

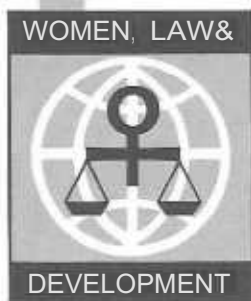
WOMEN, LAW AND DEVELOPMENT- ACTION FOR CHANGE



SERIES ON WOMEN, LAW, AND DEVELOPMENT:
ISSUES AND STRATEGIES FOR CHANGE

NUMBER 2

THE ASIA PACIFIC FORUM
ON WOMEN, LAW
AND DEVELOPMENT:
ITS ORIGINS, ISSUES,
AND VISION



APWLD

ASIA PACIFIC FORUM ON WOMEN, LAW AND DEVELOPMENT
9th Floor s Asia Pacific Development Centre s Pesiaran Duta
PO. Box 12224 • 50770 Kuala Lumpur s Malaysia

OEE/INTERNATIONAL

1815 H Street, NW • 11th Floor • Washington, DC 20006 • USA

Contents

Preface	vii
Acknowledgements	ix
Introduction: Origins of APWLD	3
The Manila Conference:	
Law, Religion, and Women's Rights	13
Violence and Exploitation	21
Economic and Labor Rights	39
Appendix I: Program of APWLD	59
Appendix II: Participant List	63

Preface

In 1985, hundreds of women from Asia, Africa, and Latin America met in Nairobi, Kenya at the Third World Forum on Women, Law, and Development. In that forum they discussed the legal underpinnings of women's oppression and what was being done (or could be done) to use (or question) the law to improve the status of women. One of the challenges issued from that forum was for coordination and organization at national, regional, and international levels. Participants in this dialogue recognized that gaining the capacity to mobilize populations to understand the social, economic, and political dimensions of women's oppression and take collective action for change required a clear focus and strong organization. In December 1986, some 65 participants and observers from across Asia met in Manila, Philippines to compare and discuss the most pressing socio-legal issues facing them and to identify and explore possible areas of collaborative action. The outcome of this meeting was the formation of the Asia Pacific Forum on Women, Law, and Development (APWLD), the first regional response to the challenge of Nairobi. This booklet documents the activities involved in establishing the APWLD and examines its mandate as a regional organization to address the issues identified by women in Asia and the Pacific.

The publication of this report is a joint endeavor of APWLD and OEF International, which in 1983 committed itself to support the initiatives of Third World women struggling for justice under the law and in practice. Beginning with the Third World Forum on Women, Law, and Development, it has collaborated in the formation of regional "women, law, and development" networks in Asia, Latin America, and Africa and in promoting continued dialogues about strategies to improve women's socio-legal status.

The introductory chapter places APWLD's organizing activities in the context of the Nairobi Forum and describes its development from 1985 until its formal establishment at the regional conference held in Manila at the end of 1986. The conference, which brought together women lawyers and activists from 10 countries across Asia, laid the foundation for the programmatic development of APWLD by collective-

ly identifying and analyzing the problems facing women at the national and regional levels. The remainder of the report offers a substantive assessment of the principle issues and tasks mandated by the participants for the Asia Pacific region. Presented in a comparative format, the material is a compilation of data drawn from conference discussions and a region-wide survey about priority problems and proposed programmatic responses.

The interface of law with religion and culture is one of the major themes identified by APWLD that epitomize the challenges to women's rights in Asia and the Pacific. Often invoked to prevent legal changes which could augment women's rights and improve their lives in dramatically direct ways, religion and culture play a significant role in legitimizing women's position in society. Violence toward and sexual exploitation of women—expressed as domestic violence, rape and sexual harassment, prostitution, and negation of reproductive rights—is a second area of concern for women in Asia. The third major area of concern identified by APWLD is the legal and social bias against women in the arena of economic and labor rights. Inheritance and matrimonial rights, land rights, rights as workers in Free Trade Zone, in the informal sector, or as migrant labor are generally prejudicial to women. These three themes, "religion, law and women's rights," "violence and exploitation," and "economic and labor rights," form the target issues the members of APWLD are working to change.

Derived from the identification and analysis of the problems facing Asian women by its participants, the challenge to APWLD is to empower women to make the law relevant to their lives and to use the law as a tool for social transformation. Building on this mandate APWLD's program of action is geared to the needs and interests of its network participants and aims at strengthening their capacity to mobilize participation in actions aimed at achieving social justice. APWLD invites all who share its vision and commitment to the human rights of women to join together in a common effort.

Nimalka Fernando
APWLD
Kuala Lumpur, Malaysia

Margaret Schuler
OEF/WLD
Washington, D.C.

March, 1990

Acknowledgements

This report was prepared by Margaret Schuler of OEF/WLD.

Editorial Assistance: Kathy Coon and Maureen Aggeler

Artistic design: Patrice Gallagher and Michelle Lytle.

Printing: Automated Graphics Systems, Washington, D.C..

INTRODUCTION

APWLD: Its Origins and Vision

Introduction: Origins of APWLD

Background

The Asia Pacific Forum on Women, Law, and Development (APWLD) developed from dialogues during 1985-88 among Asian women lawyers, social scientists, academics, and activists. It is part of a network of women's organizations throughout Asia, Africa, and Latin America engaged in Third World women's rights' struggles.

APWLD had its beginnings at the Nairobi women's conference in 1985. In July of that year, hundreds of women participated in the 5-day Third World Forum on Women, Law, and Development. The WLD Forum came about in recognition of existing strategies that use the law to improve the legal situation of women in the Third World and the urgency of making those efforts more effective. The WLD Forum addressed the need to clarify the role of law and to identify in practical terms how the law could serve as an instrument for raising women's legal and, therefore, social, economic and political status. It served as a vehicle for surfacing and making available to women's groups successful action strategies and programmatic approaches to overcoming legal obstacles facing Third World women.

The WLD Forum was designed as a mechanism for systematizing understandings about how the law-formal and customary—affects women and their development and affects women and how strategies can improve women's legal status and have a positive impact on their participation in development. In understanding these relationships, the WLD Forum contributed to the articulation of effective action-oriented strategies utilizing both the law and innovative methodologies to improve the situation of women. Finally, by focusing world attention on the role which law plays in determining women's participation in development, the Forum proposed to awaken interest through support and solidarity with those Third World efforts.

Organizing and Implementing the Forum

The WLD Forum project began in 1983 when Margaret Schuler of OEF International contacted women's rights workers in Asia, Africa, and Latin America to find out if they would be interested in networking and participating in the proposed WLD Forum. During this phase, some 75 women's organizations from the Third World working in the field of women, law, and development were identified. This group formed the core network from which the Forum planners and key presenters were drawn. Two women each from Asia, Africa, and Latin America served as Regional Liaisons and formed the WLD Planning Committee. Interested organizations prepared papers analyzing their experiences and the approaches they were using to improve the legal status of women. Using a framework provided to systematize their analysis and draw on their own expertise, 50 of the organizations which prepared program case studies or papers on various topics made presentations at the Forum. Ultimately, over 60 of the core group of organizations had representatives in attendance at the Forum and participated in WLD Forum activities. In addition, numerous other interested women from around the world actively participated. Approximately 500 women attended the WLD workshops daily.

Substantive discussion was structured around four major themes: 1) State, Law and Development; 2) Custom and Customary Law; 3) Violence and Exploitation; and, 4) Strategies for Collective Action. These themes were further divided into 14 sub-topics, such as constitutional issues, family, land, labor law, religion, human rights, rape, and domestic violence. These discussions occurred in 14 different workshops and 5 plenary sessions over a period of 5 days.

The participants identified strategies currently being used and articulated the critical issues still needing attention. Following the discussions around each major theme and sub-topic, a report was prepared, presented to the assembly at a plenary session, and discussed by all in attendance. Modifications were made as a result of these discussions and a final consensus report was compiled. Case studies of the report and recommendations were published by OEF in 1986. *Empowerment and the Law: Strategies of Third World Women*, (ed., Margaret Schuler) provides something of a benchmark for assessing the range of issues and strategies being used to expand and defend women's rights throughout the world.

The Forum participants discovered that women throughout the Third World wage similar struggles for their rights. They clearly saw that combining efforts is a critical step toward overcoming obstacles

which face women everywhere. The WLD Forum, they agreed, should mature as a vehicle for continued dialogue and collective action at the international and regional levels. They recommended several proposals which eventually became the blueprint for future WLD action.

The first recommendation was to implement regional conferences as a means to bring together women's organizations to exchange information, share strategies addressing women's rights issues, and develop mechanisms to coordinate research and action at the regional level. The second recommendation focused on the importance of consciousness-raising among women about their situation and proposed the promotion of "Know Your Legal Rights" campaigns throughout the world. The goal of these campaigns would be to empower women to understand the use of law as a tool for effecting social change. It was seen that to be empowering, such campaigns would demystify and popularize the law by using mass media and other strategies to make it more accessible to the women and, in the process, contribute to the development of an "alternative law" which would maximize women's rights. It would draw from the language, reality, and experiences of the vast majority of Third World peoples, whose interests historically have been ignored.

A third recommendation was to establish an Emergency Committee of Third World Women for voicing concern about and mobilizing world opinion against any violations of the civil, legal, and human rights of women in Asia, Africa, and Latin America. This was seen as an immediate need, while the final recommendation, to which it was linked, was viewed as a longer-term project: that of establishing an independent, NGO advocacy body—or "International Commission on Women's Rights," as it was called. Its function would be to link the networks of women's organizations throughout Asia, Africa, and Latin America to share information and experiences about women's struggles for their rights in various parts of the Third World. It would also formulate draft legislation on specific issues concerning women at regional and international levels.

Specifically, the group expressed an urgent need to draft a uniform code on family relations which would articulate and protect fundamental rights for women vis-a-vis their position in the family. As a third function, the International Commission would conduct research in areas of special concern to women in Asia, Africa, and Latin America. Finally, it would coordinate strategies of common concern, represent women's rights interests and become a presence in international fora.

Creating an International Agenda

The WLD Planning Committee met immediately after the Forum to concretely discuss how this emerging "WLD" program should proceed. Future steps, the Committee agreed, would build upon the groundwork laid by the Forum and its preparatory process. Most importantly, it would promote the development of the networks of Third World women involved in action-oriented programs to promote and improve the legal situation of women. These networks were seen as vital for implementing the Forum recommendations and other future WLD activities. The Planning Committee felt that in this way, the Third World Forum on Women, Law, and Development would be institutionalized at the international and regional levels. The establishment and consolidation of regional WLD networks or "Forums" would give institutional continuity to the work and interest that was stimulated by the initial Forum process and program. The leadership, organization, and direction provided by these forums would be needed to concretely fulfill the goals and objectives of the program as articulated by the participants. Subsequently, as a result of the initial regional efforts, an appropriate mechanism for the International Commission would be established.

The Asia Pacific Forum on Women, Law, and Development

The Planning Process

Since the participants in the Nairobi WLD Forum already set an international agenda in general terms, the primary follow-up tasks became those of concretizing the agenda in each region and establishing the most appropriate way to implement its components, including the international campaign, the regional centers, the "emergency committee," and the "international commission."

As a starting point in Asia, an interim Regional Planning Committee met in New Delhi in July, 1986 to sketch out the contours of a regional program and plan a regional conference. The planning group included Radhika Coomaraswamy (Sri Lanka), Savitri Goonesekere (Sri Lanka), Farida Ariffin (Malaysia), Virada Somswasdi (Thailand), Irene Santiago (Philippines), Mere Pulea (Fiji), Ranjana Kumari, Rani Jethmalani and Lotika Sarkar (India), and Margaret Schuler of OEF/WLD. They proposed an outline for the new Asia Pacific Forum on Women, Law and Development, its functions, structure, and program. The proposal was

then offered as a framework for further discussion and elaboration within the region with finalization to take place at the regional conference.

Reiterating the recommendations from the Nairobi WLD Forum, the committee agreed on the need for a WLD forum for the Asia region. They analyzed the most critical issues facing women of the region, the responses by government and non-governmental organizations, and the need for further work. Guided by this analysis, they recommended that the functions of the Asia Pacific Forum on Women, Law, and Development would be to:

- share information about substantive issues and strategies through newsletters and occasional papers;
- organize seminars at regional and sub-regional levels on topics of common interest;
- develop broader understanding of issues, improve skills, and strengthen network linkages in the form of internships and study tours for project organizers and grassroots workers;
- develop and exchange materials, methods and techniques;
- mobilize member organizations in response to both emergency situations and critical issues constituting an imminent threat to women's rights;
- monitor regional and local developments;
- develop model legislation.

