

Political Economy of Violence Against Women in Asia Pacific

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SUMMARY REPORT OF THE ASIA PACIFIC NGO CONSULTATION
WITH THE UNITED NATIONS SPECIAL RAPPORTEUR
ON VIOLENCE AGAINST WOMEN, ITS CAUSES AND
CONSEQUENCES, YAKIN ERTÜRK

12 - 13 September 2007
Manila, Philippines

Organised by Asia Pacific Forum on Women, Law and Development (APWLD)
in collaboration with the Women's Legal Bureau (WLB), Philippines

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List of Abbreviations

| | |
|---------|--|
| APEC | Asia-Pacific Economic Cooperation |
| APWLD | Asia Pacific Forum on Women, Law and Development |
| CEDAW | Convention on Elimination of All Forms of Discrimination Against Women |
| CPR | Civil and Political Rights |
| CRC | Convention on the Rights of the Child |
| DEVAW | Declaration on the Elimination of Violence Against Women |
| ESCR | Economic, Social and Cultural Rights |
| FTA | Free Trade Agreement |
| ICC | International Criminal Court |
| ICCPR | International Covenant on Civil and Political Rights |
| ICESCR | International Covenant on Economic, Social and Cultural Rights |
| LGBTI | Lesbian, Gay, Bisexual, Transgender, Intersex |
| MNC | Multi-National Corporations |
| IFI | International Financial Institutions |
| NGO | Non-Governmental Organisation |
| SAARC | South Asian Association for Regional Cooperation |
| TNC | Trans-National Corporations |
| UDHR | Universal Declaration on Human Rights |
| UN | United Nations |
| UNSRVAW | United Nations Special Rapporteur on Violence against Women, Its Causes and Consequences |
| VAW | Violence Against Women |
| VAWTF | Violence Against Women Task Force |
| WB | World Bank |
| WHR | Women's Human Rights |
| WTO | World Trade Organization |

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FOREWORD

This year, we celebrate our twelve-year engagement with the United Nations Special Rapporteur on Violence against Women, Its Causes and Consequences (UNSRVAW). Since 1995, following the inception of the mandate and appointment of the first rapporteur in 1994, APWLD, through its Task Force on Violence Against Women has been meeting annually with the UNSRVAW in order to dialogue with and inform (geographically as well as thematically) the yearly report of the latter to the United Nations Human Rights Council. The Consultations have been offering a critical space for women in the Asia Pacific region to address the multiple forms of violence they are faced with and to hold states accountable at national, regional and international level through their direct engagements with the UNSRVAW.

The theme of the 2007 Consultation with the UNSRVAW on “Political Economy of Violence against Women,” is the topic of the UNSRVAW’s thematic report to the UN Human Rights Council in 2009. It was significant not only in terms of responding to the current complicated trends of violence against women but also in expanding the notion of accountability of human rights violations to include global actors such as multinational corporations (MNCs). The Consultation offered the unique opportunity to understand and discuss how economic and political considerations and outcomes of power relations between people or nations affect women’s enjoyment of all human rights. The rich discussions helped us to apply the understanding of political economy in the context of neoliberal globalisation, militarization and fundamentalisms, these also being the contexts within which APWLD situates its understanding of women’s realities. The consultation enabled the participants to use this understanding for the advancement of women’s human rights and for the elimination of all forms of violence and discrimination against women.

The political economy approach emphasized the interdependence between the political sphere and the economic sphere, highlighting also the inter-relatedness and non-hierarchical relationship between the Civil and Political Rights (CPR) and the Economic, Social and Cultural Rights (ESCR). It drew attention to the fact that the protection, promotion and fulfillment of human rights are dependent on the ownership and consumption of material resources within society and on power dynamics within the family, community, states and the world.

Locating women's rights within this fragmented understanding of rights, and further relating the same to women's full enjoyment of all human rights was the major challenge at the Consultation. However, we were able to explore the complexities of these issues in the Asia Pacific context and share strategies to address these issues at the local, national, regional and international levels. We revisited the fact that women have been systematically excluded from discourses or any decision making process at all levels, especially on issues of property, resources and assets. Importantly, the discussions reiterated the importance of women's collectives as a powerful agency for progressive social, legal and political transformation.

Using the political economy approach as a tool to identify emerging and critical forms of violence against women, to understand the causes and consequences of structural and overt forms of VAW and to articulate roles and responsibilities of states and non-state actors in terms of compliance with international human rights standards was empowering for all of us. We were able to articulate creative strategies to combat violence against women in a world that is being militarised and impoverished through 'globalising' neo-liberal policies on the one hand and fragmented through identity politics and fundamentalisms on the other hand. Our efforts to ensure universal, indivisible, intrinsic and inalienable human rights were revalidated in this important Consultation. We felt exhilarated and well as humbled with the prospect of continuing and strengthening our work with renewed vigour. This report is an invaluable contribution towards these efforts.

We thank each one that has contributed to the Consultation as well as to this report. Special thanks are due to the UNSRVAV, Prof. Yakin Ertürk for her continuous friendship and rigorous engagement with the APWLD. We thank all the participants of the Consultation, the members of the APWLD Violence Against Women Task Force and all other Task Force/Working Group members for their rich participation and contribution. We also thank the Secretariat of the APWLD for doing all the invisible and sometimes thankless jobs that go into making an event so meaningful.

Manisha Gupte
Convenor, Violence Against Women Task Force
APWLD

Executive Summary

On 12 and 13 September, 2007, forty-five women and men human rights activists from 15 countries in the Asia Pacific region, including Bangladesh, Cambodia, Fiji Islands, India, Indonesia, Japan, Kazakhstan, Korea, Malaysia, Mongolia, Nepal, Pakistan, Philippines, Sri Lanka and Thailand gathered together with the UN Special Rapporteur on Violence against Women, Its Causes and Consequences (UNSRVAW), Dr. Yakin Ertürk, to exchange views and deepen their understanding and unities on issues around, within and arising from the 'Political Economy of Violence against Women' in the context of neoliberal globalisation, fundamentalisms and militarisation. The Consultation was held in collaboration with Women's Legal Bureau (WLB) in Manila, Philippines.

Aims of the Consultation

The Consultation provided a forum for women and men working on women's human rights from the region to discuss issues around political economy of violence against women with the UNSRVAW, as a means to further the advocacies of their national and regional concerns. It sought to understand and articulate how economic consideration, which is in many cases political decisions, can improve women's rights and eliminate multiple forms of violence, discrimination and injustice faced by women in order to advance women's economic, social and cultural rights – a key to the full enjoyment of their civil and political rights. The Consultation was critical in terms of enhancing and sharpening conceptual clarity on the issue of political economy of violence against women, with the goal of strengthening women's work and activism on violence and other issues.

What was discussed at the Consultation?

The two days saw rich discussions on the inter-relatedness between the fulfillment of women's civil and political rights and economic, social and cultural rights in the Asia Pacific region and how politics impact upon economics; conversely, how the economy affects the polity and how both impact upon violence against women.

Establishing the connections between the two sets of human rights, civil and political rights (CPR) and economic, social and cultural rights (ESCR) and relating them to VAW was an important task undertaken in the Consultation. Most of the time, the realisation of CPR is given priority by states over ESCR. The division of human rights and the given primacy of CPR over ESCR

were heavily intensified by the Cold War driven by the former Soviet Union and the US. There also was the notion that CPR are “negative rights” that require only that a state refrain from certain types of behaviour, whereas ESCR are “positive rights” requiring positive action by the state which most of the time requires great state expenditure. However, this notion has been challenged by showing that a variety of CPR such as right to vote, generates significant state expenditure. Furthermore, the interdependence of civil and political rights with economic, social and cultural rights needs to be emphasised. For example, participants brought to attention that a traditionally considered ESCR, the right to food, is so closely related to the number one civil and political right, which is the right to life. Without the guarantee of one’s right to food, right to life would be rendered meaningless. Participants agreed that the International Covenant on Economic, Social and Cultural Rights (ICESCR), whose potential is undermined in the human rights discourse, can make a great difference in women’s lives.

The root causes and the various violations against women in the context of political economy were discussed. Participants identified particular groups of people who remain most vulnerable despite the progress in human rights discourse that require special attention from the human rights community:¹

- *Victims of transnational crimes* — people who get left out when our human rights discourse is limited within state sovereignty. This group includes, amongst others, trafficked women, migrant workers, victims of sexual slavery during war time and victims of crimes against non-citizens (such as refugees). The state-centric paradigm of international human rights law has been challenged by the fragmentation and transformation of state sovereignty in response to growing economic globalisation and armed conflicts. As the foundational paradigm of international human rights law is the accountability of states for ensuring the rights of individuals living within their jurisdiction, it was highlighted that the concept of state sovereignty needs to be redefined in line with human rights protections both within and outside state boundaries. In this context, the role and responsibilities of non-state actors such as Multi-National Corporations (MNCs) and multi-state actors such as International Financial Institutions (IFIs) were also addressed and participants brainstormed to hold them accountable for the human rights violations. This discussion included examining states’ obligation to regulate the activities of MNCs and IFIs over which they exercise influence or control.

¹ Drawn from the presentation of Kamala Chandrakirana, Indonesia.

- *Minority groups* — including the Dalits and other communities in India who are victims of the centuries-old caste system and where discrimination has been identified for a long time but where there is still no concrete way to address violations. The situation of rural and indigenous women from the Philippines was also discussed. Their rights to land and food sovereignty are violated, with the interaction between states and different non-state actors (including within the home, in the community and in the workplace), during conflict situations by paramilitary groups, etc. in the context of widespread economic globalisation policies. Rampant discrimination and violence against sexual minorities, namely LGBTIs was given considerable attention by participants.
- *Women whose works are not recognised* — domestic workers and sex workers were identified as a group in the most vulnerable situation. It was emphasised that the first step in promoting their rights is the *recognition* of their work as work and hence, their rights as workers. Participants identified the emerging issues with regard to women's right to work which includes rights and realities of Filipino migrant workers in Japan, migration and its impact on women's right to health such as their high exposure to HIV/AIDS, limited access to basic health services, and physical and sexual violence against migrant women workers.

Political economy in the context of unequal relationship between the global north and global south poses a huge challenge to women. It becomes particularly difficult especially as women have to deal with global economic forces such as World Bank (WB) and World Trade Organization (WTO) which shape political and economic frameworks at local, national, regional and international levels. There was a consensus among participants that political economy of violence against women requires an agenda of empowerment and of social transformation.

To address the political economy of violence against women and to achieve gender equality and fulfillment of women's human rights, there is a need to reverse the material base of the world we are living in. This includes using and changing the language of human rights, constitutional rights and a dignity approach to critically reflect women's realities. Empowerment agenda includes women's work and the movement's work itself and its ability to build alliances with other social movements. The approach of violence against women needs to be from the perspective of women's empowerment, creating an enabling environment where women can protect themselves and use laws to safeguard

their legal rights, and not from a mentality of victimisation that puts women in a vulnerable position, needing protection from others and by others. Secondly, a social transformation agenda is important because it is a struggle to fight against patriarchy. These agendas become critical first to reverse the material base and, second, as the foundation for women to renegotiate a new contract at local, national, regional and international levels.

In this context, the need for a new institutional framework in response to the current globalising world was also emphasised. Globalisation in some ways threatens nation-states and international formations such as United Nations, when it begins to break down national boundaries and sovereignty and installs transnational processes. In this transnational process, women are faced with another task of establishing the legitimacy of states in the context of liberalising its control over their citizens and fulfilling their obligations to enforce international standards toward respecting, promoting and fulfilling human rights as individuals. It was recognised that a new social contract with legal and institutional frameworks that are representative of the world women are living in is required so that new standards are formed.

To address the challenges identified, participants collectively brainstormed on what we need to do within our own organisations and within the women's movement which includes: (i) utilising international and regional mechanisms; (ii) lobbying for new mechanisms to document human rights violations in the name of development and progress so as to defend women's rights from non-state actors; (iii) advocacy for legal and policy reform; (iv) building networks and sharing information, experience and strategies; (v) actively participating in political processes at all levels to critically reflect women's issue of concerns; and (vi) using the right language – terms and language that are used and embraced by the women.

Participants defined the challenges and recommendations to fulfill and promote all human rights of women, and eradicate multiple forms of violence faced by women in the region.

Recommendations for the UNSRVAW include:

- Support for regional forums with other UN Special Rapporteurs and relevant international mechanisms as the methodology of engagement;
- To create a space to redefine established professional terms

such as human rights, development, trade, and right to work, to properly reflect women's human rights and the interconnectedness of political and economic spheres;

- A status report on particular issues raised at the Consultation so that women's activists can position themselves and re-strategise locally and nationally; and
- To take up women's poverty and the loss of their livelihood as a form of violence against women.

Drawn from the Consultation's discussions and contributions of participants, this report seeks to explore some of these issues as experienced by women from Asia Pacific.

Introduction

Background

The Asia Pacific Forum on Women, Law and Development (APWLD) has been facilitating Consultations with the United Nations Special Rapporteur on Violence against Women, Its Causes and Consequences (UNSRVAW) since 1995 following the inception of the UNSRVAW mandate and appointment of the first rapporteur in 1994. APWLD was part of an initial group of women's organisations that advocated for the creation of this mandate.

The Special Rapporteur on Violence against Women, Its Causes and Consequences defines her main activities under the mandate to be:

- To seek, receive and effectively respond to information on violence against women, its causes and consequences from governments, treaty bodies, specialised agencies, other special rapporteurs responsible for various human rights questions, and intergovernmental and non-governmental organisations, including women's organisations;
- To report to the Human Rights Council (as per Human Rights Council's decision 1/102) and recommend measures, ways and means at the national, regional and international levels, to eliminate violence against women and its causes, and to remedy its consequences;
- To work closely with other special rapporteurs, special representatives, working groups and independent experts of the Human Rights Council and with treaty bodies;
- To make and transmit urgent appeals and communications to states regarding alleged cases of violence against women;
- To carry out fact-finding country visits with the consent of the government concerned; and
- To submit annual thematic reports.

Radhika Coomaraswamy, a founding member of APWLD, was the first Special Rapporteur on Violence against Women, Its Causes and Consequences (UNSRVAW). From 1995 to 2002, APWLD conducted Asia Pacific Regional NGO Consultations with Radhika on the elected topic of her annual report to the then

UN Commission on Human Rights. The consultations provided an opportunity for women's groups in the Asia Pacific region to inform the UNSRVAW of the multiple forms of violence against women, as well as to inform her articulation of the scope of women's rights, based on the local and national experiences of women in the Asia Pacific.

After Radhika Coomaraswamy finished her two terms, the mandate of the UNSRVAW was renewed for three more years by the UN Commission on Human Rights with the appointment of Dr. Yakin Ertürk in 2003. APWLD has held three previous consultations with Dr. Ertürk since her appointment: first in 2004 in Jakarta, Indonesia, focusing on 'Sexuality'; second in 2005 in Bangkok, Thailand, focusing on the 'Due Diligence' standard; and then in 2006 in Ulaanbaatar, Mongolia, focusing on 'Culture and VAW' — all within the context of violence against women.

Through the consultations, the UN special procedure mechanism attained significance in the work of many Asia Pacific women's groups. Its accessibility to civil society, as compared to other UN mechanisms, has made it an important advocacy platform in the region. Particularly in Asia Pacific where there are no regional human rights mechanisms, the engagement with the UN Special Rapporteurs provides a forum for holding governments in Asia Pacific accountable for violations of women's human rights.

Women's groups from the region were able to bring about positive changes in legislation, court decisions and state policies to combat all forms of violence against women. As a result of the 2006 UNSRVAW Consultation in Mongolia, for instance, a national action plan on combating domestic violence was adopted and approved on September 12, 2007 according to the commitment made by Mongolian government representatives who met with the UNSRVAW following the National Consultation in 2006. The UNSRVAW's visit to Mongolia also had an impact on the Judiciary's implementation and interpretation of the new domestic violence legislation in the country, leading to the landmark decision that it is not the survivor who has to leave the house but the perpetrator.

Another key outcome of having consultations with the UNSRVAW is empowering women in the region and increasing their capacity to address violence against women using the knowledge, tools and strategies gained through Consultation discussions. This includes increased use of the UNSRVAW mandate which has led a participant of the Consultation to file an individual complaint on trafficking and violence against women. Women human rights

activists and organisations have been requesting guidance and assistance in organising NGO consultations with the UNSRVAW in their countries/sub-regions for the last couple of years and a consultation in St. Petersburg, Russia with the UNSRVAW is to take place in September 2008.

2007 UNSRVAW Consultation on Political Economy of Violence Against Women

The Consultation this year focused on 'Political Economy of Violence against Women in Asia Pacific', a critical issue for women and women activists in the region, particularly in the context of neoliberal globalisation, fundamentalisms and militarisation, the theme of the UNSRVAW report to the UN Human Rights Council in 2009.

The objectives of the Consultation were:

- To enable women's NGOs from the Asia-Pacific region to directly consult with the UNSRVAW on the elected topic of her report and strengthen effectiveness of the UNSRVAW's mechanisms to address VAW, its causes and consequences;
- To provide women/human rights activists dealing with the identified issues the opportunity to share their experiences, strategies and best practices and provide specific recommendations to the UNSRVAW on how to strengthen international, state and community responses to violence against women, its causes and consequences;
- To provide an opportunity for the UNSRVAW to discuss her annual reports and outcomes of the reports with women's rights activists in the region with the aim of undertaking strategies for implementing the findings of the report and soliciting feedback from women's NGOs; and
- To enhance capacity of groups working on VAW to effectively address the inter-linkages between women's economic, social and cultural rights and violence against women.

The Regional Consultation explored the complexities of issues pertaining to VAW in the context of political economy and sought to strategise how the women's human rights agenda can be advanced: How do fundamentalisms, neoliberal globalisation and militarisation impact upon women and the indivisibility of human rights? How do they affect women's access to rights, especially for survivors of violence whose human rights have

already been violated, if not by states in the first instance, by non-state actors? How has the 'borderlessness' of the world market, the unilateralism of a super power, the war on terror, the implosion of secularism in many countries affected the UN in general and its capacity to further the human rights agenda at this time in particular? How do we as activists, re-define our struggles for national sovereignty in light of the challenges of neoliberal globalisation, militarisation and fundamentalisms? What is the notion of people-to-people solidarity that is achievable beyond the notion of nations, state sovereignty and internationalism?

The Regional Consultation was followed by the National Consultation with the UNSRVAVW on 14 October 2007, attended by 40 women's rights activists from different organisations, both rural and urban based; 10 women from remote areas working with indigenous peoples, including female peasants. The national consultation highlighted critical emerging issues in the context of neo-liberal politics which results in poverty, displacement, landlessness and loss of livelihood, militarisation and fundamentalisms, including violence against indigenous women, migrant workers, lesbians as sexual minorities, ongoing extra-judicial killings and enforced disappearances against women human rights defenders, and the impact of militarisation on the local community.

Chapter 1

Defining the Concepts and Identifying the Key Issues

1.1. Political Economy of Violence Against Women: The Indivisibility of Human Rights

The 'political economy' approach emphasises the inter-relatedness between the political sphere and the economic sphere, recognising that the economy is a political artifact, an outcome of power relations and not just a quasi 'natural' outcome of an independently functioning economy. Both the allocation of resources and distribution of income and opportunity are the result of political forces and agreements. Thus, political and social decisions and economic considerations are deeply inter-related.

When applied to human rights, the political economy approach draws attention to the fact that the protection and promotion of human rights is to a large extent dependent on the material basis of the society and the prevailing power dynamics. It intersects two different discourses – that of human rights and that of economic efficiency.² This is particularly important for women, who are systematically excluded from productive resources and spheres of power.

Policies of government which derogate the right to land in the face of mining company interests, or set in place a discriminatory system of inheritance and property, are some examples of how the political economy impacts on women's enjoyment of their human rights and the role and responsibility of the state for these actions. A political economy analysis, therefore, exposes the formative role states and non-state actors, such as multinational and international financial organisations, play in regulating and guiding economic policy and the compatibility of the various policy options with political and moral imperatives, social justice and international human rights standards.

From the early 1980s, it was presumed that the best way to give substance to human rights is to reduce the role of the state, aiming to promote faster economic growth with the belief that economic growth will automatically result in the enhancement of human rights and development. The neoliberal economic policies permitted easy flow of goods, services and finance around the world as well as the mobility of labour. This led to the creation of the new employment opportunities for women; however this does not necessarily mean that women enjoy various rights including equal pay for equal work, protection against unemployment and right to form and join trade unions.³ In reality, they have

2 Diane Elson, "Gender Justice, Human Rights, and Neo-liberal Economic Policies," in *Oxford Studies in Democratization*, Oxford University Press, p. 78.

3 United Nations, 1999 *World Survey on the Role of Women in Development: Globalisation, Gender and Work* (New York: UN, 1999).

increased their vulnerability to exploitation, working as either documented or undocumented migrant workers in poorly paid and unregulated workplaces.

Thus, the current economic conditions bear upon women's welfare directly by transforming their family and community on the one hand, and prodding them to become providers of cheap and flexible labour for the global markets on the other. In this context, poverty, marginalization and the lack of protective mechanisms make them easy targets for violence and abuses such as trafficking and erode their ability to exercise their rights.

The political economy perspective analysis is intricately interconnected with the discourse around 'indivisibility of human rights.' Rooted in the division of the socialist and capitalist blocs after the Second World War, the Universal Declaration on Human Rights (UDHR) developed into two separate covenants: International Covenant on Civil and Political Rights (ICCPR) and International Covenant on Economic, Social and Cultural Rights (ICESCR) but not in a single big treaty. The principle of interdependency and indivisibility of human rights have been violated since then and economic, social and cultural rights sacrificed under what is called progressive realisation of human rights.

This again coincides with the neo-liberal viewpoint that the best resource allocations are those that maximize economic growth which will automatically result in the promotion of, in particular economic and social rights. But it was a given condition that under this belief, economic growth is the priority and human rights can wait if there are resource constraints. Civil and political rights have been regarded more as individual rights and cost-free; economic, social and cultural rights more as collective and material-based. The principle that human rights are universal and indivisible and therefore cannot be the issues of priorities nor trade-offs was lost somewhere along the way. There the hierarchy between different human rights was created, civil and political rights such as right to life, right to speech and freedom of expression and the right to practice religion became fundamental rights whereas social and economic rights including the right to health, right to education and all are called the directive principles and violated.⁴

However, under the belief that all rights are inextricably linked and must be upheld comprehensively, based on the UDHR that human rights belong equally to everyone as recognised by the members of the UN, social movements have demanded and often achieved guarantees for a broader set of rights in the social and cultural spheres — not confined to civil and political spheres —

4 Drawn from the intervention of Manisha Gupte, India.

as well as the recognition of new categories such as sexual and reproductive rights. Furthermore, it has been acknowledged that in order to actualise women's civil and political rights, economic, social and cultural rights have to be secured as some of these are prerequisites for the fulfillment of civil and political rights. The indivisibility of human rights means that measures to protect, promote, and fulfill any particular rights should not create obstacles to the protection, promotion and fulfillment of any other human rights.⁵

Recognising the material basis of the globe, no policy can be neutral and we have witnessed prioritising economic consideration and status having a big impact on human rights. For example, poverty means marginalisation of the whole community that impacts and perpetuates the violence women are experiencing within various contexts. The power structure (politics) and poverty (economic) within and outside the home are socio-political, socio-economic and socio-cultural factors that trigger, lead exacerbate and perpetuate the multiple forms of violence women are suffering from state and nonstate actors including in the home and in the communities. Also, violence and poverty disempower women, rendering them powerless to assert and enjoy their civil, political, economic, social and cultural rights. Human rights and development should be holistic. It cannot be divided and dealt with separately or at a later time. Justice and redress in relation to violence against women should be simultaneously addressed with social, legal, economic and political impacts to ensure all women access and enjoy their human rights.

1.2. Neoliberal Globalisation and Violence Against Women

In many parts of Asia Pacific, over the past two decades, the paradigm of economic growth through trade and investment liberalisation, deregulation and massive privatisation has in some contexts contributed to the creation of a social, cultural, political and economic environment that increases the vulnerabilities of women and girls to violence and sharpens structural inequalities such as those of class, caste, race, ethnicity and gender. A free market philosophy, which emphasises limitations on government's interference in market conflicts with conventional international human rights law which is founded on the notion that states have obligation to intervene to respect, protect and fulfill all human rights.

Structural adjustment programmes mandated by International Financial Institutes (IFIs) in many developing countries in the region have been, in many contexts, a major factor for the exacerbation of poverty and marginalisation, making basic social

5 Diane Elson, *supra* note 2 at p. 80

services even more inaccessible for the people in most need. For instance, due to the extractive industries such as mining projects which result in the environmental degradation and contamination of water resource, rights to safe, clean and affordable water is violated and people suffer from different health problems. What is more, in many cases, modern health care services are beyond the reach of the most marginalised group, particularly women and children, due to inaccessibility and unaffordability.

While corporate sector accountability and the responsibility of International Financial Institutions (IFIs) such as World Bank (WB) and International Monetary Fund (IMF) to ensure economic and social rights have been on the agenda of the globalisation and human rights discourse, the reality is that the situation for women is not improving. While women and men are both affected by the neo-liberal economic policies of globalisation, their experiences are different because of their differing gender roles and inequality. For instance, the loss of livelihood as a result of privatisation and the destruction of natural resources have increased poverty and the gap between the rich and the poor and between women and men.

Women have entered into new exploitative industries like the garment making industries throughout South East Asia; moving from rural to urban areas or from countries with depressed economies to wealthier economies to work as either documented or undocumented migrant workers in poorly paid and unprotected industries and workplaces. Poverty and marginalisation and lack of protective mechanisms fuel violence against women, for instance, making them easy targets for trafficking and eroding women's enjoyment of their civil, political, economic, social and cultural rights.

Focus toward profit maximisation combined with increased interconnectivity and instantaneous information exchanges have led to flexible and transnational processes of commodity production, trade and the extraction of profit. For the labour sector, globalisation has allowed relocation of jobs where labour costs are cheapest. Poorer countries compete for investments by lowering wages and labour standards in a cut-throat race to offer the highest return on investments. Labour becomes increasingly flexible, contractual, and non-unionised and these changes affect men, women and children differently. For example, women and their children are most likely to be the home-based work force of subcontractors for transnational corporations. They work longer hours, doing labour-intensive work for very little pay. Similarly, export processing zones (EPZs) set up as investment havens for

transnational corporations are sweatshops populated mostly by women who gain very little from the highly-priced products they make.⁶ Non-state actors, such as multinational corporations (MNCs) and other business actors benefit greatly from this abusive system and in many cases not being held accountable in terms of human rights violations. They are most of the time reluctant and opposed to changes in the system that jeopardise their profits.

