



Regional Consultation on Development and Human Rights

*Rule of Law and Democracy for Advancing
Economic, Social and Cultural Rights;
Right to Development; and
Development Cooperation*

17-19 August 2011

St. Gabriel Foundation, Bangkok, Thailand

Background Note

- The interdependence and mutual reinforcement between human rights and development often remains overlooked by civil society and States, though the UN Millennium Declaration explicitly placed both human rights commitments and development goals at the centre of the international agenda for the new millennium. Member States of the UN also agreed on eight quantified and time-bound Millennium Development Goals (MDGs) which are underpinned by international human rights law and should be seen as part of a broader integrated framework of human rights obligations. The MDGs and human rights standards both aim to set benchmarks in monitoring the realization of certain economic, social and cultural rights (ESCR) and there are periodic reporting processes for each at national and international levels. Thus, the MDGs can be viewed as important milestones for the realization of ESCR while human rights standards and principles help sharpen the strategies for achieving the MDGs by addressing the discrimination, exclusion and lack of accountability that lie at the root of poverty and other development-related problems.
- The fact that development itself is a right requires further attention. This coming December 2011, the UN General Assembly will celebrate the 25th anniversary of the UN Declaration on the Right to Development, which enshrines development as “an inalienable human right by virtue of which every human person and all peoples are entitled to participate in, contribute to, and enjoy economic, social, cultural and political development, in which all human rights and fundamental freedoms can be fully realized” (article 1.1). The right to development includes full sovereignty over natural resources, self-determination, popular participation in development, equal opportunities for all persons and the creation of favorable conditions for the enjoyment of other civil, political, economic, social and cultural rights.
- Meanwhile, Asian States, particularly as part of the wider Non-Aligned Movement (NAM), have gone at lengths to invoke double standards in the perception that the UN Human Rights Council tends to place primacy on civil and political rights issues over those pertaining to ESCR and development. As such, much emphasis has been paid on their part to both the MDGs as well as the upcoming 25th anniversary of the UN Declaration. However, it is evident that such rhetoric is being conducted for leverage on inter-State dynamics at the cost of real change on the ground. While the global world

order indeed poses challenges on Asian States with regards to unfavorable free trade agreements and speculative investments proving detrimental to developing country economies, very little concrete action has been undertaken by Asian States to implement their ESCR obligations within their country. Furthermore, there are few countries in the region where ESCR are enforceable by law and can be judicially adjudicated while existing remedies may also be ineffective in providing reparation, including restitution, compensation and rehabilitation for victims, or they could be inadequately enforced.

- This is compounded by the extremely low ratification level of the Option Protocol to the International Covenant on Economic, Social and Cultural Rights (OP-ICESCR), with Mongolia being the only Asian State out of a total of 3 States to have ratified the instrument. The OP-ICESCR includes key important procedures for complaints of violations of ESCR, namely, a communication procedure that takes individual complaints to be considered by the UN Committee on Economic, Social and Cultural Rights (CESCR) and an inquiry procedure whereby the CESCR can investigate gross and systematic violations of ESCR based on credible information. Thus, the OP-ICESCR would serve to strengthen processes of claiming ESCR at the international level by having claims of ESCR violations reviewed by the CESCR and also contribute to the further realization of these rights at the national level by promoting the adequate mechanisms for redress and remedies for violations of ESCR domestically. As such, the ratification of the OP-ICESCR in Asian States would be crucial in terms of access to justice of victims of ESCR violations.
- This drive to increase the convergence between human rights and development is also occurring against the backdrop of a looming economic recession which has caused a notable shift in the international development community, reflecting changes in relationships between governments and donor agencies which affect the ways in which development programmes are funded, implemented and managed. Competition for Official Development Assistance (ODA) has intensified, compelling many NGOs and inter-governmental agencies to “do more with less”. Furthermore, the Paris Declaration on Aid Effectiveness, agreed in 2005 by 90 countries and 26 multilateral organisations, is being increasingly used between donors and partner countries. It is built around key concepts to make aid more effective based on principles of ownership, alignment, harmonization, results and mutual accountability.
- On 29 November-1 December 2011, Busan, South Korea, will host the 4th High Level Forum on Aid Effectiveness. It aims to assess global progress in improving the quality of aid against the agreed commitments, share global experiences in delivering the best results, and agree on a Busan Outcome Document to further enhance efforts globally and within countries to make aid more effective in reducing poverty and achieving the MDGs. This High Level Forum presents an opportunity for human rights and development NGOs to give input into the outcome document with a view to ensuring a rights-based approach to aid effectiveness.
- The Asian Forum for Human Rights and Development (FORUM-ASIA) has attempted a number of related initiatives to develop the capacity of member and partner organisations on ESCR issues. From 2006-2007, FORUM-ASIA produced four policy papers on ‘The Human Rights of Migrants in Asia’; ‘Economic, Social and Cultural Rights: Enforcement and Justiciability’; ‘Development and Human Rights’; and ‘Business and Human Rights’. Two sub-regional human rights forums have also been conducted by FORUM-ASIA with a focus on ESCR issues, namely, the 1st Northeast Asia Human Rights Defenders Forum (2006) which was organized under the theme of “Promoting Economic, Social and Cultural Rights and Human Development: Strengthening the Role of Human Rights Defenders in Northeast Asia” in Ulaanbaatar, Mongolia and the 3rd South Asia Human Rights Forum (2008) that