In designing the regional conference which was set for December 15-19 in Manila, the planning committee determined three major themes of particular relevance to the Asia Pacific region. These were: 1) the effects of law, religion, and custom on women; 2) the role of law in promoting or combatting violence toward and exploitation of women, and; 3) women's economic rights. They decided that workshops relating to some 12 sub-themes would be the means for assessing what was happening and what actions could be taken regionally.

Pooling their shared knowledge of the region, the planning committee identified potential network members, developed a list of possible participants to the conference, and assigned a maximum number of attendees per country. In countries where there was a core group of women involved in WLD to that point, the selection of specific individuals to attend the conference was left up to them. Others were invited by the Planning Committee. In all cases, conference participants were expected to come prepared to discuss the issues related to the major themes and contribute to the discussion of the regional organization of APWLD. Prior to the conference some 60 invitees received the proposal

for APWLD and a survey of their activities and opinions regarding priorities for action and potential role of APWLD. The participants indicated their workshop preferences and were asked to prepare specifically for their participation in them.

Establishment of APWLD

In December 1986, fifty-two women from a dozen Asian and Pacific countries-lawyers, activists and academicians-gathered together to discuss substantive and programmatic issues related to women and the law and to devise new, more effective strategies for improving women's rights in the region. Following in-depth discussions of the substantive issues (presented in the next three chapters), the conference participants agreed to proceed with the creation of the Asia Pacific Forum on Women, Law, and Development and established basic programmatic guidelines on several issues.

First, participants agreed that APWLD would primarily facilitate processes and activities designed to raise the legal status of women, especially those in disadvantaged circumstances. They drew up a set of organizing principles stating that the APWLD would be an independent and autonomous, non-governmental, non-profit organization and that membership would be open to Asian and Pacific women's NGOs committed to its objectives.

Goals and Objectives

The assembly voiced the primary goals of APWLD as empowering women in the Asia Pacific region in the use of law as an instrument of social change for equality and development, enabling women to use law and legal institutions in furtherance of the Forum's objectives, and promoting the basic concept of human rights in the region as enshrined in the Universal Declaration of Human Rights.

To fulfill APWLD goals, the assembly also formulated several specific objectives:

- To work towards the development of a model code of values which reflects women's quest for equality and justice;
- To urge national governments to ratify and effectively implement the U.N. Convention on the Elimination of All Forms of Discrimination Against Women (1981);

- To work towards the realization of the full potential of women and their position of equality within the family structure and society;
- To promote women's economic rights to ensure that they have equal access to all productive resources;
- To enhance women's participation and capacity to shape macroeconomic development strategies in their own country and in the region;
- To promote processes which will ensure women's equality in political participation;
- To facilitate and strengthen interaction among individuals, groups, and countries committed to the overall objectives;
- To share information, expertise, experiences, and resources to develop and strengthen individual and collective action;
- To express solidarity and to mobilize members of the Forum and public opinion in cases of exploitation of women and violations of their rights.

A Steering Committee was elected and given the mandate to set up the Secretariat and develop a program to implement the objectives. The assembly agreed to a seven-member steering committee to be "representative" in both a geographical and substantive sense. Geographic representation was to be determined through a quota system in which three from South Asia, three from Southeast Asia, and one from the Pacific would be elected by the other sub-regions. Once East Asia was better represented, one or more would be added to the Steering Committee from that sub-region. The Steering Committee would be responsible for guiding the development and implementation of the program and be accountable to the membership for the faithful implementation of the functions of the Asia Pacific Forum as outlined. The committee members elected in 1986 were: Mere Pulea (Fiji), Rani Jethmalani (India), Farida Ariffin (Malaysia), Emelina Quintillan (Philippines), Asma Jahangir (Pakistan), Radhika Coomaraswamy (Sri Lanka), and Virada Somswasdi (Thailand).

Kuala Lumpur, Malaysia was unanimously chosen by the Manila participants as the venue of the regional center. Participants agreed that because of its central regional location and its cultural and religious diversity, Malaysia would be an appropriate setting from which to coordinate the programs of the Asia Pacific Forum. Also, rather than build the infrastructure for the APWLD from "scratch", it was decided to link with a supportive, existing institution. Since the Women's Programme of the Asia Pacific Development Centre in Kuala Lumpur was

seen as compatible in terms of vision and approach to APWLD, it was anticipated that a substantive link between the two organizations would be feasible and advantageous. Noeleen Heyzer, director of APDC Women's Programme, agreed to support the APWLD in its development, providing not only access to ready-made infrastructure, but guidance in its development as well.

While the Asia Pacific Forum is autonomous in structure and program, the conference participants reaffirmed its links with the African and Latin American Women, Law, and Development networks. Together they will collaborate on issues requiring world-wide strategies and participate in the establishment of the International Commission on Women's Rights as outlined at Nairobi.

THE MANILA CONFERENCE:

An Assessment of
Issues and Tasks for
the Asia Pacific Region

LAW, RELIGION AND WOMEN'S RIGHTS

Overview

Aspects of religion, cultural practices, and customary norms continue to impede social change and the transformation of women's social roles in Asia. Within the diversity of religious, cultural, and customary norms in Asian societies, women have been victims of legal/political systems that resist change in the areas that directly affect them and their families and communities, namely: alimony, family maintenance, divorce, abortion and inheritance rights, inter alia. This development is a partial consequence of women's reliance on the state to advance their social position. In fact, a recent review of Asian societies shows that the state is frequently hostile to the demands of the women's movement; and if sympathetic, it nevertheless, still supports powerful dominating interests to the detriment of women's rights. Hence, many women believe that nongovernmental organizations dealing with women's issues must be strengthened and that women's groups must formulate alternatives to state policies.

Although Asian women in the forefront of change are divided over the approaches to rectify these problems—some favoring secularism, others preferring religious re-interpretation and cultural reformism—they are united by the necessity to confront manipulative religious and cultural discrimination against women: to adopt a uniform civil code which protects the rights of women; to safeguard minority and tribal women's special needs; to strengthen women's solidarity networks; and to mobilize general political support for their cause. As an important step in developing alternative strategies and institutions to transform women's social roles, women of the APWLD are attempting to establish a common agenda and forge a sustainable analysis of the impact of religion and culture on state and personal law.

Religious Influence and the Law

Historically, religion has played a pervasive role in the formulation of state and personal laws in Asian societies. Today, religious influence continues to be felt in most Asian and Pacific countries, regardless of whether they are nominally theocratic or secular states. The most significant manifestations of the religious impact on the law center on issues that directly affect women: alimony and maintenance, abortion, divorce, inheritance, and other women's rights. In addition, state, personal, or customary law (or a combination of the three, depending on the society) may govern these issues, often resulting in ambiguity and confusion. For example, in Sabah, Malaysia, customary and state laws exist side-by-side, leading to great confusion in the application of the law to some twenty racial groups or sub-groups living in the region. Moreover, this legal ambiguity generally serves conservative politico-religious interests and the entrenchment of the patriarchal status quo.

Due to conservative religious influences, personal law in many Asian countries is often rigid and regressive. In these societies, powerful religious lobbies prevent the adoption of laws favorable to women. As a result, many women's groups have been wary about challenging the strong vested interests to promote their cause. Recently, religion has also been greatly politicized, whereby religious ideology has justified and furthered overtly political goals, often expressed in conservative personal laws. The insecurity of religious minorities has also led to the perpetuation or adoption of inflexible and regressive systems of personal law applied to these minorities.

The Effect of Religious Fundamentalism on Personal Law

Tension between traditional interests and the goals of modern nation-states exists in the application of personal laws in many Asian societies. For instance, in Nepal, the traditional social structure reflects male domination. In contrast, the Nepalese constitution prohibits discrimination on the grounds of sex and guarantees equality of all citizens before the law. The present personal law of Nepal clearly reflects a conflict between tradition and experimental and egalitarian legislation. The political and bureaucratic elites are attempting to refine the law to satisfy both the demands of modern society and traditional values of various religious and ethnic groups. The tension between state law and religion also exists in India. Although India has a strong constitutional and republican legacy, communal loyalties have had a major impact on the

unified Indian state and its apparatus. In addition to producing parochial discord and violence, this conflict works against national integration and against the constitutional rights of liberty, equality, justice, and secularism.

The manipulation of religion to promote the political agenda of the dominant political elite can be seen throughout Asia. For example, in the Philippines, conservative Roman Catholic religious influence was alleged to be a not-so-veiled issue in the drafting of the constitution of the Aquino government. The constitution has a strong anti-abortion stance; it enshrines marriage and family life to the point of prohibiting divorce; and it is silent about women's rights, even though women's groups strongly lobbied for their inclusion. Furthermore, the influence of reactionary politico-religious groups on state law seems to be on the increase in Asia. For instance, despite some Muslim opposition, the Islamic leadership in Indian society has successfully pressed for laws that deny Muslim women the right to claim maintenance from their husbands. In another Indian community, the traditional leadership has demanded the passage of laws denying Kerala Christian women their inheritance rights to paternal property.

The recent rise of Islamic fundamentalism has been a major force in some states' adoption and application of religious doctrine as legal principles. In particular, states with doubtful legitimacy are appealing to traditional values of the ordinary people and to the interests of the influential religious hierarchy. An informative illustration of "Islamicization" is the case of Pakistan. One significant result of Pakistan's "Islamicization" has been the resurgence of patriarchal values and the entrenchment of male domination. Legislation passed since 1979 has reduced the status of women to half that of Muslim males. Pakistan's Qanoon-e-Shahdaat (Law of Evidence), passed under Islamicization, discriminates against women by reducing the value of women's testimony in contractual obligations and its potential in other legal areas. Another proposed law, Offenses Against the Human Body Ordinances (Quisas and Diyat) contains discriminatory clauses against women, notably in the area of compensation, whereby compensation for a female victim is specified as half that of a male. So far, women's groups have successfully opposed the latter law as well as some other proposed laws that violate their interests: among them, a petition which argued that women could not hold the position of judge under Islamic law; and a proposed bill that would permit the Federal Shariat Court to reconsider personal laws—which currently restrict polygamy and lay down rules of procedures for divorce and other family matters (all of which are seen as protecting women's rights)—in light of Islamic injunctions.

Another outcome of the Islamicization process as seen in Pakistan is the elimination of the liberal notion of privacy. For example, laws have been enacted to make adultery and intoxication crimes against the state. Pakistani law also prohibits all gambling in casinos by Muslims. Consequently, state intervention in the conduct of the private lives of citizens has grown significantly.

Islamicization has also brought about the adaptation of political, bureaucratic, and legal institutions to comply with an official interpretation of the Koran. As a result, the Pakistani state has formed an Islamic university and an Islamic bank. Moreover, throughout Pakistan, personal and state laws are increasingly dependent on the interpretation of Islamic laws.

While growing religious fundamentalism is observed in many Asian countries, the impact is not uniform. Whereas it has played a very conservative role in Pakistan, associated with martial law and pacification attempts, the religious resurgence in the Philippines has taken on a progressive aspect associated with challenges to the status quo.

Because of the existence of communal and ethnic discord within many Asian nation-states, the role of religion is heightened in juridical areas. For example, religious influence is most evident in the special provisions for autonomous regions, like Muslim Mindanao in the Philippines. However, some Filipinas fear that under the pretext of autonomy, the laws applied to Muslim Mindanao will, among other things, perpetuate the subordinate position of Muslim women, despite the fundamental provision of equality of the sexes by the new constitution. In contrast, the Nepalese constitution, which declares Nepal a Hindu Kingdom but guarantees freedom of worship to all, provides for only one national code which governs the conduct of all citizens regardless of religion. Nevertheless, the state has been responsive to the idea of adapting personal law to suit "customary practices" of the different communities in accordance with modern requirements. In another country, Indonesia, the issues of divorce and alimony continue to be resolved under separate systems of laws and courts, one for Muslims and another for non-Muslims. However, a universal law has been passed there to facilitate alimony payments, benefiting all Indonesian women.