In this age of economic globalisation, global power is exerted by a handful of power states, MNCs and IFIs which has resulted in significant shift in the international order, dictating the economic policies of weaker states through structural adjustment programmes and forced liberalisation of their markets. This makes it difficult for weaker states such as many of the developing countries in the Asia Pacific region, to assert full control and accountability over their social and economic policies. Often, developing countries fail to protect the interest and human rights of their populations when negotiating the terms of loan agreements and/or of international/bilateral trade. For instance, to generate foreign profit to pay for foreign debts, many of the governments in the Asia Pacific region have often relied on massive extraction of natural resources for export. The most devastating impacts of the so-called development projects are extractive industries, monocrop agricultural plantations and agribusiness ventures, resulting in the destruction or loss of ancestral territories and resources, and further impoverishment of rural and indigenous women in particular.

Affected by these “projects,” with governments conforming to the rules of IFIs, rural and indigenous women are consistently subject to forced migration and/or displacement from their homes and land. Increased unemployment and loss of livelihoods within the community raises the tension and risks of violence within families as well.

1.3. Fundamentalisms and Violence Against Women

Fundamentalism can be defined as the notion of singular, pan-religion identity politics constructing static, homogenous and exclusionary identities for a political purpose without allowing any space for debate or dissent. They are modern socio-political movements in many parts of the world that use religion, ethnicity or culture to win political and economic powers and social control. Fundamentalisms take advantage of people’s sense of insecurity and powerlessness in a world where decisions about their life and community are influenced by policies propagated by IMF, World Bank and other powers. They maintain power or challenge the

⁶ Drawn from the paper presentation of Sylvia Estrada-Claudio, Philippines

status quo of power and usually project a vision of community, nation or the globe in which there is only one way of being and one solution to all existing problems and through a singular strategy. There are only two opinions in fundamentalisms, i.e. theirs (right) and that of others (wrong). They often appeal to people as a reaction against the penetration of 'western values,' to protect 'traditional' values.

Most often, fundamentalisms entail an imposition of static and patriarchal interpretations of religion or social norms that are used to control and restrict women's behaviours and to redefine their roles and prerogatives; these in turn expose women to an increased risk of violence. Women, being the least empowered group in an intensely patriarchal society, are easy targets of politico-religious extremists. As women have gradually achieved more visibility in public life and have broken some of the bonds of patriarchal control, they now face a backlash aimed at the 'reassertion' of cultural, traditional, and religious values.

The fundamentalist approach that treats religion and culture as static and ahistorical gives too much power to the state and other institutions of ideological hegemony in determining how these customs and traditions are to be interpreted and implemented. This kind of cultural homogenisation is essentially undemocratic and tends to reinforce male power over women and majority power over minorities in families, communities and states. The power of these cultural, religious and political hegemonies can turn to tyranny such as the establishment of theocratic rule, or when the state cites myths of traditional culture to justify the violation of women's human rights, condoning violence against women. For example, quite recently, in Pakistan, many of girl's schools are shutting down, and numerous schools received threats that school buildings will be bombed if teachers and students do not start wearing veils and burqas; and even preventive health measures like polio vaccination were opposed as un-Islamic.⁷

It has also been argued that fundamentalisms are a refuge against the homogenisation agenda of globalisation. It also is intrinsically linked to militarisation and situations of armed conflict in which the security and certainty of a group may waive under the threat of the 'other'. In situations of threat, groups turn to their religious and traditional past to restore order, security and control, in many cases at the cost of the rights and freedom of vulnerable and marginalised groups, such as women.

7 Drawn from the intervention of Shahnaz Iqbal, Pakistan.

1.4. Militarisation and Violence Against Women

The international community has been witnessing the increase of militarisation and armed conflict which fosters the dissemination and reaffirmation of military values and ideals and lends increased coercive power to the state in social, cultural, political and economic affairs. National security has been increasingly used since the events of September 11, 2001 to justify the assertion of military power in the region. Over the last few years, many of the countries in Asia Pacific such as Aceh, Burma, India, Nepal, East Timor, Pakistan, Iraq, Sri Lanka, southern Thailand and Fiji Islands have witnessed an increase in armed conflict, political instability and spreading militarisation.

A key characteristic of militarisation is the increased power given to the military to violate human rights under the guise of national security. With the emergence of global conflicts, attention to crimes of violence against women is often given low priority whereas more and more attention is given towards national security issues which most of the time infringe on the human rights of people. For example, in Fiji when the military took over the government on December 5, 2006, check points were set up all over the country with heavily armed soldiers monitoring the traffic and movement of people.

In many cases, militarisation becomes extremism, allowing no space for any dissent. Women activists who had been vocal about the coup in Fiji, for instance, were taken up to the military camp; some of them forced to run around the ground at the barracks, made to lie face down on the ground and lick the boots of the military officers while other women had their hair cut to humiliate them by getting rid of what is considered one of the elements of beauty for women in Fiji.⁸

Also, militarisation often abets the government to have more economic, socio-political gains and powers; these are systematically planned and executed, most of the time sacrificing human rights. Increased state militarisation of certain areas due to conflicts over natural resources has led to an increase in violence against rural and indigenous women, in particular, by the state, as the perpetrators of human rights violations. Furthermore, state security forces often cooperate with multinational corporations to have more economic and social power over people and gain profits. For instance, in Mindanao, Philippines, undisturbed operations of agribusiness transnational corporations (TNCs) and plantations is assured with the presence of state security forces including US military forces. In addition, the military is used for clearing operations for the entry of TNCs in mining exploration sites as well in plantation expansion.

⁸ Drawn from the intervention of Edwina Kotoisuva, Fiji Islands.

The military and armed movements are patriarchal institutions, which reproduce and manipulate the myths of masculinity and femininity and therefore, women face violence from men within their own communities as a result of intensified expressions of masculinity during situations of armed conflict. During times of armed conflict and war, violence against women is legitimised as insignificant in the face of the communities struggle and therefore impunity prevails. The impacts of wars and militarisation are serious and direct on women, including sexual violence during armed conflicts.

Where women face the threat of violence, they are unable or, more often, prevented from leaving their homes for fear of violence outside the home. Furthermore, when women depart from their communities to leave the violent situation, in many cases, it results in the displacement from their communities and sources of livelihood. As a result, women's basic human rights such as their right to work, right to education, right to choose their place to live, right to land and right to have access to medical care are seriously violated.

There is a growing nexus between fundamentalisms, neoliberal globalisation and militarisation within the overall system of patriarchy, and women are falling victim to increasing levels of violence as these three environments interact and reinforce one another. Conflict and the uncertainty caused by neoliberal policies, gives rise to fundamentalisms, which brings heightened resistance against new ideas, appealing to their religious past to bring back a distinct identity and control over their own course and destiny. Most often, this entails an imposition of patriarchal interpretations of religion or nationalism on women that is used to control and restrict their behaviour and to redefine their roles and prerogatives, legitimising violence against women as well creating barriers to women accessing justice.

Chapter 2

Some Critical Emerging Issues from Asia Pacific

2.1. Women's Right to Work

Over the past three decades, globalisation, a process spearheaded by liberalisation of international trade, markets and services, characterises the changing circumstances in most of the developing countries in the Asia Pacific region increasing women's migration and poverty⁹. The incidence of poverty among women in Asia Pacific is especially high with women and men experiencing poverty differently and often becoming poor through different processes. The process of feminisation of poverty is closely linked to cultural and institutional constraints that restrict women from participation in economic activity and the macro-economic framework and technological choices that have often tended to reinforce pre-existing constraints. Declining living standards and increasing unemployment are key outcomes of neo-liberal policies forcing poor populations to seek work opportunities abroad.¹⁰ Neo-liberal globalisation has encouraged asymmetrical development and widened socio-economic inequalities between countries and regions. While these neo-liberal economic policies are regarded as being gender-neutral, they in fact affect women and men differently, mainly due to gender-segregated labour markets, different skill levels and predefined allocation of appropriate roles for women and men in both sending and receiving countries.

As national economies are opened up for global competition, developing countries with minimal comparative advantages have taken the option of providing cheap and flexible labour to the world market. The great majority of those who migrate are from developing countries, taking up unskilled jobs, with most of the labour migrants in Asia moving to countries within the region. Poverty, in general, and particularly among women, has increased women's participation in the labour force, predominantly in the informal sector. Destruction of various forms of livelihood has led to increase in informal work and more and more women have been pushed into informal sector works where there is no protection, any benefits and in horrendous working conditions without monitoring systems in place. Women migrating for work take up jobs as domestic workers, care workers and in the service sectors, including sex work and informal sectors. Large numbers of women in the region are moving across borders as foreign brides and trafficked victims as well. Furthermore, female migrant workers become more vulnerable as they seek income in environments influenced by the gender construct especially in

9 The United Nations Population Fund's State of World Population report in 2006 stated that almost half of migrant workers worldwide are women (about 95 million).

10 Donald P. Chimanikire, 'African Migration: Causes, Consequence and Future Prospects and Policy Options,' paper presented at the UNU-WIDER conference on Poverty, International Migration and Asylum, Helsinki, 27-28 September, 2002. <http://www.wider.unu.edu/publications/pb8.pdf>

many of the Asia Pacific countries which are based on patriarchal systems and religious fundamentalisms.

Migration is not only a livelihood choice for people who wish to better their economic circumstances but also has become a byproduct of economic and political globalisation. It occurs under circumstances of poverty, unemployment, under-employment, economic and political instability and landlessness or the deterioration of the environment, which leads to exploitation and further impoverishment of migrants throughout the migration process.

Some of the negative impacts of migration include social exclusion of migrants in receiving countries, violations against women migrants, disintegration of family units, poor social and economic reintegration and deteriorating health of migrants. Neo-liberal globalisation has led to the creation of a labour underclass resulting in depressed wages, absence of benefits, bad working conditions, abuse, lack of access to free health services and no social service. Women caught in the nexus of globalisation and migration are confronted with the most severe degrees of marginalisation. Women are most at risk by labour migration, both as individuals crossing borders for livelihood and as a family member and/or spouse left behind.¹¹

The current state of policies is in conflict with protecting and promoting rights and wellbeing of female migrant workers and is weak in areas such as trafficking. Gender-sensitive policies and legislations for female migrant workers both in the sending and receiving countries are sorely needed. These policies should not be in the form of protective policies such as banning and restricting female workers from migrating but of creating solutions and policies to promote the rights of migrant workers and dealing with the perpetrators of violations.

Some examples of extreme policies which hinder women's full enjoyment of their right to work and movement include:

Sri Lanka

- The government, in March 2007, announced a ban on women with children less than 5 years of age from migrating for work. The regulation also required mothers with children aged 5 or older to obtain approval from a government committee, after submitting proof that they can provide appropriate caretakers for their children, before migrating for work;

11 Drawn from the presentation of Nova C. Nelson, Malaysia.

India

- In August 2007, women below the age of 30 were banned from migrating for domestic work or care giving;

Nepal

- Nepal's employment provision requires permission of the guardian and the government as a prerequisite for women to go abroad for employment; and

Burma

- Burma banned women under the age of 25 from traveling through the country alone unless accompanied by a guardian. This allows traffickers to use this provision to move women freely under the guise of guardianship.

2.1.1. Some Experience of Women from the Region

Thailand - Women migrant workers, refugees and sex workers

- *Migrant workers*¹²: Most of the migrant workers in Thailand have crossed the borders illegally, finding work in the construction industry, manufacturing industry, agriculture, domestic work and sex work. However, domestic work, seasonal agricultural work and sex work mainly dominated by women migrant workers are not recognised as work under Thai labour laws.

In textile, clothing and footwear factories, around 70% of the migrant workers are women and all workers are paid below the minimum wage. In areas set up as special economic zones the employers make agreements among themselves to defy the national labour laws and pay below the minimum wage. Even worse is when workers organise to complain about their conditions, a common response from the employer is to send men into the women's dormitories at night to threaten them. Not allowing collective rights such as right to assembly and collective bargaining adds to the vulnerability of women.

In five of the tourist and fishing provinces of Thailand, governors have issued provincial decrees which impose curfews on migrants, ban gathering of migrants unless it is for work and even restrict the use of mobile phones in the name of national security.

- *Refugees*¹³: In Thailand, around 140,000 refugees are housed in refugee camps along the Thai-Burma border. The camps were set up nearly 20 years ago but are still called "temporary camps" and the families who stay there are not allowed to work

¹² Drawn from the presentation of Jackie Pollock, Thailand.

¹³ Ibid

for financial remuneration. Even if some of the refugees in the camps are working as teachers, medics and local councillors, the work is not recognised as work with opportunities for promotion or career moves as they are not legally allowed to work. Furthermore, camp refugees are not allowed to farm the land nor allowed to leave the camp to find work outside. However, it is only natural that people to leave the camps to find work outside which places them in a highly vulnerable situation with no legal right to work, and that leads to a loss of refugee status if caught. Women who leave the camps to find work are often taken by brokers to work as domestic workers in private households having little contact with anyone else and can be subject to horribly abusive situations.

- *Sex Workers*¹⁴: In many of the countries in the Asia Pacific region, sex work is illegal and therefore sex workers are prevented from accessing their labour rights and are stigmatised by society under the guise of 'morality.' Participants at the Consultation articulated the understanding on sex work as jobs taken by many women migrant workers and trafficked women in the region. In Thailand alone there are more than 200,000 sex workers unprotected either by state laws and excluded from migrant workers registration processes or internationally recognised human rights. Sex workers provide a huge flow of income into the Asia Pacific economy. Yet despite their economic contribution, their rights as workers are not recognized and social stigma and discrimination are supported by the state through laws and policies. These same laws and policies impede on sex worker's sexual autonomy and also enable abuses by authorities especially police. Despite common misconceptions there is very little customer violence against women. Sex workers of the Asia Pacific region site police abuses as the major source of overt violence. Policies, laws and practices which conflate sex work with trafficking have also impacted on sex worker's rights to work and their right to safe independent migration.

*Japan - Filipino Migrant Workers*¹⁵

Over 500,000 Filipinos are working in Japan, the top destination of Filipino female entertainers. Most of the Filipino female migrant workers come from low-paid jobs if not poverty-stricken households, with some choosing to escape chaotic family dynamics at home. However, leaving the country in search of new jobs and better life is never easy as the recruited are charged exorbitant fees, finding themselves deep in debt even before leaving their home country. Japan-bound entertainers are also misinformed on the nature of

14 Drawn from the intervention of Ratchanikon U-para, Thailand with contribution noted from Elizabeth Cameron, Thailand..

15 Drawn from the presentation of Leny Tolentino, Japan and Andrea Anolin, Philippines.

their work and many end up with not having any contracts. The area of work where most of the Filipino female migrant workers are in, such as factories, hotels, fishing and restaurants is categorised as unskilled labour in Japan. Unskilled labour is not recognised under Japan's immigration laws, hence they are not categorised as regular workers with legally guaranteed labour rights, but as trainees paid with lower salary. They also remain not having access to social welfare system including health benefits, etc.

Philippines: Gender-Segregated Work

In the Philippines, participation of women in the production of her basic material needs, her family and that of the community is significant, yet this is not recognised. Government statistics render the women invisible in the productive sphere. This is best exemplified with the common notion that: "The farmer is male" and "She's a mere housewife." The result is that in 50 percent or more of farm employment, women work as unpaid family labour. Data shows that for every peso that a man earns, a woman from the agricultural, forestry, and fishery sector earns Php0.36 while women farmers supply 80-85 percent of the labour in rice and corn production as unpaid family labour and play a significant role in agricultural production in all crop areas.

16 Drawn from the intervention of Eun-Kyung Kim, Korea.

17 Virginitiy testing is the forced examination of a woman's genitalia to look for the presence or absence of the hymen. Virginitiy tests are a violent manifestation of the taboo against pre-marital sex and of the enforcement of virginitiy. This has been seen as a way to curb women's sexual activity before marriage and keeping them "pure" until them. Amnesty International's formal statement and position in regards to virginitiy testing is that "forcibly subjecting women to so-called 'virginitiy tests' is an egregious form of gender-based violence constituting torture or cruel, inhuman or degrading treatment." www.amnesty.org/ailib/intcam/women/2000/appeal_turkey.html. It is a common practice in many parts of Asia Pacific, and is arguably one of the most important elements in the definition of women's sexuality in the region.

Korea – international marriage and trafficked women

States' neoliberal economic policies have resulted in many cases the evacuation of women and girls from their own community and lands. As receiving country, trafficking issues are relevant to rapidly growing trends of international marriage in Korea which regards women as a commodity. In 2006, there were numerous Korean advertisements guaranteeing "100% virgin brides" from Southeast Asian countries such as Cambodia, Vietnam, Philippines and Laos. Korean government agencies provided significant financial support to international marriage agencies/brokers, and in many of the cases, women from developing countries are deceived by being guaranteed to have economic wealth.¹⁶

2.2. Women's Rights in Family

The family is the bastion of tradition and culture. Domestic violence, marital rape, honour killings and virginitiy tests before marriage¹⁷ are examples of violence against women perpetrated by family members. The notion of the impenetrability of the private sphere to be regulated by the state has always masked and hid violence against women within the family, barring women's access to justice and condoning violence perpetrated by private actors. Violence against women in the family continues unabated across the region and it takes place with impunity as a result of

the prejudices of predominantly male states' authorities.

The history and traditional patriarchal attitudes to family are such that women who suffer from violence in the home rarely have support from family members or authorities to seek redress. It is generally accepted by states and communities to prioritise family unity over ensuring that women's rights are fulfilled.

2.2.1. Some Experiences of Women in the Region

*Nepal*¹⁸

In Nepal, there are 184 provisions and 122 schedules in 93 laws, including the Interim Constitution of Nepal, widely discriminating against women on issues such as citizenship, property, marriage and family, nationality, legal and court proceedings, trafficking and sexual abuse, employment, education and identity. The impact of discriminatory laws, particularly related to women's rights in family, includes: women being treated as second class citizens; children being stateless when women get married to foreign husbands; difficulties in transferring property; deprivation of the right to choose residence; restriction on mobility; deprivation of the right to family, all resulting in depression, loss of confidence and inferiority.

*Mongolia*¹⁹

The draft national development policy in Mongolia stated that Mongolian women had to produce four children and to take care of their children up to the age of six. This policy was based on the concept of supporting economic growth through population increase, by states taking control over women's bodies and their sexual and reproductive rights. Women's NGOs lobbied and argued that the policy violates women's sexual and reproductive rights, using women's body as a tool for population increase. As a result of lobby and advocacy work, the draft policy was not included in the final development policy.

As a result of globalisation, there is a steep increase in international marriages. In reaction to the increase in international marriage, Mongolian men are encouraged to have two wives in order to purify Mongolian blood. This is supported by society as a measure against international marriages. Furthermore, recently in one press conference, one of the nationalist groups in Mongolia announced that they would shave the heads of women who will marry foreigners, especially the Chinese.

18 Drawn from the presentation of Purushottam Mishra, Nepal.

19 Drawn from the intervention of Enkhjargal Davaasuren, Mongolia.

2.3. Women's Reproductive Rights and Sexual Autonomy

The interests of the dominant social groups such as the state, religion and the national policies' role in controlling women's reproductive capacity to sustain socially acceptable lines of reproduction are widely common in the Asia Pacific region. However, violations of women's human rights do not only control women's reproductive rights but also control sexual rights. Issues around sexuality are an area of critical concern for women given the integral relationship between control of women's sexuality and patriarchal power, social stigma and violence as a means of enforcing this control. Sexuality is being used as a social construct to perpetuate the dominant social, cultural, religious and political values of the society. Marriage as social institution has institutionalised this concept and is at times, used to control women. Therefore, breaking the link between sexuality and the control of women by men and dominant society and women's own reconstruct of sexuality are essential.

The pervasiveness of heteronormativity as the norm is as much a part of patriarchy as is control over women's bodies. Patriarchy requires the subordination not just of women but of other groups in society too and sexual minorities, such as LGBTIs. Patriarchy ensures that this norm is continued through the use of violence, shame, guile and ostracism. For women, the space to explore and choose alternative sexualities is more limited than for men, as ultimately, patriarchy serves male interests and pleasure even if these fall outside of the norm.

In this context, participants discussed how women's sexuality is controlled so as to manipulate their reproductive rights.²⁰ In particular they addressed the interests of the dominant social group in controlling women's reproductive capacity through their sexuality to sustain socially acceptable lines of reproduction; the discrimination they faced because of their sexual orientation, specifically homophobia rooted in patriarchy; the situation faced by trafficked women which denies their reproductive and sexual rights; and 'comfort women' who are victims of Japanese imperial army during the Second World War and their journey to seek redress.

2.3.1. Some Experience of Women from the Region

*Philippines — The Situation of Lesbians*²⁰

- *Economic Aspect of Violence against Lesbians*: In the economic sphere, lesbians are part of the unemployed and the underemployed army of labourers seeking odd jobs to meet their daily needs, in most cases being targets of discrimination in the workplace — first to be fired and last to be hired²¹. This

20 Drawn from the presentation paper of Julie Palagnas, Philippines.

21 This discussion does not include lesbians and gays belonging to the upper economic stratum. They enjoy economic and political privileges and power and sometimes they are the instruments of oppression and exploitation of the working class.

is most evident especially in the service sector, where the bourgeois and capitalist criteria – pleasing personality, fair-skinned and preferably single – are the basis for selection and hiring of salespersons. In factories, however, management's stereotyped and bigoted notions of lesbians are “efficient and effective”, because they bring in more profits to the employers' coffers as they rarely demand maternity, paternity and day care benefits, and have “no legitimate” spouses and children to look after. These stereotyped notions are outside of the fact that lesbians may get pregnant and should be able to access maternity benefits.

- *Political Aspect of Violence against Lesbians*: Politically, lesbians remain discriminated and invisible in laws and welfare programmes. Efforts to advance anti-discrimination laws protecting the rights of lesbians and gays have displeased and outraged many legislators especially those who are aligned with fundamentalist, reactionary and conservative groups, hindering the passage of relevant bills which includes the family code and anti-discrimination. Bigotry exists worldwide in the implementation of existing laws and policies, especially manifested in unresolved crimes committed against lesbians and gays or police brutality, extortion and harassment of LGBTI people.
- *Socio-Cultural Aspect of Violence against Lesbians*: Lesbians and gays are surrounded by a homophobic, feudal-patriarchal, bourgeois-decadent system of culture, as embodied by heterosexism, or the view that only heterosexual relations are valid and accepted in the society, and that other gender preferences and sexual identities are abnormal and unacceptable. In educational institutions, for example, heterosexism is still prevalent from elementary school to college. Institutions led by legislators, fundamentalists and educators have continuously condemned lesbian and gays as sick or sinful and immoral. The institutionalised church views a homosexual lifestyle with condescension, if not condemnation. Even in their own families LGBTIs experience isolation and alienation and are made invisible or worthless at everyday social functions.

They are also the victims of unprovoked physical violence or even murder, and there are many reports from lesbians of gang rape and sexual harassment, with these acts being justified by the perpetrators to “convert” the lesbians to “real” women, or to challenge the lesbian's “masculinity.” Most of these cases go unreported because of the stigma attached to the issue of sexual identity.

*India – Population policies and women’s health and reproductive rights*²²
 Family planning is the decision, made usually within marriage, as to when and how many children to have. Women’s lack of negotiation within the family may adversely affect her decision-making in family planning. Furthermore, population control is a state-controlled measure that manipulates ‘numbers’ (both increasing and/or reducing them), based on demographic needs rather than people’s needs. These pro-natal or anti-natal policies are usually implemented through family planning measures that may include specific and discriminatory targeting of certain people through incentives and disincentives. Invasive, long-acting, harmful and irreversible contraceptives may be promoted at one end, whereas the access to safe abortion or contraception may be restricted at the other.

In 1952, India was the first country to officially adopt a family planning programme. Since then, this state-driven and target-oriented programme has focused on the poor and has linked women’s access to abortion services to the acceptance of provider-controlled contraceptives. Aggressive campaigning by the state and the media has resulted in most Indians having accepted this state-imposed programme. Harsh disincentives have infringed on women’s civil and political rights as well as economic, social and cultural rights, in the form of reducing their political participation, access to subsidised food, job opportunities and maternity leave. The target-oriented programme and economic development may have reduced population growth; however, this has been achieved at the cost to poor women of violations, excesses, targeting, experimentation and, at the family level, acquiring the ‘two-child’ family size²³ through sex-determination and selective abortion of female fetuses.

Bangladesh

In Bangladesh, all advertisements on virginity and/or pure girls are having a negative impact on women. For example, more and more women are marrying young for parents to ensure that their daughters are virgins. This early/young marriage results in girls dropping out from school and women’s sexuality issues not looked into at all.²⁴

2.4. Violence against Women in Times of War: ‘Comfort Women’²⁵

To thousands of Filipino women, the Japanese occupation was a harrowing experience of rape, torture, mutilation and extermination. The Japanese Imperial Army led, planned, organised and instituted the establishment of facilities for sexual

22 Drawn from the presentation of Manisha Gupte, India.

23 India, the state compels people to accept sterilisation after two children, with women in most cases being pushed forward by family members for tubectomy as there are also myths about masculinity such as men may not be able to have erections or sex after a vasectomy. There is an artificial divide created between men and women, casting men as sexual beings and women as reproductive beings, though in reality, women’s sexuality is more separated from reproduction than men’s sexuality is.

24 Drawn from the intervention of Sadaf Saaz Siddiqi, Bangladesh.

25 Drawn from the presentation paper of Susan D., Philippines.

slavery, euphemistically called “comfort stations,” in various parts of the country. These facilities were set up pursuant to a policy of providing members of the Japanese military a steady supply of women for their exclusive sexual enslavement under controlled conditions that provided the least risk to their fighting capacity, i.e., without venereal and other contagious diseases and safe from public leakage of military information.

Filipino women were made sexual slaves either in establishments directly established by or under the supervision and control of the Japanese Imperial Armed Forces; or in Japanese-occupied residential houses, buildings, tents and other structures either within or attached to the premises of a garrison or officer’s quarters found in geographical areas within the control of the Japanese forces. In all these places, women were confined and deprived of liberty, repeatedly and brutally raped, sexually exploited, and often, under duress, coercion and other threats to life and limb, made to provide their enslavers with domestic and manual labour.

