

The ASEAN Commission on the Promotion and Protection of the Rights of Women and Children (ACWC) at 10: Forging Ahead

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Synopsis

The ASEAN Commission on the Promotion and Protection of the Rights of Women and Children (ACWC) turned ten in 7th April 2020. In a time where the global pandemic has hit every corner of the world, the ACWC's anniversary could not be more relevant, as in Southeast Asia, women and children are adversely and disproportionately affected. This brief engages the *Report on the ACWC+10: Assessing the Commission's Impact on Protecting Women's and Children's Rights in ASEAN* and maps policy prospects to bring ACWC to the front line and centre of women and children rights advancement in the region.

ACWC: An on-going journey

The inception of ASEAN human rights bodies was perceived to shine a glimpse of hope towards human rights issues in ASEAN. Not long after the organisation established the ASEAN Intergovernmental Commission on Human Rights (AICHR) on 23rd October 2009 during the 15th ASEAN Summit in Cha-am, Thailand, ASEAN leaders inaugurated the ASEAN Commission on the Promotion and Protection of the Rights of Women and Children (ACWC) at the subsequent ASEAN Summit on 7th April 2010.

Both bodies have shown hopeful signs of progress but have also faced criticism along the way. As mandated by the Term of Reference (TOR), ACWC's primary mandates are to promote and protect the human rights and fundamental freedoms of women and Children in ASEAN. Similar to AICHR, the fulfilment of the mandates have been progressing but with very visible challenges. For ACWC particularly, the homework is larger as public attention to the work of the commission is often compared to that of its sibling: the AICHR. ACWC lacks visibility in terms of its outreach and engagement with its constitutions.¹ As such, this begs the question of how far out can ACWC reach its constituents, if public visibility remains an issue after ten years?

A Mapping of Actors

ASEAN Member States (AMS)

Despite human rights being a topic that the AMS often shy away from such as lesbian, gay, bisexual, transgender, or intersex (LGBTI), refugees, and indigenous people, little objection was seen in the advancement of the issue of promoting and protecting the rights of women and children. This support is reflected from the mention of the Universal Declaration of Human Rights, the Vienna Declaration and Programme of Action, CEDAW, CRC, Beijing Platform for Action (BPFA), World Fit for Children, International Humanitarian Law and other international human rights instruments and regional declarations related to women's and children's rights to which ASEAN

¹ Forum Asia report

<https://asean.org/asean-strengthens-commitment-protect-advance-rights-women-children/> (ten years in visibility remains an issue.

Member States are parties, in the Purpose section of the ACWC Terms of Reference (TOR).

However this can be argued to be a mere form of standard adherence to the international architecture governing universal human rights. The mandate and functions, work plan and funding, as well as modalities section of the ACWC TOR serve as a clearer reflection of the true role which AMS envision for ACWC. As such, despite supporting the establishment of the ACWC, internally, the TOR dictates that the ACWC remain in close consultation, alignment, and proximity with their national countries and policies.

ACWC

Position-wise, ACWC finds itself positioned uncomfortably between their designated mandate and their public constituents. Despite the TOR being very limited in defining who the constituents of the ACWC are, there is also no visible sign of using this gap to be creative in interpreting the rules and taking the extra mile for the purpose of materialising the much needed change in policy and advocacy. From the Report on the ACWC+10, it can be gathered also that the issue of transparency and accountability has remained unchanged through the years. This is a concern for a regional public body serving the mandate of protecting and promotion of rights.

This includes the accountability of the selection process of appointed Representatives of the ACWC. Stipulation of appointment in the ACWC TOR is limited to the notion that AMS should appoint two representatives for each women and children. It can be therefore assumed that the process and selection criteria are left to each AMS. This provides unnecessary room for unilateral appointment by the government. Consequently, as reflected from the 2019 ACWC composition of representatives, 67% of the Representatives are government-affiliated. Positive developments are shown by some AMS, for instance, whereby, open call practices to fill the positions of the representatives are conducted by Indonesia and the Philippines taking into account their competences, expertise, and experience.

