

Ethics in Action

Vol. 8 No. 2

April 2014

ISSN 1997-2997



Asian Human Rights Commission

Cover photograph :

Protesters rally to demand justice for abused migrant worker Erwiana on
19 January 2014, Hong Kong.

Courtesy: *HK Helpers Campaign*

Asian Human Rights Commission Ltd 2014

Published by

Asian Human Rights Commission Ltd (AHRC)

Unit 1 & 2, 12/F., Hopeful Factory Centre

10 - 16 Wo Shing Street

Fotan, Shatin, New Territories

Hong Kong, China

Telephone: +(852) 2698-6339

Fax: +(852) 2698-6367

E-mail: eia@ahrc.asia

Web: www.humanrights.asia

April 2014

Printed by

Clear-Cut Publishing and Printing Co.

A1, 20/F, Fortune Factory Building

40 Lee Chung Street, Chai Wan, Hong Kong

CONTENTS

Indonesian migrant workers in Hong Kong exploited and forgotten	
<i>Meredith McBride</i>	3
Daughters of soil: Recognizing women farmers of northeast India	
<i>Dr Vijaylakshmi Brara</i>	9
As wheat rots in Pakistan's go-downs, 193 children have died of starvation in Thar district	
<i>Hunger Alert, AHRC</i>	16
Widows journeying together along the path of healing	
<i>Dom-an Florence Manegdeg</i>	22
Human rights in India: A parallel discussion at the UN Human Rights Council	
<i>Bijo Francis</i>	25
Key outcomes from the 25th session of the UN Human Rights Council	
<i>International Service for Human Rights</i>	29
Qatar and FIFA must act now to stop migrant worker deaths and improve labour rights	
<i>Asian Human Rights Commission</i>	31
Religious freedom: Tackling manifestations of collective hatred	
<i>Office of the High Commissioner for Human Rights</i>	34

Indonesian migrant workers in Hong Kong exploited and forgotten

Meredith McBride

“I don’t think that any country or territory has a good policy on domestic migrant workers, or migrant workers in general. I think we’ll always have to struggle to prevent this race to bottom.” Norma Kang Muico, Amnesty International.

Nearly six months after the release of an Amnesty International report condemning the widespread mistreatment of maids in Hong Kong, little has changed. The plight of domestic workers in Hong Kong was pinpointed in the report as one of the most severe cases of human rights abuses in the Asian region. Due to the Indonesian government’s poorly thought-out policies and lack of oversight, domestic workers from Indonesia are particularly vulnerable to corrupt agencies, outdated laws, and abuse at the hands of their employers in Hong Kong. *Exploited for Profit, Failed by Governments* was released by Amnesty in November 2013 in response to the continued exploitation of Indonesian domestic workers in Hong Kong.

Hong Kong is home to over 325,000 domestic workers, nearly half of whom come from Indonesia. Migration for domestic work is an activity that benefits both sending and recipient countries. Globally, the International Labour Organization (ILO) lists an official figure of 53 million people, primarily women, who are currently undertaking domestic work abroad, but claims that the actual figure is likely closer to 100 million. High levels of unemployment and underemployment at home, together with opportunities for higher wages lead many Indonesian women to pursue opportunities overseas. According to the ILO, domestic work is one of the largest sources of employment for rural women from Indonesia. These overseas migrant workers sent home USD 7.88 billion in 2013.

To prepare their report, Muico and others at Amnesty International conducted interviews with 97 Indonesian migrant workers in Hong Kong and Indonesia during 2012 and 2013. The researchers specifically sought women who had worked in Hong Kong in the

previous five years and had experienced problems during their tenure. The group was chosen in order to better understand the systematic patterns of abuse facing Indonesian women in Hong Kong and the complicit policies of both countries.

Under Article 10 of Indonesian *Law No. 39/2004 Concerning the Placement and Protection of Indonesian Overseas Workers*, Indonesians seeking domestic work overseas are required to apply through private, government-approved recruitment agencies. Of the 558 registered agencies in Indonesia, the vast majority hold their operations in Jakarta or other major cities. Brokers, or sponsors, are sent into rural areas to find potential recruits, with the result that many domestic workers come from small villages and poor economic conditions. These brokers are paid on commission; their foremost goal is thus to recruit as many women as possible. Over a quarter of women interviewed by Amnesty International claim that their sponsor deceived them with regards to terms of employment such as living conditions or compensation.

The recruitment phase is where problems begin. The Indonesian government requires prospective domestic workers to undergo 600 hours of training, undertaken at facilities run by private agencies. The mandate of these 'Training Centers' is to teach cleaning, cooking, child and elderly care, language skills, and rights and responsibilities as migrants. The tuition fee for the training is payable in full on the first day, regardless of the length of stay, which can be from 10 days to over six months.

Consequently, without even having left their country, potential migrants are shackled in debt. As collateral to pay 'training fees', many women are obligated to hand over their Indonesian ID cards, education certificates or other documents, effectively rendering them unable to leave the training centers. Domestic workers surveyed by Amnesty International had varying comments on the training they received, but overall reviews of living and learning conditions were poor. One interviewee from Semarang claimed "The language training was inadequate because I couldn't communicate in Cantonese when I arrived in Hong Kong. The instructors were not fluent and their pronunciation was bad."

The National Board for the Placement and Protection of Indonesian Overseas Workers (BNP2TKI) exists solely for the protection of Indonesians working abroad; this Board undertakes responsibility for ensuring that agents involved in deception or labor trafficking are held responsible under the law. Under Ministerial Decree No. 98/2012, the Indonesian government must also guarantee that the workers are given a written contract in Indonesian with standard conditions, as well as a receipt for any recruitment fees they have incurred. Despite complaints and proof provided by Amnesty International and other investigatory bodies that Indonesian recruitment agencies were failing to fulfill their duties, Djohar Arifin, Head of the Labour Office in Biltar, revealed that there have been no legal cases brought against agencies recruiting for Hong Kong in his region.

Where the Indonesian government fails is largely in its inability to effectively enforce Law No. 39/2004. Under this law, the government is directly responsible for the Final Pre-Departure Programme (PAP), which aims to provide workers information regarding employment, rights and access to redress, and the laws and policies of destination countries. In a survey conducted by the Indonesian Migrant Workers Union (IMWU), half of the domestic workers sent to Hong Kong reported they hadn't been given an identity card, and a third claimed that their personal information was falsified.

As Indonesian domestic workers arriving in Hong Kong often have fabricated paperwork and know very little about their rights, the Indonesian government completely fails in its mandate to protect its own citizens against preventable exploitation abroad. In the Explanatory Notes on the Draft Bill of Law No. 39/2004, the government recognizes that workers without proper documents would be “in a very vulnerable position to inhumane treatment and other exploitative treatment in the destination country.”

The pattern of abuse continues when women arrive for work in Hong Kong. According to the IMWU survey, 60 percent of surveyed domestic workers claimed that their work was different than the terms laid out in their contract. Some Hong Kong placement agencies collude with loan companies and their Indonesian counterparts to ensure the collection of ‘training fees’. By routing payments through loan companies, agencies are able to circumvent the legislated maximum placement fee. This results in illegal monthly deductions from domestic workers’ paychecks. Over a third of women surveyed by Amnesty International confirmed that they received less than the statutory Minimum Allowable Wage of HKD 4,010.

Moreover, domestic workers in Hong Kong are required to live with their employers under immigration regulations. The law also stipulates that domestic workers be provided with “suitable accommodation with reasonable privacy”, but does not define or elaborate these terms. Because of the ‘live-in’ law, domestic workers are vulnerable to excessive working hours, substandard living conditions in small spaces with little privacy, and even physical abuse. A 2013 survey done by Hong Kong-based Mission for Migrant Workers found that 58 percent of domestic workers faced verbal abuse, 18 percent physical abuse and 6 percent sexual abuse.