Despite this unimaginable scale of wanton atrocities against the women, the crime of sexual slavery committed by the Japanese Imperial Armed Forces went unnoticed in the war crimes trials after WWII. Without an appreciation and understanding of the nature of rape as a form of gender-based abuse that wrought long-term physical, moral and psychological damage and harm to women victims, the crime of rape was not acknowledged in all its gravity, at par with other crimes that were prosecuted in the trials. More significantly, the omission of sexual slavery from all the trials after WWII rendered this crime invisible under international law. This effectively silenced the women victims who, without legal and social protection and support, had to bear the burden of their agony and pain in shame and in isolation.

Since the first known ‘comfort woman’ from Korea, Pae Bong-Ki, spoke of the atrocities she suffered from the Japanese military during its colonisation of Korea, women’s movement has seen some fruits after their long tiring journey in bringing justice to the victims of Japanese sexual slavery which includes comfort women issues being taken up by the UN human rights bodies such as the Sub-Commission on the Prevention & Discrimination and Protection of Minorities and the work of Special Rapporteurs. In 2000, the Women’s International War Crimes Tribunal on Japan’s Military Sexual Slavery was set up to bring justice to the survivors.

However, despite the arduous efforts and advocacy of women’s groups, to the victims of military sexual slavery by Japan, the years

have not diminished the pain, the bitterness and the anger as they have yet to see justice. They suffered and are still suffering. More aggravating is how society in general looks/treats women victims of war, particularly women victims of rape in war. Again, the former 'comfort women' have told us how they were ostracised by their families and their communities. A number of them never married, as they were afraid to relate intimately with the opposite sex. Some did but failed to have a peaceful and satisfying married life. In silence, the women blamed themselves while their oppressors continued with their lives unhampered by guilt or persecution by society. The practice of victimising women in times of war continues to this day. In the public hearing on crimes against women in recent wars and conflicts at the Tribunal, it was said that the "crimes committed fifty years ago remained unpunished and that similar crimes continue to be perpetrated today." This reflects the reality faced by women not being treated as persons in times of war and peace.

2.5. Some Other Matters of Concern

This session was intended to identify other matters of concern in the Asia Pacific region which were not covered in the previous session, including women's rights to education, right to health, right to land and food sovereignty to offer participants an opportunity to share various other types of violence against women.

2.5.1. Women's Rights to Education – Dalit Women in India²⁶

"The States Parties to the present Covenant recognise the right of everyone to education. They agree that education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms. They further agree that education shall enable all persons to participate effectively in a free society, *promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups*, and further the activities of the United Nations for the maintenance of peace." (ICCPR article 13.)

Dalit women, occupying the bottom of both the caste and gender hierarchies, face triple discrimination because she is an untouchable, of a poor class and is a woman. The Consultation in particular looked into the right to education of Dalit girls as education provides a critical opportunity for them acquiring the social and intellectual skills they need to move out of the

²⁶ Drawn from the presentation of Fatima Burnad, India.

strictly hierarchical, segregated and stigmatised spaces of living, occupation and identity.²⁷ In India 76.24% of Dalit women are illiterate which clearly indicates that the school failed Dalit girl children and the state did not fulfil its obligation under the ICCPR. The reasons for high illiteracy can be found in: (a) monopolisation of economic, cultural and other resources by middle class and upper caste groups; (b) influence of the Hindu caste system; and (c) patriarchal controls over Dalit women.²⁸

Influence of Caste System on Dalit Women's Right to Education

The caste system in India is thousands of years old with sharply delineated lines of purity and impurity. There are 167.2 millions Dalits in India and they are regarded as outcaste, impure and untouchable, and discriminatory and cruel, inhuman and degrading treatment against them has been justified on the single basis of caste. "Untouchability practices," even though constitutionally illegal, have allowed segregation in housing, employment, marriage, schools and general public social life. Segregation in schools is evident in particular, widely practiced in educational institutions from the primary to the college level. Caste systems, determined by birth, are inherently economic and social in their consequences and represent a deeply oppressive form of work and descent-based discrimination²⁹ and this caste-based discrimination intensifies violation of rights to education of Dalit women.

27 Dalit Right to Education, National Campaign on Dalit Human Rights, <http://www.ncdhr.org.in/ncdhr/campaigns/righttoeducation>

28 Moses Seenarine, 'Education of Dalit Women,' a paper presented on *Saxakali.com* (1996).

29 Prevention of Discrimination and Protection of Indigenous Peoples and Minorities: Working Paper by Mr. Rajendra Kalidas Wimala Gooneskere on the Topic of Discrimination Based on Work and Descent, Submitted Pursuant to Sub-Commission Resolution 2000/4, Sub-Commission on Promotion & Protection of Human Rights (53rd session), U.N. Doc.E/CN.4/Sub.2/2001/16 (2001)

Dalit children face considerable hardships in schools, including segregation, discrimination, exclusion and physical and psychological violence and abuses, from both their teachers and their fellow students (from non-Dalit or higher-caste children). IT was shared that in Rangapuram village, for instance, Dalit children were not allowed to go to school because the non-Dalits blocked access. In Varanasi, it was reported that a Brahmin teacher classifies pupils by their caste, and frequently beats them. Anti-Dalit tendencies spread out everywhere in schools. For example, students in a Bihar village refused to take mid-day meals cooked by a Dalit woman. Furthermore, educational plans are frequently not designed according to the reality of Dalit girls. Exams are conducted during harvest or transplanting which are times when Dalit families expect help from their school-going children.

Dalit communities, particularly Dalit women, face difficulty also in higher education. Falling into financial difficulties due to the Asian tsunami, Dalit girl students were sent back to their homes without continuing the second year of the course even if they finished the first year. Even as she got the best scores at twelfth grade, Bharati, a Dalit girl, faced difficulties in finding appropriate scholarship schemes and had to give up her education. Dalit children are more likely to

end up as child labourers due to extreme poverty combined with the need to support their families and the discrimination they face in schools.³⁰ It is important to underscore that the discrimination in schools, resulting to drop-out and economic hardship of Dalit families are intimately linked to child labour.

Impingement of Dalit Women's Rights to Education and Health in the Wave of Globalisation

The political economy of globalisation erodes Dalit women's livelihoods. Traditional agricultural lands have been transformed into the easier money making industry, and replaced by floriculture, horticulture, and aquaculture for exportation, causing food insecurity as well as livelihood insecurity. Agricultural workers become unemployed or turn to floricultural work with extremely low wages and bad work environment. Dalit girl children are employed to pluck the flowers before and after school for extremely low wages. They have little time to study and thus turn into potential drop-outs.

Floriculture, with its high use of sprayed insecticides, has created a problem in terms of Dalit girl children's health. Pesticides are sprayed almost when they are on the field, and the smell persists for 3 days or more. Women suffer from excessive white discharge, rolling feeling in the stomach, hysterectomy and even tumour in the uterus. Dalit girls who work in the field are affected by the pesticide which prevents them from attending school. Also, Dalit women have no choice but to take their babies and pre-school children to the floricultural fields and the health of both the mother and the child is affected.

2.5.2. Women's Rights to Food Sovereignty – Philippines Experience³¹

Women's human rights include women's rights in relation to the means of subsistence necessary for satisfying women's own material needs and that of her family and how women's access to these are affected by the policies of neoliberal globalisation. Included as well are the "socially necessary labour" uniquely performed by women, without which the production of the means of subsistence in a given community would not be made possible. Trade liberalisation and privatisation of basic services tend to exacerbate the condition of women in the household as well as in the workplace, particularly in the agricultural sector. An economy grounded on land expropriation and wasteful and unsustainable use of land and their natural resources results in exploitation of indigenous peoples and peasants, more often than not endangering food security of the people and community.

30 Center for Human Rights and Global Justice & Human Rights Watch, "Hidden Apartheid: Caste Discrimination against India's 'Untouchables' – Shadow Report to the UN Committee on the Elimination of Racial Discrimination", (February 2007), p. 88

31 Drawn from the presentation of Teresita Vistro, Philippines.

For example, all provinces in Mindanao, Philippines are home to different plantations of high value crops such as asparagus and mahogany. Mindanao used to be the home of various tribes; however, now it is known as the home of Del Monte, the biggest agricultural TNC in the world, which first set foot in Mindanao in Bukidnon in 1918. Such corporations are huge economic enclaves, scattered in various provinces of the island, imposing their domination not only economically but also politically; like sovereign territories impervious to Philippine labour and agrarian laws. Under this development framework, the fate of the island was made dependent on the export of selected specialised products for the world market, making the people of Mindanao especially the peasants and indigenous people, dependent on the ups and downs of the world market for these export crops and the corresponding government policies.

Since the government is blinded with profit, the Philippine government provides military protection to such TNCs as their gross value grew from 10 billion to 400 billion pesos almost equal the Philippine national budget in 2000.³² About 40% of agricultural production of the country is from Mindanao, while from 2002, the island contributes 17.7 percent of the country's gross domestic product. However, such prosperity heaped by these TNCs and the huge people's contribution to the country's overall output, did not correspondingly result in the increase of income and improvement of the lives of the people in Mindanao. It has instead returned to them in the form of lower wages, lower prices of their products and lowered rent to their lands if not expropriation and deprivation of their lands and rights.

Land being transformed from agricultural to floriculture or for other cash crops, most of the agricultural workers work in the commercial farms and plantations and they usually do not own lands. In the mid nineties, contract growing was one of the schemes designed to expand the scope of lands controlled by the TNCs, while at the same time freeing them from labour and land dispute problems. With this scheme, the commercial farms and plantations no longer hire agricultural workers on a regular basis. The contract growers provide most of the products, and the commercial farms merely buy the produce from them, and perform largely the processing of these products which eventually are exported. Today, only 30% of the labour force of these commercial farms are hired on a regular basis, and the remaining 70% are mostly contractual or from labour-outsourcing agencies and middle men. This has resulted in a vast reserve army of unemployed, seasonal agricultural workers: men, women and children, competing over a limited number of jobs available in

32 The gross value of the assets of these corporations has enormously grown through the years. From P10 billion in 1972, the gross value assets of these corporations have increased to a hefty P400 billion, almost equal to the Philippine national budget in 2000.

the TNC farms and contract growers' farms, ready to accept the most menial of jobs for a pittance.

Women are more vulnerable due to the gender-segregated job markets, which do not give women right to work in an already small job market. There are noticeable women-only roles in these plantations. For example, in palm oil plantations, the women are called loose fruiterers and/or palm oil nut pickers. This is the only process in palm oil production that is open for women. They are usually paid P7.00 – P7.50 per sack of palm oil nuts. In banana plantation women work in the packing plant (washing bananas and packing the bananas in containers ready for export) the whole day. They usually are not allowed to sit while working as this affects their efficiency.

Poverty and continuing difficulty for the farmers in making their lands productive is a major factor that pushes the small farmers entering into contract-growing arrangements with plantation owners and agribusiness TNCs. The unabated increase in the price of farm inputs and numerous insect infestations result in frequent crop failures. Added to this is the low price of their products. For all these difficulties that the farmers face, there is no support or subsidy from the government. In most cases also, the farmers are forced to go into credit arrangements with usurers lending money with percentages running as high as 10-15% per month.

With the relentless expansion of plantations eating up lands devoted for the production of staple foods, skills of women in weeding, harvesting, threshing, transplanting, winnowing, seeds selection and fertiliser application, which have sustained production of food of people through ages, are in danger of being washed away into oblivion. The unabated expansion of commercial plantation is affecting the food security situation of the people in Mindanao. For example, in South Cotabato, the number of hectares (35,831) devoted to the production of high value crops is almost half the combined hectareage for rice and corn (80,000), the staple food of the people.

2.5.3. Indigenous Women and their Right to Hold Land³³

Violence happens to women because of existing power structures which are led by the state, by the forces of globalisation and their corporations which, together, create injustices and biases against women. These structures also perpetuate feudal-patriarchal and commercial world views on women, making them vulnerable to abuse and violence, being seen as private property of husband

33 Drawn from the presentation of Vernie Yocogan-Diano, Philippines.

or partner, subordinate to men, confined to housework and the raising of children, and a mere extension of men's work. Commodification of indigenous women includes making her an attraction for tourists and as a dollar earner when she is forced to do overseas work to ensure the survival of her family.

What makes violence distinctive for indigenous women is the violation of their ancestral land rights. These land rights are the basis of indigenous women's economic, political and socio-cultural survival. The ways of life of indigenous women is very much interconnected with the land hence the survival motto of the groups is "Land is Life." Right to self-determination for indigenous peoples is having control over ancestral territories and all resources therein and defining its own path of development. It encompasses indigenous people's rights and welfare in the social, economic, political and cultural fields of life. Indigenous systems continue to exist because the people have asserted ancestral land rights and self-determination. On the other hand, disintegration is happening because of the impositions made by states and of imperialist structures wanting to grab land and resources and integrate indigenous peoples to the whole system of imperialist globalisation.

The Philippines Experience

For indigenous women and their communities in the Philippines, the mining liberalisation programme is a development aggression that is leading to ethnocide. 66% of the land area of the Philippines is covered by existing mining operations and new applications, most of which are allocated to ancestral territories of indigenous peoples. Foremost to be affected are the indigenous peasant women who face displacement from their lands and communities. Agricultural production is destroyed by toxic and chemical poisons from mining companies. More so if mining companies make use of the rivers or water systems to dump their toxic wastes, thereby spreading polluted waste downriver.

Mine pollution is also a big threat to the communities' food security and hunger is expected to intensify as farmland has been reduced by as much as 50% when the sediment of thick, black or cement-like soil continuously piles up in the middle of riverways, forcing the water to flow into the cropped sections of the flatlands. The impact of pollution is also seen in the health of the people, especially of the women. Some pregnant women underwent spontaneous abortion and there were also suspected cases of birth defects like cerebral palsy, dwarfism and development delay. Women who spend longer time in the rice fields irrigated by this polluted water suffer from skin diseases and irritations.

These conditions also force women to migrate, sometimes overseas, for economic reasons, a condition that makes them vulnerable to different forms of abuse and exploitation.

Specific Forms of Violence against Indigenous Women

Mining as a concrete form of development aggression imposes greater violence against indigenous women which includes:

- Displacement from their major role in sustainable agricultural production, conservation of resources and subsistence food production;
- Displacement from their role as holders of traditional or indigenous knowledge, including medicine, and passers of that knowledge to future generations;
- Displacement from their role of selecting the best seeds for the next crop to ensure that traditional crop varieties will not perish; and
- Disintegration of indigenous socio-political structures/systems that enables mutual support and pursues community integrity which includes the protection of women and children from various forms of violence.

*Militarisation of Indigenous Territories and Violence against Indigenous Women*³⁴

Historical experience of indigenous people tells that military might come along with development aggression to suppress peoples' resistance and provide security for the development project. Use of military might is usually done through militarisation, political repression and killings through military operation plans. Gloria Macapagal-Arroyo, president of the Philippines, for instance set up an anti-insurgency plan in 2001, Operation Bantay Laya (Freedom Watch). According to the Indigenous Peoples Human Rights Watch, an independent network of human rights organisations for indigenous peoples in the Philippines, there are 130 indigenous people who are victims of the Arroyo government's political killings from 2001 until June 20, 2007. Of these, 13 are indigenous women and 17 are children, killed in massacres and in the course of mass evacuation.

Similar experience from India³⁵

In Tamil Nadu, particularly, with the recent boom in business, Special Economic Zones (SEZs) have been introduced between Chennai and Kancheepuram. The establishment of SEZs firstly affects peasant Dalit women by displacing them from the lands

34 The continuing militarisation of indigenous territories and human rights violations against indigenous people was reported by the Special Rapporteur on Situation of Human Rights and Fundamental Freedoms of Indigenous Peoples, Professor Rodolfo Stavenhagen, in his mission reports on the Philippines in December 2002 and February 2006.

35 Drawn from the presentation of Fatima Burnad, India.

without any compensation. At present, 134,000 hectares of lands are set with 67 multi-product SEZs in India (Financial Express, 30 August 2006). Although the land owner might receive the compensation for the land acquisition of the SEZs, the peasant Dalit women are facing the peril of the livelihoods by losing their job as well as being evicted from the land. The state government itself takes away the land, especially agricultural lands, coastal lands with the coastal regulation zones, salt pans, and forest lands for SEZs. In Nandigram, West Bengal, 17 villagers were shot to death with the protest against government taking away lands for MNCs. Out of 17 killed, 12 are Dalits.

Chapter 3

Strategies and Recommendations

The two-day consultation saw a rich discussion on violence against women in the context of political economy and participants were able to address their issues of concern to the UNSRVAW and share information with each other. Aiming to: (a) address sub-region specific emerging issues; (b) offer participants working on similar issues an opportunity to brainstorm, address under-represented issues and share experiences; (c) unite and use experiences to monitor VAW in relation to ESCR and CRP, document the violation and realisation of women's human rights; (d) devise advocacy strategies making the best use of UN special procedures; and (e) learn from good practices of other groups, participants broke into four thematic groups:

- a. Women's Right to Work
- b. Women's Rights in Family
- c. Women's Reproductive Rights and Sexual Autonomy
- d. Other Matters of Concern

Guide questions for group discussion and strategies were provided to facilitate the discussion:

- a. Critical issues/challenges
 1. Which are the critical emerging issues in the region?
 2. What are inter-linkages of these issues with the political economy of violence against women?
 3. What are the biggest obstacles which hinder the realisation of women's rights in the next 5 years?
- b. Strategies
 1. Which strategies have been taken/can be undertaken to address concerns at local, national and regional levels?
 2. What kind of international support is needed to enhance our strategies?
 3. What are our recommendations to the UNSRVAW?

3.1 Critical Issues/Challenges Identified by Women in the Region

Participants sought to have an in-depth discussion and identify critical emerging issues in the region faced by women and women activists so that they can share strategies used and devise joint strategies to effectively address issues and concerns.

Women's Right to Work:

- Rapid increase of migration and transnational work due to the expansion of borderless market economy in the region;
- Poor working conditions of women workers, especially women migrant workers, including sexual harassment and exploitation, no access to breaks, lack of security and restrictions on mobility;
- Lack of opportunity to training, skills and education thereby limiting women to unskilled work, their contribution not being recognised as work (terminology used in international documents such as skilled/not skilled and formal/informal) adversely affect women's right to work as workers thus not being able to enjoy labour rights and basic human rights;
- Women not having broad enough choices of work as their role as women have been stereotyped. Currently the three most viable choices are transnational/international marriage, sex work and domestic work, which are all unrecognized, undervalued and in need of urgent reforms; and
- Changes in lifestyle and relocation/displacement of women – from rural to urban, from traditional to corporate/formal sector – which is regarded as sustainable to a market economy.

Women's Rights in Family:

- Impacts of fundamentalisms. For example, in Malaysia, equal guardianship of children between wife and husband is not really guaranteed and Shariah law reinforces women's subordination;
- Some countries in the region do not give automatic citizenship to offspring of mixed marriages, especially when women are married to men; and
- Based on traditional patriarchal understanding of women's role in family and society, for example according to the new concept of 'healthy family' in Korea, women are heavily burdened to take care of their families and thus are blamed if the family breaks up.

Women's Reproductive Rights and Sexual Autonomy:

- Increase/or decrease in population controlled by the states via family planning policies dealing with demographic changes which infringes women's sexual and reproductive rights;

- Impact of mobility/migration on women's reproductive rights including access to information, medical treatment, care and support; and
- Manipulation and exploitation by pharmaceutical industries and donor-driven policies and strategies influenced by conservative/neo-liberal ideologies on women's reproductive and sexual rights.

Other Matters of Concern: With a Focus on Women's Right to Land, Food and Natural Resources:

- Trade regimes and bodies look at natural resources as a source of profit which is contradictory to the view that natural resources are a source of power for women;
- Neo-liberal policies of states, IFIs and MNCs which puts women in situations where they are vulnerable to various forms of violence, discrimination and exploitation;
- Under the influence of spreading globalisation and strengthening of patriarchal structures in the region, women have been displaced from their source of survival and livelihood; and
- Natural disasters and violence against women.

3.2 Strategies Used by Women in the Region Utilise International/ Regional Mechanisms and States:

- Utilising regional mechanisms that were created mainly for economic cooperation in the sub-regions as a new venue to push for the fulfillment of women's human rights such as Association of Southeast Asian Nations (ASEAN), South Asian Association for Regional Cooperation (SAARC) and/or Free Trade Agreements (FTAs);
- Build constructive and critical engagement with states and MNCs to influence their policies and to voice women's situation; and
- Lobby governments to ratify and if already done so, properly implement international instruments, particularly CEDAW and CRC aiming: (a) to address all forms of violence and discrimination against women and girl children; and (b) to raise awareness on the rights entitled to women as their fundamental human rights.

Lobby for New Mechanisms:

- Lobby governments to create an independent body that will document human rights violations in the name of development so as to protect women from non-state actors such as MNCs and IFIs and to hold them accountable in this era of globalisation. For example, national human rights institutes can play a role.

New Strategies to Address Critical Emerging Issues:

- Put international pressure to domesticate CEDAW and other treaties for the full implementation of internationally recognised human rights at the national level; and
- Develop and share transnational strategies to fight violence against women in the context of emerging concerns in the region such as fundamentalisms, globalisation and militarisation and increasing armed conflict.

Legal and Policy Reform:

- Engage at a national level in law reform and policy change through the legislature and judiciary.

Networking:

- Build networks between sex workers to empower and support themselves and, finally, to recognise their work as protected under national and international human rights laws; and
- Share experiences, information and strategies between women and movements to fight deep-rooted patriarchy and political economy of violence against women in the region and engage more with younger generation in our organisations.

Political Participation:

- To establish a feminist political party to ensure equal and participatory role for women in decision-making at all levels and to critically reflect women's concerns.

Using the Right Language:

- There should be conscious effort to use the correct language. For example, separating our sexual autonomy rights from reproductive rights, ensuring the correct language to use is sexual 'rights' and reproductive 'rights', not just health.

3.3 Recommendations for the UNSRVAW**Group 1: Women's Right to Work**

Participants working on women's right to work stressed the importance of reformulating and reframing the language we use to reflect a more nuanced understanding of political economy of violence against women. They suggested to redefine such

languages/terminologies as development, trade, work, so as to well reflect women's situation and to ensure all categories of work mostly women are engaged in to be recognised as work. In particular, the participants urge for the recognition of *all* different kinds of work and its contribution to the economy and society such as reproductive work, domestic work and sex work.

The group also re-emphasised the importance of holding states accountable, meeting their due diligence to fulfill human rights as well as to create enabling processes and mechanisms.

A special request has been made to the UNSRVAW to put collective pressure on the north and northern MNCs so that women can have more control and ownership of our development and dignity.

Group 2: Women's Rights in Family

The second group of participants stressed the need to ensure national implementation of CEDAW, CRC and other human rights instruments to promote women's rights in the family.

They wanted the UNSRVAW to write a status report on particular issues raised at the consultation so that women's activists can position themselves and re-strategise locally and nationally, if necessary.

The group also suggested the UNSRVAW to have regional meetings with other SRs whose mandate can be relevant to violence against women to discuss emerging issues in the region and facilitate holistic approach at the UN level.

Group 3: Women's Reproductive and Sexual Rights

The third group came up with a recommendation to the UNSRVAW to review the pharmaceutical companies and donor policies and its impact on women's sexual autonomy and health.

They also wanted the UNSRVAW to include sexuality and health issues of women migrant workers in her country report on Saudi Arabia.

Group 4: Women's Right to Land, Food and Natural Resources

The fourth group stressed the need for collaboration between the UN special rapporteurs to link violence to political economy and take on the gender aspects of the realities women are facing daily.

They suggested the UNSRVAW to take up women's poverty and the loss of their livelihood as a form of violence against women.

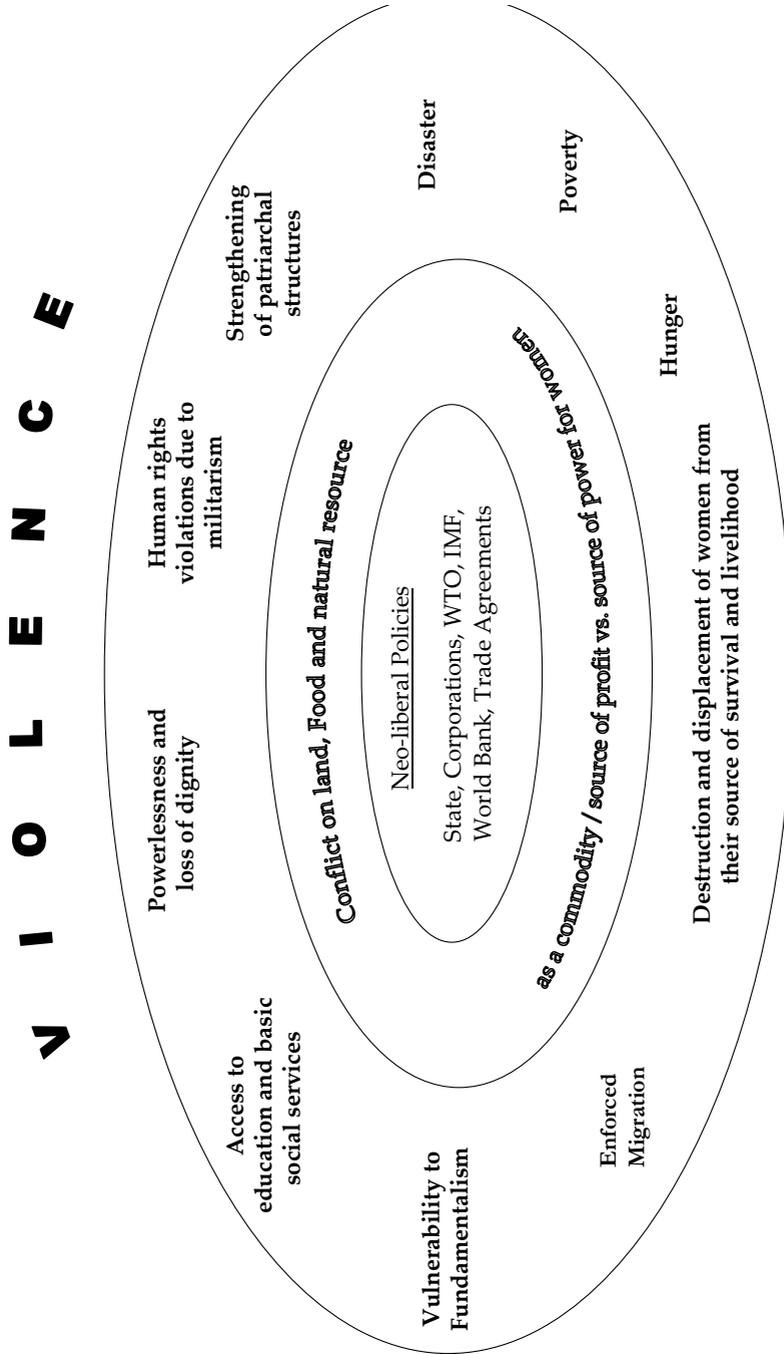
A detailed list of all strategies and recommendation discussed and addressed by the groups can be found in Annex A to this report.

