

ASEAN Handbook for women's rights activists



An ASEAN Handbook for women's rights activists



The Southeast Asia Women's Caucus on ASEAN



An ASEAN Handbook for women's rights activists

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ISBN:

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Layout: Blueprint Design

Cover Photo Courtesy: LICADHO

With Funding from:



Foreign Affairs, Trade and
Development Canada

Affaires étrangères, Commerce
et Développement Canada



Published by

Southeast Asia Women's Caucus on ASEAN

Secretariat

Asia Pacific Forum on Women, Law and Development

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List of Abbreviations

ACSC	ASEAN Civil Society Conference.
ACMW	ASEAN Committee on the Implementation of the Declaration on the Protection and Promotion of the Rights of Migrant Workers
ACW	ASEAN Committee on Women.
ACWC	ASEAN Commission for the Promotion and Protection of the Rights of Women and Children.
ACWO	ASEAN Confederation of Women Organisations.
ADMW	ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers.
AEC	ASEAN Economic Community.
AHRD	ASEAN Human Rights Declaration.
AICHR	Asian Inter-governmental Commission on Human Rights.
AMMSWD	ASEAN Ministerial Meeting on Social Welfare and Development.
AMMW	ASEAN Ministerial Meeting on Women.
APF	ASEAN People's Forum.
APSC	ASEAN Political Security Community.
APWLD	Asia Pacific Forum on Women, Law and Development.
ASCC	ASEAN Socio-Cultural Community.
ASEAN	Association of Southeast Asian Nations.
ASEAN Charter	Charter of the Association of Southeast Asian Nations.
ASW	ASEAN Sub-Committee on Women.
AWP	ASEAN Women's Programme.
BPFA	Beijing Platform for Action.
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women.
CRC	Convention on the Rights of the Child.
CSOs	Civil Society Organisations.
CWPD	Cambodia Women for Peace and Development.
DATP	ASEAN Declaration against Trafficking in Persons particularly women and children.
DEVAWAR	Declaration on the Elimination of Violence against Women in the ASEAN Region.
DEWD	Hanoi Declaration on the Enhancement of Welfare and Development of ASEAN Women and Children.

IAI	Initiative for ASEAN Integration.
IWRAW-AP	International Women’s Rights Action Watch, Asia Pacific.
KDWANI	Kongres Wanita Indonesia.
LWU	Lao Women’s Union.
MDGs	Millennium Development Goals.
MWAF	Myanmar Women’s Affairs Federation.
OHCHR	Office of the High Commissioner for Human Rights.
NCWB	National Council of Women of Brunei Darussalam.
NCWP	National Council of Women of the Philippines.
NCWT	National Council of Women of Thailand.
NGOs	Non-government organisations.
SAPA	Solidarity for Peoples’ Advocacy.
SCWO	Singapore Council of Women’s Organisations.
SOGI	Sexual Identity and Gender Identity Rights.
SLOM	Senior Labour Officials Meeting.
TAC	Treaty of Amity and Cooperation in Southeast Asia.
TOR	Terms of Reference.
VAC	Violence against Children.
VAP	Vientiane Action Programme 2004 – 2010.
VWO	Vietnam Women’s Union.
VAW	Violence against Women.
VDPA	Vienna Declaration and Programme of Action.
UDHR	Universal Declaration on Human Rights.
UN	United Nations.
UNDEVAW	United Nations Declaration on the Elimination of Violence against Women.
UNESCAP	United Nations Economic and Social Commission for Asia and the Pacific.

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FOREWORD

Regional bodies are growing in power and influence as economic and political power shifts globally. ASEAN is increasingly gaining global influence and recognition and making policy decisions that will impact on the lives of the 300 million women living in the region. ASEAN devotes most of its time to economic integration following a neo-liberal model of trade liberalisation, deregulation and privatisation.

The capacities for civil society to shape alternative visions of regionalism are limited. Engagement with ASEAN is hindered by a lack of public awareness, bureaucratic states, restrictive ASEAN procedures and limited information sharing. ASEAN is a difficult entity to follow and understand. There are over 700 meetings of the various ASEAN bodies scheduled annually; very few of them involve civil society.

To facilitate a genuinely ‘people-centered’ ASEAN, it is imperative that civil society understand ASEAN and its vast work. This requires civil society groups to be more knowledgeable about ASEAN and to have the capacity and resources to engage with and influence ASEAN and its various bodies.

Similarly it is critical that women’s voices from ASEAN countries are audible and influential. It is important for women’s movements to utilise all possible mechanisms for advocacy in advancing women’s human rights. Feminist voices need to permeate all ASEAN debates, not just those designated as ‘women’s issues’.

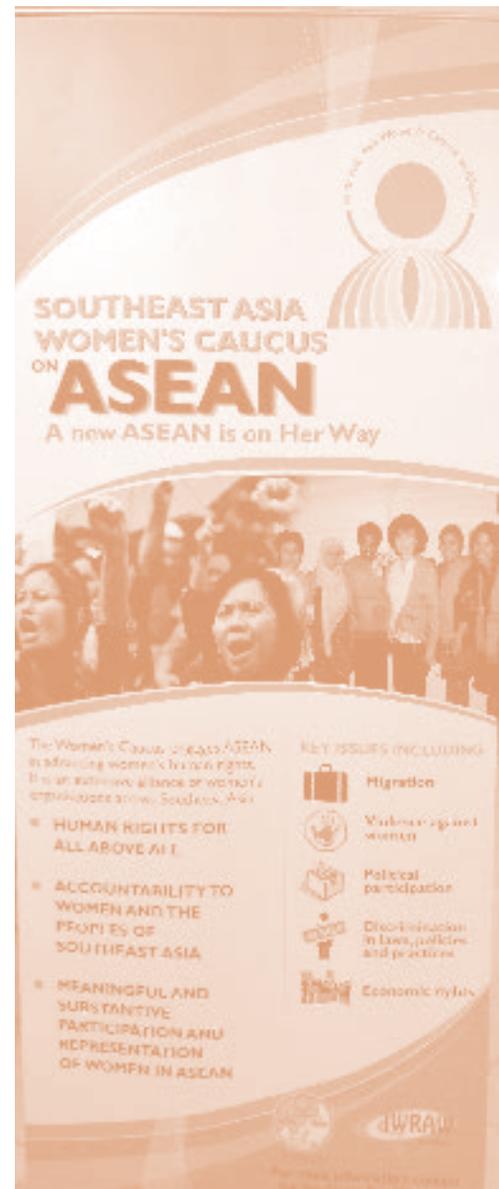
This handbook aims to increase knowledge and awareness around ASEAN and its mechanisms. The handbook was envisaged as providing information about ‘ASEAN in a Nutshell’. But ASEAN cannot be confined to a nutshell. Instead this handbook is the first step in understanding elements of ASEAN – an ASEAN reader (in a coconut). The Women’s Caucus will also produce more comprehensive analysis on the pillars of ASEAN, starting with the economic pillar. We hope this reader will serve to promote stronger advocacy and engagement of women’s human rights movements in Southeast Asia.

Kate Lappin

Regional Coordinator

Asia Pacific Forum on Women, Law and Development

THE SOUTHEAST ASIA WOMEN'S CAUCUS ON ASEAN



INTRODUCTION TO THE SOUTHEAST ASIA WOMEN'S CAUCUS ON ASEAN

The *Southeast Asia Women's Caucus on ASEAN*, or the Women's Caucus, represents a network of women's human rights groups that engage with ASEAN human rights processes and structures, as well as broader ASEAN structures, in order to achieve the full realisation of women's human rights in Southeast Asia. It is an extensive alliance of women's organisations across the region, with over 100 partners in 11 countries.



The Women's Caucus was initiated by the Asia Pacific Forum on Women, Law and Development (APWLD) and the International Women's Rights Action Watch Asia Pacific (IWRAP-AP) in 2008 and continues to be co-convened by these two organisations with the support of a Coordinating Group.¹ The Women's Caucus strongly upholds and is committed to ensuring that the Member States of ASEAN adhere to the following **principles**:

- HUMAN RIGHTS FOR ALL ABOVE ALL, particularly for the more vulnerable, marginalised, disadvantaged women and girl children;
- ACCOUNTABILITY TO WOMEN AND THE PEOPLES OF SOUTHEAST ASIA through independent, transparent, effective and responsive processes and structures which are consistent with Member States' human rights obligations to protect, promote, fulfil and realise the human rights of women. This includes extraterritorial obligations and recognition of primacy of human rights over and above other obligations;
- MEANINGFUL & SUBSTANTIVE PARTICIPATION AND REPRESENTATION OF WOMEN IN ASEAN which is inclusive and representative of the diverse and multiple sectors of society aimed at eliminating discrimination and ensuring substantive equality of all women in Southeast Asia.

The Women's Caucus is committed to taking concerted regional action around identified **5 Key priority issues** for women in Southeast Asia. They are:

I. Migration

Poverty, conflict and the loss of small scale agricultural lands drive women across borders. Despite policies that support migration, little policy exists that offers migrant women workers protection. Most women migrants work in unregulated, low paid industries like domestic work where exploitation and abuse is common.

1. The Coordinating Group consists of:
 - i. Focal points of three countries which are the present, past and future chairs of ASEAN
 - ii. Indonesian Focal Point (ASEAN secretariat base)
 - iii. Co-convenors (the Asia Pacific Forum on Women, Law and Development (APWLD) and the International Women's Rights Action Watch – Asia Pacific (IWRAP-AP).

2. Violence against Women (VAW)

While violence against women occurs overwhelmingly in the home, VAW has many other forms and permeates other spaces. These include:

- Lack of or inadequate laws and policies to protect and prevent gender-based violence
- Sexual Violence committed with impunity by military, police and paramilitary forces
- Lack of gender awareness among public officials

3. Economic rights

Women are economically disadvantaged in earnings ratio, access to property and resources and overall wealth. Persistent efforts to deregulate, privatise and remove trade restrictions may have increased trade in the region but has done little to advance the rights of women or reduce poverty for the most marginalised. Women workers in the informal sector such as domestic workers are largely unpaid, undervalued and continue to be exploited. In the formal sector, women experience discrimination in wages and unequal access to employment. Gender stereotyping and inadequate legal frameworks leave little opportunity for women to redress these issues.

4. Political participation

Lack of effective implementation, monitoring and assessment of policies to promote women's political participation, coupled with reluctance to institute temporary special measures impede women's political participation. Further obstacles include persistent gender stereotyping and patriarchal attitudes in society, government, and media that impacts negatively on women's participation in political arena.

5. Discrimination in laws, policies and practices

Reluctance to fully legislate against discrimination, to perform a comprehensive review of laws to identify discriminatory laws; to implement policy measures and machinery to strengthen women's human rights are identified as major barriers to the advancement of women's rights. Further, government efforts to eradicate harmful social and cultural beliefs and practices including those in media are required.

Women's Caucus and engagement with ASEAN

The Women's Caucus recognises the need for mobilisation of national women's human rights groups in advocacy with ASEAN and continues to ensure that women's voice, participation and representation are integral to **all** ASEAN processes, decisions, instruments, policies and structures. To date, this has been achieved by strategically engaging with diverse actors in the ASEAN arena. This includes from ASEAN Member States: National Women's Councils, line ministers to national human rights institutions and numerous civil society networks, such as the ASEAN People's Forum (APF). This also includes engagement with the ASEAN Secretariat and actors within ASEAN's three pillars.

The Women's Caucus has further worked to facilitate active and meaningful integration of women's concerns in the processes surrounding the creation of the ASEAN human rights mechanisms including the ASEAN Inter-governmental Commission on Human Rights (AICHR); the ASEAN Commission on the Protection and Promotion of the Rights of Women and Children (ACWC) and the ASEAN Committee on the Implementation of the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers (ACMW).



WHAT IS ASEAN?



The Association of Southeast Asian Nations, or ASEAN, is a regional inter-governmental organisation made up of ten Member States: Brunei Darussalam, Myanmar, Cambodia, Indonesia, Lao People's Democratic Republic, Malaysia, Philippines, Singapore, Thailand and Vietnam. Timor-Leste currently holds observer status.²

ASEAN was established on 8 August 1967³ with the signing of the *ASEAN Declaration 1967*. Formed at the height of the 'cold war' amidst conflicts in the region, its initial concerns and purpose were squarely focused on political security and economic growth. The ASEAN Member States resolved to ensure their stability and security, free from external interference and to safeguard their national identities. This is reflected in the *Treaty of Amity and Cooperation in Southeast Asia (TAC)*, which was adopted on 24 February 1976. The TAC also emphasises ASEAN's fundamental principles of sovereignty, non-use of force, peaceful settlement of disputes, non-interference and decision-making by consultation and consensus.⁹ These fundamental principles have collectively come to be known as the "ASEAN ways." The 'ASEAN way' is said to contribute durability and longevity within the organisation, by promoting regional identity and enhancing a spirit of mutual confidence and cooperation. On the other hand, it has often been criticised to be the main stumbling block to the 10-member countries' goal to achieve human rights and fundamental freedoms, democracy and the rule of law and good governance.

The promotion and protection of human rights were not initially central to ASEAN's work. In 1993, as a result of the preparations and discussions surrounding the United Nations (UN) World Conference on Human Rights, ASEAN began to focus some of its efforts on human rights.¹⁰ The post-colonial concerns of the ASEAN Member States significantly influenced the development of human rights in the region. However, the principles of sovereignty and non-interference were consistently applied and incorporated into ASEAN's discourse on human rights.¹¹ Following the UN World Conference on Human Rights, the *Vienna Declaration and Programme of Action (VDPA)* was endorsed by ASEAN at its Twenty Sixth ASEAN Ministerial Meeting¹² where it was agreed that consideration would be given to the establishment of an appropriate regional mechanism on human rights.¹³

2. It is anticipated that Timor Leste will become a member when criteria detailed in ASEAN Charter, Article 6: Admission of New Members are approved.
3. The initial signatories included Indonesia, Malaysia, Philippines, Singapore and Thailand, whom were later joined by Brunei Darussalam in 1984, Vietnam in 1995, Lao People's Democratic Republic and Myanmar in 1997 and Cambodia in 1999.
4. ASEAN Declaration, 1967. Available at <http://www.asean.org/news/item/the-asean-declaration-bangkok-declaration>.
5. ASEAN Charter, Chapter I, Article 2.2 (a).
6. ASEAN Charter, Chapter I, Article 2.2 (c).
7. ASEAN Charter, Chapter I, Article 2.2 (d).
8. ASEAN Charter, Chapter I, Article 2.2 (e) and (f).
9. ASEAN Charter, Chapter VII, Article 20.
10. Wahyuningrum, Y (2009) "ASEAN's Road Map Towards Creating a Human Rights Regime in Southeast Asia" in 'Human Rights Milestones: Challenges and Developments', Asian Forum of Human Rights and Development, p69-82. Available at [http://archive.forum-asia.org/news/in_the_news/pdfs/2009/Human Rights Milestones_Dec2009.pdf](http://archive.forum-asia.org/news/in_the_news/pdfs/2009/Human%20Rights%20Milestones_Dec2009.pdf).
11. Joint Communique of the Twenty Fourth ASEAN Ministerial Meeting (Kuala Lumpur, 19-20 July 1991), Paragraph 15; Joint Communique of Twenty Fifth ASEAN Ministerial Meeting (Manila, 21-22 July 1992), Paragraph 18. Available at <http://www.asean.org/communities/asean-political-security-community/item/joint-communique-of-the-twenty-fourth-asean-ministerial-meeting-kuala-lumpur-19-20-july-1991>.
12. The Twenty Sixth ASEAN Ministerial Meeting was held in Singapore from 23 to 24 July 1993. See pg.17 for an explanation of the structure of ASEAN and pg. 21 for more information on ASEAN Ministerial Meeting.
13. Joint Communique of the Twenty-Sixth ASEAN Ministerial Meeting (Singapore, 23-24 July 1993), Paragraph 18. Available at <http://www.asean.org/communities/asean-political-security-community/item/joint-communique-of-the-twenty-sixth-asean-ministerial-meeting-singapore-23-24-july-1993>.

Background on the development of women's human rights in ASEAN

Women's human rights and issues were not a primary concern of ASEAN during its early years. Women were not visible in the *ASEAN Declaration or the 1976 Treaty of Amity and Cooperation in Southeast Asia TAC*, both documents adopting gender-blind language. Operating as a male-centred organisation,¹⁴ ASEAN's early regional involvement on women's rights and issues were minimal and limited to the ASEAN Women Leaders' Conference, which was held in 1975 and the ASEAN Committee on Social Development's establishment of the ASEAN Sub-Committee on Women (ASW) in 1976.¹⁵ The aim of the ASW was to promote and implement activities for the effective participation of women in all fields and at various levels of political, economic and social life. The ASW was renamed the ASEAN Women's Programme (AWP) in 1981 and later restructured into the ASEAN Committee on Women (ACW) in 2002 [see pg.31].

