

Asia Pacific Centre for Responsibility to Protect

Submission to the Joint Parliamentary Human Rights Sub Committee Joint Standing Committee on Foreign Affairs, Defence and Trade (JSCFADT): human rights issues confronting women and girls in the Indian Ocean – Asia Pacific region

The mission of the Asia Pacific Centre for the Responsibility to Protect, University of Queensland, is to deepen knowledge and advance policy on the Responsibility to Protect principle and mass atrocities prevention and response in the Asia Pacific region. The Centre's capacity to develop, expand and sustain its research and outreach work was made possible by a three-year grant from the Australian Agency for International Development in June 2009. In July 2012, the Centre received a second three-year grant, funded by the Department of Foreign Affairs and Trade, Australian Government.

Summary Page

This submission focuses on two issues considered relevant under the Terms of Reference for this Inquiry:

- The barriers and impediments to enhancing the human rights of women and girls in the Indian Ocean - Asia Pacific region, especially regarding the impact of family and sexual violence, women's leadership and economic opportunities;
- The achievements to date in advancing women and girl's human rights in these key areas;

The Asia Pacific Centre for the Responsibility to Protect advocates a greater focus on a **preventive approach** that engages political, judicial and security leaders and experts to overcome the impediments to the human rights of women and girls in the Indian Ocean-Asia Pacific region. Based on the Centre's area of work, this submission focuses specifically on the Association of Southeast Asian Nations (ASEAN) and its Member States.

The added value of adopting a preventive approach, which advances the human rights of women and girls through political and security institutions, lies in the fact that, until now, prevailing approaches to women's human rights in the institutions and states of Southeast Asia have focused on 'socio-cultural' and 'private' sphere obligations to, specifically, prevent violence against women. These individual responsibilities have yet to be translated into concerted political, legal and security sector action undertaken by national governments of regional institutions.

Our key recommendation is for Australia to lead in annual dialogue and engagement activities with its ASEAN neighbours. In particular we suggest two annual dialogues that Australia could host to promote its diplomatic and donor commitment to promote women's human rights:

- ASEAN-Australian Annual Dialogue on Women, Peace and Security;
- ASEAN-Australian Annual Dialogue on Women's Human Rights.

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Achievements to Date

Member States of the Association of South East Asian Nations (ASEAN) have made several commitments relating to the protection and advancement of women's economic and human rights. These commitments include the ASEAN Declaration on the Elimination of Violence Against Women in 2004, and the ASEAN Declaration of Human Rights in 2012, the ASEAN Declaration on the Elimination of Violence Against Women and Elimination of Violence Against Children in 2013, as well as the establishment of the ASEAN Committee on Women in 2002 and the ASEAN Commission on the Promotion and Protection of Women and Children in 2009.¹

Significant progress has also been made in developing the regional institutions and processes needed to translate these commitments into practice. The ASEAN Intergovernmental Commission on Human Rights (AICHR) held its first meeting, in April 2014, with the ASEAN Commission on the Promotion and Protection of Women and Children, with United Nations (UN) Women in attendance. The meeting discussed both 'the possibility and modality of support from the UN Women on the identified functional cooperation programmes, projects and activities. This consultation meeting was the first step for the two bodies in fostering stronger cooperation to work together for the promotion and protection of the human rights and fundamental freedoms of the people of ASEAN'.² The AICHR has also begun to develop an interest in the human rights of women. In 2011, the Commission held a workshop with UN Women on 'Towards Achieving Substantive Gender Equality'. In 2014, the Commission will be holding a number of regional and state level consultations on ASEAN member states adopting a Convention on the Prevention and Elimination of Violence Against Women.³

¹ ASEAN (Association of Southeast Asian Nations) (2004) 'ASEAN Declaration on the Elimination of Violence Against Women in the ASEAN Region', 30 June 2004. <http://www.asean.org/communities/asean-political-security-community/item/declaration-on-the-elimination-of-violence-against-women-in-the-asean-region-4> (accessed 31 July 2013); ASEAN (Association of Southeast Asian Nations) (2012) 'ASEAN Ministerial meeting on Women'. <http://www.asean.org/communities/asean-socio-cultural-community/category/asean-ministerial-meeting-on-women-ammw> (accessed 15 July 2013); ASEAN (Association of Southeast Asian Nations) (2012) 'Media Statement of the First ASEAN Ministerial Meeting on Women (AMMW)', 19 October 2012. http://www.asean.org/images/2012/Social_cultural/ACW/Press_release/Media%20Statement%20of%20the%20First%20AMMW_FINAL.pdf (accessed 15 July 2013); ASEAN (Association of Southeast Asian Nations) (2012) 'ASEAN Human Rights Declaration', 18 November 2012. <http://www.asean.org/news/asean-statement-communicues/item/asean-human-rights-declaration> (accessed 16 July 2013); ASEAN (Association of Southeast Asian Nations) (2013) 'Seventh Press Release of the ASEAN Commission on the Promotion and Protection of the Rights of Women and Children (ACWC)'. *ASEAN Secretariat News*, 24 July 2013. <http://www.asean.org/component/zoo/item/seventh-press-release-of-the-asean-commission-on-the-promotion-and-protection-of-the-rights-of-women-and-children-acwc?Itemid=101> (accessed 30 July 2013).

