

「 아시아 여성 법정(Asian Women's Tribunal) 참가 보고서 」

- △ 일시: 1994년 12월 1-2일      △ 장소: 방콕 출라롱콘 (Chulalongkorn) 법과 대학
- △ 주최: 여성, 법, 개발에 관한 아태지역 포럼 (Asia Pacific Forum on Women, Law and Development, APWLD)
- △ 목적:
  - 개발과정에서 여성의 인권이 침해된 사실을 밝히고, 문서화한다.
  - 현재 여성인권의 개념과 실재를 검토하고 비판한다.
  - 여성해방의 범위를 인권 활동으로 발전시키고, '여성의 권리와 인권'의 맥락에서 이야기한다.
  - 정의를 위한 탐구 속에서 대안적이며 동시에 법률 소비자들에게 권한을 부여하는 법적 활동을 만들어 간다. 또한, 사법부를 예의주시하며 법관들의 태도에 영향을 미친다.
  - 인권조약과 협약을 비준했으나 여성을 위해 실행하지 않는 개별 국가에 이의를 제기한다. (예를 들어, 법적 체계와 법의 개혁)
  - 1995년 베이징 회의에 앞서 아직 CEDAW(여성에 대한 모든 형태의 차별 철폐 협약)를 비준하지 않은 정부에 비준 요청
  - 여성의 인권은 불가분하고 보편적인 것임을 거듭 주장한다. 여성의 권리에 영향을 미치는 개발정책은 도전받을 필요가 있다.

△ 참가자: 인권활동가, 여성활동가 등 대부분 여성 70여명 참가 / 6명의 판사  
국내 - 김은영/김준희 (참여연대 인권운동 사랑방)

- △ 진행: 11월 30일 2100 법정 진행 소개
- 12월 1일 0900 등록
- 0930 인사말/노래
- 1000 사례별 증언 - 필리핀 선(원)주민 (Indigenous) (질의 응답) 인도네시아 (Factory Women) 타이 매춘여성 (Trafficking) - 슬라이드
- 1300 점심식사
- 1400 노래
- 사례별 증언 - 타이 여성노동자 (Women Workers) (질의 응답) 인도네시아 이민노동자 (Migrant Women Workers) 방글라데시 새우양식자 (Shrimp Cultivator)
- 12월 2일 1000 노래
- 나라별 여성인권 상황 개괄 - 피지, 호주, 스리랑카
- 1300 점심식사
- 1400 판결 - 중간 성명서 낭독 / 의견교환

△ 성명서 요약: 판사 클레어런스 디아스(Clarence Dias, International Center for Law in Development (ICLD) 대표) 낭독

이번 법정의 증언들은 현재 진행되고 있는 개발모델의 실책에 불과한 것들이 아니라  
는 것을 분명히 보여주고 있다. 처음 개발에 대한 비판은 마치 경제가 인간생활의 모  
든 것인 양 경제적 성장과 물질주의적 목표에 과도한 강조점을 둔 것에 있었다. 그러  
나 이제 개발은 '더 많이 갖는 것(having more)'이 아니라 '더 많이 존재하는 것  
(being more)'으로 정의되어야 한다. 평등과 존엄성의 고려가 개발에 있어 우선되어야

한다. (중략)

개발에 대한 여성인권적 비판은 단지 개발로부터 세계 인구의 절반을 제외한 것에 대해 주의를 기울이는 것뿐만이 아니라 그 이상 훨씬 더 많이 수행되어야 한다. 현재 개발에 대한 접근은 여성에 대한 구조적 소외, 착취, 노예화등을 전제하고 있다. 이러한 개발은 실제로 가부장제에 기초한 잘못된 개발이다. 이러한 개발패러다임에서 인권은 여성을 위한 것이 아니다. 여성에 대한 강간과 모든 형태의 폭력은 인권침해일 뿐 아니라 범죄이다" 라며 개발에 대한 여성인권적 시각을 피력하였다. "아시아에서 여성의 배제는 정부의 정치적 결정이다. 성적 평등함은 현실문제라기 보다 수사학적인 미사여구의 문제로서 다루어져왔다. 인권으로서 여성의 권리에 대한 주장은 지난 비엔나 세계인권대회에서 국제적으로 인식되어 왔다. 그렇다면, 현재 개발과 관련된 인식은 근본적으로 수정되어야 한다. (중략)

여성은 세계시장에서 매매되는 일용품으로 남아있다. 다국적기업에 의해 세계시장에서 여성의 노동은 착취당하고 있으며, 세계화·지구화는 개발과정에 있어 여성에 대한 억압을 증가시키고 있다. 우리 앞에서 증언한 개발현실은 모두 개발이라는 이름으로 받아들일 수 없음을 분명히 하고 있다. 개발의 결정과정에서 여성의 배제는 더 이상 참을 수 없다. 성적인 평등함이 여성의, 여성에 의한, 여성을 위한 개발을 요구하고 있다. (중략)

증언한 사람들이 정의를 얻으려면 국가적, 지역적, 국제적 차원에서 정책과 법의 개혁을 위한 특별한 의제가 추구되어야 한다. 그 의제들은 ▷ 여성의 인권을 보호하기 위해 정부가 그들의 잘못을 충분히 책임질 것 ▷ 세계화의 해로운 효과에 대해 여성의 인권을 보호하기 위한 효과적인 사회안전망을 발전시킬 것 ▷ 여성의 인권침해의 원천이 되지 않도록 IMF와 세계은행의 산업구조조정정책을 재구성할 것 ▷ 그들의 정책에 관하여 WTO나 APEC, EC같은 무역블럭에 의한 인권과 사회 영향력 평가 절차를 채택할 것 ▷ UN회원국들은 국제인권기구 특히 CEDAW(여성에 대한 모든 형태의 차별 철폐협약)에 유보조항 없이 비준할 것 ▷ 비엔나 선언과 행동계획에 의해 요구된 개발에 관한 인권을 국가적·국제적 차원에서 수행할 것 등 11가지의 주제들이다.