Despite subsequent cooperation activities by ASEAN at the regional level, work on women's human rights issues did not gain momentum. ASEAN tended to adopt a paternalistic and protective approach towards women, often representing them as disadvantaged and vulnerable members of society, incapable of autonomy and self-determination. ASEAN's emphasis on "strong families as the basic units of society,"¹⁶ also served to reinforce women in their gendered roles as wives and mothers in a dichotomized world of 'private' and 'public' life. As a result, ASEAN's often relegated women's rights to social and development issues, rather than fundamental human rights.¹⁷

It took more than 20 years for women's human rights to feature in ASEAN's agenda in a substantive way. In 1986, ASEAN received its first female head of government when Ms Maria Corazon Sumulong Cojuangco-Aquino was elected as the President of the Philippines. At the ASEAN Ministerial Meeting [see pg.29], that year, the ASEAN Foreign Ministers recognised that women constitute an important sector of the ASEAN community and endeavoured to improve the status of women in the ASEAN region.¹⁸

14. The "founding fathers" of ASEAN were the Member States' Foreign Ministers at the time - Adam Malik of Indonesia, Narciso Ramos of the Philippines, Tun Abdul Razak of Malaysia, S. Rajaratnam of Singapore, and Thanat Khoman of Thailand. ASEAN's heads of government at the time were President Soeharto of Indonesia, Prime Minister Lee Kuan Yew of Singapore, Prime Minister Datuk Husein Onn of Malaysia, Prime Minister Kukrit Pramoj of Thailand and President Ferdinand Marcos of the Philippines.
15. See *ASEAN Ministerial Meeting on Women (AMMW)*. Available at <http://www.asean.org/communities/asean-socio-cultural-community/category/asean-ministerial-meeting-on-women-ammw>.
16. *ASEAN Vision 2020 (1997)*, under the heading 'A Community of Caring Societies.' Available at <http://www.asean.org/news/item/asean-vision-2020>.
17. *Joint Communique Of The Eighth ASEAN Ministerial Meeting (Kuala Lumpur, 15 May 1975)*, Paragraph 18 ... "whilst ASEAN also adopted two regional instruments, the Declaration on the Elimination of Violence Against Women in the ASEAN Region and the ASEAN Declaration Against Trafficking in Persons Particularly Women and Children, to address women's human rights concerns, their implementation came under the category of "social development" rather than "human rights".
18. *Joint Communique of The Nineteenth ASEAN Ministerial Meeting (Manila, 23-28 June 1986)*, Paragraph 51. Available at <http://www.asean.org/communities/asean-political-security-community/item/joint-communique-of-the-nineteenth-asean-ministerial-meeting-manila-23-28-june-1986>.

The Declaration of the Advancement of Women in the ASEAN Region in 1988 marked a milestone for women in the region. *The Declaration* recognised the importance of active participation and integration of women in the region and the necessity of meeting their needs and aspirations. Significantly, it recognised the multiple roles of women in the family, society and the nation and the need to provide full support, facilities and opportunities to undertake these tasks effectively.¹⁹ *The Declaration of the Advancement of Women in the ASEAN Region* sets out ASEAN's commitment to "promote and implement the equitable and effective participation of women, whenever possible, in all fields and at various levels of the political, economic, social and cultural life of society at the national, regional and international levels."²⁰

The 2004 Declaration on the Elimination of Violence Against Women recognises that "Violence against women both violates and impairs their human rights and fundamental freedoms." It calls on member states to take "necessary measures to eliminate all forms of discrimination against women" and "intensify efforts to develop and improve existing legislative, education and social measures and support services aimed at the prevention of violence against women." See page 65

The Declaration of the Advancement of Women in the ASEAN Region in 1988 marked a milestone for women in the region. The Declaration recognised the importance of active participation and integration of women in the region and the necessity of meeting their needs and aspirations.

ACWC (see page 53) 's anticipated Declaration on Elimination of Violence against Women and Violence against Children is all set to be endorsed in October 2013. It acknowledges the commitments of individual ASEAN Member states to CEDAW and CRC; identifies varied groups of women like 'women and children belonging to indigenous groups', 'stateless women and children', 'migrant women and children', etc. It also addresses elimination of social cultural values and practices and religion interpretation that promote gender stereotyping and VAW and VAC.

19. Declaration of the Advancement of Women in the ASEAN Region (Bangkok, Thailand, 5 July 1988), Article I.

20. *ibid.*

THE ASEAN CHARTER

The Charter of the Association of Southeast Asian Nations, or the ASEAN Charter, was necessary to provide ASEAN with legal status and a framework and structure for institutional cooperation, accountability and compliance in the region.²¹ The ASEAN Charter came into force on 15 December 2008 and sets out ASEAN's purposes, principles, structure, main organs, functions and decision-making processes. The ASEAN Charter significantly expanded on the initial aims and purposes contained in the constitutive text of the ASEAN Declaration 1967 to include specific provisions on human rights and the participation of civil society. These provisions include to:

- ensure that the peoples' and Member States of ASEAN live in peace with the world at large in a just, democratic and harmonious environment;²²
- strengthen democracy, enhance good governance and the rule of law, and to promote and protect human rights and fundamental freedoms, with due regard to the rights and responsibilities of the Member States of ASEAN;²³
- enhance the well-being and livelihood of the peoples' of ASEAN by providing them with equitable access to opportunities for human development, social welfare and justice;²⁴ and
- promote a people-oriented ASEAN in which all sectors of society are encouraged to participate in, and benefit from, the process of ASEAN integration and community building.²⁵

Further, the *ASEAN Charter* reiterated ASEAN's fundamental principles of sovereignty,²⁶ non-use of force,²⁷ peaceful settlement of disputes,²⁸ non-interference²⁹ and decision-making by consultation and consensus.³⁰

21. *The Constitutive character of ASEAN now as an international organisation based on the Charter. It has now been endowed on an entity to make it a subject of law. As such it is also a subject of law and will have duties and obligations for which CSOs have the right to monitor and make human rights claims against. In addition, it grants ASEAN legal capacity and the powers to act.*

22. ASEAN Charter, Article 1.4.

23. ASEAN Charter, Article 1.7.

24. ASEAN Charter, Article 1.11.

25. ASEAN Charter, Article 1.13.

26. ASEAN Charter, Chapter 1, Article 2.2(a).

27. ASEAN Charter, Chapter 1, Article 2.2(c).

28. ASEAN Charter, Chapter 1, Article 2.2(d).

29. ASEAN Charter, Chapter 1, Article 2.2(e) and (f).

30. ASEAN Charter, Chapter VII, Article 20.



How do the principles of sovereignty and non-interference affect the realisation of women's human rights?

The principles of sovereignty and non-interference, as understood and applied by ASEAN have the potential to negatively impact the enjoyment of human rights and fundamental freedoms, justice, democratic governance and rule of law. As integral principles explained as "ASEAN ways", it has been mostly adopted to regress from universally agreed international human rights norms and standards. For instance, in countries that face increased militarisation and conflict, women are exposed to greater risks of human rights violations.³¹ The national security imperative is often used by States to justify the implementation of violent and oppressive policies and measures that justifies gross and systematic human rights violations such as extrajudicial killings, enforced disappearance and threat against women human rights defenders.

ASEAN Member States should bear in mind that these principles cannot be used to justify human rights violations. Where there is conflict between the principles of sovereignty and non-interference, on one hand, and the principles of democracy and human rights, the latter should prevail in accordance with universally accepted norms and standards of human rights.

31. Statement by the Women's Caucus for the ASEAN Human Rights Body – Dialogue with the High Level Panel 20 March 2009, Kuala Lumpur.

32. *The ASEAN Charter's human rights principles include:*

- adherence to the rule of law, good governance, the principles of democracy and constitutional government (ASEAN Charter, Article 2(h));
- respect for fundamental freedoms, the promotion and protection of human rights, and the promotion of social justice (ASEAN Charter, Article 2(i)); and
- upholding the UN Charter and international law, including international humanitarian law, subscribed by ASEAN Member States (ASEAN Charter, Article 2(j)).

33. Statement by the Women's Caucus for the ASEAN Human Rights Body – Dialogue with the High Level Panel 20 March 2009, Kuala Lumpur.

Notably, the ASEAN Charter enshrines its human rights principles³² with equal status to its fundamental principles. ASEAN Member States must therefore act in accordance with these principles and incorporate human rights norms into their processes and decision-making. Under the ASEAN Charter, ASEAN was mandated to establish a regional human rights body as one of the main ASEAN organs,³³ giving birth to the ASEAN Inter-governmental Commission on Human Rights (AICHR) [see pg.43].

The ASEAN Charter and women's human rights

The inclusion of human rights provisions mark a significant step forward for human rights in the region. However, as has been fairly criticized by civil society, the charter speaks market oriented language and presents content more related with governments and less people-oriented. Charted without participatory drafting process, it also does not describe clear processes for civil society participation.

For women in particular, the ASEAN Charter should have had specific provisions that echo and implement already existing agreements signed by ASEAN Member States regarding women's rights, empowerment and development, in particular the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW). But the Charter does not even specifically mention women let alone, address the rights of women and other specific marginalised groups and communities.

Much like the ASEAN Declaration 1967 and the TAC, the ASEAN Charter also adopts gender-neutral language, which does not refer to women or affirm the principles of non-discrimination and equality. With this lack of recognition on the multiple sites of intersectional discrimination experienced by women, it becomes a longer road in striving towards the equality and enjoyment of rights to women.

ROADMAP FOR AN ASEAN COMMUNITY (2009 – 2015)



ROADMAP FOR AN ASEAN COMMUNITY (2009 – 2015)

ASEAN's long-term vision was set out in 1997, in the ASEAN Vision 2020 document. That vision is of ASEAN "as a concert of Southeast Asian nations, outward looking, living in peace, stability and prosperity, bonded together in partnership in dynamic development and in a community of caring societies."³⁴ The envisioned ASEAN Community comprised of three integral pillars, namely the:

1. ASEAN Political-Security Community (APSC);
2. ASEAN Economic Community (AEC); and
3. ASEAN Socio-Cultural Community (ASCC).

These are "closely intertwined and mutually reinforcing for the purpose of ensuring durable peace, stability and shared prosperity in the region."³⁵

Further, a series of action plans were developed for ASEAN to implement its vision. These included the:

- *Hanoi Plan of Action (1999 – 2004)* where ASEAN, amongst other things, committed to work towards the full implementation of CEDAW and other international instruments concerning women;³⁶ and
- *Vientiane Action Programme (2004 - 2010)*, which sets out ASEAN's commitment to promote human rights and obligations³⁷ as part of its strategies for political development under its Political-Security Community. This included the establishment of an ASEAN Commission on the Promotion and Protection of the Rights of Women and Children (ACWC)³⁸ and the elaboration of an ASEAN Instrument on the Protection and Promotion of the Rights of Migrant Workers.³⁹

The VAP also recommended following regional measures: agreed to:

- implement the goals set out in the Declaration on the Elimination of Violence Against Women in the ASEAN Region,⁴⁰
- strengthen the regional collaboration in programmes to combat trafficking in women and children;⁴¹
- develop and implement the *ASEAN Work Plan on Women's Advancement Agenda in Politics*;⁴² and
- promote the equitable participation of women in the development process by eliminating all forms of discrimination against them.⁴³

34. ASEAN Vision 2020 (1997). Available at <http://www.asean.org/news/item/asean-vision-2020>.

35. Declaration of ASEAN Concord II. Available at <http://www.asean.org/news/item/declaration-of-asean-concord-ii-bali-concord-ii>.

36. Hanoi Plan of Action (1999 – 2004), Paragraph 4.9. Available at <http://www.asean.org/news/item/hanoi-plan-of-action>.

37. Vientiane Action Programme (2004 – 2010), paragraph 1.1 (ii). Available at http://cil.nus.edu.sg/rp/pdf/2004_VientianeActionProgramme2004-2010-pdf.pdf.

38. Vientiane Action Programme (2004 – 2010), Measure 1.1.4.7.

39. Vientiane Action Programme (2004 – 2010), Measure 1.1.4.6.

40. Vientiane Action Programme (2004 – 2010), Measure 3.1.3.2.

41. Vientiane Action Programme (2004 – 2010), Measure 3.1.3.3.

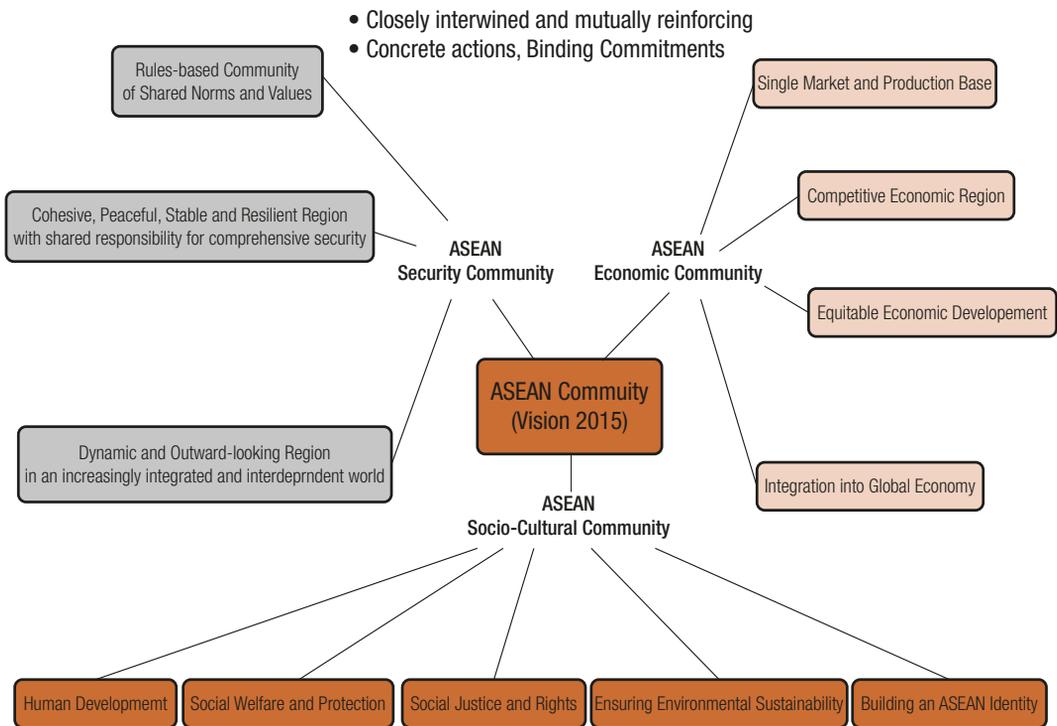
42. Vientiane Action Programme (2004 – 2010), Measure 3.1.3.4.

43. Vientiane Action Programme (2004 – 2010), Measure 3.1.3.8.

The *Roadmap for an ASEAN Community (2009 – 2015)* is the most current document⁴⁴ charting out ASEAN’s plans to expedite the process of achieving one ASEAN Community by 2015, replacing the Vision 2020. It is composed of the:

1. *ASEAN Political-Security Community Blueprint*;
2. *ASEAN Economic Community Blueprint*;
3. *ASEAN Socio-Cultural Community Blueprint*; and
4. *Initiative for ASEAN Integration (IAI) Strategic Framework and IAI Work Plan 2 (2009 – 2015)*.

Each three Blueprints sets out the envisaged objectives for each respective community pillars as well as the actions that need to be undertaken by ASEAN Member States to realise those objectives.



The APSC Blueprint reiterates the ASEAN's commitment to promoting “a people-oriented ASEAN in which all sectors of society, regardless of gender, race, religion, language or social and cultural background, are encouraged to participate in, and benefit from, the process of ASEAN integration and community building. In the implementation of the Blueprint, ASEAN should also strive towards promoting and supporting gender-mainstreaming, tolerance, respect for diversity, equality and mutual understanding. AICHR has been established under this blueprint in order to promote the human rights.”⁴⁵ AICHR has been established under this blueprint in order to promote the human rights.

44. *The Roadmap for an ASEAN Community (2009 – 2015)* was preceded by the Hanoi Plan of Action (1999 – 2004) and Vientiane Action Programme (2004 - 2010).

45. *Roadmap for an ASEAN Community (2009 – 2015)*, ASEAN Political-Security Community Blueprint Section II, Para 7.

Under the ASEAN **Socio-Cultural Community Blueprint**, ASEAN is “committed to promoting social justice and mainstreaming people’s rights into its policies and all spheres of life, including the rights and welfare of disadvantaged, vulnerable and marginalised groups such as women, children, the elderly, persons with disabilities and migrant workers.”⁴⁶ It aims to “safeguard the interests and rights as well as provide equal opportunities, and raise the quality of life and standard of living, for women, children, the elderly, and persons with disabilities.”⁴⁷ The ASCC Blueprint particularly articulate the actions to promote and protect the rights and welfare of women, include:

- establishing the ACWC;⁴⁸
- implementing the *Work Plan to Operationalise the Declaration on the Elimination of Violence Against Women in the ASEAN Region (DEVAW Work Plan)*;⁴⁹
- supporting activities in promoting and developing care and welfare and quality of life and well being of women living under poverty;⁵⁰
- using sex-aggregated data, among others, to promote awareness on gender equality, women’s role and contribution in the development of the region at the policy level;⁵¹
- promoting and enhancing the percentage of women’s participation in all fields and at all levels, including political, decision-making as well as socio-economic empowerment of women;⁵² and
- incorporating a gender perspective into national and regional policies and enhancing the participation of women in programmes and projects.⁵³

Under the ASEAN **Economic Community Blueprint**, ASEAN once

Under the ASEAN Economic Community Blueprint, ASEAN once again adopts gender neutral language with no specific provisions to promote the rights and welfare of disadvantaged, vulnerable or marginalised groups

again adopts gender neutral language with no specific provisions to promote the rights and welfare of disadvantaged, vulnerable or marginalised groups such as women, children, the elderly, persons with disabilities and migrant workers nor to protect them from exploitation.

Rather, the blueprint focuses on transforming ASEAN into a single market and production base, a highly competitive economic region, a region of equitable economic development and a region fully integrated into the global economy.⁵⁴ It hardly recognises the impact of the economic integration on the enjoyment of human rights, people's livelihoods, democratic participation, etc. It is also notable that the Blueprint mentions 'people' only at rare occasions.

