation companies. The government violated the human rights law as well as its obligation under the ratified international human rights treaties to promote, protect and realize human rights through legislative and other measures.

3. *Obligation to fulfill*

The government failed to fulfill the rights of the peasants to work and to live humane lives under the human rights law and the provisions of the International Covenant on Economic, Social and Cultural Rights. It also failed to fulfill the right of the peasants to own agricultural land individually or collectively under the agrarian reform law.

The alternative solutions

It is important for peasants to strengthen their organization to be able to push for genuine agrarian reform. Such reform must fulfil the economic, social, political and cultural rights of the peasants, and support rural women to become active participants in the power structure of rural societies.

Importation of agricultural products (rice, sugar, corn and soy) should stop in order to prevent its negative impact on the Indonesian peasants. Coordination with civil society organizations in other countries is needed for an international campaign with the World Trade Organization to protect the peasants from being driven out of the agricultural industry.

Agriculture is an important component of developing countries and thus should be valued beyond economic terms. Governments and the international community should recognize the rights of the peasants to the land as well as to their culture, and that no law should be enacted allowing the appropriation of natural resources away from public ownership.

For further information, please contact: API, l. Saleh Abud No. 18-19, Otto Iskandardinata, Jakarta 13330, Indonesia; ph (6221) 819 9749; 851 9611; fax (62 21) 850 0052; e-mail: api_bumie@yahoo.co.id; www.apitentang.blogspot.com

Endnotes

1. Hira Jhamtani and Dey Patria, *Indonesian farmers prosecuted for breeding their own seeds*, in <http://asianfarmers.org/?p=208#more-208>.
2. See "Indonesia may face food crisis in next 10 years: Minister," *The Jakarta Post*, 12 December 2007, in www.thejakartapost.com/detailheadlines.asp?fileid=20071211.A04&iirec=3.
3. See Fahmuddin Agus and Irawan, "Agricultural Land Conversion as a Threat to Food Security and Environmental Quality," *Jurnal Litbang Pertanian*, 25(3) 2006.
4. For more details on the Pasir Randu experience, see *Land Reclaiming Experience of Indonesian Farmers* in <http://asianfarmers.org/?p=211>.

Regional Conference on Enhancing Child Protection through Database Development

*Kimiko Okada**

Asia ACTs against Child Trafficking (Asia ACTs), a network of non-governmental organizations (NGOs) working towards the elimination of child trafficking in Southeast Asia, organized the Regional Conference on Enhancing Child Protection through Database Development: Mapping of Existing Database Efforts to Fight Child Trafficking in Southeast Asia on 22-24 October 2007 in Bangkok. This Conference followed the Seminar Workshop on the Southeast Asian Guidelines for the Protection of the Rights of Children Victims of Trafficking organized also by Asia ACTs in 2006.¹

Due to the nature of the issue, accurate data on trafficking in human beings (including its scale) has been lacking. Such data is critical in understanding the situation and trends of the issue, in taking appropriate responses and in developing policies. The United Nations Office on Drugs and Crimes (UNODC) 2006 report, *Trafficking in Persons: Global Patterns*, is an example of an effort to present the global trends in trafficking in human beings. In Southeast Asia, on the other hand, some of the member-organizations of Asia ACTs as well as related organizations have their own data collection initiatives.

Asia ACTs saw the need to develop a regional database to monitor and prevent child trafficking as well as to provide information that would help improve responses to child trafficking. Thus the Bangkok Conference was held to share information on data collection initiatives and to come up with recommendations to complement the existing database initiatives of various organizations. There were around forty participants, both from within and outside of the region, from governments as well as NGOs.

Conference proceedings

A researcher of the UNODC introduced the database initiative currently being planned. She mentioned the criticisms on the 2006 UNODC Report for being based on secondary data, and categorizing countries into "sending" and "receiving" countries. She explained that guidelines for the database framework would be prepared before developing a new database. She hoped that it would be continuously updated to

provide information to judges and prosecutors working on trafficking cases, and support public awareness-raising efforts. The new database will focus on government responses to trafficking including court decisions.

The Terre des Hommes Child Relief TACT Project in South-Eastern Europe was another example presented at conference. The project, with database component, provides assistance to children who are victims of trafficking. Social workers who are in contact with the children input the data, and information is accessible online. Data include information on the child victims and the traffickers. Security of information is maintained through multiple passwords and various levels of access. Several comments were raised such as the importance of making users become aware of the risks of information leak, the differences in legal provisions on personal information that create difficulties in sharing information among different countries, and the need to clarify the purpose of the database, the participation of users in developing it, and to keep it simple and easy to use.