△ 소감:

- 내년 WSSD와 북경여성대회를 앞두고 열린 이번 모임은 '개발'에 대해 '여성의 권리/인권'의 관점을 가지고 접근한 좋은 본보기였으며,
- 국내 상황과는 전혀 다르게 인권운동과 여성운동이 그 인식의 정도와 태도에 있어 비교적 자연스럽게 긴밀하게 결합하였다.
- 국내에서는 다른 여성운동가들의 불참이 보여주듯, 여성운동과 인권운동을 분리시켜 사고하는 경향이 타국에 비해 매우 크다. 여성운동과 인권운동 그리고 그외 다른 영역의 운동들이 그 개념의 확대 발전을 꾀하면서 상호 긴밀한 관련성을 가져야 한다는 점이 이번 모임에서도 제기되었다. 이것은 곧 인권운동의 새로운 장을 열고자 하는 인권협의 과제이기도 함.
- 아태 지역을 망라해서 공통되게 부각된 문제점들을 짚었는데, 국내의 상황을 보았을 때, 문제의식의 편차가 크다고 본다. 이것은 아태지역 내 경제개발 상황이 각기 다른 것에 연유한다고 본다. 따라서 내년 개발회의와 여성대회에 국내에서는 어떠한 문제의식과 입장을 가지고 임해야 할지 과제로 남는다.

△ 구입 자료: Health Status of female industrial workers in Thailand



- (Medicine Association of Thailand), p8  
Gender and Access to Justice - a Report of the Regional Training  
Programme 3.18-21, 1992, Manila (APWLD), p46  
Forum News Vol.7, No.2 Agust (APWLD)  
Conference '95 - APWLD Bulletin no.4 Nov. (APWLD)  
News Bulletin vol.2, no.3, 5 May, Sep. (Empowering Women of Burma)  
The Convention on the Rights of the Child: reaching the unreached?  
- adapted from 'Bulletin of HRs 91/2 The Rights of the Child'  
(Vitit Muntarbhorn) p9

#### 소개자료

- Asian Women's HRs Council (AWHRC, 필리핀)  
Women in Black Movement (AWHRC)  
Association for the Promotion of the Status of Women (타이)  
Women Acting Together for Change (WATCH, 네팔) ✓

#### WSSD 관련 자료

- UN WSSD Fact Sheet, May, p4  
Declaration of the Asia-Pacific NGO Conference on the WSSD  
- an Asia-Pacific Agenda for the Social Development Summit,  
15-18 June, Manila, p3  
Asia-Pacific NGO Declaration for WSSD  
- NGO Symposium on a Social Development Agenda for the ESCAP Region  
into the 21 Century, 12-15 July, Bangkok, p7  
The Second PrepCom for WSSD: the Little Done, Vast Undone  
(Clarence Dias-Int'l Center for Law in Development), Sep., p2  
Asia-Pacific NGO Forum for Social Development  
- Is Humanity Heading for a Deadend? a Call for a Fundamental  
Change of Course, 15 Oct., p2



Notes on the Asian Women's Tribunal  
December 1-2, 1994

The Asian Women's Tribunal was conducted in a mock tribunal format with a panel of judges who listened to women from various Asian countries testify as to the human rights violations they had suffered. The testimonies culminated in an interim "judgment" or statement by the judges which can allow those who have been indicted to respond. Because this was a people's tribunal, the statement carries no power to seek punishment, justice, or redress. Rather, it was an opportunity to provide a forum for women's voices in the human rights struggle and thereby hopefully strengthen their oft oppressed voices.

These notes will very briefly highlight the testimony given by the women at the tribunal. Because we have attached a copy of the interim statement, there is no need to describe it. Instead, these notes will also provide a few additional comments not mentioned in the statement. Also, in some cases, women spoke directly of the abuses they suffered, and in other cases, others spoke on their behalf since they were unable to attend the Tribunal. This may account for the difference in the reporting of their accounts, as some may contain very specific details of a woman's account while other may contain more general facts or statistics.

Filipina Indigenous Woman. The indigenous peoples in the Cordelia Mountain Run comprised communities whose members were actively engaged in small-scale mining for their livelihood. As this area is rich in natural resources, it quickly became a target for development projects of transnational corporations (TNC). In a matter of years, the corporations flooded into their communities and brought with them large-scale mining techniques as well as many workers to carry out such operations. The effects of such development has led to the massive displacement of many communities which have occupied these lands for many years. As the people can no longer subsist on small-scale mining, they must leave their communities and families in search of other jobs. The environmental degradation has been complete, as developmental projects have razed the natural landscape and polluted the rivers so that the people no longer have clean water to drink or even with which to bath.