Customary and State Law Dichotomy

A large rift between customary and state law is a difficult and common problem in countries in the Asia-Pacific region. Customary laws are recognized in theory, but they rarely challenge state laws, unless they

benefit powerful interest. Hence, in general, customs are only tolerated or ignored depending on the circumstances. For instance, the state frequently does not recognize a person's customary property rights; instead, such land may be declared as state property. Or the state may refuse to acknowledge the customary equal inheritance rights of several children to a piece of land. On the contrary, it may declare the land to be the possession of the eldest child or the youngest child alone. In Thailand, modern laws have drastically limited the traditional power of either spouse to obtain a unilateral dissolution of marriage. In contrast to the customary pattern of easily attained *de facto* divorces, the state legal codes require a showing of substantive cause before a *de jure* divorce will be granted. In accordance with the law, a husband cannot be charged with adultery unless he is maintaining or acknowledging another woman as his wife. Therefore, a wife must charge her husband with specific misconduct in order to sue for divorce.

Secondly, because of the ethnic and sectarian diversity in Asian societies, some states establish separate courts for the communities, which only exacerbates the cleavage between disparate state and customary laws. For example, Indonesia provides for separate courts to decide personal legal matters for Muslims and non-Muslims, often a source of contention.

On the other hand, in numerous cases state laws are disregarded in favor of customs because customary laws benefit dominating interests of the relatively powerful. Illustrations of this situation are plentiful: bride-burning and/or torture for failure to pay dowry; female infanticide; the blaming of women for bad luck or rape; wife abuse; desertion of women by husbands who then become free to marry other women; child marriages; and the dehumanization of victims.

The discrepancies between customary and state laws are generally viewed as a result of the codification of systems imposed by western colonizers. Even in the case of ethnic customary laws, this codification has tended to weaken democratic practices because it stifles person-to-person interchange and community participation. Furthermore, standardization of the legal systems will not solve all the problems, even though the clash between customary and state law remains a major obstacle in numerous Asian societies. However, many believe that it will be very difficult to transform customary practices to accommodate the new legal systems; nor will it be easy to determine which customs should be allowed to prevail over state law. Nevertheless, if all communities are permitted to follow customary over state law, inequities and inconsistencies are sure to remain.

In Thailand, the imposition of a state legal system influenced by western concepts has, on one hand, underscored the theoretical standard of universal legal equality, while on the other hand, it has deprived women of certain rights and protections that had been guaranteed under traditional laws and customs. To some extent, the modern obstacles that women face legally correlate with a tendency in contemporary Thai society to differentiate the sexes more explicitly than was done in traditional society and to place women in a more dependent and subordinate role. Nevertheless, the 1973 governmental changes brought about many improvements in the legal status of women, which had long been advocated by a small but articulate women's movement in Thailand. Indeed, the constitution of 1974 went far in banning sex discrimination by its provision for equal rights under the law. However, the constitution was abolished in 1976, leaving the fate of women's rights in question, particularly over the issue of reconciling the discrepancies between the state and customary law.

As a result of increased state authority at the expense of customary practices, new institutions have replaced traditional authorities in society. For example, in Thailand, marital disputes were mediated traditionally by village elders. However, with the establishment of modern laws requiring marriage registration, an expanded process of marital counseling has emerged to resolve marital differences.

Strategies to Confront Regressive Religious Influence on the Legal Systems

Women's strategies to promote their interests vis à vis the prevailing legal systems in Asia have frequently been overly-sensitive to religion, non-confrontational, circuitous and essentially inadequate. In the Philippines, for example, instead of directly facing the negative aspects of religious influence on the status of women, activists have used theological and Biblical teachings to juxtapose favorably the positive and active roles of women against the traditional passive and inferior positions of women. However, as women's groups have recognized the influence of religious institutions on policy-making in the Philippines, some of these groups have begun their own lobbying and political mobilization to achieve their goals. In India, sensitivity to religion has resulted in the decision by women organizers to avoid dealing with highly sensitive religious issues-as with the Shah Bano case. Rather than risk the wrath of the strong Muslim lobby, Muslims and non-Muslims alike were relatively silent as Parliament passed legislation exempting Muslims from protection afforded divorced women of all religions

in their situation of destitution. Family planning is another area in which direct confrontation with religious mandates has been avoided. Organizers have instead stressed the economic benefits of family planning as a part of its goal of identifying, refining, and promoting effective action strategies. While this has proven to be a successful approach, the APWLD has identified key activities to reduce the negative impact on women of religiously-influenced and other discriminatory laws.

VIOLENCE AND EXPLOITATION

Introduction

Violence towards and sexual exploitation of women is a second area of concern for women in Asia and is expressed within the family as wife-battering or domestic violence. Both within and outside of the family it is expressed as rape and sexual harassment. Finally, it is economically institutionalized as prostitution. In India and Bangladesh violence against women is also manifested in bride-burnings or dowry deaths and in abortions of female fetuses. The latter phenomenon is becoming increasingly prevalent due to the availability of amniocentesis which identifies the sex of the fetus.

Domestic Violence

Evidence exists in most Asian-Pacific countries to substantiate the claim that domestic violence is a serious and widespread problem, although its private nature makes it certain that its true incidence will never be quantified. Women are murdered, sexually assaulted, threatened and humiliated in their own homes by the men they live with. The problem is perpetuated by the reluctance most victims feel about speaking out, due to fear, shame and humiliation, and by the inadequacy of laws treating domestic violence throughout the Asia-Pacific region. Where positive laws do exist, they are rendered ineffective by the passive hands-off attitudes of law enforcement agents who do not take domestic violence seriously.

Although domestic violence occurs as part of the family dynamic in all socioeconomic groups, the poor need special attention and help because they lack access to whatever avenues of protection and redress which do exist. It is the poor—~~or~~ those aspiring to the middle class—for instance, who are the victims in most cases of violence involving dowries in India.

APWLD participants define domestic violence to include mental torture in addition to physical beatings. Thus, when a husband threatens to deprive his wife of property, or where he uses polygamy to undermine her security, he is as guilty of domestic violence as when he beats her physically. Furthermore, the term "domestic" should be understood to include any member of the household such as wives, children, servants, relatives and others, since violence can be and is perpetrated on any of them.

The Causes of Domestic Violence

Analysis of the causes of domestic violence fall on a continuum from the individual through the family to the wider social, economic and legal environments in which self and family are embedded. Causes from different points on the continuum are interactive and lead to violence as a resolution of social contradictions and release of personal stress. The unequal power relations between the sexes on which patriarchal social structures are based forms the fundamental condition allowing the manifestation of domestic violence. Due to social conditioning women are seen as inferior to and weaker than men. They are considered to be without rights or dignity, and as a result are subject to sexist values, attitudes, and ultimately violence. Domestic violence is encouraged by the increase of violence occurring at **all** levels in Asian and Pacific societies. General social violence conditions people to tolerate violence in the family as well. In Bangladesh social violence has been rising since the war of liberation in 1972. The war, and the long period of political instability which followed, caused a breakdown in law and order at the level of local communities. At the same time, access to arms has been increasing. Individuals are also exposed to violence through popular media which conditions them to accept violence as normal and to engage in it.

Economic poverty and unemployment also fan the tensions of domestic violence. In Bangladesh, the deteriorating economy in rural areas has been eroding traditional sources of income for women, leading to their destitution and lack of shelter. In Fiji, available welfare, police, and court records link domestic violence with unemployment, poverty, habitual drunkenness, and third party relationships.

Patriarchal attitudes of law enforcement agents and members of the judiciary account for the passive attitude taken by most authorities toward domestic violence. This attitude contributes to the gross inadequacy of the law in some countries, such as Malaysia, and to the failure to implement existing laws in other countries, such as Bangladesh.

The ideology of the family, including sex roles, concepts of honor, and belief that what happens within the family should be a private matter, also contribute to the perpetuation of domestic violence. Authorities in Malaysia justify their failure to protect victims of domestic violence by classifying it as "a mere family squabble," and in Fiji family loyalty and secrecy surround problems of domestic violence.

A change in laws or a transformation in economic structures which shift power relationships within the family can exacerbate domestic violence as husbands try to hang onto the old status quo. Nepal is a case where the recent passage of legal amendments granting rights to women has contributed to an increase in domestic violence, as men attempt to prevent their wives from taking advantage of their new protection.

According to the new Nepali laws, if the wife is subjected to physical torture by the husband, or if the husband commits polygamy, she has the right to choose between divorce or partition of their property. In addition, she has the right to maintenance from her ex-husband after the divorce. But the legal process of getting redress is so difficult for poor women that they cannot assert these rights, especially while staying in their husband's household. Men use physical torture just to warn their wives of the consequences of trying to assert their new rights, and any grudging complaint will bring on added domestic violence.

Nepali wives carry the added burden of savage treatment by their mothers-in-law, who unconsciously feel themselves to be the tyrant bosses of their daughters-in-law. The cruel treatment of young wives at the hands of their mothers-in-law exemplifies psychological causes of violence at the level of the individual, since the victims of violence tend to internalize and repeat the behavior in turn.

In the Philippines strong sexual stereotypes and the sexual division of labor within the family lead to frustrations which are vented in domestic violence. Both traditionally and legally men are considered the heads of their families, managers of the conjugal partnership, and are obliged to act as breadwinners, while women are relegated to positions of dependency within the home. These rigid traditional roles pressure men with social obligations and expectations, and the resulting tensions are released on wives, who are not in a position to assert themselves.

The phenomenon of domestic violence is perpetuated not only by male attitudes, but also by the attitudes of women, who simply accept it. While eschewing a "blame the victim" stance, it can be asserted nonetheless that women's tolerance and submissiveness contributes de facto to the perpetuation of the basic power imbalance between the sexes.

In the Philippines, for example, women have been conditioned to believe that a good wife is one who is docile, quiet, supportive of her husband, and a "loving martyr." This creates a "master-slave" syndrome between husband and wife which is conducive to domestic violence. In many places women fail to bring domestic violence under legal jurisdiction because they are afraid that going to court could break up their families.

Strategies Currently Being Used to Address Domestic Violence

Several strategies are currently being used against domestic violence by women's groups in Asian and Pacific countries. Although variations in implementation and emphasis exist from country to country depending on the local situation, most women involved in campaigns against domestic violence see legal literacy and advocacy, coalition building among women's organizations and "parenting for justice and peace" as ways of achieving their goal. Ideally, these efforts are accompanied by educational media campaigns designed to change social attitudes towards domestic violence. In addition, there is a recognition throughout the region that women trapped in violent homes need practical alternatives to turn to for shelter and protection while seeking help. This recognition is motivating the development of women's shelters and refuges in countries where the funds are available. Finally, many women's groups are lobbying for more stringent laws against domestic violence by building documentation of specific cases of abuse and rallying women around specific issues.

In the Philippines, women activists are focusing on building women's self confidence coupled with support as a way of helping women cope with domestic violence. Both economic and emotional confidence are developed through projects which teach income earning skills and/or use seminars for consciousness-raising sessions. Support is also generated by activities which forge links between activists working on domestic violence and other kinds and types of organizations working for and with women.

Legal literacy programs develop self-confidence by teaching women their rights, while legal services provide concrete support. Filipina women lawyers, as in all countries of the Asia Pacific region, are taking on pro bono cases for battered wives and support suits for abandoned families, while others are lobbying for family laws favorable to women.

In the central and south Pacific, resources for dealing with domestic violence vary from country to country. Nonetheless, most of them have radio and newspaper programs on the subject which are designed to raise consciousness about the problem while bringing it out into the open. Crisis and counselling centers are beginning to appear in urban areas, and people are beginning to turn back to traditional methods of dispute settlement in an effort to resolve the conflicts leading to wife battering.

Activities in Fiji center around support, counseling and legal reform. Services for women experiencing domestic violence are focused around the Women's Crisis Center. The center, which is run by 27 volunteers and 2 paid staff, provides counselling, referrals for legal aid or other social services, and maintenance allowances for destitute women. The Fiji Women's Rights Movement complements the work of the Women's Crisis Center by lobbying for legal reform in areas pertaining to violence and family law.