took place in Trivandrum, India and focused on the theme of “Ensuring the Right to Adequate Food in South Asia”. The Regional Consultation on Economic, Social and Cultural Rights was conducted in Bangkok on 13-14 July 2009 and sought to build a common understanding of the key ESCR developments at the regional and international levels while evaluating national level initiatives undertaken by member and partner organisations.

- Dignity International (DI) works with grassroots communities as its partner and believes that poverty is not only a development issue but a violation of basic human rights and that any lasting efforts to eradicate poverty must be rooted in the human rights framework. Those struggling for daily survival and the marginalised are the people who are in the front line of the human rights struggle and therefore should lead the fight against poverty. And a global human rights movement of the most vulnerable and marginalised is needed to popularise, promote and protect human dignity of all human beings. DI has built its strength from organising the 9 Global Human Rights in Development workshops and the 3 Global Get Organised for Human Rights workshops (with grassroots partners). These workshops, focusing on ESCR, translate the international human rights concepts and standards into a participatory learning process that empowers the participants and organisations.
- Building on past experiences and taking stock of emerging opportunities, the **objectives** of the Regional Consultation on Development and Human Rights are as follows:
 - To enhance a common understanding on the interdependence and mutual reinforcement of development and human rights with a view to holding Asian States accountable to their economic, social and cultural rights obligations;
 - To discuss opportunities for human rights advocacy during the UN Human Rights Council Working Group on the Right to Development (Geneva, 11-14 November 2011) and the OECD High Level Forum on Aid Effectiveness (Busan, 29 November-1 December 2011); and
 - To initiate joint action plans for a regional campaign for the ratification by Asian States of the ICESCR and the OP-ICESCR.
- In this line, the **expected outputs** of the Consultation are to be as follows:
 - Formulated recommendations of Asian NGOs to the UN Human Rights Council Working Group on the Right to Development;
 - Developed common position and joint advocacy strategies of Asian NGOs with regards to the OECD High Level Forum on Aid Effectiveness; and
 - Conducted a mapping of potential advocacy actions at the national and regional levels for the ratification by Asian States of the ICESCR and the OP-ICESCR.

Program Agenda and Schedule

Day 1 (Wednesday, 17 August 2011)	
09:00-09:20	Opening and Introduction Yap Swee Seng, FORUM-ASIA & Jerald Joseph, Dignity International
09:20-11:00	[Session 1] Understanding Development and Human Rights: Rights-Based Approaches

	<p>- Key Concepts and Principles</p> <p>Facilitator:</p> <ul style="list-style-type: none"> • Jerald Joseph, Dignity International • Jong-Gil Woo, OHCHR Regional Office for Southeast Asia <p><i>This session is to level off the discussion and debates among the participants on the understanding of a practical link between development and human rights, as well as the conceptual and programming framework of rights-based approaches to development.</i></p>
11:00-11:20	Tea/Coffee Break
11:20-13:00	<p>[Session 2] Understanding Development and Human Rights: Rights-Based Approaches - Cont'd - Analysis and Programming Frameworks</p>
13:00-14:00	Lunch
14:00-15:40	<p>[Session 3] Claiming Economic, Social and Cultural Rights - Human Rights Education, Community Organizing and Empowerment</p> <p>Moderator: Yap Swee Seng, FORUM-ASIA Speaker:</p> <ul style="list-style-type: none"> • Jagat Bahadur Basnet, Community Self-Reliance Centre, Nepal • Chalida Tajaroensuk, People's Empowerment Foundation, Thailand <p>Floor Discussion</p> <p><i>This session is to share the experiences and lessons learnt on the ground and, wherever applicable, to identify areas for collaboration of Asian NGOs in advocating for and publicizing ESCR.</i></p>
15:40-16:00	Tea/Coffee Break
16:00-17:40	<p>[Session 4] Claiming Economic, Social and Cultural Rights - Cont'd - Budget Analysis and the Right to Information</p> <p>Moderator: Sammy Gamboa, Centre on Housing Rights and Eviction (COHRE) Asia Speaker:</p> <ul style="list-style-type: none"> • Charles Santiago, Member of the Parliament of Malaysia • Babu Mathews, National Law University, India <p>Floor Discussion</p>
17:40-18:00	Synthesis
Day 2 (Thursday, 18 August 2011)	
09:00-10:40	<p>[Session 5] Development Cooperation and Human Rights</p>