46. Roadmap for an ASEAN Community (2009 – 2015), ASEAN Socio-Cultural Community Blueprint, Paragraph 26.

47. Roadmap for an ASEAN Community (2009 – 2015), ASEAN Socio-Cultural Community Blueprint, Paragraph 27.

48. Roadmap for an ASEAN Community (2009 – 2015), ASEAN Socio-Cultural Community Blueprint, Paragraph C.1 27 (i).

49. Roadmap for an ASEAN Community (2009 – 2015), ASEAN Socio-Cultural Community Blueprint, Paragraph C.1 27 (ii).

50. Roadmap for an ASEAN Community (2009 – 2015), ASEAN Socio-Cultural Community Blueprint, Paragraph C.1 27 (vi).

51. Roadmap for an ASEAN Community (2009 – 2015), ASEAN Socio-Cultural Community Blueprint, Paragraph C.1 27 (x).

52. Roadmap for an ASEAN Community (2009 – 2015), ASEAN Socio-Cultural Community Blueprint, Paragraph C.1 27 (xi).

53. Roadmap for an ASEAN Community (2009 – 2015), ASEAN Socio-Cultural Community Blueprint, Paragraph C.1 27 (xii).

54. Roadmap for an ASEAN Community (2009 – 2015), ASEAN Economic Community Blueprint, Paragraph I.



Blueprints and Women's rights as human rights

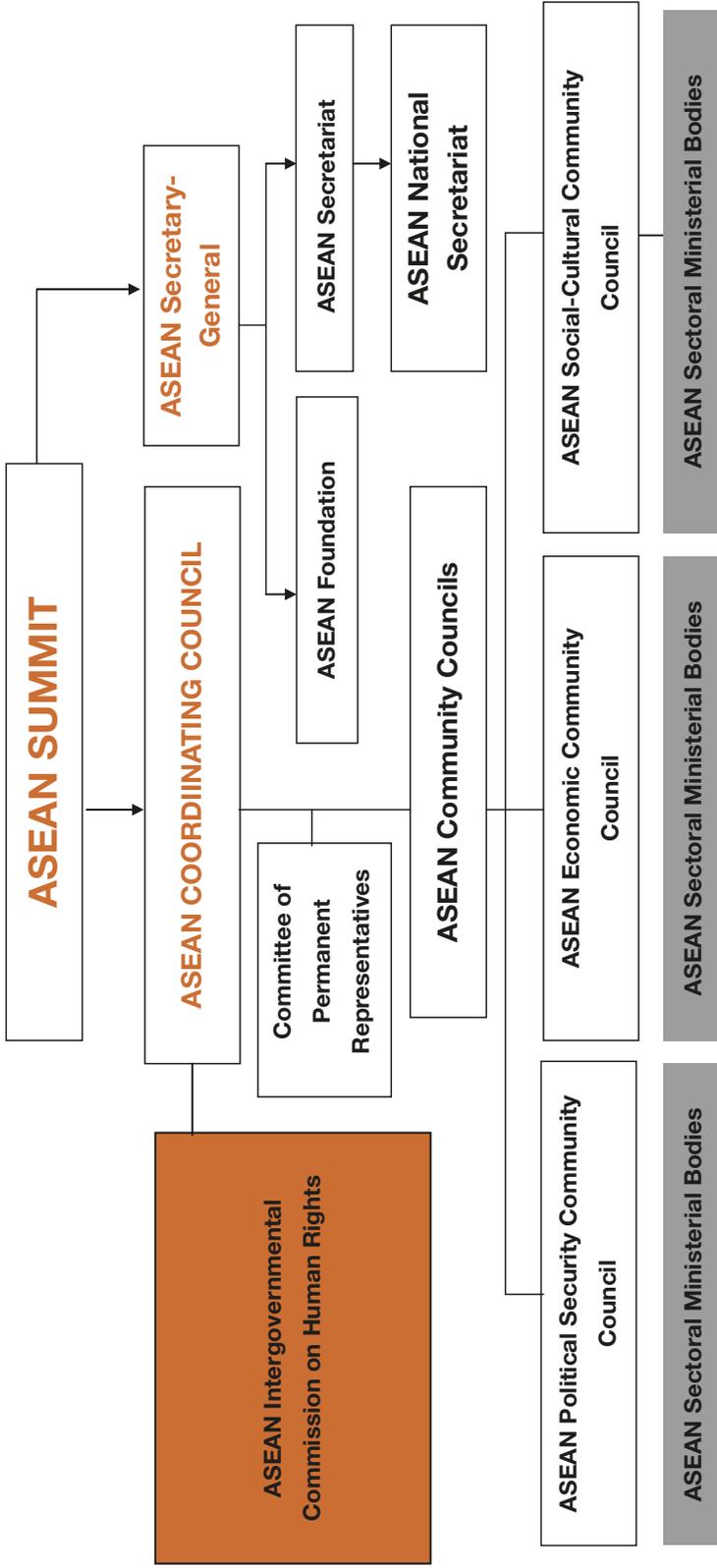
The Blueprints are significant in that they express ASEAN's commitment towards the promotion and protection of human rights and develop coherent human rights mechanisms in ASEAN under the *ASEAN Political-Security Community Blueprint* and particularly women's and other marginalized groups' rights and development under the *ASEAN Socio-Cultural Community Blueprint*. However the challenge is that the ASEAN's three community Pillars lack systemic integration of fundamental principles of human rights as demonstrated by the disconnect between human rights and economic integration in the ASEAN. Women's human rights must be integrated in all three community pillars of ASEAN including ASEAN's Economic Community pillar. Women's human rights need to be part of the overall mainstream dialogue on social justice and not an issue of protection of 'marginalised sectors' of society.

The enjoyment of women's human rights and fundamental freedoms are not achievable when women's context is still disconnected from larger societal issues of development and the economy, from being a part of the overall political discourse of their nation and from having a role in peace and security, nation building, democracy and good governance.

ASEAN STRUCTURE AND FUNCTIONS



ASEAN Structure



ASEAN Commission on the Promotion and Protection of the Rights of Women and Children (ACWC)

ASEAN Committee on the Implementation of the Declaration on the Protection and Promotion of the Rights of Migrant Workers (ACMW)

ASEAN Summit

The ASEAN Summit is the highest decision making body of ASEAN and is comprised of the heads of government of each Member State.⁵⁵ The ASEAN Summit meetings are held twice annually and are hosted by the Member State holding the ASEAN Chairship.⁵⁶ The first ASEAN Summit of the year usually takes place in April/ May, with the second ASEAN Summit taking place around October/ November.

The ASEAN Summit deliberates, provides policy guidance and makes decisions on:

- key issues pertaining to the realisation of the objectives of ASEAN;⁵⁷
- important matters of interest to Member States;⁵⁸ and
- all issues referred to it by the ASEAN Coordinating Councils, the ASEAN Community Councils and ASEAN Sectoral Bodies.⁵⁹

Civil Society Participation - The ASEAN People's Forum/ ASEAN Civil Society Conference

The ASEAN People's Forum (APF)/ASEAN Civil Society Conference (ACSC) is a people-to-people platform for networking and building dialogue across a wide range of issues. It is the biggest gathering of civil society in ASEAN and provides a space to lobby and engage ASEAN on various social, political and economic issues. The APF/ ACSC is held in the lead up to the ASEAN Summit.

Opportunities are available during these forums to organise, co-host, initiate women-focused thematic workshops and panels on varied issues pertaining to women's human rights in the region. During the APFs interfaces with ASEAN leaders have also been organised providing direct engagement with CSOs and leaders. A remarkable opportunity when women's concerns can be directly relayed to the leaders. Another important platform APFs engage is with media, helping various concerns be put across to larger audience through interaction. Opportunities like these and active participation in the workshops/ panel discussions ensures that women's human rights issues are raised and inputted into the recommendations submitted to the APF Drafting Committee. These recommendations are in turn submitted to ASEAN during the ASEAN Summit each year.

55. ASEAN Charter, Article 7.1.

56. ASEAN Charter, Article 7.3(a).

57. ASEAN Charter, Article 7.2(b)

58. ASEAN Charter, Article 7.2(b)

59. ASEAN Charter, Article 7.2(c)

The Women's Caucus has been successful in engaging the ASEAN People's Forum. It played leadership role at the forums, successfully influencing the process and outcomes to incorporate women's and feminist perspectives, in higher significance compared to the past. Women's Caucus was able to generate audience support on various important issues and emerging concerns in women's rights and development, like migrant issues, democracy, morality, climate change, changing roles of women, corporate social accountability, etc. Women's Caucus not only organised various workshops and took part in interfaces but led the APFs through contribution in committees such as Steering, Program, Drafting, etc

ASEAN Ministerial Meeting

The ASEAN Ministerial Meeting is the second highest decision making body, after the ASEAN Summit. The ASEAN Ministerial Meetings are conducted annually (usually in July of each year) and are comprised of the Foreign Ministers of ASEAN who deliberate and take decisions.

ASEAN Coordinating Council

The ASEAN Foreign Ministers also comprise the ASEAN Coordinating Council.⁶⁰ The ASEAN Coordinating Council is responsible for:

- preparing the meetings of the ASEAN Summit;⁶¹
- coordinating the implementation of agreements and decisions by the ASEAN Summit;⁶²
- coordinating with the ASEAN Community Councils to enhance policy coherence, efficiency and cooperation;⁶³
- coordinating the reports of the ASEAN Community Councils' reports to the ASEAN Summit;⁶⁴
- considering the annual report of the Secretary General on the work of ASEAN;⁶⁵ and
- considering the report of the Secretary General on the functions and operations of the ASEAN Secretariat.⁶⁶

ASEAN Community Council

The ASEAN Community Council is comprised of the:

1. ASEAN Political-Security Community Council;
2. ASEAN Economic Community Council; and
3. ASEAN Socio-Cultural Community Council.⁶⁷

60. ASEAN Charter, Article 8.1.

61. ASEAN Charter, Article 8.2(a).

62. ASEAN Charter, Article 8.2(b).

63. ASEAN Charter, Article 8.2(c).

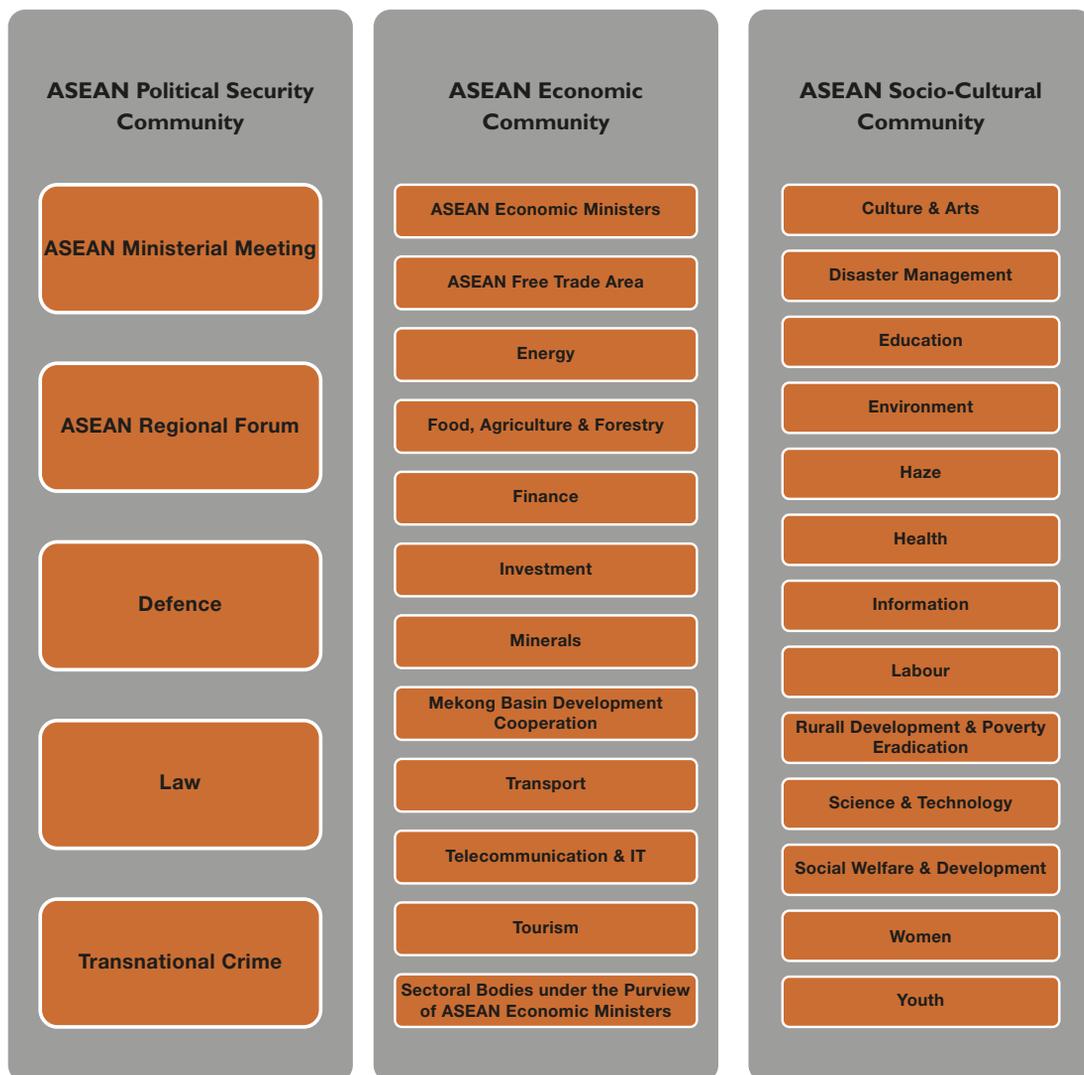
64. ASEAN Charter, Article 8.2(d).

65. ASEAN Charter, Article 8.2(e).

66. ASEAN Charter, Article 8.2(f).

67. ASEAN Charter, Article 9.1.

AT A GLANCE: ASEAN's Community Council.



Each Community Council is responsible for:

- ensuring the implementation of the relevant decisions of the ASEAN Summit;⁶⁸
- coordinating the work of the different sectors under its purview and on issues which cut across the other Community Councils;⁶⁹ and
- submitting reports and recommendations to the ASEAN Summit on matters under its purview.⁷⁰

68. ASEAN Charter, Article 9.4(a).

69. ASEAN Charter, Article 9.4(b).

70. ASEAN Charter, Article 9.4(c).

71. ASEAN Charter, Article 9.2.

72. ASEAN Charter, Article 9.5.

Each ASEAN Community Council has under its purview the relevant ASEAN Sectoral Ministerial Bodies⁷¹ and is supported by the relevant Senior Officials. The ASEAN Community Councils meet twice a year.⁷²

ASEAN Sectoral Ministerial Bodies and Senior Officials

The ASEAN Sectoral Ministerial Bodies are comprised of the ministers of specific sectors. For example, all the labour ministers of all the member countries will make up one sectoral ministerial body, the ASEAN Labour Ministers Meeting. Women's issues are currently under the responsibility of the ASEAN Ministerial Meeting on Social Welfare and Development including ACWC which reports to the AMMSWD.

The ASEAN Sectoral Ministerial Bodies are responsible for:

- implementing the agreements and decisions of the ASEAN Summit under their respective purview;⁷³
- strengthening cooperation in their respective fields in support of ASEAN integration and community building;⁷⁴ and
- submitting reports and recommendations to their respective Community Councils.⁷⁵

Each ASEAN Sectoral Ministerial Body may have Senior Officials and subsidiary bodies to assist it with its work.

ASEAN Committee on Women

The ASEAN Committee on Women (ACW), in its current form, was established in 2002 to promote and complement activities for the effective participation of women in all fields and at various levels of political, economic and social life. Comprised of senior officials who are responsible for the coordination and monitoring of the implementation of ASEAN's key regional priorities and cooperation in women's issues and concerns,⁷⁶ its mandate includes collaborating with and building the capacity of government officials, developing policies, exchanging best practices and organising study visits. The ACW is also responsible for preparing and producing various publications and regional reports.⁷⁷

The ACW particularly focuses on monitoring the implementation of the Declaration of the Advancement of Women in the ASEAN Region and is required to publish a status report every three years. The monitoring and reporting mechanism requires the ACW to provide data and information on the:

- profile of women's participation in political, social, economic and cultural lives;
- promotion of women's participation through community and non-governmental organisations (NGOs);
- integration of women's concerns into national plans and programmes; and
- promotion of women's solidarity in the region.

73. ASEAN Charter, Article 10.1(b).

74. ASEAN Charter, Article 10.1(c).

75. ASEAN Charter, Article 10.1(d).

76. See ASEAN Secretariat, 'ASEAN Committee on Women (ACW)'. Available at <http://www.asean.org/communities/asean-socio-cultural-community/category/asean-ministerial-meeting-on-women-ammw>.

77. These have included: *The Thesaurus on Women in Development (1996)*, *The First Regional Report on the Advancement of Women (1997)*, *The Second Regional Report on the Advancement of Women (2002)* and *The Third Regional Report on the Advancement of Women (2007)*. The gathering and compilation of reports is coordinated by the ASEAN Secretariat in consultation with the focal points of the ACW.

In carrying out its functions, the ACW works in close partnership with the ASEAN Confederation of Women Organisations (ACWO) [See pg.41]. The ACW meets regularly every year.