Finally, Hong Kong’s immigration policy severely limits migrant workers’ access to redress. As workers live with their employers, it is very difficult to prove that they are not given rest days, statutory holidays, suitable accommodation, and so on. An additional risk is that if a domestic worker leaves her employer or is fired for any reason, under the New Conditions of Stay, she has two weeks to leave the territory. If a complaint is successfully lodged against an employer, the claimant is then fully responsible for finding housing and food, without being legally able to work. She must pay HKD 160 to extend her

visa past the two week limit, and she suffers loss of income while pursuing her case. In other words, she must pay a heavy price to seek justice. Lack of access to affordable legal counsel, inadequate translation services, and lack of funding mean that many women choose to settle out of court rather than fighting for their full legal entitlements in the lengthy court process.

As Hong Kong continues to witness widely publicized cases of horrific maid abuse, the response of the respective governments has been distressingly limited. Even after widespread media attention over the abuse of domestic worker Erwiana Sulistyaningsih in January 2014, the Indonesian Consul-General Chalief Akbar Tjandraningrat claimed that the problem of abuse amongst domestic migrant workers was ‘very rare in Hong Kong’, despite over two decades of anecdotal and empirical evidence to the contrary. As yet, no action has been taken either by Indonesia or Hong Kong to stop the exploitation of domestic workers.

While the relevant authorities in Indonesia met with Amnesty International to discuss better protection of migrant workers, both the Indonesian Consulate in Hong Kong and the Hong Kong government remain indifferent on the matter. “What’s disappointing is the multiple attempts we have made to reach out to the Hong Kong authorities, in particular the Secretary for Labour and Welfare. They’ve resisted and refused to meet with us,” Muico stated. “If they’re really, truly committed to furthering the rights of domestic workers, as they say they are, then surely, they would show commitment to meet with us.”

It is in both countries’ best interests to ensure that workers are fully aware of their rights. The Indonesian government’s Final Pre-departure Programme (PAP) and welcome and exit programmes should better inform workers of their rights and duties, including contact information in the event problems occur. Hong Kong could provide compulsory training for domestic migrant workers so that they are aware of relevant Hong Kong customs and laws before they undertake work. The government should also provide them with information such as contact numbers for relevant government agencies, the Indonesian Consulate, helpful NGOs and other important information in their native language.

In Hong Kong, responsibility for effective regulation of placement agencies lies on the Employment Agencies Administration (EAA) Division of the Labour Department. Hong Kong law dictates that agencies should be transparent in their dealings and non-compliant agencies should be fined. In 2013, the EAA received 218 complaints against employment agencies. Of these, only five were given monetary fines by the court after committing offences under the purview of the EAA—less than three percent.

Joining the chorus of international human rights bodies (including the ILO, US Government Trafficking in Persons Report and various UN human rights mechanisms) that condemn the 'live-in' rule, Amnesty International emphasizes that the requirement for domestic workers to live with their employers is one of the foremost causes of exploitation. Although the government requires workers to live with their employers, it provides no mechanism through which domestic workers can file complaints if their living situation is inadequate. The live-in mandate inhibits workers' right to fair working hours, provides little-to-no privacy, and often forces them to accept substandard living conditions.

In its 2013 report, Amnesty International further recommends that the Hong Kong government waive the costs of visa extensions for domestic workers who are seeking remedies for rights abuses through the court system. It is also vital that they have access to support such as affordable legal counsel, housing, and interpreters/translators. "It would be really helpful if the HK authorities, whether it be Immigration, the Police, or the Labour Department, would take a more proactive role in their remit. That means that the onus is not on the workers to produce a mountain of evidence to prove that something happened," Muico explained. "There are enough similar cases crossing their desk that they should take a proactive role. That's clearly not being done in any of the relevant governmental agencies."

The Asian Migrant Centre reports that by allowing its migrant workers to be taken advantage of financially, Indonesia is losing an estimated 48 million US dollars each year in profits that would be sent home by overseas workers. Much of this money would go towards the country's poor, ideally for food and education; it is thus a significant inhibitor to Indonesia's economic growth. Ensuring that this money reaches its beneficiaries could help the 117 million Indonesians currently living at or below the poverty line.

Moreover, as one of the top cities in the world in which to do business, it is equally important that Hong Kong eradicates the trafficking and mistreatment of domestic workers within its borders. By allowing even one agency to get away with charging excessive fees makes the playing field uneven for all agencies operating fairly; agencies are thus given the incentive to undertake illegal practices in order to remain competitive. Regulating and inspecting agencies is thus an important means of protecting workers and employers from fraud.

If foreign domestic workers were extended equal protection under minimum allowable wage and working condition laws, Hong Kong could prevent abuse before it occurs. Requiring women to leave the territory two weeks after termination ensures that indebted women are forced to remain with their employer, whether good or bad, and prevents them from attaining justice in the court system. To offer safe working and living

conditions would encourage the continued supply of badly-needed domestic workers and boost the economy that relies on them.

Despite the lack of cooperation from officials in Hong Kong, Muico remains hopeful. “If Hong Kong, for example, which places a lot of emphasis on economic programs, makes a policy that allows for greater rights for domestic workers, then an economy similar in scope with an emphasis on economics, like Singapore or Taiwan, will look at that and say ‘if they can do it, so can we’. That’s the positive domino effect we would like to implement.”

Daughters of soil: Recognizing women farmers of northeast India

Dr Vijaylakshmi Brara

In northeast India, customary laws¹ are a necessary starting point for any debate on ownership and property relations. They are enforced immediately and impeccably, with violations resulting in community expulsion and ostracism, as well as monetary fines. Socially accepted and imbibed from birth, customary laws are taken as norms and are enforced more successfully than statutory laws.

Customary laws are important in conserving and protecting biodiversity, protecting indigenous knowledge systems, and recognizing the unique cultural patterns, social institutions and legal systems of the tribal populace. Moreover, these laws have been found to be more useful in managing land and water resources and settling disputes. At the same time, they are regressive, restrictive, elitist and gender blind. Male-centered, customary laws do not include women in decision making, and do not give ownership rights to women. Used to reaping the benefits of such male-centric laws, the introduction of modern laws and the idea of gender equality have led men in the region to retain all things traditional and reject all things modern by bringing out the fear of erosion of customs and identity. As a result, the original evolving nature of customary law has been scrapped, with any demand for change now seen as a threat to the identity of that particular community.

While indigenous people across the globe have been subject to social, political and economic marginalization, in northeast India they have been able to maintain a relative political and legal autonomy, especially in terms of land ownership. Women however, do not benefit from this autonomy and ownership.

1 Customary law is the established pattern of behavior that can be objectively verified within a particular social setting. A claim can be carried out in defense of “what has always been done and accepted by law”.

Dr Vijaylakshmi Brara is a sociologist and an Associate Professor in the Centre for Manipur Studies, Manipur University. Her specialization is Culture, Gender and Local Governance. She has more than 20 publications to her credit, and is also the author of the widely read *Politics, Society and Cosmology in India's North East* (Oxford University Press, 1998).

As mentioned above, in this part of the region, women are customarily not entitled to land ownership. Even in the matrilineal societies like the Khasis and Garos, women are made the custodians of the ancestral land, but have no ownership rights. For this reason, women's groups in northeast India are fighting against the codification of customary laws until village bodies agree to amend them to include the participatory role of women.

It is necessary to understand that land ownership for women is more than just a cry for equality; according to Bina Agarwal, author of *A Field Of One's Own: Gender and Land Rights in South Asia* (Cambridge University Press, 1994), there are overriding practical considerations too. Men often migrate to the cities; women then do all the work, but have no rights. Women are the real farmers, but ownership rests with men.

