

SUBMISSION

BEIJING+20 ASIA PACIFIC REGIONAL REVIEW:

PROGRESS IN THE ASIA PACIFIC REGION



The Asia Pacific Forum on Women, Law and Development is Asia Pacific's leading feminist, membership driven network. Our 180 members represent organisations and groups of diverse women from 25 countries in the region. We use capacity development, research, advocacy and activism to claim and strengthen women's human rights. Our active membership provides the strength and expertise that drives and executes our work: to promote women's human rights enshrined in international human rights instruments, and to empower women and their movements in Asia to claim equality, justice, peace and sustainable and inclusive development.

Beijing+20 Regional Review: Submission on Progress in Asia and the Pacific

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Introduction

The Beijing Platform for Action rightly recognises the extraordinary barriers that women face to the full enjoyment of their human rights. In the Asia Pacific region, as in much of the global South, social and economic inequality and the crippling effects of poverty define the lives of millions of women. precluding their enjoyment of a broad range of interconnected rights. At the root of much of this is a fundamentally inequitable model of development privileging growth over equity and human rights, which is being aggressively promoted at a national and international level. When combined with longstanding and entrenched social and cultural norms that discriminate against women, this growth-oriented model has had a devastating impact on women in the region. Indeed, a recent Expert Group report for the UN Commission on the Status of Women concluded that "the prevailing neo-liberal economic model is incapable of supporting gender-equitable sustainable development."1

This submission demonstrates that the binding international commitments governments have made to uphold women's rights (all but two countries in the region have ratified the Convention on the Elimination of All Forms of Discrimination Against Women) have been significantly undermined by a shift away from government regulation of markets and provision of essential services. For women, especially rural, indigenous and urban poor women, this has meant a series of interconnected developments that have greatly exacerbated their vulnerability: for example, decreasing accessibility of essential public services (one cause of which has been prescriptions by international financial institutions to privatise government utilities) has meant an increase in the amount of unpaid care work undertaken by women; this in turn has decreased the capacity of women to participate in decision-making processes in their communities, which has further cemented their marginalisation in negotiations and decisions over community resources, such as land. Another example is the negative impact of trade liberalisation on the viability of small-scale agriculture and small enterprises, which has in turn prompted increasing numbers of women to migrate in search of work. These are just two examples of the way that the progress of governments in many of the Beijing Platform's Critical Areas is determined by the broader macroeconomic framework.

¹ UN Women, Report of the Expert Group Meeting on Structural and Policy Constraints in Achieving the MDGs for Women and Girls (2013) p.17.

The detrimental effects of this framework on women's rights is also highlighted by the pernicious impacts of economic inequality, both within and between countries, the current extent of which could not have been predicted when the Beijing Platform was drafted. The extreme levels of inequality that now exist² not only pose a tremendous threat to inclusive political and economic systems, but also greatly exacerbate the effects of gender equality.³ For example, research has shown that a range of health and social indicators, including levels of violence, get worse as levels of income inequality increase.⁴ Income inequality is extremely high across Asia,⁵ with the worst example being China which had a Gini coefficient of 0.47 in 2012.6

This submission focuses on those issues that are most relevant to APWLD's members—poverty; decent work; violence; decision-making; and the environment. Among the emerging areas of concern highlighted in this report are climate change and disaster risk reduction, discussed under Critical Area K.

² See, e.g. Oxfam, Working for the Few: Political Capture and Economic Inequality (2014).

³ Ibid, p.21.

⁴ UNICEF, Global Inequality: Beyond the Bottom Billion—A Rapid Review of Income Distribution in 141 Countries (2011), 33.

⁵ Asian Development Bank, Confronting Rising Inequality in Asia (2012).

⁶ http://www.reuters.com/article/2013/01/18/us-china-economy-in-come-gap-idUSBRE90H06L20130118

Critical Area A: Women and Poverty

Among the many rights violations and deprivations experienced by women in the Asia Pacific region, the extraordinary, disproportionate level of poverty that afflicts women and girls in the region is among the most concerning. Approximately 2.5 billion women in the Asia Pacific are currently living on less than USD\$10 per day, including 600 million who live on less than USD\$1.25 per day. In addition to the economic and social rights violations that are inherent in the condition of extreme poverty, women living in poverty are prevented from enjoying a broad range of civil, political and cultural rights.

Women's poverty in the region is directly linked to the implementation by governments and international financial institutions (IFIs) of neoliberal macroeconomic policies and growth-driven development models, which also underpin international economic governance as a whole. Each of the elements of macroeconomic policy identified in Critical Area A of the Beijing Platform has had a demonstrably discriminatory impact on women in the Asia Pacific, including through exacerbating the inability of women to access essential services; depriving women of access to land and natural resources that they depend on for their livelihood; increasing the burden of unpaid care work borne by women; and exacerbating the vulnerability of women to exploitation in the course of their employment in both formal and informal sectors.

The policies and practices that have most profoundly affected the level of poverty among women in the region are loans from IFIs and associated debt servicing; trade liberalisation; policies favouring private investment; decreasing public expenditure; and policies relating to migration. Women have also been largely excluded from the formulation of national and local development plans.

A.1. Loans and policy prescriptions from international financial institutions

In the Asia Pacific region, IFIs such as the World Bank

(WB), the International Monetary Fund (IMF) and the Asian Development Bank (ADB) have had a tremendous influence on macro-economic policy. There are two principal ways in which IFIs have exerted (and continue to exert such pressure): first, through policy conditionalities that are attached to loan agreements; and through debt servicing requirements which divert government spending from public services. The conditionalities imposed on governments have promoted an unequivocally neoliberal development model, which is premised on decreased public spending and increased privatisation of public services, deregulation, and liberalised trade and investment flows. The adoption of measures consistent with IFI conditionalities has had a significant impact on local communities, particularly on the poor and marginalised.

The deleterious effects of external debt on the enjoyment of women's rights in the region have been confirmed and fully articulated in the 2012 report of the Independent Expert on the Effects of Foreign Debt and other related International Financial Obligations of States on the Full Enjoyment of all Human Rights, particularly Economic, Social and Cultural Rights, which focuses on the impact on women's rights.⁷

A.1.1 Privatisation of public services

"I cut down on our budget on food, but I still can't save enough for family health emergencies. Paying electric bills eats up a huge portion of our income" Osang Palma, Chairperson of MATINIK⁸.

Among the key impacts of IFI loans in the region has been the shift towards privatisation of public goods and services, particularly education, water, energy, health, infrastructure, and social protection. While privatisation presumes that private service providers will be more efficient and flexible, privatisation of essential services has in fact exacerbated gender-based inequalities in access to these services and created significant additional stresses for poorer women.⁹

⁷ UN Doc. A/67/304

⁸ Freedom from Debt Coalition Philippines, Women to lead campaign vs. high electricity rates' Available at: http://fdc.ph/index.php?option=com_cont ent&view=article&id=574:womens-groups-to-lead-campaign-vs-high-electricity-rates&catid=37:advocacy-on-power&Itemid=88. 9 October 2010

⁹ Report of the Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social, and cultural rights (2012) UN

An example of the indirectly discriminatory impact of privatised services is the extra burden women must bear when governments privatise services that affect women's unpaid care work, such as the provision of affordable childcare, health care services, and basic amenities such as piped water. Women in the Asia Pacific region are primarily responsible for obtaining and storing water for their families and communities for the purpose of drinking, food preparation, cleaning, washing, and waste disposal. Privatisation of the provision of water—like other utilities—frequently results in price increases or the elimination altogether of services in less profitable areas, which means that poor women may have to travel further to collect potable water, or risk using water of a lower quality that risks exposure to common water-borne illnesses. This can greatly increase the burden on women as caregivers and household providers.

Similarly, women are at particular risk when health care is privatised and user fees are introduced. This is because women are at a significant disadvantage when it comes to protecting themselves from, and coping with, ill health. Biological and physical factors as well as violence against women, harmful traditional practices, and the prevalence of poverty among women reinforce women's vulnerability to poor health. The introduction of out-of-pocket health expenditure not only puts access to essential amenities such as contraception out of the reach of many women, it also causes high levels of personal debt that can lead to extreme poverty or homelessness.

Consequences of privatisation of health care in the Philippines

The development of the Philippines health sector since the late 1980s has been shaped by loans from the World Bank and ADB which have exceeded USD 1.5 billion. These loans have correlated with the diminishing role of the State in the provision of health care and the privatisation of many health services, resulting in a significant increase in out of pocket Doc. A/67/304 [46]-[51]; UN Women, Report of the Expert Group Meeting of

Doc. A/67/304 [46]-[51]; UN Women, Report of the Expert Group Meeting on Structural and Policy Constraints in Achieving the MDGs for Women and Girls (2013) 22.

Report of the Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social, and cultural rights (2012) UN Doc. A/67/304 [54]-[56].

11 E.g. Health Sector Development Program (ADB, USD 200 million, 2004), the Health Development Project (World Bank, USD70 million, 1989), National Sector Support for Health Reform (World Bank, USD110 million, 2006).

spending by the public. For example, the ADB's USD200 million Health Sector Development Program, which was initially implemented in 2004, applied to health care financing, public hospital financial autonomy, and rationalisation of health facilities and performance. More than 50 public hospitals have been privatised in the last decade which has further denied affordable and accessible basic health care services to the poor. The sub-standard delivery of health services was linked in 2012 by the Philippines government to the increasing maternal mortality rate.¹²

Privatisation of water provision in Indonesia

In 2001, the ADB provided technical assistance to Indonesia by creating a regulation framework on "Public and Private Water Supply and Wastewater Enterprises (TAR: INO 35142) and "Reform of Water Enterprises (TAR: INO 33402) which strengthened the role of private companies in the management of Indonesia's water sector. Private water operators continue to dominate water provision in Indonesia, although they have been unable to meet demands or coverage in Jakarta. This has forced consumers to seek water from small-scale enterprises whilst still being required to pay basic connection charges to the larger private water operators.¹³

A.1.2 Employment cuts to the public service

Ratih's story

"When I was expecting my second baby, I got a hernia. Every morning I have to walk two kilometres away from my house to get clean water."

Ratih had been working at a fishery company since 1990. But her employer filed for bankruptcy in 2006. Ratih is a housewife. Her husband, on the other hand, has no permanent job. Sometimes he works as a coolie, other times as a garbage collector. He has tried every kind of job to survive the hard life in Jakarta. He has no regular monthly income and there are even times when he doesn't earn at all.

¹² http://www.intal.be/nl/blogs/hans-schaap/privatization-will-deny-quality-healthcare-poor

Drawn from the paper of Aliza Yuliana Syahrizal, Solidaritas Perempuan, Indonesia shared at the Asia Pacific Consultation on 'Women's Right to Development'. October 2011 in Cambodia.

Ratih's family experienced difficulties in fulfilling their basic needs, not only because of unpredictable income but because of higher prices of basic goods. She pays Rupiah (Rp) 270,000.00 (USD 30) up to Rp360,000.00 (USD 40) a month for clean water that she buys from a small-scale water enterprise that is located 2 kilometres away from her house. During summer, the price is exorbitantly higher amounting to Rp540, 000.00 (USD 60) per month. She has no choice but to rely on it because the piped water in her house is not always available. There are even times when the quality of water from the pipes is so bad it is not fit for consumption. But the worst part is that she has been paying for a basic charge in spite of the irregular supply and very bad quality of water for almost two years in order to meet the daily needs for her and her family including cooking, washing, drinking water etc.

In Ratih's opinion, all of these problems began to occur when private companies took over the drinking water supply, operation and resource management in Jakarta in 1997. She realised that privatisation is not the answer to fulfill people's rights to water.