Indonesian Factory Worker. The harsh labor policies of factory management in developing countries have been documented in many Asian countries as well. Indonesia, of course, is no exception. At the garment factory of this testifier, approximately 80 percent of the 1000 workers are women. Here, one of the fundamental rights of labor -- the right to collective action -- is violated as those who participate in strikes are "resigned." Leaders of strikes are accused of holding illegal meetings and inciting strikes and are subsequently fired, as this testifier was. In addition to her starting wages having been 815 rupiah (2100 rupiah = US \$1), she stated that all workers are subjected to random and arbitrary deductions of their meager wages. Women are further subjected to various forms of sexual harassment, including mandatory physical inspections by male supervisors to prove that the women do indeed qualify for menstruation leave. Finally, there are unusually high rates of accident as well as of occupational diseases, such as lung problems and rheumatism. Neither the government's labor board nor the factory management has effectively addressed these issues.



Thai Sex Slave. In 1992, this testifier went to Japan under the false pretense that she would work as a waitress in a restaurant. Only when she arrived did she realize that she had been sold to a bar as a sex slave for ¥ 3.8 million, which she had to pay off to the bar owner in order to gain back her freedom. When she was close to paying off her debt, she was again sold to another bar for an even higher price, and again for a third time for ¥ 7 million. By that time, she had contracted the HIV virus. Her sexual exploitation has been compounded by the Japanese media as well. A journalist interviewed her for a documentary on the sex slave industry in Japan and promised at that time to protect her identity fully. Much to her surprise, however, the documentary was broadcast on Japanese national television with her identity fully revealed and her parents in Thailand interviewed without her knowledge. Meanwhile, the identity of the men in the documentary was very carefully guarded. This sort of media tactic can only serve to facilitate and promote the further exploitation of women.

Thai Women Workers. The two women workers testified as to the harmful conditions under which they worked. One woman seriously injured her while performing her duties on the job. When she told her supervisor about her injury, she was advised to lie and tell the doctors that she injured herself at home so that the company would assume no liability for her injury. Though her social welfare fund of Bt30,000 should have provided for her health care, she was illegally denied access to the use of these funds by her company. As a result, she now suffers from permanent back problems. The second woman's story was similar. She developed a serious lung condition called byssinosis, which affects 20 to 36 percent of all female workers in textile factories. No precautions are taken, nor are warnings of danger given to the workers who work in the factories. Presently, sick workers can find no redress for their illnesses within the governmental or factory systems. Obviously, there is an urgent need for the implementation of the labor laws to safeguard the workers from such violations.

Indonesian Migrant Worker. The testifier went abroad to Saudi Arabia and Hong Kong in search of better work than she could find at home. The job she found as a domestic servant in Saudi Arabia was accompanied by harsh physical abuse. When she returned home, no longer willing to subject herself to such abuse, her complaints to officials of the abuse she suffered abroad went unanswered. Instead, she only suffered further sexual abuse and blackmail at the hands of these officials. When sending governments and receiving governments collude and comply with companies or private interests who hire migrant workers, they allow the exploitation of these workers to serve the economic interests of all the powerful parties involved.

Bangladeshi Shrimp Cultivator. The Bangladeshi government has adopted a policy of rezoning land formerly cultivated for agricultural purposes and animal husbandry by peasants in order to transform the green pastures into areas flooded with salt water for the extremely profitable cultivation of shrimp. Their policies involve the forcible acquisition of the land for such purposes. The policy by the government is compounded by the policy of TNCs whose brute force in acquiring land is legitimized by the government. Such policies are encouraged and helped directly by the World Bank. Not only do such policies cause irreversible destruction to the environment, but also to the communities whose members must either become exploited workers of TNCs or leave their communities in search of other jobs.



Burman Refugee. Many Burmans have been driven out of their country by the dire economic situation and civil war. Many of these refugees seek refuge in Thailand, where they apply for political asylum. Of the over one million refugees who seek asylum, only approximately 2500 are lucky enough to be classified and recognized as refugees by the UNECR. The rest attempt to find work illegally, often in situations of conscripted labor in which they earn only Bt70 per day. Many women face no choice but to resort to prostitution.

Thai peasant. In this case as well as in the Bangladesh shrimp cultivator's case, the destruction of the community can be directly traced to development policies supported by the World Bank. Since the inception of the project, the Pak Mool Dam has been protested by the affected peasants who depended on fishing in the river for their livelihood. While the dam may provide a cheaper energy source for some consumers, it has wreaked havoc on an entire community. The fish supply is virtually non-existent. The effects of the fish ladder which was built so that the supply of fish would remain unaffected by the dam are completely negligible. The once fertile lands are now flooded and untillable. Over 10,000 people have been dislocated as they can no longer find a means of sustenance in their communities. They have demanded a yearly payment of Bt35,000 a year as compensation, an amount which cannot begin to compare with their actual losses, but they are denied even that.

Clearly, there is a predominant theme common to these cases: the course of development pursued by Asian governments and supported by the World Bank has taken a disproportionately destructive toll on women and their communities. This issue raises many questions. Is there a feasible way to reconcile developmental concerns with women's and communities' concerns which can be adopted by the governments? There are also deeper issues questioning the value of such economic development in the first place. What exactly does development mean, and for whose benefit is development taking place? When witnessing the sharp drop in living standards among these women and communities, such questions are difficult to answer.