There are so many practical problems that flow from this. For instance, if the woman wants a loan for water or seed or implements, the official machinery will deny her this on the pretext that she is not the owner. Also a woman pays far more attention to the land with an eye always on saving the earnings, whereas left to themselves men would spend a large part of the income. The world over, studies have proven that if resources are with women, the benefits that flow to the family are far greater [Agarwal, 1994].

Comfortable in their positions, village heads in northeast India have no issues vis-à-vis state policy and their customary law, for instance in the management of forests, as forest land is protected under the Constitution of India. According to constitutional guarantees², the land ownership is in the hands of the chiefs as well as the clans; modern land laws have no jurisdiction over lands owned by the tribals of northeast India. Furthermore, the Autonomous District Councils (ADCs) as well as the chiefs and the headmen in some northeast Indian states can establish their own courts for arbitration. In this customarily accepted system, the judges and village authorities are all men. Women are completely barred from any kind of traditional political authority system.

M A Khan, convener of Chaupal, a 35-year-old voluntary organization working in Sonbhadra, a Naxalite-troubled district of eastern Uttar Pradesh, says both historical factors and present circumstances have conspired to keep women away from land ownership:

Being a tribal area, land rights here were governed by custom and usage, which were women-unfriendly. With Naxalism, hundreds of men were jailed or killed. Their women, illiterate

2 The Sixth Schedule of the Indian Constitution is a set of legal provisions designed especially for tribal majority regions of the northeastern hills of India. The Schedule provides for the constitution of the Autonomous District Councils (ADCs) under which all the tribal chiefs and headmen were placed. The idea was to provide a democratic voice to the tribal structures within the modern state. The government introduced the provisions to preserve and uphold the tribal order of things and to protect the poor and the marginalized against the forces of socio economic exclusion.

and exploited, were left without any land. When they demanded their rights from the administration they were branded Naxalites and jailed. There are huge tracts of lands for which no ownership records exist. Even land which was donated under *bhoodan* went back to those who donated it as they were the ones who knew how to claim the land.

Khan lists village exogamy, customary relinquishing of property in favour of brothers, patriliney, and dowry as some of the most common reasons that have kept women away from land ownership.

Pushpa Singh, national general secretary of the Ekta Parishad, a Bhopal-based two-decade-old organization that has built a movement of Dalits and tribals across 11 states to fight for '*jal, jungle aur zameen*' (water, forests and land) echoes the group's rally cry: "*Aadhi duniya naari hai, zameen pe daavedari hai*" (Half the world is female, it has rights over land). "If a woman can run a country just as well as she can run a home, what sense does it make to deny her land rights? So far 270 land reforms laws have been enacted, but lack of implementation means there have been no reforms", Singh points out.

Apart from the problems in customary law, constitutional expert Jayant Verma, Oxfam Trust trustee and secretary of *Samvad*, Society for Advocacy and Development, Bhopal, believes that land reform issues stem from the balance of power lying in favour of the executive.

Forget for a moment the issue of men and women and look at the Land Acquisition Act 1894 which states that if the state wants to acquire a person's land it can do so. Even the compensation is to be decided by the government. It's much like legalized dacoity. The number of ironies in our judicial system is countless. For instance, Public Interest Litigation is supposed to be a people-friendly tool. Does that mean that in normal course, our courts are not guardians of people's interests?

While such criticisms have made the government aware of gender concerns in policies on accessibility and ownership of resources, existing land ownership laws in most states are discriminatory. Although the recent Hindu Succession (Amendment) Act 2005 does away with the gender discriminatory clause on agricultural land, its greatest failing is that it is applicable only to Hindu women. The Muslim Personal Law (*Shariat*) Application Act, 1937 gives daughters and widows property rights, but agricultural land is kept away from its ambit. Moreover, merely well-intentioned legislation does not yield results. For instance the Ministry of Rural Development's instruction that 40 percent of agricultural land settled under land reform programmes should be exclusively in the name of women, and in the remaining cases, the allotment may be jointly in the name of husband and wife, is not being followed.

The northeast scenario

Unlike many other parts of India, where even villages are in some way connected to the capital markets, albeit through informal means, people in the rural hills of northeast India mainly engage in pre-capitalist sustenance activities, with surplus produce sold in nearby bazaars. The most important and widespread activity is shifting cultivation, of primarily the slash-and-burn variety along the hill slopes. This practice, called *jhum*, usually ensures enough grains and vegetables for the entire year, constituting a large chunk of the labor performed by rural folk in the hilly regions of the northeast.

Along the lines of the egalitarian functioning of most tribes in the region, this form of cultivation has men and women playing equally large roles, with women even playing a dominant role, especially in deciding the distribution of the produce and the selling of the surplus.

Recently however, a new scenario is developing in this region. Firstly, *jhum* is giving way to individual ownership, and secondly, due to the increasing influence of the market economy, the choice of produce is moving from food sustenance to cash crops, in order to enable a greater flow of money. These two processes are leading to greater landlessness and vulnerability; the earlier self-sufficient farmer families are now dependent on the consumerist market economy. In all this women are the worst sufferers. Where previously women always had access to communal land to grow her produce, the move towards individual ownership is rendering her landless, as customary laws do not allow her to inherit.

In the Garo Hills for example, the tradition was of community land ownership. Their matrilineal system is built on land inheritance through the female line. Modern laws and institutions however, issued *pattas* (a piece of land designated by the government) to individuals, recognizing man as the landholder. This affects the very foundation of the matrilineal system.

In the early 1990s, the administration encouraged people to plant rubber. Financial institutions and banks give loans only to *patta* holders however; those without *pattas* are not given subsidies or financial help. Even the ADC that should have safeguarded the A-king land³ supported this approach and issued *pattas* liberally to those with money, thus depriving the poor of their livelihood. The transfer of A-king land to any individual or even to the State goes against the Garo customary practices (Marak 2000: 185-186). In this case the administration recognized the individual owner as man and considered him the head of the family. That strengthened the process of male domination. Class

3 A-King land is the land traditionally belonging to the mother's clans.

formation thus gave strength to patriarchy, and the social system began to change from matrilineal to patrilineal.

A recent study of changing land relations (Fernandes and Pereira 2004: 148-149) showed that 79 of 100 families in East Garo Hills had *pattas*, against only one out of 20 in West Garo Hills, where the community tradition remains strong. Reducing land from a livelihood asset to a commodity has impoverished society and marginalized its women.

In Manipur valley, where the majority of the community is Hindu, land inheritance is along the lines of the Hindu Succession Act, under which sons and daughters have equal right to inheritance. If a survey were conducted however, it would be seen that many women, in their attempts to be good daughters, do not demand and forfeit their claim.

Women's inheritance rights among the hill tribes of Manipur comprise quite a grim situation. Among the Kuki tribe, a woman who has no son or is a widow cannot demand any share in the property of her husband, which goes to the nearest male relative. The same goes for the Tangkhuls, the Kabuis, the Marams, the Maos. Ironically, there is a historical legacy of women occupying a seat of power among the Nagas. According to Dr. Jeuti Baruah (2007:45), in times of war a woman named *Maram Harkhosita* was the supreme commander, villages *Kangpot* and *Thowai* had a woman chief and Tolloi village council members were also women. Women were given the responsibility of the village granary. *Pukhrelas* were the daughters of the village who were given the responsibility of ushering in peace between two warring villages. Hegemonic patriarchal notions seem to have seeped in over a period of time among these communities however. In the present scenario, barring the ritual importance given to women over the protection and decision making regarding the granary, they have not been recognized as possible owners of agricultural land or the chieftainship. They are seen to labor more than the men, but have no rights over the land they till.

Again, it must be underlined that land ownership should be understood as not just an added asset, but as an addition to a person's ability to sustain her livelihood, especially at the lowest level. Moreover, it must be acknowledged that a family's nutrition and health levels are linked to women's income. In the absence of land rights/ ownership, women are forced to get the same benefits for their families under harsher circumstances and fewer resources.