Reduction in the size of the public service as a result of privatisation disproportionately affects women because women are overrepresented in the public sector workforce and are most vulnerable to job cuts. As recognised by the Independent Expert on the Effects of Foreign Debt on Human Rights, women are often the first to lose jobs and the last to be re-hired because they are assumed to be secondary breadwinners.¹⁴ Further, shifting to employment in the private sector, which has less scope for collective bargaining and other collective forms of protection of labour rights, has a more negative effect on women. Lavoffs in the public sector were a key condition imposed by the IMF in exchange for the USD \$57 billion aid package to South Korea during the Asian financial crisis. Their compliance resulted in women losing jobs at twice the rate of men despite the fact that their unemployment before the crisis was half that of men's.15

Report of the Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social, and cultural rights (2012) UN Doc. A/67/304 [58].

¹⁵ From February-May 1998, South Korean companies had been laying off 10,000 workers per day.

A.1.3. Land-grabbing facilitated by IFIs

"We in Indonesia want the taxpayers of the industrialised world to stop subsidising the expropriation of our land, the destruction of our environment, and the ruination of public health through export credit agencies (ECA) projects that their country's own aid agencies and the World Bank would reject."

--Titi Soentoro, Bioforum, Indonesia

In the last few decades, IFIs have heavily promoted programs and policies that depend on the large-scale acquisition of land for projects related to water, energy, agro-business and mining. This has had a significant impact on local communities who depend on the land for housing or their livelihoods. Further, women—who are already at greater risk of loss of access to land because of structural barriers to ownership (discussed in section F.3)—are regularly excluded from consultation processes that take place between large-scale project proponents and communities. As a result, women are frequently left dispossessed, uncompensated, and deprived of their livelihoods.

Indonesia's Land Acquisition Law

On 15 December 2011, Indonesia's Parliament approved the Land Acquisition for Development Law. According to Indonesian women's rights organisation, Solidaritas Perempuan, the law was a result of an ADB project on enhancing the legal and administrative framework for land in Indonesia. The law was protested by a civil society coalition known as the Indonesia People's Coalition against Land Grabbing, which voiced its concern in relation to the a number of elements of the law, including the following:

- The law only provides for compensation if ownership of the land has been certified—however, 60 per cent of the 85 million hectares of arable land in Indonesia are not certified;
- The law did not recognise the communal or customary rights to land of indigenous peoples;
- The law did not recognise the principle of equality or provide any protection for women's rights to land, including for female-headed households.
- The law was also enacted in the context of the long history

of human rights violations connected to land-related conflict in Indonesia. Based on the data of the National Land Agency, there were approximately 8,000 cases of land-related conflict in 2012. At least 156 farmers were arrested, 55 injured, 25 were shot, and 3 were killed. 16

Cambodia's Highway 1 Renovation Project

The ADB has recently funded a number of major infrastructure projects in Cambodia that have left families and communities that were evicted from their land destitute and uncompensated. The first example of this is the Highway 1 Renovation Project (HWI) which was intended to upgrade a 105.5 km section of the highway that connects Phnom Penh to Ho Chi Minh City in southern Vietnam. The Project affected more than 6,000 people living in 1,300 households. These families were to be compensated in accordance with ADB's Involuntary Resettlement Policy, which requires, amongst others, that people resettled by ADB funded projects should not become economically or socially worse-off. However, when resettlement occurred in 2000, most of the 1,300 families did not receive compensation for their land for a number of years, and when they did, the amount was completely insufficient. An Income Restoration Fund in relation to the project was only established in late 2009, and as of 2011, many people affected by the resettlement were still waiting to be compensated for their loss of income.

The HW1 project had a deeply negative impact on women, exacerbating their poverty, marginalisation, and other forms of gender discrimination. It has been reported that after the relocation, more women lost their jobs and income. Women have to walk longer now to fetch water and firewood and walk longer to work in the forest. Their health has particularly suffered as a result of lack of food and nutrition, and women have been unable to access public hospitals because they are difficult to navigate. The HW1 Project has further enhanced a tendency for affected villagers to look for jobs in urban areas. 'Unskilled' young women from the project-affected provinces migrated to Phnom Penh to become 'beer girls' who often provide men with sexual services.

¹⁶ Land Grabbing, Women and the role of IFI in Indonesia, Solidaritas Perempuan, 2012.

Eleven Years of Promises¹⁷

"I would extend my coffee shop, paint it with new bright colors, and put more chairs and tables. I would buy a new kitchen set, so food will be served too, not only coffee. I will bake cookies which I will sell in the market. I can do many things. My shop is along the Steoung Slaut River, so if I make my coffee shop nicer, I would get more customers. If only I can get the money soon."

This is a dream of Ming (aunt) Chhin, 60 years old, who is waiting for a fund from the Income Restoration Program of the ADB that was introduced in October 2009. This is Ming Chhin's last hope to restore her livelihood after the Highway 1 Project ruined it. After eleven years, she is still waiting for a promise made by the ADB that her life, together with those of her neighbors, will be made better off through Highway 1 Project in Cambodia.

"They promised our lives would be better off with the new road. We were told to relocate in year 2000. So, we moved our home. But they did neither give us full compensation nor new land for our house," recounted Ming Chhin. At first, we received what they called a resettlement cost because we lived on a state/public land. "I received around USD 340 before the relocation. The amount was so little to buy a new land or build a new house," she added. "Some of us, at first, had to live on land that was flooded in the rainy season, or had to squat on someone's land, fearing to be kicked out any time. Others had to pay a high rent. We had to spend much money on each relocation."

"We received the full compensation only in 2006. Yes, four years after the relocation. In total, I have received around USD 1,700 as compensation for giving up my land, my house and my coffee shop. Many of us used to run a small store before. We lost our stores and did not have the money to build new ones," she recounted.

After filing a complaint to the Office of Special Project Facilitator (OSPF) of ADB Accountability Mechanism in July 2007, end of 2009, Ming Chhin finally received the news about ADB's income restoration program which aims to helping affected communities to deal with their accumulated debt burdens and

¹⁷ Excerpted from: NGO Forum on ADB, Eleven years of promises - A story of Ming Chang's struggle for getting her life back after being displaced by the ADB (April 2011)

reestablish their livelihood activities. Chhin said she felt that ADB could finally fulfilled its promise and her dream for a better life after years of hardships caused by the Highway 1 Road project. For their survival, because the full compensation was four years late, they were forced to borrow money from moneylenders with very high interest rates: 20 per cent per month. The scary moment for her, and for others as well, was the time when the local creditors sued them before the local court because they could not pay them back. They were relieved that the court rejected the complaint, and ADB had paid their debt to moneylenders. Ming Chhin borrowed US\$300. At the end, her debt reached USD 1.625 due to interests.

After eleven years, Ming Chhin and members of her community are still waiting. Ming Chhin was in Manila recently. She knocked on the doors of ADB Executive Directors asking for the promise of better life made by the ADB to her and members of her community. But it seems that Ming Chhin and her communities have to wait longer until ADB keeps its promise.

A.2. Liberalisation of trade and investment flows

A.2.1. Impacts on small-scale agricultural production and women's livelihoods

Consistent with the prevailing neo-liberal model of development, governments in the region have adopted measures to liberalise trade and encourage private investment by both foreign and national companies in their economies.

Among the attractions of Asian countries to foreign investors is the apparent abundance of cheap land. In fact, approximately 19.2 million hectares of land in Asia have been acquired in deals involving foreign investors in the last decade. Cambodia, Indonesia, East Timor, Laos, Philippines, Papua New Guinea and Malaysia have proven to be especially attractive to foreign investors. In PNG, for example, there has been an unprecedented surge in land grabs by foreign companies for the production of palm oil. 5.2 million hectares—an area equivalent to one-tenth of the total land mass of PNG—has been acquired, most of which was community-held forest. While this has led to large areas of arable land being developed for the

http://www.oxfamblog.org/fp2p/?p=5328

¹⁹ http://www.tni.org/sites/www.tni.org/files/download/Political%20 Dynamics%20of%20Land-grabbing%20in%20Southeast%20Asia.pdf

production of food crops, far from enhancing the food security of local communities, investment in the agricultural sector has frequently been for the purpose of developing export industries that largely benefit large corporations. Further, these large-scale projects are often undertaken without sufficient consultation of local communities or without their free, prior and informed consent.

These projects, together with influxes of cheap agricultural products that result from trade liberalisation, disproportionately affect women, who make up the overwhelming majority of agricultural workers in the Asia Pacific and are widely employed in small-scale or subsistence production. It is particularly difficult for women to compete with the largescale, commercial, input-intensive farming of multinational producers for several reasons: first, structural barriers they face to accessing resources such as credit, technical assistance, and transport significantly constrain the ability of women farmers to compete in open markets and they are frequently the first to lose employment or income. Second, the expansion of exportoriented crops has led to the decreasing availability of land for subsistence agriculture.²⁰ Research confirms that the promotion of cash crops to improve agricultural efficiency exacerbates the marginalisation of women agricultural workers, as managing cash crops is considered to be a task for men (while subsistence crops are considered "female" crops).21 Third, the expansion of commercial agriculture leads to the depletion of communal land and resources, which women frequently rely on for the collection of fuel, water, and fodder for medicinal purposes.²² The discriminatory impact on women of a liberalised agriculture sector is also fundamentally tied to women's inability to own or access land in a number of countries because of legal or customary norms [discussed further in section F.3].

Economic Land Concessions in Cambodia

"...the human cost of many concessions has been high, and human rights should be at the heart of the approach to the

²⁰ Jane Korinek, Trade and Gender: Issues and Interactions, OECD Trade Policy Papers No. 24 (2005).

²¹ Bharati Sadasivam, The Impact of Structural Adjustment on Women: A Governance and Human Rights Agenda, 19 Human Rights Quarterly3 (1997)

²² Report of the Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment

of all human rights, particularly economic, social, and cultural rights (2012) UN Doc. A/67/304 [70].

granting and management of land concessions in order for them to have a positive impact. There are well documented, serious and widespread human rights violations associated with land concessions that need to be addressed through remediation." Report of the Special Rapporteur on the Situation of Human Rights in Cambodia, A Human Rights Analysis of Economic and other Land Concessions in Cambodia (2012)²³

In Cambodia, Economic Land Concessions (ELCs) were initiated in 1990 and legally formalized in 2001. These concessions. which allow a lease of up to 99 years, are granted to national and foreign companies in order to develop land for a number of purposes, including industrial agricultural exploitation. The Ministry of Agriculture, Forestry and Fisheries (MAFF) is the only body authorized to grant ELCs. Up to June 2012, 117 companies had signed contracts with the MAFF, covering a land surface of 1,181,522 hectares. This included concessions in sixteen areas that are formally protected under Cambodian law.²⁴ The ELCs issued by the government often do not comply with requirements to consult with affected communities, or to conduct environmental and social impact assessments.²⁵ which have caused conflicts with companies and local authorities. An estimated 400,000 people have been affected by land disputes since 2003, and government violence against land-grabbing victims has reached unprecedented levels.²⁶ The granting of land concessions has particularly impacted rural, indigenous and urban poor women and girls in relation to their livelihoods, security, and family structure and roles. It undermines indigenous womens' rights to preserve their culture, language and traditional agricultural practices, and to apply for collective land title. The documented cases of forced evictions and reduction of land and forest for inhabitants causes shifts in labour and migration patterns. Women leave their homes and work as labourers in factories, plantations or as domestic workers with sub-standard labour conditions. Militarisation of land concessions, which allows intimidation and violence by armed security guards, whether private or members of Royal

²³ A/HRC/21/63/Add.1

^{24 2011} data shows that out of the total protected land surface area of 3,143,763 hectares, there are 322,113 hectares used for rubber plantations; 172,731 hectares used for other agro-industrial crops; 38,831 hectares used for mining exploration; 4,593 hectares used for hydro-power dams; and 89,359 hectares used for eco-tourism: Report of the Special Rapporteur on the Situation of Human Rights in Cambodia, A Human Rights Analysis of Economic and other Land Concessions in Cambodia (2012) A/HRC/21/63/Add.1

²⁵ lbid0.

²⁶ http://www.licadho-cambodia.org/concession_timelapse/

Cambodian Armed Forces, has also threatened the security of women human rights defenders involved in land disputes.