² ASEAN Intergovernmental Commission on Human Rights (AICHR) (2014) 'Joint Press Release – The AICHR and ACWC Consultation Meeting', 27 April. <http://aichr.org/press-release/joint-press-release-the-aichr-and-acwc-consultation-meeting/#sthash.vBEzWd9d.dpuf> (accessed 5 May 2014).

³ ASEAN Intergovernmental Commission on Human Rights (AICHR) (2014) '15th Meeting of the ASEAN Intergovernmental Commission on Human Rights', 27 April. <http://aichr.org/press-release/press-release-15th-meeting-of-the-asean-intergovernmental-commission-on-human-rights/#sthash.ypOG6C3.dpuf> (accessed 5 May 2014).

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As such, although at an early stage – the ASEAN Charter was adopted only in 2008 – significant progress is being made by ASEAN Member States and its Secretariat in the promotion of women’s human rights.

Impediments

Whilst progress is certainly being made, there remains a significant gender gap in ASEAN processes when it comes to the inclusion of women and consideration of their rights in the context of conflict prevention, conflict resolution, and issues of regional peace and security more broadly.

On 19 October 2012, the Association of South East Asian Nations (ASEAN) Socio-Cultural Community presided over its first Ministerial Meeting on Women (AMMW) in Vientiane, Laos. At the first AMMW, John Hendra, UN Women’s Deputy Executive, commended ASEAN for the creation of the AMMW, and the invitation being extended to UN Women. However, he also noted that despite ASEAN Ministerial level engagement on gender equality and empowerment, *violence against women in ASEAN member states remained widespread and normalised*.⁴

In 2013, the World Health Organization (WHO), London School of Hygiene and Tropical Medicine (LSHTM) and South African Medical Research Council reported that the WHO regions - South East Asian and Western Pacific (WHO-designated regions, both of which include ASEAN member states) - had ‘very high prevalence rates of physical and/or intimate partner violence’.⁵

Outside the ASEAN region, historic strides have been made in recognising that pervasive and acute threats to women’s peace and security are a cause of societal conflict and a barrier to sustainable peace. As the World Bank has recently argued, widespread presence of violence against women in societies is increasingly recognised as a significant contributing factor to a society’s higher risk of conflict and political instability.⁶

In 2000, the United Nations Security Council (UNSC) passed Resolution 1325 (S/Res/1325), the first in its history on Women, Peace and Security (WPS) (UNSC 2000).⁷ Resolution 1325 referred to the obligation of states, regional organizations and international organizations, namely the United Nations (UN), to create conditions that addressed women’s right to peace and security.

⁴ UN Women (2012) ‘Remarks by UN Women Deputy Executive Director John Hendra at the first ASEAN Ministerial meeting on UN Women’, 19 October 2012. <http://www.unwomen.org/2012/10/remarks-by-un-women-deputy-executive-director-john-hendra-at-the-first-asean-ministerial-meeting-on-un-women/> (accessed 26 July 2013).

⁵ WHO, London School of Hygiene and Tropical Medicine and South African Medical Research Council (2013) Global and regional estimates of violence against women. Prevalence and health effects of intimate partner violence and non-partner sexual violence (Geneva: WHO), p.20. <http://www.who.int/reproductivehealth/publications/violence/9789241564625/en/index.html> (accessed 26 July 2013).

⁶ Mayra Buvinic, Monica Das Gupta, Ursula Casabonne, and Philip Verwimp (2013) ‘Violent Conflict and Gender Inequality: An Overview’, *World Bank Research Observer* 28 (1), pp.110-138.

⁷ United Nations Security Council (UNSC) (2000) Resolution 1325, S/Res/1325, 31 October 2000. http://www.un.org/events/res_1325e.pdf (accessed 26 July 2013).