Women headed households

One problem accentuated in the conflict ridden societies of this region, cutting across all tribes and ethnic groups, is that of women headed households. Many widows, single women or families with women-headed households are not taken into account

in counting of heads. Since traditionally, women do not own property including land, they are then excluded in the distribution of the same, leading them to further impoverishment. Discrimination during relief and rehabilitation is yet another issue at hand.

According to a report submitted by the National Commission for Women (Land Rights of Women In Tripura: A Monograph based on a Research Study undertaken by Tripura Commission for Women), many tribal women become landless when lands are allotted to tribal families that used to cultivate communal lands. As the allotment deeds are usually made out in the names of adult males, tribal women who cultivated communal lands along with their men folk rarely become allottees. Giving land rights to these categories of women is important to ensure their access to credit and other facilities that can increase the productivity of the cultivated lands. Land titles can make it easier for women to adopt improved technology and enhance their motivation to do so, thereby increasing productivity.

The National Commission's report gave some insightful recommendations which can be adopted by all the northeast states, if they want to acknowledge the existence and importance of women farmers. The report mentioned that certain moves like the codification of the tribal customary laws will have to be resisted by state governments, as this will entrench the hold of patriarchy in tribal society and make it difficult for tribal women to become land owners.

The report also found that a number of tribal women were users of forestlands, over which individuals could not exercise ownership rights according to the terms and conditions of the Forest Conservation Act. While the preservation of forest land by the state ensured its usability by these women, one cannot ignore the precarious situation of these women who are at the mercy of state law enforcement.

Progressive legislation

As in most forest based communities, property rights are not very well defined in the northeast forest communities, leading to insecurity for women regarding land, forests, water and related resources. Lately, they are also being displaced from their ancestral land due to the vested interests of both developmental agencies as well as the groups involved in inter-ethnic conflicts. The limited access to land, no education, and no access to credit systems, along with the baggage of customary laws, is bringing about the feminization of poverty in a large scale in this region. The efforts of women's groups in restoration and conservation of natural resources, as well as in domestication of wild crops and plants are all critical interfaces with forests and livelihoods. The government needs to be more forthcoming in changing policies towards ownership of forests and realize that the people who are completely dependent on the forests will be the last to destroy them.

The women have been tilling the land and feeding the hungry mouths in this region. We need to think out of the box and realize that the term 'farmer' doesn't automatically mean a male. The category of 'women farmers' has to be recognized by the state, society and those who carry and propagate customary law.

REFERENCES

Agarwal Bina, 1996. *"A Field of One's Own: Gender and Land Rights in South Asia"*, New Delhi: Cambridge University Press.

A UN DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES: Right and wrong sides of history. 18 July 2006. The occasional briefing papers of the Asian Indigenous and Tribal Peoples Network (AITPN)], New Delhi.

Excerpts from ID Conference Report. 2007. *"Indigenous Governance Systems in Asia"*. Submission by the Asia Indigenous Peoples' Pact (AIPP) Foundation to the study by the Expert Mechanism on the Rights of Indigenous Peoples entitled "Indigenous Peoples and the right to participation in Decision Making"

Fernandes, Walter and Gita Bharali. 2002. *"The Socio-Economic Situation of Some Tribes of Bishnupur and Palizi."* Guwahati: North Eastern Social Research Centre, Guwahati

Fernandes, Walter and Melville Pereira. 2005. *"Land Relations and Ethnic Conflicts: The Case of Northeast India"*. Guwahati: North Eastern Social Research Centre.

Marak Julius. 2000. *"Garo Customary Laws and Practices: A Sociological Study"*. Akansha, New Delhi

Ratnam Anita. February 11, 2008. *"Women's Land Rights and Peace at Home"*, cited on December 5, 2011

Roy Raja Devasish. March 2005. *"Traditional Customary Laws and Indigenous Peoples in Asia"*. A Report by Minority Rights Group International, UK.

Srivastava Nidhi. November 2004. *"Customary Law and the Protection of Indigenous Knowledge."* Research Project on Protection of Indigenous Knowledge of Biodiversity Briefing Paper 2, Gene Campaign. New Delhi

Tripura Commission for Women. *"Land Rights of Women in Tripura: A Monograph based on a research study undertaken by Tripura Commission for Women"*, Agartala Tripura (West) Sponsored by National Commission for Women, New Delhi.

www.forestrightsact.com, sighted on 2.12.10

As wheat rots in Pakistan's go-downs, 193 children have died of starvation in Thar district

Hunger Alert, AHRC

(Edited text of a Hunger Alert issued by the Asian Human Rights Commission: AHRC-HAG-001-2014, 10 March 2014)

Dear friends,

The Asian Human Rights Commission (AHRC) has received disturbing information regarding 193 children starving to death in Thar district of Pakistan. While the authorities have conceded half of the number, they are attempting to attribute them to different diseases. Independent sources have conclusive evidence however, that the deaths are all caused by extreme poverty and chronic shortage of drinking water due to a year-old drought, which is also causing a famine. The severe lack of health facilities in the area—which has just one 74-bed hospital serving a population of 1.5 million—further complicates the situation and has given rise to serious distress migration to nearby districts. To make matters worse, the provincial government has confessed to the government's negligence in distributing wheat packets released to address the situation; the wheat has been rotting while children were dying. Most of the victims belong to the Dalit community and it is believed that government apathy and inaction emanates from the institutionalized persecution of religious minorities in Pakistan.

Case narrative

A total of 193 deaths of children have been reported from the Thar district of Sindh province over the last three months. Though the governmental authorities are trying to attribute these deaths to different ailments, there is strong evidence that hunger, chronic shortage of water, extreme poverty and lack of health facilities are the real reason behind them. The situation is so grim that the Chief Minister of Sindh had to concede that 60 children have in fact died in the area during the past two months, but blamed the deaths on cold weather and mother-child health conditions. He also ordered the release of 60,000 bags of wheat (each of 100 kilograms) from the official store for immediate distribution, but asserted that the children did not perish from the famine conditions prevailing in the area. Only 2,000 of these bags have been distributed however. He has

also declared a 200,000 Pakistani rupees (USD 1960) compensation for the bereaved families.

The dismal health services situation in the area is such that there is only one specialty 74-bed hospital catering to a population of more than 1.5 million. The famine and consequent hunger have caused serious health issues in children, including iron deficiency. The lack of medical facilities coupled with ongoing drought conditions has resulted in the ill health of mothers, leaving them vulnerable to bear undernourished children. The government cannot absolve itself of its criminal dereliction of duty, as it has not invested in building health facilities in the area. The lack of serious government action can be understood from the fact that half of the doctor posts have been vacant for years, and barring the hospital in Mithi, no hospital has a lady doctor. Most of the victims belong to the minority Hindu Dalit community; the institutionalized persecution of religious minorities in Pakistan is believed to be the cause of government apathy and inaction.

The government cannot claim to be unaware of the grim situation, which has been building up over several years of drought, with last year itself receiving less than 100 millimeters of rainfall (as against a minimum of 300mm to avert drought conditions). Further, disregarding the clear policy of declaring an emergency if the rainfall is acutely short of that expected by the end of August, the authorities made no such declaration.

Local and national media have also been raising the issue relentlessly, as the area has no irrigation system and is completely dependent upon rain water for everything from drinking water to irrigation. Despite all this, the government failed to recognize the severity of the issue and put preventive measures in place taking advantage of the country's bumper wheat production in 2013. Only after foreign media started pointing out the rising death tolls did the Pakistani government wake up and take cosmetic measures like punishing the superintendent of Mithi hospital, instead of addressing the real issues causing the crisis.