ASEAN's regional cooperation on women has until 2010 been guided by two operational documents:

- the *Work Plan for Women's Advancement and Gender Equality (2005-2010)* (WAGE); and
- the *Work Plan to Operationalise the Declaration on the Elimination of Violence against Women (2006-2010)* (DEVAW Work Plan).

Both documents were anchored, respectively, on the 2004 *Declaration on the Elimination of Violence Against Women* and the 1988 *Declaration of the Advancement of Women in the ASEAN Region*. WAGE was broader in scope than DEVAW and both work plans were implemented at the same time through a synergistic and complementary approach for the period 2005 to 2010.⁷⁸

WAGE and the DEVAW Work Plan, have been subsequently followed by the Work Plan of the ASEAN Committee on Women (2011 – 2015).

Work Plan of the ASEAN Committee on Women (2011-2015)

At the Eight ACW Meeting, in November 2009, in Brunei Darussalam, it was agreed that a new work plan for the period 2011-2015 needed to be developed, taking into account the successes and challenges in implementation of the previous work plans and aligning these with the relevant action lines under the *ASEAN Socio-Cultural Community Blueprint (2009-2015)*.⁷⁹ The Work Plan of the ASEAN Committee on Women (2011-2015) is contextualised in the new ASEAN which incorporates recently introduced organisational elements; that is the:

1. *ASEAN Charter* that entered into force on 15 December 2008.
2. *Roadmap of an ASEAN Community (2009-2015)* that accelerates the realisation of an ASEAN Community.
3. ACWC, that was inaugurated on 7 April, 2010; and
4. AICHR, which was established in 2009.

Moreover, the plan attempts to ensure inter-linkages with an expanded set of development goals, including the *Millennium Development Goals (MDGs)*, and respond to some issues arising from the current situation of women's rights and development in the region, with the aim of pushing forward gender equality gains in ASEAN.

The Work Plan's approach to this goal is "to promote proactively, holistically, systematically and in an integrated manner, a rights-based gender perspective"

78. Work Plan of the ASEAN Committee on Women (2011-2015), page 3.

79. Work Plan of the ASEAN Committee on Women (2011-2015), page 11.

Specifically, the new Work Plan’s overall objectives are for the ACW to influence the various pillars of all ASEAN Community Blueprints particularly the *ASEAN Socio-Cultural Community* and the ASEAN Members States so that there will be visible, credible and strong gender mainstreaming inputs to Government and inter-government policies, programs and processes. The Work Plan’s approach to this goal is “to promote proactively, holistically, systematically and in an integrated manner, a rights-based gender perspective in the realisation of relevant actions under the six priority areas of the *ASEAN Socio-Cultural Community* and inter-sectorally link up with other initiatives taking place under the other pillars of the ASEAN Community, as well as, the other bodies in ASEAN.”⁸⁰

ASEAN Committee on Women Activities

As of 2013, the ACW has convened different regional workshops, seminars, training sessions and consultative meetings that have provided platforms for government officials, civil society organisations, professionals and other stakeholders to exchange views, share experiences and build commitments and a common understanding on various gender issues. Some prominent examples include the:

1. ASEAN-High Level Meeting on Gender Mainstreaming within the Context of CEDAW, *Beijing Declaration and Platform for Action* (BPFA) and the MDGs, which was held in November 2006. During the meeting, the *Joint Statement and Commitment to Implement Gender Mainstreaming* was adopted which affirmed the importance of CEDAW, as one of the international instruments for gender mainstreaming, together with the BPFA and the MDGs.
2. Regional Workshop on Gender Sensitive and Coordinated Violence Against Women in November 2006.
3. ASEAN High-Level Meeting on Good Practices in CEDAW Reporting and Follow-Up in January 2008. During the meeting, the delegates made a joint statement⁸¹ which reaffirmed the importance of the following instruments and documents towards the implementation of the *ASEAN Vision 2020* and the purposes and principles of the *ASEAN Charter*:
 - a. CEDAW
 - b. BPFA
 - c. Outcome of the Twenty Third Special Session of the UN General Assembly on Women 2000: Gender Equality, Development Peace for the Twenty-First Century
 - d. The *Millennium Declaration* and the MDGs adopted in 2000

80. Work Plan of the ASEAN Committee on Women (2011-2015), page 12.

81. *Joint Statement of the ASEAN High-Level Meeting on Good Practices in CEDAW Reporting and Follow-up*, Vientiane, 14-15 January 2008. Available at <http://www.asean.org/communities/asean-socio-cultural-community/item/joint-statement-of-the-asean-high-level-meeting-on-good-practices-in-cedaw-reporting-and-follow-up-vientiane-14-15-january-2008>.

- e. Bangkok Communiqué adopted at the United Nations Economic and Social Commission for Asia and the Pacific Region (UNESCAP) Regional Review of the *Beijing Platform for Action*; and
- f. ASEAN Declaration on the Elimination of Discrimination Against Women in ASEAN Region.⁸²

The delegates at the meeting reiterated their commitment to continue and enhance their implementation, monitoring and reporting of CEDAW. They agreed to do this by:

- a. following the reporting guidelines of CEDAW;⁸³
- b. assigning a State agency to take the lead in coordinating the process of implementation and preparation of CEDAW periodic reports;⁸⁴
- c. promoting a collective whole-government approach in drafting CEDAW periodic reports through the establishment of inter-agency working groups;⁸⁵
- d. strengthening the existing national reporting and monitoring mechanisms for CEDAW to ensure the effectiveness among the relevant government agencies;⁸⁶ establishing a monitoring database and ensuring accessible sex-disaggregated data and information;⁸⁷ and
- e. integrate issues raised in CEDAW into national and sectoral development plans as and when relevant.⁸⁸

The joint statement also encouraged the ASEAN Member States to consider removing their reservations to CEDAW and to study the Optional Protocol and its requirements.

4. ASEAN Regional Workshop on Gender Equality Legislation in February 2008. During the workshop, the participants prepared joint recommendations to implement gender equality legislation in the ASEAN region.⁸⁹ These included actions to:
 - a. review and harmonise domestic legislation with the norms and standards of CEDAW, taking into account the domestic context, including integrating the fundamental concept of non-discrimination of women in national law;⁹⁰
 - b. develop gender equality laws that are in line with the norms and standards set out in CEDAW and address all critical areas of women's lives where discrimination against women persist;⁹¹

82. *Joint Statement of the ASEAN High-Level Meeting on Good Practices in CEDAW Reporting and Follow-up.* Paragraph 2.

83. *Joint Statement of the ASEAN High-Level Meeting on Good Practices in CEDAW Reporting and Follow-up.* Paragraph 6a.

84. *Joint Statement of the ASEAN High-Level Meeting on Good Practices in CEDAW Reporting and Follow-up.* Paragraph 6b.

85. *Joint Statement of the ASEAN High-Level Meeting on Good Practices in CEDAW Reporting and Follow-up.* Paragraph 6c.

86. *Joint Statement of the ASEAN High-Level Meeting on Good Practices in CEDAW Reporting and Follow-up.* Paragraph 6d.

87. *Joint Statement of the ASEAN High-Level Meeting on Good Practices in CEDAW Reporting and Follow-up.* Paragraph 6e.

88. *Joint Statement of the ASEAN High-Level Meeting on Good Practices in CEDAW Reporting and Follow-up.* Paragraph 6f.

89. *Joint Recommendations to Implement Gender Equality Legislation in the ASEAN Region.* Asian Regional Workshop on Gender Equality Legislation, 13 – 15 February 2008, Bangkok Thailand. Available at http://unifem-eseasia.org/docs/GELRecommendations_FINAL.pdf.

90. *Joint Recommendations to Implement Gender Equality Legislation in the ASEAN Region.* Paragraph 6a.

91. *Joint Recommendations to Implement Gender Equality Legislation in the ASEAN Region.* Paragraph 6b.

- c. strengthen the implementation and monitoring mechanism of gender equality laws.⁹²
- 5. ASEAN Workshop on Domestic Violence Legislation in October 2008; and
- 6. ASEAN Conference on Gender-Based Violence and HIV/AIDS in December 2009.

Committee of Permanent Representatives

The Committee of Permanent Representatives is comprised of representatives who have been appointed by their Member State. The Permanent Representatives are based in Jakarta, Indonesia and hold the rank of Ambassador.⁹³ The Committee of Permanent Representatives is responsible for:

- supporting the work of the ASEAN Community Councils and ASEAN Sectoral Ministerial Bodies,⁹⁴
- coordinating with ASEAN National Secretariats and other ASEAN Sectoral Ministerial Bodies,⁹⁵
- liaising with Secretary-General and ASEAN Secretariat,⁹⁶ and
- facilitating ASEAN cooperation with external partners.⁹⁷

The Committee of Permanent Representatives also sets out the Rules of Procedure and criteria for ASEAN’s engagement with its associated entities, which can include business organisations, think tanks, academic institutions, ASEAN-accredited civil society organisations and other stakeholders.⁹⁸

ASEAN Secretariat

The ASEAN Secretariat is based in Jakarta. The ASEAN Secretariat is comprised of the Secretary-General and his/her supporting staff. The ASEAN Secretariat acts as the administrative centre of ASEAN to:

- provide greater efficiency in the coordination of ASEAN organs and to effectively implement ASEAN projects and activities; and
- initiate, facilitate and coordinate ASEAN stakeholder collaboration in realising the purposes and principles of ASEAN.⁹⁹

The ASEAN Secretariat works in collaboration with ASEAN Senior Officials to draw up plans of action to implement the decisions made at ASEAN’s High-Level Meetings. These plans of action are reviewed and endorsed by the Ministerial Meetings for final approval at the ASEAN Summit.

92. *Joint Recommendations to Implement Gender Equality Legislation in the ASEAN Region*. Paragraph 6c.

93. *ASEAN Charter*, Article 12.1.

94. *ASEAN Charter*, Article 12.2(a).

95. *ASEAN Charter*, Article 12.2(b).

96. *ASEAN Charter*, Article 12.2(c).

97. *ASEAN Charter*, Article 12.2(d).

98. *ASEAN Charter*, Article 16; See list of Entities Associated with ASEAN available at <http://www.asean.org/asean/entities-associated-with-asean/entities-associated-with-asean>.

99. For more information on the ASEAN Secretariat see <http://www.asean.org/asean/asean-secretariat/about-asean-secretariat>

Secretary-General of ASEAN

The Secretary-General has a renewable term of five years and is selected amongst the ASEAN Member States based on alphabetical rotation, with due consideration to integrity, capability, professional experience and gender equality.¹⁰⁰

The Secretary-General is responsible for:

- facilitating and monitoring the implementation of ASEAN agreements and decisions and submits annual reports to the ASEAN Summit;¹⁰¹
- participating in the meetings of the ASEAN Summit, the ASEAN Community Councils, the ASEAN Coordinating Council and ASEAN Sectoral Ministerial Bodies and other relevant meetings;¹⁰²
- presenting the views of ASEAN and participating in meetings with external parties;¹⁰³ and
- recommending the appointment and termination of the Deputy Secretaries-General to the ASEAN Coordinating Council for approval.¹⁰⁴

The Secretary-General also acts as the Chief Administrative Officer of ASEAN¹⁰⁵ and is assisted by four Deputy Secretaries-General. The Secretary-General¹⁰⁶ may also bring relevant issues to the attention of AICHR and the ACWC [see pgs. 43 and 53 respectively for further details].¹⁰⁷

Deputy Secretaries-General

The four Deputy Secretaries-General¹⁰⁸ have the rank and status of Deputy Ministers and are accountable to the Secretary-General in carrying out their functions. Each of the Deputy Secretaries-General are required to be of different nationalities from the Secretary-General and to come from four different ASEAN Member States. The Deputy Secretaries-Generals are comprised of:

- two Deputy Secretaries-General who are selected based on alphabetical rotation, with due consideration to integrity, qualifications, competence, experience and gender equality. These Deputy Secretaries-General will serve a non-renewable term of three years; and

100. ASEAN Charter, Article 11.1.

101. ASEAN Charter, Article 11.2(b)

102. ASEAN Charter, Article 11.2(c)

103. ASEAN Charter, Article 11.2(d)

104. ASEAN Charter, Article 11.2(e)

105. ASEAN Charter, Article 11.3

106. ASEAN Charter, Article 11.4

107. AICHR TOR, Article 7.1, available at <http://www.asean.org/images/archive/publications/TOR-of-AICHR.pdf> and ACWC TOR, Article 9.1 available at http://www.asean.org/images/2012/Social_cultural/ACW/TOR-ACWC.pdf.

108. See ASEAN Deputy Secretaries – General. Available at <http://www.asean.org/asean/asean-secretariat/deputy-secretaries-general-of-asean>.

- two Deputy Secretaries-General who are recruited based on merit. These Deputy Secretaries-General will serve a term of three years, which may be renewed for another three years.

Deputy Secretary General Title	Responsibility
Deputy Secretary-General of ASEAN for the APSC	Supporting the Secretary-General in implementing the <i>ASEAN Political-Security Community Blueprint</i> and strengthening relations with ASEAN Dialogue Partners and the international community.
Deputy Secretary-General of ASEAN for the AEC	Supporting the Secretary-General in the realisation of the <i>ASEAN Economic Community Blueprint</i> by 2015.
Deputy Secretary-General of ASEAN for the ASCC	Supporting the Secretary-General in implementing the <i>ASEAN Social-Cultural Community Blueprint</i> . This includes overseeing the implementation of projects under the ASCC that focuses on forging a common identity and building a caring and sharing society which is inclusive and where the well-being, livelihood and welfare of its peoples enhanced.
Deputy Secretary-General of ASEAN for Community and Corporate Affairs	Assisting the Secretary General and providing strategic direction and guidance on research, public affairs and outreach programmes for the ASEAN Community. This includes implementing corporate support functions and ensuring that there are systems, procedures and resources in place for the ASEAN Secretariat to carry out its functions.

ASEAN National Secretariats

Each ASEAN Member State is responsible for establishing an ASEAN National Secretariat, which serves as the national focal point.¹⁰⁹ The ASEAN National Secretariats:

- act as the repository of information on all ASEAN matters at the national level;¹¹⁰
- coordinate the implementation of ASEAN decisions at the national level;¹¹¹
- coordinate and support the national preparations of ASEAN meetings;¹¹²
- promote ASEAN identity and awareness at the national level;¹¹³ and
- contribute to ASEAN community building.¹¹⁴

109. *ASEAN Charter*, Article 13(a).

110. *ASEAN Charter*, Article 13(b).

111. *ASEAN Charter*, Article 13(c).

112. *ASEAN Charter*, Article 13(d).

113. *ASEAN Charter*, Article 13(e).

114. *ASEAN Charter*, Article 13(f).

ASEAN Inter-governmental Commission on Human Rights (AICHR)

The ASEAN Charter also provides for the establishment of an ASEAN human rights body for “the promotion and protection of human rights and fundamental freedoms.”¹¹⁵ AICHR was established in 2009 [see pg. 43 for further detail].

ASEAN Foundation

The ASEAN Foundation¹¹⁶ was established on 15 December 1997 during ASEAN’s 30th Anniversary Commemorative Summit. The ASEAN Foundation was intended to address issues of unequal economic development, poverty and socio-economic disparities. The ASEAN Foundation is based in Jakarta, Indonesia and is responsible for:

- supporting the Secretary-General of ASEAN,¹¹⁷ and
- collaborating with the relevant ASEAN bodies to support ASEAN community building by promoting greater awareness of the ASEAN identity, people-to-people interaction, and close collaboration among the business sector, civil society, academia and other stakeholders in ASEAN.^{118,119}

The ASEAN Foundation is accountable to the Secretary-General who submits its report to the ASEAN Summit through the ASEAN Coordinating Council.¹²⁰

Entities Associated with ASEAN

ASEAN may engage with entities, which support the ASEAN Charter, in particular its purposes and principles.¹²¹ These entities can include parliamentarians, business organisations, think tanks and academic institutions, ASEAN-accredited civil society organisations and other stakeholders.¹²²

ASEAN-Accredited Civil Society Organisations

ASEAN-accredited civil society organisations perform functions and activities that are governmental or quasi-governmental in nature, but are not part of the formal structure of ASEAN. Such organisations are able to establish working links with an ASEAN body through the ASEAN Secretariat.

The *Guidelines on Accreditation of Civil Society Organisations*¹²³ sets out the criteria, application process, guidelines and privileges for ASEAN-accredited civil society organisations. Applications for

115. ASEAN Charter, Article 14.1.

116. See ASEAN Foundation website for further information at <http://www.aseanfoundation.org>

117. ASEAN Charter, Article 15.1.

118. ASEAN Charter, Article 15.1.

119. For example, on 1 – 2 February 2011, the ASEAN Foundation held a Gender Exchange Meeting in Bangkok, Thailand for experts working on gender, HIV and human rights related issues. “ASEAN Foundation supports experts meeting on gender, HIV and human rights related issues” ASEAN Foundation available at <http://www.aseanfoundation.org/index2php?main=news/2011/2011-02-17.php>

120. ASEAN Charter, Article 15.2

121. ASEAN Charter, Chapter V, Article 16.

122. ASEAN Charter, Article 16; See list of Entities Associated with ASEAN available at <http://www.asean.org/asean/entities-associated-with-asean/entities-associated-with-asean>

123. “Guidelines on Accreditation of Civil Society Organisations” are available at <http://www.asean.org/images/2012/documents/Guidelines on Accreditation of CSOs.pdf>

civil society organisation affiliation are submitted to the Secretary-General of ASEAN.