In Malaysia the main areas of action in the strategy for dealing with domestic violence are focused on publicity, the development of crisis/refuge centers, and a campaign for substantive changes in the law to increase protection for women. Publicity is generated through an ongoing campaign of workshops held in different cities. These workshops, designed to increase awareness of domestic violence and concern for its victims, include exhibitions, skits, slide shows, discussions, books and pamphlets. Recently, experimental use of traditional forms of theater and poetry have proven successful at the village level as vehicles for social awareness about the issue.

As a foundation for these activities various women's organizations are working on a conceptual analysis of the causes of domestic violence in Malaysian society. This should be more profound and informative than the excuse of drunkenness with which domestic violence is typically dismissed.

In Bangladesh the government has passed stringent laws severely punishing domestic violence, so the strategy issues are focused on changing social attitudes and providing support for battered women. While women's groups are organizing demonstrations on the need to protect women, the government's broadcasting organization is designing a program intended to inform and educate the public on women's legal rights. Women's organizations are also lobbying for more effective and sensitive implementation of the law, and are setting up legal centers to provide services for battered and violated women.

In Nepal, the organizations concerned with preventing domestic violence are the Government Social Welfare Ministry, the District Administrations, the Local People's Councils and the Women's Legal Services Project of the Nepal Women's Organization. Spearheaded by the Women's Legal Services Project, these groups are promoting legal literacy campaigns with free legal services, a combination which has proven very effective in combatting domestic violence.

Rape and Sexual Harassment

With the exception of India, countries in the Asia Pacific region have not amended their rape laws which remain archaic. Although rape, defined as penetration of the vagina by the penis without the woman's consent, is a crime in all jurisdictions, the legal concept is too restricted. Rape of the wife by her husband, even when they are separated, is legally impossible in most jurisdictions, and other types of non-consensual sexual impositions are not considered rape.

Behind archaic rape laws lie social myths and misconceptions about rape and its victims, the most basic being that women invite rape, and therefore deserve it. In most Asian societies women who deviate from the norm in dress or behavior are viewed as inviting sexual assault. The perpetrator's inversion of blame onto the victim implicitly justifies the use of rape as a way of maintaining existing power relations between the sexes. Negative social attitudes towards rape victims bias their treatment in court, where use of their sexual history as evidence has the effect of putting them, instead of the perpetrator of the rape, on trial.

Cultural attitudes about rape and its victims are also reflected in official apathy about the problem. Even when its causes are understood and effective policies exist to confront rape, governments lack the political will to act.

Sexual harassment in the street and in the work place is also a universal problem. It is encouraged by the existence of free trade zones, drug abuse, tourism and prostitution. Although laws in most countries prohibit sexual harassment, very few women seek redress, especially in instances of harassment by employers or superiors, since the fear of losing their jobs prevents them from speaking out.

Legal and Cultural Responses to Rape

In addition to the causes of rape and sexual harassment discussed above, which are common to most Asian societies, country specific analyses shed light on the problem's evolution in different regions. In many countries armed conflict, militarism and authoritarian regimes foster sexual violence. The link between authoritarian regimes and sexual violence is exemplified by events in Pakistan in the last ten years. Since the government's "Islamicization Campaign" began in 1979 the objectification of women has increased, so that women in public have become "public property," and no distinction is made between an independent woman and a promiscuous woman.

At the same time, increasing State authoritarianism has undermined the social norms, values and sense of community responsibility which used to control interpersonal behavior. This substitution of State power for internalized moral restraint, combined with the growing perception of women in public as "fair game" has led to an increase in sexual violence against women, along with its legitimization.

The law pertaining to rape has been formally challenged in Pakistan's Federal Shariat court by various women's organizations, but an amendment to the constitution providing absolute protection to all laws passed since 1977 has cancelled such challenges as a means of intervention and social change.

Although Pakistani law prescribes severe punishment for rape, these punishments are never translated into material terms and therefore fail to deter the crime. Current Pakistani rape laws confuse rape and adultery, putting them on a par as social evils. Rape is difficult to prove, and if the victim fails, she risks being charged of adultery and slander. This has deterred victims and their families from reporting such cases.

The difficulties rape victims encounter due to the legal proof requirements and the risk of adultery charges are compounded by unsympathetic judges and generally hostile attitudes towards women implicated in such cases. This de facto lack of legislative protection, traditional attitudes, and their low social status expose Pakistani women to the danger of sexual violence, especially the women of the rural poor.

The concept prevalent in Pakistan that women are a form of male property is another cause of sexual violence, as rape becomes a way to injure the honor of the victim's male relatives. The fact that rape is legally defined so that its occurrence between spouses is impossible gives tacit recognition and support to women's inferior position as the property of men, since a man can do what he wants with his personal possessions.

The recent--since Islamicization-emphasis on segregation of the sexes is also encouraging rape in Pakistan, since young males turn to violence when all avenues of natural mingling between the sexes are closed.

Instances of women being raped or sexually harassed by male guards have begun to surface in a variety of Asian countries. Incidents of the sexual torture of women political detainees have come to light in Korea, and on the subcontinent the problem of custodial rape is becoming increasingly prevalent. Although new laws and procedures have been passed in India to address the problem, in Pakistan the women in this position have no recourse to legal aid or help and are often totally abandoned by their families. One hypothesis explaining custodial rape is that it demonstrates power over the victim and insults her male relatives. In addition to custodial rape, the rape of little girls by their relatives and "friends" is occurring more and more frequently in India. Like dowry deaths and other forms of domestic violence, this disturbing development arises from the interaction of cultural attitudes, which cast women as male property, and the psychological stress caused by social dislocation and poverty.

Unlike India and Pakistan, where rape is often an outcome of cultural and religious conceptions of women's status in relation to men, rape in Sri Lanka commonly represents an extreme form of the sexual harassment often found in urban areas. In Sri Lanka, Free Trade Zones, tourism, drug abuse and prostitution all contribute to the degeneration of cultural and moral constraints which act as a check on violence in healthy socio-cultural milieux. Although the local causes of rape are understood, and although policies to fight it have been developed by groups both in and out of government, the problem is perpetuated by official apathy and lack of political will to implement any of these programs. In this case rape and sexual harassment are a price the government is willing to pay for economic policies promoting Free Trade Zones and tourism.

The treatment of rape in Fiji, worlds away from the subcontinent in terms of distance and culture, illustrates how the response of a country's legal system to rape contributes to its perpetuation, irrespective of the underlying cultural causes. Women in Fiji are given no legal protection against rape. A victim's sexual history is used as evidence against her in trials which are open to the public. Rapists are released on bail, and when convicted their sentences are light

Strategies Currently Used to Address Rape and Sexual Harassment

In India and Pakistan, where rape is a serious concern, the strategies being used against it focus on changing substantive aspects of the law while changing the attitudes of law enforcement agencies, members of the judiciary, and the general public towards rape victims.

In India, custodial rape has been the principal target of reform for women's organizations working on these issues. Their strategies, which succeeded in securing an amendment to the rape bill, were based on generating public outrage over custodial rape and public support for reforms by publicizing its occurrence and demonstrating against it.

The amended bill attempts to counter custodial rape by forbidding police to call unaccompanied women to police stations from sundown to sunup and by requiring that women accused of crimes be accompanied by a female police officer at all times. On a substantive level, Indian rape laws have been amended to provide stricter punishment for both custodial and gang rape, and structurally, in implementing the new law, the courts are shifting the burden of proof onto the accused perpetrators of the crime. However, even as women's organizations applaud the new laws they are forced to acknowledge an alarming increase in incidence of custodial rape over the last couple of years with few of the perpetrators being brought to justice under the new procedures.

Although the Indian reforms appear to be moving in a direction favorable to women, some feminists fear that shifting long established legal procedures, which have evolved to balance the rights of the victim and the accused, could, in the long run, have negative repercussions for women by causing a backlash. They acknowledge, moreover, that class and ethnic interests could lead to the use of these new laws as weapons against males of the lower classes and castes in much the same way black males in the U.S. were accused and unjustly punished for sexual crimes by white racists on the mere word of a white female.

Rape, kidnapping and sexual harassment are all the targets of women's organizations in Pakistan. The primary goal is the repeal of the current rape legislation, which is strongly biased against the victim. Pakistani women activists are using a combination of strategies which include pressuring the judiciary, providing free legal aid to victims, and generating adverse publicity around specific cases of extreme sexual violence.

The judiciary is being pressured from within the system through legal arguments in court which attempt to change attitudes and concepts regarding women and sexual violence by changing interpretations of Islamic law. For example, seven women's organizations have filed a

petition before the Federal Shariat Court claiming that the punishment for Zinna (adultery) is un-Islamic when awarded without the Quranic mandate of four witnesses. The petition is currently pending.

The pressures being applied to the judiciary are being reinforced by attempts to focus national and international attention on cases of extreme sexual violence. It is hoped that the publicity will galvanize public opinion against the perpetrators of rape, thereby facilitating the repeal of the current legislation.

Finally, women's and lawyers' organizations have begun a serious attack on the problem of custodial rape by campaigning for regular prison visits by social workers. In addition, women lawyers have begun to make regular prison visits to give free legal aid to the prisoners.

Prostitution

Prostitution is the outer, public circle of violence towards and exploitation of women which begins in the private, inner circle of the family. The personal tragedy of thousands of women seeking an escape from poverty is exploited by sex industries from India to the Philippines. Governments, hungry for foreign exchange, promote policies in the name of tourism and the entertainment business which tacitly depend on prostitution for their profitability.

In general, prostitution is rising in the Asia-Pacific region. The root conditions allowing it to occur are the poverty and powerlessness which leave so many women without any other option for survival in societies facing severe social, economic and political crises. Prostitution is a probable outcome for women swept up in the great rural-urban migration occurring throughout Asia. Lured to the cities by dreams of higher living standards, village women can only find low paying jobs in factories or as maids, and resort to prostitution to make ends meet.

Women are not only drawn into prostitution by dreams of escaping poverty, they are also forced into it by family members seeking to escape debt, or lured with promises of honest employment, good pay and benefits by recruiters for the white slave trade. Other entrees into prostitution include the mail order bride and "rent-a-wife" businesses, both of which cater to the foreign taste for "docile" Asian women.

Although governments tacitly promote and profit through policies which encourage prostitution, they maintain the formal hypocrisy of opposing it through laws which harass those plying the trade too openly or without "protection." In some cases these laws discriminate between

the sexes, making the life of a female street prostitute a constant round with the police station and court, whereas men are left alone, as is the case in Japan.

The social stigma attached to prostitutes as "fallen" women prevents other women from identifying with them or extending help. In many cases they are cut off from the efforts of women's groups, who do not feel that prostitution is a problem they should be addressing.

Prostitution: Cultural and Economic Variations

Although a fundamental unity of cause exists wherever prostitution flourishes, it is manifested and conceptualized differently in different cultures within the Asia-Pacific region.

In India, girls and young women are sometimes forced into prostitution by their husbands, relatives or friends, sometimes kidnapped for sale to bar owners, brothels and massage parlors, and sometimes recruited by strangers with false promises of good jobs. Behind all forms of recruitment is the patriarchal certainty that women are male chattel and can therefore be used or sold as sex toys.

Indian prostitution is supported and protected by vested interests. Local state institutions sometimes profit from the trade directly, as in cases where women caught and charged with juvenile delinquency and put into probation centers are sent out at night to earn money through prostitution.

There is a strong social stigma attached to prostitution which prevents other women from feeling compassion or concern for those caught in its web. The Hindu caste system plays into this, since higher caste women are exploited by untouchables. These factors contribute to the apathetic attitude towards prostitutes taken by many of the organizations dedicated to helping women in other ways.

In Thailand, the capitalist subversion of sexuality into a marketable commodity has made prostitution the profit magnet at the center of that country's tourist industry, one of its biggest foreign exchange earners. It is estimated that prostitution accounts for more of Thailand's GNP than all of rural development combined. The Thai government's tourist promotion plan stimulated the growth of the "entertainment" business from approximately 70,000 women serving rest and recreation needs in the early 1970s to 1,000,000 by 1982.

Growing numbers of people traditionally immune to prostitution, including children and both male and female ethnic Thais and hill-peoples, are being sucked into it. In Indonesia, prostitution is spreading in the upper classes, most recently among students. In all areas where

prostitution is spreading it contributes to the personal, social and cultural degradation of people's lives and environments. As part of a vicious downward spiral, this degradation stimulates greater drug abuse, violence and demoralization.