The inefficient handling of the situation has now led to the Army being pressed into service, but this measure is too little, too late. Furthermore, most of the relief work is centered in the district headquarters of Mithi, while there is no decline in the number of deaths in the countryside. Not only are there no significant attempts to distribute relief material to those in remote areas of the district, but the authorities are not even collecting any statistical data from there, thus denying victims from any claims to the relief resources.

SUGGESTED ACTION:

Please write to the authorities mentioned below demanding immediate intervention and concrete measures to arrest the deaths of children due to hunger. You may also request them to take punitive actions against the officials neglecting their duty, and thus being responsible for such a significant loss of life.

The AHRC is writing separate letters to the Chairperson of the Committee on Rights of the Child and the UN Special Rapporteur on freedom of religion or belief, calling for their intervention in the case.

To support this case, please visit this link: <http://www.urgentappeals.net/support.php?ua=AHRC-HAG-001-2014>

SAMPLE LETTER:

Dear,

PAKISTAN: 193 children died of hunger in Thar, while wheat rots in go-downs

Name of the victims: Children of Thar district in Sindh, Pakistan

Name of alleged perpetrators: Health and Supply officers of the region

Place of incident: Thar, Sindh, Pakistan

Time of incident: January onwards

It has come to my attention that a total of 193 deaths of children have been reported from the Thar district of Sindh province over the last three months. Though government authorities are trying to attribute these deaths to different ailments, there is strong evidence that hunger, chronic shortage of water, extreme poverty and lack of health facilities are the real reason behind them. You will be aware that the Chief Minister of Sindh has conceded that 60 children have in fact died in the area during the past two months, but blamed the deaths on cold weather and mother-child health conditions. He also ordered the release of 60,000 bags of wheat (each of 100 kilo grams) from the official store for immediate distribution, while asserting that the children did not perish from famine conditions prevailing in the area. Only 2000 of these bags have been distributed however. He has also declared a 200,000 Pakistani rupees (USD 1960) compensation for the bereaved families.

I am appalled to learn of the dismal health services situation in the area, with only one specialty 74-bed hospital catering to a population of more than 1.5 million. The famine and consequent hunger have caused serious health issues in children, including iron

deficiency. The lack of medical facilities coupled with ongoing drought conditions has resulted in the ill health of mothers, leaving them vulnerable to bear undernourished children. It is a grave criminal dereliction of duty that the government has not invested in building health facilities in the area. Half of the doctor posts have been vacant for years, and barring the hospital in Mithi, no hospital has a lady doctor.

I am aware that most of the victims belong to the minority Hindu Dalit community, and that the institutionalized persecution of religious minorities in Pakistan is believed to be the cause of government apathy and inaction. This is another terrible violation of government duty and citizen rights.

With several years of drought, and last year itself receiving less than 100 millimeters of rainfall (as against a minimum of 300mm to avert drought conditions), the government cannot make any claims of being unaware of the situation. Moreover, local and national media have also been raising the issue relentlessly, as the area has no irrigation system and is completely dependent upon rain water for everything from drinking water to irrigation. It is outrageous that despite all this, the government failed to recognize the severity of the issue and put preventive measures in place, taking advantage of the country's bumper wheat production of 2013. Only after foreign media started pointing out the rising death tolls did the Pakistani government wake up and take cosmetic measures like punishing the superintendent of Mithi hospital, instead of addressing the real issues causing the crisis.

The inefficient handling of the situation has now led to the Army being pressed into service, but this measure is too little, too late. Furthermore, most of the relief work is centered in the district headquarters of Mithi, while there is no decline in the number of deaths in the countryside. Not only are there no significant attempts to distribute relief material to those in remote areas of the district, but the authorities are not even collecting any statistical data from there, thus denying victims from any claims to the relief resources.

I thus look forward to your immediate intervention to ensure that:

1. Concrete steps are taken to stop the deaths;
2. Health facilities in the area are beefed up and brought to par with the demands of the situation;
3. The officials responsible for holding up the wheat in stores instead of distributing it are prosecuted;
4. Steps are taken to build an irrigation system capable of fighting the recurrent droughts in the area; and

5. A system for monitoring and addressing such crises is put in place so that such incidents do not recur.

Sincerely,

.....

PLEASE SEND YOUR LETTERS TO:

1. Mr. Mian Nawaz Sharif

Prime Minister

Prime Minister House

Islamabad

PAKISTAN

Fax: +92 51 922 1596

Tel: +92 51 920 6111

E-mail: [secretary@cabinet.gov.pk](mailto:secretary@ cabinet.gov.pk) or pspm@pmsectt.gov.pk

2. Federal Minister of Law and Human Rights

Ministry of Law, Justice and Human Rights

Old US Aid building

Ata Turk Avenue

G-5, Islamabad

PAKISTAN

Fax: +92 51 9204108

Email: contact@molaw.gov.pk

3. Dr. Faqir Hussain

Registrar

Supreme Court of Pakistan

Constitution Avenue, Islamabad

PAKISTAN

Fax: +92 51 9213452

Email: mail@supremecourt.gov.pk

4. Syed Qaim Ali Shah

Chief Minister Sindh,

Karachi, Sindh Province

PAKISTAN

Fax: +92 21 920 2000

Email: pressecy@cmsindh.gov.pk

5. Mr. Sikandar Hayat Khan Bosan

Federal Minister For National Food Security & Research

Phone : 92-51-9210088

Fax : 92-51-9205912

Address: Ministry of National Food Security & Research,

3rd Floor, B-Block, Pak Secretariat,

Islamabad . PAKISTAN

Email : minister@mnfsr.gov.pk

6. Chief Justice of Sindh High Court

High Court Building

Saddar, Karachi

Sindh Province

PAKISTAN

Fax: +92 21 9213220

Thank you

Hunger Alerts Programme

Right to Food Programme (foodjustice@ahrc.asia)

Asian Human Rights Commission (ua@ahrc.asia)

Widows journeying together along the path of healing

Dom-an Florence Manegdeg

“The laughter of my children makes me feel lighter. I must survive for them,” responds Jane, pursing her lips and holding back her tears. She is in her mourning clothes when I visit her at her home in the northern mountains of Sagada, Philippines.

It is barely two months since Jane was widowed. Her husband Christopher Balicag was killed on 15 February 2014. Balicag was a passenger jeep driver who ferried commuters from our northern village to the center of town, and returned to his home through a pine forest. He was found bloody and unconscious in his jeep near his house by two of his children late in the afternoon. Neighbors who took the body to the hospital thought it was a vehicular accident, however, an autopsy revealed that he died of gunshot wounds in different parts of his body. This sent shivers throughout the community. Until today, the assassin has not been identified and the motive for the killing is still unknown.

A few days after Balicag’s death, a letter from a revolutionary armed group was circulated in public. The letter clarified that Balicag had no known criminal record and the group had no involvement in his killing. The group also cautioned the family against implicating them, as this would only be exploited by counter-revolutionary forces. I share Jane’s discomfort with this letter, even as it condemned the killing and vowed to help investigate.

Some weeks later, Jane received a text message from an unknown sender: “Sorry for what happened. But don’t you worry, others there will follow. Your husband was the first one because he is kind so it would not be complicated. The bullet does not choose especially those without discipline in the mouth. Take care also.” Despite the fear and threat that the message brought to her, Jane appealed to the sender to not cause any more suffering to others.

After the immediate crime scene investigation done by the police, follow-up investigation has been quite slow. Confused stories are afloat within the community, and Jane has

Florence Manegdeg is a woman peace advocate and human rights defender. She belongs to the Kankanaey Indigenous Peoples in Northern Luzon, Philippines, where she is also a Community Volunteer of the Kasiyana Peace and Healing Initiatives.

appealed for unity and cooperation. She believes this is not only about her husband; it could happen to anyone, as two other men are now receiving threatening messages through their mobile phones.