Formally affiliated civil society organisations may:

- submit written statements, recommendations, proposals and views on policy matters or significant events or regional or international concerns to the ASEAN Standing Committee through the ASEAN Secretariat;¹²⁴
- initiate programmes of activities for presentation to its link body for appropriate action;¹²⁵
- attend meetings of the link body for consultation on matters and issues of direct concern to it;¹²⁶
- access ASEAN documents for the purposes of research for its projects;¹²⁷
- use the facilities of the ASEAN Secretariat for its official meetings and other official activities in Jakarta;¹²⁸ and
- be provided with key ASEAN publications each year.¹²⁹

As a general rule, the above privileges are not extended to organisations that are not formally affiliated with ASEAN.

Affiliated civil society organisations are required to:

- abide by the policies, guidelines, directives and other decisions of ASEAN;¹³⁰
- undertake to advance ASEAN interests and promote the awareness of ASEAN's principles and activities;¹³¹
- invite officials of ASEAN Member States to their meetings and activities;¹³²
- submit an annual summary of their activities to the ASEAN Standing Committee through the ASEAN Secretariat;¹³³ and
- keep the ASEAN Secretariat informed of any changes to their officials, memberships and addresses.¹³⁴

ASEAN accredited civil society organisations must not:

- engage in acts inimical to ASEAN or any of the ASEAN Member States;
- act in contrary to the aims, objectives and fundamental principles of ASEAN; and
- commit gross misconduct, which brings ASEAN into disrepute.

124. *Guidelines on Accreditation of Civil Society Organisations*, Article D, 7(b).

125. *Guidelines on Accreditation of Civil Society Organisations*, Article D, 7(d).

126. *Guidelines on Accreditation of Civil Society Organisations*, Article D, 7(e).

127. *Guidelines on Accreditation of Civil Society Organisations*, Article D, 7(f).

128. *Guidelines on Accreditation of Civil Society Organisations*, Article D, 7(g).

129. *Guidelines on Accreditation of Civil Society Organisations*, Article D, 7(i).

130. *Guidelines on Accreditation of Civil Society Organisations*, Article E, 8(a).

131. *Guidelines on Accreditation of Civil Society Organisations*, Article E, 8(b).

132. *Guidelines on Accreditation of Civil Society Organisations*, Article E, 8(d).

133. *Guidelines on Accreditation of Civil Society Organisations*, Article E, (8e).

134. *Guidelines on Accreditation of Civil Society Organisations*, Article E, 8(f).

ASEAN Confederation of Women's Organisations

The ASEAN Confederation of Women Organisations (ACWO)¹³⁵ is an ASEAN Accredited Civil Society Organisation that is linked to the ASEAN Committee on Women. The ACWO was established in 1981 and is comprised of the National Council of Women's Organisations in each ASEAN member country.¹³⁶ It serves as a regional forum for ASEAN women to participate in the implementation of strategies and programmes adopted by the ASEAN governments, for the enhancement of women's participation in both national and regional progress.

The ACWO convenes its General Assembly and Conference every two years in the country holding the presidency of the ACWO. In 2012, the ACWO's General Assembly and Conference was held in Jakarta Indonesia. Its theme was "Accelerating the Achievement of the MDGs Through Gender Equality and the Economic Empowerment and Protection of Women in ASEAN." The next ACWO General Assembly and Conference will be held in Kuala Lumpur 2014.

Other Stakeholders

The Working Group for an ASEAN Human Rights Mechanism is one of the stakeholders formally associated with ASEAN. The Working Group was formed in 1995 to push for the creation of an ASEAN inter-governmental human rights body. It is a coalition of national working groups from ASEAN Member States, which are composed of representatives from government institutions, parliamentary human rights committees, academia and NGOs.¹³⁷

135. For further information refer to the ASEAN Confederation of Women Organisation's website, available at <http://acwo.org/>

136. These are the National Council of Women of Brunei Darussalam (NCWB), the Cambodia Women for Peace and Development (CWPD), Kongres Wanita Indonesia (KOWANI), Lao Women's Union (LWU), National Council of Women's Organisations (NCWO), Myanmar Women's Affairs Federation (MWAF), National Council of Women of the Philippines (NCWP), Singapore Council of Women's Organisations (SCWO), National Council of Women of Thailand (NCWT) and the Vietnam Women's Union.

137. For further information refer to the Working Group for an ASEAN Human Rights Mechanism website, available at <http://www.aseanhrmech.org/aboutus.html>

ASEAN HUMAN RIGHTS MECHANISMS



ASEAN INTER-GOVERNMENTAL COMMISSION ON HUMAN RIGHTS



The ASEAN Inter-governmental Commission on Human Rights (AICHR) was inaugurated on 29 October 2009, pursuant to Article 14 of the ASEAN Charter. AICHR's establishment as the overarching human rights institution in ASEAN¹³⁸ was hailed as a "historic milestone in ASEAN community-building process, and as a vehicle for progressive social development and justice, the full realisation and human dignity for the attainment of a higher quality of life for ASEAN peoples."¹³⁹ It has overall responsibility for the promotion and protection of human rights in ASEAN.¹⁴⁰

The Terms of Reference (TOR) of AICHR sets out its purposes, principles, mandate and functions, composition, modalities, work plan, funding and its relationship with the ASEAN Secretary-General and ASEAN Secretariat.

AICHR have also adopted the Rules of Procedure of the AICHR Fund, the Guidelines on the Operations of AICHR and the Terms of Reference for the thematic studies that AICHR is conducting as well as for capacity building activities.

The Guidelines on the Operations of AICHR sets out the modalities for interaction with different stakeholders and how AICHR will conduct their mandates and functions.

PURPOSES

The purposes of AICHR are to:

- promote and protect human rights and fundamental freedoms of ASEAN people;¹⁴¹
- uphold the right of ASEAN people to live in peace, dignity and prosperity;¹⁴²
- contribute to the realisation of the purposes set out in the ASEAN Charter in order to promote stability and harmony in the region, friendship and cooperation among ASEAN Member States, as well as the well-being, livelihood, welfare and participation of ASEAN peoples in the ASEAN community building process;¹⁴³
- promote human rights within the regional context, bearing in mind national and regional particularities and mutual respect for different historical, cultural and religious backgrounds, and taking into account the balance between rights and responsibilities;¹⁴⁴

138. ASEAN Inter-governmental Commission for Human Rights Terms of Reference (2009), Article 6.8.

139. Cha-Am Hua Hin Declaration on the Inter-governmental Commission on Human Rights, Article 4. Available at <http://www1.umn.edu/humanrts/research/Philippines/Cha-Am-Hua-Hin-Declaration-of-the-AICHR.pdf>

140. AICHR TOR (2009), Article 6.8.

141. AICHR TOR (2009), Article 1.1.

142. AICHR TOR (2009), Article 1.2.

143. AICHR TOR (2009), Article 1.3.

144. AICHR TOR (2009), Article 1.4.

145. AICHR TOR (2009), Article 1.5.

- enhance regional cooperation with a view to complementing national and international efforts on the promotion and protection of human rights;¹⁴⁵ and
- uphold international human rights standards as prescribed by the *Universal Declaration of Human Rights* (UDRH), the *Yogyakarta Principles* (YDPA), and international human rights instruments to which ASEAN Member States are parties.¹⁴⁶ This includes CEDAW and the *Convention on the Rights of the Child* (CRC), which have been ratified by all ASEAN Member States.

PRINCIPLES

Article 2 of *AICHR's TOR* stipulates that AICHR shall be guided by the principles embodied in Article 2 of the *ASEAN Charter*¹⁴⁷ [see pg. 15], including respect for sovereignty¹⁴⁸ and non-interference,¹⁴⁹ the human rights-related principles¹⁵⁰ and respect for different cultures, languages and religions.¹⁵¹ *AICHR's TOR* also provides additional human rights principles, including “[r]espect for international human rights principles, including universality, indivisibility, interdependence and interrelatedness of all human rights and fundamental freedoms, as well as impartiality, objectivity, non-selectivity, non-discrimination, and avoidance of double standards and politicisation.”¹⁵² It also recognises “that the primary responsibility to promote and protect human rights and fundamental freedoms rests with each Member State.”¹⁵³

The inclusion of the principles of sovereignty and non-interference and tensions between the universality of human rights and cultural relativism / diversity.

The post-colonial concerns and priorities of the ASEAN Member States have had a significant impact on the development of human rights in the region. This has been reflected in how ASEAN has consistently incorporated the **principles of sovereignty and non-interference** into their discourses on human rights.¹⁵⁴

Much disappointment has been expressed by civil society over the inclusion of the principles of sovereignty and non-interference in *AICHR's TOR*. These principles are often used by Member States as an excuse or defence to avoid fulfilling their human rights obligations, which is detrimental to the promotion and protection of human rights, particularly women's human rights.

Moreover, ASEAN's insistence on the application of human rights principles with regard to national and regional particularities,

146. *AICHR TOR* (2009), Article 1.6.

147. *AICHR TOR* (2009), Article 2.1.

148. *AICHR TOR* (2009), Article 2.1(a).

149. *AICHR TOR* (2009), Article 2.1(b) and (c).

150. *AICHR TOR* (2009), Article 2.1(d) – (f).

151. *AICHR TOR* (2009), Article 2.1(g).

152. *AICHR TOR* (2009), Article 2.2.

153. *AICHR TOR* (2009), Article 2.3.

154. *Joint Communique of the Twenty Fourth ASEAN Ministerial Meeting* (Kuala Lumpur, 19-20 July 1991), Paragraph 15; *Joint Communique of 25th ASEAN Ministerial Meeting* (Manila, 21-22 July 1992), Paragraph 18. Available at <http://www.asean.org/communities/asean-political-security-community/item/joint-communique-of-the-twenty-fourth-asean-ministerial-meeting-kuala-lumpur-19-20-july-1991>

mutual respect for different historical, cultural and religious backgrounds and the balancing of rights and responsibilities has resulted in the re-emergence of the “universality of human rights versus cultural relativism” debates that occurred during the UN World Conference on Human Rights in Vienna in 1993. Concerns have been raised that the consideration of national and regional particularities or historical, cultural or religious backgrounds can derogate from and undermine universal human rights standards.

Violations of women’s human rights, in the form of gender-based violence and other forms of discrimination against women, often arise from patriarchal values and practices rooted in religious and cultural norms.¹⁵⁵ These considerations can have an adverse affect on women in that culture and religion can be used as a tool to repress women or justify action/inaction by States to promote and protect women’s human rights.

“It is the duty of States, regardless of their political, economic and cultural systems, to promote and protect all human rights and fundamental freedoms.”¹⁵⁶ ASEAN Member States must work to ensure the promotion and protection of women’s human rights which includes the eradication of any harmful cultural or religious norms, practices or traditions that perpetuate human rights violations.¹⁵⁷

It should be put into greater attention that Human rights itself is the 'fundamental culture' that should be guiding the ASEAN's vision and policies and not otherwise.

AICHR REPRESENTATIVES

AICHR is comprised of ten representatives, with one from each ASEAN Member State¹⁵⁸ [see XX for list of current reps]. Each AICHR Representative is appointed by their respective ASEAN Member State¹⁵⁹ and will serve a term of three years with the possibility of being re-appointed for an additional term.¹⁶⁰ The Chair of AICHR will be the Representative of the Member State holding the Chairship of ASEAN.¹⁶¹ AICHR is supported by, the ASEAN Secretariat.

155. Statement by the Women’s Caucus for the ASEAN Human Rights Body – Dialogue with the High Level Panel 20 March 2009, Kuala Lumpur

156. *Vienna Declaration and Programme of Action: Report of the World Conference on Human Rights [5]*, UN Doc A/CONF.157/23 (1993); This is further supported by the Universal Declaration on Cultural Diversity which states that “[n]o one may invoke cultural diversity to infringe upon human rights guaranteed by international law, nor to limit their scope.” Adopted by the General Conference of the United Nation’s, Educational, Scientific and Cultural Organization at its thirty-first session on 2 November 2011, Article 5.

157. *Vienna Declaration and Programme of Action: Report of the World Conference on Human Rights [38]*, UN Doc A/CONF.157/23 (1993); *Convention on the Elimination of All Forms of Discrimination Against Women*, Article 5.

158. AICHR TOR (2009), Article 5.2.

159. AICHR TOR (2009), Article 5.2.

160. AICHR TOR (2009), Article 5.5.

161. AICHR TOR (2009), Article 5.9.

The independence of AICHR Representatives and AICHR as a body is crucial to having an effective regional human rights mechanism,¹⁶² especially during its early stages where foundations and standards are being set. Unfortunately, however, AICHR's TOR does not provide adequate requirements to ensure this. Member States need to consult with appropriate stakeholders in the appointment of their AICHR Representative only "if required by their respective internal processes."¹⁶³ As a result, only Thailand and Indonesia held open and consultative selection processes which resulted in the Indonesian and Thai AICHR Representatives being independent from their respective governments.¹⁶⁴ and most actively engaging with civil society. The remaining eight AICHR Representatives are government officials.¹⁶⁵ Despite the requirement to "give due consideration to gender equality, integrity and competence in the field of human rights,"¹⁶⁶ currently only two of the ten AICHR Representatives are women.¹⁶⁷

The independence of AICHR Representatives and AICHR as a body is crucial to having an effective regional human rights mechanism

Furthermore, although AICHR Representatives are instructed to act impartially,¹⁶⁸ their ability to do so is limited. Under AICHR's TOR, each AICHR Representative is accountable to its appointing government¹⁶⁹ which, may decide, at its discretion, to replace the representative before his or her term is due to expire.¹⁷⁰ AICHR's work plan, programme, activities and budget are dependent upon the recommendation of the Committee of Permanent Representatives and the approval of the ASEAN Foreign Ministers Meeting.¹⁷¹ AICHR's TOR was also approved by the ASEAN Foreign Ministers Meeting.¹⁷² Any subsequent interpretations, amendments and reviews of AICHR's TOR is also subject to the approval of the ASEAN Foreign Ministers Meeting.¹⁷³ The Secretary General of ASEAN may bring relevant issues to the attention of AICHR, but must also inform the ASEAN Foreign Ministers of these issues.¹⁷⁴

MANDATE AND FUNCTIONS

AICHR is tasked with various promotional mandates including:

- enhancing public awareness of human rights;¹⁷⁵
- promoting the implementation of ASEAN human rights instruments¹⁷⁶ as well as international human rights instruments;¹⁷⁷

162. Office of the High Commissioner for Human Rights, Principles for Regional Human Rights Mechanisms (Non-Paper) [Online] Available at: <http://bangkok.ohchr.org/programme/asean/principles-regional-human-rights-mechanisms.aspx> [link unavailable]

163. AICHR TOR (2009), Article 5.4

164. Mr Rafendi Djamin from Indonesia and Dr Sriprapha Petcharamee from Thailand.

165. See CVs of the AICHR Representatives available at <http://www.asean.org/communities/asean-political-security-community/category/cvs-of-the-representatives-of-aichr>

166. AICHR TOR (2009), Article 5.3.

167. Dr Sriprapha Petcharamee (Thailand) and Mrs Rosario G Manalo (Philippines).

168. AICHR TOR (2009), Article 5.7.

169. AICHR TOR (2009), Article 5.2.

170. AICHR TOR (2009), Article 5.6.

171. AICHR TOR (2009), Articles 8.1 and 8.2.

172. AICHR TOR (2009), Article 9.1.

173. AICHR TOR (2009), Articles 9.4, 9.6, 9.7 and 9.8.

174. AICHR TOR (2009), Article 7.1.

175. AICHR TOR (2009), Article 4.3.

176. AICHR TOR (2009), Article 4.6.

177. AICHR TOR (2009), Articles 4.4 and 4.5.

- developing strategies for the promotion and protection of rights and fundamental freedoms to complement the building of the ASEAN Community;¹⁷⁸ and
- common approaches and positions on human rights matters of interest to ASEAN.¹⁷⁹

AICHR's mandate has been criticised by civil society organisations for not having a strong protection mandate. AICHR's TOR does not explicitly provide for a mechanism to receive or investigate human rights violations and issue findings and recommendations. As a result it falls short of meeting the minimum standards set by the Office of the High Commissioner for Human Rights (OHCHR)¹⁸⁰. However, AICHR is required to provide advisory services and technical assistance on human rights matters to ASEAN Sectoral Bodies¹⁸¹. AICHR is also obliged to engage in dialogue and consultation with other ASEAN bodies and associated entities, civil society organisations, human rights institutions and other stakeholders.¹⁸² **AICHR's ToR is due for review in 2014**, and Civil societies see this as opportunity to strengthen AICHR's mandates. AICHR can obtain information on the promotion and protection of rights from ASEAN Member States¹⁸³ which can actually be progressively interpreted by the AICHR to receive complaints or send inquiry to relevant member states on particular human rights situations. However, this hasn't been the case so far. It is also tasked with preparing thematic studies of human rights in ASEAN¹⁸⁴ and has identified to undertake several thematic studies on human rights issues. Identified areas are Corporate Social Responsibility; Migration; Trafficking in persons particularly women and children; Women and Children in Conflicts and Justice; Right to Life, Right to Health, Right to Education and others.

Few Civil societies including Women's Caucus has undertaken its own study on relevant thematic issues, aiming to contribute to AICHR's study as well. Women's Caucus has recently completed its thematic paper on Corporate Social Accountability and Migration with aim to submit to AICHR.

AICHR with its mandate to develop human rights mechanism also developed ASEAN Human Rights Declaration, adopted in late 2012.