The case of Boeng Kak Lake

Boeng Kak Lake is located in Khan Daun Penh and Khan Toul Kork in the northern area of the capital city of Phnom Penh in Cambodia. The Lake was the largest urban wetland in Phnom Penh before the Cambodian government granted the Shukaku Company (owned by leading party Senator Lao Meng Khin) a 99-year lease in 2007, resulting in the 90-hectare lake being filled with sand to build condominiums and other complexes. The development required the forced eviction of more than 20.000 Boeng Kak community members, and has had major social and environmental impacts on the community. Women. who are the forefront of the communities' resistance on the forced evictions, have received many threats and intimidation. On May 2012, 13 women of the Boeng Kak Lake community were violently and arbitrarily arrested in May 2012. Yom Bopha - one of the Boena Kak Lake women human rights defenders campaigning for their release - was targeted by police and held on a bogus charge of assault of a suspected thief under article 218 of the Penal Code. These women human rights defenders were held in a cell in appalling conditions with little or no access to medical care. Prisoners have to pay for basic commodities. such as clean drinking water and cells are extremely hot with limited natural light and ventilation. Pre-trial detainees are held in the same cells as those already convicted and sentenced.

West Papua's Food and Energy Estate and Indonesia's Master Plan for Economic Development

In 2010, the Indonesian government launched the Merauke Integrated Food and Energy Estate (MIFEE) in West Papua as a response to the 2008 food crisis. The MIFEE covers approximate 1.28 million hectares and has attracted large agribusiness and energy investors such as LG International, Mitsubishi, Wilmar, Arta Graha, Kertas Nusantara, and Sinar Mas Group.²⁷ By 2011, more than 100,000 hectares of forest had been cut down for the project, including the sago forest on which local communities depend. Serious concerns over human rights abuses relating to this project were raised, including violations of land rights and of free, prior and informed consent. Representatives of indigenous and local communities have

been almost entirely excluded from decision-making from the outset. Indigenous peoples will be, and in some cases already have been, removed from lands they have traditionally occupied and used and which they customarily manage according to local land tenure systems, without their free, prior and informed consent. In addition, large numbers of migrant workers have exacerbated the displacement of local people and introduced drastic changes to their traditional way of life.²⁸

The MIFEE has been operating in the context of the Indonesian government's new Master Plan for Economic Development. which covers the period 2012 to 2025, which was passed in May 2011. The master plan strongly promotes private investment. especially in the form of public-private partnerships. The total amount of investment in the plan is USD445 billion (with roughly half accounting for new infrastructure) by 2025, which includes the development of new roads, new railways, expansion of mining industry and huge new areas of oil palm and industrial tree plantations. Indonesia aims to maintain real year on year economic growth above seven per cent and to transform into a developed country by 2025. In one of its statements. Indonesia has stated that it aims to position itself as one of the world's main food suppliers, as a processing center for agricultural, fishery and natural resources, and well as a center for global logistics by 2025 or earlier (Republic of Indonesia, 2010).29

Burma's laws on land ownership and investment

Since undertaking a series of political reforms in 2010, the Burmese government has sought to attract investments through new regulations relating to land ownership and investment with a view to stimulating industrial agricultural production, particularly for rubber, palm oil and paddy rice. The new land and investment laws are intended to facilitate the transformation of Burma's economic base from subsistence-oriented rural farms to industrial cash crops. A series of laws were pushed through Parliament in 2012 without the benefit of broad public debate and consultations. The laws included:

<u>Special Economic Zone (SEZ) Law</u> on 27 January 2012, aimed to http://www.forestpeoples.org/tags/merauke-integrated-food-and-

energy-estate-mifee-project

²⁹ OECD Reviews of Regulatory Reform: INDONESIA, http://www.oecd.org/gov/regulatory-policy/executive%20summary%20EN%20with%20cover%20for%20Internet.pdf

provide incentives for foreign investors, including 75-year land use rights for large-scale industry; low tax rates; exemptions of imports duties for raw materials, machineries and equipment; no restriction on foreign shareholding; relaxed foreign exchange control; and government security support.

The Farmland Law, which passed in March 2012, stipulates that land can only be legally bought, sold and transferred by individuals and groups with land use certificates (LUCs), meaning anyone without an official land use title no longer posseses legal land use rights.

The Vacant, Fallow, and Virgin Land Law (VFV Law), which legally allows the government to reallocate villagers' farm and forestland (both upland shifting land, especially fallows, and lowlands without official land title) to domestic and foreign investors.

The Foreign Investment Law, passed in November 2012, that requires some sectors, including the agricultural sector, to be restricted to large-scale private investments.

Vietnam's Ta Trach Reservoir Project

Vietnam's Ta Trach Reservoir Project in Phu Loc District involved the construction of a reservoir between 2004 and 2011. Investment in the project came largely from government bonds. In the course of constructing the reservoir, which occupies 3908 hectares, the project deprived 781 households of their livelihood. Women were not consulted during the resettlement process and were not invited into the village discussions. The affected communities were forced to resettle in a different place, without jobs or productive land. They were not entitled to any government benefits. They were promised compensation for the many losses they had incurred, but as of 2012 they still had not received land that was promised and have been forced to work for landowners in the context of highly insecure employment and income.

Chevron geothermal power plant in Western Uma, Philippines

A geothermal power project is currently being developed in the Western Uma, Lubuagan province of Kalinga in the Philippines. The project is being financed by Chevron and a consortium of

14 foreign and domestic investors (GMC-APEC) and is being implemented in a region in which corporate projects have historically been secured by the military. GMC-APEC owns the concession, covering 25,682 hectares. Indigenous people in Western Uma were harmed by the Batong Buhay mine in the 1970s and 80s, and indigenous women in particular are resistant to further violation of indigenous people's rights to land and resources in their ancestral domain. Three communities in the proposed Chevron project tri-boundary area of Tinglayan, Pasil and Lubuagan have not given their free, prior and informed consent (FPIC) to the geothermal project. Indigenous women of Western Uma Kalinga reject the operation of Chevron Geothermal Projects for several reasons:

Loss of Ancestral Land and Loss of Livelihood – Uma people are unclear if they will have access to their land. Uma people are reliant on communal forests and rivers for cultivation of tiger grass, as well as food. Income earned from the sale of brooms made of tiger grass fund the local school;

Militarisation--State-trained paramilitary forces will be deployed as guards. The Investment Defense Force, for example, is an entity that was formed under the Armed Forces of the Philippines to protect large-scale mining and agricultural operations at the request of corporations. In the past, the militarisation of communities has led to various human rights violations, including the rape and sexual harassment of local women, Recently military have restricted women harvesting in the forest, and military operations have disrupted and prevented communities' economic activities;

Environmental Concerns--Drilling may trigger volcanic eruption. Wastewater and exhaust may include mercury, lead and arsenic, characteristic to Cordillera. Chevron stated that an error in drilling can never be repaired, resulting in continued gas emissions;

Compensation--Land owners will be compensated Php 50,000 (USD 1,190.48) each, which is not enough for relocation. Moreover, not all households have land title. Ancestral lands are communal and sale of individual residential lots and rice fields are covered by customary laws;

Fraudulent Process of FPIC--After a meeting in Western Uma facilitated by the National Commission on indigenous People,

Chevron's June 2012 press release stated they had secured the free, prior and informed consent of all the indigenous communities within the project area. Community members remember signing an attendance sheet but not any other paper. Chevron also says there is a Memorandum of Agreement (MOA) between the Uma Tribe and the company. However this was not agreed with the community's full knowledge and consent.

A.2.2. Impact on employment in the informal sector: small and medium-sized enterprises

In South and East Asia (excluding China), informal employment is approximately 60% of total non-agricultural employment. In India and Indonesia, nine out of ten women in non-agricultural work are informal workers. Trade and investment liberalisation challenges the viability of women-run or owned small and medium-sized enterprises (SMEs), which account for a sizeable source of informal employment for women in the Asia Pacific.³⁰ Exposure to foreign competition requires SMEs, which are generally accustomed to operating in a protected market, to quickly adapt operationally and technologically.³¹ A recent report by APEC illuminates the legal and cultural biases faced specifically by women-run or owned SMEs that impede them from accessing trade and growth, including structural barriers to accessing finance, a lack of access to critical information on key issues such as land titling, and the impact of social support systems for businesswomen including childcare and education.³² This is backed up by research in 141 countries that documents legal frameworks that support the capacity of men, but not women, to engage in work and set up their own businesses. often through directly discriminatory laws.³³ In the words of one ILO report, women in the informal economy "fail to reap much of the benefits" of increasing global economic integration, and often "find that they are the 'weakest links' in global value chains".34

³⁰ APEC, The Asia Foundation, Access to Trade and Growth of Women's SMEs in APEC Developing Economies (2013); UN Women, Effects of Trade on

Gender Equality in Labour Markets and Small-scale Enterprise (2010).

³¹ UN Women, Effects of Trade on Gender Equality in Labour Markets and Small-scale Enterprise (2010).

³² UN Women, Effects of Trade on Gender Equality in Labour Markets and Small-scale Enterprise (2010).

³³ Nabila Kabeer, Women's economic empowerment and inclusive growth: labour markets and enterprise development (2012) 13.

ILO, Gender and the Informal Economy (2008).

A.3. Social protection and state-based support systems

Social protection systems are necessary to cushion the impact of crises, and reduce poverty and inequality. However, large numbers of women in Asia and the Pacific, particularly poor and marginalised women, are not covered by social protection systems, making them particularly vulnerable to risks such as unemployment and natural disasters. This is even the case in middle-income countries. Only four countries in the region—Japan, South Korea, Mongolia, and Uzbekistan—spend 5 per cent or more of GDP on social protection systems, an amount that is considered sufficient by the ADB to make available social insurance, social assistance, child welfare, assistance to the elderly and disabled, and labour market programmes such as skills and development training.³⁵ Spending in most middle-income countries, including Fiji, India, Indonesia and the Philippines, remains below 3 per cent of GDP.

Women in most countries are at a particular disadvantage, largely because they tend to be employed in the informal sector. Social insurance, which usually benefits only those who are formally employed in the public sector or large private sector firms, dominates social protection in many countries, leaving informal workers unprotected. Given the disproportionate impact of natural disasters in the region, this is especially concerning.

Social Pensions for Elderly Women in Bangladesh

Bangladesh introduced an old-age allowance for both men and women in 1998. The age at which this social pension can be accessed has gradually increased, now standing at 65 years for men and 62 for women. Bangladesh's social pension targets those living in extreme poverty (with an income of below Tk 3,000 per month, or USD\$37). Women who have been deserted by their husbands or are widows are also entitled to a separate benefit, although women are not entitled to claim both. Both the old-age allowance and the widows' allowance pay an extremely small amount: Tk300 (\$3.5) per month per person, which is clearly too little to allow anyone to survive on the pension alone (for example, a living wage in Bangladesh is estimated to be approximately Tk 13,000 a month).

³⁵ Asian Development Bank, The Social Protection Index: Assessing Results for Asia and the Pacific (2013).

A.4. Human rights of migrant women

Labour has become an export product in many countries in Asia and the Pacific, and migration has become an integral part of national development strategies. While labour migration has always occurred in the region, patterns of migration have recently changed to become more temporary and circular. more undocumented, and more feminised. In some countries, women make up to 80 per cent of the migrant population.³⁶ The increase in the number of female migrants reflects an increasing demand for 'feminised jobs', such as domestic. care, and sex workers. It is also clearly connected to trade and investment liberalization in the region that has led to many rural and urban women losing their sources of livelihood. As stated by the Independent Expert on the Effects of Foreign Debt on Human Rights, "labour export has become the leading industry in some East Asian industries affected by structural adjustment programmes, and the biggest source of foreign exchange for debt servicina."37

The types of informal employment in which women migrants tend to be concentrated are characterised by low job security, low incomes, little or no access to social benefits and fewer opportunities to participate in education and training than formal employment,³⁸ not to mention the risk of exploitation, violence and trafficking.

