

CEDAW, Women's Rights and ASEAN Integration

❖ “CEDAW@35: Advancing Women's Human Rights, Milestones Reached and More to Come”

On March 14th and 15th, 2016, I had the opportunity to attend a two-day CEDAW national consultation in recognition of the 35th anniversary of the Philippines' ratification of the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW). It was attended by senatorial members, judicial reform advocates, members of academe, non-governmental organizations, private partners, and United Nations organizers.

Hosted by Deepa Bharathi, Regional Program Manager at CEDAW, the event featured a diversity of speakers who tracked the projects and progress made in advancing gender equality within legal reforms, governance advocacy, and development initiatives since 2004.

2004 marked the start of a Canadian development initiative known as the CEDAW Southeast Asia Programme (CEDAW SEAP). Through CEDAW SEAP, eight countries, including the Philippines, Cambodia, Indonesia, Laos, Myanmar, Thailand, Timor Leste and Vietnam, received technical assistance from UN Women (then UNIFEM) to develop national programs to advance women's rights.

❖ CEDAW Southeast Asia Programme (SEAP)

The first phase of CEDAW SEAP was aimed at promoting and building understanding of CEDAW within governmental and judicial institutions. The second phase, spanning 2011-2016, moved to practically apply CEDAW to policies and programs. CEDAW is one of the most universally ratified Conventions, but an assessment of gender equality around the world would indicate that CEDAW principles continue to be undermined. As Senator Leticia Shahani, principle architect of the original CEDAW draft bill stated, “Maybe the United Nations should not ask, “What laws have you passed?” It is easy to pass laws. Ask what laws have you implemented.”

From reforming national data collection methods to capture the multiple and intersecting forms of gender-based oppression, to setting legal precedence for redress against violence against women, the historic and contemporary work that has made women's rights work possible deserves recognition. This blog considers the event's discussions of the importance of sex disaggregated data for women's rights, and what is at stake for women's rights in ASEAN economic integration.

❖ Sex disaggregated data and gender inclusive reforms

The Philippine Commission on Women (PCW), which functions out of the Office of the President, pushed for sex disaggregated data in a time when women's unpaid work was poorly understood within the national development

framework. Prior to the PCW's interventions, program administrators were attuned to broad trends in employment and poverty distribution, but faced challenges targeting programs to address barriers to socioeconomic mobility.

With sex disaggregated data, it became more feasible to advance programs that did not only address inequality between classes, but also within households, between mothers and fathers, within lone-parent families, and recognizing that families were not always planned. Social programs could be better tailored to the gendered experiences of inequality affected by age, race, ethnicity, ability and religion, making services more locally responsive.

Gender responsive leadership has been particularly important to the politically contested Autonomous Region of Muslim Mindanao (ARMM), which has been affected by armed conflict, religious persecution, violence against indigenous peoples, lack of government investment, and low levels of access to employment and social programming. Women's exclusion from the peace process has become a primary concern.

In response, CEDAW SEAP developed training to support women leaders and peace advocates within ARMM to engage with Members of Congress to integrate gender inclusion into the Bangsamoro Basic Law (BBL). The BBL is a transformative bill that, if passed, will change the Philippine administration's relationship with the entire region.

Research from the Women's Legal Bureau (e.g. “Compliance with Women's Rights Standards,” 2014) has also shown that a high level of irregular

migration among women happens out of ARMM due to the high costs of regular channels, especially in context of low-waged domestic work. Even the cost of traveling from the southern provinces to Manila, the site of all administrative procedures, can be prohibitively high. The ARMM region is also close to irregular migration routes in Zamboanga Province, Mindanao, which have been facilitating migrant access to Sabah, and sometimes further to Brunei.

❖ **Women's rights instruments within ASEAN**

Human rights inclusion into the Association of Southeast Asian Nations (ASEAN) agenda has been a long struggle. After 20 years of work to integrate human rights into the ASEAN Charter, Article 14 finally created an ASEAN Intergovernmental Commission on Human Rights (AICHR), followed by the 2010 creation of the ASEAN Commission on the Rights of Women and Children (ACWC) and an ASEAN Charter on migrant workers.

The role of the ASEAN Intergovernmental Commission on Human Rights (AICHR) is to promote the implementation of international instruments on human rights and encourage ASEAN member states to ratify these instruments. Together, the AICHR and ACWC support the participation of women in dialogue and consultative processes, and facilitate the sharing of good practices between member states.

Unfortunately, as political scientist and assistant professor Dr. Jean Franco explained, the functional structure of ASEAN presents significant challenges to implementing women's rights.