Criticisms on ASEAN Human Rights Declaration

Under Article 4.2 of its TOR, AICHR was mandated to “develop an AHRD with a view to establishing a framework for human rights cooperation through various ASEAN conventions and other instruments dealing with human rights.” The ASEAN Leaders adopted the AHRD

178. AICHR TOR (2009), Article 4.1.

179. AICHR TOR (2009), Article 4.11.

180. Office of the High Commissioner for Human Rights, Principles for Regional Human Rights Mechanisms (Non-Paper) [Online] Available at: <http://bangkok.ohchr.org/programme/asean/principles-regional-human-rights-mechanisms.aspx>

181. AICHR TOR (2009), Article 4.7.

182. AICHR TOR (2009), Articles 4.8 and 4.9

183. AICHR TOR (2009), Article 4.10.

184. AICHR TOR (2009), Article 4.12.



at their Plenary Session at the Twenty First ASEAN Summit in Phnom Penh, Cambodia on 18 November 2012. Those drafting the AHRD indicated that the declaration should uphold and ‘add value’ to existing international standards, laws and agreements. However, the AHRD has failed to do so and hence have been heavily criticized by civil society for being flawed and for failing to uphold the international standards.

Women’s Caucus has claimed that the Declaration has too many limitations and loopholes to be useful¹⁸⁵. **The Declaration makes rights subject to national laws, but national laws may discriminate against women and may not be fully compliant with international human rights standards.** The Declaration also states that rights need to be ‘balanced’ with responsibilities which undermines existing commitments that ASEAN states are party to.

The declaration also reflects ASEAN’s “common values” and “particularities” and allows for broad limitations of rights through national laws and the inclusion of terms such as “morality” and “public morality.” Women’s Caucus together with APWLD was successful in securing wider awareness and sensitization on ‘public morality’ which also was heavily discussed in the civil society fora. While although the AHRD includes diluted international standards including public morality, the final declaration was improved from earlier drafts after Southeast Asia Women’s Caucus’s engagement together with APWLD.

Various Civil Societies besides Women’s Caucus have criticized AHRD. Among such, International Commission of Jurists (ICJ) explains well why the Declaration is a fatally flawed document and falls below and risks undermining international human rights standards.¹⁸⁶ ICJ also provides an example how each principle can undermine human rights in the contexts we are living in.

Under General Principle No. 6,¹⁸⁷ the enjoyment of rights and freedoms “must be balanced with the performance of corresponding duties”. All human rights are to be ‘balanced’ against individual responsibilities contradicts the very idea of human rights agreed upon in the 1948 Universal Declaration of Human Rights. Under universal standards all persons are entitled to realisation of human rights; the enjoyment of human rights cannot be made conditional upon their performance of duties. In fact, human rights limit the scope and nature of the duties that States may impose on an individual and not the other way around.

185. <http://womenscaucusonasean.wordpress.com/2012/11/23/asean-human-rights-declaration-limited-by-morality-say-womens-organisations/>

186. International Commission of Jurists, 2013, “The ASEAN Human Rights Declaration: Questions and Answers”

187. “The enjoyment of human rights and fundamental freedoms must be balanced with the performance of corresponding duties as every person has responsibilities to all other individuals, the community and the society where one lives. It is ultimately the primary responsibility of all ASEAN Member States to promote and protect all human rights and fundamental freedoms.”

General Principle No. 6 could serve to provide ASEAN Member States with a basis and justification to violate human rights, instead of providing safeguards to the people, since the terms “duties” and “responsibilities” are not defined adequately.

Example- Reading Article 27 of the Declaration in the light of General Principle No. 6:

Article 27 of the Declaration provides every person the right “to enjoy just, decent and favorable conditions of work.” However, ASEAN Member States could read Article 27 in the light of the language of General Principle No. 6 to deny this right to workers in the interest of “balancing” this right with their “duty” and “responsibility” of contributing to the national economy. Under General Principle No. 6, labourers in the ASEAN may be required to work in factories with inadequate safety regulations and impermissibly low wages under the justification that they are called upon to fulfill their “duty” and “responsibility” to help the national economy.

Under General Principle No. 7,¹⁸⁸ the realization of human rights “must be considered in the regional and national context, bearing in mind different political, economic, legal, social, cultural, historical, and religious backgrounds.” On the other hand, under international law ASEAN Member States have the duty, regardless of their political, economic and cultural systems, to respect and protect all human rights and fundamental freedoms.

Example-Reading Article 30, par. 3 of the Declaration in the light of General Principle No. 7:

Article 30, par. 3 of the Declaration provides that “every child, whether born in or out of wedlock, shall enjoy the same social protection.” Reading Article 30, par. 3 in the light of General Principle No. 7, an ASEAN Member State could decide that it was entitled to provide for less social protection for children born out of wedlock based on the rationale that its majority religion frowns upon extramarital unions and therefore, discourages bearing children out of wedlock.

General Principle No. 8¹⁸⁹ subjects all the rights in the Declaration to broad and all-encompassing limitations: “national security, public order, public health, public safety, public morality, as well as the general welfare of the peoples in a democratic society.” General Principle No. 8, therefore, permits limitations and restrictions for all rights across the entirety of the Declaration. General Principle 8 merely says that limitations have to be imposed for the purpose

188. “All human rights are universal, indivisible, interdependent and interrelated. All human rights and fundamental freedoms in this Declaration must be treated in a fair and equal manner, on the same footing and with the same emphasis. At the same time, the realization of human rights must be considered in the regional and national context bearing in mind different political, economic, legal, social, and cultural, historical and religious backgrounds”

189. “The human rights and fundamental freedoms of every person shall be exercised with due regard to the human rights and fundamental freedoms of others. The exercise of human rights and fundamental freedoms shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition for the human rights and fundamental freedoms of others, and to meet the just requirements of national security, public order, public health, public safety, public morality, as well as the general welfare of the peoples in a democratic society.”

of meeting the “just requirements” of national security and other purposes. The ASEAN Declaration, allows for limitation on the bases of “general welfares of peoples in a democratic society”. This category is so broad that it could be interpreted to encompass almost all State activity.

Example-Reading Article 14 of the Declaration in the light of General Principle No. 8:

The right not to be subjected to torture or to cruel, inhuman or degrading treatment or punishment is provided for explicitly under Article 14 of the Declaration. However, this provision would have to be read in light of General Principle No. 8. Therefore, under terms of the ASEAN Declaration, Member States would be allowed the use of torture to extract information from suspected terrorists in the name of “national security” and “public safety”. Torture, however, is a peremptory norm of international law, allowing no exceptions. This principle has been accepted by all States, including all ASEAN States, in United Nations General Assembly resolutions adopted by consensus.

Relationship and Alignment with Other Human Rights Bodies in ASEAN

As the overarching human rights institution in ASEAN, AICHR has the overall responsibility for the promotion and protection of human rights in ASEAN.¹⁹⁰ AICHR must work with all ASEAN Sectoral Bodies dealing with human rights. These include the ACWC [see pg.53] and the ASEAN Committee on the Implementation of the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers (ACMW) [see pg. 61] to determine the modalities for their ultimate alignment¹⁹¹ with AICHR. AICHR must therefore closely consult, coordinate and collaborate with these bodies to promote synergy and coherence in ASEAN’s promotion and protection of human rights.¹⁹² Developing effective alignment for human rights promotion and protection also requires concerted efforts at the national and international levels.

A number of recommendations were made based on the Expert Meeting on Effective Alignment among Human Rights Institutions and Mechanisms that was convened by the Indonesian Representatives to AICHR and the ACWC with Indonesia’s National Commission on Violence Against Women on the 6 to 7 December 2010 in Jakarta, Indonesia. The following are some of the recommendations that were made during the Expert Meeting to ASEAN for developing effective alignment for human rights promotion and protection.

190. AICHR TOR (2009), Article 6.8.

191. *“Alignment is a broad framework of synergetic relationships among autonomous bodies which is supported by a set of institutional arrangements designed to reach a common goal. Within the framework of human rights, alignment should ensure that the multiple bodies and instruments created to promote and protect human rights can function as a coherent whole and develop for the purpose of achieving tangible results for the human rights of all individuals and communities.”* Indonesian Representatives to AICHR and ACWC Non Paper, Outcome Document of the Expert Meeting on Effective Alignment Among Human Rights Institutions and Mechanism, convened by the Indonesian Representatives to AICHR and the ACWC with the Indonesia’s National Commission on Violence Against Women, Jakarta, 6-7 December 2010.

192. AICHR TOR (2009), Article 6.9.

1. AICHR could give due consideration to initiating key ASEAN bodies, including the ACWC, ACMW, ASEAN Community Councils and Sectoral Ministerial Bodies to establish modalities for:
 - regular dialogue;
 - securing the grounding for effective institutional alignment for a coherent human rights; and
 - requesting input from the widest spectrum of stakeholders for its thematic studies, including affected individuals and their advocates.
2. The ACWC could consider:
 - providing input to AICHR and ASEAN's Sectoral Bodies on suggested modalities for the active participation of ASEAN and women and children in the dialogue and consultation processes within ASEAN;
 - developing a year-long program to facilitate sharing of experiences and good practices between and among ASEAN Member States on the rights of women and children; and
 - submitting to AICHR independent reports on common thematic concerns, such as migration and human rights and business and human rights.
3. The ASEAN Community Councils and the Sectoral Ministerial Bodies could request input from AICHR and the ACWC on human rights matters pertinent to their respective mandates. For example, the ASEAN Ministers of Health asked AICHR for input on mandatory testing of HIV/AIDS.
4. The ASEAN Secretary General could initiate the providing of administrative alignment between AICHR and the ACWC by:
 - making available adjacent office space for their respective staffs and meetings; and
 - establishing efficient communication means through the use of information and communication technology.
5. The ASEAN Coordinating Council could provide timely support for ASEAN's human rights bodies to ensure ASEAN-wide policy coherence on human rights.
6. ASEAN Member States could support the effective synergy for human rights promotion and protection among their:
 - national AICHR, ACWC and ACMW Representatives;

- respective national human rights institutions (where they exist); and
- respective national civil society organisations.

FIVE-YEAR WORKPLAN

AICHR's Five-Year Work Plan sets out the body's activities and elements for the period of 2010 – 2015 based on AICHR's TOR. Some of the initial activities include:

- dialogue and consultation with the three ASEAN Communities on their respective Blueprints on the promotion and protection of human rights. AICHR, submit to each ASEAN Community, a review and recommendations on their respective Blueprints;
- establish an ad hoc task force on drafting the AHRD, including preparing the task force's TOR;
- develop rules and procedures which, will include modalities and guidelines for engagement with different stakeholders associated with ASEAN;
- obtain copies of country reports from ASEAN Member States to the human rights bodies in the UN system and invite the ASEAN Member States to share additional and updated information on their country reports;
- identify the current and potential human rights matters of interest to ASEAN and developing recommendations on the common ASEAN approaches and positions on these matters;
- initiate regionally-based thematic studies on issues relating to human rights. Corporate social responsibility and migration were identified as the thematic issues for 2010 and 2011 respectively. Each thematic study is guided by its own TOR.¹⁹³ AICHR has held workshops upon completion of the draft of the relevant thematic studies for discussion and consultation with the relevant stakeholders in accordance with *AICHR's Guidelines on the Conduct of Thematic Studies*.

193. Terms of Reference for Thematic Study on Migration was discussed and agreed at AICHR's 5th Meeting. Press Release of the Fifth ASEAN Inter-governmental Commission on Human Rights Jakarta, 25-29 April, 2011 Available at <http://www.asean.org/communities/asean-political-security-community/item/press-release-of-the-fifth-asean-intergovernmental-commission-on-human-rights-jakarta-25-29-april-2011>.

CIVIL SOCIETY ENGAGEMENT WITH AICHR

In carrying out its functions, AICHR is obliged to engage in dialogue and consultation with various stakeholders, including civil society organisations¹⁹⁴ and other national, regional and international institutions concerned with the promotion and protection of human rights.¹⁹⁵ AICHR recognises the need to encourage as broad a participation as possible.¹⁹⁶ Further, it is mandated to keep the public periodically informed of its work and activities.¹⁹⁷ However despite this mandate to keep the public periodically informed of its work and activities, their annual reports have not been made available to the public.

ENGAGING WITH AICHR-TIPS

Civil society and other stakeholders can engage with AICHR in a number of ways including:

- contacting AICHR Representatives in their country to make enquiries on their work, important dates and activities;
- submission of documents such as statements, recommendations, proposals and reports to AICHR Representatives and AICHR to draw their attention to specific issues;
- arranging activities and events such as meetings and workshops with AICHR Representatives and AICHR to facilitate knowledge exchange and information sharing; and
- conducting campaigns to raise awareness on specific issues.
- influencing the nomination/ appointment of the AICHR representatives.
- lobbying AICHR to promote the full implementation of ASEAN instruments, including those relevant to women;
- engaging with AICHR in their review of the ASEAN Community Blueprints on the promotion and protection of human rights;
- engaging with AICHR on the drafting of the instruments;
- engaging with AICHR on their thematic studies;
- engaging with AICHR in the lead up to and during their annual meetings;
- requesting that AICHR obtain information from ASEAN Member States on the promotion and protection of human rights, including women's human rights; and
- engaging with the ASEAN Secretary-General to bring relevant issues, including women's issues to the attention of AICHR.

194. AICHR TOR, Article 4.8.

195. AICHR TOR, Article 4.9.

196. Five-Year Work Plan of AICHR (2010-2015)

197. AICHR TOR, Article 6.7.

ASEAN COMMISSION FOR THE PROMOTION AND PROTECTION OF THE RIGHTS OF WOMEN AND CHILDREN

The ASEAN Commission for the Promotion and Protection of the Rights of Women and Children (ACWC) is a consultative and inter-governmental body that was inaugurated on the 7 April 2010 in accordance with measure I.1.4.7 of the *Vientiane Action Programme (2004 – 2010)*. ACWC's TOR spell out: terms of reference contains similar provisions to AICHR's TOR but are more specific towards the promotion and protection of women and children's human rights. ACWC's TOR sets out its purposes, principles, mandate and functions, composition, modalities, work plan, funding and its relationship with the ASEAN Secretary-General and ASEAN Secretariat. ACWC has also adopted its Rules of Procedure (RoP) which lays down guidelines for its communication, meetings, agendas, decision making, etc.

PURPOSES

The ACWC's purpose is to:

- promote and protect the human rights and fundamental freedoms of women and children in ASEAN, taking into consideration the different historical, political, socio-cultural, religious and economic context in the region and the balances between rights and responsibilities;¹⁹⁸
- uphold, promote, protect, respect and fulfil the rights of women and children in ASEAN to live in peace, equality, justice, dignity and prosperity;¹⁹⁹
- promote the well-being, development, empowerment and participation of women and children in the ASEAN community building process;²⁰⁰
- enhance regional and international cooperation to complement national and international efforts in the promotion and protection of the rights of women and children;²⁰¹
- uphold human rights as prescribed by the UDHR, VDPA, CEDAW, the CRC, BPFA, World Fit for Children, international humanitarian law and other international human rights instruments and regional declarations related to women's and children's rights to which ASEAN Member States are parties;²⁰² and
- promote stability, harmony, friendship and cooperation in the region.²⁰³

198. ACWCTOR (2010), Article 2.1.

199. ACWCTOR (2010), Article 2.2.

200. ACWCTOR (2010), Article 2.3.

201. ACWCTOR (2010), Article 2.4.

202. ACWCTOR (2010), Article 2.5.

203. ACWCTOR (2010), Article 2.6.

PRINCIPLES

Article 3 of ACWC's TOR sets out its principles which include:

- respect for the principles embodied in Article 2 of the ASEAN Charter;²⁰⁴
- respect for the universality, indivisibility, interdependence and interrelatedness of all fundamental freedoms and the rights of women and children, the guiding principles of CEDAW and the CRC;²⁰⁵
- respect for the principles of impartiality, objectivity, non-selectivity, non-discrimination and avoidance of double standards and politicisation;²⁰⁶
- complementing the functions of CEDAW and the CRC Committees;²⁰⁷
- recognising that the primary responsibility to promote and protect the fundamental freedoms and rights of women and children rests with each Member State;²⁰⁸
- pursuing a constructive non-confrontational and cooperative approach to enhance the promotion and protection of rights of women and children;²⁰⁹
- ensuring a balance between the functions of promotion and protection of the rights of women and children;²¹⁰
- adopting an evolutionary approach that would contribute to the realisation of the rights of women and children in ASEAN;²¹¹ and
- adopting a collaborative and consultative approach with ASEAN member states, academia and civil society pertaining to the rights of women and children.²¹²

ACWC REPRESENTATIVES

The ACWC is comprised of two representatives from each Member State, with one representative on women's rights and the other representative on children's rights. Like AICHR's Representatives, the appointment of ACWC Representatives

the ACWC gives attention to women and children's human rights and is an expression of the Member States' commitment to promote and protect them

must "give due consideration to competence in the field of the rights of women and children, integrity and gender equality."²¹³ They must also conduct a transparent, open participatory and inclusive selection process in accordance with their respective internal processes.²¹⁴

204. ACWCTOR (2010), Article 3.1.

205. ACWCTOR (2010), Article 3.2.

206. ACWCTOR (2010), Article 3.3.

207. ACWCTOR (2010), Article 3.4.

208. ACWCTOR (2010), Article 3.5.

209. ACWCTOR (2010), Article 3.6.

210. ACWCTOR (2010), Article 3.7.

211. ACWCTOR (2010), Article 3.8.

212. ACWCTOR (2010), Article 3.9.

213. ACWCTOR (2010), Article 6.3.

214. ACWCTOR (2010), Article 6.4.



The ACWC's line of reporting is to the AMMSWD.²¹⁵ **Like AICHR, the ACWC also suffers from lack of independence.**

The establishment of the ACWC is welcomed as it gives attention to women and children's human rights and is an expression of the Member States' commitment to promote and protect them. The appointment of two Representatives from each Member State will enable the ACWC to address women and children's human rights separately, whilst being under the umbrella of one commission. This has the benefit of ensuring consistency in processes and avoids diluting financial resources that can occur by having two separate commissions. **However, grouping women and children together reinforces the narrow conceptions of women as being child bearers, caretakers and homemakers.**

MANDATE AND FUNCTIONS

Like AICHR, the ACWC also acts as a "consultative inter-governmental body,"²¹⁶ that works in coordination with AICHR and relevant ASEAN Sectoral Bodies dealing with women's and children's issues.²¹⁷ However, the ACWC's TOR contains more explicit language on the international human rights system, empowerment, prevention and victim protection than AICHR's TOR.