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The resolution noted evidence that the maintenance of international peace and security will only be achieved by direct efforts to improve and maintain women's security, as well as the engagement and inclusion of women in peace and security efforts – conflict prevention, conflict resolution, peace building, security sector reform and political settlements. The adoption of Resolution 1325 was ground-breaking in the Security Council for its express commitment to the establishment of mechanisms to enable women to participate in all matters of peace and security.⁸ Since then, the UNSC has passed six more resolutions on WPS, and - as requested - the Secretary General has issued yearly reports on implementation by the UN and member states on four pillars of Resolution 1325 – prevention, protection, participation, relief and recovery – as National Action Plans.⁹

To date, 41 countries have adopted 1325 National Action Plans (NAPs). This includes four within the Asia Pacific region – Australia, Kyrgyzstan, Nepal and Philippines. Amongst international and regional organizations, seven have referred to and integrated 1325 plans into their activities - African Union, European Union, International Conference of Great Lakes Region (IGLR), North Atlantic Treaty Organization and its Partners (NATO/EAPC), Organization for Security and Cooperation in Europe (OSCE), Pacific Islands Forum (PIF), South African Development Community (SADC) and the United Nations Secretariat (UN).¹⁰ The Organization for American States (OAS) held its 29th Policy Round Table (2011) on Implementation of Resolution 1325, at which a number of recommendations to strengthen WPS in the region were made.¹¹ In both national action plans and regional institutional engagement on S/Res/1325 – the South East Asia (ASEAN) and South Asia regions are notably underrepresented.

In light of the above, we argue there is both a practical and normative need for ASEAN - through its member states – to regularly engage its legislative, judicial, public service and security sectors with their responsibility to prevent violence against women, and ensure the provision of legislative, judicial and security avenues for women to defend their human rights.

By historical standards, the ASEAN region has made significant progress towards regional peace and security in contemporary times. However, it must be acknowledged that there remain situations of armed conflict within the region, and other situations where peace remains recent and fragile. Several ASEAN Member States are struggling to recover from decades-long conflicts, which continue to cast a long shadow over communities and impose severe economic and social pressures on sections of their society.

⁸ United Nations (2010) Planning for action on Women and Peace and Security. National-level implementation of Resolution 1325 (2000). United Nations and International Alert. <http://www.international-alert.org/sites/default/files/publications/102010UNWomenPeaceSecurity.pdf> (accessed 5 August 2013).

⁹ S/Res/1820 (2008); S/Res/1888 (2009); S/Res/1889 (2009); S/Res/1960 (2010); S/Res/2106 (2013); S/Res/2122 (2013).

¹⁰ PeaceWomen (2013) 'National Implementation'. <http://peacewomen.org/naps/#> (accessed 26 July 2013).

¹¹ Organization of American States (2011) At OAS, Experts Urge Greater Participation by Women in Strengthening of Peace and Security, OAS Press Release, 7 April. http://www.oas.org/en/media_center/press_release.asp?sCodigo=E-609/11 (accessed 5 August 2013).

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In these situations, women are at high risk of exclusion from the political and security process. At the same time, they are at high risk of being targeted for violence and discrimination based on their gender and sex. This is why a focus on regional and national action plans to build prevention strategies in political, legal and security processes is important.

As the Australian Government noted in the UN Security Council's debate on the Prevention and Fight against Genocide, in April 2014:

'The responsibility to protect initiative of 2005 is another positive development and is increasingly incorporated into national Governments' deliberations. We must support States that are building their capacity on the preventative aspects of the responsibility to protect and help them to respond to tensions before they escalate...

*'Preventative measures must include strengthening the rule of law and respect for human rights building initiatives, ensuring good governance, combating discrimination and ensuring the participation of women and, in particular, young people.'*¹²

In recent times, ASEAN and its Member States have developed a relatively strong record of preventing crises from escalating into mass atrocities, whether in situations of humanitarian emergencies, such as in the aftermath of Cyclone Nargis in Myanmar (2008), or in the pursuit of conflict resolution, such as in relation to the Thai-Cambodia dispute in 2012 and the recent Mindanao Peace Accord (2014). However, as the Australian government noted – preventive capacity is further enhanced when there is an intimate relationship between the rule of law, respect for human rights and opportunities for women to participate in these processes.

This is a view with which ASEAN Member States appear to concur. Consider, for example, Viet Nam's statement, on behalf of the ten ASEAN Member States, at the UN Security Council Open Debate on Sexual Violence in Armed Conflict (April 2014):

"First, the prevention of armed conflict-related sexual violence must be addressed at its root cause, that is, the prevention of armed conflicts itself. Mechanisms for conflict prevention and resolution must be implemented. States must promote the rule of law, justice, good governance, democracy, poverty eradication, sustainable development, gender equality and respect for and protection of human rights at national and international levels as the means of tackling the root causes of conflicts."

"Secondly, breaking the silence and raising awareness are essential to the prevention of sexual violence and the protection of victims. Political discussion and initiatives at international and regional levels are of crucial importance to send the message of intolerance toward sexual violence, and that must combined with measures aimed at raising awareness at the grass-roots

¹² Statement by Mr Gary Quinlan, Australian Ambassador and Permanent Representative to the United Nations, United Nations Security Council, Threats to international Peace and Security, S/PV.7155, 16 April 2014.