Annex A: List of Critical issues, Strategies and Recommendations

| Thematic Group | Critical Issues / Challenges | | Biggest Obstacle to Realisation of Women' Rights in next 5 years | Strategies | | | Recommendations to the UNSRVAW |
|---------------------------------------|--|--|--|---|--|---|--------------------------------|
| | Critical Issues in the Region | | | National | Regional | International Support Needed | |
| Group 1: Women's Right to Work | <ul style="list-style-type: none"> Migration, trans-national work (borderless market economy) Limited choice of work as women – trans-national marriages, sex work, stereotypes of what is accepted of women/role of women Changes in lifestyle and relocation/ displacement (rural to urban, traditional to corporate/formal sector, sustainable to market economy) Right to sustainable livelihood connected to the issue of dignity Poor working conditions - no access to breaks, nutritional meals, sexual harassment, sexual exploitation, lack of/ restrictions to mobility and lack of security, Lack of opportunity to training, skills and education; women are put into unskilled work which is not recognised as work (terminology used – skilled and not skilled, formal and informal) Militarisation | <ul style="list-style-type: none"> Global north's policy (patriarchy) and economic reality Aggressive northern policies/TNC/ MNCs extraction of natural resources and agricultural produce Added restrictions and penalty imposed by the global north Unjust terms of trade/inequitable (big subsidies for north farmers from the government – protectionism in the agriculture industry) Neo-liberal capitalism Consumerist western culture is prevailing (where everything has to be bought and sold, women at the bottom rung, makes them susceptible to violence) Cultural attitudes / patriarchy Religious fundamentalism | <ul style="list-style-type: none"> Advocacy for ratification of international instruments Awareness raising and policy advocacy Building a resistant culture of our own Networks formed by sex workers Constructive/ critical engagement with state and MNCs to have women's agenda pushed – micro-credit and corporate social responsibility (companies using this to project a good image) Participation of women in decision-making at all levels | <ul style="list-style-type: none"> Engagement in regional mechanisms, - SAARC, ASEAN FTA – strategic possible venue for NGOs to negotiate with states | <ul style="list-style-type: none"> national trade unions to make it into the international level – local to global Living wage campaign (global) Trans-national social movement | <ul style="list-style-type: none"> Redefine 'development' (do we want the USA model of development, which is unsustainable for us all?) Redefine trade – women centered Redefine work – ensure all categories of work are recognised Recognition of all different kinds of work and its contribution to the economy and social sector (reproductive work, domestic work, sex work) Collective pressure on the north and northern MNCs so we can have more control and ownership of our development and dignity Holding the state accountable - fulfilling its obligation to create enabling processes, mechanisms Continue to fight patriarchy | |

| | | | | |
|--|--|--|---|--|
| <p>Group 2: Women's Rights in the Family</p> | <ul style="list-style-type: none"> • Fundamentalism, like in Malaysia, no equal guardianship of children between wife and husband; • New concept of healthy family in Korea, women are burdened to take care of their families and thus are blamed if the family breaks up • Mongolia – to hold the 'pure' Mongolian population, the government is using women's bodies • Some countries do not give automatic citizenship to offspring of mixed marriages • Institutionalised patriarchy | | <ul style="list-style-type: none"> • Put international pressure to domesticate CEDAW and other treaties • Mobilise organisations, spearhead mass movements since most women groups are very small, they are very localised • Engage younger generation in our organisations (Malaysia – Fiesta Feminista), gather representatives from academe, marginalised groups etc; • Establish a feminist political party | <ul style="list-style-type: none"> • Put international pressure to domesticate CEDAW, CRC • Status report of SR on particular issues we have raised so that we know where we stand and whether we need to re-strategise locally and nationally • Consider having regional meetings with other UN Special Rapporteurs • Must be in the mandate that SRs meet to discuss issues in the regions so as to see emerging trends and facilitate their holistic approach |
| <p>Group 3: Women's Reproductive Rights and Sexual Autonomy</p> | <ul style="list-style-type: none"> • Sexual autonomy • Women's reproductive rights • Manipulation of poor and marginalised women's reproduction, increase or decrease populations, dealing with demographic changes • Mobility impacts women's reproductive rights – access to information, treatment, care and support • Manipulation and exploitation by pharmaceutical industries • Donor-driven policies and strategies influenced by conservative and neoliberal ideologies (patenting, e.g.) | | <ul style="list-style-type: none"> • Separating our sexual autonomy rights from reproductive rights • Reclaiming women's health rights and not just limiting it to reproductive rights • Take pharmaceuticals to ICC for crimes against humanity • Empowerment | <ul style="list-style-type: none"> • Review the pharmaceutical companies and donor policies and its impact on women's sexual autonomy and health • Include sexual and health issues of women migrant workers in SR country report on Saudi Arabia |

Group 4: Other Matters of Concern: Political Economy of VAW with Respect to Land, Food and Natural Resources: Trade regimes and bodies look at natural resource as a source of profit which is contradictory to the view that natural resources are a source of power for women.



Annex B: Presentation Papers

The following are presentations from the Consultation. Further presentations by Jackie Pollock, Julie Palaganas and Fatima Burnad have been incorporated into the body of the report.

B.1. Globalisation and Violence against Women³⁶

By Sylvia Estrada-Claudio, Likhaan, Philippines

As a phenomenon, globalisation has sharpened structural inequalities such as those of class, caste, race and gender, thus causing a multiplication of the conditions and opportunities for violence against women. Furthermore, it has changed the political conditions in which global efforts to stop violence are to be carried out.

The first part of the paper looks at the way globalisation has led to an increase in violence against women. The second part attempts to look at the changing landscape for internationalism and the last part suggests some possible arenas of advocacy.

Globalisation and Economic Violence

For this paper, globalisation is regarded as a process that carries with it its own technological basis, economic logic, forms of governance and cultural regimes. Globalisation also restructures existing gender relations. Some social theorists including the author believe that what we call globalisation is actually a new stage in the evolution of productive and reproductive relationships.

Increased interconnectivity and instantaneous information exchange has led to flexible and transnational processes of commodity production and the extraction of profit. In other words, various aspects of commodity production can now be done in various locations and coordinated across large distances. Many aspects of production can also be readily transported from one part of the globe to another. New communication technologies and neo-liberal economic regimes have also greatly facilitated the flow of capital across national boundaries.

In terms of the labour sector, this has resulted in jobs being relocated to where the labour costs are cheapest. Poorer countries compete for investments by lowering wages and labour standards in a cut-throat race to offer the most incentives. Labour becomes increasingly flexible, contractual, and non-unionised. These changes affect men, women and children differently. For example,

³⁶ Sylvia Estrada-Claudio is Associate Professor, Department of Women and Development Studies, College of Social Work and Community Development, University of the Philippines; Chair of the Board of Directors, Likhaan, Philippines; Co-Chair of the Board, Women's Global Network for Reproductive Rights.

women and their children are most likely to be the home-based work force of subcontractors for transnational corporations. They work long hours, doing labour-intensive work, for very little pay. Similarly, export processing zones set up as investment havens for transnational corporations are sweatshops populated mostly by women who gain very little from the highly-priced products they make.

Migration and VAW

But just as production processes are becoming much more segmented and transnationalised, we are also seeing an increasingly migrant labour force. This is because certain aspects of production and reproduction are not yet transportable or it is more profitable to keep them in a particular place. In these situations, cheap labour has to go to the jobs rather than the other way around. It is important to note that the work of reproduction such as child care, nurturing and the reproduction of the capacity for labour, remain more rooted. Thus, we are seeing a more female face to migration where women in poorer countries migrate to do reproductive work for members of richer countries. For these women, race, class and gender dimensions of inequality often intersect, resulting in large scale violations of human rights including a whole range of various types of violence against women.

The trafficking of women for prostitution is an extension of men's expectation that women provide them with easy, free or cheap 'recreation'. Cheaper travel costs and easier communications have made trafficking more efficient and profitable. But this growth is fueled also by women's low status in most societies; increasing poverty; the precariousness of social protections brought about by the assault of structural adjustment programmes, privatisation, and neo-liberalisation; and, the cruelty of war. Additionally, new information and communication technologies allow far greater explorations, reconstitutions and re-imaginings of sexual desire and eroticism. As a feminist working in the area of sexual and reproductive rights, this represents an opportunity for a revolutionary restructuring of desire. Unfortunately, we are dealing with hegemonic cultural forces that result instead in an ever-increasing demand for commodified sex that encourages men's violence against, and exploitation of, women's bodies.

Trafficking and prostitution is in itself a huge transnational industry that benefits even legal entities like banks and airlines. Both legal and illegal migrants serve the needs of capital for relatively cheap labour when labour needs to go to the job rather than vice versa. However, greater mobility and increased interaction

presents problems for the world's elites as well because these are opportunities for solidarity. Generally speaking globalisation is marked by the unhindered flow of capital coupled with the managed migration of human beings. In many instances, it is this management of human migration by governments that has resulted in discriminatory laws, policies and practices.

Globalisation and Militarism

Indeed, burgeoning opportunities for human interaction and creativity necessitate improved mechanisms of surveillance and discipline. This is achieved not just through laws and regulations that manage migration and other forms of interchange. It is also achieved through the use of military force. The emergence of the United States as the last remaining superpower or the world's policeman is not merely the result of the fall of the USSR. It is also one that is necessary to the survival of the new empire of global capital. The war in Iraq, the continued militarisation of the Middle East, the various wars across national and ethnic boundaries and the recruitment world-wide of political and material resources against the so-called war on terror are elements of the new global economic-political order. Wars have a direct effect on women, whose bodies have always served as cultural markers of national, tribal and ethnic identity. It is this cultural marking that has led to war crimes against women such as mass rape. Women and children are also the ones most severely affected by war and its consequences.

The war in Iraq epitomises the tie up between US militarism and the drive for neo-liberal capitalism. In Iraq, military efforts were meant to be accompanied by capitalist development that would usher in as well a regime of law and democracy. Yet experience shows that capitalist development will not resolve the crisis brought about by undemocratic regimes which have been the stumbling blocks to previous attempts at pro-people development. Economic prescriptions that continue to treat nations as homogenous entities instead of understanding the diversity of the singularities within a nation merely aggravate the problems of poverty and underdevelopment. In the past purely economic measures of national development that did not pay attention to full democratisation achieved global capital growth while exacerbating world poverty. Indeed I would argue that development efforts from a reductionist framework that placed emphasis on economic development subvert the development of democracy.

Eroding the Nation State

Both the economic and the military faces of globalisation have led to the erosion of the powers of nations to assert their sovereignty

and ensure national unity. Several nations in the Asia Pacific region, for example, have seen the return of US military forces through newly-negotiated base agreements. Governments worldwide must now attune their economic policies to the rules of the World Trade Organisation. But the inability of nations to control their economic destiny is best exemplified by the Southeast Asian economic crisis of the 1990s where governments could not protect their citizens from the ravages of transnational capital.

The greater mobility of people has also led to porous national and ethnic boundaries. Cultural maps are changing markedly. More and more nations are seeing a diversity of cultural communities. An increasing number of the world's citizens lay claim to multiple cultural heritages. Yet other groups identify themselves with various "homelands" that may be defined along ethnic, religious or political lines rather than geographic ones. We can no longer assume that cultural communities can be defined by geographic boundaries and the decades-long time frames that we once believed nurtured our rootedness.

The Rise of Fundamentalisms

War, impoverishment, rapid cultural change, the erosion of national, ethnic or tribal identities and the increasing cultural and economic hegemony of western-based elites has led to widespread insecurity and resistance. Unfortunately, many resist by insisting on a culture that they believe existed before the influx of outside influences. This has led to fundamentalist interpretations of culture and religion. These fundamentalist approaches treat religion and culture as static and ahistorical and give too much power to the state and other institutions of ideological hegemony in determining just exactly how these customs and traditions are to be interpreted and implemented. This kind of cultural homogenisation is essentially undemocratic and tends to reinforce male power over women and majority power over minorities (whether sexual, religious or tribal) in families and communities and nations. The power of these cultural hegemonies can turn to tyranny such as when we see the establishment of theocratic rule, or when the state cites some myth of Asian culture to justify the sacrifice of human rights. Such allegedly anti-imperialist stances of resistance do not take into account that human rights, women's rights and democracy are part and parcel of previous nationalist struggles.

Nation as A Social Construction

But even as globalisation has changed the economic and cultural landscape, it has also changed the political landscape that has been the basis for internationalism and solidarity.

As we have mentioned, the sovereignty of nation states is under attack by the development of the very economic forces that led to their formation. To understand this, we need to look at the formation of the modern nation state and the relationship of that state to capitalist development, modernisation and the world market.

In the story of modernity and development, people of a common ethnicity, language and culture and in a particular geographic boundary define themselves as a nation. The nation is governed by a democratic government that represents the people. Because this government is representative and democratic, it is able to protect the interests of the people when dealing with other nations multilaterally or unilaterally. It is also this idea that the people are sovereign in a nation and that their democratic government represents their interests that has marked policies of non-interference and respect for autonomy that has guided international relations.

Yet the idea of the sovereign nation state has never been more than a half-fulfilled dream in many countries. The multiple forces at play expose the fault lines of this fable.

Many of the nation states that arose after the period of European colonisation were ruled by elites that did not represent the interests of the majority. Often these elites used development and modernization efforts as a means of rent-seeking that skewed both the development of the capitalist economy as well as the liberal democratic regime that capitalism is supposed to institute. Indeed, the world has remained divided between those who are severely underdeveloped and those who have accumulated too much; countries who have achieved liberal democracy and those that have not.

Class, feminist and anti-racist struggles have also revealed other fault lines in the myth of national sovereignty. Nations are neither culturally nor ethnically homogenous. National boundaries do not delineate culturally homogenous groups from dissimilar groups across the border. Within nations, large differences in privilege exist across class, gender, caste and racial divides. The anti-colonial struggles that gave birth to nation states in this region, attempted to attain civil and political rights for the colonised population. Feminists, indigenous peoples, sexual minorities, people with disabilities, and the impoverished have then had to insist that they be constituted as citizens by demanding that they enjoy the same rights as their liberated, upper class, able-bodied, heterosexual and ethnically mainstream brothers. Whereas

before the 20th century these rights were confined to the civil and political sphere, social movements have demanded and often achieved guarantees for a broader set of rights in the social and cultural spheres as well as the recognition of new categories such as sexual and reproductive rights.

These intra-national divides account for yet another source of the lack of genuine representation in government. But they also point to the fact that nations are a social construction as well.

The war in Iraq is instructive here as well. The situation in Iraq epitomises the dissolution of a nation along religious and ethnic lines once the unifying power of an authoritarian government is taken away. In my mind the situation in Iraq also illustrates the folly of believing that capitalist economic development is necessarily the cutting edge towards genuine democratisation.

As for women, Virginia Woolf said it as early as 1938, "in fact, as a woman, I have no country. As a woman I want no country. As a woman my country is the whole world." This is a call echoed by women's peace groups in certain countries in Eastern Europe whose experience has shown that women get raped across national and ethnic lines during wars. Indeed, it is the understanding of many women's groups of their disenfranchisement from within their nations that has helped feminists put together truly broad international coalitions for peace, the environment, women's rights and integrity.

The Erosion of Internationalism

But sovereign nations are the building blocks of internationalism and international formations such as the United Nations. Globalisation threatens these formations when it begins to break down national boundaries and sovereignty and install transnational processes. Here again the role of the United States as the world's superpower is illuminating. The US refusal of the terms of various treaties such as the Kyoto protocol, the Rome statute and its abrogation of agreements on reproductive and sexual health and rights are proof of the decreasing relevance of the UN as a tool of international governance. US unilateralism in going to war in Iraq highlights this further.

I have no intention of saying that engagement with the UN is no longer politically useful. I am however, suggesting that activists remain critical of our engagement. Based on the analysis I have attempted to share with you thus far we need to ask questions such as:

1. What is the status of the UN now vis-a-vis the project of human rights advocacy and protection?
2. How has the borderlessness of the world market, the unilateralism of the US, the war on terror, the implosion of secularism in many countries, affected the UN in general and its capacity to further the human rights agenda at this time?
3. How do we as activists re-define our struggles for national sovereignty in the light of the challenges of globalisation, militarisms and fundamentalisms?
4. What is the notion of people-to-people solidarity that is achievable beyond the notion of nations and internationalism?
5. How can the UN facilitate the kind of solidarity work envisioned in question no. 4, both for state and non-state stakeholders?

What Next?

These questions are not easily answered. But I hope that they can stimulate discussions. I will try to push the process further by making a few recommendations.

First, I believe it is time that we counterpose a concept of global citizenship to the globalisation of capital flows. I do not see why we should allow goods and money to flow freely around the world and not people. But we can be more practical in our approach. For example, we can begin with a minimal set of rights that should be protected for all human beings regardless of where they are. I would include the right to healthcare and education, due process, freedom from torture, protection against abuse and violence and all the protections guaranteed to children under the Convention on the Rights of the Child as the basis for our advocacy of what global citizenship can mean.

The second concept that we might work around is the concept of a social wage. We need to work for wages and benefits that do not just allow individuals and their families to survive. We also need to look at wages, taxes and regulatory mechanisms that ensure that there is financing for health care, education, social security, environmental protection and renewal.

Third, we must be able to work on the radical democratisation of our societies. This means not just the full guarantee of civil

and political rights in the public sphere. It is also about ensuring the protection of the dignity and autonomy of women and children in the homes, places of worship, schools and other social institutions.

Democratisation must also extend to the old and new forms of media and communications. We must pay, particularly, attention that the internet remains accessible to all. To do so means to prevent attempts at corporate ownership and government censorship. It also means that our struggles for a more equitable distribution of resources include the provision of computers and linkages to poor communities. Hopefully, greater access will allow unions, people's organisations, sectoral associations, non-governmental organisations, and other civil society organisations to create networks of exchange and cooperation. If we can increase access there is hope in counteracting the hegemony of consumerist, racist and sexist cultural norms.

Culture must be subject to democracy as well. Cultural diversity is a reality both across nations and *within* nations. Mutual respect and free interaction must be the rule that guides relationships between citizens and their government and among citizens. Whatever else custom and tradition dictate, women have a right to participate in the culture and thereby change it. This generation, through democratic processes, must shape and pass on to the future a culture that will help the next generations adapt, survive and flourish. That culture of survival certainly cannot be one that has been fashioned on conditions that prevailed centuries or millennia ago. In this regard, we must struggle against religious and other forms of fundamentalism and uphold the legacy of women's empowerment and religious freedom that was part and parcel of anti-colonial struggles in many of our countries.

At this point I wish to point out that my suggestions have been straddling the divisions between the more individual civil and political rights and the more collective economic, social and cultural rights.

We must continue to assert that all rights are inextricably linked and must be upheld comprehensively. I can only add that in the face of the hegemony of the global market and transnational capital, we must counterpoise the collective nature of human rights and the passionate desire of the world's people for freedom.

B.2. Presentation – Gender, Migration and HIV: Impact on Women in the Context of International Political Economy

By Nova C. Nelson, CARAM Asia, Malaysia

Feminisation of migration has taken place. The UNFPA State of World Population report in 2006 stated that almost half of migrant workers worldwide are women constituting about 95 million workers. In fact Asian women migrating from countries like the Philippines and Sri Lanka outweigh the number of male migrants. The great majority of those who migrate are from developing countries taking up unskilled jobs³⁷ and a great majority of labour migrants in Asia move to countries within the region.³⁸ Women become extremely vulnerable as they seek income in environments influenced by the Asian gender construct. These environments are heavily influenced by patriarchal systems and conservative religious and cultural values. It is also weak in legislation and policies protecting the rights of women.

Asian women primarily migrate alone within the region to countries in the Middle East, East Asia and Southeast Asia (Malaysia, Singapore and Thailand). Women migrating for work take up jobs as domestic workers, care workers and in the service and informal sectors. Women are also moving across borders as migrant brides and trafficked victims.

37 CARAM Asia programmatic areas focus on the health rights and wellbeing of Asian labour migrants.

38 'HIV/AIDS and work in a globalising world', International Labour Office, 2005, pg 21.

39 'How Does Poverty Affect Migration Choice?', A Review of Literature, Hugh Waddington and Rachel Sabates-Wheeler, *Institute of Development Studies, Sussex*, December 2003.

40 Donald P. Chimanikire, 'African Migration: Causes, Consequences and Future Prospects and Policy Options', paper presented at the UNU-WIDER conference on Poverty, International Migration and Asylum, Helsinki, 27–28 September 2002. <http://www.wider.unu.edu/publications/pb8.pdf>

The unprecedented intensity and diversity of human mobility is influenced by material and non-material causes, voluntary and non-voluntary circumstances. The "push" factors for population mobility in the developing world are well-documented. Migration is not only a livelihood choice for people who wish to better their economic circumstances. Migration has become a byproduct of economic and political globalisation. It occurs under circumstances of poverty, unemployment, underemployment, economic and political instability, landlessness or the deterioration of the environment. These circumstances lead to exploitation and further impoverishment of migrants throughout the migration process.³⁹

Political and economic globalisation as it stands does not allow developing countries and its poverty stricken communities to compete on a fair and equitable level playing field. Trade liberalisation and the burden of debt caused the breakdown of domestic industries and the reduction of social and fiscal expenditures. Declining living standards and increasing unemployment rates are key outcomes of neo-liberal policies forcing poor populations to seek work opportunities abroad.⁴⁰

Political and economic globalisation encourages asymmetrical development and widens socio-economic inequalities between countries and regions.

The restructuring of production and pressures to reduce labour costs has led to forced migration, labour flexibility and has induced temporary labour migration. All three are key characteristics of contemporary migration. Business entities hire on a short term contractual basis based on a set of requirements most suited for the company. This in turn creates loss of job security, labour rights and benefits.

Those in favour of liberalising labour movements see migration as a huge financial benefit and as a tool for development. However, these players are less engaged with the actual negative socio-economic effects of temporary migration. CARAM Asia has studied some of the negative impacts of migration. Major gaps and concerns include social exclusion of migrants in receiving countries, violations against women migrants, disintegration of family units, poor social and economic reintegration and deteriorating health outcomes of migrants. Utilisation of migration for “development” and for financial benefits implies the perpetuation of conditions for cheap labour and exposes the fact that neo-liberal globalisation has not brought us closer to the eradication of global poverty and unemployment.⁴¹

Commodification of labour is taking place. In sending countries active labour export promotion policies are implemented in order to gain benefits for foreign debt servicing and foreign exchange earnings through remittances. Filipino migrants sent US\$8 billion dollars home in 2004 and Indonesian migrants remitted US\$2 billion the same year.⁴² In order to raise resources required for migration, marginalised communities in home countries are forced to sell their land.

Creating Communities which are Dispossessed of Land and Means of Production

Neo-liberal globalisation has led to the creation of a labour underclass. The capitalist movement intensifies its exploitation through labour flexibility resulting in migrant workers not benefiting from basic conditions enjoyed by other work classes.⁴³ Depressed wages, absence of benefits, bad working conditions, abuse, lack of access to free health services and no social services creates a labour underclass. Women caught in the nexus of globalisation and migration are confronted with the most severe degrees of marginalisation.

41 Sison Jose Maria, International League of Peoples' Struggle, ILPS, Statement On The Global Forum on Migration and Development, International League of Peoples' Struggle, July 4, 2007.

42 Human Rights Watch, Asian Women's Labour Migration, December 2005, <http://hrw.org/reports/2005/singapore1205/2.htm>

43 Tuhan, Antonio, 'Globalisation, Crisis and Migration', presentation made at the CARAM Asia Migration, Health and Globalisation Workshop, Kathmandu, Nepal, June 2007.

The protagonists propagating temporary labour migration and labour flexibility are the global neo-liberal institutions (WTO, World Bank, IMF, etc.) and economic powers, their client states and the profit-driven private sector. All three have perpetuated the weakening of social and labour contracts and encouraged protectionist and “value driven” policymaking which fail to protect the rights of women migrants. States and neo-liberal structures have also increased dependencies on remittances for development which have overtaken Official Development Funds (ODA). Remittances are not only larger than official ODA but also more predictable and stable source of income compared to either FDI or ODA.⁴⁴ These players have contributed to creating an enabling environment for the trading and outsourcing of labour. Women are most at risk by the labour migration agenda both as individuals crossing borders for livelihood and as a family member and/or spouse left behind.

Migration and Health

Public health care systems in developing countries are crumbling. The burden of debt repayments imposed by IFIs compounds the negative consequences of economic globalisation. It ties up fiscal expenditure required by developing countries to expand and improve education, health services and social-economic conditions of the marginalised. Faced with shrinking public health budgets and privatisation of health care, medical professionals in developing countries are migrating or transferring to the private sector.

The increased global transmission of HIV in the past two decades has coincided with rapid economic globalisation, a process spearheaded by liberalisation of international trade, markets and services. The negative health impact and quality of life of migrants as a result of globalisation policies resulting from multilateral platforms such as the WTO are regressive in nature. It does not promote human rights and global health which is a prerequisite to socio-economic progress. It also leads to a reduction in access to healthcare and HIV treatment for the poor. The shrinking budgets in healthcare inevitably lead to lack of access to sexual and reproductive health and rights (SRHR) information and treatment. This increases the risk of women working abroad and returning from migration contracting HIV/STIs and developing various sexual and reproductive complications.

44 UNFPA, State of World Population, A passage to Hope, Women and International Migration, 2006, http://www.unfpa.org/swp/2006/english/chapter_1/harnessing_hope.html

CARAM Asia believes that the health status of migrant workers serves as one of the most important and tangible indicators of a migrant's well being. However, migrant health concerns are often sidelined and fail to look beyond the medical paradigm to consider the larger social, cultural, political and economic

contexts in which health issues are embedded. Furthermore, to the detriment of migrants' health rights and wellbeing, health concerns of migrants, in particular, HIV and AIDS are increasingly dealt with as part and parcel of foreign and security policies which restricts liberty of movement and does not include a public health and rights perspective.