Migrants originate from and work in all countries in Asia, although some countries have become distinct destination countries (Brunei, Hong Kong, Japan, Singapore, South Korea and Taiwan), while others can be more characterised as origin countries (Bangladesh, Myanmar, Cambodia, China, India, Indonesia, Laos, Nepal, Pakistan, Philippines, Sri Lanka and Vietnam). Migration policy in destination countries in Asia is tilted heavily towards short-term placement arrangements and discourages permanent settlement or immigration by migrants

Report of the Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social, and cultural rights (2012) UN Doc. A/67/304 [69]

Report of the Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social, and cultural rights (2012) UN Doc. A/67/304 [69].

According to the ILO, women consist of over 60 percent in East and Southeast Asia and the Pacific, and over 80 percent in South Asia. Source "Vulnerable employment share by sex and region", ILO (2009).

and families, creating circular migration and job insecurity. For example, in Indonesia and Philippines, short-term contracts are very prevalent.³⁹

A huge migration industry has also developed in Asia, involving a myriad of players: labour recruiters and poachers based in the countries of origin, pre-departure travel organisers and trainers, labour brokers/agents from the destination countries. and peddlers of varied on-site services for migrants. Some of the richest people in Asia are in the migration industry. vet most of them keep a deliberately low profile. Cases of scandalous recruitment and placement fees (equivalent to two or more months of migrants' wages), contract substitution. employer substitution, contract deviations, outright trafficking. non-existent job placements and varied human and migrant rights violations abound. This is aggravated by the inability of governments of origin and destination countries to forge bilateral and multilateral agreements to enforce international conventions protecting migrant workers' rights. In fact, only four countries in the region have ratified the UN Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and only the Philippines has ratified the ILO Convention on Domestic Workers

A.5. Access to credit mechanisms and institutions

The prevalence of micro-finance in countries in the Asia Pacific underscores the status quo of exclusion of women from institutional finance. While proponents of microfinance, including international financial institutions, claim that it provides women with incremental gains in their livelihood, microfinance is not a substitute for institutional credit on normal terms, which is what generally allows productive assets to be created and viable economic activity to flourish.⁴⁰ Moreover, the microfinance model assumes that women are autonomous borrowers who can make independent decisions; an assumption that ignores the reality of gender dynamics and male dominance in families and households. One study in rural Bangladesh found that, in almost 90% of cases, men controlled the loans that women received and frequently used them for their own purposes. ⁴¹

³⁹ Ibid

⁴⁰ UN Women, Economic Crises and Women's Work: Exploring Progressive Strategies in a Rapidly Changing Environment (2013) 53-54.
41 Lamia Karim, The Hidden Ways Microfinance Hurts Women (2012),

Eni's Story: women migrant workers sustaining families and national economies

"Following the financial crisis in 1997, due to the measures taken to implement the structural adjustment programmes, my parents couldn't afford to send us to school. Everything including fuel and education costs was increasing while there was no longer state support market for our food. Not only price of rice but all kind of day-to-day needs including transportation had dramatically increased following the Asian financial crisis. My family used to rent a farm for five years from a small landlord and it somehow helped our economy. aside from trading...But after five years when the contract ended, the land had to be returned and trading became the only survival of my family. Majority of villagers are landless who had no choice but to migrate to other countries in pursuit of any income opportunity and family's survival. I didn't understand what was happening then, and it was only after I learned about globalisation and World Trade Organisation (WTO) that I realised all the unnecessary sufferings were "products" of neoliberal policies.

The only way for me, as the first child in the family, to get money and send my siblings to school was to migrate to make money as a migrant in Hong Kong. I had been working as a foreign domestic worker in Hong Kong for six years. During the period of my first employment, I was underpaid, denied my legal proper rest days, no statutory holidays and was made to work in the shop at the same time.

I had to share a bedroom and a bunk bed with a 14 years old boy, however my bed was only wood with a bedcover but no mattress provided. My employer did not provide me with sufficient food and cloths and the first time I arrived was winter season in Hong Kong. Because of this, I had to suffer from cold, fever, hand and lips swollen and back pain. Worst, I was not allowed to use washing machine and had to wash my own clothes by hand in cold water.

Six and a half months later, I decided to leave my job due to unbearable employment conditions. The situation of our physical and psychological health as migrant domestic workers is very fragile and unstable. As live in foreign domestic workers,

available at: http://www.brandeis.edu/magazine/2012/fall-winter/inquiry/karim.html

we are forced to work long hours (12 to 20 hours) and 24 hours on call so we lack rest and there is not enough time to recover our energy. That directly impacts on our physical health. With regard to the psychosocial health, we experience a variety of emotions from being absent-minded/forgetful and depression and homesickness. Many of us experience back pain, irregular menstruation, insomnias and other problems but hardly had adequate health care services." *Testimony of Eni Lestari Andayani, Indonesia*

The impact of micro-finance on women in India—specifically, the role of for-profit institutions in exacerbating women's economic and social vulnerability—was a focus of discussion at the Consultation. Participants called for the regulation of for-profit micro-finance institutions, which frequently charge high interest rates and use coercive methods to ensure repayment. Moreover, there was recognition that the structural causes of women's economic vulnerability needed to be addressed, including government support for women's land ownership; employment assistance for women; and programs to strengthen women's food sovereignty.

Micro-finance in Tamil Nadu

In Tamil Nadu, profit-oriented micro-finance institutions (frequently operating as NGOs) target vulnerable and marginalised women such as Dalits and other minorities. High interest rates charged on loans reportedly push women into deep cycles of indebtedness, frequently forcing them to take out further loans for the purpose of making repayments. The implications of this are devastating; in Tamil Nadu, there have been cases of women discontinuing their children's education to save money and being forced into prostitution in order to meet their debt burden. A recent public hearing in Tamil Nadu documented thirty cases of suicide by women who were unable to repay their loans. Aasha Ramesh, an APWLD member from Tamil Nadu, shared an anecdote about a woman named Laskshmi who had taken out seven loans in order to repay her debt. She ultimately committed suicide after loan sharks harassed her daughters to prostitute themselves to repay their mother's debt.

A.6. Participation of indigenous women in programs and policies

Most indigenous peoples' economies in Asia and the Pacific rely primarily on the use of natural resources. However, voices of indigenous women continue to go unheard in the planning and implementation of sustainable development and environmental conservation policies, falling far short of the standard of full and effective participation to which they are entitled under international law ⁴²

The exclusion of indigenous women is the result of a number of factors: first, discrimination against women within indigenous communities means that they frequently miss out on formal education (as priority is given to boys) and therefore can't speak a country's official language and do not have access to relevant information. Second, consultations within the community as well as with external parties often do not accommodate women's schedules or workloads. 43 This is despite the fact that indigenous women have been profoundly affected by neoliberal development, as recognised by the Independent Expert on the Effects of Foreign Debt on Human Rights, including through: (a) displacement from their land and the subsequent destruction of indigenous economies; (b) the loss of livelihoods, natural resources and indigenous plants and seeds, and the resultant loss of traditional knowledge; and (c) the loss of income due to the replacement of women's handicraft products and other native products by manufactured goods.44

Exclusion of Daya Hibun women in West Kalimantan, Indonesia

The company PT Mitra Austral Sejahtera (MAS)⁴⁵ began the process of acquiring land in 1995 to expand their palm tree plantations. The presence of PT MAS, coupled with deregulation

⁴² AIPP, Voices of Indigenous Women from the Asia Pacific Region (2012).

⁴³ Ibid.

Report of the Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social, and cultural rights (2012) UN Doc. A/67/304 [70].

There are in fact four companies operating in the area PT MAS, PTPN XIII, PTCNIS and PT SIA which have acquired lands in the territories of various Dayak peoples in Sanggau district, the area of West Kalimantan (Indonesian Borneo) which has had the longest experience of palm oil development.

and privatisation of land holdings has had significant impacts on Dayak Hibun indigenous women. The process of land clearing by instantaneously changing rubber plantations, fields and some of the forest into palm tree plantations has left some of the lands as an open expanse. Many medicinal plants are no longer able to grow, nor can many food sources such as fruits and vegetables. As a result, the Hibun women's access to natural resources has become severely limited and their local knowledge and wisdom of traditional medicine, local seeds, and weaving skills lost. Raw materials are almost extinct due to the drastic changes in the ecosystem. An PT MAS's presence has also instigated conflict between the villagers through dispute over land ownership which had not happened before.

The Hibun women have also been excluded from meetings with PT MAS at all levels. The meetings are held formally in the administrative offices and discriminate against Hibun women as only men are allowed to represent their families. As a result families with single mothers and widows as heads cannot represent themselves. A few of the single mother households, while discussing their right to land spoke of how they lost that right when their land become absorbed into the plantation. According to traditional customs, women have rights over land that they inherit even after marriage. In the process of setting up the plantation. PT MAS imposed upon the community to deposit title to the land to the company in the form of certificates. Whenever women attempted to deposit her land title for the purpose of the plantation they were rejected by the PT MAS. Under Indonesian law, certification as proof of ownership of land and depositing of the land title to the company can only be done by the head of the family, and the head of the family can only be male. As a result, Hibun women are required to seek male siblings and if unable to do so, are forced to seek male relatives from their husband's side to assist them.

Drawn from The Training Indigenous Women on Decision Making Process May, 24th 2009 in the village of Kampuh Kecamatan Bonti, Kabupaten Sanggau, West Kalimantan was attended by 40 indigenous women from the Dayak Hibun community.

Critical Area D: Violence

D.1. Government measures to prevent and eliminate violence against women

Despite the fact that nearly all countries in Asia and the Pacific have ratified the Convention on the Elimination of all forms of Discrimination against Women (CEDAW),⁴⁷ gender inequality and violence against women continue to be a daily reality for women in the region, including domestic violence, rape, sexual harassment, and violence against women in the contexts of armed conflict and migration. Further, the prevalence of targeted violence against particular groups of ethnic women and girls proves that a culture of impunity continues to exist.⁴⁸

Link between violence against women and religious fundamentalism

There is a link between violence against women and the role of religious institutions in the region. Religious institutions in Asia and the Pacific not only play a significant role in establishing and affirming community beliefs and practices, but also in influencing government and the legislature. Women's rights are sometimes contested by religious bodies and cultural leaders. Men often dominate religious and cultural hierarchies which result in interpretations of religious teachings that reinforce discrimination against women. For example, Bangladesh has entered a reservation to Article 2 of CEDAW (which obliges governments to take policy measures to eliminate discrimination against women) on the basis that abiding by it may conflict with Sharia law.⁴⁹ Similarly, Brunei Darussalam has introduced death by stoning as a punishment under Sharia law for crimes including abortion.

⁴⁷ With the exception of Tonga and Palau. Further, 15 countries have entered reservations to various articles.

⁴⁸ G. Monique van Thiel "Reparations for VAW Victims and Survivors: A Phantom Ideology?" in http://apwld.org/our-work/grounding-the-global-regional-human-rights-mechanisms/asean-the-womens-caucus/reparations-for-vaw-victims-and-survivors-a-phantom-ideology/

⁴⁹ http://www.un.org/womenwatch/daw/cedaw/reservations-country.

Domestic violence and marital rape

Many governments in the region have failed to meet their obligation to enact legislation against domestic violence. A perception remains that domestic violence is a private matter and not an appropriate matter for public policy law enforcement. In South Asia, nearly half of the countries have no law on domestic violence, and the situation is even worse in the Pacific. In East Asia, more than three-quarters of countries have drafted legislation on domestic abuse. In many countries. there is a clear lack of political and social will to end the culture of impunity, and to effectively prevent and address violence against women. For example, very few countries have established a national action plan to eliminate violence against women in accordance with the Beijing Platform. One example is in the Philippines, where the government was requested in 2010 by the CEDAW Committee to compensate a survivor of rape and amend its laws on rape, which required the use of force or violence to establish rape, rather than lack of consent.⁵⁰ Governments in the region have also only recently started to compensate survivors of violence for loss of earnings and property and to cover the costs of healing, both medical and psychological.