The ACWC's functions include:

- the promotion of women and children's rights through the implementation of international, ASEAN and other instruments;²¹⁸
- development of policies, programs and strategies²¹⁹ and the raising of public awareness and education;²²⁰
- encourage Member States to consider acceding to, and ratifying international human rights instruments related to women and children;²²¹
- assist member states in the preparation of their reports to treaty bodies (which includes CEDAW Periodic Reports)²²² as well as the Member States' implementation of Concluding Observations of CEDAW, the CRC and other treaty bodies;²²³ promote studies and research²²⁴ and facilitate sharing of experience and good practices²²⁵ related to the situation and well being of women and children to enhance the effective implementation of CEDAW and the CRC;

215. ACWCTOR (2010), Article 7.5

216. ACWCTOR (2010), Article 4

217. ACWCTOR (2010), Article 7.7

218. ACWCTOR (2010), Article 5.1

219. ACWCTOR (2010), Article 5.2

220. ACWCTOR (2010), Article 5.3

221. ACWCTOR (2010), Article 5.13

222. ACWCTOR (2010), Article 5.6

223. ACWCTOR (2010), Article 5.7

224. ACWCTOR (2010), Article 5.9

225. ACWCTOR (2010), Article 5.11

- encourage Member States to undertake the collection and analysis of disaggregated data²²⁶ and periodic reviews of national legislations, regulations, policies, and practices²²⁷ related to the rights of women and children.
- propose and promote appropriate measures, mechanisms and strategies for the prevention and elimination of all forms of violation of the rights of women and children, including the protection of victims.²²⁸

Notably, the ACWC has an advocacy role as well as a stronger mandate to engage with civil society than AICHR. It is required to advocate on behalf of women and children, especially the most vulnerable and marginalised, and encourage Member States to improve their situation.²²⁹

FIVE YEAR WORK PLAN

During its second meeting in September 2011, ACWC Representatives finalised their work plan for 2012 – 2016. They agreed on the following priority themes for that period:²³⁰

1. Elimination of violence against women and children.
2. Trafficking in women and children.
3. Women and children living with and affected by HIV and AIDs.
4. Social impact of climate change on women and children.
5. Promotion and protection of the rights of women and children with disabilities.
6. ASEAN and other instruments related to the rights of women and children.
7. Child protection system: integrative/comprehensive approach for children in need for social protection.
8. The right to quality education, including Early Childhood Care, Development and Education.
9. The right of children to participate in all affairs that affects them.
10. Women participation in politics and decision-making.
11. Governance and democracy.
12. Strengthening economic rights of women with regards to feminisation of poverty.

226. ACWCTOR (2010), Article 5.8

227. ACWCTOR (2010), Article 5.10

228. ACWCTOR (2010), Article 5.12

229. ACWCTOR (2010), Article 5.4

230. Second Press Release of the ACWC, Solo, Indonesia, 8 September 2011. Available at <http://www.asean.org/news/asean-secretariat-news/item/acwc-to-see-philanthropists-funding-support-in-its-endeavour-to-help-victims-of-violence-through-an-asean-network-of-social-service-centres>

13. Women's right to land and property.
14. Promoting implementation of international, gender equality in education (textbook, curriculum, and equal access).
15. Strengthening institutional capacities of the ACWC; and
16. Promotion of consultation and dialogue with stakeholders at national and regional levels.²³¹

The ACWC also committed to furthering and strengthening its engagement with the UN human rights mechanisms, particularly on CEDAW and the CRC. This included attending a consultative meeting with the United Nations Special Rapporteur on Violence Against Women and the Special Assistant to the United Nations Secretary General on Violence Against Children in 2012.²³²

In its Sixth Meeting,²³³ which was convened from 1 – 2 April 2013, in Jakarta, Indonesia, the following on-going projects were confirmed:

- the compilation of country of best practices in eliminating violence against women and children which will be published in mid-2013;
- public campaign, which was inaugurated in 2012, will be undertaken in conjunction with the International Day to Stop Violence against Women on 25 November, 2013;
- acknowledging common issues concerning women and girls in CEDAW and the CRC Concluding Observations, the ACWC planned for a regional workshop to look into those common issues towards effective promotion and protection of the rights of women and children in June 2013 in Da Nang, Vietnam;
- as part of children's rights promotion, development of guidelines for non violent approaches to child rearing and child caring in various settings has started with annotated bibliographies being compiled;
- acknowledging that prevention and elimination of violence against women and children is its core, the ACWC drafted the *ASEAN Declaration on the Elimination of Violence Against Women and Children*. After several reviews since 2011, the final draft of the Declaration was accepted at this Meeting and has been adopted during 23rd ASEAN summit in October 2013. The Declaration aims to reflect ASEAN's collective efforts to, among others, strengthen legal and policy frameworks and institutional capacity to combat violence against women and children, and assist victims

231. It is also notable that Women's Caucus's five key priority issues and the review/analysis of NGO reports to CEDAW have influenced the thematic areas of the ACWC.

232. Press Release "ACWC Joins with Civil Society for the Elimination of Violence against Women and Violence against Children", 18 January, 2011. Available at <http://www.asean.org/news/asean-secretariat-news/item/the-asean-commission-on-the-promotion-and-protection-of-the-rights-of-women-and-children-acwc-joins-hands-with-civil-society-for-the-elimination-of-violence-against-women-and-violence-against-children>.

233. Sixth Press Release of the ACWC, Jakarta, Indonesia, 3 April 2013. Available at <http://www.asean.org/news/asean-secretariat-news/item/sixth-press-release-of-the-asean-commission-on-the-promotion-and-protection-of-the-rights-of-women-and-children-acwc>.

through protection, services, rehabilitation, recovery and reintegration of victims; (See page 69)

- recognising the importance of collaboration for efficiency and better impacts of projects in its Work Plan, the ACWC identified potential common areas and projects in the work plans of other ASEAN Sectoral Bodies. The ACWC will explore collaboration with those ASEAN Sectoral Bodies;
- the ACWC will also engage civil society in the implementation of its projects by tapping on their expertise. For this purpose, the Meeting discussed workable mechanisms of civil society engagement in the implementation of the ACWC Work Plan; and
- the ACWC Representatives prepared the ground work towards the establishment of a network of social service providers helping women and children victims of violence. It was considered that the network would spearhead, amongst others, training, exchange programmes and scholarships for social service agencies, awards to recognise outstanding social workers in the region, case studies of successful rehabilitation and reintegration of victims.²³⁴

The Seventh ACWC Meeting was held in Kuala Lumpur, Malaysia in the July 22-24th, 2013. The main event was the finalization of Draft Declaration on Elimination of Violence Against Women (VAW) and Elimination of Violence Against Children (VAC). The progress of implementation of projects and activities under the ACWC Work Plan 2012-2016 was also discussed. Various Initiatives done were also appraised. Some of such initiatives have been to promote rights of women and children, justice for women victims, strengthening economic rights of women, impact of climate change, review mechanism in managing and treatment of trafficked women and children, promotion of best practices in eliminating VAW and VAC, etc.

CIVIL SOCIETY ENGAGEMENT WITH ACWC

The ACWC has a stronger mandate to engage with civil society than AICHR. In accordance with its principles to adopt a collaborative and consultative approach with ASEAN Member States, academia and civil society pertaining to the rights of women and children,²³⁵ the ACWC must:

- support the participation of ASEAN women and children in dialogue and consultation processes relating to the promotion and protection of their rights;²³⁶

234. Sixth Press Release of the ACWC, 1 -2 April, 2013. Available at <http://www.asean.org/news/asean-secretariat-news/item/sixth-press-release-of-the-asean-commission-on-the-promotion-and-protection-of-the-rights-of-women-and-children-acwc>.

235. ACWCTOR (2010), Article 3.9.

236. ACWCTOR (2010), Article 5.14.

- build the capacities of relevant stakeholders at all levels towards the realisation of women’s and children’s rights;²³⁷ and
- keep the public regularly informed of its work and activities through appropriate public information material.²³⁸

ENGAGING WITH ACWC- TIPS

Civil society and other stakeholders can engage with the ACWC in a number of ways. These include:

- contacting ACWC Representatives in their country to make enquiries on their work, important dates and activities;
- submission of documents such as statements, recommendations, proposals and reports to ACWC Representatives and the ACWC to draw their attention to specific issues;
- arranging activities and events such as meetings and workshops with ACWC Representatives and the ACWC to facilitate knowledge exchange and information sharing; and
- conducting campaigns to raise awareness on specific issues.
- lobbying the ACWC to promote the full implementation of international, ASEAN and other instruments relating to the rights of women and children;
- engaging with the ACWC to provide input into the development of their policies, programs and strategies to promote and protect the rights of women and children;
- engaging with the ACWC to provide input into the ACWC’s studies and research on the situation and well-being of women and children;
- providing submissions such as statements, recommendations, proposals and reports to the ACWC to draw their attention to the realities of women and children in ASEAN during their:
 - advocacy of women and children, especially the most vulnerable and marginalised;
 - capacity building of relevant stakeholders at all levels;
 - periodic review of national legislations, regulations, policies and practices relating to the rights of women and children;
 - collection and analysis of disaggregated data relating to the promotion and protection of women and children;
 - facilitation of sharing of experiences and good practices, including thematic issues, between and among ASEAN Member States on the situation and well being of women and children to enhance the effective implementation of CEDAW and the CRC; and
- engaging with the ACWC in the lead up to and during their annual meetings

237. ACWCTOR (2010), Article 5.5.

238. ACWCTOR (2010), Article 7.6.

ASEAN COMMITTEE ON THE IMPLEMENTATION OF THE ASEAN DECLARATION ON THE PROTECTION AND PROMOTION OF THE RIGHTS OF MIGRANT WORKERS (ACMW)

The ASEAN Committee on the Implementation of the Declaration on the Protection and Promotion of the Rights of Migrant Workers (ACMW) was formally established in September 2008²³⁹ following the creation of the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers (ADMW) [see pg.67].

PURPOSE

The purposes of the ACMW is to serve as the focal point within ASEAN to:

- ensure the effective implementation of the commitments made under the ADMW; and
- facilitate the development of an ASEAN Instrument on the Protection and Promotion of the Rights of Migrant Workers.²⁴⁰

ACMW REPRESENTATIVES

The ACMW is comprised of one senior representative from each of the ASEAN Member States, as well as a representative from the ASEAN Secretariat.²⁴¹ They are assisted by representatives from the concerned agencies of each Member State and provided secretarial support by the ASEAN Secretariat. The ACMW is required to report to the Senior Labor Officials Meeting (SLOM) and is chaired by the representative of the country that holds the chairship of the ASEAN Standing Committee.

MANDATES AND FUNCTIONS

The functions of the ACMW are to:

- explore all avenues to achieve the objectives of the ADMW;
- facilitate the sharing of best practices in the ASEAN region on matters concerning the promotion and protection of the rights of migrant workers;
- promote bilateral and regional cooperation and assistance on matters involving the rights of migrant workers;
- facilitate data sharing on matters related to migrant workers, for the purpose of enhancing policies and programmes to protect and promote the rights of migrant workers in both sending and receiving countries;

239. ASEAN Committee on the Implementation of the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers (ACMW) Work Plan.

240. Statement of the Establishment of the ASEAN Committee on the Implementation of the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers. Available at <http://www.asean.org/communities/asean-political-security-community/item/statement-of-the-establishment-of-the-asean-committee-on-the-implementation-of-the-asean-declaration-on-the-protection-and-promotion-of-the-rights-of-migrant-workers>.

241. ASEAN Committee on the Implementation of the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers (ACMW) Work Plan.

- encourage international organisations, ASEAN Dialogue Partners and other countries to respect the principles and extend support and assistance to the implementation of the measures contained in the ADMW;
- promote the harmonisation of mechanisms between both sending and receiving countries that promote and protect the rights of migrant workers to implement the ASEAN commitment reflected in paragraph 17 of the ADMW;
- work closely with the ASEAN Secretariat in the preparation of the report of the Secretary-General of ASEAN to the ASEAN Summit; and
- work towards the development of an ASEAN Instrument on the Protection and Promotion of the Rights of Migrant Workers.²⁴²

As a result of ASEAN's adherence to its principles of sovereignty²⁴³ and non-interference,²⁴⁴ the ACMW must carry out its functions subject to the national laws, regulations, and policies of the ASEAN Member States.

WORKPLAN

The first Meeting of the formal ACMW was held on 15-16 September 2008 in Singapore and marked the establishment of the Committee and adopted its TOR and Work Plan.

The current ACMW Work Plan focuses on the:

1. Protection of migrant workers against exploitation, discrimination and violence.
2. Labour migration governance.
3. Fight against trafficking in persons; and
4. Development of the ASEAN Instrument on the Protection and Promotion of the Rights of Migrant Workers.²⁴⁵

The ACMW planned to:

1. Step up protection and promotion of the rights of migrant workers against exploitation and mistreatment by:
 - serving as a policy repository to promote best practices in migrant worker management policies; and
 - strengthening information services to educate migrant workers about their rights, access to services and immigration requirements.²⁴⁶

242. Statement of the Establishment of the ASEAN Committee on the Implementation of the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers. Available at <http://www.asean.org/communities/asean-political-security-community/item/statement-of-the-establishment-of-the-asean-committee-on-the-implementation-of-the-asean-declaration-on-the-protection-and-promotion-of-the-rights-of-migrant-workers>.

243. ASEAN Charter, Chapter 1, Article 2.2(a).

244. ASEAN Charter, Chapter 1, Article 2.2(e) and (f).

245. ASEAN Committee on the Implementation of the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers (ACMW) Work Plan.

246. ACMW Work Plan, Paragraph 5a and b.

2. Strengthen protection and promotion of the rights of migrant workers by enhancing labour migration governance in ASEAN countries by:
 - organising workshops on best practices in protecting migrant workers; and
 - improving overseas employment administration.²⁴⁷
3. Regional cooperation to fight human trafficking in ASEAN;²⁴⁸ and
4. Develop an ASEAN Instrument on the Protection and Promotion of the Rights of Migrant Workers. The instrument will define the rights of migrant workers and outline the obligations of sending and receiving States to hold governments accountable.²⁴⁹

ASEAN Instrument on the Protection and Promotion of the Rights of Migrant Workers

The drafting of the ASEAN Instrument on the Protection and Promotion of the Rights of Migrant Workers has come to an impasse since 2009 after members of the Committee, specifically Malaysia, failed to agree with provisions by the ACMW Committee Members and labour-sending countries, Indonesia and the Philippines. The disputes have centred around:

- whether the instrument will be legally binding;
- whether the instrument will protect undocumented or irregular migrant workers;
- whether it will cover migrant's family members; and
- whether it will cover migrant workers who are not from ASEAN Member States.

The present draft does not adequately protect migrant worker's rights nor provide them with a mechanism for redress. Notably, the draft instrument does not recognise the feminised character of migration. Moreover, there has been a lack of transparency, information sharing, civil society participation and women migrant worker representation in the drafting process of the instrument.

CIVIL SOCIETY ENGAGEMENT WITH ACMW

Currently, there are no formal mechanisms in place for the ACMW to have dialogue and consultation with the civil society. There is also a lack of clarity, consultative process and scarcity in information

247. ACMW Work Plan. Paragraph 5c and d.

248. ACMW Work Plan. Paragraph 5e.

249. ACMW Work Plan. Paragraph 5f.

sharing with relevant stakeholders, including women migrant workers. However, ASEAN Forum on Migrant Labour (AFML) can be regarded as the platform to engage with ACMW. This annual forum is a multistakeholder consultation (organized by ACMW, ILO/UN Agencies and Task Force on ASEAN Migrant Workers). It involves ACMW, trade unions, CSOs, etc. for review, discussion and exchange of good practices and ideas between governments, workers' and employers' organizations, and civil society stakeholders on key issues facing women and men migrant workers in South-East Asia, and develop recommendations to advance the implementation of the principles of the ASEAN Declaration on Protection and Promotion of the Rights of Migrant Workers.

ROLE OF NATIONAL HUMAN RIGHTS INSTITUTIONS

National human rights institutions are defined as “State bodies with a constitutional and/or legislative mandate to protect and promote human rights. They are part of the State apparatus and are funded by the State.”²⁵⁰ **The ASEAN regional human rights bodies are still at its preliminary stages and cannot yet be relied on for human rights protection in the region.** Existing national human rights institutions, on the other hand, already have an existing network and well-established relationship with each other. More importantly they have protection mandate including investigation power. Currently, Indonesia, Malaysia, Thailand and the Philippines have their own national human rights institution. **These existing national human rights institutions should seek ways to engage with ASEAN’s regional human rights bodies for the advancement of human rights promotion and protection.** ASEAN Member States should support the effective synergy for human rights promotion and protection among their national representatives to the AICHR, ACWC and ACMW with their respective national human rights institutions as well as civil society.