Amidst the anguish, anger and fear that threatens to embrace Jane, we managed to share a few hopeful moments during my visit. When I asked if her husband had appeared in her dreams, Jane narrated how her late husband spoke to her with a warm smile and bid her to take good care of their children. “*Itungi da*,” (‘they do guide us’), I said.

I shared with Jane a Mary Magdalene story I came across in the days of my own search amidst the senselessness of the extrajudicial killing of my late husband eight years ago. When everyone else left and Magdalene was at the foot of the cross where Christ was crucified, she cried “Why, why, why?” and Christ replied, “Forgive them, for they know not what they do.” How can they not know what they do? How can we forgive those who cause so much suffering? Like many widows, Jane and I also struggle with similar questions screaming in our minds, in moments of agony.

We remembered the conversation we had in a jeep sometime in December 2013. Jane was concerned with two high school students who were harassed by soldiers camped at the mountain near the school where she was teaching. Images of truckloads of battle-ready men and their weapons passing by the village are intimidating enough, but two youngsters had a taste of what it felt to be held for a few hours and suspected as rebel spies. Their parents and fellow villagers were only too relieved that they were set free. We just hoped that the two youngsters would not end up as soldiers or rebels perpetrating the same violence they were subjected to.

In August of the same year, four villages of Northern Sagada were terrorized as the military dropped bombs and sprayed bullets at an alleged rebel camp in the watershed just across the civilian villages. The watershed is part of the ancestral domain of the two tribes in the four villages. Children in school spilled out of the classrooms and joined other villagers to watch in shock and awe. Helicopters hovered right above our homes as we listened to their machine guns and exploding bombs. Pregnant women worried about their unborn babies, while some younger children got sick after the bombing. As the smoke cleared, no civilians were physically wounded. The trauma lingered however, and the townsfolk of Sagada denounced the air-strike as a violation of the Sagada Peace Zone. The town of Sagada is among the seven fragile peace zones in the country.

A peace zone is supposed to be a demilitarized zone that all contending armed groups must recognize, to protect the lives of the civilians in the community. This happened after children, youth and an elderly woman were caught in crossfires right in the middle of the villages sometime in the 1980s.

Despite our circumstances, Jane and I share a similar concern about the culture of violence and impunity seeping into our quiet village. We are concerned for our children. We are concerned for their health, safety and happiness. And now, we seek what needs to be done so that the wounds inflicted in their young hearts will not become scars that will ruin their lives. Jane's heart still bleeds with the sudden and unexpected loss of her husband. She asks herself how she will manage the practical obligations of parenting by herself.

As I and Jane talked about the long journey on the path for truth, justice and healing, I also shared with her how I have encountered many fellow journeyers and mentors who guided me and my children along the way in our difficult moments. How visual and theater arts have helped us move beyond the tragic assassination of their father. How our communion with nature assured us that his spirit lives forever.

I am happy to help Jane learn how to play the bamboo nose flute which she has wanted to learn since she heard me play it on one occasion. She is also interested in training in theater arts to enhance her methods of preparing students for cultural performances. I invited her to visit our organic healing garden too.

Nobody said it is an easy journey: it is a walk and a dance of letting go and embracing the changes even as we travel in dark alleys with lurking shadows. A journey not without risks, particularly in light of our vulnerabilities. Yet, we summon what is left of our strength, and we choose to move on.

Human rights in India: A parallel discussion at the UN Human Rights Council

Bijo Francis

Coinciding with the 25th UN Human Rights Council Session held in Geneva, the Asian Legal Resource Centre organized a parallel event to discuss "Human Rights in India."

Dr Angana Chatterji, a cultural anthropologist and a human rights specialist; M. Mihir Desai, a prominent lawyer from India; and Mr Babloo Loitongbom, a lawyer and human rights defender working in Manipur, were speakers at the event. Representatives from permanent missions present in Geneva, members of civil society and the local press attended. The meeting was held from 1–3pm on 18 March 2014 at Hall Number 28 at the Palais des Nations, Geneva, Switzerland.

Dr Chatterji

Dr Chatterji spoke about human rights issues in India that emanate from gendered violence. She spoke about the widespread patterns of dowry deaths, rape, sexual harassment and the commission of sexual violence upon women particularly in places where armed conflicts exist. She emphasized that redress for human rights abuses in India is a limited option in practice, due to a failed justice delivery mechanism. Due to cultural taboos associated with human rights abuses committed against women, especially against women complaining of gender violence, redress is a remote possibility. This is particularly the case for rural women. Dr Chatterji emphasized the difficulties faced by women approaching criminal justice institutions to seek redress. Police stations in India, in their very appearance, resemble dungeons and are unsafe places for women to walk into and lodge complaints. The image of the Indian policeman, who uses sexual violence to create fear and attain social control, particularly in the rural setting, further discourages women from engaging with the police even at the stage of filing complaints. Police insensitivity in dealing with the psychological condition of a woman who has been subjected to sexual abuse poses further hindrances to women approaching them.

Where armed conflict exists, as in the States of Jammu and Kashmir, Chhattisgarh, Orissa, Gujarat, Manipur, where police commit brutal violence against women, Dr Chatterji argued that the possibility of a female victim lodging a complaint against sexual abuse or sexual violence is almost impossible. This is proven by the absence of any reasonable prosecutions of perpetrators in cases of gender violence, and their punishment.

This pattern of violence committed upon women by state agencies and non-state actors engaged in armed conflict with the state, emanates from India's male dominated culture, where the status of women is equivalent to that of mere chattels.

Dr Chatterji stressed the importance of the Indian government's role in enforcing the law in all instances of gendered violence in India, irrespective of the perpetrators' political and social status. She also called upon the international community to work in close collaboration with the Government of India to improve the country's understanding and capacity in dealing with the psychosocial restitution of the victims, which at present is absent.

Mr Desai

The second speaker was Mr Mihir Desai, a prominent lawyer who assisted in the prosecution of the perpetrators of the 2002 Gujarat massacre. He spoke of the dismal state of the Indian criminal justice system, which has failed to adequately investigate, prosecute and punish the perpetrators despite more than 2000 persons being murdered. Many of these were women who were sexually abused prior to their deaths. Mr Desai emphasized that the riots were state sponsored, with the incumbent government actively participating in the conspiracy, planning, subsequent execution and the prevention of any form of restitution to the victims. Witnesses and complainants who were initially willing to file complaints were systematically discouraged by the state police from doing so, and those who still dared to complain were either directly threatened and forced by the police to withdraw their complaints, or had their details passed to Hindu fundamentalists who were working hand-in-glove with the state government in executing the carnage.

Mr Desai also noted that the prosecutions were largely below standard, while in many cases the investigation had failed to reveal the actual perpetrators behind the incident. Lawyers like him who were assisting the prosecution and the victims were threatened by state agencies and Hindu fundamentalist right wing activists.

Under the influence of the incumbent State government, certain judges have also passed unwarranted remarks against Mr Desai. He was therefore compelled to approach the High Court with the grievance that the lower judiciary was treating him as an enemy of the Court for his assistance to the victims and witnesses of the 2002 Gujarat carnage.

Mr Desai said that the entire state apparatus had schemed against the Muslim community in Gujarat as well as against all those who assisted or were willing to provide assistance to the victims. Twelve years after the massacre, deep wounds and social stigmatization against communities perpetuated by Hindu right wing fundamentalists and the state government that it supports are still fresh, while victims continue to struggle for closure.