Very briefly, some final issues which the Tribunal raised are as follows. There is an urgent need to link developmental concerns with all aspects of human rights -- particularly the environment and women's rights. Already, the environment has been sacrificed in efforts to industrialize, and now the same fate is affecting the lives of too many women, too harshly. Furthermore, the overall notion of human rights must be redefined and expanded to include women's rights. This also includes establishing more solidarity and joint efforts among human rights organizations which are not women-oriented and those which are, particularly in Korea where there exists little cooperation between the two types of organizations. Without doing so, fighting for women's rights would be an even steeper uphill climb. The traditional notions and definitions of women which were determined by patriarchal values must be challenged. It will be difficult to do so, because so far, we have fought for women's rights in our judicial system, which is inextricably tied to our capitalistic systems which necessarily exploit and commodify women and their bodies for capital accumulation. After all, the gross violations of the women who are trafficked and used in the sex slave industry, for example, are currently difficult to address through our international legal mechanisms. Therefore, we need to establish non-state mechanisms which transcend the scope of capitalism in order to face these issues of women's violations effectively and completely.

INTERIM STATEMENT

of the

ASIAN WOMEN'S TRIBUNAL

Chulalongkorn University  
1-2 December 1994

Asia Pacific Forum

on

Women, Law and Development



## THE VOICES BEFORE US

Rural Women and Their Communities

Once we enjoyed a good and abundant lifestyle on this fertile land. Now after just 3 years since the construction of the Pak Mool dam began, we have had to sacrifice our lands, our wellbeing, our very way of life. We are too poor to send our children to schools. Our families are broken as both fathers and mothers are forced to leave their children in search of jobs. Our lands are flooded, our fishery resources have been destroyed, our livelihoods have been eliminated. Of this development we want no part.

This testimony from Thailand is also echoed in the testimony from Bangladesh where saltwater shrimp cultivation has transformed large, green areas of life - sustaining land into a huge expanse of saline water which brings huge profits for the shrimp cultivators. But for the rest, the shrimp farms have put an end to agriculture, poultry-rearing, animal husbandry and other forms of productive activity, impoverishing proud and self-sustaining communities and leaving them with no option but to either join in the destructive shrimp cultivation as exploited workers or to leave their homes and communities and try to start life afresh, displaced by a development, which has left them bereft of all their resources but their indomitable courage.

Country after country in Asia, we find policies and programmes and projects, which in the name of development are taking over the lands of rural people, destroying their subsistence base and livelihoods and virtually confiscating their very survival resources.

In both the Thai and Bangladesh testimonies we find grave and continuing human rights violations. Communities are denied participation and any say in decision-making that produces damaging developmental invasions into their homes and lands. Governments are willing accomplices, if not initiators of such developmental interventions often at the behest of multinational corporations and/or the World Bank. They blithely ignore their obligation under international human rights law to protect their peoples from violations of their human rights and turn a blind eye when private armies of wealthy elites coerce communities into surrendering their land and their resources. Local police and law enforcement officials adopt attitudes that range from indifference to downright collusion in such abuses. Organised protests by communities are ruthlessly suppressed by violence even at the cost of human life. Women, usually at the forefront of such protest, become the direct target of such violence and sexual abuse. They suffer as well when their menfolk are killed, maimed, arrested or disappear. Their already severe burdens of ensuring the survival and well-being of their families become even more onerous. Moreover, even when they are forced to make the supreme sacrifice of their lives, as in the Bangladesh testimony, such sacrifice is denied recognition by the law enforcers and it takes a prolonged and debilitating struggle in the courts of the land to secure even minimal aspects of justice and accountability. The economic interests of urban and foreign elites supercede equity and fairness for rural communities. Development project, in both public and private sectors alike become an instrumentality through which greed, aggression and resource



plunder are imposed upon them threatening life, dignity and wellbeing.

It is hardly surprising therefore, that in both the Thai and Bangladesh testimonies, the affected communities want no part of such development. But even their most modest demands for compensation actual losses and damages suffered go unheeded.

### Indigenous Peoples

The Philippine testimony relating to the peoples of the Cordillera and the Malaysian submission regarding indigenous peoples of Sarawak provide a dismal story of multiple oppression - as rural communities, as indigenous peoples and even more as women within such communities. The ancestral lands become the target of envy and greed of developers who covet the rich mineral resources and forest resources which indigenous communities have so zealously protected over the years. By legislation or executive fiat, their lands are confiscated by being reclassified ostensibly for developmental reasons or for so-called environmental reasons by the very eco-vandals who rape the communities and their environment in the profligate pursuit of profit. Communities who seek to resist are either ruthlessly repressed by brute force or else coopted through the sowing of dissension among their ranks. They are drawn into a prolonged process of negotiations whose real purpose is to delay and deny rather than recognise and enforce their just claims. While this long-drawn out war of attrition is waged, the communities suffer continuing denials of their cultural rights and their lands are subjected to such severe environmental degradation that they are faced with the cruel dilemma of staying on their ancestral lands and witnessing the slow death of their children by severe pollution or being forced to abandon their lands and join the evergrowing ranks of internally displaced persons - displaced by development.