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*level. Therefore, eliminating sexual violence requires not only sanctioning perpetrators, but transforming the mindset of societies and the underlying economic and social conditions that allow sexual violence to thrive.*¹³

We propose that an important starting point is for the normalisation of discussing state responsibilities to prevent such violence and defend women's human rights. Annual dialogues on these topics provide the opportunity for capacity building and compliance to be discussed in neutral environments. Under Chatham House rules, trust and engagement can take place on topics that become normalised for all partners attending the Dialogue. Through the growth of annual representation at these Dialogues, information and experiences are able to be internalised and promoted in local environments. Australia is well placed through its various regional partnerships and donor commitment to contribute to the strengthening of the human rights of women with the legislative, judicial, public service and security sectors across the ASEAN region.

Recommendations

1) Australia should lead annual ASEAN-Australia Dialogue on Women, Peace and Security – with invitations to high level legislative, judicial, public service and security sectors across the region.

An annual workshop would promote shared dialogue and understanding amongst high-level actors across the ASEAN ten member states and Australia. It would establish Australia's diplomatic and donor commitment to Women, Peace and Security and be a novel interpretation of how regional institutions can promote the Women, Peace and Security agenda.

The promotion of high-level engagement, with representatives from legislative assemblies, judicial, public service and security (police and military) sectors across the ASEAN region and Australia, would facilitate exchange on best practices and lessons learnt. Suggested areas of focus in the initial Annual Dialogue on Women, Peace and Security could be keynote and break out sessions on the following topics:

- The inclusion of training material in national military and police doctrine on roles and responsibilities concerning prevention of sexual violence
- Training to open up opportunities for ASEAN member states to provide gender protection and women protection specialists to UN missions
- Engagement and training on the relationship between continuum of violence against women within private sphere and societal prevalence of widespread sexual violence.

¹³ Statement by Mr Le Hoai Trung, Viet Nam Ambassador and Permanent Representative to the United Nations, United Nations Security Council, Women and peace and security, S/PV.7160. 25 April 2014.

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- Engagement and training on best practices to mitigate risk of widespread sexual violence and gender based crimes (trafficking, forced prostitution, forced marriage) in humanitarian emergencies and conflict/post-conflict situations within ASEAN
- Gender mainstreaming in legislative, judicial and security sectors; as well as the media, education and private sector.

2) Australia-ASEAN Annual Dialogue on Defending Women’s Human Rights

Australia, given its record of ratification and implementation of the key instruments of international law relating to the human rights of women, could facilitate annual regional exchange on international legal instruments that promote and defend women’s human rights. At present, ASEAN member states have a relatively poor record when it comes to acceding to international human rights instruments (see Annex 1). In addition to the ‘core’ international instruments below, there are new Conventions – such as the Arms Trade Treaty – that is of direct relevance to women’s peace and security within the ASEAN region.

Even where there is universal ratification of an instrument, such as the Convention on Elimination of Discrimination Against Women (CEDAW), the region has low ratification of the CEDAW Optional Protocol (Cambodia, Philippines and Thailand are the only ASEAN signatories).

An annual dialogue held for parliamentarians, judicial, public service and security (police and military) sectors, from Australia and ASEAN member states, could initially engage in the following areas:

- Training and awareness of international legal instruments
- Shared experience of best practices and case studies illustrating national level practice (and consequences) of ratifying key human rights instruments
- Provisions for translation of key international legal documents into national and local language
- Break out sessions that identify Human Rights Defenders as rights champions and partners to National Human Rights Institutions; public communication campaigns; training to assist with national and regional implementation processes
- Opportunities for ASEAN member states to nominate individuals for professional Women’s Human Rights internships and training placements within Australian judiciary, public service and defence sectors; as well as Upper and Lower Houses of Parliament.

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Annex 1¹⁴

Status of Ratification of International Human Rights Instruments amongst ASEAN member states

Country	ICCPR	ICESR	CAT	CERD	CEDAW	CRC	CED	CRPD	CMW
Brunei					x	x		S	
Cambodia	x	x	x	x	x	x	x	x	
Indonesia	x	x	x	x	x	x	S	x	x
Laos	x	x	x	x	x	x	S	x	
Malaysia					x	x		x	
Myanmar					x	x		x	
Philippines	x	x	x	x	x	x		x	X
Singapore					x	x		x	
Thailand	x	x	x	x	x	x	S	x	
Vietnam	x	x		x	x	x		S	

X = ratification

S = signatory

Blank = neither signatory or ratification status

¹⁴ Yuyun Wahyuningrum (2013) 'ASEAN Human Rights', PowerPoint Presentation to 28th DTP Session, Dili, Timor Leste, November, Slide 14. http://www.slideshare.net/wahyuningrum1/asean-human-rights-yuyun-wahyuningrum-2013?qid=b00ba13e-ff4e-46a4-863d-e4f8d242ff6b&v=default&b=&from_search=1 (accessed 5 May 2014).