

NTS Insight June 2010 (Issue 1)

Regional Champions – Examining the Comparative Advantages of AICHR and ACWC

The last two years have witnessed the emergence of several new and promising policy entry points for the advancement of the protection of civilians (POC) in Southeast Asia. On 23 October 2009, the ASEAN Inter-governmental Commission on Human Rights (AICHR) was launched. This was followed six months later, on 7 April 2010, by the inauguration of the ASEAN Commission on the Promotion and Protection of the Rights of Women and Children (ACWC). This Insight investigates how current regional institutional developments could affect and advance the POC agenda in the ASEAN region. It also provides some key recommendations for how the AICHR and ACWC might collaborate and coordinate more effectively with one another, thus maximising the benefits of these institutional developments for the security and well being of peoples/populations across the region.

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Source: International Rice Research Institute. Available at <http://www.flickr.com/photos/ricephotos/2687935493/>.

Proportional Expectations: Potential for Improvement in the Protection of Populations through Collaboration between AICHR and ACWC

There have been significant prospects for further regional integration through the signing of the ASEAN Charter in Southeast Asia. However, there have also been significant challenges that have dampened these prospects. The development of AICHR was widely welcomed, but when its mandate was unveiled there was widespread disappointment that it was a 'toothless tiger' that did not have a mandate equally balanced between promotion and protection of human rights (Roughneen, 2009). That said, it did provide a wake-up call for stakeholders in the region on how much power ASEAN member states are willing to invest in a regional commission.

In November 2004, ASEAN leaders met and adopted the 'Vientiane Action Programme 2004 – 2010', which established the 'strategic thrusts' of the three ASEAN communities – the ASEAN Security Community to 'enhance peace, stability, democracy and prosperity in the region through comprehensive political and security cooperation'; the ASEAN Economic Community to 'enhance competitiveness for economic growth and development through closer economic integration'; and the ASEAN Socio-Cultural Community to 'nurture human,

cultural and natural resources for sustained development in a harmonious and people-centred ASEAN'. The Vientiane Action Programme included Measure 1.1.4.7, which called for the establishment of an ASEAN Commission on the Promotion and Protection of the Rights of Women and Children. Subsequently at the 14th ASEAN Summit in 2009, ASEAN leaders agreed to the 'Cha-am Hua Declaration on the Road Map for the ASEAN Community, 2009 – 2015'. This road map reiterated the establishment of the ACWC to promote and protect the rights of women and children to ensure their equitable development in the region. The development of the ACWC will provide an important narrative as its mandate links international commitments with local realities. The regional level of governance is particularly important where the recent developments of AICHR and ACWC have provided fertile ground for exploring new avenues for better protection of civilians. It is important to highlight the key areas where these different institutions can cooperate in order to avoid duplication and also to encourage cooperation and information-sharing towards more robust and efficient governance in the region for the protection of civilians.

While the establishment of the ACWC is an important step for the region, analysts note that multiple avenues need to be used to promote the protection of civilians. The ACWC was born out of an action plan, which is a part of the ASEAN Socio-Cultural Community. The AICHR emerged out of the ASEAN Political-Security Community and is formally mentioned in the ASEAN Charter. It is important to highlight this key difference between the two bodies, because AICHR will be able to function cross-sectorally, having the mandate to influence and engage with all three ASEAN communities. This contrasts with ACWC which will be operating as part of the socio-cultural pillar through its reporting to the ASEAN Ministers Meeting on Social Welfare and Development (AMMSWD), with copy to the ASEAN Committee on Women (ACW) and other relevant sectoral bodies. In addition, ACWC has a much more defined focus than AICHR, as its mandate calls for a clear emphasis on women's and children's protection concerns in the region. Both of these commissions have the protection of civilians' agenda under their mandates, highlighting that no single policy avenue or community will suffice as a 'lone star' for the protection of civilians. Ultimately while it is important to minimise overlap between institutions, it is also important for institutions to keep investigating new and creative ways to interact with one another and to recognise what one another's comparative advantages are.