Fortunately, ACWC remains committed to ensuring gender representation. All ACWC Representatives for women's rights are women. Meanwhile, the composition of ACWC representatives for children's rights are represented equally by both men and women.

Constituents and the general public

To understand where the general public and constituents of ACWC is positioned, we refer to the Report on the ACWC+10 which reported through an empirical survey that a total of 90% of respondents had some familiarity with the ACWC prior to the survey, with the largest proportion of respondents (40%) indicating they were moderately familiar with the Commission. However, these respondents represented CSOs within which women's rights organisations were represented by 30%, 25% of children's rights organisations, 15% of youth organisations, and 15% consisted of general human rights organisations, while 10% of the respondents indicated that their organisations focused both on women's rights and children's rights. As such, the survey may not necessarily represent the general public, but serves as an illustration of the relation which ACWC has established with its constituents in general.

Among the few crucial roles of the ACWC, as mandated, are to promote public awareness and education of the rights of women and children in ASEAN, advocate on behalf of women and children whilst encourage ASEAN Member States to improve their situation, and build capacities of relevant stakeholders at all levels, e.g. administrative, legislative, judicial, civil society, community leaders, women and children machineries, through the provision of technical assistance, training and workshops, towards the realisation of the rights of women and children. These alone are not achievable without the help of other existing CSOs and think tanks, most of whom, as reported in the survey, have lacked meaningful engagement with the ACWC. It is not a surprise therefore that the Report suggests a great necessity for a more routinised and systematic forms of engagement, in order to reduce dependency on individual representatives alone, to ensure sustainability after a change in the appointments of new representatives, and to increase trust between partners in order to maximize the ACWC's effectiveness. To operationalize this, collaborative efforts with CSOs are much needed to establish a clear and user-friendly mutual cooperation agreement.

Policy prospects for the ACWC: Unsettled homework **ACWC**

Revision and Adoption of a Renewed ACWC TOR

With obvious and looming loopholes present, the situation calls for a revised TOR for the ACWC, and lobby for its adoption by the ASEAN establishment. To operationalize this, it is imperative that the ACWC work closely with CSOs and academia in the region to push for its adoption. In revising the TOR, the ACWC can build on its ten years' worth of experience and accelerate pending progresses to achieve the needed work to better meet the needs of the promotion and protection of women and children. However, in the meantime, ACWC must be lenient, creative, and innovative in the way it operationalizes the existing TOR.

Meet the Stipulations of the ACWC Work Plans

ACWC has always struggled with implementation. The first ACWC Action Plan (2012-2021) only saw 23 plans dedicated to the protection of children rights. No text is available to explain the rights of women. The rest of the actions were directed to activities related to promotion, studies, consultation, and reporting of activities.

The second ACWC Work Plan (2016 – 2020) saw some slight progress. Four out of thirty-eight actions are dedicated for the protection of children and one for women, namely, for the Strengthening the Legal Framework to Protect Children from Sexual Exploitation in Travel and Tourism, reviewing the Current Child Protection System in the ASEAN Member States, ASEAN Workshop on Promoting control on surrogacy through surrogacy law to protect the rights of surrogate children and all relevant parties, ASEAN Workshop on Promoting control on surrogacy through surrogacy law to protect the rights of surrogate children and all relevant parties, and strengthening the Protection and Empowerment of Women Migrant Workers in Crisis and Disaster Situation. Even so, it is reported that the accomplishment level of the second ACWC Work Plan remains low. A recent report of the FORUM-ASIA noted that only 25% of

the total projects had been completed. The other 75% are either ongoing or will be extended to the third ACWC Work Plan (2021-2025).