Traditional Thai culture makes its accommodation to prostitution in a different way than the patriarchal justification found on the subcontinent. Here older siblings, regardless of sex, are expected to provide financial support to parents and younger siblings, including provisions for the youngest daughter to stay home and nurse the parents through their old age. The importance of this commitment, combined with a traditional acceptance of women in the work place and as earners, leads impoverished families to "sacrifice" a daughter to prostitution when no other sources of income or ways to settle debts are available. Eighty percent of the prostitutes in Thailand were originally rural peasants who began their careers when they were sold by their parents, either knowingly or unknowingly, out of economic necessity.

If poverty is the push driving Thai women from rural homes into the sex industry, the urban glamour of western lifestyles and foreign products is the pull. Once in the cities they face a multitude of hardships including culture shock, language barriers, unsanitary housing, the threat of venereal disease, chronic harassment by the police, and threat of legal punishment. Yet ironically, it is through accommodations with local state mechanisms such as the police and courts that procurers find opportunities to run their business.

The situation in the Philippines is similar to the one in Thailand, where rural poverty interacts with an international clientele and a procurement industry to provide the supply, demand and profiteers in a growing flesh trade which includes sex tourism, military and child prostitution, and various mail-order and rent-a-bride services. The whole business is tacitly encouraged by government policies which promote the military bases and foreign trade zones where prostitution finds its niche.

The neocolonial underdevelopment and economic chaos in the Philippine countryside pushes women to upgrade their circumstances by moving to the cities, where very low wages force them into prostitution. The illusion that prostitution is a viable route to security is sustained by the neocolonial and racist mythology which puts foreigners on pedestals.

This mythology, which is reinforced and perpetuated by the mass media, also shapes foreign demand for Filipina women who are seen as docile and subservient hand-maidens. "Marriage" brokers cater to foreign soldiers, contract workers and seamen who want Filipina "wives"

as part of their overseas compensation, only to ditch them, often with babies, when their tours of duty end. More often than not these women are forced into common prostitution just to feed themselves and their children.

Like their counterparts in India, Filipina prostitutes are seen by the rest of society as the lowest of the low, almost sub-human. Powerless in their isolation from the rest of society and in their "illegal" status, they are preyed upon and exploited by the owners of the bars in which they work, who will dock their pay if they refuse to spend the night with clients. Although Filipina prostitutes get some skills training while in detention/probation centers, they usually return to prostitution because the alternative wages, even with skills, are too low to survive.

The situation regarding prostitution in Japan has some similarities to the ones in Thailand and the Philippines, but it differs in other respects. As elsewhere, sex tourism is growing, the numbers of prostitutes and types of prostitution are increasing rapidly, younger and younger girls are getting sucked into the trade, and the "entertainment" business is the legal cover in which the flesh trade hides.

Unlike other Asian countries, the consumers of prostitutes in Japan are mostly local and the prostitutes are increasingly foreign. Although these women are officially sent to Japan to be "entertainers", once there they are forced into prostitution. Foreign governments, anxious to exploit any potential for foreign exchange earnings, become willing accomplices of the Japanese import demand for foreign women through their migrant worker policies which facilitate this kind of recruitment.

The law in Japan has become considerably more lenient towards prostitution and discriminating against women over the past thirty years. Anti-Prostitution laws were passed in 1956 which removed red-light districts. In the mid-1960s new types of sex industries were given official government recognition, and in 1984 the Law for Regulating the Sex Industry loosened restrictions even more. Currently women, but not men, can be punished for prostitution, but there is no effective regulation penalizing or regulating the prostitution of young girls.

Strategies Currently Being Used to Address Prostitution

While most governments proclaim to be working on solving broader economic problems to counter the lure of prostitution as a viable source of income, many non-governmental organizations and academic institutions are tackling the problem through very concrete actions.

Such programs provide a range of alternatives from skill training and literacy, to information dissemination, to participation in rural development programs.

In Thailand, the Philippines, India and other countries, refuge and rehabilitation homes for prostitutes who want to leave the business have been established. English language programs for women in the service circle is another somewhat innovative strategy being implemented in Southeast Asia. Increasing the ability to communicate in English is seen as one way to minimize vulnerability to exploitation.

Campaigns against prostitution--especially forced prostitution--is another common strategy. Focusing on decadent social values which support the subordination of women, these campaigns are geared toward raising public awareness about the many facets of the issue. Other efforts include mobilizing judges to protect women; lobbying against prostitution; and raising awareness through the media. In Thailand, reforming the anti-prostitution law is considered another means of addressing the problem.

In Japan, the Christian Women's Temperance Union, which has been involved in the issue since the pre-war period, has succeeded in legislative measures as well as in sheltering prostitutes. In April 1986, they opened an emergency shelter for Asian migrant women. It is called the House for Emergency of Love and Peace (HELP) and provides legal aid and counseling services.

Reproductive Rights

Women's biological role as the bearer of children is central to gender based systems of exploitation, since control of human reproduction is at the heart of wider webs of social and economic control. Every society faces a choice in its treatment of women: are they primarily valued as human beings, or as "reproductive machines"? If women's humanity is given primacy over reproduction, women are implicitly given control over their bodies, including control over whether or not and when to bear children.

The way in which societies decide on the locus of reproductive control is the outcome of numerous variables which are religious, cultural, economic, and historic in nature. These variables feed into legal systems which regulate age at marriage and access to family planning and abortions. The state also plays a crucial role through government

population, health, and economic policies, which facilitate or retard transformations in the way the wider society makes trade offs between reproduction and the basic rights of women.

Additionally, the state sets the terms of the debate in which the conflict between women's rights and control of reproduction is set. If official population policy is targeting zero or negative growth, rights for an individual woman may be the right to a second or third pregnancy. In other cases, the state may be pursuing a high growth policy designed to expand the domestic market and labor supply. In this case, family planning may be difficult to obtain, and reproductive rights would be cast in terms of the right not to bear children. In either case, the fundamental question is whether or not a woman's control of reproductive capacity should be subordinated to the "national good."

No matter where the debate in different countries may be, it is generally believed that the explicit recognition of women's labor contributions should lead to economic empowerment, which in turn should lead to women's increased participation in all facets of development, including participation in choices about childbearing.

Reproduction as Violence

The implicit social contract governing women's reproductive rights in any given country affects their access to choice at two junctures: during the sexual act and during the pregnancy. The first is translated into a country's family planning policy, the second into its law regulating abortion.

Official population policy in most Asia-Pacific countries is to limit fertility by preventing conception. This is often perceived by poor women as contrary to their interests which, for cultural and/or economic reasons are promoted by having several children. The negative image of family planning is confirmed in the public's opinion by the inadequacy of the distribution and support services which exist in many Asia-Pacific countries. Under the circumstances, it is difficult to convince women that family planning can benefit them directly.

In Pakistan, although there is no legal bar to advertising, buying, selling, or using contraceptives, and sterilizations are available with the written consent of the woman and her husband, adequate family planning services, which include advice on choice of method and follow up support are beyond the reach of most women. For these women it is meaningless to talk of the right to choose or exercise reproductive control.

Traditional values and systems of gender subordination repeat themselves in the absence of genuine access to good family planning services. The practice of early marriage and pregnancy followed in many Asia-Pacific countries literally exploits the reproductive power of girls when they are too young to comprehend they even have any rights. In Pakistan, the Child Marriage Restraint Act legislates a minimum marriageable age of 16 for girls and 18 for boys, but the law only contains punitive action and the marriage to younger persons who have attained puberty is valid. Because the law makes these concessions to traditional practice, young teenage marriages and pregnancies are still common.

Nowhere are reproductive rights, traditional values, religion and law more closely or emotionally connected than in the arena of abortion. In most Asian and Pacific countries abortion is illegal. This stance is based, for the most part, on religious attitudes. In the Philippines, Catholicism has affected substantive aspects of the law to the point where the new constitution guarantees the rights of the fetus and the mother. This eliminates legal abortions, and possibly family planning.

Indian law permits abortions for rape victims, and there is hope that the law will be extended to include abortions for married women for health reasons. The spread of the use of amniocentesis in India to determine the sex of the fetus is an instance of the de facto acceptance of selectively applied abortions by the legal system. Indian women are under intense pressure to bear sons. Although abortions are illegal for normal pregnancies, the abortion of female fetuses has, in fact, become routine now that the technology is available to screen them.

In Pakistan, abortions are illegal except to save the mother's life, and punishments for performing them are severe. Voluntarily causing a miscarriage can be punished with prison and fines, and causing a miscarriage without the mother's consent can be punished with a maximum sentence of life imprisonment and fines. Anti-abortion laws are buttressed by the common belief that family planning, sterilizations and abortions are anti-Islamic. But in fact, this is only one juristic opinion. Other Pakistani Islamic jurists interpret Koranic law as permitting not only family planning, but sterilizations and abortions during the first four months of pregnancy. In spite of their illegal status, abortions are common in most countries. Because they are illegal, they expose women to serious health risks and to the threat of financial extortion.

Several reasons contribute to the failure of family planning programs in Asia-Pacific countries. In some cases, traditional values and cultures make it almost impossible for women to perceive or to desire the empowerment contained in the control of fertility that family planning offers. These include early marriages and family structures that abuse

wives until they have borne several sons, as in India. The conservative interpretation of Islamic law promoted in Pakistan is an example of how orthodox elements in society are responsible for denying women the means or right to exercise their reproductive rights, while leading women to accept this situation as morally correct.

In other cases, family planning programs alienate potential clients by failing to address their needs in a sensitive way. Finally, most family planning programs target their attention almost exclusively at women, as though men had no role in the fertility decisions being made, actively or passively, by couples.

Current Strategies for Reproductive Rights

Strategies in the area of reproductive rights are relatively weak in the Asia Pacific. Strategies on two levels are being developed. One is mass consciousness-raising through organizing and education. The second is promoting the participation of women in the decision-making process both at the level of choice about child bearing and at the policy-making level. In the Philippines, for one, this direction has taken the shape of electing/appointing to office women with a feminist perspective. Apart from these efforts currently being implemented, long-range and structural strategies to promote reproductive rights are being articulated in terms of pressuring governments to promote and protect the individual rights of women to increase their political participation. Finally, in another area which calls for action, there is a need to be vigilant and devise approaches for monitoring and preventing the dumping of unlicensed and untested family-planning drugs and devices in Asia Pacific countries.

ECONOMIC AND LABOR RIGHTS

Overview

Equality for women is linked inextricably to financial independence, which in turn is a function of their access to and control of basic financial, economic and human resources. These include paid employment, money and credit, land, animals, skills training and markets. Women's access to basic resources is conditioned by family laws and customs which regulate their inheritance, alimony and property rights within the larger family and which determine terms of access to public credit and government resources, especially land.

In most Asia Pacific societies the family, business, land and labor laws are biased against the interests of women. This bias is functionally related to capitalist definitions of work which exclude women who are self-employed, who are involved in barter transactions such as agricultural labor for grain or domestic labor for room and board, for the subsistence of the family unit without cash compensation. Furthermore, most Asia Pacific legal systems erroneously define women's income as "supplementary income" and never as "primary breadwinner."

In addition, national development policies and projects often have an adverse impact on women by changing the status quo in ways which destroy their traditional economic rights while denying them rights in the newly emerging economic structures. Generally, it is men, not women, who benefit from newly created skills, markets, credit, tools and other productive resources.

For the most part, work in the Asian context is based on self-employment, and Asian cultures are cultures of the self-employed. However, the concept of self-employment is not well understood and needs to be studied in depth. Defining characteristics of self-employment and its relation to the formal sector are important issues requiring clarification. In particular, it needs to be determined whether self-employment exerts downward pressure on wages and working conditions in the formal sector. Women who are genuinely involved in self-employed and informal sector activities should be supported by women's groups and

encouraged to take pride in their work. Research into the nature and needs of these groups should also help clarify appropriate forms that this support should take.

A large percentage of the women in the Asia Pacific region are agricultural workers. Engaged as "casual" laborers with no security of tenure, or carrying the burden of effort on their family's land, their work is perceived as being either unproductive or unimportant economically. In most countries land ownership patterns tend to discriminate against women, and lands being divested in state land reform programs go to male "heads of households."