For instance, in a recent interview, AICHR Commissioner, Mr Rafendi Djamin (3 June 2010), highlighted that since AICHR is mandated to provide technical advice on human rights to all ASEAN sectoral bodies, it can help ACWC in mainstreaming important women's and children's issues under both the political-security and economic pillars of ASEAN. ACWC, in turn, can aid AICHR in providing specialised technical expertise on women's and children's protection issues in the region. There are many issues that AICHR and ACWC could work together on. Two key areas of potential collaboration for AICHR and ACWC may include:

- Raising awareness on reservations held by ASEAN member states on substantive articles of the Convention on the Rights of the Child (CRC) and the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) (For a detailed account of these reservations, *NTS Alert* June 2010 Issue 1 provides an overview of the specific exceptions that individual member states have to these two agreements of fundamental importance to the advancement, promotion and protection of women's and children's rights in the region).
- Violence rooted in economic issues (For example, violence against women due to economic related causes).

During the last AICHR meeting in March 2010, it was decided that the two areas of focus for its five-year work plan would be (1) migration, and (2) business and human rights. Although the AICHR's rules of procedure have not been adopted as yet, its commissioners are scheduled to meet for five days at the end of June, where it is hoped the rules of procedure be formally adopted; AICHR activities from July to December 2010 will be defined (for example, commissioning of studies on specific issues, stocktaking, mobilisation of funds and technical advisory activities to ASEAN sectoral bodies); and taskforces for (1) migration, (2) business and human rights, and (3) the procedure for an ASEAN Human Rights Declaration, will be set up.

The Terms of Reference (TOR) for the ACWC were agreed upon by the ASEAN Ministers Responsible for Social Welfare and Development prior to the 15th ASEAN Summit in 2009. The TOR includes promoting the implementation of internationally agreed-to standards such as those included in CRC and CEDAW. Each ASEAN member state has two appointed representatives in ACWC, one for women's rights and another for children's rights. During the selection process, the TOR mandates that potential commissioners possess competence in the fields of women's and children's rights, and that member states exercise integrity and equality when appointing their representatives (Article 6.3). The TOR also outlines that each member state shall conduct, in respect to their respective internal processes, a transparent, open, participatory, and inclusive selection process (Article 6.4). This process allows for more specific accountability than does the selection process of AICHR. AICHR only calls for member states 'to consult if required by their respective internal processes, with appropriate stakeholders' (Article 5.4). For further information on articles in AICHR and ACWC TORs that pertain to women's and children's rights, please see *NTS Alert* June 2010 Issue 1, Table 1.

The ACWC will meet for the first time in August 2010. There is a chance that member states will change the TOR during this meeting. It should also be noted that the ACWC has not adopted its rules of procedures as yet. Realistically, the first time AICHR and ACWC commissioners will be able to meet will be after both have finalised their respective TORs, adopted rules of procedures and defined activities for the coming months. Once both bodies meet, they will have to clearly define what each body is responsible for in overlapping issue areas, such as human trafficking. In addition, if there is to be an 'alignment' of the two commissions, this needs to be clearly defined in terms of day-to-day practice.

While there are various differences between the AICHR and ACWC mandates, both commissions will ultimately work together to achieve progress in areas of mutual interest if they are to maximise their effectiveness in furthering the protection of civilians' agenda. With this in mind, it is also important to understand the larger role of ACWC, which is not only for it to work alongside and in collaboration with AICHR, but also to assist individual member states in developing their institutional capacity to implement the necessary changes to advance, protect and promote the rights of women and children in the region. It is through the identification of partners at both the national and local levels that implementation of these rights can take place. This can be accomplished through regular interaction with individuals and communities as well as formal state structures. In this vein, civil society will provide an important informal resource to ensure that regional institutions and mechanisms respond to the issues that matter to those whose situations it is mandated to improve.

AICHR and ACWC are able to work with civil society partners in the region; one potentially instrumental partner from the region is the Southeast Asia Women's Caucus on ASEAN. It is coordinated by two regional organisations: the International Women's Action Watch Asia Pacific (IWRAP Asia Pacific) and Asia Pacific Forum on Women, Law and Development (APWLD). It represents a network of women's human rights groups from Myanmar, Cambodia, Indonesia, Lao PDR, the Philippines, Malaysia, Thailand and Vietnam, engaging with key ASEAN structures and in key processes towards ensuring the realisation and protection of women's rights on a regional level. The Thai ACWC Commissioner, Dr Saisuree Chutikul agreed in a recent interview (13 May 2010) that the Southeast Asia Women's Caucus on ASEAN has consistently done good work on a macro and regional level, but needs to make more of an effort to connect with local partners in ASEAN member states.