Violence against migrant women

As discussed in section A.4, women comprise a significant number of migrant workers in the region, with domestic work being one of the principal drivers of labour migration. The lack of formal legal protection and recognition of domestic workers in a number of countries leaves them extremely vulnerable to abuse and violence. For example, Singapore, which is one of the principal destination countries for migrant domestic workers, does not recognize domestic work in its employment laws. In Indonesia, it is illegal for migrant workers to become pregnant. These are just some examples of the ways in which migrant domestic workers are denied the protection of the law and protection from violence.

⁵⁰ CEDAW, 2010. "Views Communication No. 18/2008 (Karen Tayag Vertido vs. The Philippines). URL: http://www.coe.int/t/dghl/standardsetting/convention-violence/CEDAW%20C%2046%20DR%2018%202008_en%20Vertido%20v%20%20Philippines.pdf

Trafficking of women and children in South and Southeast Asia

Trafficking of women and children for various purposes, including prostitution and sex work, is prevalent in the region. This is an issue of particular concern in South and Southeast Asia. For example, every year as many as 20,000 girls from the poorest parts of Nepal are trafficked and end up in Indian brothels. Despite the SAARC Convention on Prevention and Combating Trafficking in Women and Children for Prostitution having existed for more than a decade, the problem is increasing.⁵¹ [See example in Section A.3: Eni's story]

Violence in the context of armed conflict

Violence against women is particularly widespread in militarised environments, particularly where civilian governments are non-existent. Rape and other forms of sexual violence are used as weapons of war and can constitute crimes against humanity. In some cases, sexual violence in the region has been used with the intention of curbing the reproduction of particular ethnic groups where soldiers infected by HIV AIDS pass on the disease to women of a targeted community. Militarised environments also increase the level of violence within the community where violence becomes normalised and little or no attention is paid to domestic violence. Furthermore, during times of armed conflict and war, violence against women is legitimized as insignificant compared to the broader struggle communities face. Impunity therefore prevails.

A recent report by the Women's League of Burma highlights the ongoing, systematic pattern of sexual crimes committed by members of the Burmese against women in ethnic communities in areas of conflict. It calls for an end to the prevailing system of impunity. The report documents the serious sexual assault and gang rape of over 100 women by members of the Burmese Army since the 2010 elections, primarily in Kachin and Northern Shan States. The report also details the experiences of 28 women who were also killed or who died as a result of their injuries. Due to current restrictions on the reporting of human right abuses in Burma, the WLB suggests there are many more victims who have not reported their experiences of violence perpetrated by members of the Burmese military. Evidence in the report demonstrates that rape is being used as a weapon

of war against women from ethnic communities in Kachin and Northern Shan States in Burma. The reality that soldiers perpetrated crimes while wearing Army uniforms suggests that they believe they are immune from state prosecution.⁵²

ASEAN Declaration on the Elimination of Violence Against Women

The ASEAN Declaration on Elimination of Violence against Women and Violence against Children adopted in Oct 2013 by ASEAN summit recognises that violence against women and violence against children can occur "in public or private (including cyber space)". It also includes a long list of specific forms of violence and vulnerable groups to be addressed by Member States. However, there are many areas where the Declaration falls short of international standards. The Declaration does not include explicit provisions to address sexual harassment, which is recognized as a form of violence against women in General Recommendation 19 of the Committee on the Elimination of Discrimination against Women. Neither does the Declaration include protections for sexual minorities, as required by General Recommendation 28 of the Committee, who are commonly targeted with violence.

It also includes the qualifying phrase "taking into consideration the regional and national contexts bearing in mind the different historical, political socio-cultural, religious, legal and economic backgrounds in the region". This goes against the understanding of human rights as universal, and against the targeted actions laid down in Beijing Platform of action. The Declaration also fails to recognise the due diligence framework. If ASEAN member states are committed to eliminate VAW, these shortcomings should have been tackled.

Women's League of Burma, Same Impunity, Same Patterns (2014). 52

Critical Area G: Women in Power and Decision-Making

In the Asia Pacific region, women remain consistently and systematically excluded from participation and decision-making at all levels, starting at home and extending to the highest level of government. The region is still far from achieving gender parity, exacerbated by the fact that many women are still constrained by the patriarchal dichotomy of a "public" and "private" sphere. Public spaces are often defined as male spaces whereas women are presumed to belong within the private spaces, namely, their homes. The prevalence of this dichotomy, coupled with inadequate or discriminatory policies, have continued to obstruct women from participating in decision-making and leadership.

G.1. Women's equal access to and full participation in power structures and decision-making

Women occupy 18.4 per cent of parliamentary seats in Asia and a further 3.2 per cent in the Pacific (excluding Australia and New Zealand). Most of the countries in the region are struggling to achieve 30 per cent representation let alone gender parity in parliament. Two of the countries in the region with the highest level of women political participations are Timor Leste and Nepal, at 38 per cent and 29.9 per cent respectively. Both countries were able to achieve these levels through legislated quota and, incidentally, both countries are also countries in post-conflict transitions. This is further evidence that legislated quotas are one of the most effective tools in ensuring and facilitating women's access to parliament—yet very few countries in the region have taken affirmative measures, whether at parliamentary level or in other sectors.

Women's political participation in Timor Leste

The small country of Timor Leste, which became independent in May 2002, currently has five women in high-level positions in government: Prosecutor-General, Minister of Justice, Minister of Social Solidarity, Minister Finance and the State Secretary for the Promotion of Equality. A former Portuguese colony, the

small island was subsequently occupied by Indonesia. More than twenty years of struggle for liberation changed the traditional roles that women played in society. When the war ended, the country had to come to terms with changed life as well as changed aspirations. Women, in particular, have resisted social pressure to reconstruct life as it was before the conflict to preserve some of the independence and opportunities gained in wartime. In 2000, the country held its first national women's congress, which led to the birth of Rede Feto, an umbrella organization of 18 women's organizations from throughout the country. Timor Leste's women demanded not only constitutional quarantees of international standards but also affirmative action to correct gender imbalances. A new electoral law was eventually adopted in 2006, providing that one out of every four candidates on electoral lists must be a woman. This quota was subsequently revised in 2011 to provide for an improved rule that includes a woman in every three candidates on candidate lists. Timor Leste currently has the highest representation of women in parliament in the Asia Pacific region and 18th worldwide. Its cross-part women caucus meets regularly to discuss women's issues.

Choice of electoral system

An electoral system that reduces the likelihood of a one-on-one contest of male and female candidates is likely to improve the chances of women getting elected.⁵³ For this reason, proportional electoral systems and the majority/plurality system of Block Voting with multi-member constituencies are generally more favourable for women. In Monglia's 2012 parliamentary election, 10 women (13.5%) won seats, which was triple the number of women who won in the previous election. This increase was partly attributed to the change in the country's electoral system to a proportional representation system for 28 of the 76 seats and the requirement that 20% of candidates are women.

Fiji's Single Constituency Election

In December 2006, the democratically elected government of Fiji was deposed following a military coup. From 1997 until the last election, Fiji was using the Alternative Vote system with

Utilising Temporary Special Measures to Promote Gender Balance In Pacific Legislatures: A Guide to Options. Lesley Clark and Charmaine Rodrigues. – Suva, Fiji: UNDP Pacific Centre, 2009.

4 constituencies. The last election in 2006 saw a proportion of 12.6% women in the upper and lower houses. The interim government led by the coup leader Frank Bainimarama subsequently amended the upcoming 2014 election to an open list Proportional Representative system with a single national constituency with a 5% threshold. In a single constituency model, the proportional representation system will most likely benefit parties that have candidates with nationwide appeal, who can stack up party votes that enable other, lesser-known, candidates to get elected. With a 5% threshold, Fiji's new electoral system will penalize the smaller parties, independents, and possibly women who are likely to require a minimum of around 20.000 votes to get a single candidate elected.

Rising fundamentalism

The intersection of fundamentalism and militarisation in the region is a tremendous barrier to women's political participation. Electoral violence against women includes threats, verbal intimidation, hate speech, physical assault, destruction of property and other acts intended to prevent women from voting, participating in elections, and remaining in office. Violence and insecurity plagued the 2013 elections in Pakistan, limiting women's ability to travel, assume a public profile and, in some cases, be seen in public. The adversarial nature of party politics as well as sexism and sexual harassment is also evident in Thailand's recent political turmoil, in which the female Prime Minister was subject to gender-based slurs and intimidation in a recent bid to undermine her leadership.

This is consistent with the risks and danger many women face as a result of their broader political activism. Women human rights defenders are more at risk of suffering certain forms of violence and other violations, prejudice, exclusion, and repudiation than their male counterpart.⁵⁴ Repression, judicial harassment and criminalization of the work that women do have been commonly reported across the region. In Malaysia, women leading the movement demanding for democratic election were subjected to threats not only from the government but also various fundamentalist groups through the government's inaction.

⁵⁴ UN Special Rapporteur on the Situation of Human Rights Defenders, 2010 Annual Report. A/HRC/16/44

Role of political parties

Political parties play a fundamental role in the success or failure of women's electoral participation – whether through candidacy, finance and access to a range of resources. More often women are not recruited based on their leadership abilities and strong gender lenses, but more of their abilities to win or bring in votes – a women's wealth, looks and family background – and the ability to toe the party line. In the Philippines, women at the highest levels of policy-making still mainly hail from powerful mostly patriarchal, political families – a phenomenon also visible in many other South and South East Asia countries.

Women in trade unions

In trade unions, women are deeply under-represented in the leadership. In Cambodia, where women make up 90% of the garment workers in the country, the unions continue to be run by men who are not necessarily inclusive or interested in the concerns of the female workers. The repression, violence and deaths of trade unionists, by government and corporations in Bangladesh, Pakistan, Philippines, Cambodia, South Korea, and China, continue to intimidate women and undermine their involvement. As a result, political parties and trade unions continue to be male-dominated structures and bastion of patriarchal practices.

The impact of family responsibilities on women's participation

Women all over the world continue carrying the double burden of paid work and unpaid care work. Institutions and structures within the public domain usually operate in a way that does not accommodate the fact that many women enters into leadership position while retaining their family responsibilities. Measures ranging from the establishment of childcare facilities to the sitting and working hours of public institutions affects whether or not women can balance their work in the public domain with their family responsibilities.

For example:

- There are 1378 government bodies in Malaysia and currently only 99 childcare centres in the public sector nationwide.
- In Indonesia, only 0.6% of all the early childcare centres

- nationally are operated by the government.
- Nepal developed a 40-page document outlining high standards for early childcare centres; but there was no increase in the budget or any budget sharing to enforce those standards.

G.2. Women's capacity to participate in decision-making and leadership.

While quotas are an effective way to address the underrepresentation of women in leadership and political participation, trainings to encouraging women to participate in political processes and to sustain their participation are also necessary. Targeted trainings on electoral processes, campaign strategy, and leadership that increase women's potential and capacity for transformative leadership not only are important for greater political participation, but also as a long-term tool for empowering women.

However, trainings and capacity-building alone do not lead to greater participation of women in leadership and decision-making. An initiative in the Marshall Islands to invite women candidates to participate in mock-elections had very little effect as only 1 out of the 9 women running for the 2011 election was successfully elected, even though 11 women were elected to 4 Pacific Island Parliaments following practice parliaments in their countries. ⁵⁵ While there has certainly been an increase in such capacity-building efforts, including many pre-election trainings in the region, it is important to ensure that the trainings provide a strong gender and feminist analysis and insight into the patriarchal nature of politics and public spaces. Equal efforts need to be put into ensuring the broader public is supportive of women leaders and women in public spaces.