Subsequent panel discussions and workshops introduced and discussed other initiatives within and outside of the Mekong region. Existing and planned databases generally focus on information on children who were rescued, returned or came into contact with NGOs or officials in the course of responding to trafficking cases, the cases themselves, and information regarding income, education and other relevant matters which may provide bases for developing policies on anti-trafficking and the welfare of children at risk.

A representative of Save the Children introduced its database for six countries in the Mekong region that helps analyze the situation of children and supports the planning and monitoring of its activities. Children receiving its services provide information using a questionnaire. Personal data are stored in local offices, but information shared among regions and countries are less detailed. The KKSP Foundation in Indonesia has a database on children who are victims of violence

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including trafficking for its advocacy activities. The Philippine Center on Transnational Crime under the Office of the President operates a database on international crimes including trafficking in human beings. Information of the victims as well as the traffickers (regarding their personal details, information on their cases, and criminal organizations) are collected to facilitate monitoring of illegal activities and assist police operations.

An example of database providing bases for policy-making is the initiative of the Social Development and Human Security Office of Thailand in Chiang Mai and two other northern provinces. The database has information on health, education, migration and other matters of the residents in these areas that the various ministries collect, as well as information on entertainment facilities and areas requiring particular attention. The collected information are used in preparing policies and plans for preventing trafficking, responding swiftly to cases, and promoting cooperation with other relevant ministries and agencies. The Subaybay Bata Monitoring System of the Philippine Council for the Welfare of Children, an inter-agency body monitoring and evaluating the implementation of policies and programs for the welfare and protection of children, was another example introduced in the conference. In this scheme, data from the studies and reports from various ministries as well as information collected by the barangay (community) officials provide the basis for formulating policies and decision-making. The data are also used to promote dialogue and sharing of responsibilities among national and local officials.

The discussions centered on the importance of information security in all the initiatives presented, and the measures needed such as passwords, access restrictions, as well as keeping some data off the website. Issues regarding sharing of information between government agencies and NGOs were also pointed out. With initiatives involving information collection directly from the children, many speakers mentioned the necessity of keeping the questionnaires and user manuals short and easy for those taking the information. It was emphasized that the interest of the child should be the priority in all stages of the process.

On the final day of the Conference, the participants discussed and adopted a statement including recommendations towards a regional database.

The participants agreed on the need for a regional database to serve a number of purposes, namely:

1. Provision of evidence for advocacy for the adoption and implementation of the human rights standards for trafficked children
2. Provision of authoritative information about the issue
3. Presentation of the real situation on trafficking of children for policy advocacy
4. Identification of gaps on services being provided to victims
5. Development of coordination among service providers from both government and NGOs and monitoring of governments initiatives
6. Drawing up of regional trends on the work done on the issue.

(See next page for the full text of the conference statement and the recommendations regarding the establishment of a regional database system.)

The Conference was attended by representatives of NGOs and government agencies in Southeast Asia involved in anti-child-trafficking programs. Terre des Hommes Netherlands, the European Commission and the Japan Foundation provided support.

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Endnote

1. For more information on this seminar workshop, see "Protecting Children Against Trafficking: Southeast Asian Guidelines" *FOCUS Asia-Pacific*, Vol. 44, June 2006, HURIGHTS OSAKA, <http://www.hurights.or.jp/asia-pacific/044/06.html> On the Guidelines, see *Seminar-Workshop on the Southeast Asian Guidelines for the Protection of the Rights of Children Victims of Trafficking*, AsiaACTs against Child Trafficking, 2007.

Regional Conference on Enhancing Child Protection Through Database Development: Mapping of Existing Database Efforts to Fight Child Trafficking in South East Asia (October 2007)

Conference Statement

We, the participants of the "Regional Conference on Enhancing Child Protection Through Database Development: Mapping of Existing Database Efforts to Fight Child Trafficking in South East Asia" held in Bangkok on 22-24 October 2007 coming from non-government and government organizations from Burma, Cambodia, Indonesia, Japan, Lao People's Democratic Republic, Philippines, Thailand, Vietnam, support the initiatives of the Asia Acts Against Children Trafficking protecting the rights and dignity of the trafficked children in South East Asia, and hereby recommend the following:

* Intensify efforts to collect information on trafficked children at the grassroots level and from reliable sources where possible such as reports from the media, social workers, and the police;

* Work towards having a common regional database system on child trafficking that would aid efforts to combat child trafficking by various stakeholders;

* Agree on common objectives, indicators, and definitions based on the ASEAN Guidelines for the Protection of the Rights of Trafficked Children to guide the development of a national/regional database on child trafficking;

