The Regional Comprehensive Economic Partnership (RCEP): A Dilemma for People and Human Rights in the Global South?

By:

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The *Regional Comprehensive Economic Partnership Agreement* (RCEP) signed on November 15, 2020 comprises 10 member states of the Association of Southeast Asian (ASEAN) and Australia, China, Japan, New Zealand, and South Korea. Fifteen Asia-Pacific economies just concluded talks in November 2020, and signed what may very well become the world's largest free trade agreement (FTA), covering virtually a third of the global population and about 30% of its global gross domestic product. The RCEP is anticipated to lower tariffs and aims to counter protectionism, boost investment and allow easier movement of goods within the region. One of its biggest draws is that its members already have several bilateral or multilateral agreements in place;

hence RCEP builds on those foundations.

RCEP and its Nexus with Human Rights

It is very likely that the Agreement will impact a greater number of people than any previously signed FTA. This analysis tries to capture these key issues. Contemporary large multilateral agreements, such as the RCEP and the Trans-Pacific Partnership Agreement, have pursued to magnify the scope of agreements to provide for global governance over a collective number of economic issues outside of the United Nations and World Trade Organization (WTO) systems. In fact, trade agreements are designed for and by large multinational corporations who are able to displace smaller businesses and who use their political power to gain substantial advantages. The RCEP places less significance on women's rights, the environment and land, intellectual property protections, along with the rights of farmers, and these are discussed in this essay/post.

The Rights of Women

The agreements, intended principally to enable the unconstrained flow of global capital, are a significant barrier to the realisation of the human rights of women in particular. Trade agreements do offer benefits to people who have the aptitude to capitalise on new market opportunities, and workers classified as highly skilled. Yet, as women are less likely to hold large amounts of capital, and are typically engaged in the informal sector, they are less likely to have secure land rights and are more prone to benefit from public expenditure in health and education. In 2015, ten United Nations Human Rights Council mandate-holders voiced their concerns over the impact of trade and investment agreements on human rights. It specifically warned that trade agreements are expected to have a number of retrogressive effects on the protection and promotion of human rights, involved in lowering the threshold of health protection, food safety, and labour standards, by catering to the business interests of pharmaceutical monopolies and extending intellectual property protection. It is therefore plausible to state that RCEP may underline a destructive development model than the existing FTAs, and the policies of liberalisation, privatisation and globalisation have inflicted upon the world's poor and particularly poor women. However, in context, it should be noted that

this possible for all FTAs and not just solely the RCEP.

The Issue of Land

There is a prospect that the RCEP will change how governments decide on rights to land and who has access to it. Hence, there is a potential of increased land grabbing across Asia. The RCEP has incorporated a 'national treatment' provision which compels government to provide foreign investors with the same rights and privileges as local investors. As a result, unless governments offer an explicit exemption in the Agreement, land may be purchased by foreign corporations and individuals. Among the attractions of Asian countries to foreign investors is the seeming abundance of cheap land.

More troubling, the RCEP contains rules that will accelerate the transfer of lands from small food producers to but agribusiness. Simply put, it will deprive many farmers of their basic livelihood. Since the trade deal expedites land-grabbing and withdrawal of natural resources, it will inevitably result in further marginalisation of rural and indigenous peoples' communities, leading to more human rights violations as people would have a difficult time to cope with the crisis, and thus struggle for their homes and livelihood.

Intellectual Property Rights

The RCEP includes intellectual property protections that go well beyond the requirements of the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS). If the TPP provisions are replicated in the RCEP, states will be required to sign the International Convention for the Protection of New Varieties of Plant (UPOV91). The Convention provides intellectual property protection for seeds and plants, which mostly prohibit farmers from saving and sharing protected seeds, including seeds that they had been freely using prior to the protection being granted. UPOV 91 allows agri food companies to utilise both the plant breeder rights restrictions and patent protection. The RCEP also has a provision for eliminating the production of generic medicine in the market, which is tremendously problematic given the fact that many developing countries in the Asia-Pacific struggle with decrepit healthcare systems. It is cruel to the majority of the poor and comes when the entire world is struggling with a health crisis triggered by the ongoing Covid-19 pandemic.