Abuse, Discrimination and Exploitation of Migrant Women: HIV Vulnerability Issues

UNAIDS has estimated that in end-2005 Asia had 8.3 million people living with HIV. The UNAIDS report also stated that of these women constituted 2.4 million. Although migrant workers have been recognised as a vulnerable population in the UNGASS Declaration of Commitment June 2001, there is still a huge vacuum in terms of epidemiological studies and data available on HIV and migrant workers, let alone gender segregated data on HIV and migration. CARAM Asia through its work with partner CBOs and NGOs have identified institutional, social and cultural barriers which make women in migration susceptible to violence and HIV.

All migrant workers are vulnerable to HIV. However, women, whether as migrants or spouses left behind, are more vulnerable biologically, socially, economically and culturally as compared to male migrants. The following are ways in which gender differences related to migration and HIV have made women migrants more vulnerable to abuse, discrimination, exploitation and HIV.⁴⁵

Following gender disparities have been noted in the area of migration and HIV/AIDS:

- A. *Women and men experience different forms of abuse and violence; women are more vulnerable to sexual violence*
- B. *Gender differences in current laws and policies on migration and labour*
- C. *Different recognition, acknowledgement and status given to jobs done predominantly by men, and those done predominantly by women*
- D. *Gender discrepancies in the right to residence of spouses*
- E. *Different social roles and pressures for the spouses left behind and for men and women*
- F. *Women and men have different perspectives and concerns on safe sex, sexual health, and relationships*
- G. *Women and men do not have equal or the same control over sexual negotiations*
- H. *Men and women have different levels and sources of access to information regarding sex and sexual health*

⁴⁵ 'The Forgotten Spaces, Mobility and HIV in The Asia Pacific', CARAM Asia, 2004, pg 72.

- I. *Men and women have different experiences in accessing health care*
- J. *Culture and social norms allow different levels of freedom and impose different levels of restriction on men and women*
- K. *Men and women may have different interpretations of the new environment on the basis of old conceptual frameworks*
- L. *Men and women may have different responses and reactions to feelings of estrangement and stigma.*

Migrant Female Spouses Left Behind

The rights and concerns of female spouses and women left behind are highly relevant when studying the issue of violence against women and HIV in the context of migration. Spouses and women left behind are often a forgotten group.

Temporary or seasonal migration heightens risks of HIV and STIs transmission to female spouses. Culturally and socially influenced factors dictate the role and obligation of women as providers of sex to their returnee husbands, disallowing them to negotiate for safe sex and making them prone to reproductive health risks and domestic sexual violations.⁴⁶

Countries like Pakistan, Bangladesh and Phillipines have seen male migrant workers with high incidences of HIV therefore increasing the risk of transmission to their partners and spouses back home.⁴⁷ About 35% of documented HIV cases in the Philippines are among overseas workers, and 42% of new HIV cases in 2006 were among this vulnerable group.⁴⁸ Pakistan produces a more shocking number: 80% of HIV cases were people deported from the Gulf States according to a joint study by UNAIDS and Karachi's Aga Khan University.⁴⁹

The patriarchal family institution results in women being left behind with their in-laws. The male domination of economic and social conditions of women left behind directly and indirectly increases their vulnerability to abuse and therefore HIV. Both spouses and daughters left behind are defenceless from abuse, sexual coercion, incest and other forms of violations.

The absence of economic empowerment and lack of control over remittances, unproductive use of remittances and landlessness sometimes force spouses to seek employment. Lacking education and skills the spouse is therefore compelled to take up unskilled jobs and is vulnerable to sex work and deplorable working conditions.⁵⁰

46 Paper on the 'Rights of spouses of migrants in Asia – Issues and concerns of Female Spouses', Malu Marin, CARAM Asia Report on Annual Consultation with the U.N Special Rapporteur on Human Rights of Migrants, 2002, pg 40.

47 CARAM Asia, 'State of Health Report – Mandatory Testing', 2007, pg 3.

48 Medical News Today, 2007, 'UNFPA Launch \$2M Program To Address HIV/AIDS Among Migrant Workers', <http://www.medicalnewstoday.com/medicalnews.php?newsid=66609>

49 Yusifzai A, 2007, Pakistan Battles HIV/AIDS Taboo (9 April 2007), http://news.bbc.co.uk/2/hi/south_asia/6539437

50 'The Forgotten Spaces, Mobility and HIV Vulnerability in the Asia Pacific', CARAM Asia, 2004, pg 72

Social and economic reintegration programmes among migrant communities are a necessity. Migrant workers returning with deteriorating health conditions due to occupational accidents or deportation due to contracting TB, HIV and STIs become dependent on their wives for economic, psychosocial and emotional support. Reintegration programmes are important to help female spouses deal with their medically unfit returnee partners. Economic reintegration will assist in reducing remigration, whereas social reintegration can include healthcare interventions, counselling and support to positive migrant workers and their spouses.⁵¹ Reintegration programmes are also important as they provide a platform to provide spouses with SRHR information and knowledge to raise awareness on HIV and migration.

Women Migrant Workers and HIV

What is the impact of neo-liberal globalisation policies on women migrant workers? Trade agreements have an impact on prices, employment and production structures. These have varying impacts on individuals from different communities and groups based on their different positions in the economic system.⁵² While these policies are seen as being “gender-neutral”, they in fact affect women and men differently. Mainly due to gender-segregated labour markets, different skill levels and predefined allocation of appropriate roles for women and men in sending and receiving countries.⁵³ For instance, even though the WTO - GATS Mode 4 seems to be positive in that it provides opportunities for women’s participation in the international labour market, it does not ensure that migrant women will receive fair and equal wages as men, be protected from gender based violations, and does not provide necessary minimum standards of social welfare and benefits such as healthcare and pensions for women migrant workers.

51 Ibid, pg 211.

52 ‘Gender and Trade’, Zo Randriamaro, BRIDGE, 2006, http://www.bridge.ids.ac.uk/reports_gend_CEP.html#migration.

53 ‘Gender and Migration’, BRIDGE, 2006, http://www.bridge.ids.ac.uk/reports_gend_CEP.html#migration

54 Ibid.

55 Parreñas, Rhacel 2001, ‘Servants of Globalisation: Women, Migration and Domestic Work’,. Palo Alto: Stanford University Press.

There are two key factors creating a huge vacuum for care work in receiving countries. First, the changing lifestyles of women in receiving countries due to increased career options, higher incomes and affluent lifestyles. Second, men continuing to take on minimal roles in child-raising and household work. The solution offered by states and recruitment agents is the provision of cheap labour for domestic work. The affluent have been provided a choice to transfer and procure care work. Operating like a care chain, migrant women take on the care work of women in developed countries, while simultaneously passing on their care work to other women in their own countries.⁵⁴ This phenomenon has invited the label “servants of globalisation”.⁵⁵

In Malaysia it is said that every month there are on average 150-200 migrant workers, the majority of them domestic workers, seeking

refuge at the Indonesian Embassy in Kuala Lumpur.⁵⁶ Both the Malaysian and Indonesian governments are failing to protect the rights of migrant workers. Indonesia, along with many other sending countries, includes targets for the number of workers it hopes to send abroad in its five-year economic development plans. Indonesia's targets have risen rapidly over time: in the economic development plan for 1979-84, the target was 100,000 workers; in 1999-2003, the target was 2.8 million workers.⁵⁷ Such export labour policies are worrying as it encourages aggressive recruitment of women into migration. The Sri Lanka Bureau of Foreign Employment (SLBFE) reported 1,807 harassment (physical and sexual) cases in 2005.⁵⁸ The interlinkages between violence against women and HIV have been argued and proven. These scenarios simply amplify the linkages between violence against women and vulnerability of women migrant workers to HIV.

56 Seneviratne K, September 2006, Inter-Press Society (IPS), 'Malaysia/Indonesia: Ethnic Ties Won't Paper Over Class Differences'.

57 Graeme Hugo, 'Indonesian Overseas Contract Workers' HIV Knowledge: A gap in information', (Bangkok: United Nations Development Programme, 2000), p. 3.

58 Centre for Women's Research (CENWOR), Sri Lanka, 2006, <http://www.cenwor.lk/migworkersviolence.html>

59 Marin, M. 2003, 'Sexual Scripts and Shifting Spaces: Women Migrants and HIV/AIDS', pg 19.

60 UNFPA, 'State of World Population, A passage to hope, Women and International Migration', 2006, http://www.unfpa.org/swp/2006/english/chapter_3/toil_and_tears.html

61 Ibid.

62 CARAM Asia, 'Report on Regional Summit on Foreign Migrant Domestic Workers', 2002, pages 19-29.

In a 2002 survey of 110 Filipino domestic workers in Hong Kong (SAR), interviewees reported various sexual and reproductive health problems that revealed limited access to health information and services, as well as the stigma attached to seeking them. These included genito-urinary infections (44%), pelvic inflammatory disorder (17%), unintended pregnancy (13%) and abortion (10%).⁵⁹ Any policy which discourages migrant women from accessing health services and information should be abolished.

Other such policies include the 2003 Saudi Arabia Ministry of Health directive which prohibits pregnant domestic workers from accessing health services unless accompanied by the father.⁶⁰ These restrictions do not take into consideration the circumstances of the pregnancy such as women whose husbands are abroad or those who have become pregnant as a result of rape.⁶¹ Women are reluctant and fearful of accessing and seeking maternal health services due to gender insensitive policies creating precarious health situations.

Although the situation of migrant domestic workers varies from country to country, as a group women in the informal sector and domestic workers are particularly vulnerable to abuse. Gender selective policies, the power relations in the employer-employee relationship, weakening of labour and social contracts and the underlining gender, class, race and xenophobic discrimination dehumanises and neglects the rights of women migrant workers. These issues are of serious concern. Below are the vulnerabilities and violations of rights related to work, gender, health, access to information and culture which heightens domestic workers exposure to HIV:⁶²

Vulnerabilities Related to Work

- Lack of legal protection – abuses directly correlate to lack of legal protection, inadequate access to legal support, ineffective enforcement of law. In most receiving countries domestic workers are excluded from local labour laws.
- Lack of labour rights – unpaid wages, no day off, long working hours, work overload, bad living and working conditions.
- No Day Off – countries in the Middle East, Gulf and South East Asia do not provide a day off, absence of which creates isolation and denies access to information, healthcare, legal services, peer and social networks.
- Lack of liberty – no right of movement, physical and linguistic isolation, deprived from contact with the outside world, working solely in the domestic/private sphere.
- Withholding of visas and travel documentation – employer holding on to passport/work permits increasing the vulnerabilities of domestic workers becoming undocumented should they need to leave due to abuse and exploitation. Undocumented domestic workers become vulnerable to sexual abuse from enforcement officers.

Vulnerabilities Related to Gender

- Patriarchy – Biased and discriminatory gender selective policies – domestic work considered “women’s work”, protectionist policies, social reproduction work not economically visible.
- Power relations – employer-employee relationships, unable to negotiate for better work conditions, live-in rule increases the workers’ dependencies on the employer – paving way for victimisation, sexual coercion and abuse.
- Torture and Sexual Violence – double marginalisation as women and migrant workers. Physical, mental and sexual abuse. Sometimes leading to death. Violence perpetrated by state and non-state actors such as employers and recruiting agents.
- Families left behind – tremendous emotional and psychosocial impact on the domestic worker, loneliness and longing for companionship.
- Single entry policies – women not allowed to migrate with families.

Vulnerabilities Related to Health

- Violations to sexual reproductive health and rights – sexual violation, abuse and rape.
- Marginalised in terms of information – Lack of SRHR information and programmes. Increasing special vulnerability to HIV.
- Denial of access to healthcare or social security – as employed under the informal sector, burden of paying for own healthcare, payment of first class fees, mandatory testing does not include HIV positive women into the public healthcare system.
- Mandatory testing and retesting of migrant workers – increases stigmatisation and discrimination, termination of contract due to test results often without the workers' knowledge.
- Deportation – due to HIV status, pregnancy, risk of further abuse during deportation process, stigmatisation upon returning home.

Vulnerabilities Related to Access to Information

- Lacking adequate pre-departure and post arrival orientation – inadequate information on health and HIV does not integrate a rights-based approach, emphasises needs and rights of employers instead of domestic workers.
- Lack of SRHR related information - increases women's vulnerability to sexual abuse and contracting HIV and STIs. Dismal access to information regarding gender, sex and sexual reproductive health and rights issues.
- Inadequate training on survival skills – trainings focus on household tasks, pre-departure trainings for women emphasise subservient behaviour towards employer.
- Lack of education and access to information and legal channels.
- Lack of information on labour and immigration laws.

Vulnerabilities Related to Race and Culture

- Discrimination - differing wages, days off.
- Xenophobia – racial intolerance.
- Freedom of religion – employers disrespecting religious beliefs.

Protecting Rights vs. Protectionism

Policies for managing men's migration are seen more in terms of economic criteria while policymaking regarding women's migration is "value-driven." These policies are often influenced by values on women's employment and their socio-economic status.⁶³ This non-evidence-based "value-driven" policymaking, under the guise of protecting women, actually fails to address the gamut of sexual and reproductive health and rights, mental and physical healthcare issues. Furthermore, it does not prevent problems such as work place gender exploitation, discrimination in terms of remuneration, and sexual abuse. Gender-sensitive policies and legislature for women migrant workers are much needed. The current state of policies are in conflict with protecting and promoting rights and wellbeing of women migrant workers and are weak in taking on considerations such as trafficking.

"The barriers that some nations create to artificially contain migration create a black market of human trafficking, illegal recruitment, fixer's trade and willful mis-documented migration. If there is too much regulation and red tape, it creates the opposite effect of worker protection. It is useful to draw mechanisms, which are low key, less formal and have more operational focus."

— (Ricardo R. Casco, Director of Dept of Labor and Employment, Philippines Overseas Employment Administration. Regional Summit on Pre-departure, Post Arrival and Reintegration of Migrant Workers, organised by CARAM Asia, 2000)⁶⁴

Protectionist policies are occurring both at the sending and receiving countries. CARAM Asia through its work in HIV vulnerability of women migrant workers has documented policies and cultural settings which breed protectionist environments. This environment fails to protect rights of women migrant workers. Examples of protectionism are seen below.

A. Formulation of Banning or Regulating Women Migration

Governments take on extreme protective policies such as banning and restricting women workers from migrating. Rather than creating solutions and policies to protect the rights of migrant workers and dealing with the perpetrators of abuse, these countries end up punishing women seeking livelihood. Behind these restrictions are patriarchal policy makers asserting themselves as parties who are 'protecting' its 'helpless' and 'ignorant' young female citizens.

63 Oishi, Nana 2002 'Gender and Migration: An Integrative Approach', Working paper no. 19, Centre for Comparative Immigration Studies, University of California, San Diego.

64 'The Forgotten Spaces, Mobility and HIV Vulnerability in the Asia Pacific', CARAM Asia, 2004, pg 60

Cases in the region will show that banning and restricting women from migration does not reduce their vulnerability to violence and exploitation. Contrarily, these bans and restrictions induce trafficking as well as recruiters finding loopholes within the restriction enforcement. Some of these restrictions are happening in South Asia. Bangladesh, Nepal and, recently, India have put in place either banning of women from labour migration or imposed minimum age restrictions. This ban violates women's right to work, development, freedom of mobility and equal status as citizens.

Bangladesh, for example, banned the migration of women in 1998. News reports have indicated that despite the official ban between 10,000 and 15,000 Bangladeshi women left to work abroad illegally. This compared to 14,000 Bangladeshi female workers who were legally employed in foreign countries between 1991 and 1998.⁶⁵ In 2002, Bangladesh was forced to lift this ban due to pressure from civil society.

In March 2007 the Sri Lankan government announced a ban on women with children less than 5 years of age from migrating for work. The regulation also required mothers with children aged 5 or older to obtain approval from a government committee, after submitting proof that they can provide appropriate caretakers for their children, before migrating for work.⁶⁶

65 Tabibul Islam, 'Ban or No Ban, Women Workers Leave Home', Inter-Press Service (IPS), 2003, <http://ipsnews.net/migration/stories/ban2.html>.

66 The Sunday Times, April 22, 2007, <http://sundaytimes.lk/070422/FinancialTimes/ft331.html>.

67 India Together, 'Grounded till thirty', 21 August 2007 <http://www.indiatogether.org/2007/aug/wom-migrant.htm>

68 M. Ghazanfar Ali Khan, Arab News, 23 August 2007, 'India to Impose Restrictions on Hiring of Maids', <http://www.arabnews.com/?page=1§ion=0&article=100314&d=23&m=8&y=2007>

India in August 2007 has also followed suit by banning women below the age of 30 from migrating for domestic work or care giving. Statistics of women migrating for work have shown a sharp increase from the major migrant producing state of Kerala. Female migration has gone up from 9.3 per cent in 1999 to 17 per cent in 2004, according to reports issued by the United Nations Secretary General.⁶⁷ The new regulation covers 18 countries, also requires a mandatory \$400 monthly salary and a security deposit of \$2,500 in the form of bank guarantee with the Indian mission. The new rules also require employers to provide their domestic servants with prepaid mobile phones.⁶⁸

Other examples of protective policies include the Philippines which raised the age a woman could migrate to Saudi Arabia to 30. Young women falsified their age, opening the way to exploitation by recruiters. Burma banned women traveling through the country (and to borders) alone under the age of 25; they have to be accompanied by a guardian, thus, allowing traffickers to move women freely under the guise of guardianship. Nepal has signed four out of seven ILO Human Rights Conventions, but these are not effectively implemented. Nepal banned young women from

migrating to the Gulf countries, forcing them to migrate through irregular channels.⁶⁹

B. Gender Selectivity in Recruitment Influences Feminisation of Migration

Forces of globalisation have heightened labour migration and the entry of women into the international labour market. Gender stereotyping of workers is prominent. Migrant women are channeled into work which is low-skilled, low-paid, service-oriented requiring characteristics like patience, tolerance, submissiveness and hard work reflecting an Asian culture-specific gender construct.⁷⁰

The Philippines holds the record of being the second largest labour-sending country in the world. Women migrant workers comprised 61% of all land-based new hires in 1998 (POEA). The percentage share of women OFW (Overseas Filipino Workers) has steadily increased from 12% in 1975 to 47% in 1987 to 58% in 1995 and 61% in 2002.⁷¹ Women overseas workers from the Philippines dominate the service sector with the top 2 jobs in 2005 being domestic worker (29.9%) and entertainer (13.9%).⁷² Men, on the other hand, dominate production and construction-related work. Even among sales workers, the men are the supervisors and buyers, while the women are the salespersons and shop assistants.⁷³

In Sri Lanka, in 1986 only 33% of workers leaving the country were female workers; in 1996 it had risen to 74%. In 2005 women still constitute the majority of those working abroad with 800,837 compared to 420,926 male workers.⁷⁴ Based on Sri Lankan Foreign Employment Bureau, 2006, "housemaids" constituted 91% of total female migrant workers in 2004.

C. Women are Subjected to a Whole Range of Mandatory Health Tests

Women migrants are subjected to a host of mandatory health tests including pregnancy and HIV. If found to be pregnant (and not married) or HIV+, they are devastated personally, subjected to great stigma within their homes and communities, and face the loss of recruitment and a better future in a foreign land. In some cases results are disclosed to outsiders.

Testing does not aim to include women migrant workers within the public healthcare system. Women who are pregnant often seek risky abortion procedures. Mandatory testing is used as a

69 The Forgotten Spaces, Mobility and HIV Vulnerability in the Asia Pacific', CARAM Asia, 2004, pg 60

70 Ibid, pg 61.

71 Ibid, pg 61.

72 Asia Pacific Research Network (APRN), 'Migrant Workers in Organising, Mass Campaigns & Mobilisation: A Brief Compendium of Our Recent Experiences as a Case Study', MIGRANTE International, Dec 2006, <http://www.aprnet.org/index.php?a=show&c=APRN%20Conference%20on%20Jobs%20and%20Justice&t=conferences&i=79>

73 'Forgotten Spaces, Mobility and HIV Vulnerability in the Asia Pacific', CARAM Asia, 2004, pg 62

74 Centre for Women's Research (CENWOR), Sri Lanka, 2006, <http://www.cenwor.lk/migworkersviolen.html>

form of border control by receiving countries and prevents entry of individuals with HIV and STIs. It does not modify behaviours or provide sexual and reproductive knowledge and information to women workers. It only provides a false sense of security that HIV is a foreign problem.⁷⁵

In Sri Lanka, migrant workers undergo testing before leaving for the Gulf. Almost half of all reported HIV cases occurred among domestic workers who had returned from the Middle East.⁷⁶ Mandatory testing will over-represent migrant workers in epidemiological data leading to further stigmatisation and discrimination.

D. Kafala System, Servitude and Slave-like Conditions

The Kafala system in the Gulf Cooperation Council was drawn from a concept of “guardianship” and “sponsorship” by which domestic workers are given a place in their employers abode.⁷⁷ In other receiving countries such as Malaysia and Singapore domestic workers are not provided a day off thus isolating them from other migrant workers. Like the Gulf States, employers in Malaysia and Singapore are also allowed to hold passports and all official documents until the date of departure, making the domestic worker completely dependent on employers.

These policies create an environment allowing violence and exploitation of domestic workers. Women who were violated and raped suffer dire consequences from the Kafala system. The result of these violations forces women to be undocumented in order to escape abusive conditions. Many of them are then arrested as “illegal” workers, detained, and then deported. Should the women turn to the authorities to file a report many times she is returned to her abuser⁷⁸. Should she decide to go ahead with a court case which will carry on for an undetermined length of time, will cost money and may not eventually be successful, her alternative option is to stay in jail. This is mainly because the Kafala system requires for the worker stay in that country only if she is living with her sponsor, even if her sponsor is her abuser. This perpetuates a cycle of abuse and violation.

75 CARAM Asia, ‘State of Health of Migrants – Mandatory Testing’, 2007, page 6.

76 UNAIDS. 2004. *2004 Report on the Global AIDS Epidemic*, p. 83. Geneva: UNAIDS.

77 The Peninsula, ‘Activist wants rights of maids secured’, June 2007, <http://www.bahrainrights.org/node/1277>

78 Ibid

Recommendations for States

Health Rights for Women in Migration

- Ensure access to health services, including sexual and reproductive services, information to mobile populations in all stages of migration is a critical element in reducing their vulnerability to HIV and providing them control over their health.

- Scale up sexual and reproductive health programmes to all women, particularly rural women, to help prevent STIs and HIV vulnerabilities.
- Eliminate barriers to healthcare including high fees for healthcare services, promoting confidentiality and removing requirements for authorisation by spouse, parent or hospital authorities.
- Programmes for women migrant workers should not just focus on protectionist policies and 'risk behaviour', but on empowerment, supportive environments, human rights and women's specific vulnerabilities.
- Invest in public healthcare services for migrant communities at the receiving countries. Ensure access to healthcare by meeting prescribed healthcare budgets as outlined by WHO.
- States should review and reform public health legislation to include migrants, both documented and undocumented, including redress, to ensure that they adequately address public health issues raised by HIV/AIDS, and that provisions applicable to casually transmitted diseases are not inappropriately applied to HIV/AIDS. Health services for migrants must include:
 - Information and education for general public and migrants
 - Voluntary testing and pre- and post counselling
 - STD and sexual reproductive health services for all
 - Availability of condoms
 - Access to treatment, support and care
 - Epidemiological surveillance based on target groups like migrants
- Strengthen representative epidemic and behavioural surveillance of vulnerable mobile populations while protecting confidentiality and individual rights. Ensure data is segregated by nationality, age and gender to ensure appropriate interventions for different contexts.
- Both sending and receiving countries must invest gender-sensitive public health and support services for women migrant workers.
- Setting up of referral systems between sending and receiving countries to ensure HIV positive migrant workers and their families are provided treatment, care and support.
- Do away with mandatory testing as a basis to determine fitness to work and the deportation process attached to mandatory

testing which restricts the right to travel, and denies the right to work.

- Reintegration programmes should start at the very beginning of migration and addressed in both receiving and sending countries. Reintegration programmes should be gender-sensitive, empowering and include social reintegration. All economic reintegration programmes must be addressed within the context of human rights and based on the migrant worker as a human being and not as an economic commodity.

Labour Rights for Women in Migration

- Do away with aggressive labour export policies which lead to the commodification of labour and the exploitation of migrant workers.
- Extend equal protection of the labour laws to domestic workers, including rights to a just wage, overtime pay, weekly rest days, benefits, and workers' compensation.
- Labour legislation must be complemented by criminal laws allowing for successful prosecution of offences such as physical, psychological, and sexual abuse, forced labour, forced confinement and trafficking.
- Migrants must be given adequate living conditions to work under. This includes access to decent housing, sanitation and water as laid out by the International Human Rights Declaration.
- Programmes for women migrant workers should not just focus on protectionist policies and 'risk behaviour', but on empowerment, supportive environments, human rights and women's specific vulnerabilities.

Meeting International Standards

- To reduce the incidence of undocumented workers, migration must be managed with an approach that is flexible as stipulated under the ILO Forced Labour Convention 9 (no 29).
- Enforce and harmonise legislature to international standards and laws such as Ratification of the UN's International Convention on the Protection of the Rights of All Migrant Workers and their Families (1990), ILO Code of Practice on HIV/AIDS and the World of Work.