### Women Workers

Prevailing development models in Asia, with their heavy emphasis on accelerated industrialisation, treat workers as expendable resources in the pursuit of economic growth. In the Thai and Indonesian testimonies, we witness women workers in factories being subjected to appalling health and safety hazards in their workplace; cross exploitation regarding wages and benefits; unending sexual harassment; and affronts to their dignity typified by the Indonesian testimony where women workers, claiming the menstrual leave that the national laws provides, are subjected to physical inspection as a matter of factory practice. Inquiries suffered in the workplace are denied as having ever taken place even when ravaged lungs and damaged backs (of two of the witnesses who testified before us) provide clear and incontrovertible evidence to the contrary. Workers compensation schemes, social security programmes exist primarily on paper alone. Similarly, labour legislation meant to safeguard the welfare of workers (and in implementation of international obligations under ILO Conventions) remain unimplemented. Rights to organise are persistently violated and at times, Asian governments in their anxiety to woo foreign investors at any price, officially legislate to deprive workers of such rights, for example in export processing zones which are proliferating all over Asia. More recently, policies of privatisation are eliminating jobs even while other policies of development (eg in rural sectors) are eliminating self-employment in subsistence livelihoods.



When migrant women workers are forced to seek jobs outside their own countries they are subject to abuse after abuse of their rights and dignity. Women migrant workers are especially vulnerable as targets both of greed as well as of lust. Attempts by them to assert even the most basic of universal rights against exploitation or slavery-like practices provoke both violence and sexual abuse. In shameless complicity, sending governments (pursuing foreign exchange earnings) and receiving-governments (needing workers in burdensome jobs which their own citizens reject) join with private sector recruiters and employers to deny women migrant workers even the most minimal protection and equity. Their employment contracts become legal instruments of enslavement. When women seek to escape such bondage they end up being labelled as criminals and perpetrators of homicide against those who have been responsible for making their lives a veritable living death. When, as in the case of the Indonesian witness, courage and refusal to remain subjugated enables her to return to her home country, she becomes the target of blackmail and sexual abuse by the very officials who were mute when she sought their protection against abuse in the foreign countries they had encouraged her to go to. Women migrant workers receive lavish praise from their governments as "angesl" or "heroins" of development. But that is poor substitute indeed for international and national obligations to protect their right to work with dignity. In previous development decades the environment was the sacrificial lamb slaughtered at the altar of development. In the present development decades it is women workers who are to be sacrificial lambs.

#### Internationally Displaced Persons

The testimonies from Burma reveal the very depths of degradation that development sunk to. Young women, who have to flee their country because of human rights abuses, economic collapse, forced labour and conflict find themselves the helpless victims of exploitative employers, abusive police and an international bureaucracy which tends to forget the very rationale of its existence. They are ruthlessly exploited by employers who do not pay. They are hunted down like criminals by police who feel that rape and sexual abuse of such displaced persons is one of the privileges of their office. Economic considerations (of access to cheap energy resources) and developmental objectives (involving plunder of mineral or forest resources) make them the prey as well of neighbouring governments who far from being hosts, become active collaborators with the abusive regimes that have been responsible for such international displacement in the first place. International laws and standards remain ignored. For the refugees from Burma there is no home, no life, no future so long as the international community remains a mute spectator and collaborator in despicable crimes against humanity.

#### Sexual Slavery

The testimony of a young Thai woman duped into sexual slavery provides a most basic challenge to this Tribunal and to all concerned about human rights and social justice in Asia. Her life epitomises the concerns that prompt the convening of the Tribunal. Duped into sexual slavery in Japan, when was sold as a sex slave, on three separate occasions from one owner to the next, each time for sums in millions of Yen. By the time of her third sale she had already contracted the HIV virus. Arrested and deported back to Thailand she



becomes the target of inhuman exploitation by a journalist who in breach of his promise to her of anonymity, lays bare the tragic story of her life on national television in Japan. The video tape telling her story violates every shred of her privacy and dignity. The journalist seeks out the parents of the woman in their home in a village in northern Thailand and reveals to them the secrets of her past right before the glaring eye of his video camera. He similarly pursues the Japanese boyfriend of the woman and breaks the news of her illness once again, captured live on film. The video is very discreet about protecting the identity of the bar owners, pimps and customers. But no such concern is shown for the victim herself.

This testimony epitomises perhaps the most appalling gap in the present state of national laws and the international human rights system. Behaviour is clearly criminal and intolerable, in fact is not so in law. Trafficking in women is a lucrative business - facilitated, fed and reinforced by a range of development policies to ensure a continued supply of women to be subjected to sexual slavery. If the brave words of the Vienna Declaration on Human Rights recognising women's rights as human rights are to be worth the paper they are written on, there must be an end to the sexual slavery of women - NOW. The courage of the young Thai woman who came before us must compel more than compassion. It must compel effective ACTION.



## ENOUGH IS ENOUGH

It is clear to this Tribunal that the testimonies placed before it are not just stray, isolated failures of prevailing development models and current world views. Critiques of development abound and each successive critique provides insights which necessitate fresh connective action. The earliest critiques of development focused on its over-emphasis of economic growth and materialistic objectives as if economy was the end-all and be-all of human life. Development should not be defined as solely as having more and more rather, it should be defined as being more. Trickle down has long since been discredited. Considerations of equity and dignity must be accorded priority in development.

Subsequent ecological critiques of development raised basic issues regarding development at what cost and to whom. Considerations of inter-generational justice joined those of intra-generational justice in rethinking development. It became painfully clear that in development, all too often more might well be less and that paradoxically, less might well mean more.