In many countries in the region, indigenous women and other categories of marginalised women-including women with disabilities and women from ethnic or religious minorities—are often the ones with least access to capacity building opportunities. One example with respect to indigenous women is the right to free prior and informed consent. Despite its status

Mock or Practice Parliaments Help Put More Pacific Women in the House, UNDP http://www.undp.org/content/rbap/en/home/ourwork/democraticgovernance/successstories/Practice_Parliaments_Put_More_Women_In_the_House/

as an internationally binding standard, it has been very unevenly applied by governments in the region. Even where it is applied, the challenge of how to ensure that FPIC is exercised in a way that is genuinely representative, accountable to, and inclusive of indigenous communities, particularly women, remains. There is a clear need for ongoing capacity building in this context.

Political awareness in Thailand

In the Mae Win Sub-District of Thailand, while 67% of the women there had received voter's educations, only 11-15% of them had also received further knowledge about their rights as citizens, the policy and role of Sub-District Administration and its accountability to the community.⁵⁶

Critical Area F: Women and the Economy

F.1. Women's access to decent work and a living wage: the impact of a deregulated labour market

The nature of women's work in Asia and the Pacific has been fundamentally shaped by neoliberal economic reforms and development strategies adopted by governments in recent decades, frequently at the urging of international trade and finance institutions. Principally, these reforms are trade and investment liberalisation; privatisation; deregulation; and aggressively promoting export-oriented industries. As discussed under Critical Area A, the former two have had significant implications for women's livelihoods in the region.

The deregulation of labour markets and globalised production have also significantly re-defined women's work. While the reorientation of economies towards labour-intensive, exportfocused industry has increased rates of women's participation in the labour force. Asia continues to have the highest gender pay gap in the world, and the majority of women work in employment that lacks basic security, benefits, and working conditions.⁵⁷ In fact, the largest growth in employment for women has been in informal work.⁵⁸ In Bangladesh, only 14% of all trade union members are reported to be women and one study found that none of the 17 unions had a woman as general secretary and only two had women Presidents. Researchers have found that barriers to women's membership and leadership in trade unions included legislative provisions, the structures of trade unions and the culture of patriarchy within workplaces, the community and family.⁵⁹ Violence against women in the workplace is also pervasive: studies indicate that 30 to 40 per

⁵⁷ United Nations, The Millenium Development Goals Report (2009);UN Women, Report of the Expert Group Meeting on Structural and Policy Constraints in Achieving the MDGs for Women and Girls (2013) 8.

Up to 90 per cent of domestic workers are female and domestic work is now the most common occupation for women in the region at around one third of all female employment in Asia. National Domestic Workers Movement, 'About Domestic Workers' 2010 available from http://www.ndwm.org/viewed 24th March 2010.

⁵⁹ Bangladesh Institute of Labour Studies, 'Women's Participation in Trade unions in Bangladesh: Status, Barriers and Overcoming strategies', 2009.

cent of women workers in Asia and the Pacific report some form of verbal, physical or sexual harassment.⁶⁰

The prevailing perception that the comparative advantage of economies in the Asia Pacific is cheap, flexible labour has generally translated into a gendered demand for labour. For example, garment manufacturing sectors across the region are overwhelmingly comprised of women workers who are generally less unionised and have lower bargaining power over their wages and working conditions. This is apparent in countries like Bangladesh and Cambodia, where women make up over 80% of each country's highly profitable garment manufacturing industry and are paid a fraction of a living wage. In addition to the exploitative conditions under which these women frequently work, workers in these industries are vulnerable to job losses when the competitiveness of local enterprises declines or multinational corporations search for cheaper labour elsewhere.

Labour market deregulation has also diminished the role of national wage setting mechanisms and promotes devolving wage setting to market based mechanisms. Minimum wages, where they exist, are increasingly seen as a safety net, rather than a process to set living wages. Deregulation also places restrictions on freedoms to associate and to strike, prohibits compulsory unionism and makes it difficult to unionise ununionised and informal sectors.

Export processing zones (EPZs)—areas designated for low-wage export manunfacturing—are prevalent in the region, including in Bangladesh, Sri Lanka, India, and Indonesia. According to the United Nations Conference on Trade and Development, workers in Economic Processing Zones (EPZs) put in hours that are 25 per cent longer than in other firms. Women working in these zones, in turn, are paid 20 to 50 percent less than men.⁶²

Bangladesh's Readymade Garment Industry

Bangladesh's readymade garment industry depends on female labour; women comprise over 80% of the workforce. While

Report of the UN Secretary General, In-depth study on all forms of violence against women (2006) A/61/122/Add.1.

⁶¹ UN Women, Effects of Trade on Gender Equality in Labour Markets and Small-scale Enterprise (2010).

⁶² UNCTAD Press Room http://www.unctadxi.org/templates/ Page____509.aspx; Recited at Gender and Trade in the Multilateral Trading System, Geneva Women in International Trade.

the rapid expansion of the industry has provided employment opportunities to a large number of women, workers are frequently denied their internationally-protected rights in the workplace, including the rights to a living wage, safe and healthy working conditions, freedom of association, protection of their right to organise, and a broader entitlement to just and favourable working conditions

Wages in the Bangladeshi garment sector are the lowest among all the garment sectors in the region and are one of the lowest among major industries in Bangladesh. Even with the newlyformed government Wage Board's offer to raise the monthly salary of workers to Tk 5.300 (approx. USD68), workers would be earning roughly a third of a living wage in Bangladesh. 63 The extremely dangerous conditions under which workers operate is clearly illustrated by the collapse in 2013 of Rana Plaza and the numerous factory fires that have swept through garment factories and cumulatively claimed more than a thousand lives. While employment in the garment industry has given many women, particularly from rural areas, a chance to be financially independent for the first time, prevailing cultural norms that dictate that women should not work outside the home and are not entitled to the same rights as men deprive women of the full enjoyment of their newfound independence. Sexual harassment, for example, is prevalent in factories.

Intersections of class and gender inequalities mean the RMG industry has the potential to both reinforce pervasive inequalities as well as shift them. When the RMG industry began in Bangladesh, work there was considered akin to domestic work and employees were often former domestic workers. Trade unions did not regard it as real work and the industry developed as a low paid, unregulated and un-unionised, womendominated industry. Yet over time, women have reported a growing respect for garment workers and even changes in their capacity to negotiate dowry payments, the age of marriage and children.

In May 2008 Karmojibi Nari costed 11 main items workers consume in Bangladesh and calculated that the goods required for to prepare meals sufficient for 3000 calories was 52.50 taka. This multiplied by 3 = 157.5, multiplied by 30 for a monthly cost = 4725. This is the food cost. The amount then is doubled to make a total of 9450 taka required to support a family of 4 in 2008 and should be set as the minimum wage. Note that inflation since 2008 needs to be taken into consideration. Inflation has been as high as 10% per year and the largest increase in prices has been in food costs. Taking a conservative estimate of 7% annual increases for 5 years would amount to Taka 13254 per month

F.1.1. The fight for a living wage

In the Asia Pacific region, the average real wage growth between 2006 and 2011 as reported in the ILO Global Wage Report shows a positive trend. However, if China is excluded from the data then it shows a different picture. The estimates show that for 2011 the growth rate would be 5%, but after excluding China the rate falls to minus 0.9%.64 As illustrated in the graphic below, the disparity between the minimum wage and living wage remains stark in most Asian countries, despite the fact that a living wage is an essential element of decent work agenda.65 A common living wage or floor wage would have multiple development benefits, not just for workers but for the broader economy. Many companies are wary of adopting a living wage for fear it will mean being priced out of the market. Universal commitments to a living wages would prevent capital flight in search of the lowest possible labour conditions. Living wages also stimulate domestic markets and increase much needed tax revenue.

There are many examples of the lack of a living wage in major industries across Asia:

Cambodia:

Wages in Cambodia's garment sector (which is the main industry) have declined sharply in real terms in the last decade, and Cambodian workers are now paid among the least of all major garment-producing countries. Even after the most recent increase in minimum wage in the garment sector in 2011, workers still suffered a 16.6% drop in real wages for regular work from 2000 to 2010. The decrease is projected to grow to 30% by 2014. This is despite a Cambodian labour law that requires that the country's legal minimum wage be set at a level that provides workers with "a decent standard of living compatible with human dignity." For many Cambodian garment workers, the current reality is that even basic wellbeing is out of reach. Specifically workers are unable to maintain a decent diet, live in adequate housing, or provide for their

⁶⁴ http://www.ilo.org/actrav/info/speeches/WCMS_211051/lang--en/index.htm

The concept of a living wage is based on the ILO Conventions 95 and 131, ILO Recommendations 131 and 135 and Article 23 of the Universal Declaration of Human Rights

Cambodian Labor Law §104 ("[T]he wage must be at least equal to the guaranteed minimum wage; that is, it must ensure every worker of a decent standard of living compatible with human dignity.").

families and save for the future.⁶⁷ Close to 90% of the garment factory workers in Cambodia are young women migrants from rural areas.⁶⁸

Philippines:

A worker in the manufacturing sector in the Philippines takes home US\$ 1.40 for every hour worked, compared to less than US\$ 5.50 in Brazil, US\$ 13 in Greece, US\$ 23.30 in the United States and almost US\$ 35 in Denmark.⁶⁹

South Asia

Real wages in the formal sector of South Asia went down in the 1990s, the decade that governments of the region embraced globalisation and joined the World Trade Organisation (WTO). The decline was facilitated by a major hiring adjustment made by employers – increased use of casual/contract workers, mainly females, who are paid less and who are often invisible to the labour inspectors. In India, Bangladesh and Sri Lanka, the share of female workers in total manufacturing shot up, with women workers even dominating manufacturing in Sri Lanka. ⁷⁰

F.1.2. The Right to Unite

The rights to organise, collectively bargain, form and join unions, and to select representatives of one's own choosing are fundamental human rights. These rights allow workers to realise a number of other critical rights including; decent work, health and safety, fair wages, fair working hours, fair conditions and freedom from abuse and intimidation.

The right to free association in the workplace and its associate rights continue, however, to be violated across the Asia Pacific region, frequently with impunity. The 2011 ITUC Annual Survey of Violations of Trade Union Rights shows very little improvement from previous years. In the Asia Pacific region, the

http://www.ilo.org/actrav/info/speeches/WCMS_211051/lang--en/index.htm; Worker Rights Consortium, Global Wage Trends for Apparel Workers, 2001-2011 (Center for American Progress: July 11, 2013), http://www.american-progress.org/issues/labor/report/2013/07/11/69255/global-wage-trends-for-apparel-workers-2001-2011/.

Restricted Rights: Migrant Women workers in Thailand, Cambodia and Malaysia, War on Want, 2014, http://www.mekongmigration.org/?page_id=1691 http://www.ilo.org/actrav/info/speeches/WCMS_211051/lang--en/index.html

⁷⁰ Ofreneo (2013), Decent Work Amidst Deepening Inequalities, http://www.solair.upd.edu.ph/Advancing%20Decent%20Work%20Amidst%20Deepening%20Inequalities%20%280freneo%202013%29.pdf

Survey found that:

- close to 1,000 unionists were injured in 2010 and almost as many arrested;
- an increase in the number of murdered unionists, and a similar increase in the number of death threats;
- a wave of worker suicides in China and India, in protest over appalling working conditions;
- harsh repression of workers rights across the region, for example in India, where 500 union members were arrested after massive protests involving millions;
- Similar reports of harsh repression, union killings and massive worker dismissals in Cambodia, China, Pakistan, Philippines, and South Korea;
- organising remains difficult because of restrictive rules, especially in Export Processing Zones; and
- inadequate or underdeveloped labour laws providing protection to workers and the exercise of their rights.

The right to organise in Mekong countries

In Mekong countries, laws often exist permitting the formation of trade unions in the formal sector. However, the de facto status of trade unions and workers who agitate for workers rights is much more precarious. Moreover, the right to organise is still largely unrecognised and denied to workers in the informal economy, where women make up the majority of workers, such as in domestic work and entertainment work.