The following sections give suggestions for adapting current tools and indicators that would be helpful to the ACWC, in particular, when assessing the situation of women and children in ASEAN member states. Such tools and indicators include the Gender-related Development Index (GDI) developed by the United Nations Development Programme (UNDP), the ASEAN Economic Community Scorecard, and the Key Children and Young Persons Indicators (KCYPI) developed by the United Nations Children's Fund (UNICEF).

[^ To the top](#)

Gender-related Development Index

Since 1995, the UNDP *Human Development Report* has disaggregated its data when compiling the Human Development Index and has produced the GDI, which is the Human Development Index accounting for gender inequality. Below is a table of the results from the UNDP *Human Development Report 2009*. The results illustrate, where available, that there is not a regional norm on gender inequality and it remains quite diverse across the region. This is best represented by the world rankings of ASEAN member states (with data available for analysis) ranging from 15th in the world out of 155 countries down to 104th in the world.

Table 1: ASEAN gender inequality rankings

ASEAN GDI Rank	Member State	GDI	GDI World Ranking/155	HDI	HDI World Ranking/182
1	Thailand	0.999	15	0.783	87
2	Vietnam	0.997	31	0.725	116
3	Philippines	0.996	40	0.751	105
4	Cambodia	0.992	75=	0.593	137
5	Lao PDR	0.992	75=	0.619	133
6	Malaysia	0.993	76	0.829	66
7	Indonesia	0.989	90	0.734	111
8	Brunei	0.906	104	0.92	30
n/a	Singapore	n/a	n/a	0.944	23
n/a	Myanmar	n/a	n/a	0.586	138

Source: UNDP Human Development Report 2009.

From these collated findings, we are able to rank the member states in the region according to their GDI scores. Using the data collected by the UNDP will assist the ACWC in evaluating the progress that member states have made since the inauguration of the ACWC. Indeed, the table compares the annual levels of gender inequality and human development in ASEAN member states. According to the table, some

states score highly on the HDI World Ranking but fare poorly when the data is disaggregated; likewise other states score poorly on the overall HDI but fare better in the disaggregated GDI. Through the information available, it is evident that while a country's overall HDI score may be high, it does not necessarily impact on individual human development areas such as gender inequality. One observation that remains constant is that development does not necessarily lead to less gender inequality; rather there are other significant factors which need to be accounted for and investigated in the region to better understand the root causes of gender inequality.

[^ To the top](#)

Gendered Policy Directions



It would be useful for the ACWC to borrow ideas from another branch of the ASEAN community – the ASEAN Economic Community, which has produced an ASEAN Economic Community Scorecard in March 2010 to track the developments of the association in implementing the road maps towards realising an integrated ASEAN community. This scorecard approach can be developed based on information provided by supporting institutions and civil society, to track development on the level of implementation of internationally-agreed to standards on women's and children's rights by member states'. This scorecard can highlight the inequalities present in the region and offer some areas for cooperation between member states. This can be achieved through information-sharing to learn how different states develop policies to address these inequalities. Efforts such as this will assist the region to integrate further as envisioned in 1997 under the ASEAN Vision 2020:

Source: C. Schwetz. Available at <http://www.forcedmigration.org/photo-repository/6550/?searchterm=Schwetz,%20C>.

We see vibrant and open ASEAN societies consistent with their respective national identities, where all people enjoy equitable access to opportunities for total human development regardless of gender, race, religion, language, or social and cultural background.

A significant challenge that faces those engaged in the promotion and protection of the rights of women and children is the challenge to turn words into deeds. As the United Nations Development Fund for Women (UNIFEM) has pointed out, the challenge is to 'define and enact gender "mainstreaming", "women's empowerment", and "gender equality"' (UNIFEM, 2010). It further notes that even though legal changes have been made, these changes still fall significantly short of making an impact on the ground. In other words, these efforts 'fall short because of poor enforcement, limited capacity, and weak accountability' (UNIFEM, 2010).

[^ To the top](#)

'Key Indicators' on Children and Young Persons

UNICEF documents the status of the provisions and protection of children the world over in an annual report titled *The State of the World's Children 2009*. The findings in this report can assist the ACWC to target the key areas of concern in the region and allow for region-wide data collection and analysis in a further effort to assist member states to realise their ASEAN Vision 2020:

We envision a socially cohesive and caring ASEAN where hunger, malnutrition, deprivation and poverty are no longer basic problems, where strong families as the basic units of society tend to their members particularly the children, youth...