B.3. Population Policies and Women's Human Rights

By Manisha Gupte, MASUM, India

Birth control, family planning and population control

- Fertility control or birth control is the women's ability to separate reproduction from sexuality
- Family planning is the decision (usually within marriage) of when and how many children to have. Women's lack of negotiation within the family may adversely affect her decision-making
- Population control is a State controlled manipulation (increasing or reducing numbers), based on demographic needs, usually through family planning measures that may include specific and discriminatory targeting of certain people through incentives and disincentives. People get reduced to mere 'numbers', thus retaining very little choice in free and informed decision-making related to reproduction

Women's right to contraception and safe abortion

- Reproductive rights do not operate in a social or political vacuum
- Reproductive rights impact different women differently (abortion, sex-determination, quality, confidentiality, social acceptance, legal or religious sanction etc)
- We reiterate women's right to safe, effective, user-controlled, reversible and non-invasive contraceptives that encourage men's participation or responsibility and which encourage dialogue between the couple
- We also reiterate women's right to safe, confidential and non-judgmental abortion services
- We hope for a society where contraceptives are easily available, but are not forced upon people. We also hope for a society where the need for abortion is reduced, but the right to abortion stays

How population policies discriminate

- Population policies and interventions are usually:
 - Anti poor
 - Anti minority
 - Androcentric and sexist
 - Inherently racist
 - Anti marginalised sections
 - Anti disability

Anti-natalist and pro-natalist policies

- Nazi Germany: differential controls
- Black women in the USA: during and post-slavery
- First and third world
- Positive and negative eugenics
- Women's wombs as the site of manipulation of numbers
- Women as targets of family planning
- Women as guinea pigs for new research

Marx, Malthus and Neo-Malthusians: Allocation and consumption of resources

- Historical overview over the past three centuries
- Gist of the debate (resources: ownership, consumption, distribution)
- Neo-Malthusian approach to population, family planning and women's access to contraception
- Bucharest, Mexico, Cairo and Cairo +

The cart and the horse

- Over population and over consumption -which is the cause and which is the result?
- When do populations grow? When do they stabilise? When do they fall below 'dangerous' levels?
- Why do the poor have more children?
- Is development is the best contraceptive?

The case study of India

- First State to officially adopt the Family Planning Programme in 1952
- The MTP Act of 1972
- Gross violations during the Emergency period (1975-77)
- Falsehood, fudging of data and deceit within the incentive and disincentive based, target oriented programme that focuses on poor women (even after ICPD)
- Access to abortion services linked to provider-controlled contraceptives
- Impunity with respect to excesses and violations in mass camps
- Aggressive campaigning by the State and the media have resulted in most Indians having accepted the neo-Malthusian ideology
- Citizenship and patriotism are synonymous with small family norm
- Harsh disincentives have had negative impact on women's political participation, access to subsidised food, job opportunities, maternity leave etc
- The target oriented programme and economic development

may have reduced population growth, but it has been at the cost of women (through excesses, targeting, experimentation and through sex-determination)

Population policies and the Human Rights Framework

- CEDAW
- ICPD
- Need to move from the instrumentalist approach towards the intrinsic one with respect to women's education, fertility control, child labour, child marriage, etc.
- Limitations of the human rights framework:
- talks mainly of access to family planning from a western perspective that is shaped by the dominance of the church, but it doesn't adequately reflect the concerns of women in the South (Africa, Asia) where coercion for family planning exists
- does not frown upon unequal consumption nor talks of re-distribution of world resources as a pre-requisite for population stabilisation

Impact of fundamentalisms

- 1993 anti-Muslim pogrom in Mumbai and the Gujarat carnage of 2002
- The Hindu Right, the political Islamists and the Vatican
- Alliance between the mullahs and the padres
- Pressures on women post war, riots, in conflict zones
- Differential and discriminatory approach towards population control ("more of us, less of them")

Summarising the woman centred position

- Differentiating ourselves from the neo-Malthusians, the conservatives and the fundamentalists
- Clarifying our position on contraception and abortion
- Increasing male responsibility and male participation
- Increasing negotiation skills for women
- Moving from the instrumentalist to the intrinsic approach with respect to women and contraception
- Tackling the real causes of lack of access to contraceptives and to over-population
- Reiterating the need for a just re-allocation of resources within and outside the home

B.4. Presentation – Discriminatory Laws and their Impact on Women’s Rights in Family and State Responsibilities

By Purushottam Mishra, Forum for Women, Law and Development, Nepal

There are still 184 provisions and 122 schedules in 93 laws, including the Interim Constitution of Nepal, that discriminate against women on issues such as citizenship, property, marriage and family, nationality, legal and court proceedings, trafficking and sexual abuse, employment, education and identity.

| Before | After |
|---|--|
| - Women cannot provide citizenship to their children | - Women are entitled to transfer citizenship to their children through their name |
| - Descendant of citizen of Nepal can acquire citizenship | - Any person whose father or mother is a citizen of Nepal at the birth of such person shall be deemed to be citizens of Nepal by descent |
| - Application forms for acquiring citizenship do not recognise women’s status | - Mother is also recognised in the application forms for acquiring citizenship |
| - Citizenship certificate only states father’s or husband’s name | - Citizenship certificate states father’s as well as mother’s name |

Discriminatory Provisions in Nationality

- Women cannot provide citizenship to their spouse.
- Children born to women citizen of Nepal married to a foreigner, may acquire the naturalised citizenship of Nepal, if s/he is born in Nepal and has been residing permanently in Nepal and has not acquired citizenship of the foreign country by virtue of the citizenship of his/her father.
- Application forms for termination of citizenship only state father’s name.

Discriminatory Provisions in Property

- Married daughters not considered as coparcener.
- Law recognises polygamy; not all wives are equal shareholders in the husband’s property.

- Conditional right to property of married women.
- Daughters denied inheritance rights of parental property in some cases.
- Married daughters fall behind in the line of succession of intestate property.
- Widow's right to allowances and gratuity of husband conditional.
- Adopted sisters not included in the line of succession to receive pension.
- Married daughters not included in the line of succession to receive extraordinary pension.
- Unmarried daughters fall behind sons in the line of succession and married daughters fall much behind in the line of succession in receiving pension.

Discriminatory Provisions in Education

- Unmarried daughters are eligible to receive scholarship only until she reaches the age of 21 or until marriage, whichever is earlier; whereas boys are eligible to receive scholarship up to the age of 21 or until entry into civil services, whichever is earlier.
- Guardian's approval is necessary for girls to study in foreign country.

Discriminatory Provisions in Employment

- Permission of the guardian and the government is a pre requisite for women to go abroad for employment.

Discriminatory Provisions in Health

- Greater punishment for woman undertaking abortion than abortion as a result of act of third person.
- Greater punishment for women undertaking abortion than abortion in forced, threat or enticement circumstances.

Discriminatory Provisions in Family

- Deprives mothers from their child's care and guardianship.
- Married daughters not included in the definition of family.

Discriminatory Provisions in Court Proceedings

- Identification by the name of father only in documents relating to legal proceedings.
- Court dress for male judges only.
- Various forms mention only father, mother or husband's name but not wife's name.
- Voter's identity card only mentions father's/husband's name.

Discriminatory Provisions in Use of Language

- Male oriented word "Brotherhood" (Bhaichara) is used.

- Male oriented words such as “Elder Priest” (Bada Guruju), “Chief of Staff Army” (Pradhan Senapati), “Supreme Command” (Pramadhipati), “Chairman” (Sabhapati), “Mister” (Shriman) etc. are used.

Impact of Discriminatory Laws

- Women are treated as second class citizens.
- Statelessness of children.
- Difficulties in transferring property.
- Deprivation of the right to choose residency.
- Deprivation of employment opportunities.
- Restriction on mobility.
- Deprivation of the right to family.
- Depression and feelings of inferiority.

Impact of Discriminatory Property Laws

- Economic dependency.
- No access to resources.
- Daughters considered as liability.
- Other psychological effects.

Impact of Discriminatory Provisions Relating to Trafficking and Sexual Abuse

- Difficulties of residence.
- Difficulty to marry.
- Disturbance in marital relationship.
- Deprivation of education and health facilities.
- Lack of medical care and rehabilitation.
- Feeling of insult/inferiority complex.
- Non-recognition of children of trafficked women.

Impact of Discriminatory Education Laws

- Deprivation of education.
- Deprivation of foreign scholarship/education.
- Low participation in politics and employment.
- Low social status.

Impact of Discriminatory Employment Laws

- Deprivation from foreign employment
- Restriction in various employment
- Discrimination on wages/remuneration
- More dependency

Impact of Discriminatory Provisions on Health Including Reproductive Health

- Unsafe abortion.
- Expensive abortion and difficult service.

- Arrest of women only.
- Effects on productivity of women.
- Against prestige/social impact.

Impact of Discriminatory Laws on Marriage and Family Rights

- Encouragement for bigamy and polygamy.
- Deprivation of guardianship.
- Domestic violence.
- Dowry.
- Deprivation of education.

Impact of Discriminatory Laws on Legal Procedures and Court Proceedings

- No confidence in women.
- Confined to household work.
- Denial of social recognition.
- Continuance of patriarchal system.
- Non-recognition in public sphere.

State Accountability and Obligation to Eliminate Discriminatory Laws

- Right to equality.
- Non-discrimination on the basis of sex.
- All laws inconsistent with the constitution, ratified human rights conventions, to be declared void.
- Eliminate the social and economic inequalities among citizens.
- To amend discriminatory legal provisions.
- Equal rights of marriage and family rights.
- Equal rights to nationality.
- Reproductive health rights.
- Right against exploitation.

Court Advocacy

- Court Advocacy through PIL using CEDAW Convention.
- Training of IWRAP facilitated for court arguments.

Court Decisions

- Daughters are discriminated against in inheritance property rights.
- Double standard language of court decisions.
- Feared about the possibility of creating dual property for women.

Resistance to Implement Court Decisions

- Raising the question on separation of powers.
- Political parties and parliamentarians only concerned about votes.
- Different level of resistance from different parties (more resistance by ruling party and communal parties).
- Do not want to take any risk or criticism.
- Delay in submission of bills.
- Contempt of court filed by FWLD.
- Submission of bills.
- Gaps in bills.
- Large number of amendment proposals by parliamentarians.
- Alternate bill/amendment proposal by civil society.
- Lobbying and advocacy to political parties/ MPs/sister organisations.

Negative Arguments

- Disturbance in social structure.
- Increase the number of cases.
- Increase number of divorces.
- Land fragmentation.
- Only rich girls will get married.
- Disturb relationship between brothers and sisters.
- Son-in-law will take the property.
- Property will go to foreign country.
- Women cannot manage the property.
- Dual property.
- Will system is appropriate.

An Advocacy Kit for Equal Property Right

- Discriminatory laws.
- Impact on women.
- Bill and property rights.
- Gaps in the bill.
- Amendment proposals.
- Arguments.
- Study/research.
- Political commitment.
- Reforms required.

B.5. Presentation – Violence Against Indigenous Women

By Vernie Yocogan-Diano, Innabuyog, Philippines

Land is Life!

Indigenous women, like other women in the Cordillera, Philippines and in Asia suffer from different forms of violence, in the homes, farms or agricultural fields, work and public places. These forms may be physical, emotional and psychological violence as well as economic and political. Innabuyog's long experience on women's rights and welfare affirms that violence happens to women because existing power structures — led by the state, by the forces of globalisation and their corporations — create injustices and biases against women. It is also these structures which perpetuate feudal-patriarchal and commercial world views on women which make women vulnerable to abuse and violence, being seen as private property of her husband or partner, subordinate to men, to take care of children and do housework, and a mere extension to men's work. Commodification of indigenous women includes making her an attraction for tourists and as a dollar earner when she is forced to do overseas work to ensure the survival of her family.

What makes VAW distinctive for indigenous women is the violation of our ancestral land rights as these rights are the central basis for asserting our right to self-determination as a distinct people. Our ancestral land rights are the basis of our economic, political and socio-cultural survival. Our ways of life are very much interconnected with the land — hence our survival motto, Land is Life. Right to self-determination for us indigenous peoples is having control over our ancestral territories and all resources therein and defining our own path of development. Our indigenous systems continue to exist because we have asserted our ancestral land rights and self-determination. On the other hand, disintegration is happening because of impositions made by states and of imperialist structures wanting to grab our land and resources and integrate us into the whole system of imperialist globalisation.

What Alienates us from our Ancestral Land Rights?

In the Philippines, the legal concept being used by the state to alienate us from our ancestral land rights is the Regalian Doctrine which is an imposition since the Spanish colonisation. The Regalian Doctrine gives the state the power over ownership and control of land and natural resources. National laws and policies were crafted based on this concept, a big deviation and contradiction to the indigenous concept of land ownership and control which is communal, and use and development is never a monopoly, but meant for the common good. "Adi tako bukudan di

gawis" (don't monopolise the good) as we Kankanaeys of Sagada, Mountain Province say it. Such concept of sharing the common good is also seen in the practice of *innabuyog*, *ub-ubbo*, *alluyon* and *binnadang*. These are practices of Cordillera indigenous peoples of cooperation, exchange-labour and mutual support especially in times of crises. These practices are stronger among indigenous women. Such practices are common not just among indigenous peoples in the Cordillera but also among other IPs in Asia.

In this era of imperialist globalisation, indigenous women in the Cordillera, Philippines, face two attacks on our ancestral land rights and right to self-determination. One is the aggressive implementation of Philippine Mining Act of 1995 (PMA 1995) and the other is the implementation of the Human Security Act (HSA) or anti-terror law in the Philippines. The PMA 1995 is a product of the World Bank's call in the early 90s for mining liberalisation. Some 72 countries, including the Philippines, responded immediately by enacting national mining laws and policies, and harmonised their national laws and policies to get rid of legal hindrances to enable full implementation of mining laws and policies. Almost all mineral rich-countries from the developing world responded to the WB's call of liberalising the mining industry.

For indigenous women and their communities in the Philippines, the mining liberalisation programme is one development aggression that is leading to ethnocide. 66% of the land area of the Philippines is covered by existing and new mining operations, most of which are located in ancestral territories of indigenous peoples. Of the 24 mining priority projects of the Arroyo government, 16 are located in ancestral territories of IPs. This form of development aggression definitely brings different levels and forms of violence against indigenous women. Foremost to be affected are the indigenous peasant women who face displacement from their lands and communities by mining operations and applications. Our agricultural production is destroyed by toxic and chemical poisons from mining companies. The destruction caused is far-reaching: it does not only affect the surrounding communities but also those downriver from the mining operations since the companies dump their toxic wastes in river or water systems.

Our experience with the Lepanto Consolidated Mining Corporation (LCMC), located in Mankayan, Benguet province, tells of wide-ranging physical, psychological, and economic impact ranging from the villages of Mankayan to the communities and areas that the Abra river passes through until its exit to the South China Sea. (The Abra river has been used by Lepanto to dump the waste from their mining operations.)



The violence against indigenous and peasant women along the Abra river and Mankayan, including mining expansion areas in Mountain and Ilocos provinces, is enormous. In terms of agriculture production, the pollution of Lepanto Mining Corp has caused a 30% reduction in rice production in Cervantes and Quirino areas. For a community previously known to be the rice granary for a much larger sub-region, the yield drops are attributed to several reasons: siltation of the rivers, deterioration of soil quality, stunted growth, diseased plant varieties. All of these come as a result of pollution from the Lepanto mine tailings. The cropping area has been reduced by as much as 50% as the sediment of thick, black or cement-like soil continuously piles up in the middle of riverways, thus forcing the water to flow into the cropped sections of the flatlands. The growth of rice stalks became stunted, those grown in heavily polluted ricefields don't grow at all or they turn yellow instead of getting robust. In addition, both vegetable and fruit production have fallen significantly. Mine pollution is indeed a big threat to the communities' food security and hunger is expected to intensify. The impact of the mining pollution is also seen in the health of the people. Some pregnant women underwent abortion.

There were also suspected cases of birth defects like cerebral palsy, dwarfism and development delay. Women who spend longer time in the rice fields irrigated by polluted water from the mines suffer from skin diseases and irritations. Hence, children are prevented from taking their baths in the river. Respiratory diseases are common due to the inhalation of fumes from the polluted Abra river. Animal lives are endangered when they drink from the Abra river. Aquatic life has dwindled significantly. For the local people, these are additional food resources that support their food security and sustenance. These difficult conditions also force women to migrate

sometimes overseas for economic reasons, a condition that makes them vulnerable to different forms of abuse and exploitation.

In a wider sense, mining as a concrete form of development aggression imposes greater violence against indigenous women. We are displaced from our major role in sustainable agricultural production, conservation of resources and subsistence food production. We are displaced from our role as holders of traditional or indigenous knowledge including medicine and passers of that knowledge to future generations. We are displaced from our role of selecting the best seeds for the next crop to ensure that traditional crop varieties will not perish. Mining as a form of development aggression disintegrates our indigenous socio-political structures or systems that enable mutual support and pursues community integrity which includes the protection of women and children from various forms of violence. Most indigenous peoples' groups are traditionally feudal-patriarchal, but it also a taboo or a big social offence among indigenous peoples to commit disrespect and violence against women. High penalties are imposed for violators and natural protection is provided to women. Among the Bontok and Kalinga indigenous peoples in the Cordillera, Philippines, women traditionally sported tattoos for identification that you are a woman and that gives you protection during tribal wars. By tribal law, largely because of their role in reproduction, women should not be hurt or inflicted any harm during wars.

Military Might Always Accompanies Development Aggression

It is a historical experience among indigenous peoples that military might comes along with development aggression. Militarisation of the Cordillera began with the World Bank-funded Chico Dam projects and with the logging operations of the Cellophil Corporation. Both were stopped by strong people's resistance. Militarisation and political repression is obviously done by the state to suppress peoples' resistance and provide security for development projects.

The president of the Philippines, Gloria Macapagal-Arroyo, has set up an anti-insurgency military plan, Operation Bantay Laya (Freedom Watch) in 2001. The big problem with this operation is that the Arroyo government and its military generals do not make a distinction between legal organisations and armed revolutionary organisations. The death squads that the regime created went after leaders of legitimate progressive peoples' and women's organisations and political parties. As of August 2007, there are 869 victims of political killings. The killings continue, though to a lesser degree, despite strong international and domestic criticism and pressure.

The Indigenous Peoples Human Rights Watch, an independent network of human rights organisations for IPs in the Philippines, says that there are 130 IPs who are victims of the Arroyo government's political killings from 2001 until June 20, 2007. Of these, 13 are indigenous women, 17 are children who got killed in massacres and in the course of mass evacuation. These leaves around 100 widows and hundreds of orphans. The victims are leaders, members and supporters of indigenous peoples' organisations and struggles against mining and other land rights related issues.

Prof. Rodolfo Stavenhagen, UN Special Rapporteur on Indigenous Peoples Rights, in his mission report on the Philippines in December 2002 and February 2006, underlines the continuing militarisation of indigenous territories in furtherance of development aggression. Prof. Stavenhagen raised that intensified militarisation has resulted in family and community disintegration, human rights violations and hardship.

Having said all this, the Arroyo government may go after me or my organisation, using the Human Security Act as a basis. Acts of dissent and any legitimate protest or statement is an act of terrorism in the eyes of the HSA.

To summarise, violence against women is, for indigenous women in the Philippines and in Asia, essentially a violence perpetrated by the state.

Our hope for this consultation:

It is the hope of Innabuyog and BAI, along with other indigenous women's organisations in Asia, to have their issues in relation to violence against women included in this consultation and in other gatherings where violence against women is being discussed. As indigenous women asserting our land rights and our right to self-determination, it is our hope that our perspective is heard, our definition of violence against women is considered. We do look forward that this consultation will help in advancing our concerns and struggles as indigenous women as this is our contribution in the liberation of oppressed women from all forms of violence and discrimination.

B.6. Presentation – Trafficked Women and their Reproductive/ Sexuality Rights

By Wathshlah G. Naidu, IWRAW Asia Pacific, Malaysia

Trafficking: Definition

- The UN Special Rapporteur on Violence Against Women (2000)

“Trafficking in persons means the recruitment, transportation, purchase, sale, transfer, harbouring or receipt of persons:

- (i) by threat or use of violence, abduction, force, fraud, deception or coercion (including the abuse of authority), or debt bondage, for the purpose of:
- (ii) placing or holding such person, whether for pay or not, in forced labour or slavery-like practices, in a community other than the one in which such person lived at the time of the original act described in (i).”

Subsection (i) of the definition covers all persons involved in the trafficking chain: those at the beginning of the chain, who provide or sell the trafficked person, and those at the end of the chain, who receive or purchase the trafficked person, hold the trafficked person in forced labour and profit from that labour. Criminalising the activities of all parties involved throughout the process of trafficking would facilitate efforts to both prevent trafficking and punish traffickers.

- Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children

“the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person for the purposes of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.

Clear distinction between migration, people smuggling and trafficking

- Migration is where a person moves from one country to another. It can be by legal or illegal means and it can be either voluntary (with the consent of the person migrating) or forced.
- Displacement of persons (IDPs/asylum seekers/refugees) and trafficking are examples of forced migration.
- Smuggling is the transport of a person (with their consent) to another country through illegal means.
- The core elements of Trafficking:
 - a) movement of a person
 - b) with deception or coercion
 - c) into a situation of forced labour, servitude or slavery-like practices.

Many trafficked persons voluntarily migrate but end up being trafficked.

Human Rights and Trafficking in Persons: A Handbook by Global Alliance Against Traffic in Women, 2000

Reflection

- Need to question the definition of trafficking that we are using and who we mean by 'trafficked women'. The difference between 'trafficked' and 'migrant' women is the element of 'coercion' and 'exploitative' nature (whether or not the migrant women are there legally or illegally).
- However, migrant women leaving their country of their own free will can also be trafficked women if they are then forced into situations upon arrival which are exploitative.
- E.g.: Domestic migrant workers who then face exploitative conditions and treatment at the hands of their employer.
- Trafficked persons are then in a situation of being in a country where they are not accorded basic rights and in fact their undocumented and unrecognised status adds to their vulnerability.

Political Economy of VAW

It is evident that due to globalisation, rise in fundamentalism, conflict and militarisation and even in peaceful nations the space for economic empowerment within the country is limited, people

are being displaced and organised transnational movement is taking place due to the following reasons:

- globalisation (maximisation of profits) – free trade, labour movement, deregulations and privatisation, deforestation, reduced trade
- poverty and unemployment – informal sectors
- demand for services – sex trade/tourism, domestic labour, entertainment, agriculture, and industries (garment)
- states lack of commitment to its obligations – lack of social and economic support for women, lack of information, corruption and complicity of government officials
- conflict and peace building – internal/external displacement, lack of concrete measures to ensure the socio-economic development of women
- fundamentalism – societal perception of women

Disinterested Sending State

- It can be construed that the State is 'disenfranchising' its own citizens.
- Often benefiting economically through the money (remittance) sent back to families (in some countries, e.g., Nepal, it forms a significant percentage of annual GDP)

Disinterested Receiving State

- Benefiting economically from the services provided by the trafficked women within their borders
- Yet the States grant them no legal status/rights and goes further in denial and continues erosion of their rights
- E.g.: right to autonomy with regards to reproductive rights (e.g., contract between Indonesian and Malaysian governments: migrant worker not allowed to get pregnant during her term of employment)

Reflection

- How are States interacting with each other in ensuring the protection and recognition of rights of the people?
- E.g.: Malaysia and Indonesia. MoU signed on the issue of migrant domestic workers. They are forced to work long hours despite the promises made at the initial stage. No control over the contract signed between the employer and the recruitment agency. Passports are retained by the employers. Abuse and violence is rampant. Trafficking?

Sexual and Reproductive Autonomy of Trafficked Women

- What are the contentious issues?
 - i) Increased vulnerability of trafficked women to violation of their sexual and reproductive rights because of:
 - lack of mobility
 - vulnerable/exploitative relationships with employers
 - lack of autonomy, no room for negotiation
 - no access to contraceptives
 - no legal status, fear of reprisal, arrest, detention, deportation etc.

E.g.: Results in violations of their sexual autonomy, denial of reproductive rights, forced pregnancy, forced abortion, etc.

- ii) Complete lack of access to services because:
 - no legal status
 - denial of rights to mobility
 - language barriers
 - lack of knowledge of how/where to obtain help, etc.

Results in violation of rights to health, life, mobility, etc.

- iii) Complete lack of access to justice in cases where their rights have been violated – failure of legal system, violation of right to remedy, etc.
- iv) Intersectionality of discrimination
 - Intersections of discrimination because of women's myriad identities.
 - It is not only the fact that they are women and trafficked but a whole range of other factors such as their minority status, ethnicity, nationality, identity, will have to be explored and addressed.

Legal Standards

- i) Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children
 - current protection for trafficking
 - comprehensive definition
 - emphasis still on criminalisation
 - effects on women – tighter border security (adding

to the vulnerabilities), tighter immigration sanctions, criminalisation of those who enter without force but are later victims of forced labour/prostitution

- ii) National legislations
 - Cambodia – Recently reformed its 1996 Act on Trafficking to include sanctions against offenders and protection for victims
 - Indonesia – Crime of Trafficking in Persons, 2007
 - Philippines – Anti-Trafficking in Persons Act, 2003

Tighter immigration and anti-trafficking laws adds to the vulnerability of women as traffickers find more creative means and channel of trafficking

- iii) Asylum procedures
 - Guidelines on International Protection: The application of Article 1A(2) of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees to victims of trafficking and persons at risk of being trafficked, April 7, 2006.
 - Drawback – pull factor
- iv) Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)
 - CEDAW committee is of the view that not only is trafficking in women is a form of discrimination but it is the various forms of discrimination against women which makes them vulnerable to trafficking.
 - A full range of provisions within CEDAW can be used to identify the rights violated and remedies available in addressing the issue of trafficking holistically.
 - Principles of non discrimination and equality
 - Articles 1-5: any form of discrimination which makes women vulnerable to trafficking is to be eliminated. All forms of protection should ensure the protection of women and not further violation of their rights (affecting the freedom of movement), decriminalising of the victim,
 - direct and indirect discrimination
 - appropriate measures to be taken to combat trafficking
 - state obligations

- Article 6: Suppression of trafficking and exploitation of prostitution of women
- Articles 7-16: Addressing substantive issues related to rights of trafficked women
- General Recommendation
- Concluding Comments
- Optional Protocol

Issues for Discussion/Reflection

- Should the focus be in ensuring redress in the receiving country or reintegration in the country of origin?
- Should we advocate for more bilateral or multilateral agreements to combat trafficking or should the focus be more in addressing the root cause of women being coerced, deceived and trafficked? The state's focus on creating enabling conditions within their own country to reduce trafficking or ensuring the rights of their citizens residing in whichever country is protected?
- To what extent will strategies or policies implemented to prevent trafficking reduce the freedom of movement of its own citizens? For example, the Foreign Employment Act, 1985 of Nepal which restricts the rights of women under the age of 35 to travel abroad to work unless accompanied by a male relative or only with the consent of a guardian.