In order to protect Asian women involved in agriculture, women's movements should formulate land reform programs aimed at securing land rights for women, and they should pressure governments to give more state divested lands to women. They should also seek legislation and amendments which give women agricultural workers tenure rights and job security.

In modern economic sectors Asia Pacific women are discriminated against both in terms of employment and equal pay, and unemployment levels among them are high. At the same time, governments throughout the region are encouraging free trade zones and labor migration policies that depend on the work of poor, marginalized women to succeed. According to one view, these governments give tax incentives and other privileges to multinationals, but reap little in return.

Although the use of female labor in free trade zones may appear progressive, since it provides women with some financial independence, it in fact tends to be highly exploitative. Women workers are preferred because they are more docile than men and less likely to demand fair labor practices. They are poorly paid and often involved in jobs with negative health implications.

Night work is another area where the exploitation of women is being obscured by the appearance of progressiveness. Despite an International Labor Organization convention prohibiting it for women, many governments permit night-work on the grounds of "women's right to equity."

In many Asian countries women are denied fundamental rights of association and unionization. In others, despite the existence of these rights, management uses worker insecurity and the control of information to prevent women from organizing. Women who migrate to other countries for work are also vulnerable; those women who migrate to the

Middle East are in the worst position of all. The latter are exposed to racist attitudes, sexual harassment and exploitation, with no one to turn to for help.

Asian women's organizations need to educate female workers in free trade zones about their rights, and they need to develop strategies for helping women implement these rights in the work place. Women's groups should form alliances with trade unions. The two should work closely to generate joint positions on night work and social welfare legislation, and they should combine their political clout to push for worker's rights. Women's groups should also push for national laws to protect female migrant workers, and they should exert international pressure on host countries to do the same.

When women's economic contribution is devalued by a failure to define it as important to a country's GNP or development, women as a group become easy to exploit. For this reason, there is a critical need to redefine legal and economic concepts of work to reflect the reality of women's contributions in the Asian context, and to challenge and amend erroneous assumptions in the law.

In order to stop the economic marginalization and impoverishment of Asia Pacific women, it is imperative for women's groups to critically examine government policies and identify levers of change. They must demand women's rights to participate actively in major development projects and plans, and they must insist on women's rights to productive resources.

Asia Pacific women have yet to realize their fundamental right to work which is given full recognition and value by the larger society. This means work which respects and protects rights to gainful employment, security of tenure, and just wages. In order to counter the tendency to marginalize women's labor, the right to non-exploitative work must be actively sought through a restructuring of Asia Pacific economies. Lobbying for equal pay legislation and ensuring its implementation are also important steps on the road to full economic rights for women.

The economic rights of women in Asia Pacific societies are dependent not only on the policies of respective governments, but also on the integrated international economy. Since the problems of foreign debt, the regulation of multinationals, and the policies of international organizations such as the IMF and World Bank have a profound impact on the courses taken by governments, they also help determine the economic rights of individual women throughout the region. For this reason, Asian women's movements need to join hands with other

progressive forces around the world to push for a restructuring of the international economy and for a more equitable sharing of resources at the international level.

Inheritance and Matrimonial Rights

A woman's rights to property are basic to her ability to protect herself from economic destitution. They determine her inheritance share in parental property and her share in matrimonial property.

In most of Asia, inheritance and matrimonial property rights are governed by personal law rooted in customary or religious practices. For the most part, these practices are biased against the interests of women. The rich ethnic pluralism of the region leads to de facto pluralism in the legal system in these matters, making it difficult to confront entrenched inequities. Even where national inheritance and matrimonial codes include egalitarian provisions, customary or religious law will either take precedence, or influence the interpretation and implementation of the national code in local contexts. Experience has shown that attempts to reform these laws by introducing corrective legislation have been more successful when the reforms target customary rather than religious practices.

The patriarchal structures prevalent in much of south and south-east Asia, which function by concentrating assets among male family members, are one cause of the biases against "Women's inheritance and matrimonial rights. The practice of giving dowry for daughters is seen as a surrogate for their inheritance rights, and justifies leaving a family's immovable property intact for the brothers. Likewise, the total absence of well defined concepts of matrimonial property is an important cause of women's destitution after their marriages break up.

In other parts of Asia, such as the Philippines, women do have well defined inheritance and matrimonial rights which are not, on the surface, biased against them. Nonetheless, the connection of women to unpaid house work and child care leaves them economically vulnerable. Dependence on a single male income for family support puts a woman into a tenuous position, where any loss of her husband's affection and good will could mean disaster. After years of economic inactivity, divorced and abandoned women are unable to maintain themselves and their children. Although most Asia Pacific jurisdictions have laws which provide maintenance after a broken marriage, they tend to be substantively inadequate and rendered ineffective due to faulty implementation.

Customary and Religious Influence upon Inheritance and Matrimonial Rights

The influence of patriarchal family structures on concepts of inheritance and matrimonial property is strongest on the subcontinent, where interpretations of Islamic and Hindu law buttress local customs detrimental to women's rights.

In India, women's alienation from inheritance and matrimonial rights is so complete that their main function has become one of transferring property between males through the dowry. Extortionary dowry demands are ostensibly made to compensate for a bride's lack of inheritance, but the dowry is paid to the husband's family, and a divorced wife has no rights to it, or to any matrimonial property, leaving her with insufficient maintenance or parental support.

The concept of dowry has come to dehumanize and devalue women, since it is money given to the groom's family to compensate for taking in an unproductive human being. Dowry deaths reflect the low political significance of women in a socioeconomic system where they have come to be seen as liabilities.

In Pakistan, inheritance and matrimonial rights are based on Islamic law. In Islamic societies, men are obliged to provide for their wives and children according to their income and status, therefore they inherit more than women. Inheritance shares are strictly defined in the Sharia. Wives get 1/8 of their deceased husband's property when there are issues, and 1/4 when there are none. Mothers get 1/6 of their deceased children's property, and daughters inherit 1/2 of their brother's share. The law is based on the implicit definition of women as wives, mothers and daughters, and hence as dependents of men, who need greater shares in order to maintain various female relations.

In Islamic practice in Pakistan, as in Hindu practice in India, there is no concept of matrimonial property, or property jointly owned by spouses. Everything a husband earns or buys is exclusively his. The same is theoretically true for a wife, but it becomes operationally irrelevant since women are economically inactive.

There is an Islamic system of dowry which requires a husband to pay his wife money and property, but the payments are set too low to protect women in cases of abandonment or divorce. After being divorced, women only have rights to maintenance for three months. Given the current political and cultural climate in Pakistan, the Quaranic source of these laws makes them difficult to challenge. But according to one point of view, the real problem lies not in the Quaranic laws themselves, but in the fact that even this system of rights and obligations is

not being enforced. Instead, customary practice in much of Pakistani society fails to provide women with any inheritance or support rights at all.

As in India, Pakistani families are obliged by custom to pay astronomical amounts on daughters' dowries. These expenditures put fathers and brothers into a position where they feel they can legitimately pressure their daughters and sisters into forgoing inheritance rights. Women are dependent on their male relatives not only financially, but also for social protection, and this prevents them from standing up for their share. Additionally, many women are ignorant that these inheritance rights even exist. Parents begin dispersing family property, such as land, houses and capital, to sons during their lifetime, and brothers are reluctant to share with sisters, whose interests are linked to outsider husbands.

When a man fails to support his family during marriage he can be taken to court, but litigation is lengthy, current needs go unmet, and recovery of court grants can be difficult. Polygamy leads to the frequent divorce and/or abandonment of first wives and their children, who more often than not have no rights to any property. The three month maintenance requirement which does exist is not enforced due to faulty implementation and lack of social concern. Finally, there is no system of social service for helping women left destitute through divorce and abandonment.

All the citizens of Nepal are governed by a single National Code which is based on Hindu canonical scriptures. The trend towards more favorable treatment of women's economic rights in the National Code has been achieved by collecting, interpreting and defining scriptural law. In spite of these efforts, the National Code preserves the traditional patrilineal ideology unfavorable to women. Men rule their families, leaving wives, specially in joint families, with little or no say over the control of property or assets. By force of both law and tradition, women and men are still not equal. This inequality is expressed in the sections of the Code governing inheritance.

The Code explicitly forbids inheritance by daughters if the deceased is survived by a spouse, sons, or son's sons. The one exception to this rule occurs when a woman reaches the age of 35 without ever having been married. Then she becomes equal to her brothers in receiving inheritance from their parents, with her share known as the "woman's share."

Upon her marriage a woman becomes a member of her husband's family. When the husband is a co-partner in a joint family, his wife has a legal interest in his share and will inherit on his death. But if she is

forced to leave the family or the marriage breaks down, she can only claim partition of the matrimonial property in special cases such as if the husband drives her out, if he beats her, or if he commits adultery or polygamy. (See earlier section on Domestic Violence.)

When women do own property, their rights to control it are not equivalent to those of men. A man has complete control over his share of ancestral property after his co-partner has taken his/hers, but a woman in the same situation must have the permission of her father, if living, or a son who has attained maturity, to dispose of more than half of hers.

As the head of a family, a husband can alienate up to half of the immovable property without consulting anyone, but the wife has no right to enter into any kind of financial transactions regarding her eventual share of her husband's property. If a woman contracts debts, her husband is not responsible; but, because a man can sell what would have eventually been his wife's share of his property, his debts can have a profound effect on her.

There is one kind of property, called *Stridahn*, which belongs exclusively to women. Women can sell, bequeath, or dispose of it in any way they want, without anyone's permission. It is property they brought with them into their marriages or earned themselves.

In Sri Lanka, the state legal codes are secular rather than religious in their origin, and they guarantee equal rights to both sexes in inheritance and matrimonial property. However, these egalitarian provisions are constrained by personal laws which have limited application to discrete ethnic groups, and which take precedence at the local level.

East of the subcontinent, where traditional societies have not been so biased against women, customary practices tend to be more egalitarian in their distribution of inheritance and matrimonial rights, and state and traditional laws tend to be more synchronized.

In Thailand family and inheritance laws give equal rights to men and women in regard to community property. Since the 1974 constitution was abolished in the 1976 coup, there has been no constitutional guarantee of equal rights. However, the situation has been improving. One area of family law that still discriminates against women is in grounds for divorce and the breaking of engagements. For example, husbands, but not wives, can claim adultery as grounds for divorce.

Indonesia is similar to the subcontinent in its extraordinary ethnic and religious pluralism. There is no unified legal system applicable to the whole country. There are three family systems: matrilineal,

patrilineal and parental. Besides customary law, there is also Islamic Law on inheritance and matrimonial property. In all cases, the legal process is slow and protracted.

Family and inheritance laws in the Philippines are based on Catholic concepts. Men and women have equal inheritance rights, but illegitimate children are not equal to their legitimate siblings in inheritance.

The matrimonial property regime, known as the conjugal partnership, regulates the spouses' joint control of property. Each has exclusive control over whatever assets she/he brought into the marriage, but any income earned by these assets or any other income or property accumulated by either spouse during the marriage becomes conjugal property. The husband is the administrator of the conjugal property, a fact which many women find distasteful. When the husband accumulates debts, the assumption is that the conjugal partnership will pay, but the same is not true when the wife accumulates debts.

In many Filipino households the customary practice is for the husband to turn his entire income over to his wife to manage and disperse. She in turn will give him a spending allowance. The problem with this arrangement is that many men abdicate their family responsibilities along with their incomes.

Also, because of Catholicism there is no divorce in the Philippines, so questions of maintenance do not arise. Legal separation is allowed, but it is more difficult for the wife to secure than for the husband. With separation of bed and board no support is given, and the one who provided the ground for the separation cannot inherit from the other spouse. Neither spouse can remarry until the other dies.

Strategies Addressing Inheritance Issues

In India, activities are underway to secularize personal law in order to provide for equality of inheritance. Addressing the inadequacies of the dowry system act is another area of concerted effort related to inheritance and property rights for women. In Pakistan, inheritance issues are being addressed primarily on an individual basis through the services of legal aid centers which provide assistance, advice, and information. In Thailand, contacts with women law makers and members of the parliament focus on revising the laws and establishing legal information programs for women in various areas and at various levels.