* Develop comprehensive training and users manuals to include detailed technical and ethical guidelines in the collection, collation, and dissemination of information on child trafficking;

* Explore or intensify collaboration with the government at the national and regional levels, where possible, in the development of a centralised database system on child trafficking;

* Intensify lobbying efforts for the adoption and implementation of the ASEAN Guidelines for the Protection of the Rights of Trafficked Children;

* Contribute information on the situation of child trafficking in South East Asia and undertake parallel activities in preparation for the World Fit for Children session in New York in December 2007, and the 3rd World Congress on Commercial Sexual Exploitation of Children in Brazil in 2008;

* For Asia-ACTS to revisit its position on child trafficking not only as a human rights issue but also as a law and order problem.

The Recommendations of the Conference Regarding a Regional Database

Rationale:

A regional database

1. Provides evidence for advocacy for the adoption and implementation of the human rights standards for trafficked children
2. Provides authoritative information about the issue
3. Presents the real situation on trafficking of children for policy advocacy
4. Identifies gaps on services to victims
5. Develops coordination among service providers from both government and NGOs and monitors what the governments are doing
6. Draws regional trends on work done on the issue.

Results:

After three years, the following results will be generated from the database:

1. Situational analysis of child trafficking in the region
2. Facilitated development of at least one cross-border coordination effort in case intervention; at the country level, identified gaps in service delivery/provision of interventions to victims
3. Adoption of the proposed guidelines on protecting the rights of children-victims of trafficking.

Strategies:

1. Develop the standard documentation format (paper and electronic formats). This includes systems for data entry, pre-testing and hands-on training, identification of fields in the database, determining cases that cannot be covered due to inaccessibility, deciding on information that cannot be shared, updating frequency, and development of controlled vocabulary. At the country level, review and improvement of existing formats
2. Formation of the data management team (including adoption of criteria for identifying the [members of the] team, formulation of the operational structure and defining the roles and functions of the team)
3. Development of users' manual
4. Data collection, data entry, data retrieval, data analysis, packaging and dissemination of results
5. Training on data analysis (regional and country level).

Korea-Japan Symposiums on "International Marriage" and "Female Migrant Workers"

*Koonae Park**

HURIGHTS OSAKA held two public symposiums on the human rights of foreign migrant women in Japan and Korea in August and October 2007. These symposiums were co-sponsored by the Asian Center for Women Studies of Ewha University (Seoul), Women's Study Center of Osaka Prefectural University, and Seoul Foundation of Women & Family. The first symposium was held at Ewha University in Seoul on 3 August 2007, focusing on the situation of foreign women who respectively married Japanese and Korean men, and reside in Japan and Korea. The second symposium was held on 27 October 2007 in Osaka at the Dawn Center (Osaka Prefectural Women's Center) with the cooperation of the Osaka Gender Equality Foundation. In both symposiums, non-governmental organization (NGO) workers and researchers in Japan and Korea shared and discussed the issues.

Japan and Korea situations

The two symposiums revealed the similarity of situations of migrant workers in Japan and Korea. The number of migrant workers in Japan started to increase in late 1980s. While Korea was sending a lot of its workers to work abroad as migrant workers till late 1980s, by 1990s it was receiving foreign migrant workers. For every eight married couples in Korea, one is an international marriage. In Japan, the ratio is 16:1. The foreign spouses (mainly women) in Korea are mostly Chinese, Vietnamese, Japanese, and Filipinos. While in Japan majority of the foreign spouses (also mainly women) are Chinese, Korean, Filipinos, and Thais (in the order of their number). Korea has more than one hundred thousand foreigners at present while Japan has more than two million.

This situation is becoming a major issue of globalization. The feminization of migration is increasing in Asia. Japan and Korea are similarly experiencing aging societies and decreasing birthrate, while receiving foreign female migrants.

"International Marriage from the Women's Human Rights Perspective" - Seoul symposium

The symposium in Seoul, held on 3 August 2007, focused on "international marriage" because of the rapid increase in the number of international marriages



in Korea and the establishment of programs by Korean national and local governments for female spouses from developing countries. The symposium was also part of the HURIGHTS OSAKA's study tour to Korea to learn about issues regarding, and NGO efforts in support of, female migrants.

One hundred fifty people from various sectors including the twenty Japanese participants in the study tour attended the symposium. Professor Kim Young-ok of Ewha University in her presentation entitled "Female Migrants through International Marriage and Multi-national Family" introduced the recent debates about multiculturalism, and nationality and citizenship in academic community. She also mentioned the limited discussions in Korea about the development of policies for families of international marriages that support the full participation in the society of the foreign spouses, and also gender-equality. Ms. Yoko Yoshida, a Japanese lawyer, presented the Japanese situation on international marriages and some aspects of the human rights violations under Japanese laws and policies.