Gender/feminist critiques of development did much more than merely call attention to the exclusion of half of the world's population from development. Current approaches to development are premised upon the systematic marginalisation, exploitation, commodification and enslavement of women. Such maldevelopment is indeed male-development founded on the bedrock of patriarchy. In such a development paradigm, human rights are not for women. Rape and all other forms of violence against women may well be a crime but it was not perceived as involving the abuse of human rights. In Asia, the exclusion of women has been a political decision of governments. Gender equality is treated more as a matter of rhetoric than of reality. The global assertion of women's rights as human rights demanded and obtained international recognition at the UN World Conference of Human Rights in Vienna last year. But if such recognition is to evolve into reality development must be fundamentally redefined.

Moreover, current trends of globalisation exacerbate existing pathologies of development and proliferate new pathologies so far as the abuse of the human rights of women is concerned. Woman remains even more so a commodity trafficked in a global market. Women workers face fresh waves of displacement, dislocation, disempowerment and debasement. Feminisation of labour in an international market promoted by multi-national corporations aggravates the exploitation of women workers. Globalisation increases the vulnerability of women to violence in processes of development.

These critiques of development and the realities of the practice of development revealed in the testimonies before us, make it clear what cannot be accepted in the name of development. Denial and abuse of human rights of women cannot be condoned in the pursuit of development. Exclusion of women from the processes of developmental decision-making can be tolerated no more. Gender equality demands development by women, of women and for women. Women and men together must stand firm in resisting wanton over-consumption, profligate resource-depletion and ecological degradation and damage to the global environment.



## TOWARDS EMPOWERMENT

A succession of UN World Conferences from Teheran to Vienna; from Stockholm to Rio; from Mexico, Copenhagen and Nairobi to Beijing; and from Cairo to Copenhagen (next year) brings the world's governments and the world's peoples together in a continuing process of drawing up the global social contract aimed at keeping human life human. Aimed at realising all to ensure the protection of the most precious of all human rights - the right to be human, in which the right to be woman is indeed integral and non-negotiable. These Conferences (in their Declarations and Programmes of Action) express world-wide consensus around principles and values which articulate brave, new world-vision towards empowerment. These principles and values must be applied and enforced in redressing the injustice of past development and in defining the paths of development for the future.

World Conferences on Human Rights have underscored and reiterated the concepts of universality, indivisibility and inter-dependence of all human rights (economic, social, cultural, civil and political) of all (individuals and collective, women and men alike).

World Conferences on Environment and Development have reaffirmed concepts of sustainability and inter-generational justice. Agenda 21 from Rio also provides us with implementation mechanisms (such as environmental impact assessment) working principles (such as the precautionary principle, the polluter pays principles) and decision-making guidelines (such as the principle of subsidiarity) to ensure that values infuse and transform reality.

World Conferences on Woman established a framework of women's rights around concepts of equality, development and peace and derived specific Forward Looking Strategies for the Advancement of Women.

The Cairo Conference on Population and Development reaffirms key human values in respect of migration and displacement. It constitutes a global landmark in the recognition of women's reproductive rights.

The forthcoming World Summit on Social Development emphasises concepts that go beyond poverty alleviation to poverty elimination and poverty prevention. The Summit underscores the need for expansion of opportunities for productive employment and the protection of livelihoods. The Summit proscribes exclusion and marginalisation in the development process. The Summit views this as essential if social conflict is to be averted and social harmony realised.

These are the building blocks towards empowerment of women and men. Such empowerment is vital, if the victimisation and injustices presented to us at this Tribunal are to be redressed.



## THE ROAD AHEAD

It is clear to this Tribunal that a specific agenda for reform of policy and law must be pursued at national, regional and international levels if those who testified before us (and the countless numbers of others similarly victimised by development) are to obtain justice. Such an agenda would include:

- i. criminalisation of all behaviour and acts which lend to the sexual slavery of women;
- ii. holding governments fully accountable for their failure to protect the human rights of women. Thus, for example, both sending governments and receiving governments must be held accountable for their respective failures to protect migrant women workers from abuse of their rights;
- iii. holding all actors in both public and private domains, accountable to international human rights standards;
- iv. developing effective social safety nets to protect the human rights of women against harmful impacts of globalisation.

In respect of the specific case of sexual slavery brought before us by the Thai woman, this Tribunal intends to submit before each and every relevant mechanism with the UN human rights system (those dealing specifically with women as well as those dealing more generally with torture, slavery etc) an appeal that they take appropriate action so that this specific case becomes a symbol of hope for the future.

- v. the reformulation of the structural adjustment policies of the IMF/World Bank to ensure that such policies do not themselves become the source of violation of the human rights of women;
- vi. adoption of specific measures by the World Bank to ensure that their own policies and actions do not erode the control by communities over their own resource base;
- vii. the adoption of human and social impact assessment procedures by the World Trade Organisation and other trading blocs such as APEC and the EC in respect of their policies;
- viii. the urgent adoption of international human rights standards in respect of indigenous peoples and minorities;
- ix. the ratification without reservations by all member states of the UN of core international human rights instruments especially CEDAW;
- x. the strengthening of workers' rights especially the right to organise;
- xi. the implementation at national and international levels of the human right to development as called upon by the Vienna Declaration and Programme of Action;



The Tribunal recognises, however, that its call for reform of policy and law will go largely unheeded at national and international levels unless a World Citizen Campaign of Action is launched in support. All participants in this Tribunal session have participated in the process of formulating the elements of such a campaign and pledge their on-going commitment to the implementation of such a campaign. The struggles of communities and women against disempowerment have expressed the discrimination, exploitation, oppression and subjugation of women by development processes. Each of these processes must be the subject of specific campaigns of action.