250. Office of United Nations High Commissioner for Human Rights, “National Human Rights Instruments: History, Principles, Roles and Responsibilities”, 2010. Available at http://www.ohchr.org/Documents/Publications/PTS-4RevI-NHRI_en.pdf.

ASEAN REGIONAL HUMAN RIGHTS INSTRUMENTS - SUMMARY

DECLARATION OF THE ADVANCEMENT OF WOMEN IN THE ASEAN REGION (1988)

The *Declaration of the Advancement of Women in the ASEAN Region* was created in 1988. It recognised the importance of the active participation and integration of women in the region and the necessity of meeting their needs and aspiration. Significantly, it recognised the multiple roles of women in the family, society and the nation and the need to provide them will full support, facilities and opportunities to undertake these tasks effectively. The *Declaration of the Advancement of Women in the ASEAN Region* sets out ASEAN's commitment to "promote and implement the equitable and effective participation of women whenever possible in all fields and at various levels of the political, economic, social and cultural life of society at the national, regional and international levels."²⁵¹

DECLARATION ON THE ELIMINATION OF VIOLENCE AGAINST WOMEN IN THE ASEAN REGION (2004)

In June 2004, the ASEAN Foreign Ministers adopted the *Declaration on the Elimination of Violence Against Women in the ASEAN Region (DEVAWAR)*. Referring to the *United Nations Declaration on the Elimination of Violence Against Women and CEDAW*, the *DEVAWAR* recognised "that violence against women both violates and impairs women's human rights and fundamental freedoms, limits their access to and control of resources and activities, and impedes the full development of their potential."²⁵² It provided a detailed and comprehensive set of goals and commitments to be implemented and monitored by ASEAN Member States, either individually or collectively, to eliminate violence against women. The *DEVAWAR* also promotes an "integrated and holistic approach to eliminate violence against women" and calls on ASEAN Members States to formulate mechanisms that focus on "providing services to fulfil the needs of survivors; formulating and taking appropriate responses to offenders and perpetrators; understanding the nature and causes of violence against women and changing societal attitudes and behaviour."²⁵³ Further, ASEAN Member States agreed to "take all necessary measures to eliminate all forms of discrimination against women ... to protect and promote the full enjoyment of all human rights and fundamental freedoms"²⁵⁴ and to "intensify efforts to develop and/or improve existing legislative, educational, social measures and support services aimed at the prevention of violence against women,

251. *Declaration of the Advancement of Women in the ASEAN Region* (Bangkok, Thailand, 5 July 1988), Article 1.

252. *Declaration on the Elimination of Violence Against Women in the ASEAN Region* (2004), Article 1.

253. *Declaration on the Elimination of Violence Against Women in the ASEAN Region* (2004), Article 2.

254. *Declaration on the Elimination of Violence Against Women in the ASEAN Region* (2004), Article 5.

including adoption and monitoring the implementation of laws, the dissemination of information, active involvement with community-based players, and the training of legal, judicial, enforcement officers, social workers and health personnel.”²⁵⁵ The *DEVAWAR* also called on ASEAN Member States to “strengthen collaboration between and among countries, through bilateral, regional and international cooperation for resource mobilisation and technical exchange programmes, including sharing of best practices and experience in raising awareness, developing advocacy programmes on preventing and tackling violence against women.”²⁵⁶

ASEAN DECLARATION AGAINST TRAFFICKING IN PERSONS PARTICULARLY WOMEN AND CHILDREN (2004)

In November 2004, the *ASEAN Heads of Government* adopted the *ASEAN Declaration Against Trafficking in Persons Particularly Women and Children (DATP)* in response to the “urgent need for a comprehensive regional approach to prevent and to combat trafficking in persons, particularly women and children.”²⁵⁷ The *DATP* aims to “establish a regional focal network to prevent and combat trafficking in persons.”²⁵⁸

The ASEAN Member States have also committed to “undertake actions to respect and safeguard the dignity and human rights of genuine victims of trafficking in persons”²⁵⁹ and “take measures to strengthen regional and international cooperation to prevent and combat trafficking in persons.”²⁶⁰

- 255. *Declaration on the Elimination of Violence Against Women in the ASEAN Region (2004)*, Article 6.
- 256. *Declaration on the Elimination of Violence Against Women in the ASEAN Region (2004)*, Article 7.
- 257. *ASEAN Declaration Against Trafficking in Persons Particularly Women and Children (2004)*.
- 258. *ASEAN Declaration Against Trafficking in Persons Particularly Women and Children (2004)*, Paragraph 1.
- 259. *ASEAN Declaration Against Trafficking in Persons Particularly Women and Children (2004)*, Paragraph 6.
- 260. *ASEAN Declaration Against Trafficking in Persons Particularly Women and Children (2004)*, Paragraph 8.
- 261. *Hanoi Declaration on the Enhancement of Welfare and Development of ASEAN Women and Children 2010*, Articles 1, 3, 12.
- 262. *Hanoi Declaration on the Enhancement of Welfare and Development of ASEAN Women and Children 2010*, Article 2.
- 263. *Hanoi Declaration on the Enhancement of Welfare and Development of ASEAN Women and Children 2010*, Article 7.
- 264. *Hanoi Declaration on the Enhancement of Welfare and Development of ASEAN Women and Children 2010*, Article 9.
- 265. *Hanoi Declaration on the Enhancement of Welfare and Development of ASEAN Women and Children 2010*, Article 10.

HANOI DECLARATION ON THE ENHANCEMENT OF WELFARE AND DEVELOPMENT OF ASEAN WOMEN AND CHILDREN (2010)

In October 2010, the ASEAN Heads of Government adopted the *Hanoi Declaration on the Enhancement of Welfare and Development of ASEAN Women and Children (DEWD)*. ASEAN’s paternalistic and protective approach is predominant throughout most of the provisions, which seeks to enhance the welfare and development of women and children²⁶¹ and to promote and protect their rights.²⁶² It calls for ASEAN Member States to “undertake concrete actions to end violence against women and children by strengthening gender sensitive legislations and ... [provide] training for policy-makers, programme developers, implementers and service providers.”²⁶³ ASEAN Member States committed to “improve the proportion of children and women with access to housing, improved sources of drinking water and adequate sanitation facilities and hygiene, education and other basic necessities”²⁶⁴ and to deliver “basic social services.”²⁶⁵

DEWD also places emphasis on “family resilience – as the basic units of society.”²⁶⁶ It also provides for women’s maternal health and reproductive rights “to safe contraception, safe family planning methods and emergency maternal obstetrical care facilities”²⁶⁷ and [t]o improve maternity protection in the workplace.”²⁶⁸

DEWD further provides for some more rights-based approaches, calling for ASEAN Member States “[t]o adopt concrete measures to enhance women’s capacity and promote women’s participation in decision-making and leadership in all fields and at all levels”²⁶⁹ and to “undertake concrete measures to promote gender equality and women’s participation in labor market, address gender-based occupational segregation as well as strengthen their economic skills.” ASEAN Member States committed to “strengthen[ing] existing institutional mechanisms and technical capacity of ASEAN Member States’ relevant agencies to promote gender equality, women’s empowerment, gender mainstreaming and child-centred approaches in planning, programming and budgeting, implementation, monitoring and evaluation processes at all levels in the region.”²⁷⁰

DECLARATION ON THE PROTECTION AND PROMOTION OF THE RIGHTS OF MIGRANT WORKERS

The *ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers* (ADRMW) was created in January 2007 in accordance with measure I.1.4.6 of the *Vientiane Action Programme (2004 – 2010)* which calls for the “elaboration of a an ASEAN Instrument on the Protection and Promotion of the Rights of Migrant Workers”.²⁷¹ The Declaration makes specific reference to CEDAW and the CRC and sets out the obligations of receiving and sending States as well as ASEAN’s commitments towards the protection and promotion of the rights of migrant workers.

BANGKOK DECLARATION ON IRREGULAR MIGRATION (1999)

The *Bangkok Declaration on Irregular Migration (1999)* was addressed at the International Symposium on Migration “*Towards Regional Cooperation on Irregular/Undocumented Migration*” held in April, 1999. The ASEAN Leaders gathered to address the question of international migration, with particular attention to regional cooperation on irregular/undocumented migration.

266. *Hanoi Declaration on the Enhancement of Welfare and Development of ASEAN Women and Children 2010*, Article 11.

267. *Hanoi Declaration on the Enhancement of Welfare and Development of ASEAN Women and Children 2010*, Article 8.

268. *Hanoi Declaration on the Enhancement of Welfare and Development of ASEAN Women and Children 2010*, Article 15.

269. *Hanoi Declaration on the Enhancement of Welfare and Development of ASEAN Women and Children 2010*, Article 13.

270. *Hanoi Declaration on the Enhancement of Welfare and Development of ASEAN Women and Children 2010*, Article 4.

271. *The Vientiane Action Programme (2004 – 2010)* calls for an [elaboration of an ASEAN instrument on the protection and promotion of the rights of migrant workers” at I.1.4.6.

ASEAN SUMMIT DECLARATION ON HIV/AIDS (2001)

The *ASEAN Summit Declaration on HIV/AIDS (2001)* was adopted at the Seventh ASEAN Summit in November 2011, in Brunei Darussalam. The ASEAN Leaders expressed their “deep concern that the HIV/AIDS pandemic is a threat to human security and a formidable challenge to the right to life and dignity that affects all levels of society without distinction of age, gender or race and which undermines social and economic development.”²⁷² They “acknowledged that prevention, treatment, care and support for those infected and affected by HIV/AIDS are mutually reinforcing elements that must be integrated in a comprehensive approach to combat the epidemic.”²⁷³ Further, they “stressed that gender equality and the empowerment of women are fundamental elements in the reduction of the vulnerability of women and girls to HIV/AIDS, and that youth are especially vulnerable to the spread of the pandemic and account for over fifty per cent of new infections.”²⁷⁴ Moreover, they agreed to “promote the creation of a positive environments in confronting stigma, silence and denial; elimination of discrimination; addressing the prevention, treatment, care and support needs of those in vulnerable groups and people at risk, particularly young people and women and strengthening the capacity of the health, education and legal systems.”²⁷⁵

MEMORANDUM OF UNDERSTANDING ON COOPERATION AGAINST TRAFFICKING IN PERSONS IN THE GREATER MEKONG SUB-REGION

On 29 October, 2004 the Governments of Cambodia, People’s Republic of China, Lao People’s Democratic Republic, Myanmar, Thailand and Vietnam signed the *Memorandum of Understanding on Cooperation against Trafficking in Persons in the Greater Mekong Sub-Region*. The Governments acknowledged their “deep concern over the suffering caused by trafficking in persons within the Greater Mekong Sub-Region and from the Greater Mekong Sub-Region States to other regions of the world.”²⁷⁶ They recognised that “poverty, lack of access to education and inequalities, including lack of equal opportunity, makes persons vulnerable to trafficking” and “the link between trafficking and the growing demand for exploitative labour and exploitative sexual services.”²⁷⁷ The Governments, further acknowledged “that trafficking is intensified by discriminatory attitudes, practices and policies based on gender, age, nationality, ethnicity and social grouping”²⁷⁸ and emphasised “that children and women who become victims of trafficking are particularly vulnerable, and need special measures to ensure their protection and well-being.”²⁷⁹

272. *ASEAN Summit Declaration on HIV/AIDS (2001)*, Paragraph 4.

273. *ASEAN Summit Declaration on HIV/AIDS (2001)*, Paragraph 11.

274. *ASEAN Summit Declaration on HIV/AIDS (2001)*, Paragraph 12.

275. *ASEAN Summit Declaration on HIV/AIDS (2001)*, Paragraph 17.

276. *Memorandum of Understanding on Cooperation against Trafficking in Persons in the Greater Mekong Sub-Region*, page 1.

277. *ibid.*

278. *ibid.*

279. *ibid.*

Various actions were committed to in the areas of policy and cooperation (national and international; legal frameworks, law enforcement and justice; protection, recovery and reintegration; preventative measures; and mechanisms for implementation, monitoring and evaluation of the Memorandum of Understanding.

DECLARATION ON THE ELIMINATION OF VIOLENCE AGAINST WOMEN AND VIOLENCE AGAINST CHILDREN 2013

Adopted on 9 October 2013 by ASEAN Heads of State/Governments, the Declaration on the Elimination of Violence against Women and Elimination of Violence against Children in ASEAN (DEVAW and VAC) reaffirms the Declaration on the Elimination of Violence Against Women in the ASEAN region 2004. The main differences between this declaration and the 2004 declaration are that

1. It, problematically, attempts to address both violence against women and violence against children;
2. It tasks the ACWC with specific responsibilities to promote the implementation of the declaration;
3. It affirms the principles of the AHRD and Phnom Penh Statement;
4. It recognizes that violence against women and violence against children can occur ‘in public or private (including cyber space)’
5. It encourages ASEAN Member States to report on efforts to eliminate violence against women and children through the Universal Periodic Review Process, in which notably the ACWC is to assist, where necessary.

The Declaration also recognizes that “ASEAN Member States shall take all appropriate measure to promote and protect human rights and fundamental freedom and to modify the social and cultural patterns of conduct of men and women, ... the elimination of prejudices and customary and all other practices which are based on the idea of inferiority and superiority of either of the sexes or on stereotyped roles for men and women.”²⁸⁰ The declaration lists specific forms of violence and specific groups to be addressed by states “domestic violence, women and children who are sexually exploited, women and children with disabilities, women and children living with and affected by HIV and AIDS, women and children in conflict with laws, cyber pornography, ... stateless women and children, migrant women and children, women and children belonging to ethnic and/or indigenous groups, ... bullying, discrimination against

280. Preamble

women and children in mass and social media, ..”²⁸¹ Importantly, the Declaration recognizes the role of civil society in prevention and responses to violence against women and children requiring states to “create an enabling environment for the participation of women and children, including victims/survivors, in the prevention and elimination...”²⁸².

281. Preamble

282. Article 3

Resources

1. ASEAN Declaration 1967
[<http://www.asean.org/news/item/the-asean-declaration-bangkok-declaration>]
2. ASEAN Charter
<http://www.asean.org/archive/publications/ASEAN-Charter.pdf>
3. ASEAN Community Blueprints
ASEAN Political-Security Community Blueprint
[<http://www.asean.org/archive/5187-18.pdf>]
ASEAN Economic Community Blueprint
[<http://www.asean.org/archive/5187-10.pdf>]
ASEAN Socio-Cultural Community Blueprint
[<http://www.asean.org/archive/5187-19.pdf>]
4. AICHR TOR
<http://www.asean.org/images/archive/publications/TOR-of-AICHR.pdf>
5. AICHR Five-Year Work Plan
<http://aichr.org/documents/>
6. ACWC TOR
<http://www.asean.org/archive/publications/TOR-ACWC.pdf>
7. ACMW Work Plan
<http://www.asean.org/images/archive/23062.pdf>
8. ACMW Work Plan
9. ASEAN Human Rights Instruments:
 - i. **Declaration of the Advancement of Women in the ASEAN Region (1988)**
<http://www.asean.org/communities/asean-socio-cultural-community/item/declaration-of-the-advancement-of-women-in-the-asean-region-bangkok-thailand-5-july-1988>
 - ii. **Declaration on the Elimination of Violence Against Women in the ASEAN Region (2004)**
<http://www.asean.org/news/item/declaration-on-the-elimination-of-violence-against-women-in-the-asean-region-2>
 - iii. **Declaration Against Trafficking in Persons Particularly Women and Children (2004)**
<http://www.asean.org/news/item/asean-declaration-against-trafficking-in-persons-particularly-women-and-children-3>

iv. Declaration on the Enhancement of Welfare and Development of ASEAN Women and Children (2010)

<http://www.asean.org/news/item/ha-noi-declaration-on-the-enhancement-of-welfare-and-development-of-asean-women-and-children>

v. Declaration on the Protection and Promotion of the Rights of Migrant Workers (2007)

<http://www.asean.org/news/item/asean-declaration-on-the-protection-and-promotion-of-the-rights-of-migrant-workers-3>

vi. Bangkok Declaration on Irregular Migration (1999)

http://www.iom.int/jahia/webdav/site/myjahiasite/shared/shared/mainsite/policy_and_research/rcp/APC/BANGKOK_DECLARATION.pdf

vii. ASEAN Summit Declaration on HIV/AIDS (2001)

<http://www.asean.org/news/item/7th-asean-summit-declaration-on-hiv-aids-brunei-darussalam-5-november-2001>

10. Subregional instruments:

i. Memorandum of Understanding on Cooperation Against Trafficking in Persons in the Greater Mekong Sub-Region

http://www.no-trafficking.org/content/pdf/final_commit_mou.pdf

11. Women's Caucus Submissions (kindly check <http://womenscaucusonasean.wordpress.com/> and www.apwld.org)

I. Women's Caucus Statement for the ASEAN Human Rights Body – Dialogue with the High Level Panel, 20 March 2009, Kuala Lumpur.

II. APWLD Paper: "Adding Value: Removing Morality from the ASEAN Human Rights Declaration".

III. The Women's Caucus' Compilation and Analysis on the NGO Alternative Reports to the CEDAW Committee.

IV. The Women's Caucus Position Paper on the ACWC's Rules of Procedure.

V. The Women's Caucus Recommendations on the ACWC's Work Plan.

VI. The Women's Caucus Submission on Declaration on Violence against Women and Violence against Children

VII. and several others

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This publication is supported by:



Foreign Affairs, Trade and
Development Canada

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et Développement Canada