Ms. Han Kuk-yom of Korea Women Migrants Human Rights Center gave a presentation entitled "Human Rights Situation and Issues regarding Female Spouses in International Marriages in Korea." She pointed out cases of trafficking in the guise of international marriages and the discriminatory attitude of Korean husbands and the society as a whole toward the foreign spouses. Ms. Enoi Yukari, a staff of the Toyonaka International Exchange Association in Toyonaka city (Japan), introduced her organization's activities sup-

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porting foreign women married to Japanese men, and their children.

Ms. Oh Hyeran of the Seoul Foundation of Women & Family presented the recently launched activities of the foundation to support families of foreign spouses in southern part of Seoul. Ms. Baek Mi-Soon of the National Human Rights Commission of Korea discussed the Commission's policy and activities on protecting the human rights of foreign migrants, including its future activities such as research projects in sending countries.

"Securing the Human Rights of Female Foreign Migrant Workers" - Osaka symposium

One hundred participants from various sectors attended the Osaka symposium, which focused on the issue of female foreign migrant workers. As in the Seoul symposium, the program included several presentations.

Professor Ito Ruri gave a presentation entitled "Globalization and Female Migrant Workers: Japanese Situation and Problems." She presented an analysis of the feminization of international migration in Asia in general and Japan in particular. She pointed out the lack of gender perspective in Japanese foreign labor policy, the issues regarding migrant workers (such as caregivers from Southeast Asia) and concrete measures to protect their rights. Ms. Jang Myung-sun of the Seoul Foundation of Women & Family presented the legal status of migrant workers, the foreign labor policy, the human rights violations caused by the employment system for foreign migrants, and the social structure in Korea. She stressed that female foreign migrant workers suffer from harsher conditions than their male counterparts.

Ms. Wang Tong, a graduate student of Osaka Sangyo University and a former trainee from China, spoke about her experience being a trainee at a manufacturing company in Hyogo Prefecture in Japan. She pointed out the wide gap between the provisions of training contracts and the harsh reality of the working place.

Ms. Hayasaki Naomi of the Rights of Immigrants Network in Kansai (RINK) presented the implementation of the Industrial Training and Technical Internship Program of the Japanese government and the increasing number of female trainees under this program. Ms. Yang Hyewoo of the Korean Migrant Workers Human Rights Center discussed the newly introduced

"Employment Permit System" (which replaced the "Industrial Training Program") and the situation of female foreign migrant workers. She also mentioned the entertainer visa system and the government's special policy of accepting people of Korean-descent from China, Russia and Central Asia.

Some notes

While many problems discussed in the two symposiums were similar in the two countries, there were differences in terms of government policies and measures. The Korean parliament passed a law on the rights of foreign migrants, including female foreign migrants, in response to strong recommendations and lobby by the National Human Rights Commission in the country. The law, aimed at integrating the foreign migrants into the Korean society and protecting their rights, started to be implemented from the early part of 2007. Bills related to female foreign migrants, such as measures to support 'multicultural family' and the regulation of the activities of international matchmaking agencies, have been discussed in the Korean parliament.

On the other hand, the Japanese government appears less serious compared to its Korean counterpart in enacting legislations and measures on foreign migrants. It was also noted that there was relatively weaker advocacy of NGOs on these issues. However, several local governments in Japan have enacted ordinances to protect the rights of citizens and foreign residents alike, in addition to taking several measures to support female foreign migrants. The programs of Toyonaka City (such as consultation and interpretation services, free Japanese language class, special class for foreign children to learn their mother tongue) implemented in collaboration with NGOs were examples of local government initiatives for foreign migrants.

The symposiums were the first experiences of collaboration between HURIGHTS OSAKA and universities and other institutions on foreign migrants issue in East Asia. Opportunities for further collaboration on the issue may have to be created. The unexpected high number of participants in both symposiums proved high interest on the issue.

For further information, please contact HURIGHTS OSAKA.

HURIGHTS OSAKA CALENDAR

HURIGHTS OSAKA recently launched the online version of its Directory of Human Rights Centers in Asia-Pacific (<http://hurights.pbwiki.com>). The online version is designed to allow the staff of listed human rights centers to edit their respective draft center profiles or for other centers to provide the profiles. A printed version of the directory will follow in early 2008.



PRINTED MATTER

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May be opened for inspection by the postal service.

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.



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