Mr Babloo Loitongbom

Mr Babloo Loitongbom spoke of his work as a lawyer and human rights defender in conflict-hit Manipur. According to him, the enforcement of the Armed Forces (Special) Powers Act 1958 (AFSPA) has inflated the conflict and the resultant violence has fragmented society to the extent that even within families mutual trust no longer exists. As in the case of Gujarat, the worst affected in Manipur are women and children. Instances of custodial torture, extrajudicial executions, disappearances, rape, and armed robbery committed by law enforcement agencies are at an exceptional high in Manipur. Seeking redress for such human rights violations is suicidal, as they are largely committed by armed state officers who are empowered and protected by statutory impunity; the AFSPA allows and entitles an armed officer, irrespective of his or her rank, to shoot and kill a person on the mere suspicion that the person could be a threat to the officer. The alarmingly high rate of human rights abuses in the state is linked to the protection this law gives officers from all forms of prosecution and investigation. Similar circumstances exist in all regions where this draconian law is enforced in the guise of providing protection to the civilian administration.

Mr Loitongbom noted that thus far, the Union and state governments have categorically refused to withdraw the implementation of this Act from Manipur. He added that even Manipur's lower judiciary is afraid of the Indian armed forces; there have been many instances where judicial officers were threatened by members of the armed forces.

Both state sponsored as well as non-state actors equally engage in human rights abuses in Manipur. There are 42 prohibited armed militia underground groups in active operation in the state. Frequent fights between these groups result in the loss of life and property of ordinary citizens. Armed militia groups engage in extortion and other crimes just like their counterparts who are employed by the state either as policemen or soldiers.

Mr Loitongbom spotlighted how the maintenance of armed militancy, or the perception of widespread militant activity in Manipur, is promoted by the incumbent state government led by Chief Minister Mr Okrom Ibobi. Ibobi and his political party personally benefit from the unaccounted money the union government spends on Manipur in the name of combating armed militancy. A large proportion of this money is not put through public processes such as the state assembly audit, of which records are published; this money is in fact earmarked for the private profit of the incumbent Chief Minister and his comrades and cadres.

The ensuing circumstances have resulted in a large number of unspoken human rights abuses being committed in the name of secessionist ideas or the opposition of the same ideas by non-state and state actors. These circumstances pose enormous challenges to

human rights defenders working in Manipur. Human Rights defenders are either targeted by the state as spokespersons for armed militia groups, or equally targeted by the militia as state agents who spy on them. According to Mr Loitongbom, the militia forcefully recruits child soldiers by abducting children from schools or from their homes. Due to the absence of protection to their children, parents often refuse to send them to school and schools remain closed for three to six months every year in Manipur, due to the threat posed by militants.

Adding to the arguments made by Dr Chatterji and Mr Desai regarding the failure of India's criminal justice apparatus to address any of these problems, Mr Loitongbom noted that it is a policy of the state to maintain this *status quo*, as people in power benefit from the resultant absence of accountability.

Mr Bijo Francis

Mr Bijo Francis, Executive Director of the Asian Legal Resource Centre, spoke about the importance of the unique struggle and protest of Ms Irom Chanu Sharmila. Sharmila has been fasting in Manipur for the past 13 years, demanding the state and non-state actors to end violence in Manipur, and the government to withdraw the imposition of the draconian ASFPA. There is hardly any critical analysis published about this law in Manipur; about how it negates constitutional and international human rights norms and how it violates constitutional guarantees and international human rights obligations. A critique of the law is available in ALRCs publication, "*article 2*".

Key outcomes from the 25th session of the UN Human Rights Council

International Service for Human Rights

(31 March 2014, Geneva) The 25th session of the UN Human Rights Council has concluded with the adoption of significant resolutions in relation to human rights defenders, peaceful protest, and accountability for gross human rights violations in North Korea, Sri Lanka and Syria.

Delivering a statement on behalf of a coalition of over 20 NGOs from around the world at the conclusion of the session, ISHR's Director of Human Rights Council Advocacy, Michael Ineichen, said, 'We welcome the Council's contribution to advancing accountability for international crimes, as evidenced by the resolutions adopted on the Democratic Republic of Korea and Sri Lanka. We also welcome the renewal of several important special procedure mandates, including those of Special Rapporteur on Human Rights Defenders and Special Rapporteur on Freedom of Expression.'

The session also concluded with the adoption of an important resolution on the promotion and protection of human rights in the context of peaceful protests. The resolutions on human rights defenders and peaceful protest were both adopted despite efforts by a group of States, including China, Russia and South Africa, to weaken the texts.

'Protests play a critical role in contributing to progress on human rights, promoting democracy and civic participation, and challenging repression and censorship. While the Council still falls short of responding adequately to human rights violations committed in the context of protests, particularly the abusive use of force by police, we welcome the adoption of a thematic resolution, and the joint statements – albeit modest – on Egypt and the Ukraine in this regard,' Mr Ineichen said.

The joint statement on Egypt, delivered by 27 States, came after a coalition of NGOs wrote an open letter calling on the Council to address the severe and worsening crackdown on peaceful political activists, human rights defenders and independent journalists in the country.

Throughout the session there was a significant focus on the role of civil society and human rights defenders, with positive initiatives including a dedicated Panel discussion moderated by ISHR Board member Hina Jilani, and a joint statement on the obligations of the Council and States to end reprisals, led and delivered by Botswana.

While welcoming these developments, ISHR's Michael Ineichen said, 'We deplore the continued occurrence of intimidation and reprisals against defenders in connection with their human rights advocacy work, both at national and international levels. The Council has already been made aware of several defenders who, during this session alone, were detained, ill-treated, watched and censored, one even losing her life, for their work in monitoring and exposing human rights violations. We therefore reaffirm the legal and moral obligation placed on the Council, its President, and member States to end reprisals, including by speaking out swiftly and publicly.'

Closing the session, Mr Ineichen said 'This Council will ultimately be judged by its impact on the promotion and protection of human rights on the ground. This paramount objective alone should define the positions of members in the Council, not short-term politics or allegiance to regional blocs. In this regard, we strongly emphasize the critical role of human rights defenders both in the development of resolutions at the Council and the implementation of these standards on the ground.'

Full text available at ISHR website: <http://www.ishr.ch/news/key-outcomes-25th-session-un-human-rights-council>

Qatar and FIFA must act now to stop migrant worker deaths and improve labour rights

Asian Human Rights Commission

(Edited text of statement issued by the Asian Human Rights Commission: AHRC-STM-053-2014, 27 March 2014)

Qatar, in its desperate rush to host the 2022 FIFA World Cup, has emerged as a new killing field for migrant workers mainly from South Asia. Its death toll has gone beyond 1200 already, and is estimated to reach a staggering high of 4000 before the first ball is kicked in the event opener. These deaths have reportedly come from forcing workers involved in various projects related to the event to work and live in extreme, inhuman conditions. The International Trade Union Confederation has revealed many cases of systemic abuse of migrant labour, such as forced labour in harsh climatic conditions leading to sudden strokes, withholding access to water at temperatures exceeding 50 degrees Celsius, confiscation of their passports to prevent them from escaping, and so on.

The only thing worse than the tragic deaths themselves is the silence maintained by the world community. This silence comes with full knowledge of the horrors occurring. In 2013, a report in *The Guardian* elaborated upon the unfolding disaster:

[T]his summer, Nepalese workers died at a rate of almost one a day in Qatar, many of them young men who had sudden heart attacks. The investigation found evidence to suggest that thousands of Nepalese, who make up the single largest group of labourers in Qatar, face exploitation and abuses that amount to modern-day slavery, as defined by the International Labour Organisation, during a building binge paving the way for 2022. According to documents obtained from the Nepalese embassy in Doha, at least 44 workers died between 4 June and 8 August. More than half died of heart attacks, heart failure or workplace accidents.

The issue was even raised in the European parliament with the officialdom of FIFA in attendance. Similarly, data was available with the embassies of the countries these workers came from. The Indian embassy in Doha for instance, put the Indian casualties at 771, while Nepal pegged casualties at 385. The forced labour comes from the *kafala* system prevailing in Qatar for contractual migrant workers: workers are tied to their employer and not allowed to change jobs or leave the country without permission, under this modern incarnation of slavery.