Burma

In Burma, Labour Organisation Law of 2011 allows workers to form trade unions if there are a minimum of 30 workers willing to become members. However, there is still a large barrier for women workers in informal sectors, such as domestic work and sex work, to access trade unions or to be able to organise or unionise, leaving them more vulnerable to exploitation without the collective bargaining power and representation. ⁷¹

Cambodia

Cambodian Labour Law (1997), Article 274, provides that trade

⁷¹ Legally Binding: A summary of Labor Laws in the greater Mekong Subregion, 2011, published by Mekong Migration Network

unions have civil status, giving them the right to sue in court, to acquire personal property and to enter into a contract and their right to strike must be protected. However, in reality, trade unions are still largely undermined by the government by suppressing their right to strike and freedom of expression. The recent crackdown on workers protesting for wage raise is an indication of the government's lack of political will to protect and prioritise workers rights over the interests of corporations and international businesses.

Since January, state authorities have banned public gatherings completely and still continue to detain 21 workers (union members) who were detained during the January crackdown.⁷² Further, the Ministry of Labour has blocked the legal formation of unions, refusing to register any newly-established unions.⁷³ This is a violation of Cambodian international legal commitments made through the ratification of ILO Convention 87 (Freedom of Association and Protection of the Right to Organise (1948), which states "authorities shall refrain from any interference which would restrict the right to organise or impede the lawful exercise thereof".

Laos

In Laos, trade unions can only exist in affiliation with the government; independent unions and the right to organise or unite are banned. Laotian labour legislation defines the role of the union as promoting mediation and resolution, rather than the defence and furtherance of the rights and entitlements of workers. This is a violation of ILO Convention 87- Freedom of Association and Protection of the Right to Organise (1948). The government of Laos has not yet ratified the Convention; in the Mekong region, only Cambodia has ratified ILO Convention 87.

Vietnam

In Vietnam, workers have the right to form, join or participate in union activities. However, in reality, workers are not free to organise or join union of their choosing, and unions must operate under the Communist Party.

See, Thomas Fuller, "Cambodia Steps Up Crackdown on Dissent with Ban on Assembly,"New York Times (January 6, 2014), http://www.ny-times.com/2014/01/06/world/asia/cambodia-crackdown-on-dissent.html?_r=0.

See, Sen David, "No Union for Workers in Food Biz," Phnom Penh Post (January 15,2014), http://www.phnompenhpost.com/national/no-union-workers-food-biz.

F.2. Domestic Work

Domestic work is the most common occupation for women in the Asia, accounting for one-third of all waged female employment and employing 21.5 million people, of which approximately 80% are women.74 Domestic work is also one of the largest drivers of female labour migration in the world.75

Although domestic work makes a significant contribution to the economic and social development of countries, particularly in the form of remittances, gendered notions of work that link women with the "private" sphere of nurturing and service mean that domestic work is among the lowest paid, least valued. and least organised forms of work. Further, because of the isolation of domestic workers and the lack of recognition of domestic work as a form of employment, domestic work is largely unregulated and labour laws fail to protect the rights of domestic workers. As a result, domestic workers are regularly exploited and abused. Migrant domestic workers are even more vulnerable to exploitation because of their doubly subordinate status as women and as foreigners. 76 [see Section A.4]

The adoption of the ILO Convention on Domestic Workers (C189) in 2011, despite the opposition of India, Bangladesh, and employers organisations, was a critical—albeit imperfect—step towards the protection of domestic workers rights.⁷⁷ However, governments in Asia have remained resistant to ratifying the Convention and embedding domestic workers rights into their national legal framework; in fact, the Philippines is the only country from the Asia Pacific to ratify the Convention. Bangladesh and Thailand continue to deny domestic workers the right to form their own trade unions, and in Malaysia and Singapore, migrant domestic workers can join local unions but are not permitted to establish their own organisations.78

⁷⁴ ILO, Domestic Workers across the World: Global and Regional Statistics and the Extent of Legal Protection (2013); APWLD, CARAM-Asia, UFDWRs, The Right to Unite: A Handbook on Domestic Workers Rights across Asia (2010) 11: Ip Pui Yui. Asian Domestic Workers' Network, 'Asian Domestic Workers' Network' 2010, available at http://en.domesticworkersrights.org/?q=node/3

UN Population Fund, The State of World Population 2006: A Passage to hope: Women and International Migration (2006) 25.

APWLD, CARAM-Asia, UFDWRs, The Right to Unite: A Handbook on Domestic Workers Rights across Asia (2010) 13.

For analysis of the Convention, see: APWLD, CARAM-Asia, UFDWRs, The Right to Unite: Analysis of the ILO Proposed Convention and Recommendation on Domestic Work.

HRW, IDW, ITUC, "Claiming Rights: Domestic Workers' Movements and

A recent report by the ILO⁷⁹ confirmed the following gaps in legal protections for domestic workers in the region:

- Only three per cent of Asia's domestic workers are entitled to a weekly day of rest, whereas globally more than half of domestic workers have this right. In addition, only one per cent of domestic workers in Asia Pacific have statutory limits to their normal maximum weekly working hours; by contrast, more than three-quarters of their counterparts in Latin America enjoy such protection.
- Just 12 per cent of domestic workers in Asia Pacific are covered by statutory minimum wage legislation. Only the Middle East has lower coverage. In all other regions of the world more than six out of seven domestic workers can expect to be paid at least the minimum wage.
- For maternity leave and maternity cash benefits, 76 per cent of Asia Pacific's domestic workers have no entitlement.
- Wage Disparity for Foreign Domestic Workers and Hong Kong's Minimum Wage Rate

F.3. Equal access to land and productive resources

Discriminatory policies and practices that obstruct women's access to, and control over land are among the primary causes of poverty of rural women in Asia and the` Pacific. Although women are the backbone of the agricultural economy in Asia, for example 80.7 per cent of women in rural India are employed in agricultural sectors, 80 only a small fraction of land is owned by women. 81 Without guaranteed access to land, the food security and livelihoods of rural women are extremely precarious.

Land rights – whether customary or formal – act as a form of economic access to key markets, as well as a form of social access to non-market institutions, such as household relations and community-level governance structures. In addition to economic and social access, rights to land also often confer rights to other local natural resources, such as trees, pasture

Global Advances for Labour Reform" (2013) 24.

⁷⁹ ILO, Domestic Workers across the World: Global and Regional Statistics and the Extent of Legal Protection (2013).

⁸⁰ http://www.fao.org/sd/wpdirect/wpre0108.htm

⁸¹ FAO, The Female Face of Farming Infographic: http://www.fao.org/gender/infographic/en/?utm_source=intranet&utm_medium=intranet-dyk&utm_campaign=dyk

and water. Women's land rights intersect with other problems such as discriminatory inheritance patterns, agriculture and development issues, gender-based violence, the appropriation and privatisation of communal and indigenous lands, as well as gendered control over economic resources and the right to work.

Women's inability to secure their rights to land stem from a number of factors,⁸² each of which is rooted in directly and indirectly discriminatory laws and norms. The first factor is laws or customs that prohibit women from owning or inheriting land independently of their husbands or male relatives. Discriminatory land ownership laws exist in a number of Pacific Island States, such as Tonga, where women are not legally permitted to own land. Even where laws accord equal rights to women and men, access to land is shaped by persistent social norms, marital and inheritance patterns, and religious practices that largely favour men and discriminate against women.⁸³ As stated in a report on women's access to land in Asia:

Asian families remain strongly patriarchal, with the man recognised as the 'head of household' by both state and market institutions across very diverse contexts. Land and other asset entitlements are generally issued to the head of the household. Women, constructed socially as dependent wives and mothers, are expected to obey and service men and the family through their life cycle, and as long as they perform this role, their rights are protected. Divorced and separated women are most vulnerable, as lacking in male protection and supervision, they are seen as deviants, and denied their rights.⁸⁴

Second, women's physical vulnerability leaves them especially open to violence and threats of violence around land deals. For example, women activists in Cambodia involved in land disputes report harassment and intimidation of themselves and their families, which has taken a toll on their family relations and psychological welfare. Many women report feelings of hopelessness and depression, suicidal feelings, and have experienced divorce and separation related to their land

⁸² Elizabeth Daley & Sabine Pallas, Women and Land Deals in Africa and Asia: Weighing the Implications and Changing the Game, Feminist Economics (2013) 6.

⁸³ Nitya Rao, Women's Access to Land: An Asian Perspective (2011) EGM/RW/2011/E.3, p.4.

³⁴ Ibid, p.6

disputes and involvements in land claim.85

Another factor that obstructs women's access is their systematic exclusion from decision-making processes that regulate land ownership and access, whether at a community or State level. This is common across the region. Women are inadequately represented in village committees, customary councils and indeed state institutions, in particular legal bodies. 6 Gendered power relations have also been replicated and embedded in negotiations between communities and investors seeking to buy or lease land. Women's interests in land are frequently overlooked and, along with a loss of their livelihood, women also are excluded from payments of compensation.

The gendered politics of dispossession in West Kalimantan⁸⁷

A study of a community in West Kalimantan highlights the gendered politics of dispossession due to oil palm expansion. Granting of concessions/land use rights to large companies through leases permanently abolishes customary rights (including use rights) on that land, which eventually revert to the State rather than the community. Women in the indigenous Davak Hibun community did not have access to communal formal politics, but they did have customary rights to both private and forest land. Under the oil palm plantation administration, this land, divided among smallholders, was registered in the names of 'male family heads', or the plantation owner, leading to the dispossession of a majority of women. With the loss of forests, women lost key resources that brought them additional incomes, such as rattan used for the production of baskets and handicrafts. To ensure survival, they illegally collected and sold oil palm fruit risking being caught and branded as thieves by the plantation authorities.

Second, the plantations employed men as drivers, security, foremen and checkers. Women were employed as casual wage labourers, often in hazardous roles like spraying pesticides and

⁸⁵ UN Special Rapporteur on the situation of human rights in Cambodia, A Human Rights Analysis of Economic and other Land Concessions in Cambodia (2012) A/HRC/21/63/Add.1 [171].

⁸⁶ Ibid, p.9.

⁸⁷ This case study is extracted from White, J and B. White, The gendered politics of dispossession: oil palm expansion in a Dayak Hibun community in West Kalimantan, Indonesia (2011). Paper presented at the International Conference on Global Land Grabbing, University of Sussex.

applying fertilisers, with no protective gear, making their work insecure and secondary. Where some land was retained, women continued rice cultivation, earlier a joint activity. Under Dayak custom, it is taboo to sell rice, it is mainly for consumption, hence gradually all work that didn't bring cash, whether rice cultivation or voluntary mutual contributions of labour in the community came to be seen as women's work and their wage labour as supplementary earnings. The change, however, is not unidirectional – women do view the household cash incomes positively, as helping meet food, education and health expenses, yet they also recognise the malpractices and insecurity therein, the problems of pollution and clean water, the growth of 'cafes' and prostitution, where men spend their earnings. The need for land as a form of security therefore remains.