Panel of Judges:

Dr Clarence Dias  
Justice Bhagwati  
Dr Govind Kelkar  
Ms Yayori Matsui  
Prof Vitit Muntaborn  
Ms Nandita Haksar  
Ms Wilma Racho-Ballistoy



## 아시아 여성 법정(Asia Women's Tribunal)

△ 일시: 1994년 12월 1-2일

△ 장소: 방콕 술라롱콘 대학(Chulalongkorn University)

△ 주최: Asia Pacific Forum on Women, Law and Development(APWLD)

- APWLD는 평등과 정의, 개발을 위한 사회변화의 한 수단으로써 여성이 법을 이용할 수 있도록 하는 지역조직이다.

- 사무국은 말레이시아 쿠알라 룸푸르에 소재.

- 간사는 니말카 페르난도 (Nimalka Fernando, 스리랑카)

△ 배경: 아태지역은 신흥 공업국으로 대표되는 급속한 산업화와 개발을 이루어냈다. 그러나 분배 정의는 이루어지지 않았고 이러한 물질적 이윤을 얻기 위해 주권, 민주주의, 사회적 통합의 손실이라는 댓가를 치루어야 했다. 개발이란 것이 사회적인 문제나 대다수의 복지가 아니라 부와 자본의 축적이라는 가치로 판단되었기 때문이다. 이러한 상황에서 여성들은 제3 세계의 빈민의 일부로서 또한 성차별과 폭력의 대상으로서 이중적인 억압을 받아왔다. 이러한 관점에서 아태지역 여성의 억압받는 권리를 논의하기 위해 아시아 여성법정이 마련되었다.

△ 목적:

- 개발과정에서 여성의 인권이 침해된 사실을 밝히고, 문서화한다.

- 현재 여성인권의 개념과 실재를 검토하고 비판한다.

- 여성해방의 범위를 인권 활동으로 발전시키고, '여성의 권리와 인권'의 맥락에서 이야기 한다.

- 정의를 위한 탐구 속에서 대안적이며 동시에 법률 소비자들에게 권한을 부여하는 법적 활동을 만들어 간다. 또한, 사법부를 예의주시하며 법관들의 태도에 영향을 미친다.

- 인권조약과 협약을 비준했으나 여성을 위해 실행하지 않는 개별 국가에 이의를 제기한다. (예를 들어, 법적 체계와 법의 개혁)

- 1995년 베이징 회의에 앞서 아직 CEDAW(여성에 대한 모든 형태의 차별 철폐 협약)를 비준하지 않은 정부를 방문한다.

- 여성의 인권은 불가분하고 보편적인 것임을 거듭 주장한다. 여성의 권리에 영향을 미치는 개발정책은 도전받을 필요가 있다.

△ 진행: 12월 1일 0900 소개

법정 방청

입회1 선주민여성의 권리 (Indigenous Women's Rights)

난민여성 (Refugee Women)

이농 (Rural Displacement)

점심식사

1400

입회2 산업화와 여성의 권리 (Industrialisation & Women's Rights)

여성이주노동자 (Migrant Women Workers)

강제노동 (Bonded Labour)

12월 2일 0900 아시아 태평양 여성 선언

△ 비용: 항공비와 숙박비는 주최측에서 부담.



△ 참가자: 김은영, 김준희

△ 일정: 11월 30일 - 12월 7일 (12월 4일 - 7일은 홍콩)

△ 의의:

- 95년 코펜하겐 사회개발 정상회담과 북경 여성대회를 앞두고 '여성의 권리/인권/개발'이라는 세 주제어에 대해 연구/고찰 한다.
- 아시아 지역내 여성인권 침해 실태를 파악한다.
- 아시아 지역내 (여성)인권단체와의 연대의 기틀을 마련한다.
- 국제인권연대활동가로서의 경험과 훈련을 쌓는다.

△ 준비작업:

- 여권/항공편/예산 ⇒ 회의기간외의 숙박지 사전 연락
- 국제전화이용법/비용 환전/날씨/시차 등 숙지
- 인권협 브로셔/참여연대 브로셔/국내 인권상황 문서 (수감자 통계자료/국보법/장기수 등 국제인권제도 교육때 나온 자료)/특히, 여성의 권리에 관한 자료(A규약 반박보고서?)/아시아여성법정에 임하는 우리의 입장/ ⇒ 배포용
- 홍콩과 방콕 인권관련 단체 방문 계획 ⇒ 민변 자료 검토 후
- 학습계획 ⇒ 김준희씨 목록작성 중/국내 여성관련문제에 초점
- 국내 참가단체 여부 알아보고 공동대처
- '법정'이라는 형식과 내용을 경험있는 단체에 문의 ⇒ 노동연구소 박석운소장에게

△ 후속작업:

- '아시아 여성 법정' 참가기 작성 ⇒ 언론지에 기고
- 단체 방문 보고서(소장자료목록 포함) 작성 ⇒ 해외단체편람발간에 일조
- 참가단체/방문단체와의 연대 편지 교환 ⇒ '하루소식' 영문화 하는 것 시급
- 95년 북경 여성대회를 위한 국내 단체연대 모임에 정보 공유