The Rights of Farmers

An Asia-Pacific agreement like the RCEP backed by China could hurt small scale farmers, leading to land conflicts, and leave workers in poorer nations without protection as they struggle, especially during this precarious time of the pandemic. This is owing to the fact that the deal has a dearth of specific provisions relating to the protection of workers and the environment, and there is a chance it can hurt smallholder farmers and businesses. Open market access in the RCEP that significantly cuts tariffs on agriculture products will have dreadful consequences for small-scale producers in developing countries. It can also lead to losses in the job market, the shutting down of businesses, and reduced labour rights. The RCEP deal also has the potential to exacerbate the capture of land and water for large-scale investments, deforestation and ecosystem degradation.

Significance of RCEP for China as an Emerging Leader

Without any question, there is a string aspect of China as an emerging leader in the world, and the RCEP concerns the Asian giant holding greater legitimacy amongst other trading partners, and thus this must be noted. For the first time in history, China has stepped into the shoes of the United States of America, and anchors the RCEP, an area covering 2.2 billion people and 1/3 of all the economic activity on the planet. This raises the pivotal question of whether China is seen as a threat or as a partner with shared regional and global thinking by member countries. It is exp0ected to strengthen economic relations, and could lead to further bilateral arrangements among all members, but most particularly China. Hence, its geopolitical significance should not be underestimated as Beijing seeks to increase its influence in the Asia-Pacific. The diplomatic messaging of the RCEP may be just as important as the economics - a coup for China.

In contrast, it is curious to note that India had left the RCEP. This may be perhaps for the reason that there had been opposition to RCEP among Indian farmers, mainly dairy farmers, as well as small and medium-sized enterprises, and some in the service industry who worried about losing out to other countries under the Agreement- especially China in the case of trade in manufactured goods and to Australia and New Zealand in the trade of dairy

products. When India dropped out of the pact in November 2019, Prime Minister Narendra Modi stated that when he measured the Agreement with respect to the interest of all Indians, he did not receive a positive answer. It is thus unsurprising why India opted out of the deal. This may be a result because of the fact that the RCEP, in general, is a Chinese-brokered deal which may be an unspoken reason for India opting out of it.

Conclusion

The writing suggests that the RCEP being the world's largest FTA, will undeniably impact almost every sector of the economy and is an onslaught on people's lives, livelihoods and most especially, human rights. Considering the lack of any substantial environmental, social, and human rights safeguards within the Agreement, the absence of counterpart spaces for human rights in dispute settlement procedures in RCEP could take the world back to an archaic revival of commercial, trade, investment, and other economic interests being interpreted so narrowly, as to exclude evidently 'non-trade' concern such as human rights. It may be denoted that this sharp separation neglects the Association of Southeast Asian Nations (ASEAN)'s Human Rights Declaration. At the very least, if one takes ASEAN's Charter and decades-worth of lawmaking seriously on its face, those commitments to the rule of law, human rights, and democracy must also be reflected without any doubt. This is especially important as the world's largest trading bloc may also end up being the world's largest hub of challenges to human rights.

Consequently, such deals must be related to the cooperation of people, direct fair trade networks between producers and consumers, decent jobs, a sustainable environmental policy, and human rights of local communities. With the RCEP implementation, it is vital to keep in mind that economic policies designed to redistribute power, resources and wealth between men and women, and between the rich and poor must be effectively addressed.

The current century's threat to communities, including climate change and vast and deepening inequalities, may be aggravated by the Agreement. By limiting the power of governments to govern in the interests of the community and the environment, and bolstering a regulatory framework intended to advance the interest of multi-national corporations and only the wealthiest people, trade and investment agreements deepen issues of human rights. The RCEP may, as a

consequence, advertently exclude marginalised groups, including women, indigenous peoples, migrants and essentially those without any capital or political power.

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