In Pakistan, for example, free legal aid to women and dissemination of information on their legal rights are the main strategies involved for the problems in inheritance. Examples of less restrictive Muslim countries like Libya are used to press for joint ownership of matrimonial property. This is also seen as a check on the man's arbitrary and capricious exercise of his right of divorce. Recommendations for legislative reforms are being made through NGOs (nongovernmental organizations). In the area of inheritance, compensatory measures are being suggested, owing to the sensitivity concerning radical changes in the religious law. However, this does not mean that efforts for changing/modifying the law are not being made. Provision of social services for destitute and abandoned women are also being undertaken.

These examples of strategies specifically targeted to change inheritance laws and practices in the countries of the Asia Pacific region are in a rudimentary stage for the most part. Nevertheless, they represent awareness about the problem and are often linked to a growing consciousness about the kinds of strategies needed to address the issue. Participants of the APWLD, for example, feel that overriding emphasis should be placed on integrating gender equality into the inheritance values of each society and community as part of a long-term and continuous task of mobilizing public opinion. Where supportive laws already exist, women need to be made aware of their legal rights.

Regarding matrimonial property, recognition of the rights of both husbands and wives to property acquired during marriage should be present in the legislative strategies and public awareness campaigns. Property vested in the spouses before marriage should continue to be regarded as individual property. In the case of the matrimonial home, the ownership should be joint. Operational details for matrimonial property strategies should be worked out in view of the specific context and needs of each country. Finally, in terms of family-support strategies, APWLD calls for redirection of legislation in order to strike a balance between the changes occurring in the financial status of the estranged spouses and their children.

Land Rights

Land, especially in agrarian societies, is the resource which confers the most power on those who control it. As population pressure, ecological degradation and the growing impact of cash economies exert their linked influences on rural societies, the competition for land can become intense. Unequal distribution and fragmentation of productive land are

ongoing problems in the Asian-Pacific region. Under these circumstances it is the powerless who are disposed and disenfranchised, and women, as the most powerless, have the flimsiest defenses between themselves and the destitution of the landless.

In many Asia-Pacific societies, people without assets have traditionally had access to common lands belonging to the community or state. But these resources have been shrinking, and this hurts the poorest women who rely on them for subsistence. Government land redistribution policies, paradoxically, have also been responsible for diminishing the resources available to the poorest. These people are given the most severely degraded and damaged land parcels which need expensive resources to rebuild. When the people can't afford the necessary input, the land is reappropriated by those who already control resources.

In parts of Asia, customary law is responsible for concentrating control and/or ownership of land among male heads of households. These policies both result from and are crucial to maintaining patriarchal structures of gender subordination. Although women provide most of the agrarian labor, they are typically alienated from control of the income derived from land, even land they may nominally own. This system encourages the dependent status of women by failing to recognize their economic contribution and by restricting their ability to manage family income.

In other parts of Asia, "Women have traditionally controlled land, but changing economic values, caused by the encroachment of international capitalism and new farming systems, is leading to increased male domination in some places, and outright disinheritance of traditional land rights in others.

The Effect of Women's Alienation from Land

In the Sabah region of Malaysia, there is a conflict occurring between customary and State law over cultivation, ownership, and inheritance rights to land. Current State law, which was imposed by the British, requires people to possess titles or pay fees and rents. But many of the poor, who hold traditional cultivation rights, do not realize these now have to be transferred to State title, and if they do know, they do not comprehend the significance of titles or know how to apply. At the same time, big tracts of land are being allocated to plantation owners, politicians and state agencies. These government land schemes end up being exclusive male clubs.

Those who understand the need for titles put in applications, which take a long time to process. Others join political parties in order to obtain titles through political connections. But the overall trend is the disinheritance of the poor, and of women who leave everything to the men in regard to applying for land.

In Northern Thailand, traditional female centered spirit cults were the basis of strong matrilineal residence patterns. The norm was for women, especially the favored youngest daughters, to inherit the land, while their brothers took cash and cattle into their wives' families.

Today, women are losing control of land which once would have been theirs. The introduction of international capitalism and cash cropping has dramatically altered agricultural production in the area. This has caused a change in the conception of land from something sacred and inalienable to a saleable commodity. As a result, brothers and sons are exercising their legal rights to equal shares of their parent's property, rights which were established by a 1935 inheritance law.

Men, yielding to the temptations of cash, often sell their pieces of land to outsiders. The overall result has been land fragmentation on a major scale and loss of female control. The effect of this on women is twofold: they control less land than previously, and they have totally lost control of land which would have once been theirs.

Strategies Being Used to Address Women's Land Rights

Although procedural laws sometimes facilitate women's acquisition of official titles to land, no one is working to implement specific strategies.

Whereas unchecked fragmentation of holdings is leading to negative agricultural returns, laws should ensure that appropriate land management systems develop in which women are equal and able to fully participate. Moreover, while ensuring that egalitarian land distribution procedures are protected, the rights to common property resources of those without assets must be assured. Especially the poorest women must be protected through protective legislation.

Free Trade Zones

Free Trade Zones, where multinational corporations are allowed to set up factories without the hindrance of national tax, trade and labor laws, were first promoted by the IMF and World Bank. They are the result of

export oriented economic policies which promote cheap labor as a way of attracting foreign capital, and they reveal policy makers' emphasis on foreigners as the only major source of development capital.

In return for cheap labor, the corporate presence in Free Trade Zones was supposed to generate benefits for the host economy including: employment, technology transfer, local industrial development, and foreign exchange. Ten to fifteen years have now passed since the first Free Trade Zones started operating in Asia. For Asian governments the Free Trade Zones have been a disappointment by failing to yield as much as was once hoped. For Asian workers Free Trade Zones have been destructive.

Women and the Free "Slave" Zone

Poor Asian countries have been in a weak position in relation to multinationals. They are forced to compete with each other for capital and foreign exchange. On the other hand, multinationals are not constrained by having to adapt to a single labor market over the long run and will move their firms from one cheap country to another to prevent labor disputes. Because of this situation, the rights of Free Trade Zone workers are bargained away by their own governments, which do not protect them with the same labor laws covering other sectors of the economy.

Free Trade Zones are biased against unions. Not only are Free Trade Zone workers unprotected by national labor laws, their governments also create legislation which actively discriminates against their rights to organize or protect themselves. In the Philippines, the firms in the Bataan Export Processing Zone were protected by the "vital industry" classification of their undertakings, which meant strikes were illegal. In Malaysia the only unions allowed are "in house."

Workers in Free Trade Zones have no job security. Not only do multinationals relocate firms to prevent labor disputes, they also close down plants in response to changes in technology or the global economy. Women in the Malaysian electronics industry are facing plant retrenchment as new technology makes it more profitable for companies to produce in their home countries. When multinationals retrench, workers are left without any compensation or protection.

The concentration of industrial development Free Trade Zones in big towns adds further downward pressure on the rights of labor. When rural areas are neglected by development planners, they become economically impoverished and offer very little employment. People are forced to migrate to towns and Free Trade Zones in search of a livelihood.

This ensures a pool of cheap labor so desperate and uprooted that it has no alternative but to compete for jobs with no security, and which barely permit survival.

The pressure on rural migrants to stay in the new environment is heightened by the stigma and shame they will face if they go home jobless. This is specially true for women, who will resort to prostitution or hawking rather than return to the village empty handed.

Because of poverty, local and international competition are obstacles to organizing workers in Free Trade Zones who are vulnerable to exploitation by the companies hiring them. Not surprisingly, 80% of these workers are young women. In Indonesia, Sri Lanka, and Bangladesh, many earn less than 1\$/day. In other parts of South Asia the prevailing wage for a female factory worker is less than 1/10 that of a woman in Japan. In ASEAN countries women earn 1/8 or 1/5 of a Japanese woman's wage, and in the NICs they earn 1/5 to 1/3.

Companies in Free Trade Zones expect women to work long hours in sub-standard and sometimes hazardous conditions without any compensation. Three shift systems are widely practiced. At times, women have been forced to work for more than 24 hours at a stretch to keep the assembly lines running. Jobs which require exposure to hazardous chemicals and work leading to bad eyesight have been documented in the electronics industry. Sexual harassment by male supervisors, forced pregnancy tests, and forced contraception have also been reported.

In addition to bad working conditions, Free Trade Zone workers live in substandard housing. In Malaysia, for example, it is common for ten people to be sharing a single room.

Strategies to Address Women's Labor Rights in Free Trade Zones

In the Philippines, women's groups are involved in the reorientation of women to their roles as labor organizers and unionists. More slots are being developed for women workers in the progressive labor federation. Women are now found in the picket lines. Some of these women also have become presidents of their unions. Alternative socio-economic projects, including production and marketing, are being undertaken to help laid-off workers in the Philippines.

The Informal Sector

Explicit recognition of the informal sector in Asia Pacific societies by scholars, policy makers and social activists is very recent, and information on its basic characteristics and problems is scanty. Even definitions of the sector are still open to debate. One negative definition delineates the informal sector by any economic activity taking place outside of the formal sector. A positive definition, and the one adopted by the participants at the Asia Pacific Forum, states that the informal sector includes the self-employed, contract laborers, casual workers, vendors, marginal workers and others whose labor rights are unprotected by formal or binding agreements with employers or buyers of their services.

Although it is not possible to say that most people in the informal sector are women, it is safe to say that most working women in Asian Pacific societies are in the informal sector. Many factors have affected the informal sector, specifically by increasing the number of women in it and heightening their marginalized status. Marginalization of the informal sector is caused by industrialization and development strategies which concentrate employment in urban areas, switch demand to new goods and service consumption through new formal sector marketing channels. These policies undermine the demand for traditionally produced goods and services, many of which are supplied by the informal sector. At the same time that traditional non-formal sector markets are being displaced, increasing numbers of women are being driven into it by the impoverishment of rural areas and the resulting urban migration. In most Asia Pacific countries the informal sector is not given any explicit recognition by policy makers and its contributions to the GNP go uncounted. The sector has no unions, bargaining power or lobbies to pressure politicians for greater economic benefits. The resulting political invisibility is the counterpart of economic marginalization. The informal sector is not represented on planning or policy making bodies, so development programs and support services provided by national and regional governments bypass it. Instead, planners tend to focus attention on the formal sector and to tailor credit, training, technology and market development programs to formal sector needs. Hence, the informal sector lacks access to support systems and finds the existing support systems are not responsive to its needs.

The apathy and ignorance of most governments towards the informal sector reflect social attitudes which confer high status on formal sector employment while denigrating work done in the informal sector.

These negative perceptions are given legitimacy in legal systems which discriminate against people in the informal sector through burdensome license procedures, nuisance ordinances, and police harassment

Ironically, the weakness and fragmentation of the informal sector labor market is making it a profitable area for new economic initiatives. Within Asia Pacific countries there are definite indications that industries are moving out of centralized formal-sector operations into informal contract labor, in order to maximize profits while minimizing the ability of workers to organize and bargain collectively. Women are then preferred to men as workers since they are considered to create fewer "labor problems".

Repercussions of the Feminization of the Informal Sector

Throughout Asia, legal systems interact with cultural values to sustain economic structures which funnel women into non-formal sector employment

In the Philippines the prevailing culture of paternalism and machismo has spawned a system of laws regulating business and finance which is blatantly inequitable to women. It is an extension of the Conjugal Partnership regulating marriage, which confers managerial control over assets onto the husband. A married woman has no access to credit without her husband's consent. She cannot incorporate or buy stock without her husband's consent unless she can prove the assets she is using are her private property. If she is single she must have valuable property as collateral for loans. Men do not need anyone's permission or proof to engage in basic business transactions.

These unfair laws are too often made by elite, rich males who can afford to indulge the normative ideal of the pure woman in the home supported by the man who toils in the world. They have little comprehension of or compassion for the life faced by poor women who must work. The biases against female entrepreneurs, in laws regulating business, force women into stereotyped roles such as dressmaker, cook, and vendor. Even in this arena, most successful self-employed women start with male help from a husband, father, or lover. Those without male support are forced to get money from loan sharks, a situation which exposes them to extortion and expropriation of their property. They are doubly burdened with running homes and jobs, and they are triply oppressed, as part of the third world, as part of the lower classes, and as women.