- ASEAN's Commissions do not have monitoring powers except through holding consultations with stakeholders
- They do not have complaints mechanisms
- They do not have the power to conduct investigations
- They do not require countries to submit progress reports
- Because the ASEAN Human Rights Declaration is not a treaty, it is not legally binding on member states

Despite these limitations, the ACWC has worked to set new standards and norms in the recognition of issues disproportionately faced by women, including violence against women and children, and implementing regional action plans to eliminate gender based violence. It has also mobilized social media and social service agencies to publish best practices in eliminating gender based violence, and it has developed ASEAN progress reports on women's rights and gender equality every three years.

❖ **Advancing women's rights within ASEAN economic integration**

These gains in mobilizing social service agencies and communicating gender-based research will be critical to sustaining ASEAN attention on the feminization of poverty, the lack of economic rights to land and property among women, and the need to fully integrate human rights standards into the ASEAN economic integration agenda. Presently, women's rights within the ASEAN structure are under the purview of the Socio-Cultural Community Council, separate from the

Political-Security and Economic Councils. ASEAN's three pillars of work are known to be separate and distinct with limited cross-pollination and interaction.

One of the starkest materializations of this segregation of "women's issues" from mainstream governance concerns is the complete exclusion of domestic workers from ASEAN labour mobility program, which protects largely "high-skilled" migrant workers in the ASEAN region. This does not only continue to subject domestic workers to the same exploitations they currently face, but it will also expose them to differential, discriminatory treatment by new regulations that exclude a large share of work done by working class, migrant women.

❖ **Marginalizing women's rights in the migration recruitment industry**

Thinking briefly about the research I currently conduct on migrant worker recruitment, and the consultations that I attend to engage with recruiters who pose the strongest challenges to rights-based reforms, there are always structural barriers that prevent poor, migrant workers in unregulated sectors from "advancing" into safer work. These trends take on local definition across the ASEAN region.

Much of this is attitudinal and informed by pervasive, neoliberal values—many recruiters who oppose fee- and wage-based reforms feel that if workers work hard, learn new skills, and acquire education, there are few obstacles preventing them from finding high wage, regulated work. Many recruitment actors who are

resistant to reforms locate the root of vulnerability within migrants themselves. It is still believed that domestic work is not actual work. There is generally not a feeling that the prevalence of illegal and excessive costs in the present system actually reproduce the conditions of vulnerable work.

The majority of recruiters also feel they cannot subject themselves to financial risk by lowering their fees, or by becoming more discerning of whether their recruitment partner overseas follow ethical standards. They are concerned about their own business and feel it is unfair for other “unscrupulous” recruiters to operate unscrutinized, while they take a financial hit.

What these types of perspectives fail to acknowledge is that the initial recruitment fee charged in the Philippines is the first of many fees that are going to be charged throughout the migration life cycle, sometimes paid over years to repay an initial debt incurred to initiate the migration process. Bonded labour is a severe form of exploitation that affects migrant workers, while unregulated working conditions, in domestic work and elsewhere, worsen the greatest abuses.

In these scenarios, I think about CEDAW and how much work still needs to be done to extend provisions, which are already legally binding but lack national policy translation, into the specific domains of productive and reproductive work that women undertake.

And in the scope of the ASEAN agenda, aren't these issues of security? Aren't these economic concerns?

❖ **Relationship between ASEAN integration and labour migration reforms**

Because of the pervasiveness of labour migration in the Philippines across the ASEAN region, economic integration promoted by ASEAN must take a lead in recognizing the limited number of economic opportunities that exist to many low income and working class families. The Women's Legal Bureau, Verité, and other organizations have produced research on the pressures that regional economic integration exerts on migrant workers, who shoulder a large share of personal risk to sustain consumption-driven economies at home.

The priority will always be to reinstate migration as a choice, not a necessity, through developing employment opportunities at home in sustainable and equitable ways. But given that the creation of the ASEAN Economic Community (AEC), now past its 2015 deadline, will usher in economic reforms faster and more comprehensively than improvements to access to employment, advancing gender equality in safe migration has taken on particular urgency.

The move to relegate women's rights to an issue of social welfare, excluded from the macroeconomic agenda, is not new to regional integration. But the mainstream language that is being subverted and re-appropriated to illustrate the paternalism and patriarchy characterizing these processes is a warming and inspiring conversation to be part of.

The types of responses I have heard voiced by advocates, academics, government, and intergovernmental actors confronting the old

challenges of advancing women's rights as human rights, as integral to the wellbeing of whole societies, have been good to reflect on:

“Women's rights as a concern of social welfare, as though women and children need to be taken care of—”

“—as though violence against women is not a security concern.”

“—as though women do not contribute to the peace process.”

“—as though women do not perform work.”

In the national context of the Philippines, where gender mainstreaming has had a long history, and where regional integration into the ASEAN community may produce new setbacks to gender equality, migrant rights will still pose some of the most important questions regarding institutional inclusion and gender equality.