B.7. Presentation – Updates on the Case of Filipino ‘Comfort Women’

By Susan D. Macabuag, Asian Centre for Women’s Human Rights, Philippines

Wars are fought for many reasons; yet, frequently, the rationale for fighting wars is presented in gendered terms such as the necessity of standing up to aggression rather than being pushed around or appearing to be a sissy or a wimp. War is a time when male and female characteristics become polarised; it is a gendering activity at a time when the discourse of militarism and masculinity permeates the whole fabric of society.⁷⁹

War is central to the process of carving out political spaces and identities. War has been understood in social and political terms, resulting from social conflict and intimately connected to constructions of national identities and the pursuit of ‘national interests’. However, feminist thinkers have argued that this process of constructing identities and boundaries can be seen as one manifestation of an underlying psychosexual drama in which masculinity is forged, affirmed and reaffirmed.⁸⁰

War is an inherently patriarchal activity. The violence inherent in the culture of war and the use of rape as a weapon of war are by-products of patriarchy. The logic of war encourages the perpetrator to see women as objects of aggression, especially because women are easy targets of abuse and violence. Sexual violence and rape can be used as a strategy of war or repression to destroy the dignity of women and thereby demoralise, humiliate and punish the male enemy. Women are thus twice victimised: once as civilians caught in the crossfire and a second time because they are a conduit to the ultimate subjugation of the male enemy. The expression “rape and pillage” to describe acts of military aggression aptly portrays how this has become an expected, indeed an essential, part of the culture and violence of war. In her book entitled “The Impact of War on Women”, Jean Vickers states that:

“Rape in war and civil disturbance seems endemic. In counter-insurgency operations, government soldiers use rape and sexual abuse to try to extract information from women suspected of involvement with the armed opposition or even to punish women who simply live in areas known to be sympathetic to the insurgents. Official failure to condemn or punish rape gives it an overt political sanction, which allows rape and other forms of torture and ill treatment to become tools of military strategy.”

79 Man, The State and War’, Gender in International Relations, J. Ann Tickner.

80 ‘The ‘Warrior Hero’ and the Patriarchal State’, Gender and International Relations, Jill Steans.

The Filipino ‘Comfort Women’

During the Second World War, the Philippines, a colony of the United States of America, was a bone of contention for territorial expansion between Japan and the United States. As early as 1905, the United States already feared that Japan might eventually seize the Philippines. In fact, the Taft-Katsura agreement of 1905 and the Root-Takahira agreement of 1908 accepted Japan’s paramount interest in Korea and Southern Manchuria in exchange for recognition of American supremacy in the Philippines. These agreements were a reflection of the opinion that the Philippines Islands would be indefensible in the event of war with Japan. Japan, however, highly dependent on the United States for raw materials vital to her economy and military needs, suffered economic restrictions imposed by the U.S. The restrictions escalated into an embargo in 1941. In order to reduce her dependence on the United States, Japan began to consider ways to seize Manchuria and to advance into Southeast Asia. In fact the underlying concept of Japan’s Greater East Asia CoProsperity Sphere was to impose economic rule over Southeast Asia. In mid-1941, U.S. President Franklin Roosevelt closed the Panama Canal to Japanese shipping and froze all Japanese assets in the United States. Hence, an all-out war against the United States appeared to be the only way out for Japan to break the impasse. The Philippines, was made an arena of war between Japan and the United States.⁸¹

To thousands of Filipino women, the Japanese occupation was a harrowing experience of rape, torture, mutilation and extermination. The Japanese Imperial Army led, planned, organised and instituted the establishment of facilities for sexual slavery, euphemistically called “comfort stations”, in various parts of the country. These facilities were set up pursuant to a policy to provide members of the Japanese military a steady supply of women for their exclusive sexual enslavement under controlled conditions that provided the least risk to their fighting capacity, i.e., without venereal and other contagious diseases and safe from public leakage of military information that may be occasioned by contact with the population in circumstances other than those of military operations.

Pursuant to and consistent with this policy, Filipino women were made sexual slaves either in (a) establishments directly established by or under the supervision and control of the Japanese Imperial Armed Forces, or (b) in Japanese-occupied residential houses, buildings, tents and other structures either within or attached to the premises of a garrison or officer’s quarters found in geographical areas within the control of the Japanese forces. In

81 Background, Indictment, Philippine Prosecuting Team, Tokyo Tribunal 2000.

all these places, women were confined and deprived of liberty, repeatedly and brutally raped, sexually exploited, and often, under duress, coercion and other threats to life and limb, made to provide their enslavers with domestic and manual labour.

Despite these wanton atrocities, the crime of sexual slavery, planned, organised, facilitated, maintained, controlled, exploited and committed by the Japanese Imperial Armed Forces went unnoticed in the war crimes trials after WWII. Neither were the massive rapes committed in the various areas adequately reported, investigated and prosecuted in the IMTFE and other war crime trials after WWII.

Without an appreciation and understanding of the nature of rape as a form of gender-based abuse that wrought long-term physical, moral and psychological damage and harm to women victims, the crime of rape was not acknowledged in all its gravity, at par with other crimes that were prosecuted in the trials. More significantly, the omission of sexual slavery from all the trials after WWII rendered this crime invisible in international law. This effectively silenced the women victims who, without legal and social protection and support, had to bear the burden of their agony and pain in shame and isolation.⁸²

‘Breaking the History of Silence’

‘In the early 1990s, women broke almost five decades of painful silence to demand apology and compensation for the atrocities they suffered under Japanese military sexual slavery in the 1930s and 1940s in the Asia-Pacific region. Together, they have awakened the world to the horror of the Japanese military’s institutionalisation of rape, sexual slavery, trafficking, torture and other forms of sexual violence inflicted upon girls and women.

The courage of these survivors has inspired other victims of sexual atrocities to speak out about the crimes committed against them. Human rights advocates, lawyers, and scholars worldwide have mobilised to seek justice. In an extraordinary way, the ‘comfort women’ have contributed substantially to the emergence of a larger global movement to recognize and respect women’s human rights, to end impunity for crimes of sexual and gender violence and to repudiate the notion that sexual abuse of women is an inevitable consequence of war and conquest.’

—*Introduction and Background of the
Proceedings;
Judgment, The Women’s International
War Crimes Tribunal*

Solidarity Actions

It has been 19 years since the first known 'comfort woman' from Korea, Pae Bong-Ki, spoke of the atrocities she suffered from the Japanese military during its colonisation of Korea. In August 14, 1991, Kim Hak Sun from Korea filed a lawsuit before the Tokyo District Court for damages and compensation. This inspired not only Asian victims from the Philippines and Taiwan but also a victim from Holland, Jan O'Herne to testify to the military sexual slavery by Japan. Since then the victims of Japanese sexual slavery and Asian women have worked with international NGOs, the United Nations and other related international standard establishments.

Thus:

- In February 1992, the 'Comfort Women' issue was raised at the United Nations Commission on Human Rights on Contemporary Forms of Slavery as well as before the UN Sub-Commission on the Prevention & Discrimination and Protection of Minorities as well as at the UN Commission on Human Rights;
- In August of 1993, the UN Sub-Commission on the Prevention and Discrimination & Protection of Minorities appointed a special rapporteur, Ms. Linda Chavez, to undertake an in-depth study on the situation of systematic rape, sexual slavery and slave-like practices during war time;
- In September 2, 1994, the International Commission of Jurists (ICJ) sent a mission to the Philippines, the Republic of Korea, the Democratic People's Republic of Korea and Japan to study the issue of the former 'comfort women';
- In February 1996, Ms. Radhika Coomaraswamy, the special rapporteur on VAW of the UN Commission on Human Rights issued a report which included recommendations to the government of Japan;
- In August 1998, Ms. Gay McDougall, special rapporteur on the issue of systematic rape, sexual slavery and slavery-like practice during armed conflict rendered her report at the 45th session of the UN Sub-Commission on the Prevention of Discrimination and Protection of Minorities;
- December 2000, the Women's International War Crimes Tribunal on Japan's Military Sexual Slavery

- July 30, 2007 – US House of Representatives passed House Resolution 121, sponsored by Rep. Honda, calling on Japan to apologise for WWII exploitation of ‘comfort women’.

Cases Filed Before the Japanese Courts

| Law Suit | Year filed | No. of Plaintiffs | District Court | High Court | Supreme Court | Remarks |
|-------------------------------------|------------|-------------------|----------------|------------|---------------|--|
| 1. Korean victims | 1991 | 9 | ○ | ○ | Rejected | |
| 2. Kanpu Case (Pusan comfort women) | 1992 | 3 | ○ | ○ | Rejected | District court ordered Japan to pay compensation |
| 3. Philippine case | 1993 | 46 | X | X | Rejected | |
| 4. Korean resident case | 1993 | 1 | ○ | ○ | Rejected | |
| 5. Dutch case | 1994 | 1 | ○ | ○ | Rejected | |
| 6. Chinese case (1) | 1995 | 4 | X | ○ | Pending | |
| Chinese case (2) | 1996 | 2 | ○ | ○ | Pending | |
| 7. Shanxi case | 1998 | 10 | ○ | ○ | Rejected | |
| 8. Taiwan case | 1999 | 9 | X | X | Rejected | |
| 9. Hainan Island case | 001 | 8 | ○ | Pending | | |

NOTE: ○ – Facts established X – Facts not established

In the Philippines, Atty. Harry Roque filed a petition with the Supreme Court of the Philippines for the Malaya Lolos of Mapanique, Candaba, Pampanga, Philippines for Preliminary Mandatory Injunction against Respondents, Secretary of Foreign Affairs, Secretary of Justice and the Solicitor General, requiring the Respondents to espouse Petitioners’ claims for official apology and other forms of reparations against the State of Japan before the International Court of Justice or other International legal forums or tribunals. The case filed on March 8, 2004 is still pending at the Supreme Court of the Philippines.

On December 12, 1991, the Japanese government initiated an investigation upon the request of the government of the Republic of Korea. On January 13, 1992, Chief Cabinet Secretary Koichi Kato expressed “deep remorse” and admitted for the first time that the Japanese Imperial Army was in some way involved in the running of comfort women facilities. On August 4, 1993, Chief Cabinet

Secretary Yohei Kono officially acknowledged the involvement of the Japanese military authorities in the establishment and management of the comfort stations and the transportation of comfort women. On behalf of the Japanese government, he offered sincere apologies to all the victims and declared the firm determination never to repeat the same mistake.

On July 19, 1995, the Asian Women's Fund was established. The fund is an atonement project by Japan for those who suffered as "wartime comfort women" and survived as of that date. The source of the fund was donations by private citizens of Japan. The former 'comfort women', the advocates and other organisations criticised the AWF as a way of evading their legal responsibility and admission of the crimes and atrocities the Imperial Army had committed against the women of Asia.

In December 2006, the Deputy Chief of Cabinet Secretary and the Chair of the Policy Research Council of the Liberal Democratic Party announced that the Kono statement needs rethinking. The plan was to propose the revision of the government's position with an eye to annulment of the official apology. The move is a conspiracy to deny Japan's responsibility over the 'comfort women' issue.

Conclusion

To the victims of military sexual slavery by Japan, the years have not diminished the pain, the bitterness and the anger as they believe they will never see justice being done — they have suffered and are still suffering.

More aggravating is how society in general looks/treats women victims of war, particularly women victims of rape in war. Again and again, the former 'comfort women' have told us how they were ostracised by their families and their community. A number of them never married, as they were afraid to relate intimately with the opposite sex. Some did but failed to have a peaceful and satisfying married life. In silence, the women blamed themselves while their oppressors continued with their lives unhampered by guilt or prosecution by society. And the practice of victimising women in times of war continues to this day.

B.8. Presentation – The Political Economy of Violence against Women: The Case of the Women Farmers and Women Agricultural Workers in Mindanao⁸³

By Teresita Vistro, AMIHAN / National Federation of Peasant Women, Philippine

The scope of the discussion of the situation of women farmers and agricultural workers as it relates to women human rights includes women's relation to the means of subsistence necessary for satisfying her own material needs and that of her family and how her access to these are affected by the policies of neoliberal globalization. It basically describes their access and control to the means of production and the way they enjoy the fruits of their labor. Included as well are the "socially necessary labor" uniquely performed by women, without which the production of the means of subsistence in a given community would not be made possible.

In the Philippines, participation of women in the production of her basic material needs, her family and that of the community is significant, yet this is not recognized. Government statistics continue to hold on to a patriarchal lens which renders the women invisible in the productive sphere. This is best exemplified with the common notion that: "The farmer is a male" or "She's a mere housewife." The result is that in 50 per cent or more of farm employment, women work as unpaid family labor. Data shows that for every peso that a man earns, a woman from the agricultural, forestry, and fishery sector earns Php0.36.. Women farmers supply 80-85 per cent of the labor in rice and corn production as unpaid family labor. Women play a significant role in agricultural production in all crop areas.

Export extensive production generate high demands for young female labor, but paid returns to labor is minimal aside from the work tenure insecurity and exploitative work conditions.

⁸³ The data used in this paper were drawn from unpublished materials of (BUGAS) Babaye sa Uma Gidaug-daug Andam sa Pagbarug (Stand Up Oppressed Rural Women), the provincial chapter of AMIHAN, in the province of South Cotabato, Mindanao and Kilusang Magbubukid ng Pilipinas (Peasant Movement of the Philippines)

Trade liberalization and privatization of basic services tend to exacerbate the basic exploited condition of women as they perform work in the formal and informal labor and in the households.

Trade liberalization results to the loss of farm livelihoods due to unfair competition with cheap imported products and the lack of domestic support from the government. The frenzied efforts of corporations to produce agricultural products for exports also results to massive dispossession of farmers lands, resulting to loss of food security of the community down to the household

level. This further increases women's burden in the home. Violence against women (VAW) as a framework in this paper, primarily focus on violations of women's rights as a result of the denial of access to the means of production or subsistence, economic exploitation, and discrimination.

Privatization of basic services increases the burden of women. Women perform the task of taking care of the health of peoples, as mothers, wives, domestic helpers, whether paid or unpaid. When governments fail in providing health services, the women are the default providers, and this increases the household work load of women, the financial burden on women and increases as well emotional stress.

In the proposed 2008 Philippine national budget, for every peso in the budget, only 17 centavos go to health, education and housing services of the government. On the other hand for every peso in the budget, 50 centavos is allocated for total debt servicing. (Ibon Foundation, September, 2007)

It is in this background that this paper discusses the situation of women farmers and women agricultural workers in the island of Mindanao.

Mindanao In Perspective

Mindanao through history was developed as a major source of agricultural products for export, for the extraction of mineral resources and the intermediate processing of raw materials for export.

Under this development framework, the fate of the island was made dependent on the export of selected specialized products for the world market, making the people of Mindanao especially the peasants and indigenous people, dependent on the ups and down of the world market for these export crops and the corresponding government policies. If market for pineapples is good, there is work and food for the people; if there is slump, there are cut-backs in the production, streamlining, and retrenchment in the operation of these agricultural farms, deprivation and hunger ensues in the island.

At its worse face, this is an economy grounded on the basis of land expropriation, wasteful and unsustainable use of the land and other natural resources, of the destruction of land frontiers and forests, destroying communities and ancestral lands of indigenous peoples and peasants As it has destroyed lands devoted to the basic production of food, it has likewise destroyed

and put in danger the food security of people in Mindanao. Del Monte Philippines first set foot in Mindanao in Bukidnon in 1918. Today, almost all provinces in Mindanao are home to various farms and plantations with one or two specialized agricultural product: rubber in Zamboanga and North Cotabato, pineapples in South Cotabato, Saranggani and Bukidnon; bananas in the provinces of Davao, Compostela Valley, Maguindanao and South Cotabato; papaya in South Cotabato; mangoes in Davao del Norte and Davao del Sur; palm oil in Sultan Kudarat, Maguindanao and Agusan del Sur; asparagus in Saranggani; and mahogany in Surigao del Sur. From an initial 4,234 hectares that was put into cultivation in 1918, it is estimated that today, the lands occupied by these corporations run to about 600,000 hectares, a rough 14 per cent of the total 4.3 million hectares of agricultural lands in Mindanao. This does not include lands and frontiers opened for mining explorations and mineral extractions and logging covering thousands of hectares.

Mindanao which used to be the home of various tribes of indigenous people living peacefully in the islands is now known as the home of Del Monte, the biggest agribusiness TNC. These corporations are huge economic enclaves, scattered in various provinces of the island, imposing their domination not only economically but also politically; these are like sovereign territories impervious to Philippine labor and agrarian laws.

The peaceful operations of agribusiness TNCs and plantations in Mindanao, is assured with the presence of state security forces including US military forces. In addition, the military is used for clearing operations for the entry of TNCs in mining exploration sites as well in plantation expansion. Indeed, Mindanao is the most militarized area in the country.

Mindanao was tagged as a third front in the US war on terror in Asia and is the location of its foremost mobile base, for the US-Philippines military exercises under the Visiting Forces Agreement between the government of the United States and the government of the Republic of the Philippines.

Massive human rights violation has been a trend in the island. For the year 2005-2007, leaders of people's organizations have become victims of extrajudicial executions. Other forms of human rights violations such as forced evacuations, illegal arrests, enforced disappearances of leaders and members of people's organizations, have been committed as well.

In the recently launched war against the terrorist group Abu Sayaf, the rural areas and peasants and indigenous peoples in the provinces of Basilan and Zamboanga are the frontline casualties: sources of livelihood are wrecked, production disrupted, massive evacuation of families in school houses and centers with no secure food sources, with poor sanitary facilities and limited sources of water.

The gross value of the assets of these corporations has enormously grown through the years. From P10 billion in 1972, the gross value assets of these corporations have increased to a hefty P400 billion, almost equal to the Philippine national budget in 2000.

About 40% of agricultural production of the country is from Mindanao, while from 2002, the island contributes 17.7 percent of the country's GDP.

Such prosperity heaped by these TNCs and the huge people's contribution to the country's overall output, did not correspondingly result in the increase of income and improvement of the lives of the people in Mindanao. It has instead returned to them in the form of lower wages, lower prices of their products and lowered rent to their lands if not expropriation of their lands, hunger and deprivation.

The rate of poverty even according to government estimates is high in the island. According to the National Statistical Coordination Board (NSCB), based on the 2003 census, the following are the rates of poverty in the four major regions in Mindanao: CARAGA: 54.2, ARMM: 53.1; Western Mindanao: 49.4; Northern Mindanao: 44.3

Independent estimates even place the rate of poverty in the island at 60%. Of the 20 poorest provinces in the Philippines, nine are in Mindanao: Maguindanao, Sultan Kudarat, Lanao del Sur, Surigao del Sur, Zamboanga del Norte, Basilan, Sulu, Saranggani, and Zamboanga Sibugay. Also according to the NSCB, 35% of the people in Mindanao are not able to eat three times a day.

Island wide the percentage of families below food threshold was higher in the rural areas than in the urban areas with 27.01 percent in the rural areas compared to 14.73 in the urban areas of Mindanao. Compare this to the national average which was 25.6 in rural areas and 7.2 in the urban areas. Poverty headcount is 56.66, higher than the national average of 40 percent.

Under 5 years mortality rate is 76 per 1,000 live births as compared to the national average which was 52.4 in 1998. Maternal mortality

rate is 1.03 per 1,000 live births, compared to the national average which is 0.6 per cent national average.

Proportion of households with access to potable water in the island was recorded at 75.81 percent compared to the national average which is 76.3 per cent.

The situation of agricultural workers in Mindanao

Most of the agricultural workers work in the commercial farms and plantations. They usually do not own lands.

In the mid nineties, contract growing was one of the schemes designed to expand the scope of lands controlled by the TNCs, while at the same time freeing them from labor and land dispute problems.

With this scheme, the commercial farms and plantations no longer hire agricultural workers on a regular basis. The contract growers provide most of the products, and the commercial farms merely buy the produce from them, and perform largely the middle processing of these products which eventually are exported. Today, only 30% of the labor force of these commercial farms are hired on a regular basis, and the remaining 70% are mostly contractual or from labor outsourcing agencies and middle men. In the palm oil commercial farm in Tacurong, Sultan Kudarat, of the 900 workers, only 150 are regular workers, and the remaining 750 are contractuels.

This has resulted in a vast reserve army of unemployed, seasonal agricultural workers: men, women and children, competing over a limited number of jobs available in the TNC farms and contract growers' farms, ready to accept the most menial of jobs for pittance.

These workers are a sight, roaming around, usually in groups or in families, trying to find labor contractors who will hire them for specific work. They can be seen waiting at the gates of commercial farms waiting for the announcement of the availability of jobs, or as a replacement if a regular worker did not report to work. As such they only get jobs on a seasonal basis. This type of agricultural worker is the most numerous types. It is estimated that they comprise 3 out of every 5 agricultural worker.

There are also workers hired through labor outsourcing agencies. These workers enjoy benefits such as Social Security benefits, health insurance such as Philhealth, which are deducted from their daily wages. In Digos, Davao del Sur, P100 is deducted from the P234/day daily wage of the worker. In the pineapple

plantations in Polomolok and Tupi, South Cotabato, 3 percent is deducted from the worker's wage.

For those hired informally through individual labor contractors, a certain amount is deducted, but is not fixed because of the informal arrangement. Worse are the accounts that the labor hirer merely treats the worker to a drink of wine or a meal as a payment.

Wages vary for workers hired through labor outsourcing agencies and individual labor hirers, depending on the crops areas and the plantations. Those hired by individual labor hirers receive the lowest wages. If they work with growers, they get P130/day; if they work in plantations, they earn P193/day wage. In the palm oil plantations in Tacurong City, Sultan Kudarat, workers receive P109/day.. In the expansion areas of contract growing of pineapples, papaya and asparagus in Dole, Sarangani, P100/day is the usual wage, in the sugar cane plantations in Davao del Sur, P70-80/day.

If workers can not have access to this route in having work, they end up in *pakyawan* and quota systems. In the *pakyawan* system an entire work is contracted, for example, weeding, to a person or a group of persons. Only when the contracted work is done, that they get their payment. It is also only then that the members of the group get their share of the payment. And their share of the payment depends on the number of members of the group that contracted the work. This system is prevalent in the pineapple and sugar cane plantations.

In the banana plantations the most prevalent is the quota system where the worker is paid based on the work done.

The *pakyawan* system is the most exploitative. They have to bring their own farm tools and work hard to finish the contracted work, so that at the end of the day, they can get their payment. To finish the work they usually work more than 8 hours a day, from 7am to 5pm; they do not have breaks, and they only stop work at lunch time. Food is not provided. The workers commonly say: "we only stop when we already feel weak."

In the palm oil plantations in EMPOP, which hires 900 workers for the 1,200 hectares of palm oil, during harvest time, the company doubles the workers quota so the workers are obliged to work overtime to finish the work.

As they do not usually finish the work in the set time, they ask for cash advances to pay for their needs for food and other basic needs. There are also arrangements where they get credits from

local stores for their daily needs, and when they get their payment they pay the local stores. Usually nothing is left as all of their wages goes for the payment of their credit.

In the *pakyaw* system, the group that is contracted are usually families that include all able bodied members of their families, men, women, including small children who can already work.

There are noticeable for women only roles in these plantations. In palm oil plantations, the women are called loose fruiterers. They are the palm oil nut pickers. This is the only process in palm oil production that is open for women. They are usually paid P7.00 – P7.50 per sack of palm oil nuts.

In banana plantation women workers in the packing plant work (washing bananas and packing the bananas in containers ready for exportation.) the whole day. They usually are not allowed to sit while doing their work as this affects their efficiency.

Situation of Poor Farmers

There is a sizeable number of farmers who still own small parcels of lands which are devoted to the production of food for consumption or for the local market. These are the rice and corn farmers and local vegetable farmers.

Poverty and continuing difficulty for the farmers in making their lands productive is a major factor that pushes the farmers in entering into contract growing arrangements with plantation owners and agribusiness TNCs. The unabated increase in the prices of farm inputs, frequent insect infestations result to frequent crop failures. Added to this is the low price of their products. For all these difficulties that the farmers face, there is no support or subsidies from the government. In most cases also, the farmers are forced to go into credit arrangements with usurers lending money with percentages running as high as 10-15% per month.

This condition, coupled with an aggressive campaign of plantation and commercial farm owners, the local government, and the contract growers' cooperatives, to shift into the production of high value crops, including hybrid varieties of rice, drive many of these farmers succumb to the pressure. There are also practices by these plantations which leave the farmers no choice but to go with the bandwagon. Practices such as the dumping of pesticide wastes of these TNCs on the lands of these small farmers, that tends to destroy the lands. Their independence in deciding which crops to grow have become practically nil and they no longer have other recourse but to shift into chemical intensive farming and the production of high value crops.

Meanwhile land owners who have realized the folly of embarking into the contract growing scheme as they can no longer command a fair price of their products from commercial farms and plantations, and the depressed rent on their lands, have tied their hands into pursuing more profitable use and investments for their lands, find it now so difficult to shift the use of their into other endeavors.

In extreme cases, their lands are mortgaged to the plantation owners or to the banks, and which are eventually foreclosed with their failure to pay their debts.

So where are the women in this situation?

In the production of rice and corn, women's labor constitute 80-85 per cent.. In rice production, their work is usually in weeding, harvesting, threshing, transplanting, winnowing and fertilizer application. In corn production, from seeds selection, planting, weeding, harvesting and corn shelling.

With the relentless expansion of plantations eating up lands devoted for the production of staple foods, these skills of women, which have sustained production of food of people through ages are in danger of being washed away in oblivion.

In many of the areas organized by AMIHAN, those displaced from the lands are pushed into jobs which can hardly feed their family, and bereft of dignity: as house helps in the households, scavenging, seasonal workers, in marginal jobs in plantations as palm oil nuts pickers. They are usually paid from P7.00 to P7.50 per sack of palm oil nuts. In a day a woman can fill about 5-6 sacks of nuts giving her a measly earning of P35 – P40 a day pay.

Plantations generate high demands for young female labor, but paid returns to labor is minimal aside from the work tenure insecurity and exploitative and hazardous work conditions.

There are so called 'women suited' jobs in the plantations, and these are washing bananas and pineapples and packing them in carton/boxes ready for shipment or export.

In banana plantation women workers in the packing plant work usually are not allowed to sit while doing their work as this affects their efficiency.

Food Security at Risk

The unabated expansion of commercial plantation is putting the food security situation of the people in Mindanao. In South Cotabato, the number of hectares (35, 831 hectares) devoted for

the production of high value crops is almost half the combined the hectareage for rice and corn (80,000+), the staple food of the people. There is now a campaign to oppose the expansion of these plantations in Mindanao.. An excerpt from a position paper of BUGAS, one of the groups opposing the expansion of plantations, states:

“With the fast conversion of lands from the islands staple food of rice and corn into cash or export crops, our food security is at high risk. The government’s solution to this situation is importation of these staple foods as these are cheaper in the world market. What happens when crisis arise in the countries, we are importing rice from, and they can no longer sell to us these staple foods? It is not farfetched to think that the time will come, when our food for breakfast are pineapples and asparagus and bananas for lunch and dinner.”