In Indonesia, women in the informal sector are unskilled and poorly educated, and are therefore incapable of improving their standard of living. They are not organized; most of them do not belong to any organizations which protect their interests. The community, which confers status and appreciation on those working in offices and factories, has not begun to think of giving legal protection to these women.

The situation in India is similar to the one in Indonesia. Women have hardly any place in formal sector industries. As part of the informal sector they are overworked, underpaid and get no benefits. Their social services, such as vending, go unappreciated. Instead, they are often seen as nuisances, and harassed.

The vast majority of working women in rural Pakistan fall into the non-formal/self-employed category. Urban areas also house a virtual army of invisible women who are forced by material necessity and social mores to earn a living inside their homes as piece workers. Women are also found working in brick kilns and other parts of the construction industry.

All these women, both rural and urban, remain unrecognized as part of the work force. Lack of recognition means they are unable to generate a lobby to support their cause. It is only very recently that the situation has received recognition from the women's division of the government. The situation faced by women leaves them open to a high degree of exploitation and without legislative recourse. It leaves them outside the purview of policy making and benefits, and "Without any access to credit, training and markets. As a result, most Pakistani women have very little control over the material aspects of their lives.

Existing Strategies for Addressing Problems of Women in the Informal sector.

Most ongoing strategies focus on enhancing the visibility of the women in the informal sector to give them their due place in the economy. One strategy seeks to mobilize public opinion and increase the advocacy work of concerned women's groups. These actions constitute pressure groups to raise public awareness about the problems and concerns of the informal sector.

Other strategies work to empower the informal sector workers through unions, cooperatives, collectives, and other forms of organization; they adopt and replicate development models which have proven successful in other countries, with due modification to suit local needs and conditions.

Still other strategies attempt to confront the problem by developing alternative marketing strategies that will specifically reduce the number of middle men and structural intermediaries with whom most of the informal sector currently are forced to deal. These efforts are geared to increase the profit and income of the non-formal sector. Another economic strategy attempts to develop programs and alternative action plans in rural areas to offer tangible economic gains to stem migration to cities. Finally, there are legal strategies which press for protective legislation for the informal sector and for policies that promote small- and medium-scale industries.

Migrant Workers

Migration, which is sweeping the developing world, is the force driving women into the Informal Sector and into Free Trade Zones. It takes two forms: in-migration, or rural-urban migration within national boundaries, and out-migration, or migration between countries. Both men and women are swept up in this process, and the migration of both sexes has a profound effect on the lives of women. While female migration displaces women physically, socially and culturally from their familiar milieux, male migration leaves villages destitute of able-bodied men and contributes to the collapse of rural societies.

Migration is driven by the systemic breakdown of rural societies and economies occurring worldwide. Lack of traditional or new economic opportunities in rural areas, the disintegration of family structures, and aspirations to earn higher incomes, all contribute to a migrant's decision to leave home. From a villager's perspective, in and out migration appear to be avenues to quick employment and wealth. But for in-migrants quick employment usually means the lowest paying jobs in the Informal Sector or prostitution, and for out-migrants it means vulnerability to exploitation, abuse and prostitution.

For the last fifteen years, most out-migration from the Asian-Pacific region has been to the oil producing gulf states. Before leaving home migrants are exploited by the employment agencies arranging the labor contracts. Once in the host countries they are subject to numerous problems. Employers provide no programs or facilities to help migrants deal with their culture shock. They are forced to work extremely long hours and to perform tasks which were not stipulated in their contracts. Finally, they are subjected to sexual abuse and violence, and often lured into prostitution. Of all the host countries, the gulf states are the worst offenders in these abuses.

The problems which labor migrants face abroad are caused by the sense of superiority host country populations feel towards imported workers. As a result, labor migrants are constantly confronting discrimination and dehumanizing social and personal practices. They lack the resources, including knowledge and information of their rights, needed to protect themselves from abuse.

Migration - Cause and Effect

The embassies of labor exporting, or "sending" countries do very little to protect their citizens because they are afraid of souring relations with host governments. Sending governments also resist efforts to inform their own populations about the problems of out-migrants because they are afraid the publicity would alarm other workers looking for employment abroad, and would cause a drop in their foreign exchange earnings from wage remittances.

In-migrants face other, equally serious, problems. In Bangladesh, for example, women are migrating to towns from villages because they are losing their traditional post harvest income earning opportunities. They are landless, illiterate and unskilled in anything but housework, and they are conditioned to think of themselves primarily in terms of their reproductive roles. In the towns they face poor housing, bad pay, no job security and no opportunity for skills formation. Industrial managers exploit them as a cheap source of labor, often in flagrant violation of labor laws. This is made easy by women workers' complete ignorance of their legal rights, and by the absence of unions. Macroeconomic policies which bring in foreign multinationals and Free Trade Zones encourage this exploitation.

Strategies to Assist Migrant Women

Resources and strategies being used to help migrant women workers in the Asia Pacific region include information campaigns, rescue work for victims of unscrupulous employment agencies, counselling agencies, repatriation of abused workers, and provision of alternative employment for rescued workers. There is also personal help available on an individual level, advocacy and lobbying on the local level, and an on-going process of conscientization of employers and of immigration employees.

APPENDICES:

AP D Program and Participants

APPENDIX I: APWLD PROGRAM

Responding to the issues discussed and suggestions for action gleaned from the Manila Conference, APWLD established a program covering five major components: information and communication, education and training, research, mobilization and monitoring.

Information and Communications. This component of the program is concerned with sharing information about substantive issues and strategies. The principle means to share information is a regional newsletter containing information on the extent and scope *of* work relating to women's rights by women NGOs in the region and major socio-legal issues relating to women *in* member countries. In addition, plans are underway for publication of occasional papers (products of APWLD educational work and research, conference presentations, etc.) and a comprehensive bibliography of publications (books, articles, studies, training materials, etc.) relating to the field of women, law, and development

Education and Training of WLD Activists. The educational component of the program, designated as a priority area, exists to develop broader understanding of the issues and strategies among its members to improve their skills, and to strengthen network linkages. This is consistent with the objectives of deepening the link between theory and practice and increasing the mobilizing capacity of the network. Educational experiences take several forms.

- **Seminars and workshops** - These are organized or convened around topics of common interest. Among the priority topics identified are analysis of the legal systems *in* the Asia Pacific region and their gender implications, evaluations of legal programs and how they affect women, social development planning, policy-making, law-making, and developing forward-looking strategies.
- **Inter-organizational exchanges** - Another approach to learning is the use of inter-organizational exchanges, either as study tours or internships. This is aimed primarily at the grassroots worker and project organizer.

- O Materials exchange - The network facilitates the exchange of materials, methods, and techniques .
- D Community legal literacy - APWLD assists women throughout the region to learn more about effective approaches to legal literacy. Through workshops and training sessions APWLD participants acquire skills in fostering grassroots rights awareness and action.

Research. As **with** education and communications, there are two principle targets for the research: substance and strategies. With regard to substance, the development of model legislation—particularly in the field of family law—has been identified as a priority need in Asia. Research will also be undertaken to further the understanding of effective strategies and approaches to overcoming legal obstacles.

APWLD also seeks to facilitate the initiation of new research, specifically by 1) defining critical substantive areas needing research; 2) identifying appropriate researchers; and 3) developing funding proposals to finance this research. Finally, APWLD seeks to draw together researchers already working **in** different areas in order to make the existing research relevant to the needs of the members of the Asia Pacific Forum.

The following research topics are considered most important and relevant to the AP region:

- judicial decisions with gender implications;
- analysis and examination of gender and developmental implications of legal education and law curricula;
- socio-cultural factors affecting legal activists (why they are legal activists and face hazards/risks they take); and
- model WLD legislation in the AP region.

Mobilization. Another major function of the Asia Pacific Forum is to mobilize members across the region **in** response to both emergency situations and to critical issues that constitute an imminent threat to women's rights. This is essentially the "human rights" function. The awareness of instances of violations of women's rights is growing daily, but often the manifestations are not public even though the victims (women) are extremely vulnerable to human rights violations. The purpose of this component of the program is to publicize these instances and, more importantly, to mobilize the regional network to act in concert and to place pressure on the perpetrators.

In addition to mobilization around emergency situations, mobilization will also be used to garner support for women struggling to change less dramatic, but deeply entrenched and rarely challenged, violations

to their rights, such as certain ethnic groups or categories of workers. Also, mobilization will entail pushing for the repeal of discriminatory, oppressive laws or the passage of favorable laws.

Monitoring. Another important component will be the monitoring of national WLD strategies in the region, including the documentation of reasons for their successes and failures. This component will also include monitoring the implementation of the U.N. Convention for the Elimination of All Forms of Discrimination Against Women.

Regional Meeting of the Asia Pacific Forum on Women, Law and Development

List of the Participants

BANGLADESH

RoushanJahan
Women for Women,
Dhaka, Bangladesh

Salma Sobhan
Bangladesh Rural Advancement Committee (BRAC)
Dhaka, Bangladesh

INDIA

RaniAdwani
Self-Employed Women's Association (SEWA)
Ahmedabad, India

Nandini Azad
New Delhi, India

Jyotsna Chatterji
Joint Women's Programme
New Delhi, India

Rani Jethmalani
Supreme Court Advocate
New Delhi, India

Ranjana Kumari
Center for Social Research
New Delhi, India

Manjula Rathore
Benares Hindu University
Varanasi, India

JosnaRoy
Center for Social Research
New Delhi, India

Nalini Singh
Journalist
New Delhi 110021, India

INDONESIA

LuisaGandi
Fakultas Hukum, Universitas Indonesia
Jakarta, Indonesia

Saparinah Sadli
LKBuWK (Women's Legal Services Project)
Jakarta, Indonesia

Amartiwi Saleh
Legal Aid Lawyer
Bandung, Indonesia

Nani Yamin
LKBuWK(Women's Legal Services Project)
Jakarta, Indonesia

JAPAN

Miyoko Shiozawa
Center for Asian Women Workers
Toyko, Japan

MALAYSIA

Noor Farida Ariffin
Association of Women Lawyers
Kuala Lumpur, Indonesia

Lim Kah Cheng
Association of Women Lawyers
Pinang, Malaysia

Irene Fernandez
Women's Development Collective
Petaling Jaya, Malaysia

NEPAL

Silu Singh
Women's Legal Services Project, Nepal Women's Organization,
Kathmandu, Nepal

Shanta Thapalia
Faculty of Law, Tribhuvan University
Kathmandu, Nepal

PACIFIC

Shamima Ali
Women's Crisis Center
Suva, Fiji

MerePulea
Mere Pulea and Associates
Republic of Nauru, Central Pacific

PAKISTAN

Asma Jahangir
AGHS Law Associates
Lahore, Pakistan

HinaJilani
AGHS Law Associates
Lahore, Pakistan

Rashida Patel
Pakistan Women Lawyers Association
Karachi, Pakistan

PHILIPPINES

Alice Canonoy-Morada
Dentrál Visayas Regional Projects
Cebu City, Philippines

Marilyn Cepe
BATAS (Center for People's Law)
Quezon City, The Philippines

Mariflor Parpan
MATAGU
Quezon City, Philippines
Soledad Perpinan
I:llird World Movement Against the Exploitation of Women
Quezon City, Philippines

Jing Porte
Women's Center
Quezon City, Philippines

Emelina Quintillan
PILIPINA Legal Resources Center
Davao, Philippines

SRI LANKA

Radhika Coomaraswamy
International Centre for Ethnic Studies
Colombo, Sri Lanka

Nimalka Fernando
National Christian Council
Colombo, Sri Lanka

Savibi Goonesekere
Faculty of Law, Open University
Colombo, Sri Lanka

Manouri Muttetuwegama
Attorney
Colombo 5, Sri Lanka

THAILAND

Chantawipa Apisuk
EMPOWER
Bangkok, Thailand

Malee Pruekpingsawalee
Faculty of Law, Thammasat University
Bangkok, Thailand.

Virada Somsasdi
ChiangMai University.,Faculty of Social Sciences
Chiang Mai, Thailand

OEF/WLD

Margaret Schuler, WLD Program Director
Robin Forrest, WLD Program Associate
Nancy Rubin, OEF Board Member