△ 준비 일정: 11월 첫째 주 - 여권신청/학습 목록 작성 준비/기획안완료/기초학습

둘째 주 - ~~여권발급/항공편 예약/국내참가단체 문의/ '법정'경험 문의/참가단체 확인되면 준비 공유/학습 목록작성 완료/학습(국내 여성인권 전반적)~~

셋째 주 - 대략적인 각 주제별 학습

넷째 주 - 기존 회의 기록 숙지/우리의 입장/방문 단체 목록 작성/기타 해외 여행에 필요한 모든 정보 숙지

마지막 주 - 최종 점검/집정리/



# Women's Tribunal

## Asia Pacific Situation - the backdrop

In spite of the rhetoric of independence, the development models and policies of the Asia Pacific societies continue to be dependent on the former colonial rulers and are linked to the international economic order to the detriment of the poorer nations. An essential component of the development policies of most poor nations in the Asia-Pacific is rapid industrialisation that continues to serve the interests of the First World. Asia has seen the rise of newly industrialised countries (NICs). Governments have equated NICdom with development. The poorer nations serve as production units for the benefit of the First World with very little technological and economic gains for the Third World. Even in cases where there are some immediate material gains, the benefits are unequally distributed. In most cases, the material gains are made at the expense of the sovereignty, democracy and the integrity of the nations or groups and individuals within a state. The value base of most development models in the Asia Pacific countries is ownership of wealth and capital accumulation: the individual and corporate ambitions as against the social concerns and economic welfare of the vast majority.

## Women in Development

In spite of rhetoric about development, the need for women to earn a living so that they are economically empowered has not been fully recognised. No third world government today would disown its support for women's development. In fact, with increased pressure from women's groups and international bodies, rhetoric on mainstreaming women has entered the planning vocabulary of even conservative States. Yet the issue of a truly gender

relations, and that of women's rights continue to be neglected. The denial of rights cannot be explained entirely by 'a bird in cage' image of gender roles circumscribed by culture, tradition or social convention. In developing societies, women's rights are already limited by the State structure, law and social practice; these rights, however, are not necessarily



restored in the development process; its logic of pursuing elusive economic gains leads often to discrimination between communities, classes and gender; this is generally at the cost of human rights.

## Violation of Women's Human Rights

The realities of women's lives are shaped by

contextual and perceptual paradigms. A combination of profit-oriented development and patriarchal values have placed the majority of women in extremely vulnerable positions and widened the male-female gap. The destruction of traditional life styles, the deprivation of productive land and the increasing violence of ethnic or ideological conflicts have resulted in large scale migration of rural folk to already crowded urban centres where they end up in abject hunger and poverty. Migration of women from rural to urban areas and across countries in search of work and higher incomes has placed women in extremely vulnerable positions without any safeguards and guarantees. Within this socio-economic and political context, the situation of the poor and the weaker sections in the Asia Pacific continues to deteriorate. Women, being the poorest of the poor and the weakest of the weak, suffer more. They are often doubly oppressed - first as impoverished citizens of the Third World and second, by having to face gender specific discriminations and violence. To understand the cost of development, it is necessary to relate it to institutional processes which impinge upon women's lives:

- the pattern of the global economy which compels women to bear the brunt of the strategies of structural adjustments;
- market pressures which pull women into exploitative relations in both the formal and informal sectors;
- in mediating these demands the State becomes increasingly authoritarian and often resorts to militaristic, or ideological controls.

These issues should be addressed concretely as we formulate agendas/working documents for the forthcoming World Summit for Social Development (Copenhagen, 1995) and the Fourth UN World Conference on Women (Beijing 1995).

1995  
Forum

Asia Pacific Forum on  
Development  
Women's Rights Human  
Rights

TEL: 66 57  
HAIHARU LAI (FAX: 522-8117)





ASIA PACIFIC FORUM  
ON  
WOMEN, LAW AND DEVELOPMENT  
**WOMEN'S RIGHTS PROJECT**

TO : Lee Seong-Hoon (Anselmo)  
FAX NO. : 822-796-8366/793-4745  
FROM : Ms. Nimalka Fernando  
DATE : 25TH November, 1994

-----  
After receiving the registration forms we faxed an information sheet dated 09.11.94.

We will provide board and lodging to all during the Tribunal. We can discuss the airfare payments in Bangkok.

Since you will be in Bangkok earlier Boonthan will help you to locate the **VIDHYA NIVES GUEST HOUSE, CHULALONGKORN UNIVERSITY.**

*Nimalka Fernando*  
NIMALKA FERNANDO





**APWLD**

**ASIA PACIFIC FORUM  
ON  
WOMEN, LAW AND DEVELOPMENT  
WOMEN'S RIGHTS PROJECT**

25th October, 1994

Our Ref: Tri 12:94

Dear Friend,

**ASIAN WOMEN'S TRIBUNAL  
1-2 DECEMBER, 1994  
CHULALONGKORN UNIVERSITY, BANGKOK**

We have received your Registration Form. Kindly purchase your Air Ticket to be in Bangkok by 30th November, 1994, departure 3rd December, 1994. We will reimburse your Air Fares in Bangkok. If you need us to purchase your ticket for some reason, please contact us immediately.

Details of your Hotel accomodation will be sent to you in due course.

Warm regards.

*Ch. Ferreira*  
f NIMALKA FERNANDO  
WR-HUMAN RIGHTS COORDINATOR