Increase Visibility and Outreach efforts

In its 2016 and 2017 ASEAN human rights mechanism performance report, FORUM-ASIA underlined that ACWC should increase its visibility and network because the commission is lacking attention if compared to other ASEAN human rights institution and thus have weak bargaining power in front of AMS and development partners.² Bargaining power is crucial to the ACWC if it wishes to push for a more prominent role in the region. The limited visibility is also one of the factors that affect the quality of substantive engagement.³

In both Work Plans also, the commitment to improve the Commission's visibility is low. The first Work Plan does not address this matter whereas the second contains only one provision to increase the body's visibility: a pilot project on Facebook page and other social media channels to increase ACWC's visibility. The plan, however, is deemed to be too exclusive given the high degree of digital divide among AMS.

Engage the media

In effort of addressing public concerns of ACWCs accountability and transparency, it must actively engage the media. To date, it has limited its engagement efforts to the dissemination of the Commission's work, meetings, and regular activities. To holistically address the work that ACWC is doing and provide better accountability to the public, it must work closely with the media to set the agenda of women and children. Especially at a time where the pandemic and social restrictions have placed a great burden on women and children. There is no better time to call for the media than now where a strengthened ACWC could address the social impacts of the COVID-19 outbreak to women and children. With the total of positive cases increasing intensively on a daily basis and is estimated to reach 1 million cases soon, ASEAN is called for an equipped battle against the virus - a strong political will to safeguard policy rationality, suitability, and acceptance to existing weaknesses in each member country.⁴

Women and children, especially, are disproportionately affected. Among others, 79% of the frontline healthcare workers are women, which therefore increases their risk of indirect impact from the intensified working schedules, burnout, or even contracted by the virus directly. The COVID-19 outbreak has also increased violence against children, setbacks in pursuing education and suffer from mental health. ACWC can do more to highlight this situation and bring an end to increasing reports of violence, by actively engaging the media.

ASEAN Member States

Increase allocation of funding and human resources

² Report of FORUM-ASIA 2016 and 2017.

³ <https://asc.fisipol.ugm.ac.id/2020/10/12/press-release-diplomatic-briefing-on-the-acwc-10th-year-commemoration-solidifying-the-role-of-think-tanks-and-csos-in-the-advocacy-to-strengthen-the-asean-commission-of-women-and-children-acwc/>

⁴ <https://www.bangkokpost.com/opinion/opinion/1910340/projecting-a-sensible-covid-19-battle>

With needs for outreach and engagement high on its list of priority, AMS should consider supplementing their national ACWC offices with a workable budget and equip its Representatives with adequate human resources in order to achieve its target. The burden can no longer be solely placed on the Representative, as this has proven to lack in outreach.

Support the revision of the ACWC TOR

With work cut out for the ACWC, long overdue issues such including optimal engagement, transparency, accountability, outreach efforts and positive progress will only be seen under a renewed TOR. To achieve this, the AMS must exercise their discretion to accommodate the changing needs of the ACWC and the rising attention towards the issue of women and children through supporting a revised TOR. The renewed TOR should take into account the its long-term goals, unsettled homework from its early establishment and the current challenges it faces. In doing so, this will not only allow for much needed improvements in the advocacy of the rights of women and children across the region, it will also raise the profile of AMS who have often been criticised for their slow response in the sector of human rights.

Include ACWC in the platforms of AEC and APSC

As central as the issue of gender mainstreaming is, it has remained a predominantly ASEAN Socio-Cultural Community (ASCC)-topic in the work of ASEAN. This is mirrored also in the divisions of the ASEAN Secretariat where the body is overseen by the Poverty Eradication and Gender Division (PEGD) which is nested within the ASCC Department, whereas, AICHR is overseen by the Human Rights Division (HRD) nested under the APSC Department. This is a questionable reflection of seriousness AMS pay towards gender mainstreaming in general, with most high-profile and often sensitive issues being managed by the APSC such as negotiations of the South China Sea, ASEAN Outlook on the Indo-Pacific, Nuclear-Weapon-Free Zone Treaty, refugees, etc, all of which have had little consideration over the immediate impact it has on women and children. As such, it is highly suggested that AMS ensure the inclusion of the ACWC within ASEAN platforms, especially in the ASEAN Economic Community (AEC) and ASEAN Political-Security Community (APSC) where the rights of women and children are often affected by decisions made in these two pillars.

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