Joint land titling in Cambodia: implications for women

In Cambodia, of the total land titles issued as of June 2010, about 70 per cent are reportedly shared properties of couples, 20 percent are owned by women, five per cent are owned by men, and another five per cent are owned by monasteries. Efforts are reportedly underway with the cooperation of the Ministry of Land Management, Urban Planning and Construction to improve registration of women as property owners, which can be impacted by low levels of official registration of marriage. Although more individual titles are registered in the name of women, women who are joint title holders report having issues with property rights in cases of separation, abandonment, domestic violence, multiple marriages and divorce. In any of these scenarios, women with low incomes (and their children) are in particularly precarious situations with regards to property rights.⁸⁸

F.4. Harmonisation of work and family responsibilities: the burden of unpaid care work

As in most regions, women in Asia and the Pacific remain responsible for the unpaid work that sustains their families, including childcare, caring for the sick and elderly, and domestic activities such as food preparation and production, fuel and water collection, etc;⁸⁹ a burden of work that has been increased

Nabila Kabeer, Women's economic empowerment and inclusive

⁸⁸ UN Special Rapporteur on the situation of human rights in Cambodia, A Human Rights Analysis of Economic and other Land Concessions in Cambodia (2012) A/HRC/21/63/Add.1

by the reductions in essential services that have occurred in many Asian countries (discussed above in Section A.1.1). Women workers in the region therefore assume a double burden of work which renders their equal enjoyment of a range of rights impossible; not only to decent work, but to education, health, leisure, and participation.⁹⁰

The large numbers of women in Asia who migrate to take on jobs in other countries as domestic workers (discussed above in Sections A.4 and F.2) fill the unmet need for care services in richer destinations, while leaving their families at home to reorganise tasks and care responsibilities in their absence. As stated by the Special Rapporteur on Extreme Poverty and Human Rights in her report on unpaid care work and women's human rights, this intensifies the overall care deficit in poorer countries. Further women's migration generally does not change the sexual division of labour; the extra responsibilities usually fall to older women and girls within the household or community. The Special Rapporteur states:

These global care chains reflect and, in some ways, exacerbate enormous inequalities in terms of class, gender and ethnicity. The people who make up the chains, from the first to the last link, are almost exclusively female, often belong to an ethnic minority in their destination country, and generally cannot rely on State support for their care responsibilities.⁹²

Rural women's unequal burden of work

Rural women in Asia and the Pacific make a critical contribution to the food security of their communities and comprise the majority of the agricultural workforce in a number of countries. Because of gendered divisions of labour within the household, however, women are also primary care-givers within their households and responsible for sustaining household production.

growth: labour markets and enterprise development (2012) 16; UN Women, Report of the Expert Group Meeting on Structural and Policy Constraints in Achieving the MDGs for Women and Girls (2013)8.

on unpaid care work and women's human rights (2013) A/68/293 [66].

92 Ibid, [67].

 ⁹⁰ UN Women, Report of the Expert Group Meeting on Structural and
 Policy Constraints in Achieving the MDGs for Women and Girls (2013) 32.
 91 UN Special Rapporteur on Extreme Poverty and Human Rights, Report

Poor access to basic services, such as water and sanitation, further intensifies the labour of rural women, extending their hours and burden of work well beyond those of men. For example:

- A study of women in Nepalese hill districts found the women had heavy workloads and high levels of physical vulnerability, working for about 16 hours per day compared to only 9-10 hours for men. In addition to being overworked, the study found that many of these women also were hungry.
- In Pakistan, not only are rural women's responsibilities for water fetching, food preparation, and other household duties physically demanding, but they also rob girls of the opportunity to attend school. Further, the "invisibility" of women as farmers means that dangerous aspects of their work are ignored, such as the detrimental health effects of pesticides on Pakistani cotton pickers who are exclusively female.
- In China, a village study in Yunnan Province found that women are responsible for fetching fuel wood and typically spend two to three hours per day carrying 70-80 kg of fuel wood from far mountainous areas to their homes.
- In Vietnam, while women and men spend roughly the same amount of time on income-generating activities, women were found to spend time as much time as men on household work.

Water collection in Patharkot, Nepal

In Patharkot, Nepali women identified clean drinking water as a key input that would reduce their unpaid care work and also reduce diarrhoea amongst children and other family members. The women used their time diaries to show the amount of time that they spend collecting water. The diaries showed that on average women spend 99 minutes per day collecting water and firewood in Patharkot. Although there is a well in Patharkot it only provides enough water for the village during the rainy season. There is no drinking water supplied by government in this area. Women in the community collected funds to start building a tank to store clean drinking water and ultimately persuaded their Village Development Committee to finish construction using local government funds.⁹³

⁹³ Action Aid, Making Care Visible: Women's Unpaid Care Work in Nepal, Nigeria, Uganda and Kenya (2013) p.28.

Critical Area K: Women and Environment

K.1. Lack of involvement of women in environmental decision-making process.

Rural and indigenous women are the primary users of natural resources in the Asia Pacific region. However, they are often absent and systematically excluded in decision-making process related to management of natural resources. This often leads to gender-blind policies and practices that reinforce women's marginalisation and discrimination.

Further, governments in the region frequently design and implement development and environmental policies without undertaking environmental impact assessments, let alone undertaking assessment that clarify the gender implications of policies.

Forest Management in Indonesia94

In most areas in Indonesia, women have limited access to decision-making processes related to forests, including REDD+ projects. They are often engaged in forestry projects but are not involved in planning and decision making. In some community forestry projects (Hutan Kemasyarakatan/HKm), for instance, women are often involved in activities such as planting. maintenance, replanting trees, and harvesting and marketing non-timber forest products but rarely engage in the decisionmaking or hold a leadership position in forest farmer groups. Members of forest farmer groups, such as Kelompok Tani Hutan – usually established in the village located close to forest areas and its members comprise of the head of the households who are male. There are several reasons for women's minimal participation in the forest-related decision-making: 1) women's heavy burden of work responsibilities; 2) lower rates of literacy and education of women in rural areas: and 3) the inaccurate assumption that forest-related activities are "men's work." In addition, women also have less access to extension or capacity-building activities related to agriculture and forestry.

⁹⁴ Excerpted from UNDP, UNEP, FAO, Integrating Gender into REDD+ Safeguards Implementation in Indonesia (2012), pp.8-9.

Participation in these activities is usually limited to household heads or community leaders, who are mostly men. In the case of community forestry in Gunung Kidul, Yogyakarta, for instance, the facilitators of a community forestry project were mostly male and without an interest in gender equity. Women are rarely, if at all, invited to the meetings, based on the assumption that inviting the household heads is sufficient because the information that they gain will be transferred to the rest of the families, including the wives. However, this has rarely been the case. As a consequence, many women could not get access to information about relevant government regulations and the communities' collective management plan.

Forest Investment Programme

The Indonesian Forest Investment Programme (FIP), jointly funded by the World Bank, Asian Development Bank, and International Financial Corporation, was heavily criticised by Indonesian civil society, Solidaritas Perempuan, a feminist organization leading advocacy on the FIP, wrote a letter to the relevant government agency and the FIP Team on September 17, 2012. They stated that the FIP did not apply the 'do no harm' principle and failed to elaborate and analyse the potential risks and impacts of the mitigation effort, particularly in the absence of a comprehensive strategy for resolving tenurial conflicts and gender injustices. Women were not seen as main stakeholders in the design of FIP. There was no gender-disaggregated information or data baseline. There was no assessment on the drivers of deforestation and forest degradation from a gender perspectives and no development on efforts to mitigate and protect women from the impacts and risks of FIP. There was no affirmative action to involve women in all processes of consultation and decision-making. In short, there was no gender action plan.95

Rehabilitating water supply in rural Kyrgyzstan

In 2002, the World Bank and ADB co-financed a program to rehabilitate water supply and sanitation networks throughout Kyrgyzstan. The program aimed to rehabilitate and construct rural water-pipes and improve access to safe drinking water, with the broader objective of enhancing the living conditions of the rural population. The project was supposed to be

⁹⁵ Solidaritas Perempuan's letter to Board of World Bank, ADB and IFC, dated September 17 2012

implemented with the participation of affected rural community members, and the communities themselves would ultimately be responsible for operation and maintenance of waterpipes, setting tariffs, receipt and payment of credits, etc.

There was a high level of corruption and lack of public participation from the very beginning of the project's implementation. There was no public education, training or capacity-building about the program and no clear monitoring and control of its progress. As a result, the water supply continues to be very inadequate in villages. One woman, Adylova Elmira, reported that there is no water that is safe to drink, and that families use water from local small hand-made canals for their domestic needs and get drinking water from other villages. However, often drinking water is taken from open reservoirs and wells, which are usually polluted with garbage, Elmira and her children have serious health problems, including conditions caused by bad water. Elvira expressed deep disappointment in the project, especially because many women had high hopes for it. The failure of the project has led to the community getting into debt to energy companies, one of which cut off electric pumps from the main water collector because of the debt.96

Impact of chemical use in agricultural work on women in Kyrgyzstan

The use of agrochemicals is widespread in rural agriculture in Kyrgyzstan. Women are increasingly engaging in agriculture and are therefore more exposed to the health risks of agrochemical use. There is a lack of adequate regulation of hazardous chemical management and a lack of information on the risks or negative effects of agrochemicals on the health of women farmers, especially their reproductive health. Use of chemicals without knowledge, information and protection has caused sickness of rural population, especially women of reproductive age. Further, traditional gender norms prevent women from seeking information and making decisions about which chemicals to use. 80% of rural women who had symptoms of poisoning did not treat themselves adequately. High levels of cancer, congenital malformations, stillbirths, and infant mortality were found in the regions of tobacco and cotton planting. Also DDT was detected in breast milk among 84% of breastfeeding mothers in those regions. Respiratory and skin diseases also

Taken from APWLD and NGO ALGA Feminist Participatory Action Research Documentation (2010).

occur at higher frequencies among rural women farmers.97

Failing to assess the impact of climate change on Pacific women

There is a lack of data collection, including baseline data, on the gender impacts of climate change in the Pacific, despite the direct impact of climate change on food security, water, agriculture, housing, employment, and land ownership. As stated by the coordinator of the Pacific Gender Climate Coalition, "Within the context of climate change, men and women respond differently to climate change...yet, when carrying out data collation on any adaptation or mitigation project in the Cook Islands we do not have nor bother to collate sex disaggregated data."98

K.2. Emerging Issues: Climate Change and Disaster Risk Reduction

The issue of women and the environment can no longer be discussed without focusing on the issue of climate change. In the Asia Pacific region, 2013 was marked by devastating disasters that made clear that it is no longer enough to merely mitigate and adapt to climate change: the loss and damage to lives, property, land, and livelihood caused by climate change-induced events affecting rural, indigenous, and urban poor women must be addressed.

Typhoon Haiyan hit the Philippines in November 2013, killing at least 6,000 people, injuring 27,000, and causing economic losses equal to 5% of Philippines GDP. Authorities had to evacuate 1 million people when a super Typhoon Phailin hit the Bay of Bengal, and after floods and landslides in North India in July 2013, 5,700 were missing and presumed dead.

Six out of the ten countries in the world most affected by extreme weather events are located in Asia: Myanmar, Bangladesh, Vietnam, Thailand, DPR Korea, and Pakistan. Small island states, including those in the Pacific, are also among the most vulnerable countries in the world to the adverse impacts of climate change.⁹⁹ During the past decade in the region, an

⁹⁷ Taken from APWLD and NGO ALGA Feminist Participatory Action Research Documentation (2010).

⁹⁸ http://www.ciherald.co.ck/articles/h580g.htm

⁹⁹ http://www.ifad.org/events/apr09/impact/islands.pdf

annual average of more than 200 million people were affected and more than 70,000 people were killed by natural disasters (90 percent and 65 percent respectively of global totals for natural disasters).

It is well-documented that poor women suffer the most from disasters. They suffer the highest mortality and carry the burden of the long-term impacts of loss of land, livelihood and security. Research has found that women are 14 times more likely to do in disasters. In the floods of Bangladesh, 90 per cent of deaths were of women. Women and children make up the majority of deaths resulting from water-related disasters. 100

Often, disasters escalate violence against women, armed conflict and militarisation. The presence of armed forces inside displaced person camps or in communities has increased the vulnerability of women to violence and often threatens their security rather than provides protection. Too often the military hinders free movement of people and distribution of relief. Disasters have also led to increases in trafficking of girls separated from parents and families.

Another outcome of climate change with serious implications for women is the implementation of mitigation and adaptation projects that marginalise and exclude women, frequently in poor rural communities. For example, Asia and the Pacific is a hub for clean development mechanism (CDM) projects. Of 7,213 CDM projects registered all over the world, 6,094 CDM projects operate in Asia and the Pacific and primarily fund large-scale industry and power sector projects. These projects overlook important issues such as land rights, land conflicts, corruption and weak governance. Most of the existing REDD+ projects in the regions are also problematic, enforced without free, prior and informed consent by women and men in the affected community. In several documented cases, women were forcibly evicted from their homes and lands, their peace and security threatened or were forced to migrate and live in the most precarious environments.

¹⁰⁰ UNDP, Overview of Linkages between Gender and Climate Change 2013, p.3 $\,$

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