Despite the unfolding saga, none of the stakeholders from the state of Qatar, the native countries of the migrant workers, or FIFA took any responsibility for the deaths, let alone steps to stop the deaths immediately. After much criticism from the international trade union and human rights community, FIFA president Sepp Blatter owned that FIFA has ‘some responsibility’ for workers constructing venues for the 2022 World Cup in Qatar. He concluded however, that it ‘cannot interfere in the rights of the workers’. He noted that the living and working conditions of the migrant labor force remained primarily a responsibility of the state of Qatar, and secondly of the companies employing them. He vaguely acknowledged that FIFA can help ‘resolve this problem through Football’, though he did not elaborate how and when. Theo Zwanzinger, Germany’s member of the FIFA executive, was clearer in his betrayal of human rights standards, conceding that while the working conditions in Qatar are “absolutely unacceptable”, any attempts of shifting the event would be ‘counterproductive’.

Meanwhile, the state of Qatar shrugged off the deaths with an abandon befitting dictatorial regimes. Faced with hard questions, it first went into denial and made absurd claims like the numbers of deaths among the Indian community are normal because of their huge numbers. After facing more flak for these claims, it enacted a Migrant Workers Welfare Charter. The Charter pledges that strict standards of health and safety, equal treatment and so on will be taken care of. Other issues such as the payment of wages and the confiscation of passports would also be taken care of, according to the government. The Qatar 2022 Supreme Committee further asserted that the safety, security, health and dignity of workers—be they professionals or construction workers—is of paramount importance to it, and committed to change working conditions to ensure a lasting legacy of improved worker welfare.

These promises largely amounted to nothing however, as the Charter it had drafted ‘in close consultation with the International Labor Organization’ will apply only to the companies directly building World Cup venues. In other words, the great number of migrant workers employed in wider infrastructure projects required to handle the influx of players, fans and media will not benefit from the Charter.

With both the Kingdom of Qatar and FIFA being cash-surplus, there is no dearth of funds to improve the conditions and stop the deaths immediately. 2011 estimates of the cost of the FIFA World Cup were pegged at an astounding USD 220 billion, about 60 times the USD 3.5 billion that South Africa spent on the World Cup in 2010.

It is in this context that the inexplicably high death rate of migrant workers must become an immediate concern for all stakeholders, from hosts and FIFA to the fans. It is high time to assert that no sports event can be bigger than the lives of even one migrant

worker, forget the thousands perishing in Qatar. Not a single accidental death had taken place on the construction sites of the London Olympics, and there is no reason why Qatar and FIFA can be excused for so many.

Amidst all the hype focusing on the hot climatic conditions that would take a toll on the various football teams playing in the World Cup, it is prudent to also take stock of the migrant labour working in harsh weather conditions, endangering their lives, in preparation of the World Cup. In deciding to go ahead with its decision to hold a world cup in Qatar despite perceiving it as a 'risk', FIFA is not blame free; it is in fact, fully liable for the mounting death toll in Qatar.

Together with various civil society and labour rights organizations, the Asian Human Rights Commission calls upon both Qatar and FIFA to act immediately and ensure that no more lives are lost. Qatar should also implement comprehensive labour reforms, guaranteeing living wages and the right to collective bargaining for workers.

Religious freedom: Tackling manifestations of collective hatred

Office of the High Commissioner for Human Rights

“Manifestations of collective hatred poison the relationship among communities, threaten individuals and groups and are a source of innumerable human rights violations perpetrated by State agencies and/or non-State actors,” the UN Special Rapporteur on freedom of religion, Heiner Bielefeldt, recently told the Human Rights Council in Geneva, where he presented his latest report.

“Hate-filled sentiments are often caused by a peculiar combination of fear and contempt which can trigger a vicious circle of mistrust, narrow-mindedness, collective hysteria, contempt-filled rumours and fear of imaginary conspiracies,” Bielefeldt said.

The report also highlights aggravating political factors that reinforce the scapegoating of religious groups, such as an authoritarian political atmosphere which impedes public debate and creates a “mentality of suspicion”; and the instrumentalization of religion by politicians to promote a concept of national identity that leads to the marginalization of religious minorities. Bielefeldt also highlighted corruption as a cause for manifestations of collective hatred because it undermines trust in public institutions and creates inward-looking mentalities.

The Rapporteur noted that tackling manifestations of collective hatred had become a pressing issue for the international community. The Rabat Plan of Action resulting from a series of regional expert workshops organized by the UN Human Rights Office in all regions of the world, provides a roadmap for States and other actors in their quest to prohibit the advocacy of national, racial or religious hatred that incites to discrimination, hostility and violence.

The Rabat Plan of Action establishes a high threshold for limitations on freedom of expression—as set out in article 20 of the International Covenant on Civil and Political Rights—that takes into account the speaker, the intent and the likelihood of harm, among other criteria. The Plan of Action was designed to help legislators draw a line between free speech and speech that can be identified as incitement to hatred.

“What we require to prevent and respond to incidents of incitement to hatred are policies which promote a creative and productive use of freedom of expression,” Bielefeldt said. “For instance, in order to challenge advocates of religious hatred when they claim to speak in the name of “the silent majority”, it is important that the majority does not remain silent.”

He also stressed that State policies devised to counter hatred should focus on building trust and respecting human dignity.

“By ensuring respect for all human beings as holders of profound, identity-shaping convictions, freedom of religion or belief plays a pivotal role in anti-hatred policies, both in trust-building through public institutions, as well as in trust-building through communication,” he added.

Trust-building activities should include establishing trustworthy public institutions and promoting meaningful communication among different religious or belief communities. The Rapporteur highlighted his first-hand experience of positive inter- and intra-religious communication in Sierra Leone where the Interreligious Council was a key factor in efforts to reunite a country that had been torn by civil war.

“I found the open and amicable climate of interreligious cooperation in Sierra Leone—which not only includes Muslims and Christians, but also intra-religious groups, such as Sunnis, Ahamdis, Shias, Catholics, Anglicans and Evangelicals—quite remarkable,” he said.

“Likewise Jordan, which provides a safe haven for religious pluralism in a region marked by increasing religious and sectarian tensions.”

Full text taken from OHCHR website: <http://www.ohchr.org/EN/NewsEvents/Pages/Tacklingmanifestationsofcollectivehatred.aspx>

Practicing Ethics in Action

Ethics in Action begins with the realization that both law and morality have failed the people of many countries, who are today facing incredible forms of cruelty that they have little power to eradicate. Despite all the rhetoric of empowerment, the reality witnessed in most Asian countries is desperation and powerlessness. The two ingredients necessary for any real empowerment of ordinary people are law and morality. If living conditions are to improve, defective legal systems and the failures of upholding ethics and morality cannot be ignored. *article 2*, a publication of the Asian Legal Resource Centre, sister organization of the Asian Human Rights Commission, is devoted to discussing matters relating to defective legal systems obstructing the implementation of human rights. *Ethics in Action* will be devoted to discussing how movements and leaderships claiming to uphold ethics and morality have failed to promote and protect human rights.

The AHRC invites submissions to *Ethics in Action* by individuals and organizations interested in issues of human rights, ethics and morality in Asia. Submissions can include articles, poetry, fiction and artwork. For more information, please write to eia@ahrc.asia.

Other regular publications by the Asian Human Rights Commission:

Article 2 – This quarterly publication covers issues relating to the implementation of human rights standards as proposed by article 2 of the International Covenant on Civil and Political Rights.

Asian Human Rights Commission Ltd

Unit 1 & 2, 12/F., Hopeful Factory Centre, 10 - 16 Wo Shing Street

Fotan, Shatin, New Territories, Hong Kong, China

Tel: (852) 2698 6339 Fax: (852) 2698 6367 Web: www.ethicsinaction.asia