Our Call

It is the assertion of this paper that violation against women as shown in the situation of women farmers and women agricultural workers in South Cotabato is not only failure of the government to protect the rights of the women farmers and agricultural workers against TNCs excesses and abuses. It has likewise failed in creating the conditions for people to achieve the minimum basic needs for food, clothing, shelter, education and shelter.

This can also be seen as the government’s reneging or failing in its commitment to its international obligations to Beijing platform of action, which calls for the “ Promotion of women’s economic independence, including employment, and eradicate the persistent and increasing burden of poverty on women by addressing the structural causes of poverty through changes in economic structures, ensuring equal access for all women, including those in rural areas, as vital development agents, to productive resources, opportunities and public services;”

We are calling for an investigation to the conduct of transnational corporations in Mindanao, and put a stop to the abusive, illegal practices of these transnational corporations.

We are calling as well for a review of all government laws and policies that serve to favor these transnational corporations.

Annex C : Information on the United Nations' Special Rapporteur on Violence against Women, its Causes and Consequences

C.1. UN SPECIAL PROCEDURES AND UNSRVAW MANDATE

Special Procedures

“Special procedures” is the general name given to the mechanisms established by the Commission on Human Rights and assumed by the Human Rights Council to address either specific country situations or thematic issues in all parts of the world. Special procedures mandates usually call on mandate holders to examine, monitor, advise and publicly report on human rights situations in specific countries or territories, known as country mandates, or on major phenomena of human rights violations worldwide, known as thematic mandates. Various activities can be undertaken by special procedures, including responding to individual complaints, conducting studies, providing advice on technical cooperation at the country level, and engaging in general promotional activities. Currently there are 20 thematic and 9 country mandates.

The mandates of the special procedures are established and defined by the resolution creating them. Mandate-holders of the special procedures serve in their personal capacity, and do not receive salaries or any other financial compensation for their work. The independent status of the mandate-holders is crucial in order to be able to fulfill their functions impartially.

UNSRVAW Mandate

The United Nations Commission on Human Rights in resolution 1994/45, adopted on 4 March 1994, decided to appoint a special rapporteur on violence against women, including its causes and consequences. The mandate was extended in 2003.

Since March 2006, the special rapporteur reports to the Human Rights Council, as per Human Rights Council's decision 1/102.

According to his/her mandate the special rapporteur is requested to:

- a) seek and receive information on violence against women, its causes and consequences from Governments, treaty bodies, specialised agencies, other special rapporteurs responsible for various human rights questions, and intergovernmental and non-governmental organisations,

including women's organisations, and to respond effectively to such information;

- b) Recommend measures, ways and means, at the national, regional and international levels, to eliminate violence against women and its causes, and to remedy its consequences;
- c) Work closely with other special rapporteurs, special representatives, working groups and independent experts of the Commission on Human Rights – and since March 2006 of the Human Rights Council – and with the treaty bodies, taking into account the Commission's request that they all regularly and systematically include in their reports available information on human rights violations affecting women; and cooperate closely with the Commission on the Status of Women in the discharge of its functions.

In the discharge of the mandate the special rapporteur should:

- a) Transmit urgent appeals and communications to States regarding alleged cases of violence against women
- b) Undertake fact-finding country visits
- c) Submit annual thematic reports.

VAW Special Rapporteurs:

- Yakin Ertürk (Turkey), since August 2003
- Radhika Coomaraswamy (Sri Lanka), 1994 – July 2003

Definitions of VAW

"Violence Against Women,...":

"any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty whether occurring in public or private life" (UN Declaration on the Elimination of VAW, article 1)

Violence against women includes:

- Physical, sexual and psychological violence perpetrated or condoned by the state, wherever it occurs.
- Physical, sexual and psychological violence occurring in the family, including battering, sexual abuse of female children in the household, dowry-related violence, marital rape, female genital mutilation and other traditional practices harmful to women, non-spousal violence and violence related to exploitation.
- Physical, sexual and psychological violence occurring within the general community, including rape, sexual abuse, sexual harassment and intimidation at work, in educational institutions and elsewhere, trafficking in women, forced prostitution.

“... its causes and its consequences”:

- Including discriminatory laws, policies, administrative measures and social attitudes that perpetuate, exacerbate or facilitate violence against women
- Including failure to remedy the consequences of violence against women.

Individual complaints

The special rapporteur is mandated to seek and receive information on violence against women, its causes and consequences and to respond effectively to such information.

The special rapporteur transmits urgent appeals and allegation letters (communications) to states regarding alleged cases of violence against women which she receives. It should be emphasised that, in accordance with her mandate, the special rapporteur is in a position only to process cases of alleged violence or threats of violence directed against women because of their sex/gender. The definition of gender-based violence used by the special rapporteur is taken from the United Nations Declaration on the Elimination of Violence against Women, adopted by the General Assembly in its resolution 48/104 in December 1993.

Who can report:

- Any individual, group, non-governmental organisation, intergovernmental agency or government with reliable knowledge of situations and cases in areas relating to the mandate of the special rapporteur.

When to report:

- If violence against a woman is ongoing or there is a high risk that will occur in the near future, the information should be submitted immediately.
- If the violation has ended, information can be submitted at any time.
- There is no need to exhaust domestic remedies prior to submitting information.

How to report:

- The sources of all information remain confidential.
- Please provide as much as detail as you can gather. The individual complaint form can be used to document cases of violence against women.
- The victim or, if she is unable to, her family, has to consent that her full name is included in the communication to the government. Exceptions apply only in emergencies. Unless the victim specifically requests to have her full name included, only her initials will appear in the publicly available annual report.
- The full name of the alleged perpetrator is submitted to the government, but not included in the annual report that is available to the public.
- It would be helpful to receive a summary of the main points of the case. The summary could identify the rights that have been or may be violated. If your government has ratified human rights treaties, you could refer to the specific provisions of the treaties you believe have been violated.
- If your submission is in regard to a law, practice or policy which affects women in general or women in a specific group, explain how other women are affected or describe the group. A consistent pattern in individual cases can be used to demonstrate a general failure to prevent and respond to private abuses.
- If you submit information about violations committed by private individuals or groups (rather than government officials), include any information which might indicate that the government failed to exercise due diligence to prevent, investigate, punish, and ensure compensation for the violations. For example, information on:
 - whether or not there is a law which addresses the violation

- any defects in existing laws such as inadequate remedies or definitions of rights
- the refusal or failure by authorities to register or investigate your case and other similar cases
- the failure by the authorities to prosecute your case and other similar cases
- patterns of gender discrimination in the prosecution or sentencing of cases
- statistical and other data concerning the prevalence of the type of violation described in the submission.
- Please bring to the attention of the special rapporteur any information which becomes available after you have submitted information about a case. For example, if your human rights concern has been adequately addressed or a final outcome has been determined in an investigation or trial, or an action which was planned or threatened has been carried out.

What the special rapporteur will do with information received:

- If the government violated its human rights obligations the special rapporteur will send a confidential letter of allegation or an urgent appeal (in cases involving ongoing violations) with the relevant information to the Government.
- The special rapporteur will ask for clarification of the issue, demand adherence to applicable human rights standards and call for remedial action.
- All letters of allegation and urgent appeals are published in an annual report that is made available to the public at the beginning of the following year. Reports available at: <http://www.ohchr.org/english/bodies/chr/special/index.htm>

Information should be transmitted in written form, by e-mail, fax or mail:

E-mail: urgent-action@ohchr.org

Fax: +41 22 917 9006

Mail: Special Rapporteur on Violence against Women
c/o Office of the High Commissioner for Human Rights
United Nations at Geneva

8-14 Ave de la Paix

1211 Geneva 10, Switzerland

C.2. CONFIDENTIAL VIOLENCE AGAINST WOMEN INFORMATION FORM



1. PETITIONER :

(This information, if taken up by the Special Rapporteur, will remain confidential).

- (a) Name of person/organisation:
- (b) Relationship to victim(s)
- (c) Address:
- (d) Fax/tel/e-mail, web-site:
- (e) Date petition sent:
- (f) Other:

2. ALLEGED INCIDENT

(i) information about the victim(s):

- (a) Name:
- (b) Sex: (c) Date of Birth or Age:
- (d) Occupation:
- (e) Ethnic / religious / social background, if relevant:
- (f) Address:
- (g) Other relevant information: (such as passport, identity card number):
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.....
- (h) Has the victim(s) given you her consent to send this communication on her behalf?
.....

(i) Has the victim(s) been informed that, if the Special Rapporteur decides to take action on her behalf, a letter concerning what happened to her will be sent to the authorities?

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.....

(j) Is the victim(s) aware that, if this communication is taken up, a summary of what happened to her will appear in a public report of the Special Rapporteur?

.....
.....

(k) Would the victim(s) prefer that her full name or merely her initials appear in the public report of the Special Rapporteur?

.....
.....

(Please note that the full names of victims appear in communications with governments unless it is indicated that exposing the victims' names to the government would place the victims at risk of further harm. In the public report, the names of victims under the age of 18 and victims of sexual violence will not be disclosed, but initials will be used)

(ii) information regarding the incident:

(a) Detailed description of human rights violation:

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(b) Date: (c) Time:

(d) Location/country:

(e) Number of assailants:

(f) Are the assailant(s) known or related to the victim? If so, how?

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(g) Name or nickname of assailant(s) (if unknown, description, scars or body marks such as tattoos, clothes/uniform worn, title/status, vehicle used):

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.....

(h) Does the victim believe she was specifically targeted because of her sex?

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If yes, why?

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(i) Has the incident been reported to the relevant State authorities?

.....

If so, which authorities?

.....
.....

When?.....

(j) Have the authorities taken any action after the incident?

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.....

If so, which authorities?

What action?.....

When?

(l) If the violation was committed by private individuals or groups (rather than government officials), include any information which might indicate that the Government failed to exercise due diligence to prevent, investigate, punish, and ensure compensation for the violations.

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(m) Has the victim seen a doctor after the incident took place? Are there any medical certificates/notes relating to the incident concerned?

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(iii) Laws or policies which are or are likely to cause or contribute to violence against women

(a) If your submission concerns a law or policy, please summarise it and the effects of its implementation on women's human rights. Provide concrete examples, when available.

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Please inform the Special Rapporteur of any further information which becomes available after you have submitted this form, including if your concern has been adequately addressed, or a final outcome has been determined in an investigation or trial, or an action which was planned or threatened has been carried out.

Please return to the Special Rapporteur on Violence Against Women, Office of the High Commissioner for Human Rights, United Nations at Geneva, 8-14 Ave de la Paix, 1211 Geneva 10, Switzerland (fax: 00 41 22 917 9006, e-mail: urgent-action@ohchr.org)

Annex D: Consultation Programme and Participant List

D.1. CONSULTATION PROGRAMME

| <u>Day 1</u> | |
|---|---|
| Wednesday 12 September, 2007 | |
| TIME | TOPIC |
| 8:30-9:00 | SPEAKERS |
| Registration | |
| SESSION I. INTRODUCTION | |
| 9:00-10:00 | <p>Welcome and Introductions</p> <p>Lynnsay Francis, Regional Coordinator of Asia Pacific Forum on Women, Law and Development: <i>Welcome</i></p> <p>Manisha Gupte, Convenor of Violence against Women Task Force of Asia-Pacific Forum on Women, Law and Development: <i>Introduction to the Objectives of the Consultation</i></p> |
| 10:00-10:30 | <p>Moderator: Manisha Gupte, Mahila Sarvangeen Utkarsh Mandal (MASUM), India</p> <p>Madhu Mehra, Partners for Law in Development (PLD), India: <i>Review on Last Year's Report</i></p> <p>Kamala Chandrakirana, Komnas Perempuan, Indonesia: <i>Introduction to this Year's Topic and Brief on Study Workshop</i></p> |
| 10:30-11:00 | Coffee/Tea Break |
| SESSION II. GENERAL APPROACH: Inter-linkage and Connections | |
| 11:00-12:30 | <p>Session II: Inter-Linkage and Connections</p> <p>Paper presentation: Sylvia Estrada-Claudio</p> <p>Yakin Erturk, UN Special Rapporteur on Violence against Women: <i>Definition of 'Violence' Against Women</i></p> |

| Lunch Break | |
|--|---|
| SESSION III. THEMATIC APPROACH: Right to Work | |
| 12:30-14:00 | |
| 14:00-15:30 | <p>Session III: Women's Right to Work</p> <p>Moderator: William Gois, Migrant Forum in Asia (MFA), Philippines</p> <p><i>Joint presentation on Filipino migrant workers from the perspective of receiving and sending countries:</i></p> <p>Leny Tolentino, Solidarity Network with Migrants (SMJ), Japan & Andrea Anolin, Batis, Philippines: <i>Rights and Realities of Filipino Women Migrant Workers in Japan</i></p> <p>Jackie Pollock, Migrant Assistance Programme (MAP) Foundation, Thailand: <i>Stateless Female Workers' and Physical/Sexual Violence against Women at Workplace.</i></p> <p>Nova Nelson, CARAM Asia, Malaysia: <i>Migration and HIV and AIDS/Health in the Context of International Political Economy</i></p> |
| 15:30-16:00 | Coffee/Tea Break |
| SESSION IV. THEMATIC APPROACH 2: Women's Rights in Family | |
| 16:00-17:30 | <p>Session IV: Women's Rights in Family</p> <p>Moderator: Kamala Chandrakirana, Komnas Perempuan, Indonesia</p> <p>Manisha Gupte, MASUM, India: <i>How Family Planning Programmes Affect Women's CPR and ECR</i></p> <p>Purushottam Mishra, Forum for Women, Law and Development, Nepal: <i>Discriminative Laws and their Impact on Women's Rights in Family and State Responsibilities</i></p> <p>Vernie Yocogan-Diano, Innabuyog, Philippines</p> |
| SESSION V. Synthesis and Responses from the UN Special Rapporteur on Violence against Women | |

| | | |
|-------------|---|--|
| 17:30-18:30 | <i>Session V: Synthesis and Responses from Special Rapporteur</i> | Moderator: Eleanor Conda, Philippines Yakin Erturk, UN Special Rapporteur on Violence against Women |
| 19:00 | | Solidarity Dinner |

Day 2

Thursday 13 September, 2007

| TIME FOCUS | | |
|--|---|---|
| SPEAKERS | | |
| SESSION VI. THEMATIC APPROACH 3: Women's reproductive rights and sexual autonomy | | |
| 9:00-10:30 | <i>Session VI: Women's Reproductive Rights and Sexual Autonomy</i> | Moderator: Manisha Gupte, MASUM , India Julie Palaganas, LESBOND INNAGUYOG, Philippines: Wathshlah G. Naidu, IRAW Asia Pacific, Malaysia: Trafficked Women and their Reproductive/Sexuality Rights Susan D. Macabuag, Asian Centre for Women's Human Rights, Philippines |
| 10:30-11:00 | | Coffee/Tea Break |
| SESSION VII. Other Matter of Concerns in the Asia Pacific Region | | |
| 11:00-12:30 | <i>Session VII: Other Matter of Concerns in the Asia Pacific Region</i> | Moderator: Madhu Mehra, Partners for Law in Development, India Fatima Burnad, Society for Rural Education and Development (SRED), India: Dalit Girls and their Right to Education Tess Vistro, AMIHAN, National Federation of Peasant Women, Philippines: Food Sovereignty and Violence against Women |

| Lunch Break | |
|---|--|
| SESSION VIII. BREAK-OUT SESSION: Theme-specific Group Work for Assessment and Strategies | |
| 12:30-14:00 | |
| 14:00-15:30 | <p>Session VIII: Theme-specific Discussion for Strategies and for Recommendation to the Special Rapporteur</p> <ul style="list-style-type: none"> o Right to Work o Womens' Rights in Family and Sexual Autonomy o Other Matters of Concern <p>Facilitators:</p> <ol style="list-style-type: none"> 1. Sadaf Saaz Siddiqi, Naripokkho, Bangladesh 2. EunKyung Kim, Korea Women's Hotline, Korea 3. Liz Cameron, EMPOWER Foundation, Thailand 4. Sarala Emmanuel, Suriya Women's Development Centre, Sri Lanka |
| 4:00-4:30 | Coffee/Tea Break |
| SESSION IX. REPORTING BACK | |
| 16:00-17:00 | <p>Session IX: Presentations from each small group</p> <p>Moderator: Shanaz Iqbal, Shirkat Gah: Women's Resource Centre, Pakistan</p> |
| SESSION X. RECOMMENDATIONS AND STRATEGIES | |
| 17:00-18:00 | <p>Session X: Synthesis and Recommendations</p> <p>Moderator: Kamala Chandrakirana, Komnas Perempuan, Indonesia</p> |
| CLOSING SESSION | |
| 18:00-18:30 | <p>Closing words</p> <p>Lynnsay Francis, Regional Coordinator of APWLD</p> <p>Manisha Gupte, MASUM, India</p> <p>Yakin Erturk, UN Special Rapporteur on Violence against Women</p> |

D.2. Objectives and Expected Outcomes of the Consultation

SESSION I: INTRODUCTION

Objectives

1. For organisers to welcome participants to the Consultation;
2. To introduce participants;
3. To examine our achievements and to assess APWLD's relationship with the Special Rapporteur on VAW;
4. To outline the objectives of the meeting

Expected Outcomes

1. Get familiar with other participants;
 2. Be informed of and share the objectives of the Consultation;
 3. Understand our achievements by working with the UNSRVAW and look forward what we can achieve through this working relationship
- REVIEW ON THE UNSRVAW'S LAST YEAR REPORT
 - INTRODUCTION TO THIS YEAR'S TOPIC

Objectives:

1. Critical review on the UNSRVAW's last year report and follow-up positive changes made;
2. To understand the framework of the UNSRVAW's 2009 report on 'Political Economy of Violence Against Women'.

Expected Outcomes:

1. Participants have a clear picture on what impact the special rapporteur's report has on women's human rights and what we achieved together;
2. To develop, from long-term perspective, strategies to generate more significant changes by working with the UNSRVAW

SESSION II. GENERAL APPROACH: INTERLINKAGES AND CONNECTIONS

Objectives

1. To identify/understand what 'violence' against women means in the context of political economy of human rights.
2. To understand the special rapporteur's perspective on the theme: political economy of violence against women

Expected Outcome

1. Participants have deeper understanding on the theme by incorporating the special rapporteur's perspective and ours that has been developed in the study workshop.

SESSION III. THEMATIC APPROACH: Right to Work**Objectives**

1. To identify discrimination/violence against women in workplace. For example, discrimination in job advertisement, discriminatory employment laws or discriminatory enforcement of the law, sexual harassment in workplace without effective redress;
2. To understand how law and its implementation, state policies, practices, and cultures could harmfully impact on women's enjoyment of their right to work.

Expected Outcomes

1. Participants address/identify emerging issues related to women's right to work and understand how devisor factors such as environment, economic structure/trend could affect women's economic and social rights;
2. Participants to be able to use domestic legal system, international law/venue to fight against violence against women.

SESSION IV. THEMATIC APPROACH 2: Women's Rights in Family**Objectives**

1. To identify state-sponsored/state-tolerated violence against women in family sphere (review of law and state practices re women's right in family);
2. To understand cultural influence on women's legal status in family and identify assaults for not conforming to gender norms (practices and cultural norms);
3. To address the interlinkage between women's right in the family and their civil and political rights.

Expected Outcomes

1. Participants well equipped with legal knowledge reviewing how laws/cultures of countries in the region dictate women's role in the family and justify their notions through law;
2. Participants have a plan of action to work in solidarity, if necessary, by addressing the matters of concern related to women's rights in family, and bring change in laws, cultures, and attitudes.

**SESSION VI. THEMATIC APPROACH 3:
Women's Reproductive Rights and Sexual Autonomy**

Objectives

1. To identify discrimination/abuse against women including double standard/double discrimination against women based on women's reproductive capacity;
2. To understand what implication women's reproductive rights and sexual autonomy has on other fundamental rights, ESCR and CPR (right to health, life, nondiscrimination, privacy, liberty, religious freedom, freedom from torture, etc.);
3. To understand women's subordinate status in society, their lack of capacity to actively participate in public sphere relating it to women's reproductive rights and sexual autonomy.

Expected Outcomes

1. Participants identify various forms of violence against women based on femininity;
2. Have strategic plan of action to defend women's right to make decisions on their physical integrity and change law, practices and cultures.

SESSION VII. Other Matter of Concerns in the Asia Pacific Region

Objective

1. To identify other matters of concern in the Asia Pacific region not covered in the previous sessions, such as women's right to education and its implication on women's full enjoyment of their fundamental rights.

Expected Outcomes

1. Participants relate their issues of concerns in the context of political economy of violence against women and take joint action with other activists in the region;
2. To guide/enforce states to meet their international human rights obligations, in particular related to women's economic and social rights relating with civil and political rights.

SESSION VIII. BREAKOUT SESSION: Theme-Specific Discussion for Strategies and for Recommendation to the Special Rapporteur

- Right to Work
- Womens' Rights in Family
- Women's Reproductive Rights and Sexual Autonomy

- Other Matters of Concern

Objectives

1. To address sub-region specific emerging issues.
2. To offer participants working on similar issue an opportunity to brainstorm, address under-represented issue and share experiences.
3. To unite and use experiences to monitor VAW in relation to ESR and CPR, document the violation and realisation of WHR;
4. To devise advocacy strategies making the best use of UN special procedures;
5. To learn from good practices of other groups: national, regional, international and follow up with UN procedures/mechanism.

Expected Outcome

1. Devise joint strategies to effectively address issues and concerns and generate positive changes to improve women's human rights and stop violence against women.

SESSION IX. REPORTING BACK: Presentations from Each Small Group

Objectives

1. To outline effective strategies elaborated in small group discussions;
2. To learn about achievements from each small group (by organisation and/or by region);
3. To address challenges, gaps and problems.

Expected Outcome

1. Use strategies shared in the group discussions and take joint action, if necessary, to bring out legal, economic, social and cultural changes for women's full enjoyment of their basic human rights.

SESSION X. RECOMMENDATIONS AND STRATEGIES

Objective

1. To synthesise the outcomes of the Consultation.

Expected Outcome

1. Recommendation for next year's action plan to the UNSRVAV and to all participants.

D.3. Participant List

| Name | Organisation | Country |
|------------------------|--|-------------|
| Panha Sok | Banteay Srei | Cambodia |
| Fatima Burnad | Society for Rural Education and Development (SRED) | India |
| Madhu Mehra | Partners for Law in Development | India |
| Priti Darooka | Programme on Women's Economic, Social and Cultural Rights (PWESCR) | India |
| Kamala Chandrakirana | National Commission on Violence Against Women (Komnas Perempuan) | Indonesia |
| Leny Tolentino | Solidarity Network with Migrants (SMJ) | Japan |
| Eun Sang Lee | Korea Sexual Violence Relief Centre | Korea |
| Wathshlah V. Naidu | IWRAW Asia Pacific | Malaysia |
| Meera Samanther | Women's Aid Organisation | Malaysia |
| Nova Nelson | CARAM Asia | Malaysia |
| Purushottam Mishra | Forum for Women, Law and Development | Nepal |
| Bidhya Chapagain | INSEC-Nepal | Nepal |
| Eleanor Conda | | Philippines |
| Vernie Yocogan-Diano | Innabuyog | Philippines |
| Teresita Vistro | AMIHAN, National Federation of Peasant Women | Philippines |
| William Gois | Migrant Forum in Asia (MFA) | Philippines |
| Julie Palaganas | LESBOND/ Innabuyog | Philippines |
| Luz Rodriguez | UNIFEM CEDAW South East Asia Programme | Philippines |
| Andrea Luisa C. Anolin | Batis | Philippines |
| Rhodora Abano | Centre for Migrant Advocacy | Philippines |
| Maureen Pagaduan | Women's Legal Bureau | Philippines |
| Ma.Socorro de la Cruz | Kapisanan ng Mamag-anakan ng mgn Migranteng Manggagawa (KAKAMMPI) | Philippines |
| Maria Angela Villalba | Unlad Kabayan Migrant Services Foundation | Philippines |
| Laure-Anne Courdesse | Special Procedures Branch OHCHR | Switzerland |
| Elizabeth Cameron | EMPOWER Foundation | Thailand |

| | | |
|--------------------|---|----------|
| Ratchanikon U-para | EMPOWER Foundation | Thailand |
| Jackie Pollock | MAP Foundation | Thailand |
| Emerlynne Gil | Asian Forum for Human Rights and Development (FORUM-Asia) | Thailand |
| Yakin Ertürk | UN Special Rapporteur on Violence Against Women | Turkey |

Violence Against Women Task Force Members

| Name | Organisation | Country |
|-----------------------|--|--------------|
| Sadaf Saaz Siddiqi | Naripokkho | Bangladesh |
| Edwina Kotoisuva | Fiji Women's Crisis Centre (FWCC) | Fiji Islands |
| Manisha Gupte | Mahila Sarvangeen Utkarsh Mandal (MASUM) | India |
| Yevgeniya Kozyreva | Feminist League | Kazakhstan |
| EunKyung Kim | Korea Women's Hotline | Korea |
| Enkhjargal Davaasuren | National Centre Against Violence (NCAV) | Mongolia |
| Tungalag Battengel | (translator of Enkhjargal) NCAV | Mongolia |
| Shahnaz Iqbal | Shirkat Gah: Women's Resource Centre | Pakistan |
| Sarala Emmanuel | Suriya Women's Development Centre | Sri Lanka |

APWLD Secretariat

| | | |
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| Punika Shinawatra | Finance Officer | Thailand |
| Mae-Anne Llanza | Information and Communication Officer | Philippines |
| Misun Woo | Programme Officer | Korea |

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| Citas Romeo | WLB | Philippines |
| Karen Tapang | WLB | Philippines |
| Josefina Palattao | Documenter | Philippines |

Asia Pacific Forum on Women Law and Development (APWLD) is an independent, non-government, non-profit organisation in a consultative status at the UN Economic and Social Council (ECOSOC).

APWLD is a women's human rights network of over 150 lawyers, social scientists, grassroots women and activists from 23 countries of Asia Pacific.



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