The table below is a snapshot of some of the data available in the UNICEF report that illustrates some of the challenges faced in the region and highlights some areas of concern.

Table 2: ASEAN children and young persons core benchmarks

Member State	Under 5 Mortality Rate Rank /193	GNI Per Capita (US\$)	Total Adult Literacy (%) 2003–2008 *	Primary School Enrolment/ Attendance (%) 2003–2008 *
Brunei	153	26740	95	93
Cambodia	41	600	76	89
Indonesia	66	2010	91	85s

Laos PDR	54	750	73	84
Malaysia	158	6970	92	100
Myanmar	35	220x	90x	84s
Philippines	81	1890	93	91
Singapore	188	34760	94	–
Thailand	125	2840	94	94
Vietnam	125	9230	90x	93x

Source: UNICEF – The State of the World’s Children 2009.

– : Data unavailable.

x : Data refer to years or periods other than those specified in the column heading, differ from the standard definition or refer to only part of a country. Such data are not included in the calculation of regional and global averages.

s : National household survey data.

* : Data refer to the most recent year available during the period specified in the column heading.

According to data in Table 2, it is clear that there remain wide differences in ASEAN over the provisions and protection of children. Indeed, there are significant areas that need to be addressed in order for the ASEAN Vision 2020 of ‘reducing the social risks faced by children, women, the elderly and persons who are disabled’ to be realised. Most notably, there is a large variation in child mortality rates across the region, ranging from countries like Singapore which has the lowest regional child mortality rate of 3 deaths per 1,000 live births and which is placed 188th out of 193 countries in a global ranking of the mortality rate of children under the age of 5, to Myanmar which has the highest regional child mortality rate of 98 deaths per 1,000 live births and a global ranking of 35 out of 193. While statistics only reveal part of the picture, they offer a basis for regional and global comparison that allows for the identification of areas of concern and areas worthy of further investigation as to the causes of these variations within the region and around the world.

Some other areas not illustrated in the table but recognised by UNICEF as challenges in the region are the growing disparities within countries between the rich and the poor; the need to maintain poverty reduction strategies; environmental issues; the escalation of HIV infections and the growing number of AIDS orphans; the limited social protection that allows for the occurrence of violence, abuse and human trafficking; and recurrent natural disasters. These are the issues that can be assessed at the regional level to further investigate why some member states fare better than others in international comparisons and how member states can learn from one another’s experiences in this regard. It will be important for the ACWC to facilitate this process and investigate ways and means to realise the ASEAN Vision 2020 of a regional integrated community.



[^ To the top](#)

Source: A. Malack. Available at <http://www.forcedmigration.org/photo-repository/curious-karen-children/?searchterm=malack,%20a>.

Conclusion

Despite a lack of implementation in regional human rights related instruments, the years 2009 and 2010 have established some positive entry points for the protection of civilians to be improved in the ASEAN region. In 2008, both AICHR and ACWC constituted just a part of discussions surrounding the ASEAN Charter. Now, both exist as official bodies. Just as it takes time for norms to be accepted and institutionalised, it will take time before both bodies become fully functioning, have finalised TORs and adopt rules of procedures, but ASEAN member states are better off with AICHR and ACWC, rather than without them. Both bodies have key comparative advantages, which can only be strengthened and mainstreamed into all ASEAN sectoral bodies, if both work together on a consistent basis.

Ms Wathshlah Naidu, Programme Officer with the International Women’s Rights Action Watch Asia Pacific (IWRAP Asia Pacific), emphasised in a written response:

Both bodies should coordinate, complement and ensure the collaboration in areas such as standards setting; producing thematic reports; conducting “exchanges of visits”; building capacity of member states on issue [sic] related to women and children; and ensuring constructive engagement with civil society representatives which includes participation and representation of women and children from all sectors and marginalised groups. (May 2010)

It will be vital for AICHR and ACWC commissioners to meet as soon as the ACWC August meeting is over, in order for both bodies to define a working relationship and ensure that there is not an excessive overlap in the issues each body is mandated to address. It is also recommended that both bodies take into consideration the other suggested tools and indicators, such as the GDI and KCYPI, when finalising the framework of their working relationship to establish policy recommendations for consideration at the ASEAN Summits, where they have access to key decision-makers in the region.

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[^ To the top](#)

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