	<p>- Civil Society Response to the Aid/Development Effectiveness Agenda</p> <p>Moderator: Masako Yonekawa, Human Rights Now, Japan</p> <p>Speakers:</p> <ul style="list-style-type: none"> • Anselmo Lee, Korea Human Rights Foundation, South Korea • Roland Vibal, Freedom from Debt Coalition, Philippines <p>Floor Discussion</p> <p><i>This session is to share the evolution of civil society activities and interventions on the OECD High Level Forum on Aid Effectiveness and to seek engagement of Asian human rights groups for the critical assessment of the agenda and its implementation as set in the Paris Declaration.</i></p>
10:40-11:00	Tea/Coffee Break
11:00-12:40	<p>[Session 6] Development Cooperation and Human Rights - Cont'd - Civil Society Response to the Aid/Development Effectiveness Agenda</p>
12:40-14:00	Lunch
14:00-15:40	<p>[Session 7] 25 Years of the UN Declaration on the Right to Development - Assessing the Implementation of the UN Declaration: Achievements, Gaps and Challenges</p> <p>Moderator: Dorothy Geurrero, FOCUS on the Global South</p> <p>Speakers:</p> <ul style="list-style-type: none"> • R. Sudarshan, UNDP Asia-Pacific Regional Centre • Don K. Marut, International NGO Forum on Indonesian Development, Indonesia • Marlene Ramirez, AsiaDHRRA <p>Floor Discussion</p> <p><i>This session is to seek a multi-sector and multi-level assessment of the implementation of the 1986 UN Declaration on the Right to Development.</i></p>
15:40-16:00	Tee/Coffee Break
16:00-17:40	<p>[Session 8] 25 Years of the UN Declaration on the Right to Development - Cont'd - Joint Inputs of Asian NGOs for the UN Human Rights Council Working Group</p> <p>Moderator: William Gois, Migrant Forum in Asia</p> <p><i>This session is to brainstorm possible joint statement of Asian NGOs to the 12th session of the UN Human Rights Council Working Group on the Right to Development in conjunction with the celebration of the 25th Year of the UN Declaration on the Right to Development.</i></p>
Day 3 (Friday, 19 August 2011)	

09:00-10:40	<p>[Session 9] Justiciability of Economic, Social and Cultural Rights - Developing International and National Jurisprudences</p> <p>Moderator: Poshaj Raj Adhkari, Informal Sector Service Centre, Nepal Speakers:</p> <ul style="list-style-type: none"> • Amarajrgal Davjayev, Centre for Human Rights and Development, Mongolia • Lyca Therese Sarenas, PILIPINA Legal Resource Centre, Philippines <p>Floor Discussion</p> <p><i>This session is to share case studies from the national level experiences in Mongolia and the Philippines on adjudication and justiciability of economic, social and cultural rights.</i></p>
10:40-11:00	<p>Tea/Coffee Break</p>
11:00-12:40	<p>[Session 10] Justiciability of Economic, Social and Cultural Rights - Cont'd - Ratification Campaign for the ICESCR and the OP-ICESCR</p> <p>Moderator: Cheery Zahau, Mahidol University/Chin Human Rights Defender Speakers:</p> <ul style="list-style-type: none"> • Morshed Alam, Ain O Salish Kendra, Bangladesh • Giyouon Kim, FORUM-ASIA <p>Floor Discussion</p> <p><i>This session is to brainstorm concrete and practical points for an Asian regional campaign on the ratification of the ICESCR and the OP-ICESCR.</i></p>
12:40-14:00	<p>Lunch</p>
14:00-15:40	<p>[Session 11] Brainstorming on Joint Strategies and Action Plans</p> <p>Moderator: Yap Swee Seng, FORUM-ASIA & Jerald Joseph, Dignity International</p>
15:40-16:00	<p>Tea/Coffee Break</p>
16:00-17:40	<p>[Session 12] Brainstorming on Joint Strategies and Action Plans - Cont'd</p>
17:40-18:00	<p>Synthesis and Closing</p>